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AT THE TIME WHEN MR. ALGERNON SYDNEY WAS AMBASSADOR AT THE COVRT OF DENMARK MONSIEVR TERLON THE FRENCH AMBASSADOR HAD THE CONFIDENCE TO TEAR OVT OF THE BOOK OF MOTTOES IN THE KING'S LIBRARY THIS VERSE WHICH MR. SYDNEY ACCORDING TO THE LIBERTY ALLOWED TO ALL NOBLE STRANGERS HAD WRITTEN IN IT

MANVS HAEC INIMICA TYRANNIS
ENSE PETIT PLACIDAM SVB LIBERTATE QVIE TEM

THOUGH MONSIEVR TERLON VNDERSTOOD NOT A WORD OF LATIN HE WAS TOLD BY OTHERS THE MEANING OF THAT SENTENCE WHICH HE CONSIDERED AS A LIBEL VPON THE FRENCH GOVERNMENT AND VPON SVCH AS WAS THEN SETTING VP IN DENMARK BY FRENCH ASSISTANCE OR EXAMPLE. *LORD MOLESWORTH'S PREFACE TO HIS ACCOVT OF DENMARK.*

THE WORKS OF ALGERNON SYDNEY

A NEW EDITION

LONDON, PRINTED BY W. STRAHAN IUN.
FOR T. BECKET AND CO. AND T. CADELL,
IN THE STRAND; T. DAVIES, IN RUSSEL
STREET; AND T. EVANS, IN KING STREET

MDCCLXXII



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83.8

“OR TO THE UNIUST TRIBUNALS UNDER CHANGE OF TIMES”

5753

ADAMS 83.8

A D V E R T I S E M E N T

This edition of A. Sydney's works was in the prefs, when I was persuaded by a gentleman, who has a veneration for the author, to revise the impression. I engaged in this undertaking with a design only to collate the first and second editions, to rectify the punctuation, which was extremely faulty, and to correct any typographical error, which might occur upon a superficial inspection. I had no intention, and indeed very little time, to examine the accuracy of the author, with respect to historical facts. But I soon found, that the Discourses on Government required a very attentive revifal; that in every edition of that work there were several mistakes in the names of persons and places: as, Balthei and Amalthei, for Balthi and Amali, Almoránides, for Almoravides, Chilperic the third for Childeric the third, Brescia for Bédriacum, Theorestes and Cleorestes for Eteocles, Cleanthes for Diogenes, Naenius for Metellus, David for Solomon, Alfred for Ethelwolf, Caen for Rouen, Alphonso the Chaste for Alphonso the Catholic, and the like*; that almost all the references in the margin were either false or defective; and that the author had sometimes fallen into mistakes of greater consequence, by taking his quotations at second hand. Thus, ch. ii. § 5, he says, "Egbert and Ethelward came to the crown by the same authority, omnium consensu rex creatur." And again, ch. iii. § 10, "Ethelwerd was chosen in the same manner by the consent of all." Here it was no easy matter to determine, which of the Saxon kings the author had in view. At first I imagined, that Ethelwerd was an erratum instead of Ethelbert, or Ethelred. But then it did not appear, that the words, "omnium consensu rex creatur," had ever been applied to either of those princes. After a tedious investigation through all our ancient historians, I found this expression used by Polydore Vergil in speaking of Egbert; and was fully satisfied, that the passages above-mentioned were erroneous. Upon this presumption I omitted the name of Ethelward in the former; and in the latter intimated my suspicions, by including the clause relative to Ethelwerd in crotchets. Having since looked into Sadler's treatise on the Rights of the Kingdom, or customs of our ancestors, touching the duty, power, election, or succession of our kings, I found the following paragraph: "Egbert by all is a fixed settled monarch, but without or against right of succession: ordinatur in regem; so Ethelwerd, omnium consensu rex creatur, in Polydore; ad regnum electus, moxque imperare jussus, patriae desideriiis satisfecit, as we read in the monk of Malmesbury †."

Here

* See p. 93. 95. 187. 199. 204. 218. 270. 283. 324. 325. 369.

† Rights of the Kingdom, etc. p. 62.

ADVERTISEMENT

Here the perplexity was unravelled. All these passages relate to Egbert, as the reader will find at page 321; but an unlucky semicolon after "regem," which should have been placed after "Ethelwerd," led our author, who has taken these quotations from Sadler, to mistake an old historian for a Saxon king.

These errors are such as might naturally be expected in a work which never received the author's final corrections, and was not published till after his death.

With regard to the notes on the Discourses and the General View, which are added in this edition, it is apprehended, that original authorities will be more satisfactory to every learned and inquisitive reader, than the obscure allusions, or the bare assertions of the author. If I have committed any mistakes, or made any improper references, let it be considered, that this edition was in the press, to be finished with all possible expedition, when I undertook to revise it; that it was sometimes extremely difficult to discover the source of those passages which were cited in the margin; that many of them were ascribed to authors in which they NEVER EXISTED; and that an error, when once admitted, was irreparable. I will therefore honestly acknowledge in the words of an old Grecian,

*Πηξας δ' εν επρηξα, και εν ετελεσσα τελεσσας.
Δρησας δ' εν εδρησ', ηνυσα δ' εν ανυσας. Theog. v. 947*

Norfolk Street, Oct. 21, 1771

J. Robertson.

PREFACE TO THE FIRST EDITION OF THE
DISCOURSES CONCERNING GOVERNMENT
PRINTED IN MDCLXXXVIII*

How highly the writings of wise and good men concerning government have been esteemed in all ages, the testimony of history, and the preservation of so many books composed by the antients on that subject, do sufficiently manifest. And it may be truly said, that unless men have utterly abandoned themselves to all that is detestable, they have seldom attempted to detract from the worth of the assertors of liberty, though ambition and other passions, have influenced them to act in opposition to it. When Augustus had surpris'd a young Roman, who was related to him, reading a political discourse of Cicero, he commended his judgment in that choice. The history of France, written by the president de Thou, with a spirit of freedom that might have been worthy of those who had lived before the violation of their liberty, has been so generally valued by men of all ranks in that nation, that it is hard to find a book on any important subject, which has had so many editions. And the just esteem, that the emperor Charles the fifth made of the Memoirs of Philip de Comines, though that author has given so many instances of his detestation of tyranny, may be enough to put this matter out of dispute. But if all other proof were wanting, the implacable hatred and unwearied industry of the worst of men to suppress such writings would abundantly testify their excellency.

That nations should be well informed of their rights is of the most absolute necessity; because the happiness or infelicity of any people entirely depends upon the enjoyment or deprivation of liberty; which is so invincibly proved in the following discourses, that to endeavour to make it more clear, would be an unpardonable presumption.

If any man think the publication of this work to be unseasonable at this time, he is desired to consider, that as men expect good laws only from good government, so the reign of a prince, whose title is founded upon the principle of liberty which is here defended, cannot but be the most proper, if not the only time to inform the people of their just rights; that from a due sense of their inestimable value, they may be encouraged to assert them against the attempts of ill men in time to come.

It

* By *John Toland*. Beside the Discourses concerning Government, he collected and first published Milton's prose-works, and Harrington's works, "some of them from the original manuscripts."

PREFACE TO THE FIRST EDITION

It is not necessary to say any thing concerning the person of the author. He was so well known in the world, so universally esteemed by those who knew how to set a just value upon true merit, and will appear so admirable in the following discourses, as not to stand in need of a flattering panegyric. But it may not be amiss to say something of the discourses now published.

The paper delivered to the sheriffs immediately before his death informs us, that he had left a large and a lesser treatise, written against the principles contained in Filmer's book; and that a small part of the lesser treatise had been produced for evidence against him at his trial. It is there also said, that the lesser treatise neither was, nor probably ever should have been finished. This therefore is the large work mentioned in that paper, and not the lesser, upon part of which the wicked sentence pronounced and executed against him was grounded.

It remains only to add a few words for satisfaction of the public, that these discourses are genuine. And here I shall not need to say, that they were put into the hands of a person of eminent quality and integrity by the author himself; and that the original is, in the judgment of those who knew him best, all written by his own hand: his inimitable manner of treating this noble subject is instead of a thousand demonstrations, that the work can belong to no other than the great man whose name it bears.

MEMOIRS OF THE LIFE OF A. SYDNEY

MEMOIRS OF THE LIFE OF A. SYDNEY

Though there is nothing more useful and entertaining than the lives of great and excellent men, yet it often happens, that through the neglect of their friends and contemporaries, proper materials are wanting: and thus it is in the present case. One cannot but wonder, that the life of our author, who was a man of such excellent abilities, such a lover of liberty, and who died for the glorious cause, was never attempted by any of his intimate friends, and such as were acquainted with the most remarkable passages concerning him. To retrieve this error as much as we can, we shall lay together in one view, what can now be gathered from various authors, who occasionally mention the name and actions of colonel Sydney: and it is to be hoped, that this short account, though very imperfect, may do some justice to the memory of that noble person, and give some instruction to the reader.

Algernon Sydney descended from a very antient and honourable family*, and was second son of Robert earl of Leicester, by Dorothy, eldest daughter of Henry Piercy earl of Northumberland; to whom his lordship was married in the year 1618. The exact year when our author was born is not certain, but it was probably about the year 1622. His noble father was careful to give him a good education; and in 1632, when he went ambassador to Denmark, took his son with him; as he also did, when he was ambassador to the king of France in 1636: and the countess, his mother, in a letter † to the earl then at Paris, acquaints his lordship, that she hears her son much commended by all that came from thence; and that one, who spake well of very few, said, "he had a huge deal of wit, and much sweetness of nature ‡." Upon the breaking out of the rebellion in Ireland, the latter end of the year 1641, he had a commission for a troop of horse in the regiment of his father, who was then lord-lieutenant of that kingdom; and he went over thither with his eldest brother Philip lord viscount Lisle, distinguishing himself upon all occasions with great gallantry against the rebels. In the year 1643, he had the king's permission to return to England; for which purpose the earl his father gave him likewise a licence, dated at Oxford June 22, that year; but landing in Lancashire in August following, he was, by order of Parliament, brought up in custody to London, where he was prevailed on to take a command under them: and on the 10th of May 1644, the earl of Manchester, major-general of several counties, constituted him captain of a troop of horse in his own regiment. His brother the lord
viscount

* Collins's Peerage of England; and Memoirs of the lives and actions of the Sydneys.

† Collins's Letters and memorials of state, vol. ii. p. 445.

‡ This sweetness of nature (with a huge deal of wit) appears remarkably in the portrait of him, which was painted at Brussels in the year 1663, yet at Penhurst; and made, whatever some have thought, an essential part of his noble disposition.

viscount Lisle, being soon after appointed lieutenant-general of Ireland, and general of the forces there, gave him the command of a regiment of horse to serve in the expedition thither: and it appears by the MS. journal * of the earl his father, that he was likewise lieutenant-general of the horse in Ireland, and governor of Dublin; and that before he went into that kingdom, he had the government of Chichester, and was in the battle at York, and several other engagements †. In the same journal the earl writes as follows; “ On the 8th of April 1647, early in the morning, the house of commons being then thin, and few of my son’s friends present, it was moved by Mr. Glyn the recorder, that colonel Jones should be made governor of Dublin in chief, and not deputy-governor to Algernon Sydney; pretending that Jones would not go, unless he might be governor, which was not true, Jones having accepted of the place of deputy-governor from the committee at Derby-house, who had also appointed the Lord Lisle to commission his brother Algernon to be governor of Dublin, which he had done before he went into Munster. This motion of the recorder was seconded by old Sir Henry Vane, who pretended that his conscience moved him to be of opinion, that since the house had thought proper to recal the lord Lisle, it was not fit to let his brother, Algernon Sydney, remain governor of so important a place as Dublin. Sir William Armysyn and others, opposed this motion, alledging, that if they had used one brother ill, they ought not to do injustice to the other, who had so well deserved of them. But it was carried against him, and the government was conferred on Jones. After which resolution, it was moved, that some recompence might be given to Algernon Sydney, according to his merit; to which the house assented without opposition.” And on the 7th of May, colonel Sydney had the thanks of the House for his good services in Ireland ‡; and was afterwards made governor of Dover. In January 1648, he was nominated one of king Charles’s judges §, though he did not sit among them. What his reasons were for declining this, we know not. ’Tis manifest that he was, both by inclination and principle, a zealous republican; and, on that account, a violent enemy to Oliver Cromwell §, when he assumed to himself the government, to which, as well as to that of Richard, his successor, he was absolutely irreconcilable. But, upon the resignation of Richard, the long parliament being restored in May 1659, and having passed a declaration, “ to secure the liberty and property of the people, both as men and chris-

“ tians,

* Collins’s Memoirs, p. 150.

† Colonel Sydney also, son to the Earl of Leicester, charged with much gallantry at the head of my Lord of Manchester’s regiment of horse, and came off with much honour; though with many wounds, the true badges of his honour; and was sent away afterward to London for cure of his wounds.

The Parliamentary Chronicle, part 3. p. 273.

‡ Whitelocke’s Memorials, p. 246. Edit. 1732.

§ Our authority for this article is taken from Echard’s history of England, p. 675 and 697.

§ Whitelocke, p. 678.

