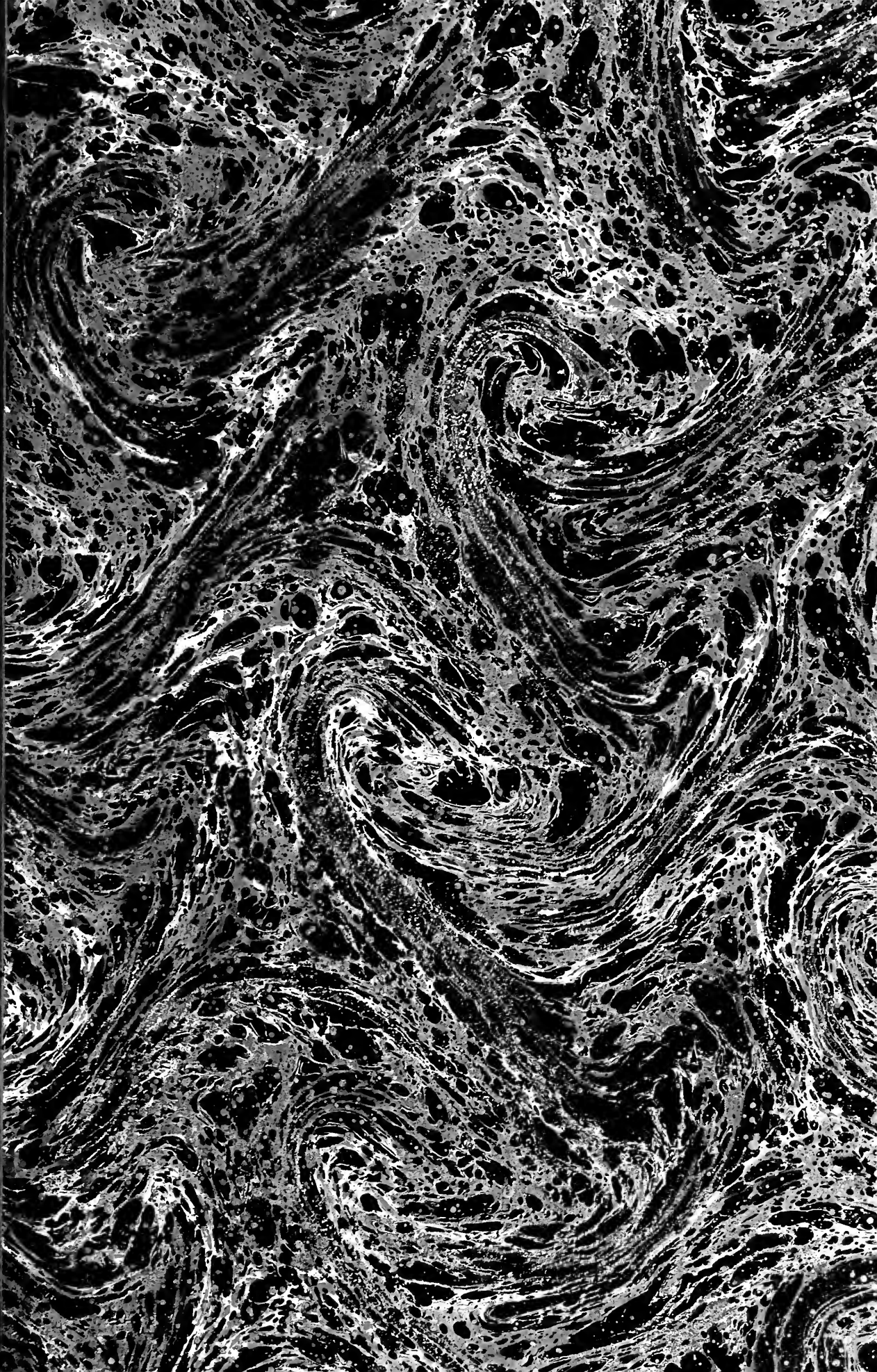




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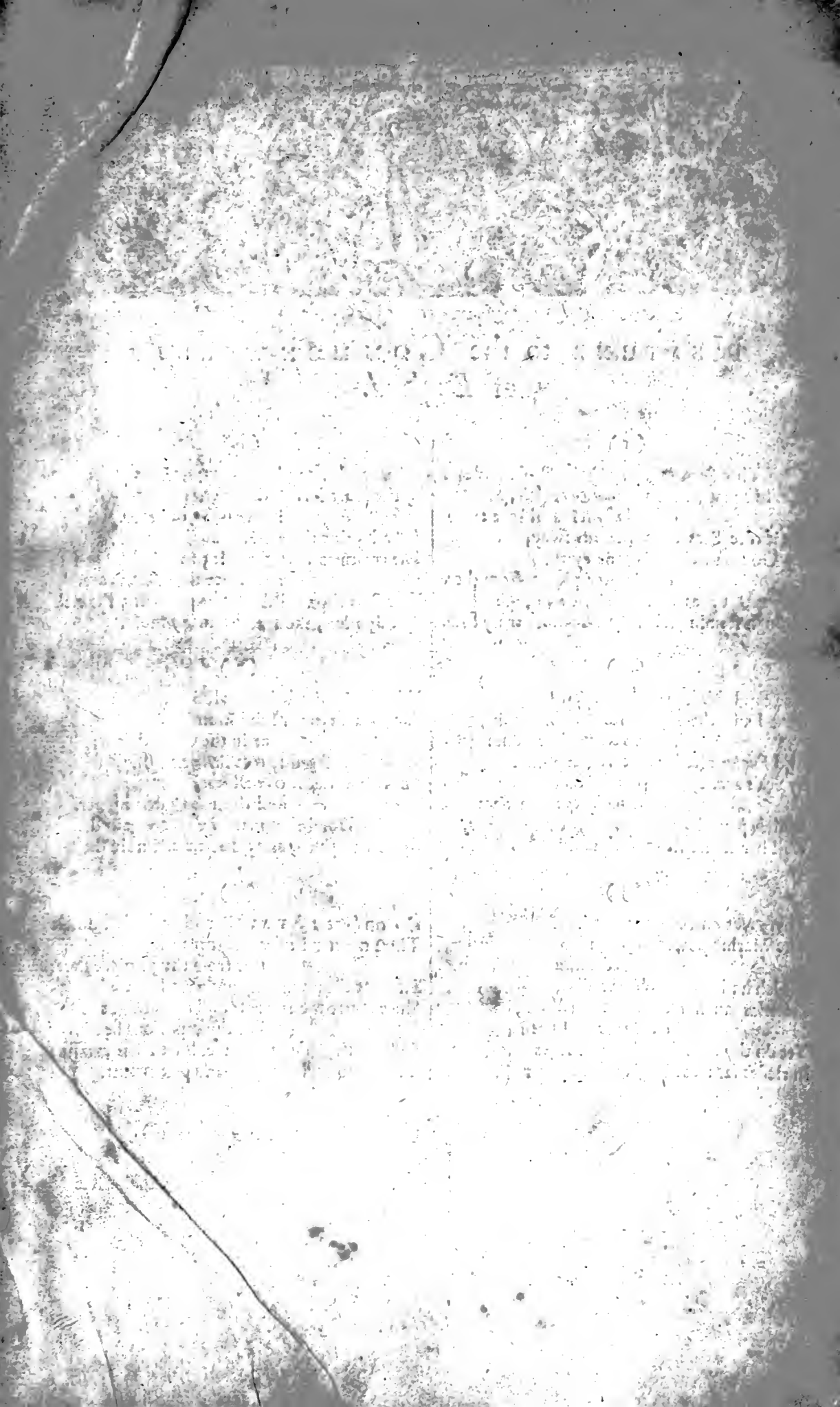
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NEPTUNE to the COMMON-WEALTH of England.

(1)

OF Thee (great STATE!) the God of Waves
In equal wrongs, assistance crave's,
defend thy self and mee :
For if o're Seas there bee no sway,
My Godhead clean is tane away,
the Scepter pluckt from thee.
Such as o're Seas all sovereigntie oppose
Though seeming friends, to both are truly foes.

(2)

Nor can I think my suit is vain,
That Land the Sea should now maintain,
since retribution's due:
And England hath great wealth posselt
By Sea's access, and thereby blest
with plenties not a few:
Which, next the virtue of thy watchful eies,
Will her secure from forein miseries.

(3)

Thy great endeavors to encrease
The Marine power, do confesse
thou act'st som great design.
Which had Seventh Henrie don, before
Columbus lanch'd from Spanish shore,
the Indies had been thine.
Yet do thy Seas those Indian Mines excell
In riches far: the Belgians know it well.

(4)

What wealth or glorie may arise
By the North-West discoveries
is due unto thy care.
Th' adopting them with English names,
The greatnes of thy minde proclaim's,
and what thy actions are.
New Seas thou gain'st; & to the antient FOUR
By Edgar left, thou addest many more,

(5)

If little Venice bring's alone
Such waves to her subjection
as in the Gulf do stir;
What then should great Britannia please,
But rule as Ladie o're all seas,
and thou as Queen of her.
For Sea-Dominion may as well bee gain'd
By new acquests, as by descent maintain'd.

(6)

Go on (great STATE!) and make it known
Thou never wilt forsake thine own,
nor from thy purpose start:
But that thou wilt thy power dilate,
Since Narrow Seas are found too straight
For thy capacious heart.
So shall thy rule, and mine, have large extent:
Yet not so large, as just, and permanent.

Κλαραμόνη ©.



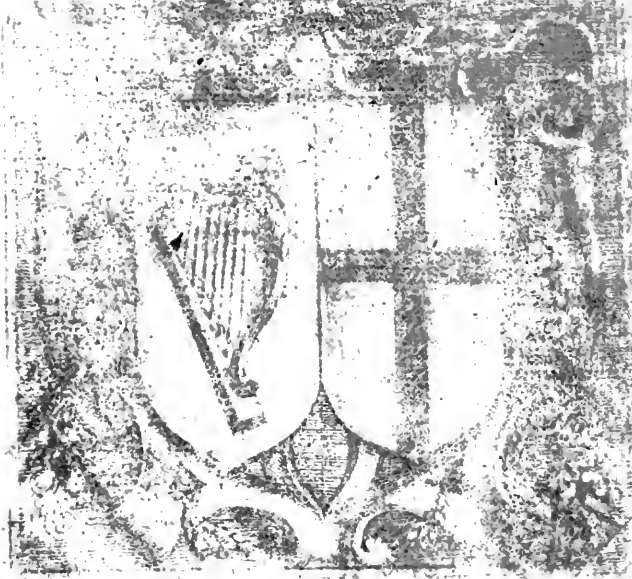
ANGLIÆ
RESPVE.

G. B. Jones sculp.
Londini

of the
BOOKS

...

...



...

Jo: Hopkinson

Of the
DOMINION,
Or,
Ownership of the SEA
TWO BOOKS.

In the **FIRST** is shew'd, that the **SEA**, by the **LAW OF NATURE**, or **NATIONS**. is not common to all men, but capable of **PRIVATE DOMINION** or **Proprietic**, as well as the **LAND**.

In the **SECOND** is proved, that the **Dominion of the BRITISH SEA**, or that which incompasseth the **Ile of GREAT BRITAIN**, is, and ever hath been, a **Part or Appendant of the Empire of that Island**.

Written at first in Latin, and Entituled,
MARE CLAUSUM
SEU,
De Dominio Maris,

By **JOHN SELDEN**, Esquire.

Translated into *English*; and set forth with some *Additional Evidences and Discourses,*

By **MARCHAMONT NEDHAM**.

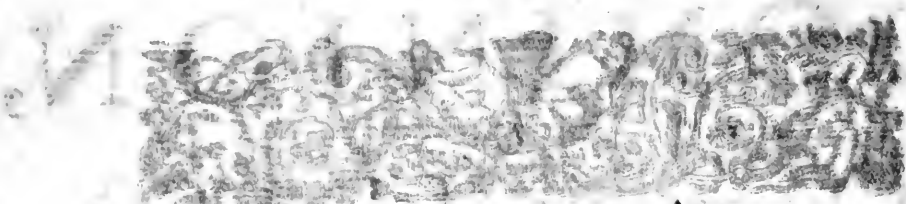
Published by special Command.



LONDON,

Printed by *William Du-Gard*, by the appointment of the Council of State: and are to be sold at the Sign of the Ship at the *New-Exchange*. Anno Domini 1652.

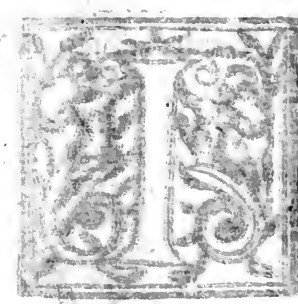
No. 1234



The Supreme Court

J. H. H. H. H. H. H.
The President of the Court

Sawyer



...and in the ...
...to the ...
...and ...
...not being a ...
...of your ...
...and ...
...elaborate work ...
...CLASSIFICATION ...
...of ...
...by the best ...
...and record from all ...

A

Beware of this Epistle Dedicatory
For there is poison in it. Jo: Hopkinton



TO
The Supreme Autoritie
OF
THE NATION,
The PARLAMENT of the Com-
mon-wealth of ENGLAND.

(Right Honorable!)



Should not have presumed thus, in the mid'st of so many great affairs, to press into your presence, did I not bring a Present in my hand most worthie of your acceptance. It is that Learned and elaborate Work, entituled **MARE CLAUSUM**; A Piece so fully vindicating your Right of Soveraigntie over the Seas, by the clearest evidences of Reason, and Record from all Antiquitie, that it

A 2 stand's

The Epistle Dedicatorie.

stand's more impregnable against the Pens, than the Island it self against the Attempts of Foreign Nations. It was written Originally in Latin, for the asserting of this Right before all the world; and how they have been convinced by it, appears hitherto by the universal Admiration that attend's it: But considering what pitie it was, that so rare a Jewel as this, which hath drawn the envie of som few, but the Approbation of All, should lie so long lockt up in a Language unknown to the greatest part of that Nation whom it most concern's; and how necessaric it is, in this present Juncture, to let the People have a clear understanding of their nearest interest, and how that Right hath been received in all Ages, which a strange People in this latter Age have been bold to undermine; it was judged very requisite to unlock the Cabinet, and expose the Jewel to the view of the whole Nation, that they may prize it, and apprehend not onely their own Interests and Concernments, but how far wee and our Posteritie must stand indebted to the name and memorie of the noble *SELDEN*.

As

The Epistle Dedicatorie.

As for my self, though it bee accounted one of the meanest Services to Translate; yet when I consulted with my own Thoughts, which way I might best express my dutie and affection to your present Cause, and consider'd, that little could bee said or collected upon this subject of the Sea, which is not abundantly set forth in this irrefragable Treatise, I conceived it a Task of no less importance than difficultie. And now it is don, if it were well don, I should believ my self to have attained no small happiness, in having my name any way related to the Learned Autor; who shall ever live like himself in this excellent Book, as long as there is any memorie of *Britain*, or of the Sea that flows about it.

It was a work begun (it seem's) in the Reign of King *James*, and then laid aside again for above sixteen years; but afterwards revived, alter'd, and enlarged by the Learned Autor (as hee saith in his Epistle) at the command of the late Tyrant; And as it was written for him, so it was dedicated to him, as beeing supposed one who was, or ought to have been, a fit Patron

*An villager, who
was a minister
and suffered
by them and
other villain*

The Epistle Dedicatorie.

of the Dominion here asserted: However, this I finde, that as hee seemed, by his naval Preparations in the year 1635, to resent the many injurious usurpations of our unruly Neighbors, and did in words also strenuously assert the Jurisdiction at Sea; so hee set a value upon this Book, as it's main Evidence: and in the 12 year of his Reign it was upon his special command, deliver'd by the hands of Sir *William Beecher* (one of the Clerks of his Council) to the *Barons* of the Exchequer in open Court; and by immediate Order of that Court, it was placed among their publick Records, where it remain's to this day. Now, had hee persisted with the same firm resolution in this honorable business of the Sea, as hee did in other things, that were destructive to the Nation's interest, the *Netherlanders* had been prevented from spinning out their long opportunitie to an imaginarie Claim of Prescription; so that they would have had less Pretence to Act those Insolencies now, which in former times never durst enter the Thoughts of their Predecessors. The truth is, too much easiness and indulgence to the Fathers and Grand-fathers of the
the

The Epistle Dedicatorie.

the present Generation, was the first occasion of elevating them to this height of Confidence, in pressing upon the Seas of *England*: For, who know's not with what tenderness, and upon what terms, they were first taken into the bosom of *Queen Elizabeth*? yet they were no sooner warm, but they shew'd their sting, and proved the onely great vexation (because deceitful friends) to that excellent Ladie, who, in those Infant-daies, was both Mother and Nurs of their ungrateful Republick. Too much of the same tenderness was expressed afterward by *King James*, because (as in the former Reign, so in his) it was counted Reason of State to permit them to thrive; but they turning that favorable Permission into a Licentious Encroaching beyond due Limits, put the King to a world of Trouble and Charge, by Ambassies and otherwise, to assert his own interest, and dispute them into a reasonable submission to those Rights which had been received before as indisputable by all the world. For the truth whereof, I am bold to refer your Honors to the Memorials of several Transactions in those daies, which I have added at the

The Epistle Dedicatorie.

end of this Book; and for which I stand indebted (as I am also for many other Favors) to a *Right honorable Member* of your own great Assembly. By the same also it will appear, how this People perceiving that King to bee of a temper disposed to use no other arguments but words, held him in play with words again, and while they trifled out his Reign in Debates and Treaties, carried on their design still to such a height, by a collusion of Agencies and Ventilations to and agen, and a daily intrusion upon the Territorie by Sea, that in time they durst plead and print *Mare Liberum*; and after his Son *Charls* came to the Crown, they in effect made it so: For, though hee were not ignorant of his own Right, as appears by his esteem of this Book, his Preparations, and Proclamation for *Restraint of Fishing without Licente*, &c. Yet hee never made any farther use of them, than to milk away the Subjects monie under pretence of building Ships to maintein his Autoritie by Sea; which end of his beeing served, hee immediately let fall the prosecution of what hee pretended: So that through the over-much easi-
ness

The Epistle Dedicatorie.

ness and indulgence of preceding Princes, they in a short time arrived to so loftie a Presumption, as to seem to forget and question, and now at length, by most perfidious actings, to defie the Dominion of *England* over the Sea.

These things beeing consider'd, it was supposed this Translation (it beeing a noble Plea asserting that Dominion) would bee a very seasonable Service; which (how poorly soever it bee apparel'd in our *English* dress) is bold to lay Claim unto your Honors as its proper Patrons, conceiving it ought to bee no less under your Protection than the Sea it self: And therefore let mee have leav here (without Flatterie or Vanitie) to say, though in other things I may injure the eminent Autor, yet in this hee will bee a Gainer, that his Book is now faln under a more noble Patronage, in the tuition of such heroïck Patriots, who, observing the errors and defects of former Rulers, are resolved to see our Sea-Territorie as bravely mainteined by the Sword, as it is by his Learned Pen. It is a gallant fight to see the *Sword* and *Pen* in victorious Equipage together; For, this subdue's the

(b)

souls

The Epistle Dedicatorie.

souls of men by Reason, that onely their bodies by force. The *Pen* it is which manifest's the Right of Things; and when that is once cleared, it give's spurs to resolution, becauf men are never raised to so high a pitch of action, as when they are perswaded, that they engage in a righteous caus; according to that old Versicle,

*Frangit, & attollit vires in Milite
causa.*

Wherefore seeing you (*Right Honorable!*) have had so frequent experience of the truth of this in our late Wars, wherein the *Pen* Militant hath had as many sharp rancounters as the *Sword*, and born away as many Trophies from home-bred Enemies in prosecution of your most righteous caus by Land, certainly you will yield it no less necessarie for the Instruction of this generous and ingenious people, in vindicating your just Rights by Sea, against the vain Pretences and Projects of encroaching Neighbors. For, what true *English* heart will not swell, when it shall bee made clear and evident (as in this Book) that the Sovereignie

The Epistle Dedicatorie.

raigtie of the Seas flowing about this I-land, hath, in all times, whereof there remain's any written Testimonie, both before the old *Roman* Invasion and since, under every Revolution, down to the present Age, been held and acknowledged by all the world, as an inseparable appendant of the *British* Empire; And that by virtue thereof the Kings of *England* successively have had the Sovereign Guard of the Seas; That they have imposed Taxes and Tributes upon all ships passing and fishing therein; That they have obstructed and open'd the passage thereof to strangers, at their own pleasure, and don all other things that may testifie an absolute Sea-Dominion; What *English* heart (I say) can consider these things, together with the late Actings of the *Netherlanders*, set forth in your *publick Declaration*, and not bee inflamed with an indignation answerable to their Insolence; That these People raised out of the dust at first into a state of Libertie, and at length to an high degree of Power and Felicitie, by the Arms and Benevolence of *England*; or that they, who in times past durst never enter our Seas to

The Epistle Dedicatorie.

touch a *Herring*, without Licence first obtained by Petition from the Governor of *Scarborough-Castle*, should now presume to invade them with armed Fleets, and by a most unjust war bid defiance to the United Powers of these three Nations? Had they dared to do this in the daies of our Kings, I suppose, they (even the worst of thẽ) would have checkt and chastised them with a Resolution suitable to their monstrous Ingratitude; For, however som of them were wholly busied in vexing and undermining the people's Liberties at home, yet they were all very jealous of the Rights and Interests of the Nation at Sea; and good reason they had for it, since without the maintenance of a Sovereigntie there, the Island it self had been but a great Prison, and themselvs and the Natives but so many Captives and Vassals to their Neighbors round about; not so much secluded, as excluded from all the world beside. Upon this ground it was, that Kings ever conceived and maintained themselvs as much Monarchs by Sea as by Land; and the same you will finde here was received by all other States and Princes, the Land and Water that surround's

The Epistle Dedicatorie.

round's it, making one entire Bodie and Territorie. Moreover, our own Municipal Constitutions every where declare the same, as may bee seen by the severall Presidents and Proceedings thereunto relating; which manifestly shew, that by the Common Law of the Land, our Kings were Proprietarie Lords of our Seas; That the Seas of *Engl.* were ever under the Legiance of our Kings, and they soveraign Conservators of the peace as well upon the Sea as Land.

Now therefore (*Right honorable!*) when I look upon you, and behold you more highly intrusted than Kings, and far more nobly adorned upon a better Ground than they were, with all the Rights, Interests, and Privileges of the People; when I consider how God hath wrested the Sword out of their hands, and placed it in yours for our Protection, with the Conservation of our Peace and Liberties, and made you the happie Instruments of freeing us from the yoke of Kings; When I call to minde, how nobly you asserted the Rights of *England* against Domestick Tyrannie, upon the neck of the late King, and laid the foundation of our Freedom upon the highest Act

The Epistle Dedicatorie.

of Justice (when Justice sat more gloriously
inthroned than ever it did before on any
earthly Tribunal) I am raised with more
than ordinarie confidence, that the same
Spirit of Justice, which acted you in your
former atchievments, for our establishment
by Land, against him and his posteritie, will
carrie you on (as you have begun) with
the like zeal and magnanimitie, to vindicate
those Rights by Sea, against all Forein vio-
lations and invasions. It is your honor,
that God hath made you Founders of the
most famous and potent Republick this day
in the world; and your felicitie, that all
your Enemies have no other Ground of
quarrel, but that you are a Republick: For,
though these *Netherlanders* speak it not out
in words, yet they have often told you so in
behaviour; not onely as they saw a barba-
rous stab given you in the person of *D^r Do-
risla*, yet let slip the Murtherers by delaie,
(the States-General not having issued out
so much as a warrant for their apprehensi-
on) but after, in neglecting, slighting and
flender protecting (to say no more) of your
two Ambassadors, and at length in the
louder language of the Cannon, during a
Treatie

The Epistle Dedicatorie.

Treatie of Peace for a more strict League and Union; when *Tromp* proclaimed to all the world, that their infamous design was by Treacherie to surprize and destroy our Fleets at Sea, which (to use your own language) are, *under God, the Walls and Bulwarks of this Nation.* It is not my business here to recite their many unkindnesses throughout the late wars, their designed protracting them by a mischievous underhand-siding and supplying the publick Enemy; together with the many indignities, affronts, injuries, and intolerable provocations, both before and since your settling in a State of Freedom. That egregious attempt upon your Shipping, under pretence of a friendly salutation, consider'd in all its Circumstances, may serv in stead of all, it beeing indeed such a Barbarism, that the world cannot parallel, and none but themselves would have acted; And therefore wee may the less wonder at their denying it when don, since the owning must have rendred them and their present enterprize detestable to the Nations. Nor is it any great marvel, that after the many matchless affronts given you, when your Honors out

The Epistle Dedicatorie.

of a Christian inclination to Peace, were pleased to over-pass them all, and in your Answer of the 25 of *June* to their Ambassadors, to declare notwithstanding, that, if you might have satisfaction for the Charges they put you to in that Summer's Preparations, and Securitie for time to com by both States contracting a firm Alliance, you were readie to set an end to the present differences (it is no marvel, I say, after so great condescension on your part) they should chuse War rather than Peace, since it now appears they had War in their hearts from the very begining, and stood resolved to propagate their ambitious ends by waies of violence, and becom yet more unjust, rather than do any thing, though never so reasonable, that might seem to import an acknowledgment of their late injustice. And to the end that *England* may have a true taste of their intentions, it is well worthie consideration, that as they have refused to give any reasonable satisfaction or securitie, and with a brazen-front out-face the matter in their publick *Manifest*, declaring therein, *That they will never lay down arms so long as you steer the courf you are now in;* so by consequence

The Epistle Dedicatorie.

sequence they seem resolved never to admit Peace, but upon such terms as are inconsistent with your Honor and Interest, and fix themselves (as long as they so continue) in an irreconcilable enmitie to the Good of our Nation. In Cases of this nature, when Adversaries place themselves at an unreasonable distance, there is no securitie for a State, but in a strict Bent to its own Interest; nor any thing more dangerous than *Middle-Counsels*, while an Enemy stands out upon extremities; And what greater extremitie than to invade a Neighbor's Territorie, and prosecute the Invasion by a design of Conquest: The Sea is indeed your Territorie no less than the Land; It hath been held so by all Nations, as unquestionably subject, under every Alteration of Government, to them that have enjoied the Dominion by Land; so that the *Netherlanders* having enter'd your Seas, in defiance of your Power, are as absolute Invaders, as if they had enter'd the Island it self. It is just as if *Hannibal* were again in *Italy*, or *Charls Stuart* at *Worcester*; and the late affront given near *Dover*, was like the one's braving it before the walls of *Rome*, and as if the other had com and knockt at the gates of *London*, or rather at your very Chamber-door; for,

The Epistle Dedicatorie.

that insolent Act was don in that place,
which our Kings heretofore were wont to
call and account their Chamber. How nearly
these things touch the honor of your Selvs
and the Nation, is well apprehended by
your faithful friends, who have been very
amply instructed and quickned by your
publick Declaration: And it is their excee-
ding Joie, while they see you acting and en-
gaging upon just and honorable Grounds,
to make good that Right and Reputation
which you have received as inviolable from
our Ancestors. For, it hath been their
great satisfaction to observ, with what ex-
cellent expressions you acquit your selvs,
when, stating the case of this Quarrel, you
make it known, *with what affection and con-
stancie you have labor'd for the friendship of the
United Provinces; how carefully you have
avoided all differences, and occasions of a warr
between the Nations; yet that all Overtures of
Amitie and nearest Alliance have been reje-
cted; and how that in stead of giving satisfacti-
on for all the injuries they have don you, nothing
would satisfie them; unless you should quietly
and tamely have laid your selvs down at the
feet of those who have thus endeavored to ru-
ine you; or unless you should have betrai-
ed into those hands the Rights and Safe-
ty of your selves and your Kingdoms.*

tie of the People of this Nation: So that being compelled and necessitated into a most unwelcome war begun upon you, you resolve to use such waies and means, wherewith God shall enable you, to defend your selves, and thereby to gain that just satisfaction and securitie, which cannot otherwise bee had. May you ever persist in this heroick Resolution, as to do no wrong to any, so to defend your own Rights against all that shall dare to ravish them; May you alwaies have an ear open to receive full Satisfaction and Securitie, when offer'd, and a heart nobly enkindled with a magnanimous indignation, to retort violence in the faces of bold Usurpers and Invaders. Had the *Netherlanders* been content to keep within their proper Bounds, it had been still our Interest (as of old) to have had Peace with them above other Nations; but since they break out like an Inundation, and with a drawn Sword declare prodigious Principles of Enmitie against the Rights and Liberties of *England*, it is presumed a thing unquestionable, that due Defences ought to be made, till they bee reduced within their antient Limits: For, if they should bee permitted in the least to Lord it at Sea; as they want not will and advantages, and have given you experience of their encroaching and ambitious temper, so it's to bee feared they would bee ever seeking opportunitie, to impose a Lord upon you by Land.

May you go on therefore (*Right honorable!*) as you have begun, and do, and the God of Heaven go along wth you, upon terms of honor & Justice, in such a way, that men may understand (as you will do no

The Epistle Dedicatorie.

wrong) at what rate they must offend you. Not only our eyes, but the eyes of all the world, are fixt upon the carriage and conduct of this noble enterprise by Sea; when you have acquitted your selves there, as no doubt you will do, having already given the same demonstrations of wisdom and courage that you have don by Land, your Wars (through God's blessing) will at once be ended; It will draw such a reverence & repute to your affairs, that men will beware how they provoke you, and your worst enemies despair of any future opportunitie. The late Engagements & Successes of your Fleets at Sea have shewn, that the great God hath owned you there; That hee hath not left you destitute of means; That the old *English* blood & sense of honor, run's still in the veins of your Sea-men; and thereby given you to understand, that hee who hath appeared so gloriously for you, in the midst of wondrous difficulties, by Land, will also manifest his wonders in the Deep, to make a final Accomplishment of the good Work by Sea; and being himself alone invested with the absolute Soveraigntie of Sea & Land, be pleased to continue you and your Successors his Lieutenants in both, for the establishment of this Common-wealth, in a plenary possession of its Rights and Liberties to all Posteritie. I am in my prayers and endeavors

(RIGHT HONORABLE!)

Your Honor's most humble, and

faithful Servant

November 19. 1652.

Marchamont Nedham.



THE
AUTHOR'S
PREFACE.

SOm things there are that I thought fit here to forewarn the Reader; part whereof may be necessarie even for those who are in other things very well instructed. The rest likewise not unprofitable for them, who, while they salute Books by the way, are wont through a customarie vice of temeritie to stumble in the verie Threshold. Those things concern either the place of such Testimonies, as are alleged; or som Circumstances of the Sea-Dominion which is proved; or the Title of the Work. Among Testimonies, besides such as are in Print, and Manuscripts reserved in private men's Libraries, there are not a few
(e) (especially

The Author's Preface.

• Marcellus,
l. 9. ff. tit.
de Probati-
onibus.

(especially in the second Book) brought out of Records or publick Monuments, whose credit I suppose every indifferent Judg of matters will, as once the ^a Senate of Rome did, allow better than other Witnesses (at least if there bee any difference) and therefore full. Those which lie in private men's Libraries, you will finde where they are kept, in the Margin: If omitted there, they are in my own. But as to the Testimonies taken often out of publick Records, som likewise have the Place either of the Archive or Rolls, or the name of the Record-keeper's Office so noted in the Margin, that thereby you may know immediately where to finde them. But som of these Records (that are very frequently cited) have no place at all, nor any name of the Record-keeper expressed, but the King for the most part and the Year, besides the name of the Court-Roll, are only noted. As many as are of this kinde, do relate som to those years that pass betwixt the beginning of the reign of King John and the end of Edward the Fourth; others to those years that succeed down to our time. They which are of the former sort, having no place nor name of the Record-keeper noted, are kept in the Archive of the Tower of London; but those of the latter sort in the Chappel of the Rolls.

It

The Author's Preface.

It had been too slight a matter, to have signified thus much here to such as are acquainted with our English Records; becaus by the very name of the Court-Roll (as Rotulorum Patentium, Rotulorum Clausorum, Rotulorum Parliamentariorum, Rotulorum Franciæ, Vasconniæ, Alemanniæ, and others of that kinde, which are Records belonging to the English Chancerie) and by the name of the King, the very place also of the Records is sufficiently known. But it is necessarie to premise this in the first place, as well for the sakes of my own Country-men who have been Strangers to the Rolls, as in the behalf of Foreiners, to the end that, if either of them perhaps have a minde exactly to consult the Original of any testimonie thence alleged, they might, when the Places are so described, the more conveniently do it themselves at their own leasure, if present, or, if absent, obtain it by the assistance of friends. For, the Record-keepers (who have a special care to preserv them safely) do usually give admittance, at seasonable hours, to all that pleas to consult them, and have them so placed (as ^b Justinian commanded concerning the Records of the Empire) ὡς εἰς τὴν βασιλικὴν ἐπιπέτασθαι τῶν ἐπιζήτων, that they may easily bee found by them that search.

^b Novel Constit. 15. cap. 5. § 2.

The Author's Preface.

As to what concern's the aforesaid circumstances of Sea-Dominion, whereas there are two Propositions here (so far as the term may be born in things of a civil nature) made evident; The one, That the Sea, by the Law of Nature or Nations, is not common to all men, but capable of private Dominion or proprietie as well as the Land; The other, That the King of Great Britain is Lord of the Sea flowing about, as an inseparable and perpetual Appendant of the British Empire; it is not to be conceived, that any other kinde either of Causes or Effects of Sea-Dominion are here admitted, than such as have been of the Dominion of an Island, Continent, Port, or any other Territorie whatsoëver or Province, which is wont to be reckoned in the Royal Patrimonie of Princes. Nor that a less Dominion of the Sea than of the Land, is derived from the nature of the Law received among Nations about the acquiring of Dominion and of Justice it self, as from the Causes; nor that the Effects thereof are any other than what are variously subservient to Compacts, Agreements, Leagues and Treaties, Constitutions or Prescriptions of servitudes, and other things of that nature, in the same manner as the effects of Dominion
by

The Author's Preface.

by Land. And therefore hee said well
of old,

^c Sereca in
Medea, Act
2.

Nunc jam celsit Pontus, & Omnes
Patitur leges ;

**The Sea's now made appropriate,
And yield's to all the Laws of State.**

That is to say, all which are admitted in any
other kinde of Territories, according to the dif-
ference of things, persons, times, and the Law
of War and Peace. And so Valerius to the
Emperor Tiberius, The consent of men
and gods, saith^d hee, would have the regi-
ment of Sea and Land bee in thy power.
There are other Passages of the same kinde
in antient Authors, whereby the Domi-
nion of Land and Sea is so conjoined, that
they would by no means have it divided in
respect of each other, or that either the ef-
fects or causes of the Dominion of this
should bee different from that of the o-
ther. But this, I suppose, is sufficiently
manifest to the more intelligent sort of men,
without any Advertisement ; though it bee neces-
sarie for such as too rashly, without any regard

^d Prologo.

(f)

had

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had to the interposition of Leagues and Treaties, Agreement, or Law, dare boldly affirm sometimes, that the caus of Sea-Dominion consists onely in the strength of powerful Fleets, sometimes also of such as belong to Pirates; but the effect in restraining all others simply and perpetually.

e Videtis
Lud. Serwin.
in placit.
tom. 2. pag.
260.

But the Title of the Book needs a defence also among some, whose palate I hear it doth not pleas very well. They would not have, forsooth, the Mare Clausum here handled, as an assertion of the Dominion of the Sea, but to denote the time wherein the Seas were said to bee shut or closed by the Antients, as not fit for Navigation. Every man know's, that from the third of the Ides of ^e November until the sixt of the Ides of March, or betwixt some other ^b beginning and ending of such a kinde of winter-season, the Sea was, and was so called, heretofore Clausum **Shut**; as the rest of the time, or in the Summer-season, it was called Apertum **Open**, that is to say, more apt and convenient for shipping. According to which sens it was said by ^h Cicero, while hee was in expectation of Letters from his brother Quinctus; Adhuc Clausum Mare seio fuisse, **I know the Sea hath been shut until now.** So that in this sens, the Surnames both

f Vegetius,
de Re Militari, lib. 4.
cap. 39.
g L. 3. C. tit.
de naufragiis, & l. 3.
tit eod. in
Cod. Theodoliano;
Jul Ferret.
de R. Nava-
li, li. 11.
§ 2. & 3.
h Ad Quinctum Fratrem, lib. 2.
Epist. 5.

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both of Clusius and Patulcius, might rightly enough have been given to Neptune, as well as Janus. But yet, though the Title had been taken from this Nation of the Seas being shut or closed, it would not truly have been so reproveable. For, seeing it is in the power of an Owner, so to use and enjoy his Own, that without some Compacts of Agreement, Covenants or some special Right supervening, hee may lawfully restrain any others whatsoever, it cannot bee amiss for any one to say, that the Seas, which might pass into the Dominion of any person, are by the Law of Dominion shut to all others who are not Owners or that do not enjoy such a peculiar Right; in the same manner almost as that, whereby in that Winter-season they become unnavigable by the Law of Nature, as saith Vegetius. But truly there is another and far clearer meaning of the Title. The simple sens of its terms doth denote, that the Sea is so shut up or separated and secluded for private Dominion, no otherwise than the Land or a Port, by bounds, limits, and other Notes and circumstances of private Dominion, and that by all kinde of Law, that without the consent of the Owner and those special restrictions & qualifications of Law, which variously intervene, vanish, and return,

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all others are excluded from a use of the same. For, most certain it is, that *Claudere*, to shut doth not only denote the mere simple Act of shutting, as wee say de Januis oculisve clausis of gates or one's eyes beeing shut, clauso agmine, or as it is in that of ¹ Lucan,

¹ Pharsal. 3.

Brachia nec licuit vasto jactare Profundo;

Sed Clauso periere Mari.——

(which is spoken of the Seamen's beeing cover'd with the keel of their ship turned upward) but also it very often signifie's that which is consequent either to a denial of the free use of the thing shut, as also the proprietie and Dominion of him that shut's it; So saith Venus in ^k Virgil to Jupiter;

^k Æneid. 1.

Quid Troës potuere? quibus tot funera passis

Cunctus ob Italiam Terrarum Clauditur Orbis.

Clauditur Orbis, the World shut; that is to say a free use of the world is forbidden them, or not permitted. And ¹ Propertius,

¹ Lib. 4. Eleg. 10.

Non Clausisset aquas ipsa Noverca suas.
Hee

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Hee speak's of the sacred Fountains of Juno, which were appropriate to the Female Sex as Owners, and so prohibited to Hercules and all Males whatsoever. The Ambassador of the Tencteri speak's to the same sens also to the Agrippinenles in^m Tacitus; VVe rejoice in your behalf, that at length yee shall bee free among them that are free. For, to this day, the Romanes had shut up the Rivers and Lands, and in a manner the very Aër, to hinder and restrain our Conferences and Meetings. And in the same Author, Cerialis plead's to the Treveri and Lingones. Except Tributes, saith hee, Other things remain in common, yee your selvs for the most part command our Legions; yee rule these and other Provinces. *Nihil separatum Clausumve*, Nothing is separate or shut. Many other passages there are of that kinde. Plinie also saith of the Seas themselvs, ⁿ Interiora Maria Clauduntur ut portu, the inner Seas are shut as in a Haven. And the same Author in ^o another, saith, Mare Tyrrhenum à Lucrino molibus seclusum, the Tyrrhen Sea was secluded or shut apart by Isles from the Lucrine. And ^p Tacitus, tutum, seclusum Mare, the Sea was safe, beeing secluded. That

^m Historiar.
4.

ⁿ Hist. Nat.
lib. 2. cap. 9.

^o Ibid. lib.
36. cap. 15.

^p Histor. 2.

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Panegyrist also to Constantius, saith of the Franks that robbed heretofore in a Piratick manner, as well in the Mediterranean as the open Sea, eventu temeritatis ostenderant nihil esse Clausum piraticæ disperationi quo navigiis pateret accessus, they made it appear by the event of their rashness, that nothing could bee shut against the desperation of Pirates, where there might bee an access for Shipping. That is to say, the Sea was not so shut against Pirates by the Roman Emperor, but that they freely used depredation therein. In a word, that which is said by

Ambrose, possidere fretum, & spatia Maris sibi vindicare Jure Mancipii, to possess a Narrow Sea and challenge spaces of the Sea by right of subjection, is the very same with that of

Columella, Maria ipsa Neptunumque claudere, to shut the Seas themselves and Neptune; and so Mare Clausum is the Sea possessed in a private manner, or so secluded both by Right and Occupation, that it ceaseth to bee common; that is, being claimed by Right of subjection. Upon this ground it was, that those Angles were called Anguli Clausares, whereby the

the

¶ Hexaëmer.
lib.5. ca.10.

¶ De Re
Rusticâ, lib.
8. cap.16.

* A Cen-
turie 200
Acres.

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the antient Romans did so touch one another, that it might bee known thereby, how far the right of the possession of particular persons did extend, as you may see in Hygenus. Neither is it necessarie, that what may bee rightly said in this sens to bee shut, should bee shut or enclosed by som continued Fence, or by a continued Tract of som eminent Limit like a Mound: But any kinde of imaginarie Line, by streight Lines, crooked windings and Turnings and Angles, hath taken place in the designation of private Dominions, or in the shutting or inclosing of a thing possessed in a civil acception (as it was usual among the Antients in those Fields which were termed Agri Occupatorii and Arcifinii) as well as any eminent and continued Limit or Mound whatsoever. From whence it came to pass, that in the Assignations of Colonies, they called those places Clausa and Extraclusa whose Limits were divided onely by such kinde of Lines. Julius Frontinus saith; That Field may bee called Ager extraclusus which lie's within the bordering Line and the Centuries, and therefore extraclusus, becaus it is closed with the bordering line beyond the limits. So the Territories,

† Lib. de Limitibus Constituentibus.

† Lib. de Limitibus Agrorum.

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assigned as well in the Colonies at this day carried into America, as in that prodigious gift of Pope Alexander VI in the former Age, which is bounded by an imaginarie Line from the ^u Artic to the Antartic Pole, are closed by Lines of Longitude and Latitude drawn through the degrees of Heaven, that they may be possessed in a private manner. So the Greek Sea, which is within the Cyanean and Chelidonian Islands, was by ^x Agreement shut and prohibited by the Athenians to the Persian Emperor. So the Sea flowing about is shut or closed within the compass of the Royal Patrimony of the British Empire. Other passages there are every where of the same kinde. But I enlarge my self too much in a thing so manifest. Therefore I forbear to light a Candle to the Sun. Farewel Reader. From the Inner Temple, IV November MDCXXXV.

u Laërtius
Cherubini-
nus, Bullar.
tom. i. pag.
393. Hiero-
nym. d:
Monte Brix-
iano, lib. de
finibus re-
gundis, cap.
7. § 8.
x Plutarch.
vitâ Cimo-
nis.

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* Mare Ligusticum is now called Mar Leone, and Mardi Genova.

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OF



OF THE
DOMINION,
 OR,
 Ownership of the Sea.

BOOK I.

*The Division of the Work, and the Method
 of the first Book.*

CHAP. I.



THE Design being to treat of the Dominion or Ownership of the Sea, encompassing the Isle of Great Britain, as belonging to the Empire of the same; two main particulars are chiefly to be consider'd. The one concern's matter of *Law*, the other matter of *Fact*; both of them being denominated (as is usual) from the major part: For, as

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the

Book I. *Of the Dominion, or,*

the point of *Law* hath many things mingled with it, which manifestly arise from matter of *Fact*; so this of *Fact* comprehend's not a few which relate unto that of *Law*. As to what concern's the point of *Law*, this Question fall's chiefly under debate, to wit, *Whether by Law the Sea bee capable of private Dominion, or Propriety?* And by matter of *Fact* is meant only such a collection of Testimonies, or clear shewing forth of Evidences by which may bee proved and maintained, *The long and continual conjunction with the British Empire, of enjoiment and possession, or lawful prescription; whereupon as on a most strong Title, the Dominion or Ownership of the same Empire herein may bee founded;* it beeing first made manifest, that the Sea it self is not only not repugnant by any *Law* to Dominion or Ownership, but every way capable thereof. To each of these Particulars a several Book is allotted. In the first, is discuss'd matter of *Law*: In the second, that which concern's matter of *Fact*: For, except manifest proof bee made of the first point, it will bee utterly in vain to discours about the second. But for those things which are to bee handled in the first Book, it seem'd meet to observ such a Method, as in the first place to lay open the Rise or Original ground of those Disputes that have occasioned this enquire into the point of *Law*, together with the Opinions of those men, who denie that the Sea is capable of private Dominion or Ownership, or that it may pass into the Propriety of any one particular, so as in the mean time to exclude it from beeing common to the rest of mankind. Next are premis'd som things, for explaining the terms of the Questions, that it may bee clearly thence understood, as well what kinde of *Mediums* are to bee used, as what the Thing is, whereof wee intend to Treat; left by neglect of such a Course, wee
bee

bee perplex't with Doubts about the notion and acceptance, either of the Terms themselves, or of the Subject in Controversie. After this preparation thus duly made, it is then demonstrated, that not onely no kinde of Law whatsoever, rightly understood, doth deny a Dominion over the Sea, but that all kinds of Law, even the most known and approved, whereof there may bee any use in Disputes of this nature, do acknowledge and allow a proprietie and private Dominion over the Sea, as well as the Land. Lastly, the Objections usuallly brought against such Dominion or Ownership of the Sea, are cleared and answered; And with these wee shall now begin; for the Method of the second Book is more conveniently put there before it.

What Occurrences seem to oppose the Dominion of Sea, and what Arguments are wont to bee made against it.

CHAP. II.

THe Arguments usuallly brought against the Dominion of the Sea, are of three sorts. *Some* are drawn from freedom of Commerce, Passage, and Travel; *Others* from the nature of the Sea; and a *third* sort from the Writings and Testimonies of learned men. And as to what concern's the freedom of Commerce or Traffick, and Travel, this *some* men affirm to bee so natural, that they say it can no where bee abolished by any Law or Custom; yea, and that by the Law of Nations it is unjust to denie Merchants or Strangers the benefit of Port, Provisions, Commerce, and Navigation; Adding moreover, that

wars have been justly commenced upon denial of Port, Trade, and Commerce; And for proof, they produce the example of the *Megarans*^a against the *Athenians*, the *Bononians*^b against the *Venetians*, and of the *Spaniard* against those of the *West-Indies*; for that, the expedition of *Spain* against the *Americans* is pretended, by very learned men to bee upon a^c just Ground, becaus they denied them a freedom of Commerce within their Shores and Ports. And in justification hereof, They use that of *Virgil*, as spoken out of the Law of Nations;

*Quod genus^d hoc hominum, quæve hunc tam barbara morem
Permittit patria? hospitio prohibemur Aræne.*

**What barb'rous Land this custom own's:
What sort
Of men are these? Wee are forbid their Port.**

Now, if such a Proprietie or Dominion of the Sea were admitted, that men might bee forbidden the libertie of Navigation and Ports, at the will of any Proprietor, then, say they, it would bee an infringement of that Law of Commerce and Travel (by them styled the Law of Nature) which they would not have to bee indured.

Touching the *second* sort of Objections drawn from the nature of the Sea it self, it is commonly alleged; That the Sea is alter'd and shifted every moment, and the state of it, through a continued Succession of new waters, alway so uncertain, and remain's so little the same in all things (the Channel onely excepted) that it is impossible it should ever bee retained in the possession of any one Particular. Moreover, they say the nature of Possession consist's chiefly in a separation or distinction of Limits and Bounds, but

no

^a *Thucidid.*
lib 1. & Dio-
dor. Sic. lib.
12.

^b *Sigon. de*
Regno Italiæ,
lib. 20.

^c *Franciscus*
Victoria de
Indis, tract. 2.
§. 2. 3. & 4.
Joannes So-
lorzanos de
Indiar. Jure
lib. 2. cap. 20.
§. 34. & seqq.
Gregor. Lo-
pez in Par-
tid. 2. tit 23.
l. 2.

^d *Æneid. 1.*

no such Materials or Instruments can possibly be found in the Sea, as that the Law for regulation of Bounds, which hath a principal place in all Controversies about Dominion or Ownership may be grounded thereupon. They produce also a saying out of ^c S^t Ambrose, ^c Hexaë ner. lib. cap. 10. speaking about the lurking-holes or holds of Fishes; *Geometram audivimus, Thalassometram nunquam audivimus; & tamen Pisces mensuras suas nôrunt.* **I have heard of a Geometrician, or one that could measure Land; but never of a Thalassometrician, one that could measure or lay out Bounds in the Sea; and yet the Fishes know their own Bounds.** They are pleated likewise to intinuate, what a world of Sea room there is, that all Nations may have sufficient for watering, fishing, and Navigation: And therefore that the peculiar Dominion thereof is by no means to be appropriated unto any.

A third sort of Arguments lie's in those Testimonies that are drawn out of antient Writers; partly out of old Poëts, Divines, and others writing of other subjects; partly from such Lawyvers as handle the matter purpose-ly. Of the first kinde is that of *Gripus* the Fisherman, and *Trachalio* the Slave, as they are brought upon the Stage by *Plautus*, quarrelling about a Bag that was found in the Sea.

^a Gr. *Mare quidem commune certò est omnibus.* Tr. *Assentio.* ^a In *Rudente,*
Quò minus hunc communem quæso mihi oportet esse vidulum? *A. 3. 4.*
In Mari inventum est. Commune est. —

Gr. **The Sea is common certainly to all.**

Tr. **True.**

Why not this Bag to mee then too, thou brawle:

It was found within the Sea.

Therefore common it must bee.

They produce likewise a piece of a supplicatorie

6 Book I. Of the Domionin, or,

Speech of *Latona*, to a rustick Rout in *Lycia*, as it in
Ovid^b,

^b *Metamor.*
6.

*Quid prohibetis Aquas? usus communis Aquarum est.
 Nec Solem proprium Natura, nec Aëra fecit,
 Nec tenues Undas. In publica munera veni.*

— — Why hinder you, said shee,
 The use of Water, that to all is free?
 The Sun, Aër, Water, Nature did not frame
 Peculiar; a publick Gift I claim.

^c *Æneid.* 7.

And that of *Virgil* too^c

— — *Littusque rogamus*

Innocuum, & cunctis undamque, Auramque patentem.

Nothing but what is common wee implore,
 Free Aër, and Water, and a harmless Shore.

^d *Difnosoph.*
8.

Phenicides saith also in *Athenæus*^d, τὴν μὲν θάλασσαν κοινὴν εἶναι, that the Sea is common. To which may be added that memorable saying of certain Jewish Rab-
 bins, who, when they acknowledged *Alexander* to be Lord of the whole world, did it nevertheless with this Caution, that they conceived hee had by his Con-
 quests gained a Sovereigntie onely over the Earth or drie Land, but none at all over the Sea; it being subject onely to God himself, as its sole Commander.

^e *Gemara*
Hierosolymit.
tit. Abada
Zara, seu de
cultu extra-
neo. fol. 42.
col. 3. cap. 3.

The words are these out of the Ebrew, ^e *Non Do-*
minabatur in Mari, sed Deus O. M. Dominatur, tam in
Mari quàm in Tellure. Hee ruled not over the Sea,
 but God Almighty is hee onely that rule's by
 Sea as well as by Land.

The second kinde of Arguments here, found among
 the Lawyers, are of two sorts. *Naturali jure, omnium*
communia sunt illa, Aër, Aqua profluens, & Mare, & per
hoc littora Maris. Item, *Nemo ad littus Maris accedere pro-*
bibetur

hibetur piscandi caussa, dum tamen villis & edificiis & Monumentis abstinatur; quia non Juris Gentium, sicut & Mare. Idque Divus Pius piscatoribus Formianis & Capenatis rescripsit. **By the Law of Nature, the Aër, Rivers, the Sea, and it's Shores, are common to all.** Also, none are prohibited to use fishing upon the Shores as long as they meddle not with Towns, Buildings and Monuments, in regard these are not common by the Law of Nations, as is the Sea; And this was prescribed by the Emperoz Antonius Pius, to the Fisher men of Formiæ and Capena; which are the very words used by ^f Marcianus the Lawyer and by ^g Justinian in his Institutions. And Ulpian, ^h Mari, quod Naturâ omnibus patet, servitus imponi privatâ lege non potest. **The Sea, beeing by Nature free for all, cannot bee vassalised by any particular Law.** And in another place, saith hee; ⁱ Mare commune omnium est & litora, sicut Aër. Et est sepissime rescriptum, non posse quem piscari prohiberi. **The Sea and Shores are common to all, as the Aër.** And wee finde it very often prescribed or commanded by the Emperors, that none bee prohibited from fishing: With which agree's also that saying of ^k Celsus. Maris esse usum communem omnibus hominibus ut Aëris. **A freedom of the Sea, as well as of the Aër, is common to all men.** In like manner, some would have it that the Romane Emperoz himself was Lord onely of the Land, and not of the Sea; for proof whereof, they mention an Answer given by the Emperoz Antoninus; ^l Se quidem mundi Dominum esse; legem autem Maris; **That himself was Lord of the World, but the Law of the Sea;** pretending this Answer of his to bee commonly understood, as if hee refused to arrogate

^f L. 2. & l. 4. ff. de Rerum Divisione.

^g Tit. eodem; & quidem.

^h L. 13. ff. tit. communia prædiorum.

ⁱ L. 13. § 7. ff. tit. Injuris, & vide extr. l. 24. ff. de damno infecto.

^k L. 3. ff. Ne quid in publico § 1.

^l D. D. ad lib. 9. ff. ad legem Rhodiam.

rogate the Dominion of the Sea unto himself. And in the ^m *Basilica* or Laws of the Eastern Empire, wee finde it thus written, Οἱ αἰγιαλοὶ ἐν τῇ πάντων ἐξουσίᾳ εἰσὶν. *The Shores are within the power of all men.* So also saith *Michaël Attaliates*, a man learned in the Laws of that Empire, Ἐπιπέδον ὅτι πάντων εἰσὶν. οἷον ὁ Ἄηρ, τὸ ῥέον Ὑδωρ, ἢ Θάλασσα, ὁ αἰγιαλὸς τῆς θαλάσσης, καὶ οἱ Ποταμοί. *Some things are common to all, as Aër, Fountains, the Sea, Shores, and Rivers.* And the summe is, that some ancient Lawyers of both Empires write, that the Sea is common to all men, by the Law of Nature and Nations; which if it were truly proved, either from the nature of the Sea it self, or from either of those Laws, then it could not possibly bee admitted, that the Sea might become the peculiar possession of any one, unless a change were made of the Law of nature, which is commonly said to bee altogether unchangeable; or that the consent of Nations, that have interest herein, were obtained to admit of such a Dominion or Ownership. And therefore from thence they seem to hold, that a Dominion over the Sea cannot bee attained by any ancient usage, custom or prescription, nor under any other pretence or title whatsoever, for (saie they) no Plea or Barr is to bee allowed against nature, Nor (as ^o *Papinian* saith) is a Prescription of long possession wont to bee admitted for the holding of such places as are publick and common by the Law of Nations. And these ancient Lawyers here mentioned are followed by no small Train of Interpreters; though nevertheless there are not a few even of them, who restrain and qualifie that ancient opinion more waies then one, touching the necessitie of a common Intercourse and freedom at Sea, as wee shall shew hereafter.

But of our modern Lawyers, those that have appear-
ed

^a *Eclog. Basilic. lib. 50. tit. 1. cap. 13.*

^a *Pragmat. tit. 2.*

^o *Neque prescriptio longæ possessionis ad obtinenda loca jure Gentium publica solet concedi. li. 45. tit. de usucapionibus & usurpationibus.*

ed most forward in opposing a Right of Dominion over the Sea, are onely two, both indeed very eminent men, but of unequal learning and elegancie of wit; by name *Fernandus Vasquius* the Spaniard, and *Hugo Grotius* the Hollander: the former an honorable Counsellor to King *Philip* the 3. of *Spain* in his high Court of Exchequer. The later was heretofore Advocate Fiscal of *Holland, Zeland, and West-Friesland*, and most deservedly adorned with divers other honors in his own Countrie; a man of an acute judgment, and for his excellencie in all kinds of learning incomparable. But *Vasquius*, in his discours both of the Law of Nature and Nations, as also concerning the Rights of Dominion, Prescription, and other things of that nature, speak's to this effect. ^p From hence (saith hee) it appear's how little esteem is to bee had of their opinion, who suppose that the *Genoëles* or *Venetians* may without injurie, forbid others to sail through the Gulph in their respective Seas, as if they could have laid claim to those Seas by Prescription; which is not onely contrarie to the Imperial Laws (above mentioned) but also against the Primitive Law of nature and nations, which cannot bee alter'd. And that it is against this Law, is evident; becaus by the same Law not onely the Seas, but all other immovable things whatsoëver, were common. And although in after-time that Law came to bee abolish't in part, so far as concern's the Dominion and Proprietie of Lands, which beeing enjoied in common, according to the Law of nature, were afterwards distinguish't, divided, and so separated from that common use; yet it hath been otherwise, and is still, as to the Dominion of the Sea, which from the beginning of the world to this present daie, is, and ever hath been in common, without the least alteration, as 'tis generally known. And though I hear many of the *Portugals* are of this opinion, that their King hath had such an antient Title by Prescription in that vast Ocean

^p *Fernandus Vasq.* Controvers illustr: lib. 2. c. 89. § 10. Ex his apparet quàm suspècia sit &c.

of the West-Indies, so that other Nations have no right to sail through those Seas; and also that the ordinarie sort of our own Nation of Spain seem to bee of the same opinion, that no people whatsoever, but Spaniards, have any right to sail through that immens and most spacious Sea, to those Indian Countries that have been subdued by the most mightie Kings of Spain (as if they onely had a right by Prescription thereto;) yet all these men's opinions are no less vain and foolish, then theirs, who use to dream the same things of the Genoeses and Venetians. The follie of which opinions appears the more clearly even in this respect; becaus neither of those Nations singly consider'd can prescribe ought against themselvs; that is to saie, neither the Republick of Venice against it self; nor that of Genoa against it self, nor the Kingdom of Spain against it self, nor that of Portugal against it self; for there ought ever to bee a difference between the Agent and Patient: Much less can they prescribe ought to the prejudice of other Nations, becaus the Law of Prescriptions is purely Civil. Therefore such a Law can bee of no force, in deciding Controversies that happen betwixt Princes or people that acknowledg no Superior: For the peculiar Civil Laws of every Countrie are of no more value, as to Forrain Countries and Nations, or their people, then if such a Law were not in Being, or never had been; and therefore in Controversies of that nature recourse must bee had unto the common Law of Nations Original or Secondarie; which Law certainly did never admit of such a Prescription or usurpation of Title over the Sea. Other matters hee hath of the same kinde, beeing a very confident opposer of any peculiar Dominion over the Sea.

But in the year *MDCIX* (it beeing the year after that large Treatie held at the *Hage* betwixt the Spaniard and the Hollander, about freedom of
Trade

Trade and Navigation to the *East-Indies*) there was published that Book of *Hugo Grotius*, entituled *MARE LIBERUM*, or a *discours concerning that Right which the Hollanders have to Trade in the Indies*. Wherein hee endeavor's first to prove, that, by the Law of Nations, there ought to bee such a freedom of Navigation for all men whatsoëver, which waie they pleas, so that they cannot, without injurie, bee molested at Sea. Next, that the Atlantick and Southern Ocean, or the Right of Navigation to the *Indies*, is not, nor indeed can bee, any peculiar of the *Portugalls*: forasmuch as the Sea (saith hee, according to the⁹ *Laws* and reasons already mentioned) can in no wise become the Proprietie of any one; because nature not onely permit's; but require's it should bee common. Several other passages hee hath about this matter, in his excellent Book *De Jure Belli & pacis*; of which more hereafter. Thus much in brief, concerning those arguments that are usually brought against the Dominion or Ownership of the Sea. The next thing therefore is to explain the sense of the Question, and its terms.

⁹ *Mari Libero cap. 5. Mare proprium omnino alicujus fieri non potest; Quia natura commune hoc esse non permittit, sed jubet.*

What is meant by the word SEA, in the Question. Also a division of the LAVV, in order to the discours.

CHAP. III.

AS to what concern's the present Question; Whether the Sea bee capable of private Dominion, wee take the word CAPABLE in the same sense, as it was used by the Emperor *Traian*

^a *Plin. lib. 10.*
Epist. 59.

in an Epistle of his, to his beloved *Plinie*; ^a *Solum peregrinæ civitatis capax non esse dedicationis quæ fit jure nostro;*
The soil of a strange Citie is not capable of such a dedication as is made by our Law Moreover, wee shall explain what is meant by the *SEA*, as also by those Terms of *LAW* and *DOMINION*. By the *SEA* wee understand the whole Sea, as well the main Ocean or Out-land Seas, as those which are within-land, such as the *Mediterranean*, *Adriatick*, *Ægean* or *Levant*, *British*, and *Baltick* Seas, or any other of that kinde, which differ no otherwise from the main, then as Homogeneous or Similary parts of the same bodie do from the whole. But the *Law* (as it is the rule, measure, and pointing out of things lawful or unlawful) fall's under a twofold consideration. Either as it is *Obligatorie*, which is called also *Preceptive*; or as it is *Permissive*, which is also by writers commonly termed *Concessive*. As *Obligatorie*, it is known by such things as are commanded or forbidden, as to give every man his due, not to forswear, and the like. As *Permissive*, it is set forth by things whose use is neither commanded nor forbidden, but permitted; as in the very Act of buying, selling, infranchisement, framing conditions of contract according to the will of the contractors, and many more of the same nature. But both these kinds of *LAW* concern either mankinde in general, that is, all Nations, or not all. That which relate's to the generalitie of mankinde, or all Nations, is either *Natural* or *Divine*. That is, either manifested by the light of nature or the use of right reason, being elegantly described by *Tertullian* to bee the ^b *Common Law* written throughout the whole world, in the very Books of nature

^b *Lex communis in publico mundi, & Tabulis naturalibus scripta. Lib. de Corona militis.*

ture ; and by the Grecians called ^c *the Law of man-kinde*, and by the Civilians the *Primitive Law of Nations* ; or els it is declared and set down in those Divine Oracles that have been committed to writing : Both which may properly bee termed the *universal Law of Nations*, or the *Common Law of man-kinde*. And whatèver is *Obligatorie* in either of these, either out of the nature of the thing it self, or rather from the autoritie of the father of nature, is reputed by men to bee unchangable ; according to that saying so often used by ^d Philosophers, ^e Divines, and ^f Lawyers, *That the rights and Laws of nature are immutable*, Which cannot bee said of the *Permissive Law*, whether Natural or Divine, relateing to mankinde in general : for it is obvious to every man, that as *Permissive*, it must needs bee various and changable, according to the judgment and pleasure of persons in power ; and therefore subject to Repealings, Qualifications, and daily Alterations ; whereas in the mean time that kinde which is *Obligatorie* may admit *Additions* or *Inlargements* (such as may serv for more certaintie and convenience of observation,) but no *Alterations*, in any wise to diminish it's autoritie. Out of such *Additions* as are made to that which is *Obligatorie*, and *Alterations* of that which is *Permissive*, another kinde of *Law* takes it's rise, which is of a more narrow Sens and Acceptation, and relate's, not to all Nations or the Universalitie of mankinde, but onely to som particulars thereof, and it is ordinarily well termed *Positive* (as beeing positively ordained either by God or men ;) Sometimes also it is termed ^g *Civil*, and an Addition of right Reason. This *Positive Law* may bee divided into that which is singular and pe-

^c Κεῖνὰ νόμῳ
^d Ἀνεπαύτων δὲ
 νόμων.
 Thucyd. l. 4.
 Polyb. l. 2.
 & alij.

^d Andronic.
 Rhodius,
 Michaël
 Ephesius,
 Eustratius,
 alij, ad Arist.
 Nicomach.
 5. cap. 10.
 Cicero, apud
 Lactantium
 lib. 6. cap. 8.
^e D. Thom.
 Aquin. 1. 2.
 q. 94.
 art. 5. &c.
^f Instit. de
 Jure Nat.
 §. sed Natu-
 ralia.

^g Philo Ju-
 deus, lib. de
 Joseph's seu
 de Viro Ci-
 vili.

^b *Instit. tit. de
patriâ potes-
tate. §. Jus
autem.*
ⁱ *Demosthen.
Orat. contra
Aristocratem.*

cular to any one particular Nation or Societie of mankinde (as was the ^b Law concerning Paternal power among the *Romans*, and the custom of the ⁱ *Athenians* touching the same;) or into that which is received by divers Nations. Again this last is divided into two parts; either into that which bind's divers Nations jointly, equally, and indifferently, by som common obligation; or ell into that which bind's divers Nations or people, not jointly, and equally, or by any common obligation, but singly and by Accident. And of this threefold kinde of *Positive Law*, wee may call the first the *Law purely Civil*, as it relates to any one particular civil societie. The second the *Common Law of divers Nations*, so named from som common tie or obligation betwixt them. The third the *Law of som or divers Nations*, *Civil* or *Domestick*, by reason of that *Domestick* and *Civil* tie onely, whereby they are bound singly among themselvs, without any obligation to each other in common. As for example, the *Laws of the XII Tables* that were brought from *Athens* to *Rome*, remained in force in both Nations, as well in the *Romane*, as in the *Athenian*; but not by any common or mutual obligation between them: And therefore that *Law of the XII Tables* ought much more properly to bee called the *Civil Law* of those Nations, then simply of both Nations (in any such sense as import's a *Joint-Interest* or *Communion*.) But as to that which jointly concern's divers Nations by mutual obligation, that is, the *Common Law of divers Nations*, it is divisible likewise into two parts, to wit, into that which is *Imperative* over divers Nations or people; or that which is *Intervenient*. By the *Imperative Law of Nations*, is meant that which is observed or receiv's *Authority* among severall Nations or people, who are subject to
supreme

supreme Powers that otherwise are distinct, and this by reason of an Obligation equally common to them all, but derived from som other, and enjoined by som special Command, either from God or man. Of this kinde was that Law of the *Dolopes*, the *Magnesian*, *Phthiotæ*, *Thessalians*, and other people of Greece, who beeing equally obliged by the command of ^k *Acrisius* King of the *Argives*, submitted to the jurisdiction of the grand Parliament or Assembly of *Amphietyones*. Of the same kinde likewise was that * *Militarie* Law enjoined by God, not onely to the People of *Israël*, but also to the *Canaanites* with whom they were to wage war: For, they were both obliged by the Autoritie of him that commanded, though after a divers manner. And when any Nations, in obedience to the *Pope's* Autoritie and command, do alike submit to one and the same Law, it may bee rightly called the *Imperative* Law of Nations. But that is to bee called the *Intervenient* Law of Nations, which take's it's rise, not from any command imposed upon several Nations in common, but through the intervention either of som Compact, or Custom; and it is commonly styled the *Secondarie* Law of Nations: The principal heads whereof are contened in the Laws about *proclaiming War*, *Ambassie*, *Prisoners of War*, *Hostages*, *Right*, *Remitter upon return from Captivitie*, *Leagues and Covenants*, *Commerce*, and other matters of that Nature which usually intervene betwixt divers Nations. For, as much as in these Laws here spoken of, it is in several Nations wholly composed of such *Additions* as have been made to the *universal Obligatorie Law of Nations*, and of such *Alterations* as have accrued to the *Universal Permissive*, and no more may challenge the name of *Imperative* or *Intervenient*. And it is most plain, that the
rest

^k *Pausanias*
in *Phocicis*,
Strabo lib. 9.
Æschines
in *Orat.*
ὡς μέγαρον
βίαις.
* *Deut.* 20.
10.

rest retain's still the name of the *Universal or Primitive Law of Nations*. Moreover also, the *Imperial Law*, which usually take's place in all Controversies about the aforesaid Particulars of the *Intervenient Law*, so far as it agree's with the *Universal Law of Nations*, Natural or Divine, is to bee comprised under the same Notion; But as by the consent of some certain Nations, with whom it is in use, divers principal heads and determinations of it (beeing no part of the *Universal Law*) are so made use of, it most clearly fall's under the name of the *Intervenient Law of som Nations*. Lastly, as it is received and used at home by som particular People in their Courts of Judicature, it is to bee called the *Law Civil or Domestick of divers Nations*. And thus having given you a plain Scheme of the *Law*, in all those various Notions and Acceptions that are to bee used in the Controversie; it remain's that in the next place that of *Dominion or Ownership* bee taken into consideration.

Of Dominion, both *Common* to all, and *Private*. Also its *Original*, either by *Distribution*, or *Primarie Occupation*.

C H A P. IV.

D*ominion*, which is a Right of Using, Enjoying, Alienating, and free Disposing, is either *Common* to all men as Possessors without Distinction, or *Private* and peculiar onely to som; that is to say, distributed and set apart by any particular States, Princes, or persons whatsoever, in such a manner that others are excluded, or at least in som sort barred from a Libertie of Use and Enjoiment. As to the first kinde of *Dominion*, or that which is *Common* to All, fre-

frequent mention is made of it, in relation to that State of Communitie, which was in antient times. And of which *Virgil* speak's in his *Georgicks* ^a

^a *Georgic.*

*Nec signare quidem, aut partiri limite Campum
Fas erat; in medio quærebant* —

**Not was it lawfull then their Lands to bound;
They liv'd in common All upon the Ground.**

And *Seneca* ^b,

^b *In Octavia,*
Act. 2.

— — — *per vium cunctis iter;*
Communis usus omnium rerum fuit.

**All men might pass what way they pleas'd
to chuse,
And all things were expos'd for common use.**

And *Tibullus* ^c,

^c *Ad Messalam. Eleg. lib.*
1. 3.

*Non domus ulla fores habuit; non fixus in agris,
Qui regeret certis finibus arva, lapis.*

**Men did not then with doores their Houses
build,
Nor were they wont with stones to bound
the Field.**

Many more there are of the like nature. But yet ^d *Lactantius* would have them to bee so understood, not that we should conceiv that nothing at all was private or peculiar in those daies; but in a figurative sens after the manner of the Poëts, to let us know that men were then so free and generous, that they did not hoord up the fruits of the Earth for themselves, nor dwell in an obscure solitarie manner, but admitted the poor to partake of the benefit of their labors. And truly, wee finde divers passages plainly pointing out this state of Communitie, in that Divine Act of Donation,

^d *Divin. Institut. lib. 5.*
seu de Iustitia. cap. 5.

D

where-

whereby *Noah* and his three sons *Shem*, *Cham* and *Japhet* (who represented as it were the person of *Adam*, for the restoring of mankind after the flood) became Joint-Lords of the whole world. The form of Donation, is expressed in these words, ^c *Bee fruitful, and multiply and replenish the Earth. And the fear of you, and the dread of you shall bee upon every Beast of the Earth, and every Fowl of the Air, upon all that moveth upon the Earth, and upon all the Fishes of the Sea, into your hands are they delivered.* Also, *Justin* the Historian speak's aptly and to the purpose, ^f *In the Age of Saturn* (saith hee) *all things were without distinction common to all, as if all men had lived upon one stock or Patrimoine.* From whence it came to pass, that in the Festivals of *Saturn* all things were enjoyed in common. To which likewise accord's that of *Cicero*^g, *No thing is private or peculiar to any by Nature; but either by occupation of old, as in the case of those who first inhabited Vacancies; or who became possess't by right of War and Conquest; or by virtue of som Law; or by Compact, Covenant, or by Lot: Yet 'tis not probable, that this kinde of Communitie was of any long continuance.* But as for *Private Dominion*, or that distribution of Possessions and Bounds which depriveth or in any sort barreth all others, besides the known possessor, from a libertie of use and enjoiment, they say it was not in being till those golden daies were over. And so, as the Poët sings^h,

*Communemque prius, ceu lumina solis & Auræ,
Cautus humum longo signavit limite Mensur;*

**The Earth, as common once as Light or Air,
They then by Art did measure, bound and share.**

It appear's also by holy Writ, that the Earth was divided by the Posteritie of *Noah*, som Ages after the Flood.

ⁱ By

^c Gen. cap. 9.
v. 1. 2.

^f Erant Saturni ævo omnia communia & indivisa omnibus, veluti unum cunctis Patrimonium esset. lib. 43.

^g Privata nulli naturâ, sed aut veteri occupatione, ut qui quondam in vacua venerunt; aut bello, &c. Offic. lib. 1.

^h Ovid,
Metamorph.
1.

By Japhet and his sons were the Isles of the Gentiles divided in their Lands, everie one after his Tongue, after their Families, in their Nations; as it is recorded by Moses: That is to say, they settled themselves as private Lords, and appointed Bounds accordings to the number of their Families, from the River *Tanis* even as far as the Atlantick Sea, or through a great part of the Western *Asia*, as it bend's towards the North, and throughout all Europe. In like manner, *Cham* and his Posteritie possessed themselves of that Part which lie's open to the South and South-west; as *Shem* did the Eastern Countries as far as *India*: As you may see it in *Josephus*, *Eusebius*, the Autor of the Chronicle of *Alexandria*, *Zonaras*, *Cedrenus*, *Eustathius* of *Antioch*, *Freculphus*, and others. It hath been received also by Tradition, that *Noah* himself, as if hee had been absolute Lord or Arbitrer of the whole world, was the first man after the Flood that revived this kinde of distribution or private Dominion; which they say also hee did by Command from God, and that in the nine hundred and thirtieth year of his Age (which was three hundred and thirtie years after the Flood, and twentie before his death) hee confirmed it by Will, and deliver'd it a little before his death into the hands of *Shem* his eldest son, admonishing them altogether, that no man should invade the Bounds of his Brother, nor should they wrong one another; because it would of necessitie occasion Discords and deadly Wars among them: As it is expressly mentioned, both in *Eusebius* and *Cedrenus*. But howsoever the matter hath been; this is very certain, that private Dominions or Possessions were revived again after the Flood, in the same accustomed manner as they had been before from the daies of *Adam*. For, hee also received such a^k Donation from God, as wee have told you *Noah* and his Sons did

ⁱ Gen. 10. 5.
5. 25.

^k Gen. cap. 1.
2, 28.

afterward, and so became Lord of the whole World, not without such a peculiar possession or proprietie to himself, which (so far as wee are able to judg of Affairs of that Age, according to the waies and means received by Posteritie) did exclude his children from all Right, but by his voluntarie Grant or Resignation: But yet, whether it were by Donation, Assignment, or any other Grant whatsoever, it appear's (before hee died or left any Heir to succeed him) his children did enjoy their severall Bounds and Territories, in a way of peculiar Dominion or Possession. Thus *Abel* had Cattel and Pastures of his own; as *Cain* had Lands and Plantations that were his own. Hee possessed himself also of the Land of *Nod* or *Naida*, where hee built the Citie of *Enoch*, and settled his abode. After this, ¹Exchanges, Buying, and selling came in fashion; and besides Weights and Measures, they appointed Judges of Covenants and Contracts, and added Bounds or Limits to Fields and Pastures. And of *Cain*, it is said, that ^mhee first set Bounds unto Fields. So at length came in private Dominions or Possessions; which (whether by virtue onely of a preceding universal dominion of a single person, as in *Adam*; or of som universal and common interest in Things, as betwixt *Noah* and his Sons) hapned first by the Donation, Assignment, or som other Grant of those whom it concerned, either to Princes, or Communities representing a single person, or to any others whomsoever, as particular Lords. So that neither the Law Natural nor Divine which was universal (except you pleas to credit that Divine Oracle said to bee given unto *Noah*) hath expressly commanded or forbidden, but permitted both; that is to say, a common enjoiment, as well as a private dominion or possession of the Things of this life.

¹ Joseph Orig.
Judæic. lib. I.
c. 3. Eustath.
Antioch.
Hexæm. pag.
46.

^m Ὁπερ γῆς
πρώτος ἐδέτο.

But

But in this division of Bounds and Territories, there intervened, as it were, a consent of the whole bodie or universalitie of mankinde (by the mediation of something like a compact, which might binde their posteritie) for quitting of the common interest or antient right in those things that were made over thus by distribution to particular Proprietors; in the same manner as when Partners or Co-heirs do share between themselves any portions of those things which they hold in common. But as for the rest, which neither are possessed in severall, nor expressly held in common, that is, which have continued vacant or desert, what shall wee saie? It hath been truly a custom of old, and which hold's to this daie in the more eminent Nations, that Vacancies are his who apprehend's them first by occupation; as wee use to saie of those wee call, *no man's Goods*. This appear's plain in the Imperial Law; nor do wee know of any Nation where it is not received, save in those where by the * *Civil Law of som Nations*, any things of this nature are appropriated to their Princes, that their Subjects gain not an interest by occupation: For there others have sufficiently disclaimed the acquiring of any title by occupation; and in the present case wee must ever have respect unto this Qualification. But as concerning such a right by occupation, there is an antient and very famous decision made in a Controversie that happened betwixt the people of *Andria* and *Chalcidia*. Both of them being upon an expedition against *Thrace*, for the finding out of ⁿ new habitations, news was brought that the Barbarous people had quitted the Town of *Acanthus*, hereupon, two men were chosen, and sent out as Spies, the one being of *Andria*, the other of *Chalcidia*, who being informed of the enemies flight, began both to run, and strive

* *Municipal.*ⁿ *Plutarch in Quest. Græc.*

which of them should first reach and take possession of the Citie thus forsaken. It happened that hee of *Chalcidia* out-ran, but the man of *Andria* darting a Javelin stuck it in the Gates: This cried out hee got thither first with his Javelin, but the other, that hee was first with his bodie. A controversie hapning hereupon, the *Erythraeans*, *Samians*, and *Parians*, are called to decide it. The *Andrians* had most voices; for the *Samians* and *Erythraeans* gave judgment for them. But the *Parians* were for the men of *Chalcidia*. The Reasons alleged on both sides are very well described by ^o *Petrus Ærodius*, not fit here to be repeated: But in the meantime it is manifest, that all those men, even the persons contending, as well as the Nations to whose determination the matter was committed, were of opinion, that places abandoned and forsaken become theirs who first acquire them by occupation; nor is there any other ground in reason for that Law or Custom, whereby wilde-Beasts, Fishes, Birds and the like, whether yet unpossess't or relinquisht, become theirs who catch them: which is usual likewise, according to the Laws and Customs of the ^p *Hebrews* and ^q *Mabometans*, as well as the *Christians*. But now, if so be that all men were indifferently and without distinction Lords of the whole, before a division was made of some parts, then of necessitie wee must conceive, they all ought to remain, equally and without distinction, Lords of those parts which never came under a division, even as they were before; unless some Compact or Covenant intervene, whereby all kinde of ancient Right or Title of common Interest shall be so renounced, that any persons whatsoever might afterwards become particular masters of those places which should remain vacant or undisposed, who should first corporally seize them, with

^o *Berum judicatorum, lib. 5. tit. 21.*

^p *Misna & Gemara utraque tit. Baba metzia cap. 1. & Maimonides tit. Zatchia Wemithna cap. 1.*
^q *Alcoran. Azoar. 12. de venatu; & Azoari 34.*

with an intent of possessing, holding, using, and enjoying. Nor can it otherwise be conceived in the case of Partners or Co-heirs (such as all men seem to have been in the State of Communitie) how those things which com not under division, should not continue common, as before. Therefore (I suppose) it must be yielded, that som such Compact or Covenant was passed in the very first beginnings of private Dominion or possession, and that it was in full force and virtue transmitted to posteritie by the Fathers, who had the power of distributing possessions after the flood. So that wee may conclude no less concerning distribution by Assignment, then touching Seisure by occupation of things relinquish't at pleasure, that a general compact or Agreement was made or ratified, either expressly in words, or implicitly by custom. And truly, the self same thing seem's to be the opinion of the most excellent *Hugo Grotius*^r, who speaking of the original of Proprietie saith, *Things became appropriate, not by the bare Act or Intent of the minde (for som could not know what others desired to possess, so as to abstain from the same; and perhaps many might desire one and the same thing) but by som Compact and Agreement either express, as in the case of Division; or Tacit, as in that of Seisure or Primarie occupation. For as soon as men grew out of love with Communitie, and no Division was yet appointed, wee must conceiv they agreed all together, that what every man held, hee should possess as his own.* And truly there is a paritie of Reason alio for this; that any man might afterwards make Seizure of that which was left.

^r *De Jure Belli ac pacis lib. 2. cap. 2. §. 2.*

The effects of private Dominion. And what regard hath been had of the SEA, in the more antient Distributions and Divisions of things.

CHAP. V.

BY the introducing of *private Dominion*, in the aforesaid manner, it came to pass, that the same Territorie or Field, whose use before was free for all men alike in Tillage, Building, Pasturage cutting of wood, gathering of Fruits, egress and regress, was either by distribution or occupation so peculiarly appropriated unto the possessor, that hee might lawfully hinder such a Communitie of use and enjoyment, nor might any other man use it lawfully without his permission. And from this Original sprang every Dominion or Proprietie of things, which either by Alienation, or any other kinde of Cession, is transferr'd upon others, or held by a continued possession; respect being alwaies had to those particular Forms and Qualifications, which usually relate unto Dominion, either by Law, Custom, or compact, according to the various Institutions of several people: For by these, the free and absolute power of the Proprietor, in what hee enjoies, is lessned and restrained; but when this Reason wholly ceaseth, then what the Proprietor possesseth is so his own, that it cannot lawfully in any wise, without his consent, become another man's. And all these things are derived from the alteration of that *Universal or Natural Law of nations* which is *Permissive*: For thence came in private Dominion or Possession, to wit from the *Positive Law*.

But

But in the mean while it is established by the *Universal Obligatory Law*, which provide's for the due observation of *Compacts and Covenants*.

These things beeing thus premised, wee shall next see what respect hath been had unto the Sea, either in the very first or any more antient Distribution or Division of things. For if it appear that the Sea also hath been assigned over with Lands, it must certainly bee confessed, that from the same original there springs a private Dominion of the Sea, as well as the Land, and so that it is equally capable of the same, with this. And truly, in the distribution of Land which was renewed after the flood (so far as wee are able to collect by Tradition from the Antients) wee finde no expresse mention made of any Sea, as a part assigned: But yet sometimes the Sea is added as a Bound to a part assigned. As where the part first assigned unto the Sons of *Cham*, is extended from the Borders of *Egypt* through *Africa* as far as *Hercules's Pillars*, or ^a *unto the Western and African Sea*. And the Portion of the *Canaanits* (situate within the Territorie of the Sons of *Cham*) is twice so described in the *Samaritan Pentateuch*, that it is expressly said to reach from the River of *Egypt* or *Nilus*, to the great River, that is, the River *Euphrates*, and ^b *unto the utmost Sea*, or the *remotest*, which is the great or *Western Sea*. Which last words are used in the laying out of that Portion which the Sacred Scripture mention's in *Deuteronomie*. Sometimes also, some Seas may seem to bee so comprehended in the part assigned, that they appear to bee no less assigned then the Land. For unto the Sons of *Japhet* were assigned ^c *those Countries which extend from Media towards the North and the West*, as far as *Cadiz* and the *Islands of Britain*.

^a African.
apud Euseb.
in Chronic.
pag. 10.
Cedrenus
pag. 10.

^b Pentateuch.
Samar. Ms.
Genes. 10. 19.
& Deuter.
34. 2.

^c Euseb. &
Cedrenus lo-
cis citatis.

* Now called
the Levant.

^d Num. 34.
3, 5, 6, 7, 12.

^e Josh. c. 15.
&c.

^f Psal. 72. 8.
Syracid. c. 44.

Wee see also, that certain Seas are included within the compass of Assignment as the * *Ægean, Mediterranean, Adriatick, and British Seas*: whether by Donation, or not, wee cannot say. But in that ancient apportioning of the holy Land (whereof God himself was Autor) the Sea seem's rather to have been accounted a boundarie, then any part of the Territorie allotted. Concerning the South-Quarter, the words are these; ^d *The Bounds of it shall bee the outmost Coast of the salt Sea Eastward.* And a little after; *The Border shall fetch a Compass from Azmon unto the River of Egypt; and the goings out of it shall bee at the Sea.* Also concerning the West-Quarter, *its Border shall begin at Sea, & ipso fine claudetur, and by it it shall bee bound-*
ED, as it is in the vulgar Translation; to which sense agreeth also the modern: But concerning this place, and the rest here quoted, wee shall speak more in the next Chapter. Then it follow's, according to the true sense of the Hebrew, *And this shall bee your North-border: From the great Sea you shall point out for you Mount Hor.* And a little farther, speaking of the East-Quarter; *Its Border shall descend, and shall reach unto the side of the Sea of Chin-nereth Eastward; And the Border shall go down again to Jordan, and the goings out of it shall bee at the salt Sea: This shall bee your Land with the Coasts thereof round about.* Which is repeated almost word for word, in the distribution that was made by ^e *Joshua*: And in another place of holy Scripture, the bounds of the Dominion is said to bee ^f *from Sea to Sea.* But, suppose at last it were granted, that the Seas came not into those more ancient distributions of Territories, then it remain's next to bee consider'd, whether they might not lawfully bee acquired afterwards by Title of occupation, as things vacant and derelict; that is, either by the *Natural or Divine universal Law* which is *Permissive*; or by the *Law*

of

of divers Nations, Common or Civil, which, in judging matters of this nature, is the best Interpreter of the natural Law which is Permissive. For, if in the Permissive which is Universal, nothing be repugnant thereto; or (which is in a manner all one) if by the Positive Law of Nations, such a Dominion of the Sea, as we intend, hath been introduced and admitted by the consent of the more famous Ages and Nations; then (I suppose) it will not be doubted, but that the Seas are, by all manner of Law, every way capable of private Dominion, as is the Land.

That the Law of God, or the Divine Oracles of holy Scripture, do allow a private Dominion of the Sea. And that the wide Ocean also, which washeth the Western Coast of the holy Land, or at least a considerable part of it, was, according to the Opinion of such as were learned in the Jewish Law, annexed to the Land of Israël, by the Assignment or appointment of God himself.

CHAP. VI.

AS to what concern's here the Law of God, we finde very plain passages therein, which do not a little favor a Dominion of the Sea. In that first and most antient Donation of things after the Flood, whereby God invested Noah and his Posteritie, in the Dominion of the whole Earth (of which Globe the Seas themselvs are a part) and of the conterminous Aër, seem's to be no otherwise granted, then as mention is

made of the living Creatures, the Earth, and the Fowls of the Aër. That is, by an exprefs grant of the free use and benefit of the thing, the thing it self was granted or conferred. Nor is the Dominion of the Sea otherwise granted there, where it is said, ^a *The fear of you, and the dread of you* (which are Terms signifying Dominion) *shall bee also all the Fishes of the Sea. Little different from this is that which was spoken to our first Parents,* ^b *Replenish the Earth and subdue it, and have Dominion over the Fish of the Sea, and over the Fowl of the Aër, and over everie living thing that moveth upon the Earth:* So here also, the grant of the thing it self is signified by its use and enjoyment. 'Tis confest, that these words were not meant of private Dominion, or that which was not common to all men: But yet it appear's thereby, the Earth and Sea did so pass together at first, and after the same manner, into the common enjoyment of mankind, that from this Donation or Grant of God, wee may well conclude; that their condition, as being both but one Globe, must needs bee alike, at the pleasure of men, in the future distribution of Things, or the introducing of private Dominion therein. Neither is the Proprietie, nor the Communitie of either appointed but both seem equally permitted by the very form of Donation. And therefore that is very vain which is objected by som^c, *That the Earth is given to the children of men, but that* ^d *the Sea belong's onely to God himself;* as if Dominion not common indeed, but onely a common use of the Sea, were permitted by the words of holy Scripture: And as if it were not said in like manner, ^e *The Earth is the Lord's, and fulness thereof: The tops of the Hills are his also.* Who know's not, that such sayings as these cannot in any wise weaken the Dominion of Mankind? For, whatsoever is acquired by men, still
God

^a Gen. 9. 2.^b Gen. 1. 28.^c Psal. 115.

16.

^d Psal. 95. 5.^e Psal. 24. 1.

50. 12. 89,

11. 95. 4.

God Almighty, as Father of the Universe, retain's his supreme Dominion both over men, as also all other Things; which never was denied yet by any sober man. But the Controversie is about the Dominion of man, to wit, that which comprehend's any enjoiment or proprietie whatsoëver, saving still that right of the Dominion of God, which cannot bee diminished. And the distinction about this matter is very ordinarië in the Schools: According to the first sort of Dominion, nothing whatsoëver, much less may the Sea belong unto men: According to the second, all things indeed are or may bee theirs, which can bee apprehended, seized, and possessed. Add moreover, that in the old Testament express mention is made more then once of such a Seifure, possession, or private Dominion as this whereof wee Treat; and that as of a Thing lawfully brought in use. There wee finde that the men of Tyre were Lords and Masters of the Phœnician, and the Egyptians of the Alexandrian Sea. Concerning the Phœnician, saith the Prophet unto Tyrus; ^f *All the Princes of the Sea shall com down from their Thrones, &c. And they shall take up a lamentation for thee, and say to thee, how art thou destroyed that wast inhabited of Seafaring men! the renowned Citie, which wast strong in the Sea!* Here the Dominion of the Tyrians at Sea is plainly set forth. And in the following Chapter ^b, *Thy Borders are in the midst or heart of the Sea;* as wee read it in the Hebrew, and also in an ^h *Arabian Manuscript*, which render's it to the same purpose: For, both the Greek and *vulgar Translation* differ there from the Original. It follow's also thus; ⁱ *All the Ships of the Sea with their Mariners were thine to occupie thy Merchandize.* In stead of which last words, these are put in the Greek Copies, ἐπὶ δυσμᾶς δυσμῶν, *even Westward of the West,* or through a great part of the main or Western Sea; that

^f Ezech. c. 26.
v. 16.

^b Cap. 27. 4.
^h In Bibliocâ Arundelianâ.

ⁱ Vers. 9.

^k Cap. 28.
vers. 2.

^l Isai. 23. 4.

^m Ps. 72. 10.

ⁿ Hieronym.
ad Isaiæ c. 2.

^o Ps. 89. 25.

^p Esdras, l. 1.
chap. 4.

is, the Phœnician or Syrian. Again, ^k *Because thine heart is lifted up, and thou hast said, I am a God, I sit in the seat of God, in the midst of the Sea.* Hee threaten's not the Tyrian, because hee had gotten him a Dominion over the neighboring Sea, but because being lifted up with pride, hee had taken unto himself the name of God. The Tyrian is called likewise in another Scripture the ^l *Sea it self, and the strength of the Sea.* But concerning the Egyptian Sea, another Prophet speak's thus unto Ninive; *Art thou better then populous Alexandria* (in the Original the Citie is called No, taken here for Alexandria) *which is situate among the Rivers, that hath the waters round about it, whose Riches and strength* (as it is in the Hebrew) or (as the Greek render's it) *Ἀρχή*, that is, *whose Empire or Dominion is the Sea.* Moreover, it seem's to make mention of Kings of the Sea, as well as of Islands; ^m *The Kings of Tarshish and of the Isles shall bring presents.* For, *Tarshish* or *Tharsis* in Hebrew signifieth the Sea, ⁿ as it is often confessed both by the Greek and Chaldee Interpreters. Although *Munster*, a man otherwise very learned, speak's unadvisedly upon the fore-mention'd place, and will not have *Tharsis* there to signifie the Sea, because (saith hee) *Kings have nothing to do at Sea, but rule onely upon Land;* forgetting (what wee have already told you) that express mention is made by *Ezechiel* concerning Princes of the Sea. With which agree's also that saying, ^o *I will set his hand in the Sea, and his right hand in the Flouds;* upon which place *Aben Ezra* note's, that God Almightye assigned the Dominion of the Sea there unto King *David*, *That hee might rule over those that sailed either through the Sea or the Rivers.* It is written thus likewise in the Apocrypha; ^p *O yee men, do not men excel in strength that bear rule over Sea and Land, and all things in them? But yet the King is more mightie; for, hee is Lord of all these things*
and

and hath Dominion over them. And in another place, saith the Angel to Eldras, ^q The Sea is set in a wide place, that it might bee deep and great. But put case the entrance were narrow, and like a River, who then could enter the Sea, to look upon it, and have Dominion over it, if hee went not through the narrow? The Dominion of the Sea and of the Land is granted alike in both these places. It is said also of King Abasuerus; ^r That hee made not onely the Land, but all the Isles of the Sea to becom tributarie, which words truly do clearly shew a Dominion of the Sea; for, so they are expressed in the vulgar Edition, out of the Hebrew Original, which is lost. But the Greek Copies are more plain there; ^s The King wrote to his Kingdom of the Land and Sea. Nor must wee omit that of Moses when hee blessed the people; ^t And of Naphtali hee said, Naphtali shall enjoy abundance, and bee full with the blessings of the Lord; hee shall possess or inherit the Sea and the South; as the vulgar and the Greek do render that place. But by many others, the Sea is taken there for the West-Quarter, as it is often in the Scriptures. Yet truly, it is clear those words are meant of the Sea of Galilee, or of the Lake of Tiberias, not of the great or Phœnician Sea, which lie's Westward, becaus the Land of Naphtali was situate near that Lake, which also is often called the Sea. As it appear's likewise out of Onkelus his Paraphrase, where expres mention is made of the Sea of Genesareth, called also the Lake of Tiberias, or the Sea of Chinnereth, and by this name it passeth with the salt Sea, or the Lake of Asphaltites, in the sacred description of the Eastern part of the holy Land. But the former place of Deuteronomie is erroneously rendred by Rupert the Abbot of Tuitium; ^x Mane & Meridiem possidebit, for Mare & Meridiem, hee shall possess the Morning and the South, for the Sea and the South. However, it is clear (I suppose) out of the

^q Esdras, l. 2 cap. 7.

^r Esther. 10. 1.

^s Ἐγγράφη ἡ βασιλείου ἐπὶ τῆς βασιλείου τῆς γῆς καὶ τῆς θαλάσσης. Deuteronom. cap. 33. 23.

^t Numb. 34. 11. & 3.

^x Ad Deut. lib. 2. c. 18.

the places alleged, such plain Testimonies are found in holy Writ touching such a Dominion of the Sea, that in the mean time it must bee granted, that according to the *Universal Permissive Law*, any man may acquire it as well as the Land. And truly, as for those places quoted in the foregoing Chapter, concerning the South, West or Sea and Northern Bounds of the holy Land, they are so understood both by the Jewish Lawyars and Divines, that they would have either the great or *Phanician* Sea it self, or at least som adjoining part of it to bee assigned also by God unto the *Israëlites*, as Lords of it for ever; of which point wee shall discours a little more fully.

*⁊ Usque ad
Torrentem
Ægypti; &
magni Maris
littore fini-
eius.*

As for that which is rendred there out of the vulgar Edition, touching the South Border, *⁊ As far as the river of Egypt; and it shall bee bounded by the shore of the great Sea,* the Hebrew saith, *ad Torrentem Ægypti, unto the River of Egypt* (or the North-entrance of Nilus, which divided the Land of *Israël* from *Egypt*, at the Sea) *& erunt exitus ejus in Mare, and the goings out thereof shall bee into the Sea.* So that concerning that Borders beeing bounded by the shore (as it is in the vulgar) wee finde it no otherwise exprested there in the Original. Then, it is added next, concerning the West-border or that which is at the great Sea, word for word out of the Hebrew. *As for your Sea-border, you may have the great Sea, And let this bee your border, or let it bee your Sea border, or border of the Sea.* And there the Greek Interpreter's render it thus, *you shall have the bounds of the Sea, or they shall bee your bounds. The great Sea shall bound you: wherein* (after their usual manner) they plainly follow the Text of the Samaritan Copie: For, there wee read it thus, *And you shall have a Sea-border. The great Sea shall bound you. Let this bee your Sea or Western-border.* And thus the word **SEA** beeing used as well for the Western Quarter as for

for the Sea it self, that place is for the most part so rendered, that in so short a period the Sea is taken for both. As for the West-Border, you shall have the great Sea. And this Border shall bee your West-Border. As it is expressed by the Jews of Spain; y *Termino de ponente*; y *sera à vos el mar el grande*: y *Termino este sera à vos Termino de ponente*. Thus is also in *Onkelus* and *Erpenius* his Arabick; save that *Onkelus* render's it thus, *But your West-border shall bee the great Sea and the Border thereof; the same shall bee your West-border*. But an Arabian Translation in manuscript, for which wee are beholden to the Earl of *Arundel's* Librarie, after these words, *unto the River of Egypt*, add's also, *And the going out thereof shall bee at the Coasts or parts of the Sea. And the Border of the Sea shall bee your Border. Also the great Sea in their Borders. Thi shall bee your Border from the Sea Coast*. But the North part, as appear's by the particulars alleged in the former Chapter, is bounded by mount *Hor*: so that it appear's hence, that the more Northerly enterance of *Nilus*, that is the *Pelusiack* (as it seem's; for they are not well agreed about the very particular place) served instead of Bounds to the South part of the Land of *Israël*, which border'd upon the Sea, as also to that part of the Promontorie or foot of mount *Hor*, which was situated North-East by the Sea. But this mount is that which in the vulgar edition is called an exceeding high mountain. In the Jewish Commentaries it is known also by the name of *Amana*, and *Amanon*, and *Amanus*, and by som it is taken for that mountain in the *Canticles*, called* *Amana*. And in the Jewish *Targum*,² *Manus* is put for mount *Hor*. It is taken also for *Libanus*, by such as in their² Descriptions of the Holie Land, are wont to make mount *Libanus* its Northern Border. But as touching this mount *Hor* or *Amanus*

^x In glossa
Farchii ad
cap. 4. Cant.
² In Num. 34
& vide gloss.
talmud ad tit:
Gittin. cap. 1.
fol. 8.
² Lyran. ad
Numer. 34.
Andr. Masti-
us ad Josu-
am. Adrico-
min, Jacob
Bar Abra-
ham in Tab.
Chorographi-
ca Terræ san-
ctæ &c.
Et vide Abu-
lens. ad Num.
34. 9. 2.

^b Gloss. ordi-
nar. ad nu-
mee. 34.

(of the same name with that mountain, which but's out into the Gulph now called *Golfo dell' Aiazza* by som also taken for the same ^b or rather mount *Taurus*) it is described after this manner by *Solomon Jarchius*, it is seated in a north west corner. It's head bending downward stretcheth out into the very sea. And it is wash't in divers places by the main. Betwixt these Bounds, to wit, the Southern part or the *Pelusiack* entrance of *Nilus*, and the North-East Bound or Promontorie of the aforesaid mount, the great sea, which is reckoned the Western Bound or Border, haivng divers windings and turnings along the shore, is stretcht out in such a manner above 200 miles, that if a streight line should bee drawn from the North-East Border to the Southern, a great part of the Sea that extend's it self within the line for so many miles, must needs bee intercepted. which also is very easily to bee understood without the help of a Map.

These things beeing thus premised, briefly, but so far as the matter in hand require's, to discover the western part of the *Holie Land*, bordering wholly upon the Sea, and that according to the judgment of the antient Hebrews, not by modern Descriptions; it is to bee consider'd, that the Jewish Divines and Lawyers, when they discours about the precepts and Laws belonging to the *Land of Israël*, that is, of those to which they conceiv themselvs not bound by the Holy Law, without the Limits of that Land, use to treat very precisely, even to an hair, touching the Borders of their Dominion, as it was appointed by the Command of God. To wit, touching the Bounds of their Territorie, as the name Territorie signifie's the whole, not onely Lands and Fields, but Rivers also and all other waters within the circuit of each Citie, as it is rightly taken also by the
Civil

c Civil Lawyers. The Precepts spoken of, are those which are received by the Jews, touching the observation of the Sabbaticall year, oblations of Fruits, the Levitical custom of Tithing, and others of that kinde. For by the Law of God, they will not yield that those things should be observed out of the Israëlitish Dominions, although, ^d by Tradition of their Ancestors, they were usually observed in *Egypt*, *Jdumæa*, the Land of *Moab*, and *Shinar*, both by reason of their neighborhood, and the frequent convers of the Israëlites among them. But now so far as concern's the western or Sea-bordering of the Land of Israël, as it was assigned at first by God, in observing Precepts of this kinde, according to the holie Law, wee meet with two opinions in their Commentaries, from both which indeed it will appear, that the Sea was assigned by God Himself unto the Israëlites, as Lords thereof, in the same manner as the Land, though one opinion assign's larger Bounds, the other much more narrow: So that they all agree about the thing, differing onely about the latitude. The first opinion is of those who affirm, that the whole western Sea (as it lies before the western Coast of the Land of Israël or as it is bounded inward by streight lines drawn on both sides, from the North-east and South border before mentioned, through that Ocean into the west) together with the Continent was given unto them by God; and therefore that those Precepts are to be observed in that vast Ocean, as in the Territorie of Israël. The chief Autor of this opinion was an antient and very famous Interpreter of the Law, by name *Rabbi Jehuda*, who also from the express words of the Holie Law above-mentioned,

c *Capola de Servitutibus Rustic. Præd. cap. 26. §. 26. Hieronym. de monte, l. de finibus regundis cap. 6. § 8.*

Alberic. Gentilis de jure Belli lib. 3. cap. 17. Dd. in l. 9. ff. de judiciis.

^d *Moses Maimonides balach. The-rumoth cap. 1. & Mikot-zi, Præcep. Affirm. 133.*

° Gemara Ba-
 bylonia ad tit.
 Gittin, seu de
 libellis Di-
 vortii &
 manumissionis
 cap. 1. fol. 8. a.
 Idem, sed de-
 pravatè legi-
 tur in Gemara
 Hierosolymi-
 tanâ, ad tit.
 Sh:biith seu
 de Anno Sab-
 batico, cap. 6.
 fol. 36. col. 4.
 † Numer. 34.
 6.

conclud's that the western Ocean, thus bounded on both sides, was assigned. His Doctrine is deliver'd after this manner, as wee finde it in the most antient Digests of the Jewish Law. ° *Whatsoever lie's direct-ly opposite to the Land of Israël, it is of the same account with the Land of Israël, according as it is written; † As for your West-Border, let your Border bee, or you shall have, the great Sea. Also let this bee a Border to you, or your Border. To wit, the Border of the Sea, or of the West. Also the Collateral Islands situate on both sides in the same direct line, fall under the same accompt with the sides themselvs. So that if a line were drawn from Cephaloria through the Isles to the main Ocean, and from the River of Egypt to the Ocean, then that which is with-in the line, is to bee taken for the Territorie of Israël, and that which lie's without the line to bee out of the Dominion of Israël. The line drawn from Cephaloria, was directed by the Promontorie of mount Hor or Amanus, as is said before: For that Citie was seated on the top of that mountain, which is here the North-east Border; as it is observed in the Gloss upon the place alleged, and in many other. There also this opinion is thus explained. According to this opinion of Rabbi Jehuda, all that Sea which lie's opposite to the length of the Land of Israël, even to the main Ocean, West-ward, where the world it's self is bounded, is to bee reckon'd within the Territorie or Dominion of Israël; even as it is written, the great Sea, and your Border (the whole place wee gave you a little before out of Numbers) where [and your Border] is added the more fully and plainly, to intimate that the great and wide Sea is contained also within it's Border. And it follow's there thus; Between those little Cords or Lines (directed, as wee said, on both sides to the main Sea) there*

there are Islands belonging to the Territorie of Israël; the Islands and waters have both the same Law &c. Hence also the ordinarie Jewish Gloss upon those words in Numbers, *And you shall have the great Sea*, saith, *The Isles that are in the midd'st of the Sea*, even they also are part of the Bound or Border. But the Jewish Paraphrase is more plain there, *And let your Border bee the great Sea, that is, the main Ocean, and it's Isles, and Cities, and Ships, with the principal waters that are in it.* Nor was it upon any other ground, that ^e Rabbi *Aben-Ezra*, ^h Rabbi *Bechai*, and others, conceived so great a part of the Sea, did belong to the Israëlites by this assignation, that they interpret the great Sea also to reach through the Sea *דַּרְתַּיִם* that is, the Spanish Sea, distant so many miles Westward from the Continent of Israël. In both the forenamed places, the words are, *The great Sea, to wit, the Spanish.* *And your Border; as if it had been said, The great Sea shall bee your possession, which of it self also is your Border.* But in the mean while it is to bee consider'd, that the whole western Ocean as far as the narrow channel of *Cadiz*, is by the Arabians and so by the modern Jews, who were their Disciples, indifferently called the *Romane Sea*, *mare Al-shem*, or the *Sea of Damascus* (that is the *Syrian Sea*) *mare Al-Andalius* (or the *Spanish*) and lastly, the *mediterranean Sea*; the whole beeing denominated from the Coasts of som particular Countries: As it may bee clearly collected both out of the *Nubian Geographic*, as also out of the *Geographical Abridgment* of ^h *Abu Elchafes Hali* an Arabian. But this is most certain, that the name of the Spanish Sea hath been used here by the Rabbins, not from such a promiscuous or common denomination of the Sea; but according to the explanation of such an ancient Assignation of the Dominion of Israël as wee

^e Ad Numer.

24.

^h Ad Numer.

pag. 199.

col. 3.

^h Ms. in
Bibliotheca
Oxonienf.

have mentioned. And so this first opinion would have the whole Western Ocean, as far as the streights of *Cadiz*, which the Antients thought the utmost Bound of the world, to be reckoned for that part of the Territorie of *Israël*, which is included within the lines drawn from the Promontorie of mount *Hor* or *Amanus* and the entrance of *Pelufium*, into the West. But by the other opinion, which seem's much more agreeable to reason, it is determined, that the Divine Assignment of the Territorie of *Israël* is comprehended indeed within more narrow Bounds of this Sea, but yet Sea-room large enough: so that according to this opinion, the North and South-Borders do end at the very shore, or at the utmost point of the said Promontorie, North-East, and at the entrance of *Pelufium*, towards the South; not stretching any farther, into the West. But indeed the Autors of this opinion would have a streight line drawn from that Promontorie to the entrance of *Pelufium*, to wit from the North-East into the South, thereby to limit and bound the Western part of the Dominion of *Israël*; so that what portion soever either of the Sea or the Isles should be comprehended within such a line, or lie on the East-side of it, the whole were to be reckoned a part of the Territorie of *Israël*, as well as any Coast upon the Continent or main Land. And so after this manner, the aforesaid line, included within the nooks and windings of the shore of that Territorie (possessed by the Tribes of *Asher*, *Ephraim*, *Dan*, *Zabulon*, and *Simeon*) was situate before very large spaces of of the Sea, for above two hundred miles; and supposed to be of the same accompt with the shore it self. In the Digests of the Jewish Law, this opinion is explained thus; ⁱ That it may be known what com's under the name of

ⁱ In Gemara
Babylonica ad
tit. Gittin
seu de libellis
Divortii &
Manumissi-
onis. cap. I.
fol. 8.

of the Territorie of Israël, and what is to bee reckoned out of that Territorie (as to the North-East and Western bounds;) whatsoever is stretcht forth on this side and within Mount Amanus, is the Territorie of Israël. And that which is pliced beyond that Mountain, is without this Territorie. And so by the same reason it is to bee determined touching the Isles of the Sea that are seated over against that Mountain. Let a small Cord or Line bee drawn over those Islands, from Mount Amanus to the river of Egypt; that is contained within the Line, is the Territorie of Israël; but that which lie's without the Line, is no part of that Territorie. With this agree's that of Ezekiel, concerning the Sea-Coast of the holy Land, after hee had described the South part which is near the Sea; ^k *The West-side* also [shall bee] the great Sea from the border till a man com over against Hamath. This is the West, or Sea-side (or Coast.) The vulgar read's it thus, *The great Sea also shall bee its Sea border, strait along from the border till you com to Emath. This is the Sea-side:* Which the Greeks render thus; τὸ τοῦ μέρος νότος ἐς ἄψ. This part is South and South-west, according to the translation of the fore-going words. Then, according to what hath been alleged out of the Hebrew, it follow's in the Greek, *This is part, or this divide's part of the great Sea, untill a man com over against the entrance which lead's to Hemath, even to the entrance thereof. These are they which lie near the Sea of Hemath.* So that every Translation speak's to the same purpose. But that which wee have added to the Hebrew, agree's both with the Chaldee Paraphrase, and the Exposition of the Spanish Jews. Moreover, Solomon Farchius expound's it there after this manner, according to the doctrine of the Antients; *From the South-Corner* (for, so hee interpret's this word, from the Border) *which is the river*
of

^k Ezek. cap. 47.20.

of Egypt, till a man com over against the entrance which lead's to Hamath; that is, to the Corner situated under the North-west, which is the very Mount Hor over against the entrance unto Hamath. For, Hamath was seated on the North-west side near Mount Hor. And so that which is cut off here by the Border in a strait line (as the *vulgar* hath it) drawn from the entrance of Nilus to the Promontorie of Mount Hor, contain's no small portion of the Sea as assigned unto *Israël*. And this later Opinion is the better received, whereby onely the nearer Parts of the Sea are, by God's appointment, conceived to bee in the very same condition with the continent, as appear's not onely out of the more antient *Digests*, or both *Volums* of the *Talmud*, but also by the Testimonie of those most learned Rabbins; ¹ *Moses Maimonides* and ^m *Moses Cotzensis*, besides others of a less account, who in expresse terms imbrace it. Also, according to both these Opinions, that is in the mean time of sufficient Autoritie, which is deliver'd in general terms touching the beyond-Sea Provinces, by ⁿ *Solomon Jarchius*, ^o *Rabbenu Nissim*, ^p *Obadiah Bartenorius*, and others; to wit, That whatsoever lie's without the Territorie of *Israël*, that whole Province or Citie is often comprised under the Notion of the Sea, except *Babylon*. After the example of the Sea-Provinces, situated afar off in the West, without the Lines drawn according to this or the other Opinion, the Mediterranean Provinces and Cities also, which were seated in other remote Parts, without the Borders of *Israël*, have in stead of being called a strange Land, been termed the Provinces or Cities of the Sea. Which point is very well handled by *Rabbenu Nissim* in the former place. But as these, which were seated without their Territorie in the continent, were onely by the said Custom of speech called Cities of the Sea, so also

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¹ *Halach Therumoth, seu de Oblationibus, c. 1.*
^m *Præcept. Affirmat. 133.*
ⁿ *Ad Tit. Gittin. cap. 1. fol. 1.*
^o *Ad Alphe- sum, part. 2. pag. 554.*
^p *Ad Misnai- oth, tit. Gittin, cap. 1. ubi & vide Rabbi Jom Tob.*

it is clear by what wee have shewn you, that according to the same way of speaking it is granted, that other Cities also within their Territorie were seated in the verie Sea. And so at length, from both the Opinions, here recited, wee have sufficiently proved, that such an Exposition of the divine Afsignation was received by the ancient Interpreters of the Jewish Law, to whom that Afsignation was made, that they made no doubt but the Sea was every jot as capable of private Dominion, as the Land; and so reckoned those Islands placed in the neighboring Sea, as belonging to the Territorie of *Israël*, becaus of their Dominion over the Sea that did flow between them. Nor doth it hinder at all, that in their Afsignations or Distributions wee so often finde this Particle *usque ad Mare*, unto the Sea, as appear's in the former Chapter; or that the Sea was their Border. For, the word *usque*, until or unto, is not onely often^q inclusive, but also the Borders or Limits themselves are^r many times all one with the thing limited; after the same manner as all Bounds that are bounded. Touching which Particular, both the Canonists and Civilians are very Copious; as also the Jews in those other Particulars already mention'd. And therefore wee conclude out of the Premisses, that neither the *Divine Law* which is *universal*; nor the *Positive*, as it appear's, in Scripture, to bee *Imperative* or to have a command over some certain Nations (for, there is a true picture of the *Imperative Law* in the afore said distribution of Bounds) doth oppose a private Dominion of the Sea; but that both of them do sufficiently allow it; and afford also very clear examples of such a Dominion (if wee may believ the Jews themselvs.) In the next place then, let us consider (what is yet behinde) of the *Law natural* and of *Nations*.