“ tians, and that without a single person, kingship, or house of lords, and to uphold the magistracy and the ministry,” he adhered to them; and was appointed one of the council of state, with the lord Fairfax, Bradshaw, Sir Henry Vane, general Ludlow, Sir Arthur Haselrig, Fleetwood, Lambert, col. Henry Marten*, Mr. Thomas Challoner, Mr. Thomas Scot, Mr. Henry Neville †, Mr. Wallop, and others. On the 5th

* Within two days after this discourse from Mr. *Fiennes*, Mr. *Hyde* walking between the parliament house and *Westminster*, in the church-yard met with *Harry Marten*, with whom he lived very familiarly; and speaking together about the proceedings of the house; *Marten* told him, that he would undo himself by his *adhering* to the court; to which he replied, that he had no *relation* to the court, and was only concerned to maintain the government and preserve the law: and then told him, he could not conceive what he proposed to himself, for he did not think him to be of the opinion or nature with those men who governed the house; and asked him what he thought of such and such men; and he very frankly answered, he thought them knaves, and that when they had done as much as they intended to do, they should be used as they had used others. The other pressed him to say what he desired; to which, after a little pause, he very roundly answered, *I do not think one man wise enough to govern us all*: which was the first word he had ever heard any man speak to that purpose; and would, without doubt, if it had then been communicated or attempted, been the most abhorred by the whole nation of any design that could be mentioned: and yet it appears it had even so early [1640 or 1641] entered into the hearts of some desperate persons; that gentleman being at that time possessed of a very great fortune, and having great credit in his county.

The life of Edward Earl of Clarendon, part i. p. 81. octavo edit.

The colonel was author of divers curious tracts; and was also a principal promoter of the publishing of “The first Century of scandalous malignant priests,” “The King’s Cabinet opened,” and other state tracts. See his character in A. Wood’s *Athenae Oxonienses*, and in Bishop Kennet’s historical register; but drawn in bitterness of wrath and anger.

† *Henry Neville*, second son of Sir *Hen. Neville* of *Billingbeare* in *Berks*, was educated at *Oxford*. In the beginning of the civil war, he travelled into *Italy* and other countries, whereby he advanced himself much in the knowledge of modern languages and men; and returning in 1645 or thereabouts, became Recruiter in the *Long Parliament* for *Abingdon* in *Berkshire*, at which time he was very intimate with *Harry Marten*, *Tho. Chaloner*, *Tho. Scot*, *James Harrington*, and other zealous commonwealths men. In Nov. 1651, he was elected one of the *Council of State*, being then a favourite of *Oliver*; but when he saw that person gaped after the government by a single person, he left him, was out of his favour, and acted little during his government. In 1658 he was elected Burgefs for *Reading* to serve in *Richard’s* Parliament; and when that person was deposed, and the *Long Parliament* shortly after restored, he was again elected one of the *Council of State*.—He was a great *Rota-man*, was one of the chief persons of *James Harrington’s* club of commonwealths men, to instil their principles into others, he being esteemed to be a man of good parts, and a well-bred gentleman. “*The Commonwealth of Oceana*,” at its first appearance, was greedily bought up, and coming into the hands of *Tho. Hobbes* of *Malmesbury*, he would often say, that *Harry Neville* had a finger in that pye, and those that knew them both were of the same opinion. By that book, and both their smart discourses and inculcations daily in *Coffee-houses*, they obtained many proselytes. In 1659, in the beginning of Mich. term, they had every night a meeting at the then *Turk’s Head*, in *New palace yard*, *Westminster*, called *Miles’s* *Coffee-house*, to which place their Disciples and *Virtuosi* would commonly repair: and their discourses about government and ordering of a Commonwealth, were the most ingenious and smart that ever were heard, the arguments in the *Parliament House* being but flat to those. They had a balloting box, and balloted how things should be carried, by way of *Tentamens*; which not being used or known in *England* before, on that account, the room every evening was very full. Besides the author and *Harry Neville*, who were the prime men of this club, were *Cyriac Skinner*, a Merchant’s son of *London*, an ingenious

MEMOIRS OF THE LIFE OF A. SYDNEY

5th of June he was likewise nominated, with Sir Robert Honeywood and Bulstrode Whitelocke Esq; to go commissioners to the Sound, in order to mediate a peace between the kings of Sweden and Denmark*. But Mr. Whitelocke was not willing to undertake this service, especially being joined with those, who, he knew, would expect precedency of him who had been formerly ambassador extraordinary to Sweden alone; and therefore

fore

ingenious young gentleman, and scholar to *John Milton*, which *Skinner* sometimes held the chair; Major *John Wildman*, *Charles Wolfely* of *Staffordshire*, *Roger Coke*, *William Poultney*, (afterwards a knight) who sometimes held the chair; *John Hoskyns*, *John Aubrey*, *Maximilian Pettie* of *Tetworth* in *Oxfordshire*, a very able man in these matters, and who had more than once turned the Council-board of *O. Cromwell*; *Michael Mallet*, *Philip Carteret* of the *Ile of Guernsey*, *Francis Cradock*, a Merchant, *Henry Ford*, Major *Venner*, *Thomas Marriet* of *Warwickshire*, *Henry Croone*, Physician, *Edward Bagshaw*, of *Christ Church*, and *Robert Wood* of *Lincoln College Oxford*; *James Aderne*, then or soon after a divine; with many others; besides auditors and antagonists of note. *Dr. William Petty* was a Rota-man: The doctrine was very taking, and the more, as there was no probability of the King's return. The greatest of the Parliament men hated this design of rotation and balloting, as being against their power. Eight or ten were for it, of which number *Harry Neville* was one, who proposed it to the house, and made it out to the members thereof, that except they embraced that way of government they would be ruined. The model of it was, that the third part of the Senate or House should rote out by ballot every year, so that every third year the said Senate would be wholly altered. No magistrate was to continue above three years, and all to be chosen by ballot: than which choice nothing could be invented more fair and impartial, as was then thought, though opposed by many for several reasons. This club of Commonwealths men lasted till about *Feb. 21, 1659*; at which time the secluded members being restored by *General Monke*, all their models vanished.—After the Restoration he absconded for a time; but being seized, he was among others imprisoned; though soon after set at liberty.

Among various publications, there is a curious book of his, in octavo, intitled, "*Plato Redivivus*, or a Dialogue concerning government, wherein, by observations drawn from other kingdoms and states, both antient and modern, an endeavour is used to discover the present politic distemper of our own, with the remedies." It came out first in the month of *October 1680*, against the resitting of the Parliament, was very much bought up by the members thereof, and admired. Soon after, in the year *1681*, it was republished with additions. In that book he says, "As for our History, it will not be forgotten. One of those, who was in employment from the year 40 to 60, hath written the history of those twenty years, a person of good learning and elocution; and though he be now dead, yet his executors are very unwilling to publish it so soon, and to rub a sore that is not yet healed. But the story is written with great truth and impartiality, though the author was engaged both in councils and arms for the Parliament."—Reader, shouldst thou be possessed of such a history, bestow it upon the Public.

* The Committee of Safety having dispatched a messenger to our fleet in the Sound before the election of the Council of State, to acquaint them with the restitution of the Parliament, the officers of the several ships assembled; and sent an acknowledgement of their authority, with all possible demonstrations of satisfaction. Notwithstanding which, being highly sensible of how great importance the sea-affairs are to this nation, we ordered six frigates to be equipped with all diligence, and gave the command of them to *Lawson*, making him at the same time vice-admiral of the fleet. And this we did, as well to prevent an invasion from *Flanders*, with which the Cavalier party threatened us, as to balance the power of *Montague's* party, who we knew was no friend to the commonwealth: We treated also with *myn heer Nieuport*, ambassador from the States of *Holland*, that a good correspondence might be maintained between the two Commonwealths, and that an accord might be made between the two kings of *Denmark* and *Sweden*, who were then enemies, by the interposition of the two States; who agreeing upon equitable terms, might be able to impose them on the refuser. And this we were in hopes to accomplish the rather, because neither

fore he endeavoured to excuse himself by reason of his old-age and infirmities : and accordingly Mr. Thomas Boone was appointed in his room. The three plenipotentiaries set out for the Sound in July following, and arrived at Elſineur on the 21st of that month ; where they were attended by admiral Montagu, afterwards earl of Sandwich, who, in prospect of a revolution in favour of Charles II. to whom he was secretly engaged, resolved to return to England the month following with the whole fleet. Colonel Sydney, who was averſe to that resolution, wrote to the Council of State from Copenhagen, to complain of the admiral's conduct in that point. His letters to his father, printed from the Sydney papers, and those written by him in conjunction with the other plenipotentiaries, published among secretary Thurloe's state papers, give us a distinct account of his negociations.

As things soon after were evidently tending to the restoration of Charles II. colonel Sydney wrote thus in the postscript of one of those letters to his father, " I doe not say any thing of my owne intentions, " in relation unto the changes that are fallen out already, or the others " that are dayly expected. The truth is, I knowe them not ; the busi- " nesse is too difficult to iudge of at this distance ; especially, not knowing " what will be in my power or choice. If I doe not receave newe orders, " I shall returne speedily home, and shall then followe that way which " your lordship shall command and my best friends advise, as farre as I " can, without breaking the rules of honour or conscience ; which I am " sure will neuer be expected from me by your lordship, nor thoes whoes " opinions I consider. While I am here, I serve England, and will, " with as much care and diligence as I can, endeavour to advance its in- " terests, and followe the orders of thoes that governe it. I referue the " determination of other points to councells upon the place."

In another letter, dated at Stockholm, June 16, 1660, he writes, ' I ' am now at the utmost point of my iourney northward, and have ' nothing more in my thoughts, then to returne into England with as ' much expedition as I can, according to the liberty granted unto my ' colleague and me by the councill of state. We could not think it at all ' reasonable, to leave the work in which wee were employed, when wee ' sawe a certainty of accomplishing it within a short time, unlesse wee ' had receaved a positive command : now the peace is concluded, I think ' we

the Dutch nor we pretended to any more than a freedom of passing and repassing the Sound, which could not well be if the command of it were in the hands of either of those princes. The Dutch ambassador seemed very desirous to finish the treaty, but by several demands which he made in the behalf of their merchants, delayed it so long, that our agent in Holland had already concluded an agreement with the States, whereby the two commonwealths became engaged *to compel that king that should refuse to accept of the conditions which they thought just and reasonable.* In order to put this resolution in execution, the States of Holland appointed their plenipotentiaries, and we on our part did the same, sending thither colonel Algernon Sydney, Sir Robert Honynwood, and one Mr. Boone, a merchant, to that end.

‘ we may very well iustify making use of that conceffion. I am heare
 ‘ alone: my colleague intended to make the fame iourney, but the gout
 ‘ confined him unto his bed. I looke upon all the powers granted unto
 ‘ us, as extinguished by the comming in of the king, and doe not take
 ‘ upon me to act any thing as a publique minister, except it be giuing
 ‘ notice unto the crownes of Sweden and Denmark, of the restitution of
 ‘ the auncient gouernment in England, and the proclaiming of the king.
 ‘ Vpon this occasion I accept of a publique audience, which is heare
 ‘ offered unto me; I should haue auoided it upon all other occasions. I
 ‘ am detained heare fomme dayes longer then I did expect; the queene
 ‘ and fenate hauing bin out of towne when I arriued heare.—I doe not
 ‘ at all knowe in what condition I am theare [in England], nor what
 ‘ effects I shall find of generall Monk his expreffions of kindnesse towards
 ‘ me, and his remembrance of the auncient friendship that was between
 ‘ us; but the lord Fleetwoods letters to the fenate and priuate persons
 ‘ here, mention discourfes that he makes much to my aduantage. I doe
 ‘ receaue neither more nor lesse ciuility heare then is ordinary, unlesse
 ‘ the excuses I receaue for receauing noe more may deserue that name.
 ‘ I am in priuate told, they feare to offend the king by any extraordi-
 ‘ nary expreffions towards me: your lordship may easly imagine how
 ‘ powerfull that confideration will be, when thoes in my condition can
 ‘ pretend to noe ciuilityes upon any other account, but as they are
 ‘ respects unto their superiors and masters.’

In his letter of July 22, 1660, he observes, that he and his colleague,
 had the day before, taken their leave of the king of Denmark; and that
 himself was taking his way by Hamburgh and Holland; but did not yet
 very well know, in what place he should stay, until he heard further
 from England. “I did hope,” says he, to his father, “that upon such
 “ occasions as thoes that haue lately befallen me, your lordship would
 “ haue bin pleased to fend me fomme commands and advifes how to
 “ dispose of myself, more particularly then by such a one as I had sent
 “ ouer with letters.”

His father’s answer to him, dated at London, Aug. 30, the same year,
 was as follows*.

‘ Difuse of writing, hath made it uneasy to me; age makes it hard;
 ‘ and the weaknes of sight and hand makes it almost impossible. This
 ‘ may excuse me to every body, and particularly to you, who have not
 ‘ invited me much unto it; but rather, have given me cause to think,
 ‘ that you were willing to save me the labour of writing, and yourself
 ‘ the trouble of reading my letters. For after you had left me sick, soli-
 ‘ tary, and sad at Penshurst; and you had resolved to undertake the
 ‘ employment, wherein you have lately been, you neither came to give
 ‘ a farewell, nor did so much as fend one to me, but only writ a wrang-
 ‘ ling letter or two about money, etc. And though, both before and
 ‘ after

* Familiar Letters written by John late earl of Rochester, and other persons of honour and
 quality.