^q Bartol. ad lib. 35. Patronus ff. tit. de legat. 3. & l. Nuptæ ff. de Senatoribus.
^r Archidiaconus in c. Ecclesiasticus 13. q. 1. Hieronymus de Monte, lib. de Finibus Regundis, 23.

That the natural-Permissive Law (whereof any use may bee in this place) is to bee derived out of the Customs and Constitutions of the more civilized and more noble Nations, both antient and modern.

C H A P. VII.

AS to what concern's here the *Law Natural*, as one head of the *universal or Primitive Law of Nations*, in our former Division of the *Law*, commonly derived from a right and discreet use of Reason; that it doth in no wise gainsay a private Dominion of the Sea, but plainly permit it, wee shall prove hereby; because by the *positive Law of Nations of every kind*, which is humane, (for wee have alreadie spoken of the Divine) to wit, as well by the *Law Civil or Domestick of divers Nations*, as the *Common Law of divers Nations*, whether it bee *Intervenient*, or *Imperative*; that is to say, by the Customs of almost all and the more noble Nations that are known to us, such a Dominion of the Sea is every where admitted. It is not indeed to bee denied, that a right use of humane Reason, which usually serv's as an Index of the natural Law, cannot well bee gather'd from the Customs of several Nations, about things Divine or such as relate unto Divine Worship. Nor are the Points either of the *Obligatorie* or *Permissive* kinde of natural Law relating thereunto, to bee thence determined. For, it hath been the common Custom of men, in all Ages and throughout all parts of the known World, to conclude of such maters, either without exact and convenient examination, or elf for the serving of their
their

their own Interests, or elf to fuit with the humor and disposition of the people whom they are to rule and keep in order; as do the Pagans, Mahometans, and others of that fort, as well modern as antient. And therefore *Antisthenes* of old taught well and boldly at *Athens*,^a as many other Philosophers have don, *Populares Deos esse multos, sed naturalem unum esse*, **That there are many National Gods, and but one Natural**, contrarie to what the most usual practice of men and Custom had introduced among the ordinarie sort of People. So that as of old in the *Jewish Church*, so also in the *Christian*, the use of humane Reason among the vulgar, though free in other things, yet when it dived into the contemplation or debate of Religious matters, it hath often been most deservedly restrained, by certain set-Maxims, Principles, and Rules of holy Writ, as Religious Bolts and Bars upon the Soul; lest it should wantonize and wander, either into the old Errors of most Ages and Nations, or after the new devices of a rambling phansie. And truly, such a course as this hath ever been observed in Religious Government. But in such things as are meerly humane, and so humane that they reflect only upon matters of dutie betwixt man and man, and are not forbidden by any command of God (of which kinde you cannot so much as imagine any thing more plainly to bee, then a distinction of the Dominion of Territories, and the manner thereof which is wholly grounded upon the consent of men) that which shall bee permitted by the *Law Natural*, is no less rightly determined by the Laws, Placarts, and received Customs of divers Ages and Nations, both antient and modern, then it may bee collected what every Clime will or will not bear, by the diligent observation of Countries, Shrubs, Trees, Plants, and other things

^a Cicero de
Naturâ Deo-
rum, lib. 1.

which belong unto the bodie of Husbandrie. For, as many Nations as have admitted such a private Dominion as wee inquire after, whether by a Law Civil or Domestick of their own, or by any Law common to themselves and their neighbor-Nations, are either to be allowed competent Witnessers of the *natural permissive Law* (so far as there is any use of it here;) or else it must be said (which I believ no man dream's) that so many and those the more famous Nations, have for so many Ages erred against Nature. Concerning the *Law Natural*, Justinian saith, ^b *Quod Naturalis ratio inter omnes homines constituit, id apud omnes populos per æquè custoditur, vocaturque Jus Gentium, quasi quo Jure omnes Gentes utuntur* **What Natural reason establisheth among all men, that is observed by all people alike, and is called the Law of Nations, as it were by a Law which all Nations use.** And Caius; ^c *Jus Gentium ratione naturali inter omnes homines per æquè servatur*; **The Law of Nations is by natural reason observed alike among all men.** But where are all Nations? It is not yet discover'd how many there are, much less upon what Customs they have agreed. Nor is that in any wise found in the Customs of all those Nations that are discover'd, which som notwithstanding imbrace as a part of the *Law Permissive*. What have the midland Nations to do with that Law concerning the Confiscation of wrecks at Sea, which hath been used by the *English, Britains, Sicilians*, and som other Nations bordering upon the Sea. The inslaving of Prisoners of War is grown out of date, as a thing not permitted among Christian Nations, which nevertheless is in use still among the *Mahometans*. In vain therefore is a Rule and Direction sought here out of the Customs

^b *Instit. de Jure Nat. §. Jus Naturale.*

^c *L. 1. ff. de Acquir. rerum Domino.*

Customs of all Nations; but especially seeing some are not wanting who

— non fœdera Legum

Ulla colunt, placidas aut Jura tenentia mentes;

Whom neither League nor lawful compact binds;

Nor Laws that rule and pacifie men's mindes.

as hee saith ^d of the *Bebrycians*. That there have been some such Nations, is expressly recorded also by ^e *Aristotle*. And *Salust*, out of the mouth of ^f *Hiempsal*, saith concerning the *Getuli* and *Libyans*, the antient Inhabitants of *Africa*, *Neque moribus, neque Lege, neque Imperio cujusquam regebantur*, **They were ruled neither by Custom, nor by Law, nor by the command of any.** And in another place concerning the ^g *Aborigines*; *Genus hominum agreste, sine Legibus, sine Imperio, liberum atque solutum*; **A rude sort of men, without Laws, without Government, free and dissolute.** Therefore wee must have recourse here unto the more civilized and more eminent Nations of the past and present Age, and of such whose Customs wee are best acquainted with, And among them truly, not onely such as those very Nations, whom it may chiefly concern here, have ever highly esteemed; but also those Nations, who are concerned at present, shall bee proved competent Witnesses.

^d *Val. Flacc. Argonautic.*

^e *Nicomach. lib. 7. cap. 6.*

^f *In bello Jugurthino.*

^g *In conjuratione Catilinae.*

But of the Testimonies, that wee intend to use there is a twofold kinde. Some are those which shew, that a Soveraigntie and private Dominion of the Sea hath been by Historians and other Writers, almost in all Ages, acknowledged and granted to Princes,

People, and others. Other Testimonies there are which demonstrate out of Lawyers, also by Leagues and Treaties, and other particulars of that nature, that such a Dominion of the Sea, is in like manner agreeable unto Law. Both which wee interweav, as the order of Things direct's us. But yet so, that what matters, either of Fact or Law, do appertain unto the *British Sea*, are wholly pretermitted in this collection of Testimonies, with an Intent to dispose them apart in the *second Book*. And so at length it will bee very clearly manifested together, both what the *Civil Law of Nations*, as also what the *Common Law of divers Nations*; and lastly, what the *natural permissive Law* (which in this case is to bee drawn out of the Customs of Nations) hath determined touching private Dominion of the Sea.

The manner, whereby the Law Permissive touching private Dominion of the Sea, may bee drawn out of the Customs of many Ages and Nations. That there were Testimonies hereof manifest enough in the Fabulous Age. Also, a word by the way, touching the Mediterranean Sea in possession of the Romanes, when the Command thereof was committed to Cneius Pompeius.

C H A P. VIII.

THe Ages, out of whose Monuments and Actions the aforesaid Customs, determinations, and Decree's of People and Nations, are to bee derived; I divide into two parts. Into the *Fabulous Age*, and the *Historical*.

Historical. But wee do not, according to *Varro*, call that *Fabulous* which wholly preceded the beginning of the *Olympiads*; but that which is obscured onely by the most antient Fables, at least under a fabulous Representation; The *Historical* beeing in the mean time divided into that which is more antient and comprehend's the Customs of such Empires and Common-wealths as expired som Ages past; And into that which is modern, and shew's the practice of those Nations, in the present case, which are now in Beeing. But in applying our selvs unto the *fabulous Age*, wee do not ground Arguments upon Fables, as they are meer Fables; but wee manifest Historical Truth out of the most antient Historians, though wrap't up in the mysteries of Heathen Priests and Poëts. For, (as ^a *Lactantius* saith well) even Those things which the Poëts speak are true, but cover'd under a certain veil or Figure. And yet they have so veiled the Truth with Fiction, that the Truth it self might not take off from the common belief of the People. They write, that in the fabulous time afore-mentioned, the *Titans* beeing subdued, the Brother-Deities, *Jupiter*, *Pluto*, and *Neptune*, divided the world by Lot; And that Heaven was allotted unto *Jupiter*, Hell to *Pluto*, the Sea to *Neptune*. But omitting those Trifles, whereby the vulgar suffered themselves with patience to bee cozen'd, touching the Heaven or Skie, the kingdom of Hell or of the dead, and of the whole Earth's beeing common, after this division, to all the ^b Brothers, som of the Antients have taught, that the Truth it self which lay couched in this Fable, was quite another Thing. They say these were not gods, but men. Also that *Jupiter* was not King of Heaven, but of the Eastern part from whence the
Light

^a *De falsa Religione, lib. I. cap. III.*

^b *Homer. Iliad. 15. seu o.*

Light first dawn's upon mortal men; by which means also it seemed the higher part, and therefore was called Heaven: And that *Pluto* was King of the West, which points at the Sun's setting and Night, from whence it was said to bee lower and Hell. Lastly, that *Neptune* was Lord of the Sea and the Isles scatter'd therein. Thus it appear's here, that a private Dominion of the Sea, no otherwise then of the Land, arose from *Humane* distribution. And that the case stood thus, it was affirmed long since by *Eubemerus Messenius*, an old Autor, in his Historie of the Affairs of those men who were supposed gods, recorded and translated by *Ennius*. For, *Laetantius* saith thus; *Concerning the lot or share of Neptune, it is manifest I say, that his Kingdom was such as was that unlimited command of Cneius Pompeius, who, by decree of the Senate, had Autoritie given him over all the Sea-Coast for suppressing Pirats, and scouring the whole Sea. Thus all things belonging to the Sea with its Islands fell by lot unto Neptune. But how may it bee proved? To wit, by antient Histories. Eubemerus an old Autor, who was of the Citie of Melsina, hath collected the Affairs and Atchievements of Jupiter and others that are reputed gods, and compiled a Historie of those sacred Titles and Inscriptions that were found in the most antient Temples, and especially in the Temple of Jupiter of Triphylia, where a golden Pillar was placed by Jupiter himself, as appeared by the Inscription: Upon which Pillar hee wrote his own Actions, that it might remain a Monument of his Affairs unto Posteritie. This Historie Ennius did both translate and follow, whose words are these; Jupiter grant's the Dominion of the Sea unto Neptune, that hee might reign over all the Islands, and all Places near the Sea. But both the Translation of Ennius, and the Commentaries themselves of Eubemerus, are utterly lost; nor*

c *Loco jam citato.*

is it to bee thought, that they were lost without the knowledg and design of the chief Priests of *Jupiter* and other Deities. For, doubtless whatsoever had been written touching the Originals of the gods, was so much the more odious, by how much the more it did lay them open, and discover, that those great Names which were magnified in their Chapels and Temples, were taken out of the List either of great Kings, or Heroës, and obruded upon the credulous vulgar. For, from hence it was, that *Eubemerus*, with *Diagoras* and som others, was branded an Atheist, who is used as a singular Autor, not onely by *Lactantius*, but also by *Clemens Alexandrinus*, *Eusebius*, *Augustin*, *Arnobius*, and others; to whom wee know very great credit is given in those Arguments that are pieced together against the vain Theologie of the Heathen. It is (I suppose) the same man that is called by *Plutarch*^d *Tegeata*, when hee is ranked in the same form with *Diagoras*. But hee is by the same Autor called *Messenius*, when as beeing very obstinate in the^e superstition of his Ancestors, hee brand's him as a great Patron of Impostures, and beeing induced (it seem's) by hatred against *Eubemerus*, hee conceits there never were any such Nation, as the *Triphylians* or *Panchæans*, whereas *Panchæa* is an Island situate about *Arabia* in the more Southern Ocean, wherein *Eubemerus* placeth the Temple of *Jupiter Triphylius*, from whence that Storie touching the Dominion of the Sea was taken. Truly^f *Diodorus* useth him also, as a grave Autor. A late Lawyer also make's use of that *Neptune* in *Homer*,

^d De Placitiis Philosophorum, lib. I. cap. 7.

^e Plutarch. lib. de Iside & Osiride.

^f Bibliothec. lib. 6. atque apud Eusebium de præparat. Evangelic. lib. 2. c. 4. Adde Gerard. Vossium de Grecis Historicis, lib. I. cap. 11.

Ἡ'τοι ἐγὰν ἔλαχον πολὴν ἄλα ναίεμεν αἰεὶ
 Παλλομένον

H

But

But of those things which were distributed by lot, I have taken the Sea for my share, that I might dwell therein for ever; so hee translate's it, that hee may with the more confidence take the whole matter related concerning the three Deities, as meant of Noah's three sons. His words are these; ^g *Id proculdubio ex partitione terrarum inter tres filios Noachi, ex quibus Japheto Insula obvenerunt, causam traxit, It may without question bee proved from that partition of Lands which was made betwixt Noah's three sons whereby the Isles of the Sea fell to Japhet.*

^g Jo. Gryphinder, de Insulis, cap. 31. § 75.

^h Genesis 10.

So that in that fable hee would have^h the Dominion not onely of the Isles, but also of the Sea, to bee assigned unto Japhet. But that which *Lactantius* saith touching the unlimited Command of Pompey, as parallel to the example of *Neptune's* Dominion, it is so to bee understood, that regard bee had also, as well of those that gave the Command to Pompey, as of him to whom the Command was given. As for instance, *the Cilicians had infested the Seas (as Florus saith) and having spoiled commerce, behaving themselves like enemies of mankind, they shut up the Sea with warr as it were a tempest.* Therefore the Romans, having a special eye to their provision of Corn, did by a decree of the Senate, procured by *Gabinus*, send out Pompey toⁱ free the Sea from Pirats. And there was granted unto him by that decree, a Command of the Sea which lie's within *Hercules's* pillars; and also of the continent about 400 furlongs from the Sea. Hereupon, beeing master of a huge Navie, and having disposed divers Lieutenants through all parts of his Command; Hee so scoured the whole Sea from the straits of *Cadiz* to the *Cilician* shore

ⁱ Plutarch. in Pompeio, & Appianus Alexandrin. in Mithridaticis.

shore, ^k that none was able to stand before him either by Sea or Land. Certainly Pompey had a Commission onely as Admiral of the People of Rome, as, *Paterculus* saith; *Mark Antony* had the like about two years before. But that people which intrusted him, was Lord of this Sea, as the *Romane* Territorie, as well as of those 400 furlongs of the Continent, which were joined alike with the Sea in the Grant of that Commission, though no more lyable to Dominion then the Sea it self. *Florus* saith also; ^l that *Tiberius Nero* (who was one of Pompey's Lieutenants) blockt up the streights of *Cadiz*, at the first entrance of our Sea. Hee beeing a *Romane* rightly call's it our Sea (as also ^m *salust* doth more then once) becaus it was so wholly subdued under the *Romane* power. And *Dio Cassius*; Hee scoured the whole sea, which was under the *Romane* obediencē. And, saith *Mela*, of the *Mediterranean* Sea, all that sea, whenceſoever it flow's, or whithersoever it spread's it self, is called by one name; Our Sea. So it is called likewise by others. ⁿ And *Mela* useth the name our Sea very often afterwards. But more of this hereafter, where wee treat more largely concerning the Dominion of the *Romanes* by Sea. Nor did Pompey's commission extend onely against those Pirats, as enemies of humane society (after the same manner as wee see Commissions daily granted against Pirats, that rob and spoil in any Sea not yet possessed) but that very Sea-Territorie, which the *Cilicians* had invaded, was recover'd by Arms. From whence ^o *Manilius* break's forth in a Poetical rapture;

^k *Dio. lib. 36.*

^l *lib. 3. cap. 6.*

^m *In bello Jugurthino.*

ⁿ *Orosius. lib. 1: cap. 2.*

^o *Astronomic. lib. 4.*

*Quis te Niliaco peritarum littore, Magne,
Post victas Mithridatis Opes, pelagusque receptum,
Crederet? ———*

**Who would have thought, great Pompey,
When for Rome
Thou Mithridates forces had'st o'recom,
And did'st from Pirats hands the Sea restore,
Thou shouldst have perish't on th' Egyptian
Shore?**

Therefore, *Lactantius* ought not so much to have resembled *Neptune* to *Pompey*, as to the People of Rome, in being Lord of the Sea. Other matters there are in the *fabulous time*, which being spoken of the Gods, may seem to shew, what opinion the Antients were of touching the right and custom of men in this particular. For, when they cloth their Gods with the persons of men, they commonly speak such things of them as belong unto men. From whence *Hesiod* sayeth, *Jupiter* granted unto *Hecate*, that she should possess part of the Sea, as well as the Land. Hereunto also belong's that of *Oppianus*, concerning *Amphitrite's* being made Queen of the Sea by *Neptune*,

Halieutic.
lib. 1.

— ἁλὸς βασιλείαν ἔθηκεν,

Hee constituted Her Queen of the Sea.

Dionysiac.
lib. 34.

Also *Nonnus*,⁹

— Βεροῖν κράτος ἔχε θαλάσσης.

Beroë had the Empire or Dominion of the Sea.
Instances of this kinde are innumerable. And therefore thus much concerning the *fabulous time*.

The

The first Dominion of the Sea among the Greeks in the Historical age; that is, the Dominion of King Minos, or the Cretan.

CHAP. IX.

THE former part of the *Historical time*, or that which comprehend's Kingdoms and Commonwealths, which expired som ages since, wee begin from the Empire of the *Cretans* at Sea. Afterwards wee trace a catalogue not onely of very many People of old Greece, and other nations famous heretofore in the East, of like Command and Dominion in the *Syrian*, *Egyptian*, *Pamphilian*, *Lydian*, and *Ægean* Seas, and the severall changes thereof; but also wee shew, that the Dominion both of the *Romans* and *Carthaginians* in their adjoining Seas, as the upper, the lower, the more Easterly Sea also, and others of that kinde in the West, hath been received into Custom, as a thing very usual, and agreeable to Law.

I.

Minos the son of *Lycastus*, said to bee the son of *Jupiter* King of ^a *Crete*, possessed the *Cretan* Sea on every side and a great part of the ^b *Ægean* as Lord and Sovereign. So sayeth *Thucydides*,
^c Τῆς Ἑλληνικῆς θαλάσσης ὅτι πλεῖστον ἐκράτησεν, *Minos* held the greatest part of the *Greek Sea* as Lord thereof. So truly, the word *κρατεῖν* is to bee construed both here and in the following instances. Nor is it any

^a Now called *Candia*.

^b Now called the *Levant*.

^c lib. I.

wife to bee imagined, that so to *have Command* (as *καταλείν* commonly signifie's) can bee otherwise meant, than very plainly thus, that any one who is Lord, or at least doth Act as Deputy or by permission of him who is Lord, may prescribe Rules and Laws to the number of other men's ships, and passage, Tolls or Tributes, throughout the several limits of the Sea, after the same manner as when hee withhold's or permit's the use of his Land to husbandmen, according to his own will and pleasure. Which in this case is all one. Howsoever, wee are not ignorant, that *Θαλασσοκρατείν* sometimes signifie's only^d to bee strong and powerfull in shipping.

^d *Is. Casaubon in Comment. ad Polyb. pag. 209.*

^e *Biblioth. 4.*

^f *Apud Stobæum Eclog. cap. 42.*

^g *Geograph.*

^h *10.*

ⁱ *Pag. 11.*

^j *In Minoe.*

^k *In Hippoly-*

^o *act. 1.*

In like manner, ^e *Diodorus Siculus*, ^f *Nicolaus Damascenus*, ^g *Strabo*, ^h *Cedrenus*, ⁱ *Suidas*, and others speak expressly. And *Phædra* likewise in *Seneca*.

^k *O magna vasti Creta Dominatrix freti,*

Cujus per omne littus innumera rates

Tenuere pontum; quicquid Assyriâ tenus

Tellure, Nereus pervium rostris secat.

**O mighty Creet, thou Mistress of the main,¹
Whose many ships have fill'd both Sea and
shores;**

**As farr as Nereus doth, to Ashur's Land,
blow out a passage with his stemm's and
oars.**

And the first Dominion of the Sea, that is, the first possession of that part of it which was not yet possessed but remained vacant (from whence this kind of Dominion doth arise) they attribute for the most part unto *Mines*. But there is an error touching this matter, in *Jerom's* Translation of the Chronicle

¹ *Euseb. Hieronym. Num. 765.*

nicle of *Eusebius*; nor is it to bee passed by, unless wee will carelesly neglect that which in plain terms may seem to oppose the most eminent Sovereigntie of the Sea among the Grecians. The Translation run's thus, *Minos Mare obtinuit & Cretensibus Leges dedit, ut Paradius memorat, quod Plato falsum esse convincit, Minos possessed the Sea, and gave Laws to the Cretans, as Paradius recordeth, which Plato prove's to bee fall.* What then? Doth *Plato* prove it to bee fall, that *Minos* gave Laws to the *Cretans*, and held the command of the Sea? or that either of Them is fall? The place is plainly fall and very much corrupted, both in the fained name of *Paradius*, an Autor, never heard of in any other place, as also in the very Translation of the Greek words of *Eusebius*. *Paradius*, I know not by what negligence (for I would not believ it of *Jerom* a pious and most learned man; but perhaps of som smatterer in learning, who presumed to enlarge those brief summarie discourses of his in that Chronicle) did arise even from *Para Dios*, that is, *ex Jove, from Jupiter*, which is found in the Greek words of *Eusebius*? For, there *Eusebius* saith, ^m *Minos ἔθαλασσοκράτει possessed the Sea, and gave Laws unto the Cretans, which hee brought ἀπὸ τοῦ Διὸς from Jupiter, out of the Cave where hee had retired himself for nine years.* Touching those Laws received from *Minos*, which ⁿ expired not before *Crete* was subdued by *Cecilius Metellus*, also concerning his Cave in Mount *Ida*, and the nine years, the matter appear's very plain out of *Homer, Plato, Porphyrie*, and others. But in the Greek of *Eusebius* it immediately follow's; *ὅτι περὶ ὃ Πλάτων ἐν τοῖς Νόμοις ἐλέγχει*, which certainly here signifie's, *id quod Plato in Legibus adprobat seu confirmat, that which Plato in his Laws ap-*

prove's

^m Chronic. Canon. 110. in Thesaurο Temporum.

ⁿ Eutropius; lib. 6.

o *Plato de legibus, lib. 1.*

prove's or **confirm's**. For, *Minos* his receiving of such *Laws* is the very ° foundation of *Plato's* Books concerning *Laws*. So little reason is there it should have been translated, *Quod Plato falsum esse convincit, aut quod Plato refellit*, **which** *Plato prove's to be fall, **which** *Plato disprove's*: whereas notwithstanding that eminent man *Joseph Scaliger*, using far less diligence here then was meet, or then hee hath been wont to do, would have the latter to be added in that place. For, howsoëver according to the meaning and more common usage of the word ἐλέγχειν, it may seem rightly translated; yet the matter it self, and the other signification of the word, doth manifestly prove our trans-action to be true. But wee read the very same too, according to *Jerom's* Translation, as copied out, by *Marianus Scotus* ^P, and *Florentius* of *Worcester*, save that in *Florentius* wee read *Plato falsum esse affirmat*, *Plato affirm's to be fall.**

p *Anno Mundi, 2944.*

That after Minos of Crete, Seventeen Nations of Renown in the East, succeeding each other, did for very many years even without Intermission, enjoy a Dominion of the Syrian, Egyptian, Pamphylian, Lydian, and Ægean Sea, no otherwise than of the Continent or Islands.

C H A P. X.

After the times of *Minos* the *Cretian*, wee finde in the *Chronicles* of *Eusebius* and *Africanus* no less then seventeen Eastern Nations, part of *Europe*, part of *Asia*, who for very many years so held the

the inner neighboring Sea, as Lords one after another, that, according to the *Intervenient Law of Nations*, it is most evident a private Dominion of the Sea took place among them all. For, changing by course, and by length of time after long possession, through War, Victorie, or som other kinde of Cession, they every one shared their period of Domination, accomplishing among them all above five hundred and sixtie years without Intermission. But from the beginning of the Sea-Dominion of *Minos* or the *Cretan*, to the next which follow's in the aforesaid Chronicles, there fell out one hundred seventie five years. Those beginnings are placed about the time of the Judges of *Israël*. They which succeeded, are ranked after this manner.

I I.

IN the second place the *Lydians* were Lords of the Sea. The Greek of *Eusebius* saith, ^a Λυδοί, οἱ καὶ Μαίονες, ἐθαλασσοκράτησαν ἔτη 46, *The Lydians, called also Mæonians, were Lords of the Sea XCII years.* The beginnings of this Dominion are reckoned about the time of *Æneas*. But as to what concern's the number of years, although it hath been the same both throughout the whole Historie of *Eusebius*, as also in his Chronicle; yet since the Empire of the *Pelasgi*, which next follow's, is severed by the space of CXX years or thereabout, perhaps it ought to bee amended, and px or CXX to bee put in its place. Which that most excellent man *Isaac Casaubon* observed doubtingly, also in his Commentarie upon *Polybius*, where hee treat's very learnedly concerning those, who have had Dominion of the Sea in the East. Likewise,

^a Pag. 31. &
pag. 115.
num. 940.

Marianus Scotus and *Florentius* the Monk do mention the Sea-Dominion of the *Lydians*, as also of the *Pelasgi*, without any number of years.

III.

^b *Chronic.*
lib. 1. p. 34. &
num. 960.

THE *third* Lords of the Sea in this Catalogue, were the *Pelasgi*. Yet *Eusebius* saith, ^b Πελασγοὶ δευτέρου ἐθαλασσοκράτησαν ἔτη πε, *The Pelasgi in the second place possessed the Sea LXXXV* years. Which is referr'd to the times of *Solomon*, and those which follow. But the beginnings of the *Thracians*, who immediately succeed, require that they should be reckoned here rather *LV* years. And indeed the *Pelasgi* were second Lords of the Sea, if (according to som) you either make the *Lydians* the first, or place them the first after *Minos* or the *Cretans*. For, so the *Pelasgi* are plainly the second, otherwise the third. Which also is to be observed in the following particulars.

IV.

^c *Ibid.* &
num. 1014.

FOURTHLY, the *Thracians* were Lords of the Sea, ^{oθ}, or *LXXIX* years (as wee finde in the ^c Greek of *Eusebius*;) which nevertheless are not reckoned above nineteen in *Jerom's* Translation. But *Isaac Casaubon* is of Opinion, being induced thereto from the beginnings of the *Rhodians*, who were next Lords, that it ought to be written πθ or *LXXXIX*. *Marianus* and *Florentius*, following the translation of *Eusebius*, accompt onely *XIX* years to the Dominion of the *Thracians*. And it is observed more then once by them, as well as in the aforelaid translation, that the *Thracians* were Lords of the Sea. This was in the time of King *Jeroboam*.

V.

Fifthly, the Rhodians held the Sea, as Lords^d XXIII years. And hereupon^e Strabo commend's their industrie in matter of Navigation, who saith; Rhodes was sovereign Ladie of the Sea a long time, and suppressed Pirates. In the Latine of Eusebius; the Rhodians are laid to have been the fourth in order that were Lords of the Sea. But in the Greek, that they were the fourth Lords of the Sea, and according to som, the fifth. Whence this difference arose, appears by that which hath been said about the Pelasgi. Of all the antient Lords of the Sea the Rhodians are most renowned; chiefly in this respect, becauf the Sea-Laws which were used and in full force and virtue in both the Empires, were borrowed from them, and put into the Digests by Justinian. Saith the Emperor Antoninus to Eudamon of Nicomedia^f, *Lege Rhodiorum deciduntur lites Nautice*, **Let Suits about Navigation bee decided according to the Law of the Rhodians.** And by the Testimonie of Constantinus Harmenopulus^g a^h Judg of Thessalonica; they are the most antient of all Sea-Laws, that have not been lost. They were taken into use among the Romanes from the time ofⁱ Tiberius. Their beginnings are placed about the Reign of Jehosaphat: But the Rhodians are wholly omitted both by Marianus and Florentius.

^d Chron. Canon. pag. 128.
^e num. 1100.
^c Lib. 4.

^f Ad Legem Rhodiam ff. l. 9.
^g *ἀέτωσις.*
De Legibus hisce vide etiam Basilic. lib. 53. tit. 8.
^h Prochir. Juris lib. 2. tit. 11.
ⁱ Jus Græcorum. Tom. 2. pag. 265.

VI.

Sixthly, the Phrygians had dominion over the Sea XXV years; but (as it is in theⁱ Greek of Eusebius)

ⁱ Chro. Canon. p. 129. num. 1127.

according to others $\overline{\text{XXVI}}$. In the Latine wee finde onely $\overline{\text{XXV}}$, as also in *Marianus* and *Florentius*. But yet seeing, in the Greek of *Eusebius*, the *Phrygians* are (for the aforefaid reason) counted the fifth Lords of the Sea, *Isaac Casaubon* (I think) well observe's that that number of six doth not denote the years, but the order of Dominion. This Lordship is reckoned in the time of *Lycurgus*.

V I I.

*S*eventhly, the *Cyprians* possessed the Sea, as som say, $\overline{\text{XXIII}}$ years; according to others, $\overline{\text{XXXI}}$. For, ^{k Edit. Basil.} this is found in som ^{1549.} Editions of *Jerom's* Translation of *Eusebius*. That in the Chronicles of *Marianus* and *Florentius*, compiled for the most part out of *Eusebius* and *Jerom*. But neither in the Greek Copies of *Eusebius*, which are extant, nor in the Translation set forth by *Joseph Scaliger*, is any mention made of the *Cyprians*: nor truly in the accompt of *Isaac Casaubon*. This was in the time of *Joas*.

V I I I.

*E*ighthly, the *Phenicians* possessed the Sea. So *Eusebius*, *Marianus*, and *Florentius*; save that they make them the seventh by reason of that different manner of accompt, which hath been shewn you. Touching their Dominion the holy Scriptures themselvs speak plainly enough; which also wee have noted before in our discours concerning the Divine Law. The memorial of this Dominion is placed about the Reign of *Uzziah* King of *Judah*. Also this Nation of the *Phenicians* became renowned for their skill in Navigation,

Navigation, as wee are instructed by *Pliny*, and others. And heretofore (perhaps) that ought to bee referr'd, which is delivered by *Antipater Tarsensis* and *Manaseas*, two ancient writers, touching *Gatis* Queen of the *Syrians* (who themselves also were *Phenicians*) whom they will have therefore to bee called *Atergatis*, becaus (as *Antipater* saith) shee set forth an Edict, ¹ that none should eat fish without *Gatis*; or, as *Manaseas* saith, that no man should eat fish without her licence and permission, but that everie one should bring the fish they caught unto her. That which they hold concerning the Original of the word appear's sufficiently ridiculous, whilst they derive a *Syrian* or *Phenician* name from the Greek fountain. But the very thing which (I suppose) they would have, is this; That *Atergatis* was Queen or Sovereign Lady, not only of *Syria* or *Phenicia* (which is the Sea-coast of *Syria*) but also of the Sea lying before it, in such a manner that it was not lawful for any one to fish freely therein, at least not to enjoy the benefit of fishing, without her consent. From whence it was a Custom to consecrate fishes of Gold and Silver to her, after shee was placed among the Deities.

1 ἡ Ἀτὴρ Γάτις.
 ἡ Ἐπιπέτρα
 ἡ Ἰσθμὸς ἰσθμίου
 ἀλλὰ οὐκ ἔστι
 ἀπὸ τῆς ἀναζήτησιν.
 Apud Athenaeum, dipnosoph. 8.

IX.

N^mIntbly, after the *Phenicians*, the *Ægyptians* possessed the Sea under their Kings *Psammitis*, and *Bocchoris* who lived immediately before the beginnings of the Olympiads. Mention is made of them also in *Marianus* and *Florentinus*.

^m Euseb.
 Num. 1230.

X.

η ἀπο Μιλι-
σίαν τότε θα-
λατοκρατέρ-
των.

• lib. 12.

IN the tenth place, the *Milesians* were Lords of the Sea. The books of *Eusebius* do not shew the number of years. But both in *Marianus* and *Florentius* wee read, that the *Milesians* possessed the Sea XVIII years. *Stephanus*, concerning Cities, saith, *Naucratis*, a Citie of *Ægypt*, was builtⁿ by the *Milesians* then possessing the Sea. And *Eusebius* also mentions the building of that Citie; together with their Dominion at Sea, about the time of *Romulus*. In like manner they built *Sinope*, seated by the *Euxine* Sea; which (as *Strabo* saith)^o commanded that Sea which flow's within the *Cyanean* Islands.

XI.

• Euseb.
Num. 1281.
• Biblioth. 5.

ELeventhly the^p *Carians* possessed the Sea. Their Sea-Dominion is remembered by^q *Diodorus Siculus*. It was about the time of *Hezekiah*.

XII.

• Euseb. Num.
1341.

TWelfthly, and next to the *Carians*, the *Lesbians* held the Sea in possession.^r LXIX years. So it is in the Latine of *Eusebius*. But *Marianus* rendreth it LVIII years.

XIII.

THirtenthly, the *Phoceans* possessed the Sea, about the Captivitie of *Babylon*. Their Dominion lasted XLIV years. So saith the Greek of *Eusebius*

Eusebius, ¹ Φωκαῖς ἐθαλασποκράτησαν ἔτη μδ̄ the Phocæans were Lords of the Sea XLIV years. Before which words the number ¹⁶ or of twelve is prefixed, whereby it is signified, that they were the twelfth after the Lydians, and the thirteenth from Minos. ¹ Chron. lib. 1. pag. 42.

XIV.

FOurteenthly, the Corinthians were Lords of the Sea. I do not finde, that they were thus ranked. But it appear's clearly out of ¹ Thucydides, that they were very potent at Sea, and did so repress Piracies by their strength in shipping, that they gained themselves a very large command by Sea, as well as by land. The same autor also mention's their extraordinary industry in restoring the affairs of Navigation. Nor doth time gain say, but that wee may well place them here, as also the Ionians next. But wee do not as yet finde, that these fourteenth and the fifteenth are received by writers into the Catalogue of those, who have thus held the Sea in possession. ¹ lib. 1.

XV.

FIfteenthly the Ionians were neighboring Lords of the Sea. Concerning them Thucydides saith, ¹ A good while after, (to wit after the power of the Corinthians by Sea) the power and interest of Navigation was in the hand of the Ionians, in the time of Cyrus the first King of the Persians, and of his son Cambyfes; And ² contending also with Cyrus, they enjoyed their own Sea for som time. where the old Scholiast add's by way of observation, γέρονος, & γὰρ πάσης, the neighboring Sea; but not all. ¹ Lib. citato: ² Κύρω πολεμῶντες ἐκράτησαν τινὰ χρόνον.

XVI.

XVI.

* Chronic.
lib. I. pag.
43.

Sixteenthly, the *Naxians*, were Lords of the Sea. *Eusebius* saith, " In the fifteenth place the *Naxians* possessed the Sea, ten years. About the time of *Cambyses*. It is spoken of the *Naxians*, named from the Island *Naxos*, which is one of the *Cyclades*, or Isles in the *Archipelago*.

XVII.

Seventeenthly, the *Eretrians* succeeded into this Sea-Dominion. *Eusebius*, when hee speak's of the *Naxians*, saith, & μετ' αὐτῶν &c. And after them the *Eretrians*, in the seventeenth place, held it VII years: *Eretria* was heretofore a famous and wealthy Citie in the Island of *Eubœa*.

XVIII.

And lastly, the last or eighteenth Lords of the Sea in this Catalogue were the People of *Ægina*. The Latine of *Eusebius* saith, ' the People of *Ægina* possessed the sea XX years, even until *Xerxes* his passage; which is noted in the fourth year of the sixtie seventh Olympiad. But *Xerxes* made his passage in the seventy fift Olympiad, and in first year thereof. Therefore there passed XXVIII years between. But truly *Joseph Scaliger* observe's here, from this carelesness in counting of years, that those are meer triflings which are found in the Latine. And hee saith, they are so discovered by the Greek, wherein wee read onely Ἀιγιῶται ἐθαλασσοκράτησαν ἔτη ἰ. The People

people of *Ægina* held possession of the Sea \bar{x} years. Which truly wee finde as well in the former Chronicle of *Eusebius*, as in his Canon: nor is it otherwise placed then in the *Latine*. Also ² *Strabo* and ² *Ælianus* make mention of their Sea-Dominion.

² Lib. 8.
² Var. Histor.
lib. 12.

Touching the Sea-Dominion of the Lacedæmonians and Athenians. Moreover also, that it was acknowledged not onely by the Greeks, but also by the Persians, in a Treatie of Peace.

CHAP. XI.

NOR are those Particulars which are to bee applied hither out of the East, found onely in the Customs and Sea-Dominion of so many famous Nations thus continued one after another (the years of whose Empires have usually been reckoned from their subduing the Sea;) but in the Customs of others also, who truly were more famous, though they bee not registered any where in such a kinde of Catalogue. It is written of *Polycrates*, that renowned King of the *Samians*, who about the beginning of the *Persian* Empire, vanquished the *Lesbians* and *Milesians* in a Sea fight, that hee so earnestly aspired after a Sovereigntie of the Sea, that it was manifestly acknowledged to bee capable of Dominion. *Herodotus* saith, *Polycrates* is the first of those that wee have known, who had an intent to acquire the Dominion of the Sea unto himself, except *Minos* of *Crete*, and if there were any other that enjoyed the Sea before him. Hee speak's,

K

I

I suppose, of Kings. For, those *Greeks* in whose hands the Dominion of the Sea was (as wee before have shewn you) so often changed, were commonly govern'd either by a Popular, or an Aristocratical form of Government. Nor could *Herodotus*, I think, bee more ignorant of their Dominion, then of King *Minos*. For, hee lived after the fore-mentioned Dominion of the People of *Ægina* was ended, or about the *eightieth Olympiad*. Therefore, either hee spake onely of Kings, or was extremely mistaken.

About the *eightieth Olympiad*, and the times following unto the *Grecian Monarchie*, those most renowned People of *Greece*, not onely the *Athenians*, but the *Lacedemonians* also, did sometime enjoy a Dominion of the Sea flowing about them. *Demosthenes* saith of the *Lacedemonians*, ^a *They had Dominion over the Sea and the whole Land*. Others also have testified as much. Concerning the *Athenians* either the same man, or *Hegisippus*, in that Oration touching * *Halonesos*, making mention of *Philip K. of Macedon's* affecting a Dominion of the Sea, speak's thus, *De Prædonibus æquum esse ait Philippus &c?* Concerning *Pirates*, *Philip* saith, it is meet, that both hee and you should by common consent, drive away such as offend upon the Sea, requiring no other thing than this, that hee may bee put in command over the Sea by you, and that you would confesse your selves unable to defend and guard the Sea (which hitherto hath been yours) Without the help of *Philip*. They did also by League impose a certain size and proportion upon all sorts of Bottoms, both for qualitie and quantitie, which their neighbors should have leav to use. It is an Article of the Treatie made with the

^a *Philippic. 3.*
vide etiam
Themistoclem. Epist.
14.

* An Island
in the *Ægean* Sea,
now called
the *Levant*.

the Lacedemonians; ^b That the Lacedemonians and their Confederates might indeed use the Sea, but not sail in a long ship, but any other kinde of vessel; which beeing rowed with Oares should not exceed the freight of five hundred Talents: That is to say, not in a vessel with one range of Oares, much less in one of two or three ranges; or others that were men of War, but in vessels to bee rowed nevertheless with certain pairs of Oars, beeing vessels onely for carriage, and those small enough. other passages of this kinde there are in *Thucydides*. Hereunto belong's that of *Æmilius Probus*, touching *Timotheus* a famous Captain of the Athenians. Hee brought *Corcyra* (saith hee) under the command of the Athenians, and made the people of *Epirus*, the *Athamanians*, *Chaonians*, and all those Nations which border upon that Sea, to bee their Confederates. Whereupon the Lacedemonians desisted from long contentions, and of their own accord yielded a pre-eminence of Sea-Dominion to the Athenians, and settled Peace upon this condition, that the Athenians should bee chief Commanders at Sea. Which *Victorie* was received with so much joy among the Athenians, that Altars were then erected unto P E A C E, and a Temple appointed for that Goddes. And *Demosthenes* concerning ^c *Archebius* and *Heraclides*, who when they had deliver'd *Byzantium* to *Thrasymbulus*, they made you (saith hee, speaking to the men of Athens) Lords of the Sea, so that yee might sell the Tenth; To wit, the Customs of the Merchandize of such Merchants as should trade in the *Hellepont*; which is noted there by *Ulpianus* the Rhetorician. From hence also, *Cicero* would have that barbarous Decree of this Nation to have had its rise concerning the people of *Ægina* somtimes Lords of the Sea. ^d The Athenians, saith hee, dealt very cruelly, who passed a Decree, that the *Æginetans*, who were power-

^b *Thucydides*, lib. 4.

^c *Orat. advers. Leptinem.*

^d *De Officiis* lib. 3. sic *Valerius Maximus*, l. 9. c. 2.

68 Book I. *Of the Dominion, or,*

ful in Shipping, should have their thumbs cut off; to the end, that they might not grow strong in Shipping hereafter, or by force enter upon that Sea then possessed by the Athenians: For, in som Books wee read, quia classe valebant, becaus they grew strong in Shipping, as it is noted by *Carolus Langius*. Though it bee conceived by ^e *Ælian* the Decree was therefore made, that they might not bee able to use a Spear, and yet to handle Oars. This crueltie is dettelted by Writers. But it is evident, that by this means they were deprived of a free use of the Sea. Nor was such a Dominion of the Sea approved onely among those people of *Greece*; but also by the *Persians*, who at that time ruled the East, as appear's in that notable League made after the Victory at *Eurymedon*. For truly, *Cimon* Captain of the *Athenians* having vanquish't the Naval Forces of *Artaxerxes Longimanus* King of the *Persians* (which had infested the Sea about the *Chelidonian* Islands) the King's courage was so broken, That (as^f *Plutarch* saith, and ^g *Aristides* almost the same) bee concluded that notable Peace, upon such terms that bee was to keep the distance of an hors-race from the *Greek Sea*, and that bee should not have a Ship built long or beaked, within the *Cyanean* and *Chelidonian* Islands. So that the King was to keep out of every part of the *Ægean*, *rhodian*, *Carpathian*, and *Lydian* Sea, and that which bend's thence into the West towards *Athens*: Becauf the *Athenians* were clearly Lords thereof. For, the *Greek*, which of old was called the *Carick** Sea, spread its self to a very great latitude, from *Caria* or the shore of the Western part of *Asia*. Moreover, subjection was imposed upon the Sea of *Pamphylia* and *Lycia*, as also the *Euxin* Sea, that no Ship of the King's which should
bee

^e *Var. Hist.*
lib. 2. cap. 9.

^f *Ex Cratere*
in Cimonia
vitâ.
^g *In Panathenâicâ.*

* *Scholias.*
lib. 1. Adde
Dionys. Halicarnass.
lib. 1.

bee long-built or beaked (that is to say, a man of War) could according to the League bee admitted, either in this beyond the *Cyanean*, or in that beyond the *Chelidonian* Islands. This certainly was the very meaning of ^h *Isocrates*, when making mention of the *Athenian* Dominion, hee saith, *it was not lawful to sail in long Ships or Gallies beyond Phaselis*. For, *Phaselis*, a Town either of *Lycia* or *Pamphylia*, is situate in the same direct line with the *Chelidonian* Islands. But *Suidas* tell's us, that *Castor Rhodius*, an ancient Writer, had compiled an Historie *Ἐπι τῶν θαλασσοκρατησάντων* of such as have enjoied a Dominion of the Sea. ⁱ Learned men are upon very good ground of Opinion, that those Lords of the Sea, reckoned up in the former Chapter, were taken by *Julius Africanus* and *Eusebius* out of that Autor. It is almost out of question too, that hee added the Soveraigntie both of the *Athenians* and *Lacedemonians* by Sea. *Castor* lived about the time of *Augustus Cæsar*. That work of his is utterly lost.

^h In Panathenæico.

ⁱ *Jos. Scaliger in Eusebianis ad num. 840.*

Gerard. Vossius de Historicis Græcis, lib. 1. cap. 25. Alii.

Other Testimonies, which are found scatter'd up and down, touching the Dominion of the Sea, in the Customs of the Eastern Nations.

CHAP. XII.

Moreover, very many things are found scatter'd up and down in those Writings that concern the Customs of the Eastern Nations, which clearly prove it to have been a most received opinion touching private Dominion of the Sea. *Antiochus*

^a Joseph Ben. Gorion. lib. 3. cap. 12. Edit. Munster. Ebræo-lat-in fol.

^b Herodotus, lib. 7.

^c Jos. Scaliger ad Festum, verb. *Ægyptiinos*, & Nicol. Fuller, Miscellan. lib. 4. cap. 20.

^d apud Photium, cod. 250.

^e De vita Apollonii, lib. 3. cap. 11.

^f De Rebus Alexandri, lib. 4.

^g Afranius apud Festum, verb. *Tyria Maria*.

Epiphanes, King of Syria saith, speaking of the Syrian Sea, ^a *Are not both the Sea and the Land mine?* And Xerxes that Persian King, when in a ridiculous humor hee scourged the *Hellepont*, stigmatized it, and cast a pair of Fetters into the Waters, said, ^b *Δεωότης τοῖ δίκην ἐπιτ.θῆ τίνδε*, *Thy Lord inflict's this punishment upon thee.* Also, whereas Agatharcides, following the storie of *Boxus* the Persian, write's that the red or Erythrean Sea was so called from King *Erythras* or *Erythrus* (that is, from *Edom* bordering thereupon who also was ^c *Esau*, and signifieth the same that *Erythrus* or *Rubrus* doth in Ebrew) hee add's also this Exposition doth imply ^d *κυριώσαντα τῆς θαλάττης ἀνδρα*, *A man enjoying the Dominion of that Sea.* And truly wee read in ^e *Philostratus*, that there was an old contract touching the Red-Sea, which King *Erythras* had contracted, when hee had Dominion over that Sea, that no Egyptian ought to enter that Sea in a long Ship, but to imploy there onely one of Burthen. And ^f *Quintus Curtius* saith of the Citie of *Tyre*, that being built by *Agenor*, shee made not onely the neighboring Sea, but what Sea soëver her Ships sail into, to bee of her Dominion. From whence also *Tyria Maria*, *Tyrian Sea's*, became a ^g Proverb, to signifie a Sea so possessed, that free passage could not bee had, without leav of the Lord or Possessor. There was also a very antient Custom used in the East, that when great Kings having designs to bring any Nations under their power, commanded the pledges of Empire and Dominion to bee deliver'd to them, they were wont to demand *Water and Earth* together. That is to say, there quired them *Φέρειν γῆν καὶ ὕδωρ*, *to bring earth and water*, and *ἑτοιμάζειν γῆν καὶ ὕδωρ*, *to prepare Earth and Water.* They conceived that their Dominion of the Sea as well as the Land, was signified by such a kinde

kinde of pledg or token. Thus ^h *Darius* demanded ^h *Herodotus*
 Earth and Water from *Indathyrfus* King of the *Scy-* ^{lib. 4.}
thians; Thus ⁱ *Xerxes* from the *Lacedemonians*; and ⁱ *Polybius,*
 thus both of them from the People of *Coos*, which is ^{lib. 9.}
 witnessed by the *Coans* themselves in a publick Decree
 or Epistle, in answer to *Artaxerxes* his most imperi-
 ous demand, that *Hippocrates* should bee rendred up to
 him; wherein the *Coans* slighting the threats of that
 great King, decreed that what hazzard soever they
 might seem to run, *Hippocrates* should by no means
 bee rendred. They added also to that Decree ^k *Kαὶ* ^k *Hippocra-*
 ἡ Δαρείῳ καὶ Ξέρξῳ ἀπὸ πατέρων &c. ^{tes, Epistol. 9.} How that when
 his Predecessors, *Darius* and *Xerxes*, had by their Letters
 demanded Earth and Water, the people of *Coos* did in
 no wise yield it; forasmuch as they were satisfied, that those
 who had sent unto them were mortal, as well as other men. And
 in the Greek Copies of the Historie of *Judith*, *Na-*
buchodonosor beeing about to denounce War against
 the neighbor-Nations, saith expressly, the form of
 submission which hee expected was, ¹ that they should ¹ *Judith, cap.*
 provide for him Earth and Water. Unless they conceiv ^{2. 7. Græc.}
 themselves to bee Lords of the Waters as well as the
 Land, I do not well see wherefore they should de-
 mand Earth and Water as tokens of universal Domi-
 nion. Moreover also, *Achmes Ben Seirim*, an *Arabian*,
 writing of the Sea saith, that according to the Doctrine
 of the *Indians*, *Persians*, and *Egyptians*, in expounding
 of dreams, ^m If any one (in a dream) seem to himself to ^m *Cap. 178.*
 bee made Lord of the sea, hee shall bee heir of the whole
 Kingdom, and shall reign. Add hereunto that Oracle of
Delos concerning the Sea-Dominion of the *Athenians*.
 The men of *Athens* offering sacrifice in *Delos*, a Boy
 that drew water to wash their hands, poured Fish out
 of the pot together with the water. Hereupon this
 Oracle

Oracle was delivered by the Priests, *ὡς κωκυλλοῦσι*
ἡ θαλάσσης, That they should become Lords of the Sea.
 The Autor is one Semus an ancient Writer in
ⁿ *Athenæus*; where *Phylarchus* also relates, how
 that when *Patroclus*, a Captain of *Ptolomie*, the
 son of *Lagus*, had sent fish and fresh figs to-
 gether unto King *Antigonus*, and those that
 stood by were in doubt what was meant by that
 present, *Antigonus*, said hee, himself very well appre-
 hended what might bee the meaning of *Patroclus*:
 For, saith hee, either *Patroclus* mean's, ^o *That wee*
must get the Sovereignty or Dominion of the Sea, or els grow
figs. Or that hee must seem slothful and effemi-
 nate, or become Lord of the Sea. Therefore hee
 made no doubt touching private Dominion of the
 Sea. And there also the Glutton in *Antiphanes*
 the Comedian saith, it is neither profitable for
 life, nor to bee endured, *That som of you should claim*
the Sea as peculiar to themselvs, and spend much monie up-
on it, but no victual for Navigation, not so much as a
bit. Add also that of *Theocritus*, touching the Do-
 minion of *Ptolomeus Philadelphus* King of Egypt, over
 the Sea as well as the Land,

ο θαλάσσης
 τειν ήμας
 η των σικων
 τραγειν

^p *Jelliv. 17.*

Πολλὰς δὲ κατὰ γαῖαν πολλὰς δὲ θαλάσσης

Hee is Lord of much Land, and also of much Sea.

And a little after, hee speak's of the *Pamphilian, Ly-*
cian, and the inner part of the remaining Sea, that
 the whole Sea, and Land, and Rivers were subject to King
Ptolomie. Also, ^q *Philo Judeus* saith, let not Prin-
 ces glory in that they have conquer'd many Na-
 tions, or that they have brought all the rivers and Seas
 so exceeding vast both in Number and magnitude under their
 power. Moreover, though *Isocrates* in his Oration
 con-

^q *Lib. de plan-
 tatione Noë.*

concerning Peace seem's to hint, that the Sea-Dominion and Sovereignty, which the *Athenians* endeavored to maintain, brought many mischiefs upon them; and also that it sometimes occasioned them to use Tyrannie against the Neighbor-Cities of Greece; yet hee dispute's it as a thing that may com into examination, under the account of profitable and unprofitable, and by accident, of unjust; but hee doth not in anie wise endeavor to prove it unjust from the nature of the thing it self. Yea, in another place hee sufficiently commend's that Dominion, though not all things in preserving it. And the same ^r Autor saith expressly, of both Cities, the *Lacedemonian* and *Athenian*; It hapned that both Cities did enjoy a Command of the Sea; which when either of them held, they had most of the other Cities obedient thereto. Wee read also a dispute in *Aristotle*, ^c concerning a Communion or common enjoyment of the Sea; to wit whether it may bee convenient or not for a well order'd City? whether it were better it should remain common to all men, so that no man might in any wise bee denied passage, traffick, merchandise, and fishing; Or that the use of it may bee so restrained, that it might bee received into the Dominion of any Citie, so as to exclude forreiners? Hee dispute's this point whether it bee profitable, or unprofitable; but question's it not at all as unjust; having been abundantly instructed out of the Customs of the Nations round about, touching a propriety of the Sea as well as the Land. Also his Scholar *Alexander* the Macedonian, being victorious in the East, prepared for an expedition against Europe, that Hee, might become Lord of the whole Land and Sea, as saith the Emperor ^r *Julian*. And truly among the People of Greece,

^r In Panathenaisce.

^c περὶ τῆς θαλάσσης κοινωσίας.

^r In Oratione 3. seu Eusebii Encomio.

L

upon

upon the Sea, and others of that nature in the East, to hold supreme power and Sovereignty above others, and to enjoy a Sovereignty of the Sea, were accounted almost one and the same thing. Nor did they conceive that could be obtained without this. From whence arose that Council of *Themistocles*, which *Pompey* the great also followed at Rome; *Qui mare teneat, eum necesse esse rerum potiri &c.* **Hee which can possess the Sea, must needs have Command of all.** So also saith *Isaac Casaubon* upon *Polybius*; To have Dominion of the Sea (which is expressed by the Greeks *Θαλασσοκρατία*) is wholly, and ever hath been a great strengthening, and as it were a pledge of extraordinary power. Therefore, the old writers of *Chronicles* among the *Grecians*, seeing before the institution of the *Olympiads*, there was no Sovereign power of any People of Greece in being, upon whose actions a knowledge of times might be grounded, therefore among the other times that they made use of for the computing of times, they omitted not that particular, but carefully kept an account of those People, who had once enjoyed a Dominion of the Sea, and they exactly observed in their *Chronologies* all such changes as hapned in that matter. But you have more then enough touching those Customs that have been received in the *East*, about the Dominion of the Sea.

Of the Spinetans, Tuscans, Carthaginians, and other Lords of the Sea in the West.

CHAP. XIII.

NOR is such a Dominion of the Sea, as I have mentioned, less clear and evident, in the ancient Customs of the Western Nations. The *spinetans*, so called from the City *Spina* situate near the entrance

^a Cicero ad Atticum, lib. 10. Epist. 7. Plutarch. in Themistocle.

^r Comm. in Polybium pag. 192.

entrance of the River Po, were a long time Lords of the upper or Adriatick Sea, being wont to send very liberal Tenths out of their profits by Sea, to Apollo at Delphos. So saith ^a Strabo and ^b Dionysius Halicarnass. Who write expressly in like manner of the Tuscans, that they were Θαλαττοκράτορες, in command of the lower Sea, or that which washes the South-Coast of Italy; that is in plain terms that they were Lords of the Sea. And ^c Diodorus Siculus saith, the Tyrrheni (or Tuscans) possessing the Sea a long time as Lords, called it by their own Name. But afterwards, the ^d Carthaginians became Lords of almost the whole Mediterranean, which is more westward, to wit of the Sicilian and African Sea; who being overcome in battel, Agathocles King of Sicily enjoied the same power for some time; from whom the People of Africa revolting, that Dominion was soon restored to the Carthaginians. These things were don in CXXVIII Olympiad. Then, for 40. years or thereabout, the Carthaginians continued Lords of the Sea, and gave Laws thereto; that is to say, until the first Punick War, which began in the last year of the CXXVIII Olympiad. So also Polybius, ^e The Carthaginians enjoying the Dominion of the Sea without controversie. And a little after; The Carthaginians enjoyed the command of the Sea without all controversie, as received from their Ancestors. But the Carthaginians enjoyed the same, even long before the time of Agathocles, as it sufficiently appears by that League of all that was made first of all betwixt them and the Romanes, at the beginning of their Consuls, or about the sixtie eight Olympiad. One Article thereof is in Polybius, who onely mention's it to this effect; That neither the Romanes nor their Confederates were to sail beyond the * fair Promontorie, unless driven by Tempest, or forced by enemies. That was a

^a Lib 5.
^b De Orig.
Rom. lib. 1.

^c Biblio. l. 5.
πολλὸς χρόνος
θαλαττοκρα-
τίστους.

^d Diodorus
Sic. lib. 20.

^e Histor.
lib. 1. & 3.
Adde Appi-
an. Alexan-
drin. sub. Ini-
tiis Belli Pu-
nici.

* A Promon-
torie of Afri-
ca, near Car-

promontorie of *Africa*; and the *Carthaginians* were so far Lords of the Sea, that they would not permit the *Romanes* or their Confederates, to sail beyond that Promontorie: which the *Romanes* themselvs acknowledged to bee just in the *League* that they made. But in the second *League* or Treatie of Peace betwixt these famous Nations in the West, it was farther provided; that no *Romane* should touch either upon *Africa* or *Sardinia*, unless it were either to take in Provision or repair their Ships, as you may see also in *Polybius*: so that the use of the Sea was taken away, or restrained. And hereunto belongs that of ^f *Pompeius Festus*, touching the *Pæni* or *Carthaginians*; The *Carthaginians* having their original from *Tyre*, were so powerful at Sea, that Navigation was hazardous to all men; For, the *Carthaginians* were the chief of the *Pæni*. Moreover, ^g *Julius Cæsar* writing of the *Veneti* a people of *Western Gallia* about the entrance of the River *Loire*, and of old very industrious in Sea-affairs above their Neighbors, saith, That in a great and open current of the Sea, having but a few Ports lying here and there which are in their possession, they make almost all men pay Custom, that were wont to use the same Sea. Tribute was paid to them as Lords, for the use of the neighboring Sea. Nor must wee pass by that here, which ^h *Paulus Warnfredus* relate's of *Autharis* King of the *Lombards*. There was a Pillar placed within the very waters of the Sea, which wash the City of *Rhegium*. To that Pillar (saith *Warnfredus*) King *Autharis* came on horse back, and touched it with the point of his spear, saying, even in this place shall bee the bounds of *Lombardie*. But wee must treat next concerning the people of *Rome*, the most noble precedent of all both for Law and Custom.

^f In verbo,
Tyria Ma-
ria.

^g De Bello
Gallico, lib.
3. cap. 8.

^h De Gestis
Longobardo-
rum lib. 3. cap.
33. quod me-
morat etiam
Sigonius de
regno Italiæ,
lib. 1.

*The Sea-Dominion of the people of Rome,
and of such as followed their Customs in
the Eastern Empire.*

CHAP. XIV.

BEfore the first Punick War, the *Carthaginians* and the *Romanes*, both strove with equal Forces and affections for the Empire of the World; save that they of *Carthage* seemed the more potent, by reason of that Dominion of the Sea by them held so many years. But then *C. Duillius* beeing made General of a Navie of *CLX* Ships, riding at Anchor, and arm'd within sixtie daies after the wood had been cut, almost undid *Carthage* in that Sea; and wholly reduced it under the *Romane* power. And *Florus* saith, ^a *when the Sea and the Isles were taken away,* ^{Lib. 2. cap. 6.} it shamed that noble Nation to pay Tribute, who were wont to command it. So, the *Carthaginians* beeing deprived of this kinde of Dominion, the *Romanes* got it by the Law of Arms and Victorie; so great and so constant honor beeing, for this caus, paid to so renowned a General, that Minstrels were ever sent to make him musick after Supper, and a Torch was carried before him. Moreover, both the *Phanicians* and *Cilicians* had Dominion over the *Romanes* Sea; as appear's by the League made betwixt them and *Antiochus* King of *Syria*; wherein it was thus provided: *That Antiochus should surrender his long ships and their warlike furniture; and not have more than ten nimble Gallies (none of which should bee rowed with above thirty Oares) nor so much as a Galley with one range of Oares when bee shall have any oc-*

caſion to make a War. Nor ſhould hee ſail on this ſide the Promontories of Calycadnus or Sarpedon; unleſs it be a ſhip imploied to conveiy money, pay, or Embaſſadors, or Hoſtages. So ſaith ^b Livie. But wee read in Polybius, *Nullam habeto triginta remis actam navem*, **Let him have no Ship rowed with 30 Oars.** In like manner Hannibal, in a ſpeech made unto Scipio, ſaith thus, ^c *Wee deny not, but that all thoſe places are yours for which the War hath been undertaken, Sicilie, Sardinia, Spain, and all the Iſles contained in the whole Sea, betwixt Africa and Italie. And may wee Carthaginians, that are confined within the ſhores of Africa, ſee you (when it ſo pleaſeth the Gods) ruling foreign Dominions by Land and Sea.* And a little after, the Peace being agreed, five hundred Ships of the Carthaginians that were rowed with Oars, were by them ſeized and burnt. To wit, that they might not uſe the Sea, which was then to be in the Dominion of others. Afterwards alſo, the Senate of Carthage was chaſtiſed, ^d *becauſe they had an Army, and materials for ſhipping, contrary to the League: And it was decreed, that War ſhould be proclaimed againſt them, becauſe they had cauſed their Armie to march beyond their bounds, &c.* Alſo, Plinie ſaith expreſly concerning Pompey the great; ^e *That hee freed the ſea-Coaſt from Pirates, and reſtored the Dominion to the people of Rome.* Moreover, as touching the vaſt Sea-dominion of the Romane people, Dionyſius Halicarnaſs ſaith; ^f *Rome is Ladie of the whole ſea, not onely of that which lie's within Hercules's Pillars; but alſo of the Ocean it ſelf ſo far as it is navigable.* This is indeed an Hyperbole; But in the mean time a clear Teſtimonie of a very large Sea-dominion. As alſo that of ^g Appianus Alexandrinus; *The Romanes (ſaith hee) hold the Dominion of the whole Mediterranean Sea.* Other inſtances there are of the ſame nature. But truly, that expreſſion of a very eminent

^b Decad.
lib.8.

^c Livie, lib.
30.

^d Epit. Liv.
lib 48. &
49.

^e Nat. Hiſtor.
lib.7. cap. 26.

^f Orig. Rom.
lib. 1.

^g In præſati-
one.

^a eminent man is not to be admitted, who saith of examples of that kinde, that they do not prove a possession of the Sea or of a Right of Navigation. For as particular private men, so also people and Nations may by Leagues and Agreements, not onely quit that Right which peculiarly belongs to them, but that also which they hold in common with all men, in favor and for the benefit of any one whom it concern's. And for this hee refer's himself unto *Ulpian*, who will have that Cessation of fishing for *Tunies* in the Sea (of which more * hereafter) to be derived from the Autoritie of som stipulation or Covenant, not from any vassalage imposed upon the Sea. Surely by such a kinde of distinction, whereof *Ulpian* is indeed the Author, the same may be said either of Dominion or vassalage (as wee call it) of every kinde. If to occupie and enjoy in a private manner, by Right to hinder, and forbid others, be not Dominion, it is nothing. Moreover *Cassandra* in *Lycophron*, prophesied that the people in *Rome* should have such a Dominion, where shee attribute's to them

^h *Hugo Grotius*, de Jure Belli & pacis lib. 2. cap. 3. §. 15. Possunt enim ut singulis, ita & populi, &c.

* In capite proximo.

Γῆς ἢ θαλάσσης σκῆπτρα ἔ μοναρχίαν.

The Scepter and Monarchie both of Land and Sea.

Hereunto belong those things above mentioned, touching the Command of *Pompey* held by Commission from the people of *Rome*, as also those other which wee meet with now and then among writers, concerning the Sea-Dominion of the *Romans*. *Suetonius* saith of *Augustus Cesar*, ⁱ Hee placed one *Navie* at *Mesinum* and another at *Ravenna*, to guard the upper and lower Sea. But ^k *Aristides* saith this Dominion was not limited to the *Romans* by certain Bounds (as of old to the *Athenians*) but that it incompassed their Empire round like a girdle. And *Themistius* speaking of the Emperor *Theodosius*

ⁱ In *Augusto*, cap. 49.

^k In *Rome* encomio.

80 Book I. Of the Dominion, or,

Orat. 5.

De edifi-
ficiis Justini-
ani, cap. de
Augusteo.

Matheos,
lib. 6. cap. 1.

Theodosius the elder, saith; ¹ what would you say of him, who is Emperor or Ruler of almost the whole Earth and Sea. In like manner, Procopius making mention of a Statue of a Romane Emperor, holding a Citie in his left hand, saith, that the Statuarie's meaning was, ^m that the whole Land was subjeēt to him, as well as the Sea. To the same purpose speak's Nicephorus Callistus in the Preface to his Ecclesiastical History. And ⁿ Julius Firmicus, speaking of such persons who have in the Schemes of their Nativities, the Moon encreasing in the thirtieth Degree of Taurus, fortified with a friendly Aspect of Jupiter, saith, they shall possess the Dominions of Sea and Land, whithersoever they lead an Armie. Oppianus saith to the Emperor Antoninus,

Halieutic,
lib. 3.

Σοῖς μὲν γὰρ ὑπὸ σκήπτροισι θάλασσα
Ἐιλείται ἔφυλα Ποσειδάων ἐνάυλων,

Under thy Laws or Scepter the Sea role's,
And Fishes swim throughout thy Sea in sholes.

And Venus to Jupiter, concerning the future Empire of the Romanes

Virgil
Æneid. 1.

Certè hinc Romanos, olim volventibus annis,
Hinc fore ductores, renovato sanguine Teucri,
Qui Mare, qui Terras omni ditione tenerent,
Pollicitus: quæ te, genitor, sententia verit?

Hence Romans their Original should take
In after-years, thou once didst promise make,
And Leaders spring, to rule both Land and
Sea,
From Teucer's blond: what alter's thy decree?

From

From whence the same Poët, in another place, speak's
of *Augustus Caesar*,

⁹ *An Deus immensi venias Maris, ac tua Nautæ
Numina sola colant; tibi serviat ultima Thule,
T'æque sibi generum Tethys emat omnibus undis.*

⁹ *Georgic.
lib. 1.*

—* **D; Whether thou the God wilt bee
Of the vast Sea, and Thule's farthest Shore,
D; thee alone the Sailors shall adore,
As heretys Son-in-law With all her Seas
Given for a dowër, &c.**

* Translated
by my wor-
thy friend
*Thomas
May.*

And *Claudian* of *Scipio Africanus*,

^r *Ergò seu patriis primævus Manibus ultor
Subderet Hispanum legibus Oceanum.*

^r *Præfat in
lib. 3. de Lau-
dibus Stilico-
nis.*

**Then whether in revenge to's Father's ghost,
Hee quell'd the Sea upon the Spanish Coast.**

Or what other business soëver hee did, *Ennius* was
still at his elbow. In like manner, *Constantinus Mo-
nomachus* is, by *John Bishop* of *Euchaita*, in his *Iambicks*,
called indeed *Emperor of the East*; but according to
the custom of the *Western Empire*,

*Γῆς καὶ θαλάσσης Κύριος καὶ δεσπότης,
Lord and absolute Sovereign both of Land and Sea.*

As also the *Emperor Leo* by *Varadatus*, ^c *Terræ Mæ-
risque Dominus*, **Lord of the Land and Sea**. So
that in the *Empire of Constantinople*, which followed
the Customs of the *Western*, the *Ægean Sea* it self was
reckoned among the *Provinces*, no otherwise then
Samos, *Cyprus*, or other *Islands* or *Territories* of any
kinde whatsoëver. This appear's out of ^c *Constantinus*

^c *Concil.
Chalced. part.
3. Tom. 2.
part. 1. Edit.
Binianæ.
1618.*

^c *Lib. 1.
Them. 17.*

Porphyrogenetus his *Themata*, where also the *Helleſpont* is expreſſly aſſigned to the Commander in chief of the *Ægean* Sea, together with the Territories lying round about. And truly the Customs out of this Sea were very great, onely upon the accompt of Fiſhing. Somtimes ten, ſomtime twelv thousand Crowns, were collected out of it yearly. Wee learn this alſo out of a Decree, whereby *Andronicus Paleologus*, one that kept the State of an Emperor, but lived a chambering idle life within his Palace, had for the victualling of himſelf and his retinue, the yeerly profit of the fiſhing before *Conſtantinople*, wont to be valued at that time, at ten thousand Crowns, as ſaith, *Nicephorus Gregoras*. The ſame is by ſom called *Topiaticum*, * *Topicum*, It is named alſo *Piſcinica* and *Topice*. Moreover, in the ſervey or breviarie of the Dignities of the Eaſt, onely three Provinces are reckoned under the *Proconſul of Aſia*, after this manner :

Theſe Provinces under-written are under the charge of that eminent perſon the Proconſul of Aſia.

Aſia ;
The Iſles ;
Helleſpont.

Alſo, the Office of the *Conſular Governor of Helleſpont* is mentioned in the Decree of the Emperors *Honorius* and *Thedoſius*, where it is transferr'd out of the power of the Deputie of *Aſia* into that of the *Proconſul of Aſia* (who at that time was *Simplicius*.) In another place alſo, in the Novels of *Juſtinian*, wee finde *Helleſpont* joyned with * *Pontus Polemoniaca* by the name of a Province or *Lieutenantſhip*. I know indeed

^o Lib. 9.
* Vide *J. Cantacuzenum*,
hiſt. lib. 2. c. 1.
Et *lib. 4. cap. 42.* præter
Jo. Meurſium
in *Gloſſario*, verb.
τοπιτικόν
Et *Jul. Cæſ. Bullinger. de Imperio Romano*, lib. 9. cap. 72.

^y *L. unic. C. de Officio Comitum ſacri Patrimonii.*

* So called from *Polemium* a City of *Cappadocia*.

indeed that *Hellepont* is taken here by learned men, not so much for that narrow Sea which divide's *Europe* from *Asia*, as for the Sea-coast of *Asia*. So ^z *Guidus Pancirollus* upon the *Breviarie*. In this place (saith hee) that *Country* of *Asia* is signified which is situate near the shore of *Hellepont*. Certainly, it is seldom enough I suppose, that wee finde the name of *Hellepont* used elsewhere for any *Country* of ^a *Asia*, but rather *Hellepontia*. But if not the narrow Sea it self, but a *Country* of the same name were described in the *Breviarie*, wherefore then is this *Country* onely so remarkably named with *Asia*, whereof it self could bee but a small part? If you take it for that very Sea, the matter is evident, and seem's to agree very well with it self. It is most consonant to reason, that the spacious Province of the *Proconsul* of *Asia* was denoted by *Asia* it self, the neighboring narrow Sea, and the Isles; Not thus, by *Asia* it self and the Isles, adding moreover I know not what petty *Country*, obscure enough, and supposed also to bee a part even of *Asia*. Also the Custom of the following Age seem's to interpret a more antient Government in this place. The very *Ægean Sea* (which comprehend's almost all this neighboring Sea) is expressely number'd by the aforesaid *Constantinus Porphyrogenitus*, among the Jurisdictions, Lieutenantships, or Provinces of the East. His words are, ^b *But the Ægean Sea it self also is reckoned among the Provinces*. And a little after also concerning the Isles, he saith, *There belong to the command or Government of the Ægean Sea the Isles called Cyclades, and the most eminent of the Sporades, Mytilene, and Chios, and Lemnos it self*. So that the Isles and the Sea it self might bee contained here, as particular parts of the Government or Province, as well as any other Regions whatsoever. Moreover, it is to bee observed out of the *Notitia* or *Breviarie* of the

^z In *Notitia Orient. cap. 102.*

^a Vide *Ortelium in The-sauro Geograph. verb. Hellepont.*

^b *Lib. 1. Them. 17.*

East, that in the *Badges* or signal *Ornaments* of the *Proconsul* of *Asia*, which were usually painted in that *Commission* whereby hee was established in his *Government*, there were contained (besides the *effigies* of the *Princes*, and the *Book* of instructions) representations of *three women*, set forth alike with towred *Diadems* on their heads, according to the patern which wee shall present you with by and by, representing those three *Provinces* together, to wit, *Asia*, the *Isles*, and *Hellepont* in such a manner, and so remarkbly noted by an addition of their names, that there is not the least shadow of Reason, why wee should grant the last to have been a part or *Region* of the first. I thought fit also, to add here *Pancirollus* his description of those *Pictures* or Representations, who hath made use not onely of the printed *Books* of the *Breviarie*, set forth by *Alciatus* (from whom wee have taken the *Figure*) but also of the *Manuscripts* of *Fulvius Ursinus* and others. This *Proconsul* (saies *Pancirollus*) underneath the *Book* of Instructions, hath the pictures of three women which represent the *Provinces* committed to their charge, to wit, *Asia*, the *Isles*, and *Hellepont*, as the *Inscriptions* of their names upon them do shew. These bear a kinde of royal *Ornament* on the head (the printed *Books* say, each of them had a towred *Diadem*) and vessels full of coin in their hands, which signified that the levying of *Tributes* in those three *Provinces*, belong'd to the *Proconsul*. They were apparell'd also in long garments of *Gold*. The *Manuscripts* say they have white or skie-colour'd. *Asia* weareth shoes or *Sandals* and a skie colour'd *Mantle*; The other are without shoes: Shee which represent's the *Isles* weareth a purple *Mantle*; Shee which represent's *Hellepont* a green one. But in the *Book* of *Ursinus*, they are all shod high with red *Buskins*, not differing in their habit. In *Mandrucianus* they are set forth in long garments, which almost cover their feet. Thus far hee. And now judg yee, whether it bee likely

ly or no, that any pettie Countrie of *Asia* should bee set forth in these Ornaments in an equal state and majestic with *Asia* it self, seeing even this had comprehended that also, no otherwile then the whole doth the smallest part.



M 3

There

Their towred *Diadems*, equal Stature, majestie and wealth not differing at all, seem to point out such an equalitie, that neither of them, can appear, by this form of description, to bee reckoned a part of another. And so, that *Hellepont* cannot in that place bee any other then the Sea it self, or that Arm of the Sea flowing between; which beeing thus joyned with the *Isles* to the Proconsulship of *Asia*, upon one and the same account of Dominion, the Provinces of *Asia* and *Europe* became in a civil sens, either continual or contiguous. Yea, when there was no such distinction of Provinces, the adjacent *Isles* and the Sea it self, made one entire Provincial bodie also with the continent. And hence it came to

^c L. 9. ff. tit. de Judiciis, de quâ vide J. Grypbiand. Tract. de Insulis, cap. 15.

^d L. 99. ff. de verb. signif.

^e L. 13. §. si quis ff. tit. de Injuriis.

pass that the *Isles* of *Italy* were ^c part of *Italy*; as also of every Province; and such as were divided from *Italy* by a small arm of the Sea, as *Sicily*, they ^d were to bee reckoned rather among the Provinces of the Continent. The Seas lying between did not hinder, but that one continued Territorie might bee made of the continent and the *Isles*. And that also by the Autoritie of *Ulpian*, who notwithstanding useth to say, that the Sea is common to all men. But of this hereafter in our Answers to the *Objections*. The same *Ulpian* also in another place saith, ^e *Si quis me prohibet in mari piscari, vel everriculum, &c.* **If any man forbid's mee to fish in the Sea, or to draw a Dragnet** (which the Greeks call *σαγηνή*) **may I sue him or no at Law upon an action of Trespas** & som there are of opinion that I may sue him upon a *Trespas*; So *Pomponius*, and many others say, bee is in the same condition with him that hinder's one to wash in a publick Bath, or to sit in a publick Theatre, or to act, sit, and convers in any other place, or put case, there bee any one that permit's mee not to use that which is my own. But the *Antients* allowed an *Interdict* to him that
hired

hired the Sea, if so bee hee hired it in a publick manner. For, force by that Interdict is allowed, that hee may enjoy what hee hath hired. Therefore the Sea, becauf it was possessed by the people, was reckoned among publick things; that is, those things which are proper and peculiar to the people of Rome, not common to all men, after another manner then publick Baths, Theatres, and other things of that kinde. And what doth to hire in a publick manner signifie in this place, but to become a hirer or Conductor of the Sea, as the people was Lord thereof and Letter or Locator? I suppose no man doth affirm, that any thing may bee let for Rent or hired, which may not so belong to one man, that can not bee anothers. But becauf publick Places, by the * Civil * Roman. Law do serv for the uses of ^f private persons, therefore Pomponius and others were of opinion, that there might have been here an action of Trespass. Moreover, it was an Edict of the Prator, That you do nothing in a publick place or cast any thing into it, whereby it may bee endamaged. Hereupon Ulpian saith ^s, against that man who hath cast a Dam or Pile into the Sea, an Interdict is allowed him who perhaps may bee endamaged thereby. But if no man sustain damage, hee is to bee defended who build's upon the shore, or cast's a Pile into the Sea. If any man bee hinder'd from fishing or Navigation by Sea, hee shall not have an Interdict; nor hee likewise, who may bee restrained from playing in the common Field, or from washing in a publick Bath, or from beeing a spectator in a Theatre. But in all these Cases hee must use an Action of Trespass. Therefore a Prohibitorie Interdict or Decree was to bee used, when dams were cast into the Sea no otherwise then when damage was don to a Theatre, Bath, Court, or any publick place whatsoever. To these things, which manifestly belonged to the people of Rome, and were

* Roman.

^f L. 2. ff. Ne quid in Loco. § 2.^s Loc. citat. § 8. & 9.

h *Lustit. de*
Rer. Divis.
§ litorum.
Marcianus, l.
2. ff. de Divis.
Rer.

i *L. 14. ff. de*
Acquir. Rer.
Dom. l. 13. ff.
de Injuriis.
§ 7.

k *L. 3. ff. Ne*
quid in publi-
co loco.

were not common to all men, is the Sea everie way compared, even by *Ulpian* himself. There is also the same account made of the Shores and Sea ^h by those that speak for a Communitie of the Sea. Nor are they said to bee less common by ⁱ som, who treat of them apart, as by *Neratius*, and *Ulpianus*. But ^k *Celsus* saith, *I think those shores do belong to the people of Rome, over which the people of Rome have dominion.* But that which follow's there, *that the use of the Sea is common to all as the Aër, and that the Piles cast into it belong to him that cast them,* is plainly qualified, and manifestly restrained to the manner of the Dominion of the people of Rome, in the words immediately following, where *Celsus* saith, *That is not to bee granted, in case the use of the shore or Sea may by that means becom the worf.* Certainly, if the former words were meant of such a Community or enjoyment common to all men, as would not in any wise permit the Dominion or propriety of a particular person, what mean's that then, *that the use may becom the worf?* For, if a place should becom the proprietie of him that doth possess it, in the same manner as that which had before been possessed by no man, and no regard should bee had here of the Dominion or Right of another, then it would bee no less lawful for him that should possess it, to make the use thereof the worf to others for the benefit of himself, then for him that shall settle in a Field that never was seized yet in the possession of any. Therefore, *Celsus* would have the Shores and Sea so to belong to the people of Rome, that the condition of them, as serving the uses of all private persons (and that, as hath been said, according to the * Civil Law, and such qualifications as are added out of the Edicts of the *Prætors*, and the like) could not without injury bee made

* *Roman.*

made worſe, to the prejudice of the Commonweal.
 Of the ſame minde is Scævola, ¹ That by the Law of Nations men may build upon the ſhore, if the publick concernment do not binder. And Ariſto, ^m quod Mari occupatum eſt fit publicum, that which is poſſeſſed in the Sea becom's publick. It paſſeth into the patrimonic of the people of Rome; for ſo the word Publicum **Publick** doth ſignifie; which the Greek Lawy-ers term Δημόσιον or that which belong's to the people, not equally common to all men; by whom alſo the Sea it ſelf is ⁿ in that ſenſ called Publick. Other Inſtances there are of the ſame nature: Whereby it is made manifeſt, as well out of the determinations of Lawy-ers, as the Tranſcripts of Leagues and Treaties, and the writings of Hiſtorians, Orators, and Poëts, that a Dominion of the Sea was in uſe among the Romans, after the ſame manner as the Land.

¹ In litore, jure gentium edificari niſi uſus publicus impediret. L. 4. ff. ne quid in loco publico.
^m L. 10. de rer. diviſione.

ⁿ Gloſſa vet. juris verb. Δημόσιον.

The Dominion of the Sea, as it belonged to private perſons under the Roman Empire, together with that Sanction eſta- bliſhed in the Eaſtern Empire; whereby the perpetual community of the Sea which was pretended to by ſom, being utterly aboliſhed as a thing unjuſt, the Dominion even of private perſons therein is aſſerted.

CHAP. XV.

WHat hath been delivered in the fore-going Chapter, touching the Dominion of the Sea,
 N hath

hath relation to the Dominion of the whole bodie of the *Romane* people, that is to say, to the publick patrimonie of the State, wherein a private Dominion is proved, no less then in that of particular persons. Moreover, there are to be found among the *Romane* Customs, very ample testimonies to prove that a proprietie in the Sea hath been instated also on particular men; such, to whom either the people or Emperor of *Rome* according to the Civil Law and Custom of the *Romanes*, demised, rented, or made a grant of any part of their Sea within the Empire. The rich and more magnificent sort of Citizens, for the conveniencie of larger Fish-ponds, bringing the Sea into their grounds, made it their own, and became Masters thereof with as good a Title as they had to their adjacent Land. There beeing (saith ^a *Varro*) two kindes of Fish-ponds, one of Fresh, the other of salt water; the former sort are ordinarie and little worth, such as our Countrie Fish-ponds that are supplied with water by little streames; but those salt-water-Ponds are to be found in the possessions of Noblemen, and are supplied by the Sea as well with Fish as water; yet they yield more delight then profit, the filling of those Ponds beeing commonly the draining of the Owners purs. Now what was this, but to becom proprietaries of the Sea, so far forth as it was derived, or inclosed in their possessions?

^a *De re Rustica*, lib. 3. cap. 17.

^b *De re Rustica*, lib. 8. cap. 16. & 17.

And ^b *Columella*, who lived in the time of *Claudius*, relate's that the *Romanes* in antient times for the most part used none but in-land Fish-ponds, storing them with Spawners of the larger size; presently adding; Not long after that good husbandrie was laid aside, when the wealth and luxurie of the succeeding age made inclosures of the Ocean and Seas themselvs. And the yearly

yearly Revenue of such Demains, which bordered upon the Sea, was advanced by those Ponds or Inclosures of the Sea as well as by any Lands, Lakes, or Vineyards appertaining thereunto. The same Columella discoursing hereupon, hath this passage, *But seeing the custom of the times hath so far prevailed, that these things are not onely in use, but have gotten the reputation of magnificent and noble contrivances, wee also, least wee should seem morose and importune reprovers of so long and settled a practice, will show what profit may redound from them to the Lord of the Manor; how hee may raise an income by the Sea, if having made a purchase of Islands or Lands bordering upon the Sea, hee cannot reap the fruits of the Earth, by reason of that barrenness of the soil which usually is near the Shore.* So that wee see the Revenues of a Manor were improved by managing the Sea, as well as Land; and the Possessor was counted Lord of the one no more then of the other.

This usual right of Dominion over the Sea is mentioned also by ^c St Ambrose; *For the serving of their prodigious luxurie (saith hee) the Earth by digging of channels is forced to admit the Ocean, for the making of artificial Islands, and bringing little Seas into their own possessions. They challenge to themselves large portions of the Sea by right, and boast that the Fishes, like so many bond-slaves, have lost their former libertie, and are subjected to their service. This Creek of the Sea (saith one) belongs to mee, that to another; Thus great men divide the Elements among themselves.*

^c Hexamer.
lib. cap. 5. 10.
& lib. de Na-
buthe cap. 3.

For Examples, there are the Fish-ponds of Lucullus; famous for his expensiveness in this kinde: Hee, having made way through a Mountain near Naples, inclosed the Sea and became master of those water-courses which ^d Plutarch calls Sea-Courses and Chases for the ^d In Lucullus.
breeding.

^c *Histor. lib.*

^{2.}
^d *Xerxes*
togatum.

^f *Plin Nat.*
Histor. lib 9.
cap. 54.

breeding of Fish. Whereupon Pompey the Great, in merit (saith ^c Paterculus) was wont to call Lucullus the * gowned Xerxes, in regard that by damming up of Channels and digging down Mountains, hee took the Sea into the Land. The same Lucullus (saith ^f Plinie) digging down a Mountain near Naples at greater charge then hee built his Villa, took an arm of the Sea into his Manor, which gave occasion to Pompey the Great, to call him the gowned Xerxes. The same conceit in Plutarch is attributed to Tubero the Stoick. That concerning Xerxes is very famous

^g *Epigramm.*
Vet. lib. 2.

^g *Hæc terræ fiat; hæc Mare, dixit, eat:*

**Here run the Sea, hee said;
There, let firm Land be made;**

^h *Lib. 9. cap.*
30.

When hee commanded the Sea to be brought round about the Mountain *Athos*. ^h And *Valerius* saith of *Caius Sergius Orata*, That hee might not have the serving of his palate depend upon the pleasure of Neptune, hee contrived Seas of his own, intercepting the waves with his trenches, and so inclosing divers shoales of Fishes with dams; that what tempestuous weather soever happened, *Orata's* Table was never unfurnished with variety of Dishes. The same libertie was used upon the *Formian* shore by *Apollinaris*, of whose Fish-pond *Martial* ⁱ speak's,

ⁱ *Lib. 10.*
Epigr. 30.

*Si quando Nereus sentit Æoli regnum,
Ridet procellas tuta de suo Mensa,
Piscina Rhombum pascit, & Lupos vernas.*

**When Winds do Lord it o're the Sea, & fright
The Fisher, his Table laugh's at their spight;
By its own private store secur'd from need,
While captiv'd Pikes and Turbot's Fish-
ponds breed.**

All the varietie of Fish which the wider Sea afforded, *Apollinaris* had readie at hand in his Fish-pond; which was nothing elf but the Sea let in from the shore into his possession.

*Contracta pisces. Æquora sentiunt,
Factis in altum melibus. —*

**Such Dams are cast into the main,
The Fish for want of room complain.**

So saith *Horace*: and in another place,

^k *Cæmentis licet occupes
Tyrrenum omne tuis Mare Ponticum.*

^k *Lib. 3. od. 1.
& 24.*

— though thou thy walls do raise
Through all the Tulcan and the Pontick Seas.

And saith *Salust*; ^m *To what purpose, should I relate those things which cannot seem credible to any, but those who have been eye-witnesses; how Mountains have been removed by severall private persons, and Seas brought into their places? Of this sort, were the fish-ponds of ⁿ Philippus, Hortensius, and others, all made by taking in the Sea. Moreover, wee finde that Sovereigntie and Dominion over the Sea, hath been sometimes conferred by the Patents of Princes. The Emperor Trajan, when hee endowed the Citie of *Tharsus* with Immunities and Privileges, besides the Territorie of Land lying about, added also a grant of Jurisdiction and Dominion over the river *Cydus* and the adjacent Sea, as may bee seen in *Dion* ^o *Chrysostom*. And it is very probable, that the Maritime rights of *Neocesarea* ^p, which *Theodorus Balsamon* saies, were compiled by the Metropolitan of that Citie, had respect unto the like Original: as also those privileges in the Sea, which the Emperor *Com-**

^m *In Conju-
rat. Catiline.*

ⁿ *Varro, de
re Rusticâ,
lib. 3. cap. 3.*

^o *Orat. 34.*

^p *In Concil.
Chalcedon.
can. 4. & in
can. 12. Syn-
nod. 7.*

nenus granted to a great number of Monasteries, according to the same Author.

¶ *Lib. 1. ff. de Injuriis.*

The ancient Lawyers also are not silent, as touching the Dominion of particular persons in the Sea. ¶ *Paulus*, one of greatest note among them, declare's himself expressly thus; *Verily, whensoever a proprietie in som part of the Sea belongs to any person, that person may sue out an interdict of uti possidetis, in case hee bee hindred from the exercise and enjoyment of his right; because this matter concern's a private, not a publick caus; seeing the suit is commenced for the enjoying of a right which ariseth not from a publick but private Title. For, interdicts are proper to bee used in private cases, not in publick.*

¶ *L. 13. ff. de Injuriis. § 7.*

Nothing could have been more plainly spoken, to show, that, beyond all controversie, hee admit's a private Dominion in the Sea, even of single persons. Yea, *Ulpian* himself, who was so fondly inclined to favor the opinion of a perpetual communitie of the Sea, doth sufficiently acknowledg, that common practice and received custom was for the other part. ¶ *In case (saith hee) I forbid any man to Fish before my Houf or Roialtie, what can bee said? may hee sue mee upon an action of Trespass, or no? The Sea and the shores indeed are common to all, as the Aër. And it hath been declared, that no man can bee prohibited from Fishing, or fowling, any otherwise then as hee may bee debarr'd from entring upon another man's ground. Yet for a man to bee forbidden to Fish before my Houf or Royaltie is the common custom, although grounded upon no Law. Wherefore if any man bee prohibited, hee hath for all that an Action of Trespass. Hee grant's it was a received use and custom, that subjection should bee thus imposed on the Sea, and so a private Dominion thereof bee admitted; but least hee should bee found unconstant to his espoused opinion of the communitie of the Sea, hee hath presumed to declare it*

it don without any Law or Justice. Yet hee himself deliver's his judgment in another place thus, *The vender or seller of the Geronian Farm imposed such a condition on the Botrojan Farm, which hee still kept in his hands, that from that time forward no fishing for Tunies should be used upon the Coast thereof, although no private contract can lay a restraint upon the Sea which nature set's open to all. Yet in regard honestie and faithfull dealing in the agreement require that this Article of the sale be observed, the persons that are in present possession, and they that succeed into the said Farm, are obliged by the condition of the covenant or bargain. In this case, the owner of the Botrojan Farm renounceth his right of Fishing. And Ulpian might as well have said, that restraint or subjection was imposed upon that adjacent Sea (as indeed it was) but that hee was so unwilling to forgo his Opinion of the Seas unalterable communitie. Moreover, the purchaser of the Geronian Farm was so fully possessed of the Sea that lay before the Botrojan, that by virtue of this subjection really imposed on that Sea-territorie, the Owner of the Botrojan Farm could never after justly claim or exercise a privilege of Fishing for Tunies, without his permission. Whereupon, ^c Stephanus Forcatulus, once Professor of the Civil Law at *Tholose*, conclude's to the purpose; That there is nothing to hinder, but that the Sea, though common to all, may by publick decree be subjected to a Prince by the same right that hee hold's his adjoining Kingdom; since the same thing may in a manner be effected by virtue of a private compact: Where, by private compact, hee mean's that concerning the Purchaser of the Geronian Farm, as hee himself saith expressly in the same place. But the opinion of *Ulpianus* for a perpetual communitie of the Sea, was so entertained as authentick by the Lawyers of the *Eastern Empire*, that there was no*

Law

^c *In Cupidin: juris perito. cap. 9. §. 3.*

Law in force among them whereby an adjacent Sea might bee made appropriate, or any man bee debarr'd the libertie of Fishing by the Owner of such Lands as border'd thereupon. And if any one were debarr'd, hee might have an Action of Trespafs. Which is manifest enough, not onely in the *Basilica* (which before the dismemb'ing of them were a bodie of the Law of the *Grecian* or *Eastern* Empire) but also by the Decrees established by the Emperor *Leo*; by virtue of which that stale opinion of the communitie of the Sea, being utterly cashiered, as not agreeing with equitie, that ancient one of the lawfulness of a possession and private Dominion in the neighboring Sea, back't with the Autoritie of other eminent Lawyers, was entertain'd again. Moreover also, it was so firmly ratified by an *Imperial Sanction*, that from that time forward it passed over all the *Ægean* Sea without controul. That Law (saith that *Eastern* ^u Emperor, who reigned about the nine hundreth year of our Lord) which so take's away the right of possessions bordering on the Sea, as to make the Lord thereof liable to an Action of Trespafs if hee prohibite others to Fish upon those Coasts, in our judgment * seem's to determine that which is not equitable or just. Hee add's the reason, because whatsoever com's into the possession of any man, by good and lawful Title, whether by succession, art and industry, or any other way which the Law approves, there is no reason that other men should have the use and benefit thereof without the owners leav. Thus the matter being duly examined hee judged, that hee who held any part of the Sea in the aforesaid manner, had a Title grounded upon a very clear Right. Therefore, saith hee, wee decree that every man possess his vestibula or Seas lying before his Lands and bee master of them by

^a *Eclog. lib.*
53. tit. 6.
περὶ ἀλιείων.
seu de Piscatoribus.

^a *Leo Imperator in Novell. 56.*

* ἡμῶν ἡ δίκαια ἐπιπέπυσται ἐπιπέπυσται.

an unquestionable right, and that hee have power to keep off any persons whatsoever that go about to enjoy the benefit thereof without his permission. And in that which follow's, hee make's the Proprietie of Sea and Land altogether equal. The Seas which laie thus in the face of Mannors, were called *περὶ τὰ θαλάττια*, Sea-Courts or Entries, nor did this sanction of Leo serv onely for the ratification of former Titles, founded either upon particular possession, or any other, but ordained in general, that every man for the future should bee Lord of that neighboring part of the Sea which laie before or flowed by his Lands, although hee had never been possessed thereof before. In this very sens it is taken by *Constantinus Harmenopulus*, a Judg of *Theffalonica*; ^x Touching Sea-Courts or Entries by Sea (saith hee) it is decreed in the thirtieth Novel of the Emperor Leo, that every one bee master of that which is adjoyning to his Lands, and that power bee given him to prohibit such as at any time go about to make any benefit of these *Vestibulas* or Entries without his permission. *Harmenopulus*, following a different order of the Novels call's that the thirtieth, which in the printed Copies is the fiftie-sixth.

^x *Prochir. Juris, lib. 2. tit. 1.*

But now how much of the Sea directly forward did pass into the possession of the same person that was Lord of the adjoyning Lands either by antient custom, or by virtue of this decree is not yet certainly known, nor is it necessarie to our purpose, but for latitude, even as it were in a field, those *Vestibulas* or Entries of the Sea were bounded by the same limits with the adjacent Lands. And it was the custom for particular owners to have their *Epoches* or Pens for fish (which the ^y later *Greeks* call *Τράνας*) that is to saie, Nets spread between stakes driven into the Sea; but limited upon this condition that every *Epoche* should

^y *Michaël Athalicates, Pragmatic. tit. 95.*

* *Leonis*
Novella 57.
 102. 103.
 104. &
Athaliates lo-
co jam citato.

bee distant from the other ² three hundred sixtie-five Cubits if so bee the breadth of Land could conveniently permit. And such an equal distance was observed on both sides, that a direct line from each *Epoche* to the extremitie of the *Vestibulum* or Entrie was extended one hundred eightie two ells and a half; but this rule for limitation became useles after a ten years prescription.

* *Varro de*
lingua latina.
Ei de Topi-
atico videlicis
Jac. Cujaci-
um Observat.
 lib. 14.
 cap. 1.

The Lord of a Manor bordering upon the Sea improved his yearly Revenue by these as by other commodities, which profit arising from those Entries is usually stiled by the *Eastern Lawyers* προθύρον κέρδος, and τοπιατικόν, which may bee translated *locarium*, for the price which was paid for hire of a Stall, Shop or Farme, is called in ² Latine *locarium*; so that wee see private persons raised their *topiatica* or *locaria*, that is, their Rents, out of the adjacent Sea. And out of those Rents they paid to the Prince a yearly Tribute amounting to no inconsiderable summe (as was shewed before) levyed upon that accompt. So that by the custom of the Eastern Empire, not onely the Sovereigntie of a Prince (which is the point in question) but also the Dominion of private persons in the Sea, beeing ratified by Autoritie of publick decrees, enacting it, and repealing as unjust whatsoever gain'd it, it was in use beyond all dispute above five hundred and fiftie years: for so many are reckoned to the taking of *Constantinople* from the date of the aforesaid decree of *Leo*; which concerned not onely *Bosphorus* in *Thracia*, the *Hellepont*, the *Ægean* and the narrower Seas, but all those that were under the Dominion of the Emperor of *Constantinople*. And this may serv to bee spoken of the more antient *Historical* Age or that which contain's the customs

customs and Laws of Kingdoms and Commonweals that are long since expired.

Touching the Dominion of the Sea, according to the Customs of such Nations as are now in being. First of the Adriatick Sea belonging to the Venetians, the * Liguftick to the Genoëses, the Tyrrhen to the Tuscans, and lastly of the Sea belonging to the Church, or Pope of Rome.

* Mare Ligusticum is now called Mar Leone, and Mar di Genoua.

CHAP. XVI.

IF wee take a view of later times or the Rights and Customs of Nations which at this present are in high repute and autoritie, there is nothing that can more clearly illustrate the point in hand then the Dominion of the *Adriatick* Sea, which the most noble Common-weal of *Venice* hath enjoyed for so many Ages. The truth of this is every where attested and acknowledged, not onely by *Historians* and *Chorographers*, but by very many *Lawyers* ^a *Bar-tolus*, *Baldus*, *Angelus*, and a companie of above thirtie the most eminent among them; unless they bee mis-reckoned by *Franciscus de Ingenuis*, who saith hee counted so many, in that Epistle of his to *Liberius Vincentius*, written som years ago, in defence of the Dominion of the *Venetians* over the *Adriatick* Sea, in answer to *Jobannes Baptista Valenzola* a Spaniard, and *Laurentius Motinus* a Roman; who (as hee saith) to gratifie the Duke of *Ossuna* Vice-Roy of *Naples* whose creatures they were, wrote against the Right of Dominion which belong's to the *Venetians* by Sea.

^a *Ad ff. tit. rer. divis. & ad l. sane 13. tit. de injuriis.*

Venice is commonly styled the *Mistress of the Sea*; and the *Queen of the Adriatick Sea*; though the Controversie about its Bounds bee not yet decided. And

^b Epigr. lib. 1. ^b Sannazarius write's thus of this Citie,

Viderat Adriacis Venetam Neptunus in undis
Stare urbem, & toto ponere jura Mari.

Neptune saw Venice in the Gulf to stand Of Adria, and all the Sea Command.

Nor doth this Dominion arise from any jurisdiction or protection over the persons of such as frequent the Sea (as is imagined by som, miserably carried away with the autoritie of *Ulpian*, so often affirming that the Sea by the Law of nature is commn to all men;) nor is it a qualified Dominion (as saith *Angelus Matthæacius*, professor at *Padua*;) but this Sea doth so properly belong to the *Venetians*, that it is not lawful for any other to use or enjoie the same without their permission; forasmuch as they have right to prohibit any to pass, to impose custom upon those whom they permit, to do any other thing in order to the raising of benefit and advantage out of the water, as any man may do in his proper possessions by Land. As concerning Navigation in that Sea, that it may bee prohibited at their pleasure, and that by approved right, wee have the testimonies of many

^c Vid Jul. Pacium de Dominio Maris Adriatici. Alb. Gentilis, de Jure Belli, lib. 1. cap. 19. Roderic. Suarium, de usu maris. Angelum Matthæacium de viâ & ratione artificiosa juris universi lib. 1. cap. 36.

^d Consil. 190. Idem ad l. 13. ff. tit. de Injuriis.

Lawyers: It cannot bee denied, (saith ^d *Angelus de Ubaldis*) but the *Venetians* and their Signiory, for very many Ages, have been and are in possession as it were of the aforesaid Gulf: wherefore the *Venetians* by virtue of that antient possession which they have had so long, and do yet enjoie, may by putting a restriction into the form of their Covenants, hinder the *Genoëses* or any other whatsoëver that shall offer

to

to sail through their Gulf. The same saie others also, quoted by ^c *Benevenutus Straccha*, ^f *Antonius Peregrinus*, ^g *Marta Neopolitanus*, ^h *Julius Pacius*, ⁱ *Mantua Patavinus*, ^k *Franciscus de Ingenuis*, and *Fulgentius Monachus Venetus*, who all have written more particularly, and made it their business to assert the right of the *Venetians*. And there are examples to bee produc'd which shew, how Princes, as well neighbors as others, have made it their suit to the State of *Venice* to obtain leav to pass through that Sea, which sometimes was granted, and sometimes denied. In the year 1399, December 12. *Radulphus* Earl of *Otranto* made a request to that State in the behalf of *Uladislaus* King of *Naples* and *William* Archduke of *Austria*, that leav might bee granted to pass through the *Adriatick* Sea with Galleyes and other Ships, to conveigh the Sister of the King out of *Apulia* to the Territories of the Archduke her husband, which the Republick granted, but with this condition, that no person that had been banished from *Venice*, or was guiltie of any capital crime against the State, should bee taken aboard those Ships. Which the *Austrians*, imbarcking at *Trieste*, faithfully observed both in their voiage and in their return. There are extant also two Letters, ¹ wherein the Emperor *Frederick* the third, in the years 1478, and 1479, desire's of *Giovanni Mocenigo* Duke of *Venice*, and of the State, that leav might bee granted him, to transport corn from *Apulia* through the *Adriatick* Sea. *Franciscus de Ingenuis* make's mention of others to the same purpose, written to the same Duke from the Kings of *Hungarie*. And this they in-treat as a matter of great favor, for which they shall acknowledg themselves obliged. *Matthias* King of *Hungarie* in a Letter to Duke *Mocenigo* dated 1482. write's, That whereas the State hath been wont to give

^c Tract. de Navigatione, §. 8.

^f De jure fisci, lib. 8. §. 14.

^g De juris dictione, lib. 1. cap. 33. §. 25. & 26.

^h Lib. de Dominio maris Adriatici.

ⁱ Fragment. de Venetiis subnex. Epitome de juris consultis illust.

^k *Franciscus de Ingenuis*, In Epist. de Venet. jure.

¹ *Anton. Peregrin. de Jure Fisci*, lib. 8. §. 19.

leav to the Earls of *Frangipanis* and *Zenga*, and others whose Territories laie upon the Sea Coasts every year to transport a certain store of corn, from *Apulia* through that Sea, hee desire's that the same libertie might bee vouchsafed to himself, who had now succeeded into the Dominion of the very same Countries.

And as touching the right which the *Venetians* had to impose custom on passengers, as travelling through their peculiar Territorie, there are frequent testimonies among the Lawyers. ^m *Salicetus* mentioneth a Decree of the *Venetians*, that all who passed through the Sea should bring in their merchandise to *Venice*, and there paie custom. And saith ⁿ *Bartholomeus Cepola*, The *Venetians* within their Dominion have several *Roialties* and *Rights* belonging to their *Exchequer*: and, de facto at least, acknowledg no Superior; so that they have power to impose *Gabels*, to confiscate goods and commodities in the aforesaid Sea, as well as in the Citie of *Venice*; having as full jurisdiction in the Sea, as in the Citie. *Antonius Peregrinus* also, who was advocate of the *Exchequer* at *Padua*, after a large discours upon this subject, ^o the conclusion, saith hee, is this; that the right of *Fishing* in the *Adriatick* Sea is one of the *Roialties* belonging to the *Duke* of *Venice*; and therefore hee hath power to forbid, permit, and charge *Gabels* upon it. *Julius Pacius*, *Marta*, and others both modern and antient treat at large of this particular. And the reasons of som *Neapolitans* that are the most obstinate opposers of this right, are onely drawn either from that ^p opinion for so many Ages since exploded by the custom of Nations, that the Sea is naturally common to all; or from that chimera of the universal Dominion of the *Roman* Emperor. Whereas

^q *Marta*

^m *Ad L. 3: De Nautico Fanore.*

ⁿ *De servitutibus Rusticorum Prædiorum, cap. 26. §. 10.*

^o *De Jure Fisci, lib. 8. §. 43. & lib. 1. cap. §. 18.*

^p *Franciscus de Ponte, de potestate Proregis, Collateralis Consilii, tit. 11. §. 19. & seqq.*

^a *Marta* himself, who was a Lawyer of Naples, writes thus; *The Venetians are Lords of the Adriatick Sea, the extent whereof is 80 miles, reaching from that place heretofore called Aquæ Graduatæ unto the Town of Loreto, seated now near the River Po. And Francisco di capoblanco, a Neopolitan, also* ^c *confesseth that now the Rivers and Seas are passed into the hands of Lords and Patrons. And in a Letter of* ^c *Lewis the 2^d to Basilius Emperor of the East, Nicetas Patricius is mentioned under this title, The Protector of the Adriatick Sea. And the Gulph, saith* ^c *Cardinalis Tuschus, doth properly belong to the Venetians, by virtue of a long prescription of possession, as it hath been declared in an agreement made between the States of Venice and Genoa. For confirmation whereof, hee cite's* *Angelus and Jason. But the first time, they saie, wherein custom was charged upon those that passed through the Adriatick Sea, was the year 1263. when Lorenzo Tepulo was Duke of Venice. The Republick of Genoa beeing distressed with war and famine, and their neighbors not relieving them with provisions, this Tepulo (saith* ^u *Flavius Blondus), began to impose a new custom, or to speak more plainly, laie a Restraint upon those that sail'd through the Adriatick Sea. For, upon that occasion a Law was made, which remain's in force to this very daie; that all who sailed between the Gulf de Quevera, and the* ^{*} *Promontory of Sola, and Coast of Ravenna, should com into Venice, to paie Custom, and (if the Officers thought fit) to unlade their Merchandise and Goods. And an Officer was ordained for that purpose, to scout daie and night with his Barks, about the Coasts and Harbors of shores to see to the Observation of this Statute. But above all, wee must not pass by that Controversie which happened about this time, between the people of Ancona, and the Venetians,*

^a *De Jurisdictione part. 1. cap. 33. §. 25.*

^c *De Jure Baronum Pragmatic. 14. §. 27.*

^c *Apud. Goldastum in Constit. Imperialibus, Tom. 1. pag. 198. & Baronium, Annal. Tom. 10. ann. 871.*

^c *De Jure statuum in Imp. Romano membro 25.*

^u *Decad. 2. Lib. 8.*

^{*} *Capodi Pola.*

in a general Council at *Lions* the *Anconitans* complained that the *Venetians* had usurped the Sea and Custom, and other things against all right. Pope *Gregorie* the tenth referred the matter to the examination of the Abbot of *Nervosia*. He rejected the allegations of the *Anconitans*, as weak and wanting proof, and by the Autoritie of the Pope (saith the aforementioned *Blondus*) commended to the *Venetians*, the care of defending the foresaid Coast of the *Adriatick* Sea, against the *Saracens*, and *Pirats*; allowing them withal the rights of their Customs and Impost. Whereat the Ambassadors which were then present, did not interpose a word; but the debate was thus determined with the approbation of all, except the Complainants. But the Dominion of *Venice* over that Sea, is of far greater Antiquitie; to signify which, they have an annual ceremony, instituted, they say, by Pope ^x *Alexander* the third; I mean the use of the Ring, which every year, upon *Ascension* daie, the Duke, in a solemn manner, rowed in the *Bucentoro*, accompanied with the *Clarissimos* of the Senate, call's into the midst of the water, for the perpetuating (saith ^y *Paulus Merula*) of their dominion over the Sea; signifying by that love-token, that hee betroth's the Sea to himself in the manner of a lawful Spous, using such a form of matrimonie; *Wee take thee to our wedded wife, O Sea; in token of a true and perpetual Dominion.* What should hinder then, but that wee may conclude, that the *Venetians* were looked upon, not onely by themselves, but by their neighbor Princes, as Lords of that Sea, by as unquestionable and full a title, as of their Land and Citie?