‘ after your going out of England, you writ to divers other persons, the
 ‘ first letter that I received from you, was dated, as I remember, the
 ‘ 13th of September; the second in November; wherein you take notice
 ‘ of your mother’s death: and, if there was one more, that was all,
 ‘ until Mr. Sterry came; who made such haste from Penhurst, that
 ‘ coming very late at night, he would not stay to dine the next day, nor
 ‘ to give me time to write. It is true, that since the change of affairs
 ‘ here and of your condition there, your letters have been more frequent.
 ‘ And if I had not thought my silence better, both for you and myself,
 ‘ I would have written more than once or twice to you. But though for
 ‘ some reasons I did forbear, I failed not to desire others to write unto
 ‘ you; and with their own, to convey the best advice, that my little
 ‘ intelligence and weak judgment could afford; particularly, not to
 ‘ expect new authorities or orders from hence; nor to stay in any of
 ‘ the places of your negotiation; not to come into England; much less,
 ‘ to expect a ship to be sent unto you; or to think, that an account was
 ‘ or could be expected of you here, unless it were of matters very different
 ‘ from your transactions there: that it would be best for you, presently
 ‘ to divest yourself of the character of a public minister; to dismiss all
 ‘ your train; and to retire into some safe place, not very near nor very
 ‘ far from England, that you might hear from your friends sometimes.
 ‘ And for this I advised Hamburgh, where I hear you are, by your man
 ‘ Powel, or by them that have received letters from you, with presents
 ‘ of wine and fish, which I do not reproach nor envy. Your last letter
 ‘ to me had no date of time or place; but by another at the same time to
 ‘ Sir John Temple, of the 28th of July, as I remember, sent by Mr.
 ‘ Missenden, I guess that mine was of the same date. By those that I
 ‘ have had, I perceive, that you have been misadvertised; for though I
 ‘ meet with no effects nor marks of displeasure, yet I find no such
 ‘ tokens or fruits of favour, as may give me either power or credit for
 ‘ those undertakings and good offices, which perhaps you expect of me.
 ‘ And now I am again upon the point of retiring to my poor habitation;
 ‘ having for myself no other design, than to pass the small remainder of
 ‘ my days innocently and quietly; and, if it pleases God, to be gathered
 ‘ in peace to my fathers. And concerning you, what to resolve in
 ‘ myself, or what to advise you, truly I know not; for you must give
 ‘ me leave to remember, of how little weight my opinions and counsels
 ‘ have been with you, and how unkindly and unfriendly you have
 ‘ rejected those exhortations and admonitions, which, in much affection
 ‘ and kindness, I have given you upon many occasions, and in almost
 ‘ every thing, from the highest to the lowest, that hath concerned you:
 ‘ and this you may think sufficient to discourage me from putting my
 ‘ advices into the like danger. Yet somewhat I will say: and first, I
 ‘ think it unfit, and perhaps as yet unsafe, for you to come into Eng-
 ‘ land; for I believe Powell hath told you, that he heard, when he was
 ‘ here, that you were likely to be excepted out of the general act of
 ‘ pardon

‘ pardon and oblivion : and though I know not what you have done or
 ‘ said here or there, yet I have several ways heard, that there is as ill an
 ‘ opinion of you, as of any, even of those that condemned the late king.
 ‘ And when I thought there was no other exception to you, than your
 ‘ being of the other party, I spoke to the general in your behalf, who
 ‘ told me, that very ill offices had been done you ; but he would assist
 ‘ you as much as justly he could. And I intended then also to speak
 ‘ to somebody else ; you may guess whom I mean ; but since that, I
 ‘ have heard such things of you, that in the doubtfulness only of their
 ‘ being true, no man will open his mouth for you. I will tell you some
 ‘ passages, and you shall do well to clear yourself of them. It is said,
 ‘ that the university of Copenhagen brought their album unto you,
 ‘ desiring you to write something therein ; and that you did “ scribere
 ‘ in albo ” these words,

“ —Manus haec inimica tyrannis

“ Ense petit placidam sub libertate quietem.”

‘ and put your name to it. This cannot but be publicly known,
 ‘ if it be true. It is also said, that a minister, who hath married a lady
 ‘ Laurence, here at Chelsea, but now dwelling at Copenhagen, being
 ‘ there in company with you, said, “ I think you were none of the late
 ‘ king’s judges, nor guilty of his death,” meaning our king. “ *Guilty!*
 ‘ said you, *do you call that guilt*? why, it was the justest and bravest*
 ‘ *action, that ever was done in England, or any where else,*” with other
 ‘ words to the same effect. It is said also, that you having heard of a
 ‘ design to seize upon you, or to cause you to be taken prisoner, you
 ‘ took notice of it to the king of Denmark himself, and said, “ I hear
 ‘ there

[* *Guilty!* said you, *do you call that guilt?*]

—I confesse, this were a worke, and I hope it will be found fit for the divine pen of that
 second Saint *Peeter* the Lord Bishop of *London*, who followed this martyred King, and
 King of Martyrs to that block whereon his ever blessed head made a sacred crosse, and the
 nearest to that whereon the celestial King dyed, since the day of his glorious sufferings.

Had that great and eminent Chronologer of Saints, *Baronius*, lived in these days, surely
 the life and death, the acts and passions of this ever blessed Saint, had alone furnished
 his eloquent pen with heavenly worke, to have exceeded both in weight and glory, all that
 canonized catalogue of Saints triumphant, which for good use and imitation he hath
 brought to light. For what malice is there yet remaining amongst his accursed enemies,
 to deny, that in life and death, this King ran in the paths, and as neare as mortall man
 could doe, to the example and marke of Jesus Christ, the authour and finisher of his faith
 and sufferings?

How he was betrayed and pursued, is witnessed by and in the yeares 1639, 40, 41, 42,
 43, 44, and 45. How he fled from one sinfull nation to another wicked people, is recorded
 to the living infamy of the ever trayterous *Scots* in the year 46. How he was sold at a
 price by the said accursed *Scots*, to his cruel and causelesse enemies the Jewish *Englisb*, is
 registred in the year 47. How he was tossed between *Herod* the damned *Independent*, and
Pilate the devilish *Presbyterian*; and between them againe delivered up to the tumults of
 the said accursed *Jews* to be crucified, is manifested in the year 48. How he was arraigned,
 condemned, buffeted, spit upon, and crucified by the conspiring skum of his own rebellious
 people, not once opening a mouthful of revenge against them, is yet written against them
 in letters of that sacred blood, which from his blessed neck hasted over his divine head to

advance

“ there is a design to seize upon me ; but who is it that hath that design ?
 “ *Est ce nôtre bandit ?* ” by which you are understood, to mean the king.
 ‘ Besides this, it is reported, that you have been heard to say many
 ‘ scornful and contemptuous things of the king’s person and family,
 ‘ which, unless you can justify yourself, will hardly be forgiven or
 ‘ forgotten ;

advance his everlasting title CHARLES OF BRITAINE KING OF THE JEWS. And this was engraven upon the even adamantine hearts of his bitter adversaries on that most sorrowful day to us, but ever blessed to his majesty, Tuesday Jan. 30, 1648. How they parted his rayment amongst them, and cast lots upon his vesture, is witnessed by that furrier, to whom they sold his Majesties rich fables gowne, because they would not injure their own profit. Thus farre his sufferings went along with his Saviour’s, etc. etc. etc.

The Royal Legacies of CHARLES the first of that name, of Great Britaine, France, and Ireland, KING and MARTYR, to his persecutors and murderers. Being a short paraphrase upon his Majesties most christian and most charitable speech, delivered immediately before his translation. Dedicated to his Majesties loyal and disconsolate subjects. Printed in the year 1649—in quarto.

———But now *the glory is departed from (our) Israel, the arke of God is taken,* and how is *England become a widow ?* made a prey unto cruell people and skilfull to destroy, who dayly force and prostitute her unto their wicked purposes. For these things let *England* (and every true hearted Englishman) say, *I weep, mine eye, mine eye runneth downe with water, because the Comforter (KING CHARLES) that should relieve my soul is farre from me. The breath of our Nostrils, the Anointed of the Lord, etc. ; the life of our Religion, of our Lawes, of our Liberties, is taken from us ; the Image of God’s power in supreme authority, indemnity, and inviolability is taken from us ; our Phisician, our nursing Father, our Comforter, our Protectour is taken from us, and, for our sins, was taken in their pits ; so that now we want the wings of his protection among these Heathen among whom we live ; we are now made very slaves unto the worst of Heathen, a people without God, without faith, without law, without rule, without reason, without humanity, without all these, and whose unruly will only, is unto all these, etc. etc. etc.*

The Subjects sorrow. Or Lamentations upon the death of Britaines *Josiah*, KING CHARLES, most unjustly and cruelly put to death by his own people, before his Royal Palace Whitehall, Jan. 30, 1648. Expresed in a Sermon upon Lam. 4. 20. Wherein the divine and royal prerogatives, personal virtues, and theological graces of his late Majesty are briefly delivered : And that his Majesty was taken away in God’s mercy unto himselfe, and for the certaine punishment of these Kingdomes, from the parallel *is clearly proved*. London, printed in the yeare 1649—in quarto.

———The person that was now murdered, was not the Lord of Glory, but a glorious Lord, Christ’s own Vicar, his Lieutenant and Vicegerent here on earth, within his dominions. And therefore by all lawes divine and humane, he was privileged from any punishment that could be inflicted by men. Albeit he was as inferiour to Christ as man is unto God, the creature unto the immortall Creator ; yet was his privilege of inviolability farre more clear than was Christ’s. For Christ was not a temporal Prince, his Kingdome was not of this world, and therefore when he vouchsafed to come into the world, and to become the sonne of man, he did subject himselfe unto the law ; hee, who only could choose when to be borne, made choise to be borne at that time when there was a decree for taxing all the world, that so soone as he was borne he might be inrolled a subject unto Caesar ; he lived as a subject, payed tribute unto Caesar ; he submitted unto Pilat’s jurisdiction, acknowledging that hee had power given him from above. But our gracious Sovereigne was well knowne to be a temporall Prince, a free Monarch, and their undoubted Sovereigne, to whom they did all owe and had sworne allegiance ; and therefore he could not be judged by any power on earth. He disclaimed their authority, as he well might ; for they had no power at all over any, much lesse over him. And what power they usurped, was not *de super*, as Pilat’s, but *de subter*, from beneath, even from the angett

‘ forgotten; for such personal offences make deeper impressions, than
 ‘ public actions, either of war or treaty. Here is a resident, as he calls
 ‘ himself, of the king of Denmark, whose name I hear is Pedcombe;
 ‘ he hath visited me, and offered his readines to give you any assistance
 ‘ in his power or credit, with the ambassador Mr. Alfield, who was then
 ‘ expected,

of the bottomlesse pit, whose name is *Abaddon*; for as he seeks the destruction of all men, so especially of Kings, because by their government peace is preserved, justice executed, and religion maintained. But from above they had no power; for God never gave unto the people power over their King: as is evident by Scripture, by the law of nature and nations, by the knowne lawes of England, by cleare and undeniable reasons, and by the constant doctrine and practice of the true, antient, and Catholic church. And yet those monstrous traytors, have sacrilegiously invaded God’s throne, and usurped his office, whose peculiar it is to be judge of Kings; and so have ventured to try, judge, condemne, and execute their King, in despite of all law, reason, religion, nature and God himselfe, etc. etc.

The Martyrdome of King Charles. Or his conformity with Christ in his sufferings. In a sermon on 1 Cor. 2. 8. [Which none of the princes of this world knew: for had they knowne it, they would not have crucified the Lord of Glory.] Preached at Bredah, before his Majesty of Great Britaine and the Princesse of Orange. By the Bishop of Downe, June 23, 1649. Christiani nunquam sunt inventi Cassiani. Tertull. Hage, Printed 1649—in quarto.

Extracts of Restoration, and anniversary thirtieth of January sermons, might have been likewise added; but these shall suffice.

The *Parliament of England*, elected by the *People* whom they represent, and by them trusted and authorized for the *Common good*, having long contended against *Tyranny*, and to procure the *well-being* of those whom they serve, and to remove *oppression, arbitrary power*, and all *opposition* to the *Peace* and *Freedom* of the *Nation*; do humbly and thankfully acknowledge the blessing of Almighty God upon their weak endeavors, and the hearty assistance of the well-affected in this work, whereby the enemies thereunto, both public and secret, are become unable for the present, to hinder the perfecting thereof.

And to prevent their power to revive *Tyranny, Injustice, War*, and all our former evils, the *Parliament* have been necessitated to the late *Alterations* in the Government, and to that *Settlement*, which they judge most conducible to the honor of God, and the good of the *Nation*, the onely end and duty of all their labors.

And that this may appear the more clearly and generally, to the satisfaction of all who are concerned in it, they have thought fit to declare and publish the *Grounds* of their *Proceedings*.

They suppose it will not be denied, that the first *Institution* of the *Office* of a *King* in this Nation, was by *agreement* of the *People*; who chose one to that office for the *protection* and *good* of them who chose him, and for their better *government*, according to such *laws* as they did consent unto. And let those who have observed our Stories, recollect how very few have performed the *trust* of that *office* with righteousness and due care of their *Subjects* good. And how many have made it their study and labor, to satisfy their particular *Ambition* and *Power*, with high pressures and miseries upon their *Subjects*; and with what horrid prodigality of *Christian blood*, upon punctilio’s of their own honor, personal titles and dictates. And in the whole line of them, how far hath the late *King* exceeded all his *Predecessors*, in the destruction of those whom they were bound to preserve; and in stead of spreading his *Protection* to all, scarce permitting any to escape the violence of his fury.

To manifest this *truth*, it will not be improper to take a view of some passages in his reign, wherein he much further out-went all his *Forefathers* in evil, than any example can be found of punishment, etc. etc. etc.

A Declaration of the Parliament of England, expressing the grounds of their late Proceedings, and of settling the present government in the way of A Free State. London, printed Mar. 22, 1648—in quarto.

‘ expected, and is now arrived here, and hath had his first audience. I
 ‘ have not seen Mr. Pedcombe since; but within a few days, I will put
 ‘ him in mind of his profession of friendship to you, and try what he
 ‘ can or will do. Sir Robert Honeywood is also come hither; and as I
 ‘ hear, the king is graciously pleased to admit him to his presence;
 ‘ which

The Parliament likewise pulled down the King’s Statues at the West end of Paul’s and in the Royal Exchange, causing the following inscription to be placed in the nich of the latter,

EXIT · TYRANUS · REGVM · VLTIMVS
 ANNO · LIBERTATIS · ANGLIAE · RESTITUTAE · PRIMO
 ANNO · DOM · MDCXXXVIII · JAN · XXX

May it please your Lordship, my Lord President, and this High Court, erected for the most comprehensive, impartial, and glorious piece of justice, that ever was acted and executed upon the theatre of *England*, for the trying and judging of *Charles Stuart*, whom God in his wrath gave to be a king to this Nation, and will, I trust, in great love for his notorious prevarications and blood-guiltiness, take him away from us; He that hath been the original of all injustice, and the principal author of more mischiefs to the free-born People of this Nation, than the best Arithmetician can well enumerate, stands now to give an account of his Stewardship, and to receive the good of Justice, for all the evil of his injustice and cruelty. Had he ten thousand lives, they could not all satisfy for the numerous, horrid, barbarous Massacres of Myriades and legions of innocent persons, which by his commands, commissions, and procurements (or at least all the world must needs say, which he might have prevented; and he that suffers any man to be killed, when he may save his life without danger of his own, is a murderer) have been cruelly slain, and inhumanely murdered, in this renowned *Albion*; *Anglia* hath been made an *Aceldama*, and her younger sister *Ireland* a land of ire and misery. But now to dissect the charge, etc. etc. etc.

King Charles his Case. Or an appeal to all rational men concerning his tryal at the High Court of Justice. Being for the most part, that which was intended to have been delivered at the bar, if the king had pleaded to the Charge, and put himself upon a fair tryal, etc. By John Cook of Gray’s Inn, Barrister. London, printed 1649—in quarto.

———The premises from first to last considered, that doctrine which prerogativeth Kings above the stroke of human justice, upon the account of their being unaccountable unto men for whatsoever they do, (which the Parliament taketh notice in their declaration of March 17, 1648, to have been the late King’s assertion) appears to be very extravagant, and eccentric to all principles both of Reason and Religion. *Such an unaccountable Officer,* (as the said declaration well expresseth it) *were a strange monster to be permitted by mankind.* For if the main ground of erecting public administrations of justice and courts of humane judicature, in all polities and states whatsoever, be, both in reason and religion, to secure and protect those, who live justly and peaceably, against the violence and injustice of oppressors and unjust men; it must needs be contrary unto both, to exempt such persons from the jurisdiction of these courts and administrations, who have always the greatest opportunities and temptations, and, for the most part, the strongest bent of disposition and will, to practice such unrighteousness and oppression, etc. etc. etc.

The Obstructors of justice. Or a defence of the honourable sentence passed upon the late King by the High Court of justice. Opposed chiefly to “The serious and faithful representation and vindication of some of the Ministers of London.” As also to “The humble address of Dr. Hammond, to His Excellencie and council of Warre,” etc. By John Goodwin. London, 1649—in quarto.

———*Hactenus, quod initio institueram, ut meorum civium facta egregia contra insanam et lividissimam furentis sophistae rabiem, et domi et foris defenderem, jusque Populi commune ab injusto regum dominatu assererem, non id quidem regum odio, sed tyrannorum, Deo bene juvante videor jam mihi absolvisse; neque ullum sine responso vel argumentum, vel exemplum, vel testimonium ab adversario allatum sciens praetermissi, quod quidem firmitatis in se quicquam, aut probationis vim ullam habere videretur: in alteram fortasse*

partem

‘ which will be somewhat the better for you; because then the excep-
 ‘ tions against your employment and negociation, wherein you were
 ‘ colleagues, will be removed, and you will have no more to answer for,
 ‘ than your own particular behaviour. I believe Sir Robert Honeywood
 ‘ will be industrious enough, to procure satisfaction to the merchants in
 ‘ the

partem in culpae propior, quòd saepiusculè inceptis quoque ejus, et argutiis tritissimis, quasi argumentis, respondendo, id iis tribuisse videar, quo dignae non erant. Unum restat, et fortasse maximum, ut vos quoque, o *Cives*, adversarium hunc vestrum ipsi refutetis; quod nulla ratione video posse fieri, nisi omnium maledicta vestris optimè factis exuperare perpetuò contendatis. Vota vestra et preces ardentissimas Deus, cum servitutis haud uno genere oppressi, ad eum confugistis, benignè exaudivit. Quae duo in vita hominum mala sanè maxima sunt, et virtuti damnoisissima, tyrannis et superstitio, iis, *vos gentium primos*, gloriose liberavit; eam animi magnitudinem vobis iniecit, ut devictum armis vestris et dedititium regem judicio inclyto judicare, et condemnatum punire primi mortalium non dubitaretis. *Post hoc facinus tam illustre, nihil humile aut angustum, nihil non magnum atque excelsum et cogitare et facere debebetis.* Quam laudem ut assequamini, hac sola incedendum est via, si ut hostes bello domuistis, ita ambitionem, avaritiam, opes, et secundarum rerum corruptelas, quae subigunt caeteras gentes hominum, ostenderitis vos etiam inermes media in pace omnium mortalium fortissimè debellare; si, quam in repellenda servitute fortitudinem praestitistis, eam in libertate conservanda justitiam, temperantiam, moderationem praestiteritis. His solis argumentis et testimoniis evincere potestis, non esse vos illos, quos hic probriis insequitur, *perduelles, latrones, sicarios, parricidas, fanaticos*; non vos ambitionis aut alieni invadendi studio, non seditione, aut pravis ullis cupiditatibus, non amentia aut furore percitos Regem trucidasse, sed amore libertatis, religionis, justitiae, honestatis, patriae denique charitate accensos, *tyrannum punisse.*——

Joannis Miltoni, Angli, pro Populo Anglicano, Defensio, contra Claudii, alias Salmasii Defensionem Regiam. Londini, typis Du Gardianis, A. D. 1651, in folio, quarto, duodecimo.

——Now therefore, Right honourable! 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 happy 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 of justice; (when Justice sat more gloriously introned 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 achievements for our establishment by land against him and his posteritie, will carry You on, as You have begun, to vindicate those rights by sea against all foreign violations and invasions. It is your honor, that God hath made You founders of the most famous and potent Republic this day in the world; and Your felicitie, that all Your enemies have no other ground of quarrel, but that You are a Republic: for though these *Netherlanders* speak it not out in words, yet they have often told You so in behaviour, etc.

Of the Dominion, or Ownership of the Sea, two books. Written at first in Latin, and intituled, “*Mare Clausum, seu De Dominio Maris.*” By John Selden. 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, 1652, in folio.

Marchamont Nedham was author of divers curious and very scarce tracts; and of that celebrated Journal, intituled “*Mercurius Politicus*, comprising the Summe of all intelligence; with the affairs and designs now on foot in the three nations of *England, Ireland, and Scotland.* In defence of the Commonwealth, and for information of the people.” It commenced June 9, 1649, went forth once a week, ended April 1660, and was published by authority of the Council of State.

‘ the business of money; wherein he will have the assistance of Sir John Temple, to whom I refer you for that and some other things. I have little to say to your complaints of your sister Strangford’s unequal returns to your affection and kindness; but that I am sorry for it, and that you are well enough served for bestowing so much of your care where it was not due, and neglecting them to whom it was due; and I hope you will be wiser hereafter. She and her husband have not yet paid the thousand pounds, whereof you are to have your part of my gift; for so, I think, you are to understand it, though your mother desired it: and if, for the payment thereof, your being in England, or in some place not far off, be necessary, as some pretend, for the sealing of some writings, I think that and other reasons sufficient to persuade you to stay a while where you are, that you may hear frequently from your friends and they from you. I am wholly against your going into Italy as yet, till more may be known of your condition, which, for the present, is hard; and I confess that I do not yet see any more than this, that either you must live in exile, or very privately here and perhaps not safely; for though the Bill of indemnity be lately passed; yet if there be any particular and great displeasure against you, as I fear there is, you may feel the effects thereof from the higher powers, and receive affronts from the inferior. Therefore you were best to stay at Hamburgh, which for a northern situation, is a good place and healthful. I will help you as much as I can, in discovering and informing you of what concerns you; though, as I began, so I must end, with telling you, that writing is now grown troublesome to your affectionate Leicester.’

But colonel Sydney did not continue long at Hamburgh; for he was at Francfort upon the Main, on the 8th of September 1660, from whence he wrote to his father, being determined then for Italy; and we find him at

The act for the Militia being passed, the command of all the forces and garrisons settled on Monk, and the fleet in his power in conjunction with colonel Montague; the pretended parliament authorized their Council of State to provide for the public safety on all emergencies, and to dispose affairs as they should think fit till the meeting of the next Parliament: which being done, and the House ready to pass the act for their own dissolution; Mr. Crew, who had been as forward as any man in beginning and carrying on the war against the late King, moved, that before they dissolved themselves, they would bear their witness against the horrid murder, as he called it, of the King. This unexpected motion prevailed with many then present to deny their concurrence to that act against the King, though not to reflect in the same manner on those who had been concerned in it: And one of them concluding his discourse with protesting, that he had neither Hand nor Heart in that affair; Mr. Thomas Scot, who had been so much deluded by the hypocrisy of Monk, as I have already related, in abhorrence of that base spirit, said, that though he knew not where to hide his head at that time, yet he durst not refuse to own, that not only his hand but his heart also was in it: and after he had pronounced divers reasons to prove the justice of it, he concluded, that he should desire no greater honor in this world, than that the following inscription should be engraved on his tomb, *Here lieth one who had a hand and a heart in the execution of Charles Stuart late King of England.*

Memoirs of Edmund Ludlow, p. 329.

See also Toland’s life of Milton, Edit. 2. p. 84, and 245, in the Notes.

at Rome in November following, whence he wrote likewise to his father, on the 19th of that month.

‘ I think the councell given me by all my friends to keepe out of England for a while, doth too clearly appeare to have been good, by the usage my companions have already received, and perhaps will be yet further verified by what they will find. Nothing doth seeme more certaine to me, then that I must either have procured my safety, by such meanes as sir Arthur Haselrigge is sayed to have used *; or runne the fortune of some others, whoe have shewed themselves more resolute. I hope my being here, will in a short time shewe, that the place was not ill chosen, and that besides the liberty and quiet which is generally granted to all persons here, I may be admitted into that company, the knowledge of which will very well recompence my journey. I was extremely unwilling to stay in Hamburgh or any place in Germany, finding myself too apt to fall too deepe into melancholly, if I have neither businesse nor company to divert me; and I have such an aversion to the conversation and entertainments of that country, that if I had stayed in it, I must have lived as a hermite, though in a populous citty. I am here well enough at ease, and believe I may continue soe. Unlesse some body from the court of England doth think it worth their paines to disturbe me, I see nothing likely to arise here to trouble me. I have already visited severall cardinals. To morrow I intend to pay the same respect to the cardinal Ghigi, nephew to the pope. He hath already granted me the liberty of waiting upon him, which was signified unto me by an other eminent person of the same robe and degree. They are all generally civill, and I ask no more.’

His correspondence with his father during his stay at Rome, will be seen in the letters taken from the Sydney papers.

Several of his friends having been importunate with him for his return to England, he wrote the following letter †; but the want of a date makes the particular time of writing it uncertain.

* *May 1660, Sir Arthur Haselrigge, one of those who were esteemed to be so maliciously active in opposition to his Majesty's government, as to be afterwards excepted in the act of indemnity from any condition of pardon, had lately come to General Monk, when he perceived the Revolution to hasten towards the Restoration of the King, and expostulated with him about it, in reference to the security of his own condition. The general was unwilling to make him desperate, because he had at that time a Regiment of horse and a Regiment of foot in the garrisons of Newcastle, Tinnmouth, Berwick, and Carlisle, under his government; and therefore told him, if he would quietly give up his command, and retire to his house, he would endeavour to secure him in his life and estate, and doubted not to effect it. This being made known at a following conference by the House of Commons, was justified with great modesty by the Duke of Albemarle in the house of Peers, and his life was thereupon pardoned in the act; and a small time after his estate also was, at the mediation of the Duke, granted to his heir, a man averse to his father's disloyal principles, Sir Arthur himself a while after his imprisonment dying of a fever in the Tower.*

Bishop Kennet's hist. reg. p. 136.