^x *Anton. Peregrin de Jure Fisci, lib. 8. §. 18.*

^y *Cosmograph. part. 2. lib. 4. cap. 36. de quo more item Stephanus Forcatulus, de Gallorum imperio & philosophia lib. 3. alii, præter Scriptores de Venetorum Republica.*

There are other States also in *Italy*, that have *Maritim*

ritim Rights of the same nature. Princes (saith ^a Benedictus Bonius) have right to laie impositions upon the Sea-shores, forasmuch as what nature had left at libertie, is brought by them into servitude and proprietie: as the Tyrthen Sea, which is under the command of Pisa and Tuscanie, the Adriatick of Venice; the Ligustick of Genoa, which is affirm'd in like manner by ^a Angelus, ^b Baldus, ^c Cepola, and others. The Bishop of Rome also hath his Sea, which is called likewise the Churches Sea. The Bull, intituled *Cœnæ Domini*, which is ^d wont to bee published every good Friday, for the excommunication or Delinquents, run's thus; *Item, wee excommunicate and anathematize all Pirats, Rovers, and Robbers upon the sea, those that haunt and infest our sea, especially that part lying between the Mountain Argentaro, and Terracina. And* ^e Bartholomæus Ugolinus, a famous Lawyer, saith, that this Excommunication did involv Pirats, Rovers, or Robbers upon the Sea, such as haunted the Churches sea, especially that part lying between the Mountain Argentaro, and Terracina. The same is called by others the Pope's Sea. And although a ^f certain Autor would there by *Our Sea*, have the whole Sea understood in all parts of Christendom, yet it is the unanimous consent of the most famous Interpreters of that Bull, as ^g Tolet, ^h Suarez, Ugolinus, ⁱ Antonius de Sousa, and others, that by that name is signified the Sea which is part of the peculiar patrimonie of the Pope. Nay, more then this, som of those Autors now mentioned, will have this curf of Excommunication to bee incurred not onely by committing piracie, but by a harmles passage of Pirats through this sea; it being all one as if a profanation or injurie were committed upon Church-land. So that such a dominion over the sea is plainly avouched by the Ca-

^a Lib. de Censibus artic. 16. § 40.

^a Consil 290.
^b Ad l. 1. § de Sentent. ex Brevic. recitanda.

^c De Servitutibus Rustic. præd. cap. 26.

^d Laetius Cherubinus in Bullario, tom. 3 p. 251.

^e De Censuris Pontifici reservatis, part. 2. cap. 3. § 1.

^f Grassius, lib. 4. decis. cap. 18. n. 53.

^g Summa, li. 1. cap. 20.

^h De Censuris Disp. 21. sect. 2. nam. 18.

ⁱ Relict. de Censuris Bullæ Cœnæ, cap. 4. diff. 25. & seqq.

^k Gl. ad C. li-
cet. 3. tit. de
Ferris.

^l Gl. ad C.
ubi pericu-
lum, §. 3. por-
tò 6. de Ele-
ctione, & ibi
Jo. Andreas.

^m Statuta,
urbis Romæ,
lib. 3. cap. 72.

non Law. And it is confirmed by what may be gathered out of the gloss of that body. If Herrings were taken upon an holy day, a convenient part of them, by the Canon Law, are due to the next neighboring Churches. There the ^k gloss add's especially to those in whose Territories the Fish were caught. By a Decree of a General Council at Lions, if the Pope dyed being out of the Citie, the Cardinals are to meet for the Election of his Successor in that Citie, within whose Territorie of Jurisdiction hee died. If the Pope die upon the Sea, the Election is to be made in that Citie or ^l place which is next to the Sea. This intimation is given by the gloss, and acknowledged by others.

But notwithstanding this, the Citizens of Rome were allowed the privilege of Fishing, in the Sea of the Church (as they call it) or of the Pope; as the Inhabitants of a Village bordering upon a pasture-ground, may by virtue of som compact, usage, or custom, put in their Cattel to graze there, though perhaps it be in the possession of som particular person. This is a Statute of the Citie of ^m Rome. Everie Citizen of Rome and Inhabitant of the Citie, and within the liberties thereof, shall have libertie to Fish, at any time, and with any instruments whatsoever, in the stream both of Tiber, Anien, and in the Sea, so far as the Banks of the Rivers and the Sea-shore do reach. And no person ought to prohibit or forcibly take any thing away from them, so long as they forbear to trespass upon any Lands, Houses, and Fish-ponds, which belong to private Owners; or to come upon the Banks of the Coast of Arenula, namely, of S' Severia and Paul, in which places it is not lawful for any to Fish without warrant from the State's Advocate. And such a kinde of privilege as this, qualified either by

by grant, or covenant, or custom, is verie often found in such places as enjoy a Dominion of the Sea.

Concerning the received Customs of the Portugals and Spaniards, about the Dominion of the Sea.

CHAP. XVII:

THAT Dominion over the Sea, is acknowledged in the Customs of the Portugals, is apparent to any man that will but observ the usual Title of their Kings; King *Emmanuel* in his preface to the Laws of Portugal style's himself; *Dom Manuel, per grace de Deos Rey, &c. Senbor de Guinee, & da conquista & Navegaçam & commercio d' Ethiopia, Arabia, Persia, & da India à todos &c.* which elsewhere is rendred in^a Barbarous Latine thus, *Emanuel Dei gratiâ Rex &c. Dominus Guineæ & conquista Navigationis ac commercii Æthopiæ, Arabiæ, Persiæ &c.* **Emmanuel, by the grace of God King &c. Lord of Guinee, and by Conquest of the Navigation and Commerce of Ethiopia, Arabia, Persia &c;** where *conquista* in the language of Spain and Portugal, signifieth that which is acquired by War. The same Title is often found in the Letters Patent and Commissions of the ancient Kings of Portugal: whereupon *Jacobus^b Valdesius* write's, that they are, and are acknowledged to bee Lords and Masters of Commerce, Traffick, and Navigation. But for any person to bee Lord of Navigation and Traffick by Sea, without Dominion over that Sea, is all one; as to use and enjoy a piece of Land, to have right to prohibit all other from doing the like, and yet not to

^a Concil. general. Lateran. sub. Leone, 10. sess. 9.

^b De dignitate Regum Hispan. c. 12.

c O Quinto
libro des Or-
dençoes, mes,
tit. 112.

bee owner thereof. But among the Laws of Portugal there are yet clearer evidences for private Dominion over the Sea; even of the *Atlantick* or Ocean it self. For, therein it is forbidden that any person either Forraigner or Native (the words of the Law are *Assi Natural commo estrangeiro*) in any shipping whatsoever to pass, *ditas partees, mares de Guinee & Indias, & qualsqver outras terras & mares & lugares de nossa conquista, tratar, resgatar, nem guerrear, sem nossa licença & autoridade, sob pena que fazendo bo contrario moura por ello morte natural & por esso mesmo feito percapera nos todos seus beens moveis & de rays*; that is to say, to the said countries, lands and Seas of Guinee, and the Indies, or any other Lands, Seas, and places under our Dominion, for Commerce, or Traffick, or making of War without our Licence and Autoritie, under pain of death and total confiscation of estate, to bee inflicted upon any that shall presume to do the contrarie. And for the execution hereof, the Commanders of those Fleets, who had leav from the King to sail thither, had Commission given them, to call to account all whom they found in any kinde transgressing this Law. So that, wee see the Nation of Portugal also made no question, but that Dominion might bee justly acquired over the Ocean it self. And this Law, in the extent of it, reached as well to forraigners, as to the King's subjects. Although forraigners do not acknowledg that Portugal hath acquired any such right. However, that in the Law of Nature which is obligatorie, there is nothing to hinder, but that such a right may bee acquired; is (I suppose) acknowledg'd by all the Nations in *Europe*, except some perhaps who are not yet in fair and lawful possession of any Sea; if so bee at least a man may rightly gather their acknowledgments from their received customs. And truly, about the beginning of Queen *Elizabeth's* reign, there

there was a hot dispute between ^d her and Sebastian ^d King of Portugal touching the Dominion of the Atlantic and South-Sea that open's the way to the East-Indies, which was claimed by the Portugals. But the question in that dispute was not, whether or no Sebastian could bee Lord of that Navigation or Sea, but whether hee had made any lawfull acquisition of such a Dominion. But in the Common Law of Spain or Castile, although, it bee true, that the use of the Sea is most free, and that in such a manner almost as if no positive Law had ever laid any restraint upon the natural ^e Communitie thereof; yet the Spanish Lawyers, and those not of the meanest account, do in most expresse terms declare it capable of Dominion, yea, and that it was acquired by the King. The Prince (saith Gregorius ^f Lopez) may grant any man a priviledg to fish in a certain part of the Sea. And the Sea (saith Joannes ^g Garcias a Spaniard) belong's to him, who is Lord of the adjoyning land: This hee speak's of som particular Sea belonging to Spain; for to speak it of the sea in general, were idle. There are other also, as Didacus Couvaruvias, ⁱ Joannes de Hevia, who are plainly for the Dominion of the Prince, as well for a controlling the libertie of Navigation, as restraining the common use of Fishing. And how frequent this Opinion is among the Lawyvers of Spain and Portugal, is acknowledged by Fernandus Vasquius, (though hee himself do extremely oppose it) as appear's by those words of his already cited in the second Chapter.

Moreover, it is sufficiently manifest, out of ^k Rodericus Snavius, that such rights & priviledges were exercised by private persons, grounded either upon custom, or som grant of the Prince, which demonstrate a dominion over the Sea among the Spaniards; although that Autor taking the measure of Law, rather from the Dictates of the

^d In Schedis ejusd. Temp. in Biblioth. Cottoniana.

^e Vide Alphons. ad Azeved. ad Constit. Regias, l. 7. tit. 8. Partid. 3. tit. 28. l. 3.

^f Recopilat. l. 7. tit. 10. l. 9. & Partid. 5. tit. 9. l. 7. & 8.

^g Ad Alphonsinas, Partid. 3. tit. 28. l. 11.

^h Lib. de expensis & Meliorationibus, cap. 21. num.

ⁱ 34. In Relect. peccatum, part. 2. §. 8.

^k Lib. de Commercio, lib. 3. cap. 1.

§. 12. ^k Consil. de usu Maris § 13.

Schools, then the received Customs of Nations, is the more earnest for that antient opinion of a perpetual communitie. Yea, the verie title of the King of *Spain* hath that in it which may seem to import, that hee call's himself King of the Ocean; especially, if you consider those words which wee finde sometimes among Germane Writers, in the Title of *Charls* the fifth Emperor, and King of *Spain*. In the Preface to the constitution concerning publick Judicatories, in the Empire, hee is called *King of the Canarie Ilands, also of the Ilands of the Indies, and of the Continent, and of the Ocean, Archduke of Austria &c.* And in the Imperial Sanctions published in high Dutch *König-über Insulen Canarie, auch der Insulen Indiarum, und Terra firma, des Maers Oceani &c.* as you may meet with it at least six hundred times. The word Ocean is added, as if hee entitled himself *King of the Ocean*. But this is a mistake: for, the same in Spanish is *Rey &c. de las Islas, y terra firma del mar Oceano &c.* that is, *King of the Ilands and of the Terra firma of the Ocean;* namely, the Ilands or Continents of, or lying in the Ocean, (which Pope¹ *Alexander* the Sixth, gave to *Ferdinand* the Fifth King of *Spain*, all of them lying Westward from the very first Meridian) of those hee entitle's himself King, not of the Ocean it self.

¹ Laërt. Chern.
bin. Bullar.
tom. 1. pag.
392. de qua
donatione
fuit Joannes
Solorzano
de Jure Indi-
arum, lib. 2.
cap. 22.

How far private Dominion over the Sea is admitted, according to the Customs, or opinion of the French.

CHAP. XVIII.

AS concerning Dominion of the Sea according to the Customs of the *French*, som perhaps may seem to have met with verie ancient evidences thereof, in those Officers deputed for the guard of the Sea-Coasts, whom wee read of in the ^a Statute-Books, and in that *Rotlandus*, Governor of the *British* (that is, the *Aremoric*) shore, mentioned in the life of *Charle maign* by *Eginhartus* a Writer of that time. But those dignities have relation, not so much to the Sea it self, as to the shore and Sea-Coast, or the border of the Land confining with the Sea; notwithstanding that *Rotlandus* is, by the *French-men* of this and the former Age, promiscuously styled ^b Governor both of the Sea and Shore, as if there were no difference. But it cannot bee denied, that Princes heretofore upon the Shore of *America* or *Bretaign* (as the *Veneti* * of whom wee spake before, did upon the same Shore) impose Custom upon Ships, as for the use of the Road upon their Coasts, and challenge to themselves other Rights of the like nature, called *Nobilitates super navibus*. So it is to bee read in an ancient Record, made in the time of Duke *Alanus* in the year MLXXXVII, concerning Precedence of Place among the Nobles of *Bretaigne*. In that Record, the second place is assigned to the Viscount of *S^t Pol de Leon*, who (as the very ^c words of it are) had verie many of those

^a Capitular. Caroli & Ludovici Imp. lib. 4. tit. 5.

^b Choppinus de Domano, lib. 1. tit. 15. Pasquier, en les recherches de la France, lib. 2. cap. 14. Simon Marien, Plaidoye, 5. edit. Paris. 1591. Tilus, & alii.

* The *Veneti* were an antient people inhabiting that part of France now called *Bretaigne*.

^c Apud. Bertrand. Argentum, in hist. Britan. minoris, lib. 1. cap. 13.

Cu-

* *Aremorica*
or *Bretaign*
in *France*.

^d *Ad Consuet.*
Brit. Art. 56.
§ 44.

Customs called *Nobilitates super navibus*, imposed on such as passed the Ocean upon the Coasts of *Osismet* or *Leon*; which (as it was said) *Budicius*, an antient King of * *Bretaign*, did give and grant to one of his predecessors, upon Marriage, in reward of the virtue, fidelitie and valor of that Viscount: but with the consent of the Prelates, Counts, Barons, and Nobles of *Bretaign*. What these *Nobilitates* were, and whence they had their original, is partly declared by *Bertrandus Argentæus*, somtime President of the Province of *Renes*, where hee discourseth also of the right of giving Pass ports (which they call *breffs de conduite*) at this time in use on that shore. ^d That (saith hee) whereas till then it had been a right peculiar to the Princes, being given, by way of Dowrie, to the Barons of *Leon* (of which wee have already spoken out of the aforesaid Record) remained an hereditarie and proper right to that Familie, until *Joannes Ruffus* the Duke redeemed it for a vast sum of monie, of *Guynomarius* Baron of *Leon*, after that *Peter Mauclerc* of *Dreux*, Duke of *Bretaign* had in vain attempted to re-assume it by force of arms. It had its original, they say, upon this occasion: When our Princes and antient Kings considered the daily Shipwracks made upon that shore, where there were many Rocks and but few Havens, they made a Law that none should set to Sea without their leav. Such as did set out, paying a certain rate, had passes, and guides appointed them, that were well acquainted with the Sea and Shores: They that refused, forfeited their ships with all their tackling and furniture thereof: and if the Ship were cast away, their goods also were confiscate. They that had leav were in no danger of confiscation, and if they suffered Shipwrack, had libertie to recover as many of their goods as they could. And these guides were paid their *ouïs* or Conduct-money, which

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wee have mentioned elsewhere, called by them *droit de salvage*. These Tickets or Passes are given out now, as heretofore, at a certain price: And among other Revenues of the Exchequer, they also were rented out to the Farmers of the Custom. So far *Bertrandus*, from whom *Renatus* ^e *Choppinus* borroweth almost the very words. But ^f *Petrus Berlordæus*, Advocate of the Parliament of Reines, tell's us, that the Custom of taking forfeiture in that manner of all shipwrack't goods, was abolished there, by an Edict, in the year MDLXXXIII. But in the mean time, for so much as concern's any part of that Western Sea lying next the Shore, these are manifest evidences, either of Dominion or of subjection in the Sea; which indeed sufficiently prove, by the Customs of that people, that the Sea is capable of Dominion. Moreover, upon occasion of these Passes, there have been controversies raised somtimes between the Dukes of *Bretaign*, and the Kings of *England*; as may bee seen in certain ^g memorials of the affairs of *Bretaign*, which have relation to the times of our *Richard* the second, and *John* the Fourth, Duke of *Bretaign*. But this wee know for certain, that in the agreement made between our *Edward* the Fourth, and *Francis* the second, Duke of *Bretaign*, in the year MCCGCLXVIII, concerning mutual traffick and free passage to and fro for the subjects of each Nation, during a ^h truce of thirtie years, there is an express *proviso* concerning Wrecks; but such a one as left an equal right to both of them; not altogether unlike that which for many ages hath been in use upon the *English* Shore: No mention at all being made in the Articles of the Truce, either of the right or use of these aforesaid Passes, as being a thing in no wise admitted by the *English*. But som modern Lawyærs

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^e *De Domina-
nie, lib. 1. tit.
15. §. 10. &
& Thom.*

*Cormer. Ced.
Hen. 4. lib. 7.
tit. 1. cap. 6.
§. 106.*

^f *In Consue-
tud. Brit. Art.
51.*

^g *In Biblio-
theca Cotto-
niana.*

^h *Ibid. &
Rot. Franciæ
8 Ed. 4. mem-
bran. 20. &
seqq.*

among the *French* do vainly affirm, that their King is Lord not onely of a part of the Sea neighboring upon the Territorie of *Bretaign*, but of the whole Sea that is adjoyning to any part of *France*, and so of the *British* or *English* Sea also: By which very Assertion of theirs, they sufficiently declare their judgment, that there may bee a sovereign over the Sea. The King, saith ⁱ Charondas Caroneus, is supreme Lord of the Seas, which flow about his Kingdom: the ground whereof is this, becaus the Universal right of all those things which were common, either by the Law of nature or Nations, is transferred into his Dominion. And other passages hee hath much to the same purpose; as also ^k Stephanus Paschasius, ^l Ludovicus Servinus, sometime Solicitor general for the King, ^m Popellmerius, and others. If they speak of the Sea of *Marseille* or *Narbon*, wee shall not oppose them. But as to what concern's the bodie of the Sea which lie's Northward or Westward of the *French*, or that flow's between *France* and the Islands of great *Britain* (for that which lie's Westward from them upon that crooked Shore, or the gulf of *Aquitaine*, doth indeed flow between the more Westerly Coasts of our *British* Isles, and of *France*, as well as that which lie's Northward from them, flow's between *England* and *Normandie*) they neither produce any Testimonies of Antiquitie, nor indeed can they if they would: Unless you will have that admitted which hath been cited out of *Cæsar* concerning the *Veneti* of ^{*} *Aremorica*, and that which wee said before of the Sea bordering upon that shore. Both which indeed do rather import som service, called heretofore *Nobilitates super navibus*, then any kinde of Dominion. But the sovereigntie of this Sea which flow's between them and us, became absolutely ap-

ⁱ In not. al
Cod. Hen-
rici, 3. l. 20.
tit. 7. Constit.
28 & con-
stit. 1.

^k Recherches,
liv 2. c. 14.
^l Playdoies
tom. 2. playd.
¹¹
^m L' Amiral
de France.

* Now Bre-
taign in
France.

appropriate to the Kings of *England*, as wee shall make it appear in the next Book. And the truth is, if wee look upon the Customs most in use among the *French*, or the Civil Law of that Nation, there is nothing in it that derogate's from the antient communitie of the Sea; but as to them it remaine's as yet not possessed, but common to all men, and therefore not to bee reckoned among the Revenues or Patrimonic of their Kings; if so bee credit may bee given to that Treatise lately published of the Civil *Romane* and *French* Law, by *Thomas Cormerius* Counsellor to *Francis* Duke of *Anjou* in his Parliament of *Alençon*. The matter that it pretend's to treat of, is the *Romane Gallick* Law. There are in it the Customs of *France*, decrees of Princes, and Privileges often intermingled. But under the ^a Title of *things common to all*, hee make's the Sea and Shores common to all, according to the antient Law of the *Romanes*, as if in this matter it did exactly agree with the Law of *France*: which certainly is an argument, that the *French* have no Dominion over the Sea. Nor must wee let it pass, that somwhile since, there were two Constitutions pretended to in *France*, one of ^o *Henrie* the Second, the other of ^p *Henrie* the Third, wherein they required that the Ships of Forraigners which sailed through the Sea bordering upon *France*, should strike their top-sail forsooth, in acknowledgment of that Dominion the *French* had over the Sea. But neither of them were autorized, or (as they speak) simply verified by the Estates in Parliament, yea, nor so much as admitted into Custom, Nay, the later of them was plainly rejected as to any effect in Law. And this the *French* Lawyvers themselvs confels

^a Cod. Hen.
4. lib. 3. tit. 1.
cap. 2.

^o Ann. 1555.
^p Ann. 1584.

¶ Lud. Servi-
nus in Pla.it.
vol. 2. Placit.
11, 12. dec.
1592. pag.
262. b. Edit.
1607.

† Ediēt. Fran-
cisc. 1. pro-
mulg. 1543.
art. 11. Chop-
pin. de dom.
Franc. lib 1.
tit. 15. & E-
diēt. Franc.
tom. 3. tit. 2.

§ Catalog. Ad-
miral. Franc.
† Recerches,
lib. 2. cap. 14.

¶ Ediēt. Fran-
Tom. 3. tit. 2.
Constit. 4. &
5.

in a notable case between some Merchants of *Hamburg*, that were *Plaintiffs*, and *Michael Butardus* and others *Defendants*, in a Parliament held at *Tours*, in the time of *Henry the Fourth*. But that ceremony hath by most ancient right and custom been observed and paid to the ships of the Kings of *England*, out of respect, and in acknowledgement of their Dominion, as is shewn in the following Book, where wee treat of this particular more at large. I know very well, it was ordained by an *Edict* of the French King, that one third part of all goods, recovered out of the Sea, should belong to the King, another to the Admiral, and the remainder to the Sea-men that found them. And that the French do reckon very many Commanders in Chief at Sea, or Admirals in a line sometime continued, and sometime interrupted, which for the most part they begin from the time of *Philip the son of S^c. Lewis*; that is, from the year *MCCLXXXIV*. as is to be seen in *Joannes Feronius*, *Stephanus Paschasius*, and others. But that division of goods recovered out of the Sea being simply considered, doth prove any Dominion over the Sea, no more then the Tenths of any Prizes taken from an Enemy at Sea, which, by the grant of the King also, were allotted to the Admiral of the Navie. Rights of this nature are grounded upon the consent of persons, to wit, subjects; transferr'd unto the King, not upon any title of Dominion, whereby any Pretence may be made to an acquiring of the Sea it self; and they are paid no otherwise then Imposts or Customs, in the importation or exportation of Merchandise. But no man (I suppose) will imagin that from such Imposts or Customs upon Merchandise any proof may be

bee made of a Dominion over those passages through which the Merchants sail before they arrive. Neither indeed was there any such custom as this in use among the *French*, before the time of *Francis* the first; that is to say, plainly, not being Lord of the Sea, hee desired to bee and was made a Sharer of those goods which should bee drawn by his subjects, out of any Sea whatsoever. Whereas the King of *Great Britain* by virtue of his Dominion over the Sea, is wont to take as his own whatsoever is left or lost in the sea, besides other emoluments of the like nature, and that by so ancient a right, as (for ought wee know) bears a date no less ancient then the Kingdom it self. And as for those Admirals of *France*, they were no other then Chief Commanders of Navies and Persons, and of the Forces by sea, and Judicatories at home: but not qualified, as Presidents of a Sea-Province or Territorie, as the *Custodes ipsius Maris*, the Guardians of the sea among the *English*, and the Admirals of *England*. But more of this in the *Second Book*. Nevertheless, from what hath been alleged concerning the Customs, Opinions, or Constitutions, among the *French*, I suppose it sufficiently appears, that they do also acknowledg, that private Dominion over the sea, is not repugnant to the Law either of Nature, or Nations; which serves fully for the clearing of the point in question.

The

The private Dominion of the Sea, according to the received Customs of the Danes, the People of Norway, the Swedes, Polanders, and Turks.

CHAP. XIX.

WE finde clear Testimonies in the Customs of other Nations, also of *Europe*, touching private Dominion of the sea; as the *Danes*, the people of *Norway*, the *Polanders*, to whom may bee added also the *Turks*. Wee have observed by the Tolls or Customs of *Denmark* and *Norway*, what Revenue the King of *Denmark* raiseth out of the very Navigation of the *Baltick Sea* (as is commonly known) and what is paid out of the Roialtie of the *Norwegian* sea to the King of *Norway*, who at this time is also King of *Denmark*. For, in the year *MDLXXXIII*. *Frederick*, the second, King of *Denmark* and *Norway*, made a Grant of the use of the Northern or *Norwegian* sea, for a certain time, to our Merchants of the *Muscovie* Companie in such a manner, as if hee had rented out any Land whereof hee stood fully seized and possessed. Hee limited the Grant also with such conditions, as hee thought fit. The publick Instruments or Records about this Particular, are^a yet extant; whereby the King had an annual Tribute in recompence, other Merchants were excluded, and the Grant it self was to continue no longer then the Peace made between that King and the *Moscovit*. Wee read also in the ancient Histories of *Denmark*, of King *Harald Hildetan*; that no man did presume to usurp a Domination

^a In *Tbesauro Cottoniano*.

in the Sea without his consent. And that which follow's next, ought especially to be taken notice of as to this Particular, because the Empire of Land and Sea was once divided in the Republick of Denmark. And Olo (who afterwards was King) succeeding his Father in the Dominion of the Sea, vanquish't LXX Kings of the Sea by Sea-Fight. Which things are written by ^b Saxo Grammaticus, and other also of that kinde. And in the ^c Treatie held at **Kopenhagen** betwixt **Christiern** the fourth of Denmark, and **Gustavus Adolphus** of Swedland, the King of Swedland renounceth the right, Sovereigntie, and Dominion of the Sea, and the other Roialties by him formerly claimed over the said sea, in Norway, Norland, and in the Jurisdiction of **Wardhusen**. But touching the Sea of Norway, as it lies more Northward, wee shall add more at the latter end of the second Book.

Mention is made likewise of the Sea belonging to the Realm of Poland, and the Dominion thereof, in that Promise which was made by the French Ambassadors, in the name of **Henrie III** of France, when hee was elected King of Poland. The aforesaid Ambassadors do promise, in the name of the most illustrious King now chosen, that assoon (God willing) as hee shall com to his Kingdom, hee will at his own charge maintain a convenient Navie, sufficient to defend the Ports and the Sovereigntie of the Sea, belonging to the Kingdom and the Provinces adjoyning, even to the utmost bounds of the whole Dominion of Poland; as it is recorded by **Janus Januszowskius** in his ^d Syntagma of the statutes of Poland. But the Turkish Emperor, (who by Conquest succeeded in the right of the Emperors of Constantinople, and so purchased both the *Ægean* and *Euxin* sea, calling this the *black*, the other the *white sea*) is wont solemnly to intitle himself Lord both of the white
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^b Danie Hist.
lib. 7.
^c 20 Jan.
1613. in
Rot. Tract. A-
micit. Temp.
Jacobi Regis.

^d Lib. 3. tit. 7.
fol. 109.

e 20 Martii,
1604. Parisi-
sis, 1615.

f De Asiatico
Bello, lib. 2.

g Apud Fran-
cisicum Alva-
rum de rebus
Ethiopicis,
& Damianus
à Goes, lib. de
Ethiopum
moribus.

and black sea; as you may see in the League betwixt Achmet the Ottoman Emperor, and Henry the IV. of France, made above thirty years since, and printed both in the French and Turkish Tongue. Moreover, in the same League, the Turk grants the French free leav to Fish, and search for Coral, in certain Streits and Creeks of the African Sea, within his Kingdoms of Algier and Tunis. And hee farther confirm's all that had been granted to them by his Predecessors, for freedom of Fishing in those parts. In like manner ^f Coriolanus Cippicus, relating the Actions of Pietro Mocenigo, General of the Venetians, saith; *The Ottoman Emperor built two Castles very well fortified, over against each other, on both sides the Hellespont in its narrowest passage, which hee stored with Ordnance of an extraordinary bigness, and charged the Governors of the Castles to shoot and sink any ship, that should endeavor to pass without leav. Which is plainly to domineer over the Sea, and agreeable to his Title, of Lord of the white and black Sea. Neither is that to bee sleighted here, which wee finde in the Letters of David, Emperor of Ethiopia, or the Abassins, to Emmanuël King of Portugal. Hee entituleth him ^g Lord of Africa and Guinee, and the Mountains and Island of the Moon, and of the Red Sea, Arabia and Persia, and Armuria, great India, &c. Hee useth here an Hyperbole, after the manner of the African Princes, and attribute's those things to Emmanuël which were none of his: But in the mean time, hee admitt's that hee might have been Lord of the Red Sea, as well as of any other Territorie, and that that Title doth not intrench upon the Law of Nature or Nations, any more then this.*

Now that wee may at length conclude this part touching the Dominion of the Sea, as admitted among

among those things that are lawful, and received into the Customs of Nations; there are not onely very many Testimonies every where (as hath been shewn you) concerning it; but nothing at all (I suppose) can bee found to impugn it in the Customs of those Nations that have been of any note in later times; unless it bee where som of them, that are Borderers upon the Sea-Dominions of others, do strive to violate or infringe the Rights of their Neighbors, under pretence of that Natural and perpetual communitie, so often insisted on out of *Ulpian* by such Writers, as too much prefer that obsolete Opinion before the Universal and most antient Customs of Nations. Of which kinde truly the first Article of that League seem's to bee, which was made above twentie or about thirtie years past, betwixt the States of the *United Provinces* and som of the *Hanf-Towns*, as it was translated out of Low-Dutch by a ^h Dutch-man, to this effect: *That this Conjunction or Union ought not to bee intended for the offence of any, but onely for the preservation and maintenance of the freedom of Navigation, Commerce and Merchants, in the Eastern and Northern Seas, and also in all Rivers and Streams running into the Eastern and Northern Seas; nor ought any other thing to bee meant in this place, so that their Citizens and Subjects joyned in this League respectively, may according to the Law of Nations use and enjoy the Liberties acquired and obtained, together with the Rights, Privileges, and Customs received from their Ancestors, throughout the Eastern and Northern Seas aforesaid, and in the aforesaid Rivers, Streams, and Waters, without any Let or Impediment. They promise also to aid each other, in opposing any that should hinder such a freedom of Navigation in that Northern and Eastern Sea;*

^h Eman.
Meteranus,
Histor. Belgic. lib. 36.
& apud Gasper. Klockum, lib. de Contributio-
nibus, c. 14.

R that

that is to say, the *Baltick*, and that which washeth the Coasts of *Denmark*, *Lituania*, *Pomerania*, and the Dominions of the King of *Poland*: where it seem's they pretend not onely Rights and Liberties peculiarly granted to them long since, but also to the very Law of all Nations. It is no hard matter to guess what the Intent of that League might bee; For, about that time, the King of *Denmark* had raised his Toll in the *Baltick* Sea, and in like manner the King of *Poland* within his Territories by Sea. And that for the maintenance of that Dominion which they enjoyed; which that kinde of League betwixt the States of the *Hans-Towns* and *United Provinces* did seem to oppose. But, to pass over these things, seeing a private Dominion of the Sea, which is the point in Question, is founded upon such clear Testimonies, out of the Customs of so many famous Nations both antient and modern (whereto wee shall add many other also, when wee treat of the *British* Sea in the next Book) nothing now, I suppose, hinder's why wee may not determine, that the Sea is capable of Dominion as well as the Land, not only by the *Law Natural-Permissive*, but also by the Law both *Civil* and *Common* of divers Nations, and in many places almost according to the *Interveniens Law* (which in cases of this nature is the surest demonstration of the *Natural-Permissive*) unless there remain any impediment in the objections, which are next to bee handled.

An Answer to the Objection, concerning Freedom of Passage to Merchants, Strangers, and Sea-men.

CHAP. XX.

THE usual Objections (as hath been more fully shewn before in the second Chapter) are derived, som from the Freedom of Commerce, Travel, and Passage, pretended to bee common to all: Som also from the very Nature of the Sea: And others out of the Testimonies of Writers. As to what concern's the first sort; the Offices of humanitie require, that entertainment bee given to Strangers; and that inoffensive passage bee not denied them. So ^a Gratian out of ^b Augustin saith, *It is to bee observed how the war of the Israëlites became just-against the Amorites: For, they were denied an inoffensive Passage, which ought in all equitie to lie open by the Law of humane Societie.* And ^c Cicero saith, *It is an inhumane thing, to denie Strangers the use of a Citie.* Verie many other Passages there are of that sort, which seem to strengthen the Objection; to wit, as it relates unto the Office of Humanitie, not disturbed by war, fear, jealousy, enmities, or any other of the same kinde. But what is this to the Dominion of that thing, through which both Merchants and Strangers are to pass? Such a freedom of Passage would no more derogate from it, (if so bee it were without question free and open to all upon that accompt) then the allowing of an open waie for the driving of Cattel, or Cart, or passing through upon a journie, or any other Service of that nature, through

^a *Caus. 23. Quest. 2. c. 3. & videlicet Hug. Grotium de Jure Belli & Pacis, lib. 2. cap. 2. §. 13.*
^b *In Numer 9. 41.*
^c *Offic. lib. 3.*

another man's Field, could prejudice the Ownership thereof. Suppose it bee granted, that, by the Law of all Nations, the Spaniards had a free Passage over the Pyrenean Mountains into France; the French over the Alps into Italie; the Italians into Germanie: What doth this concern a Dominion of the Pyrenies or the Alps? And for any man to allege here, what is commonly talked, of the lighting of one Candle by another, of the not denying a common use of Water, and other things of that nature, it is plainly to give over the disquisition of Law and Right, to insist upon that of Charitie. At the request indeed of *Asclepiades* Bishop of the Citie of *Chersonesus*, under the Emperors *Aradius* and *Honorius*, certain persons, who had taught the barbarous people the Art of building ships, whereof they were ignorant before, were for Charitie's sake freed from the pains of Prison and punishment. And though the Art of those that taught them was no whit the less, becaus of that skill which the Barbarians had gained; yet by the Law, it was death to communicate that Art unto them: And at this day, there are other instances of the same nature: So that it in no wise diminisheth from any man's Right or Power, to permit another to participate of what is his, when hee himself loseth nothing thereof. And that wee may determine this point in brief, it is most evident from the Customs of all times, that free Passage (as they call it) is wont ever to bee so limited by Princes in their Territories, that it is permitted or prohibited, according to the various concernments of the Publick Good, and not otherwise. *Albericus Gentilis*, upon that Passage concerning the *Amorites*, saith, *I am of the same opinion, with Augustine, in case there bee no fear of hurt,*

c. Theodos.
lib. 10. tit. 40.
l. 24. & C.
just. tit. de
Penis. l. 25.

d. De Jure
belli, lib. 1.
cap. 19.

hurt, and an assurance that no hurt may bee don. Princes are concerned to bee warie and careful, that they admit no such strangers, or Commerce, where, *pro re natâ*, the Common-weal may receiv any damage thereby. Upon which ground also it is often provided in Leagues; ^e That it shall not bee lawful for either Partie to sail unto each others Ports, Coasts, or Harbors, (and this when neither of them hath any right to the waie by which they pass) with such a number of ships or Men of War, as may give a just occasion of any fear or jealousie that force is intended, except leav bee first had of that Partie under whose Jurisdiction those Places are; or unless they bee driven thither by Tempest or som other necessity, to avoid a greater force, or the danger of Shipwrack. According to the fear or suspicion of the Lord in possession, and at his discretion, all Merchants, Strangers, and Foreigners whatsoëver may bee prohibited, unless som other special right or custom do intervene. And ^f Aristotle saith plainly, Provision ought to bee made by Lawvs, with whom subjects may, or may not convers. ^g Bodin also saith well, That the Lawvs of Commerce are contained in the particular Compacts and Agreements of People and Princes. And in another place hee add's, It is lawful to forbid a Foreigner from entring the Borders, and also to force him out if hee have entred the Borders, not onely if a War bee on foot, but also in time of Peace, that the manners of the Inhabitants may not bee corrupted by convers with Strangers. But that Wars have been lawfully undertaken for a denial of Commerce, unless the denial were given contrary to som antient League, or unless that freedom depended upon som special Title to Commerce, wee do as easily deny as any other man can affirm. And though, according to the opinion of ^h Franciscus Viçto-
ria, who also is followed chiefly by ⁱ Joannes Solorzanus

^e Inducie Hispan. & Ordin. Fæderat. Belg. An. no 1609. & Art. 12. &c.

^f Polit. lib. 7. cap. 6.

^g De Repub. lib. 1. cap. 7. & 6. & vide eum. lib. 4. ca. 1. & lib. 6. cap. 2. ubi de Aditu ad Moluccas.

^h Tit. de Indi-

dis.
ⁱ De Jure Indiar. lib. 2. cap. 20. § 55.

^k *De Justitia & Jure, Tract. 2. Disputat. 105.*

I. V. D. it bee affirmed, that the *Spaniard* had a lawful Right to subdue the *Indians*, because they denied Commerce and Entertainment; yet they are in plain tearms opposed by ^k *Ludovicus Molina*, who will have no Nation or Common weal bound, either with or without danger to it self, to admit Commerce or Foreigners, but in case of great and imminent necessitie, or unless any League, Agreement, or som other special privilege do intervene. But there are other pretences not a few which the *Spaniards* allege for the Conquest of the *Indies*: For, they pretend also a Right of Discoverie, primarie occupation, Conversion to the Faith, and other things of that nature, besides the Donation of the *Pope*. Of all which, *Solorzanus* treat's at large. And it is strange, how the *Spaniards* should have a Right to acquire the *Indies*, upon a denial of Commerce, since it is^l very well known, that both They and the *Portugals* do openly profess, that they may lawfully prohibit Commerce in both the *Indies*. Nor doth it prejudice the point at all, that according to the Imperial Law, no Prince, nor any other holding Royalties by his Grant, can^m forbid men passage in the common Road without som just caus, which must bee determined in an Imperial Diet; nevertheless, it is wrested by som to prove a freedom of Navigation at Sea. For that happen'd by a particular Law, agree'd upon by the Estates of the Empire, who themselvs also are subject to a *Diet*. But other Nations that are under several and distinct Sovereignties, have not as yet made any such Agreement, that there should alwaies bee a libertie of Passage to and fro; nor have they (like the *Germanes*, and others within their Dominion) refer'd themselvs unto an Umpire to determine the business.

^l *Georgius de Cabedo Decis. Lusitan. part. 2. Decis. 47. & diploma Regis Hispan. Mari Libero. Hug. Grot. subnexum.*

^m *Rothensal. de Jure Fœdali, cap 5. de Regalibus, conclus. 21. Sixtinus de Regalibus, lib. 2. cap. 2. &c.*

An Answer to that Objection concerning the uncertain fluid nature of the Sea, and its continual Alteration. It is proved, that Rivers also, and the adjoining Aër (which are more fluid and uncertain) may become appropriate.

CHAP. XXI.

BUT they say, that the very Nature of the Sea render's it unfit for privat Dominion; both becauf it is ever in Motion, and in no wise remain's the same; as also becauf a convenient matter, as well as Instruments, are wanting therein to make a distinction of Bounds; without which private Dominions cannot well consist: yea, and becauf by reason of its vast and spacious Body, it is alwaies sufficient for all. As to what concern's its fluid Nature, are not Rivers and Fountains much more in a perpetual Flux or Motion? Rivers alwaies run forward, where-with the Sea beeing compared, it seem's to stand immovable, as saith ^a Strabo. And ^b Eustathius saith, that Homer therefore call's the Sea by the name of a standing Pool; becauf it run's not forward (as Rivers do) but is very stable. And ^c another saith, the Sea stands without Motion, as it were som dull heap of matter that Nature could not bring to perfection. But suppose wee grant it bee so fluid, as is usually said of the most Northernly Seas and Channels; yet certainly the Channels and places out of which the waters flow, remain ever the same, though the waters themselvs do shift and change

^a Geograph. lib. 1.

^b Ad Iliad. v.

^c Seneca, Suasor. 1.

^d Feud. lib. 5. tit. *Quæ sint Regalia. Rothensal. de Jure Feud. cap. 5. Conclus. 23. & 24. Sixtinus de Regalibus, lib. 2. cap. 3. & c.*
^e De Servit. Rustic. Prædiorum, cap. 31.

^f Lib. 1. § 4. ff. de Fluminibus.
^g L. 7. ff. de Divers. Temp. Prescript. Vide l. 45. ff. de Usucapionibus.
^h Lib. de Conditionibus Agrorum.

ⁱ Comm. ad Jul. Frontin. de limitibus Agrorum.

change continually. Nor yet can it be supposed that the Right of private Dominion over Rivers, is any whit prejudiced thereby. In the *Romane-Germane* Empire, Rivers, according to the Civil Law, are of publick use; yet they are reckoned in the *Emperor's* ^d private Patrimonie, and among the Rights or Roialties belonging to his Exchequer: so that either the *Emperor* or others by his Grant, have in like manner a yearly Revenue out of the *Fisheries* in them. Upon which account it comes to pass, that they of *Lombardy*, and other particular People throughout *Italy*, enioie all the Rivers of their Territories, as proper and peculiar to themselves by Prescription, as we are told by ^e *Cæpola*. Nor is any thing more common, then an asserting of the private Dominion of Rivers as well as their Banks, in the *Laws* of *Spain*, *France*, *Poland*, and *Venice*; and in a word, of all Nations whose Customs are known to us. Nor, as to what concerns this Objection (fetch't from the fluid Constitution of the sea) is there any difference in nature between a greater and a lesser, a private and a publick River. Even ^f *Ulpian* himself concerning Rivers, saith, *There is no difference between a private River, and other private Places.* And ^g *Martianus*; *If a man hath fish't all alone many years in a Corner of a publick River, hee may hinder any other from using the same Libertie.* Moreover, oftentimes heretofore in the *Romane* Empire, Rivers were made over as well as other Parts, after the manner of Lands assigned. ^h *siculus Flaccus* saith, *In som Countries, even the Rivers themselves are assigned out by measure. But in som the subcesive or remanent part onely is left out unassigned; and yet it is excepted out from the parts assigned, as belonging still onely to the river it self.* After the same manner also ⁱ *Aggenus Urbicus*. For, it was never conceived, that the

the Rivers were otherwise acquired by the People or Emperor of Rome then the adjoining Lands; according to that of the river *Danubius*, speaking to the Emperors;

^k *Danubius penitis caput occultat us in oris,*
Totus sub vestrà jam Ditione fluo:
Et quà Dives aquis Scythico solvo ostia Ponto,
Omnia sub vestrum flumina mitto Jugum.

^k *Ausonius,*
Epigr. 4.

**Danubius, I, whose Fountain few do know,
 Now wholly under your Dominion flow:
 And when full-charg'd run to the Euxin sea,
 I make all Rivers to you Tribute pay.**

Wee know, that an Island newly sprung up in a river, as also a Chanel that is deserted, is even by ancient Custom¹ common to such, as upon the Bank of any river do possess Lands that are not limited, that is to say, after the manner of Lands or Possessions; unless there bee som special Law or Custom to the contrary. And touching the Division of such an Island according to the nature of several Lands, situate near one Bank or both, *Bartolus in Tiberiade*, hath written long since; but of later time *Joannes Buteo*, *Baptista Aymus*, *Antonius Maria*, *Joannes Gryphiander*, and others. Therefore, in that case, a Proprietie of the Chanel, and so of the River (even of that which according to the Civil Law, is of publick and common use; as well as of a Field that hath a common Thorowfare) was common before to the Owners that had Lands lying on both sides. By the same reason almost, an Island newly sprung up in any sea, that never was possessed by any, and whatsoever shall bee built upon it, become's his that first enter's it by

¹ L. 7. 29, 30
 65. F. de Acquir. Rer. dominiis & Instit. de Rerum divis. § Insula.

occupation: For, the Chanel and that Sea, at first belong'd to all men in general. But by virtue of that Universal Compact or Agreement (before mentioned) whereby things not yet possessed, were to become the Propriety of him that should first enjoy them by Occupation; hee that shall so possess them by Occupation, receiv's the Island and Building as it were by a Surrender of Right from former Owners. Seeing therefore that a Propriety and private Dominion of Rivers hath been every where acknowledged, why should it not be acknowledged in like manner that there may be Owners of any Sea whatsoever? Since the fluid nature of water can no more hinder a Dominion in the one, then in the other. Yea, the Rivers themselves are onely lesser Seas, as also the Fens and Lakes; even as the Sea it self (as to its fluid Constitution) is no other then a River, Fen, or Lake, differing onely in bigness from the rest: And so it hath been taken by the Antients. In the very storie of the Creation, all the Gatherings together of the waters are called Seas; which hath been observed also by the ^m Fathers to this purpose. There are also very eminent examples in holy Scripture touching the two Lakes of *Asphaltites*, and *Tiberias*, both which are equally called Seas; *Asphaltites*, is by *Pliny*, *Ptolomy*, *Josephus*, *Solinus*, and *Vitruvius*, term'd a Lake: But by *Moses* ⁿ the *salt Sea*; and by most of the late Writers, *the dead Sea*. *Tiberias* is in like manner by the Antients, and also by *S^t Luke*, called a Lake; by the other *Evangelists* a Sea, as also in the *Syriack* and *Arabick* Translation of *S^t Luke*. And ^p *Aristotle* saith, that about the Mountain *Caucasus*, there is a Lake or *λίμνη*, but the neighbouring People call it a Sea. Hee speak's of the Lake *Mæotis*, which by reason of that abundance of Waters

^m *Eucherius ad Genes. 1. D. Hieronymus, & alii. Adde Jo. Philoponum de Mundi Creatione, lib. 4. cap. 6. n Gen. 14. 3. o Luc. 5. 1. p Meteorologic. lib. 1. cap. 13.*

Waters which it dischargeth through the *Cimmerian Bosphorus* into the *Euxin Sea*, is by the Antients called ¹ *Mother of the Sea*, or *Mother of the Euxin Sea*. From whence also it was the opinion of som, that *Mæotis* stood in the same relation unto *Pontus*, *Propontis*, and the *Ægean Sea*, as the Ocean doth to the *Mediterranean*.

¹ Herodotus, in Melpomene. Plin. lib. 6. cap. 7. Dionys. Afer, & ad eum Eustathius.

Oceanumque negant solas admittere Gades,

**They do deny, that Cadiz Streight
Alone, admit's the Ocean's Freight;**

As ² *Lucan* saith concerning it. But ³ *Agathia* tell's us, that in *Justinian's* daies, it was called *The little Sea*. And saith ⁴ *Festus Avienus* to *Probus*; *Thou did'st question mee (if thou dost remember) about the situation of the Mæotick Sea*. By which means it hath happen'd, that even at this day it is called *Mar delle Zabach*, and *Mar della Tana*. So seven Lakes of the River *Po* in *Italy* are usually tearmed ⁵ *Seven Seas*. And wee read in ⁶ *Cassiodorus*, that *Addua*, a River of *Cisalpin Gallia*, emptie's it self into the Lake called *Lago di Como*, as into its proper Sea. Hence it is, that in *Hesychius* and *Suidas*, a Lake or *λίμνη* denot's the Ocean and Sea, and *ποταμός*, or a River, the Ocean it self. Nor is it in this place impo'sible, that a River should contend with the Sea; However, otherwise it hath been used as a Proverb, of such as strive with men mightier then themselvs. Also in *Homer*,

² Pharsal. 3.
³ Histor. lib. 13.
⁴ In oris Mæotidis.

⁵ Plin. lib. 3. c. 16. Herodian. lib. 8.
⁶ Variar. lib. 11. Formul. 14.

— ⁷ βαθείης βένθεσι λίμνης.

⁷ Iliad. 9.

The depth of a deep Lake is used for the depth of the Sea. And in another place hee put's *περικελλέα λίμνη*, a very fair Lake in stead of the Sea, as it is observed also by ⁸ *Olympiodorus*. Yea, som of the Antients

⁸ Ad Aristot. Meteorolog. lib. 1. prax. 16.

^a *Plato in Phædone.*

^b *Vide Girald. Cambrenf. Topograph. Hibern. dift. 2. cap. 14.*

^e *Pharfal. 2.*

have laid, that the Ocean it felf is one of thofe ^a four huge Rivers, which fpring out of fuch a Hell, or fuch a deep Gulf; as ^b fom feign to bee found towards the North; the other three beeing imprifoned in fecret Passages of the Earth. Moreover, *Lucan* call's the *British Ocean*,

———— ^c *Incerti stagna profundi*

An unftable deep ftanding pool.

^d *Claudius Salmafius, in Plin. Exercitat. ad Solinum, pag. 577.*

^e *J. Druf. Obf. 9. cap. 20. & ad difficil. loca. Numer. cap. 133. & Albericus Genitilis in Lectionibus Virgilianis, cap. 17. Cæl. Rhodigin. lect. Antiq. lib. 26. cap. 14.*

And in barbarous Latin, the word *Mariscus*, as a Diminutive of *Mare* the Sea, is used in many Places for a *Marsh* or *Lake*, under which notion alfo it hath been Translated into fom other Languages, beeing varied according to their divers forms of Expression. Other observations have been made by ^e others to the fame purpose. So then, both in Substance, Nature, and Name, the Seas, Rivers, and other Bodies of Waters (fo far as concern's the Point in queftion) are all the fame, that whatfoever may be faid of thefe, may bee applied in like manner alfo to the other; fave that there may fom difference bee alleged onely from the largeness of the one and the narrowness of the other, which in the Point of Dominion (as it relate's to Poffeffion) is of no account. Add moreover, that the ufual Objection touching their fluid Nature, or the continual shifting of Waters in the Chanel, doth here no more prejudice the cauf of Dominion and Poffeffion, then the fluid nature of the Aër doth the Dominion and Poffeffion of that fpace which confine's a Houf from the Foundation upward. That fpace seem's as a Chanel to the whirling Aër; whereof notwithstanding hee, according to the Civil Law, is the undoubted Owner, who poffeffeth the Ground and Buil-

Building. Hereupon * Servitudes have been imposed, against the rearing of Houses higher then ordinary, also against hindring of Light, or Prospect, and other of that kinde in the very ambient Aër; So that where a * Prohibition of a new Building hath issued, Pomponius saith, *the Aër ought to bee measured as well as the Ground.* And it is evident, that the Aër is his who is owner of the plot of ground. So that as to that saying of Paulus, that a Tree growing in the very Confine betwixt two Lands is^s common to the Owners on both sides, for so much as grow's in the ground of either; Joannes Buteo discoursing of the Division of the fruit of such a Tree, saith, ^h *wee must suppose the ground to bee the Aër it self that is spread over the ground, which hee measureth by direct lines from the outmost boughs.* And therefore, surely, wee are owners of the ground, hous, and space, which wee possess in several as owners, that every one, for his best advantage, may freely and fully use and enjoy his own bordering Aër, (which is the element of mankind) how fitting so ever it bee, together with the space thereof in such a manner, and restrain others thence at pleasure, that hee may bee both reputed and settled owner thereof in Particular. Much less then doth the fluid nature of Waters; which is far less then the other, in any wise hinder an ownership or Dominion over them. And even those things which naturally are thus fitting; do notwithstanding in a Civil sens remain ever the same; as the ship of *Theseus*, a Houf, or a Theatre, which hath been so often mended and repaired, that there is not so much as one part or plank left of the first building.

But they which make use of so frivolous a subtil-
 tie

* Servitudes
 sunt Jura
 Prædiorum.

* In novo
 Opere Nun-
 ciato.
 § L. 21. ff.
 tit. quod vñ
 aut Clam. § 2.

§ L. 83. ff. tit.
 Pro Socio.

^h Tract. de
 Divisione
 Fructus ar-
 boris in consi-
 nio natæ.

ⁱ *Diog. La-
ert. in Hera-
clito, &c.*

^k *Epist. 58.*

tie as this to oppose a Dominion of the Sea, should be turned over to the Philosophers; especially ⁱ *Heraclitus*, and *Epicharmus*, whose Doctrine was, that every thing is so changed, altered, and renewed every moment, that nothing in the world continue's at this instant, the same, that it was in the instant immediatly going before. No man (saith ^k *Seneca*, in imitation of *Heraclitus*) is the same in the Morning, that hee was the day before. Our Bodies are hurried like Rivers. Whatsoëver thou see'st, runs with time. Not one of all those things that are visible, continue's. I, even whilst I speak of these Changes, am changed my self.

It was seriously affirmed also by *Heraclitus*, that not onely the same River could not receive a man twice, but also that the same man could not enter twice into the same stream. So that to cast all into *Heraclitus his River*, became an usual Proverb, to express a continued and perpetual change of every thing from it self. But let such as dream, that the fluid inconstant nature of the Sea disprove's the private Dominion of it; entertain the same opinion (if they please) with these men, of things that fall under a Civil consideration, and then they must of necessity grant also, that themselves are not Owners or Possessors, either of Land, Houses, Clothes, Money, or any other thing whatsoever.

An Answer to the Objections touching the defect of Bounds and Limits in the Sea; as also concerning its magnitude and inexhaustible abundance.

CHAP. XXII.

THE Objection, touching the defect of *Limits* and *Bounds*, follow's next. And truly, where Dominions are distinguished, nothing can be more desirable then known and certain Bounds in every place: Nor was it without cause, that ^a *Terminus*, the God of Bounds, was received heretofore among the *Romanes* for the God of Justice. But the nature of *Bounds* is to be consider'd either upon the Shores, or in the open Sea. And why Shores should not be called and reputed lawful Bounds, whereon to ground a distinction of Dominion in the Sea, as well as Ditches, Hedges, Meers, rows of Trees, Mounds, and other things used by Surveyors in the bounding of Lands, I cannot fully understand. Nor is ^b *Sylvanus* any whit more a Guardian of Bounds, then *Neptune*. But yet a very learned man saith, ^c *there is a Reason in nature, why the Sea under the aforesaid consideration cannot be possessed or made appropriate; because possession is of no force, unless it be in a thing that is bounded; so that Thucydides calls a Land unpossessed, ἀβέβαιον unbounded; and Isocrates the Land possessed by the Athenians, a Land bounded with Limits. But liquid things, because of themselves they are not bounded, cannot be possessed, save onely as they are contained in som other thing; after which manner Lakes and Ponds are possessed,*

and

^a *Plutarch. in Numâ.*

^b *Sylvanus*, made by Heathens the God of the woods, and *Neptune* of the Sea.
^c *Hugo Grot. de Jure Belli ac Pacis, lib. 2. cap. 11. §. 3.*

and Rivers also, because they are contained within Banks. But the Sea is not contained by the Earth, it being of equal bigness, or bigger then the Earth; so that the Antients have affirmed the Earth to be contained by the Sea. And then hee brings divers Testimonies of the Antients, whereby it is affirmed more then once, that the Sea is the girdle or Bond of this Globe of Earth, and that fetching a compass, it incloseth all the Parts thereof together; and it is very often said by the Antients, that the Land is contained and bounded by the water or Sea; as if the whole Earth made as it were one Island, being ^d surrounded by the Sea. But admit it were to be granted (which, I suppose, neither that learned man nor any other will grant;) yet I do not well see, why the thing containing should not in truth be bounded by the thing contained, as well as this by that. May not a lesser bodie that is spherical, or of any other form, being contained by a greater which is every way contiguous to it, be said to bound and limit the Concave of the greater Bodie, as well as this to limit the Convex of the lesser? But *Julius* ^e *Scaliger* saith very well of the Sea and Land; That the one is not so contained by the other, but that it may also contain. Nor are they so disjoyned from each other, but that they may both encroach upon each other and retire by Turns. The Sea and Land mutually imbrace one another with crooked windings and turnings; this with Peninsula's, and Promontories butting forth, and Creeks bending inward; that working up its waves about all the Passages of its vast Bodie. Thus it is evident that the one indifferently set's Bounds to the other, no otherwise than Banks, and Lakes, or Rivers; which also appear's more evident in the ^f *Caspian* Sea

^d Cicero in Somn. Scipionis. & vide Jo. Philopon. de Mundi Creatione, lib. 4. cap. 5.

^e Exercit. 37.

^f A Sea near Hircania, like a huge Lake, being incompass'd with Land, and hath no passage into any other Sea.

Sea that is encompassed with Land. And in like manner in the *Mediterranean*; before that *Hercules*, or (as the ^b *Arabians* say) *Alexander* the great did, by cutting the Mountains, let in the *Atlantick Ocean* through the streights of *Cadiz*. And thereby it is made up one single Globe, wherein divers Seas are bounded, as well as the Isles or main Land: as it is more clearly proved out of holy Scripture. There the waters are gathered together, and limited by their Places and ^h Bounds. And saith the Lord himself of the Sea, ⁱ *I encompassed it with my Bounds, and set Bars and Doors; and said, hitherto shalt thou com, but no farther.* And in another place, ^k *Hee gave unto the Sea his Bounds, his Decree unto the waters that they should not pass their Bounds:* So that it cannot bee doubted every Sea hath its Bounds on the Shore; as the Land it self. Nor had I made mention of this Particular, had I not found it impugned by so eminent a person. And truly there is but a very little more difficultie, to finde out *Limits* and *Bounds* in the main Sea, for distinguishing of private Dominions. Wee have high Rocks, Shelves, Promontories opposite to each other, and Islands dispersed up and down, from whence as well direct Lines, as crooked windings and turnings, and angles, may bee made use of, for the bounding of a Territorie in the Sea.

^b *Geograph. Nubiens. Climat. 4. part. 1.*

^h *Damascen. de Orbodoxâ fide, lib. 2. cap. 9.*

ⁱ *Job 38. 10.*
^k *Pro. 8. 29.*

*Mille jacent mediæ, diffusa per æquora, terræ;
Innumeri surgunt Scopuli, montésque per altum.*

**A thousand Lands within the main do lie;
Rocks numberless, and Mountains rise on
high
Throughout the deep.**

T

The

The antient Cosmographers also reckon up the Seas of the world, no otherwise then Towns, Rivers, Islands, and Mountains, as beeing no les distinguished from each other by their respective Bounds.

¹ *In Cosmographia.*

¹ *Æthicus* saith, *Every Globe of Land hath XXX Seas, CCCLXX Towns, LXXII Islands, LVII Rivers, and XL Mountains, &c.* After this also, hee reckon's the Seas of the Eastern, Western, Northen, and Southern Ocean one after another, after the same manner as hee doth the Provinces and their Isles. How truly, I dispute not; but in the mean time hee made no question, but that the Seas are sufficiently distinguished by their Names and Bounds. Add hereunto that useful invention of the *sea-man's Compass*, and the help of Celestial degrees either of Longitude or Latitude, together with the doctrine of Triangles arising therefrom. Also in those Plantations that in our time have been carried out of *Europe* into *America*, the degrees of Latitude and Longitude do serv the Proprietors in stead of Bounds; which with as little difficultie are found in the Sea. In like manner ^m som would have had the *Tropick of Cancer* and the *Equinoctial Line* to have been the Bounds in the Sea, for the limiting of that Agreement, which was to have been made in the year *MDCVIII*, between the States of the *United Provinces*, and the House of *Austria*. And in the late Agreement betwixt the Kings of *Great Britain* and *Spain*, ⁿ the *Equinoctial Line* is the Bound appointed in the Sea. Other Instances there are of the same nature: *Eor*, *Sarpedon* and *Calycadnus*, two Promontories of *Cilicia*, were designed as Bounds for distinguishing the Dominion of the Sea, in that League made betwixt the ^o *Romanes* and *Antiochus* King of *Syria*. Also, by Decree of the Emperor *Leo*,

^m *Apud. Emanuel. Me-
terar. Rer. Belgic. lib.
28.*

ⁿ *Anno 1630.
Art. 2.
• Polyb. in
Eclog. de
Legationi-
bus, cap. 35.
• Livius,
decad. 4. lib.
8.*

Leo, of which wee have already spoken, the^p Fishing Epoches or Fish-pens that were by men placed in the Sea lying over against their Lands, were limited to certain number of Cubits. The case was the same likewise touching the *Cyanean* and *Chelidonian* Islands, in the League made by the^a Athenians with the King of *Persia*; which hath been mentioned also before.

Moreover, Pope *Alexander VI* and his Cardinals, or the King of *Spain's* Agents made no scruple touching Bounds of this nature, when the King obtained that famous *Bull*, whereby hee had a Grant of the Western world; but so to be limited, that the thing given should, in the hither part of it, be bounded by an imaginarie Line drawn from the *Artick* to the *Antarctick Pole*,^r which should be distant from each of those Islands called *de Los*, *Azores* y *cabo verde*, one hundred Leagues towards the West and South (which are the verie words of the *Bull*.) Whereupon^t *Hieronimus de Monte*, saith, Bounds were set in Heaven and in the Air, in the time of Pope *Alexander VI* between the Portugals and Castilians, in dividing the *Indian Isles* then newly discover'd by the degrees of Heaven; and so all that was found Eastward, was allotted to the Portugals, and that which lay Westward to the Castilians. Certainly, in this place, no more regard was had to the portions of Land, whether Islands or continent, in the measuring of Bounds, then to the spaces of the Sea. Moreover; it is ordinarie among the Lawyers, even those who are most earnest for a Communitie of everie Sea, to limit an hundred miles^u jurisdiction to the Lord of the adjacent Coast. Sometimes wee finde sixtie. It is in a manner received (saith^v *Bodin*) by the common custom of all

^p An Epochè was a device to keep store of Fish, made of Nets that were spread between Stakes driven into the Sea.

^a *Plutarch. in vitâ Cimonis.*

^r *Laërt. Cherubin. Bullar. Tom. 1. pag. 393.*

^t *Traçtat. de finibus regundis, cap. 7.8.*

^u *Bartolus Traçt. de Triburiade & D. D. in l. Insule Italie ff. tit. de Judiciis.*

^v *De Republic. lib. 1. cap. 10.*

Princes bordering upon the Sea, that for sixtie miles from the shore, any Prince may give Law to those that sail near their Coast; and it was so adjudged in the Case of the Duke of Savoy. Which hee observeth out of Cacherranus his decisions of Piemont. Yea, and it is maintained by very eminent Professors of the Civil Law, that an Action at Law may be allowed for regulating of Bounds in the Borders of the Sea. Therefore they sufficiently acknowledg the Custom of measuring and setting Bounds, even in the Sea.

¹ Hieronym. de Monte, Tract. de Finibus regundis, cap. 39. Baldus, & alii ibi citati.

But as to what concern's that saying of *Ambrose*; *Geometram audivimus, Thalassometram nunquam audivimus*, Wee have heard of a Geometrician, one that **measurcth land; but never of a Thalassometrician, or one that could measure and lay out Bounds in the Sea**; This truly is rather a quibbling of words, then any Argument against the point in hand. And the holy man speak's in that place, of the various lurking-holes, or holds of divers Fishes, which God hath appointed for them in the Sea, not touching a civil distribution of the Sea. Nor was there any reason why hee should speak thus of a *Thalassometrician*, as a thing never heard of before. For, wee know that even *Thalassometricians* were ordinarie among the *Grecians*, who had Dominions by Sea, with very frequent and various distinctions of those Dominions; And that the Sea was measured according to the Rules of Geometrie, no less then the Land. *Proclus* a famous Mathematician, treating about the excellencie of Geometrie, saith, ² *It hath discover'd the Situations of places, the measures also of Voiages by Sea, as well as journies by Land.* Moreover, they had Instruments to measure the Sea, which the *Grecians*,

² In *Euclidis*, lib. 1. lib. 2. cap. 3. in *Græcis*, pag. 18.

Grecians, or at least the modern Greeks, called *θαλασσοδομέτρως*, *measures of Sea-voiajes*; and have written that *Hero*, *Anthemius*, and other ancient Mathematicians, learn't the Art from *Archimedes*, and transmitted it to Posterity. Yea, it is said by ² *Joannes Tzetzes*, that those men discover'd both water and winde-instruments out of the Books of *Archimedes*, and *Engines to move things of weight*, and instruments called *Thalassodometrae*, for measuring of Sea-voiajes: so that as concerning the business of measuring the sea, there is nothing to hinder, but that both matter and instruments may bee had for the distinguishing of its Dominions.

² *Chilad. 13.*
cap. 457.

Lastly, that which is objected, touching the vast magnitude of the Sea, and its inexhaustible abundance, is of very little weight here. Suppose it bee inexhaustible, so that hee which shall appropriate it to himself, can receiv no dammage by other men's using it, what more prejudice is this to the right of Ownership or Dominion, then it is to the Owner of a Fire or Candle, that another man's should bee lighted by his? Is hee therefore less Master of his own Fire or Candle? But truly wee often see, that the Sea it self, by reason of other men's Fishing, Navigation, and Commerce, becom's the worst for him that own's it, and others that enjoie it in his right; So that less profit ariseth, then might otherwise bee received thereby. Which more evidently appear's in the use of those Seas, which produce Pearls, Coral, and other things of that kinde. Yea, the plentie of such seas is lessned every hour, no otherwise then that of Mines of Metal, Quarries of stone, or of Gardens, when their Treasures and Fruits are taken away. And it is a custom of the *Mabometans*
(who

(who are very great and Potent Nations) to estimate their seas no less upon this accompt, then by the Revenue either of Fishing or Navigation; as wee may see in that their *fals* Prophet, when speaking of the most holy God hee saith, ^a *It is hee that hath prepared the Sea for your use, that thence yee may take fresh Food (and use Fishing) and also that out of it yee may draw ornaments to adorn you.* Mabomet Ben Achmed, the best Expositor of the *Alcoran*, interpret's those ornaments by *Coral* and *Pearls*; which words also are used in another ^b place of the *Alcoran*, for the chief Commodity of the Sea. From whence also it is, that a special Licence to search for *Coral*, hath sometimes been granted in Leagues made by the grand Seignieur, as is observed before. Yea, and ^c *Pliny* speaking, especially of the more Easternly Seas, saith; *It had been counted a small matter, that men swallowed whole Seas into their throats, if both men and women also did not wear them up and down upon their hands, ears, heads, and all parts of the Body.* But it is well known to us, that precious Stones and Pearls, are very often found also in the Western Seas, and hee tell's us, they were frequently found in antient time. Moreover (saith hee). *It is certain that in Britain they are produced, though small and ill colored (as wee all see at this day) forasmuch as Julius Cæsar would have it understood, that the breast-plate which hee consecrated to Venus in her Temple, was made of British Pearl.* Yea, it is written by many, and testified by ^d *Suetonius*, that *Cæsar* went to *Britain* in hope of Pearls. It is obvious therefore to every man, that the gain of such a Voiage into *Britain*, may be lessned, and that the abundance either of Pearls themselves, or of those shell-fishes, which produce them, may through a promif-

^a In *Alcorano*, *Azoarâ*, 16. in *Cod. Arab.* 26 in *Latino*.

^b *Azoar.* 55. Sed in *Cod. Latin.* 65.

^c *Hist. Nat. lib.* 9. cap. 35.

^d In *Julio*, ca. 47. & vide-
lis *G. Camden.* in *Britannia*, pag. 630. & 721.

promiscuous and common use of the Sea, bee diminished in any Sea whatsoever. Where then is that inexhaustible abundance of Commodities in the sea, which cannot bee impaired? There is truly the same reason also, touching every kinde of Fishing. But what need many words about this Matter? Do wee not at this day finde it pressed home to the utmost every where by Lawyers, especially those of the Empire? and was it not a thousand times said of old when the *Romane Empire* was in its prime, ° that *Cæsar is Lord of the whole world?* Thus *Ovid*, according to the *Romane* custom, saith;

° L. 9. ff. iit.
ad Legem
Rhodiam.
&c.

† *Gentibus est aliis tellus data limite certo :*
Romanæ spatium est urbis & orbis idem.

† *Fastorum,*
lib. 2.

**All other States have Limits to their
Ground:
Rome and the World, have but one common
Bound.**

The Sea (I suppose) is not more inexhaustible then the whole world. That is very much inferior to this, as a part is to the whole, in greatness and plenty. And therefore a Dominion of the Sea is not to bee opposed upon this accompt, unless also wee in like manner affirm, that not onely that saying of the Emperor's Dominion over the world is manifestly false, (as it must bee) but also contrary to natural reason it self, becaus of the worlds extraordinary greatness and abundance. Therefore they are more justifiable in their Opinion, who, as they say, that the *Roman* Emperor, according to the antient Law, is Lord of the World or Land, (that is to say, a large part of it) so also ‡ they would have him to bee Lord of the Sea.

‡ *Jo. Græphander Jurisdictione Insule, cap. 14. § 65. &c.*

Nor

^h L. Deprecatio 9. ff. ad legem Rhodiam.

ⁱ Disputatio-num lib. 2. ca. 5.

^k In the 25 Chapter.

Nor is there any difficulty in that expression of the Emperor *Antoninus*, wherein hee call's himself Lord of the World, but the Law (as 'tis commonly understood) Lady of the Sea; which (if it were granted that his Answer ought ^h so to be understood) doth signifie no other thing, then that the *Rhodian* Laws, where they did not thwart the *Romane*, were so far in force about Sea-affairs, that (however hee were Moderator and Lord of both) hee would by no means determin ought contrary to those Laws, by any Rescript of his own. ⁱ *Alcialus*, and other very Learned men also, make almost the same interpretation: But concerning that Answer of *Antoninus*, I shall add more ^k by and by. So that it seem's the Antients, in that so often repeated speech, concerning universal Dominion, conceived the *Romane* Empire to be no less or narrower, then it is represented by *Petronius Arbitr*, who set's forth the matter in these words;

*Orbem jam totum victor Romanus habebat,
Quà Mare, quà Terræ, quà Sidus currit utrumque.*

**The Romane Conq'rer then the World,
Both Sea and Land did sway,
Wheresoe're the Moon travel's by night,
Or the bright Sun by day.**

^l Emerita; apud Gruterum, pag. 149

^m This temple stood open in time of war, but was shut in time of peace.

ⁿ Suetonius in *Octavio*, cap. 22.

And ^l the Ancient Inscription in honor of *Augustus* *Cesar* was, ORBE MARI ET TERRA PACATO, IANO CLUSO, &c. Peace being restored to the world by Sea and Land, hee shut up the ^m Temple of *Janus*; according to which sense it is recorded also by ⁿ Historians, that hee shut *Janus* his Temple three times, having settled Peace by Sea and Land; whereby they would have

have us to understand (the verie same thing which wee have proved more fully before) that the Seas were comprehended as well as the Land, within the huge Bodie of the *Romane* Empire.

An Answer to such Testimonies as have faln from Writers treating of other subjects, and which are usually alleged against Dominion of the Sea.

CHAP. XXIII.

IT remain's in the next place, that wee consider of what validitie the contrarie Opinions of Writers are whereof wee formerly made mention. As to what concern's those Passages of the Poëts, *Plautus* and *Phenicides*; it is clear in *Plautus*, that the lewd slave *Trachalio* was but in jest with *Gripus* the Fisherman: Hee saith in general, that the Sea is common to all, which signifieth a Sea that never was possessed, as well as that which is necessarily and naturally common; and in that place, that, rather then this. Wherefore it may bee understood, that Fishing was common or not yet appropriated; that, is, that the people either of *Rome* or *Greece*, had such a Dominion over any kinde of Sea (for, by what hath been alreadie mentioned, it appear's both of them had a Dominion over som Sea before *Plautus* his time) that either of them might use their respective Seas at their own pleasure, in hindring others from sailing through them, and removing such impediments of Trade and Commerce as should happen therein: And yet that hitherto they had

prohibited no man from fishing in that Sea (mentioned by *Plautus* and *Phenicides*) in such a manner, but that the use of it might remain common either to Natives or Neighbors, as the use of a ground for feeding of Cattel; though there may indeed bee a particular Owner in possession, reserving the other Commodities of it to himself, as it often come's to pass. But afterwards also, especially in the *Eastern Empire*, or among the *Greeks*, it is clear out of what wee have already shewn you, that a peculiar Right of Sea-fishing hath passed into the hands of private persons, as well as of Princes: So that such Expressions as these being applied against private Dominion of the Sea, soon vanish and com to nothing.

As to that passage out of *Ovid*, *Quid prohibetis aquas?* **Why do yee forbid water?** &c. (then which nothing is more usual in Disputes about this matter) it is not so much an Assertion of the communitie of waters, as a vehement and hyperbolical reproof of the inhumanitie of that rustick Rout in *Lycia*. *Latona* being thirstie and wearie, asked for a draught of water; and that out of a Lake. The barbarous people denie her; and therefore shee most deservedly reprove's them. But shee doth it not more earnestly, then *Ampelisca* in *Plautus* did merrily, to

^a *In Rudente*,
Act. 2. *Sceparnio* a slave that denied her water;

Cur tu (inquit *Ampelisca*) *aquam gravare amabò, quam hostis hosti commodat?*

Why (saith *Ampelisca*) **art thou so loth to let mee have water, which one stranger afford's another.**

For, whatsoever may bee afforded or communicated without

without prejudice of the Owner, hee is concerned many times in humanitie to impart it to a meer stranger that asketh him. For, the word *Hostis* in that place signifie's a Stranger, as wee often finde among the ^b Antients; And it appear's also by the question of *Sceparnio*, whereby hee jeer's the wench,

^b Festus in
verb. Hostis;
& Cic. de
Offic. lib. 1.

*Cur tu (ait ille) operam gravare mihi, quam civis
civi commodat ?*

Why (saith hee) dost thou denie mee that help,
one Citizen afford's another?

Here hee opposeth *Citizen* to *Stranger*. From the same Office of humanitie those particulars are derived; as *not to denie running Water; to suffer one Fire, or one Candle to light another;* and other things of that nature, which are profitable to the Receiver, and not troublesom to him that give's or permit's the Favor. And upon this Rule of Moralitie onely, which is the Rule of Charitie, are those demands both of *Latona* and *Ampelisca* grounded. They denie not the private Dominion of waters: Neither *Latona* of the Lake (whose private Dominion is confes't by all) nor *Ampelisca* of the Well, from whence shee demanded water for the Priest of *Venus*. Moreover, those words of *Latona* are spoken concerning a Lake of little water; as *Ovid* sheweth in that place,

*Fortè lacuna mediocris aquæ prospexit in imis
Vallibus.*————

**By chance a little Lake shee did espie,
Which in the Vallies far beneath did lie.**

And after shee had said that shee came to claim a publick gift, shee add's,

Quæ tamen ut detis, supplex peto.————

**Which notwithstanding I humbly beg you
would bestow.**

Nothing in that place opposeth a Dominion of the waters, more then of any other things whatsoever, whereto that saying of *Ennius* may have relation,

*c Cic. de Offic.
lib. 1.*

• Nihilominus ipsi lucet, quum illi accenderit,

**His own light is not the less, When hee hath
lent light to another.**

And as *Cicero* tell's us, all things of the same kinde seem common to men. Which communitie notwithstanding derogate's nothing at all from the Dominion here in Question; unless any will bee so unadvised as to affirm, that the Laws of friendship (wherein Philosophers say all things are common) with those of Charitie and Liberalitie, may overthrow private Dominion.

Nor is there any more weight in that which is objected out of *Virgil*. What is this to the purpose? *Virgil*, or *Ilioneus* speaking of the *Tyrrhen* Sea, said, *That the water is open to all.* Ergò, by Law the water must lie open at all times to all men. A verie trifling Argument! There was no Land that was omitted in the first distribution of things, which did not remain open to all, before it came under particular possession. But in that passage of *Virgil*, there is no demand made of Right, but onely an Office of humanitie requested from the King of *Latium*. Yea, and a promiss made of recompence, saying;

Non

*Non erimus regno indecores, nec vestra feretur
Fama levis, tantique abolefcet gratia facti.*

Æneid. li. 7.

**Wee'll not disgrace your Realm, nor lightly let
Your Fame, and so great courtesie forget.**

Therefore in the Poëts sens, the benefit was to bee received and acknowledged from the grace and favor of the Prince, not claimed by any Law of nature common to all. Yea, wee know that in many places an excise or paiment is made somtimes for the very use of water. As among the *Hollanders* they have in *Delph-land* a Custom called *Jus Grutæ*; which hath ever been under the care of those Officers called in Latine ^d *Comites Plumarii*, in Dutch, *Plumgraben*, and whereby the Beer-brewers (as ^e *Hadrianus Junius* tell's us) are bound to pay them the hundreth part for the use of water. Other instances there are to bee found of the same nature.

^d *Comites Plumarii* or Officers of the Feather; their place is to see that Birds or fowl bee not transported thence.
^e *In Histor. Bat. c. 19.*

Lastly, as to that saying of the *Jewish Rabbins* concerning *Alexander*, it shew's onely they were of Opinion that *Alexander* had not gotten a Dominion over the Sea. They do not say at all, that hee could not lawfully get it; nor truly could they say it without gross indiscretion, unless they would renounce their own Right (which wee have already mentioned out of their determinations) in the great or *Phœnician* Sea. And whatsoever those Rabbins may lightly say of *Alexander*; yet truly *Flavius* ^f *Josephus* a Jew, and (if wee may believ himself) the most eminent Lawyer of his time among the Jews, call's the Emperor *Vespasian*, Lord both of Sea and Land. And ^g *Julian* saith, that *Alexander* aspired after an Empire by Sea as well as by Land: which hath been mentioned also by ^h *Seneca*.

^f *De Bello Judaico, lib. 3. cap. 27.*

^g *Orat. 3.*

^h *Seneca.*

But all these Objections are brought out of Writers treating of other matters, which ought also to be considered. And therefore in the last place, let us take such opinions of the Lawyers into consideration, as are opposed against it.

An Answer to the Objections taken out of Antient Lawyers.

CHAP. XXIV.

OF those Lawyers that are of the contrarie opinion, som are antient, som modern. If wee look into the most notable Testimonies of the Antients, this onely is to be collected from them touching the Communitie of the Sea, that som of the most eminent were indeed of Opinion, that by the Law natural and of Nations the Sea is perpetually and necessarily common to all men; which nevertheless, most clearly appears to be far otherwise, if a diligent survey be made of the Laws and Customs, either Civil or Intervenient, of most Ages and Nations; As wee have verie abundantly proved in what hath been already shewn you. And that not onely out of the most approved Historians (whereof there is verie oftentimes most use, in searching out the most common Customs of Nations, and other things relating to the Laws themselves^a) but also out of the verie Leagues or *Intervenient Law* of divers Nations, yea, and other Lawyers of no less note, together with the principal Edicts in the Eastern Empire, besides, manie other, from whence any one may easily learn what, according to the *Natural Permissive Law*, ought to be determined in this matter.

^a Vide Gaspar. Knoc-
kium, lib. de
contributio-
nibus, cap. 20.
§. 463. &
seqq.

Som

Som of the Antients have been of Opinion, that according to the Law Natural or of Nations, it is lawful to hunt and hawk in another man's ^b wood or Ground, and to Fish in another man's Pond or Lake, much more in a River, except it were prohibited by the Owner in possession. These things, saith ^c Cujacius, were so determined by the prudent Romans, who adhered most to the Law of Nations. But Custom hath now over-ruled the Law of Nations, so that it is not lawful to Fish so much as in a publick River, nor to hunt or hawk freely in the Fields. And saith the same ^d Author in another place; The Exchequer is to bee justified onely by Custom, in laying claim to the Fisheries, in a private manner, contrarie to the Law of Nations. Whereas notwithstanding, in the Feudal Lawes, the Revenues of Fisheries are counted among the *regalia* or Royalties of the Prince; and reckoned by learned men among the Antients belonging to the ^e Romane Exchequer or Treasurie, who cite *Ulpian* himself for a witness. For, hee among the publick Customs or Revenues numbred the Revenues ^f *Piscariarum* (as som would have it read) of Fisheries. Others instead of it put *Picariarum* **Pitch-pits**, for those places from whence Pitch is digged. Surely, even ^g *Ulpian* himself reckon's Fish-ponds among those things that are liable to assessments. But howloever the later Customs of Nations have subverted or over-ruled that more ancient Law of Fishing, Hunting, and fouling freely, whether it were the Law natural (as they term'd it) or of nations; as sufficiently appears by the ^h Law of those places which they call

^b L. 3. ff. de acquir. rer. dom. & instit. de rer. divis. § Fera igitur bestia & l. Injuriar. 13. ff. de injuriis §. ult.
^c Observat. lib. 4. cap. 2.
^d Ad lib. 5. Feud. tit. de Regalibus.

^e Guid. Paz. cirol. variar. lect. utriusque Juris, lib. 3. cap. 31.
^f L. 17. ff. de U. S.

^g L. 4. §. 6. ff. tit. de Censibus.

^h Vide Sebastianum

Medicem tract. de venatione &c. Editi. & consuetud. de Aquis & Forestis collect. per Sanctyonium, Andream Gaill. pract. Observat. lib. 2. 67. Matth. Stephani de Jurisdictione, lib. 2. part 1. cap. 7. §. 43. & ejusmodi alios de Venationis Jure in imperio Romano-Germanico, &c.

Forests

Forests De Wildt bahne or *Bannum ferinum*, and of Rivers, as it is variously established in several Countries. And so without any prohibition of the Owner in Possession, that antient Freedom hath been abrogated many Ages since by most received Custom: which may bee said in like manner of the Sea, whatsoever those Antients and their Followers have written to the contrarie.

Moreover, the Emperor *Leo* hath (as wee have shewn you) expressly declared by Edict, that the antient Right concerning a necessarie communitie of the Sea, was not without injustice pretended in the *Eastern Empire*. Wherefore *Michael Attaliates* truly did ill, and so hath any other Lawyer of the East (if any there bee) since the daies of *Leo*, that hath opposed its private Dominion. Nor indeed hath that eminent man dealt any better, who writes that *Leo* made a change against reason of Law. And here, especial care must bee taken to avoid that which som have presumed to affirm, touching those most excellent Books of *Justinian*, which make up an entire Bodie of the antient Law; *That the Law prescribed in those Books is not the Law onely of a Citie, but even of Nations and nature; and that the whole is so fitted unto nature, that after the Empire was extinct, though the Law was a long time buried; yet it rose again, and spread it self through all the world. And therefore that it concern's even Princes, although it was framed by Justinian for private persons.* As if the law natural and of Nations were to bee derived onely out of those Books. For, not to mention, how that not onely very many Decrees, and Custome's introduced in the *Romane-Germane* Empire it self and other places abroad, have extremly alter'd many things contained

¹ Albericus
Gentilis de
Jure Belli, l.
I. cap. 3.

in those Books; but also that wee finde divers Kings both of ^k Spain and ^l France have sometimes heretofore prohibited the use of them in any kinde within their Courts of Justice; there are truly som things in the very Law of the Nations of Europe (who receiv those Books, and that upon very good ground; both into their Schools and Courts, so far as the particular Laws of their Kingdoms will permit) I mean in their Law Common, or Intervenient, which are not grounded at all upon the Law of Justinian, but have had their original from Customs quite contrarie thereto. Prisoners of war are not now made slaves, nor are the Laws concerning captivitie or Remitter upon return from Captivitie, touching the ^m persons of men, in any use at all, which notwithstanding take up a Title in the Digests. Ships driven by wrack upon a Shore do by the ⁿ Law of Justinian (which is confirmed also in the ^o Roman-German Empire) belong either to the former Owners, or as things relinquished and unpossessed, to the first Finders; nor doth the Exchequer interpose any Claim, whereas nevertheless, according to the Law of divers Nations, intervenient to themselves and their Neighbors, it bee most certain, that those Ships are very often confiscated according to the varietie of Custom: As among the English, the ^p Britains, ^q Sicilians, som ^r Borderers upon the Shores of Italie, and others. And although it bee accounted crueltie by som to persue profit upon so sad an occasion, as it was also by the ^s Emperour,

^k Gregor. Lopez in Alphonfin. 3. tit. 4. l. 6. Azevedo ad reg. constit. in rubric. tit. Delas leyes: ^l Choppinus de Domanio, lib. 2. tit. 15. §. 5. & Bodin de Repub. lib. 1. cap. 8. & vide Guil. Burlæum in Proæm. ad Comm. in Arist. Physica. ^m Boërius Decis. 178. Alvarus Velaſc. Consult. tom. 1. 30 Fra. Suarez de Legibus, l. 2. cap. 20. ⁿ C. tit. de Naufragiis, & l. 1. & 3. ff. de Incendio & l. 21. §. 1. ff. tit. de acquir. vel amit. possessione. ^o Frederic. 2. in C. de Furtis, c. Navigia, & Constit. Caroli 5. de Judiciis Capitalibus, cap. 118.

^p Bertrand. Argentæus in Consuet. Brit. Art. 56. §. 45. ^q Choppinus de Domanio, lib. 1. tit. 15. §. 10. ^r Luc. de Pennâ ad C. tit. de Naufrag. Matth. de Afflic. in Cons. Neapolit. lib. 1. consuet. 59. vide Garsiam Mastrillum de Magistratibus, lib. 3. cap. 10. §. 393. ^s Andr. Gail. prætic. Observat. lib. 1. cap. 18. Bodin. de Repub. l. 1. cap. 10. Stat. Romæ Urtis. l. 3. cap. 85.

c *Sub. Alex.*
 3. c. *Excom-*
municationi
extr. iii. de
Raptoribus.
 a *Bartholo-*
meus Ugoli-
nus de Cen-
suris Ponti-
fici reserva-
tis, part. 2.
cap. 4.

either *Constantine* or *Antoninas*, who made a Law thereupon; yea, and though besides the Decree of the Lateran Council, the Bull *Cæne Domini* do blast those every year with Excommunication that plunder the goods of such as suffer Shipwreck, in "any Sea, upon any pretence of Law or Custom whatsoever; yet the Custom of confiscation in this case derived not its Original from the rude and barbarous Ages, but it flowed first from the most antient Maritim Laws of the *Rhodians* (which were in use among the *Grecians* in their flourishing condition) as shall bee shewn by and by, and from thence was received by divers Princes. Also, when the *Emperor's Ambassador*, as *Bodin* saith, made complaint before *Henric the second King of France*, that two Ships beeing driven a Shore were seized by one *Jordanes Ursinus*, and demanded a restitution of them; *Annas of Monmorancie Master of the Hors* made Answer, that all things which had been cast upon Shore, did by the Law of all Nations belong to such Princes as have commanded the Shores. So far hath Custom taken place in this particular, that *Andræas Doria* did not so much as complain about those Ships that were cast upon the French Shore, and made prize by the Admiral of France. So far hee. In like manner, Whales and other Fish of extraordinarie bigness, do not, according to the known Law of *England*, ^x *Portugal*, and other Nations, belong to him that first seizeth them, but either to the Exchequer, or (which is all one) to such as the Prince shall grant a Royaltie of that nature.

* *Georg. de*
Cabedo De-
cif. Lusitan.
part. 2. 48.

Other instances might bee brought, sufficiently to shew that the Law natural and of Nations is not wholly to bee drawn out of such Decrees or Determinations as are found in the Books of *Justinian*;
 And

And so that what is there inserted touching a Community of the Sea, doth not in any wise diminish the Autoritie of the received Customs of so many Ages and Nations. But it is to be observed, that the Sea is said in those Books to be common, as the Aër, and as wilde Beasts are common. As if indeed the neighboring Aër it self could not pass into private Dominion, as well as a River that is possess'd, and wilde Beasts that are taken. Moreover, those Antients do ordinarily conjoin a community of Shores and Ports, not unlike to that which they teach of the Sea: As if the very reason of the Dominion of Ports and Shores, as they belonged either to the people of Rome, or (which is all one here) to the Prince himself, were not manifestly drawn, as wee have expressly shewn already out of ^y Celsus, from the Imposts and Customs which are frequent enough both in the Shores and ^z Ports of the Roman Empire, and in the Books of ^a Justinian (as in many other places.) For, as the ^b payment of that Tribute which is called *Solarium à Solo*, and thence by the Greek Lawyers ^c Σωλάειον, for an house that is built upon the ground of the Common-weal or the publick ground, was a sufficient Argument that the Common-weal or the Prince was Lord of the Soil; so indeed also the Custom paid for the use of Ports, manifested that there was the same kinde of Dominion over Them. Also, Ports themselves are rightly supposed to be a part even of the Continent, as appears in ^d another place. Moreover also, Justinian appropriated the Hellespont to himself in such a manner, that hee would not permit Merchants and Sea-men to enjoy a freedom of that Sea and the Ports, but at an extraordinarie rate, if wee

^y Cap. 14.
^z Cic. Orat. pro lege Manilia. Symmachus, l. 5. Ep. 62. 65.
 Tacitus Annal. lib. 13.
 Alii obiter.
^a Tit de Publicanis, in ff. & tit. de veftigalibus in C.
^b L. 1. C. tit. de diversis Prædiis, & l. 5. ff. tit. de Operibus publicis, §. 1.
^c Eclog. Basilic. lib. 58. p. 488. ut etiam simili notione in l. 15. ff. tit. Qui prior in Pugnare.
^d L. 15. Cesar, ff. tit. de Publicanis.

*c In Arcana
Historia,
pag. 110.*

may believ^e *Procopius*, who was his contemporarie and wrote his Affairs.

Nor did they imagine there was any difference betwixt the Dominion of the Sea, and that over the Land or People, who about 400 years since put this Inscription upon the Monument of the Emperor^e *Frederick* the second,

*† Georg.
Gualtherus
in Tabulis
antiq. Sici-
lie, &c. pag.
93.*

Qui Mare, qui Terras, Populos, & Regna subegit,

**Who subdued the Sea, the Land, Nations,
and Kingdoms;**

To wit, in the Cathedral Church of *Palermo*, in which place notwithstanding, the Imperial Law flourished at that time, as well as in the rest of the *Roman-German* Empire. The sum of all is, that those antient Lawyers do deliver many things carelessly touching this matter, not onely such as thwart the most received Customs of Nations through almost all Ages, but such also as do sufficiently contradict one another; especially, whilst they join the Shore it self, and consequently the Ports together, as it were in an equal state of Communitie. So that they are equally refuted as well by their own indiscretion, as by the Autoritie of others.

Touching

Touching the Emperor Antoninus his Answer; that himself was Sovereign of the world, but the Law (as 'tis commonly translated) of the Sea; in L. Deprecatio, ff. tit. de Lege Rhodiâ. The true meaning of the said Answer, and a new, but genuine Exposition of it. Also, that it comprehend's nothing which may in any wise oppose a Dominion of the Sea.

CHAP. XXV.

BUt seeing that among those particulars, which are usually drawn out of Antient Lawyers, against *Dominion of the Sea*, that Answer of the Emperor *Antoninus* to *Eudemon* several times before-mentioned, is of so principal an account; therefore it seem'd meet to treat of it apart by it self, and search into the genuine sens thereof; concerning which, whosoever shall look into the whole matter with a little more care then ordinarie, will I suppose be very well satisfied, not onely that most Interpreters have hitherto been wholly ignorant thereof, but also that it in no wise contradict's a Dominion of the Sea.

Eudemon having been Shipwrack't at Sea, had petitioned the Emperor, for a restitution of those wrack't goods that had been seized by the Receivers of his Customs. The words, according to ^a *Volusius Matianus* who was one of the Emperor's Privie

^a L. 9. *de Legibus ff. de Lege Rhodiâ.*

Councillors, are these; Κύριε Βασιλεῦ Ἀντωνίῃ· ναυραγίαν ποιήσαντες ἐν τῇ Ἰταλίᾳ, διηρπάγημεν ὑπὸ τῶν δημοσίων τῶν τὰς Κυκλάδας νήσους οὐκέντων; O Emperor Antoninus, our Lord; wee having made Shipwrack, have been spoiled of all by those Receivers of the Customs that inhabit the * Cyclades Islands. Hee received an Answer from the Emperor, pointed for the most part after this manner, in the printed Books. Ἐγὼ μὲν τὸ κόσμον Κύριε, ὁ δὲ νόμος τῆς θαλάσσης. τῷ νόμῳ τῶν Ῥοδίων κρινέσθω τῷ ναυτικῷ, ἐν οἷς μὴ τις τῶν ἡμετέρων αὐτῷ νόμος ἐναντιῆται· τὸ δὲ αὐτὸ ἐστὶν ὁ θεοτάτος Ἀύγουστος ἔκρινεν. Which is usually thus translated; I indeed am Sovereign of the world, but the Law, of the Sea. Let it bee determined by the Rhodian Law which is prescribed for the regulation of Sea-affairs, so far as it is not opposed by any of our Laws. For, the Emperor Augustus also was of this Opinion. There never was any Controversie about the reading or Translation of this Answer, unless it were in those words, ὁ δὲ νόμος τῆς θαλάσσης, whereto answereth, but the Law of the Sea with a period or full point after it; as for the most part it is taken, and as wee have according to the received translation related it ^b already in the Objections. Of those that would have it so rendred, there have been not a few who were of Opinion, that from the Adversative δὲ autem is implied, that the Emperor answer'd that himself indeed was Lord of the rest of the world, but not of the Sea; and that the Law onely; not any man was Lord of this. Andreas Alcivatus saith; Whereas it is said, I indeed am Lord of the world, but the Law of the Sea; som French Doctors were of Opinion becaus of that Adversative, that a Soveraigntie of the Sea did not appertain unto the Emperors.

* These Isles are part of those that lie in the Archipelago.

^b Cap. 2.

^c Disputacionum, lib. 2. cap. 5.

perors. But hee add's; which truly is very ridiculous: Although ^d Baldus and ^e Jason conceived for this reason, that the Venerians were not subject to the Roman Empire. But the sens of this Law is this (to wit, that Sea-affairs were to be determined by the Rhodian Law, as hee declare's a little before.) For, seeing the Emperor is Lord of the world, surely, not the Land onely but the Sea also, ought to submit to his Laws, and hee to appoint Laws therein: though notwithstanding hee do not determine matters by his own Law in the Sea, but by the Rhodian Law, which was by him approved. Understand therefore, when it is said, I am Lord of the world, becaus I govern the world according to my own Law. But the Law, suppose the Rhodian Law; of the Sea; becaus by it, Justice is administred upon the Sea. Add hereunto, that this Particle *ſc̄*, that is, *Autem*, is not so opposed, that it alwaies exclude's what goeth before. And therefore Alciatus also readreth it thus, *But the Law of the Sea, by which Law of the Rhodians concerning Navigation, let it be determined, &c.* And therefore truly, it is upon exceeding good ground that hee call's their opinion very ridiculous, who would have it hence concluded, that a Dominion of the Sea did not belong unto the Emperors. For, suppose the Emperor did answer so, as it is commonly rendred. Doth hee therefore deny himself a Dominion of the Sea, becaus hee affirm's the Law to have Dominion at Sea? was hee not in the mean time Sovereign Lord and Arbitrator of the world (as hee implied indeed by his Answer) and so also of the Law? whatsoe'ver hee pleased, was ^f Law: Therefore to say, that any thing which the Law had Dominion over, was not also under the Emperor's Dominion (to whom the Law it self was subject) is so absurd, as nothing can be more.

^d In rub. de
Rer. Divis.
^e L. ex hoc
Jure, ff. tit. de
Justitiâ.

^f L. 7. ff. tit.
de Constitut.
Principum.

Others

Others there are that render the sense of the words after this manner. *Although I my self bee Lord and Emperor of the world, and so, free from all Laws, nor bound by any Rule to give any account to my Subjects, yet notwithstanding the Law shall bee Empress and Queen at Sea, that is, it shall bear sway by Sea, in such Cases as have fallen out at Sea, since it concerns Sea-affairs, nor shall my Exchequer bee advanced by the loss of my Subjects, but Justice ought to bee equally administered between the Exchequer and private persons, and therefore the Exchequer shall bee liable to give an account.* So saith, *Franciscus de Amaya*, Advocate in the King's Court of Exchequer within the Kingdom of *Granada*. So you see, here is not the least Track admitted of a denial of Sea-Dominion.

g Observat.
Juris, lib. 1.
cap. 1. §. 76.

Som also there are, who would have the meaning bee, that *Antoninus* should expressly say that hee himself was as well the Law of the Sea, as Lord of the world. *I indeed am Lord of the world, and I am also the Law of the Sea.* So *Joannes Igneus*: And som^h others there are that incline this way: with whose opinion if wee shall concur, wee must needs confesse also, that the Emperor did sufficiently attribute the very Dominion of the Sea unto himself. But ⁱ *Samuel Petit*, a very learned French-man saith, *Antoninus doth not deny himself to bee Lord of the Sea, that hee cannot give Law and do Justice to those which deal upon the Sea; for, you see his meaning was, that Right should bee don betwixt Eudæmon and the Customers which dwelt in the Cyclades Islands, according to the Rhodian Law; nor doth hee say also that hee is so tied by this Rhodian Law, that hee can by no means reliev Eudæmon against this Law, if any injurie bee don him, but his meaning is, that Eudæmon should have Right don him according*

h *Forcatus*
in *Cupidine*,
Jurisp. cap. 9.
Mendoza
apud *Amay-*
an, in loco
citato.
i *Miscellan*,
lib. 3 cap. 11.

ing

ing to this Law, but yet so that this do not thwart any of the Roman Laws. Thus hee interpret's it, though the vulgar reading bee retained; which hee would rather have to bee rejected, and the name of Law to bee put out there; Being of opinion that the words $\delta\ \delta\epsilon\ \nu\acute{o}\mu\omicron\varsigma\ \tau\eta\varsigma\ \theta\alpha\lambda\acute{\alpha}\sigma\sigma\eta\varsigma$ but the Law of the Sea, are corrupted from $\delta\ \delta\epsilon\ \acute{\alpha}\nu\epsilon\mu\omicron\varsigma\ \tau\eta\varsigma\ \theta\alpha\lambda\acute{\alpha}\sigma\sigma\eta\varsigma$, but the winde of the Sea. As if the Emperor had said, that hee himself indeed was Lord of the Sea, but that the Sea nevertheless is so subject to the power and alterations of winde and weather, that it was not in his power, though Lord thereof, to prevent Shipwracks. Moreover also, Petit correct's the Cosmographie of the Petition. Hee is of opinion, that those words, $\epsilon\nu\ \tau\eta\ \text{Ιταλία}$ in *Italie*, crept in through the negligence of Transcribers in stead of $\epsilon\nu\ \tau\eta\ \text{τηλία}$ ($\theta\alpha\lambda\acute{\alpha}\sigma\sigma\eta$ being understood) in the *Telian* or *Ægean* Sea, which is about the Island *Telos*. What a monstrous thing were (saith hee) that those who were shipwrack't in the Sea upon the Coast of *Italie*, should have been pillaged by Publicans or Customers dwelling in the *Cyclades* Islands? What Cosmographie is this? What relation have the Publicans or Customers of those Isles unto *Italie*? which is most judiciously spoken: For, it appear's a manifest error there concerning *Italie*. And it is most certain, that the Island *Telos*, whether it bee one of the * *Cyclades* or *Sporades*, is so placed in the *Ægean* or *Levant* Sea (as wee finde in ^k *Strabo*, ^l *Plinie*, and *Stephanus de urbibus*) that the matter hang's well together, if wee say that the Customers of the *Cyclades* seized upon wrack't Goods in the *Telian* Sea, which to say of the *Italian* Sea or Shore is too monstrous in reason. Perhaps also, in that Catalogue of Seas summ'd up by *Æthicus*, an ancient Cosmographer,

* The *Cyclades* and *Sporades* make up the Isles in the *Archipelago*.
^k *Lib.* 10.
^l *Lib.* 4. cap. 12.

grapher, the *Ionian* and *Ægean* Sea, the Sea called *Mare Lautades* (which learned men suppose to be corruptly read for *Leucadium*) and *Mare Tilla*, the *Telian* Sea it self, being taken out of this very Petition, before it was corrupted, was signified by the name of *Tilla*. And thus you have in a manner the opinion of learned men, so far as concern's the matter in hand, touching that Answer, and the Petition of *Eudemon*.

For my part, I most willingly yield my assent to the emendation of the Colmographe: But do conceiv, that the antient and received reading of the Answer ought not to be alter'd, save onely in the pointing. Oftentimes no regard hath been had, nor any use of points in antient Books: So that succeeding Generations have been puzzled now and then with a confusion of Syntax. But by a very small alteration of them in this place (for they are the very same with those in the ^m Books that are published) the sens appears to mee not onely suited to the matter of the Petition, and clear; but also plainly freed, both from that Phansie, as if Dominion of the Sea were denied the Emperour in that place; and also from that fiction there expressly delivered touching the Sea-Dominion of the Law. Nor can I be perswaded, that Interpreters hitherto have sufficiently hit upon the *Emperour's* meaning. For, what is this to the purpose? *I indeed am Lord of the world, but the Law of the Sea.* If it were spoken of the Law in general, certainly the Law had Dominion as well upon the main Land, The Emperour himself was Lord of every kinde of Law, even by Land as well as by Sea: And so truly, the Answer had hitherto, concerned the Petition nothing at all. If you would under-

^m Vide Al-
ciat. Diff. lib.
2. cap. 5.

understand it of the *Rhodian* Law, in such a sense (as *Alciatus* did) that the Emperor's meaning was that the Law had Dominion over the Sea, what then is the Consequence? that the matter was to be determined by the *Rhodian* Law, so far as it was not opposed by any of the *Roman* Laws. What, was the *Rhodian* Law simply supreme over the Sea, and yet notwithstanding that high Title subject to restraint by the *Roman* Laws? These things do not cotten well. Let it be pointed therefore, either after this manner; Ἐγὼ μὲν τῷ Κόσμῳ Κύριος. Ὁ δὲ νόμος τῆς θαλάσσης. Τῷ νόμῳ τῶν Ῥοδίων κενέσθω τῷ ναυτικῷ, ἐν οἷς μή τις τῶν ἡμετέρων αὐτῷ νόμος ἐναντιῆται, *I indeed am Lord of the world. But of this kinde, or this is the Law or the Custom of the Sea. Let it be determined by the Rhodian Law concerning Navigation, so far as none of our Laws do oppose the same. Or let it be pointed thus; Ἐγὼ μὲν τῷ Κόσμῳ Κύριος. Ὁ δὲ νόμος τῆς θαλάσσης τῷ νόμῳ τῶν Ῥοδίων &c. I indeed am Lord of the world. But let that Law or that Custom of the Sea be judged or determined by the Rhodian Law concerning Navigation, so far as &c.*

The Case was this: *Eudemon Asiaticus*, born in *Nicomedia*, a Citie of *Bithymia*, having suffer'd Shipwrack in the *Telian* Sea (or the *Aegean*, which is about *Telos*) complain's that his Goods were seized by the Customers of the *Cyclades*, petitioning the Emperor for relief, in such a manner as if the Customers had made an advantage by his misfortune in a most injurious manner. Hee salute's him with the style of Lord and Emperor. The Emperor in his Answer readily owneth himself to be a Lord, and so far a Lord, that hee saith the whole Earth, yea, and the world it self was comprised within his

Lordship or Jurisdiction. Therein also hee signifie's that it belongs to him to reliev Petitioners when wrong is don them : But as to what concern'd the matter of complaint, or the Petition about the wrack't Goods that had been seized by the Customers, that it did not sufficiently appear whether those Customers had don it wrongfully. Becaus (if our former reading, or pointing bee admitted) in general, saith hee, and according to Rule, the Sea-Custom, or that Law of the Sea which give's wrack't Goods to the Customers, hold's good. For, so these words *ὁ δὲ νόμος τῆς θαλάσσης* [*but that Custom or that Law of this kinde belong's to the Sea*] hath relation to the thing don by the Customers, as it was in brief set forth in the Petition. But in regard that to this Custom or Law of the Sea, there might, either through som privilege, or becaus of the qualitie of the goods, or som other Custom no less in force, certain Qualifications arise, according to circumstance, in respect whereof perhaps either the Customers ought, in this case, to have forborn meddling with the goods, or the Complainant might have a special exception to privilege his goods from Seizure; therefore hee did well to leav it, being a matter so succinctly and without any addition of circumstance expressed in the Petition, to bee determined by the Naval Laws of the *Rhodians*; but yet so far onely as the *Roman* Laws in the mean time were not contrarie thereto. Nor doth the sens much differ, if the latter pointing and translation bee admitted: I indeed am Lord of the world, and the Sea as well as the Land is contained within my Jurisdiction: in both, I willingly right those that are wronged, according to Law: But truly what the Custom of the Sea may bee in
this

this case, and whether the Complainant ought to be relieved, let it be determined by the *Rhodian Laws*, which, by my permission, are in use upon the Sea, where they are not contrarie to our own. But it seem's to mee not a little conducing to a confirmation of the fore-going sent, whereby the Maritim Law touching Wrecks and the Right of the Customers (that is, of the Exchequer, whose Right is transferr'd into their hands) is asserted, if it shall be made appear that such a Law or Custom was in force at that time, which Interpreters are not wont here to grant. It is indeed certain enough according to the Imperial Law (as wee have it now compiled in the Books of *Justinian*) that ⁿ Wrecks are reserved to the former Owners, and so that both the Exchequer and the Customers are thence excluded: Yea, and that the Custom whereby they are confiscated, is condemned by the received determinations of the *Roman-German Empire*, as well as the Canon Law, as wee hinted in the former Chapter. But it is collected by manifest evidences, that the Law or Custom for Confiscation of Wrecks was in force, in the time of this Empetor *Antoninus* (I mean *Antoninus Pius*) who, as *Julius Capitolinus* write's did in the establishing of this Law, make use of *Volusius Metianus* the Lawyer, out of whose Books the Petition and Answer here spoken of was transcribed into the *Digests*^o. It is clear, that almost all those Passages that wee finde in the *Digests* for reserving them to the former Owners, were taken out of *Paulus*, *Callistratus*, and *Ulpian*, who lived many years after this *Antoninus*. There is somewhat also to this purpose out of ^p *Priscus Favolenus*, who lived at the same time with this *Antoninus*. But this Emperor

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reigned

ⁿ L. 3. & 21. ff. tit. de adquir. & amit. tend. possess. l. 44. ff. de adquir. rer. dom. l. 1. 3. & seqq. ff. tit. de Incendio. l. 1. C. de Naufragiis.

^o *Locus superius citatis.*

^p L. 21. ff. tit. de adquir. & amit. possess. §. 1.

reigned $\overline{\text{XXII}}$ years, and as appear's out of *Javolenus*, hee did by Decree mitigate the rigor of Confiscation in this Case. From which it might easily com to pass, that under the same Emperor such a Law and Custom as wee have mentioned might bee in force, and under the same it might either bee abrogated, or the rigor of it abated. The principal Constitution, which, according to the ¹ Book of *Justinian*, would not have the Exchequer to interpose in this case, is by *Antonius Contius*, a very eminent Lawyer, attributed to the Emperor *Antoninus*, according to the Testimonie of an antient Book in Manuscript; although the name of *Constantine* bee put before those that are published. The words are these; *If at any time a Vessel bee driven a Shore by Shipwrack, or if at any time it run aground, it shall belong to the Owners. My Exchequer shall not interpose it self. For, what right hath the Exchequer by another man's misfortune, that it should seek after profit upon so sad an occasion? Yea, and Ulpian* shew's, that such a kinde of Constitution there was also under *Adrian*, who was this man's Father by Adoption. It is decreed (so saith ² *Ulpian*) that it may bee lawful for every man, to recover his losses by Shipwrack freely; and thus much was ordained by the Emperor *Antoninus*, with the Emperor his Father. There are in these very clear Evidences, that about that time, there was such a Law or Custom of Confiscation, as wee have mentioned; which wee know very well was wont to take place often, even contrarie to the Autoritie of antient Decrees. For, it may bee concluded from the Shipwrack of *Valgius*, or *Victor*, related by ³ *Paulinus*, that it was in som use even under *Theodosius* the elder. There are the like Examples upon the ⁴ Shore of the *Roman-German* Empire:

And

¹ L. 1. C. de
Naufragiis.

² L. 12. ff.
iii. de Incen-
dio.

³ Epist. 37.
ad Micarium.
⁴ Chronic.
Albert. Sta-
densis, ann.
1112. vide *sis*
Frederic.
Lindebrog. in
Glossario,
pag. 1443.

And others may be brought, whereas notwithstanding some Laws were made to the contrary.

Moreover also, the ancient Orators, both Greek and Latin, whilst they allege Examples about the stating of Questions in pleading, do mingle this very Law or Custom about Shipwreck with other usual and ancient Customs in the Greek and Roman Empire, as a thing that was very frequently received. Sopater and ^u Syrianus in Hermogenem say; The Law is, that Spoils which are found, do belong to him that is General of the Army; In like manner the Law is, that Wrecks do belong to the Customers. In a tempestuous Sea, spoils are brought into Port. Hereupon ariseth a controversie about them, between the Commanders and the Customers of the Customs. In this case it becometh us not to vex our selves in vain with reading of Laws, but to look into the very nature of things. For, in truth the Question is, whether the Goods be now to be called Spoils or Wrecks. In like manner saith, ^x Curius Fortunatianus; what is a simple definition? when wee define a particular thing simply. Put case, that Wrecks do belong to the Publicans or Customers. The bodie of a certain man that was lost by Shipwreck, clothes and all, being driven ashore was cover'd by the Sands. The Customers came and drew it out. Therefore they are guiltie of the violation of Sepulchre. For here the Question is simply, what it is to violate a Sepulchre.

Moreover, that, Volusius Metianus wrote that Petition and the Answer, appears in *Libris Publicorum ex Lege Rhodiâ*; that is, in his summarie of those Laws which belong either to the Excisequer or the Customers, wherein also is contained either the Law or Custom of Confiscation of Wrecks. It suit's very well with these Particulars, that in that Answer of the

^u *Ess. sâous,*
pag. 107. *Ve-*
netis, 1509.

^x *Artis Rbe-*
torice Scho-
lice. lib. 1.
pag. 46. edit.
Paris. 1599.

the Emperor *Antoninus* those words, ὁ δὲ νόμος τῆς θαλάσσης, should be rendred, *but that Law of the Sea* or *that Custom of the Sea*, which hee meant should be so examined and determined, according to the *Rhodian Laws*, that in the mean time, those *Rhodian Laws* should not be of force, if any Rescript or any *Roman Law* were against it. And of what *Autoritie Adrian's Decree* was at that time (whereof *Ulpian* speak's in the places before quoted) perhaps it did not sufficiently appear, no not to the *Lawyers* themselves without a more curious examination, whose assistance *Antoninus* made use of in his Answer. But, that wee may at length dispatch this particular; no man whatsoever, whether hee approve the common Translation, or mine, will (I suppose) unless hee renounce his own reason, conceive, upon a due consideration of the whole matter, that any denial is made of the Dominion of the Sea in that Answer, or that the least Tittle can be found in it against the Dominion thereof.

An Answer to the Opinions of modern Lawyers, so far as they oppose a Dominion of the Sea; especially of Fernandus Vasquius, and Hugo Grotius.

CHAP. XXVI.

HAVING thus refuted, or upon good ground removed some Opinions of ancient Lawyers, which are usually alleged for the maintaining of a perpetual Communitie of the Sea; it is no hard

hard matter in like manner to wave the Autoritie of those of later time, that oppose a Dominion. For, if wee consider the great number of those, who, whether they comment upon the bodie of *Justinian*, or treat apart of this particular, would not have us to recede from that natural Communitie; wee shall finde plainly that they deal in the same manner, as they that have pinn'd their Faith, more then was meet, upon the sleeve of *Ulpian*, or som other such antient Autor: Unless wee conceiv that som of them did not so much explain the Law in this point, as recite the opinions of Lawyers, so far as they have been by them deliver'd: Just in the same manner, as if a man should so discours upon *Aristotle's* Astronomie, or the opinion of *Thales* touching the Earth's floating, like a Dish in the Sea, and that of the Stoicks of its encompassing the Earth like a Girdle, with that of the Antients concerning an extreme heat under the Equinoctial, and other opinions of that kinde, which are rejected and condemned, by the observation and experience of Posteritie; that hee might seem not so much to search into the thing it self, as to represent the person of the Autor, thereby to trace out his meaning, onely for the discovering of his opinion. But as the root beeing cut, the Tree fall's, so the Autoritie of those antient Lawyers beeing removed out of the way, all the determinations of the modern which are supported by it, must bee extremely weakned.

Now therefore, as to what hath been formerly alleged out of *Fernandus Vasquius*, it is grounded upon such Arguments as are either manifestly fals, or impertinent. For, what is this to the purpose?

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That the Sea, from the beginning of the world to this present day, is, and ever hath been in common, without the least alteration, as 'tis generally known. Whereas the quite contrarie is most certainly known to those, who have had any insight into the received Laws and Customs of Ages and Nations. That is to say, that by most approved Law and Custom, som Seas have passed into the Dominion and partrimonie, both of Princes and private persons; as is clearly made manifest out of what hath been alreadie shewn you. Moreover also hee ^a would have prescription to cease betwixt Foreigners in relation to each other; and not to take place in the Law of Nations, but in the *Civil* onely; so that by his Opinion prescription should bee of no force between those (as between two supreme states or Princes) who are not indifferently subject to the *Civil* Law, which admit's prescription; then which not any thing can bee said or imagined more absurd. Almost all the principal points of the *Intervenient Law of Nations*, beeing established by long consent of persons using them, do depend upon prescription or antient Custom. To say nothing of those Princes, whose Territories were subject heretofore to the *Roman* Empire, and who afterwards became absolute within themselves, not onely by Arms, but also by prescription (which is every where admitted among the Laws of Nations,) whence is it that Prisoners of war are not now made slaves among Christians, unless it bee because that Custom began to grow out of date som Ages since upon a ground of ^b Christian brotherhood, and by prescription ratified betwixt Nations. Whence is it that the ransoms of prisoners are to bee paid, som to the Princes, and som to the Persons that

^a *Illustrium Controvers.* lib. 1. cap. 5. §. 23. unde & V. Cl. Hugo Grotius in *Mari Libero*, cap. 7.

^b *Suarez de Legibus*, lib. 20.

that take them? As for instance, when the ransom is not above ten thousand Crowns, it goes to him that took the Prisoner; when it exceeds, it is to be paid to the Prince. *Beaus* (saith *Nicolaus Boërius*) *if it exceed, as when any one hath taken a Duke, a Count, a Baron, or any other great man, then it belongs to the Prince, and so it is observed in the Kingdoms of France, England and Spain. It hath by prescription of time been observed among Princes; and so it became Law. And truly, to deny a Title of prescription wholly among Princes, is plainly to abrogate the very intervenient Laws of Nations. As for those other things mentioned by Vasquius, concerning Charitie and the inexhaustible abundance of the Sea (whereby hee makes a difference betwixt Rivers and Seas) and other things of the like nature, they have no relation at all to the point of Dominion; as you have been sufficiently told alreadie.*

*c In Decis-
sionibus Bur-
degal. decisi-
one 178.
num. 4.*

In the next place, wee com to the other, to wit, *Hugo Grotius*, a man of great learning, and extraordinary knowledg in things both Divine and Humane; whose name is very frequent in the mouths of men every where, to maintein a natural and perpetual Communitie of the Sea. Hee hath handled that point in two Books; in his *Mare Liberum*, and in that excellent work *De Jure Belli & pacis*. As to what concern's *Mare Liberum*, a Book that was written against the *Portugals* about trading into the Indies through the vast Atlantick and Southern Ocean; it contain's indeed such things as have been delivered by antient Lawyers touching communitie of the Sea; Yea, and disputing for the Profits and Interests of his Countrie, hee draw's them into his own partie; and so endeavor's to prove that the Sea

is not capable of private Dominion. But hee hath so warily couched this subject with other things, that whether in this hee did hit or miss, the rest howsoever might serv to assert the point which hee was to handle. Moreover, hee discourseth about the Title of Discoverie, and primarie occupation (pretended to by the Portugals) and that also which is by Donation from the Pope. And hee seem's in a manner, eicher somtimes to quit that natural and perpetual Communitie, which many Civil Lawyers are eager to maintein, and hee himself, in order to his design, endeavored to confirm, or elf to confess that it can hardly bee defended. For, concerning those Seas that were inclosed by the antient Romans; *the nature of the Sea, saith^d hee, differ's from the Shore in this, that the Sea, unless it bee in som small part of it self, is not easily capable of Building or Inclosure. And put case it were, yet even this could hardly bee without the hindrance of common use. Nevertheless, if any small part of it may bee thus possessed, it fall's to him that enter's upon it first by occupation. Now, the difference of a lesser and a greater part, cannot take place (I suppose) in the determining of private Dominion. But in express words hee except's even a Bay or Creek of the Sea. And a little after, saith hee, Wee do not speak here of an In-land Sea, which in som places being streightned with Land on every side, exceed's not the breadth even of a River, yet 'tis clear that this was it the Roman Lawyers spake of, when they set forth those notable determinations against private Avarice. But the Question, is concerning the Ocean, which Antiquitie called immense Infinit, the Parent or Original of things, confining with the Air. And afterwards hee saith, The Controversie is not about a streight or Creek in this Ocean, nor of so much*

^d *Mari libe-
ro, cap. 5.*

much as is within view when one stand's upon the shore. A little farther also, speaking of Prescription, hee saith, * It is to bee added, that their Autoritie who are of the contrarie opinion, cannot bee applied to this Question. For, they speak of the Mediterranean Sea, wee of the Ocean. They of a Creek or Bay, wee of the broad and wide Sea, which differ every much in the point of Occupation. And certainly, there is no man but must conceiv it a very difficult thing to possess the whole Ocean: Though if it could bee held by occupation, like a narrow Sea; or a Creek, or as the whole world was said to bee possessed at first by antient Princes, it might even as well pass into the Dominion or Ownership of him that should enter upon it first by occupation. Howsoever, there have been ^f som others, who by the same Rule distinguish in like manner the inner and neighboring Seas from the open Sea or main Ocean.

^f Jo. Gryphinder, de Insulis, c. 25. §. 52.

But it is by no means to bee omitted, that they, for whose sakes *Hugo Grotius* wrote that Book, that is to say, the States of *Holland*, did, not unwillingly, but rather (as it seem's) according to their own hearts desire, give ear to the condemnation of that Opinion (especially becaus it was owned by *Grotius*) concerning a Communitie of the Sea and freedom of Fishing therein according to the Law natural and of Nations, by the Embassador of *James* King of great Britain, in a speech of his deliver'd openly in *Holland*; and that others were gravely admonished from his misfortune, not to maintein the like. Of vvhich thing *Grotius* himself bear's vvitnesse. § I have labored, saith hee, as much as any to maintein the Right of Navigation to the Indies, and for the preservation of Clothdressing in our Countrie. But for the freedom of Fishing at Sea so much, that Carleton the King of great

§ In Apologitico eorum qui Hollandiæ præfuerunt ante mutationem 1618. p. 387. edit. Heidelberg. cap. 19. pag. 257.

^h Hee was imprisoned for having an hand in Barnevel's business.

Britain's *Embassador*, being incited by my enemies to speak somewhat in publick against mee being at ^h that time in Prison, hee had nothing els to say, but that I had begun to make som Discourses in defence of that freedom, as a thing grounded upon the Law of Nations, and Custom, time out of minde; whereas notwithstanding, nothing had been said or written by mee upon that subject, different from those things which the State's *Embassadors* had maintained in Britain in the year *MDCX*; and our Ancestors before, even for som Ages past. And yet that *Embassador* said, that others ought to bee terrified by the example of my misfortune, from defending that Opinion. It is true indeed, that persons in power usually take a libertie to asperse men as they pleas when they are in question: But these things were not spoken so much against *Hugo Grotius*, as against that natural Right of Communitie at Sea (injuriously pretended to) which many men have defended more expressly and plainly then himself; but none, with so much learning and ingenuitie. Nor, did that Speech of the *Embassador*, for ought wee know, as things then stood, displeas the States of *Holland*.

ⁱ De Jure Belli & Pacis, lib. 2. cap. 2. §. 2. & 3.

But in his Books ⁱ de *Jure Belli & Pacis*, having indeed set down the reason of the original of private Dominion to bee upon this ground, that those places which became peculiarly assigned were not sufficient for the maintenance of all men, hee conclude's that the Sea, becaul of its bigness and inexhaustible abundance, being sufficient for all, cannot bee appropriated to any. Hee add's other things also, touching the nature of the Seas not being distinguishable by Bounds; of both which wee have said enough already. But at length hee berake's himself to the received Customs of Nations and speak's more then once,

once concerning the proprietic or private Dominion of the Sea, as of a thing sometimes to be yielded without Controversie. The Land, saith ^k hee, and Rivers; and any part of the Sea, in case it com under the proprietic of som Nation, ought to be open for such as have need of passage upon just and necessarie occasions. Afterwards also, speaking of the ^l proprietic of Rivers, After this example, saith hee, it seem's that even the Sea may be possessed by him that is Owner of the Land on both sides, although it lie open either above, as a Creek; or above and below too, as a streight or narrow Sea: So that it be not so great a part of the Sea, that beeing compared with the Lands it cannot seem to be any portion of them. And that which is lawfull for one Prince or People, the same seem's lawfull also for two or three, if in the like manner they pleas to enter upon the Sea flowing between. For so, Rivers that flow between two Nations, have been entred upon by both, and then divided. Hee allegeth other things also touching the Right of primarie occupation by Sea; but so, that for the most part hee contein's himself within Creeks and streights. ^m Hee saith, that not by any natural Right or Reason, but by Custom it came to pass, that the Sea was not appropriated, or that it could not lawfully be entred upon by Right of Occupation. And that the Custom beeing changed, if there were any in the antient Law that might hinder a private Dominion of the Sea, the reason of Communitie must be changed also. But that it hath been sufficiently changed, appear's abundantly (if I be not deceived) out of what wee have hitherto shewn you. Yea, the very Laws as well ^{*} Civil as Intervenient of most Nations make abundantly to this purpose, as it hath been proved.

^k Ibidem. §. 13.

^l Ibid. Cap. 3: § 8.

^m Ibidem. §. 19.

* The same with Municipal.

Moreover,

Moreover, that nothing may be wanting to weigh down the Ballance, therefore, besides the opinions of the Civil Lawyers before-alleged out of *France, Spain, and Italie*, for a private Dominion of the Sea, let this over and above be added, which is taken out of that sort of Lawyers also, discoursing in general terms about the Sea. I here give it you as it was composed by a Lawyer, none of the meanest in the *Roman-German Empire*, by name ^a *Regenerus Sixtinus*, who was indeed against private Dominion of the Sea. *The matter in question*, saith hee, concerning the Sea and its Shore, is, whether as Rivers that are navigable, and by which others are made navigable, they may be reckoned inter Regalia among the **Prince's Royalties**; (for, whatsoever is reputed a part of those Regalia or Royalties, is as private or peculiar to Princes, as that is to subjects which is their own; for which cause the Revenues of the Exchequer are private after the same manner;) so also, whether the Sea it self and its Shore, be comprised within those Regalia? *Cacheranus*, *Decis.* 155. n. 81. *Ferrarius Montanus*, *de Feud. lib.* 5. c. 7. ° reckon's the regulation and the very dominion also of the Sea among the Regalia, nor doth hee make any difference betwixt the Sea and a publick River. *Mynsingerus* also, *Resp.* 1. nu. 162. *Decad.* 11. saith, that the proprietie of the Sea is a part of those Regalia. But *Sixtinus* himself, discoursing upon this matter, just as they do that are more addicted than they ought to the words of *Ulpian*, and numbring up those Autors that are of the contrarie opinion, conclude's thus, *But more true it is that a proprietie of the Sea and Shore, is not by the Common Law to be reckoned among the Regalia.* But upon due consideration of all those particulars, which hither-

^a *De Regalibus, lib. cap. 4. §. 97.*

• *Verfic. Tamerisi Jus piscandi.*

to have been produced out of the Customs of so many Ages and Nations, and as well out of the Civil, as the *Common* or *Intervenient Law* of most Nations, no man (I suppose) will question but that there remain's not either in the nature of the Sea it self, or in the Law either *Divine*, *Natural*, or of *Nations*, any thing which may so oppose the private Dominion thereof, that it cannot bee admitted by every kinde of Law, even the most approved; and so that any kinde of Sea whatsoever may by any sort of Law whatsoever bee capable of private Dominion; which was the thing I intended to prove.

*The End of the first
Book.*

A a Touching

THE HISTORY OF THE

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Touching the
DOMINION,
 O R,
 Ownership of the Sea.

BOOK II.

The order or Method of those things that are to be handled in this Book. The British Ocean divided into four parts.

C H A P. I.

HAVING made it evident, in the former Book, that the Sea is capable of private Dominion as well as the Land, and that by all kinds of Law, whether we seriously consider the *Divine*, or *Natural*, or any *Law of Nations* whatsoever; it remain's next that wee discourt touching the Dominion of *great Britain* in the Sea

encompassing it about, and of those large Testimonies whereby it is asserted and maintained. Wherein this Method is observed, that in the first place wee premise both the distribution and various appellation of the Sea flowing about it, in order to the Discours. Then it shall bee shewn, from all Antiquitie, down to our times without interruption, that those, who by reason of so frequent alterations of the state of Affairs, have reigned here, whether *Britains, Romans, Saxons, Danes, and Normans*, and so the following Kings (each one according to the various latitude of his Empire) have enjoied the Dominion of that Sea by perpetual occupation, that is to say, by using and enjoying it as their own after a peculiar manner, as an undoubted portion either of the whole bodie of the estate of the *British Empire*, or of som part thereof, according to the state and condition of such as have ruled it; or as an inseparable appendant of this Land. Lastly, that the Kings of Great *Britain* have had a peculiar Dominion or proprietie over the Sea flowing about it, as a Bound not bounding their Empire, but (to borrow the Terms used by Surveiors of Land) as bounded by it; in the same manner as over the Island it self, and the other neighboring Isles which they possess about it.

The Sea encompassing great *Britain*, which in general wee term the *British Sea*, is divided into four parts, according to the four Quarters of the World. On the West lie's the *Vergivian Sea*, which also take's the name of the *Deucaledonian*, where it washeth the Coast of *Scotland*. And of this *Vergivian*, wherein *Ireland* is situate, the *Irish Sea* is reckoned to bee a part, called in antient time the * *Scythian Vale*, but now the *Channel of S^t George*. So that as well that which washeth

* *Gildas, Epist. de Excidio Britannicæ.*

washeth the Western Coast of Ireland, as that which flowe's between great Britain and Ireland, is to bee called the *British Sea*. For, not onely this (which of old was called great Britain, and somtimes simply the ^b *Great Island*) but also the Isle of Ireland, with the other adjacent Isles, were termed *Britannia*: So that many times *Albion* and *Ireland* are equally called *British Isles* and *Britannides*; as you may see in *Strabo*, *Ptolomie*, *Marcianus Heracleotes*, *Plinie*, *Eustathius* upon *Dionysius Afer*, and others. Moreover, *Ireland* is called by *Ptolomie* ^c *Μικρὰ Βρετανία* little Britain. And, saith *Ethelward*, an antient Writer, ^d *They go to Ireland, called heretofore Britannides by the great Julius Cesar*. Perhaps hee had a more perfect Copie of *Julius Cesar's Book*: For in none of his *Commentaries* which wee use, is *Ireland* called by that name. And it hath been observed by ^e learned men, that that book hath been maimed and alter'd by one *Julius Celsus*, whose name wee finde now and then in the *Manuscript Copies*.

^b *Aristides, in Oratone Ægyptiacâ.*

^c *Magne Constructiōnis, lib. 2.*

^d *Lib. 4. c. 4.*

^e *Lips. Epistolar. quæst. lib. 2. cap. 3. & Elect. lib. 2. cap. 7.*

Towards the North this Sea is named the *Northern, Caledonian, and Deucalionian Sea*, wherein lie scatter'd the *Orcades Islands, Thule*, and others, which beeing called the *British or Albionian Isles*; yea, and ^{*} *Britannides*; gave name to the neighboring Sea. And indeed *Thule* (which som would have to bee *Island*; others, and that with most reason, do conceiv it to bee the biggest of the ^f *Shetland or Zetland Isles*, called *Thulesel* by the ^g *Seamen*, and som there are again that think otherwise) was of old not onely termed a *British Isle*, but also by som expressly placed in *Britain* it self. *Mahumedes Acharranides* an Arabian, called likewise *Aracensis* and *Albategnius*, a famous Mathematician, ^h who lived above nine hundred years ago,

^{*} *Jo. Tzetzes, Chiliad. 8. cap. 218.*

^f *Guil-Camden. in Insul. Brit. p. 850.*

^g *Gassar. Peucerus, lib. de Terræ dimensione.*

^h De Scien-
tiis Stella-
rum, lib. cap.
6.

saith, ^h Som observing the breadth of the Earth from the Equinoctial Line towards the North, have found it to be determined by the Isle Thule which is in Britain, where the longest day is \overline{XX} hours; that is to say, Ptolomie and his Followers, who by drawing a Line on the Northside of Thule or the Shetland Isles, through 63 degrees, and a quarter of Northern Latitude, have set it down for the utmost Bound of the habitable world. Yea, and som have used the name of Thule for Britain it self or England. In times past, the Emperor of Constantinople was wont to have trustie Guards called Barrangi, constantly attending his person; who were taken out of England, as appear's out of ⁱ Nicetas Choniates; and Codinus also who was keeper of the Palace, ^k write's that they were wont to salute the Emperor with a loud voice $\Gamma\chi\lambda\mu\iota\varsigma$ in the English Tongue. But in the Storie of ^l Anna Commena, the Daughter of Alexius, it is said expressly, that they came $\epsilon\kappa\ \delta\ \Theta\acute{\epsilon}\lambda\eta\varsigma\ \nu\acute{\iota}\sigma\theta\varsigma$ from the Island of Thule. In like manner, all the Islands either known or heard of in this Northern Sea, were at length called by the name of British; the utmost Bounds whereof, as also of Thule it self, som of the Antients would have to reach unto 67 degrees of Latitude, or thereabout. And Albategnius, speaking of the Sea as it look's toward Spain, saith; ^m There are \overline{XII} British Isles in it towards the North; and beyond these it is not habitable; and how far it stretcheth, is unknown.

ⁿ De Scien-
tiis Stella-
rum, cap. 6.

Upon the Eastern Coast of Britain flow's the German Sea (so called by Ptolomie, becaus it lie's before the German Shore.) On the South, flow's that which is particularly noted by Ptolomie to be



bee the *British Sea*. But all that was called also the *British Sea*, which extend's it self like a half Moon along the *French Shore*, through the Bay or Creek of
of

of *Aquitain*, unto the Northern Coast of *Spain*. For this wee have the Testimonie of *Mela*, who saith the Pyrenean Promontories do butt out into the *British Sea*. ⁿ *The Pyrenie*, saith hee, *run's first from hence into the British Sea; then turning towards the continent, it stretcheth as far as Spain*. Yet every man knowe's it is called likewise either the *French*, or *Contabrian*, or the *Aquitanick Sea*, from the severall Shores which it washeth. But so far even the name both of the *British* and *English Sea* was enlarged either by that extraordinarie Command of the people of *Britain* at Sea, or of such as had attained the Rights of Dominion in *Great Britain* (which is all one to our purpose.) And it is stretch't likewise by som of the Antients as far as the Promontorie *Nerium*, now called *Capo di S^t Maria*. The *Arabian Geographer* saith; ^o *Towards the North, Andalusia* (so the *Arabians* use to call *Spain*) *is environed by the Sea of the people of England, who are of the Romans, that is, who are of the people of Europe; for, it is usual with those Eastern Nations to call the people of Europe, generally either Romans or French*. And then hee saith, *There are nine Stages from Toledo to S^t James, which is seated upon the English Sea*. Moreover, hee call's the Place, where that Citie of *S^t James* is seated, ^p *a Promontorie of the English Sea; and hath divers other passages of the same kinde*. Thus at length *great Britain*, with the Isles lying about it, and the Sea imbracing it on everie side, became as it were one Civil Bodie, so that the whole together is comprehended in the name of *British* or *Britannick*. Also, this Sea and *Great Britain* have indeed given mutual names as it were of Dignitie to each other. That is to say, this Island was called by the Antients simply ^q *Insula Ceruli*, **the Isle of the Sea,**

as

ⁿ De Situ Orbis, lib. 2. cap. 3.

^o Climat. 4. part. 1.

^p Climat. 5. part. 1.

^q In Catalicis Virgillii, de Sabino.

as that was called *Oceanus Insula*, the Ocean of the Isle, or the *British Sea*.

Having made this preparation, then wee treat first concerning the Sea-Dominion of the *Britains*, before they were reduced under the *Roman* power; Next, touching a Dominion of that kinde belonging to the *Romans* while they ruled here, continually and necessarily accompanying the Sovereignty of the Island. Afterwards, it is made evident by such Testimonies as are found among the Antients, that the *English-Saxons* and others who enjoied the supreme Power in *Britain*, before the *Norman's* Invasion, had such a kinde of Dominion. Lastly, according to the fourfold division of the *British Sea*, wee set forth the antient Occupation, together with the long and continued possession of every Sea in particular, since the *Norman's* time; whereby the true and lawful Dominion and Customs of the Sea, which are the subject of our Discourse, may bee drawn down, as it were by a twind thred, until our own times. Moreover, seeing both the Northern and Western Ocean do stretch to a very great Latitude (this to *America*; that not onely to *Island* and the Shores of *Groenland*, but to parts utterly unknown) and so it cannot all bee called the *British Seas*; yet because the Nation of great *Britain* have very large Rights and Privileges of their own in both those Seas, even beyond the bounds of the *British* name, therefore it was thought fit to touch a little upon these Particulars.

B b

That

That the antient Britains, did enjoy and possess the SEA of the same name; especially the Southern and Eastern part of it, as Lords thereof, together with the Island, before they were brought under the Roman power.

CHAP. II.

^a Hugo Grotius, de Jure Belli & Pacis, lib. 2. c. 3. §. 11.

IT is true indeed which an eminent man saith; ^a That the Sea hath been enjoyed by Occupation, not for this reason onely, becaus men had so enjoied the Land, nor is the Act or intent of the minde sufficient thereto; but that there is a necessitie of som external Act, from whence this Occupation may bee understood. Therefore Arguments are not to bee derived altogether from a bare Occupation or Dominion of Countries, whose Shores are washed by the Sea: But from such a private or peculiar use or enjoiment of the Sea, as consist's in a setting forth Ships to Sea, either to defend or make good the Dominion; in prescribing Rules of Navigation to such as pass through it; in receiving such Profits and Commodities as are peculiar to every kinde of Sea-Dominion whatsoever; and, which is the principal, either in admitting or excluding others at pleasure. Touching which particular, wee shall make diligent inquirie into those things which concern the Isle of Britain, through the Ages past, down to the present time.

It is upon good ground concluded, that the most
antient

ancient Historie, whereto any credit ought to be given about the affair's of Britain, is not elder then the time of *Caius Julius Caesar*; the Ages before him being too obscured with Fables. But at his coming wee finde clear passages of the Britain's Ownership and Dominion of the Sea flowing about them, especially of the South and East part of it, as a perpetual Appendant of the Sovereigntie of the Island. For, they not onely used the Sea as their own at that time for Navigation and Fishing; but also permitted none besides Merchants to sail unto the Island without their leav; nor any man at all to view or sound the Ports and Sea-Coast. And that the Case stood certainly thus, it is no slight Argument which wee shall insert here out of *Caesar* himself. But allowance must be given ever to Arguments and Conjectures, touching times so long since past and gon, especially when there is a concurrence in the Customs and Testimonies of following times. And as things being placed at too remote a distance, so that they cannot be certainly discerned by the eye, are wont to be more surely discover'd by the help of a triangle at hand; So what uncertainty soever may be in those proofs that are to be brought out of so remote Antiquitie, I question not but it will be made sufficiently manifest by the continued and more certain usage and Custom of later times, as shall be abundantly made evident in the following Discours.

As to what concern's the Britains particular use of Navigation, in that ancient time, without which an Occupation of this kinde cannot be had; notwithstanding that at *Caesar's* first arrival, they were terrified with the sight of that unusal kinde of long Ships; and

^b *Caesar de Bello Gallico, lib. 4. & 5.*

^a *Gul. Picta-
viensis, in
gestis Willi-
elmi Regis* 1.

and though at his second coming with a multitude of Vessels of all kinds (beeing re-inforced to the number of eight hundred, or, as som would have it, to a thousand) they fled in a great fright from the Shore, not beeing sufficiently provided for such a Sea-fight as was then at hand, and which they had never been acquainted with; nevertheless, it is most certain, that they had Vessels of their own, wherein they used to coast about the neighboring Sea, and so entred upon it corporally by Occupation. Mention is made indeed by Writers of som of their Vessels more notable then the rest, which they frequently used, beeing framed with twigs (as the fashion hath been in the more antient Nations) and cover'd with Ox-hides after their usual manner. Moreover, *Festus Avienus*, speaking of the antient Inhabitants of the *OESTrymnides*, or the Islands called the * **Sillyes**, with the rest lying about, thus expresseth himself;

* *Andr. Schot.
Observat.
Historic.lib.
3.22.9.6.
d In Oris
Maritimis.*

— ^d *rei ad miraculum,
Navigia junctis semper aptant pellibus,
Corioque vastum sepe percurrunt Salum.*

**Tis strange! There Ships they frame with
Ores hide,
And scout in Leather through the Ocean
Wide.**

And what hee saith of their continual care of Traffick and Custom of Navigation, concern's others as well that were under the *British* Government. Yet it is not to be conceived, that these twig and Leathern Vessels of the *Britains*, were all of them unfit for making war by Sea (according to the manner of that Age and of the neighboring Nations)

nor

nor that they were less fit for long journies at that time; seeing ^o Plinie write's expressly, that somtimes they sailed through the Sea in the space of six daies. In like manner wee read in the British ^f Historie, that about *Cæsar's* time, *Lud* King of *Britain* seized upon many Islands of the Sea in a way of war, which denote's that hee had a very considerable strength at Sea, and a well accomplished Navie. It is true indeed, that there were small Vessels among these (as they are no where without them) which doubtless were unfit to bear the brunt of a Fight or Tempest; that is to say, such as *Cæsar* made to transport his Souldiers over the River, when hee was streightned by *Afraninus* his Armie, as hee had been taught (they are his ^s own words) some years before by the Custom of *Britain*. The Keels and Ribs were first made of slight matter. The rest of the bulk of their Vessels, being wrought together with Twigs, was cover'd with Hides; which wee finde mentioned also by *Lucan*,

^o Hist. Natur. lib. 4. c. 16.
^f Henric. Huntingdon. Hist. lib. 1.

^g De Bello Civili. lib. 1. cap. 54. & videlicet Solum, ca. 25.

^h *Primum cana salix, mad: facto vimine, parvam
Texitur in puppim, caesoque inducta juvenco,
Vectoris patiens, tumidum circumnatat amnem.
Sic Venetus stagnante Pado, fusoque Britannus
Navigat Oceano.*

^h Pharsal. 4.

*** Of twigs and Willow Wood,
They made small Boats cover'd with Bullocks Hide,
In which they reach't the river's farther side,
So sail the Venet, if Padus flow,
The Britains sail on their calm Ocean so.**

* Translated by my learned friend Mr Thomas May.

Others there are also that write of these small Vessels. But they are not (I suppose) at least in that Age, to be called small Ships, which sailed through the

Sea in six daies space, nor such as *Cæsar* made only to transport his Souldiers, and conveied them by Cart above *XXII* miles, according to his own Relation. It cannot bee doubted therefore, but that the *Britains* had Vessels made even of the aforesaid matter, big enough and very fit for service at Sea. Moreover, there will bee very good ground to conceiv out of what wee shall deliver by and by, about the excluding of their Neighbors from the adjacent Sea, that they were wont to build and set forth Ships of war, of a far more commodious and solid substance, for the guarding of their Sea and the Isles. But their use of frequent Filhing (though some write that the more Northerly *Britains* did never eat fish) may bee collected upon this ground, that the better and more Civil sort of them were wont to embellish the Hilts of their Swords with teeth of the bigger Fishes. So saith *Solinus*^k, *They which endeavor to bee neat, do burnish the hilts of their Swords with the teeth of such great Animals as swim in the Sea, becaus they are as white and clear as Ivorie: For, the men take an extraordinarie pride in the brightness of their Arms.* Now, I suppose, that without an extraordinarie abundance of such kinde of Animals, which could not bee caught without great pains and numbers of Fishermen, there could not have been matter enough of this kinde to serv for the trimming of a most warlike Nation; wherein it was a Custom for the Mother of every man-child to put the first Food that hee received into his mouth, upon the point of its Father's Sword, in token of a warlike disposition. And the Mothers usual Blessings were to this effect, that their Sons might die no other death then in War and Arms. I know these words of *Solinus* are commonly taken by
 Writers,

ⁱ*Dio Cassius,*
lib. 76.

^k*Polybist.*
cap. 25.

Writers, as if they had been spoken onely of the Inhabitants of Ireland : wherein, if I understand any thing, they are plainly mistaken. The words of Solinus in his Chapter concerning Britain, are these; *The extremitie of the French Shore had been the utmost bound of the world, did not the Isle of Britain deserv the name almost of another world. For it is stretch't above 800 miles in length, if so bee wee measure it as far as the utmost point in the North of Scotland, where Ulysses once arrived, as appear's by an Altar there with an Inscription upon it in Greek Letters. It is encompassed with many considerable Islands, whereof Ireland is next to it in bigness. It is a barbarous Countrie, by reason of the rude behavior of the Inhabitants; otherwise, of so rank a pasturage, that unless Cattel bee somtimes driven from the Pastures, they run a hazard by too much feeding. There is no Serpent to bee found, and but few birds; The people are inhospitable and warlike: And after a victorie, they first take a draught of the bloud of the slain, and then besmear their Faces. Right or wrong is all one to them. A woman, when shee bring's forth a male, put's its first food upon her husbands Sword, and stealing it into the little ones mouth with the very point, shee pronounceth her blessing according to the Custom of the Nation; with this wish, That hee may die no other death but in War and Arms. They that endeavor to bee neat, do burnish the Hilts of their Swords, & cætera, as it followeth above. Hee treat's next of som Islands that lie about it; as Thanet, the Hebrides, Orcades, and Thule; and as to what concern's their manners, hee conclude's that Britain is inhabited in part by barbarous people, who from their childhood, by artificial stripes of divers forms, imprint the likeness of several living Creatures, up and down their bodies: As is sufficiently known out of Caesar and*

and other Writers. But now, if those words which follow that brief description, wherein the first mention of *Ireland* is made, were to be understood of the *Irish*, not of the people of great *Britain*, then it would follow there, that *Solinus* forgetting what hee had proposed in the very entrance of his Discours, passed immediately from great *Britain* unto *Ireland* and the neighboring Isles; and that hee made not any mention of the Customs of its Inhabitants, besides the stripping of their skins with divers shapes, and this at the latter end of the Chapter: which I can not in any case believ. Nor is it agreeable to the scope of his discours, that *Ireland* should be meant in this place, as well as great *Britain*. For, of *Britain* hee saith, *It is encompassed with many considerable Islands, whereof Ireland is next to it in bigness. It is a barbarous Countrie, by reason of the rude behavior of the Inhabitants, &c.* Then, this more large description of its manners and Customs which immediately followeth, is no otherwise joined to the mention of *Ireland* in the Edition of *Delrio*, and most of the rest which wee have followed in the place before-alleged. And who seeth not that the beginning of that description, and so what follow's, ought with much more reason to be referr'd thus to *Britain*, concerning which his purpose is to treat, then to *Ireland*, whose name is inserted onely by the way. Nor doth that hinder at all which wee read there about *Serpents*. I confesse it to be most true indeed, if spoken of *Ireland*, wherein there is no venomous Creature; and fals, if of *Britain*. But yet even this also hath been believed of our Countrie of *Britain*, and that in the clearer light of learning in time past; As appear's not onely by the Books of *Cardan de Subtilitate*, wherein hee denieth

¹ denieth that Britain entertain's any such Creature,) but also out of Scaliger's ^m Exercitations upon him, who in like manner affirm's this, and spend's Discours to no purpose to finde out the reasons why Britain hath not any venemous Creatures: which is strange indeed, since hee wrote so eagerly against the other; yea, and both of them beeing very famous men, and most expert Naturalists, lived som time in Britain. But errors of this kinde (as wee see also in Solinus concerning Birds and Bees) are not unusual among Writers: And it was a common courf for a Roman Writer to attribute extreme Barbarism (as Solinus doth in this place) to such forreign Nations as were not in amitie with the Romans. Now, as to this passage which is found in some Editions; [It is encompassed with many considerable Islands, whereof Ireland is next to it in bigness, a ⁿ barbarous Countrie becauf of the rude behavior of the Inhabitants &c.] as if the following words did by a continued sens and order relate unto Ireland; it beeing indeed contrarie to the truth of som antient Copies and the most approved Editions, arose (I think) upon this ground, becauf it was falsly supposed by the vulgar, that Ireland alone is treated of in som following Lines. Notwithstanding, even so also those words which follow the word [bigness] may as well, and ought to refer unto Britain, not unto Ireland. Moreover also, Tacitus saith expressly of the Irish of that Age, ° The men in their dispositions and habits do not differ much from Britain.

¹ De Subtilitate, lib. 10.
^m Exercitat. 200.

ⁿ Edit. Claudii Salmasti; Atque ita sanè Cod. Ms. vet. in Bibliotheca Cottoniana.

° In vita Julii Agricole.

But now, that wee may return unto that trimming which was made of Fishes teeth; Auxiliaries were wont (as Cesar saith) to bee supplied out of Britain, in almost all those wars that the Gauls mainteined

against the *Romans*. And therefore it must bee said, either that the *Britains* were for the most part an abject savage people, yea and a dull slothful Generation (which appear's to bee most fall,) or els it must bee conceived that the Nation used Fishing very much, which together with the frequent use of Navigation and Commerce, shew's that they did enter upon the Sea corporally by Occupation. But if to such a corporal occupation, as this, wee add also, that they excluded others from the Sea, shutting it up in such a manner, that they restrained them at pleasure from passage and entrance, what hinder's why wee may not conclude, that they acquired a manifest Dominion of their own, both by an Intentional and Corporal possession? But that the Sea was thus shut up by them, *Casar* himself seem's to inform us plainly enough. For, when hee, upon his first attempt to cross the Sea into *Britain*, made diligent enquire among the *Gauls*, touching the Shore and Situation of the ports, and to this end had summoned the *Gallick* Merchants together from all Quarters, hee was so deceived in his expectation about this matter, that hee was necessitated to send *C. Volusenus* before with a long Ship to sound them, as beeing wholly unknown: For as much as the *Gauls* were utterly ignorant of these Shores, becaus they were prohibited entrance, and so excluded from a free use of the Sea. For, hee write's expressly, ^p not a man of them went thither without leav, besides Merchants; nor was any thing known even to those Merchants, besides the Sea Coast, and those parts which lay over against * Gaul or Gallia. Therefore, according to the usual Custom, no man, besides Merchants, could touch upon the Shore, without leav of the *Britains*; nor was it lawful for those

^p De Bello Gallico, lib. 4.

* Now France.

those Merchants to make a narrow search or prie into such places ashore as were convenient or inconvenient for landing, or what Havens were fit to entertain Shipping. For, although hee saith they knew the Sea-Coast; yet, as *Cæsar* affirm's, they were utterly ignorant, what ports were fit to receiv a number of the greater sort of Ships. And it seem's, Merchants were permitted to visit the Sea-Coasts, onely by Coasting about, and using Commerce in the very Sea with the Inhabitants of the Island. The old Greek Interpreter of *Cæsar*, saith also upon the place, *None els, besides Merchants, were easily admitted among the Britains*: That is to say, neither by Land nor by Sea, whereof they had (as hath been shewn) a very frequent use, and from which they excluded all Forreigners, except Merchants, as from a part of that Territorie, whereof they were Lords in possession. From whence it follow's also, that they also who were wont to cross the Sea often out of *Gaul* into *Britain*, to bee train'd up in the learning and discipline of the *Druides*, could not do it without rendring themselvs liable to punishment for their boldness, if leav were not first had from the pettie Kings or Lords of the Island. From those pettie Kings, I mean, that ruled upon the Sea-Coast: For, the *Britains* at that time were not subject to the Government of a single Person. They were Lords of the Sea, who governed those Cities or Provinces that lay next to the Sea; *Cingetorix, Carvilins, Taximagulus*, and *Segonax* in *Kent*; others also that ruled over the *Regni*, the *Belgæ*, *Durotriges*, *Damnonii*, *Trinobantes*, *Iceni*, *Coritani*, (being the people that inhabited *Suffex*, *Surrie*, *Hampshire*, *Dorsetshire*, *Devon*, *Cornwal*, *Essex*, *Norfolk*, *Lincolnshire*) and the like. For, even *Cæsar*

himself saith, the inner part of the Island was inhabited by such as were said by Tradition to have been born there; but the Sea-Coasts by such as had cross't the Sea thither out of Belgium, to make war and gain bootie, who were called all for the most part by the names of those Cities from whence they came, and having seated themselvs there by force of Arms, they betook themselvs to Husbandrie. But hee according to that little knowledg hee had of a small part of the Island, called those onely maritime Cities, or Provinces, which lie South of the River *Thames*; especially *Kent*, the * *Regni*, and the * *Belga*. But although the Sea-Coasts were thus divided at that time into several Jurisdictions, nevertheless it cannot bee doubted, but that they used to consult together in common against an Enemy, or to guard the Sea (the defence whereof belonged to all the Princes bordering upon it;) just after the same manner as they used to do upon other occasions of war against forreign Enemies, as you may see in ¹ *Caesar*, where the principal administration of the Government, with the business of war, was put into the hands of *Cassivellaunus*, by a common Council of the whole *British* Nation. Nor is that any prejudice against such a Dominion of the *Britains* by Sea, which wee finde in *Caesar* concerning the *Veneti*, a people of *Gallia*, that were seated at the entrance of the River of *Loire*; to wit, that they had a very ² large command upon the Sea-Coast of Western *Gallia*, and that they were better skill'd then any other of their own Countrymen in the Use and Art of Navigation, and that in the Sea-fight with *Decius Brutus*, they had Ships made all of Oak, very well buile, and whether you consider their leathern Sails, or their Iron Chains in stead of Cordage, or their Masts, fitted

* The *Regni* were the Inhabitants of *Surrie*, *Suffex*, and the Sea-Coasts of *Hampshire*.

* The *Belga*, Inhabitants of *Somerset*, *Wiltshire*, and *Hampshire*.

¹ *De Bello Gallico*, lib. 5.

² *Caesar de Bello Gallico*, lib. 3. cap. 8. & 12.

fitted to bear the brunt of any assault whatsoever; and that CCXX sail or thereabout in number, went out of the Haven very well manned and provided with all necessaries for War, to oppose the Roman Navie. It is very probable, that the most of these were Auxiliaries fetched by the *Veneti* out of *Britain*, or how great soever the *Venetan* strength was at Sea, yet that it was not greater then the *Britains*, may bee collected from the same Author: For, hee writes expressly, that Auxiliaries were not onely sent for at that time by the *Veneti* out of *Britain*, but also that they had very many Ships wherewith they used to sail into *Britain*: But yet, as it hath been shewn out of him already, no man might sail hand over head into *Britain*, or without leav of the *Britains*. It is not to bee doubted therefore, but that, besides their Twig or leathern Vessels, they had a stout gallant Navie, which was able even at pleasure to exclude those Ships of the *Veneti* that were best armed. Else, how could it bee, that none but Merchants were admitted out of *Gaul* upon the Sea-Coast of *Britain*? Moreover, the whole Senate of the *Veneti* having been put to death by *Cesar*, not a man was found among those who remained alive after *Brutus* his Victorie, that could discover so much as one Port of *Britain*; as appears out of the same Author. Which how it might bee admitted, I do not at all understand, if the strength of those *Veneti* that were wont to sail thither, had been greater then the *British*, or if the *British* had not been much greater then theirs. But the reason why at *Cesar*'s arrival afterwards, no Ship of that kinde was found upon the *British* Sea or Shore (which [†]*Peter Ramus* wonder's at very much) and why the Roman Writers

† De C. Julii
Cæsaris mili-
tia, cap. de
prelio Na-
vali.

mention not any other Ships then such as were made of Twigs, seem's evident: For, the *Veneti* had got all the Shipping together into one place from all parts, to maintain the afore-said fight, as *Caesar* saith expressly. Therefore, if the *British* Navie were called forth to their assistance, as tis probable it was, then questionless it was all lost before *Caesar's* arrival: For, the whole strength and Forces of the *Veneti* perished in that Sea-fight. Moreover also, *Peter Ramus*, speaking of that great tempest, whereby *Caesar's* Ships were scatter'd up and down in this Sea with great hazard, saith, *The Sea raised this Tempest, as it were revenging the British bounds, and disdaining to bear a new and strange Lord.* As if hee had said; that the Bounds of the *British* Empire were in the very Sea, and the Sea it self angric, that it should bee transferr'd into the hands of any other Lord. But as to that which wee finde in a certain *Panegyrist*, touching the time of *Julius Caesar*; that Britain was not arm'd at that time with any Shipping fit for War by Sea; it was spoken either in a Rhetorical way onely, and highly to magnifie that Victorie of the Emperor *Constantius Chlorus* (whereby having slain *C. Allectus*, who had invaded Britain, hee reduced the Island together with the Sea, as is shewn hereafter) or els it is to bee taken onely of the very time of *Caesar's* arrival. Otherwise, it is expressly contrarie to those reasons here alleged, and grounded upon good Autors; and therefore not to bee admitted for Truth. But after that the Island was reduced under the *Roman* power, doubtless the *Britains* were prohibited from having any Ships of war, that they might bee the better held in obedience. Which is the reason why Writers afterwards make mention of such onely as were made of Twigs.

That

^t In Panegy-
rico Maxi-
miano dicto;
si mihi.

That the Britains were Lords of the Northern Sea, before they were subdued by the Romans. And that the Sea and the Land made one entire Bodie of the British Empire.

CHAP. III.

THAT the Britains were Lords also at that time of the Northern, or Deucalidonian Sea, is a thing proved by sufficient Testimoniè. They called this part of the Sea *Maris sui secretam*, **The secret or Closet of their Sea.** Tacitus, relating the Navigation of Julius Agricola into this part, saith, the Britains, as it was understood by the Prisoners, were amazed at the sight of his Navie, as if upon this opening the Closet or secret part of their Sea, there remained no farther refuge in case they were overcom. And in that stout Oration of Galgacus the Caledonian, wherein hee encouraged his Souldiers to fight, ^a Now, saith hee, the Bound of Britain is laid open. The secret part of their Sea or their Sea-Territorie in the North, they called their Bound. Moreover, saith the same Galgacus, beyond us there is no Land, and not the least securitie at Sea, the Roman Navie beeing at hand; giving them to understand, that the Dominion hereof was to bee defended as was the Island, as a thing acquired before. Add also, that among the Writers of that Age, *vincula dare Oceano*, and to subdue the Britains, signified one and the same thing. So that place of Lucan is to bee understood, where hee reckon's what pompous Shews and Triumphs might have usher'd

^a Tacit. in vita Agricole.

usher'd *Cæsar* into *Rome*, had hee returned onely with
Conquest over the *Gauls* and the *North*;

● *Pharsal.* 3.

—————^b ut vincula *Rheno*,
Oceanoque daret! celsos ut Gallia currus
Nobilis, & flavis sequeretur mista Britannis.

What *Stories* had hee brought! how the
vast *Main*,
And *Rhine*, hee by his *Conquests* did re-
strain!

The noble *Gauls* and yellow *Britains* tread
Behind his lofty *Chariot*, beeing led!

But for all that, our *Sea* was not as yet subdued by
the *Romans*, *Julius Cæsar* onely shewed the *Island*,
rather then deliver'd it into the hands of *Posteritie*:
neither was any part of it reduced under the *Roman*
power, before the *Emperor Claudius* his time; nor
the *Soveraigntie* of the *Sea* transferr'd into the hands
of any other. And although in *Augustus* his time,
Drusus Germanicus ^c sailed through that part of the
Sea which lie's betwixt the entrance of the *Ri-*
ver Rhine and *Denmark*, and subdued the *Frieslanders*,
nevertheless, not any part of the *Sea* was added by
that *Victorie* to the *Roman Empire*; for, the *Britains* held
it all in possession, they beeing not yet fully sub-
dued. Nor is it unworthie observation here, that
C. Caligula, beeing near *Britain*, and coming out of
Germanie to the *Coasts* on the other side of our *Sea*,
as if (saith ^d *Dio*) hee intended to make war in *Britain*,
and having drawn up his *Armie*, made readie all his
slings and other warlick *Engines*, and given the sig-
nal or word for *Battel*, no man knowing or imagi-
ning what his intent was; hee on a sudden com-
manded them to fall a gathering of *Cockles*, and fill
their

^c *Dio Cas-*
sus, lib. 54.
Plin. lib. 2.
cap. 67. Sue-
ton. in Claud.
cap. 1.

^d *Adde Au-*
rel. Victorem,
ut emenda-
tur ab An-
drea Schotto,
Observat.
Historic.
lib. 3. cap. 21.

their Laps and Helmets; Then, saying these Spoils of the Sea belong'd to the Capitol and Mount Palatin, hee vaunted as if hee had subdued the Ocean it self. At last, for a token or Trophie of this mock-victorie, hee reard a very lofty Tower hard by, out of which (as if it had been another * *Pharos*) Lights were hung forth by night for the direction of Sea-men in their Courses; the ruins whereof beeing not yet wholly demolished, but for the most part overwhelmed with water near *Cattwiick*, and very seldom discover'd, it is called by the *Hollanders* that dwell near it, *Bitenhuis* and *T' Huis te Briten*, that is the *British Houf*, or the *British Tower*. Certain it is out of *Suetonius*, that a Tower was raised by *Caligula* in that place: yea, and it is maintained by divers learned men, as ^c *Hadrianus Junius* the *Hollander*, ^e *William Camden* our Countreiman, and ^s *Richardus Vitus*, that these were the ruins of the same Tower; though others denie it, as *Ortelius*, *Gotzius*, and ^h *Cluverius*: And they make a doubt both about the Original of the name, and also its signification; concerning which wee dispute not. But am extremely mis-taken, if *Caligula*, by this Action of his, did not so much neglect the conquest of *Britain* it self, which hee hoped or at least thought of, as seem to sport himself with the conceit of having found out so compendious a way of Victorie. Hee carried the matter as if hee had had an intent to subdue *Britain*; and supposed those Cockles, which hee called Spoils of the Sea, to bee Tokens of Sea-Dominion, and as a most sure pledg of the *British* Empire.

* *Pharos* was a Tower built in the Island *Pharos* by *Cleopatra* *Q. of Egypt*, where lights were hung out to guide *Marriners* by night.

^c In *Batavida*, cap. 16.

^e In *insulis Britann.* pag. 852.

^s *Histor. lib.* 4. not. 56.

^h *De Rheni Alveis*, cap.

14. & vide *Ortelium in Thesaur. Geograph. verb. Britanni.*

Moreover, it is upon good ground to bee conceived, that there was one entire Territorie of the

British Empire, made up of the Land or continent of great *Britain*, with the Isles lying about it, and the Seas flowing between in their respective Channels: which may be collected, both from that one single name of *British*, comprehending an entire Bodie of such a kinde of Territorie (as was shewn you before) and also from hence, that the very Sea it self is, by *Albategnius* and som others, described by the name of *Britain*, in the same manner as the Island, when as hee placeth *Thule*, an Isle of the Sea, in *Britain*. That is to say, just as *Sicily*, *Corfica*, *Sardinia*, and other Isles in the *Tyrrhen* Sea, haveⁱ in Law been reckoned parts of *Italie*, yea, and continent thereto: For, *Sicily* (after that the *Romans* became Lords of the adjoining Sea flowing between) was called^k *Regio Suburbana*, as if it had been part of the Suburbs of *Rome*; and all these together with *Italie* and the Sea it self, made one Bodie or Province; so all the *British* Isles before mentioned, with great *Britain* and the Seas flowing about it, might well be termed one Bodie of *Britain* or of the *British* Empire, forasmuch as the Seas as well as the Isles, passed alwaies into the Dominion of them that have born Rule within this Nation: From whence perhaps it hapned, that the *Romans* conceived the *British* Empire consider'd apart by it self, to be of so great a bigness, that^l *Britain* did not seem to bee comprehended by the Sea, but to comprehend the Sea it self, as it is express't by that *Panegyrist*.

ⁱ L. 9. ff. tit. de Judiciis & l. 99. ff. tit. de V. S.

^k Cicero *Acti-*
one 2. in Ver-
rem, & Flo-
rus, lib. 3. cap.
19.

^l *Panegyric.*
Maximiano
dict. Si mihi.

That

That the Dominion of the British Sea, followed the Conquest of great Britain it self, under the Emperors Claudius and Domitian.

CHAP. IV.

After that the more Southerly part of Britain had been brought into subjection by the Emperor *Claudius*, and the Isle of *Wight* taken in by surrender, the *British Sea*, as of necessitie following the fate of the Island, was together with it annexed to the *Roman Empire*, at least so far as it was stretched before that part of the Isle which was subdued. Whereupon, a ^a Poët of that Age write's thus to the Emperor *Claudius* touching the Conquest of *Britain*,

^a *Anonymus*,
Epigr. vet.
lib. 2. & in
Catalect. vet.
Poët. lib. 1.
tit. 7.

*Aufoniis nunquam tellus violata triumphis,
Ieta tuo, Caesar, fulmine procubuit.
Oceanisque tuas ultra se respicit aras;
Qui finis mundo est, non erat Imperio.*

**That Land where Roman Triumphs ne're
appear'd,
Struck by thy lightning, Caesar, down is
hurl'd.
Since thou beyond the Sea hast Altars
rear'd,
Thy Empire's bound is larger then the
World.**

And then hee goe's on,

*Euphrates Ortus, Rhenus recluserat Arctos,
Oceanus medium venit in Imperium.*

**Euphrates Eastward did thy Empire bound,
And on the North the Rhene,
The Ocean in the middle being plac't,
Did lie as part between.**

Here hee saith, that the Sea it self was with *Britain* subdued to the *Roman Empire*; as afterward also hee speak's more expressly.

*At nunc Oceanus geminos interluit Orbes:
Pars est Imperii, Terminus antè fuit.*

**But now the Sea betwixt two worlds doth
flow;
The Empire's part, which was its Bound
till now.**

The *British Sea* was the Bound of the *Roman Empire* between *France* and *Germanie*. But immediately after the Conquest of *Britain* it became a part of the Empire. Hee proceed's again thus;

*Oceanus jam terga dedit; nec pervius ulli
Cæsareos fasces, imperiumque tulit.*

**The Sea's subdu'd; and though it were
till now
Open to none, to Cæsar's Sword doth Bow.**

And then,

*Illâ procul nostro semota, exclusâque cælo
Alluitur nostrâ victa Britannis aquâ.*

**Though conquer'd Britain far from us do lie
The Water's ours that on the Shore flow's by.**

Hee

Hee call's the Sea *Our water*, beeing no less conquer'd, than the Island it self. From whence also hee writes, that the Roman Empire was begirt with the Roman Sea, to wit, after *Britain* was subdued,

Quam pater invictis Nereus vallaverat undis.

Which the Sea had fortified with unconquer'd waters.

The Empire of the waters ever followed the Dominion of the Island. And ^b *Seneca*, concerning the same Emperor and this Sea, saith,

^b *In Octavia,*
Act. 1.

_____ paruit liber diu
Oceanus, & recepit invitus rates.

En qui Britannis primus imposuit jugum,
Ignota tantis classibus textit freta.

The long unconquer'd Sea obedience gave,
And, though unwilling, did his ships receive.
Hee first the Britains to the yoke brought down,
And with huge Rabbies cover'd Seas unknown.

Moreover, the same Author in *Apocolocyntosis*;

Fussit & ipsum

Nova Romanae

Jura Securis

Tremere Oceanum.

Hee gave new Laws unto the Sea, as Lord,
And made it tremble at the Roman Sword.

This is plainly to be understood of the *British* Sea. And *Hegesippus* an old Autor (representing the person of King *Agrippa* speaking to the Emperor *Claudius*) saith, ^c *It was more to have passed over the Sea to the Britains, then to have triumphed over the Britains them-*

^c *De Excidio*
Hierosolymit.
lib. 2. cap. 9.

^d In Claudio,
cap. 17.

selves. But what could they do, when the Elements were once subdued to the Roman Empire? The Sea taught them to bear the yoke of servitude, after that it self had upon the arrival of the Roman Shipping acknowledg'd an unusual subjection. Hence it was also, (as ^d Suetonius saith) that in honor of the Prince, the resemblance of a Ship was fixed upon the top of the imperial Palace. But these particulars relate onely to the more Southerly part of the Sea. *Claudius* never had any Navie sail to the North; For, his Conquest reached not so far. But the Romans sail'd about the Island first in the daies of *Domitian*, and then it was, that they first discover'd and subdued that remotest part of the Sea. *Tacitus*, in the life of *Agricola* who was Lievtenant in the Province of *Britain*, saith, the Roman Navie sailing then the first time (under *Domitian*) about the Island, affirmed this Coast of the remotest (*Caledonian*) Sea to bee the Isle of *Britain*, and hee discover'd and subdued also those Isles called the *Orcades*, which had been unknown till that time. To the same purpose also speak's *Juvenal*,

^e Satyr. 2.

————— ^e arma quidem ultra
Littora *Juverna* promovimus, & modo captas
Orcadas. —————

We have born our Arms beyond the Irish
Main,
And th' *Orcad's* Islands which were lately
tane.

Lately taken hee saith, that is, in the time of *Domitian*. And therefore it is a manifest error in *Eusebius Hieronymianus*, who saith, That *Claudius* added the *Orcades* Isles to the Roman Empire: yet hee is followed by *Orosius*, *Cassiodorus*, *Eutropius*, *Bede*, *Nennius*, *Ethelwerdus*, and others. But the contrarie is sufficiently proved

proved out of *Tacitus* alone, a very grave Autor, and one that lived at the same time. But as to those passages found in ^f*Valerius Flaccus*, ^g*Silius Italicus*, ^h*Statius*, and others, touching the *Caledonians* and *Thule's* being subdued before the daies of *Domitian*, they are so to be understood onely, that wee are to conceiv either after the manner of the Poëts, that the name of the more Northerly *Britains*, is, by the figure *Synecdoche*, used for all whatsoëver, and *Thule* it self for any part of *Britain*; or elf that the *Caledonians* generally among the *Romans*, signified those *Britains* that were but a little removed from the Southern Shore. For, even ⁱ*Florus* write's, that *Julius Cæsar* pursued the Southern *Britains* into the *Caledonian Woods*: That is, plainly, into the Woods of the more Southerly part of *Britain*: But when *Julius Agricola* had, in *Domitian's* time, reduced the Isle by force of Arms both by Sea and Land, and sailing round about with a Navie, had discover'd the *Caledonian Sea* properly so named on every side, which the *Britains* (as hath been observed already) called the *secret part or Closet of their Sea*, and had taken in the *Orcades*; wee ought to conclude that then that more Northerly Sea also was added to the Roman Empire, and so that the *Romans* were Lords over all the *British Sea*, no otherwise then of the Island: Which also is confirmed in plain terms by *Tacitus*, who speaking of *Agricola's* design to war upon the *Caledonians*, saith, hee first provided a Fleet, which attended in gallant Equipage to back his Forces; at which time hee prosecuted the war at once both by Sea and Land, and oftentimes in the same Camp, the Hors and Foot and the Sea-Souldiers mingling mirth and companie together, extoll'd every one their own hazards and Adventures; one while they boasted the heights

^f *Argonautic.*
lib. 1.
^g *Punic.* lib. 1.
^h *Sylvarum,*
lib. 5. in *Pro-*
treptico ad
Crispinum,
Veſiii Bolani
proprætoris,
sub Vitellio,
Britanniæ
filiæ.

ⁱ *Lib. 3. cap.*
10.

heights of Woods and Mountains; another while the dangers of Storms and Tempests; some vaunted of their exploits against the Enemy by Land, others of their Conquests by Sea, making comparisons, souldier-like, with many bravado's. The Britains also, as it was understood by the Prisoners, were at their wits end upon the sight of his Navie, as if upon this opening the Closet or secret part of their Sea, there remained no farther refuge in case they were overcome. This is a most clear Testimonie touching the Dominion of the British Sea, shewing that the Britains and Caledonians first, and the Romans afterward became Lords thereof. A doubt hath been made by learned men, whether *inlargement of Dominion*, or *Conquest by Sea*, should bee read in that place: But both the Readings plainly point out an acquisition of Dominion. And if you read *inlargement of Dominion by Sea*, it signifie's that the Caledonian Sea was then annexed to the other Sea, which together with the more Southerly part of the Isle, had by the Emperor Claudius been added to the Roman Empire. And that the British Sea was thus reduced at that time under the Roman power, as a perpetual and inseparable appendant of the Island, was perhaps conceited by ^k Papinius, when hee thus bespake Domitian, in whose time this Conquest was made of the Britains;

^k Thebaidos,
lib. 1.

———— maneas hominum contentus habenis,
Undarum Terraque potens —————

**Long maist thou joy in the Command,
Of men, and sway both Sea and Land.**

^l Jac. Chiffetius, in Epist. Dedicat. ad Libellum, de Portu Iccio.

Truly, a ^l late Writer also saith, that Julius Caesar did assert to himself a Dominion over British Isle and Sea. And this hee saith upon very good ground, whilst hee join's the Dominion of both together, as undivided.

vided; but upon none at all, when hee ascribe's onely a Dominion of the Isle to the same *Cæsar*.

Touching the Dominion of the Romans in the British Sea, as an appendant of the Island, from the time of Domitian to the Emperor Constantius Chlorus, or Diocletian.

CHAP. V.

BUT the *romans* having (as wee told you before) subdued both the Island and the Sea that roll's about it; as they managed the Government by Presidents and Lieutenants at Land, so by a chief Governor called *Archigubernus*, with a numerous Fleet at Sea. For, by that name was the Commander of the *British* Navie called (or els *Archigubernius*, as it is in the ^m *Florentine* Pandects) which appear's also by the Epistles of *Javolenus*, a Lawyer; that lived under the Emperors *Adrian* and *Antoninus Pius*. *Seius Saturninus*,^a saith hee, *Archigubernus ex classe Britannicâ*, chief Governour of the *British* Navie, left *Valerius Maximus*, Captain of a three-Oard Gally, his heir or Feoffee in trust by Will; requiring him to yield back the inheritance to his Son *Seius Oceanus*, as soon as hee should bee seventeen years of Age. But the *romans* foreseeing there would bee a great deal of trouble and but small benefit, in subduing and holding the *Caledonian* Britains, they, leaving the North part of the Isle to the barbarous people, and retiring towards the South, did so limit their Land-dominion by rearing up Mounds or Walls before it, that wee must of necessitie suppose their Dominion was but small likewise by Sea. Those Mounds or Fences are frequently mentioned,

^m *Antoninus Augustin. de nominibus propriis. Pandect. Florentin.*
^a *F. iiii. ad Senatusconsult. Trebellian. lib. 46.*

in the Histories concerning the Emperors *Adrian, Antoninus Pius, and Severus*. But by that Fence which *Adrian* made and *Severus* repaired, being either a Wall or a Trench drawn through the * North parts, from the Eastern to the Western Shore, the Territorie of the *Romans* was confined almost within the same Limits which had bounded the Conquest of *Claudius*. But the other, which parted the Island in the middle between the *Estuaries* of * *Glotta* and * *Bodorria*, bounded the Roman-British Empire under *Antoninus Pius*, and after that in the time of *Valentinian, Valens*, and divers other Emperors their Successors: So that perhaps the *Romans* afterward had not much more of the Northern Sea in their Dominion, then what washed the Borders of these Territories. But after *seius saturninus*, the afore-mentioned Commander in chief of the *British* Navie under *Adrian* or *Antoninus Pius*, there is a deep silence among Writers touching the Sea-affairs of *Britain*, and almost concerning *Britain* it self, till the daies of *Diocletian*. And under *Diocletian*, the *British* Sea being infested, all along the Coast of *Britanie* and *Belgium*, by the *French* and *Saxons*, care was taken to quiet and secure it by sending forth *C. Carausius*, a man indeed of mean parentage, ° but expert both in Counsel and Action. And *Geffrie* of *Monmouth* writes, that hee made suit for this Government of the Sea, and promised to perform so many and so great matters for the advantage and enlargement of the *Commonweal*, more then if the Dominion of *Britain* should be committed to his charge. *Eutropius* also, speaking of the Infesters of the *British* Sea, over which this man was made Commander in chief by the Emperor as Lord thereof, so far as hee enjoyed the Dominion of *Britain*, saith, that hee oftentimes taking many

of.

* That is to say, *Yorkshire, Lancashire, Bishoprick of Durham, Westmerland, and Cumberland.*

* *Cluyd* and *Forth.*

° *Eutropius, hist. 9.*

of the barbarous people, and not delivering the prizes to the Lieutenants of the Province, nor sending them to the Emperors, reserved them to himself; therefore when it began to be suspected, that hee permitted the barbarous people on purpose to fall upon those that conveyed the Prizes, that by this means hee might enrich himself, a command being given by the Emperor Maximianus to kill him, hee thereupon turn'd Usurper; and possessed himself of Britain. At length, having fortified himself both by Sea and Land, hee held the joint-Dominion of both for 7 years, as inseparable; being slain by his companion C. Allectus, who enjoied the same 3 years as his Successor. And then hee also (after hee was brought to so low a pass by the Emperor Constantius Chlorus, who had cross't the Sea in person on purpose to reduce him, that hee knew not what to do, and seem'd to be imprisoned rather then fortified by the Sea, as saith the ^P Autor of the Panegyrick to Maximianus) was at length, by the valor and conduct of the Pretorian prefect Asclepiodotus, overcome and slain: And thus both the Isle and the Sea together was recover'd after ten years time, so far as it flow'd before that part which was under the Roman Jurisdiction. Nor was it upon any other ground, then this ten years usurpation in Britain, that those Coins were made with the Inscriptions both of C. Carausius and C. Allectus IMP. C. CARAUSIUS P.F. AUG. and IMP. C. ALLECTUS. P.F. AUG. But wee have placed here a counterfeit of that brass Coin which was made by Allectus, that you may observe the three-oar'd Gally on the revers of it, with the Inscription VIRTUS AUGUSTA, whereby I

p Panegyrick. Si mihi Caesar.



conceiv hee gave to understand, that this Empire of Britain chiefly depended upon the Dominion of the Sea flowing about it. Touching the recovery of Britain thus together with the Sea, there is also a notable Testimonie in that Panegyrick, whereof som conceiv Mamertinus, others Eumenius to bee the Autor. O how great is this Victorie (saith hee) and worthie of innumerable Triumphs! whereby Britain is recovered, whereby the French are utterly destroyed, whereby moreover those many Nations that were engaged in the same mischievous conspiracie, are forced to a necessitie of yielding; And lastly, for our perpetual peace, the Seas are scour'd and rid of Pirats! Glory then, O unconquerable Caesar (hee speak's to Constantius Chlorus, the afore-named Emperor) that thou hast purchased another world, and added to the Empire an Element greater then all the Earth, by restoring the glorie of the Roman power by Sea. Hee saith a greater Element, in a rhetorical flourish, in stead of the British Sea, which hee thus expressly affirm's to have been recover'd together with Britain it self. It is observable also, that the Romans alwaies so spake concerning the Empires, of Britain, and of the Sea called by its name, as inseparable. Making mention likewise of that pest, which consumed onely within the bowels of Britain, or of the imminent danger then attending the Roman Empire, *It was bounded* (saith hee) *with no mountain or river, which was not secured by Guards at the place appointed. But although wee shared in your valor and felicitie, yet like a Ship it was exposed in every place to great terrors, wheresoever the Seas are spread or the winds do blow.* And a little after, saith hee, *By this Victorie not onely your Britain is redeem'd from vassalage, but securitie of traffick restored to all Nations, which might have run as great hazard at Sea in time of war, as they gain benefit by peace.* Hee expressly call's the

Government also of *Allectus* a Force of Rebellion by Sea, and it appears, saith hee, that the very Isle of Britain, which had harbor'd a treason of so long continuance, is made sensible of your Victorie by being restored unto it self. Together with the Conquest of Britain it self, all the strength of Shipping was lost, which, upon *Allectus* his usurpation in Britain, must needs as a perpetual Concomitant of the Island, have been of very great use against the Emperors. But the Panegyrist goes on; In other parts indeed som things remain which yee may acquire, as you pleas or see caus; but beyond the Sea what was left except onely Britain? which you have so recover'd, that those Nations also which border upon that Island, are wholly at your devotion. There is no occasion to proceed farther, except you design (that which is impossible in nature) to finde out the bounds of the Sea. What Nations are those here that border upon Britain, except those that lie beyond-Sea, whose Shores were conjoined with the British Empire as it was then accounted, or with the Sea-bounds of the Province of Britain, that is, in the British Sea? As the French, and the other adjoining Nations. For, it is not to bee understood of those little Isles which are next to us; their Inhabitants not being worthie the repute of Nations. Not was it agreeable to the Majestie of a Panegyrick, to aggrandise the Emperor's glorie by such pettie things. But by and by in the following Chapters wee shew, that those Nations adjoining to the bounds of Britain, or whose bounds are united to the bodie of the British Empire, were those very Inhabitants of the continent of France, whose Shores are contiguous to the bounds of the British Sea, which in a civil sence was accounted a part of the Isle it self, or Territorie united therewith. For, the Panegyrist proceed's thus to the explanation

of those words : *By the means of thy Victories, O Constantius, most victorious Emperor, all those parts that lay waste and desolate about the Countrey of Amiens, and Beauvois, and Troies, and Langres, now thrives again by the labor of the rude Husbandman.* In like manner, *Carolus sigonius*, out of the same Autor, saith, * *By this Victorie not onely Britain it self was recover'd, but the Coasts of France also, Spain, Italie, and Africa, were freed from the perpetual incursions of Pirats.* That is to say, by the taking in of Britain, with the Sea, and the naval strength that was its Guard, not onely the neighboring but even the remotest Provinces bordering on the Sea, were made secure and free, seeing they were all threatned by this war or rather rebellion by Sea, which might have raged and wandred as wide as the Ocean, and into the streights of the Mediterranean Sea; which are indeed the very words of the Panegyrick. So that you see, to restore or reduce Britain, to recover it, to suppress a Sea-Rebellion here, and to scoure this Sea, were esteemed under such a consideration, that, the one beeing don, the other followed, by reason of the inseperable Dominion of the British Isle and Sea together. And when Britain was lost, the Naval Forces of the Romans, whereby the Sea was guarded, were lost in like manner. But when it was reduced, even these also were reduced together with the Sea.

* *De occidentali imperio, lib. 1.*

Touching

Touching the Dominion of the Southern and Eastern Sea, as an Appendant of the British Empire, from the time of Constantine the Great till the Romans quitted the Island. That it was all under the Command of the Count of the Saxon Shore throughout Britain. Also concerning the British Navie, under the Romans.

CHAP. VI.

IN the following Age, the manner of Administration of Government beeing changed about the time of *Constantine*; as the *Pretorian Prefect of Gallia* had a Deputie under him to order the Civil affairs of *Britain*; and as the *Magister Militum occidentis*; Hee that commanded the Militia of the West had an Officer under him called *Comes Britanniarum*, **Count of Britain**, and *Dux Britanniarum*, **Duke of Britain**, who commanded Forces for defence of the Midland parts of the Isle: So the said *Magister Militum* was wont at his own discretion to appoint som person of eminent dignitie to bee his Substitute, by the Title of ^a *Count of the Saxon Shore throughout Britain*, with Command over the Garrisons and Fortifications placed upon the South and Eastern Shore of *Britain*, and over all that Sea which flow's between *France, Spain, Holland, Denmark,* and great *Britain*, as over a part or bound, not bounding, but bounded by the *British Empire*, no otherwise then

^a *Notitia Dignitatum Imperii Occidentis.*

as a distinct Province of the same Empire; as most eminently appears by the very Title of the Dignitie or Command. For, the *Duke of Britain, and Count of Britain*, were as the *Count of Tingitania*, the *Count of Spain*, and very many others of the like kinde, denominated from those Lands and Countries over which they were put in Command. And such of these Dignities or Commands as were for defence of any Frontiers or Borders, took name ever from the Borders. Upon which account it is, that among the Imperial Offices or Commands wee meet with *Comes limitis Ægypti*, **the Count of the Egyptian Border**, ^b the *Prefect of Euphrates*, the *Prefect of the Bank of Danubius*, and the ^d *Count of Danubius*, and those ^e to whom the Charge and Defence of the river *Rhine* was committed: For these Rivers were Bounds or Limits of the Roman Empire. And it is the opinion of ^f learned men upon good ground, that the Counts or Dukes of *Rhine* are meant by those words concerning the River of *Rhine*. But as the Northern and Eastern Bounds of the Roman Empire were denoted by the names of the Rivers *Danubius*, *Rhine*, and *Euphrates*, so clearly also the name or Limit of the *Saxon Shore* pointed out the Eastern and more Southerly bound of the *British* Empire, or that which was reduced by the name of *British*, as an entire bodie, under the Roman power. So that whatsoever reached as far as that Limit, lay properly under the command of the *Count of the Saxon Shore in Britain*, as Governor of the Sea-Territorie, as an appendant of the Isle. But that Territorie or Province subject to this particular Dignitie or Command, reached through the very *British* Sea, from the Shore of *Britain* to the Shores on the other side
of

^b *Noiia*
Dignit. Orient.

^c *Inscript.*
Gruter. fol.
1090.21.

Ibid fol. 490.

^d *Sidonius*
Apollinaris in
Panegyric.

Anthemio

^e *L. 9. C.*

Theodos. lib.
7. tit. 1.

^f *Marquard.*

Freber. Orig. Palatin.
part. 1. cap. 3.

of the Sea, or those which lie over against our Isle of Britain, in France, the Low Countries, Holland, and Denmark; so that what Sea or Islands soever lay between near the British Shore, appertained all to the Command of the aforesaid Count, as to the charge of an Admiral belonging to a Province or Territorie.

But that those opposit Shores were all known at that time by the name of the Saxon Shore, is evident both out of *Ptolomie*, *Marcianus Heracleotes*, *Zosimus*, and the like, and also out of the Register or Breviary of the Dignities of both the Empires. For, ^b *Ptolomie* and ^a *Marcianus* place the Saxons at the entrance of the River *Elbe* which lie's near *Cimbrica Chersonesus* or the West-part of the Kingdom of Denmark, as also in *Cimbrica Chersonesus* it self. And that Shore took the name of Saxon from their first and most antient habitations. But beeing the most eminent people of *Germanie*, they by driving out their Neighbors enlarged their habitations Southward, all along the *Batavian*, *Belgick*, and *French* Shore. From whence ⁱ *Zosimus* write's, that about *Constantine's* time, they possessed themselvs of the *Hollander's* Countrie at the entrance of *Rhine*. And becaus they seated themselvs near these Shores, and by their frequent excursions thence infested both Sea and Land all along the Sea-Coast of *France*, it was called not onely the Shore of those Saxons, or the Eastern bound of the *British* Empire; but also that *Belgick* and the whole *Gallicane* Shore, which lie's over against our Isle of Britain, was term'd the *Saxon Shore*, and the *Saxon limit* or Border. Touching the Shore of *Denmark* and *Holland*, where they had more enlarged their habitations, the point is manifest by

^a *Geograph. lib. 2.*

^b *In Periplus.*

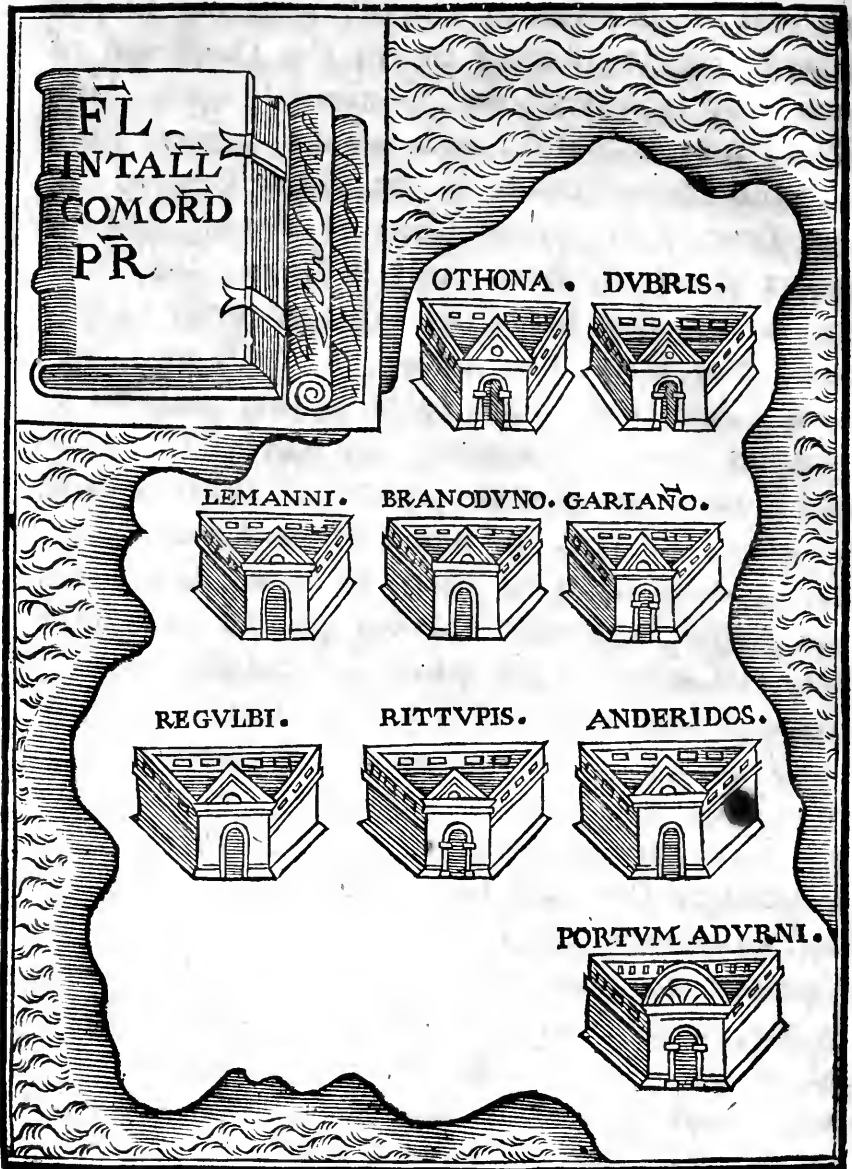
ⁱ *Histor. lib 3.*

what wee have alreadie mentioned. And the Register or Breviarie of the Imperial Dignities speak's exprefsly in like manner touching the Belgick and Gallican Shores. For, in it wee finde, that under the charge or command of the Duke of the Tract of * *Aremorica* (which reacheth from the *Western Gallia*, or from the mouth of the River of *Loire* to the entrance of *Seine*) there was a *Tribune of the first new band of Souldiers of Armonica and Grammona upon the Saxon Shore*. There, the *French Shore* lying over against our South part of *Britain*, is called in plain terms the *Saxon Shore*. For, in the same Breviarie, under the Command of the Duke of that part of *Belgica secunda*, (which reacheth from the entrance of the River *Seine* to that of the River *Maze*, and comprehend's *Flanders*) wee finde *Equites Dalmatas Marcis in littore Saxonico*, **Dalmatian Horsemen at the Borders on the Saxon Shore**. And the *Saxon Shore* is evidently set forth in the signal Ornaments of the same Duke. So all that which reacheth from *Cimbrica Chersonesus* or the West-part of *Denmark* to the *Western Gallia*, is exprefsly call'd in the Breviarie the *Saxon Shore*, which hapned not onely from the frequent depredations made then upon that Sea-Coast by the *Saxons*, but by their Excursions and often acquiring of habitations all along that Shore. So that nothing could have been more plainly spoken, to shew that the whole Sea lying between, was possessed at that time, as an appendant of the Island, by the Lords of the South-part of the Isle; except a man should suppose, that those places which are extended from the proper habitation of a *Count, Duke, or any other Officer in Command for defence of Borders*, unto those Borders from whence

hee

* Breitain in France.

hee was denominated or entitled, were not subject either to his Jurisdiction or to the Dominion of those that bestowed the Command upon him. Which truly is absurd, and wholly different from the usual administration of the Roman Empire. But that Count of the Saxon Shore in Britain, had his proper places of abode onely in Britain; and, under the Romans, that Magistrate belonged onely to Britain. Nor were those Saxons any other then Enemies. And their Shore, so far as they possessed it, was an Enemies COUNTRY. Moreover, this Count had Houses, at his own pleasure, in either of those Garrisons, Towns, or nine Maritim Cities, which beeing seated upon the Shores of *Suffex, Kent, Essex,* and *Norfolk*, hee alwaies had them painted out near the Sea, and added to his grand Commission, for the signal Ornaments of his Office. The names of these Cities were *Othona, Dubris, Lemmanis, Branodunum, Gari-anum, Regulbis, Rittupæ, Anderidos (or Anderida)* and *Portus Adurni*. Besides, both the Deputie of Britain, and the Duke, and Count of Britain, had their signal Ornaments given in like manner with their Commands. This had a pourtraicture of the Isle it self, drawn in the form of a Castle fortified in the Sea. The Duke had certain Midland Towns. And the Deputie those five Provinces—into which the Isle was divided by the Romans; as you may see in the *Breviarie of Dignities*. Where the afore-mentioned Arms of the Count of the Saxon Shore are represented after this manner;



to wit, the very same that was wont to be drawn in his Commission. But as to what concern's those Maritim Cities or Towns in these Ornaments; if wee may believ^k such as are well verst in the affairs of Britain, Othona was seated upon the Shore of the Trinobantes which lie's before Dengy hundred in the

^k Guil. Camden in Suffexia, Cantio, Effexia, Norfolkia.

the Countie of *Essex*. *Dubris* is the same with **Do-
ver**. *Lemannis* was placed about **Hith** on the *Kentish*
Shore. *Branodunum* was no other but **Branchester**
upon the Shore of *Norfolk* near the walhes between
that and *Lincolnshire*. *Garianum* was either **Gerne-
mutha**, or som place near it. *Regulbium* or *Regulbis*
was situate upon the Northen Coast of *Kent*, bee-
ing called now **Reculber**. *Rittupis* or *Rbutupia* was
seated in *Kent* at the entrance of the River *Wantsum*;
Perhaps it was the same with **Richborow**. *Ande-
ridos* stood upon the Bank of the River *Rothermouth*,
and is now called **DeWenden**. And lastly, *Portus*
Adurni became a little Village, now called **Aldzington**,
near **Shoreham** upon the Coast of *Suffex*. But the
very Form and Fashion of the Book pictured in
those Ornaments, which in the Manuscript Copies
of the *Breviarie* (as *Pancirollus* saith) is of a purple
or yellowish color, did signifie the Instructions of the
Emperor. And if wee may believ *Pancirollus*, the Let-
ters inscribed upon it signified in the Notaries lan-
guage, *Felix Liber injunctus Notariis laterculi, continens*
Mandata ordine Principis, seu Primicerii, who was the
principal Notarie. The very same Inscription is
sometimes found in the Ornaments of other Go-
vernors. But who they were which the *Count of the*
Saxon Shore throughout Britain had under his own
Command, for defence of the afore-mentioned Do-
minion by Sea, and what manner of Officers, is
expressed in the *Breviarie* after this manner;

¹ *Ad Notiti-
am Digna-
tum occiden-
tis, cap. 72.*

*Sub dispositione viri spectabilis, Comitis litoris Saxonici,
per Britanniam.*

Præpositus numeri Fortensium, Othonæ.

Præpositus Militum Tangricanorum, Dubris.

Ff 3

Præpos.

Præpositus numeri Turnacensium, Lemannis.

Præpositus equitum Dalmatarum Branolunensis, Branoluno.

Præpositus equitum Stablefiani Garrianiensis, Gariannoni.

Tribunus cohortis primæ Vetasiorum, Regulbio.

Præpositus Legionis II Aug. Rutupis.

Præpositus numeri Abuleorum, Anderida.

Præpositus numeri Exploratorum portu Adurni.

*Officium autem habet idem Vir Spectabilis
Comes, hoc modo.*

Principem ex officio Magistri Præsentium à parte peditem.

Numerarios duos, ut supra, ex officio supradicti.

Cornicularium;

Adjutorem;

Subadjutam;

Regendarium;

Exceptores;

Singulares, & reliquos Officiales.

The names both of the Souldiers and Officers are to be found in *Pancirollus*; this being no place for a Commentarie, to explain them to such Readers as are not well vers't in the Storie of the Roman Empire in its declining state. But I shall give an account of their numbers, as it is cast up by *Pancirollus*, that you may the better know what those Garrisons were which were imploied at that time, to guard this Sea-
 appendant of the British Empire. ^m Under this Count (saith hee) was one Legion or Regiment perhaps of a thousand Foot, and six Companies; perhaps one thousand two hundred, and two Troops of Hors almost two hundred. The whole amount's to almost two thousand two hundred
 Foot

^m *Ad notitiam dignit. Occid. cap. 72.*

Foot, and two hundred Hors. For, ⁿ Constantinus Porphyrogenneta write's, that at this time there was a Regiment of a thousand Foot. So hee. Now, the Ships and Souldiers belonging to the Navie are not mentioned in the *Breviarie*, at least not by this name. But as there were Troops of Hors disposed against the Landings of Enemies (in case any should happen;) so there is no reason to doubt, but that the Souldiers belonging to the Navie were list'd in the Companies and Legion. After which manner likewise *Flavius Vegetius* saith, that ^o at *Misenus* (now called *Monte Miseno*) and at *Ravenna*, several of the Roman Legions continued with the Fleets, that they might not bee at too great a distance from guarding the Citie, and that they might as occasion required, bee transported in Shipping to all parts of the world. Hee reckon's those Souldiers belonging to the Navie, among the Regiments of Foot, or under their Name. But in the mean time it is to bee observed, that the ^p most diligent Inquirers into the Roman affairs, whilst they Treat of their Fleets, do besides that of *Ravenna* and ^q *Miseno* (of which this latter lay nearest to *France*, *Spain*, *Barbarie*, *Africk*, *Egypt*, *Sardinia*, and *Sicily*; the other was wont to sail in a direct course to *Epirus*, *Macedonia*, *Achaia*, *Propontis*, *Pontus*, the *East*, *Crete*, and *Cyprus*; which are *Vegetius* his own words; both of them beeing first instituted and appointed there by ^r *Augustus Caesar*, to guard the Provinces bordering upon the Sea, with the Sea it self, and called also *Pretorian*, for the more reputation) they do (I say) for the most part add onely two more that were set forth to Sea, but of less account. The one was placed at *Friuli*, in that part of *France* called ^s *Gallia Narbonensis*, The other in the

very

ⁿ Lib. de
Themaribus.

^o De Re militari, lib. 4.
cap. 21.

^p Lipsius de
Magnitudine Romana, lib. 11.
cap. 5. sed &
vide Jul.
Cæs. Bullinger. de Imperio Romano, lib. 6. cap. 6.
^q De quibus item Tacitus lib. 4. *Annal.*

^r Suetonius in Augusto, cap. 49.

^s Tacit. *Annal.* 4. *Strabo*, lib. 4.

^v Joseph. Ha-
lof. lib. 2. cap.
26.

very ^c *Euxin* Sea. And it is for the most part agreed, that the *Romans* had onely four constant or more eminent Fleets at Sea. They do indeed rightly add also som other constant Fleets which belonged to Rivers, as that of the *Rhine*; and *Danubius*, of which sort also may bee reckoned that belonging to *Mysia* called *Mæsica*, and another also belonging to *Pannonia* or *Hungarie* called *Pannonica*, and others of the like nature. But among these there were certain Barks or nimble Vessels call ^u *Lusoria* or *Lusuria* (in *English* wee may call them *Flie-boats*) wherein they scouted out as far as the remotest Banks and the Castles built upon them, to guard the Bounds of the Empire. And under this notion the name of these *Lusoria*, was restored by ^x *Claudius Salmasius*, according to two *Laws* in the ^f *Code of Justinian* which were before sufficiently corrupted. And as in Rivers they for the most part used these *Lusoria* or lesser Vessels; so in the Sea they made use of Pinnaces, the least whereof had single Ranges of Ores; those that were a little bigger, double Ranges; and those of a middle size or proportion had three or four, and sometimes five, as wee are told by *Vegetius*. But now, notwithstanding that those diligent Inquirers into the defences and Fortifications of all sorts belonging to the old Roman Empire, are wont, when they mention any Navie of *Britain*, to speak slightly or in terms obscure enough; this nevertheless is most certain, that there was among the standing Guards of the *Romans*, not onely a particular Fleet of Pinnaces or light Vessels belonging to *Britain*, wherewith they guarded this Sea whereof wee speak, as an appendant of the Isle of *great Britain*; but also that they had not any other Navie in the outer Sea, or any

^u *Cod. Theo-*
dof. 7. tit. 17.
de Lusoriis
Danubii.

^x *L. 4. C. de*
Offic. Milit.
Judic. & l. 4.
C. de Offic.
Magistri Of-
ficiorum.

^y *In notis ad*
Flavium vo-
piscum, pag.
475.

any Shipping at all upon the Sea-Coasts of *Spain* or *France*, without the *Mediterranean Sea*. At least, it is no where mentioned by ancient Writers. Which is no slight Testimonie, that the Sea and the Isle together made up one entire Bodie of the *British* Empire, as it was then devolved unto the *Romans*, and also that such a Custom was at that time in force upon the Sea, so far as it belong'd to *Britain*, that the like could no where bee found at least in the more *Western* parts, there beeing no other *Sea-Province* among them. There is (besides that ordinarie instance^z alleged before out of the *Digests* of the *Civil Law*, concerning *Seius Saturninus* Commander in chief of the *British* Navie under *Antoninus* or *Adrian* the Emperor) exprefs mention made also by ^b *Tacitus* of this *British* Navie, where speaking of the affairs of *Cerealis* and *Civilis* under the Emperor *Vespasian*, Another fear, saith hee, had possessed the minde of *Civilis*, lest the fourteenth Legion beeing assisted by the Navie of *Britain*, should infest the * *Batavians* upon the *Sea-Coast*. And therefore that learned man *Lipsius* had no ground to conceiv that this was part of that Fleet of small Vessels called *Lusoriae*, whereby the River *Rhine* was guarded; to wit, that part of it which guarded the entrance of the River near that place called the *British Tower*, whereof wee spake before in the third chapter of this book. For, it was even the whole Navie of *Britain*, and that which belonged wholly to the Sea, not having any relation at all to the Rivers. And that it belong'd to the Sea, appears not onely by the thing it self, but also by what hath been already spoken, and what shall bee said in the next chapter touching the *Count of the Saxon Shore*; so far at least as wee may
G g
bee

^z Chap. V.
^a L. 46. ff. tit.
 ad Senatus
 consul. Tre-
 bellianic.

^b *Historiar.*
lib. 4.

* *Hollanders.*

bee able to judg of the former (as wee often use to do) by the latter court that was taken in ordering affairs, and disposing of Guards and Garrisons. But that this was a compleat Navie, and had a peculiar Prefect or Commander in chief over it, is testified by a fragment of an antient Inscription in a Palace at Rome, called *Palatium Capranicense*, wherewith truly that name of Prefect of the *British* Navie was utterly lost. Yet it appear's thereby that such a Prefecture or Command there was, not of the least note among those antient dignities of the *Romans*, and that it was committed to the same man that was likewise Prefect of the two Navies called *Classis Moesica* and *Pannonica*; as also Proconsul and President of the *Alps*, Sub-Prefect of the *Pretorian* Navie, and Tribune of the sixteenth Legion. The form of the Inscription stand's thus.

c *Janus Gruterus*, p. 493.

.....

 PRAEF. CLASS. BRIT. ET MOESIC.
 ET PANNONIC. PROC. ET PRAESIDI
 ALPIUM SUBPRAEF. CLASS.
 PRAET. TRIB. LEG. XVI.
 FL. ECPREPUA.

Moreover, it is no light Argument to prove, that in those times there was frequent use of that Navie in guarding the *British* Sea, as a part of the Province of *Britain* (as hath been already said;) and that upon this ground, becaus the very name of those scouting Skips which were joined with the bigger sort of Pinnaces or light Vessels upon the Guard, was borrowed

borrowed by the Romans in their writings from the Britains; after the same manner as they took the name of those Boats called *Copuli* from the Germans, which^d were likewise of that sort of Vessels called *Lusoria*, imploied in guarding the Rhine. The Romans observed that the Britains called those Vessels *Pyctas*. *Flavius Vegetius*, who in the Reign of the two *Valentinians*, composed his Books concerning the affairs of the Roman Militia, out of the Commentaries of *Cato*, *Celsus*, *Trajan*, and *Hadrian*, saith, ° scouting Skiphs are joined with the bigger sort of Pinnaces, that had about *twentie* Rowers in all; which skiphs the Britains call *Pyctas*. In these they use to make assaults and inroads upon a sudden, and somtimes intercept the provision and supplies of their Enemies Shipping, and by diligent watchfulness discover their approaches or counsels. And that their Scouts may not bee discover'd by their whiteness, they die the Sails and Tackling with a blewish color, like the waves of the Sea. They besmear them also with wax as they use to trim their Ships. Yea, and the Seaman or souldiers put on clothes of the same blewish color, so that they are the less discernable as they scout about, not onely by night, but also by day. So far hee. And the printed Books do generally render these Vessels here *Pictas* or *Pyctas*. But som Manuscripts, that have been used by *Godescalcus Stewechius*, call them *Picatas*; and also wee read *Picatas* in two Manuscripts belonging to the King's Librarie at *S^t James*, as I was inform'd by that learned man and my very good friend *Patrick Young*; from whence it is, that, in the old *French* translations of *Vegetius*, it is rendred one while *Picaces*, another *Pigaces*. But saith *Stewechius* upon the afore-mentioned place, It seem's more probable to mee that they were called *Pincas*, *Pinks*; For, even at this very day there is such a kinde of

^d Videtur Lips. ad Tacit. Hist. lib. 5. num. 36. & de Magnitud. Romanâ, lib. 1. cap. 5.

^e De re Militari, lib. 4. cap. 37.

*Vessel known both in Britain and Holland. And the ordinarie name is **Gen Pincke**. But howsoever the case hath stood, here wee see in *Vegetius*, that the scouting Vessels were employed together with the Pinnaces, and their name so observed according to the *British* language of that Age, that there appears not the least ground to doubt, but that *Vegetius* was of opinion also, that those Vessels were either constantly or very frequently in use among the *Britains*, and in the Sea-Province of *Britain*. So, it is acknowledged by every man, that those words *Gesum* a **Javelin**, *Trimarcia* **Three Horses**, *Essedum* a **Chariot**, *Petoritum* a **Wagon of four Wheels**, *Bracca* **Breeches**, and others of that kinde, borrowed either from the *Gauls* or *Britains*, and received by the *Romans* into their own Language, do sufficiently set forth the use of those things which they signifie either in *Gaul* or *Britain*. Moreover also, *Vegetius* in this place so join's together the manner of guarding the *Sea* and the subtile sleights they made use of for that purpose, that there is no reason at all why wee should not believ, that they were then used by the *British* Souldiers which served at *Sea*, or who had command over the small Vessels called *Pyete* or *Picate* in those *Guards* by *Sea*.*

An Examination of the Opinion of some learned men, who would have the Saxon Shore, from whence that Count or Commander of the Sea throughout Britain had his Title, to be the British Shore on this side of the Sea; which is plainly proved to be fals.

CHAP. VII.

BUT truly certain learned men, either treating (as it often falls out) of some other subject, or else being too careless in considering the matter, do otherwise interpret that Dignitie or Command of the Count of the Saxon Shore throughout Britain; And in such a manner, that if their determination were to be admitted, the proof or testimonie before-alleged touching a Joint-Dominion of the Sea together with the Isle, in that Command under the Romans, would plainly fall to the Ground. These men are of two different Opinions. Some would have the Shore of Britain it self or that which is on this side the Sea, to be called onely the Saxon, in the naming of this Dignitie or Command: Others would have it to be both the Shore of Britain, and all that Shore also which fetches a compass like a half Moon from the Western part of Denmark as far as the West of France, and lies over against Britain. But truly, they are both extremely mistaken.

The Autor of the former opinion is *Guidus* ^a *Pancirollus*, who writes that the Shore or Limit within

^a *Ad Notitiam Dignit. Occid. cap. 72.*

the Island was so denominated from those Saxons, who were called in hither by *Vortigern* King of the South part of Britain, to his assistance. The Saxons (saith hee) possessed part of the Island, from whence a limit or bound that was rear'd over against them by one that was made Count, was called Saxon. Then which nothing could have been more ignorantly spoken, if you reflect either upon the thing it self, or the course of times. For, omitting this, that in the *Breviarie of Dignities* it self no mention is made at all of a Saxon Bound or Limit, but of a Shore (notwithstanding that *Pancirollus* in the Inscription of his Commentarie entitle's the Commander that wee speak of, *Count of the Saxon Limit throughout Britain*) the *Breviarie* was written in the Reign of *Theodosius* the yonger, or in the year *CCCCX*, as learned men do commonly agree. That is to say, of that time, the frame of the whole Government of the Empire, both in the East and West, having been over-grown long before, was with very great diligence digested as it were into one entire Book of Offices and Dignities. But the Saxons, as most of the Antients tell us, came first into Britain in the year of our Lord *CCCCXLIX*. But suppose, what upon better consideration may perhaps be allowed, that their arrival ought to be reckoned in the ^b year *CCCCXXVIII*. that is in the *XXI* year of the Reign of *Theodosius* the yonger, yet in the mean time this is most certain (which is here in the first place to be observed) that Britain was utterly abandoned by the Roman Governors, before they were called in. Doubtless they were as ^c *Gildas* write's brought in by King *Vortigern* to drive back the Northern Nations, the *Picts*, and *Scots*; not the Romans, who had bidden farwel to the Island. Neither

^b *Apud Guil. Camden. in Brit. pag. 95. & vide Tho. Lidiat in Temp. Emen. dat. pag. 238.*

^c *In Epist. de Excidio Britanniae.*

ther had the Romans or their Dukes or Counts any thing at all to do within the Isle with the Saxons. So that it must needs bee gross ignorance in Histories, and in the Calculation of time, to set down any Saxon Limit or Saxon Shore in the Island it self, whilst the Roman Empire flourished, or had any kinde of Autoritie in this Countrie. Nothing therefore is more evident then that the Shore lying on the other side of the Sea over against the South and Eastern Coast of Britain, as wee described it before, was called the Saxon in that Dignitie or Command. Moreover also that Count of the Saxon Shore throughout Britain was far more antient, and known by an addition thereto of the Sea-Coast or of that Sea which was comprehended in the Roman jurisdiction throughout Britain, or in the bodie of the British Province. For, *Nectaridius* was invested with this Dignitie in the time of *Valentinian* the first, or about the year of our Lord *CCCLXX*; as is testified by ^d *Amnianus Marcellinus*, where hee saith, information was given by a Messenger, that Britain was reduced to an extreme low condition by a barbarous Conspiracie; and that *Nectaridius* Count of the Sea-Coast, and *Buchobaudes* the Duke were surprized unawares by the craft of the Enemy. Nor is any difference to bee imagined between the Dignitie of the Count of the Saxon Shore, in this sense, throughout Britain, and that which the fore-named *C. Carausius* received at *Boloigne* in France, to scour the Sea along the Coast of * *Belgica* and *Bretaigne*, which (as *Eutropius* and *Orosius* say) was infested by the French and Saxons. For, that even hee also had places of strength and Mansion-houses belonging to his Government in Britain, appear's sufficiently upon this ground; that when *Maximianus* had given order to

^d *Histor. lib.*
27.

* *Gaul* was by the Romans divided into four parts; of which *Belgica* was one, containing *Picardie* part of *Champagne*, *Burgundy*, with so much of *Germanie* and the *Netherlands* as lie's on this side the *Rhine*,

put him to death, hee immediately usurp't in *Britain*, and reigned after for the space of seven years. So, the Governor here or *Count of the Sea-Coast*, and the *Count of the Saxon Shore*, being ever accounted the same, held the sole Government of *Britain* and the Sea belonging thereto. To whom also wee may add, as differing onely in name, not really, the Prefect or Admiral of the *British* Navie, under the *Romans*, mentioned in the former chapter. Wee confesse indeed, that the Duke of *Belgica secunda* and the Duke of the Countrie of *Aremorica* before-mentioned, was by the verie nature of his place to afford supplies for the guarding the Sea and this Shore beyond Sea: For, they also, as hath been observed, had Garrisons seated upon this *Saxon Shore*. But it is chiefly to be observed here, that these beyond-Sea-Dukes were according to the nature of their Dignitie or Office to take care, not so much of the Shore or Sea, as the Continent; and that from thence, as you see, they took their names. This from the Tract of *Aremorica* and * *Ebroica*; which being extended through five Provinces, *Aquitania prima* and *secunda*, *Senonia*, *Lugdunensis secunda* and *Tertia* (which comprehend's the lesser *Britain* and *Normandie*) contained almost all that which was commonly called by the name of *Gallia*; But the other had its name from *Belgica secunda*. Nor was there one Count or Duke of the Midland Countrie, and another of the Shore or Sea-Coast in *Gaul*. But in *Britain*, the Counts or Dukes of the midland parts and the *Count of the Sea-Coast* or *Saxon Shore*, had distinct charges, distinct Forces, and the signal Ornaments of their Offices wholly distinct. Just as if the *Roman* Emperors would have it signified by this very thing, that as the Sea it self

ε Præter
Notitiam &
Pancirollum,
vide Joseph.
Scaligerum
ad Ausonium,
lib. 2. cap. 6.

* *Ebroica*
now called
Eureux.

self did by particular Right alwaies belong unto the Empire of the Island, so the Sea-affairs and their protection to the *British* Command and Jurisdiction of the *Saxon Shore* or that beyond-Sea; but that both the Dukes of the Continent or main Land of *Gaul* lying right before it, were bound so to send relief, as occasion should require, against the *Saxon* Invasions, that in the mean time the sole care of the sea it self, as a particular Province given in charge, lay upon him that was made Count of the *Saxon* shore throughout *Britain*. And if any Duke or Count either of *Aremorica* or *Belgica secunda*, was called by the name of Duke or Count of the *Saxon shore* (as some would have) it was don doubtless upon this ground, becaus the *Saxon shore*, lying over against us on the other side of the sea, did bound their Land-Government; as it did also the Sea-Jurisdiction of the aforesaid Count throughout *Britain*.

† *Jos. Scaliger. in lect. Auson. lib. 2. cap. 6. & Guil. Camden. in Brit. pag. 96.*

Nor indeed is that other Opinion any more to be admitted, which saith; That our *British* shore was at that time called *Saxon*, as well as that which lies over against it or beyond-sea: And so that the name in the Dignitie or Office of the aforesaid Count, doth signifie the shore on this side the sea. Of this Opinion is † *Abrahamus Ortelius*, I conceive, saith hee, that the *Saxon shore*, in the *Breviarie*, doth signifie the Eastern part of *Kent*, seeing that *Dubris*, *Rutupis*, and other Towns of *Kent* are described therein. Hee hath indeed very eminent men for his Followers, ‡ *William Camden*,^h *Paulus Merula*,ⁱ *Philippus Cluverius*, and some others. And they add this for a reason; becaus both shores, as well this on this side the sea, as that on the other side, took name from the *Saxons* that used Piracie in very great numbers upon this sea: And therefore that

† *In Thesaur. Geograph.*

‡ *In Kent, pag. 230. h Cosmograph. part. 2. lib. 3. cap. 31. i German. Antiqua, lib. 1. cap. 18.*

the *British shore* also is set forth in the Title of that Count. But this is a manifest Error. Wee know indeed the Writers of that time do say, that both the shore over against ours and the neighboring Sea, was infested by the frequent depredations and Invasions of the Saxons, and (to say nothing of their antient habitations upon the *Danish* and *Batavian* shore) that they settled their abode there: And therefore that it was thence named *Saxon*, is in a manner out of doubt among learned men. But concerning the Saxons thus frequenting that shore, there are testimonies beyond all exception. ^k *Sidonius Apollinaris*, of the Coast of *Bretaign* in *France*, saith,

^k *Panegyric.*
ad Avitum
August. seu
Carm. 7.
Adde eum lib.
8. Epist. 6.

Quin & Aremoricus piratam Saxona tractus
Sperabat.————

———— hope then reviv'd the Bretaigns stout,
The Saxon Pirates being driven out.

¹ *Histor. lib.*
27.

And ¹ *Ammianus Marcellinus* saith, that under the Emperors *Valentinian* and *Valens*, the Coasts of *Gallia* were wasted by the *Franks* and *Saxons* bordering upon them, every one making excursions as far as they could by Land or Sea, with grievous plunderings, firings, and slaughters of such as they took Prisoners. Add moreover, that *Saxones Baiocassini*, the Saxons of *Baiour* are mentioned by ^m *Gregorie* of *Tours*, as antient Inhabitants upon the shore of *Aremorica*: So that the reason is evident, why the name of *Saxon* was given to the shore over against ours. But truly wee read not any where, that the *Saxons* had at that time either settled themselves upon the shores of *Britain*, or were wont to sail thither, or that they infested any thing of *Britain*, except the Sea. Nor do wee finde so much

^m *Lib. 5. cap.*
26.

as the least sign or evidence, whereby to conjecture that the name of *Saxon* was either due or given at that time to the shore of *Britain*. And it was never heard (I suppose) that any shores, which have been of any account or fame, should have taken a new name either from a meer passage, or a bare infesting of the Sea by such as sail along the Coast, without landing. Especially, in the setting forth of a Dignitie or Command, which cannot bee don, except an addition bee made in the mean time of the name of the Land, whereto the shore it self did indeed belong. Run over all the Dignities which are recorded in the *Breviarie* of both Empires; you will finde none set forth by any other denomination, then either from a Bound or Frontier it self, as those that were appointed for the defence of Bounds and Frontiers; or elf from a more known and certain name of some Province, as the rest. Wee know indeed, there was a Haven among the * *Morini*, which lay over against us on the other side of the Sea, called heretofore *British*, or, as ⁿ *Plinie* names it, *Portum Morinorum Britannicum* the **British Port of the Morini**: which name ^o learned men would have to bee derived from our *Britain*. But (supposing it to bee *Calais*) they would have it so denominated becaus of *Julius Cæsar*'s crossing over from that Port into *Britain*. Now, it doth not appear by the like, or any equivalent reason, that the shore, which belongs to *Britain*, was called *Saxon*, in the time of that Dignitie whereof wee speak. And doubtless, there is no improbabilirie in reason, that the *British* Port of the *Morini*, might in the daies of *Plinie*, or of the Emperor *Vespasian* (which is all one) bee denominated from the riding of such Ships as were imploied under the *Romans* to guard the neigh-

* The *Morini* were a people of *Belgica*, bordering upon the Sea, and seated between *Artois* and *Picardie*.

ⁿ *Nat Histor. lib. 4. cap. 23.*

^o *Jacob Chiffetius, in Portu Iccio, cap. 6.*

boring Sea, so far as it was *British*, and subject to the Lieutenancie or Jurisdiction of *Britain*. But truly if the very shore of the Island had been meant in the Dignitie of that *Count*, whereof wee speak, whose Office was to guard the Bounds, how compendiously might hee have been called *Count of the British shore*? For, what ground had there been for so singular a circumlocution of words, as *Count of the Saxon shore throughout Britain*, if it had been the very shore of *Britain*? It is plain, that as in the Imperial Offices there was an Officer called *Magister Militum per Orientem, Magister Militum per Thracias, per Illyricum, peditum per Occidentem, a Master (or Commander) of the Militia throughout the East, a Master of the Militia over all Thrace, Illyricum, and of the Infanterie or Foot throughout the West*; so alio that this Officer was called *Count throughout Britain*. That is to say, every where throughout *Britain*, so far as it belonged to his particular charge, that is, as far as was necessarie to guard the bounds of the Empire, placed next to the *Saxon shore*, or that which is on the other side of the Sea. And so the words, whereby this Dignitie is expressed, are to bee distinguished that hee may bee plainly called *Count throughout Britain*; but *of the Saxon shore, or Bound beyond-sea*, upon the same account as other Dukes or Counts in Command over Bounds or Frontiers were wont to bee entitled. And there is an eminent example to this purpose in the Bound of the *German Empire*, which was held by the *Romans*. It was the River *Rhine*. The Guard of the *Rhine* was wont to bee committed to a Lieutenant or Governor; as appears by ^pHistorians, and out of ^qthe Code of *Theodosius*. But yet the Bank on the other side of *Rhine* was the bound

^p Zonaras,
Tom. 2. alii.
^q L. 9. C. The-
odos. lib. 7. tit.
1.

of this Government, and so of the German Empire, not the Bank on this side. From whence also *Postumius* being entrusted with this charge under the Emperor *Gallienus*, is by the Emperor *Valerian*, in an Epistle of his sent unto the French, called *Duke of the Bound beyond Rhine*; as wee learn out of ^r *Trebellius Pollio*. Also; the *Bound beyond Rhine*, that is, the Bank beyond the Rhine is recorded by ^r *Flavius Vopiscus*. Thus, usually the Proconsul of *Asia* had the whole streight of *Hellepont* under his Command as far as the shores of *Europe*, as is shewn in the fourteenth chapter. And certainly, the Count of the Saxon shore throughout *Britain*, is after the same manner to be reckoned Count of the shore or bound on the other side of the Sea, and so of the whole Sea flowing between, as an established Officer in the Government of *Britain*. And this also is very much confirm'd out of another place of the very *Breviarie of Dignities*, where mention is made of the several Jurisdictions of those Counts which were under the Command of that eminent person entitl'd *Magister Militum Præsentalis*. In the printed Copies of the *Breviarie*, wee read it thus;

^r In *Uiginta Tyrannis*.

^r In *Tacito Augusto*.

Sub dispositione viri illustris Magistri peditum Præsentalis, Comites Militum infra-scriptorum;

Italia,

Africa,

Tingitania,

Tractûs Argentoratensis,

Britanniarum,

Litoris Saxonici per Britannias.