† Familiar letters of John, late earl of Rochester, etc.

‘ Sir,

‘ I am sorry I cannot in all things conform myself to the advices of my
 ‘ friends. If theirs had any joint concernment with mine, I should wil-
 ‘ lingly submit my interest to theirs; but when I alone am interested,
 ‘ and they only advise me to come over as soon as the act of indemnity
 ‘ is passed, because they think it is best for me, I cannot wholly lay aside
 ‘ my own judgment and choice. I confess, we are naturally inclined to
 ‘ delight in our own country, and I have a particular love to mine. I
 ‘ hope I have given some testimony of it. I think that being exiled from
 ‘ it is a great evil, and would redeem myself from it with the loss of a
 ‘ great deal of my blood. But when that country of mine, which used
 ‘ to be esteemed a paradise, is now like to be made a stage of injury;
 ‘ the liberty which we hoped to establish oppressed; luxury and lewdness
 ‘ set up in its height, instead of the piety, virtue, sobriety, and modesty,
 ‘ which we hoped, God, by our hands, would have introduced; the
 ‘ best of our nation made a prey to the worst; the parliament, court,
 ‘ and army, corrupted; the people enslaved; all things vendible; no
 ‘ man safe, but by such evil and infamous means, as flattery and bribery;
 ‘ what joy can I have in my own country in this condition? Is it a
 ‘ pleasure to see, that all I love in the world is sold and destroyed? Shall
 ‘ I renounce all my old principles, learn the vile court-arts, and make
 ‘ my peace by bribing some of them? Shall their corruption and vice be
 ‘ my safety? Ah! no; better is a life among strangers, than in my
 ‘ own country upon such conditions. Whilst I live, I will endeavour to
 ‘ preserve my liberty; or at least, not consent to the destroying of it. I
 ‘ hope I shall die in the same principles in which I have lived, and will
 ‘ live no longer than they can preserve me. I have in my life been
 ‘ guilty of many follies; *but*, as I think, *of no meanness*. I will not
 ‘ blot and defile that which is past, by endeavouring to provide for the
 ‘ future. I have ever had in my mind, that when God should cast me
 ‘ into such a condition, as that I cannot save my life but by doing an
 ‘ indecent thing, he shews me the time is come wherein I should
 ‘ resign it: and when I cannot live in my own country but by such
 ‘ means as are worse than dying in it, I think he shews me, I ought to
 ‘ keep myself out of it. Let them please themselves with making the
 ‘ king glorious, who think a whole people may justly be sacrificed for
 ‘ the interest and pleasure of one man, and a few of his followers; let
 ‘ them rejoice in their subtilty, who, by betraying the former powers,
 ‘ have gained the favour of this, not only preserved, but advanced
 ‘ themselves in these dangerous changes. Nevertheless, perhaps they
 ‘ may find, the king’s glory is their shame; his plenty the people’s
 ‘ misery; and that the gaining of an office or a little money, is a poor
 ‘ reward for destroying a nation, * *which, if it were preserved in liberty*
 ‘ and

[* *Which, if it were preserved in Liberty and Virtue, etc.*]

And now that I am fallen unawares into such profound reflections on the periods of government, and the flourishing and decay of *Liberty and Letters*; I can’t be contented to
 c
 consider

‘ *and virtue, would truly be the most glorious in the world*; and that others
 ‘ may find, they have with much pains purchased their own shame and
 ‘ misery, a dear price paid for that which is not worth keeping, nor
 ‘ the life that is accompanied with it. The honour of English parlia-
 ‘ ments hath ever been in making the nation glorious and happy, not in
 ‘ selling and destroying the interest of it, to satisfy the lusts of one man.
 ‘ Miserable nation *! that from so great a height of glory, is fallen into
 ‘ the

consider merely of the enchantment which wrought so powerfully upon Mankind, when first this universal monarchy was established. I must wonder still more, when I consider how after the extinction of this *Caesarian* and *Claudian* family, and a short interval of Princes raised and destroyed with much disorder and public ruin, the *Romans* should regain their perishing Dominion and retrieve their sinking state, by an after race of wise and able Princes successively adopted, and taken from a private State to rule the Empire of the world. They were men who not only possessed the military virtues, and supported that sort of Discipline in the highest degree; *but as they sought the interest of the World, they did what was in their power to restore LIBERTY, and raise again the perishing ARTS, and decayed VIRTUE of Mankind. But the season was now past! The fatal form of government was become too natural; and the world, which had bent under it, and was become slavish and dependent, had neither power nor will to help itself.* The only deliverance it could expect, was from the merciless hands of the *Barbarians*, and a total dissolution of that enormous Empire and despotic power, which the best hands could not preserve from being destructive to human nature. For even *Barbarity* and *Gothicism* were already entered into arts, e’er the *Savages* had made any impression on the Empire. All the advantage which a fortuitous and almost miraculous succession of good Princes could procure their highly favoured Arts and Sciences, was no more than to preserve, during their own time, those perishing Remains which had for a while with difficulty subsisted, after the decline of LIBERTY. *Not a Statue, not a Medal, not a tolerable piece of architecture could shew itself afterwards. Philosophy, Wit and Learning, in which some of these good Princes had themselves been so renown’d, fell with them. And ignorance and darkness overspread the world, and fitted it for the Chaos and Ruin whi h ensued.*

The Earl of Shaftesbury, in his “Advice to an Author.”

From their railleries of this kind *on the barbarity and misery of our Island*, one cannot help reflecting, *on the surprizing fate and revolutions of Kingdoms.* How Rome, once the mistress of the World, the seat of arts, empire and glory, *now lies sunk in sloth, ignorance and poverty; enslaved to the most cruel, as well as to the most contemptible of Tyrants, Superstition and religious imposture.* While this remote Country, evidently the jest and contempt of the polite Romans, *is become the happy seat of liberty, plenty, and letters; flourishing in all the arts and refinements of civil life; yet running, perhaps, the same course which Rome itself had run before it; from virtuous industry to wealth; from wealth to luxury; from luxury to an impatience of discipline and corruption of morals; till by a total degeneracy and loss of virtue, being grown ripe for destruction, it falls a prey at last to some hardy oppressor; and with the loss of Liberty, losing every thing else that is valuable, sinks gradually again into its original barbarity.*

Dr. Middleton, in “his Life of Cicero,” vol. I. p. 494.

[* *Miserable Nation! that from so great a height of glory, etc.*]

The *English Republicans* took things exactly right; and that in order to the accomplishing of a design that would take up all their life time, (*for such sort of men ought never to conceive mean ones, after the execution whereof they must be put to the trouble of projecting anew, or live lazily and be exposed to conspiracies against them*) *they thought it would be their best way to begin with the ruin of the United Provinces, which lay next their coasts, and flourished in trade above any other Country in the World; and when once they had effected this, they were in hopes they should easily remove any obstacle in their way to attain the Dominion of the Seas: insomuch, that if the fortune of war should favour their first enterprizes, I do not think they have any design to make a peace with a Nation they have a mind utterly to*
 destroy,

‘ the most despicable condition in the world ; of having all its good de-
 ‘ pending upon the breath and will of the vilest persons in it ! cheated
 ‘ and

destroy, and to whom they will propose such hard terms, that upon the refusal of them, you will at last find them prepared to make terrible descents in divers parts of *Zealand* and *North Holland*, to break the banks and the other dikes, that keep the flat Country from being drowned. There needs no more than this sort of blood-letting to make *Amsterdam* and all the other Cities desolate : For it would signifie little to them to seize the *Brill* or some other place, seeing their design is to destroy the Trade of *Holland*, and to transfer it into their own Country ; and it would be of little importance to them that the King of *Spain* should recover the *Seven provinces* ; that the Merchants of *Amsterdam* should remove to *Antwerp*, and the manufacturers of *Leyden* and *Harlem* to *Ghent* and *Bruges* : for it would require many years to settle things there, and the English would have opportunity enough to hinder them from having any necessary materials but such as passed through their hands, and their manufactures to be transported any where but in *English* bottoms : for it would be very easy for them to stop up the mouths of the ports, and to go up the *Scheld*, even in fight of *Antwerp*, from whence nothing must come out but will be taken by their ships. By this means, and the notion I have of their designs, *no Nation in the world, in a few years time, would have any Seamen, Ships, or skill in Maritime affairs, besides themselves.* For *Holland* being intirely ruined, the *Dutch* must serve on board their fleets, and all the Shipwrights, Sailmakers and Ropemakers, would be obliged to go and earn their living in the Sea-port towns of *England* ; and this they would be the more inclined to do, because there is more wages given there, and People live better. When this noble and rich Province, which within the extent of less than five and twenty leagues, contains eighteen large towns and four hundred villages, of which the *Hague* is the finest in the world, shall be reduced to this sad plight, it is then likely that the *English* will turn their arms against *Denmark*, in order to seize the passage of the *Sundt*, either by main force or rather some treaty, by which they will be willing to give the King more than the profit it brought him, but at the same time will oblige *Norway* to sell their wood to no other nation but the *English*. The cities of *Emden*, *Bremen*, *Hamburg*, *Lubec*, all the Coast of the *Baltick*, and the whole Kingdom of *Sweden*, durst appear no longer at Sea, but under *English* colours ; and perhaps the formidable Republic will be content, in consideration of her Commissions granted to them, to receive certain duties from the goods she allows them in her name to transport, only along these northern parts. They will in time send a more powerful fleet to block up the river of *Lisbon* ; while another sails to *Brazil*, *Guinea*, and the *East Indies* ; with a design to spare the *Portuguese* merchants and the *East India* companies, the labour of transporting the Sugars, Silks, Spices and other commodities they come thither for, into *Europe* : and if *Spain* pretends to say any thing against them, they will, without any more ado, seize the *Straits Mouth* and send an hundred and fifty ships of war into the *Mediterranean*, out of which they can very easily drive the naval force of the other Potentates of *Europe*, were they all joined together against them.

The *English* having in this manner usurped the Dominion of the seas, the trade of all the *European* nations, and part of the rest of the world ; *all the Earth must submit to them, work for no body but them, and they will, from time to time, come into their ports, and sweep away all their treasure : every thing that is rare and all the conveniences of life, produced either by art or nature, will be reserved for England, which will be the only Country that can purchase them or possess them of her own.* For, as we see, that since the settling of trade in *Holland*, that province is become the Store-house for Linen, Woolen, and all sorts of manufactures, though there is neither flax, wool, nor, in any manner, any other commodities which they work up, grows there, but they must have them from other Countries ; so every thing that *England* wants at this time will abound there, and the best Artificers will flock thither, inasmuch, that if they would have any fine linen or good cloth for wear, in another Country, the flax and wool was to be sent to be manufactured in *England*. Pray consider then, what vast wealth this Country must acquire in less than fifty years ? And how miserable must the rest of *Europe* be, since they can transport nothing by Sea from one nation to another but in *English* ships ? They will always have money to receive in all the ports they come at, and never leave any of their own there. What the *English* want they

‘ and sold by them they trusted! infamous traffick, equal almost in guilt
 ‘ to that of Judas! In all preceding ages, parliaments have been the
 ‘ palace

will make compensation for by way of exchange, or readily send over into *England*, upon the score of the manufactures there they have occasion for; as we have seen the *Dutch East India Company* have pearl and precious stones, in return for some wares sent into those Countries, which they got fitted out at *Amsterdam*, and then sold at very dear rates in those places from whence they were first brought, and where there is not perfection of workmanship as there is with us. Hundreds of ships richly laden will daily put into the *Thames* and other ports of this fortunate Island; and the General can scarce ever lose the sight of his forces, which, I may say, return every evening to lye at home; for they stay no longer in foreign parts than to refresh themselves, to vend their goods, and to take in new Cargoes. They will be no ways solicitous of making conquests by land, that they may save the charge of maintaining them, seeing they are sure of reaping the profit of them; neither will they plant any Colonies and ease their Country, as populous as it is grown, of the vast multitudes that are in it, because the whole produce of *Europe* is consumed there, and their great naval trade renders their stores inexhaustible. In the mean time all the neighbouring Kingdoms will, in a manner, become like the Sea-coasts of *America*, where our *Europeans* trade; there will be only tillage and some coarse manufactures for plain ware and to serve people’s necessities only in the Heart of the Country, and the maritime towns will be no other than the Granaries and Magazines of *England*.

There is nothing in all the Conquests of *Alexander* and the pomp of all the *Roman Empire*, that comes near this maritime dominion which I have represented to you. And this seems to be so very feasible, that if *Holland* be once ruined, I am afraid it will be too late to prevent it. And therefore I would have all the Potentates of *Europe* take it to heart in time; for if they do not quickly put an end to the war they are engaged in on the Continent, we shall run the risque, in a few ages, of becoming perfect *Barbarians*. For the *English*, by the means of their navigation, will transfer all the politeness of *Europe*, together with its plenty, power and conveniences of life, into their own Country.

Extract of a letter from M. Sorbriere to M. de Courcelles, at *Amsterdam*; dated *Orange*, July 1, 1652: Concerning the designs of the *English* in the War against the *Dutch*.