In the Edition both of *Alciatus* and *Pancirollus*, it is read, as wee render it here, *Militum infracriptorum*. Yet doubtless the word *Limitum* **Limits** ought to bee put in stead of *Militum* **Souldiers**: For it is not agreeable to the nature of the Imperial Offices, that the word *Militum* should bee admitted in that place. And it appear's most certain by those things which follow, that *Italie*, *Africa*, the Tract of *Strasburgh*, *Britain*, and the *Saxon Shore*, had their respective *Counts*, as *Comites Limitum* **Counts of the Limits** or Bounds, no otherwise than those Territories which are added there next after; as *Mauritania Casariensis*, *Tripolis*, and other Provinces in like manner, besides *Britain*, which had their respective *Dukes* likewise, by the name of *Duces Limitum* **Dukes of the Limits**. But now both the *Duke* and *Count* of *Britain* had the very Shore of the Island for their Limit or Bound. And therefore seeing it is so, what Limit had that *Count* relation to, was who entituled of the *Saxon Shore* throughout *Britain*, if you will not yield that hee took his Title from the Shore lying over against us? There was a *Duke*, and a *Count* of *Britain* (simply so called) besides a *Vicarius* or *Deputie* of *Britain*, who governed the whole Island according to their severall charges; and wee finde in the *Breviarie*, that both the *Duke* and the *Count* and the *Deputie* had for the signal Ornaments of their Offices, the whole Island, but in severall Forms, encompassed with the Sea; even as the *Count* of the *Saxon Shore* had the Isle in like manner, encompassed with Sea-Towns or Ports. Also, it is manifest by those which are set forth in the *Breviarie* of *Dignities*, that the *Deputie*, *Duke*, and *Count* of *Britain* had the very Territories of the Isle for the
Limits

Limits of their Government, and so also that they extended themselves to the very Shores every where throughout the Jurisdiction of the *Romans*. So that also both the *Duke* and *Count of Britain* ought to have been entitled in like manner from the *Saxon Shore* as from a Limit or Bound, if the Shore of *Britain* had been called by this name at that time. For, wee plainly see, that the Islands of *Britain* themselves, so far as the Isles about it are comprehended under that name, are expressly described under the notion of Limits, in that Catalogue of Dignities relating to *Limits*, which wee have cited out of the *Breviarie*. Therefore from hence also it appears, that Limit which was the *Saxon Shore* is to be reckoned without the Island, and so in the Shore over against us or which lies beyond Sea, according to that which wee proved before in our Discours. Nor truly, is it to be passed over without observation, seeing there are very many signal Ornaments, of Sea-Provinces and Jurisdictions, as well as of those within Land, pictured in the *Breviarie*, and this according to the Form or Fashion received from those that had the supreme power, by the principal Secretaries or others who drew up the Commissions; That not only no Ornaments at all are found in the Dignities of the West, wherein there is any Tract of the Sea, except those which belong to the Government of Jurisdiction of *Britain*, nor indeed in the Dignities of the East, except the Counts of *Egypt* and *Isauria* (both whose Ornaments had a Sea-border about them;) but also that the Sea was ever placed round about in the signal Ornaments belonging to the four several Governments or Jurisdictions of *Britain*, that is to say, that of the *Deputie*, the *Duke*, the *Count*, and lastly, the *Count of the Saxon Shore throughout*

out Britain. Just as if the *Romans* would have had it signified thereby, that no other Province at all, nor any other Jurisdiction whatsoever had either a Dominion of the Sea so amply conjoined, mingled, and as it were incorporated within it self, or a protection and command of a Territorie by Sea.

Som Evidences concerning the Sovereigntie and inseparable Dominion of the Isle of Britain and the Sea belonging thereto, out of Claudian, and certain Coins of the Emperor Antoninus Pius.

CHAP. VIII.

FROM the Dominion of the *British* Sea, as being continually united to the Island, or an inseparable concomitant thereof (as hath been already shewn you) proceeded, as it is very probable, those passages of *Claudian*, who seldom speak's of the quieting, recovering, or subduing of *Britain*, but hee add's also the Sea it self, as that which did necessarily accompanie it. Speaking in honor of the Emperor *Honorius*, touching the original of his Family, which was out of *Spain*, he saith,

^a Panegyric,
de 4. Consu-
latu Honorii.

—————^a *Cunabala fovit*
Oceanus. Terra dominos pelagique futuros
Inmenso decuit rerum de Principe nasci.
Hinc processit avus —————

**The Ocean rock't his Cradle. It became
Those who as Lords both Sea and Land
should claim,**

Of

Of nature's mightie Prince deriv'd to bee.
 From hence thy Grandfire had his pedegree.

That is to say, *Theodosius*, who after that *Nectaridius* Count of the *Saxon Shore*, as is before related, and *Buchobaudes* Duke of the Island, were slain, was sent into *Britain* by the Emperor *Valentinian* the first. But that which *Claudian* saith, concerning the affairs and actions of this *Theodosius*, relate's very little to the Sea, save that hee call's him *Conquerer of the British Shore*, and adds that *having vanquished the Saxon's, hee washed the Orcades with their Bloud*. Which is plainly to bee understood of his scouring the *British Sea* that was wont to bee infested by the *Saxons*. A little after also, concerning *Theodosius* the son of this man, or the Father of *Honorius*; that is, the Emperor *Theodosius* the first, hee saith,

*Sed laudes genitor longè transgressus avitas
 Subdidit Oceanum sceptris.*——

His Father did his Grandfire's Worth transcend.

And brought the Ocean under his command.

Which without question relate's to the recoverie of *Britain*, after the slaughter of *Maximus* at *Aquileia*, who had tyrannically usurped the Sovereigntie of the Island. The same Autor writing also in commendation of *Flavius Stilico* Tutor or Guardian of *Honorius* the yonger, bring's in *Britain* her self saying, *Stilico hath so fortified and secured mee,*

——— ^b ne Litore toto

Prospicerem dubiis Venturum Saxona ventis;

I could not see throughout the Shore, or stand
 One Saxon readie to cross oze and land.

^b De laudibus
 Stiliconis.
 lib. 2.

That is to say, hee rendred the Sea quiet and secure for mee; hee hath guarded and kept it for mee; hee hath driven away the Saxons from the use of it. In another place also, hee bring's in the Goddess Pietie speaking to *Honorius*,

*c In Eutropi-
um, lib. 1.*

—————^c *Quantum, te principe, possim,
Non longinqua docent: domito quòd Saxone Tethys
Mitior, aut fracto securo Britannia Pictis.*

**What progress I may make, during thy
Reign,
Some late examples tell us; since the Main,
The Saxon being tam'd, is grown more sure,
And Britain from the conquer'd Picts secure.**

The Protection of the Sea is in this place plainly con-joined with that of the Island. The same Poët also, to *Manlius Theodorus* the Consul, saith,

—————*Hispana tibi Germanaque Tethys
Paruit, & nostra diducta Britannia mundo.*

**Spanish and German Seas both yield to thee,
And Britain sever'd from our world by Sea.**

There was the same Dominion; the same Victorie, and the same Guardianship or Protection alwaies both of the *British Tethys*, or Sea, and the Isle it self. For, the *German Tethys* in this place is that part of the *British Sea* which flow's between *Belgium*, *Holland*, *Frisland*, the *Jutæ*, and *Britain*.

Add hereunto the form of the Province (which under the more antient Emperors was governed by a
President)

as it is found among the Roman Coins. It is represented in the Figure of a woman, clothed with a Pall or linen frock, sitting sometimes upon rocks, sometimes upon *the Globe* in the Sea, with a Militarie Ensign, a Spear, and a Buckler; as you have here pictured according the brasse-Coins of *Antoninus Pius*.

Thus they signified, that *Britain* had Dominion over the Sea about it, and the Roman Emperor over *Britain*. But we finde not any form of this kinde before the time of *Seius Saturninus*, the first *Prefect* (whereof any mention is made by the Antients) or Commander in chief of the *British* Navie, or of those Naval Forces, wherewith the *Romans* guarded the *British* Sea. Hee held this Command under *Adrian*, or *Antoninus Pius*, as hath been said already. And from hence it is that *Claudian* afterwards, when hee make's a Representation of *Britain* (being in a special manner, called the *Isle of the Sea*) hee clothe's her with a leathern garment so made as it were like waves of water, and died of a blewish color, that it wholly resembled the waves of the Sea; and hee put's the Sea under her feet. Thus hee indeed describe's her, when hee bring's in several Provinces, as *Spain*, *Britain*, and *Africa* demanding the Consulship for *Stilico* at *Rome*. And hee mention's *Britain* in a peculiar manner.



d De laudibus
Stiliconis,
lib. 2.

d Inde Caledonio velata Britannia Monstro,
Ferro picta genas; cuius vestigia verrit
Cærus, Oceanique æstum mentitur amictus.
Me quoque vicinis pereantem gentibus, inquit,
Munivit Stilico; totam cum Scotus Hibernam
Movit, & infesto spumavit remige Tethys.

In monstrous habit Caledonian-wife
Then Britain came; her cheeks had a dis-
guis

Of divers colors, which, to pleas the view,
In various forms an Iron Pencil drew;
Just at her heels the Sea it self did glide,
Her Mantle mock't the working of the Tide.
Hee and my Neighbors Stilico did save,
Quoth shee, and bravely rescue from the
grave;

When as the Scot mov'd Ireland to rebel,
And Pirates made great * Tethys foam and
Well.

* Tethys sig-
nifie's the
Sea.

A little before, there hee set's forth the hair of Spain with leavs of the Palm-tree, and her mantle imbroider'd with the River *Tagus*; And *Africa* with ears of Corn and Ivorie, after the same manner as it was stamp't in the Coins of *Antoninus Pius*. Both these are washed, and almost encompassed by the Sea. But the Poët then understood, that the Dominion of the adjacent Sea belong'd to neither of them, as it did to *Britain*: But as the Palms, and the River *Tagus* were peculiar to *Spain*; as the ears of Corn and Ivorie to *Africa*; so hee would have it understood, that the Province of *Britain* had the Sea of the same name peculiar thereunto. But yet it is to bee conceived, that

that the Dominion of the *Romans* was so limited in this Sea, according to their possession of the shore, that they had little power in that part of the *British* Sea, which border'd upon the shores of those *British* Nations, who were not under their obedience: This is to be taken chiefly of the *Irish* Sea, and the rest that lie's North-west. For when the *Romane* Empire began to decline, not onely *Ireland*, but the Isle of *Man* also, and the other Isles of the Western Sea, and a great portion of the more Northerly part of *Britain*, was possessed by the *Scots* and *Picts*; so that wee have sufficient ground to conceive, that they also had an antient Dominion of their own in the neighboring Sea. And so let this serv to have been spoken concerning the Empire or Dominion of the *British* Sea, in the time of the *Romans*, as that which by antient Right no less belong'd to the Isle and the Empire thereof, then either a Wall or Suburbs unto a Citie. Now wee pass on to the times of their Successors.

Touching the Dominion of the *British* Sea, after that the Inhabitants had freed themselves from the *Romane* power.

CHAP. IX.

WHEN the *Romane* Empire was declining under the Emperors *Theodosius* the yonger, and *Honorius*, and *Valentinian* the third, inso-much that they had not Forces sufficient to guard the Citie it self, then the *Britains* freed themselves
 I i 3 wholly

wholly from their Power; about CCCCCLXXX. years after the arrival of *Julius Caesar*, or in the year of our Lord CCCCXXX. That is to say, as ^a *Zosimus* writes, *They cast off the Roman Government, and settled a Common-weal after their own liking.* Then the Dominion of the Sea, as well as of that part of the Isle which was possess'd before by the *Romans*, returned unto the Natives. In the mean time, the *Saxons* inhabiting the shore over against us, hanker'd after it, who being a people extremely given to Piracie, the *Romans* were wont to appoint an Officer to drive them away, called the *Count of the Saxon shore* throughout *Britain*, as hath been shewn at large already. Nevertheless being sent for by the Southern *Britains* destitute of all manner of succor from the *Romans*, to assist them against the *Scots* and *Picts*, they at length got the whole Power here into their own hands. And so in that famous *Heptarchie* of theirs, the Kingdom was ever accounted of in such a manner, that even before the time of King *Egbert*, it was under the Power of som one King, which all the rest acknowledged as Supreme. These were driven out by the *Danes*; but questionless, they both had a Dominion by Sea conjoined with that upon Land. For it is not to be imagined, that they who were so accustomed to the Sea, and to whom before that time

^b *Sidon. Apollinaris Panegyric. ad Avitum Aug. seu Carm. 7.*

—^b *pelle salum fulcare Britannum
Ludus, et affuto glaucum mare findere lembo;*

**It was a sport to cut the British Main
In Leathern Barks, and plow the azure
plain.**

And whose Rowers or Mariners had you beheld, you would have

have thought you had seen so many Arch-Pirats, as *Sidonius Apollinaris* saith of the Saxons; And who did not onely know, but were familiarly acquainted with the dangers of the Sea; The very same thing is to bee said of the Danes also and Normans, (for, these names beeing promiscuously used, do very often signifie the same Nation) as is sufficiently attested by *Regino*, *Dudo*, the Monk of *Mahmsburie*, *Abbo*, *Gemiticensis*, and others; It is not, I say, to bee imagined, that these people having gotten possession either of the Isle or shore, to which the Soveraigntie of the Sea did so neerly appertain, should not in like manner have possessed the Sea, also lying before it, by right of Dominion. Nor is it perhaps altogether unworthie to bee considered, that these Saxons had so great, so singular and admirable an acquaintance with the Sea and Sea-affairs, that by an exquisite observation of the Tides and * *Ebbings* of the Sea, they were wont to reckon their months and years, yea, and to frame Computations of years thereby. A thing not to bee parallel'd by any example. And as the more antient Husbandmen used to reckon daies and hours by the time of yoking their Oxen; and as most other Nations measured years and daies by the course of the Sun and Moon, (as things most to bee regarded before others, in the improvement and various use of those Lands that they possessed): so these alone distinguished their yearly and monthly periods, by the meer reciprocal motion of the Sea, which they were so well acquainted with, and by its various beating upon the shore in Ebbing and Flowing, as that whereof special notice was to bee taken in that kinde of life. Moreover, as they say the *Egyptians* derived their skill in *Geometrie* from the measuring of their Fields, after the

c Li.8. Epist.
6.

* The *Ebbs* they called *Ledones* or *Lidunas*; the *Tides* they called *Malinis*.

Inun-

Inundation of their River *Nilus*; so it is not to be doubted, but that our Saxons derived this strange artifice, never heard of in any other Countrie, from a very frequent use and perpetual observation of the Sea. Concerning which, hee that would know more, may peruse our venerable ^d Bede first, and after him ^e Joseph Scaliger, ^f Dionysius Petavius, and ^g Olaus Wormius. But that the whole Nation was very much accustomed to Sea-affairs, and not onely those that border'd upon the Sea, may be collected from thence, that otherwise it would hardly be believed, that the Nation it self could have kept an accompt of Times and Seasons, by the various course of the Sea: For it could not possibly be, but that such an accompt would have been either useles, or too difficult for those that were not used to the Sea. Yea, without doubt it was no small cause of their calling the Saxons into the Island, that they being most expert Sea-men, might guard the Sea, which having been newly deserted by the Roman Navie, lay open at that time to the Invasions of Enemies on every side. Thus much indeed seem's to be signified by ^h Ethelwerd an anti-ent Writer, speaking of their coming hither. *In those daies, (saith hee) the Britains heard that the Saxon was a Nation active in Piracie or Navigation, and strong in all kindes of Necessaries for warr, throughout all the Sea-Coast from the River Rhine, as far as the Citie Donia, which is now commonly called Danemare. To them therefore they sent Messengers with extraordinarie great Presents, desiring aid, promising them a peaceable intercourse and amitie. Thus they that were wont before to infest the British Sea, are invited to its protection and amitie. And truly, that the Britains had a very special care at that time of the Sea-affairs, and so of the Guardianship of their*

Sea,

^d De Natura Rerum, cap. 28.

^e De emendatione temp. lib. 2. pag. 162. & in Appendice ad conjectan. in Varronem pag. 181.

Edit. 1581.

^f De Doctrina temp. li. 2. cap. 70.

^g In Fastis Danicis, lib. 1. cap. 11.

^h Lib. 1.

Sea, appear's from thence; that in the storie of Britain, wee read concerning the most famous King Arthur and Prince Malgo, that by many bloudie Battels they either added or recover'd six Comprovincial Isles of the Sea, (which are the very words of Geofferie of Monmouth) that is to say, Ireland, and Shetland, Gotland, the Orcades, Norway, and * Dacia, to their Dominion; yea, and Groenland, and all the other Countries and Islands of the Eastern Sea as far as Russia, and many other Islands beyond ¹Scantia, even to the farthest part of the North. And that which wee finde in Nennius the Scholar of ^kElvodugus, is to bee understood of this time; to wit, that Cuneda the Grandfather of Magolcunus a Prince of the Southern Britains; drave the Scots out of all the Countries and Islands of Britain. Certainly, for the effecting of this, it was necessarie there should bee a very great strength in shipping; for the guard and securitie of the neighboring Sea.

* By Dacia, here is meant Denmark.
ⁱ Vide Guil. Lambard de prisca Anglorum legibus pag. 137.
^k Ms. in Bibliotheca Cottoniana.

It is proved, both from the very beginning of the Saxons Reign, as also from their Forces and Victories by Sea, that the English-Saxons, and Danes, who ruled the South-part of Britain, had Dominion over the Sea.

CHAP. X.

BESIDES what hath been already said of the Saxons, during their Reign here, there are also in ancient Records divers other particulars, which more plainly shew, that both they and the Danes had

Dominion over the Sea, whilst they reigned in Britain. Those particulars I divide into four parts: The first respect's the *Original of the most Potent Kingdom of the Saxons.* The second, *the Naval Forces and Victories of the following time.* The third, *the Tributes and Duties of fiduciarie Clients or Vassals* belonging to the maintenance of the Navie. Lastly, several plain and most evident testimonies concerning the *Soveraigntie of the English-Saxon Kings* at that time over the Sea.

In the first beginning of the Reign of the *English-Saxons*, I reckon both the coming of *Oetha* and *Ebissa*, invited hither by *Vortigern* upon the perswasion of *Hengist*, as also the arrival of King *Aella* in *Sussex*. Hee possessed himself of the Sea, and the Southern shores; they of the Northern. Concerning the Naval Forces of *Oetha* and *Ebissa*, ^a*Nennius* the Scholar of *Elvodus*, who usually passeth up and down also by the name of *Gildas*, speak's thus; *They sailing about the Picts, with fortie Vessels, called * Ciulæ, spoiled the Orcade's Islands, and came and possessed very many Isles and Regions beyond Mare Fresicum, (meaning Bodotria or the Firth of Edinburgh) which lie's between us and the Scots, even as far as the Borders of the Picts. And Hengist by degrees drew those Ciulæ to himself, so that they forsook the Isles which they inhabited.* It could hardly bee more plainly expressed, that the Nation beeing accustomed to the Affairs of Navigation and Wars by Sea, having thus gotten a great part of *Britain*, did first secure that inseparable Appendant of the Island or the Sea; having brought over a numerous Force, for the accomplishment of this design. As to what concern's *Aella*, they write, that hee with his sons *Cissa* and *Cimennus*, and a Navie very well appointed with Militarie Forces, arriv'd upon the shore of *Sussex*,

near

^aMs. in bibliotheca Cottoniana, & partim apud Camden. in Britan. p. 91.
*These Ciulæ were full of Saxons, which Sidonius call's Pandos Myoparones, Vessels built somewhat long and narrow.

near *Witering*, ^b *Cimentshoze*, so called heretofore from this *Cimentus*; and that having driven away the *Britains*, hee possessed the *Sea-Coast*; and sending daily for new Aids out of *Germanie*, hee at length enlarged his Kingdom along the Eastern shores, as far as the River *Humber*, and was the first of the *English Saxons* that attained here to so large a Dominion. Also, that his posteritie enjoied this Kingdom about *LXX* years. But truly it could hardly bee, that they who were eminently powerfull in shipping, and had made so happie a Progress upon the shore, should not in like manner bee Masters of the Sea it self; especially seeing wee finde not the least testimonie that any others were at that tirne, of any considerable strength in shipping upon this Coast.

But as for the *Naval Forces and Victories* of the succeeding Kings, both *Danes* and *English-Saxons*, they are to bee seen every where in *Joannes Asserius* Bishop of *Shirburn*, *William* the Monk of *Malmsburie*, *Henrie* Arch-Deacon of *Huntingdon*, *Roger Hoveden*, *Florentius* of *Worcester*, and *Florilegus*; but especially in the Acts of *K. Alfred*, *Edward* the elder, *Athelstan*, *Edgar*, *Ethelred* and *Harold*. And questionless, long after the beginning of the *Saxons* Reign, this Countrie flourish'd not a little in shipping for the mainteining of the Sovereigntie of the Sea, as may bee collected both from the Customs of the Nation already mentioned; and the frequent use of Navigation, from which the Merchants that used to traffick on both the shores were prohibited, upon the occasion of a difference that arose betwixt *Charls* of *France*, (afterwards Emperor) and *Offa* King of the *Mercians* among the *English-Saxons*, to whom the rest were in subjection. Yet a freedom thereof was restored not long after, by an agreement of extra-

^b Cart. Ced-walle R. apud Camden in. Britann. pag. 223.
^c Ethelwerd lib. 1. c. 3. ca. 3. Henric. Huntindon. lib. 2.

^d In Epist. apud Guil. Malmshur. de de gestis Regum, lib. 1. c. 5. Et in operibus Alcuini inter Epistolas, p. 1669.

^e Gesta Normann. ann. 840. Malmsh. lib. 2. cap. 2. &c.

ordinarie benefit and advantage to the *English-Saxons*, as wee finde in ^d *Alcuinus*, and *William* of *Malmshurie*. But before *K. Alfred*, their power began to decreas by Sea, and that especially in the time of *K. Ethelwolph*, when the ^e *Danes* or *Normans* infested not onely the shores, but also almost the whole Island, after a most grievous manner, and seized upon most of the Isles by force, which lie on the west of *Britain*. And so all was exposed to the mercie of *Pirats*. But after that *Alfred* was invested in the Kingdom, the defence of the Sea was restored, and its Dominion establish- ed; concerning whom, that *Asserius* Bishop of *Shirburn*, his Tutor, writes thus: *Hee* gave command for the building of *Boats* and *Gallies*, that is, long ships through- out the Kingdom, that hee might prevent his enemies, and fight them by Sea, and putting *Pirats* aboard them, hee charged them to guard the passages of th Sea. And a little af- ter, *Hee* commanded also his Sea-men, to keep all relief of Vi- Etual from going to the *Enemie* by Sea. Hee used the word *Pirats* in this place (as others of that age have don) not for *Robbers*, as 'tis commonly taken; but for such as beeing skill'd in Sea-affairs, were appoint- ed to set upon the *Enemie's* Fleets, and defend the Dominion by Sea: Touching the derivation of the word, the old Scholiast upon *Sophocles* his *Ajax*, saith; Πειρα Απικως δδλος ε τεχνη. οθεν εγ Πειραται οι ετ' εα- λασαν κακδργοι, That is, *Pira*, in the *Attick* Tongue, signifie's craft or art, and hence it is, that they are called *Pi- rats* which infest the Sea. But when the *English-Saxons* and *Danes*, in the time of *K. Alfred*, were ever and anon strugling for the *Soveraigntie* in *England* (for, *Gurmundus*, or *Guthrunus* King of the *Danes*, was at that time settled in *Northumberland* as a *Fiduciarie* Client or *Vassal* to *Alfred*, and had very large Territories in the East,

East-part of England) their Fights were mostly by Sea, as if they had both been of opinion, that hee which could get the Dominion of the *British Sea*, would by necessarie consequence become Lord also of the Land, or of that part of the Isle which lies before it. For this caus also it was, that the *Danes* growing strong at Sea, *K. Alfred* mightily augmented his Naval Forces, by building ships twice as long as the *Danish* ships, deeper, nimbler, and less rocking or rolling, and so much more convenient for Sea-Fights. *Florentius* the Monk saith, *In the same year* (that is to say, the year of our Lord *MCCCXCVII.*) the Forces of the Pagans residing in *East-England* and *Northumberland*, using Piracie upon the Sea-Coasts, did grievously infest the *West-Saxon's* Countrie, with very long and nimble ships, which they had built divers years before. Against whom ships were built by the Command of *K. Alfred*, twice as long, deeper, nimbler, and less waving or rolling by whose force hee might subdue the aforesaid ships of the *Enemy*. It is related also in the same words by *Roger Hoveden*. But *Henrie of Huntingdon*, speaking expressly of the number of Oars that served for the rowing of these ships of *Alfred*, saith, *King Alfred* caused long ships to be made readie; to wit, of 40 Oars or more, against the *Danish* ships. But there are ^f *Chronicles* written in the *Saxon* Tongue, that speak of ships of 60 Oars, and larger, built by him at that time; out of which these Writers above-mentioned, and others of the like sort, have compiled theirs. The words of the *Chronicles* are these, þa her ðelpeo Cing timbrjan lange rcipu on gen þa ærcas þa þænon full neah tpa rpa lange rpa þa oðre. Sume hæfdon XL ana rume ma. þa þænon ægher ge rpirtran geunpealpan geeac heappan þonn þa

oðre.

^f Ms. Codices
bini, in Bibli-
otheca Collo-
nianâ, anno
897.

oðpe. næpon hi næpon ne on fpirife geycea-
 pen ne on denife buton fpa him jelfum þuhte
 þ hi nyt peophorte beon mihton, That
 is to fay, King Alfred gave command for the build-
 ing of long fhips to encounter the Danish. But they
 were twice as long as thefe; whereof fom had fixtie Oars,
 fom more. They were alfo more nimble, lefs rolling, and
 deeper then the other. Not built after the Frifian or Da-
 nifh manner; but fuch as hee conceived moft convenient for
 fighting. So that there is no doubt but the bufi-
 nefs of fhipping was mightily advanced in his Reign,
 among the *English-Saxons*, in order to the defence and
 maintenance of their Dominion by Sea. And wee
 very often finde, that thofe Sea fights managed by
 Alfred and his fon Edward, with various fuccefs, a-
 gainft the Danes, and Normans, were undertaken not
 without great numbers of Shipping. But in the
 time of King Athelstan, who was very ftrong at
 Sea, upon the *Irifh Nation* (faith ^e Huntingdon) and
 thofe that dwelt in fhips, there fell a fatal destruction.
 The *English-Saxon* words in the ancient Chronicles,
 from whence Huntingdon tranllated thofe, and which
 agree wth thefe, are, Scotta leode 7 scypplozan fage
 feollan, which fully fignifie the fame thing. For,
 Scotta leode or the *Scotifh Nation* and Scots are by the
 Antients often taken for the *Irifh*. Hee alfo (faith the
 fame Autor) led an huge Armie by Land and Sea into
 Northumberland and Scotland, and in regard there was
 none appear'd to make any oppofition, hee marched up and
 down the Countrey, and wafing it at pleafure, returned with
 Triumph; whereupon faith a ^h Poët of that time,

^h Apud Guil.
 Malmsbur.
 de geftis Re-
 gum 2. cap. 6.

Jam cubat in terris fera barbaries Aquilonis ;
 Jam jacet in campo, pelago, pirata, relicto,
 Illicitas torvafque minas Analavus anhelans.

Now is the Wilde and barb'rous North
brought down;

Now Analave, the Pirat, is o'rethrow'n,
Who having left the Sea, on Land doth
lie,

And spightful threats breath's out against
the Skie.

This *Analavus* was King of the ⁱ *Irish*, and of many Islands, who invading the Coasts of *Athelstan* with a Fleet of DCXV ships, at the mouth of the River *Humber*, received a great overthrow, and was put to a most shameful Flight. But King *Edgar* (as saith ^k *Florentius* of *Worcester*) sailing about the North of Britain with a great Navie, arrived at *Chester*, where his eight pettie Kings met him, as hee had given order, who sware fealtie to him, and that they would assist him both by Sea and Land. Or, as ^l *Huntingdon* saith of the same thing, they all did homage to him, declaring themselvs readie at his command to serv him by Sea and Land. Among these pettie Kings there was one *Maccusius*, whom *Hoveden* and *Florentius* call a King of very many Islands; and *Florilegus*, a King of Man, and very many Islands. *William* of *Malmsburie* call's him an Arch-Pirat, Moreover, the same King *Edgar*, as if hee intended to set forth the Splendor, magnificence, and as it were an Epitome of his whole Empire in Sea-affairs and Shipping, did (as say *Florentius* and *Hoveden*, during his abode at *Chester*) enter into a Boat, wherein hee was rowed by those pettie Kings, himself holding the Stern, and steering it about the River *Dee*; and beeing attended by all his Dukes and Peers in such another Vessel, hee sailed from the Palace to the Monasterie of *S. John Baptist*, where an Oration beeing made to him, hee returned in the same pomp unto the Palace.

ⁱ Roger Hovedenus, *Anal.* part. 1. Ann. 937. & Florent. Wigorn. ann. 938.

^k In anno 937.

^l Anno Edgari, 13. *Huntingdon.* l. 5.

In

In the very Entrie whereof hee is reported to have said to his Lords, that then his Successors might boast themselves Kings of England, when they should bee thus attended by so many Kings, and enjoy the state and glory of such honors; or, as Malmsburie writes of the same thing, when they should enjoy so great a Prerogative of honors: So many Kings as Vassals, to bee readie alwaies to assist with their Forces, whensoever they should bee required, both by Sea and Land. There is also a notable testimonie in the same Florentius, and the Monk of Malmsburie, how that this King sailed round about his Sea every year, and secured it with a constant Guard and Forces. Every Summer, saith Malmsburie, immediately after Easter, hee commanded his ships upon every shore to bee brought into a Bodie, sailing usually with the Eastern Fleet to the West part of the Island, and then sending it back, hee sail'd with the Western Fleet unto the Northern, and thence with the Northern hee returned to the Eastern, being indeed very diligent to prevent the IncurSIONS of Pirats; that is, behaving himself in this manfully (as say Florentius also, and Hoveden) for the defence of his Kingdom against Forainers, and the training up of himself and his people for warlike employments. Thus the Guardianship or maintenance of the Dominion by Sea is evident.

But as concerning the Fleets aforementioned, they each of them consisted of MCC ships, and these, as Writers say expressly, very stout ones; so that in the time of his Reign, the British Navie consisted of such ships to the number of Three thousand six hundred Sail, as ^m Florentius and Hoveden speak expressly. But others write, that these Fleets amounted to Four thousand ships; as ⁿ John Bramton Abbot of Jorvaux, others adding to these Three a Fourth Fleet, whereby the number is increased to Four Thousand Eight hundred Sail; as you may see

^m In anno

975.

ⁿ Ms. In Bibliotheca Cottoniarum.

see in *Florilegus*. So, as *Florentius* also saith, *Hee* by the help of God governed and secured the bounds of his Kingdom with Prudence, Fortitude, Justice, and Temperance, as long as hee lived, and having the courage of a fierce Lion, hee kept all the Princes and Lords of the Isles in awe. Wee read also in *Ordericus Vitalis*, of King *Harold* or *Herald*, that hee so guarded the Sea with a force of soldierie and shipping, that none of his Enemies could without a sore conflict, invade the Kingdom. So that wee cannot otherwise conceiv, but that these Naval Forces were at that time disposed, and the Sea-Fights undertaken, for the defence and guard of the Sea, as an Appendant of the *English-Saxon* Dominion in this Island. Especially, if wee duly compare these things alreadie manifest, with those which are added by and by to this particular, touching the same age.

The Sea-Dominion of the *English-Saxons*, and *Danes*, during their Reigns in *Britain*, observed in like manner, from such Tributes and Duties of their *Fiduciarie Clients* or *Vassals*, as concerned the maintenance of the *Navie*. Also, concerning the Tribute or Paiment called *Dane-geld*, which was wont to bee levied for the Guard of the Sea.

CHAP. XI.

Here follow next the Tributes and Duties of *Vassals*, concerning the maintenance of the *Navie* or Guard of the Sea; which are evidences also of that

that Sea-Dominion which was in the time of the *English-Saxons*. I call those Tributes, which were wont to be levied for the re-inforcing of the Navie, and for provision of Victuals for the Sea-men. Of which kinde were those that were levied, according to the value of men's estates in Land, for the setting forth of ships in the time of King *Ethelred*. For, at that time whosoever possessed *CCCX. Cassatos*, or *Hides* of Land, was charged with the building of one ship. And they were all rated proportionably, after this manner, who were owners of more or less *Hides*, or of part of an *Hide*, as ^a *Marianus Scotus*, *Hoveden*, and *Florentius* do all tell us in the very same words. *Ethelred King of England* (say they) gave strict command that one Gallie should be charged upon *CCCX. Cassati*, but a Coat of Armor and an Helmet upon nine, and that ships should be built throughout all England, which being made readie, be victualled and manned them with choice souldiers, and appointed their Rendezvous at the Port of *Sandwich*, to secure the Bounds of his Kingdom from the irruptions of *Foreiners*. But ^b *Henrie of Huntingdon*, as also *Matthew Paris*, and *Florilegus*, speaking of the samething say; The King charged one ship upon three hundred and ten *Hides* of Land through all England; also a Coat-Armor and Helmet upon eight *Hides*. Then *Huntingdon* tell's what an *Hide* doth signifie. But an *Hide* in *English*, saith hee, is so much Land as a man can till with one Plow for a year. Others there are that determine otherwise touching the quantitie of an *Hide*: And most certain it is, that it was very various, according to the different Custom of Countries; but the same with *Cassata* and ^{*} *Carucata*. Indeed, the *English-Saxon* Chronicles of the Abbie of ^c *Abingdon*, do likewise mention *Hides* here expressly. In the year *MVIII. hepbearo ƿe Cing* (say they) *þ* man *ƿceoloe* oƿen call

^a Ms. anno 1008. in Bibliotheca Cottoniana.

^b *Histor. minor. Ms. in Bibliotheca Cottoniana.*

^{*} A *Carue Land*, i. e. such as bee tilled by one v in a
in Bib-
ca Cot-
a.

æall angelcyn ꝛcipu fæstlice pyncan þ̅ if ðonni
 of þ̅rim hund þ̅idum 7 of Tynum ænne ꝛceȝð. 7 of
 VIII. þ̅idum helm 7 bypnan, That is to say, the King
 gave command for the building of Ships carefully throughout all
 England; to wit, that one Gallie should bee charged upon
 CCCX Hides of Land; but a Coat-Armor and Helmet upon
 eight Hides. And it was usual, according to the Laws of
 that Age, that the richer sort should be taxed by the
 number of Hides; as wee see also throughout that Bre-
 viarie of England or the Book of Rates called ^d **Domes-**
Day, which was first written in the time of King
 William. Huntingdon add's also, that there never had been
 so great a number of Ships in the time of any one in Britain;
 which is testified in like manner by the Saxon Chroni-
 cles before-cited. So that, that most numerous Navie
 of King Edgar (mentioned in the former chapter) was
 not to bee compared with this. But yet that most
 learned man and great Light of our Island, Mr ^e **Cam-**
den, hath so cast up the number of Hides throughout
 England, out of the antient Records of that Age, that they
 do not exceed 243600. If this had been so, then they
 could have set forth no more then 785 Ships by this
 Tribute, which is a lesser number then that of King Ed-
 gar by som thousands: So that som other account is to
 bee made concerning Hides, which is not to bee handled
 in this place.

^d *Miss. penes
 Camerarios
 Scaccarii.*

^e *In Brit. pag.
 114.*

Hereunto belong's that of *Huntingdon*, touching King
Canutus and his Son *Harald*. In the daies of *Harald* (saith
 hee) as also in the time of his Father, eight Marks were paid
 by everie Port for XVI Ships. In the like manner, *Hoveden*
 saith, there was a Tax imposed which was paid for the
 maintenance of the Navie, when King *Canutus* and King
Edmond made an agreement in an Isle in the midst
 of *Severn*, called *Oleney*. Moreover, *Huntingdon* writes,

that 11048 pounds were raised by Hardecanut King of England, before hee had reigned two years, for thirtie two Ships (that is to say, for the building of two and thirtie Ships.) Hee gave Command also (as ^f Matthew Westminster saith) that eight marks should bee paid to everie Rower of his Navie, and ten marks to each Commander, out of all England. Hee saith again also of the same King; that hee appointed Officers through all parts of the Kingdom, to collect the Tax imposed, without favouring any, and therewith to provide all things necessarie for his Forces at Sea. And Florentius saith; ^z Hee gave command for the paying of eight marks to every Rower of his Navie, and twelve (so wee read it in that Autor) to everie Commander, out of all England; a Tax indeed so grievous, that scarce any man was able to pay it. But these things spoken of Canutus, his son Harald, and Hardecanut relate perhaps unto that Tribute or Tax called Danegeld: which was paid yearly for the maintenance of the Navie and guarding the Territorie or Dominion by Sea.

Among the old Laws of England it appears; that the payment of Danegeld was first imposed becaus of Pirates (either Robbers or others invading the Sea.) For, they infesting the Countrie, wasted it as far as they were able. Therefore for the repressing of their insolence, it was determined that an yearly payment should bee made of Danegeld; that is to say, twelve pence upon every hide through the whole Land, for the pay of those that should bee imploied to hinder the eruption of Pirates. So wee read it in som ^h Copies; ⁱ others render it Irruption. But the other reading seem's to signifie, that this Tax was imposed, for the raising and mainteining of Naval Forces, so to guard the Sea, that Pirates or Enemies might not bee able to make any eruption from the Shore on the other side of the Sea.

^f Anno
1040.

^z Anno eo-
dem.

^b Apud Ro-
ger. Hoveden,
part. 2. pag.
344. in Edit.
Londin. pag.
603. in Edit.
Francofurt.
ⁱ Apud G.
Lambard. de
prisicis An-
glorum Legi-
bus, fol. 128.
& G. Camden.
Brit. pa. 102.

Sea. Nor can the word *Eruption* otherwise bee well put in that place. So that even that ancient Dignitie of the *Count of the Saxon shore* (whereof wee have alreadie spoken) is therefore not obscurely represented by him who commanded as *Admiral* over the Fleets of that Age. This Tribute or Tax had its beginning under King *Ethelred*. For, hee being brought into miserable streights by *Swane* King of *Denmark*, being forced to buy a Peace of him, hired *XLV* *Danish* Ships also by Agreement, for the guarding and securing of his Dominion in the Sea, who were to receiv their pay yearly out of this Tribute for their maintenance. For the right understanding whereof, it is to bee observed out of the *English Saxon* Storie, that the Tribute or Tax usually paid at that time to the *Danes*, was of more kindes then one. There was one Tribute or sum of Monie, where-with the *English-Saxons* were forced somtimes to buy Peace of such as grievously infested the Island. But another was levied to pay the *Danish* Navie, which was hired to guard the Sea and defend the Sea-Coasts. The first kinde of Tribute appear's by that of *Florentius* and *Hoveden*, in the year *MVII*. *Ethelred* King of England, by the advice of his Lords, sending *Embassadors* to the *Danes*, gave them *Commission* to declare, that hee was willing to defray their Charges and pay them a Tribute upon this condition, that they would desist from rapine, and establish a firm Peace with him. To which demand of his they yielded. And from that time their charge was defraied by all England, and a Tribute paid, which amounted to 36000 pounds. That is, hee effected this onely for the present, that hee obtained a peace for a time by monie, which hee could not by Arms, as *Florilegus* saith well. Four years after also, all the great Lords of England of both Orders, met together at London before Easter, and there they staid so long till payment was made of the Tribute promised

^k Anno 1012

to the Danes, amounting to fourtie eight thousand pounds, which wee reade of likewise both in *Florentius* and ^k *Hoveden*. But this was paid to the intent, that all Danes which were in the Kingdom, should in every place dwell peaceably by the English, and that both People should have as it were one heart and one soul, as it is expressed by *Florilegus*. Other passages of the same kinde there are in the storie of that Age, yea and som of an elder date. Yet this first kinde of Tribute was not wont to bee paid yearly, but levied now and then, as occasion required. Notwithstanding it may bee true perhaps which ^l som write, that *Ethelred* in the aforesaid agreement of the year *MVII* yielded to pay every year a Tribute of Thirtie six Thousand pounds to the Danes, for a longer continuation of the peace. Wee read here that hee yielded or granted, but no where likewise that hee paid it. But as for the second kinde of Tribute, which was to bee paid (as wee have told you) for hire of the *Danish Navie*, it was a yearly Tribute, and levied at the same time, at least in the same year, (to wit, of our Lord *MXII*.) wherein these fourtie eight thousand pounds were paid to procure a peace. Nor was it limited by any set-summe of monie, but so much as would serv for victualling, and clothing the Forces at Sea. *Florentius* and *Hoveden* in the aforesaid year say; After these things, upon paiment of the Tribute, (meaning that of fourtie eight thousand pounds) and a confirmation of the peace by Oaths, the *Danish Navie* which was before in a Bodie, was disposed and dispersed abroad afar off. But *XLV* ships remained with the King, and swore fidelitie to him, and promised to bee readie to defend England against Foreiners, upon condition that hee would provide them Victuals and Clothing. This is related likewise in the *English-Saxon Chronicles* of the Abbie of ^m *Abingdon*; Ða þ̅ ȝaƿol ȝalear ƿ ƿaƿ ȝ ƿƿið aþaƿ aƿƿopene ƿaƿon þa

^l Autor Chronici Melrosensis, Ms. in Bibliotheca Cottoniana.

^m In Bibliotheca Cottoniana. Anno 1012.

þa to feorðe se þere riðerpa he ær zezaderode
 pær. Ða buzon to þam cynge of þam here rið 7
 feoreþrið rcpa. 7 him beheton þ̄ hi polðon
 þyrne eapð healðan 7 he hi feðan rceolde 7 rcpy-
 ðon; That is, the Tribute beeing paid, and Oaths of Ami-
 tie taken, the Armie (or Navie) which was before in a Bodie,
 was dispersed abroad. But fourtie five ships of that Navie
 remained with the King, and promised upon Oath to bee readie
 for the defence of this Land, upon condition the King did
 finde them Viçtuals and Cloathing. Swane was at that time
 King of Denmark, with whom Ethelred made this agree-
 ment. But both the kindes of paiment aforementio-
 ned, were called Danegeld, Danegeld, or Danageld, that is
 to say, Danish Tribute. The first kinde is expressly inti-
 mated by this name in ⁿ Joannes Sarisburiensis; where hee
 saith, Swane wasted and spoiled the Island of Britain, the great-
 est part whereof hee had in his possession, and afflicted the
 Members of Christ with many persecutions, by an imposition
 of Tribute, which in the English Tongue they call Danageld.
 But the second kinde which was paid for the mainte-
 nance of the Forces by Sea was called likewise by the
 same name, both becauf it was occasioned by the a-
 greement with the Danes, as also becauf it was wont to
 bee paid to the Danish Fleet, that was hired to guard the
 Territorie by Sea. For which caul also it retained the
 same name, not onely under these Danish Kings, Canutus,
 Harold the first, and Hardecanutus, but also under the
 English-Saxon or English. And that this which wee
 have spoken was the Original hereof, is affirm'd also
 by Ingulphus the Abbot of Crowland, a witness beyond
 all exception, who lived at that time. Hee speaking of
 the affairs of Edward the Confessor, saith, ^o In the year
 MLI. (which was the tenth of King Edward) in regard
 the Earth did not bring forth its Fruits in such plentie as it was

ⁿ In Polycra-
 tico, seu de
 Nugis Curia-
 lium, lib. 8.
 cap. 21.

^o Edit. Lon-
 din pag. 510.
 Francofurt.
 897.

Wont

wont, but devoured very many people by famine, insomuch that many Thousands of men died through the scarcitie of Corn, and want of Bread; therefore the most pious King Edward, being moved with compassion towards the people, released that most grievous Tribute called **Danigeld**, to all England for ever. It is reported by som, that this most Religious King being brought by his Officers into the Exchequer, to see the **Danigeld** that was collected, and to take a view of so vast an heap of treasure, stood amazed at the first sight, protesting that hee beheld the Diuel dancing upon the heap of monie, & extremely rejoycing; whereupon hee immediately commanded to restore it to the former Owners, and would not keep one jot of so cruel an exaction; but remitted it for ever, to wit, in the thirtie eighth year after Swane King of Denmark commanded it to be paid every year to his Navie, in the time of his Father Ethelred. By dis-counting 38 years from the year 1051. that year 1012. is sufficiently manifest, wherein the beginning of this *Danegeld* is placed, according to that which hath been already spoken. Nor is it any prejudice at all, that there seem's perhaps to be one year over and above. For, such as are vers'd in the Chronicles of the Monks, know well enough, that differences of that kinde are very frequent among them, especially by reason of their careless confounding of the years of our Lord, and of the Kings, whose beginnings do variously differ, as every man know's. Nor is it probable, that they were sufficiently agreed touching the Tribute and Taxes before the next, or one thousand and thirteenth year. For, concerning that year, *Florentius*, *Hoveden*, and others speak expressly thus; *In the mean time the Tyrant Swane gave command to make readie Provisions in abundance for his Navie, and for payment of an almost intolerable Tribute. In like manner Turkillus sent out his commands every where; that it should be paid to his Fleet,*
which

which lay at **Greenwich**. That Fleet of XLV. ships rode now and then in the Thames near *Greenwich*, and then first received their promised pay. That is, in that very year, which being discounted is the Thirtie eight year, as *Ingulphus* would have it: wherefore its beginning was not ill placed in that year. Without all question, that *Ingulphus* was a Courtier in the time of King *William* the first, or a man of no mean account, at the time wherein that was don which hee relate's: so that especial credit is to bee given him in this particular. Whereas also hee saith, that King *Edward* remitted *Danegeld* for ever, the same thing is affirmed also by *Roger Hoveden*, and *Matthew the Monk of Westminster*; who saith, In the year of Grace MLI. King *Edward* absolved the people of England from that most grievous Tribute of 38 thousand pounds, which was usually paid to the Danish Auxiliaries, during his Father's Reign. Whereof wee read also in ^P *Matthew Paris*. But *Hoveden* saith, *K. Edward* absolved the people of England from that grievous Tribute, in the thirtie eight year after that his Father *K. Ethelred* had commanded it to bee paid to the Danish Souldiers. Others there are also that write to the same purpose. Som of the ⁹ *English-Saxon* Chronicles place the same thing in the following year, and so affirm, that there intervened 39 years from the beginning of this Tribute (which also they call *Hepegyl* or *Heregild*, that is, a *Militarie* or *Naval Tribute*) to that abolishment of it by King *Edward*. Nevertheless, as to what concern's its beginning, they agree with *Ingulphus* and *Hoveden*, to wit, in the year MLII those Chronicles render it thus; *Aleðe Gæpand cýng þæt Hepegyl þæt ðeþelpeð cýng ær astealoe. þæt pær on þam niȝon 7 þpittigðan geape þær þe heht on gannon hæfðe.* That is to say, *K. Edward* abolished that *Militarie Tribute*, or *Here-*

P Hist. minor. Ms. in Bibliothecâ Cottonianâ.

9 Ms. in Bibliothecâ Cottonianâ. Compacti cum Guil. Gisburnensis Annalibus.

† Ms. Penes
 Camerarios
 Scaccarii, c.
 27. Idem ha-
 betur Dialo-
 gus etiam in
 Codice Rubro,
 penes Reme-
 moratorem
 Regis.

gild, which had been formerly imposed by K. Ethelred, to wit, in the nine and thirtieth year after it began. But yet in the Autor of that *Dialogue concerning the Exchequer*, written in the time of K. Henrie the second, (commonly supposed to have been *Gervasius Tilburiensis*) wee read it was paid yearly even till the time of K. William the first or the Norman Conquest; that is to say, for fourteen years compleat, immediately after that abolishment. For, so long K. Edward reigned, whom that William succeeded. The Autor's words are these; *The Pirats of the adjacent Islands, having made an irruption, and spoiling the Sea-Coasts, carried away Gold, Silver, and all things of any value. But as soon as the King and his Subjects set forth any preparations of Warr, for the defence of their Nation, they presently fled away by Sea. But the chief among them, and ever more inclined to mischief, was that warlike and populous Nation of the Danes, who besides their ordinarie desire of prey; pressed on the more furiously, because they laid claim to somewhat of anti-ent Right in the Government of the Kingdom, as the British Historie relate's more at large. Therefore for the repelling of them, it was ordained by the Kings of England, that two shillings silver upon everie Hide of Land should by a kinde of Custom for ever bee paid for the maintenance of valiant men, who by scouting about continually, and guarding the Sea-Coasts, might repress the Invasion of Enemies. And in regard this Revenue was appointed chiefly because of the Danes, therefore it was called Danegeld. And thereupon it was paid by yearly Custom (as hath been said) under the English Kings, until the time of K. William the first, who was of the Norman Stock and Nation. So that Autor, who would have this Tribute to derive its name from the Danes, as if the Navie had been mainteined thereby chiefly to drive them from the Coasts of England. But questionless, the first reason of the name, is to bee received, as it hath*

hath been alleged out of the passages above mentioned; though afterwards there was a Subsidie raised and Tribute paid for the like Fleet, consisting of such as were not *Danes*, or of *English*, for the repelling of the *Danes* themselvs, which was not improperly called by the same name. Touching the paiment hereof after the *Norman* Conquest, I shall add more 'by and by. But as concerning what hee saith here, that two shillings silver upon everie *Hide* were wont to bee paid yearly for the raising of this Tribute, the same is affirmed also by other antient Autors, as ^t *Roger Hoveden*, and ^u *Matthew Paris*: So that these men make the paiment double to that which is before alleged out of the Lawes of the *English-Saxons*. The yearly paiment of this Tribute is valued also by *Matthew of Westminster*, & *Matthew Paris*, at thirtie eight thousand pounds, as appear's by the particulars already cited: which truly was written by them with very little discretion. Nor have they dealt any better, who set down that paiment at the rate of thirtie thousand pounds, as the Autor of the Chronicle called ^x *Chronicum Melrosense*. For, at what rate soever that Tribute was paid to the King, according to the alteration of times, it appear's for certain, that the Stipends usually allowed to the *Danish* Fleet were so uncertain, that they were set sometimes higher, sometimes lower (as wee must suppose it could not otherwise happen) according to the number of Ships and Forces that were necessarie for the Guard of the Sea. Of which also there are examples among Historians. *Florentius* in the year *MXIV*. saith, *K. Ethelred gave command, that the Tribute amounting to thirtie thousand pounds should bee levied for the Fleet which lay at Greenwich*; So also *Hoveden*. But the ^y *English-Saxon* Chronicles of the Abbie of *Abingdon* say of the same year; *Se cyng her*

^t Cap. 15.

^t Edit. London. pag. 276.
^u Edit. Francofurt. pag. 482.
^u Hist. minore Ms. in Bibliotheca Cottoniana; in Stephani R. initis.

^x Ms. ibid.

^y Ms. in Bibliotheca Cottoniana.

hez gylban þam þeþe ðe on gpenapic læig XXI.
 þurenþ pund. *The King commanded that 21000^l should bee
 paid to his Armie; (For so that Fleet is called every where
 in English-Saxon) which rode at Greenwich. Here (you
 see) is no small difference in the number of pounds.
 But howsoever, if it bee to bee conceived of the yearly
 Tax or Tribute, then it was far less this year then it is
 reckoned by those Monks, who speak of thirtie eight
 thousand pounds. Four years after, in the Reign of
 King Canutus, (who was a Dane) a far greater summe
 of Monie was raised for the maintenance of this Fleet.
 That Florentius, whom wee have often cited, saith; In
 this year, (that is, MXVIII. *Seventie two thousand pounds
 out of all England, and one thousand and fiftie pounds out of
 London, were paid to the Danish Fleet; and there remain-
 ed fourtie ships with K. Canutus. But the rest were re-
 turned to Denmark. Of which year Hoveden speak's
 thus; Out of all England seventie two, and out of London
 410 pounds were paid to the Danish Armie or Fleet. And
 there remained, &c.* They differ about the Summe, not
 the Thing, wherein they agree with the *English-Saxon
 Chronicles* before-mentioned. Yet these altogether
 speak contrarieto that accompt of the certain summes,
 as it is set down by the aforesaid Monks. But ² *Mat-
 thew Paris* and *Matthew Westminster* say of the same
 Time, that Cnute sent home the Danish Fleet, and Sti-
 pendarie Souldiers, (except fourtie ships, as appear's by
 what hath been said alreadie) having paid them out of all
 England eightie two thousand pounds in silver. Also, in the
 second year of King Hardeknute, a Tax was levied for
 the Danish Armie or Fleet, amounting to 21000 pounds, and
 89 pounds, as *Huntingdon* tell's us. All which particu-
 lars do, I suppose, sufficiently demonstrate, that the
 Danish Tribute here mentioned was not fixed to any
 certain*

² *Histor. Mi-
 nor. Ms. in
 Bibliotheca
 Cottoniana.*

certain summe of yearly paiment ; and also that an huge summe of monie was wont to bee paid yearly at that time to the Kings of *England*, for the Guard of the Sea, (for, to what purpose elf was that Fleet alwaies kept, and so great Taxes levied every year for the maintenance thereof ?) But in the Reign of King *Henrie* the second, the name of *Danegeld* grew out of use, Tributes or Taxes beeing usually paid still, notwithstanding by other names that are very well known, for the Guarding of the Sea ; as wee shall shew by and by. But they are extremely mistaken, even they who agree either with *John^a. Bramton* the Abbot of *Jorvaux*, or som other Autor out of whom hee wrote it, or any others of that kinde, in deriving the Original of that yearly *Danegeld*, so often mentioned every where, from the former kinde of Tribute, which was paid to the *Danes*, for the procuring of a peace ; and they also who ^b would have the Warr to have been undertaken by the *Danes* and *Saxons* against the *Britains*, becaus they denied them a freedom of Navigation, and that the end thereof was, that this Tribute was upon that accompt imposed upon the Nation when it was subdued.

Now, as concerning the *Duties of Fiduciarie Clients or Vassals*, wont to bee paid in that Age for Naval Expeditions and the Guard of the Sea, wee have set them down among those particulars which were spoken of King *Edgar* in the former Chapter. The Pettie Kings or Lords of the neighboring Isles were bound to him by Oath to bee readie at his command to serv him by Sea and Land. And in that famous Breviarie or Register of *England* called ^c **Domesday**, (containing very many Customs in use among the *English-Saxons*, besides the assessment of the Provinces, and written in

M m 3

the

^a Ms. in Bibliotheca Cottoniana, anno 13. Ethelredi Regis, seu Christi 991. pa. 57.

^b Apud Jacob. Thuanum. Historiar. li. 95.

^c Ms. penes Camerarios Scaccarii.

the time of *William* the first) wee read thus; *It is a Custom at Warwick, if the King went by Sea against his Enemies, to send him either* $\overline{\text{IV}}$. *Batsueins* (Sea-souldiers or Rowers) *or els* $\overline{\text{IV}}$. *pounds in monie.* And at *Excester*, when hee made any Expedition by Land or by Sea, this Citie served after the rate of $\overline{\text{V}}$. *Hides of Land.* **Barnestaple**, **Lydeford**, and **Totenais** served as far as that Citie. That is, these three Towns paid as much as *Excester* alone. Moreover, *Glocester* yielded $\overline{\text{XXXVI}}$. *Dicres of Iron and* $\overline{\text{C}}$. *iron Rods fitted to make nails for the King's ships.* *Leicester* also, if the King went against his Enemies by Sea, sent him four horses from that Town to *London*, to carrie Arms or other necessaries. Concerning **Lewes** also, a chief Town in *Suffex*; there *K. Edward* (the Confessor) had $\overline{\text{CXXVII}}$. *Burgers at his service.* Their Custom was, if the King went not himself in person, but sent others to guard the Sea, then they collected $\overline{\text{XX}}$. *Shillings of every man, of what Countrie soever hee were, and provided men who were to look to the Arms on ship-board.* Here very expresse mention is made of the defence or Guardianship of the Sea it self. And in *Colchester*, an eminent Town of *Essex*, wee finde it was the Custom of that Age, to pay out of every hous six pence a year, that was able to pay it, for maintenance of the King's souldiers upon an Expedition by Land or Sea, &c. And this ought to bee the rate, if the King shall entertain souldiers. or make any Expedition. All these particulars are in that Register: And others there are in it of the same kinde. But an Expedition by Sea signified in these testimonies, not a Warr to bee undertaken for subduing the Dominions of their neighbors lands, but most clearly a preparation and enterprize of Warr, for the guarding, scouring, and keeping the Sea, as a part of the Empire of *Britain*: As it sufficiently appears out of the Histories of

of that time. For, wee do not reade, that our *English-Saxons* or *Danes* had any other quarrel at that time, with any of their Neighbors whatsoeuer, unless it concerned either the *British* Islands or the Sea belonging thereunto. Which also is especially to bee consider'd.

The Testimonies of Edgar and Canutus, Kings of England, with others expressly declaring the Dominion which they and their predecessors had over the Sea; together with an observation touching the Nations which in that age were seated upon the opposite Shore.

CHAP. XII.

THAT wee may at length set an end to that fourfold distribution which wee made of the Testimonies of that Age, let us in the last place add the express determinations of King *Edgar* and *Canutus* concerning their own Dominion over the Sea. As for *Edgar*, the title which hee commonly used, ran thus; ^a *I Edgar Sovereign Lord of all Albion, and of the Maritim or Insular Kings inhabiting round about.* So hee make's the bodie of the *British* Empire to comprehend all the Maritim Kingdoms that lay about, that is to say, all that are Situate in the *British* Sea. And this hee more plainly declare's in the Charter or Deed by which hee settled revenues on the Cathedral Church of *Worcester*, in the year DCCCCLXIV; if so bee the copie were rightly rendred by those who many years since printed so much of it as concern's this title. The words are these, ^b *Altitonantis Dei largifluâ clementia qui est Rex Regum, Ego*
Edgarus

^a Apud Guil. Malm'sbur. de gest. Regum. lib. 2. cap. 8.
^b Inspexi-mus in Rot. Pat. 1. Ed. 4. part. 6. Sic habetur apud Joannem Dæ in Monarch. Britannic. pag. 58. & 60. And in Purchas his Pilgrimage, part. 3. lib. 3. cap. 19. pag. 619.

Edgarus Anglorum Basileus omniumque Regum insularum, Oceani- que Britanniani circumjacentis (to John Doe, a man very well seen in most parts of Learning, did read it a good while since, save onely that in stead of (*Britanniam*) hee hath (*Britanniani*) while ' others reade, *Insularum Oceani que Britanniam circumjacent*) *cunctarumque nationum que infra eam includuntur Imperator & Dominus; gratias ago ipsi Deo omnipotenti Regi meo qui meum imperium sic ampliavit & exaltavit super regnum patrum meorum; qui licet Monarchiam totius Angliæ adepti sint à tempore Athelstani (qui primus regnum Anglorum & omnes nationes que Britanniam incolunt, sibi armis subegit) nullus tamen illorum ultra ejus fines imperium suum dilatare aggressus est. Mibi autem concessit propitia divinitas cum Anglorum imperio omnia regna Insularum Oceani cum suis ferocissimis regibus usque Norwegiam, maximamque partem Hiberniæ cum suâ nobilissimâ civitate Dublinia, Anglorum regno subjugare. Quos etiam omnes meis imperiis colla subdere (Dei favente gratiâ) cœgi.*—**By the abundant goodness of Almighty God Who is the King of Kings, I Edgar King of England, and of all the Kings of the Islands, and of the Ocean lying round about Britain, and of all the Nations that are included within the circuit thereof, Supreme Lord and Governor, Do render thanks to the same Almighty God my King Who hath enlarged my Empire thus, and exalted it above the Royal Estate of my Progenitors, who although they arrived to the Monarchie of all England ever since the time of Athelstane (who was the first that by force of Arms subdued the English, and all the Nations that inhabite Britain) yet none of them ever attempted to promote their Empire beyond the bounds thereof. But the divine goodness hath favored mee**

^c Edward
Coke, in his
Preface ad
Commenta-
riorum Ju-
ris, lib. 4.
And James
Usher Bishop
of Armagh, in
Epistol. Hi-
bernicarum
Sylloge,
pag. 121.
ubi vide
item, p. 163.

me so far as beside the English Empire, to enable mee to subdue all the Kingdoms of the Islands in the Ocean with their most stout and mightie Kings, even as far as Norway, and the greatest part of Irland, together with their most famous Citie of Dublin. All which (by God's grace and assistance) I have subdued and made their necks to stoop under the yoke of my command. Whereas hee saith, that none of his Progenitors had attempted to enlarge their Empire beyond the bounds of Britain, it must bee so understood, that it bee taken for the Northern and Western bounds of the British Empire, as sufficiently appear's by the mention of Irland and Norway. So that then more Islands than the name of Britain did comprehend, or than the Isles of that Sea, together with the Sea it self, were brought under his Dominion.

But King *Canutus* (or *Cnute*) hath left a testimonie also, whereby hee most expressly asserts the Sea to bee a part of his Dominion. Hee placing himself on a seat by the Sea side as it flowed upon *Southampton* Shore, having a minde to demonstrate to his flatterers, that Kings themselvs are but men, is reported to have made trial of the obedience of the Sea (it being flood) after this manner, **Thou, O Sea, art under my dominion, as the Land also upon which I sit is mine. And there never was any that disobeyed my Command without punishment. Therefore I command thee not to ascend up upon my Land, nor do thou presume to wet the feet or garments of thy Sovereign.** But the Tide (saith *Huntington*, and *Florilegus* who relate this storie) swelling as at other times, did very unmannerly wet not onely the feet, but legs of his Majesty. Whereupon the King leaping up
N n
proclaimed

proclaimed with his own mouth none to be worthy the name of King, but him alone who command's both the Sea and land, and they obey. And from that time hee refused to wear his Crown of Gold; consecrating it to a Crucifix. In the mean time, hee here openly professed himself to be the Sovereign of the Sea as well as of the land. Hereunto may be added some testimonies of other Writers; which although they are of a later date than the Kingdom of the *English-Saxons*, yet they are transmitted to posteritie by the hands of such as were perfectly acquainted with the English Historie; and by the Tradition of their Ancestors well informed of the most authentick Opinions and Resolvs concerning the English Dominion over the Sea. *Geoffrie Chaucer* (who was not onely the most famous Poët of his time, but, as Learning went in those daies, a very well accomplisht Scholar) in one of his *Canterburie Tales*, brings in his *Man of Law* telling a storie which hee would have relate to the time of *Alla King of Northumberland*, who reigned thirtie years; and his Reign began in the year of our Lord *DLIX*. In this Tale there is brought in a Ladie, called *Constantia*, the Daughter of I know not what Roman Emperor, married to the King of *Syria*; driven shee was by weather to a place which lay under the command of a Fortres upon the Shore of *Northumberland*, and there the Ship ran aground; shee was a Christian, banished for her Religion, and there taken Prisoner by the Commander of that Fortres. In this Relation of the sad adventures of *Constantia*, hee saith (what indeed is true) that Christian Religion was not received into any part of that Territorie, but that *Pagans* had over-run and did hold those Northern Countries under their Dominion as well by Sea as Land. His words to this purpose are these,

In

In all that lond dursten non Christen rout ;
 All Christen folk been fled from the Countre
 Through paynims that conquer'd all about
 The plagues of Northumberland by land & See.

Hee said discreetly, that the neighboring Sea fell to the Conquerers of this Isle as well as the Land, knowing what was the resolution and generally received opinion of his Ancestors concerning that matter Hee lived two hundred and thirtie years ago in the time of *Richard the Second*. Nor is it any prejudice to this autoritie, that the other things there related are fabulous ; For wee know that out of the Fables of *Heliodorus*, *Achilles*, *Tatius*, *Theodorus Prodrumus*, *Eustathius*, and such others, whether of an amorous or any other strain, somtimes many useful observations may bee gathered concerning the customs, manners, and received opinions, as well of the men among whom they are feigned to bee acted, as of the times to which they are related. *John Harding* also, who, in the time of *Edward the Fourth*, wrote an Historie of the affairs of *England* in vers, when hee reckons up those Princes that sware fealtie to King *Canutus* for the Lands which they held of him, ^d hee adds

^d Chap. 117.

So did the Kings of Wales of high parage,
 And all the North-west Ocean
 For their kingdoms and for their lands than ;

That is to say, the same was don at that time by the greatest Kings of Wales, and of all the North-western Sea, for their respective Kingdoms and Territories. Thus *Canutus* was King of the Kings of that Sea, which hee himself also sufficiently declares, when hee expressly affirms in what was before related, that the Sea it self was under his

N n 2 Dominion.

Dominion. And so much for testimonies, to prove that the *British* Sea hath been possessed not onely by the *Britains*, after they had cast off the *Roman* yoke, but also by the *English-Saxon*, and *Danish* Kings.

Moreover, it seem's they did use to take a kinde of courf for the strengthning and preservation of their *Dominion*, both by Sea and Land, as the antient *German*s (of whom both *Danes* and *Saxons* are a part) were wont to do for the defence of their midland Cities. Among them (saith * *Cæsar*) it was the highest glory to make very large depopulations, and lay all the Countrie round about them waste; measuring their honor by their distance from any neighbor, and accounting it the onely token of Valor when none durst plant themselvs within their reach; and besides, they thought by this means to render themselvs more secure by removing the fear of any sudden incurfion. So it hath been the manner of those that at any time have made themselvs Masters of the Kingdom of *Britain*, to extend their *Dominion* in the circumambient Sea to the largest Circuit, scouring the Seas about, and keeping other Nations at a distance, as it were from the Wall or Precinct of the Island. Nor were those *German* Cities more Masters of that waste part of the Countrie that lay about them, then the King's of *Britain* were over the Sea of the same name. But as wee observed before of the *Scots* and *Picts*, in the time of the *Romans*, so here also it is to bee noted of the *Norwegians* or *Normans*, (for many times they are to bee taken for one and the same people) and other Northern Nations, That those *British* Isles which are situated in the West and Northern Sea, were sometimes so possessed by the *Scots* and *Picts*, as also by the *Norwegians*, and such others as infested the Northern Sea, and invaded the Isles lying between them and *Britain*, that it is not to bee doubt-

* De Bello Gallico, l. 6.

doubted, but they also according to the various alteration of their Dominions by Land, succeeded one another for that interval of time, in the possession of a proportionable part of the Sea also, as an Appendant to every one of the shores of *Britain*. The Scots (saith an^f unknown Autor, speaking of the year DCCCXLVI) for many years became Tributaries to the Normans, who without any resistance entred and settled themselves in the Isles lying round about. And as touching the Naval affairs of the Normans in our Sea, there are many passages to be seen in *Regino* the Abbat, *Aimoinus* and other Writers of that Age. But in the mean time it is sufficiently manifest, that as by reason of the tumultuarie & unsettled posture of affairs in those daies, the Dominion of the Island it self was very often tossed to and fro; so also the Dominion of the Sea was in like manner attempted, disturbed, invaded, recovered, and defended, as that which did inseparably follow the Dominion and Sovereigntie of the Island. Wee are not ignorant that in the *French Histories* there are now and then som passages that speak of their Naval power in this Age, which are collected by ^s *Popelinerius*. But there is nothing to be gathered from them that may set forth the least sign or shadow of a Sovereigntie or Dominion over the Sea. Very few indeed are to be found, and such as either concern onely the defending the mouths of their Rivers against the Normans and Danes then roving up and down our Sea, or the subduing of the *Friezlanders*, and som of the Neighbor-Nations. Whereunto also som other passages relate, which wee shall mention by and by, when wee com to speak of the Admirals of *France*.

^f In *Gestis Normannorum*, pag. 2. Vide *Aimoinum*, de *Gestis Francorum*, lib. 4. ca. 90. & 100. de *Normannis*.

^s L'Amiral de *France*, chap. 6. & 7.

Several Testimonies concerning the Sea-Dominion of the Kings of England, since the Norman Conquest, set forth in General Heads.

CHAP. XIII.

Following the Order and Method of our Enquire, in the next place wee treat of the Sea-Dominion of the *Britains*, since the coming of the *Normans* into *England*. And in the first place our Discourse shall bee of the Dominion of the *English* Sea, or that which flow's between *England* and the opposite shores or Havens of the Neighbor-Nations. Now whereas it is confessed on all hands, that all Dominion is chiefly founded upon just possession or occupation, and its continuance, and that possession is not supposed to bee had, by the act either of the minde or bodie singly and apart (as ^a *Paulus* long since hath well determined) but is most firmly gotten and retained by the joint concurrence of minde and bodie; whereupon it is distinguished into ^b *Civil*, that is, where there is a right or title by Law, and *Natural* or *Corporal*, and it is requisite that this Dominion receive a signal confirmation by a long continued assent, a free and publick confession or acknowledgment of such neighbors whom it most concern's: First then, as concerning the *Corporal* or *Natural* possession of this Sea, as well as that which is *Civil* or by Law, and is retained by the act of the minde, wee shall give you very ample Testimonies since the time of the coming in of the *Normans*. And
in

^a L. 3. F. tit. de Acquir. vel mitt. possessione.

^b *Hugo Donnellus*, de Jure Civili, l. 5. *Cujacius*, observat. l. 9. ca. 37. l. 10. C. tit. de acquir. possess. & retinenda.

in the next place, wee will shew how this Dominion of the Kings of *England* hath been acknowledged by those Foreign or Neighbor-Nations, whom it most concern's. But forasmuch as what wee shall thus speak of the *English* Sea in general, will chiefly relate to the *Southern* and *Eastern*, or that which hath the *English* shore on one side, and *France* and *Germanie* on the other, wee will therefore discours severally of that which lie's to the West of *England*, and also of the *Scotish* Sea, or that which lie's more *North*erly.

As concerning the possession of the *English* Sea, both *Corporal* and *Mental*, or *Civil*, continued for that space of time which wee now speak of, with the like Dominion arising and retained thereupon, there are divers notable and very clear testimonies thereof, which for Methods sake wee divide into eight heads; whereof

- I. The *Custodie*, *Government*, or *Admiraltie* of the *English* Sea, as a *Territorie* or *Province* belonging to the King.
- II. The *Dominion* of those *Islands* that lie before the *French* shore.
- III. The *Leav* of *passage* through this Sea granted to *Foreiners* upon request.
- IV. The *Libertie* of *Fishing* therein allowed upon courtesie to *Foreiners* and *Neighbors*, and the *Protection* given to *Fisher-men*.
- V. *Prescribing* of *Laws* and *Limits* to *Foreiners*, who beeing in *Hostilitie* one with another, but both in *amitie* with the *English*, made *Prize* of each other in this Sea.
- VI. The *Records* whereby this Dominion is expressly asserted by the *By*, as a most undoubt-

doubted right; and that not onely by the King, but by the Parliaments of *England*, when they debated of other matters.

VII. *The Commentaries of the Law of the Land, and common customs of the Nation*, which do either assert or at least allow such a Dominion.

VIII. *Som antient Testimonies of inferior note,*

All the testimonies almost that are comprehended in this Division, are indeed domestick; but so publick, and of so approved credit, that hardly any thing can bee imagined, which might give a clearer proof of possession whether *Civil*, as they call it, consisting in the act and intention of the minde, or *Natural*, which require's the presence of the Bodie. As it will appear to any man that pleas to make enquire. Especially if hee add hereunto the judgment or acknowledgment of such Foreign Nations whom it chiefly concerned, whereof wee shall treat also by and by. But of these things severally, and in order.

That

That the Kings of England, since the coming in of the Normans, have perpetually enjoyed the Dominion of the Sea flowing about them, is in the first place proved from the Guard or Government thereof, as of a Province or Territorie; that is to say, from the very Law of the English Admiraltie.

CHAP. XIV.

AS concerning the Guard or Government of this Sea, there are three things therein that deserv special consideration. 1. *The bare mention and nature of the Guard of the Sea, and of the Guardians or Admirals thereof, in publick Records and Histories.* 2. *The Tributes and Customs imposed, demanded or accustomed to be paid for, and in consideration of the said custodie.* And lastly, *the tenor and varietie of Commissions belonging to this Guard, and English Admiraltie, or Government by Sea.* Since the coming in of the Normans, there is frequent mention of a Guard or Government instituted for the defence and guarding of the Sea. Here call to minde those observations touching this kinde of Guard, which have been already gathered out of that Record or Brevarie of England called **Domesday**. And King Henrie the first, saith Florentius of Worcester, gave order to his Butsecarli to guard the Sea, and take care that no person from the parts of Normandie, approach the English Coasts. The same saith Roger Hoveden, in the very same words almost, save onely that the printed Copies err in putting

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ting *Buzsecarlis* for *Butsecarlis*. These *Butsecarli*, or **Butescarles**, in the old English Language, are Officers belonging to the Navie, or Sea-souldiers, as *Hutescarli*, were Domestick Servants or Officers in Court. And that to guard the Sea here signified to secure the Sea it self, not to defend the Sea-Coasts (as somtimes, though seldom it did) with Land-forces, plainly appears out of *Henrie of Huntingdon*, in whom it is clear, that the persons who thus guarded the Sea were employed by the King, to make Warr by Sea against *Robert Duke of Normandie*, who was then preparing an Expedition against *England*. Now those publick Records are lost, wherein the Roial Commissions for the delegation of this Command or Government were wont to bee registred all that space of time betwixt the coming in of the *Normans*, and the Reign of *K. John*. But from thence through all the succeeding ages unto this present time, it is as clear as day, that the Kings of *England* have been wont to constitute Governors or Commanders, who had the charge of guarding the English Sea, and were the Guardians or Governors thereof, in the same manner as if it had been som Province upon Land. First of all there were^a intrusted with the Government of the Sea, or the *Maritimæ* and *Marinæ*, the *Maritime* and *Marine* part of the Empire (understanding by those words not onely som Countrie lying upon the Sea-Coasts, but comprehending the *British* Sea it self, though I confess it was not alwaies so) such as were to guard and keep it, under the title (somtimes) of *Custodes Navium*, Guardians of the ships, but more frequently *Custodes Maritimæ*, or *Marinæ*, in the sens aforesaid. And in the time of *Henrie* the third, *Thomas de Moleton* is styled^b *Captain and Guardian of the Sea*, and hath autoritie given him

^a Rot. Pat. 6.

Joannis R.
Membr. 8. vi.
de Rot. Pat.

8 Hen. 3.

part. 1. M. 3.

& 4. Claus.

9. Hen. 3.

Membr. 15.

Pat. 9 Hen.

3. part. 2. M.

9.

^b Rot. Pat.

48 Hen. 3.

part. 1. memb.

3. & Rot.

Claus. 48

Hen. 3. Mem-

bran. 3.

him to guard the Sea and the Maritim parts of the Eastern Shore. In the same King's Reign also, the Inhabitants of the Cinque-Ports are said to guard the ^c Coast of England, and the Sea. So Hugh de **Crequeur** was Warden of the ^d Cinque-ports and of the Sea in those parts. Afterward the title of Guardians or Wardens very often changed into that of Admirals. Edward the First, saith Thomas of ^e Walsingham, for the keeping of the Sea divided his Shipping into three Fleets, setting over them three Admirals, namely over the Ships at Yarnmouth and the road thereabout John de **Botetort**; over those at Portsmouth, William de **Leyburn**; and over the Western and Irish Ships, a certain Irish Knight. Moreover also, that John de **Butetort** is in the ^f Records of that time stiled *custos Maritima*; as were others also. After this, in the Reign of Edward the Second, three Admirals of the three several Coasts of England (saith ^g Walsingham) had the guarding of the Sea, namely, Sir John **Durbin**, Sir Nicolas **Kyriel**, Sir John **Felton**. Wee finde moreover in our ^h publike Records, that the principal end of calling a Parliament in the fourteenth year of Edward the Third was, *De Treter sur la gard de la pees de la terre, & de la Marche d'Escoce, & de la Meer*, i. e. That consultation might bee had concerning keeping the peace of the Land, also of the Borders of Scotland, and of the Sea. The same regard they had to the defence of the Sea, as of the Island or Land-Province: giving us to understand, that the Land and Sea together made one entire bodie of the Kingdom of England. Other evidences of the same nature wee finde in the ⁱ Records of Parliament of the same King's time, or in the consultations of the estates of the Realm had about this matter, that whilst they Treat indifferently *De la saufeguard de la terre*, concerning the saufeguard or defence of

^c Rot. Pat. 27.
Hen. 3. part.
1 Membran.
3. in dorso.
^d Rot. Pat.
19. Hen. 3.
Memb. 14.
^e 22. Ed. 1.
seu anno
1295.

^f Rot. pat.
23. Edw. 1.
m. 5.
^g 18. Ed. 2.
seu ann.
13 26. & vi-
de Rot. Pat.
19. Ed. 2.
part. 1. Mem.
12. & 20.
Ed. 2. Mem.
22.
^h Rot. Par-
lam. 14. Ed.
3. art. 2.

ⁱ Rot. Par-
lam. 13. Ed.
3. part. 1. art.
6, 9. & 11.
& Rot. Par-
lam. 20. Ed.
3. artic. 21.

the Land or Island, and *de la sauſeguard de la Mere*, the ſafeguard of the Sea, they ſeem ſufficiently to declare, beeing well inform'd by their Anceſtors, that the Dominion of this as well as of that, did belong unto the Crown of England. For the buſineſs debated by them was not onely how to provide a Navie to make reſiſtance againſt their Enemies by Sea, but for the guarding the Sea it ſelf as well as the ſecuring of the Iſle, and ſo for the maintaining the antient right of their King in both. In the time of Richard the Second, **Hugh Calverlee** was made Admiral of the Sea (ſaith ^k *Walsingham*) and M^r Thomas **Percie** joined in Commiſſion with him to ſcour the Roades of the Sea for one year. And in the Reign of the ſame King, and likewise of the two ſucceeding *Henries* the Fourth and the Fifth, debate was had in ^l Parliament about the Guard of the Sea. In the Reign of *Henrie* the Sixth, the Guard ^m of the Sea was with a numerous Navie Committed to *Richard* Earl of *Salisbury*, *John* Earl of *Shrewsburie*, *John* Earl of *Worceſter*, and *James* Earl of *Wilts*, to whom was added Baron *Sturton*; and afterward to *John* Duke of ⁿ *Exceſter*. And in thoſe daies it was uſual to procure King's Letters commonly called, in the language of the Law, *Protections*; whereby Privilege and exemption from all ſuits was granted to thoſe that were employed in this kinde of Guard or Defence of the Sea, or that ſpent their time *ſuper ſalvâ custodiâ & defenſione Maris*, ^o **For the ſafeguarding and defence of the Sea**, as the form of the words hath it, which wee frequently finde in the *Archives*. Moreover, in the Acts of Parliament of the ſame King's Reign, mention is made of the *ſafeguarding of the Sea*, or *de la ſauſeyard de la mier*, as of a thing commonly known, and for which it was the Custom of the *English* to make as diligent proviſion as for the Govern-
ment

^k 2. *Rich.* 2.
^l *Rot. Par-*
lam. 2. *Rich.*
 2. part. 2 art.
 39. & 7.
Rich. 2.
 Membran. 9.
 art. 13. &
 14. & 7.
Hen. 4. art.
 18. & 19. &
 8. *Hen.* art. 6.
^m *Rot. Par.*
 33. *Hen.* 6.
 artic. 27.
ⁿ *Rot. Fran-*
cia. 32. *Hen.*
 6. m. 4. & 6.
 &c.

^o *Stat.* 20.
Hen. 6. cap.
 1.

ment of any Province or Countrie. And in the ^Ptwentieth year of the same King, the Commons prefer'd a Bill, that a strong and well accomplished Navie might bee provided for the defence of the Sea, becaul **It is thought fit be all the Commens of this Land that it is necessarie the See be kept.** Verie many other passages there are to the same purpose. *Geoffrie Chaucer* (who lived in the time of *Richard* the Second, and was a man verie knowing in the affairs of his Countrie) among other most elegant and lively characters of several sorts of men, written in the *English* Tongue, describe's the humor of an *English* Merchant of that time, how that his desire above all things is, that the Sea bee well guarded, never left destitute of such protection as may keep it safe and quiet. Which hee speak's to set out the whole generation of Merchants in that age, whose custoin it was to bee sollicitous for traffick above all things, and consequently about the Sea it self, which would not afford them safe Voyages, did not the Kings of *England*, as Sovereigns thereof, according to their Right and Custom, provide for the securitie of this, as a Province under their Protection. The words of *Chaucer* are these,

P Rot. Par-
lam. 20. Hen.
9. Artic. 29.

**His reasons spake hee full solemnely,
Shewing alway the encreas of his Winning;
Hee would the See Were kept for any thing
Betwix Middleborough and Orewel.**

Orewel is an Haven upon the Coasts in *Suffolk*. *Middleborough* is in *Zealand*. The whole Sea that floweth between *Britain* and *Zealand* the *English* Merchants would have secured, this they were wont solemnly and unanimously to pray for, knowing that the Sea

was part of the Kingdom, and the Protection of them part of the dutie of the Kings of *England*. For, as concerning any Protection herein by any forreign Princes, any farther then in their own Harbors, or at the most within the winding Creeks between those Islands which they possessed upon the Coasts of *Germanie* or *Gallia Belgica*, there is nothing, as far as wee can finde, to bee gathered from any Testimonies of former Ages. In the succeeding Ages likewise, there is frequent mention of this kinde of Guard, Defence, and Government of the same Sea, as will hereafter more fully appear when wee com to speak of *Tributes*, and of the *tenor and varietie of the Commissions* given to our Admirals. But now, it is to bee observed, that both the name and nature of this Guard is very well known, not onely by the use of the word both in the ¹ *Imperial* and *Canon* ² *Law*, wherein it denotes that the Guardian ought to take a diligent care of that thing, whereof hee is owner, who doth either lend it, or commit it to his over-sight, but also by the common and obvious use which the *English* make of the same word in other Offices or Governments. For in those daies of old, when the title of Guardians or Wardens of the Sea was more usual, there were appointed *Wardens of the Ports*, even as at this day there are *Wardens of the Counties* (who are those Commanders of Counties called *Sheriffs*, and in the usual form and tenor of their Writ have *custodiam comitatûs* **the Guard or Defence of the Countie committed to their charge**) *Wardens* or *Keepers of the Marches* or *Borders*, *Keepers of Towers or Castles*, *Parks*, *Houses*, and the like. Yea, and the Lord Lievtenant of *Ireland* was especially in the time of King ¹ *John* and ² *Henrie* the Third, stiled usually *Warden* or *Keeper of Ireland*, and his Office

¹ L. ff. tit. Commodati, §. 5. & 8.
² Extr. tit. de Officio Custodis Ecclesiæ.

¹ Rot. Cart.
² Joann. R. in Dorset.
 Rot. Pat. 17. Joann.
¹ Rot. Pat.
 3. Hen. 3.
 Membran. 4. &c.

or dignitie, commonly called the Keepership of *Ireland*; after the same manner as *John Duke of Bedford*, and *Humphrey Duke of Gloucester*, whom *Henry the fifth* during the time of his absence in *France*, deputed to govern the Kingdom of *England*, by turns, were called *Custodes Angliæ*, *Keepers of England*, as wee very often finde both in ^u *Histories* and ^x *Records*. So *Arthur Prince of Wales* was made ^y *Keeper of England*, while *Henry the seventh* was beyond the Seas. So *Piers Gaveston* was keeper of *England*, while *Edward the second* remained in *France*. So were others also in like manner. The *Governors* also of the *Islands of Jarley and Barneley*, and the rest that are situated in this *Sea*, who now are styled *Governors*, *Keepers*, or *Captains*, were in ^z *antient times* called onely by the name of *Guardians*, or *Keepers*. This then beeing so, what reason have wee to think that our *Ancestors* did not use the same *Notion* of *Guardian* or *Keeper*, and of *guarding* or *keeping*, in the name of the *Guardian* and the *Guard of the Sea*, which they were wont to use in the *Guard* and *keeping* of the *Island*, and in the other dignities or offices before mentioned? Doubtless, in all these the peculiar *Dominion* and *Soveraigntie* of him that conferr'd the *Dignities*, is so clearly signified and included, that his *Dominion* or *Ownership* of the thing to bee kept and guarded, as well as *Autoritie* over the person dignified, is plainly implied in this *Title*. Nor is it to bee omitted, that in *antient times* before the *autoritie* of the high *Admirals* of *England* was sufficiently established by our *Kings*, and settled so distinct, that the *Command* and *Government* of the *Sea* did belong onely to them, the *Governors* or *Keepers* of the *Provinces* whom wee call *Sheriffs* of the *Counties*, by virtue of their *Office* had also som *Custodie*

^u *Th. Walsingham, ann. 1420, &c.*

^x *Rot. Parl. 8 Hen. 5. &c.*

^y *Rot. Pat. 8 Hen. 7. part. 1.*

^z *Rot. Pat. 3 Hen. 3. in Junio; Philippo de Albinaco, &c.*

Custodie or Command of part of that Sea which adjoined to their respective Provinces, as of a part of the Kingdom of *England*. Which truly (to let pass other proofs) is sufficiently evident by this, that many times in those daies, they who, by the Common Law of the Land, were wont, as at this day, to put in execution the Commands of the King in those places onely that were committed severally to their charge and custodie, did do the same also in the Sea it self as well as in any Land-Province belonging to him from whom they received their autoritie. For, by virtue of their ordinarie power derived from the King, and such as was founded upon the very same right by which they held the Government of the Countie or Province, they did oftentimes remove the King's Ships and Fleets from one Port to another by Sea, as through the Territorie of the Province that was committed to their charge. Which indeed is a thing wee hear not of in later times; but that so it was in the Reigns of King *Henrie* the third, and *Edward* the first, the Records^a of those times do testifie. But afterwards, the Universal Custodie of the Sea, excepting onely what was extraordinarie, was committed by our Kings to the *high Admirals of England*, and to them alone or their Deputies, and apperteineth unto them now by an unquestionable right. But when any person is intrusted with that Guardianship or Custodie, the possession and dominion of the King who intrust's or give's him the Autoritie, is comprehended in that Government or Command; which also is confirmed by words most exprefs and home to the business in hand, that are to bee seen in a Libel, or Bill of Complaint^b, hereafter mentioned, which was exhibited by a great number of the neighbor-Na-

tions,

^a Rot. Claus.
7 Hen. 3.
dors. 6. 14 H.
3. Memb. 22.
& 17. in dors.
Claus 17 H.
3. Memb. 7.
in dors. Rot.
Pat. 24 Ed.
1. Memb.
17. & laus.
25 Ed. 1.
Memb. 12.
in Dorso &c.

^b Chap.
XXVII. &
XXVIII.

tions, to the Commissioners of our *Edward the first*, and *Philip the fair King of France*.

The Dominion of the English Sea asserted from those Tributes or Customs that were wont to be imposed, paid, and demanded, for the Guard or Protection thereof, after the Norman Conquest.

CHAP. XV.

Concerning the *Tributes or Customs* that were wont to be imposed, paid, and demanded, for the *Guard of the English Sea*, there are very ample antient Testimonies, all along since the Reign of the *Normans*: And those things which have been already mentioned touching the *Guard of the Sea*, do not a little confirm it. It is manifest, that the *Tribute* imposed, in the time of the *English-Saxons*, for the *Guard of the Sea*, which was called *Danegeld* (of whose *Original and use* we have ^a already spoken) was wont now and then to be paid heretofore under the *Norman Kings*. After the words there cited out of the antient *Dialogue* touching the *Exchequer*, about the payment thereof before the *Norman Conquest*, it immediately follows thus in the same *Dialogue*: *In his Reign* (that is to say, the Reign of *William the first*) *the Danes, as well as other Robbers of Land and Sea, restrained the Invasions of Enemies, knowing this to be true which is written, When a strong man armed keep's his house, hee possesseth his goods in peace. For they were not ignorant, that resolute and valiant men would not let injuries pass unrevenge'd. Therefore whereas the Land*

^a Chap. II.

had paid it a long time in the same King's Reign, they were unwilling to pay that every year, which had been exacted upon urgent necessitie in time of warr: But yet they would not have it wholly cashiered, becaus of sudden occasions. Therefore it was seldom paid in his Reign, or the Reign of his Successors; that is, onely then, when they either had or suspected a warr with Foreigners. And among the^b old Laws of England wee finde that William Rufus requiring aid of the Barons for the regaining of Normandie out of the hands of his brother Robert, surnamed **Cortehole**, who was upon a Voiage to the Holy Land, Danegeld was granted to him, not established, nor confirmed by a Law; that is to say, four shillings upon every Hide of Land, which were paid for defending the Dominion by Sea. For, that was the intent and end of Danegeld, according to its nature and original.

^b Apud Roger. Hovedenium in Annal. part. 2. pag. 344. Edit. Londin. & 603. in Edit. Francofurt. & apud G. Lambard. in Archaenomia pag. 128.

Moreover, ^c Roger Hoveden saith expressly, that it was usually paid until the time of King Stephen. Hee speaking of the promises which hee made at the time of his Coronation, saith, *Thirdly*, hee promised that hee would remit Danegeld for ever, that is, two shillings upon an Hide, which his Predecessors were wont to take every year. The same also is affirmed by Matthew Paris, and ^d Roger of Wendover, out of whom the Chronicles set forth by Matthew until the nineteenth year of Henry the third, or the year of our Lord MCCXXXV. were wholly taken. They say of King Stephen, *Tertiò vovit quòd Danegeld, id est, & qualibet ydâ terræ duos solidos, quos Antecessores ejus consueverant accipere in aeternum annis singulis condonaret.* So indeed wee read it in the ^e Manuscript Books of this Matthew, whereby the Printed ones are to be amended, who render it onely thus: *Tertiò vovit, quòd Antecessores ejus accipere consueverant, in aeternum annis singulis condonaret.* But this also is added by Hoveden, these especially

^c Annal. part. 1. pag. 276. Edit. Londin. pag. 482. Edit. Francofurt.

^d Ms. in bibliothecâ Cottoniana.

^e In Biblioth. Cottoniana.

especially, and divers other things bee promised before God, but kept none of them, as wee are told likewise by Paris and Wendover: So that this Tribute was wont to bee paid in the Reigns of William the first, and the second, Henrie the first, and King Stephen also, for the guard of the Sea. And it appears by the accompts of the Exchequer, that it was paid somtimes in the time of Henrie the second. And after that it grew out of date, another courf was wont to bee taken very frequently, and used as the Custom of the Land, that Pay, and Provisions might not bee wholly wanting, to maintain the Dominion of the Kingdom of England by Sea. Mention is made touching this particular in the Court-Rolls of Edward the first^f, *Terrarum ad Custodiam Maris agistatarum*; that is, of such Lands as were charged with a Paiment or Tribute for the guard of the Sea. Wee know indeed also, that it was in the same manner collected at that time, under pretence of the Sea, for the pay and maintenance of Land-Forces near the Shore. But certain it is, that the Sea it self was guarded then with Naval-Forces, as well as the Shore by Land-Forces, and so that that Paiment belong'd either to the Sea it self, or elf to the Shore as well as the Sea. Moreover, Subsidies have been demanded of the people in Parliament, *Pour^e la salvation du Royaume & de eux Mesmes & auxint de la Meer, de la March d' Escoce, de Gascoign & des Isles*; that is, for defence of the Kingdom, the Sea belonging thereunto, the Scotish Border, Gascoign, and the Isles. Thus the Sea, and its defence and Dominion is reckoned in an equal right and condition with that of the Kingdom, the Borders, and the Isles. Several other instances there are of that kinde. But that especially is to bee observed in this place, which wee finde in the Parlarmentarie Records of King Richard the second, concern-

^f M. 25 Ed.
I. Comm.
Banc. Rot. 72.
Penes Camerarios
Scaccarii.

^e Rot. Parl.
13 Edw. 3.
Art. 6.

ing a Tribute or Custom that was imposed upon every ship that passed through the Northern Admiraltie, that is, in the Sea which stretcheth it self from the *Thames* mouth along the Eastern shore of *England* towards the North-East, for the pay and maintenance of the Guard or Protection of the Sea. Nor was it imposed onely upon the ships of such Merchants and Fisher-men as were *English*, but also by the same right in a manner upon thole of any Foreigners whatsoever, no otherwise than if a man that is owner of a Field, should impose a yearly Revenue, or Rent for the libertie of Thorowfare, or driving of Cattel, or Carr, through his Field. Paiment was made at the rate of six pence a Ton upon every Vessel that passed by; except such ships onely as brought Merchandise out of *Flanders* to *London*, or that carried Wooll and Skins from any other place within the Jurisdiction of that Admiraltie to *Calais*. If a Vessel were imploied to fish for Herrings, it paid the rate of six pence a week upon every Ton. If for other kindes of Fish, so much was to bee paid every three weeks; as they who brought Coles hither from *New-Castle*, paid it every three months. But if a Vessel were bound for *Prussia*, *Norwaie*, *Scone*, or any of the neighboring Countries, it paid a particular Custom, according to the weight and proportion of the Freight. And if any were unwilling, it was lawfull to compel them to pay. That is to say, there were certain Officers that had autoritie to exact it, having the Command of six ships, Men of War, for this kinde of Guard or Protection. But the whole matter I here faithfully set down out of the ^hOriginal, in the same language it was written, that is, the *Norman* Language of that time.

^h Rot. Parl.
2 Ricb. 2.
part. 2. art.
38. in sche-
dulâ.

C'est l'Ordinance & Granté, per l'aduis des Marchaunds de Londres, & des autres Marchaunds vers la North, per l'assent de touz les Communes de Parlement, par devant le Comte de Northomberland & le meaire de Londres, pur la garde & tui-cion du mier & costers del Admiralté de North ove deux Niefs, deux Bargis, & deux Ballingers armez & arraiez pur guerre sur les coustags que s'ensuient.

Primerement, pur prendre de Chescun Nief & Craier, de quele portage q' il soit que passe per la mier dedeinz le dicte Admiralté alant & returnant pur la voiage de chescun tonne-tight VI^d. horspris Niefs chargez ove vins, & Niefs chargez ove marchandises en Flan-dres qe serront frettez & dischargez à Londres, & Niefs chargez ove leynes & peues à Londres ou ailleurs dedeinz la dicte Admiralté que serront dischargez à Caleis; les quieux Niefs les Gardeins de la dicte mier ne serront tenuz de les conduire sans e-stre allowez

Item, de prendre de chescun vesseau pessoner qe pessent sur la mier du dit Admiralté

entour harang, de quelle portage q'il soit, en un semain, de chescun tonnetight $\overline{\text{VI}}^{\text{d}}$.

Item, de prendre des autres Niefs & vesseaux pessoners que pessont entour autres pessons sur la mier dedeinz la dicte Admiralte, de quele portage q'il soit, en trois semaignes de chescun tonnetight $\overline{\text{VI}}^{\text{d}}$.

Item, de prendre de touz autres Niefs & vesseaux passanz par mier dedeinz la dicte Admiralte, chargez ove Charbons ou Novel Chastiele seur Tyne de quele portage q'il soit, en le quarter de un an, de chescun tonnetight $\overline{\text{VI}}^{\text{d}}$.

Item, de prendre de touz autres Niefs, Craiers & vesseaux passanz per mier dedeinz la dicte Admiralte, chargez ove biens des Marchanz queconques en Espreux, ou en Northway ou en Scone, ou en ascune lieu en mesme les parties de pardela, pur le voyage alant & retornant, de chescun last Squar, viz. lastas graves $\overline{\text{VI}}^{\text{d}}$.

This

This is the Ordinance and Grant by the advice of the Merchants of London, and other Merchants towards the North, by the Assent of all the Commons in Parliament, before the Earl of Northumberland, and the Mayor of London, for the Guard and tuition of the Sea, and the Coasts of the Admiraltie of the North, with two Ships, two Barges, and two Gallingers, armed and fitted for Warr, at these rates following.

First, To take of every Ship and Bark, of what burthen soever it bee, which passeth through the Sea within the said Admiraltie, going & returning, for the Tollage, upon every Tun $\overline{\text{VI}}^{\text{d}}$; Except Ships laden with Wines, and Ships laden with Merchandises in Flanders, which shall bee unladen and discharged at London, and ships laden with Wools & skins at London, or elsewhere within the said Admiraltie, which shall bee discharged at Calais; which ships the Guardians of the said Sea shall not bee bound to convoy without allowance.

Item, To take of every Fisher-boat that fisheth upon the Sea of the said Admiraltie for Herrings, of what burthen soever it bee, for each Week, of every Tun $\overline{\text{VI}}^{\text{d}}$.

Item, To take of other Ships and Fisher-boats, that Fish for other kindes of Fish upon the sea, within the said Admiraltie, of what burthen

burthen soever they bee, for three Weeks, of every *Lun* $\overline{\text{VI}}^{\text{d}}$.

Item, To take of all other ships and Vessels passing by Sea, within the said Admiraltie, laden with Coles from New-Castle upon Tyne, of what burthen soever they bee, for a Quarter of a year, of every *Lun* $\overline{\text{VI}}^{\text{d}}$.

Item, To take of all other ships, Barks, and Vessels, passing by sea, within the said Admiraltie, laden with Goods of any Merchants whatsoever for Prussia, or for Norway, or for Scone, or for any other place in those Parts beyond the sea, for the Voyage going and returning, of every *Last* $\overline{\text{VI}}^{\text{d}}$.

So run the Records of Parliament, which in that Age were almost all written in this kinde of Language; Not such as arrived at shore were charged here (as in most other places) with Customs, as upon the Account onely of the shore; but those that passed or sailed by, or used Fishing, as well Strangers as Natives. And this was upon the request also of the Estates in Parliament under *Henrie* the fift in the preferring of a certain Bill, which I have taken out of the Records, and set down at largeⁱ hereafter. That is to say, they desired it, as beeing very well instructed in the ancient Law and Custom touching that particular, and of the King's Dominion. Nor can any thing bee said more expressly, for asserting the Dominion of the King of *England* over the Sea it self. For, it is clearly the interest of him who is Lord or Owner of the place, to impose payments and services within a Territorie.

ⁱ Chap. 23.

Moreover, in the time of *Henrie VI*, *William de la Boole* Duke of *Suffolk* beeing accused in ^k Parliament, the principal head of the Charge was, that hee had converted the Subsidie monie to other uses, which had been imposed and levied for the Guard of the Sea. The words in the *English* are, **Foz the Defence and tynction and saufe keeping of the Sea**, as wee reade it in the Records. A demand was made also in ^l Parliament, in the two and thirtieth year of the same King, of fourtie thousand pounds, **Foz the defence and saufeguard of the Sea**; as wee reade likewise in the Records. But why do I cite them here? In those ^m Acts of Parliament which are published abroad in Print, wee very often finde it, as a thing asserted by the Estates of the Realm in Parliament, that the Kings of *England* have time out of minde, by autoritie of Parliament, taken large sums of monie, by way of Subsidie or Custom, upon Merchandise either imported or exported, **Foz the defence of the Realm, and the keeping and the saufeguard of the Seas, foz the entercourse of Marchandise safely to come into and to pass out of the same** (which is the usual form of words.) That is to say, these words are part of the Preface or Preamble which was usually placed in the beginning of any Law or Statute, whereby that most known Custom or Impost of *Tonnage* and *Poundage* was wont to be imposed, **Foz the keeping and sure defending of the Seas against all persons intending or that shall extend the disturbance of us your said Commons in the intercourse and the invading of this your Realm.** So that the King of *England* hath ever been so accounted the Arbitrator and Lord of Commerce throughout

^k Rot. Par-
lam. 28. Hen.
6. art. 38.

^l Rot. Par-
lam. 32. Hen.
6. articul. 30.
c. 41.

^m Stat. 1. Ed-
ward. 6. 1.
*Mariae Re-
gine, 1. Eli-
zabethæ, 1.
Jacobi Regis.*

these Seas, that it could not lawfully be hindred without his Commission. Which truly is a manifest evidence of that Dominion or Ownership, whereof we treat. And here you see also that the defence of the Realm, that is, of the Island (for sometimes the Isle alone, and sometimes the Sea also, as I shall shew by and by, is comprehended in that name) and of the Sea, as of those things which are held and possessed by one and the same Right, is joined together. The Tribute or Custom afore-mentioned, which was wont to be imposed, and the usual form of the same Imposition, may be seen compleat in the printed Acts of Parliament of *K. Edward* the Sixt, and others following. But it appears most certain by the *Rolls*, that the Predecessors also of this *Edward*, whose Records are yet extant, did enjoy the same or the like, according to the various Custom of the Times.

Observation

Observations touching the Dominion of the English and Irish Sea, from the tenor and varietie of those Letters Patents or Commissions Roial, whereby the Admirals of England were wont to bee put in Autoritie.

CHAP. XVI.

THe usual form of Commission, whereby the High Admiral of *England* is wont to bee invested with Autoritie for the Guard of the Sea, run's thus at this day, as it hath don also for very manie years past.

We give and grant to N. the Office of our great Admiral of England, Ireland, Wales, and of the Dominions and Ilands belonging to the same, also of our Town of Calais and our Marches thereof, Normandie, Gascoigne, and Aquitain; And we have made, appointed, and ordained, and by these presents we make, appoint, and Ordain him the said N. our Admiral of England, Ireland, and Wales, and our Dominions and Iles of the same, Our Town of Calais and our Marches thereof, Normandie, Gascoign, and Aquitain; as also general Governoz ober all our Fleets and Seas of our said Kingdoms of England and Ireland, our Dominions and Ilands belonging to the same. And know yee further, that we of our especial grace and upon certain knowledg &c. Do give

and grant to the said N. our great Admiral of England and Governour general over our Fleets and Seas aforesaid, all manner of Jurisdictions, Authorities, Liberties, Offices, Fees, Profits, Duties, Emoluments, Wrecks of the Sea, Ejectments, Regards, Advantages, Commodities, Preheminences and Privileges whatsoever, to the said Office our great Admiral of England and Ireland, and of the other Places and Dominions aforesaid in any manner whatsoever belonging and appertaining.

And afterwards there follow verie many other particulars in the King's Commission, setting forth that most ample Command and Jurisdiction. In former times, as hath been already shewn you, this kinde of Commanders were called *Custodes Maris*, **Guardians or Keepers of the Sea**, who afterward began to bee invested with the name of *Admirals*, in the Reign of *Edward the First*. But their Commands were usually restrained to certain Limits of Coasts; So that particular Commanders were sometimes set over each of the Three, Western, Southern, and Northern Coasts; but for the most part over the Western and Northern. Seldom was one set over both, before that the Title of Admiral of *England, Ireland, and Aquitain* was put into the Commissions; of which more by and by. But as the name of *Guardian of the Sea* was taken from the Sea it self, whereof hee was Governor as of a Province; so that of *Admirals* (a word, whose Original is very uncertain; but *Ἀμφοδάλιος* or *Amiralius* was used of old for a Commander of a Fleet or Navie, not onely in the West, but also in the Eastern Empire) derived its name of Dignitie, either from the Fleet wherewith hee defended his Jurisdiction at Sea
(as

• *Georgius Codinus, de Officiis Constantinopolit. cap. 2.*

(as it was usual heretofore) or els from the Land, either bordering upon that Jurisdiction or joined therewith, as it hath been in the later Form of Commissions. Whereupon, from the time of *Edward* the First, unto *Henrie* the Fourth, about one hundred and Fiftie years, they were in solemn manner created Admirals of the Fleet or Navie of our Ships, towards the Northern Parts, or towards the Western Parts, or the Southern, or (as it fell out sometimes) of both together. For, the Southern and Western Coast did, as appear's by the thing it self, signifie one and the same: That is to say, the Coast stretched here and there along the Shore from the North of the *Thames*. But as the Dignitie of those Officers called *Comes* and *Magister Equitum* of the West, *Magister Equitum* throughout *Gallia*, *Magister Militum* throughout the East, *Magister Militum* throughout *Thrace*, and others of that kinde in the Imperial Offices, did no less denote the Autoritie and Jurisdiction of them that commanded in these Provinces, who before were Lords of the Provinces, than if they had been called *Comes* and *Magister* of the West, *Magister* throughout *Gallia*, throughout the East, and throughout *Thrace*; so it is evident, that the Admirals of the Fleets and Navies (whereby the Sea is guarded after the same manner, as the Land is possessed by Land Forces) did no less set forth the Command and Dominion, and civil possession of those that had autoritie over the Sea (who before were Lords of the Sea) then if they had been styled Guardians of the Sea, Commanders, or Admirals, in their Commissions. And such as were so constituted Admirals of both Coasts, or of the whole *English* Navie, were sometimes by a general name called Admirals of

Rot. Pat. 10. Rich. 2. part. 2. Memb. 19. & 11. Rich. 2. part. 2. m. 12. ubi Richardus Comes Arundelie sic nuncupatur in Protectionis revocatione.

England over the Sea, before that form of words was put into the Royal Commissions. And of this sort of Admirals you have a Catalogue set down by that eminent man *Sir Henrie Spelman* in his *Gloſſarie*, where there are others also that follow.

But such a change hapned in the Form of the Commissions, in the time of *Henrie* the Fourth, that there was one man appointed Admiral not onely of the Fleets or Navies, but of *England and Ireland* (over whose *Fleet of Ships* or Navie for Defence of the *Irish Sea*, sometimes a particular person was made Admiral, as was *Thomas Percie* Earl of *Worcester*) yea and in expreſs words also Admiral of *Aquitain* and *Picardie*; As was *Thomas Beaufort* (who also was Duke of *Exceſter* under *Henrie* the Fifth) in the thirteenth year of *Henrie* the Fourth, after hee had ſurrendred the Commission, whereby hee had before been made Commander of the Fleets: And hee was the first (for ought wee know) that was created in this manner. But in the next Form of Commission the name of *Picardie* was left out. So indeed in the fourth year of *Henrie* the Sixth, or *Anno Dom. MCDXXVI.* *John* Duke of *Bedford* was by Commission made *Admiral of England, Ireland and Aquitain*. That Form continued about 88. years, or throughout the Reigns of *Henrie VI.*, *Edward IV.*, *Richard III.*, *Henrie VII.*, and the three first years of *Henrie VIII.* And about that time, ten others were in like manner made Admirals, for the most part perpetual, of *England, Ireland, and Aquitain*; the last of which was *John* Earl of *Oxon*, who was Commissionated in that Form, in the first year of *Henrie* the Eighth. But there followed another alteration, or addition of Titles, in the fourth year of that King,

- Anno

Rot. Pat. 21.
Rich. 2. part.
2. m. 15.

Ms. Formularum de
Rebus Maritimis, in Biblioth.
Cottonianâ. 3.
Maii, 13.
Hen. 4.

Rot. Pat.
4. Hen. 6.
part. 2. Mem.
11. 26. Julii.

Rot. Part.
1. Hen. 8.
part. 1.

Anno Dom. MDXIII. At that time, Sir Edward **Ho-**
ward Knight, son of Thomas Earl of Surrie, af-
 afterwards Duke of Norfolk, was made ^g Admiral of
 England, Wales, Ireland, Normandie, Gascoign, and Aquaitain.
 To which words, ^h Calais and the Marches thereof are added
 in the Commisison of William **FitzWilliams** (who
 also was Earl of Southampton) beeing appointed Admi-
 ral in the twentie eight year of King Henrie the
 Eight. This Form of Commisisions held in use after-
 ward, through the whole Reign of that Henry, adding
 (according to antient Custom) the clauses touching
 Jurisdiction. But in the beginning of Edward the Sixt,
 Thomas Baron **Seymour** of **Sudeley**, brother to
 Edward Duke of Somerseset, was made Admiral ⁱ almost
 in the same words, as that William Earl of Southampton,
 inserting after the name of Calais, *Boloign and the Marches*
of the same. After him followed John Earl of Warwick,
 who was created by Edward the Sixt, in the third year
 of his Reign, ^k our Admiral of England, Ireland, Wales, Calais,
 and Boloign and our Marches of the same, of Normandie, Gascoign,
 and Aquitain; as also Governor general over all our Fleets
 and Seas; And in the same Commisison hee is styled after-
 wards, Great Admiral of England and Governor of our
 Fleets and Seas. But after a while, the name of Boloign
 being omitted, the next high Admiral of England was
 created in the very same Form of words, as is mentio-
 ned before in the beginning of the Chapter. For, in
 the same ^l Form was William Baron **Howard** of **Es-**
ingham Son of Thomas Duke of Norfolk, made Admi-
 ral in the beginning of Queen Marie, or Anno Dom.
 MDLIII. And the Command or Government of
 those Seas, as the principal charge of that Office or
 Dignitie, is more notably expressed there, as you may
 see, than in the Commisison of the Earl of Warwick.

From

^g Rot. Pat. 4.
 Hen. 8. part.
 2. Augusti.
 15.
^h Rot. Pat. 28.
 Hen. 8. part.
 2. Augusti.
 16.

ⁱ Rot. Pat. 1.
 Edw. 6. part.
 6. 17. Febr.
 membran. 9.

^k Rot. Part.
 3. Ed. 6. part.
 2. Novemb.
 28.

^l Rot. Pat. 1.
 Marie Regi-
 ne, part. 5.
 20. Martii.
 Membr. 3.