We have done this right unto our Monarchy.

We are now to say something of that Government which succeeded it. I confess it was never settled, nor put absolutely into the hands of the People. And yet if you respect its infancy and beginning, it outwent in warlike achievements all other Commonwealths. I lay before me the exploits of *Sparta*, *Athens*, *Carthage*, and *Venice*; and know that the *Venetians*, *Switzers*, and *United Provinces*, at this day being contemptible for territories, are those only that appear fittest matches for the greatest Empires, namely the *Turk*, the *German*, and the *Spanish* house of *Austria*, which Monarchs had overborne large Kingdoms and Provinces, and could meet none able to measure swords with them, till these little Countries, having vindicated their Liberty, took them in hand, and not so much by their valour (for *Venice* was never celebrated for valour, and the *United Provinces* had no extraordinary name for it) but by the excellency of their Government and prudent carriage, have been able to force them to become peaceable and quiet neighbours, and keep themselves within narrower bounds than otherwise they would willingly have done. I know also, *Rome*, the only mistress of the World, was justly celebrated for large conquests. And yet none of these States gave such starts, and made such acquets at their rise, as our *English Commonwealth*. Certainly so many advantages conduced to its greatness and increase; and at its first appearing, so large were its proper Territories, that it may well be affirmed, never was Commonwealth, in that respect, laid on so large and strong a foundation as that then had: and if in our conceit, we should give it an answerable growth, we could not assign it less than the whole globe at last for its portion.

At first, if you will judge by the affections of the People, it had not the hundredth part of *England* itself, and was to go through difficultiés that would have confounded any but a free State. But how quickly had it brought the Nation to somewhat a better understanding,

‘ palace of our liberty; the sure defenders of the oppressed: they, who
 ‘ formerly could bridle kings, and keep the balance equal between them
 ‘ and

ing, and a fair way of settlement? So that there are some that question, whether any natural Prince of *England* had ever been assisted on any occasion, with so great forces, so suddenly and with such alacrity raised, as that was at *Worcester*? And on the other side, how few went over to the King of the Scots, though looked on as a rightful Prince, deserves consideration.

It lived not out a *Lustre*, yet conquered *Scotland* (introducing more Liberty and greater Privileges than they had before) *Ireland* and several other smaller Islands; made other nations feel its force, as the *French* and *Portugals*; and was going on in such a career of action as was not to be stopt by a human power. This Government began a war with the *Dutch*, which it had ended with an absolute conquest or fallen in the attempt; and after this probably it would have entered on more honorable enterprizes, and not suffered the Nation to grow effeminate by ease and vice. In a word, it had brought in an instant, the Nation to a full glory and such a splendor, as cast a darkness, as is affirmed by some, on the greatest actions of former times. This is certain, that the neighbouring States trembled at its sudden and prodigious greatness; and remote Potentates did court and seek a good understanding from its hands, and its dissolution brought no ordinary content to those that had cause to fear it. The Agent from the *Stuarts*, as a late writer reports, at the first appearance of this *Free State*, urged the *United Provinces*, “ That if *England* were free, it would be formidable to them, not only by interrupting their fishing and all other maritime advantages, but by robbing them of traffick as they had done the *Venetians*; and not only so, but give law to all Christendom, by reason of the commodiousness of its harbours and multitudes of its ships.”

This Commonwealth, how imperfect soever in itself, was yet too strong in all likelihood for any human power or strength to break. It was only capable of being ruined by God and itself. It was indeed quickly dissolved and gone; yet had it this to boast of, that having all along attempted the boldest enterprizes, it met with no ill success in any of its great undertakings while it was in being. But

— Laetis hunc numina rebus,
 Crescendi posuere modum—

Where is the stability of human glory? Who now will not believe, that the firmest, the most splendid and most illustrious fabric that is human, is capable of dissolution? God in whose hands all Nations are but as clay in the hands of a potter, and to whom the strongest and proudest Governments are as contemptible as the lowest and meanest, if not more, undertook this Commonwealth, and laid it in the dust with those other glorious States of *Rome*, *Athens*, *Sparta*, *Carthage*.

— Valet ima summis
 Mutare, et insignem attenuat Deus
 Obscura promens —

I will make no apology for what I have delivered of this Government; for as I think, I have spoken the truth and that moderately, having rejected much matter that offered itself to my hands on this occasion. I never received any particular advantage by that Government, nor so much as subscribed the engagement; and therefore I thought I might with the greater freedom and ingenuity say thus much of it, which yet I submit to better judgments.

It remains now, that I should speak something of the present Government; but the Petition of Advice coming out since I had finished this discourse, I am forced to put it off till I shall have another opportunity, which, if ever it happen, I shall, God assisting, cheerfully set on it, and in a particular manner discourse thereof.

A Discourse on the national excellencies of England,
 By R. H. London printed 1658. in duod.

I shall conclude with two material passages, which, though they relate not immediately to our Author, or his own particular concerns, yet in regard they happened during his public employment, and consequently fell more especially under his cognisance, it will not be amiss here to subjoin.

‘ and the people, are now become instruments of all our oppressions; and
 ‘ a sword in his hand to destroy us; they themselves led by a few
 ‘ interested

The first was this. Before the war broke forth between the *States of England* and the *Dutch*, the *Hollanders* sent over three Ambassadors in order to an accommodation; but they returning *re infectâ*, the *Dutch* sent away a *Plenipotentiary* to offer peace upon much milder terms, or at least to gain more time.

But this *Plenipotentiary* could not make such haste, but that the *Parliament* had procured a copy of their Instructions in *Holland*, which were delivered by our author to his kinsman that was with him to translate for the *Council* to view, before the said *Plenipotentiary* had taken shipping for *England*; and an answer to all he had in charge lay ready for him before he made his public entry into *London*.

In the next place, there came a person with a very sumptuous train, pretending himself an Agent from the Prince of *Condé*, then in arms against Cardinal *Mazarin*. The *Parliament* mistrusting him, set their instrument so busily at work, that in four or five days they had procured intelligence from *Paris*, that he was a spy from *K. Charles*; whereupon, the very next morning, our author's kinsman was sent to him with an order of *Council*, commanding him to depart the kingdom within three days or expect the punishment of a spy.

By these two remarkable passages we may clearly discern *the industry and good intelligence of those times*.

The Life of John Milton [by John Philips his nephew]
 prefixed to his Letters of State, printed 1694, in duod.

At a Committee of the Councill of State at Whitehall, Aug. 16, 1649. Ordered, that a Committee bee appointed, *to take into consideration the businesse of the coyne and the par betweene it and other nations; and how the coyne of this nation may bee kept from being carried out; and likewise to consider of some meanes whereby the mint may be set to worke; and they are to speak with any persons they think good about it.*

The names of the Committee for the mint, Dec. 20, 1649.

The Lord President Bradshaw, Sir James Harrington, [who had the Chair] Sir Gilbert Pickering, Sir William Constable, Master Scot, Master Bond, Colonel Purefoy, Colonel Jones, Master Thomas Chaloner, Sir Henry Mildmay, Colonel Morley, Master Allen, Master Cornelius Holland, Master Neville; or any two of them.

— The Council of State being willing to prevent the said disorders, were desirous of having the Monie of this Commonwealth WELL COYNED; and therefore having seen the patterns of coyn made after a new invention [*the screw press and mill*] by the said *Blondeau*, and having treated by letters about the quantitie of pieces that could be coyned in a week and what they might cost; the said Council caused the said *Blondeau*, the inventor of that way of coyning, to come [from *France*] to *London*, to treat with him by word of mouth, and to agree about the price of coyning the money of this Commonwealth after his way. He being then arrived at *London*, Sept. 3, 1649, the said Council bestowed on him forty pounds Sterling; and the late Mr. *Frost*, then secretary to the said Council, told him before witnesses, that if the State could not agree with him about the price and that therefore he should be necessitated to retire himself, the State would indemnifie him for his journie, both coming and returning, and for the time he should have lost, and would bestow on him such a present that he would return satisfied. A while after the said Council of State ordered the Committee of the Council of State for the mint, to hear the said *Blondeau's* proposition and report it.

The Committee for the mint accordingly took into consideration, whether the said *Blondeau* should be admitted to coyn the monie of this Commonwealth; and having debated it, *they resolved and approved that he should be admitted thereunto, provided his coyn and his proposition should be advantageous to the State.*

Afterwards the said Committee having seriously considered and examined all the circumstances of the way of coyning propounded by the said *Blondeau*; and having heard all the objections that could be alledged against it, both by the Master of the Mint or by any other of those who appeared in the buisness; upon debate of the whole, the Committee concluded and voted, *that the said way of coyning propounded by the said Blondeau, was better, more advantageous, and more HONORABLE for the State, than that which is used now in this Commonwealth.*

‘ interested persons, who are willing to buy offices for themselves, by the
 ‘ misery of the whole nation and the blood of the most worthy and
 ‘ eminent

The Master, the Officers, and the Workmen of the mint, told the Committee, it was not likely the said *Blondeau* had done himself the pieces sent by him to the Council of State. Besides, that it was an old invention which they themselves knew, and that such pieces were onely made for curiosity, with very long time and great expence, and that it was impossible that that way might bee used about the ordinary coyn which is thin. They desired, that the said *Blondeau* might be commanded to make a trial of his skill by making some other pieces, and that they would do as much as the said *Blondeau*. Therefore the said Committee ordered, both the said *Blondeau* and the said workmen, to make their patterns and propositions respectively; and that hee that would make it with most advantage to the State should have the employment.

At the time appointed, the workmen brought to the Committee som pieces made after the old way which is known to them, and some big pieces of silver stuffed within with copper; but they had drawn no propositions.

Likewise the said *Blondeau* brought in about 300 pieces, som half-crowns of the ordinary weight and bigness, som shillings, six pences, and som gold pieces, and presented his proposition; which having been reformed according to the pleasure of the said Committee, it was received and accepted of by the whol Committee, who ordered it to be reported to the Council of State, according to the order of the said Council.

The said Committee having then taken into consideration the big pieces of silver at the outside and stuffed within with copper, made with the engins at the Tower, and well understood, that the said pieces, because they are made of several pieces at the top one of another, will give no sound, so that a blinde man can easily discern that they are false; and having weighed the long time and great cost required for coyning of each piece, because they are made of four pieces, namely one of copper, and one of silver at the top, another underneath and one about, which ought to be adjusted and sodered together, besides several other fashions, which cost more than the price of the lawful pieces; having also considered the great and heavie engins and great number of tools and men required for making of one piece, the great charges for the engines and tools and several other things required for making of those counterfeitd pieces; they acknowledged, that it would be enough to dissuade any one from undertaking it, the rich not being willing and the poor being unable, and that though they should undertake it they could not do it without being discovered. Besides, that the mony coyned after the way of the said *Blondeau* was so thin, that it cannot be so counterfeitd.

Whereupon it is observable, that the said workmen of the mint, although they made use of the great and heavie engins that are in the Tower; yet for making of some tools they had need of and for the other charges of coining about a dozen of pieces they made then for a pattern, have spent a hundred pound sterling, as hee that pretends to have laid out the money hath said before witnesses.

Afterwards, another order was given by the said Committee, and some time limited to the said workmen, to draw and present their proposition for coyning of the monie marked upon the thickness or edge, as that of the said *Blondeau* is. But after the expiration of the long time demanded by them, they brought such a proposition, that the said Committee having read it over and over, could not understand it nor the sense of it; and even those that brought it could not explain it: whereby it was apparent to the said Committee, that they were not able to make their proposition good, much less to coyn the mony after that way, which they avowed themselves before the said Committee. Yet they intreated the Committee to allow them the time of som months more, to finde, if possible, the new invention; and that the said *Blondeau's* proposition should be communicated unto them, upon which they might frame their own. They further demanded, that the said *Blondeau* and the Graver [*Thomas Simson, the celebrated T. Simon*] should have order to bring in all the pieces made by the said *Blondeau* for a tryal, with the stamps or dices used for making them; all which was granted them upon that condition, that if within the time allowed them, they could finde out the means to coyn the monie after the said *Blondeau's* way, and thereupon he should be sent back, he should be indemnified: which was agreed by all.

But

‘ eminent persons in it. Detestable bribes, worse than the oaths now in
 ‘ fashion in this mercenary court! I mean to owe neither my life nor
 ‘ liberty

But they could never find out the said new invention for coining the thin and weak pieces after that way with expedition requisite. Yet for all that, they made their propositions, which are in the hands of the Chairman of the Committee; as are also the said *Blondeau's* propositions and patterns, about a year and a half since, to be reported by him to the Council of State, etc. etc. etc.

A most humble memorandum from *Peter Blondeau*. Concerning the offers by him made to this Commonwealth, for the coining of the monie, by a new invention not yet practised in any State of the world; the which will prevent counterfeiting, casting, washing and clipping the same. Which coin shall be marked on both the flat sides and about the thickness or the edge, of a like bigness and largeness as the ordinary coyn is; and will cost no more than the ordinarie unequal coyn which is used now.

Master David Ramadge,

Whitehall, June 14, 1651.

These are to authorise you, to make some patterns as broad as a shilling, a half-crown, a twenty-shillings piece of gold, in a mill; and if you can do it, with letters about the edge or otherways, according to Queen Elizabeth's patterns of mill-money or any other modell or peeces you are to make; that so the Committee of the mint may see your several peeces, and thereupon consider what is fittest to present to the Councill of State, for the more handsome making of the monies for the HONOR of this Commonwealth.

James Harrington
 Tho. Chaloner

At the desire of Sir James Harrington, and Mr. Thomas Chaloner, and others of the honorable Committee for the Mint, I [Thomas Violet] did write to Holland for all the principal Coynes in Christendom; and did deliver many of them to the officers of the mint to make an assay of them: which several pieces of forrain gold and silver were assayed in the presence of the Committee of the mint, they being there at the Tower several dayes to make these tryals, where I attended them. And I sent into *Holland, France and Flanders* for all their several Placarts; and did procure the lawes and ordinances for regulating their respective mints, with the several standards and weights for their coynes, gold or silver, to be translated. And thereupon the Committee of the mint caused the principal of these forrain coynes to be engraven, with the weight and fineness of every piece, according to the standard of each mint, both gold and silver, what it ought to weigh; with a just calculation of the value what all the several species would make in the Tower of *London*, and the penny-weight and graines that everie such forrain species or coin would make in the Tower of *London*, and what proportion our gold and silver held with the mint of *Flanders, France and Holland*. And this was exactly calculated by the officers of the mint and myself, in the year 1651 and 1652; and all the proceedings thereupon, after many months time, and the several coynes graven on copper plates, were delivered into the custody of Sir James Harrington, Chairman of that Committee, to report them unto the Hous. But the Parliament being dissolved April 20, 1653, the act against the transporters of gold, and all the proceedings concerning the regulation of the mint were stopped for that time.

The above notes relating to the coin, have been taken from Thomas Violet's publications. More of this matter, with specimens of some of the ELEGANT and very scarce pattern-pieces before mentioned, may be seen in "the works of Thomas Simon," published London 1753 in quarto, by that ingenious, diligent, faithful English Antiquary, the late Mr. George Vertue.

Cromwell having thrust out the Parliament, his Masters, Patrons, by his soldiers, as see a singular account of it in Whitelocke, p. 554, he thought proper, in the suite of his ambition, to coin money, following exactly the rules which had been instituted by the Committee of Parliament in their wisdom, and employing the workmen which they had formed, but stamping on those coins IMPUDENTLY his own effigies and arms.

Further, concerning the intended regulation of the Law, the Universities, Commerce, and the general scheme of civil government and views of this MASTER Parliament; the curious reader will consult "Husband's collections" 1643 in quarto, 1646 in folio, "Scobell's collections" in folio, and the other State papers of those times.

' liberty to any such means. When the innocence of my actions will not
 ' protect me, I will stay away till the storm be over-passed. In short, where
 ' Vane; Lambert, Haselrigge cannot live in safety *, I cannot live at all.
 ' If I had been in England, I should have expected a lodging with them ;
 ' or though they may be the first, as being more eminent than I, I must
 ' expect to follow their example in suffering as I have been their com-
 ' panion

[* *Where Vane, Lambert, Haselrigge cannot live in safety, etc.*]

Aug. 21, 1660, the Act of indemnity was sent from the *Lords* to the *Commons* with several alterations, to which the *Commons* were very unwilling to agree; for they had subjected twenty that were not the King's judges to be liable to such pains and penalties not extending to life, as should be inflicted by another act to be passed in this Parliament. Whereas the *Lords* finding the King's inclinations to tend towards the pardoning of all but such as where his father's judges or otherwise actors in his murder, they disagreed to that part of the act, as to all those named by the *Commons*, except Sir *Arthur Haselrigge*, Sir *Henry Vane*, Colonel *John Lambert*, who were esteemed to be so maliciously active in opposition to his Majesty's government, as to be excepted from any conditions of pardon. The *Commons* for some time adhered to their first resolution, but after several conferences, they agreed with the *Lords* in all things except some little alterations in the frame of the act; *Vane* and *Lambert* were excepted, but *Haselrigge* remained liable to such pains, penalties and forfeiture, as should be inflicted on him, not extending to life; and the rest of those put under the same qualifications by the *Commons* that were not of the King's judges, were made only with others incapable of offices.

Kennet's Historical Register, p. 236.

Sir *Henry Vane*, whose blood seems to have been demanded by the peculiar vengeance of heaven, had been most deeply engaged in the darkest scenes of the late calamities, which he carried on with infinite subtlety and artifice, to the deception of incredible numbers in the nation; and though he cunningly kept himself from the impious court that condemned the King, it was sufficiently known that none contributed more to the bringing him thither; and after, that none more zealously promoted the establishment of the new Commonwealth, and his actions daily discovered so much of republican rancour, that it was impossible for him to live in quiet under any resemblance of monarchy. So after the restoration, having been found tampering with some malecontents of the army and others, in order to fresh disturbances, the government thought fit to confine him: and though he with *Lambert* was particularly excepted in the act of indemnity, yet he found so much favour afterwards from the house of *Commons* in the same Parliament, that they petitioned the King, in which they were joined by the house of *Peers*, that he might yet be exempt from suffering the pains of death; to which, as his friends alledge, his Majesty consented. This was looked upon as a sufficient security; yet either upon the account of his own behaviour or that of his party or some private resentment, the present house of *Commons* thought fit to address the King to bring him, together with Colonel *John Lambert*, to their tryals. Accordingly June 4, 1662, they were both arraigned at the King's bench bar, before Sir *Robert Foster*, Lord chief justice, and other judges; and Sir *Henry* indicted for imagining and compassing the death of the King; and for taking upon him and usurping the government: and Colonel *Lambert* for levying war against the King in several parts of the kingdom. The carriage and behaviour of *Vane* was very extraordinary, for being charged by the King's council with a continued series of treasons, from the King's murder to the Restoration, without insisting upon the Rebellion with which they might have begun, he absolutely denied they had any power to try him, and declared, "that neither the King's death, nor the members themselves could dissolve the Long Parliament, whereof he being one, no inferior court could call him in question."—His whole behaviour was so assuming and insolent, that the Court and King's council told him, that his own defence was a fresh charge against him and the highest evidence of his inward guilt, had there not been such a cloud of witnesses to prove the particulars.—The Jury after a very short stay brought him in guilty of high treason. Colonel *Lambert's* behaviour was quite contrary, full of submission and discretion.—He was likewise condemned; but when he was to receive sentence with Sir *Henry Vane*, he was by the King's favor reprieved at the bar, upon the report that the judges had given of his

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submissive

panion in acting. I am most in a maze at the mistaken informations, that were sent to me by my friends, full of expectations of favours and employments. Who can think that they who imprison them would employ me, or suffer me to live when they are put to death? If I might live and be employed, can it be expected that I should serve a government that seeks such detestable ways of establishing itself? Ah! no; I have

submissive and handsome deportment at his tryal: upon which he desired the judges to return to his Majesty his most humble thanks for his so unexpected mercy, which the judges said might have been, *and was once thought to be extended to Sir Henr.*, if his forwardness and contemptuous behaviour had not precluded the way to it. The Colonel was confined during life in the Isle of *Guernsey*, where he continued a patient and discreet prisoner for above thirty years.

Archdeacon Echard and Bishop Kennet; see the Hist. Register, p. 704, 5.

And since it hath pleased God, who separated me from the womb to the knowledge and service of the gospel of his Son, to separate me also to this hard and difficult service at this time, and *to single me out to the defence and justification of this his cause*, I could not consent by any words or action of mine, that the innocent blood that hath been shed in the defence of it throughout the whole war, *the guilt and moral evil of which must and does certainly lye somewhere, did lye at my door, or at theirs, that have been the faithful adherers to this cause.* This is with such evidence upon my heart, that I am most freely and cheerfully willing to put the greatest seal to it I am capable, which is, *the pouring out of my very blood in witness to it*; which is all I shall need say in this place and at this time, having spoken at large to it in my defence at my tryal, intending to have said more the last day, as what I thought was reasonable for *arrest of judgment*, but I was not permitted then to speak it; both which may, with time and God's providence, come to public view. And I must still assert, that I remain wholly unsatisfied, that the course of proceedings against me at my tryal *were according to law*; but that I was run upon and destroyed, contrary to right and the liberties of *Magna Charta*, under the form only of justice, which I leave to God to decide, who is the judge of the whole world, and to clear my innocency. In the mean time I beseech him to forgive them and all that had a hand in my death; and that the Lord, in his great mercy, will not lay it unto their charge. etc.

The tryal of Sir Henry Vane knt. at the King's bench, Westminster, June 2, and 6, 1662. Together with what he intended to have spoken the day of his sentence, June 11, for arrest of judgment, had he not been interrupted and over-ruled by the Court, and his bill of exceptions. With other occasional speeches, etc. Also his speech and prayer, etc. on the scaffold. Printed in the year 1662, in quarto, p. 90.

Sonnet to Sir Henry Vane.

Vane, young in years, but in sage counsels old,
 Than whom a better senator ne'er held
 The helm of Rome, *when gowns not arms repell'd*
 The fierce Epirot, and the African bold,
 Whether to settle peace, or to unfold
 The drift of hollow states, hard to be spell'd;
 Then to advise how war may best upheld,
 Move by her two main nerves, iron and gold,
 In all her equipage: *besides to know*
Both spiritual and civil, what each means,
What serves each, thou hast learn'd; which few have done.
 The bounds of either sword to thee we owe;
 Therefore on thy right hand religion leans
 In peace, and reckons thee her eldest son.

John Milton.

The cases cited by the learned judge [*Hale*] do not in the least shake the principle already advanced, that the Throne being full, any person out of possession but claiming title, be his pretensions what you please, is no King within the statute of treasons.

‘ have not learnt to make my own peace, by persecuting and betraying
 ‘ my brethren, more innocent and worthy than myself. I must live by
 ‘ just means, and serve to just ends, or not at all. After such a mani-
 ‘ festation of the ways by which it is intended the king shall govern, I
 ‘ should have renounced any place of favour, into which the kindness
 ‘ and industry of my friends might have advanced me, when I found
 ‘ those, that were better than I, were only fit to be destroyed. I had
 ‘ formerly

I am aware of the judgment of the Court of King’s bench in the case of Sir *Henry Vane*,
 “ That King *Charles* the Second, though kept out of the exercise of the Kingly office,
 yet was still a King both *De facto* and *De Jure*; and that all acts done to the keeping him
 out were high treason.”

Sir *Henry Vane*’s, was a very singular case, and the transactions in which he bore a part,
 happened in a conjuncture of affairs which never did exist before, and I hope never will
 again. An usurpation founded in the dissolution of the antient legal government, and the
 total subversion of the Constitution.

I will therefore say nothing to the merits of the question more, than that the rule laid
 down by the Court involved in the guilt of treason, every man in the Kingdom who had
 acted in a public station under a government possessed IN FACT for twelve years together of
 sovereign power; but under various forms at different times, as the enthusiasm of the herd,
 or the ambition of their leaders dictated.

But this resolution hath not in the least shaken the principle I contend for; it doth in
 reality suppose the truth of it. For if *Charles* the Second was King *De facto* from the death
 of his Father, every thing done from that time in prejudice of his right was undoubtedly
 high treason.

The only difficulty is, what did the Court mean by a King *De facto*? They could not
 mean, what every soul before themselves understood, a King in the actual and full exercise
 of the regal power. They meant, I presume, as his Lordship upon another occasion is
 pleased to express himself, one QUASI in possession of the Crown; since during the usurpation,
 no other person did claim to act under the regal title.

The distinction between *De Jure* and *De Facto* Kings was taken up by the House of
York to serve the purposes of ambition and revenge. By the former, they meant those who
 are presumed to have succeeded to the crown in a regular course of descent. By the latter,
 those who have not had that claim to it. The former were in their estimation the only
 rightful Kings. The latter, not excepting such as have claimed under a parliamentary
 settlement, no better than fortunate usurpers.

This doctrine perfectly suited the views of that faction. For the Crown having been
 entailed by act of Parliament on *Henry* the Fourth and his Issue, the House of *York* saw
 itself totally excluded, unless its pretensions could be supported by a title *Paramount to the*
power of Parliament. Proximity in blood was its only refuge, and to that the partizans of
 that House resorted. And in so doing they brought upon themselves, in my opinion, the
 whole guilt of that deluge of blood, which was afterwards spilt in the unnatural war between
 the two Houses.

It is not to be wondered at, that men whose ambition suggested to them the hope of over-
 turning an establishment, to which themselves, their ancestors, and the whole Nation had
 submitted for more than half a century, should endeavour to convince mankind of the recti-
 tude of their intentions, and the justice of their claim. Nor is it at all surprizing, that
 their followers, *in the heat of the times*, should suffer themselves to be easily convinced. For
 in the ferment of parties, *Leaders never blush, and the Herd of the Party seldom think*. But,
 that persons who are placed at a happy distance from these disastrous times, should in cool
 blood revive and adopt a doctrine, which hath once laid their country waste, is not so easily
 accounted for.

But since this hath been done by learned men, among whom Lord Chief Justice *Hale*’s
 name must be mentioned with all just regard, I will endeavour to point out what I take to
 have been the radical mistake, which led them into a train of specious but false reasoning
 upon this subject.