From that time forwards, the very same Form was kept alwaies; as in the Commission of the high Admirallship granted to *Edward* Baron *Clinton* (afterwards Earl of *Lincoln*) in the Reign of ^m*Philip* and *Marie*; also in the Commission of *Charls* Baron of *Effingham*, afterwards Earl of *Nottingham*, in the time of *Q.ⁿ Elizabeth*; and of *Charls* Duke of *York*, in the time of King ^o*James*; besides *George* Duke of *Buckingham*, who enjoined the same Office or Command in the same words, in the Reigns of ^p*James* and *Charls*. So that for above eightie years or thereabout (that is, from the beginning of *Q. Marie*) the whole form, as it is set down in the beginning of this Chapter, was ever expressly reteined in the Commissions of the high Admirallship of *England*, so far as they denote either the Countries, or the Seas, or the Dominion of the same. But therein the Admiral is styled *Governor General* over all our *Fleets and Seas*, (just as *John* Earl of *Warwick* was likewise expressly appointed in general tearms under *Edward* the sixt) or over our *Seas aforesaid*. But what were those Seas, or the Seas aforesaid? They are in the fore-going words expressly called the Seas of our said Kingdoms of *England and Ireland*, our Dominions and Islands of the same. That is, in plain tearms, *Mer d'Engleterre, d'Ireland, & Gales*, or the *Sea of England, Ireland, and Wales*; after which manner the Seas belonging to the Dominion of *England*, are somtimes also described in ^qour Laws, which are called likewise now and then by ^rour Lawyers, *Les quatre Miers d'Engleterre*, or the four Seas of *England*, divided according to the four Quarters of the World. So that in the most received form of this Commission, after the beginning of *Queen Marie's* Reign (out of which also the sens and meaning of former Commissions is

▪ Rot. Pat. 4.
& 5. Phil. &
Marie, par. 1.
Feb. 10.

▪ Rot. Pat.
27 Eliz. R.
part. 10. 8.
Julii.

o Rot. Pat. 9.
Jacobi Regis,
part. 9. Jan.
27.

p Rot. Pat. 16
Jacobi Regis, part. 17.

q Stat. 20 H.
6. cap. 11.
r 2 Ed. 3. fol.
9. seu 36 a.
pl. 6.

to bee collected) wee have a continual possession or Dominion of the King of *England* by Sea, pointed out in exprefs words for very many years. And what wee have alreadie spoken by way of Collection out of these that followed the beginning of *Marie*, touching the sens or meaning of former Commissions, wherein a positive Command of the Sea is not exprefsed, is truly (to omit the thing it self, which sufficiently intimate's as much of its own nature) not a little confirmed upon this ground, that hee also, who before any exprefs mention of *our Seas*, took place in the form of the Commission of the high Admirallship, was next prefer'd to the same dignitie, was immediately after his Creation, according to the whole Title of his Office (as being the same title which indeed alwaies belonged to the Admirals of *England*) styled; *Great Admiral of England, and Governor General of the Navie and our Seas.* So verily *Thomas Baron Seymour* (whom I mentioned before) is styled *Admiral of England* in the Patent Roll granted to him by *Edward the sixt.*

¹ Rot. Pat.
¹ Ed. 6. part.
6. membran.
⁵ Augusti,
30.

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It is proved by words plain enough in the form of the Commissions for the Government or command of the high Admiral of England, from antient to the present time, that the Sea, for whose guard or defence, hee was appointed by the King of England as Lord and Sovereign, was ever bounded towards the South, by the shore of Aquitain, Normandie, and Picardie.

C H A P. XVII.

BUT in the Form already shewn, which hath continued in use for so many years, you see mention is made onely of the Seas of our Kingdoms of England, and Ireland, our Dominions, and Islands belonging to the same, as the Province, for whose guard or defence the Admiral was appointed; that is, (as wee have told you) the English, Irish, and Welch Sea, all which is contained under the name of the British, as it hath been observed at the beginning of this Book. Yet the names of Normandie, Gascoign, and Aquitain, besides Calais, are added, which are Provinces seated upon the shore over against us. As to what concern's them in this place, they are either to be considered in the same manner as if they had been alwaies held in subjection by the English from the time of the first mention of them in the Commission; or as they have already for some Ages past been out of their Jurisdiction.

But suppose in the first place, that they had alwaies remained in the Jurisdiction and Possession of the English.

lish. Questionless, howsoever the Admiral of *England* might then, according to this Form of Commission, have had Courts of Admiraltie in those Provinces (as there is no place almost without Courts of Admiraltie, even where not any Dominion of the Sea at all is pretended to belong unto the place, wherein they are held) yet by no means might hee thence bee called Commander of the Sea it self (if so bee you except the Ports, and such like Creeks of the Sea, which are as it were incorporated within Land) either as it may bee said to belong to *Normandie*, or to *Aquitain*, *Gascoign* or *Picardie*: But by virtue of this form of Commission, hee had exercised Maritim Jurisdiction in those Provinces beyond Sea, no otherwise almost than our Admiral in *England*, and *Ireland*, or others the like do at this day, over men's persons & goods upon the *African*, *Mediterranean*, *Indian*, or any other Sea at a remote distance: For, the extent of such a Jurisdiction by Sea is without bounds. But the extent of his Jurisdiction, or of the Sea, over which hee is placed Admiral, as Warden, Guardian, or President, to defend and keep it under the Dominion of him who is Lord thereof, are bounded. And it sufficiently appears by express words of the antient form of Commission, that no Sea is contained therein, as a Province to bee defended, but that which is either *English*, *Welch*, or *Irish*, or relate's to *England*, *Wales*, and *Ireland*, as an appendant. From whence it follow's, that those names of the opposite shores in the Commissions do not at all mention the Sea flowing between as proper to those shores, or belonging to them in any kind, but serv onely as a limit beyond the Sea (so far as concern's the limiting of the *English* and *Irish* Sea;) as those names also of *England*, *Wales*, and *Ireland*, serv in stead of a limit on this side of the Sea, so far as in the Commission

on they denote the Sea under the Admiral's Charge or Protection: So that, even as that Officer called the *Count of the Saxon shore throughout Britain*, was eminently according to the name of his dignitie, Commander of the whole Sea flowing between *Gallia* and *Britain*, as of a particular Province, (which hath been shewn^a already) and had the name of the opposite shore for the limit of his Jurisdiction; so the high Admiral of *England*, or Commander of the Sea belonging to the *English* Empire, hath in the King's Commission the shore of *Normandie*, *Gascoign*, *Aquitain*, and *Picardie*, to set forth onely the beyond-Sea limits of his Jurisdiction or Command (so far as hee hath charge of defending the Sea-Province or Dominion belonging to *England*) in those shores which lie over against us. For, if any say, that the case is otherwise, wherefore then is not the sea over which hee hath command, denominated from som of these shores over against us, as well as of the *English*, *Irish*, and *Welch*, or *the Seas of the Kingdoms of England, Ireland, and Wales, and of the Dominions and Isles belonging to the same?* The Reason is, becaus no other Sea, as it fall's under a Civil consideration (for wee speak not here of the denomination given by Geographers) doth flow between the Territories on this and the other side of the Sea which are mentioned in his Commission. Therefore as in that Roman dignitie of the *Count of the Saxon shore throughout Britain*, the shore was the transmarine bound or limit of that dignitie, so also in the Command of the high Admiral of *England* (so far onely as hee hath a Province or Jurisdiction by Sea, as a Governor of a Territorie) those opposite shores or transmarine Provinces, named in his Commission, are to bee reckoned the Bounds of the Sea under his Charge or Protection. And this truly is sufficiently

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^a Chap. 6. of
this Book.

apparent from the words of the Commission already handled, if so be we suppose (as hitherto we have don for discours sake) that the Kings of *England* did, all the while that form of Commission was in use, retain those Beyond sea Provinces under their Dominion as the *Romans* had don of old. But the matter is made more evident, if we observe how the names of those Provinces have, at least, from the time of *Queen Marie*, been so kept in the form of this Commission, that since her Reign there remain's not the least ground for any of those in the Commission, to signifie any other thing than what we have already declared: For, in her Reign *Calais* was yielded up to the *French*, and since that time, the *English* have not been possessed of any Province upon any part of the opposite shore.

Moreover also, in the one and thirtieth year of King *Henrie* the sixth, or *Anno Dom. MCCCCCLIII.* the *English* were driven out of *Gascoign*, *Aquitain*, and the other Provinces of *France*, by the *French* King, *Charls* the seventh: Nor was there after the time of this *Henrie*, any Officer or Governor of Note appointed, or that could conveniently be appointed by the *English* either in *Normandie*, or in *Aquitain* it self; yea, nor in *Normandie*, either after or long before the loss of *Aquitain*. It is true indeed, that the Countie of *Guise*, *Calais*, and som other Towns in *Picardie*, besides those neighboring ones that *Henrie* the eight gained by force of arms in the same Countie, remained long after in subjection to the Kings of *England*; yea, and that a small part of ^b *Aquitain* yielded obedience, though not constantly, to the King of *England*, for som years after *Henrie* the sixth; but not the whole *Dutchie*. Nor doth it make to the contrary, that sometimes under som of our later Kings, there was one appointed *Captain General* or *Governor* over

^b *Rot. Vascon.*
6. & 7 Ed.
4. & c. in *Ca-*
pellâ Rotulê-
rum.

^c Rot. Pat.
4 Eliz. R.
part. 1. in
dorſo.

all our Subjects in Normandie, with which Title both *Ambrose Earl of Warwick*, and *Adrian Poynings* were honor'd in the time of *Queen Elizabeth*. For, they were meerly Generals of the Forces that were transported thither to aſſiſt the King of *France*, not inveſted at all with any Government or Command of the Dutchie of *Normandie*. But yet, even after the time of *Henrie the ſixt*, the name of *Aquitain* was conſtantly retained in the Commiſſion of the High Admirallſhip of *England*: That is, for one hundred and fourſcore years, or thereabout, after the *English* were driven out of *Aquitain*, as appear's in the former Chapter. Hereto at length was added (as is ſhewn there alſo) the name of *Normandie*, in the beginning of *Henrie the eight*: whereas notwithstanding the King of *England*, was not poſſeſſed of *Normandie* a long time before, nor in any wiſe after; nor did hee in that agreement^d made a little before with the King of *France*, claim any other poſſeſſion in *Picardie*, beſides that of *Calais*, and the Territorie of *Guiſe*, and *Hammes*. And ſo it hath continued now for one hundred twentie two years alſo in the Commiſſion of Maritim Government or high Admirallſhip of *England*, without any relation at all had to the Government or Command of the Dutchie it ſelf, but onely of the ſhore, which bounded the Sea under his Maſter's protection, upon the Coaſt of *France*. For, although *Aquitain* indeed was firſt added to the names of *England* and *Ireland*, in that Commiſſion, while the *English* poſſeſſed the Dutchie of *Aquitain*, nevertheless it not onely ſo remained likewise in that form of Commiſſion conſtantly, even after the expulſion of the *English*, until our times, but *Normandie* alſo (which had never been named before in the Commiſſion of high Admiral of *England*) was added, and this ſom Ages after

^d Rot. Fran-
cia, 2 Hen. 8.

after that the *English* were wholly deprived of the Dutchie it self ; So that either these names do serv in stead of a Limit to the Sea under his protection, or els wee must perforce admit contrarie to reason, that they signified nothing in the Commisision for so many years. For, wee see that those names of opposite Shore were reteined in the Admiral's Commisision, even from the end of *Queen Marie's* Reign until our times, or for the space of 77 years, though the *English* in the mean time were not posselt of the least part of *France*; as also that *Normandie* was added many years before, but yet long after the *English* were outed of its possession. Nor ought any man fondly to imagine that these Names were inserted, becaus of that right the King of *England* had to the Crown of *France*. For indeed, the Kings of *England* have, by an antient Right, usually entiteld themselvs Kings of *France*: Also the Dutchies of *Aquitain* and *Normandie* and the other Provinces of *France* mentioned in this Commisision, are comprehended in that name of the Kingdom, as the lesser in the greater. But if that had been the caus, certainly the name of *France* should have been ascribed to our Admiral; yea, and other Officers of that Kingdom have been made in the same manner by the King of *England* after hee was driven thence : Of which thing there is not the least evidence indeed any where exstant. And it is to bee observed, as soon as ever an alteration was made in the Draught of the Commisision, from that denomination of the Command of the Admirals of *England*, which was derived from the Fleets and Coasts over which they had command, unto that which is made up of the Kingdoms and Provinces, that then an Addition was made of *Aquitain*; to the end that the limit or Bound,

as well on this as the other side of the Sea, might be pointed out by the Shores: The name of *Normandie* being added afterwards, and retained still together with *Calais* and the *Marches* thereof and *Aquitain*, upon the same account. But while that the Kings of *England* were in former times possess'd of *Normandie*, *Aquitain*, and other Countries in *France*, there are not found in the form of Commission, wherein the Kingdoms and Provinces (as hath been already shewn) are expressly nominated, any other Admirals or Governors of the Maritim Province or Dominion by Sea made by them, besides those to whose care the Fleets and Coasts were committed in the manner already mentioned; that is to say, the whole Sea flowing between our *British* Isles and the Provinces over against them, and the Fleets belonging to any Territories whatsoever of the Kings of *England*, were at that time by a peculiar right of the Kingdom of *England* in the Sea, so subject to them who were so put in Command over the *English* Fleets and Coasts, that there remained neither place nor use for any other Commanders of that kinde. Which may be said likewise of those times, wherein some of the Kings of *England* stood possess'd also of the Kingdom of *France*; as *Edward* the Third, and the two *Henries* 5th and 6th. Nor is it a bare conjecture, that they did not put any others in command over the Sea and Fleets, besides those to whom, by right onely of the Kingdom of *England*, the power was committed (to wit, according to that right which comprehended the whole Sea flowing between) but it is sufficiently proved also upon this ground, that wee have the antient publick ^e Records of those times, touching the Offices constituted by our Kings in
France

^e Rotuli
Franciæ,
Normanniæ,
Vasconiæ,
 Archivio
 arcis Lon-
 dinensis,
 Regum ferè
 singulorum
 annis distin-
 cti.

France, and those Provinces beyond Sea, in most whereof I finde not the least sign of the contrarie.

And if it bee demanded here, wherefore it was that the Shore of *Bretaign* was omitted (which in like manner lie's over against our Isle of *Britain*, and together with the Shore of *Picardie*, *Normandie*, and *Aquitain*, sufficiently take's up that whole Tract which stretcheth it self in the Realm of *France*, before the *English* and *Irish* Sea;) certainly, if the afore-mentioned reason take place, there is little caus to doubt that it hapned thence, becaus the King of *England* was not at any time so possess'd of *Bretaign*, that beeing outed of it, hee needed to bee very sollicitous touching the Bounds of the Sea-Territorie adjoining. Distinct Lords of Territories confining on each other (as were the King of *England* and Duke of *Bretaign* heretofore; for *Bretaign* had Kings and Dukes of its own before *Charls* the Eight, under whom, *Anno Dom.* 1491. it was united to the Realm of *France*) do for the most part keep their Bounds so distinct, that they may bee the more evidently taken notice of by all; but when of such kinde of Territories there is but one and the same Lord (as the King of *England* was while hee possessed either *Normandie* or *Aquitain* or any other Maritim Province in *France* together with *England*) hee beeing outed of either, ought above all things to take care that the past confusion of possession bee not prejudicial to the future distinction of Bounds. For fear then, lest it might have been pretended that even the Sea adjoining or confining with those Maritim Provinces, which were a long time heretofore possessed by the *English* and afterwards taken away, was taken away

S f

together

together with the Provinces, whenas perhaps, by reason of the past confusion of possession in one and the same Lord, all men might not bee sufficiently instructed touching the Bounds of the *English* Sea placed, as wee have said, upon the Shore over against us; therefore for the setting forth of those Bounds, the name first of *Aquitain* after its beeing lost was retained in the Admiral's Commission, and then that also of *Normandie* was added. And afterwards both of them, with the name of *Calais* and the *Marches*, in stead of the Shore of *Picardie*, were for the same reason continued down to our times. Which reason truly could not concern *Bretaign* at all; nor *Flanders* likewise, nor any other Shores lying Eastward over against us: All which nevertheless do, after the same manner, bound the Sea-Territorie of *England*. Moreover, those things that have been hitherto observed, shall bee confirmed, by what wee shall add next, touching the Office of Admiral among the *French*.

Touching

Touching the Admirals of the Kingdom of France, or those constituted upon the opposite Shore; their Original, nature, and varietie. That the Sea it self flowing between Britain and France, is not contained in that command of his, as of one that is Governor of a Territorie or Province; nor is there any thing in it that may oppose the Dominion of the King of England by Sea.

CHAP. XVIII.

THAT there were Admirals also constituted by the French King upon the opposite Shore of France, is known to everie man. And as there is an Admiral appointed in *Gallia Narbonensis* to over-see maritime Affairs there, so also on the opposite Shore, there are distinct Offices of the Admiral of *Aquitain*, *Bretaign*, and *Normandie* and the adjoining Coasts. But the French Lawyers of late are wont to call their Admiral in Latine *Præfectus Maris*, **Governor of the Sea**, as if the Sea were subject to him also as a Governor; whereas notwithstanding, if the thing bee rightly consider'd that Government of the Sea by what name soever it bee called, doth not signifie (as among the *English*) any Dominion of one having command in any nearer part of the Sea (for, wee speak not of the Sea of *Marseille*, which hath no relation here-

unto) but onely of their Naval Forces in any Sea whatsoever; together with the Government of the Sea-men and Jurisdiction over their persons and moveables, which may fall under the determination of a Judg *pour raison ou occasion* (as they ^a say) *de fait de la mer*, that is, by reason or upon occasion of any suit or controversie arising about Sea-Affairs. For the more plain understanding whereof wee must make farther enquire.

^a Arrest. ann. 1377. sub Carolo 5. Ediç. Franc. Tom. 3. Tit. 2.

In the more antient times, there were indeed Admirals or Governors of Sea-affairs among the French, yet so that their Writers do not a little differ about the original of the dignitie. They for the most part say, that *Rotlandus* is found to have been Governor of the Sea of *America* or ^b *Bretaign* under *Charlemaign*, whom they fetch out of *Eginhartus* who wrote the life of *Charls* at that time. But in *Eginhartus* he is expressly called Governor, not of the *British Sea*, but onely of the *Shore of Britaign*, as wee told you in the * former Book: In which name there is a description, not of one that govern's the Sea as a Province, but who command's the Shore as the limit of his dignitie. That is to say, of the same kinde as those Counts (or officers) were, who were ^c deputed in that Age to guard the Sea-Coast, and secure it from the incursions of enemies by Sea. There is also a ^d nameless Autor of a Chronicle belonging to a Monasterie called *Monasterium Besuense*, who write's that this guarding of the Shores under the *Caroline Kings* was given over a little after the time of *Charlemaign*. But in the following Ages, the Kingdom of *France*, beeing divided as it were by piece-meals into several principalities, that which a long retained this name of the Kingdom of *France*, was reduced into so narrow a compass, that the Province of *Narbon* was held by Sovereign Earls of its own, *Aquitain*

^b Choppin. de Domanio Franciæ, lib. 1. tit. 15. §. 11. Pasquier en les Recherches, liv. 2. cap. 14. *J. Tilius de Rebus Gallicis*, lib. 2. Alii. * Cap. 18. ^c Capitular Caroli & Ludovic. RR. lib. 5. cap. 4. ^d In Gest. Normannorum, pag. 22.

or

or the Western Shore which lies more Southerly with Normandie by the English; Bretain either by Kings or Dukes of the same, and Flanders by Earls: So that whilst the whole Sea-Coast, except Picardie, remained separate from that Kingdom, there was Sea little enough lying before it. Yea, and the Naval Forces were small enough, of which (before the accession of a larger Sea-Coast to the French Kingdom) there was most use in the expedition of the holy War. Nor was any other Governour wont to be appointed there by the name of Admiral, then hee who as occasion required was put in Command over the Navie and Militarie Affairs by Sea, yea, and was borrowed from som Nation bordering upon the Sea, as the Genoeses or others of that kinde. But the Kings themselvs had at that time no Command over the Sea, as it is expressly written by *Johannes Tilius*, a Clark of the Parliament of Paris. His words are these, "After that the Kingdom of France was lessen'd by divisions, and the Kings confined to more narrow Dominions, because they had potent Vassals who enjoied Feuds with absolute Soveraigntie, if you except their homage (for, the King of England held the Dutchies of Normandie and Aquitain; Britain had a Duke of its own; and Flanders, Tholouse, and Provence had their Earls) the Kings of France for a long time had no command over the Sea, and therefore had no need of Admirals, until they undertook the Expedition for the holy Land, at which time they made use of Genoeses whom they hired, with Spaniards, or other of their neighbors that were well skill'd in Sea-affairs, to under-take the care of transportation, having no office appointed for that purpose; and by this means they had many Admirals in one single Expedition. But after that the English had quitted Normandie, and the Kingdom

e De Rebus Gallicis, lib. 2. Adde Laurent. Bouchel. in Thesuro Juris Gallicani. part. 1. pag. 90.

of France had gotten ground upon the Sea-Coast, the use of Sea-Affairs also was somewhat augmented; That is to say, about the times of *John* and *Henrie* the third Kings of *England*. So that the first Admiral that they reckon in the Catalogue of French dignities, of whom any memorie is left to posteritie, was *Enguerandus Couceus*, in the time of *Philip* the Bold King of *France*, or about the year 1280, as it is related by *Joannes Feronius*. And what kinde of dignitie his was, appear's sufficiently thence, that his next Successors *Matthew Momorancie*, and *John Harcourt* were onely, upon a particular occasion, put in command over the Sea-Forces by *Philip the fair*; as wee^f understand by their Commission. Yea, and they are mentioned by *William de Nangis*, by the title of Admirals; as others also are by ^e*Joannes de Beka*, in the time of *Philip the fair*. Although ^h*Joannes Tilius* reckon's *Amaurius* Viscount of *Narbonne*, to bee the first that bare the dignitie of Admiral in *France*, as a constant settled Office over the Affairs of the Sea; to wit, in the time of *John* and *Charls* the first Kings of *France*, that is, about the year 1300; whilestⁱ others are too busie in summing up divers other particulars, touching the Antiquitie of this command among the *French*. Afterwards *Aquitain* was added to the Dominion of the King of *France*, in the year 1453. *Henrie* the sixth of *England* beeing driven out. But in the year 1481. the Province of *Narbonne*; in the year 1491. the Dutchie of *Bretaign*; and lastly, in the space of som years, all that the English held in *Picardie*, was added also. So all the Sea-Coast, except *Belgium*, returned into the Patrimonie of the Kingdom of *France*. Hereupon it came to pass, that four Sea-Governments or Admirallships were afterwards in use therein, notwithstanding that sometimes one and the same person held

^f Apud *Andream Chesnium*, in *Historia Familie Momorancie*, lib. 3. pag. 183.

^e In *Chronico Episcoporum ultrajecti*. & *Com. Hollandie*.

^h *De Rebus Gallicis*, lib. 6. vide *Paschasium*, in *les Recherches*, l. 2. c. 14.

ⁱ *Popelliner*. en l' *Amiral de France*.

held several together. But of these, the Government that belong's to the shore of *Normandie* and *Picardie*, is at this day usually called the *Admiralship of France*, because before that the Province of *Narbonne*, *Aquitain*, and *Bretaigne* were annexed to the patrimonie of the Crown; the onely Maritim Government in the Realm of *France*, was that of *Picardie*, whereto *Normandie* was added afterward, as the next Province; the other three beeing denominated from their respective Provinces. The whole matter is very well set forth by *Renatus Chopinus*.^k There are (saith hee) four Governors of the French Sea, who bear an equal command under a different title, and upon several Coasts of the Sea. For, in antient time, *Aquitain* was possessed by the English, *Bretaign* by its Dukes, *Provence* by *Hereditarie Earls*, not by the Kings of *France*. And therefore at that time, the Admiral of *France* had command onely over the Belgick Sea of *Picardie*, and *Normandie*, as far as the Coast of *Bretaign*. But then all the other bordering Princes chose Governors of the Sea, or Admirals peculiarly for themselves. And therefore the English beeing driven out of *Aquitain*, and the Countries of *Provence*, and *Bretaign*, beeing brought into subjection to the Crown of *France*, the King supposing it not fit to innovate any thing, appointed a *Lieutenant and Admiral of Aquitain*; likewise a Governor of *Bretaign*, with the government of the Sea; as also in the Province of *Gallia Narbonensis*, in a manner distinct and apart from the rest. But the chief Courts of Judicature belonging to the French Admiral, are settled at *Paris*, and *Roan*. So hee. And a little after hee write's, that there were Princes, not a few, who held the Sea Coasts as *Beneficiaries*, that enjoied the power of Admiral in their Territories. But wee have *Edicts* and *Decrees* concerning the Admiral's Jurisdiction over the Maritim Forces, Affairs, and Persons, in the times of ¹*Charls*

^k *De Domino Franc.*
lib. 1. tit. 15.
§ 13. Addē
Popelliner.
En l'Amiral
de France,
chap. 12.

¹ *Edict. Regum Francie,*
lib. 3. tit. 5. &
Popelliner. ca.
10.

the

the fifth and sixth, *Lewis* the 12th, *Francis* the first, *Henrie* the 2^d & 3^d, and other Kings of *France*; as also touching the Tenths of Spoils taken from Enemies, and other things of that kinde which relate unto the Goods and Persons of such as are subject to the Crown of *France*, upon the account of any manner of Navigation whatsoever. And in these Edicts hee is sometimes called by the King, *Nostre* ^m *Lieutenant general per la mer & greves d'icelle*, that is, our *Lieutenant general throughout the Sea and the shores thereof*. But this *Lieutenant* or *Governor* (as they pleas to call him) of the *Sea*, was never at all in command over any part of the *Sea* flowing between *France* and *Britain*, as over a Province or *Territorie* to bee defended for the King of *France*, (after the same manner as the *Admiral* of *England*) but in the *Sea* onely over the ⁿ *Naval Forces*, *Persons*, and *Affairs* belonging to the *French Jurisdiction*; much after the same manner, as a *Sovereign Prince* takes cognizance of *Offendors* of his own *Retinue* in a *Foreign Territorie*, and rule's them as at home; but without any pretence of his to a right of *Dominion* in that *Territorie*. Which truly there is no man but will conceiv, that shall in the first place observ the defect and deep silence of ancient *Testimonies*, touching such a kinde of *Dominion* among the *French*, besides the *Qualitie* of that *Government* among them, and at length the entire and most ample *Power* alwaies exercised throughout the *Sea* and the shore lying about it, under the sole command of the *English*, and will but compare it for so many *Revolutions* of years, with those so long broken and divided *Dominions* upon the opposite shore of *France*, and with the late addition of the *Sea-Coast* to the *Kingdom* of *France*, according to those things which have been alreadie spoken about.

^m *Edict. Ludovici*, 12. 1480.

ⁿ *Petrus Gregor. Tholosan. in Synagm. Juris*, lib. 1. cap. 3.

about it. It is clear, that there are no Testimonies before our time, concerning any Dominion of this sea, belonging to the King of *France*. Nor are there any in our time, except certain Lawyers, who speak of it either by the By, or in a Rhetorical flourish onely, not in a way of asserting it by strength of Arguments. Of these things I have spoken already in the former Book; where also other matters are alleged, of special observation, which confirm what is handled in this particular. But now let us add hereunto, that the very French Historians, both of the past and present Age, do affirm, that in antient times the Kings of *France* therefore either had no Admirals at all, or else that they were constituted now and then (onely as occasion required) *because they had no Empire over the Sea, as Tilius saith expressly in the place above-mentioned.* In vain therefore doth ^o *Popellinerius* reprehend those Historians, in saying it is false, because *Normandie, Picardie, and Flanders,* were heretofore under the French Dominion. For, not to mention this, that the Kings of *France* reigned a long time without the possession of *Normandie* and *Flanders*, and retained not any other shore besides that of *Picardie*, (as appears by what hath been already shewn, and by the frequent Testimonie of Historians) and the consequence doth not appear to be good, that they had any command over the Sea, because they were in possession of some Sea-Coast; no more truly than it may be concluded, that a man is Lord of a River in *France*, because he hath Lands lying by it: whereas by received Custom according to the ^p Law of *France*, the King is Owner of all Rivers that are Navigable, where they belong not to some subject by a particular prescription of possession, or some other title, besides the possession

o L' Amiral de France; chap. 9.

^p *Sanctyon des Coustomes des Eaux & Forests, liv. 2. chap. 1. cod. Hen. 3. lib. 16.*

of the adjacent Land, as the Custom is not unusual also in other places.

But as to what concern's the Qualitie of this Maritim Government among the French; it is to be considered, that as every one of the more eminent Offices or Governments, hath a peculiar place in their high Court of Parliament, and that according to the nature of the Government, as it chiefly respect's any Province or Government within the limits of the French Dominion, as the *Constable*, the *Grand Eſcuyer*, or Master of the Horse, the *Grand Master*, and others; yet the *Admiral of France*, hath no place at all upon that account: As it was determined in the time of ¹ *Henrie* the second, when such a place was plainly denied to *Gaspar Collignie* Admiral of France, as hee was Admiral, or had the Maritim Government; but it was granted him as Governor of the *Isle of France* (as they call it) under the King. For, by the title of Admiral, hee had no Government in Chief within the limits of the Kingdom; but becaus being Admiral of the Fleets and Sea (in the aforesaid sent) which is out of the King's Dominion, hee exercised Jurisdiction over Persons and Affairs onely upon the Account of the Sea; therefore in this respect hee was to be denied any place. For which caus likewise it came to pass (as it seem's) that those four distinct Admirals before-mentioned, have in like manner also a Government of Provinces, from which they are wont to be denominated, as wee understand by these passages already cited out of *Choppinus*, and others that write of this matter. So they that have any principal command within the limits of the Kingdom, that is, within the shores of *France*, do enjoy an equal privilege with the other more eminent dignities,

1 Ann. 1552.
12 Jan. ut
Notaur in
Edict. Regum
Francie, tom.
3. tit. 5. in
Margine. Jo.
Tilius, l. 2.
Simon Mari-
on in Placit.
5.

ties of the Realm. Moreover also, the Regulation of those Rivers whereof the King of France is Lord, are not under the Admiral's Government, but under the special charge of those Officers, that are called Presidents or Masters of the Waters and Forests. That is to say, the publick Waters which are within the Bounds of the Kingdom, and over which the King hath Dominion, do belong to another dignitie; not at all to the Admiral, who, according to the general nature of his Office, is not appointed to take charge of any Province there, much less of the Rivers (as in England.) The principal intent therefore of this Office or Dignitie is onely to command the Fleets by Sea; For which caus also som years since Henrie of Momorancie Admiral of France, having set up a Statue on hors back at Chantillie in honor of his Father Henrie Duke of Momorancie^c, call's himself in Latine onely *Navalis Militie Magistrum*, Master of the Militia by Sea, instead of Admiral. So that never any Admiral constituted by the French King either of France, or Britain, or Aquitain, had any autoritie in the Sea it self, whereby hee might challenge a Dominion to himself as Governor or Commander in Chief; which may bee said in like manner of all the Admirals of the Belgick and the neighboring Shore on this side, and of the Cantabrian or Spanish Shore on the other side: For, the autoritie of them all, so far as concern's this particular, hath been and is alike. Wee know indeed, that this dignitie was wont to bee styled *Admiral of France, and Governor of the Roial Navie*, as the same Dignitie among the English was usually called in the same manner, *Admiral of England, and Governor of the Roial Navie*, in several Leagues that have been made betwixt the English and French: But it is clear by what hath been shewn, that they bare the Of-

^c De quibus volumen grande conscripsit Sannionius, & vide Cod. Hen. 3. l. 16.

^c Apud Andream Chesnium, in Hist. de Familia Momoranciacâ, l. 5. pa. 445. Anno 1612.

^c Rot. Franc. 10 Hen. 8. seu 1518. 4 O'Rob. cum Francisco primo. Rot. Feder. & Traç. Jacobi Regis cum Ludovico 13. &c.

fice or Dignitie called by the same name upon a different accompt; And the Qualitie of a Dignitie is to bee valued by the nature of the Charge, not by the bare name or title. And let so much serv to bee spoken touching the defect of antient Testimonies, and the Nature or Qualitie of the Government.

But now as to what concern's the most ample and entire Command of the English for very many Ages, and the comparing of it with those severall Governments heretofore on the opposite shore; it is most certain, that there was almost from the very beginning of the very first Times of the *English-Saxons* one entire Empire throughout *England*, and so on the whole shore which lie's over against *Germanie*, *France*, and that part of *Spain*, called *Biscay*, and this also in the time of that *Heptarchie* which is mentioned by Writers: For, there was alwaies som one person who had most power therein, and to whom the rest yielded obe-

^a *Hist. Eccles.*
l. 2. cap. 5. &
vide *Camden.*
in *Brit. pag.*
97.

^x *Alcuinus a-*
pud G. Malm-
bur. de gestis
Regum, l. 1. c.
5. & *inter*
Epist. Alcuini
in operibus
ejus, pa. 1669
^y *Hemmingus*
Ms. in C. d.
Eccles. Wi-
gorn. in Bib-
liotheca
Cottoniana
fol. 44. b. &
150. & c.

dience, as wee are told by ^a *Beda*. And touching that particular there is a notable Testimonie in *Alcuinus*, where by reason of the Quarrels betwixt *Offa* King of the *Mercians*, that is indeed, of the most large, and in a manner the most midland part of the *Heptarchie*, and *Charls* (surnamed the Great) King of *France*, Navigation was so ^x prohibited on both sides, that Trade was wholly obstructed; which truly cannot bee conceived, unless these large Territories near the Sea had been under the Dominion of *Offa*; yea, the Inscription whereby *Offa* was wont to set forth his Roial Title, was often expressed after this manner; ^y *Offa, by the Grace of God, King of the Mercians, and also of the Nations round about*. But after the time of *Egbert* or the 800 year of our Lord, there is a continued Catalogue plain enough of those Kings whether *English-Saxons*, or *Danes*, who
(unless

(unless you fondly except *Edmund* the *Anglo-Saxon*, and *Canutus* the *Dane*, by whom the Kingdom was for som little time divided) did Reign without any other sharer in the Dominion upon this shore. No wonder then that the Kings of *England* beeing entire and absolute Lords in command of so ample a shore, for so many Ages, did also take special care to retain the Dominion of the Sea lying before it, as an Appendant of the Island; especially seeing they not onely had so long and large a command likewise on the shore over against us, but also there were not any of their neighbors that could in any wise hinder it, except such as possessed som pettie Countries bordering on the Sea (which truly may bee so called, beeing compared to the spacious shore of the English Empire) and those also that were under distinct Jurisdictions.

The summe of all this is, seeing that about the beginning of our great Grand-Father's daies, there was onely a very small shore contained within the bounds of the French Kingdom, and the Lords of the Maritime Provinces, by the addition whereof that Kingdom (as wee have already shewn) was afterwards enlarged, did not so much as pretend any Right to the Dominion of the Neighboring Sea, upon the interest of those Provinces; and seeing no Testimonie can bee had in the Monuments of antient Writers concerning such a kinde of Dominion, but that very many are found touching the Sea-Dominion of the Kings of *England*, they having continually possessed the whole *English* shore in its full latitude under one entire Empire for above a thousand years, and concerning the perpetual enjoiment of the Sea, as an Appendant of the Kingdom; Therefore it follow's;

that their Right is very manifest in this particular, and so that the Sea it self is a Province under the tuition or protection of the Admiral of *England*, as part of the Kingdom; but that the Admirals of the Shore lying over against us are not in reason to bee called Governors of the Sea, in such a sense as may signifie any Dominion of a Commander in Chief in the Sea it self, out of the Ports or other In-lets of that kinde. For which cause also it was, that some Ages since very many of the Neighbor-Nations understanding well enough the Right of *England*, made their Complaint in express terms against *Reyner Grimbald* Admiral of the King of *France*, because that *l' Office del Admiralté en la nier d' Engleterre per Commission de Roy de France tourcenusment Emprist & usa un an & plus, &c.* That is, because hee had arrogated to himself and for the space of a year exercised the Office of Admiraltie, by the King of *France* his Commission in the *English* Sea. The old Records from whence this is taken, are set down entire by and by; where you have more also that make to the same purpose. And so much may serve to bee spoken touching the Guard or Government of the *English* Sea, as a part of the King's Territorie or Province and Patrimonic of the Crown.

That

That in the Dominion of those Islands lying before the shore of France, which hath ever been enjoyed by the Kings of England, it appears that the possession of the Sea wherein they are situate, is derived from their Predecessors.

CHAP. XIX.

THAT a Possession and Dominion of this Southern Sea, hath been held also of old by the Kings of England, is not a little manifest by the Dominion of those Islands that lie before the shore of France. For, 'tis generally known, that after King John and Henrie the third were driven out of Normandie it self, that the Isles *Casaria* and *Sarnia* (which wee call *Jersey*, and *Garnesey*) *Aureney*, and som other Neighboring Isles lying near the shores of Normandie and Bretaign, yea and situated within that Creek of Sea which is made by the shore of Bretaign on the one side, and that of Normandie on the other, have in the following Ages, ^b both now and heretofore, remained in the Dominion of England. But by the sentence passed against K. John, as Duke of Normandie, for the murder of his Nephew *Arthur*, the French would have him deprived of all the Right hee had to Normandie. And afterwards ^c Henrie the third resigned his Right to Normandie. But suppose wee grant what is commonly received, that these Islands were of the

Nor-

^b Rot. Claus.
2 Hen. 3.
membr. 1.
part. 1. Pat.
3 Hen. 3.
membr. 3. &
5.
^c Jo. Buchet-
tus in Anna-
libus Aquita-
nie, part. 4.
& Cod. vet.
Fæderum,
&c. Ms. in
Archivo Fis-
cali, fol. 1.

Norman Jurisdiction, or belonging to the *Dutchie of Normandie*; yet truly even so, they neither could be taken away by the sentence, nor did they fall to the *French* by Resignation; forasmuch as the possession of the Sea, and so of the Islands placed therein, was still retained; after the same manner almost as manie Pories were in *England* it self, who though they were belonging to the *Norman Government* in Church-matters, yet even as they were of the Government of *Normandie*, they ever remain'd under the Dominion of *England*, as long as the Privileges of Monasteries were in force among the *English*; as beeing situate within the undoubted bounds of the *English Empire*. Nor is it easily understood wherefore the Islands could have been so retained, unless they also had been seated within the bounds of the *English Empire* in the Sea.

But the thing chiefly to be considered here is, that verie manie Foreign Nations, as well as the Estates of *England*; did in a Libel or Bill of Complaint publickly exhibited in the time of King *Edward the First*, and King *Philip the Fair*, before a Court of Delegates specially in that behalf by them appointed, in exprefs terms acknowledg that the King of *England* hath ever been Lord not onely of this Sea, but also of the Islands placed therein, *par raison du Roialme d'Angleterre*, upon the account of the *Realm of England* or as they were Kings of *England*. Which truly is all one, as in most exprefs terms to ascribe this whole Sea unto them, as far as the Shores or Ports lying over against us. But concerning that Libel, I shall add more by and by. Nor is it to be omitted, that the addition of a Shore, larger than that of *Picardie*, to the Kingdom of *France*, hapned first at
that

that time, wherein those Isles were so retained by the *English* after they were outed of *Normandie*: For before, the Shores of *Aquitain*, *Bretaign*, and *Normandie*, were in the possession of other Princes; that of *Aquitain* and *Normandie* beeing possess'd by the *English*, and that of *Bretaign* by the Duke or Earl of that Countrie: So that the *French* King had neither any shore almost, nor any considerable use of Sea-affairs at that time; by which means also the *English* did with the more ease retain the aforesaid ancient possession of the Sea and the Isles, after they were deprived of the *Norman* Dutchie. And this sufficiently appear's also by that Sea-Fight perform'd between the *French* Fleet (commanded by *Eustachius* the Monk, in the time of *Philip Augustus* King of *France*) and the *English* Fleet under the Command of *Philip de Albenie* Governor of the aforesaid Islands, and *John Marshal*, who both carefully guarded the passages of the Sea, in the beginning of the Reign of *Henrie* the Third. That is to say, a *French* Fleet of about 80 Sail was designed to transport Auxiliarie Forces out of *France* for *Lewis* (afterwards the Eighth of that name that was King of *France*) who through the Treason of som Conspirators, made War upon the *English* King in *England*. This of the *French* was assailed by an *English* Fleet of 40 Sail. But ^d *Roger of Wendover* and *Matthew Paris* tell us, that part of the *French*, who had not been used to Sea-Fight, was in a short time wholly defeated. Observ here, they say that hitherto the *French* were not accustomed to Fights by Sea. But of the *English* they say, the *English* being warlike and skill'd in Sea-Fight galled them with Darts and Arrows, ran them through with their Lances, did execution with their Swords, sank their Ships, and

blinded them with Lime (which they did by throwing the Powder of Lime into the Aër, so it might bee driven by the winde into the French-men's eies) They were deprived also of all hope of relief and succor, and know not which way to flie. The English at that time time beeing expert in Sea-Fight, did by this means make good the possession of their Sea, and the Isles also that are situate therein: For, even this Fight relate's to the second year of *Henrie* the Third, or the year of our Lord MCCXVIII, that is, at the same time almost when the English were first deprived of *Normandie*. But as to that which is commonly said, that these Islands first belonged to the English *Norman* right, or by the right of the Dutchie of *Normandie*, it is as easily denied as affirmed by any. Nor is there any weight in this Reason, that becaus those Islands have and ever had certain Customs like the *Norman*, therefore they do belong to *Normandie*: For, the *Norman* Customs are often used in *England*, as the *Roman* are somtimes by other Nations; yet everie man know's this can bee no ground for such an Argument. Nor is it any more to the purpose, that those Islands were within the Diocess of the Bishop of *Constances* in *Normandie*, until that in our Grand-father's daies they became subject to the Bishop of *Winchester*. Their Ecclesiastick Government was a long time derived out of *Normandie*, with more convenience indeed becaus of the nearness of the place; which began, as it is to bee supposed, in those daies when the English possessed the Shores on both sides: But it doth not follow thence, that those Islands belong'd to the Dutchie of *Normandie*, any more then that the many Pories heretofore in *England*, who were of foreign Jurisdiction

o *Matth. Paris*, pag. 398.
 Edit. London.
 f Ed. *Coke*,
 in *Comm. Juris Anglic.*
 part. 7. in
Calvini casu,
 fol. 20. & 21.
Guil. Camden. insulis
Brit. pag.
 855. Alii;
 quod & admittitur
 in diplomatum aliquot recentiorum procepiis, veluti *Rot. Pat.*
 7. *Elisabethe R.* part. 3.
Herelio de Carteret,
Rot. Pat. 2.
Jacobi, part. 19. & 19.
Jacobi part. 24. ubi de *Insularum privilegiis.*
 s *Videsis Rot. Pat.* 11. *Elisabethe R.* part. 8. in dorso.

on in Ecclesiastical matters, did therefore belong to the Dominion of foreign Princes, and not to that of the *English Kings*, as Kings of *England*. That is every jot as weak also which they use to allege about the *Norman Languages* being in use among the Inhabitants of those Islands. The people of *Cornwal* in *England* have alwaies used the *Welch* Tongue, at least with a little alteration in the Dialect, as the *Bretaigns* do also in *France*; In like manner the Inhabitants of the *Ile of Man* use the *Irish* Tongue; yet no man will conclude thence, either that this paie's obedience to the Kings of *England*, as Lords or King of *Ireland*, or that the other are subject to their Princes by any right of the *Welch* Principallitie. Wee know indeed, that sometimes slight mention is made not onely in the proëms of som Charters of later times, but also in several antient Petitions of the Islanders, that those Islands belong'd heretofore to the Dutchie of *Normandie*, and upon that account were held by the Kings of *England*: But yet wee know as well, that those Provinces which in Antient time were derived by Inheritance to our Kings in *France* (of which kinde truly these Islands are to bee reckon'd, if they were held as parts of *Normandie*) were alwaies permitted so to use their own Customs and antient Forms of Jurisdiction, that they were not at all subject to the^h ordinarie Jurisdiction of the Courts of *England*. The same privilege was ever allowed likewise to the people of *Aquitain*, *Anjou*, *Normandie*, and others. Yea, and som Ages since, the Kings of *England* were pleased to order, that such Controversies as hapned there should not bee decided in any other place out of the Islands, but in their own Courts of Judicature: whereas notwithstanding

^b Vide 11.
Hen.8. Rele-
way, fol.
202. plac. 19.

ⁱ Rot. Placit. de Insulis, 2. Ed. 2. & Rot. Pat. 15. E. l. 2. part. 1. Membran. 21.
^k Mich. 5. Ed. 3. rot. 183. coram Rege, & Mich. 6. Ed. 3. rot. 181. coram Rege, penès Camerarios Scaccarii, 2. Ed. 3. fol. 5. seu 32. b. & Itin. Tempore Ed. 3. fol. 138. a.
^l Jo. Saresburienſis, de Nugis Curialium, lib. 5. cap. 15. & 16.

it is most certain, that in the Reigns of *Edward* the ⁱ *Second* and ^k *Third* (times which without doubt made good search into that Right, whereby those Islands were annexed to the Patrimonie of the Kings of *England*) there were *Justices Itinerant*; that is, Officers created of old, who were often by ordinarie right to take cognisance especially of the more heinous crimes through all the Counties of *England*; also of such Rights and Privileges of the Crown as were usurp'd and arrogated by any, and of other matters for the most part that are usually brought into Courts of Justice, who being ^l sometimes also called *Justitia errantes*, **Justices errant**, were wont to bee sent forth into those Islands as well as into the Counties of *England*; though the Inhabitants did indeed exclaim, and sometimes prefer'd their Petitions against this kinde of Jurisdiction. But yet it is most certain that the opinion of those very Officers (who were themselves learned in the Law) then was, that those Commissions whereby they were so inabled to administer Justice in those Islands were not onely grounded upon Law (which was the opinion also of those who ruled at that time in this Nation) but also that the very Provinces of the Islands were so incorporated one with another, as they are all with *England*, throughout the extent of that Sea which lies between, after the manner of our *English* Custom in the Provinces or Countries, that, a Cause being sometimes enlarged, they might appoint daies of Appearance to any Inhabitants of those Islands, in the *King's Bench* in *England*, as well as to the Inhabitants of any one of the Isles in the other, after the same manner as is used within *England* it self: Which appears by the Commission of *John de Scardeburgh*

Scardeburgh and his Fellow-Justices in the time of ^m Edward the Third, and ⁿ others of that Age. But it was never heard, I suppose, that upon such an inlargement, a time of Appearance might by our Common Law bee appointed in any other place but that which is of the same Jurisdiction (as contened within the Patrimonie of the Crown) whereto also that place belong's out of which any one is so adjourned. Nor do I remember, that any such thing was ever so much as attempted in those Provinces, which were not reckoned in the Patrimonie of the English Empire; yet possessed upon another Title by the King of England; as the Dutchies of *Anjou, Normandie, Aquitain*, and the like. Moreover also, in the more antient Charters of som of our Kings, in confirmation of the ^o Privileges of Islanders, they are noted more than once for such Privileges as they or their Ancestors or Predecessors have enjoied under the obediencie of any of our Progenitors beeing Kings of England. Surely, if it had been then believed, that those Islands were a part of the Dutchie of *Normandie*, it is not to bee doubted but they had added also or *Dukes of Normandie*, which wee finde truly in som Charters of ^p later time, yet so that in these also those Isles are said in expresse terms, and that upon verie good ground, to bee retained in fealtie and obediencie to our Crown of England. But, in the time of Edward the Third, the Islanders petitioning the King in Parliament for their Privileges and Customs which had been established time out of minde, annexed the Customs of som of the Islands, among which are these; Item, that no man ought to bee questioned about his Freehold, after hee hath quietly enjoied it a year and a day, unless it bee by Writ taken out of the Chancerie of our Lord the King, making special mention both of the Tenement it self and of the Tenant.

^m Mich. 5.
Ed. 3. Rot.
183. coram
rege, &
Mich. rot. 5.
& 6. Ed. 3.
paulo ante
citis, 181.
coram Rege,
penes Cam-
erarios
Scaccarii.
ⁿ Rot. Placit.
de Insulis, 2.
Ed. 2. rot. 30.
in dorso; in
Arce Lon-
dinenfi.

^o Rot. Pat. 2.
Ed. 6. part. 7.
ubi Inspexi-
mus. 1. Hen-
rici. 8. &c.

^p Rot. Pat.
2. Jacobi,
part. 19.

Item, That they shall not bee put to Answer before the King's Justices of Assise, until they first give them Copies of their Commissions of Assise under their Seals. Item, that the King's Justices assigned by Commission for the holding of Assise, ought not to hold Pleas here longer than the space of three weeks. Truly, these antient Customs seem so to relish, as if those Islands had been subject to our Kings & their ordinarie Jurisdiction, by the right of English Empire, not by the Norman; although the Islanders insinuate also in the same Petitions, that they were a part of the Neighbouring Province of Normandie. Add hereto also, that the Isle of Serk was granted by Queen^a Elizabeth to *Herelie de Carteret*, to bee held in Capite by him and his heirs; that is to say, as a Feud belonging to the patrimonie of the Crown of England; notwithstanding that it bee unawares, or ell carelesly admitted in the Charter of this Grant, to bee within the Dutchie of Normandie. But in the Treatie held at Chartres, when Edward the third renounced his claim to Normandie; and some other Countries of France that border'd upon the Sea, it was added, that no controversie should remain touching the Islands, but that hee should hold all Islands whatsoever which hee possessed at that time, whether they lay before those Countries that hee held, or others: For, reason required this to maintain the Dominion by Sea. Yea, both Jersey, and Gernsey, as also the Isles of Wight and Man are said in divers Treaties held betwixt the Kings of England and other Princes, to belong unto the Kingdom of England, and to lie near the Kingdom of England. These Isles also were granted heretofore by King^c Henrie the fift to his brother John Duke of Bedford, without any recognition to bee made unto Us or Our Heirs, notwithstanding any Prerogative of the Crown for any other Tenure held of Us out of
the

9 Rot. Pat.
7 Elis. part. 3

7 Tho. Wal-
singham, An-
no 1360.
su 34 Ed. 3.
Fæder.
1542. inter
Cæsarem &
Hen. 8. &
Fæder. 1585
inter Elisab.
R. & Ordines
Fæderatos
Belgii; quo-
rum trans-
sumpta in
Bibliothecâ
Cottonia-
nâ.
Rot. Fran-
cie, 3 Hen. 5.
Membran. 6.
num. 12 No-
vemb. 27.

the said Islands, which may in any wise belong unto the said Islands, Castles, or Dominions. Which words seem not in the least measure to admit any Right of the Dutchie. Perhaps also that antient custom was as a token or pledg of the Sea's Dominion beeing conjoin'd with that of the Isles, whereby all the Fish (as it is in the Records of ^u Edward the third) taken by the Fishermen of our Isles of **Gernesey, Jersey, Serk,** and **Aureney,** in the Sea, between Easter and Michaelmas, is according to the Custom of those places acknowledged to belong unto Us at a reasonable rate to bee paid therefore, and that the said Fishermen are bound to carrie all the Fish by them taken between the Times aforesaid, unto certain places in those Isles appointed, that the Officers under our Governor of the aforesaid Isles, may take thence for our use, at what price they shall think fit and reasonable. Nor is that to bee slighted, which wee finde in the Chronicles of the Abbie or Monasterie of **Teuxburie,** concerning **Henrie Beauchamp** Duke of **Warwick,** who was invested by **Henrie** the sixt with the Title and Dignitie of King, not onely of the Isle of **Wight** but also of **Gernesey,** and **Jersey,** whereunto the other Isles in this Tract do in a civil sens belong. The same thing is recorded of the Isle of **Wight** by that Learned man ^x **William Camden,** and that out of the same Book. The ^y Book it self speak's after this manner; *But the noble Lord Henrie Duke of Warwick. and first Earl of England; Lord **Le Dispenser,** and de **Abergeveney,** King of the Isles of **Wight,** and **Gardsey,** and **Jardsey,** Lord also of the Castle of Bristol, with the appurtenances thereunto belonging, died 3 Idus Junii, Anno Dom. 1446. in the twentieth second year of his Age, at the Castle of Hanley, and was buried in the middle of the Quire at Teuxburie. And a little before it is said of the same man, that hee was Crowned King of **Wight** by the King's own hand*

^u Rot. Finium, 31 Ed. 3. Membran. 18.

^x In Britann. pag. 200. & 430.
^y Ms. in Bibliotheca Cottoniana.

hand, no express mention being made in that place of the other islands, but they reckoned in the same condition with this, as they were part of the patrimonie of the Kings of *England*. But it is not to be believed, that those Isles which lie before the shore of *Normandie*, had been so turned into a Kingdom, though subject to the Crown of *England*, unless even they also who made them a Kingdom, had conceived that they possessed them before by a Title superior to that of the *Dutchie*; that is to say, by a Kingly Title. As King *Richard* the second, when hee had determined that *Robert* Earl of *Oxford* (who also was Marquiss of *Dublin*, and Duke of *Ireland*) should be created ² King of *Ireland*, questionless did not doubt but that hee himself in the mean time possessed that Island by no less a Title and Dignitie than of *King*, although the name of *Lord* was wholly used there at that time ^a in stead of *King*, as also until the latter end of the Reign of *Henrie* the eight. So it is conceived upon good ground, that those Isles, and the Sea lying about them did, though they used different Customs, constitute one entire Bodie of Empire with the Kingdom of *England*. Whereunto also that special privilege of theirs doth relate, whereby through the favor of the Kings of *England*, they enjoie the benefit of freedom from hostilitie by Sea, though there be a Warr on foot between the Neighbor-Nations round about; but of this more ^b hereafter. And in their Court-Records which contain the Acts or Decrees of the aforesaid *Justices Itinerant*, wee very often finde *Pleas of the Crown*, which phrase is an Evidence of the English Government. Also, in ^c their Trials, those Forms [*In contempt of our Lord the King, his Crown and Dignitie*] and [*Our Lord the King was seised of the aforesaid Advowson in time of Peace, as of his Fee, and in Right of his*

^a *Tho. Walsingham in Rich. 2. anno 1386. pag. 352. Edic. London.*

^a *Statut. Hibernic. 33 H. 8. cap. 1.*

^b *Cap. 22.*

^c *Rot. Placit. de Insulis, 2. Ed. 2. Rot. 21 & 30 &c. in arce London.*

his Crown] and others not a few of that kinde wee meet with, which favor not of any Right of the *Dutchie*. Add moreover, that the King of *England* so held the Right heretofore, not onely of the Isles over against the shore of *Normandie*, but of those also which are opposite to *Aquitain* (as a pledg or concomitant of his possession of that Sea, so far as it belong'd to the patrimonie of the Kingdom of *England*) that though our *Henrie* the third renounced his claim to no small part of *Aquitain*, yet that Isle lying before it, called *Oleron*, (no less famous in the West for ^d Naval Laws, than *Rhodes* was of old) hee granted to his eldest son *Edward* to bee held in time to com, as a perpetual Appendant of the *English* Crown: For, this Claus was added to the Grant [so ^e that the said Isle may alwaies remain to the Crown of *England*, and never bee alienated from the same.] Also in his Letters granted to the Inhabitants of *Oleron*, hee saith, ^f Wee will not in any wise sever you from the Crown of *England*. Som years before also, hee in like manner made a Grant of ^g *Gascoign* (or those parts which lie upon the shore of *Aquitain* near the Sea) to Prince *Edward*, upon condition it should remain entirely and for ever to the Crown of *England*. So without doubt his intent was, that both the Sea-Coasts, and this Isle should in a special manner bee possess'd by the said Prince, but by no means bee disjoined from the *English* Empire, any more than the Sea its self, which wash't their shores. And although after a while, both this and som other neighboring Isles, did many Ages since, for divers reasons, follow the fate of those *French* shores which lie next to them, yet in the mean time the Dominion of the Sea remained entire, as it did before, to the Kings of *England*; as it sufficiently appear's by those other passages which wee have shewn.

^d Of which see more in the twentie fourth chapter.

^e *Cod. vet. Fæderis, &c. Ms. anno 1259. Penes Camerarios Scaccarii.*

^f *Cod. Vet. Ms. in Biblioth. Cottonianâ, de Rebus Aquitanicis, fol. 3. & Rot. Vascon. 38 Hen. 3. membr. 8.*

Matth. Paris, pa. 1187. seu 1207. Edit. Lond. Florilegus; ann. 1254. & Cod. Vet. Ms. de reb. Aquitan. in Biblioth. Cotton. fol. 66.

The Dominion and possession of the Sea asserted on the behalf of the Kings of England, from that leav of præter-Navigation or passage which hath been usually either granted by them to Foreiners, or desired from them.

CHAP. XX.

THOSE things which wee have hitherto alleged concerning this possession and dominion, are confirmed by several Passports that have been obtained from the Kings of *England*, for leav to pass through this Sea; whereof wee have clear Testimonies in Records: that is to say, granted at the intreatie of Foreiners. Our *Henrie* the ^a fourth granted leav to *Ferrando Urtis de Saracione*, a Spaniard, to sail freely from the Port of London, through our Kingdoms, Dominions, and Jurisdiction, to the Town of *Rochel*. It is manifest, that in this place our Dominions and Jurisdiction do relate to the Sea flowing between. And when *Charls* the sixt King of *France* sent Ambassadors to *Robert* the third King of *Scots*, to treat about the making of a League, they upon request made to the same *Henrie* obtained Passports for their safe passage *par touz* ^b *noz pouvoirs, destrois & Seignories, par Mer, & par Terre*, that is, through all places under our Power, Territories, and Dominions, as well by Sea as by Land. There are innumerable other Letters of Passport (called *safe*

^a Rot. Francie, 5. Hen. 4. membr. 1. I. Jan. 5.

^b Ibid. mem. 14.

Conducts) in the Records, especially of *Henrie* the fifth and sixth, whereby safe Port and Passage was usually granted as well by Sea as by Land and Rivers, that is to say, throughout the whole Dominion of him that made the Grant. And it is worthe of observation, that this kinde of Letters were usually superscribed and directed by our Kings to their Governors of the Sea, Admirals, Vice-Admirals, Sea-Captains, to wit, the Commanders appointed by the King to take care of his Territorie by Sea; whereas notwithstanding wee finde no mention at all of any such Commanders in those Passports of that kinde which were granted heretofore by the *French King* to the King of *England*, when hee was to cross over into *France*. Letters of that kinde were given to our *Edward* the second by King *Philip the Long*, superscribed onely thus, *Philip par la grace de Dieu, Roy de France, A touz nos Justiciers, & subgies salut. Philip by the grace of God, King of France; To our Judges and Subjects greeting.* But the reason is evident, why the K. of *England* was wont to direct his Letters to his Commanders of the Sea, and the *French King* at that time onely to his Judges and Subjects in general: To wit, becaus the King of *England* had his Sea-Commanders throughout this whole Sea, as Lord of the same, and therefore when hee cross over, it was not reasonable that the *French K.* should secure him by Sea, it beeing within the bounds of the *English Territorie*: And yet the King of *France* might perhaps have an Admiral at that time, but onely upon the shore of *Normandie* and *Picardie*; For, that of *Aquitain*, *Bretaign*, and *Narbonne*, were not as yet added to the patrimonie of that Crown: And it was about that time, or a little before, that they are placed, who are first ranked in the Catalogue of the Admirals of *France*. But of later time it is true indeed, that in those Passports

c Rot. Claus.
13 Ed. 2.
memb. 7. in
verso.

*a Stilus &
Protocoll.
Cancellarie
Franc. cap.
de Passaiges
& Sauf-
Conduits.*

*• Chap. 14.
of this
Book.*

or Letters of safe Conduct, which have been granted even by the ^d French King, and other Princes bordering upon the Sea, Admirals are usually named in express terms among the other kindes of Roial Officers; to the end that they to whom the Passports are granted, may bee secured in every place and part of their Dominion. But as touching the English Command over such as pass or sail through their Sea, there are many other Arguments taken (as wee shall shew by and by) from the manner of our King's prescribing limits to such as sail in this Sea; as also from those passages which wee have ^e already cited out of Records, concerning the Tributes or Customs imposed by the English upon such as passed through the Sea. And truly it is very considerable also, that the Kings both of *Denmark* and *Sweden*, together with the *Hanf-Towns*, very often and earnestly begg'd of Queen *Elisabeth*, that they might have free passage through the English Sea with Provisions towards *Spain*, during the Warr betwixt her and the *Spaniard*. I know indeed that such a Licence was denied them not onely in respect of the Dominion of the Sea, but chiefly to prevent the conveying of Provisions to the Enemy. For which cause also divers Ships belonging to the *Hanf-Towns* laden with Corn, were ^f taken by English men of Warr, in the very Streights of *Lisbon*, without the Sea-Territorie of *England*, which went by the ^g *Scottish* Sea, and the West towards *Portugal*; which was don doubtless that they might not presume to use the *English* Sea, without the leav of the Queen. But the *Hanf-Towns* cried out there-upon, that the Laws of Nations, Commerce, and Leagues, were violated; because their ships were so taken by the *English* onely upon this account, that they carried Provisions to the Enemy; that is, in a Territo-

rie,

*† 30 Junii,
1589. quâ de
re Declara-
tio tunc
Londini ty-
pis Edita.
§ Thuanus,
Histor. l. 95.*

rie, where the *English* did not in the least pretend to any Dominion. And concerning this particular, there is a notable Question controverted by very ^b Learned men, *How far they that are not enemies, or would not be called enemies, may by the Law of Nations afford supplies into an enemy.* But som years before the taking of these ships, when the *Hamburgers* (who in the name also of the rest of the *Hans-Towns*, desired leav to pass through this Sea to *Portugal* and *Spain*) were more than once denied any kinde of libertie to transport either *Corn* or *Warlike necessaries*; they did not at all suggest, that their Petition at that time was grounded upon the Law of Nations or Commerce, nor that the *Queen's* denial was contrarie to this kinde of Law. That is to say, they were by her first Answer enjoined to abstain from transporting Arms with other Warlike Necessaries and *Corn*, but (saith the *Queen*) in transporting other commodities, wee shall not hinder you at all, but shall with all favour permit the ships of your Subjects to abide and pass after the accustomed manner, that they may perform their *Voiage*. This Answer they did not seem to take amiss. But two years after they sent into *England* *Sebastian à Berghen* their Ambassador with Petitionarie Letters, desiring that the Exception in the Licence formerly granted might be taken away, and a freedom to transport all kindes of Merchandise permitted. Their Petition was denied again, and this moreover added, *That such as should presume to do the contrarie, should for thir bold presumption suffer the loss of all their Goods and Merchandise so carried against her Majestie's will and pleasure, if they fell into the hands of her Men of Warr, or any other of her Majestie's Subjects.* Thus they ever addressed themselves by Petitions; and the *Queen* gave Answers according to her pleasure. They did not so much as pretend the *Laws* of Nations or of

^b *Albericus Gentilis, de Jure Belli, li. 1. cap. 21. Hispanic. Advocat. li. 1. cap. 20. & Hugo Gro. de Jure Belli & Pacis, l. 3. cap. 1. § 5.*

ⁱ 1585. As you may read in the *Queen's Declaration*, 1589.

Commerce, before that they understood their ships were seized in another Sea, to wit, that of *Portugal*, which they conceived free for themselves by the Law of Nations and Commerce, without leav from the Queen of *England*. Then it was they began to plead, that Libertie ought not by any Law to bee denied; even these men who but som years before, had humbly Petitioned the Queen of *England*, more than once for free passage through the English Sea: So that, that principal point (as som would have it) of the Law of Nations, that relief ought not to bee conveyed to Enemies by a Friend, was not onely the ground either of the *Hans-Town's* Petition, or the Queen's denial, but her right of Dominion by Sea was concerned also, which the *Hans-Towns* well knew they should violate, if they should pass the Queen's Seas without her leav.

Hereunto for the same reason those particulars relate, which wee finde concerning this matter in those points that were to bee insisted on in the year MDXCVII. by *Witfeldius*, and *Bernicovius*, Ambassadors from *Christiern* the fourth, King of *Denmark*, to the Queen of *England*. * Wee were (say they) strictly enjoined by our King, to mediate with her Majestie, that our Countrie men may bee permitted a freedom to transport Corn or Provision towards *Spain*, even as wee have don formerly, and do now again with all earnestness desire, especially since it is supposed, that the same Licence of transporting Corn is granted sometimes both to *English* and *Dutch*; that our Countrie men may not bee used in a worst manner than your own Subjects, and that at least som certain ships might in favor of the King's Majestie, have leav granted them once a year at least, during the Warr, to carrie Provisions; and that wee may bee able to certifie the King our Master, how far wee in this case prevail.

* In the Records of the Embassie in Sir Robert Colton's Librarie.

prevail. But the Ambassadors had this Answer; that the Queen cannot in reason bee induced to consent it should bee don as they desired. And whereas you allege a supposal, that both English and Netherlanders have Licence given them somtimes to transport Corn, Wee (to wit, the Chief men of her Majestie's Privie-Council, who gave the Answer) dare confidently affirm, that never any such matter was granted by the Queen, nor will shee ever incline to grant the like, during the warr. If the Queen had not in the opinion of the Danes, (as well as of the Hans-Towns before) been Sovereign of the Sea-Territorie, through which they were to pass, to what end then was this so earnest a Petition, and so imperious an Answer? Here, in this often iterated Petition, no libertie is pretended besides that which depended upon the Queen's pleasure, as Sovereign of the Passage.

For this caus also it was, that John King of Sweden, in that Letter of his sent to Queen Elisabeth in the year 1587. wherein hee desired leav for Olavus Wormæus a Swede, to carrie Merchandise into Spain, acknowledged, that hee must of necessitie *Maritimas Reginæ ditiones pertransire*, pass through the Sea-Dominions of the Queen, which are the very¹ words of the Letter. Nor is it any new thing, that this kinde of passage should bee denied to Foreiners: For, in very many of those Pass-ports that were granted to the Merchants of Neighbor-Nations by Edward the first, during the warr between him and the French, this claus is usually added, ^m upon condition, that they neither conveie nor caus any thing to bee conveied to the French partie, nor communicate any thing at all to our Enemies there in any manner whatsoever, as wee read it in the Records, where are many others of the same kinde. From hence it is, that in the same King's instructions, it is required, that his Sovereign-

¹ In Sir Robert Cotton's Librarie.

^m Rot. Pat. 24 Ed. 1. memb. 5. & 25 Ed. 1. par. 1. membran. 2. 7. 16. &c.

raignie by Sea bee preserved with extraordinarie care and diligence, as belonging to him by antient right, as Arbitrer and Moderator of the Laws or Customs, and Persons, of such as pass therein. The words themselves, which signifie the same, are these, ⁿ *Especiallyment à retenir & maintenir la Sovereigneté de ses ancestres Royes d' Engleterre soloyent avoir en la dite Mer d' Engleterre, quant à l'amendement, declaration & interpretation des lois per eux faits à Governer toutes Maneres des gentz passanz per la dite mer, especially to retein, and maintain the soveraignie which his Ancestors the Kings of England were wont to have in the said sea so far as concern s the amendement, Declaration, and interpretation of the Laws by them made to govern all manner of Nations passing through the said sea.* Hereunto also belong's that Commission of King *John*, whereby hee required in very imperious terms, that all kindes of ships whatsoever which could bee found throughout the English Sea (it beeing expressed by the general name of the Sea, as flowing round about) should bee staid and bee brought near his shores: For, it hath been a Custom in all Ages, that the ships of any persons whatsoever, as well Strangers as Subjects, may sometimes bee staid in the Ports. But it was King *John's* intent, that his whole Sea as well as the Ports themselves, should bee plainly signified in this Commission. In witness whereof I here set down the Commission it self. The ° KING to all the *Sturemanni and Marinelli and Merchants of England that sail by Sea greeting.* Bee it known unto you that wee have sent *Alanus Juvo de Sozham and Walter Stattun, and Vincent de Hastings and Wilmund de Winchelsey, and others of our Barons of the Cinque-Ports, and other our faithful Sturemanni, and Marinelli of our Gallies, to arrest all ships that they shall finde, and them safely*

ⁿ Fascic. de
Superioritate
Maris An-
glie, in Arce
Londinensi.

° Rot. Pat. 9.
Johann. R.
Membran. 1.
Num. 3.

safely to bring, with all that shall bee found in them, into England. And therefore wee command you, that yee bee attending upon them in this business, so that yee bee in England with all your Ships and Merchandises at such Port and Coast as they shall appoint you. And if any shall attempt to resist them contrarie to our command, you, our Liege-men, are required to assist them with all your strength, as you tender your selvs and your chattels, and peace and residence in our Land for you or any of your Generation. Witness hereunto William **Bruce** at **Lutegar**, the eight daie of Februarie. These Sturemanni here do signifie Sea-Captains, and Marinelli Sea-souldiers. But to command that all ships should bee arrested throughout the Sea, that is, staid or taken, and brought into England, what elf was it but undoubtedly to declare himself Lord of the Sea through which they passed: Now let no man object, that this Commission extended onely to the Ships of *English* men, or of the Subjects of him that gave the Commission. It is true indeed, that the Commission before cited, was sent and directed onely to the Sea-Captains, Men of Warr, and Merchants of *England*: But yet it is manifest thereby, that the four persons there named, and others Barons of the Cinque-Ports, and the rest that are added, were obliged by the aforesaid Commands to arrest all the ships that they should finde throughout the Sea, and bring them safely into England, with all that should bee found in them. But this part of the Commission was added (as it plainly appear's) that no English Sea-Captain, or Souldier, or Merchant whatsoever, might bee wanting in their assistance, in staying the ships of Foreigners; If anie one shall attempt to resist them contrarie to our command, you, our Liege-

Y y men,

men are required to assist them with all your, &c. Our *Liege-men* in this place, or they that ought to give assistance in making stay of ships, are all the Sea-men and Merchants of *England* that sail up and down throughout this Sea: They therefore whose ships wereto bee staid, did not com under the name of *Liege-men*, or Subjects; and that it so appear's to bee by the very Form of this Commission, that there need's not any thing more bee added touching this matter, I suppose no man will doubt, who takes it into his more serious consideration. Nor do the words make mention of the ships of Enemies, but of any whatsoever; as being deliver'd by a Sovereign Prince, who was concerned at that time, for his own occasion, and at discretion, to use not onely his own Sea-Territorie, but also the ships sailing therein, as well as those that were in Port.

Wee finde a Commission of the like nature, and which speak's to the same purpose, in the time of King *Edward* the third, wherein Command is given to make stay of all ships of ten Tuns and upward, that should bee found in the South and Western Sea (except sorn that were newly designed to cross over into *Bretaign*) that they might bee arm'd and set forth in the King's service. The Title of this Commission is, *De Navibus arrestandis & capiendis, For arresting and seizing of ships.* The Form of it run's thus; *The KING to his beloved Thomas de Wenlok his Serjeant at Arms, Lieutenant of our beloved and trustie Reginald de Cobham, Admiral of our Fleet of ships from the mouth of the River Thames towards the Western parts, greeting.* Bee it known unto you, that wee have appointed you with all the speed that may bee used by you, and such as shall bee deputed by you,

you, to arrest and seiz all ships, Flie-Boats, Barks, and Barges of ten Tuns burthen and upward, which may happen to bee found in the aforesaid Admiraltie, (that is, in the Sea reaching from the Thames mouth toward the South and Welt) and to caus the Flie-Boats, Barks and Barges aforesaid, to bee well and sufficiently arm'd and provided for the warr, by the Masters and owners of the same, and to bring them speedily so provided and arm'd to Sandwich, except onely the ships that are order'd for the passage of our beloved and trustie Thomas de **Dagworth** and his men that are bound for Bretaign; so that you bee readie there in your own person, together with the Ships, Flie-Boats, Barks, and Barges aforesaid, so well provided and fitted for the warr, upon the Saturday next before the Feast of the Apostles Simon and Jude, next ensuing at the farthest, to go thence upon our Command, according to such direction as shall then on our part bee given, to the Masters and Mariners of the aforesaid Ships, Flie-Boats, Barks, and Barges, and to take sufficient Provision for the enabling of you to do the premises, in such places as you shall see most convenient (except onely Church-Land) you making due payment for the same; and also to seiz and arrest all those that you shall finde to oppose or resist you in the execution of the premises, and them to commit into our Prisons, there to abide till wee shall think fit to take farther order, &c. All Officers also in the said Admiraltie are commanded to yield obedience and assistance upon the same occasion. The usual subscription in that Age shewing the Original Autoritie of the Commission was, **By the King himself and his Council.** But that the aforesaid Sea it self was contained under the name of the Admiraltie, is clearly manifest by what wee have already shewn you. And King *Edward* the

third used his antient Right, as other Kings of *England* did also therein, as well as in the Ports themselves, or Shores of *England* (for, there are innumerable examples of the staying of all Ships whatsoever, by the King's Command in Port or Shore.) But that which hath been alleged about the staying of Ships, and Lifting them for the King's Service, you are alwaies to understand it was so don according to equitie, that competent Pay was to be allowed them answerable to the proportion of Tuns, and also to the number of Sea-men, that were so taken into employment. Touching which particular, there are several Testimonies also to be found in the ^P Records of Parliament.

^P Rot. Par.
3 Hen. 5. par.
1. num. 6. seu
31.

That

That Licence hath been usually granted to Foreiners, by the Kings of England, to fish in the Sea; Also, that the Protection given to Fisher-men by them, as in their own Territorie, is an antient and manifest Evidence of their Dominion by Sea.

CHAP. XXI.

AS a freedom of passage, so also wee finde that a libertie of Fishing hath been obtained by Petition from the Kings of *England*. There is a clear Testimonie hereof in that which was alleged ^a before out of the Records of Parliament, concerning those Tributes or Customs that were imposed in the time of *Richard* the Second, upon all persons whatsoever that used Fishing in the Sea. Moreover, it appears by Records, that *Henrie* the Sixt gave leav particularly to the *French* and very many other Foreiners, ^b for one whole year onely (sometimes for six Months) &c. to go and fish throughout the Sea at all times and as often, &c. But this leav was granted under the name even of a Passport or safe conduct; yea, and a size or proportion was prescribed to their Fishing-boats or *Busses*, that they should not bee above XXX Tuns. And it is true indeed, there was a kinde of consideration or condition added, that som others, who were subjects of the King of *England*, might in Fishing enjoy the same securitie with Foreiners: Which was for this caus onely put into the Licence, that if the Foreiners did disturb or mo-

^a Cap. XV.

^b Rot. Francie 38. Hen. 6. Membran. 9. & 14.

lest them, they should lose the benefit of their Licence. The words of that consideration or condition, in the beginning of those Licences, run after this manner; *To the end that the business of the Herring-fishing and of other Fish, may bee advanced, continued, and maintained for the publick good; yea and that the like securitie may bee yielded and afforded to som certain Fisher-men under our obedience.* I suppose that those certain Fisher-men under our Obedience were also the *French*, who at that time continued in subjection to the *English*; whereas almost all in *France*, except the Shore of *Picardie*, had newly revolted from the King of *England*: That is to say, at the latter end of the reign of *Henrie the Sixt*. But that which wee finde either here touching equal securitie, or in other places somtimes also, about the giving of safe conduct even to the Fishermen of *England*, by Licence granted, either to *French*, or *Flemings*, or *Bretaigns*; that usually hapned when the heat of War was over & a Cessation agreed on to treat of Peace or Amitie. In the mean time, securitie of that kinde was given on both sides now and then by agreement: But by the King of *England* as well in respect of his beeing Lord of the place, as his beeing a partie that was treating about a League or Amitie. By others upon this account onely, not upon that; unless you understand the question to bee about the use of Ports and Shores: For so, no man denie's but these were Lords as well as hee. Moreover also, in our time, leav was wont to bee asked of our Admiral, for *French-men* to fish for *Soles* in the neighboring Sea, for King *Henrie the Fourth* of *France* his own Table; as it is affirm'd by such as have been Judges of our Admiraltie and Commanders at Sea of an antient standing; yea, and that the Ships of those *French* were seized, as trespassers upon the Sea, who

who presumed to fish there without this kinde of Licence.

But in the Eastern Sea, which washeth the Coasts of Yorkshire and the neighboring Counties, it hath been an ancient Custom for the *Hollanders* and *Zelanders* to obtain leav to fish, by Petition to the Governor of Scarborough Castle, situate by the Sea-side in the Countie of York; and this for very many years past, as is affirm'd by that learned man M^r Camden speaking of those Coasts; *It is worth the while, saith hee, to note what an extraordinarie plentiful and gainful Herring-Fishing the Hollanders and Zelanders use to have in the neighboring Sea, having first obtained leav from this Castle according to the antient Custom. For, the English have ever granted them leav to fish; reserving alwaies the honor and privilege to themselvs, but through a kinde of negligence resigning the profit to Strangers. For, it is almost incredible what a vast sum of monie the Hollanders make by this Fishing upon our Coast.* So he. There is another man also of very great skill and knowledg in Sea-affairs, who, in the time of Q. Elisabeth, presented a Book to the Parliament, written in the English Tongue, about the Commoditie of Fishing, wherein hee writes, that the *Hollanders* and *Zelanders* every year, toward the later end of Summer, send forth four or five hundred Vessels called **Busses**, to fish for Herrings in this Eastern Sea, **Where before they fish they ask leave of Scarborough**, which are his very words. Care was taken also by Proclamation, in the time of ^d K. James, that no Foreiner should Fish in the *English* or *Irish* Sea, or that which belong's to the other Isles of the Realm of *England*, without leav first obtained, and every year at least renewed, from the Commissioners appointed for this purpose at *London*. And touching the libertie of fishing granted at other times also to Foreiners by

^c Hitchocks
New years
Gift. Edit.
Londinesf.
1580.

^d Proclamat.
7. of King
James, May
6.

e Gerard.
Malinius in
Lege Mer-
catoriâ, cap.
35.

by the Kings of *England*, there are many Testimonies in other Writers. But the cause why we do not often meet with the Forms of those *Licences*, granted either for passage or fishing in the *English* Sea, was plainly this; because by the Leagues that were made with the neighbor Princes, a Licence or freedom of that kinde (as also of Ports, Shores, Passage, and other things) was so often allowed by both Parties, that, as long as the League was in force, the Sea served, as if it were a common Field, as well for the Foreiner that was in amitie, as for the King of *England* himself who was Lord and Owner. But yet in this kinde of Leagues, sometimes the Fishing was restrained to certain Limits, which is a thing chiefly to be considered. The Limits related both to place and time: So that according to agreement, the Foreiner in amitie might not fish beyond these Limits; the K. of *England* retaining a Dominion over the whole adjoining Sea. Touching this, there is a notable Example in the time of our *Henrie* the Fourth. An agreement was made betwixt the Kings of *England* and *France*, that the Subjects of both might freely use Fishing throughout that part of the Sea, which is bound on this side by the Ports of *Scarborough* & *Southampton*, and on the other side by the Coast of *Flanders* and the mouth of the River *Seine*. The time also was limited betwixt *Autumn* & the *Kalends of Januarie* following. And that the *French* might securely enjoy the benefit of this agreement, our King directed Letters to that end, ur to all his Sea-Captains and Commanders. Here you see plainly, those Limits wholly excluded the *French* from that part of the Sea which lie's toward the West and South-west, and also from that which lie's North east of them, as being so limited by our *Henrie*, at his own pleasure, as its Lord and Sovereign. Nor was there so much

f Rot. Fran-
cia, 5. Hen. 4.
29. Septemb.

as the least shadow of right or Prerogative, whereby the French King might seem to have any interest as a Lord or Owner in the setting of these Limits; seeing that part of the Sea which was secluded did not touch upon any Shore of his in the North, nor had hee any COUNTRY lying before the Sea in the South (except Normandie) or in the West; the rest being held either by the Duke of Bretaign or by the King of England, as wee have already observed. From hence truly it was a Custom, for the Kings of England to give protection to Fisher-men that were Strangers, sometimes by Proclamation, and sometimes with a Fleet of men of War, when they went to Fish either by agreement made upon treatie, or by leav obtained, qualifications being added according to the English King's pleasure. There is among the Records of the time of Edward the First, an Inscription, *Pro hominibus Hollandiæ &c. For the men of Holland and Zeland, and Friesland, to have leav to fish near FERNEMUTH.* The King's Letter for their^s protection follows thus. *The KING to his Beloved and Trustie John de Butetarte Warden of his Port de FERNEMUTH Greeting. Forasmuch as Wee have been certified, that many men out of the parts of Holland, Zeland and Friesland also, who are in amitie with us, intend now to com and fish in Our Sea near FERNEMUTH; Wee command you, that you caus publick Proclamation to bee made once or twice everie week, that no persons whatsoever imployed abroad in our service presume to caus any injurie, trouble, damage, hindrance or grievance to bee don unto them, but rather, when they stand in need, that yee give them advice and assistance in such manner, that they may fish and persue their own advantage without any let or impediment. In Testimonie whereof, Wee have caused these our Letters to bee made Patents, to continue in force till after the Feast of S^t Martin next ensuing. Witness the King at Wingham,*

2 Rgt. Patent. 23. Ed.
1. Membr. 5.

the XXVIII day of September. Which was in the XXIII year of his Reign, and of our Lord MCCXCV. The same day also, in favor of the Earl of *Holland* and his Subjects, hee set forth three men of War toward the farther Coast of the Sea, for the safeguard (as hee saith in another Letter) of those Vessels belonging to your and our own Countrie, that are in these Daies employed about the Herring-Fishing &c. and to guard your Coasts near the Sea. Here hee grant's a Protection to fish. And in both the Letters; hee limits it within the space of two Months. Hee alone also protected the Fisher-men upon the *German* Coasts (which, by reason of its nearness, hee call's here *your Coast near the Sea*, in his Letter to the Earl of *Holland*) as well as upon the *English*. Nor might the Fisher-men use any other kinde of Vessels, but that which was prescribed by our Kings. Upon which account, all kindes of Fishing were somtimes prohibited, and somtimes admitted, this restriction onely being added, that they should fish in such Vessels onely as were under thirtie Tuns burthen. This appears by those Letters of King *Edward* the Third concerning the Laws of Fishing, which were directed unto his several Governors of *Yarmouth*, *Scarborough*, *Whitby*, and *Donwich*, Towns seated upon the Eastern Shore. The words are these; ^h Forasmuch as Wee have given Licence to the Fisher-men of the aforesaid Town, and to others who shall bee willing to com unto the said Town for the benefit of Fishing, that they may fish and make their own advantage With Ships and Boats under thirtie Tuns burthen, any prohibition, or Commands of ours whatsoever to the contrarie notwithstanding, Wee command you to permit the Fisher-men of the aforesaid Town, and

^k Rot. Claus.
11. Ed. 3.
Membran. 35.

and others who shall bee willing to com to the said Town for the benefit of Fishing, to fish and make their own advantage with Ships and Boats under thirtie Tuns, Without any let or impediment, any Prohibitions or Commands of ours made to the contrarie in any wise notwithstanding, as wee have said, witness the King at the Tower of London, August. X. Which was in the 11th year of the Reign of *Edward* the Third, or of our Lord MCCCXXXIX. But if any heretofore undertook the protection of the Fisher-men in this Sea, without leav of the *English*, they were to bee seized and imprison'd, as Invaders of the Right of Dominion, and to expect to bee dealt with accordingly, for the injurie don to the King of *England*.

This is evident also in the Records of our K. *Edward* the Fourth. For, hee erected a Triumvirate or invested three Persons with Naval Power, whom the Records call *Custodes, Conductores, & Wastores, Guardians, Conductors, and Wastors*, whose Office it was to protect and guard the Fisher-men upon the Coasts of *Norfolk* and *Suffolk*. To the end therefore that the expences of the Guard might be defrayed by the Fisher-men, and all others whatsoever bee excluded from meddling with this kinde of Guard or protection, hee appointed four men, by name *Sir John Hemingham* Knight, *William Hopton*, *Edmund Vbe*, and *John Mansfleet* Esquires, as well (say theⁱ Records themselves) to over-see those Guardians, Conductors, and Wastors, as to give notice to all Fishermen of what Countrie soever they bee, who shall desire to fish in the Parts aforesaid under the protection of the said *N.N.* that those Fisher-men and everie of them, do contribute to all and all manner of Cofts, Charges, and Expenses belonging to the same Guardians and Conductors in the time of fishing, and charge all

ⁱRot. Pat. 22.
Ed. 4. Mem-
bran. 2.

such Costs, Charges, and Expences according to a proportion, and to levie and collect those Costs, Charges, and Expences, out of this kinde of Fishings belonging to the Fisher-men aforesaid, wheresoever they may bee found; As also to arrest and apprehend all others, except the afore named, who presume or attempt to become Guardians, Conductors, or Wastors, and to commit them to our next Gaol, there to bee kept safely and securely, till wee shall take order for their deliverie. In the very same words almost, to the same purpose, wee finde divers Letters Patents of King *Henrie* the ^k Seventh, yea, and of *Richard* the ^l Third, save that in the form hereof, after those words [charge all such Expences according to a proportion] this considerable Claus here is inserted [Although the same Fishermen, whether any one or more of them, may have had Letters of safe Conduct from any other King, Prince, or Governor of any Kingdom whatsoever.] So that by the received and usual Custom, the Charges of the Guard were to bee defraied by the Fisher-men of this Sea, at the pleasure of our Kings, though they might have had Letters of publick security and protection from any other Princes. Nor were any other persons to bee admitted to a partnership in this kinde of Guard, except those that were appointed by the King of *England*, lest by this means perhaps it might derogate from the *English* Right. Which is a manifest sign or evidence of the Dominion and Possession of the place.

^k Rot. Pat.
3. Hen.7.
part.2. in
dorso 15.
August. &
part. 1. in
dorso. 18.
Septembris.
^l Rot. Pat.
2. Ricb.3.
part. 1.
Membran.2.

The

The Dominion of England made evident from the laws and limits usually set by our Kings in the Sea, to such Foreigners as were at enmitie with each other, but in amitie with the English. And concerning the King's-Closets or Chambers in the Sea. Also touching that singular privilege of perpetual truce (or exemption from hostilitie) in the Sea about those Isles which lie before the shore of Normandie.

CHAP. XXII.

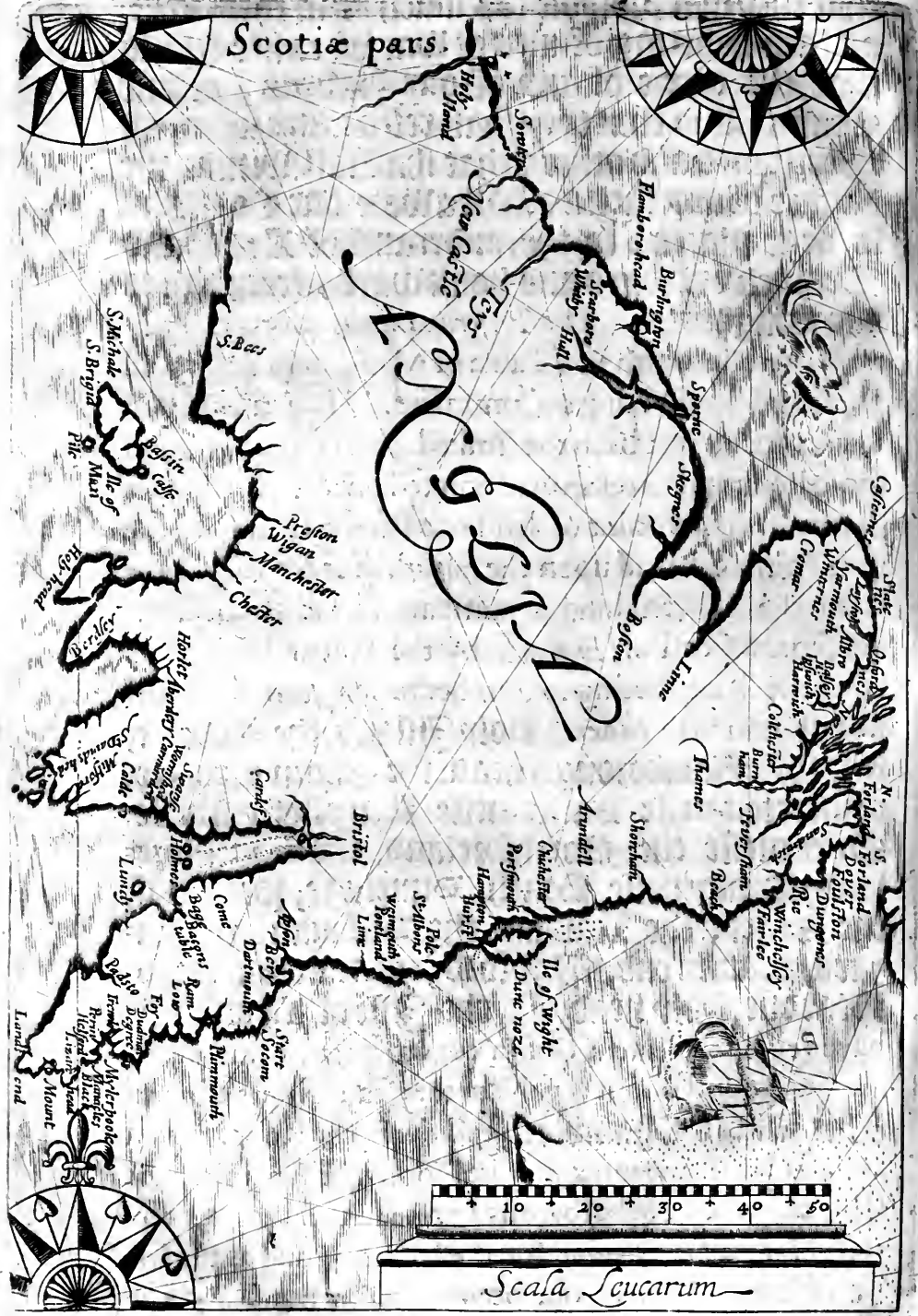
AS to what concern's the Laws and Limits that have been prescribed to Foreigners (from whence I derive a fift sort of Testimonies) who beeing at enmitie with each other, and both of them in amitie with the *English*, did mutually make prize and prey upon each other throughout this Sea; Whereas about the beginning of the Reign of *James K. of England*, the rest of the Christian world was every where at peace, but the warr waxed hot betwixt the *Spaniard* and the States of the *United Provinces*, and thereby it happened, that both those parties beeing in amitie with the *English*, did infest one another with mutual and very frequent depredations in the *English Sea*, touching the lawfulness whereof divers Questions arose among the King's Officers, in the Court of Admiraltie; Our K. following the examples of his Predecessors, did as lawful Sovereign and Moderator of the Seas, set forth a ^a *Proclamation*, appointing certain limits upon the *English Coasts*, within which hee ordeined there should bee safe riding for

^a *Proclam. I. March 2. of K. James, or 1604. in Rot. Pat. 2. Jacobi R. part. 3 2.*

both parties, with safe passage, yea, and declared hee would give equal protection to both in such manner, that within these limits neither might the *Spaniards* use any hostilitie against the *United Netherlanders*, nor these against them, nor the Subjects of any Nation whatsoever against those of another, without incurring his displeasure. The words of the Proclamation are these; **Our pleasure is, that within our Ports, Havens, Roads, Creeks, or other places of our Dominion, or so near to any of our said Ports and Havens, as may bee reasonably construed to bee within that title, limit or precinct, there shall bee no force, violence, or offence suffer'd to bee don, either from man of War to man of War, or man of War to Merchant, or Merchant to Merchant of either partie. But that all of what Nation soever, so long as they shall bee within those our Ports and places of our Jurisdiction, or where our Officers may prohibit violence, shall bee understood to bee under our protection, to bee ordered by cours of Justice, and bee at peace each with other.** But by the same Proclamation hee declared, that violence should so onely bee permitted betwixt Enemies in that limited part of the Sea, that if any man of war should either bee hovering near hand with an intent to offer violence to his enemy, in the open Sea adjoining, or the Creeks, Ports, and Havens of the same, or should out of any place so prohibited, contrary to the intent of the Proclamation, fall upon his Enemies ship, setting forth to Sea from the same place, then the English men of war, as well those belonging to Merchants as Commanders in the King's service, should remove and punish such kinde of violence. The words of the Proclamation are these; **Our plea-**

pleasure therefore and commandement is to all our Officers and Subjects by sea and land, that they shall prohibit (as much as in them lieth) all such hovering of men of War of either side so near the entrie of any of our Havens, or our Coasts. And that they shall rescue and succor all Merchants and others that shall fall within the danger of any such as shall await our Coasts in so near places, to the hinderance of Trade and Traffick outward and homeward, from and to our Kingdoms. The *Prescribed limits* afore-mentioned were let forth in a Table or Map cut in Brass, and published by the King's Command. The manner of it was such, that both the limited part of the Sea, and those Ports and Creeks were pointed out by direct lines draw from one point of land or adjacent Island, to the next Point or Island upon the *English* shore. These points with the Isles fetching a compass round about from the North-Coast of *England*, by the East and South as far as the West, beeing in number *twentie seven*, are ranked thus in their order. *Holy Island, the Sowter, Whitby, Flamborough head, the Sporn Cromer, Winterton-nesse, Easter-nesse, Layestof Estnesse, Orfortnesse, the Northforeland, the Southforeland, Dungenesse, Beach, Dunenoze, Portland, the Start, the Ramme, the Dudman, the Lizard, Lands end, Mildford, S. Davids Head, Beardlie, Holy head, and the Isle of Man.* Wee have very great Creeks of Sea cut off by these lines from the Sea round about, which they call *Regias Cameras* **The Kings Chambers**, and the Ports Roial. Even as in an house the inner private Rooms, or Chambers, or Closets, which in barbarous Latin are wont to be termed *Camerae*, are reserved for the Master; and as the Citie of *London* hath of old been called in our Law the *Chamber of the King of England*, whereby the rest of his Dominion

minion round about is set forth, as it were by the use of a more narrow Title: So these Creeks, though very large,



being

being called by the like name and limited at the pleasure of the Kings of *England*, do in like manner shew his Dominion over the rest of the Sea. But wee have taken a Description of the Points and Islands, whereby those Creeks set forth in the Table here annexed, are wont to bee limited, out of that ^b instrument which was written in *English* by twelve men very well skilled in Maritim affairs, and sworn for this purpose at the time when the Proclamation was published, and it was by them presented to Sir *Julius Caesar* Knight, at that time Judg of the High Court of Admiraltie, but now Master of the Rolls, and one of his Majestie's Privie-Council, to whom the care of searching after this kinde of antient limits was committed. But in that Instrument, as well the distance of all the Points in respect of each other, as the manner of sailing in a direct courf is explained, from whence the latitude of every one of the *King's Chambers*, may in part bee collected. Those twelv men beginning at the **Holy Island**, fetch't a compass round from the North by the East and South to the West, in the order hereafter following. The first courf and distance is from that Island to **The Sowter**. And from thence the rest are reckoned in the like manner.

^b Martii,
1604.
seu 2. Jacobi
R.

<i>Promontorium</i> <i>series.</i>	<i>Rumbi</i>	<i>Leuca.</i>
Ad the Sowter	in Phoenicem, S. S. E.	17 $\frac{1}{3}$
Ad Whitby	in Notapeliotem S. E.	12
Ad Flamborough head	in Notapeliotem S. E. $\frac{1}{2}$ versus Austrum.	8

<i>Promontoriorum</i> <i>series.</i>	<i>Rumbi.</i>	<i>Leuca.</i>
Ad the Sporne	in Phœnicem <i>S. S. E.</i> versus Apeliotem.	13 $\frac{1}{3}$
Ad Cromar	in Meseurium <i>S. E.</i> and by <i>E.</i>	24 $\frac{1}{3}$
Ad Winterton-nes	in Hypophœnicem <i>S. E.</i> and by <i>S.</i>	4.
Ad Caster-nes	in Phœnicem <i>S. S. E.</i>	2 $\frac{1}{13}$
Ad Layestof	in Austrum <i>S.</i>	3 $\frac{3}{4}$
Ad East-nes	in Austrum <i>S.</i> $\frac{1}{2}$ versus Occidentem.	1 $\frac{5}{6}$
Ad Orforth-nes	in Mesolybonotum <i>S.</i> and by <i>W.</i>	6 $\frac{1}{6}$
Ad North-fore- land.	in Austrum <i>S.</i> $\frac{1}{3}$ versus Occidentem.	15 $\frac{1}{6}$
Ad South-fore- land.	in Austrum <i>S.</i>	6 $\frac{1}{3}$
Ad Dunge-nes	in Notolybicum <i>S. W.</i> $\frac{1}{4}$ versus Austrum.	7
Ad Beach	in Africum <i>W. S. W.</i> $\frac{1}{4}$ versus Austrum.	13
Ad Dune-noze	in Africum <i>W. S. W.</i> $\frac{3}{4}$ versus Occidentem.	24 $\frac{5}{6}$
Ad Portland	in Hypafricum <i>W.</i> and by <i>S.</i> vers. Austrum.	16 $\frac{1}{2}$
Ad the Start	in Africum <i>W. S. W.</i> $\frac{1}{5}$ in Occidentem.	18 $\frac{2}{3}$

Promon-

Promontiorum Series.	Rumbi.	Leuca.
Ad the Ramme.	in Occidentem $\text{no. } \frac{1}{4}$ versus Boream.	$6 \frac{1}{2}$
Ad the Dudman.	in Africum $\text{no. S. no. } \frac{1}{6}$ versus Occidentem.	$8 \frac{1}{2}$
Ad the Lizard.	in Africum $\text{no. S. no. } \frac{1}{3}$ versus Austrum.	9
Ad the Landsend	in Caurum no. N. no. versus Boream.	7
Ad Milford	in Boream $\text{no. } \frac{2}{3}$ versus Orientem.	$31 \frac{2}{3}$
Ad S. Davids head.	in Boream $\text{no. } \frac{1}{2}$ versus Occidentem.	$5 \frac{1}{2}$
Ad Beardlie.	in Hypaquilonem $\text{no. and by E. } \frac{1}{8}$ versus Orientem.	$12 \frac{1}{6}$
Ad Holy head.	in Boream $\text{no. } \frac{1}{6}$ versus Occidentem.	9
Ad Monam	in Hypaquilonem $\text{no. and by E. } \frac{1}{5}$ versus Boream.	26

Here you see very large spaces of Sea, intercepted sometimes for above ninetic Miles (for, three *English* miles here go to everie League) whereby those Chambers or Sea-Closets are made. But wee finde the management of that business concerning these *Chambers*; at the time of the aforelaid Proclamation; set forth after this manner, in the subscription of the *twely men* that were sworn, and added to the aforelaid distances and courses of sailing. Wee whose names are subscribed, being called before the Right Honorable Sir Julius Cæsar Knight, *Jndg of his Majestie's High Court of Ad-*

miraltie, and there beeing inrolled, admitted, and sworn, for the describing of the limits and bounds of the **King's Chambers, Havens, or Ports**, in their full extent, do by these presents make answer, and to the best of our knowledg and understanding, declare, that the said Chambers, Havens or Ports of his Majestie, are the whole Sea-Coasts which are intercepted or cut off by a streight line drawn from one point to another, about the Realm of England. For the better understanding whereof, wee have made a Table concerning that business; whereto wee have annexed this our Schedule, shewing therein how one Point stand's in a direct line towards another, according to that Table. Given the fourth day of March, Anno Dom. 1604. and in the second year of the Reign of our Sovereign Lord King James, &c. And then in the Schedule there follow the names of the twelve men; who were all persons of very great knowledg in naval or Maritim Affairs. So, the spaces within the streight lines drawn from one point to another, are the Chambers or Ports of the King of England, who beeing Lord in like manner of all those parts of the Sea, as farre as the opposite Shores or Ports, whilst hee commanded a keeping of the peace within these Creeks or Closets, did, as *Arbiter*, permit those that were in amitie with him; but enemies among themselves, to make prize of one another, in the rest of the Sea; yet not without som qualifications or restrictions added concerning the use of the more open part of the Sea. And truly, the *Spaniards* alleged afterward, that themselves ought to bee protected from hostilitie also, without these limits, in the more open part of the Sea; and that by virtue of the agreement of peace, whereby the Kings of *Spain* and *England* were obliged to protect one another's subjects, in all parts of their Kingdoms: which is as much as to say, that the rest of
the

the Sea flowing between com's no less under the name of the Kingdom of England. And this appears also from the dispute held by their Advocate in England, about the protection of the Territorie by Sea, against the Hollanders, who mightily exclaimed (as^e hee saith) that they should bee intercepted and staid by the King's Officer at Sea, with the prize that they had taken from their enemies the Spaniards. That it was an unjust violence; that beeing disturbed and spoiled, they ought to have reparation made them, and to bee heard against those Spaniards, who beeing prisoners were discharged with the goods that were taken. But that the King of England might justly give the Spaniards protection against the Hollanders, in the British Sea, either within or without those limits, hee plead's after this manner. You see (saith hee) how far the Dominion of the King of England stretch's toward the South, North, and West. The^d Northern Coasts of Britain, having no Countries lying against them, are washed by the main and open Sea. And the Southern Coasts of Ireland are bound'ed upon Spain; the Western upon the Indian Countries under the Dominion of Spain; And so the Jurisdiction of our King by Sea, is of a mightie vast extent. Nor was it restrained or lessen'd by that subsequent Proclamation of the King (the same above mentioned) whereby certain limits were appointed, beyond which the King declared the power of his Territorie should not bee extended, in these Acts of hostilitie betwixt the Spaniards and Hollanders. But it's said, that the Hollanders were intercepted by the Officer without these limits. Also according to the Articles of Peace lately agreed on betwixt our King and the King of Spain, they ought to protect one another's Subjects in all places throughout their Dominions: And therefore both ought to give protection throughout that immens Jurisdiction. For, there are limits^e founded upon

^c Albericus
Gentilis in
Advocat.
Hispanica,
lib. 1. cap. 8.

^d Tacit. in
vitâ Agri-
colæ. Cæf.
de Bello
Gallico, l. 5.

^e Menoch.
Consil. 14.

And here wee are to follow the limits of right, concerning which certainly the articles of Peace and Agreement ought to be understood; Because the other Bounds being set afterward, were not then in imagination. But the autoritie of the Proclamation extend's not to things past. Certain it is, that Laws and Constitutions do give a Being to ^f future businesses, and are not to be recalled unto things don and past. Nor is this a Declaration of the King's right (therefore the more easily to be ^s admitted) made in the Proclamation, but a disposition and law wholly new. For, a ^h Declaration induceth nothing new, and changeth nothing. But this Proclamation would change much, seeing the power of the King's Territorie extend's it self much beyond those limits now constituted. To this an ⁱ Answer may be given also, which is acknowledged by all, that a Declaration is of no force to another's prejudice, which here might be don to the ship that was intercepted; for which right was sought according to common Custom, and also according to the special agreement of the peace, that those Princes should suffer no violence to be don to one another's Subjects in their Territories. And it is much more strong in respect of that expresse article of the Treatie, for that it could not be meet to take off from the full force of the Contract; which would now be lessen'd notwithstanding, if it were granted that the Territorie is so lessen'd, within which onely our King might protect the Spaniards. Moreover, it hinder's not which is objected, that these limits which are now expressed in the Proclamation, were observed long before by long Custom in Controversies of this nature. For, to omit those most difficult things which are deliver'd in ^k proving the Custom, certainly the intent of our King in the Contract of peace seem's not to have had respect unto that Custom, if any there hath been, or also unto the Statute, which is alleged here to be antient. For, neither are those things common and understood by the other Prince in amitie, nor perhaps by our King himself; to wit, matters of fact, in his new Kingdom. All which things I thought fit

^f L. 7. C. de
Leg. Non.
Conf. 110.

111.

^g Cravetta,
Conf. 641.

^h Decian. 1.
Consil. 8.

Oldrad. 318.

Imol. Conf.
67. fin.

ⁱ Decian. 1.
Conf. 7.

^k Riv. 1.
Consil. 74.
num. 10.

fit to add here out of *Albericus Gentilis*, becauf they belong not onely unto these Limits, Creeks, or Roial Chambers in the Sea, but to the Dominion of the whole *British* Sea. And truly *Gentilis* was ill understood by *Joannes*¹ *Gryphiander*, who discoursing at large concerning Sea-Affairs, allegeth the place before-cited out of him in so brief a manner, as if by that Proclamation of King *James*, his Jurisdiction had been restrained simply to those limits. *The Jurisdiction of England* (saith *Gryphiander*) *by Sea*, although it bee extended to the South, North, and West, yet by a Proclamation of *James* the present King, it is circumscribed by certain limits in the Sea. Hee quote's *Albericus Gentilis*, for his Autor. But truly, the King had no intent in that Proclamation, that his Jurisdiction should bee circumscribed simply by those Limits, but onely in relation to the acts of hostilitie at that time betwixt the *Spaniards* and *Hollanders*; hee beeing Lord and Moderator of the *British* Sea for ever, as well as his Predecessors: which is sufficiently manifest out of the Proclamation it self, & out of *Gentilis*. Nor indeed is it easly to bee conceived, from whence that special and perpetual privilege of Truce or Freedom from hostilitie had its original, which the inhabitants of *Jersey*, *Garnsey*, and the other Isles lying before the shore of *Normandie*, do enjoy even in this very Sea, though war bee between the Neighbor-Nations round about, unless it bee derived from this Sea-Dominion of the Kings of *England*. Concerning that privilege, Master *Camden* beeing well inform'd by antient Testimonies, speak's after this manner in brief. ^m *By an antient privilege of the Kings of England*, here is as it were a perpetual Truce, and though a war bee on foot, yet the *French* and others have a libertie to com hither to and again without danger, and use Commerce securely. But wee finde the same more at large

¹ *Tract. de Insulis, caps. 14. § 46.*

^m *In Insulis Brit. p. 855.*

Rot. Pat. 2.
Ed. 6. part. 7.
Rot. Pat.
2. Elizab.
part. 6. &
Rot. Pat. 2.
Jacobi Re-
gis, part. 19.

large, in somⁿ Kings Patents, expressed thus concerning Jersey; that in time of war, Merchants of all Nations, and others as well Strangers as Natives, Enemies as well as Friends, may freely, lawfully, and without peril, go unto, pass to and fro, and frequent the said Isle and the places upon the Coasts thereof, with their Shipping, Merchandise, and Goods, as well for shelter from foul weather, as upon any other their lawful occasions, and there to use free Commerce and Traffick, and to abide with safetie and securitie, and to com away thence, and return at pleasure, without any damage, trouble, or hostilitie whatsoëver, in their Affairs, Merchandise, Goods or Bodies; and that not onely near the Island and places aforesaid upon the Coasts, and their Precinct, but also within the spaces distant from them as far as a man may ken, that is. so far as the sight of the eie can attain. And this is called a privilege, which you see extend's so far into the Sea it self, as the sight of the eie can pierce from the shore. And if so bee this privilege did not proceed from the Kings of England, as they are Lords both of the Sea and the Isles, (and by the same right that the Isles themselves belong to them, as hath been said ° before) it cannot in reason bee imagined from whence it had its original. There is not (so far as wee know) so much as a pretence of a Grant made by any other Princes. But onely by the Kings of England, who unless themselves were Lords of the whole Sea flowing about, by what Title and Autoritie did they ordein such a Truce so far within the Sea on every side, between enemies of all Nations whatsoëver that came unto those Islands? But as our Kings have very often commanded that all manner of persons should ceas from hostilitie, not onely within the aforesaid Creeks, but also throughout the spaces-extended thence at pleasure, into their Territorie by Sea; so in like manner they indulged the like kinde of privilege for ever through-

• Cap. XIX.

throughout these Coasts of the French shore, that all manner of persons, though enemies to one another, might securely sail to and fro, as it were under the wings of an Arbiter or Moderator of the Sea, and also freely use the Sea according to such spaces or limits as they were pleased at first to appoint. Which, without doubt, is a clear evidence of Dominion.

Certain publick Records, wherein of old the Dominion of the Sea is, by the way, ascribed to the Kings of England, both by the King himself, and also by the Estates of Parliament, debating of other matters, and that in exprefs words, and with verie great deliberation, as a known and most undoubted Right.

CHAP. XXIII.

I Shall next of all cite several publick Records, which are kept in the Tower of *London*, wherein the Dominion and possession of the Sea is by the way expressly asserted as belonging to the King of *England*, and that both by the King himself, as also by the Estates of the Parliament of *England*, as they were debating about other matters. For, that is the sixt head of the former Division. King *Edward* the third intitl's himself and his Predecessors Lords of the whole Sea flowing round

about, in the several Commissions given to *Geoffry de Say* Governor or Commander of the Southern and Western Sea, and *John de Norwich* of the Northern (the limit of distinction beginning, as it was usual, at the Mouth of the *Thames*) out of which Records wee here set down the form, which is especially to bee consider'd, so far as it make's to this purpose. ^a *The KING* to his Beloved and Trustie *Geoffry de Say*, Admiral of his Fleet of Ships, from the Mouth of the River *Thames* toward the Western parts, greeting. Whereas Wee have of late commanded you by Our Letters, that you together with certain Ships out of the Cinque-ports, which wee have order'd to bee furnished and made readie for war according to our Command, should set forth to Sea, to oppose and resist certain Gallies, provided and enforced with men of war in divers forein Parts, which, as Wee were inform'd, were set out towards the parts of our Dominion to aggrieve Us and Our people, or els to turn their courf toward the Coasts of Scotland, for the relief and succor of our Enemies there; And in regard it hath been related by som, that Gallies of that kinde to the number of *XXVI* are newly com to the Coasts of Bretaign and Normandie, and do still abide there, as it is supposed, to do what mischief they can against Us and Ours, or to succor Our said Enemies, as is aforesaid; Wee calling to minde that *OUR PROGENITORS THE KINGS OF ENGLAND* have before these times been *LORDS OF THE ENGLISH SEA ON EVERIE SIDE*, yea, and defenders thereof against the Invasions of Enemies; and seeing it would very much grieve Us, if our Kingly honor in this kinde of defens should (which God forbid) bee lost in our time, or in any sort diminished; and desiring, with God's help, to prevent dangers of this nature and provide for the safeguard and defens of the Realm and our Subjects, and to restrain the malice of our Eenemies; Wee do therefore strictly require and charge you, by the duty and

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^a Rot. Scotie, 10. Ed. Memb. 16.

Allegiance wherein you stand bound, according to the special trust reposed in you, that immediately upon sight of these presents and without any farther delay, you do set forth to Sea with the Ships of the Ports aforesaid and the other Ships which are now readie; and that you arrest the other Ships in obedience to our command, which Wee lately requir'd you to arrest (But so that they might bee readie and provided to set forth according to Our aforesaid Command, seeing Wee caused the Masters and Marriners of the same Ships to bee prepared, and gather'd together, whether they were within your Liberties or without, and to caus them, beeing well provided of men of war and other necessaries, to hasten out to Sea with the aforesaid Ships) and that with all diligence you make search after the aforesaid Gallies and other Ships of War abroad against us, and stoutly and manfully set upon them, if they shall presume to bend their cours for the end aforesaid, toward the parts of Our Dominion, or the Coasts of Scotland. And if they steal away from you, so that you cannot meet with them, then you are with the aforesaid Ships of our Fleet without any delay to follow after the same Gallies and Ships of War set out against Us, if they shall make towards our Kingdom or the Coasts of Scotland aforesaid, and courageously to destroy them, for the conservation of our Royal honor. But yet Wee will not that you occasion any hurt or hindrance to Merchants or others passing by Sea, who have no intention to offend Us and our Subjects, or to succour our Enemies. Then follow's a power to press Seamen, and som other matters of that kinde. The day also and Autoritie is subscribed after this manner. Witnejs the King at the Town of S^c John, the sixteenth day of August. By the King himself and his Council. The like Commission was at the same time, and by the same time and by the same Autoritie given to John de Norwich Admiral of the Northern parts

In the preferring of a certain Bill also in Parliament

(which was the voice of the Estates of the Realm) in the reign of the same Edward, wee finde that hee was usually accounted and stiled King or Sovereign of the Sea by all Nations. The words are, ^b *qe XX ans passez & toutdiz adevant, la Navie de dit roialme estoit en touz portz & bones villes sur mier & sur riviers si noble & si plentinouse, qe touz les pais tenoient & appelloyent nostre avantdit Seignieur, LE ROY DE LA MIER, & tout son pays dotoyent le plus per mier & per terre per cause de la dite Navie &c.* Which beeing translated out of the old Norman speak's to this effect; That the English were ever in the Ages past renowned for Sea-affairs in all Countries near the Sea, and they had also so numerous a Navie, that the people of all Countries esteemed and called our King, the King or Sovereign of the Sea. There is likewise a notable Testimonie touching this businels in the Parliament-Records of Henrie the Fifth, where the tenor of the Bill ran (as was usual) after this manner; *Item priont les Commens que, per lou nostre tressoverain seigneur LE ROY ET SES NOBLES PROGENITORS DE TOUT TEMPS ONT ESTE SEIGNEURS DEL MEER, & ore par la grace de Dieu est venuz que nostre dit seigneur le Roy est seigneur des costes d' ambeparties del meer, d' ordeignier sur tous estrangers passants per my le dit meer, tiel imposition al ceps nostre dit seigneur le Roy à prendre que à luy semblera resonable pur la sauvegarde del dite meer.* That is to say, *Item, the Commons do pray, that (seeing our Sovereign Lord the King and his illustrious Progenitors, have ever been Lords of the Sea, and now that through Gods grace it is so com to pass, that our said Lord the King is Lord of the Shores on both sides of the Sea) such a tribute may bee imposed upon all Strangers passing through the said Sea, for the benefit and advantage of our said Lord*

^b Rot. Parl.
46 Ed. 3.
num. 20.

^c Rot. Parl.
8 H. 5. memb.
3. art. 6.

Lord the King, as may seem agreeable to reason for the safeguard of the said Sea. The Answer subscribed to this Bill was, *Soit avise par le Roy*, that is, let the King himself be advised of it. For, the King resided in France at that time, being Lord of that Countrie by Inheritance and Conquest, and *Humphrey Duke of Gloucester* was President of the Parliament, being then Keeper or Lieutenant of *England*, by whom, as the King's Deputie, this kinde of Answer was usuallly given to Bills, as often as an assent to them was delaied; but when the King was present in person, *le Roy s' advisera*, the King will advise, served in stead of an Answer from antient down to the present time, in such Bills as were not passed into Acts. That is to say, in those Bills to which the Lords and Commons had given their assent before, that is, the Estates of the Parliament of *England*, which is here especially to be considered. For, most certain it is, that, according to Custom, no Answer is given either by the King or in the King's name, to any Parliamentarie Bills, before that the Bill, whether it be brought in first by the Lords or by the Commons, hath passed both Houses, as it is known to all that are versed in the Affairs and Records of Parliament. And when the name of either of them is left out in the draught of the Bill, (as the Lords are in that before alleged) it was wont to be supplied, as it is also at this day, by the brief form of Assent, which is added by that House, to whom the Bill is sent and transmitted. For, that House which first prefer's it, transmit's it to the other, who either give's an assent, or reject's it. And when both Houses have so given their assent, then after a while, either the King give's his assent (whereby it becom's an Act or Law) or else hee laie's it aside, and (as I have already shewn) take's time to

advise; Neither of which is ever don by the King, according to the courf of Parliament, till both Lords and Commons have firft given their affent. But the whole form of the afore-mentioned Bill, which is full of all kinde of ftorie concerning things tranfacted in Parliament, is taken out of the very Schedules annexed to the Bill, (wherein the Forms of this kinde of affent were wont exprefsly to bee added) and register'd according to antient Custom, among the Records of Parliament, in the very fame words wherein it was at firft exhibited; no exprefs mention beeing made of the affent both of Lords and Commons which is annexed to the Body of the Form (for, the affent of both fufficiently appears, in that according to the courf of Parliament it was fo prefented to the King) and the King's affent onely or intent of deliberation beeing added by way of fubfcription, as I have fhewn. But moft of thofe Schedules annexed to that kinde of Bills which relate to the more antient times [are] loft; whereas notwithstanding the Records wherein they were wont to bee register'd, have been carefully preferved in the *Tower* for above CCC years. All which wee thought meet to mention here, to the end that in the Bill before alleged out of the Parliamentarie Records of *Henrie* the fifth, thefe three things may bee obferved, which make very much to the point in hand. *First*, that the Eftates in Parliament, according to the Custom of their Anceftors, that is to fay, both Houfes of Lords and Commons, beeing well-informed of the matter perhaps by fom antient Testimonies whereof wee are bereft by the injurie of time, did with one confent affirm it as a thing unqueftionable, that the King of *England* is Lord of the Sea: As it appears alfo in that former Record which relate's to the Reign of *Edward* the third; for,

for, both the Bills are placed alike in the aforesaid Records. Secondly, that the Sea whereof they speak is the whole that flow's between *France* and *England*: For, they say in exprefs terms, that King *Henry*, beeing Lord of the Sea, was at that time Lord *des costes d' ambeparties del meer*, that is, of the Coasts or Shores on both sides of the Sea, or those that include the Sea on both sides, which cannot bee understood of any other or greater Sea, than of that which was mentioned there immediately before: And so it is in plain terms to bee taken of that whole Sea. Thirdly, that those *Estates* did not question but that Tributes might bee imposed by autoritie of Parliament, upon all strangers whatsoever, wheresoever they pass through this Sea; as well as Customs in Port; And that they did not at all conceiv, that a Bill ought to bee presented touching that business unto the King, as hee was at that time King of *France*, but onely as King of *England*, that is, as Lord of the whole Sea flowing between. And it is very improbable, and not in reason to bee admitted, that they would so upon deliberation (for both Lords and Commons use to debate such matters a long time before they pass a Bill) that they would, I say, so upon deliberation require an imposing of Customs by the Act of an *English* Parliament, in a place that was not subject, as a part of the Roial patrimonie, to the King of *England*, as King of *England*. From hence it was also, that our present King *Charls* did this last year declare, that himself and his progenitors the Kings of *England* have in all times hitherto, by an anti-ent and most just title, been Lords of this Sea; to wit, in his Letters Patents sent to the Maritim Counties of *England*, whereby ship-monie was imposed for the defence of his Dominion by Sea. Add moreover hereunto, that in the agreement made betwixt our *Edward* the first and

^d Brev. 10.
Caroli R.
Octob. 20.
feu 1634.

1286. seu
15 Ed. 1. in
Fascic. de
Superioritate,
Maris, in
Arce Londi-
nensi.

Guie Earl of Flanders about the wearing of Colors or Flags in every ship, and punishing offenders by Sea, *William de Leyburn* is called *Admiral de la mier du diēt Roy d'Engleterre*, or *Admiral of the Sea of the said King of England*. Other Testimonies of the same kinde there are in Records touching the Dominion of the Sea, as it hath been received and acknowledged according to the Common Law and Custom of our Countrie, which I shall discours of in the next place, and after that, concerning the Testimonie of Foreigners.

Of divers Testimonies in our own Law-Books, and the most received Customs, whereby the Sea-Dominion of the King of England, is either asserted or admitted.

CHAP. XXIV.

THE seventh of those Heads, according to the former Division, which manifest the aforesaid Dominion of the Kings of England, relates to our Law-Book's, and the received Customs therein, which prove it from the most antient times. There are also in them many Particulars that may relate herunto, which are explained now and then touching the Guard of the Sea, the *English* Admiraltie, and other things already handled. But in this Chapter wee shall use either the determinations and Commentaries of our own Lawyers, or chiefly such Court-Records as explain their opinions. I confess indeed in som of the
Autors

Authors of our Law who wrote above CCCL. years ago or thereabout, after they had (as the manner then was) read through the *Civil Law* also, they were so strict in following those determinations word for word, which they found concerning the Sea in that Law, that when they treated *de acquirendo Rerum Dominio* of the manner of acquiring the Dominion of things, they transferr'd them into their own writings. From thence it is, that *Henry Bracton*, who was a very famous Lawyer at the later end of the reign of *Henrie* the Third, saith, ^a *Naturali jure communia sunt omnia hæc, aqua Profluens, ær, & Mare, & litora Maris quasi Maris accessoria.* By the Law of Nature all these things are common, running water, the Air, and the Sea, and the shores of the Sea as accessories or dependants of the Sea. Also, *adificia, si in mari sive in litore posita fuerint, adificantium sunt de Jure gentium*, If Buildings bee raised in the Sea, or upon the shore, they becom theirs that build them by the Law of Nations. And a little after, *Jus piscandi omnibus commune est in portu & in fluminibus*, a Right of fishing is common to all in a Haven and in Rivers. Which wee finde likewise in ^b som other of our Law-Books of that Age, as a passage that fell from som Writers (of whom I spake at large in the former Bo ok) that were more affected than was meet with the words of *Ulpian* and *Justinian*, in the general division of things. But these very men in other places, shewing the Customs of our Countrie, do sufficiently admit the King's Dominion by Sea. For *Bracton* himself afterward speak's of them that by the King's grace and favor ^c *quieti sint de Theolonio & consuetudinibus Dandis per totum regnum Angliæ in terrâ & mari, & per totum Regnum tam per terram quam per mare*, Were exempted

^a Lib. 1. seu de Rerum divisione, cap. 12. §. 5. & 6.

^b Autor Fleta Ms. lib. 3. cap. 1. Breton lib. 2. cap. de Purchas.

^c Bracton lib. 2. cap. 24. § 2. & 5. fol. 56. & 57.

from paying Tolls and Customs, throughout the Whole Kingdom of England in the Land and in the Sea; and throughout the Whole Kingdom both by Land and by Sea. And in the same King's time a freedom from some payments was granted to the Citizens of London ^d *per totum Regnum tam per mare quam per terram*, throughout the Whole Kingdom as well by Sea as by Land. And so Bracton, when hee return's to speak of the Customs of our Countrey, acknowledged that the Dominion of the Sea belong'd to his King no less then the Land. And hence it came to pass also, that *inter Capitula Coronæ* (as they call them) that is to say, those **Articles or chief Heads**, whereof enquire was to be made according to the usual custom, by Judges delegated throughout England for the conservation of the publick peace, wee finde this also, *de Pourpresturis factis super Dominum Regem, sive in Terrâ sive in Mari, &c.* Of * **Pourprestures made upon our Lord the King, either on Land or in the Sea, or in Sweet Waters, either within the Libertie or without, or in any other place Whatsoever.** And it is placed among the Articles of this kinde recited by ^e Bracton himself, and in the ^f Author of the Book called *Fleta*. But in the language of the Law wee call those things *Pourprestures*, whereby detriment is don to any publick place belonging to the Patrimonie of the Crown, as a publick thorow-fare, a River, and the like: So that according to the nature of this ordinarie Article touching *Pourprestures*, in the general form of enquire, the Dominion or Ownership of the Sea is ascribed to the King, no less than of the Land, or of publick Road or thorow-fare, and River. agreeable hereto is that Article about any kinde of salt-waters beeing inclosed by any subject, or possessed in any

^d Rot. Pat.
51 Hen. 3.
membr. 11.

* *Pourpresture* is properly, when a man encroacheth, or when any thing is don to the nufance of the King's Tenants.

^e Lib. 3. de
Corona, cap. 1.
§ 3. & cap. 2.
§ 1. fol. 116^b.
& 118^a.
^f *Fleta*, Ms.
lib. 1. cap. 20.

any other manner; which in the antient Records of our Court of Admiraltie is said to bee don, *to the disherison of the King*. The words are there, ^s *Item soit enquis de ceulx qui acrochent à eulx eaves sales en desheretison du Roy*. And at this day, enquirie is wont to bee made, about that business, by Autoritie of the high Admiral. Robert Belknap also, an eminent Judg in the time of Richard the Second, ^h saith that the Sea is subject to the King, as a part of his English Kingdom or of the Patrimonie of the Crown. His words in the Norman tongue run thus; *Le Mere est del ligeans del Roy, come de son corone d' Angleterre*. Hee added to his words, in a remarkable way, *as belonging to the Crown of England, or as belonging to the Royal Patrimonie of England*, to the end that no man might question, whether the Sea belong'd to his King by the Right of the Kingdom of *England*, or of the Dutchie of *Normandie*, or of any other Province in *France*. Another also, who wrote in the time of *Henrie* the Eighth, saith, it hath been received by antient custom, that it is a dutie lying upon the King of *England*, as Lord of the *British* Sea, to scour the Sea of Pirates, and to render the use thereof as of a publick Road or Thorowfare whole soile is within his Patrimonie) safe for Shipping. For, hee expresseth himself in *English* thus; **The King of the ould Custome of the Realme, as the Lord of the narrow Sea, is bound, as it is laid, to scour the Sea of the Pirates and petit robbers of the Sea.** So much also, as to what concern's Dominion, is without controverlie admitted by our ^k Lawyers of later time. And it appear's by publick Records, contening divers main points, touching which the Judges were to bee consulted for the good of the Common-weal in the time of King *Edward* the Third, that the King's Sea-Dominion, which they cal-

^s Cod. Ms. de Admirallatu, fol. 18^b. Artic. in Admirallat. inquirend. Edit. anno 1595. num. 33.

^h 6. Ricb. 2. Fitzherbert tit. Protecti-on. 46.

ⁱ Seingerman. lib. 2. cap. 5 1.

^k Ed. Coke part. 5. fol. 108. & in Comm. ad Littlet on sect. 439. fol. 260.

¹ In Fascic.
de Superioritate
maris,
in Arce
Londinensi.

led the antient Superioritie of the Sea, was a matter out of question among our Lawyers of that Age. But consultation was had for the more convenient guarding of it: For, the whole Bench of Judges were advised with to the end (so wee read it in the¹ Records; and that is especially to be observed which wee finde here about the first beginning of the Naval Lawes of the Isle of Oleron, seated in the Creek of Aquitain at the mouth of the River Charente) that the form of proceeding heretofore ordained and begun by Edward the first, grandfather of our Lord the King and his Council, at the prosecution of his Subjects, may be resumed and continued, for the reteining and conserving of the antient Superioritie of the Sea of England, and the Autoritie of the Office of Admiraltie in the same, as to the correcting, expounding, declaring, and conserving the Lawes and Statutes long since made by his Predecessors Kings of England, for the mainteining of Peace and Justice among all people of what Nation soever passing through the Sea of England; and to take cognisance of all attempt to the contrarie in the same; and to punish Offenders and award satisfaction to such as suffer wrong and damage; Which Lawes and Statutes were by the Lord Richard heretofore King of England, at his return from the holy Land, interpreted, declared, and published in the Isle of Oleron, and named in French *le ley Olyroun*. Here you have it declared as a thing most received and certain, that the King of England hath, by antient right, been Lord of the Sea, of the same name, or that which flow's about it. But that whereof the Bench of Judges were to consult, was onely about the orderly maintenance of this right. Nor is it truly a small sign of this Dominion, that Richard the First King of England, beeing in the Isle of Oleron, which hee possessed as seated in his own Sea, not so much for that hee was Duke of Aquitain as King of England (whereof wee have already spoken) did, as sole Ruler

Ruler and Moderator of Sea-affairs, first publish those Naval or Sea-Laws in that his Island, which hold in force to this day, and from that time gave them so large and perpetual an Autoritie by that name, that as the *Rhodian* Naval Laws (as the case stand's) do prove, that the *Rhodians* in antient time were Lords of the *Grecian* Sea, so the Laws of *Oleron* having^m obtained such a kinde of Autoritie by Sea, from their first Institution, must ever declare the King of *England* as the Autor, to be Lord of the neighboring Sea round about. But some printed Copies of these Laws, make them about sixtie years later than the Reign of that *Richard*; by what autoritie, I cannot tell. For, they relate them to have been made in the year *MCCLXVI*, which is the fiftieth year of our *Henrie* the third. Also, in the Law of the Land, it is reckoned among the Privileges of such as are absent, that they, who shall bee out of the Realm of *England* at the levying of a *Fine* of any Land, and making Proclamations thereupon, are not so bound either by a yearly prescription, as heretofore, or by a five years prescription, as is usual of later time, but that their Right remain's entire to them upon their return home, if they make their claim, within the like spaces of time. But *intra regnum* **Within the Kingdom** is by the same Law taken, and that in the usual phrase for that which is *intra* (or as it is wont to bee barbarously render'd *infra*) *Quatuor Maria*, **Within the^a four Seas**, to wit, the Southern, Western, Eastern, and that Northern Sea which washeth both the sides of that neck of Land, whereby *Scotland* is united to *England*. That is to say, within the outmost bounds of the *English* Empire in those four Seas, or within the opposite shores of the Eastern and Southern Sea or Ports belonging to other Princes, and within the bounds of the Northern and

^m Editi.
France, tom.
3. tit. 2. Jur.
ribus & pri-
vilegiis Ad-
miralli §. 19.

^a Stat. 18.
Ed. 1. seu de
modo levandi
Fines. Bra-
cton, lib. 5.
de exceptio-
nibus, cap. 30.
fol. 437.
2. Ed. 3. fol.
9^a. 4. Ed. 3.
fol. 46. pl. 30.
Fitzherbert
8. Rich. 2.
tit. Conti-
nual Claim,
13. *Plot-
den*, Cam-
ment. 1. part.
fol. 359. &
360. &c.

Western Sea, which indeed are to be bounded after another manner ; but yet to be bounded : that is, according to the extent of possession West-ward beyond the Western Shores of *Ireland*, and by the first beginning of that Sea, which is of the Scottish name and jurisdiction. But that which is opposed to this Particle *intra quatuor maria*, **Within the four seas**, is that *extra quatuor Maria*, **Without the four seas**, or to be in the parts so beyond the Seas, that they be beyond the bounds of the Sea-Dominion of the King of *England*; from whence wee are to determine of the bounds or exterior limit of the Seas. And although the *Land of England* be sometimes used for that which is the whole Realm, or English Empire, as signifying the same, a more ordinarie and indeed more brief expression being applied (as is usual) in stead of a more large; yet it certainly appears, that *extra quatuor maria*, **Without the four seas**, and *extra Regnum*, **Without the Realm**, do in our Law-Books signifie the very same thing (that is to say, so far as the extent and latitude of the whole English Empire is comprehended in the name of Realm, not as the Realm of *England*, is now and then distinguished in ^P our Law from *Ireland*, which also is a distinct Dominion of the same Empire, or from the other Islands which are reckoned in the Roial patrimonie of the Kings of *England*.) For, it is usual in the Language of the Law, so to describe him, who, in that sense, shall be out of the Realm. And whereas in the Reign of *Richard* the second to an objection made against one that would avoid the yearly prescription as not bound by it, for that hee was not in *England*, it was excepted that hee was in *Scotland*, and so within the four Seas; It was thereupon ^Q answer'd and rul'd by the Court,

o *Bracton* ib. }
 & *Coke* 7.
Jacobi R.
part. 8. fol.
100. Cas.
Rich. Rich-
1020.

^P *Coke*, *part.*
 7. *in cas. Cal-*
vini, fol. 23.

^Q *Fitzher-*
bert, tit.
Continual
Claim, 13.

Court, that the Exception was of no force, for that Scotland was not within the Bounds and Limits of England. So that **Within the four Seas**, and **Within the Realm**, signified one and the same thing; from whence these terms, **out of the Realm**, and **Without the four Seas**, becom one and the same also. *To bee out of the Realm*, is very often repeated in this sense also, by Littleton, the most excellent of all our Law-Writers, signifying no other thing than what hee renders it in another place, by one who *alā oustere le mere*, **crossed the Sea**, or, **went beyond sea**. From thence also it seem's to have proceeded, that, whereas with us, among the several temporal excuses of Defendants, who are summoned to appear in Court (in our Law wee call them * *Essoins*) there are two alleged, whereof the one is intituled *de ultra Mare*, the other *De Malo veniendi*, and this latter is allowed to him that is hindred by any kinde of misfortune whatsoever, *within the Seas*, or on this side of the more remote bounds of those Seas, which belong to *England*; but the former to him who lives *without, or beyond the Seas*, belonging to the English Empire; From thence it seem's, I say, to have proceeded, that, in former times, when there was a more frequent use in Court of this kinde of excuses, a Defendant being absent in *Ireland*, might lawfully make use of the latter form of *Essoin*, but not of the former. Nevertheless, if through ignorance hee did make use of this, it took on the nature of the latter, that is, wholly quitting all its own nature, it depended upon this, that the Defendant, according to the more vulgar sense or acception, lived *beyond Sea*. For, according to received Custom, the nature of them both was such, that when any one might lawfully use the former, hee might also after

† Sect. 440.
 & 441.

‡ Sect. 677.
 & vide *Plotden Comment.*
 part. 1. fol. 359. & 360
 * *Essoin* is an alledgment of an excuse for him that is summoned, or sought for to appear, and answer to an action. It is as much as *excusatio* with the Civilians.

after a while likewise enjoy the benefit of the latter. But in the said kinde of *Essoins* or *Excuses*, the former not being lawfully made use of, but yet turned into the latter by construction of Law, lest it should become of no use, there was no place for the latter; to the end it might not bee iterated contrarie to Custom. The matter it self was thus decided in the time of K. Henrie the third, as it is described by Henrie Bracton, after this manner. *Esto, saith hee, quòd quis se Essoniaverit de Ibernia quasi de ultra Mare; attornatur Essonium illud ad simplex Essonium de Malo veniendi ut coram Martino de Pateeshul in Banco, anno Regis Henrici Sexto de Gilberto Mariscallo & Cecilia uxore ejus & Allano de Hyda, qui vocavit ad Warrantum Willielmum Mariscallum in Comitatu Pembroke, & qui se essoniavit de Ibernia, & non fuit allocatum, & postea fecit de hoc quòd aliud essonium de malo veniendi ad alium diem non fuit allocatum.* So much wee finde also in the antient Autor of that Book entitled "*Fleta*. Doubtless, Ireland is no less seated beyond sea, than either France or Spain, unless you take that decision, as relating onely to the Civil notion of this kinde of situation; to wit, that it is not situate beyond that Sea which is a part and Territorie of the English Empire, but placed therein, and comprehended under one and the same Supreme Power with England; and so that an Excuse or *Essoin de ultra mare*, is not in that kinde to bee admitted. In the antient Records also concerning the Customs of our Court of Admiraltie, wee read it was an usual Custom in the time of King Henrie the first (who died *Anno Dom. MCXXXVI.*) and of other Kings both before and after him, That, if any man accused of a capital crime don by Sea, being publickly called five times by the voice of the Crier; (after so many several daies assigned) did not make his appearance

^a Lib. 5. tracti.
de Essoniis,
cap. 8. §. 2.

^a Ms. lib. 6.
cap. 8.

^a Ms. fol.
12^b.

pearance in the Court of Admiraltie, hee was banished out of *England & de mer appartenant au Roy d' Angleterre*, or out of the Sea belonging to the King of England, for fourtie years, more or less, according to the pleasure of the Admiral. Other particulars there are that relate herunto about Actions for matters arising in this Sea, that were wont to bee entred in expresse terms heretofore, in the ordinary Courts of our Common Law, whose Jurisdiction was ever esteemed of such a nature, that an Action instituted about a matter arising in any other place than within the bounds of the Realm, was by the antient strict Law, alwaies to bee rejected by them. After which manner as it hath been a Custom now for many years, that an action ought to bee rejected, unless the matter have its rise within the *Bodie*, (as they call it) of the Countie, that is, within som Province or Countie of the Island, usually given in charge to certain Governors or Officers, known to us by the name of *Sheriffs*. So also is it in this Sea-Province, belonging, by the antient received Custom, to the high Admiral, or his Deputies, not onely so far as concern's its defence and guard, but also as to matter of Jurisdiction. So that at length it is manifest, that the Sea-Dominion of the King of England, is without controversie admitted and asserted also, both by the Determinations and Customs of the Law of the Land, and by the expresse words of the Writs and Forms of the Actions themselves.

Nor is that of any force at all to the contrarie, which either our Countie-man *Bracton* the Lawyer, (as hath been said) or som others, of late as well as antient time, that are Followers of him, but in too careless a manner, (while they² set down the Institutions of our English Law) have unadvisedly utter'd by the way,

D d d

touching

¹ Temp. Ed. 1.
Fitzherbert
 iii. *Advoctate*
 192. & *Placit.*
 cit. 37. & 38
Hen. 3. Rot.
 10. *Devon.*
Itin. Suffer.
 47 *Hen. 3.*
Rot. 10. Trin.
 50 *Hen. 3.*
Rot. 22. &
Trin. 24 Ed.
 3. in *Brevibus Regis*
inter Wilke
 & *Wenore*;
 quæ in *Arcis*
Londinensis
Archivo.
Ejusmodi
item sunt
alia.

² *Jo. Cowel.*
Instit. Juris
Anglicani lib.
 2. tit. 1. sect.
 3. & 4.

touching that antient communitie of the Sea; and of Fishing also in Rivers, according to the Books of *Justinian*; as if such a kinde of communitie were admitted in our Law. Truly, that which they have so let slip, is not so much to bee taken as contrarie to the known Law of the Land in this particular (for, even *Braeton* himself, as I have shewn, hath divers other passages that signifie this Dominion of the King) as it is to bee reckoned for som of the reliques of *Ulpian*, or of the School of the Imperial Law, too slightly and carelessly added by the way in writing. And the like may bee said of ^a one or two more of our Writers, who after the manner of reasoning, received for the most part in the Imperial Law, touching the middle of a River, and an Island risen therein, do by the way, but ignorantly, make the middle of the Sea flowing between to bee the bound of this Sea-Dominion of our Kings. Moreover, the same may bee said likewise of the ^b Commissioners of *Queen Elisabeth*, who treating at *Bremen* with the Commissioners of *Christiern* the fourth King of *Denmark*, about a freedom of Navigation through the Northern Sea, object a perpetual communitie of every kinde of Sea, from the Law of Nations, denie a Dominion, and wrest other things by way of Argument out of the Writers of the Imperial Law, which are clearly contrarie to our English Right, as also to the *Intervenient Law* of Nations, which hath continued in force for so many Ages about the Dominion of the Sea. Either, I say, the same must bee said of them, or elf that they did not so much make choice of Arguments which they thought were true, to serv the present occasion, as of such that might seem to have the greater force and autoritie among those Civil Lawyers with whom they were in
Trea-

^a *Andreas Horn, Ms. in speculo Justitiariorum, lib. 2. & Joannes Dee in Monarch. Britan. pag. 21.*

^b *Anno 1602 apud Camden. in Annalibus, Tom. pag. 272. Edit. Londinens.*

Treatie. Nor is it a new thing, that *Civilians* should speak of a natural and perpetual communitie of the Sea, even where it is most certain that a Dominion thereof is admitted from all Antiquitie, in the very Territorie wherein they themselves are comprehended; as I have formerly declared. There are also very many Rights among us, belonging either to the Exchequer, or to such as enjoy the Right of the Exchequer by Grant from the King, which some conceive to be grounded upon that Sea-Dominion, whereof wee discourse: As the confiscation of Goods derelict in the Sea, and of some of the greater sort of Fish, as *Wale-Fishes*, *Sturgeons*, and others. And for the most part that of the *Satyrist* hold's good,

*Quicquid conspicuum pulchrumq; ex æquore toto est,
Res Fiscī est ubicunque natat.* — —

*c Juvenal.
Satyr. 4.*

**Goods in the sea of any worth and note,
Belong to th' Exchequer wheresoe'er they flote.**

Besides wreckt goods cast out ashore, when no living creature belonging to the ship remain's alive. But these things do not onely appertain to him that is Lord of the Sea, but sometimes also to others in other Nations. And they for the most part depend, either upon the Law or Custom of some Land, as in the case of Goods cast ashore, or of such as are found and imported; or else upon a Right over such Persons as shall first possess them, as in the case of any Goods whatsoever derelict or found in the Sea, and others of that kinde. Therefore I thought it not meet to draw those things here into Controversie.

*Som antient Testimonies of less account,
touching the Sea-Dominion, whereof wee
Treat.*

CHAP. XXV.

THE last head in the afore-mentioned Division is concerning som Testimonies of a lesser account. There hath been a piece of Gold very often coined by our Kings, called a *Rose-noble*, which was stamp't upon one side of it with a ship floating in the Sea, and a King armed with a Sword and Shield, sitting in the ship it self, as in a Throne, to set forth a Representation of the Dominion of the English by Sea. The first Autor hereof was *Edward* the third; when



hee guarded his own Sea with a very numerous Navie, consisting of ^a Eleven hundred Ships; at which, as at other times, hee marched victoriously through *France*. Questionless, our Kings in a manner followed the example of *Caius Allectus* in this particular, who having gotten possession of the *British* Empire, (as was shewn ^b before) expressed his own Dominion by such a kinde of Coin. This patern, which I have placed here,

^a *Thom. Walsingham*
1359. *scilicet*
33 *Ed. 3.*

^b *Cap. 5.*

here, belongs, I suppose, to *Edward the Fourth*. And in a Book lately set forth in *France* of the Coins belonging to the *French Kingdom* there are some that were stamp'd by those Kings of *England* who were also Kings of *France*. But that those *Insignia* of a Ship, the Sea, a Sword, and a Throne, did relate to the right of the Crown of *England*, not at all to that of *France*, cannot be doubted by any, who shall observe, that there is not the least impress or print of that thing to be found in those *French* pieces, that were coined by the Kings onely of *France*. And whereas there are in the Coins of *Zeland*, certain representations of Sea-Dominion, as a Lion issuing out of the Sea, and other things of that kinde; yet truly that is but of late time, and in no case a pointing out of Dominion (if you except their Ports and inner spaces of the Sea included within their Islands) but onely of the kinde of life and situation of the people. But the aforesaid *English* Coin had an inscription upon the reverse (which is not unusual in the gold Coins of our Countrey) taken out of the Gospel, viz. *Jesus autem transiens per medium illorum ibat*, which^d some have conceived was a sentence in use among the Chymists, who by a customary profanation of the name and passage of our Saviour, thought to set forth the majestic and dignitie of that Art of theirs, which refined the gold for these Coins in the time of *Edward the Third*; Others, that it served for an Amulet or Charm to make a man invulnerable or Shot-free. Wee finde indeed in some^e Lawyers, that these words are placed among those, that are used by men brought under Examination upon the Rack, to ease and drive away their pain: Touching which it is not worth the while to spend any farther Discourse. But as for the meaning of the impress on the other side of the Coin, it is thus explained by a certain Versifier, whose

^c *Figures des monoyes de France, fol. 131. & 132.*

^d *Apud Guil. Camden Remains pag. 206. Edit. 1614.*

^e *Paulus Grillandus, Tract. de Quest. & Tortura, q. 4. num. 13. & 14.*

name is unknown, but hee wrote in *English Rhythme*, in the time of *Henrie the Sixt*, touching the conservation of the Government of the Sea ^f;

^f Ms. in Biblioth. Cottonianâ, & vide G. Camden. in loco antè citato.

**For foure things our Noble sheweth to me,
King, Ship, and Sword and Power of the See.**

But his intent is, earnestly to perswade the *English* that it is their main interest diligently to guard the Sea (whereof the Kings of *England* are Lords) and to defend it with all their might, as the perpetual prop and support of their Empire. Hee saith also, that the same advice was given by the Emperour *Sigismund*, at his interview with our *Henrie the Fifth*, for the procuring of on peace betwixt him and *Charles the Sixth King of France*. Give mee leav to set down his words.

**The true processe of English policie
Of utterward to keep this region
Of our Englonde (that no man may denie
Nor say of sooth but it is one of the best) [West,
Is this, that who seeth South, North, East, and
Cherish merchandise, keep the Admiraltie,
That we be Masters of the narrow See.**

**For Sigismund the great Emperour,
(Which yet reigneth) When he was in this lond
With King Henrie the fist, Prince of honour,
Here much glory, as him thought, he found;
A mightie land which had taken in hand
To warre in France, and make mortalitie,
And ever well kept round about the See.**

**And to the King thus he said, My brother
(When he perceived two towns Calys and Dover)
Of**

Of all your towne to chuse, of one and other,
To keep the Sea and soon to com over
To werre outwards and your reign to recover,
Keep these two towne sure, and your Majestie,
As your tweyne eyne, so keep the Narrow See.

For if this See bee kept, in time of warre
Who can here passe without danger and wo?
Who can escape? Who may mischief differre
What marchandie may for by be agoe?
For needs hem must take trewes every foe,
Flanders and Spaine, and other, trust to me,
Or else hindred all for this Narrow See.

What is contained more at large in these Rhythmes,
you have the sens of it contracted above in few words.
It is not worth while to render the words themselves.
The same Versifier also proceeds thus;

But King Edward made a siege royall
And wanne the town; and in speciall
The Sea was kept, and thereof he was Lord;
Thus made he * Nobles comed of Record.

* By Nobles
here are
meant the
Rose-Nobles
that hee
coined.

Wee have also divers other very large Domestick Testimonies of this thing, which are added in the next place, being mingled together with the antient Recognition or acknowledgment of forein Nations concerning the same.

That

That the Sea-Dominion of the Kings of England is acknowledged by Foreiners, whom it most concern's, by their usual striking of Sails, according to antient Custom. Also concerning two Edicts or Ordinances that were set forth about this Thing, by the Kings of France.

CHAP. XXVI.

WE are com now to Foreiners. And it is clearly evident, by what wee have discoursed before, either touching the limits set for Navigation by the King of *England*, or the Licence of passage through this Sea often desired by Petition, that som of them have indeed acknowledged this Dominion. But there are two Testimonies more notable than the rest, which shew (if you consider chiefly, as you ought, their being Neighbors, and such whom it concerned) that they generally did the same. The one is the usual striking of the Top-sails, by every Ship of any Foreign Nation whatsoëver, if they sail near the King's Navie or any Ship belonging to the same Navie in the Sea. The other is a *Libel* published of old, or a *Bill of complaint* instituted, wherein very many forein Nations heretofore, in the time our *Edward* the First, did all together, and by common consent with the *English*, acknowledg the Dominion of the Kings of *England* by Sea. Whereto I shall add also a particular declaration of that kinde, made by the *Flemings*, in an Ambassie to our *Edward* the Second.

But

But that the striking of Sails is don, not onely in honor of the *English* King, but also in acknowledgment of his Sovereigntie and Dominion in this Sea, is, I suppose, a thing out of question. Certainly, the *French* cannot doubt of it, who, by such a kinde of striking, would have had themselves heretofore acknowledged Lords of our Sea; but in vain. That is to say, they were as much over-seen in the former Age, in setting forth two Edicts or Ordinances, to require and ratifie such a kinde of striking Sail to themselves by all Foreigners, as they were in so rashly vindicating the Sea-Dominion of the King of *England*. Concerning those Edicts wee spake before in the ^a former Book; Neither of which was received as valid in any Court of Justice, according to a decision made in the ^b supreme Court of Parliament, which wee have observed also in that place. Yea, and here I shall set down the very words used by *Ludovicus Servinus* Advocate general to the King of *France*, to magnifie the Autoritie of those Edicts or Ordinances; at the time of that Decision. The one of them beeing set forth by King *Henrie* the Second of *France*, or in the year MDLV; the other by *Henrie* the Third, or in the year MDLXXXIV; they were both objected by those, who required a striking of Sail to them in the name of the *French* King; even without the bounds of *France* (for, the words of the Edicts did not relate onely to the Sea confining upon *France*;) upon which ground also they offer'd violence to certain *Hamburgers* who refused to do this, and seized them as guiltie of contempt against the dignitie and Dominion of the *French* by Sea. But as to this thing, saith *Servinus*, it may be said on the contrarie; That the (Edicts or) Ordinances of the Realm making injunction to strike and com aboard, have not been observed and are not to this day; And it doth not appear that of the

^a Cap. 18.

^b *Ludovic. Servin. Placit. II. Tom. 2. 1592. pag. 262. Edic. 1609.*

d. Servinus,
placit. citat.
pag. 254.

year 1555. hath been verified in the Court of Parliament, but the Defendants do report onely an extract out of the Register of Brouage (which indeed is evident enough when that Edict is objected by the^d same man.) Moreover, it was an old obsolete Law, and that which prove's it, is the new Ordinance of the year 1584. For, there had been no need of a new Law if the old one had been kept; And notwithstanding that the last hath not been verified simply, but as it was promoted by persons in Power at that time, it did not pass without resistance, but was Registred and Published with the Qualification required by the Procurator General, at the charge of the Executor, according to the antient Forms, and such as the Officers of the Admiraltie had made in former time, without doing any thing anew. The former Edict, which was objected, was never admitted by the Estates of the Realm; for, nothing of that matter is to be found in the Records of Parliament, which is the proper place for a Testimonie of its admission. But the later was indeed admitted, though as to any effect of a Law, either at that time to be enacted or introduced, or as received before into Custom, it was plainly rejected, and that at the instance of the King's Procurator; who desired it might be so qualified, as you see, that what was grounded upon antient Custom, it onely might be ratified, even after this Edict was so admitted in favor of some great Ones. Which was discreetly don; seeing both the Edicts were extremely contrarie to the Custom of their Neighbors, yea, and of all Foreiners. But as to the business of striking sail, which they would have to be a special Sign or Pledg of their Sovereigntie and Dominion in those Edicts, which notwithstanding, upon second thoughts, were rejected afterwards in Law (as hath been shewn;) truly, it having been usually and perpetually acknowledged due for so many Ages to the
English,

English, and performed accordingly both by stranger, and by the *French* themselves (as a matter grounded upon long prescription) can bee no slight argument among the *French*, to confirm that Dominion of the *English*, whereof wee treat.

Moreover, it is affirmed by all that are used to the Sea as a thing out of Question, that this intervenient Law or Custom of striking sail hath been very usual to the *English* and other Nations; And that it is very antient and received for above four hundred years; appears by this, that at *Hastings*, a Town situate upon the Shore of *Suffex*, it was decreed by King *John*, (in the second year of his Reign, or of our Lord MCC) with the assent of the Peers; that if the Governor or Commander of the King's Navie in his Naval Expeditions (which were all in that Age upon the Southern Sea) shall *encontre sur la mer* (so the words run in the

Norman Tongue) *aucunes Nefs ou vesseaulx charges ou voide, qui ne veuillent avaler & abeisser leurs triefs, au commandement du Lieutenant du Roy ou de l' Admiral du Roy ou son Lieutenant, mais combatant encontre ceulx de la flote, que, silz puent estre pris, quils soient reputez comē enemies, & leurs Nefs vesseaulx & biens pris & forfaits come biens des enemies, tout soit que les Maïstres ou possesseurs d' iceulx voudroient venir apres & alleguer mesmes les Nefs vesseaulx & biens estre des amies du Roy nostre seigneur; & que la menye estant en iceulx soient chastiez per emprisonement de leur corps pur leur rebelleté par discretion; That is to say, shall meet any Ships whatsoëver by Sea, either laden or empty, that shall refuse to strike their Sails at the command of the King's Governor or Admiral, or his Lievtenant, but make resistance against them which belong to his Fleet; That then they are to bee reputed enemies if they may bee*

c Ms. Commentar. de rebus Admiral, fol. 28. a.

taken, yea and their Ships and Goods bee confiscated as the Goods of Enemies. And that, though the Masters or Owners of the Ships shall allege afterwards that the same Ships and Goods do belong to the friends and Allies of our Lord the King. But that the Persons, which shall bee found in this kinde of Ships, are to bee punished with imprisonment, at discretion, for their Rebellion. It was accounted Treason, if any Ship whatsoever had not acknowledged the Dominion of the King of England in his own Sea, by striking Sail: And they were not to bee protected upon the Account of Amicitie, who should in any wise presume to do the contrarie. Penalties also were appointed by the King of England, in the same manner as if mention were made concerning a crime committed in some Territorie of his Island.

A Recog-

A Recognition or Acknowledgment of the Sea-Dominion of the King of England, made by very many of the Neighbor-Nations round about, in an antient Libel publickly exhibited, or in a Bill of Complaint instituted by them, together with the English, against Reyner Grimbold Governor of the French Navie. Also, touching a Recognition of this kinde implied in his Defence.

CHAP. XXVII.

THe other Testimonie concerning the Recognition of most Foreign Nations in this particular, is that *Libel* or *Bill of Complaint* heretofore instituted by very many Nations together, wherein they unanimously declared the King of *England* and his Predecessors to be Lords of the Sea flowing about, and brought them to give an account in a Court of Judicature, who presumed to violate that Right: For the well understanding whereof, I shall relate the whole matter more at large.

A war being on foot between our *Edward* the First, and King *Philip the Fair* of *France*, it was so concluded sometimes by agreement, that there might notwithstanding be a Freedom of Commerce on both sides; and so a Truce with all Merchants whatsoever on either side; but as to other things, hostilitie proceeded in the mean time (as it was wont) betwixt both the Nations.

^a Rot. Claus.
25 Ed. 1. in
Sched. annex.
Membranæ
26. Rot. Ale-
manniæ à
22 Ed. 1. ad
31 Ed. 1. &c.
^b Rot. Pat.
26 Ed. 1.
part. 2. mem.
24. in dorso.
^c Fœdus inte-
grum habetur
in Rot. Ale-
manniæ, 31
Ed. 1. Mem-
branâ 2.

This special kinde of Truce was called ^a *Sufferentia guerra*, **sufferance of war**, and during war, there were certain persons appointed by both Princes, to take cognisance of things don contrarie to this Truce, and pass their Judgments, according to the, ^b *Law or Custom of Merchants, and the Form of Sufferance*. After a revolution of som years (wherein this kinde of Truce took place, and sometimes not) a League was made in the year of our Lord MCCCIII. which is the one and thirtieth of *Edward* the first. The first Article of that League is, ^c that those Kings should not onely bee at amitie with each other, but also that they should defend one another in all manner of Rights, against any others whomsoever, except the Church of *Rome*, and on the part of the King of *England*; his son in law *John Duke of Brabant*; but on the part of the King of *France*, *Albertus King of the Romans*, and *John Earl of Henault*. But the third Article thereof (for the first and third is of singular use in that *Libel* or Bill of Complaint, as will appear by and by) is this, *Item il est accorde qe l'un ne receptera, ne sustendra, ne confortera, ne fera confort, ne aide as Enemies de l'autre, ne soffera qu' ils eient confort, secours, ne aide, soit de gent d'armes, ou de vitailles, ou d'autres choses queles q' eles soient de ses terres ou de son poiar, mais adiondera sur peine de forfature de corps & d'avoir & empeschera à tot son poiar loiaument en bon foi qe les dits enemies ne soient resceipts ne confortes es terres de sa seigneurie ne de son poiar, ne q' ils en aient confort socours ne aide soit gents d'armes, des chevaux, d'armeures, de vitails, ou d'autres choses queles q' eles soient*: which is in English to this effect; that, according to this contract of amitie, they were neither of them in any wise to cherish the enemies of the other, nor suffer any kinde of aid or relief to bee afforded them in their Territories. The war beeing thus at
an

an end, becauf there arose very many complaints concerning injuries don up and down, as well in the more open as in our own Sea, during the special Truce afore-mentioned, but also it was probable that others of that kinde might arise perhaps after the League was made, especially by reason of the differences at that time betwixt the French King and the Earl of Flanders; therefore Commissioners were appointed by both Princes to hear and decide them. And those at that time on the behalf of the King of England were Robert de Burgherthe Constable of Dover Castle, and John de Banquell Steward of Pontoise, Baraldus de Sescas, and Arnaldus Ayquein Knights; on the French King's behalf were appointed the Lord Saquilly, Mittonius Blanvillius, Bertrandus Jordanus, and Gulielmus Ralastansius, Knights also: To the end that they might take cognifance (so it is in the King of England's Commission) *des enterprises, mesprises, & forfaites en Treve ou en Sufferance, entre nos & le dit Roy de France, d'un part & d'autre, es costeres de la mer d'Engleterre & autres per decea & ausint per devers Normandie & autres costeres de la mer per de la; that is, of encroachments, injuries and offences committed on either side in time either of the League or Sufferance, or, of the Truce agreed on between Us and the said King of France, for freedom of Commerce onely, either upon the Sea-Coasts of England, or any other neighboring Coasts of the Sea, either towards Normandie, or others more remote. But the aforesaid parties were autorised by two Commissions, in such manner, that the one Commission contained four, and the other also four, an equal number beeing appointed by both the Kings. They both bear date the last day of June, MCCCIII. To these Commissioners or others of that kinde, the Libel was jointly exhibited by Procurators, on the behalf of the Prelates*

d Rot. Pa.
31 Ed. 1.
membr. 16.
ult. Junii.

lates and Peers of *England*, also of the high Admiral of *England*, yea, and of the Cities and Towns throughout *England*; and lastly, of the whole English Nation, and others subject to the King of *England*; and how this could be don otherwise than by autoritie of the Estates in Parliament, is not to be imagined. With these in like manner were joined the Procurators of most Nations bordering upon the Sea throughout *Europe*, as the *Genoëses*, *Catalonians*, *Spaniards*, *Almains*, *Zelanders*, *Hollanders*, *Frieslanders*, *Danes*, and *Norwegians*, besides others under the Dominion of the *Roman-German Empire*. All these together instituted an Action or Complaint against *Reyner Grimbold*, who being Governor of the French Navie, had, during the war between King *Philip* of *France*, and *Guie* Earl of *Flanders*, intercepted and spoiled Merchants of their Goods in this Sea, that were bound for *Flanders*. And all these Complainants jointly say, that the King of *England* and his Predecessors, have time out of minde, without controversie, enioied the Sovereigntie and Dominion of the *English Sea*, and the Isles of the same, by right of their Realm of *England*, that is to say, by prescribing *Laws*, *Statutes*, and *Prohibitions* of *Arms*, and of *Ships* otherwise furnished than with such necessaries as belong to Merchants, and by demanding suretie, and affording protection in all places where need should require, and ordering all other things necessarie for the conservation of Peace, Right and Equitie, between all sorts of people passing through that Sea, as well Strangers, as others, in subjection to the Crown of *England*. Also, that they have had, and have the Sovereign Guard thereof, with all manner of Consance and Jurisdiction in doing Right and Justice, according to the said *Laws*, *Statutes*, *Ordinances*, and *Prohibitions*, and in all other matters, which may concern the exercise of Sovereign Dominion in the said places. To wit, such matters as concern'd the office

office and jurisdiction of the Admirals, that were wont to be appointed by the Kings of *England*. Then, adding the first Article afore-mentioned of the League made but a little before, whereby both Kings were obliged to defend one another's right, they proceed in their Accusation against *Grimbald*, saying; *That hee is onely Master of the Navie of the King of France; but call's himself Admiral of the said Sea; and pretend's that hee was autorised under that title by the King of France; upon occasion of his making warr against the Flemings. And that after the making of the said League; and contrarie to the intent and meaning of the same, hee had for above a years time unjustly assumed and usurp'd the office of Admiral in the said Sea, by autoritie of the King of France his Commission; taking the People and Merchants of England, and other Nations passing through that Sea, imprisoning and spoiling them of their Goods, and delivering them up to the King's Officers, as Goods forfeited and confiscate. And whereas hee hath in a very insolent manner justified these actions of his in writing, as don by autoritie of the King his Master's Commission, as also according to a Prohibition made by the King of England, and proclaimed, according to the intent of the aforesaid third Article of the Treatie, throughout his Dominions, (that is to say, a Prohibition which forbade a giving any relief to the French King's enemies within the Dominion of the King of England) and so endeavored to defend himself before the Commissioners; it was alleged to be don to the great damage and prejudice both of the King of England, and of the Prelates, Peers, and all the rest, who jointly preferr'd the Bill, as aforesaid.* Therefore they all with one consent pray, that the persons so imprisoned beeing set at libertie, and restitution made of the Goods injuriously taken, they might be referred to the Jurisdiction of the Admiral of *England* (to whom alone this kinde of Jurisdiction, both

in respect of Things and Place, as well as Persons, did appertain) and that, by order of the Commissioners, *Reyner Grimbald* himself might be enjoined to repair the losses of the *Complainants*; in case hee were able to make satisfaction; or otherwise, that the King of *France*. who gave him Commission for that Command, might be adjudged to do the same. But after reparation made, that then also the said *Reyner* might receive such punishment for violating the League, as might deter others from the like attempt in time to come.

Now what was don by the *Commissioners*, is not very well known: It seem's it was a matter of such moment, that it was thought more convenient to make an end by agreement, than bring the matter to a trial. But in the mean time, nothing is more evident, than that a right of Dominion over the Sea, and that ancient and confirmed by long Prescription, was in expresse terms here acknowledged by almost all the Neighbor-Nations, to belong to the King of *England*; and so, that hee might, at his own pleasure, give protection, and set Laws and Limits to all that sailed through this Sea, and used it in any manner whatsoever; nor could this kinde of Right be altered or diminished by the differences of the Neighbor-Nations between each other, or by any Right of war belonging to others, otherwise than in any other Territorie of his Dominion. And it is to be observed, that the *Flemings* themselves, betwixt whom and the *French* there was a war on foot at that time, were not, nor could they rightly have been parties in that Charge or Accusation: For, by virtue of the aforesaid League made between the *English* and *French*, they were to assist one another by Arms to defend each other's Rights; so that according to the League, the *French* King was permitted to use the Sea,

to infect the *Flemings* beeing his enemies, but not to intercept such as passed this way from any other Nations, or that were bound with Merchandise for *Flanders*. And *Paulus Æmilius*, speaking of this very time, saith; *The French King threatned ruine to Flanders. The King of England protected the Flemings.* For, Edward was so far onely a friend of the King of France, that yet hee would not have the *Flemings* ruined. Thus our King order'd the matter, both as a Defender of his own Right, and supreme Moderator also of Navigation in respect of others. Nor truly is it to be omitted, that *Grimbald* himself here, beeing Governor of the French Navie, did not onely arrogate this power in this Sea from the Autoritie granted him by his King's Commission, but in expresse terms also made use of that *Prohibition* of the King of *England*, which was in force according to the Third Article of the said League, thereby to defend himself; as if hee had also acknowledged, that himself could not have lawfully held that office of Admiraltie in this Sea, without such a Permission as hee conceived himself to enjoy, by virtue of that *Prohibition*. For, by that *Prohibition*, it was required that no relief should be given to the French King's Enemies, nor any aid afforded them within the Dominion of the King of *England*, (that is, *per my son poere*, which were the very words of *Grimbald*, as you may see in the *Libel* ic self set down hereafter.) And so *Grimbald* expressly objected the Autoritie of that *Prohibition*, together with the power of his Master's Commission in defence of himself: As if hee had said, I use this power, it beeing given mee by the King of *France*, who put mee in Command over his Navie, and Affairs belonging to the Sea: But besides this, the King of *England* having set forth his *Prohibition*, commanded that no kinde of relief should

c De gestis
Franc. li. 8.

bee given to any Enemy of the French, within his Dominion, according to the League made between both the Kings. And therefore, seeing I have not taken either the Persons or Goods of any but such as are Enemies, or at least such as according to the *Intervient Law* of Nations, are to bee reckoned upon an hostile Account (for, doubtless hee pretended, that they were to bee taken as Enemies of what Nation soever they were, who relieved the *Flemings* by Merchandise or otherwise) I conceive it a sufficient ground of defence in my behalf, that the King of *England*, according to the League made, did by publick Proclamation require, that no succor or relief should bee given to the Enemies of *France* in any part of his Dominion. Upon which account, not to these, whom I took at Sea. The summe of all in brief is this; That *Grimbald* did not so much as imagine, that his office of Admiraltie or Power given him by Commission depended upon any Dominion of the King of *France* by Sea, but altogether upon the Autoritie of his Kings Commission, the League, and the King of *England's* Prohibition: As if the English King had openly declared by that League and Prohibition, that hee would not take it for any injurie to himself, during that kinde of League and Prohibition, although the *French* should fall upon any of their Enemies in his Dominion, or though they, which is all one here, should bee taken in his Sea, by the French King's Officers. Certainly, unless you so understand *Grimbald*, I do not see wherefore he should at all join that Prohibition together with the King his Master's Commission, in defence of himself, as it is expressed in the *Libel*, or why mention was made there of the Dominion of the King of *England*, throughout which that Prohibition was proclaimed, seeing the con-

controversie arose touching things don onely by Sea. But if hee bee so to bee understood, certainly then hee did not onely forbear to oppose the ancient right of the King of *England* by Sea, but also sufficiently acknowledged it, while hee seem's to affirm that a temporarie restriction onely was added thereto, by an accession of the *League* and the *Prohibition*: So that wee have a tacit acknowledgment even of the French themselves at that time, in this their *Admiral*. But how the principal points of the *League* ought to bee expounded, it is no place hereto discours; for, wee observ onely that the Sea-Dominion of the Kings of *England* was acknowledged, in that *Libel*, by so many Nations.

Moreover truly, it is worthie observation; that about the very same time, to wit, a little before the making of the *League*, the King of *England* did homage to the French King for the Dutchie of *Aquitain*, the Earldom of *Pontois*, and other Provinces that hee held in *France*; that hee was also wholly deprived of them som time before by decree of the Parliament of *Paris*; yea, and that about one hundred years before, King *John* was outed of *Normandie*; and yet afterward that the King of *England* now and then regained a possession of it, and that before the time of the *League*, and of the publication of this *Libel*; which serv all to this end, that wee may observ, that when the aforesaid famous controversie arose about the use and Soveraigntie of the Sea flowing between *France* and *Britain*, and the absolute Dominion thereof was ascribed by so many Nations, upon a Title derived time out of minde, to the King of *England* and his Predecessors, yet in the mean time no title at all was pretended in right to their possession either of *Normandie*, or *Aquitain*, whereupon a Dominion of any part of the Sea might in any

† Rot. Alemann. 30 & 31 Ed. 1. Du Tillet en le recueil des Traictes, &c. fol. 40^b.
 ‡ Florilegus, ann. 1293.
 3. Thomas Walsingham, ann. 1294.
 Alii.

sort bee grounded, but claimed upon the sole right of the English Empire. And it appear's evident by the thing it self, that the things complained of by those Nations in the *Libel*, were don by that Governor of the French Navie, chiefly in the Sea near the shores of *France* and *Flanders*, which were in hostilitie with each other: And so certainly they all unanimously affirm, that the whole Sea, whereof they speak, is under the Dominion of the King of *England*, and that upon the sole Account and right of the English Empire. And as for *Grimbald*, hee did not defend himself, either by a pretence of any Dominion of the King of *France*, or by disproving of that Prescription; whereupon the English Title depend's, as a thing not declared according to Truth or anti-ent Right; nor did hee at all pretend, that the Right which the Kings of *England* had in the Sea bordering upon *France*, did belong to them either upon the account of *Normandie*, or any other French Province whatsoever, as Fiduciarie Clients or Vassals of the King of *France*, though it had been convenient and very seasonable for him to have alleged all these Particulars, if the Truth had been so indeed. Whereby also that is not a little confirmed, whereof wee discoursed before, about taking the names of the shore over against us, in the later Commissions of the Office of high Admiral of *England*, for limits onely of the Sea-Dominion of the Kings of *England*, and of the Province thereof under their protection. Moreover also, about seven years before the exhibiting of the aforesaid *Libel* to the Commissioners, when as the King of *France*, by reason of divers heinous injuries don to his Subjects by the English in this Sea, required that the King of *England* (as hee

hee was the Fiduciarie Client or Vassal, becauf of Aquitain and other Provinces that hee held under him in France) should bee questioned not onely for wrong don, but also for his right to those Lands which hee held, and bee summoned to appear in the Parliament of Paris; the matter being set down at large in the Letter of Summons, hee inserted nothing therein whereby hee might seem to arrogate any Sea-Dominion at all to himself, or diminish that which belong'd to the King of England; as you may see in ^a Florilegus, who hath set down an entire Copie of them in his Annals. The same Autor also, speaking of the same Time, saith, ⁱ At that time, there was neither Lord, nor Law over the Sea men; but what every man was able to catch, or snatch, hee called his own; which plainly denote's an extraordinarie Licence or of Depredation, and infesting the Sea; yet so to bee understood, that in the mean time the incomparable power of the English in Shipping, which guarded their Dominion by Sea according to the Custom of their Ancestors, was chiefly signified thereby, the King very freely permitting his Subjects to use depredations by Sea, as long as the war continued. For, Florilegus himself relate's, that great numbers both of French and Spaniards, were then taken at Sea by the English. Yea, and about ^k that time, Thomas of Walsingham write's, that either a French or Norman Navie of two hundred Sail, which roved about this Sea to rob the English, were overcom by a Fleet of sixtie English Ships, and brought into England. There is also another *antient* Autor of the same time, when these affairs were acted, who saith, ^l That in the Month of May, MCCXCIV. there fell out a Quarrel between the Sea-men of the Cinque-Ports of England, and the Sea-men of France, and it was determined

^b Anno 1293.

ⁱ Anno 1294.

^k Anno 1297

^l Ms.

determined by a fight at Sea, wherein the English with a Fleet of one hundred Sail, took two hundred Ships of France, and drowned or killed almost all the Sea-men of France, for which caus, Philip King of France, endeavored to take away Gascoign from the King of England. Others there are likewise, that have other expressions touching these things, whereby it is easie to collect what is meant by that of *Florilegus*, when hee saith, that there was neither Lord, nor Law, over Sea-men, at that time; that is to say, the King of England had let the reins loof to his Subjects, as Moderator of this Sea, and this hee did, that they might not onely restrain his enemies, but them also that should reliev his enemies in any manner whatsoever, or that should use the Sea otherwise than at his pleasure, who was Lord thereof. But as concerning the like acknowledgment, made singly and apart by the *Flemings*, of the Dominion of the Kings of England over the Sea, I shall Treat by and by; after that I have in the next place set before you the *Libel* it self in its own, that is, the *Norman Tongue*, as it stand's recorded in the Tower of London.

A Copie, or Transcript of the Libel or Bill of Complaint, mentioned in the former Chapter.

CHAP. XXVIII.

IN the Archives of the Tower of *London*, where Records of above four hundred years are kept, there is a bundle of Parchments, which contain some affairs relating to the times of *Henrie* the Third, and of *Edward* the First and Third. The first contains an agreement made between *Edward* the First and *Guy* Earl of *Flanders*, touching their Ships bearing of Colors about this Sea, to the end that they might be the more easily known. Then there are annexed three either Originals or Copies of the said *Libel* written at the same time. For (as it seem's) the several Procurators of those Nations, that were parties in the Complaint, had their several *Libels*, though expressed in the name of all together. So that one is endorsed thus, *De Baiona*, as if that *Libel* had been exhibited singly by the men of *Bayonne*; but the title run's thus, *De Superioritate Maris Angliae, & Jure Officii Admirallatus in eodem*, that is, **Of the Superioritie (or Sovereignitie) of the Sea of England and the right of the Office of Admiraltie in the same**, as it is also in the said agreement between the King and the Earl of *Flanders*. Also, in one of the *Libels*, to those words is added *retinendis & confirmandis*; All being very plainly written in the usual Character of that Age, whereunto the matter relate's. And there can be no scruple touching the realitie and truth of them to any one that

seeth them, who is but a little acquainted with the antient writing and such kinde of Records. I gave you the whole sense, yea and partly the words before; but now have thought fit to set down an entire Copie of the *Libel*, as it was written at that time in the *French* or *Norman* Tongue; which run's after this manner.

A vous, Seigneurs, Auditours Deputez per les Rois d' Engleterre & de France, a redresser les dammages faits as gentz de leur Roiaulmes & des autres terres subgitz a leur seignuries, per mier & per terre, en temps de Pees & Trewes, monstrent les Procurors des Prælatz et Nobles, & del Admiral de la mier d' Engleterre, & des Comminalties des Citties, & des Villes, & des Marchaunz, Mariners, Messagiers, & Pele-ringes, & de tous autres du dit Roiaulme d' Engleterre & des autres terres subgits a la segnurie du dit Roy d' Engleterre & d' aillours, si comme de la Marine de Genuë, Cateloigne, Espagne, Alemaigne, Seland, Hoyland, Frise, Denemarch, & Norway, & de plusours autres lieux del Empire, que come LES ROYES D' ENGLETERRE PAR RAISON DU DIT ROYALME, DU TEMPS D' ONT IL NY AD MEMOIRE D' DU CONTRARIE, EUSSENT
ES.

ESTE EN PAISIBLE POSSESSION DE LA SOUVEREIGNE SEIGNURIE DE LA MER D'ENGLÈTERRE ET DES ISLES ESTEAUNS EN YCELLE, par ordinance & establissement des lois, estatutes, & defenses d'armes, & des vesseaux autrement garnies que vesseaux de Marchandise, et de seurté prendre et savegarde doner en tous cas que mestier serra, et par ordinance de tous autres faits necessaries a la garde des pees, droiture, et equite entre toute manere des gentz taunt d'autre seignurie come leur propre par illeque's passanz, et par souveraine garde et tote manere de conisance et Justice haute et basse sur les dites lois, estatuts, ordinances et defenses et par toutz aultres faitz queux à le gouvernement de souveraine seignurie appartenir purront es lieux avant ditz. Et A. de B. Admirall de la dite mire deputez per le Roy de Engleterre, et toutz les autres Admiralls per meisme celui Roy d'Engleterre et ses Auncestres jadis Rois d'Engleterre, eussent este in paisible possession de la dite sovereign garde ove la conisance et Justice et toutz les aultres apertennances avantdites (forspris en cas d'appell et de querele fait de eux à leur sovereigns Roys d'Engleterre

Ggg. 2

*Engleterre de deffault de droit, ou de mauvais
 jugement) et especialment par empechement
 metere, et Justice faire, seurte prendre de la pees
 de toute manere des gentz usaunts armes en la
 dite mier, uo menans niefs aultrement apparal-
 lez ou garniez que n' appartenoit au nief Mar-
 chande, et en toutz aultres points en queux home
 peut aver reasonable cause de suspicion vers
 eaux de roberrie ou des autres mesfaits. Et come
 les Maistres des Neifs du dit Royalme d' En-
 gleterre, en absence des dits Admiralls, eussent
 este en paisible possession de conustre et jugger des
 touz faicts en la dite mire entre toute manere
 des gentz solonc les lois estatuts et les defenses
 et Custumes. Et come en le pimier article de
 l' Alliance nadgairs faite entre les dits Roys,
 en les traitz sur la darrain pees de Paris,
 soient comprises les paroles que sensujent en
 un cedula annexe à yceste (At non in schedulâ
 annexâ, sed in eâdem membranâ de-
 scriptum est quod sequitur; unde non tam
 ipsos libellos, qui cognitoribus edeban-
 tur, quàm sive formulas eorum archetypas
 sive exemplaria descripta hæc esse conji-
 ciendum fortè est; uti etiam ex eo quòd
 Admiralli Angliæ nomen aliter ac per A. de
 B. non inferatur; quæ prima elementa non
 sunt*

funt nominis alicujus tunc temporis Angliæ Admiralli in sacris Scriniis reperti) *Primierement il est traict & accord entre nous & les messagers & les procurers susdits, en nom des dits Roys, que iceux Roys serront l'un à l'autre, desores enavant, bons, vrages, & loyaux amys, & eydans contre tout home (sauve l'Esglise de Rome) en tiele manner que si ascun ou plusieurs quicunques ils fuissent voloient de-pointier, empescher, ou troubler les dits royes es franchises, es liberties, privileges, es drois, es droitures, eu es custumes de eux & de leur royalmes q'ils seront bons & loyaux amys & aydans contre tout home que puisse viure & morir à defendre gardir & maintenir les franchises, les liberties, les privileges, les droitures, et les custumes desusdites; Except pur le dit Roy d'Angleterre, Monsieur Johan Duc de Braban en Brabant, et ses heirs dessendans de lui et de la fille le roy d'Angleterre, et excepte, pur le dite nostre seigneur le roy de France l' excellent Prince Monsiur Aubert Roy d'Alemagne et ces heirs royes d'Alemagne, et Monsieur Johan Count de Henau en Henau. Et que l'un ne serra en consail ne en aide ou l'autre perde vie, membre, estate ou honor; Monsieur Reyner Grimbaltz Maistre de la Navie du dit Roy de*

Ggg 3

France,

France, que se dit estre Admiral de la dite Mier deputez per son seignure avantdit per sa guerre contre les Flemminges, apres la dite alliance faite et affirmee, contre la forme et fource de mesme alliance et l'entencion de ceaux que la firent, l'office de Admiraulte en la dite Mier d'Engleterre, per commission du dit Roy de France, torcenousement emprist et usa un an et plus, en prenant les gentz et marchaunts du Royaulme d'Engleterre et daillours per la dite mier passants ovesque leur biens, et les gens ainsi prises livere à la prison de son dit Seigneur le Roy de France, et leur biens et Marchandises à les Resceivors per mesme celui Roy de France à ceo deputez en les ports de son dit Royalme come à lui forfaits et acquises, fist amesner per son juggement et agard, et la prise et detenue des dits gents ove leur dits biens et marchandises, et son dit juggement et agard sur la forfait de eaux et acquest, ait justifie devant vos, Seignours Auditours, en escripts par my l' autorite de sa dite commission sur l' Admiraulte avantdite, per lui aussi usurpee, et per my un defence communement faite per le Roy d'Engleterre per my son poere (solonc la forme de la tiers article de l' Alliance avant dite, que content les

les paroles desuscripts) en requerant que de ceo il en fuisse quitz & absoltz, en grand damage & prejudice du dit Roy d'Engleterre & des Prelatz & Nobles & aultres dessusnoms, per quoi les dites procureurs en les nounes de leur ditz Seigneurs, à vous Seigneurs Auditors a-
 vantdits, prient que deliverance deune & ha-
 stive des dits gents, ovesque leur biens & mar-
 chandises ainsi prises & deteinues faites estre
 faite al Admiral du dit Roy d'Angleterre à qi la
 conissance de ceo appartient de droit, si come
 dessus est dist, ainsi q'il saunz destorbance de
 vous & d' altri puisse de ceo conuistre & faire
 ceo que appertient à son office avant dit, & que
 le dit Monsieur Reyner soit condemne & de-
 streint à faire deune satisfaction à tous le dits
 damages si avant come il purra suffre, & in sa
 defaulte son dit seigneur le Roy de France, per
 qi il estoit deputez al dit office, et que apres
 deune satisfaction faite as dites damages le dit
 Monsieur Reyner soit si duement puniz pur
 le blemissement de la dite alliance que la puni-
 cion de lui soit as aultres example pur temps
 avenir.

In

In *English* it run's thus :

* Or Commis-
sioners.

To you, our Lords, * Auditors deputed by the Kings of *England* and *France*, to redress the wrongs don to the People of their Kingdoms, and of other Territories subject to their Dominion, by Sea and by Land, in time of Peace and Truce.

The Procurators of the Prelates, Nobles, and of the Admiral of the Sea of England, and of the Commonalties of Cities and Towns, and of the Merchants, Mariners, Messengers, Inhabitant Strangers, and all others belonging to the said Realm of England, and the other Territories subject to the Dominion of the said King of England, and of others under the Jurisdiction of the same; As also of divers other Nations, Inhabitants of the Sea-Coasts of Genoa, Catalonia, Spain, Almain, Zeland, Holland, Friesland, Denmark, and Norway, and of divers other places of the Empire, do declare; That Whereas THE KINGS OF ENGLAND, By Right OF THE SAID KINGDOM, FROM TIME TO TIME, WHEREOF THERE IS NO MEMORIAL TO THE CONTRARY, HAVE BEEN IN PEACEABLE POSSESSION OF THE SOVERAIGN LORDSHIP OF THE SEA OF ENGLAND, AND OF THE ISLES WITHIN THE SAME, With power of making and establishing Laws, Statutes, and Prohibitions

hibitions of Arms, and of Ships otherwise furnished than Merchant-men use to be, and of taking surety and affording safeguard in all cases where need shall require, and of ordering all other things necessarie for the mainteining of Peace, Right, and Equitie among all manner of people, as well of other Dominions as their own, passing through the said Seas, and the Sovereign Guard thereof. And also of taking all manner of Cognisance in Causes, and of doing right and Justice, to high and low, according to the said Laws, Statutes, Ordinances, and Prohibitions, and all other things which may appertain to the exercises of Sovereign Jurisdiction in the places aforesaid. And whereas A. de B. deputed Admiral of the said Sea by the King of England, and all other Admirals appointed by the said King of England, and his Ancestors heretofore Kings of England, have been in peaceable possession of the said Sovereign Guard, with power of Jurisdiction, & other the aforesaid appurtenances (except in case of appeal, and complaint made of them to their Sovereigns the Kings of England, in default of Justice, or for evil Judgment) and especially of making Prohibitions, doing Justice, and taking surety of the peace of all manner of people using arms in the said Sea, or carrying Ships otherwise furnished and set forth than Merchant-men use to be; and in all other points where a man may have reasonable cause to suspect them of Robbery or other Misdemeanors. And whereas the Masters of the Ships of the said Kingdom of England, in the absence of the said Admiral, have been in

H b h

peace-

peaceable possession of taking cognizance and judging of all Actions don in the said Sea, between all manner of people, according to the Laws, Statutes, Prohibitions and Customs. And Whereas in the first Article of the League lately made between the said Kings, in the Treatie upon the last peace at Paris, there are comprised the words here following, in a Schedule annexed to these Presents. (But that which follow's is not written in a Schedule annexed, but in the same Parchment; from whence it may perhaps be conjectured, that these are not so much the very *Libels* themselves, which were exhibited to the Commissioners or Auditors, as antient Copies taken from the Original; as also from this, that the name of the Admiral is set down *A. de B.* which two first Letters do not agree with the name of any one that wee can finde in Record, to have been Admiral of *England* at that time.) First, it is concluded and accorded between Us and the Agents and Procurators aforesaid, in the names of the said Kings, that the said Kings shall from this time forward, becom to each other good, true, and faithful friends, and be aiding to one another against all men (saving the Church of Rome) in such manner, that if any one or more, whosoever they be, shall intend to disturb, hinder, or molest the said Kings, in the Franchises, Liberties, Privileges, Rights, and Customs of them and their Kingdoms, They shall be good and faithful friends to each other, and aiding against all men living, and readie to die, to defend, keep and maintein the Franchises, Liberties, Privileges Rights, and Customs aforesaid; Except on the behalf

behalf of the said King of England John Duke of Brabant in Brabant, and his heirs descending from him and the daughter of the King of England; and except on the behalf of our Lord the said King of France, the excellent Prince Monsieur Albert King of Almain, and his heirs Kings of Almain, and Monsieur John Earl of Henault in Henault; and that the one shall not bee of Counsel, nor aiding, where the other may lose life, member, estate, or honor.

Monsieur Reyner Grimbold, Master of the Navie of the said King of France, who call's himself Admiral of the said Sea, being deputed by his aforesaid Lord, in his war against the Flemings, did, after the said League made and confirmed, against the tenor and obligation of the said League, and the intent of them that made it, wrongfully assume and exercise the office of Admiraltie in the said Sea of England, above the space of a year. by Commission of the said King of France, taking the people and Merchants of the kingdom of England, and of other places, passing through the said Sea with their Goods, and committed them so taken to the prison of his said Lord the King of France. and delivered their Goods and Merchandises to the Receivers of the said King of France by him deputed in the Ports of his said kingdom, as forfeited and due unto him, to remain at his Judgment and award. And the taking and detaining of the said people with their said goods, as also his said Judgment & award, for the forfeiture & acquiescence of them, he hath justified before you, Lords, Auditors, in writing, by virtue of the auctoritie of his said Commission of Admiraltie aforesaid,

said, by him usurped after this manner, and during a Prohibition or Restraint generally made and proclaimed by the King of England, in right of his Dominion (according to the tenor of the third Article of the League aforesaid, which contain's the words above-written) requiring that hee may thereupon be acquitted and discharged of the same; to the great damage and prejudice of the said King of England, and of the Prelates & Nobles, & others above-mentioned.

Wherefore, the said Procurators, in the names of their said Lords, do pray your Lordships Auditors, that you would cause due and speedie deliberance of the said people, with their Goods and Merchandises so taken and detained, to be made to the Admiral of the said King of England, to whom the cognisance of the same of right appertaineth, as is before expressed; So that, without disturbance from you or any other, hee may take cognisance thereof, and do what belongs to his office aforesaid; And the said Monsieur Reyner be condemned and constrained to make satisfaction for all the said damages, so far forth as hee shall be able, and in his default his said Lord the King of France, by whom hee was deputed to the said office; and that after satisfaction given for the said damages, the said Monsieur Reyner may be so duly punished for the violation of the said League, that his punishment may be an example to others in time to come.

So far the *Libel* of so many Nations, manifestly acknowledging the Sovereignie and Dominion of our Kings over the Sea, and thereupon demanding protection for themselves. And whereas no mention is made of this thing in the Histories either of the *French, English,* or
others

others, it is no wonder since the proceedings of Courts of Judicature are very seldom set down in Histories. But we understand by the French Historie, that this *Grimbald* was Governor of the French Navie at the very same time. *Paulus Emilius* writing of *Philip the Fair*, saith, ^a *Hee hired sixteen Gallies from Genoa, over which Reyner Grimbald was Governor or Commander. Hee sailing about by Sea, infested the Sea-Coast of Flanders. Reginer, Reginer, or Reynerus Grimbaldus, is one and the same man; and among the Genoëses, there is an eminent Family of that name: But becaus hee was a Foreiner and Mercenarie, therefore (it seem's) Joannes Feronius left him out of the Catalogue of the Admirals of France; yet* ^b *Joannes Tilius* placing him among the Governors of the French Navie, call's him *Roverius Grimaldus*. Hee also is that Admiral of the King of France, who, as *Joannes de Beka* saith, had command of three hundred and fiftie Gallies, that were sent by *Philip the Fair*, in the year *MCCCIV.* to aid the *Hollanders* against the *Flemings*. There are also several particulars in the Records of France, which relate to the differences then on foot between the *English* and *French*: And although that Libel or any Copie of it bee not found therein (if wee may credit *Tilius*, who set forth a Catalogue of that kinde of Records) yet there is that Commiſſion among them, whereby the aforesaid *Auditors* or *Commissioners* were autorised to determine of things don contrary to the League. It is described by ^d *Tilius* after this manner; *Pouvoir donè par le Roy Edward à deux nommez & accordez de sa part pour avec les deux eleuz de la part du dit Roy (Phelippe) d'enquerir & amendir les forſaiètes durant leur trefue, le Dernier Juin MCCCIII. Ou tresor; layette Procurationes, posse, & potestates Angliæ; K. Power was given by King Edward*

^a De Gestis Francorum, lib. 8.

^b De rebus Gallicis, li. 2.

^c Chronic. Episcop. Ultraject. & Comit. Holland. pag. 93.

^d Recueil des Traictes, &c. fol. 40.

Edward to two persons named and appointed on his part, to meet with two persons chosen on the behalf of the said King (Philip) to make enquiry and give remedy touching Injuries committed during the Truce betwixt them the last of June MCCCIII. in the Treasury; in the Booke intituled, *Procuraciones, posse, & potestates Anglie*; K. The Commissions bear date the same day and year; whereby these *Auditors* or *Commissioners* were appointed for this purpose, as wec observed before out of our own Records. Nor is it of any force here to the contrarie, that *Commissioners* were sometimes deputed in the same manner by the Princes of the Shores on both sides of the Sea, as also by the aforesaid Kings, to determine complaints about robberies and other injuries usually don by private persons to one another by Sea and Land. For, if any one will collect thence, that the Princes which deputed them had both an equal right in the Sea, it may as well bee concluded upon the same ground, that they were but part-owners of their own Countries, and had an equal interest in each other's Land. Besides, in such a kinde of deputation as that, there is more regard had of the persons offending, that are to bee tried, than of the Dominion of Territories; which truly is wholly to bee discovered som other way.

Rot. Claus.
21 Ed. 3. par.
1. membran.
25. dor. Rot.
Francie, 10
Hen. 8. &c.

A Recognition or acknowledgment of the Sea-Dominion of the Kings of England, made by the Flemings in an Ambassy to Edward the Second.

CHAP. XXIX.

TO these let us add now the assent and voluntarie acknowledgment of the *Flemings* in the Parliament of England, in the Reign of *Edward* the Second. When as the Ambassadors of *Robert* Earl of *Flanders* complained of the taking of their Goods away at Sea, imploring remedie of the King of England, they laid more than once that they were taken upon the English Sea towards the parts about **Crauden**, within the power of the King of England, and brought into England; but that it appertained to the King of England to take cognisance of the crime, for that hee is Lord of the said Sea, and the aforesaid depredation was committed upon the aforesaid Sea within his Territorie and Jurisdiction; which are the words of the Record; but I shall set down the whole, so far as it relates to this business.

Memorandum, That Whereas for the reformation of certain injuries in an amicable way, done by the Subjects of the Earl of Flanders, to the Subjects of the Kingdom of England, and by the Subjects of the said Kingdom to those of Flanders, since the time that our said Lord the King undertook the Government of his kingdom, several Treaties had been held between the Council of our said Lord the King, and the Ambassadors of the said Earl often sent into England

Rot. Pat.
14 Ed. 2.
part. 2. Mem.
bran. 26. in
dorso.

England, upon the aforesaid occasion, which Treaties, by reason of some impediments that happened, did not attain the desired effect; at length in the Parliament of our said Lord the King, held at Westminster in octabis Sancti Michaelis, in the fourteenth year of his Reign, there appeared certain Ambassadors of the said Earl, to treat about reforming the aforesaid injuries in the form aforesaid. And when as the said Ambassadors had been admitted by our said Lord the King to treat anew of this kinde of Injuries, these Ambassadors, as other Ambassadors of the aforesaid Earl, in the aforesaid Treaties, did, among other particulars that they required, before all things make supplication; That the said Lord the King would at his own suit, by virtue of his Royal Autoritie, cause enquire to be made, and do Justice, about a certain depredation lately made by the Subjects of England (as they said) upon the English Sea, of Wines and divers other Merchandises belonging to certain men of Flanders, towards the parts about CRAUDEN, within the Territorie and Jurisdiction of our said Lord the King; alleging that the aforesaid Wines and Merchandises taken from the said Flemings, were brought within the Realm and Jurisdiction of the said Lord the King, and that it belonged to the King himself so to do, for that HEE IS LORD OF THE SAID SEA, and the aforesaid depredation was made upon the said Sea within his Territorie and Jurisdiction. In conclusion, after diligent consideration had of the premises in the same Parliament, with the Prelates, Earls, Barons, and other Peers of the
the

the said Realm being there present, it was concluded upon their advice by the said Lord King, that, to preserve the benefit of Peace between the Subjects of England and Flanders, the said Lord King do by his Roial Autoritie cause enquirie to be made about the Goods taken at that time upon the aforesaid English Sea towards the said place of CRAUDEN, and brought within the said Realm, in those places where the Malefactors went with the goods so taken to the said Land of England, and cause the same Depredation to be heard and determined according to Law and Reason, and that the Owners of the Ships who had a hand in the said Depredation, and others, who knowingly received the said Offenders with the Goods so taken in whole or in part, may be charged and punished thereupon, as partakers, of the aforesaid Depredation.

So far that *Record*. And Commissioners were appointed with power of Jurisdiction by the King's Commission, through most of the Maritim Counties, to make reparation of damages. But because there are upon the shores over against us (especially those of *Zealand*, and there are also upon other neighboring shores) besides Inlets of Rivers, very many windings and turnings of the Sea flowing in, whereby the land is so interwoven up and down, that it cannot well be but that the Sea also which flows in, and oftentimes remove's Banks and make's Harbors there in the same manner almost as a River or Brook, must be contained under the same Jurisdiction, as an entire Bodie with the Land; therefore sometimes mention is made also of this kinde of Sea flowing in, as of a

^b Ms. in Bibliothecâ Cottonianâ
3 Hen. 5.

Sea reckoned within the Jurisdiction & Current of the Sea of the opposite shores, as for example, of the Sea Flanders, or (as I finde it in som ancient ^b Manuscripts which seem to bee the Originals of certain Letters of King *Henrie* the Fifth to the Earl of *Carolois*, and to the Governors of *Ypres*, *Gaunt*, and *Bruges*) *deins la Jurisdiction & l'estrem de la meer de Flandres*, within the Jurisdiction and stream of the Sea of Flanders, which is all one. For, setting aside the Sea so flowing in or making an in-let or harbor before the opposite shore, all that which remain's, or the Sea flowing between those opposite Countries and *England*, was ever esteemed to bee of the English Dominion, according to what I have formerly shewn. So that a late Writer doubtless was in a dream, when, upon the repairing of the Dock at *Mardike*, hee write's, ^c *that hee saw the Empire of the British Sea restored to the King of Spain*. And so I have don with this point, touching the Declaration and acknowledgment of the Sea Dominion of our Kings, made by those Forein and Neighbor-Nations, who were most concerned in the Business.

^c *Jacobus Chiffletius, in Epistola Dedicatoriâ ad Comitem de Olivares, Portui Iccio prefixâ.*

Of

Of the Dominion of the King of Great Britain in the Irish and Western Sea, consider'd singly and apart by it self.

CHAP. XXX.

I have already spoken in general, of the *English* or *British* Sea, which is a part of the Patrimoine of the Crown of *England*, but chiefly as it lies either East or South. It rests now, that we treat of the *Western*, as also the *Scotish* and *Northern*, and in a word of the whole *British* Sea that remains. It is evident to all, that part of the *Western* Sea, lying before *England*, is understood as well in that *Libel* which was exhibited by so many Nations to the Commissioners deputed by the Kings of *England* and *France*, above three hundred and thirtie years ago, wherein we so often read *le mer d' Angleterre* or **the sea of England**, as in the King's Commission before mentioned, wherein our Kings are expressly declared Lords of the *English* Sea on every side; and therefore I shall forbear to repeat what is^a cited out of *Bracton*, about the *Essoyning* or excusing of a man absent in *Ireland*, and other things of that kinde alleged before, which make to this purpose. Moreover also, we read every where, that all the Isles in this neighboring Sea were called *British* (as we observed at the beginning of this Book) just as if the narrow Seas flowing between, like Rivers or turnings of Rivers, did disjoin those Banks or Shores from great *Britain*; as

* CAP. 24.

* Ἀπορροῶ-
γας.

* *Fragments* of the same. Whereby it appears, that the narrow Seas themselves with the Isles, even as Rivers with their Banks, are to be reckoned a part of the *British* Territorie. And hereunto especially relate's also that expression in the *Libel* so often cited; to wit, that the Kings of *England* have ever been Lords both of the *English* Sea (or of the *British*, so far as it stretcheth before *England*) and also of the Isles situate therein, *par raison du Royaume d' Angleterre*, by **right of the Realm of England**. So that the *Isle of Man*, which (as *Giraldus Cambrensis* saith) stand's in this Sea, in the very midst betwixt the Northern Parts of *England* and *Ireland*, was (if I understand any thing) reckoned of old among the Land-Provinces of *England*, even as the *Isle of Wight*, *Lundie*, and others of that kinde. Nor doth it seem to be understood otherwise by those men of ancient time, who, upon occasion of a dispute, whether this *Isle* ought by right to be taken for an appendant of *England* or *Ireland* being placed in the midst of the Sea flowing between, determined the controversie on this manner. They brought venomous serpents; and observing that the *Isle* did entertain and cherish them, as well as *England* and the rest of *great Britain*, but on the contrarie that *Ireland* destroyed them, it was concluded (saith ^b *Giraldus Cambrensis*, who lived under *Henrie* the Second) by the common censure of all, that it ought to be ascribed unto *England*. For, if they had so thought the Territorie either of *Ireland* or *England*, as it consisted of Land and Sea, to be dis-joined from this *Isle of Man*, that they had conceived the Sea lying between, either common to all men, or by ancient right subject to other than the Kings either of *Ireland* or *Britain*, they might seem to have raised a very ridiculous Controversie:

^b *Topograph.*
Hibernie,
dist. 2. cap. 15.

verſie : For, I ſuppoſe, the Queſtion could bee no other, than touching the bounds of *England* or *great Britain*, and *Ireland*. But that a Queſtion about bounds may bee admitted between Owners that are Neighbors, where the Territories of both are not continual or contiguous, is beyond my underſtanding. It is well ſaid by *Paulus*; that if a publick Thoroughfare, or publick River intervene, which belongs to neither of the neighboring Owners, an Action cannot bee brought upon that Title of the Law, *Finium Regundorum*. And truly, after that *Quintus Fabius Labeo*, being ^d appointed Arbitrator by the Senate betwixt the *Nolans* and *Neapolitans* about the bounds of a Field, had ſo craftily perſwaded both of them to retire backwards apart from each other, that a portion of the Field was left in the middle which hee adjudged to the people of *Rome*, there could not any Controverſie ariſe farther between them about the bounds of this Field; becauſe there ceaſed to bee any confine betwixt them: But if any Queſtion aroſe afterwards, they were both to contend with the people of *Rome*. Even ſo it is to bee conceived of that Queſtion, to which of the two Countries the *Iſle of Man* ought by Right to bee aſcribed; it ariſing chiefly upon this ground, becauſe it lay in the miſt between the Territories belonging to *Ireland* and *Britain*, and at the confine of both. For, by an Argument drawn from the nature of the very ſoil onely, without a civil conſideration of Dominion (though they would have here the very nature of the ſoil to bee the evidence thereof, as a Lot for deciſion) it ought no more to bee aſcribed either to *Britain* or *Ireland*, than to *Norway*, *Spain*, or *France*, where every man knows that venomous Creatures are bred as well as in *Britain*. Therefore, to bee aſcribed to *England* or *Britain* in that

^c L. 4. § 11. l. 5. & 6. ff. tit. Finium Regundorum.

^d Cicero de Officiis, lib. 1.

antient Decision, is, so immediately to bee annexed to the *British* Territorie, that the *Ile of Man* may truly, and in a civil sens, bee called a Land-Province of *England* or *Britain*, seeing the *English* Territorie is so continually extended as far as its *Western Coasts*; that which bend's Westward from the very *Confine*, beeing ascribed to *Ireland*. And therefore *Queen Elisabeth's* Commissioners let fall those words too unadvisedly in the ^d *Treatie*, held at *Bremen*, with the *Danish* Commissioners, about free Navigation and Fishing in the *Norwegian Sea*; *That the Kings of England never had prohibited Navigation, and Fishing in the Irish Sea between England and Ireland*; as if they would have had it proved from thence, that the *Dane* ought not to bee prohibited Fishing or Navigation between *Island* and *Norway*, becaus neither were Lords of the Sea, but had possessed the Shores onely on both sides by an equal Right. There were other particulars also no less rashly spoken touching a communitie of the Sea, as wee observed before. Concerning Navigation and Fishing in the *Norwegian Sea*, I shall add more by and by. But as it was ill don of those Commissioners in that *Treatie* to make use of an Argument drawn from a necessarie communitie of the Sea, so there is no truth in that which they let fall concerning the *Irish Sea*. For, wee know, that not onely those pettie Potentates bordering near the Sea heretofore, that were in Rebellion and had usurped the Kings Right in many places of *Ireland*, did exact grievous Tributes of Foreiners for the very libertie of Fishing; but also it was expresly provided by Act of ^e *Parlament*, that no Foreiner should Fish in the *Irish Sea*, without leav first obtained to this purpose from the Lord Lievtenant, or som other lawful Deputie or Officer of the King of *England*; yea, and that all

^d 1602. apud
G. Camden.
in Annalib.
tom. 2. pag.
273. Edit.
Lond.

^e Stat. Hi-
bernic. 5. Ed.
4. cap. 6.

all Foreiners should pay yearly, for every Fisher-boat of XII Tons or upward, *thirteen shillings and four pence*, and for everie lesser Vessel *two shillings*; upon pain of forfeiting their Vessels, Furniture, and all Goods whatsoever, if so they refused this kinde of paiment or did not acknowledg this Soveraigntie of the Lord of the Sea. But I shall insert the whole Act touching this business, that wee may understand what was the most received Opinion of all the Estates of *Ireland*, touching this Right here of the King.

Item, at the requeste of the Commons, that where divers vessells of other landes fro one daie to other goynge to fish amongst the Kings Irish enemies in divers partes of this sayd land by which the Kings said enemies bee greatlye advanced and strengthened aswell in vitualles, harneys, armor, as dyvers others necessaries, also great tributes of money given by every of the said vessells to the said enemies from day to day to the great augmentation of their power and force against the King's honor and wealth, and utter destruction of this said land, thereupon the premisses considered, it is enacted and ordeined by aucthoritie of the said Parliament, that no manner vessell of other landes shall bee no time nor season of the yeere from henceforth, from the feast of the Nativity of our Lord Jesus Christe next comming, go in no part of the said land betwixt the said Irish enemies to no manner fishing without one special licence of the Lieutenant, his deputy or Justice of the land for the time being, or licence of another person having the

the Kings power to grant such licence, upon paine of forfeiture of the shippe and goods to the King. And that whatsoever person or persons that find or impeche any of the said vessels, rumpants or forfeites against this act by the auctoritie of the same, it bee lawfull to them so making any claime in behalfe of the King, and approving the said forfeitures by any of the said vessels to be made, that the King shall have thone moietye of the said forfeiture, and the said person or persons shall have thother without anye impechment, and that all manner vessels of other lands coming in the said land of Ireland a fishing, being of the burden of twelue tunnes or lesse, having one Drobet or boate, everye of them to paye for the maintenance of the Kings warres there xlii. s. liii. d. by the yeer. And all other small vessels as scarkes or boates, not having Drobet nor lighter being within the said burden of twelue tunnes, every of them shall paye twoe shillings goings a fishing in the like manner. Provided alwayes that no vessel fishing in the North parte of Wicklo. be charged by reason of this act; and that the Lieutenant, his deputy or Justice of the land for the time being, shall have the foresaid summes and duties of mony so paid to be imployed in the Kings warres for the defence of the said land, and that the Customers and Collectors of the same summes shall account before the said Justice, Lieutenant, or Deputy for the time being, or such Auditors that shall be for the same appointed by the King or them, and not before the Barons

Barons of th'exchequer in the said lande; and that none of the saide vessels so comming from other parts in the saide lande shall not depart out of the saide lande, till every of them pay their said duties upon pain of forfeiture of the vessels and goods to the King.

There are some also who affirm, that the King of Spain^f obtained leav by request from our Queen Marie, for XXI years, to fish in the more Northerly part of the Irish Sea, and that thereupon a Revenue of one thousand pounds *per annum* was advanced to the Exchequer in Ireland. A Proclamation also was set forth by^g James King of great Britain, prohibiting any foreiner, without leav first obtained, to fish in this Irish Sea. But as to what concern's that Controversie about the Isle of Man, although it bee remember'd by Giraldus (who wrote in the Reign of Henrie the Second) nevertheless it is to be conceived, that it arose in the more ancient times of the English-Saxons, when all that lie's betwixt England and Ireland, was in subjection either to the Kings of Ireland, or Britain, that is, when both of them had in this Sea distinct Territories of their own, whose Bounds were in question. Certain it is, as^h Beda write's, that Edwin the most potent King of the Northumbrians, or rather of all the English-Saxons, subdued the Mevanian Isles to the Dominion of England, about the year DCXXX. That is to say, both that Mevanian which wee call Anglesey, & the other also which is Man, whereof wee discoursed. But in the later time of the Anglo-Saxon Empire, the Norwegians or Danes, who exceedingly infested both this and the North-east Sea with very frequent Robberies, at length seized both this Isle and the Hebrides, and held them almost two hundred years: So that in the mean time, this of Man could not in a Civil sens bee

^f Gerardus Malnius, in *Lege mercatoris* cap. 35. pag. 189.

^g Proclam. 7. Jacobi 6. Martii.

^h *Hist. Eccl.* lib. 2. cap. 9.

ascribed either to *Ireland* or *Britain*. But that the Kings thereof were at that time Lords as well of the neighboring Sea as of the Isles, may be collected out of their Annals, where we find that *Godred*, whose surname was **Crovan**, King of *Man*, in the year of our Lord **MLXVI** brought *Dublin* and a great part of **Laynster** ¹ under his subjection. And so thoroughly subdued the Scots, that no man, who built a Ship, durst drive in more than three Nails : So that hee gave both limitation and Law to the Shipping of his Neighbors ; which is all one, as to enjoy the very Dominion of the Sea, as I have shewn in what hath been already spoken. And from hence perhaps it is, that the more ancient Arms of the Kings of *Man* were a Ship with a Sail folded together, and this Inscription added, *Rex Manniæ & Insularum, King of Man & of the Isles* ; as Mr^k *Camden* observ's from their Sails : For, the three legs of humane shape, now every where known, are but of later time. But afterwards, when *Ireland* was subdued by *Henrie* the Second, and *King John*, and *Reginald* King of *Man* ¹ brought into the power of *King John* (the *English* possessing this Sea at that time with a very numerous Navie) there is no reason at all to doubt, but that the neighboring Sea round about was taken also into the Dominion of the *English*. For, in that Age the *King of Man* was no absolute Prince, but being subdued, hee paid homage to the King of *England*, & yielded under his subjection. But in a short time after *Alexander* the Third, ^m King of *Scots*, annexed it to the Dominion of *Scotland*, and put in a Governor, who was to assist him upon occasion with thirteen Gallies & five hundred Seamen. Hee recover'd the *Hebrides* also, by driving out the *Norwegians*, & transmitted it to his posteritie. Then, *Man* returned again to the *English*; who enjoied *Ireland* a long time together with it & that sea-territory. But the Kings of the
Hebrides

¹ Chronic.
Regum Manniæ, pag. 840.

^k *Britanniâ*,
pag. 847.

¹ Chronic.
Manniæ,
anno. 1210
et Ret. cart.
14. *Joannis*
R. membran.
in dorso.

^m *Heclor*
Boëtius, hist.
Scot lib. 13.

Hebrides and of *Scotland* enjoied the Northern part of this *Western Sea*, after that they had expell'd the *Norwegians* who were Lords here of the Sea. And from hence it is, that, as *Scotland*, *England*, this *Ile of Man*, the *Hebrides*, and *Ireland* with other adjacent Isles, so even the *Vergivian* and *Deucaledonian* Sea it self washing the West of *Scotland*, and surrounding these Isles with windings and turnings, ought now also to bee accounted the antient Patrimonic of the King of *great Britain*.

But there is moreover, in the more Westerly part of this open and main Sea, another Right belonging to the King of *Great Britain*, and that of a verie large extent upon the Shore of *America*. Whenas *S^r Humfery Gilbert* Knight, did by Autoritie of *Queen Elisabeth* transport a Colonie into the *New World*, with design to recover certain Lands in the East parts of the Northern *America*, which of Right belong'd to the *English Dominion*, the *Queen* was by him, as her *Procurator* put into a possession, for ever to bee held by her and her heirs, both of the Port, called by the name of *S^t John* (which is in the Island of *Baccalaos*) and also of the whole Sea as well as Land on every side,ⁿ for the space of six hundred miles. Then hee received this new Kingdom of the *Queen*, as her Beneficiarie, having a Branch and a Turf deliver'd in his hands, according to the usual cerimonie of *England* in transferring the Ownership of Lands and Possessions. Nor truly was it necessarie, that hee should otherwise get the Possession, from whence this Dominion of the *Queen* and her Posteritie had its Original. For (as *Paulus* saith well) there is no necessitie that hee who intend's to take possession of a Field, should walk about the whole, but tis sufficient if hee enter any part of that Field, so long as hee doth it with a

ⁿ *Hacklitt*, in his *Voyages*, Tom. 2. pag. 151.

^o *L. 3. ff. lit. de acquir. Rer. Dom.*

minde, thought and intent, to possess the Field to its utmost extent and Bound: Which saying may relate to Seas, as well as Lands, that were never taken into possession. So that as ^p *Siculus Flaccus* Treating of *Occupatorie Lands*, saith, Men did not possess so much land as they were able to till, but they reserved as much as they were in hope they might bee able to till, the like also may bee said of a Sea so taken into possession. Look how much was reserved in hope of using and enjoying, so much also was bounded. But perhaps the first original of the Dominion of this main Sea of *America*, did not proceed from the Possession that was acquired by *Gilbert*. Hee rather restored and enlarged the Right of the Crown here: For, that Island called *Baccalaos*, was added to the *English* Empire by ^q *Sebastian Chabot*, in the time of *Henrie* the Seventh. And it is certain, that afterwards it grew to be a Custom, for the Officers belonging to the *High Admiral* of *England* (in whose charge are all the Seas subject to the King of *England* and *Ireland*, as King of *England* and *Ireland*) to demand Tributes of such as fisht also in this Sea; which was (I suppose) a most evident token of the King's Dominion. But it was ^r provided by an Act of Parliament, in the Reign of *Edward* the Sixth, that no Tributes of that kinde, to the grievance of Fishermen, should bee paid any longer. How far our *English* Colonies, lately transported into *America*, have possessed themselvs of the Sea there, I have as yet made but little enquire.

^p De Conditionibus Agrorum.

^q His Commission you may finde, Rot. Franc. 12. Hen. 7.

^r Stat. 2. & 3. Ed. 6. cap. 6.

Touching

Touching the Dominion of the King of Great Britain in the Scottish Sea, especially toward the East and North.

CHAP. XXXI.

THose particulars which were cited before out of the^b Proclamation of James King of Great Britain, about the Prohibition of Fishing, relate as well to the *Scottish Seas*; on every side; from whence also you must acknowledg their possession hath been retained together with an antient Sea-Dominion. That is to say, all Foreiners were prohibited to Fish in these Seas, without leav first obtained at *Edenburgh*. And in those *Scottish* Acts of Parliament, they are not so much new Laws made, as old ones revived, wherby it was ordeined, **That all manner of^c Fischeres, that occupies the Sea, and vtheres persons quhat sumever that happenis to slay Hering or quichte Fish upon the Coast, or within the Fles or out with the samen within the Frithes bring them to free Ports, &c. Where they may bee sold to the Inhabitants of the same kingdom, quhairby his Majesties Customes bee not defrauded, and his Hienes Lieges not frustrat of the Commoditie appointed to them be God under the pain of confiscation and tynsel of the veschelles of them that cumes in the contrair hereof, and escheiting of all their movable guddes to our soveraine Lords use.** So that use and benefit is claimed hence, by a special right in that Sea: otherwise truly, that use and bene

^b Proclam. 7.
Jacobi &
Martii, 6.

^c Parlam. 4.
Jacobi R. 6.
cap. 60. &
Parlament. 6.
ejusdem cap.
86.

fit would of right no more appertain either to the King of Scotland or his Subjects, than to any other whomsoever. But the Law was made concerning all Fisher-men, as well strangers as *Scotch-men*; as being ordeined by all the Estates of that Kingdom, who so well understood both the King's Right, and also their own (as subordinate to the King's) by Tradition from their Ancestors, or by long-continued possession and Dominion, that there remained not the least ground of scruple touching that business. And a *Scotish* Lawyer speaking about Fishing in the Eastern Sea of Scotland, I cannot, saith^d hee, omit to tell you, that in the past Age, after a most bloudie quarrel between the Scots and *Hollanders* about occasions belonging to the Sea, the matter was composed after this manner, that in time to com the *Hollanders* should keep at least fourscore miles distance from the Coasts of Scotland. And if by accident they were driven near through violence of weather, they paid a certain Tribute at the Port of *Aberdene* before their return, where there was a Castle built and fortified for this and other occasions; and this was duly and really paid still by the *Hollanders* within the memorie of our Fathers, until that by frequent dissensions at home, this Tribute, with very many other Rights and Commodities, came to nothing, partly through the negligence of Governors, and partly through the boldness of the *Hollanders*. So you see, how limits were by agreement prescribed heretofore in this Sea, to the Fishing of Foreiners. But the more Northerly Sea, which lies against Scotland, was for the most part in subjection heretofore to the *Norwegians*, and *Danes*, who were Lords of the Isles there: So that the people of the *Orcades* speak the *Gothish* Language to this day. *Robertus de Monte* tells us, that hee, who was called King of the Isles, was possesst of XXXII I-lands

^d *Guil. Wel-*
wodus, de Do-
minio Maris,
cap 3.

^c *In Append.*
ad Sigebert.
Gemblac. An-
no 1197.

lands in that Sea above four hundred and sixtie years ago, paying such a Tribute to the King of Norway, that at the succession of every new King, the King of the Isles present's him ten marks in Gold, and make's no other acknowledgment to him all his life long, unless another King succeed again in Norway. And^f Giraldus Cambrensis, writing of these things saith, that in the Northern Sea, beyond Ulster and Galloway, there are several Islands, to wit, the Orcades and Inchades (or Leucades, which som would have to bee the Hebrides) and many other, over most of which the Norwegians had Dominion and held them in subjection. For, although they lie much nearer to other Countries, yet that Nation beeing more given to the Sea, usually prefer's a Piratick kinde of life above any other. So that all their Expeditions and Wars are performed by Sea-Fight. This hee wrote in the time of Henrie the second. So that somtimes those Sea-Appendants of the Dominion of Britain, in the Northern parts, were invaded by Foreigners. Hence also it is, that^g Ordericus Vitalis, speaking of Magnus the son of Olavs King of Norway, saith; hee had a great power in the Isles of the Sea; which relate's unto the time of William the Second King of England. The same Ordericus also saith, that the Orcades, Finland, Island also and Groenland, beyond which there is no other Countrie Northward, and many other as far as Gothland, are subject to the King of Norway, and wealth is brought thither by shipping from all parts of the world. So wee have here a clear description of the Dominion of the Norwegians heretofore, as well in this neighboring Sea of Scotland, as in the more open. But in after time, when as by^h agreement made between Alexander the third King of Scots, and Magnus the fourth of Norwaie, as also between Robert Bruce King of Scotland, and Haquin of Norwaie, it was concluded touching these Isles,

^f Topograph. Hibernie, dist. 2. cap. 11.

^g Historia Ecclesiastica, lib. 10. pag. 767.

^h Ex Tabulis publicis, Ferrerius, in Appendice. Hist. Hectoris Boëtii sub-juncta, pag. 388.

Isles, that they should bee annexed to the *Scottish Dominion*; this could not bee don, but there must bee a *Cession* also of that *Sea-Dominion*, which bordered round upon the *Coast of Norwaie*. Yet the *Norwegian King* possessed it for the most part; and afterwards the *Dane*, by an union of the two Kingdoms of *Denmark and Norwaie*; until that *Christiern* the first, King of *Norwaie and Denmark*, upon the marriage of his daughter *Margarite* to *James* the third King of *Scotland*, made an absolute Surrender of these *Islands*; and in the year of our Lord *MCDLXX*. transferr'd all his right both in the *Isles of Orcades and Shetland*, and the rest lying in the hither part of the *Northern Sea*, upon his Son in law, and his Successors. And as concerning this business, I shall here set down the words of *Joannes Ferrerius*, who was indeed Native of *Piedmont*, but supplied with matter of *Historie* out of the *Records of Scotland*, by *Henrie Sainclair*, Bishop of *Rofs*. Moreover in the *Deucealedonian Sea* toward the *North-East*, there are the *Isles of Orcades*, seated next to the *Coast of Scotland*, whereof onely *twentie eight* are at this daie inhabited; and above an *hundred miles* beyond the *Orcades* towards *Norway*, are the *Shetland Isles* in number *eighteen*, which are at this daie inhabited, and in subjection to the *King of Scotland*; concerning which, there was a great quarrel in former Ages between the *Scots and Danes*, yet the *Dane* kept possession. All these *Islands* did *Christiern King* of *Denmark* peaceably surrender, together with his daughter in marriage to *James King* of *Scots*, until that either hee himself or his posteritie paid to the *Scottish King* or his Successors, in lieu of her *Dowrie*, the summe of *fiftie thousand Rhenish Florens*, which were never discharged to this daie. For, so much I my self have seen and read in the *Deeds of marriage betwixt Ladie Margarite* daughter of the *King of Denmark*

i Munster. v
Cosmograph.
lib. 2. & Gui-
lielm. Cam-
den. in In-
sulis Brit.
pag. 849.

mark and James the third King of Scotland, drawn up and fairly signed with the Seals of both Kingdoms Anno Dom. 1468. &c. But afterwards, when Ladie Margarine being Queen had been delivered of her eldest son James Prince of Scotland, the Danish King willing to congratulate his daughter's good deliverie, did for ever surrender his right in the Islands of the Deucaledonian Sea, to wit, the Isles of Orkades, Shetland, and others, which hee deliver'd in pledg with his daughter, upon her marriage to the Scottish King. I hear the deeds of this surrender are kept among the Records belonging to the Crown of Scotland. And so at length those Isles, and the Dominion of this Sea, returned to the Kings of Scotland, which they enjoy at this day. The Kings of Scotland have a pledg of Dominion also in this Sea, that is to say, Tributes or Customs imposed upon Fisher-men, for Fishing; of which by the way you may read in their Acts of Parliament.

^k Parlam. 6.
Marie, Regi-
ne Scot. c. 54.

Touching that Right which belongs to the King of Great Britain, in the main and open Sea of the North. And the Conclusion of the Work.

CHAP. XX XII.

Concerning that Neighboring Sea, which is a Territorie belonging to the Scots, I have spoken in the former Chapter. But I must not omit to treat here of that Sea, which stretcheth it self to a very large extent toward the North, washing the Coasts of Friesland, Island, and other Isles also under the Dominion of the King of Denmark, or of Norway. For, even this

^p In the life
of *Agricola*.

^c In *Advocat.*
Hispanic. lib.
I. cap. 8.

^d *Hackluff*
in his *Voi-*
ages. Tom. I.
pag. 590.

^e 3 *Hen. 5.*
feu Anno
Dom. 1453.
in *Schedis*
vetustis Bib-
liothecæ
Cottonia-
nz.

Sea also is ascribed by som to the King of *Great Britain*. *Albericus Gentilis*, applying that of ^b *Tacitus*, *The Northern Coasts of Britain, having no Land lying against them, are wash't by the main and open Sea; you see,* ^c saith hee, *how far the Dominion of the King of Great Britain extend's it self toward the South, North, and West.* As it almost all that which lay opposite to the *Isles of Britain*, in the open Sea, were within the Dominion of the King of *Great Britain*. And concerning the Northern Sea also, which reacheth there to parts unknown, the very same thing in a manner was acknowledged by a subject of the King of *Denmarks*, no mean man, in a Letter that hee wrote som years since to a friend of his in *England*, his name is *Gudbrandus Thorlacius*, Bishop of *Flo-la* in *Island*, who in a Letter ^d sent hither *Anno MDXCV*, to *Hugh Branham* Pastor of *Harwich*, call's the *Britains* almost-Lords there of the whole Sea. *There is*, saith hee, *a report now at this day, that you of Britain (whom I had almost called Lords of the Sea) have Negotiations every Year in Groenland.* But the Kings of *Denmark* deny it here; and this more Northerly Sea which belongs to *Island*, they challenge to themselves, as they are Kings of *Norway*; and that by antient right, if not unjustly pretended. To this purpose let us observ, that passage which I finde in a speech of the Ambassadors of *Erricus* the tenth King of *Norway* and *Denmark*, delivered unto our *Henrie* the fift, which run's to this effect. ^e *Most victorious King of England, may it pleas your Majestie to understand, that our most gracious Lord the King of Norway, &c. aforesaid, hath certain Islands, to wit, Island, Zeroy, Hietland, and manie more belonging to his Kingdom of Norway, whereunto of old no persons were wont to repair out of other Countries, upon any occasions whatsoever either of Fishing or Merchandising, under peril of life and limbs;*

limbs; nor might the men of the Kingdom of Norway, more than those of other Countries, without special licence from his Majestie. Nor might they after Licence obtained, set forth out of any other place than the Citie of Bergen, nor return to the same place but upon inevitable necessitie, or when they ought to paie Customs and other Duties to the King's Exchequer, according to the most antient Custom of Norway, which hath been constantly observed time out of minde in that Kingdom.

Also, in the year MCCCCXLV. Christophor King of Denmark and Norway, ^f granted the Inhabitants of Zirikzee in Zealand a freedom of Navigation into his Kingdom, Island and other Isles beeing excepted and prohibited, which are the very words of the Grant. Moreover, out of the League made at Kobpenhagen in the year of our Lord ^e MCDXXXII. between our Henrie the sixt and the same Erricus King of Norwaie, and Denmark, the Commisisioners of the King of Denmark who held a Treatie at Bremen with the Commisisioners of our Queen Elisabeth; in the year MDC II about the free use of this Sea, alleged this Article almost to the same sens; It is provided, that all Merchants, and all other men whatsoever in subjection to the King of England and France, do not presume hereafter, under peril of losse of life and goods, to visit the Countries of Island, Finmarck, Halghaland, or anie other prohibited places and unlawful Ports whatsoever, in the Kingdoms of Denmark, Sweden, and Norway. Yea, and som years before, the use of this Sea was prohibited both to Merchants and Fisher-men, unless they were bound with Merchandise to North-barn, the most eminent Town of Traffick under the King of Norwaie. And touching that particular, there is an Act of Parliament of Henrie the sixt, whereby ^h such a kinde of Prohibition continued in force for certain years, in favor of the King of Norwaie. So that there were many Let-

^f Isaacus Pontanus in Hist. Danicâ, & Zuer. Boxhorn. in Apologia pro Navigatione Holland.

^e Fœd. Hen. 6 Angliæ, & Errici 10. Daniæ R. 1432. art. 6. Ex Tabulis Legationis Danicæ seu Dissertationis Bremensis, 1602. in Bibliothecâ Cottonianâ.

^h Stat. 8 H. 6 cap. 2. & Rot. Parlam. 8 Hen. 6. num. 35.

ters Patents afterwards granted by ⁱ our Kings to their subjects of *England*, whereby they had Licence to go unto *Island*, *Finnmark*, and other Dominions of the King of *Norway* and *Sweden*. But that Statute, the rigor whereof was dispensed with at the King's pleasure, by such kinde of Grants, became ^k repealed at the beginning of the Reign of King *Henrie* the eight. And *Joannes Maior* making mention of that time, saith, ^l *A Fleet of English went everie year to Island, beyond the Arctick Circle to catch Fish*. But what manner of determination soever ought to be made touching the Dominion of this more Northerly Sea; yet certain it is, such a perpetual servitude at least was, by several agreements betwixt the Kings of *England*, and *Norwaie*, imposed upon it, that to this day also the subjects of *England* enjoy a perpetual right of sailing unto *Island*, and of using and enjoying this sea. For, by a League made at *Kopenhagen* in the year MCDXC. betwixt *Henrie* the seventh of *England* and *John* the second King of *Denmark* and *Norwaie*, it was concluded, ^m that all Merchants and Liege-men, Fisher-men, and any other persons whatsoever beeing subjects of the King of *England* and *France*, might for ever in time to com sail freely to the *Island Tyle*, that is to saie, *Island* (for, in that age it was generally taken for *Thule*, as it is now also by Iom.) thither to have recourse and to enter with their ships and goods, and merchandise, victuals, and any other commodities whatsoever, upon occasion of buying, selling, fishing, or merchandising; and there to abide and convers after the manner of Merchants, and from thence freely to return as often as they pleas, without any Prohibition, molestation, or impediment of Us or our heirs and successors in the Kingdoms of *Denmark* and *Norway*, or of any of our Officers; they paying the due rights and usual Customs as well in that *Island* as also in the Ports belonging to the

ⁱ Rot. Francie, 18 H. 6. membran. 16.
^l Rotul. Franc. 12 H. 7. Rot. Franc. 1 Ed. 5. &c.
^k Stat. Hen. 8. ca. 1.
^l De Gestis Scotorum, l. 1.

^m Fæd. Danic. 11 Hen. 7 art. 4. quod in Tabulis Legationis 1602. etiam habemus.

the same where they shall happen to arrive. Provided alwaies, that seven years immediatly after the date of these presents, they do Petition to renew their Licence from us and our successors Kings of Denmark and Norway, to the end that so from seven years to seven years, Merchants, and all other persons aforesaid, may for ever acknowledg us and our successors Kings of Denmark and Norway, in the renewing of their Licence. But that this League was not limited by any time, but concerned the heirs and successors of both the parties, appear's not onely in part by what hath been alleged alreadie, but by the very form of the Preface, which I thought meet to add in this place. VVee John by the Grace of God King as aforesaid, by the unanimous advice and consent of our beloved Counsellors, and others the Lords and Nobles of our Kingdom of Denmark, have caused a Treatie to bee had, with the Orators of the most illustrious Prince Henrie, by the Grace of God, King of England, and France, our most dear Brother, James Hutton, Doctor of the Civil Law, Thomas Clarentieux King of Arms, Thomas Carter, and John Beliz, Merchants of Lyn, about the restoring of peace, and establishing a perpetual concord between our Kingdoms; which Counsellors of ours, and the Orators, autorised in our Citie of Koppenhagen, by special Commission of the afore-named King of England, our most dear Brother, and with full power, whereof wee are assured by the Letters of the said King of England, have concluded, that between us, our heirs, and successors, well willers, friends and allies, and the most illustrious Prince Henrie King of England and France, our most dear Brother, his heirs and successors, well willers, friends, and allies, there bee and shall bee for ever in time to com, a perpetual peace, inviolable friendship, and firm concord, in the following form. Yea, and that League was renewed in the year MDXXIII. by Henrie the eight of England, and Christiern the second King of

Denmark and Norway, in the same form. The right therefore is perpetual, and transmitted to the heirs of the King of *England*, that the English should have a free use of this more Northerly Sea belonging to *Island*. But frequent Ambassies notwithstanding passed on both sides about that business, in the Reigns of *Frederick* the second, and *Christiern* the fourth, Kings of *Denmark*, and of *Elisabeth* Queen of *England*. The *Danes* alleged, that the English had no right to use this kinde of libertie, without leav first obtained of the Kings of *Denmark*, and that renewed every seven years, according to that league made in the time of *John* the second and *Henrie* the seventh. Moreover, *Nicolas Craig*, who was sent Ambassador into *England* by *Christiern* the fourth in the year MDXCIX. pretended the agreement at *Haderstabe*, in the year MDLXXXIII. between *Frederick* the second and Queen *Elisabeth*, as if it had therein been expressly provided, that this servitude in the Sea of *Island*, established by the English, might bee limited by a denial of Licence at the pleasure of the King of *Denmark*. But it was answer'd both by the Lords at home in *England*, as also by the Queen's Commissioners sent to *Bremen* for the transacting of this business, that this right or Sea-servitude is so confirmed to the English, as well by Prescription of time, as by perpetual agreements of Leagues, that that particular which occurs in the agreements of King *John* the second, and *Henrie* the seventh about asking of Licence, doth in no wise relate to this effect; that whether it were denied or not requested by Petition, that right or servitude could bee diminished, but to this end onely, that the English, by a customarie Petitioning every seven years, might acknowledg the *Norwegian* right in this Sea. There was neither manner, nor condition, nor time annexed to the servitude, but it took

took place there onely to this end, that the memorie meely of the benefit of the League or of the Original of the servitude established, might bee renewed now and then by Petition. Yea, *Frederick* the second in his letters to *Queen Elisabeth*, dated the fourth of *Maie*, MDLXXXV, most expressly disclaim's this Claus of the League, which concern's Petitioning for Licence. And truly the whole right of the English in that Sea, was not first claimed by them upon the account of that League at *Koppenhagen*, whatever they of *Norway* may pretend to the contrarie. For, when the Ambassadors sent heretofore by *Erricus* the tenth to our *Henrie* the fift, made complaint about English men's fishing in this Sea, the King of *England* (I suppose) intimate's plainly enough, that hee had som right before in that Sea, while at that time hee granted this onely in favor of the King of *Norwaie*, that the English should no otherwise use Fishing there for the year immediately ensuing, than as it had been usual in antient time, and this hee commanded by publick Proclamation made in the more eminent Ports and Cities. The time limited, and the antient Custom of Fishing, do plainly import som former right. But here I give you the form of the Proclamations; "It is required, that none of the Lieges of our Lord the King, for certain causes specially moving our Lord the King himself, do, for one year next ensuing, presume to go unto the Islands belonging to the kingdoms of *Denmark* and *Norwaie*, and especially towards the Iste of *Islande*, for the caus of Fishing or any other occasion, to the prejudice of the King of the aforesaid kingdoms, otherwise than they were wont in antient time.

It appear's also by Parliamentarie ° Records of the same King's Reign, that the English used Fishing in that Sea very many years before. But that League made at *Haderstabe*

° Vet. Sched:
deTemp.Hen.
5. in Bibli-
othecâ Cot-
tonianâ. &
Rot.Claus.
3 Hen.3.
Membran.5.
in dorso.

° Rot.Parl.
3 Hen. 5.
par.1.membr.
n.33.

Haderflabe (pretended before by *Craig*) doth not relate unto Fishing either in the Sea of *Island*, or in this of *Norwaie*, but to the Traffick and Merchandise used then by our Merchants of the *Moscovie-Companie*. For, this onely was agreed, that the Merchants of that *Companie*, being constrained by Tempests, or otherwise, might freely have access to the shores and Ports both of *Island* and *Norwaie*; but with this *Reserv*, that they do not in any kind Traffick, and use Merchandise, in the Ports of *Norwaie* or *Island* before prohibited, nor molest the Subjects of the King of the said places in any thing against the *Laws* of *Hospitalitie*, and that they wholly abstain from all manner of injurie; which is the summe of that Answer which was given to *Craig*, by the Peers of *England*. But all things are clearly explained about this business, and that right of the English defended at large in the Letters sent by *Queen Elisabeth* to *Christiern* the fourth bearing date *Cal. Septembris Anno MDXCIX*. So much whereof as concern's this particular, I think meet to insert.

At the request of the most excellent Prince your Highnesse's Father, wee sent (say the *Queen's Letters*) an Ambassador into *Germanie*, Anno *MDLXXVI*. who Treated with his Commissioners about all matters in controversie, and especially about the Fishing of *Island* and *Norway*, where it was found, that the King insisted onely upon a former Treatie of two years^p Truce, wherein it was at that time agreed, that the English should not sail beyond *Hagaland*. But there were several Treaties with the Kings *John* and *Christiern* alleged on our part, wherein, all former controversies being composed, it was otherwise agreed and concluded; and both parties were to stand to this Treatie of general peace made afterwards, not to the preceding two years Truce. Which the most excellent Prince your Father, acknowledging, desired by his Letters, that that controversie might bee referr'd to another disqui-

^p Sub *Edwar.*
do *IV. Angliæ*
R.

disquisition. But since that time, no such disquisition hath been made. Nevertheless wee understand that our subjects fishing have been taken, tormented, and handled in a hostile manner. Whether this bee justly don, all men will bee able to judg who shall weigh our Reasons with an impartial minde. Wee do not deny, but that the Lord Chancellor **Whitfeld** and de **Barnico**, when^a they came unto Us, did in words pretend that the fishing of Island and Norway was used by the English, contrarie to the Leagues and Agreements of the Kingdoms. But seeing they neither did nor could produce any proof, and wee have authentick evidences attested by the Kings John and Christiern to the contrarie, whereto more credit ought to bee given than to bare Allegations, the matter was put off to another time. It was answer'd also to D^r Craig, that the Transaction which was concluded with King Frederick at Haderslabe in the year of our Lord MDLXXIII belong's nothing at all to this Business, for the reason before mentioned. And a little after the Letters speak thus. But that which is pretended from the Treatie with King John, (the aforesaid Treatie at Kopenhagen) that licens for fishing ought to bee renewed by petition from seven years to seven years (as a thing which for very many was not omitted) Wee answer, that the fault of its omission proceeded not from the English, but from the Danes. For, that seven years Licens was petitioned for till the time that King Christiern was expelled, about the year of our Lord MDXXI. But afterward it ceased to bee renewed, becaus of the uncertaintie to whom the succession of the Kingdom did lawfully belong. And since the time of the said expulsion of King Christiern, neither King Frederick your great Grandfather, nor Christiern your Grandfather, nor Frederick your Highness's Father, ever urged any such petition for Licens. But conceiving former Treaties sufficient, which

^aThey were Ambassadors in England anno 1597.

were made between the Kings and Kingdoms, they would not innovate any thing after a prescription of verie manie years, seeing they were otherwise sufficiently secure that the same thing would never bee attempted, which was the first occasion of ordaining such a Licens. And to this end, the Letters of King Frederick your Highness's Father written to Us, and bearing date the fourth of May, Anno MDLXXXV were shewn to Doctor Craig, purporting that if the English abstained from doing injuries, they should enjoy the wonted libertie and favor, without any mention or requiring of a Petition for Licens; whereas nevertbeless Wee offer'd you, that our Merchants should hereafter petition you from seven years to seven years, according to the antient and long continued Custom, which offer Wee understand your Highness would not admit. For, the most excellent Queen would not otherwise acknowledge the Jurisdiction and Empire of the King of Denmark and Norway in this Sea, than that the whole servitude or right of fishing afore-mentioned, there established (as afore-said) might (as a considerable part of the antient Patrimonie) bee retained to her and her Successors. There were other Letters and Treaties also about this business, in the year^r MDCII. But the Controversie beeing deferred, nothing was concluded. But it appears the King of Great Britain hath Empire and Dominion also in the Sea which lies far more Northerly than Island. To wit, in that of Groenland. For, this Sea having never been enter'd by occupation, nor used in the Art and Exercise of Fisherie, was first in the memorie of our Fathers rendred very gainful, through a peculiar fishing for Whales, by those English Merchants of the Moscovie-Companie who sailed that way. The use of a Sea never enter'd by Occupation and such a kinde of profit beeing first discover'd,
doth

^r Camden. in
Annal. Eli-
sabeth 10m.
2. anno. 1602.

doth according to the manner of the claim, give a Dominion to the discoverer who claims it in the name of another (as here in the name of the Sovereign of England) as well by a corporal as intentional possession, no otherwise than doth the first both natural and civil possession of any other things whatsoever that were never yet possessed. Upon which ground it was, that King James, in his Letters of credence given to the worthie and most accomplished S^r Henrie Wotton Knight his Ambassador in Holland, and others employed by him to treat about that business, did verie justly call the Fishings in the North Sea near the Shores of Groenland, acquired for Us onely and Ours by right.

f 29 Septemb.
A Copie of
which Letters
is in
S^r Robert
Cotton's
Librarie.

But that wee may at length conclude; whatsoever hath been discoursed hitherto touching the Right and Sea-Dominion of the Kings of Great Britain, and the antient extent of their Royal Patrimonie in the Sea, give mee leav to sum up the whole in certain Verses of the most excellent Hugo Grotius (of whose Law-writings, so far as they concern etther a private Dominion of the Sea, or a Communitie, wee have spoken in the former Book) which were very elegantly written heretofore to K. James, upon his Inauguration in the Kingdom of England. Saith hee,

— — — Tria Sceptra Profundi
In Magnum coiere Ducem. — — —

† Sylvarum,
lib. 2.

Three Scepters of the Deep their pow'rs do
bring,
To make a Trident for a mightie King.

And then addresssing his Speech to the Sea, that is
wont to receiv its motion from the Moon,

*Sume animos à Rege tuo, meliore levatus
Sidere, nec cela populos quocunque calentes
Sole, per immensum quem circumvolveris orbem,
Quis det Jura Mari. — — —*

**Take courage from thy Roial Governour,
As by the influence of a better Star,
And in thy court about the World explain
To all mankind, who tis that rule's the main.**

And in another place,

*— — — licet omnia casus
Magna suos metuant, Jacobo promissa potestas
Cum Terris Pelagóque manet. — — —*

**Though all great things a fall do fear,
Yet James his power must stand,
Being enlarged and compos'd
Both of the Sea and Land.**

A little after also, hee proceed's thus ;

*— — — Rerum Natura creatrix
Divisit populos, & metas ipsa notavit.
Sic juga Pirena, sic olim Rhenus & Aspes
Imperii mensara fuit : Te flumine nullo
Detinuit, nullâ nimbofi verticis arce ;
Sed Totum complexa parens, hic terminus ipsa
Substitit, atque uno voluit sub limite claudi.
Te tibi seposuit, suprema in gurgite, Nereus.
Finis hic est, qui Fine caret. Quæ meta Britannis,
Litora sunt aliis ; Regniq; accessio tanti est,
Quod ventis velisque patet. — — —*

Nature

Nature her self the mistress of mankind
Hath sever'd Nations, and their bounds de-
sign'd.

So the Pyren'ean Tops, Alpes, and Rhine,
As bounds to Empires Shee did once assign.
Yet Thee Shee With no River hath confin'd,
Nor loftie Tower that dare's the stormie
Wind:

But having thrown her wide embraces round
The Univerſ, here fir't her self thy Bound,
And mean't one limit should you both contain,
Thee Nereus hath secluded in the main.

This Bound unbounded is. Great Britain
stand's

Confined by the Shores of other lands;
And all that may by Winds and Sails bee
known

Is an accelsion of so great a Crown.

And without question it is true, according to the Collection of Testimonies before alleged, that the very Shores or Ports of the Neighbor-Princes beyond-Sea, are Bounds of the Sea-Territorie of the *British* Empire to the Southward and Eastward; but that in the open and vast Ocean of the North and West, they are to bee placed at the utmost extent of those most spacious Seas, which are possess'd by the *English*, *Scots*, and *Irish*.

FINIS.

Prais and Glorie bee to God our Saviour.

EVIDENCES

RIGHT

Out of court

to the

and

Printed

A D D I T I O N A L
E V I D E N C E S,

Concerning the
RIGHT OF SOVERAIGNTIE
and Dominion of *ENGLAND*
in the S E A;

Collected
Out of certain publick Papers, relating
to the Reigns of K. *JAMES*,
and K. *CHARLS*.



LONDON,
Printed by *William Du-Gard*. An. Dom. 1652.

ADDITIONAL
EVIDENCES

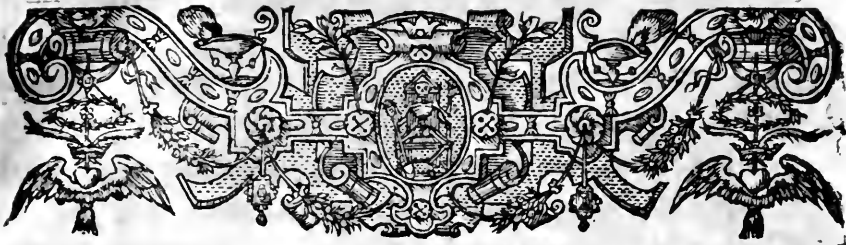
Continued from the

RIGHT OF SOVERAINTY
IN THE DOMINION OF A VASSAL

OF THE
RIGHT OF SOVERAINTY
IN THE DOMINION OF A VASSAL



1800



ADDITIONAL EVIDENCES

Concerning the

RIGHT OF SOVERAIGNTIE
and Dominion of *ENGLAND*
in the *SEA*;

Collected

Out of certain publick Papers, relating
to the Reigns of K. *JAMES*,
and K. *CHARLS*.



THE Learned Autor having fully evinced the Right of this Island in the Sea, and that from all Antiquitie, it were superfluous to seek after any farther Testimonies relating to elder times, wherein hee himself hath been so abundant, and already set down the most material; And therefore it is conceived requisite to add a few such Evidences onely, as are found among several Papers of publick Transaction, which are still to be produced,

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ced,

ced, and will serv to shew how that claim which hath been made successively by all our Kings of the *English* Race, was continued down to the present Times, by the two Princes of the *Scotish* Extraction.

In the seventh year of the Reign of King *James*, this Right was stoutly asserted by *Proclamation*, and all persons excluded from the use of the Seas upon our Coasts, without particular Licence; the Grounds whereof you have here set down in the *Proclamation* it self.



A Proclamation

TOUCHING

FISHING.

JAMES by the Grace of God King of Great Britain, France, and Ireland, Defender of the Faith, &c. To all and singular persons to Whom it may appertain, Greeting. Although Wee do sufficiently know by Our Experience in the Office of Regal Dignitie (in Which, by the favor of Almighty God, Wee have been placed and exercised these many years) as also by the observation Which Wee have made of other Christian Princes exemplarie actions, how far the absoluteness of Sovereign Power extendeth
it

it self, and that in regard thereof, Wee need not yield accompt to any person under God, for any action of Ours, which is lawfully grounded upon that Just Prerogative: Yet such hath ever been, and shall bee Our care and desire to give satisfaction to Our Neighbor-Princes, and friends, in any action which may have the least relation to their Subjects and Estates, as Wee have thought good (by way of friendly premonition) to declare unto them all, and to Whomsoever it may appertain, as followeth.

Whereas Wee have been contented since Our coming to the Crown, to tolerate an indifferent and promiscuous kinde of libertie to all Our Friends Whatsoever, to Fish within Our Streams, and upon any of Our Coasts of Great Britain, Ireland, and other adjacent Islands, so far forth as the permission or use thereof might not redound to the impeachment of Our Prerogative Royal, nor to the hurt and damage of Our loving Subjects, whose preservation and flourishing Estate Wee hold Our self principally bound to advance before all worldly respects: So finding that Our continuance therein, hath not onely given occasion of overgreat encroachments upon Our Regalities, or rather questioning for Our Right, but hath been a means of daily Wrongs to Our own People that exercise the Trade of Fishing, as (either by the multitude of strangers which do pre-occupie those places, or by the injuries which they receiv most commonly at their hands) Our Subjects are constrained

to abandon their Fishing, or at least are become so discouraged in the same, as they hold it better for them, to betake themselves to some other course of living, Whereby not onely Divers of Our Coast-Towns are much decayed, but the number of Mariners daily diminished, Which is a matter of great consequence to Our Estate, considering how much the strength thereof consisteth in the power of Shipping and use of Navigation; wee have thought it now both just and necessarie (in respect that Wee are now by Gods favor lineally and lawfully possessed, as well of the Island of Great Britain, as of Ireland, and the rest of the Isles adjacent) to bethink Our selves of good lawful means to prevent those inconveniences, and many others depending upon the same. In consideration Whereof, as wee are desirous that the World may take notice, that wee have no intention to denie Our neighbors and allies, those fruits and benefits of Peace and Friendship, which may bee justly expected at Our hands in honor and reason, or are afforded by other Princes mutually in the point of Commerce, and Exchange of those things which may not prove prejudicial to them: so because some such convenient order may bee taken in this matter as may sufficiently provide for all these important considerations which do depend thereupon; wee have resolved first to give notice to all the World, that Our express pleasure is, That from the beginning of the Month of August next coming, no person of what Nation or Qualitie soever, being not Our natural born Subject, bee

bee permitted to Fish upon any of Our Coasts and Seas of Great Britain, Ireland; and the rest of the Isles adjacent, Where most usually heretofore any Fishing hath been, until they have orderly demanded and obtained Licenses from Us, or such Our Commissioners, as wee have autorised in that behalf, viz. at London for Our Realms of England and Ireland, and at E-denborough for Our Realm of Scotland; Which Licenses Our intention is, shall bee yearly demanded, for so many Vessels and Ships, and the Tonnage thereof, as shall intend to Fish for that whole year, or any part thereof, upon any of Our Coasts, and Seas as aforesaid, upon pain of such chastisement, as shall bee fit to bee inflicted upon such wilful Offendors.

Given at our Palace of Westminster the 6 day of May, in the 7th year of Our Reign of Great Britain, Anno Dom. 1609.

Notwithstanding this Proclamation, the *Netherlanders* proceeded still in their way of encroachment upon our Seas and Coasts, through the whole Reign of that King; and were at length so bold as to contest with him, and endeavor to baffle him out of his Rights; pretending, becauf of the long connivence of himself and Queen *Elisabeth*, that they had a Right of their own by *immemorial possession*; which som Commissioners of theirs that were sent over hither, had the confidence to plead *in Terminis*, to the King and his Council. And though the King, out of his tenderness to them insisted still upon his own Right, by his Council

to those Commissioners, and by his Ambassador to their Superiors, yet they made no other use of his Indulgence, than to tire out his whole Reign, and abuse his Patience by their artificial delays, pretences, shifts, dilatorie addresses, and evasive Answers. And all that the King gained by the tedious disputes, overtures, and dispatches to and again, was in conclusion onely a verbal acknowledgment of those Rights; which at the same times that they acknowledged, they usually designed to invade with much more insolence than before. But you have the main of what passed in those daies in this particular, with their insolent demeanor, lively described in these following Collections, taken out of several Dispatches that passed betwixt Secretarie Naunton, and Dudley Carlton Lord Ambassador from the King, to the States of the *United Provinces*.

In a Letter of Secretarie Naunton's to the said Ambassador, dated at *White-Hall*, the 21 of *December*, 1618. I finde these passages.

I Must now let your Lordship know, that the State's Commissioners and Deputies both having attended his Majestie at *New-Market*, and there presented their Letters of Credence, returned to London on Saturday was a sevennight, and upon Tuesday had Audience in the Council-Chamber, where beeing required to communicate the points of their Commission, they deliver'd their meditated Answer at length. The Lords upon perusal of it, appointed my Lord Bining and mee to attend his Majestie for directions, what Reply to return to this Answer of theirs; which I represented to their Lordships yesterday to this effect; That his Majestie found it strange, that they

they having been so often required by your Lordship his Majesties Ambassador, as from himself, in their publick Assembly, to send over Commissioners fully autorised to treat and conclude, not onely of all differences grown between the Subjects of both States, touching the Trade to the East-Indies, and the Whale-Fishing, and to regulate and settle a joint and an even Traffick in those Quarters, but withall to take order for a more indifferent course of determining other Questions growing between our Merchants and them about their Draperies and the Tare; And more especially to determine his Majesties Right for the sole Fishing upon all the Coasts of his Three Kingdoms, into which they had of late times incroached farther than of Right they could; And lastly, for the reglement and reducing of their Coins to such a proportion and correspondence with those of his Majestie's and other States, that their Subjects might make no Advantage to transport our Monies by imban-sing their valuation there. All which they confessed your Lordship had instanced them for in his Majestie's name, that after all this attent on his Majestie's part, and so long deliberation on theirs, they were com at last with a Proposition to speak onely to the two first points, and instructed thereunto with bare Letters of Creance onely, which his Majestie take's for an Imperious fashion of proceeding in them, as if they were com hither to Treat of what themselvs pleased, and to give Law to his Majestie in his own Kingdom, and to propose and admit of nothing but what should tend meerly to their own ends.

To the second; Whereas they would decline all debate of the Fishings upon his Majestie's Coasts, first by allegations of their late great losses and an Elmeute of their people, who are all interested in that Question, and would bee like to break out into som combustion to the hazard of their State which hath lately scaped Naufrage, and is not yet altogether calmed; What is this but to rais an advantage to themselvs out of their disadvantage? But afterwards they profess their lothness to call
it

it into doubt or question, claiming an immemorial possession seconded by the Law of Nations; To which his Majestie will have them told, that the Kings of Spain have sought leave to Fish there by Treatie from this Crown; and that the King of France (a nearer Neighbor to our Coasts than they) to this day request's leave for a few Vessels to Fish for Provision of his own household; And that it appear's so much the more strange to his Majestie, that they being a State of so late date, should bee the first that would presume to question his Majestie's antient Right so many hundred years inviolably possessed by his Progenitors, and acknowledged by all other antient States and Princes. That themselves in their publick Letters of the last of June; sent by your Lordship, seemed then to confirm their immemorial possession (as they term it) with divers Treaties, as are of the year 1550; and another between his Majestie's Predecessors and Charles the first, as Prince of those Provinces, and not by the Law of Nations. To which their last Plea, his Majestie would have them told, that hee being an Islander-Prince, is not ignorant of the Laws and Rights of his own Kingdoms, nor doth expect to bee taught the Laws of Nations by them, nor their Grotius, whose ill thriving might rather teach others to disavow his Positions; And his honestie called in question by themselves, might render his Learning as much suspected to them, as his person. This his Majestie take's for an high point of his Sovereigntie, and will not have it slighted over in any fashion whatsoever.

Thus I have particulated unto you the manner of our proceeding with them. Let them advise to seek leave from his Majestie, and to acknowledg him his Right, as other Princes have don, and do; or it may well com to pass, that they that will needs bear all the world before them, by their *Mare Liberum*, may soon com to have neither *Terram & Solum*, nor *Rempubicam liberam*.

And

And in a Letter of the said Ambassador Carlton to Secretarie Naunton, of the 30 of December, 1618, from the *Hague*, wee finde this Return, touching the business of *Fisherie*.

WHether the final resolution here will bee according to his Majestie's desire, in that point concerning the Fishing upon the Coasts of his three Kingdoms, I cannot say; And by somewhat which fell from the Prince of Orange, by way of Discours when hee took leave of mee on Monday last, at his departure, I suspect it will not, in regard the Magistrates of these Towns of Holland, being newly placed, and yet scarce sett in their seats, who do authorize the Deputies which com hither to the Assembly of the States in all things they are to Treat and resolve, will not adventure, for feare of the people, to determine of a Business, on which the livelihood of fiftie thousand of the Inhabitants of this one single Province doth depend. I told the Prince that howsoever his Majestie, both in honor of his Crown and Person, and Interest of his Kingdoms, neither could nor would any longer desist, from having his Right acknowledged by this State, as well as by all other Princes and Commonwealths, especially finding the same openly opposed both by their States-men, and men of War, as the writings of Grotius, and the taking of Joana Brown the last year may testify; yet this acknowledgment of a Right and a Due was no exclusion of Grace and Favor; and that the people of this Countie paying that small Tribute upon every one of their Busses, (which is not so much as dispaiced by any other Nation whatsoever) such was his Majestie's well-wishing to this State,

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that

that I presumed of his permission to suffer them to continue their course of Fishing; which they might use thereby with more Freedom, and less apprehension of molestation, and let than before, and likewise spare the Cost of som of their Men of War, which they yearly send out to maintein that by force, which they may have of courtesie.

The Prince answer'd, that for himself at his return from Utrecht, hee would do his best endeavor to procure his Majestie contentment, but hee doubted the Hollanders would apprehend the same effect in their payment for Fishing, as they found in the passage of the Sound, where at first an easie matter was demanded by the King of Denmark, but now more exacted than they can possibly bear: And touching their Men of War hee said, they must still bee at the same charge with them, becaus of the Pirats. Withal, hee cast out a question to mee, whether this freedom of Fishing might not bee redeemed with a Summe of monie? To which I answered, it was a matter of Roialtie more than of Utilitie, though Princes were not to neglect their profit.

And in another Letter of the said Ambassador from the Hague to Secretarie Naunton, of the 14 of Januarie 1618. Hee give's him to understand, That having been expostulated with, but in friendly manner, by certain of the States about his late Proposition, as unseasonable and sharp, they said, they acknowledg their Commisloners went beyond their limits in their terms of Immemorial Possession and immuable Droict de Gens; for which they had no order. Then, saith hee, I desired them to consider what a wrong it is to challenge that upon right, which these Provinces have hitherto enjoied, either by connivence or courtesie, and yet never without claim on his Majestie's side, &c.

In another Letter of Secretarie Naanton's to the Lord Ambassador Carlson, of the 21 of *Januarie*, 1618. wee read thus :

AS I had dictated thus far, I received direction from his Majestie to signifie to the State's-Commissioners here, That albeit their earnest entreatie and his gracious consideration of the present trouble of their Church and State, had moved his Majestie to consent to delay the Treatie of the great Fishing, till the time craved by the Commissioners; yet understanding by new and fresh complaints of his Mariners and Fishers upon the Coasts of Scotland, that within these four or five last-years, the Low Countrie-Fishers have taken so great advantages of his Majestie's Toleration, that they have grown nearer and nearer upon his Majestie's Coasts year by year, than they did in preceding Times, without leaving any Bounds for the Countrie-People and Natives to Fish upon their Prince's Coasts, and oppressed some of his Subjects of intent to continue their pretended possession; and driven some of their great Vessels through their Nets to deter others by fear of the like violence from Fishing near them, &c. His Majestie cannot forbear to tell them, that hee is so well perswaded of the Equitie of the States, and of the Honorable respect they bear unto him, and to his Subjects for his sake, that they will never allow so unjust and intolerable Oppressions; for restraint whereof, and to prevent the inconveniences which must ensue, upon the continuance of the same, his Majestie hath by mee desired them to write to their Superiors to cause Proclamation to be made, prohibiting any of their Subjects to Fish within fourteen miles of his Majestie's-Coasts this year, or in any time hereafter, until order be taken by

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Commissioners to be autorised on both sides, for a final settling of the main business. His Majestie hath likewise directed mee to command you from him, to make the like Declaration and Instance to the States there, and to certifie his Majestie of their Answer, with what convenient speed you may.

This far Secretarie Naunton to the Ambassador.

Now what effect the Ambassador's Negotiation with the States had, appears by a Letter of his from the Hague, of the 6 of Februarie, 1618. to King James himself; where, among other passages hee hath this:

I finde likewise in the manner of proceeding, that treating by way of Proposition here, nothing can be expected but their wonted dilatorie and evasive Answers; their manner being to refer such Propositions from the States General to the States of Holland. The States of Holland take advice of a certain Council residing at Delph, which they call the Council of the Fisherie. From them such an Answer commonly comes, as may be expected from such an Oracle. The way therefore (under correction) to effect your Majestie's intent, is to begin with the Fishers themselves, by publishing, against the time of their going out, your resolution, at what distance you will permit them to Fish, whereby they will be forced to have recourse to their Council of Fisherie; that Council to the States of Holland; and those of Holland to the States-General, who then in place of being sought unto, will for contentment of their Subjects seek unto your Majestie.

By these you may perceiv how earnestly the antient Rights of England were asserted, and the old Claim made and renewed, and a recognition made also in the Reign of that King by the Netherlanders themselves, though all proved to no purpose, the King and his Coun-

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Council being afterward lull'd again into a connivence one way or other. And it give's sufficient cause to suspect, that the men in Power at that time might be charm'd with monie; since it was a *Quere* put by the Prince of *Orange* to the Ambassador *Carlton*, in the heat of all the Controversie, *Whether the Freedom of Fishing might not be redeemed with a summe of monie?* For, turning over the Papers of Transactions of the Time immediately following, I perceiv the dispute was let fall on a sudden, and thereupon an opportunitie given the *Netherlanders*, to encroach more and more every year, upon the Seas and Shores of this Island. And so far they proceeded in this presumptuous Course, through the Toleration given them in the later end of the Reign of King *James*, and the begining of the late *Tyrant* his son, that at length they fell to a downright impeachment of our Rights, not in words onely, but by contemning the commands of the King's Officers, prohibiting us free Commerce within our own Seas, abusing and disturbing the Subjects at Sea, and the King himself in his very Ports and Chambers; and by many other actions of so intolerable a nature, that in the year 1635 hee was awakened and constrained to see to the preservation of our Rights at Sea, and give order for the setting forth of a powerful Fleet, to check the audacious designs and attempts of those ungrateful Neighbors. And the following year, in prosecution of his purpose, hee set forth this ensuing *Proclamation*, entituled,

good King
Daddy



A Proclamation

For restraint of Fishing upon
His Majestie's Seas and Coasts with-
out LICENCE.

Whereas Our Father of Blessed memo-
rie King James, did in the seventh
year of His reign of Great Britain, set
forth a Proclamation touching Fish-
ing; Whereby for the many important reasons
therein expressed, all persons, of what Nation
or Qualitie soever (being not His natural born
Subjects) were restrained from Fishing upon
any the Coasts and Seas of Great Britain, Ire-
land, and the rest of the Isles adjacent, where
most usually heretofore Fishing had been, until
they had orderly demanded, and obtained Licen-
ces from Our said Father, or His Commis-
sioners in that behalf, upon pain of such chastise-
ment as should be fit to be inflicted upon such
wilful Offendors: Since which time, albeit
neither Our said Father, nor Our Self have
made any considerable execution of the said Pro-
clamation, but have with much patience expect-
ed a voluntarie conformitie of Our Neighbors
and Allies, to so just and reasonable Prohibiti-
ons

ons and Directions as are contained in the same.

And now finding by experience, that all the inconveniences which occasioned that Proclamation, are rather increased then abated: Wee being very sensible of the premisses, and Well knowing how far wee are obliged in Honor to maintain the rights of Our Crown, especially of so great consequence, have thought it necessarie, by the advice of Our Privie Council, to renew the aforesaid restraint of Fishing upon Our aforesaid Coasts and Seas, Without Licence first obtained from Us, and by these presents to make publick Declaration, that Our resolution is (at times convenient) to keep such a competent strength of Shipping upon Our Seas, as may (by God's blessing) bee sufficient, both to hinder such further encroachments upon Our Regalities, and assist and protect those Our good Friends and Allies, who shall henceforth, by virtue of Our Licences (to bee first obtained) endeavor to take the benefit of fishing upon Our Coasts and Seas, in the places accustomed.

Given at Our Palace of Westminster the tenth day of May, in the twelfth year of Our Reign of England, Scotland, France, and Ireland.

This Proclamation being set forth in the year 1636. served to speak the intent of those naval preparations made before in the year 1635. which were so numerous and well-provided, that our *Netherland-Neighbors*

bors being touched with the apprehension of some great design in hand for the Interest of *England* by Sea, and of the guilt that lay upon their own Consciences, for their bold Encroachments, soon betrayed their Jealousies and Fears, and in them a sense of their offences, before ever the Proclamation was made publick: As I might shew at large (if it were requisite) by certain Papers of a publick Character yet in being. But there is one, *Instar omnium*, which may serve in stead of all; and it is an acute Letter of Secretarie *Coke's*, that was written to Sir *William Boswel*, the King's Resident then at the *Hague*, the Original whereof is still reserved among the publick Papers: In which Letter, hee sets forth the Grounds and Reasons of preparing that gallant Navie, with the King's resolution to maintain the Right derived from his Ancestors, in the Dominion of the Seas; and therefore I here render a true Copie of it, so far as concern's this business, as most pertinent to our purpose.

(SIR!)

BY your Letters and otherwise, I perceiv many jealousies and discourses are raised upon the preparations of his Majesty's Fleet, which is now in such forwardness, that wee doubt not but within this Month it will appear at Sea. It is therefore expedient both for your satisfaction, and direction, to inform you particularly what was the occasion, and what is his Majesty's intention in this work.

First, wee hold it a principle not to be denied, That the King of Great Britain is a Monarch at Land and Sea to the full extent of his Dominions, and that it concerneth him as much to maintain his Sovereigntie in all the British Seas, as within his three Kingdoms: because without that these cannot be kept safe; nor be preserv his honor and due respect
with

with other Nations. But commanding the Seas, hee may caus his Neighbors and all Countries to stand upon their guard whensoever hee think's fit. And this cannot bee doubted that whosoever will encroach upon him by Sea, will do it by Land also, when they see their time. To such presumption Mare liberum gave the first warning piece, which must bee answered with a defence of Mare Clausum: not so much by Discourses, as by the lowder Language of a powerful Navie, to bee better understood, when overstrained patience seeth no hope of preserving her Right by other means.

The Degrees by which his Majestie's Dominion at Sea hath of later years been first impeached and then questioned, are as considerable as notorious.

First, to cherish, and as it were to nurse up our unthankful neighbors, Wee gave them leav to gather wealth and strength upon our Coasts, in our Ports, by our Trade and by our People. Then they were glad to invite our Merchant's Residence with what privileges they would desire. Then they offered to us even the Sovereigntie of their Estates, and then they sued for Licence to fish upon the Coasts, and obtained it under the Great Seal of Scotland, which now they suppress. And when thus by leav or by connivence, they had possessed themselves of our Fishings, not onely in Scotland, but in Ireland and England, and by our staple had raised a great stock of Trade; by these means they so encreased their shipping and power at Sea, that now they endure not to bee kept at any distance: Nay, they are grown to that confidence to keep guards upon our Seas; and then to project an Office and Companie of Assurance for the advancement of Trade; and withal, prohibit us free commerce even within our Seas, and take our ships and goods, if wee conform not to their Placarts. What insulencies and cruelties they have committed against us heretofore, in Ireland, in Groënland, and in the Indies, is too well known to all the world. In all which, though our sufferings and their wrong may seem forgotten, yet the great
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interest of his Majestie's honor, is still the same, and will refresh their Memories as there shall bee cause. For, though charitie must remit wrongs don to private men, yet the reflection upon the publick may make it a greater charitie to do Justice on crying crimes. All this notwithstanding, you are not to conceive that the work of this Fleet, is either revenge or execution of Justice for these great offences past, but chiefly for the future to stop the violent current of that presumption whereby the Men of War and Free-booters of all Nations (abusing the favor of his Majestie's peaceable and gracious Government, whereby hee hath permitted all his Friends and Allies, to make use of his Seas and Ports in a reasonable and free manner, and according to his Treaties) have taken upon them the boldness, not onely to come confidently at all times into all his Ports and Rivers, but to conveye their Merchant's ships as high as his chief Citie, and then to cast Anchor close upon his Magazines, and to contemn the commands of his Officers, when they required a farther distance. But which is more intolerable, have assaulted and taken one another within his Majestie's Chamber, and within his Rivers, to the scorn and contempt of his Dominion and Power; and this being of late years an ordinarie practice which wee have endeavored in vain to reform by the waies of Justice and Treaties, the world I think will now bee satisfied, that wee have reason to look about us. And no wise man will doubt that it is high time to put our selves in this Equipage upon the Seas, and not to suffer that Stage of action to bee taken from us for want of our appearance.

So you see the general ground upon which our Counsels stand. In particular, you may take notice, and publish as cause require's, That his Majestie by this Fleet intendeth not a Rupture with any Prince or State, nor to infringe any point of his Treaties; but resolveth to continue and maintein that happie peace wherewith God hath blessed his Kingdom; and to which
all

all his Actions and Negotiations have hitherto tended, as by your own Instructions you may fully understand. But without considering, that Peace must be maintained by the arm of power, which onely keep's down War by keeping up Dominion, his Majestie thus provoked, finde's it necessarie even for his own defence and safetie to re-assume and keep his ancient and undoubted Right in the Dominion of these Seas, and to suffer no other Prince or State to encroach upon him, thereby assuming to themselves or their Admirals, any Sovereign command: but to force them to perform due homage to his Admirals and Ships, and to pay them acknowledgments, as in former times they did. Hee will also set open and protect the free Trade both of his Subjects and Allies: And give them such safe Conduet and Convoie, as they shall reasonably require. Hee will suffer no other Fleets or Men of War to keep any guard upon these Seas, or there to offer violence or take prizes or booties, or to give interruption to any lawful intercourf. In a word, his Majestie is resolved, as to do no wrong, so to do Justice both to his Subjects and Friends, within the limits of his Seas. And this is the real and Roial design of this Fleet, whereof you may give part as you finde occasion to our good neighbors in those parts, that no Umbrage may be taken of any hostile act or purpose to their prejudice in any kinde. So wishing you all health and happiness, I rest

Your assured friend

Whitehall,

16 April. 1635.

our style.

and Servant,

JOHN COOK.

In this Letter you see first, how it was held for an undeniable principle, that the King was King by Sea as well as by Land; That neither the honor nor safetie of this Island and *Ireland* could bee maintained, but by preserving the Dominion by Sea; and that it is an argument, that they that encroach upon us by Sea, will do it also by Land when they see their time. Hee declares also, how our unthankful neighbors are risen to this hight and insolence, partly by grant, partly by connivence, but principally through their many injurious abuses of our Patience and Indulgence. And lastly, you may observe here what resolutions were then taken to prevent the like injuries, and preserve our *English* Interest in time to come. But how those Resolutions were followed in the succeeding part of his Reign, I shall not stand to examine; onely it sufficeth here to take notice, that the Claim of Sea-Dominion was made by him, as well as by his Father, and for a time strenuously asserted; though afterward hee slackned his hand in the prosecution; whereof the *Netherlanders* taking advantage, and of our late commotions (which were their *Halcyon*-daies, and time of Harvest) are now advanced to such a monstrous pitch of pride, malice, and ingratitude, that they dare bid defiance to those antient Rights which wee have received from all Antiquitie, and justifie their actions by a most unjust and bloudie war, in the view of all the world. What remain's then, but that the Parliament and People of *England* should lay these things to heart, with an indignation answerable to so prodigious violations and invasions? They have now an opportunitie and strength given them by God (O let not hearts bee wanting!) to make good the Claim, and accomplish that work of establishing our Interests by Sea, beyond the possibilitie of

of future impeachments. Let it not bee said, that *England*, in the state of *Monarchie*, was able to hold the Sovereignie of the Seas so many hundred years, and then lost it in the state of *Libertie*. It is, as now established with its Appendants, the greatest and most glorious Republick, that the Sun ever saw, except the *Roman*. God hath made it so by Land, and will by Sea; for, without this, the Land is nothing. It was ever so apprehended by Kings, yea by the last and worst of our Kings: And shall the Founders of this famous structure of Government now in being, who have cashiered Kings, and vindicated the Rights and Liberties of this Nation upon his head and his whole posteritie and partie, not assert them against perfidious Neighbors? It were unpardonable in any to harbor a thought of that nature, or to yield that such a blemish should bee brought upon all those glorious actions and atchievements, whereby God hath freed and innobled our Land and Nation.

But that the people of *England* may bee excited to a valuation, maintenance, and improvement of their interest by Sea, it is necessarie to let them understand what advantages are to bee made thereby, and are made by others, who of *Usufructuaries* by permission, have in design now to make themselvs absolute Lords of the Fee. And therefore it is very convenient here to set down an excellent Discours which was written in the time of the late King, and presented by the following Title.

The inestimable Riches and Commodities of
the British Seas.

THE Coast of Great Britain do yield such a continual Sea-harvest of gain, and benefit to all those that with diligence do labor in the same, that no time or season in the year passeth away without some apparent means of profitable imploiment, especially to such as apply themselves to Fishing, which from the beginning of the year unto the latter end, continueth upon some part or other upon our Coasts, and therein such infinite shoals and multitudes of Fishes are offered to the takers as may justly move admiration, not onely to strangers, but to those that daily bee imploied amongst them.

The Summer-Fishing for Herring, beginneth about *Midsummer*, and lasteth some part of *August*.

The Winter-Fishing for Herring, lasteth from *September* to the midst of *November*, both which extend in place from *Boughones* in *Scotland*, to the *Thame's* mouth.

The Fishing for Cod at *Alamby Whirlington*, and *White Haven*, near the Coast of *Lancashire*, from *Easter* until *Whitsontide*.

The Fishing for Hake at *Aberdenie*, *Abreswhich*, and other places between *Wales* and *Ireland*, from *Whitsontide* to *Saint James tide*.

The Fishing of Cod and Ling, about *Padstow*, within the Land, and of *Severn* from *Christmas* to *Mid-Lent*.

The Fishing for Cod on the West part of *Ireland* frequented by those of *Biscay*, *Galicia*, and *Portugal*, from the beginning of *April* until the end of *June*.

The

The Fishing for Cod and Ling on the North, and North-East of *Ireland*, from *Christmas* until *Michaelmas*.

The Fishing for Pilchers on the West coast of *England* from *Saint James-tide* until *Michaelmas*.

The Fishing for Cod, and Ling upon the North-East of *England*, from *Easter* until *Midsummer*.

The Fishing of great Staple-Ling and many other sorts of Fish lying about the Island of *Scotland*, and in the several parts of the *British Seas* all the year long.

In *September*, not many years since upon the Coast of *Devonshire* near *Minigal*, 500 Ton of Fish were taken in one day. And about the same time three thousand pound worth of Fish in one day were taken at *S' Ives* in *Cornwal* by small Boats, and other poor provisions.

Our five-men-Boats, and cobles adventuring in a calm to launch out amongst the *Holland Busses*, not far from *Robinhood's Bay* returned to *Whitbie* full fraught with Herrings, and reported that they saw som of those Busses take ten, twentic, twentic four lasts, at a draught, of Herrings, and returned into their own Countrie with fortie, fittie, and an hundred Lasts of Herrings in one Bus.

Our Fleet of Colliers not many years since returning from *New-castle*, laden with Coals about the Well, near *Flanborough* head, and *Scarborough*, met with such multitudes of Cod, Ling and Herring, that one amongst the rest with certain ship-hooks, and other like iustruments, drevv up as much Cod, and Ling in a little space of time, as were sold well near for as much as her whole Lading of Cole. And many hundred of ships might have been there laden in two daies and two nights.

Out of which wonderful affluence, and abundance
of

of Fish swarming in our Seas, that wee may the better perceiv the infinite gain which Foreign Nations make, I will especially insist upon the Fishing of the *Hollanders* in our Coasts, and thereby shew how by this means principally they have increased.

1. *In Shipping.*
2. *In Mariners.*
3. *In Trade.*
4. *In Towns and Fortifications.*
5. *In Power extern or abroad.*
6. *In publick Revenue.*
7. *In private wealth.*
8. *In all manner of Provisions, and store of things necessarie.*

Encreas of Shipping.

BESIDES 700 Strand-Boats, 400 Evars, and 400 Sullits, Drivers and Tod-boats, wherewith the *Hollanders* fish upon their own Coasts, every one of those employing another Ship to fetch salt, and carrie their Fish into other Countries, beeing in all 3000 sail, maintaining and setting on work at least 4000 persons, Fishers, Tradesmen, Women, and Children; They

have 100 Doyer Boats, of 150 Tuns a piece, or thereabouts, 700 Pinks and Well-Boats from 60 to 100 Tuns a piece, which altogether fish upon the Coasts of *England* and *Scotland* for Cod, and Ling onely. And each of these employ another Vessel for providing of salt, and transporting of their Fish, making in all 1600 ships, which maintain and employ persons of all sorts, 4000 at least.

For the Herring-season, they have 1600 Busses at the least, all of them Fishing onely upon our Coasts from *Boughnness* in *Scotland* to the mouth of *Thames*. And every one of these maketh work for three other ships that attend her; the one to bring in salt from Foreign parts, another to carrie the said salt, and cask to the Busses, and to bring back their Herrings, and the third to transport the said Fish into Foreign Countries. So that the total number of ships and Busses plying the Herring-Fair, is 6400; whereby every Bus, one with another, imployeth fortie men, Mariners and Fishers within her own hold, and the rest ten men a piece, which amounteth to 112000 Fishers and Mariners. All which maintain double, if not treble so many Tradesmen, Women, and Children a land.

Moreover, they have 400 other Vessels at least, that take Herring at *Yarmouth*, and there sell them for readie monie: so that the *Hollanders* (besides 300 ships before-mentioned fishing upon their own shores) have at least 4800 ships onely maintained by the Seas of Great Britain, by which means principally *Holland* beeing not so big as one of our shires of *England*, containing not above 28 miles in length, and three in breadth, have encreased the number of their shipping] to at least ten thousand sail, beeing more then are in *England*, *France*, *Spain*, *Portugal*, *Italy*, *Denmark*, *Poland*, *Sweden*, and

Russia. And to this number they add every day; although their Countrey it self affords them neither materials or victual, nor merchandise to bee accounted of towards their setting forth.

Besides these of *Holland*, *Lubeck* hath 700 great ships, *Hamborough* six hundred, *Emden* fourteen hundred, whereunto add the ships of *Bremer*, *Biscay*, *Portugal*, *Spain*, and *France*, which for the most part fish in our Seas, and it will appear that ten thousand sail of Foreign Vessels and above are employed and maintained by fishing upon our Coasts. So that in *Holland* there are built a thousand sail at the least to supply shipwracks, and augment their store, which as the Prince, and common Nurserie, is the chiefest means onely to encrease their number.

2.

Encrease of Mariners.

THE number of ships fishing on our Coasts, as being aforesaid 8400. If wee allow but twenty persons to every ship one with another, the total of Mariners and Fishers, amounteth to 168000, out of which number they daily furnish their longer Voiages to all parts of the world; for by this means they are not onely enabled to brook the Seas, and to know the use of the tackles and compass, but are likewise instructed in the principles of Navigation, and Pilotage, in somuch as from hence their greatest Navigators have had their education and breeding.

3. *Encrease*

3.
Encreas of Trade.

BY reason of those multitude of Ships and Mariners, they have extended their Trade to all parts of the world, exporting for the most part in all their Voiages our Herring, and other Fish for the maintenance of the same. In exchange whereof they return the several commodities of other Countries.

From the Southern parts, as *France, Spain, and Portugal*, for our Herrings they return Oils, Wines, Prunes, Honie, Wools, &c. with store of Coin in *Specie*.

From the Straits, Velvets, Sattins, and all sorts of Silks, Alums, Currans, Oils, and all Grocerie-ware, with much monie.

From the East-Countries for our Herrings, and other *French* and *Italian* commodities before returned, they bring home Corn, Wax, Flax, Hemp, Pitch, Tar, Sope-Ashes, Iron, Copper, Steel, Clap-board, Wainscot, Timber, Deal-board, Dollers, and *Hungarie*-Gilders.

From *Germanie*, for Herrings, and other salt Fish, Iron, Steel, Glass, Mil-stones, Rhenish wines, Button-plate for Armor, with other Munition, Silks, Velvets, Rash-es, Fustians, Baratees, and such like *Franckford*-commodities, with store of Rix-dollers.

From *Brabant* they return for the most part readie monie with som Tapestries, and Hull-shop. Yea, som of our Herring are carried as far as *Brazeil*.

And that which is more strange and greatly to our shame, they have four hundred Ships with Fish, which our men of *Yarmouth*, within ken almost at land do vent our Herrings amongst us here in *England*, and make us pay for the Fish taken upon our own Coast readie

monie, wherewith they store their own Countrie.

4.

Encreas of Towns and Forts.

BY this their large extent of Trade, they are become as it were Citizens of the whole world, whereby they have so enlarged their Towns, that most of them within these four hundred years are full as great again as they were before; *Amsterdam*, *Leyden*, and *Middleburgh* having been lately twice enlarged and their streets and buildings so fair, and orderly set forth, that for beautie and strength, they may compare with any other in the world, upon which they bestow infinite summes of monies, all originally flowing from the bountie of the Sea, from whence, by their labor and industrie, they derive the beginning of all that wealth and greatness, and particularly for the Havens of the aforesaid Towns whereof som of them cost fortie, fiftie, or an hundred thousand pound. Their Fortifications also both for number, and strength, upon which they have bestowed infinite summes of monie, may compare with any other whatsoever.

5.

Encreas of power abroad.

Such beeing then the number of the Ships and Mariners, and so great their Trade, occasioned principally by their Fishing; they have not onely strengthened, and fortified themselves at home to repel all Forein Invasions, as lately in the war between them and *Spain*; but have likewise stretched their power into

into the East and West-Indies, in many places where of they are Lords of the Sea-Coasts, and have likewise fortified upon the main, where the Kings and people are at their devotion. And more then this, all Neighbor-Princes, in their differences, by reason of this their power at Sea, are glad to have them of their partie. So that, next to the English, they are now become the most re-doubted Nation at Sea of any other whatsoever.

6.

Encreas of publick Revenue.

Moreover how mightie the publick Revenue, and Customs of that State are encreased by their fishing, may appear in that above thirtie years since, over and above the Customs of other Merchandise, Excises, Licences, Wastage, and Lastage, there was paid to the State, for Custom of Herring, and other salt-Fish, above three hundred thousand pound in one year, besides the tenth Fish, and Cask paid for Wastage, which cometh at the least to as much more among the *Hollanders* onely, whereunto the tenth of other Nations being added, it amounteth to a far greater summe.

Wee are likewise to know, that great part of their Fish is sold in other Countries for readie monies, for which they commonly export of the finest gold, and silver, and coming home recoin it of a baser allay, under their own stamp, which is not a small means to augment their publick treasure.

Encreas of private Wealth.

AS touching their private wealth, if wee consider the abundant store of Herrings, and other fish by them taken, and the usual prices that they are sold for, as also the multitude of Tradesmen and Artizans, that by reason of this their Fishing are daily set on work, wee must needs conclude that the gain thereof made by private men must of necessitie bee exceeding great, as by observing the particulars following will plainly appear.

During the wars between the King of *Spain*, and the *Hollanders* before the last Truce, *Dunkirk* by taking, spoiling, and burning the Busses of *Holland*, and setting great ransom upon their Fisher-men, enforced them to compound for great summes that they might Fish quietly for one year, whereupon the next year after the Fisher-men agreed amongst themselves to pay a doller upon every last of Herrings, towards the maintenance of certain Ships of War to waite and secure them in their Fishing, by reason whereof there was a Record kept of the several lasts of Herrings taken that year, and it appeared thereby that in one half year there were taken thirtie thousand lasts of Herrings which at twelv pound *per* last, amounteth to 360000, and at sixteen, twentie, thirtie pound the last, they are ordinarily sold, then transported into other Countries, it cometh at least to 500000 *l*. Whereunto if wee add the Herrings taken by other Nations together with the Cod, Ling, Hake, and the Fish taken by the *Hollanders*, and other our neighbors upon the
British

British Coasts all the year long, the total will evidently arise to be above 10000000 l.

The great Trade of Fishing employing so many men and ships at Sea, must likewise necessarily maintain as great a number of Tradesmen, and Artizens on Land, as Spinners, and Hemp-winders to Cables, Cordage, Yarn-twine for Nets and Lines, Weavers to make Sail-Cloaths, Cecive Packers, Tollers, Dressers, and Cowchers to sort and make the Herring lawful merchandise. Tanners to tan their Sails and Nets; Coopers to make Cask, Block, and Bowl-makers for ships, Keel-men, and Laborers for carrying and removing their Fish, Sawyers for Planks, Carpenters, Ship-wrights, Smiths, Car-men, Boat-men, Brewers, Bakers, and a number of others, whereof many are maimed persons, and unfit to be otherwise imployed. Besides the maintenance of all their several wives, and children, and families. And further every man and maid-servant, or Orphant, having any poor stock, may venture the same in their Fishing-Voiages, which afford's them ordinarily great encreas, and is duly paid according to the proportion of their gain.

8.

Encreas of Provisions.

AND to conclude, it is manifest that *Holland* only affording in it self som few Hops, Mad-ders, Butter and Cheef aboundeth notwithstanding (by reason of this Art of Fishing) in plentiful manner with all kinde of provisions as well for life, as in Corn, Beef, Muttons, Hides, and
Cloaths,

Cloths; as for luxury, in Wines, Silks and Spices; and for defence, as in Pitch, Tar, Cordage, Timber. All which they have not onely in competent proportion for their use, but are likewise able from their severall Magazines to supply their Neighbor-Countries.

The premisses considered, it maketh much to the ignominie and shame of our English Nation, that God and Nature offering us so great a treasure even at our own doors, wee do notwithstanding neglect the benefit thereof, and, by paying monie to strangers for the Fish of our own Seas, impoverish our selves to make them rich. Insomuch that for want of industrie and care in this particular two hundred twentie five Fisher-Towns are decayed and reduced to extreme povertie; whereas on the contrarie by diligent endeavoring to make use of so great a blessing, wee might in short time repair these decayed Towns of the Kingdom, and add both honor, strength, and riches to our King and Countrie, which how easily it may beedon, will appear by som few observations following.

By erecting two hundred and fiftie Busses of reasonable strength and bigness, there will bee employment made for a thousand Ships, and for at least ten thousand Fisher-men and Mariners at Sea, and consequently for as many Tradesmen and Laborers at land.

The Herrings taken by the Busses will afford his Majestie two hundred thousand pound yearly custom outward, and for commodities returned inward thirtie thousand pound and above.

Wee have Timber sufficient, and at reasonable rates, growing in our own Kingdom for the building

ing of Buffes, every Shire affordeth hardie and able men fit for such employment who now live poorly and idle at home.

Wee have victuals in great plencie sold at easie rates without paiment of Excises, or Impost.

Our shores and harbors are near the places where the Fish do haunt.

For drink, or nets, salting and packing our Fish, and for succor in strels of weather, wee may bring our Fish to land, salt and pack it, and from som part of his Majestie's Dominions bee at our Markets in France, Spain, or Italy, before the *Hollanders* can arrive in *Holland*.

Wee have means to transport our Fish into som Northern Countries, where the *Hollanders* seldom or never com. And though wee had as many Buffes as the *Hollanders*, yet is there vent for all, or more, for in the East and Northern Countries, and in many other places, Herrings are every daies meat, Winter and Summer, as well to draw on drink, as to satisfie hunger, and in most places the greatest part of the year they bee scarce to bee had; for presently after *Michaëlmas* the Sound and Rivers are frozen up so as no Herrings can bee transported into twentie several Kingdoms, and free States until *July*, which is for thirtie weeks space together, so that when Lent com's, there are few to bee bought for monie.

Lastly, since by care and industry wee gained from the *Flemmings*, doubtless so by the means wee may as easily grow expert in the Art of Fishing, and in time make it a staple-commoditie of our own.

But this wee shall the better and sooner do, if wee

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consider

consider and endeavor to reform certain wants and abuses which hitherto have hindred us from effecting that good and great work, whereof these that follow are none of the least.

1. General libertie of eating flesh contrarie to old custom, and the Statute-Laws provided for observing Fish-daies, from whence our scarcitie and dearth of Fish proceedeth; for where Flesh is ordinarily spent, Fish will not bee bought, and want of sale decaieth all Trade, gain being the Nurs of Industrie.

2. Want of order and discretion in our Fishing, every man being left to himself and permitted to Fish as best liketh him: whereas amongst the *Hollanders* two of the best experienced Fisher-men are appointed to guide the rest of the Fleet, all others being bound to follow them, and to cast their lines according to their direction.

3. The *Hollanders* and other Nations set forth with their Busses in *June*, to finde the shoale of Fish, and having found it, dwell amongst it till *November*, whereas wee stay till the Herring com home to our rode-steads, and sometimes suffer them to pass by ere wee look out, our Herring-Fishing conteining onely seven weeks at the most, and theirs twentie.

4. The *Hollander's* Busses are great and strong, and able to brook foul weather, whereas our Cobles, Crayers, and Boats being small, and thin sided, are easily swallowed by a rough Sea, not daring to adventure far in fair weather by reason of their weakness for fear of storms.

5. The

5. The *Hollanders* are industrious, and no sooner are discharged of their lading, but presently put forth for more, and seek for Markets abroad as well as at home; whereas our *English* after they have been once at Sea, do commonly never return again until all the monie taken for their fish bee spent, and they in debt seeking onely to serv the next Market.

6. The *Hollanders* have certain Merchants, who, during the Herring-season do onely com to the places where the Busses arrive, and joining together in severall companies, do presently agree for the lading of thirtie or fortie Busses at once, and so beeing discharged, they may speedily return to their former shipping; whereas our Fisher-men are uncertain of their Chap-men, and forced to spend much time in putting off their Fish by parcels.

These and other defects would carefully bee taken into consideration, and certain orders made to make our Fishing prosperous, and successful, especially considering the fearful mischiefs the neglect hereof hath brought to the King and Kingdom in general, and to many good Towns and Corporations in particular, as by auctoritie even of Parliament it self in the Statute of 33 *Hen.* the eight, is plainly testified, which I have summarily here set down, to avoid the prolixitie of the original.

Beacuf the English Fisher-men dwelling on the Sea-Coasts did leav off their Trade of Fishing in our Seas, and went the half-Seas over; and there upon the Seas did buie Fish of *Pickards*, *Flemmings*, *Normans*, and *Zelanders*, by reason whereof many

incommodities did grow to the Realm, viz. the decaie of the wealth and prosperitie as well of the Cinque-Ports, and Members of the same, as of other Coast-Towns by the Sea-side, which were builded, and inhabited by great multitudes of people by reason of using and exercising the craft and feat of Fishing. Secondly, the decaie of a great number of Boats and Ships. And thirdly, the decaie of many good Mariners, both able in bodie by their diligence, labor, and continual exercise of Fishing, and expert by reason thereof in the knowledg of the Sea-Coasts, as well within this Realm as in other parts beyond the Seas. It was therefore enacted, that no manner of persons English, Denizens, or strangers at that time, or any time after dwelling in *England*, should buie anie Fish of any strangers in the said Ports of *Flanders*, *Zealand*, *Picardie*, *France*, or upon the Sea between shore and shore, &c.

This act by many continuances was continued from Parliament to Parliament, until the first of *Queen Marie*, and from thence to the end of the next Parliament, and then expired.

For conclusion, seeing by that which hath formerly been declared, it evidently appeareth, that the Kings of *England*, by immemorable prescription, continual usage, and possession, the acknowledgment of all our Neighbor-States, and the Municipal Laws of the Kingdom, have ever held the Sovereign Lordship of the Seas of *England*, and that unto his Majestie, by reason of his Sovereignie, the supreme command and Jurisdiction over the passage, and Fishing in the same rightfully appertaineth,

perteineth; considering also the natural site of those our Seas that interpose themselves between the great Northern Commerce of that of the whole world, and that of the East, West, and Southern Climates, and withal the infinite commodities that by Fishing in the same is daily made; It cannot be doubted, but his Majestie, by means of his own excellent wisdom and virtue, and by the industrie of his faithful subjects and people, may easily, without injustice to any Prince or person whatsoever, be made the greatest Monarch for Command and Wealth, and his people the most opulent and flourishing Nation of any other in the world. And this the rather, for that his Majestie is now absolute Commander of the British Isle, and hath also enlarged his Dominions over a great part of the Western *Indies*; by means of which extent of Empire, (crossing in a manner the whole Ocean) the Trade and persons of all Nations (removing from one part of the world to the other) must of necessitie first, or last, com within compass of his power and jurisdiction.

And therefore the Soveraigntie of our Seas, beeing the most precious Jewel of his Majestie's Crown, and (next under God) the principal means of our Wealth and Safetie, all true English hearts and hands are bound by all possible means and diligence to preserv and maintain the same, even with the uttermost hazzard of their lives, their goods and fortunes.

Thus you see what wondrous advantages may redound to the Felicitie, and Glorie of this Nation, if God give hearts and resolutions to vindicate those rights

which are now most impiously and injuriously invaded. And so much for what concern's *England*.

Now that I may reflect a little upon the point of Sea-Dominion in general, to shew how far it hath been asserted, and maintained by others, who have enjoied a Dominion in other Seas, when they have been concerned in the like Case with *England*, having their Sovereignty at Sea impeached and questioned by encroaching neighbors; it was thought meet here to annex an ingenious and learned Plea touching the Dominion of the Sea; which was very succinctly written in *Italian*, but faithfully rendred in English by an honorable Member of this Common-wealth, and published som time since, under the following Title.

Dominium



Dominium Maris:
OR, THE
DOMINION
OF THE
SEA.

Expressing the Title, which the
Venetians pretend unto the sole dominion, and
absolute Sovereignty of the *Adriatick Sea*,
commonly called

The Gulf of Venice.

Manifested in a Pleading or Argument, betwixt
the Republick of *Venice*, and the Emperour *Ferdinand*.

Whereby is sufficiently proved, That the Sea as well as the Land,
is liable to the Laws of Propriety, and may be brought under the jurisdic-
tion and protection of particular Princes and States. Contrarie
to the Assertion of those, who affirm, the Sea to be free;
and under the Dominion of no man.

Translated out of Italian.



LONDON,
Printed by *William Du Gard*. An. Dom. 1652.

THE
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PROBLEM

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AN
ADVERTISEMENT
TO THE
READDER.

I Thought it fitting not to instruct,
but rather to remember the Rea-
der, that this Sea, over which
the Venetians challenge So-
vereigntie and Dominion, bee-
ing commonly called the Gulf, is nothing els but
a large Bay or inlet of the Sea, which entering
in betwixt two lands, and severing them for
many miles countinuance, in the end receiv's
a stop or interruption of further passage, by
an opposite shore, which join's both the said
lands together. It is called the Gulf of Ve-
nice, from the Citie of Venice, situated upon
certain broken Islands near unto the bottom
thereof. It is also called the Adriatick Sea,
from the antient Citie of Adria, lying not far
A a a a 2 distant

To the Reader.

distant from the former. From the entrance thereof unto the bottom, it contain's in length about 600 Italian miles: where it is broadest, it is 160 miles over, in others but 80, in the most 100. The southwest shore of it is bounded by the Provinces of Puglia, and Abruzzo in the Kingdom of Naples, the Marquisate of Ancona and Romagna in the Pope's State, and the Marquisate of Trevisana in the Venetian State. The North part of it, or bottom, hath Friuli for it's bounds, the North-East is limited by Istria, Dalmatia, Albania, and Epirus: whereof Istria doth not so entirely belong unto the Venetians, but that the Arch-Duke of Gratz, of the Austrian family, who at this present is Emperor, doth possess divers Maritim Towns therein. In Dalmatia, saving Zara, Spalato, and Cattaro, they have nothing of importance, the rest belonging to the Republick of Ragusa, and to the Turks. In Albania and Epirus, they possess nothing at all, it being entirely the Turk's. So that hee, who shall examine the circuit of this Sea, which must contain above 1200 miles, shall finde the shores of the Venetian signorie, not to take up intire 200 of them, omitting som scatter'd towns and dispersed Islands, lying on the Turkish side of the Adriatick shore.

To the Reader.

shore. For the securing hereof from the depredation of Pirates, and the pretenses of divers Potent Princes, as the Pope, Emperor, King of Spain, and the great Turk, who have each of them large territories lying thereupon; also to caus all such ships, as navigate the same, to go to Venice, and there to pay custom and other duties, the Republick maintein's continually in action a great number of ships, gallies and galliots, whereto they also add more, as there may bee occasion, whereof som lie about the bottom of the Gulf in Istria, others about the Islands of Dalmatia, to clear those parts of Pirates, who have much infested those seas: others, and those of most force, have their stations in the Island of Corfu, and in that of Candia: in the first of which commonly reside's the Captain of the Gulf, whom they call by the name of Proveditor, or Provisor general, whose office it is to secure the Navigation of the Gulf not onely from the Corsari or Pirates, but to provide that neither the Gallies nor Ships of the Pope, the King of Spain, or great Turk, do so much as enter the same, without permission of the Signorie, or Republick, and upon such conditions as best pleaseth them; which they are so careful to effect, that in the year 1638 the Turkish Fleet entring

To the Reader.

the Gulf without licence, was assailed by the Venetian General, who sunk divers of their vessels, and compelling the rest to flie unto Valona, hee held them there besieged, although the same Citie, and Port whereon it stand's, bee under the jurisdiction of the Grand Signor. And notwithstanding that a great and dangerous war was likely to ensue thereupon, betwixt the Grand-Signor and the Republick, because the Venetian General, beeing not content to have chased them into their own Ports, did moreover then that, sink their vessels, and landing his men, slew divers of their Mariners who had escaped his furie at Sea: yet after that a very honorable peace was again concluded betwixt them, wherein, amongst other things, it was agreed, that it should bee lawful for the Venetians, as often as any Turkish vessels did without their licence enter the Gulf, to seiz upon them by force, if they would not otherwise obey. And that it should likewise bee lawful for them so to do, within any Haven, or under any Fort of the Grand-Signor's, bordering on any part of the Venetian Gulf. Out of all which, when I considered the real and absolute Sovereigntie, which this Republick doth actually enjoy over this sea, which they have ever defended, as well by the sword as
the

To the Reader.

the pen; and withal how that som neighboring Nations of late years, did seem to envie the title of England to the narrow seas, affirming in som of their writings, the Sea to bee free; that it neither ought, nor could bee under the jurisdiction of any; that it was a wilde beast which could not bee ruled; that, possessio beeing Pedis positio, there could no possession bee either taken or kept of it; that the limits thereof, beeing a fluent element, could not bee scored out, or certainly determined, that it was as free for all mankinde to use, and as common as the aër, with many other things to that purpose; I chancing som years past to bee at Venice, upon consideration of the premisses, did labor with a great desire, to know the grounds of that title, whereupon the Venetians founded their Dominion of the Sea; and after much search, even to the despair of obtaining of it, I hapned upon this ensuing argument, conteining a Plea or Dispute, betwixt the Austrians and Venetians, touching the Dominion of the Adriatick Sea, not fictitious or devised onely to color the cause, but faithfully transcribed from out the publick Registers of that Citie, which I offer herewith to the Reader in English, and withal these two considerations,

First,

To the Reader.

First, that hereby it will appear, that the Common-wealth of England's challenge to the Dominion of the Sea, is neither a Noveltie or singularitie; especially, when it is besides most apparant that the King of Denmark, doth not onely pretend to the Sovereigntie of the Sound, but causeth all such Ships as pass through it, to pay what toll hee pleaseth. The great Turk prohibit's all Nations, saving his own Vassals, to enter the black Sea, or Pontus Euxinus; the like hee doth to the red Sea, whch contein's at the least 1200 miles in length, beginning from the streits of Babelmandel, which give's entrance thereinto, and ending at the Town of Sues, which is seated at the bottom thereof. The King of Portugal opposeth, to the utmost of his power, any, but his own subjects to sail into the East-Indies, affirming those Seas to bee intirely under his dominion, as well by Conquest, as the Pope's donation, insomuch as the smallest vessel, even of the natives of those parts, cannot sail from Port to Port, without the pass-port of the Vice-Roy of Goa, or of som other by him deputed thereto, styling himself, amongst others his Titles, to bee King of the Conquest, Navigation, and Commerce, or Traffick of Æthiopia, Arabia, Persia, India, &c. which
bath

To the Reader.

hath been hitherto so punctually observed, as no Castilian, or Spaniard, might at any time, or for any occasion, sail into the East-Indies, though both those Nations were for many years together united under one King.

Secondly, if the Dominion of these Seas do truly and properly belong to the Commonwealth of England (as hath been so sufficiently cleared and proved to the whole world, by that learned Book entituled *Mare Clausum*) why may not, or ought not the People of England, by all lawful waies procure, that the Dominion of these Seas that so justly appertain's unto them, may be secured from any force, violence, or opposition, how great soever, of their most powerful neighbors; whenas wee see the Venetians to be so jealous in preservation of the title they pretend to their Seas, as rather then to suffer it to be in the least sort questioned, they do upon all occasions oppose themselves by force, or otherwise, against the most potent Princes of Europe and Asia. Vale.

THE HISTORY OF THE

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Dominium Maris :

OR,

THE DOMINION

OF THE

SEA.



After a long peace, betwixt the Progenitors of the Emperor *Maximilian* the first, and the Republick of *Venice*, in the year 1508, there began certain slight differences, which concluded in a notable, and most memorable war: inso-much as the Republick, for 22 years following, were with the said Prince, and with his Posteritie, for divers respects, somtimes in war, somtimes in peace, and somtimes in
Bbbb 2 truce,

truce, until in the year 1529 all differences betwixt them were composed, and a peace concluded in *Bolonia*, which continued all that Age, with the Emperor *Charls* the Fifth, together with his brother *Ferdinando* King of *Hungarie*, and Archduke of *Austria*. But becaus by the division, made betwixt the said brethren, seven years before, all the *Austrian* lands which confined with the *Venetians*, were laid by agreement unto the part which belonged unto King *Ferdinand*, the confines of which as they had conjuncture with the lands of the Republick, were very intricate; and of great difficultie to conclude, unto whether partie they did belong, as well for the publick reasons of the said Princes, as for those of their private subjects; To end all which in quiet, it was agreed that there should bee an arbitrarie Tribunal erected in *Trent*, for the deciding of these doubts, which in the year 1535, pronounced sentence, whereby all the differences (beeing more then an hundred) were definitively concluded.

Here notwithstanding the difficultie ceased not, becaus som did travers the execution of the sentence, so, as in progress of time,
new

new quarrels did arise from both sides, each one pretending new wrongs offered by the advers partie. Whereupon to put an end to all these differences, there was by the common consent, as well of *Ferdinando* (who succeeded in the Empire by the resignation of his brother) as of the Republick, a convention appointed in *Friuli* 1563, of five Commissaries, one Procurator, and three Advocates, for each part, who should treat of the differences, as well old as new, and should have power to conclude them, under the ratification of the several Princes. And this so great a number of Judges, was desired by the Emperor, the better to give satisfaction to his subjects, of several Provinces, interess'd in the caus.

Of the Imperial side, the Commissaries were *Andrew Preghel* a Baron of Austria, *Maximilian Dorimbergh*, *Elenger de Goritia*, *Stephen Sourz*, and *Anthonie Statemberger*: the Procurator was, *Giacomo Campana*, Chancellor of *Goritia*: the Doctors or Advocates were *Andrea Rapicio*, *Gervasio Alberto*, and *Giovan Maria Gratia Dei*: For the Venetians the Commissaries were, *Sebastian Venier*, *Marino de Cavalli*, *Pietro Sanudo*, *Giovan Baptista*
B b b 3 Contarini,

Contarini, and *Augustin Barbarigo*: The Procurator was, *Giovan Antonio* a secretarie: the Advocates *Marquardo Susanna*, *Francesco Gratiano*, and *Giacomo Chizzola*.

At this Convention the complaints on both sides were opened, which beeing argued, and the other publick differences partly composed, and partly decided, there was taken into consideration a Petition of the Imperial Procurator, in this form, *Ejusdē Majestatis nomine requiritur, ut posthac illius subditis, atque aliis in sinu Adriatico tuto navigare, ac negotiari liceat. Item ut damna, Tergestinis Mercatoribus atque aliis illata, restituantur.* It is required in the name of his Majestie, that hereafter it may bee lawful for his subjects, and others, to traffick and navigate safely in the Adriatick Gulf. Likewise that recompence bee made for the damages susteined by the merchants of *Trieste*, and others. And *Rapicio* the advocate did accompanie this demand with saying; that *this was not a caus to bee handled with any subtiltie, it beeing a thing most notorious, that navigation ought to bee free, notwithstanding the subjects of his Majestie had been constrained to go with their ships to Venice, and there to pay*
custom,

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custom, at which his Majestie was aggrieved, and made instance that it might bee remedied.

To this *Chizzola*, Advocate of the Republick made Answer, saying, that it was a clear case indeed, that *Navigation* ought to bee free; but yet those things, whereat they were aggrieved, were no waies repugnant to this freedom; forasmuch as in countries which are most free, those who have the dominion thereof receiv *custom*, and order by which way all Merchandise shall pass; and therefore no bodie should bee grieved, if the *Venetians*, for their own respects, did use so to do in the *Adriatick Sea*, which is under their dominion; and hee added, that if they intended to dispute of the business in question, hee was to advertise them, that this caus could not by any pretens. bee brought into judgment, at that convention, which was onely instituted, for the execution of such things as were formerly sentenced, and for righting of such new wrongs, which succeeded after the sentence; it being besides a thing most notorious, that the *Republick*, as Lord of the *Adriatick Sea*, did exercise that dominion at the present, which from time out of minde, it had al-

waies

waies don, without any interruption, as well in receiving of customs, as in assigning of places for the exaction of it, and that the pretens now alleged was new, and never before used by any predecessor of the Emperor, either as King of *Hungarie*, or as Arch-Duke of *Austria*, or the countries thereto adjacent, or of his Majestie then beeing, for many years, until this present time. Hee challenged the Imperialists to shew, when ever any such thing was before pretended; certainly not before the peace of *Bolonia*; for then such a difference as this (if there had been any such) had been there determined, or referred over to the Arbitrarie Tribunal, wherein were handled above 120 controversies; but of this not any mention made, neither, from that time to this, was there any such pretension once set a foot. But if this were a new wrong, succeeding after the sentence of *Trent*, they should shew what it was, and when it had beginning, becaus hee was prepared to shew unto them, that any thing concerning the same, was of most antient use and continuance, without the least noveltie in the world, and therefore they ought not to bee heard, who came with demands,

demands, which could take no original either from the sentence of *Trent*, or from any innovation of wrongs succeeding thereupon.

To this *Rapicio* replied, that hee intended not to lay his principal foundation upon that, which to all is so well known, which is to say, *that the Sea is common and free*, and that by reason thereof, not any might bee prohibited, to sail unto any place, which best pleased him: and if any Doctors should happen to say, that the Republick hath a prescript Dominion over the Adriatick Sea, with a long possession, notwithstanding they prove it not: and to Doctors who affirm a thing barely out of fact, without any manner of proof, little belief is to bee given; for which cause, hee would not dwell upon that; but would com to his principal reason, which was, that admitting the Republick to bee Patron of the Sea, yet the Emperors Subjects might navigate freely by the Capitulations, which were established betwixt the Princes on both sides, and therefore the Petition proposed was pertinent to bee handled by the said Convention; to which (hee beeing so

required by the *Venetians*) added this for a foundation, *Quia libera navigatio Maris Adriatici cum Majestatis suæ Cesarea, tum subditorum damno & incommodo, ab Illustrissimi Domini Veneti triremium Præfectis impedita fuerit, contra Capitula Vormatiæ, Bononiæ, Andegavi, & Venetiis inita*: Forasmuch as the free navigation of the Adriatick Sea, hath been hindred by the Captains of the Venetian's Gallies, to the loss and prejudice of his Imperial Majestie, and of his subjects, against the Capitulations of *Worms, Bologna, Angiers, and Venice*. And here hee produced a passage of the Capitulation of *Bologna* which spake as followeth; *Quòd communes subditi liberè, tutè, & securè possint in utriusque statibus & dominiis tam terrâ, quàm Mari, morari & negotiari cum bonis suis, ac si essent incolæ, & subditi illius Principis, ac Domini, cujus patrias, & Dominia adibunt; providiatúrque, nè vis aut aliqua injuria, ulla de causa, eis inferatur, celeritèrque jus administretur*. That the subjects of either partie may freely, safely, and securely abide, and traffick with their goods, in the States and Dominions of one another, in like manner as if they were inhabitants, and subjects of that Prince and State, into whose

whose Countrie or Dominion they do come; and that it bee provided, that no violence or injurie, bee for any cause whatsoever offered them; and moreover that justice bee speedily administered. Hee also recited the capitulations of the truce of *Angiers* and *Worms*, and of the peace of *Venice*, which is not necessarie here to repeat, being of the same tenor. Hee did rest much upon the word *liberè*, considering that *liberè* is joined to the word *Navigare*: by which it ought to bee understood, according to the common construction of Law, *That everie one might navigate freely*; but hee cannot bee said to bee *free*, who is constrained to go to *Venice*. Hee added moreover, that the word *liberè* could not bee imagined to bee superfluous, but must of necessitie operate something; that the two words, *tutè & securè*, could import nothing else, but *without impediment, or molestation, or paying of Customs*; to this hee added, that there were then 400 complaints of his Majestie's subjects, whose vessels were compelled to go to *Venice*, and there made to pay Custom, for happening onely to arrive in the ports of the *Venetians*, either by

fortune or som other occasion. Hee read the sentence of a Rector of *Liesina*, who freed a ship, which touched upon that Island by chance; and hee made a narration, that certain barks with salt were suffered by the Venetian Fleet, to pass upon their Voyage, without sending them to *Venice*. Hee concluded; that his request extended to these three points. 1. That the *Austrian* subjects might Navigate whicher it pleased them. 2. That arriving in any Port of the Republick, onely *per transitum*, they should not pay any thing. 3. *Lastly*, that coming to Trade in any of them, they should not pay more then the subjects of the Republick. *Chizzola* answered hereto, promising clearly to solv all the objections introduced by the other, so as there should not remain any place of reply, and to shew with true and lively reasons, that what was don by the Ministers of the Republick in the *Gulf*, was don by lawful Autoritie. And reserving himself, to speak of the *Dominion of the Sea* afterwards, howsoever presupposing it in the first place, hee began with the *Capitulations*; and *first* hee said, that the word *libere*, was not joined, as *Rapicio* said, to any
such

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such word as *Navigare*, but to the words *Morari & negotiari tam terrâ, quàm Mari: &* therefore by *liberè* is to bee understood as the common construction of Law intend's, when one doth either dwell, or do business in the hous, or land of another, that is to say, *observing the Laws, and paying the Rights of the Countrie.* Hee added also, that those Capitulations, betwixt the hous of *Austria*, and the *Republick*, were equally reciprocal, and not made more in favor of the *Austrians*, in the State of the *Venetians*, then of the *Venetians* in the State of the *Austrians*; neither was there greater libertie granted to the Sea, then to the Land; and that the words were clear enough, which import, that the subjects on both sides might stay, trade, and merchandise, in the state of one another, as well by Land as by Sea, and bee well intreated; insomuch as the subjects of the *Venetians* were to have no less libertie in the Lands of the *Austrians*, then the *Austrian* subjects in the Sea of *Venice*; And that by virtue of those words, what his Majestie would have in the State of the *Republick*, it is fitting that hee allow to them in his own State; and if his Imperial Majestie within

his own State, upon the Land, will not yield that the subjects of the *Republick* shall go which way they list, but coustrain's them to pass by such places onely, where Custom is to be paid, hee cannot with justice demand, that his subjects may pass by or through the Sea of the *Republick* which way they list, but ought to content himself, that they go that way onely, which shall best stand with the commoditie of those who have the Dominion over it; and if his Majesty caus Custom to be paid, upon *his* Land, why may not the *Venetians* likewise do it, upon *their* Sea? Hee demanded of them, if by the Capitulation they would have it, that the Emperor was restrained, or hindred, from taking of Custom? and if not, why would they have the *Venetians* tied thereunto by a Capitulation, which speak's of both Potentates equally with the same words? Hee shewed by particular Narration, that from the Peace of *Venice* 1527, until that present, the Emperor had increased his Customs, to the grievance of the *Venetian's* subjects, in victuals and Merchandise, which passed from the one State unto the other; insomuch as that which
 formerly

formerly paid but one, was now increased in some to 16, and in others to 20. and hee instanced in iron and other commodities, which were wont to pay little or nothing, were now raised to such an excessive Custom, as proved much to the damage of the *Venetians*, besides they were forced to pass onely by such places, where they should pay Custom, out of which to pass, it was *Contra banda*, and their goods confiscated. And if his Majestie think's it lawful to do what it pleaseth within his own estate, without breaking of the Capitulations, hee cannot think that the *Venetians* doing but the same, should, contrarie thereunto, any waies offend. Hee added, that in every Peace established betwixt two Princes, after a war, it is necessarie that their subjects may live and trade together, not to the excluding of Customs, although there bee excluded the violences, hostilities, and other impediments of trade, which were formerly used in time of war, neither is the autoritie of the one, or other Prince, thereby taken away or restrained by Sea or by Land.

At the force and clearness of this discours, the *Austrians* remained as it were in a trance, looking

looking one upon another, insomuch that *Chizzola* judging it not to bee necessarie to dwell longer upon this, passed to the proof of the presupposed truth, viz. *That the Republick had the Dominion of the Sea*, and said; that the proportion was most true, that the *Sea was common and free*, but yet no otherwise that could bee understood, then as it is commonly said, *The high-waies are common and free*, by which is meant, that they cannot bee usurped by any private person, for his sole proper service, but remain to the use of everie one: not therefore that they are so free, as that they should not bee under the protection and government of some Prince, and that every one might do therein licentiously, all that which it pleased him, either by right or wrong; forasmuch as such licentiousness or Anarchie is abhorred both of God and nature, as well by Sea as by Land. That the true libertie of the Sea, exclude's it not from the protection and superioritie of such as maintain it in libertie, nor from the subjection to the laws of such, as have command over it, rather necessarily it include's it. That no less the Sea, then the Land, is subject to bee divided amongst

amongst men, and appropriated to Cities and Potentates, which long since was ordained by God from the beginning of mankinde, as a thing most natural, which was well understood by *Aristotle*, when hee said, that unto Sea or maritim Cities, the Sea is the Territorie, becauf from thence they take their sustenance and defens; a thing which cannot possibly bee, unless part of it might bee appropriated in the like manner as the Land is, which is divided betwixt Cities and Governments, not by equal parts, nor according to their greatness, but as they have been, or are able to rule, govern, and defend them. *Bern* is not the greatest Citie of *Switzerland*, and yet it hath as large a Territorie, as all the rest of the twelv Cantons together. And the Citie of *Norimberg* is very great, and yet the Territories thereof hardly exceed the walls. And the Citie of *Venice* for many years was known to bee without any possession at all upon the firm Land. Upon the Sea likewise, certain Cities of great force and valor have possessed a large quantitie thereof, others of little force, have been contented with the next

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waters ; neither are there wanting Exam-
 ples of such, who notwithstanding they are
 Maritim, yet having fertile Lands lying on
 the back of them, have been contented
 therewith, without ever attempting to gain
 any Sea-dominion; Others, who beeing aw'd
 by their more mightie neighbors, have been
 constrained to forbear any such attempt ;
 for which two causes, a Citie, notwith-
 standing it bee Maritim, may happen to
 remain without any possession of the Sea.

Hee added that God did instant Princi-
 palities, for the maintenance of Justice, to
 the benefit of mankinde, which was ne-
 cessarie to bee executed, as well by Sea as by
 Land. That *S. Paul* said, That *for this*
caus there was due to Princes, Customs and Con-
tributions : that it should bee a great absur-
 ditie to praise the well governing, regulating,
 and defens of the Land, and to condemn
 that of the Sea : that if the Sea in som parts
 for the ampleness and extreme distance
 thereof from the Land, was not possible
 to bee governed and protected, that pro-
 ceeded from a disabilitie and defect in man-
 kinde ; as also there are deserts so great
 upon the Land, as it is impossible to
 protect

protect them ; witness the many sandie parts of *Africa*, and the immens vastities of the new world. And as it is a gift of God, that a Land by the Laws and publick power, bee ruled, protected and governed ; so the same happen's to the Sea : that those were deceived by a gross equivocation, who said, that the Land by reason of its stabilitie might bee governed, but not the Sea, for beeing an unconstant element, no more then the aër; forasmuch as if, by the Sea and the Aër, they intend all the parts of those fluent elements, it is a most certein thing, that they cannot bee governed ; becaus, whilst a man serv's himself with any one part of them, the other escape's out of his power ; but this chanceth also to Rivers, which cannot bee reteined. But when it is said to rule over a Sea or River, it is not understood of the Element, but of the site, where they are placed. The water of the *Adriatick* Sea continually run's out of it, neither can it all bee kept in, and yet it is the same Sea, as well as the *Tiber*, *Po*, or the *Rhine* are the same Rivers now, which they were 1000 years past. And this is that which is subject to the protection of Princes.

Hee asked the *Austrians* if their pretens were, that the Sea should bee left without protection, so that any one might do therein well or ill, robbing, spoiling, and making of it un-navigable; this would bee so absurd, as hee durst answer for them, *no*: therefore hee concluded, that by a necessarie consequence his Majestie would acknowledge, that it should bee kept, governed and protected by those unto whom it did appertain by divine disposition: which if it were so, hee desired to know, if it seemed to them a just thing that such should do it, with the expence of their own pains, charges, and bloud; or rather that such should contribute towards it, who did equally enjoy the benefit: To this also hee durst answer for them, that they would say the doctrine of *S^t Paul* is too clear in the point (not to allege matter of Law) that *all such who are under government and protection, are thereby bound to pay Customs and Contributions.* And thereupon hee concluded, that if the Republick were that Prince, to whom it did appertain to govern and protect the Adriatick Sea, it followed necessarily, that whosoever *Navigate's*

gate's it, ought to bee subject to their laws, in the same manner as such are, who travel through a Countrie upon the Land.

From thence hee went on to shew, that this Dominion over the Sea, from time out of minde, did belong to the Republick, and thereupon caused to bee read out of an Abstract which hee had taken, the Opinions of thirtie Lawyers, who, from the year 1300, until that present time, did speak of the Dominion which the Republick had over the Sea, as of a thing most notorious, and of which, even in their times, the minde of man knew not the contrarie: som of them affirming, that the Republick had no less Dominion over the Sea, then over the Citie of *Venice*; others saying, that the *Adriatick Sea* is the Territorie and demeasnes of the said Citie, making mention of the lawful power which the *Venetians* had to establish laws over Navigation, and to impose Customs upon such as navigate those Seas; and hee added that hee never read any Lawyer, which ever said the contrarie. And turning himself to *Rapicio* hee said, that if hee would not believ those Writers which testified that the Sea be-

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longed to the *Venetians*, whereof they had possession from time out of minde, before the age wherein the *Autors* lived, although they prove it not, yet hee could not denie to receiv them for testimonies of such things which they saw and knew in their times, and to hold them as witnessses, far above all exception, beeing famous men, and dead so many years ago, as they could not bee any waies interessed in the present differences. And becaus more then 250 years were past, from the time that the first *Autors*, which hee alleged as witnessses hereof did write, to the time of those, which hee last cited in that behalf; by their attestation it was sufficiently proved, that for long time more then so many years, the Republick hath commanded the Sea, and therefore hee could not denie the immoveable possession thereof to the present.

Afterwards turning himself to the Judges, hee praied them, that upon the *Autorities* alleged, they would bee pleased to listen unto a short consideration of his, which hee did not doubt, but would leav in them a full impression of the Truth. And *first* hee desired them to consider, that notwithstanding

standing som of the aforeſaid cited **Autors** ſpeak with general words, ſaying, the Sea of the *Venetians*, neither declaring the qualitie nor quantitie thereof; yet others do ſpecific it, uſing the name of the *Gulf*; and others with terms more expreſſive, ſaying, the *Adriatick Sea*; which clearly demonſtrate, not onely the ſite, but alſo the quantitie of the Sea poſſeſſed; and ſo ſhewed, that thoſe who ſpeak more expreſſively, ought to clear the paſſages of thoſe, who write more generally, according to the common precept, that *with clear places the more obſcure are to bee illuſtrated*. Hee conſidered alſo, that the divers manner of ſpeaking of the ſame **Doctors**, ſom deriving the Dominion of the Republick over the Sea, from **Custom**, ſom from **preſcription**, others from an induced ſubjection, and others from a privilege, did ariſe all out of this reaſon, becauſe as they were moſt aſſuredly informed of the poſſeſſion and juriſdiction of the ſaid Seas, which they both ſaw and heard to belong to the Republick from time out of minde; ſo they writing upon that matter, not at the inſtance of any one, but of their own proper motions, and by way of **Doctrine** onely, each

each one of them judged it most convenient to express the title of that jurisdiction, som with one term, som with another, without coming to use the sole and true proper term, as they would have don, if they had been put to write for the interest of any one; in which cases the Counsellors are alwaies conformable, receiving from the person interested equally the like instructions.

Hee added, that, through the varietie of expressing themselvs, the truth of the caus was no waies diminished, but rather increased; as *S' Augustine* saith, speaking of the diversitie which is observed to bee betwixt the holy Evangelists; becaus by the divers manner of expression, used by the said Writers, every one may rest assured, that none of them did write *nè pagato, nè pre-gato*, neither paied, nor praied. In which cases they are never wont to varie, from the single form prescribed unto them by the partie interested; but rather hee that shall well examine it, shall see amongst the Doctors a wonderful concord in this one point most true, that after the declination of the Constantropolitane Empire, the Adriatick Sea was found to bee for many years abandoned

abandoned, (as also many Islands and Cities of that State) in such manner, as it remained unguarded and without the protection and government of any Prince, and under the jurisdiction of no bodie, until by the *Venetians*, who, to receiv their livelyhood thereby, were constrained to maintain it in freedom; and thereupon taking it into their protection, got thereby the government and dominion over it, in like manner as by the law of Nature and of Nations, the Land, the Sea, and other things, which are not under the Dominion of any other, com justly unto those who first get the possession of them; by which reason the first Empires were founded, as well upon the Land as at Sea, and daily there are new ones in the same manner formed, when any of them, either through age or vice, becoming weak, wanteth force, and sink's of it self. The which costodie and government of the Sea, so acquired, the Republick hath daily advanced, by the keeping of potent Fleets and greater Armadoes every day then other, with the expence of a great deal of Treasure, and the profusion of a world of bloud, both of their

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Citizens and Subjects, continuing without interruption, in sight of all the world, the said begun Dominion and custodie, overcoming and removing all such impediments, as either by Pirates or Potentates, as well of *Italie* as of the opposite shore, at divers times have been raised. And for the clearing of such doubts, as might arise by the subtil construction of words, hee added; that although those who took upon them to speak in the strict terms of the Law, were wont to say, that such things onely were gained by Custom, which by the Civil Law, beeing to bee common, were notwithstanding converted to a private benefit, yet without any impeachment of the publick profit, as to fish in a River without impeachment of Navigation; yet for all that, the Title of Custom cannot bee improperly given, where there shall bee gained and continually kept in possession and Dominion, a quantitie either of Sea or Land abandoned, and of no man possessed, as *Bartholus*, *Baldus*, *Castro*, and others do affirm. And although that by title of *Prescription* a thing cannot possible bee said to bee possessed, unless, by the occupation of it, another

bee

bee thereof spoiled and dispossessed, which title come's not in this place, forasmuch as the Republick hath not spoiled any of the possession of the Sea, but hath seized upon it, finding it abandoned & without Patron or Possessor : notwithstanding in som sort, it may bee called *Prescription*, as if a Falcon were let flie and cast off by its master, and thereupon growing wilde, should after bee taken up by another, and by him mann'd, and for a long time fed; although not properly, yet not absurdly it may bee said, that this second master hath it by *Prescription*. Likewise, to speak in terms of Law, the proprietie of speech doth not admit the use of this word *Servitude*, unless to the proper Territorie of a State, there bee gotten som power over another State, and yet that State remain's Patron of its own notwithstanding; in this sens the Republick hath not brought the Sea in servitude to the Citie of *Venice*, becaus it hath not gotten any special use or command over it, the Dominion for all that remaining to another Patron, but hath assumed the total and intire Dominion thereof, which was before abandoned, neither

by any governed or protected: nevertheless it may in a certain proportion bee called *Servitude*, inasmuch as the Republick hath been constrained to assume the total Dominion and Government thereof, for the service of the Citie of *Venice*, whereof it had necessarie use.

Now as touching the *Privilege* of keeping this Sea, and who was the Donor, this neither can here have any place, forasmuch as at the time of the assumption of it, there was not any who could make any grant thereof, the Emperor of the *VVest* never having any Power or *Autoritie* over it; and as little superioritie or jurisdiction had any other western Prince; and therefore could so much the less give it to another. The Emperor of the *East*, not having force sufficient to keep it, had long since abandoned it, and beeing thereupon divested of all the Power hee had over it, and of the Possession thereof, never made any grant thereof in the successive Peace and Treaties which happened afterwards betwixt the said Empire and the Republick. Notwithstanding all which the *Italian* Lawyers, as Professors of the *Cesarean* Law, & sworn to
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the very words of it, beeing besides most devoted to his Imperial Majestie, as if at this present day *Augustus* or *Antoninus* did reign, do force themselvs with all extortion, to verifie upon the western Emperor that saying, *Imperator est Dominus Mundi*, The Emperor is Lord of the world. VVhich at that very time when it was first pronounced, was not true in the hundred part of the world, and at this present not in any considerable proportion. And whilest they would honor the Emperor, and give him, with such words as these, that which hee neither hath nor can have, they consider not the absurditie of the speech, as if they should say, that no King possessed any estate lawfully, unless it were granted him by the Emperor, which is as true, as when they affirm that the *Venetians* possess the *Adriatick* Sea, by an Imperial privilege. But it appear's clear enough, in what sens this is spoken by them, becauf there is none of them do intend thereby, that there was ever any such Grant made thereof by the Emperor; but by that they do figuratively intend a privilege assumed by immemorable possession, which possession they interpret to

bee with the knowledg and sufferance of the Emperor, which is as much as if they should say, that Christian Kings possess their Kingdom, and the Republick possesseth the *Adriatick Sea*, as lawfully by their title of acquiring it, as if those Kingdoms and that Sea had belonged to the Emperor, and from and by him to those Princes, and to the Republick afterwards granted. So spaciouly did *Chizzola* dilate in speaking of the opinion of the Lawyers, it beeing the field of his profession: hee concluded, that any one might rest satisfied, as well in truth, as in reason, that by the Autoritie of the said Doctors, there were sure foundations laid to the caus, which hee did defend.

After the testimonie of the Lawyers, hee added that of the *Historians*, who do relate, that the Republick, for more then 300 years past, did receiv Custom, of such as sailed that Sea, and kept armed vessels in a readines, for to compel all such Ships so sailing, to go to *Venice*, testifying moreover, that even unto their present time the same Custom was observed. But upon their attestations hee dwelled not much, saying, that

that though they were good Testimonies of preceding occurrences; yet when one goeth about to prove the interests of Princes, or of private persons, hee ought to help himself by authentick writings, and to use the Historians with great discretion; som of them beeing moved by love, others with hatred, and others with hope of preferment; which constrain's them oftentimes to use flatterie, or Hyperboles, upon which cannot be laid any sure foundation.

Wherefore hee produced an act of the general Council of Lions, *anno 1274*, where the Abbot of *Nervesa*, beeing delegated by the Pope (upon a pretension of those of *Ancona* to have free Navigation upon the Adriatick Sea) sentenced, that the demand should bee rejected, and that the *Venetians* should not bee molested in the defens and protection thereof, from the *Sarazens* and Pirates, neither should bee disturbed from exacting thereupon their Rights and Customs, which they had of victuals, merchandise and other portable Commodities.

Chizzola likewise added, that it is clean out of memorie, when first of all there was created

created in *Venice*, a *Captain of the Gulf*, because in the year 1230, the Chancerie was burned, with the memorials of all such elections; but from that time to this present, hee could shew out of the publick Registers, the continual succession of the said elected Captains without any interruption. Likewise hee added moreover, that there remain the Registers from that time to this, of the Licenses granted to pass the said Sea, with armed vessels or ships of war, and to the persons and goods belonging to their use, at the request of divers Princes, who had their Possessions upon the shore of the *Adriatick* Sea, and that as well by fundrie Popes, Legates, Vicars, Governors, and Commonaltie of the Land of *Romania* and *Marca*, as by the Kings of *Naples* for *Puglia*, of which many were granted, som denied and others yielded to, but in part; But it beeing superfluous to allege the Acts of those, the Successors of whom do not so much as question this Title, hee descended to particularize onely the Predecessors of his Majestie, as Kings of *Hungarie*, and Arch-Dukes of *Austria*. Hee recited a Brief of Pope *Urbane* the sixt, directed to *Antonio Veniero* the Duke
of

of *Venice*, bearing date *Luca* 14 Junii 1388. where hee give's him thanks, that with his Gallies deputed for the keeping of the Gulf, *Marie* Queen of *Hungarie* had been enlarged, who had been kept prisoner in *Castel-novo*; with two other congratatorie Letters, the one to the said Queen, the other to King *Sigismund*, who after was Emperor, beeing her Husband, rejoicing with them likewise of the said enlargement made by means of the Captain of the *Venetian* Gallies, deputed to the custodie of the *Gulf*. Afterwards hee caused to bee read a safe Conduct granted at the Petition of *Rodulph* Earl of *Sala*, in the name of *Ladislaus* King of *Naples*, and of *William* Arch-Duke of *Austria* anno 1399. 12 *Decembris*, that the sister of the said King (espoused to the aforementioned Arch-Duke) might bee conducted by Sea from *Puglia*, to the Coasts of her Husband, with Gallies and other Vessels, in all to the number of about twelv; with condition that there should not bee suffered to pass upon them any *Bandito* or banished person of *Venice*, who had don any thing against the Republick, which did merit death: which safe-conduct should bee available to the *Austrians*, as well in going as in
F f f f coming,

coming, so as by the same, they might also re-imbark at *Trieste* and return unto *Puglia*. But yet this safe Conduct was not made use of, becaus the King having deferred the departure of his sister for a small time, in the *interim* shee died.

Also hee produced two letters of the Emperor *Frederick*, unto Duke *Giovanni Mocenigo*, the first dated in *Gratz* 24 Sept. 1478. the other 2 Apr. 1479. from the same place, where hee tell's him that hee having taken order that there should bee brought from *Puglia* and *Abruzzo*, to his castles of *Castro* and of *Istria*, a certain quantitie of corn, hee request's that it may bee permitted him to do it freely, which beeing to him a great pleasure, hee shall acknowledg it with many thanks.

This hee seconded with a letter of *Beatrice* Queen of *Hungarie*, to *Giovanni Mocenigo* Duke of *Venice*, dated the last of Jan. 1481. whereby desiring for her proper use to have divers things from the parts of *Italie*, which shee could not bring from thence by Sea, without the permission of the Republick, shee desired that, for curtesie sake and friendship, it might bee granted her, which shee should take for a great favor,
and

and correspond upon the like occasion.

And another of *Matthias* King of *Hungarie* to the said Duke dated 26 *Febr.* 1482. where relating how the Republick was accustomed to give Licence every year to Count *Frangipani* Patron of *Segna* and other Maritim places, to bring from *Puglia* and *Marca* a certain quantitie of victuals, and that after the said places, were passed over into his hands, hee had omitted to desire it; wherefore hee now praied, that the same grace might bee shewed unto him, and that concerning this, hee would write his letters and give them to a person which hee had sent expressly to receiv them; which hee should acknowledg as a favor and correspond accordingly.

And another of the same King to *Augustino Barbarigo* the Duke, dated 18 *Oct.* 1487. in the which relating, that hee having need of wood for the reparation of a fortress standing in the mouth of *Narenta*, hee praied, that hee might have leav to carrie it unto *Segna* by Sea, and that there might bee Letters Patents made thereof, offering to gratifie him in a greater matter.

Hee added to this a Letter of *Anne* Queen

of *Hungarie* 30. Aug. 1502. in the which recounting the sterilitie of the Countie of *Segna*, shee desire's leav to bring certain victuals from *Puglia* and *Marca*, and that hee would give to the bearer, who was sent on purpose, Letters of Licens for the same, promising to acknowledg it as a great favor and courtesie.

Lastly, hee produced a Letter dated 3 Sept. 1504. of *Giovanni de Dura* Captain of *Pisino*, servant to the Emperour *Maximilian*, which hee writ unto the Duke *Leonardo Loredano*, importing, that *Giacomo Croato*, a subject of his Majesties, parting from *Fianona*, entered into the Sea, which is under the Dominion of the Republick, for to go to *Segna*, and was there assailed by an armed Bark of Pirates in contempt of the Signorie or Republick, and supplicate's that some order might bee taken therein.

Upon all which particulars, hee weighed most that which ought best to bee considered, having respect to the times, persons, and qualities of the severall Princes, and for greater confirmation of their assent, hee remembred the yearly Cerimonie used at *Venice*; where the Duke, in presence

fence of the Ambassadors of other Princes, particularly of his Majesties, did use to espous the Sea, by the casting of a Ring into it, with these words: *Desponsamus Te Mare in signum veri & perpetui Domini*: Wee do marrie the Sea, in sign of our true and perpetual Dominion over it. VVhich Cerimonie as the foresaid writers do affirm, had beginning when Pope *Alexander* the Third was in *Venice*, notwithstanding they add withal, that it was instituted in sign of the Dominion which the Republick had formerly gotten, *jure belli*.

To the 400 complaints of the Emperors Subjects, and to the sentence of *Liesna*, hee answered, giving thanks for the remembering of them, as a thing brought in much to his favor, becaus the complaints do presuppose the prohibition, and the sentences, either condemning or absolving, do prove the jurisdiction.

And to the salt-barks, hee said, that they were not suffered to go to *Venice*, as never any are suffered to go, all forrein salt beeing prohibited to enter into that Citie; and if it were not cast into the Sea, it was a courtesie, which ought

not to bee imputed to them to their prejudice.

Hee concluded, that hee had delivered the true sense of the Capitulations, and proved the immemorable possession of the *Adriatick* Sea; that hee could have said much more, but it seemed to him superfluous, and these two points were made most clear; *First*, That this pretence of the *Austrians* was but new; *And secondly*, That their Petition at this Convention, could have no place.

The Imperialists after they had conferred together, took a resolution not to persevere in the demand of Justice, and the Baron with *Suorç* said openly, that the *Republick* was Patron of the *Gulf*, and might impose what Customs they thought fitting; and that they thought so in their consciences: but therewithal they were of an opinion, that for honestie sake, and for the friendship which the Republick had with the house of *Austria*, it should bee don with the least incommoditie of the subjects to that house, as could bee possible. The other three said, that it was now no time, either to approve or to disapprove the Dominion of the Sea, but rather

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to finde by way of courtesie som kinde of temperature, whereby the Republick might receiv the Rights belonging thereunto from the *Austrian* subjects sailing those Seas, and on the other side, that such conditions annexed formerly thereunto, might bee taken away, which were incommodious to the *Austrians*, and no waies profitable to the *Venetians*. Whereupon divers waies to effect it were examined, and a conclusion taken to refer all to their severall Princes, as it was necessarie to refer all things elf; the Commission beeing to bee onely perfected by their ratification, and so this Convention ended.

FINIS.

Jo: Hopkinson