‘ formerly some jealousies ; the fraudulent proclamation for indemnity
 ‘ increased them ; the imprisoning of those three men, and turning out
 ‘ of all the officers of the army, contrary to promise, confirmed me in
 ‘ my resolutions not to return. To conclude, the tide is not to be
 ‘ diverted, nor the oppressed delivered ; but God, in his time, will have
 ‘ mercy on his people. He will save and defend them, and avenge the
 ‘ blood of those who shall now perish, upon the heaps of those, who, in
 ‘ their pride, think nothing is able to oppose them. Happy are those,
 ‘ whom God shall make instruments of his justice in so blessed a work !
 ‘ If I can live to see that day, I shall be ripe for the grave, and able to
 ‘ say with joy, “ Lord, now lettest thou thy servant depart in peace.”
 ‘ Farewel. My thoughts as to king and state depending upon their
 ‘ actions, no man shall be a more faithful servant to him than I, if he
 ‘ make the good and prosperity of his people his glory * ; none more his
 ‘ enemy,

They seem not to have sufficiently attended to the nature and ends of civil power, whereof the regal dignity is a principal branch. They seem to have considered the crown and royal dignity merely as a descendable property ; as an estate or interest vested in the possessor for the emolument and grandeur of himself and heirs, in a regular invariable course of descent. And therefore in questions touching the succession, they constantly resort to the same narrow rules and maxims of law and justice, by which questions of meer property, the title to a pigstye or a laystall, are governed. And thence conclude, that the Legislature itself cannot, without manifest injustice, interrupt the antient, legal, established order of succession. It cannot, say they, without injustice, give to one branch of the royal family, what by right of blood belongeth to another.

Thus they argue. And if I could conceive of the Crown as of an inheritance of meer property, I should be tempted to argue in the same manner. But had they considered the crown and royal dignity, as a descendable OFFICE, as a TRUST for millions, and extending its influence to generations yet unborn ; had they considered it in that light, they would soon have discovered the principle upon which the right of the legislature to interpose in cases of necessity is manifestly founded. And that is the SALVS POPVLI already mentioned [p. 382] upon a like occasion. etc. etc. etc. which the ingenuous reader should pursue.

Observations on some passages in the writings of L. C. J. Hale ; relative to the principles on which the Revolution and present HAPPY Establishment are founded. By [that faithful judge and friend to liberty] Sir Michael Foster.

There is an original and good picture of this extraordinary but unfortunate Gentleman, Sir Henry Vane, in the *British Museum*.

[* If he make the good and prosperity of his people his glory, etc.]

Of a tall stature and of fable hue
 Much like the son of Kish that lofty Jew ;
 Twelve years compleat he suffer'd in exile,
 And kept his father's asses all the while.
 At length by wonderful impulse of fate,
 The people call him home to mend the state ;
 And, what is more, they send him money too,
 And cloath him all, from head to foot, anew.
 Nor did he such small favors then disdain,
 Who in his thirtieth year began his reign.
 In a flash'd doublet then he came ashore,
 And dubb'd poor Palmer's wife his royal whore.
 Bishops, and Deans, Peers, Pimps, and Knights he made,
 Things highly fitting for a Monarch's trade !
 With women, wine, and viands of delight,
 His jolly vassals feast him day and night.

etc. etc. etc.

An historical poem by A. Marvell.

‘ enemy, if he doth the contrary. To my particular friends I shall
‘ be

———D’où les Anglois remontant au souvenir de la puissance de leurs flottes du temps d’Olivier ; de la gloire qu’elles ont remportées *sur toutes les mers* ; les alliances, *que toute la terre recherchoit avec eux* ; de la pompe de la République, *vers laquelle il venoit des ambassadeurs de tous costez* ; ils ne peuvent s’empescher de faire des comparaisons *odieuses*, et de temoigner quelque disposition à des nouveaux desordres. Ils veulent bien un roi pour la gloire de leur pays. Ils aiment ce titre, et preferent cette sorte de gouvernement à toutes les autres. Mais ils reconnoissent, que leur humeur un peu trop libre et arrogante a besoin de ce caveçon ; ils ne veulent point aussi le souffrir trop rude, et ils pretendent que leur Roi se doit appliquer *uniquement* à maintenir la tranquillité publique, à faire vivre heureusement son peuple, et à porter au dehors le plus avant qu’il peut *l’honneur et la reputation de sa patrie*. Ils desent que c’est pour cela qu’ils l’entretiennent splendidement, et leurs *Estats*, dans lesquelles proprement reside la puissance Souveraine, ne lui refuseront jamais rien de ce qu’il leur demandera pour satisfaire à ses intentions. Mais qu’il leur fache de voire commettre une chose si importante au soins d’un Ministre, qui toujours a des interests particuliers, contraires à ceux du public ; qu’il est sensible au peuple de se saigner inutilement, et de voir employer son argent en choses superflûes, ou mesme *en despences des-honnetes* ; [rendered in the translation of 1709, “*upon base lusts* ;”] qu’il n’est pas juste que quelques *sang-suës de cour* en soient remplies elles seules, et que l’on ne navige ou ne labore, qu’on ne travaille sur mer et sur terre, que pour mettre bien à leur aise un petit nombre de personnes oisives, qui abuseront de la facilité d’un prince. Ces pensées et ces discours sont conformes à l’humeur *arrogante* des Anglois, et à la jalousie avec laquelle ils regardent les prosperitez d’autruy. Mais outre la particuliere inclination que la nature leur donne à former des raisonnemens *si peu respectueux*, ils se font nourris de longue main *dans cette mauvaise habitude par la liberté de leurs Parlemens*, d’ont il faut que Je vous raconte l’histoire, telle qu’il m’en souvient ou que Je me la suis figurée, etc. etc. etc.

“ Relation d’un voyage en Angleterre.” By Mons.
Sorbier. Printed at Cologne, 1666, in duod. p. 107.

It was hoped and expected, that this prodigious and universal calamity, [the fire of London] for the effects of it covered the whole kingdom, would have made some impression and produced some *reformation in the licence of the court*. For as the pains the King had taken night and day during the fire, and the dangers he had exposed himself to, even for the saving of the citizens goods, had been notorious and in the mouths of all men with many good wishes and prayers for him, so his majesty had been heard *during that time* to speak with great piety and devotion of the displeasure that God was provoked to. And no doubt the deep sense of it did raise many good thoughts and purposes in his royal breast. But he was narrow’y watched and looked to, that such melancholick thoughts might not long possess him, the consequence and effect whereof was like to be more grievous than that of the fire itself ; of which, *that loose company that was too much cherished*, even before it was extinguished, discoursed as of an argument for mirth and wit to describe the wildness of the confusion all people were in ; in which the scripture itself was used with equal liberty, when they could apply it to their *profane* purposes. And Mr. May presumed to assure the King, “ that this was the greatest blessing, that God had ever conferred upon him, his Restoration only excepted : for the walls and gates being now burned and thrown down of that rebellious city, which was always an enemy to the Crown, his Majesty would never suffer them to repair and build them up again, to be *a bit in his mouth and a bridle upon his neck* ; but would keep all open, that his troops might enter upon them whenever he thought necessary for his service, *there being no other way to govern that rude multitude but by force.*”

The continuation of the life of Edward Earl of Clarendon, vol. 3. p. 674.

———See other passages of a like kind in that work. [Midhurst. Baptist May. Esq. privy purse, L 1000 a year allowance. Got besides in boons for secret service L 40000. This is he that sayd, “ *Five hundred pounds a year was enough for a Country Gentleman to drink ale, eat beef, and stink with.*” etc. A seasonable argument, etc.]

Such unanimity appeared in the proceedings of the new Parliament, or Convention as it came afterwards to be called because it was not summoned by the King’s writ, that

‘ be constant in all occasions, and to you a most affectionate servant.’

After

there was not the least dispute among them but upon one single point; yet that was a very important one. Hale, afterwards the famous Chief Justice, moved, “ That a Committee might be appointed to look into the propositions that had been made, and the concessions that had been offered by the late King during the war, particularly at the treaty of Newport, that from thence they might digest such propositions as they should think fit to be sent over to the King.” This was seconded, but I do not remember [pity it is that he did not!] by whom. It was foreseen that such a motion might be set on foot, so Monk was instructed how to answer it, whensoever it should be proposed. He told the House, that there was yet, beyond all mens hope, an universal quiet all over the nation; but there were many incendiaries still on the watch, trying where they could first raise the flame. He said, he had such copious informations sent him of these things, that it was not fit they should be generally known: He could not answer for the peace either of the Nation or of the Army, if any delay was put to the sending for the King: What need was there of sending propositions to him? Might they not as well prepare them and offer them to him when he should come over? He was to bring neither army nor treasure with him either to fright them or corrupt them. So he moved, that they would immediately send commissioners to bring over the King: And said, that he must lay the blame of all the blood or mischief that might follow on the heads of those, who should still insist on any motion that might delay the present settlement of the Nation. This was echo’d with such a shout over the House, that the motion was no more insisted on.

This was indeed the great service that Monk did. It was chiefly owing to the post he was in and to the credit he had gained; for as to the Restoration itself, the tide run so strong, that he only went into it dexterously enough, to get much fame and great rewards, for that which will have still a great appearance in history. *If he had died soon after, he might have been more justly admired, because less known and seen only in one advantageous light:* But he lived long enough to make it known, how false a judgment men are apt to make upon outward appearance. *To the King’s coming in without conditions may be well imputed all the errors of his reign.* And when the Earl of Southampton came to see what he was likely to prove, he said once in great wrath to Chancellor Hyde, “ It was to him they owed all they either felt or feared; for if he had not possessed them in all his letters with such an opinion of the King, they would have taken care to have put it out of his power either to do himself or them any mischief, which was like to be the effect of their trusting him so entirely.” Hyde answered, “ That he thought the King had so true a judgment and so much good nature, that when the age of pleasure should be over, and the idleness of his exile which made him seek new diversions for want of other employment was turned to an obligation to mind affairs, then he would have shaken off those entanglements.”

Burnet’s hist. of his own times, vol. I. p. 89.

A colony of French possess the Court;
Pimps, priests, buffoons, in privy chamber sport.
Such slimy monsters ne’er approached a throne
Since Pharaoh’s days, nor so defil’d a crown.
In sacred ear tyrannic arts they croak,
Pervert his mind, and good intentions choak;
Tell him of golden Indies, fairy lands,
Leviathan, and absolute commands.

Britannia and Raleigh, a poem by A. Marvell.

The secret of the King and Duke’s being so eager and hearty in their resolutions to break with France at this juncture, [July 1678] was as follows.

France, in order to break the force of the Confederacy, and elude all just conditions of a general peace, resolved by any means to enter into separate measures with Holland; to which end it was absolutely necessary to engage the good offices of the King of England, who was looked upon to be master of the peace whenever he pleased. The bargain was struck for three or four hundred thousand pounds. But when all was agreed, Monsieur Barillon, the French ambassador, told the King, “ that he had orders from his master,

before

After he had continued some time in Italy, he thought proper to draw nearer

before payment, to add a private article, by which his Majesty should be engaged, never to keep above eight thousand men of standing troops in his three kingdoms." This unexpected proposal put the King in a rage, and made him say, "*—d's fish! Does my brother of France think to serve me thus? Are all his promises to make me absolute master of my ——— come to this? Or does he think that a thing to be done with eight thousand men?*"

Temple's works, vol. II. p. 464. in a note, edit. 1720.

—By this means came in Charles the second, a luxurious effeminate prince, a deep dissembler, and if not a papist himself, yet a great favourer of them: but the People had suffered to much from the army, that he was received with the utmost joy and transport. The Parliament, in the Honey-moon, passed what laws he pleased, gave a vast revenue for life, being three times as much as any of his predecessors enjoyed, and several millions besides to be spent in his pleasures. This made him conceive vaster hopes of an arbitrary power than any that went before him, and in order to it he debauched and enervated the whole kingdom. His Court was a scene of adulteries, drunkenness and irreligion, appearing more like stews or the feasts of Bacchus, than the family of a chief magistrate. And in a little time the contagion spread through the whole Nation, that it was out of the fashion not to be lewd, and scandalous not to be a public enemy." etc. etc. etc.

"A short history of standing armies in England."

[by John Trenchard.] London, 1698. in quarto.

—Ruffel the painter related to or connected with the *Olivers*, told *Vertue* a remarkable story. The greater part of the collection of King Charles being dispersed in the troubles, among which were several pictures of the *Olivers*, Charles II. who remembered and was desirous of recovering them, made many inquiries about them after the restoration. At last he was told by one *Rogers* of *Iseworth*, probably *Progers* well known for being employed in the King's private pleasures, that both father and son were dead, but that the son's widow was living at *Iseworth* and had many of their works. The King went privately and unknown with *Rogers* to see them. The widow showed several finished and unfinished, with many of which the King being pleased, asked if she would sell them; she replied, she had a mind the King should see them first, and if he did not purchase them, she should think of disposing of them. The King discovered himself; on which she produced some more pictures which she seldom showed. The King desired her to set a price; she said she did not care to make a price with his Majesty, she would leave it to him: but promised to look over her husband's books and let his Majesty know what prices his father the late King had paid. The King took away what he liked, and sent *Rogers* to Mrs. *Oliver* with the option of a thousand pounds, or an annuity of three hundred pounds for her life. She chose the latter. Some years afterwards, it happened, that the King's mistresses having begged all or most of these pictures, Mrs. *Oliver*, who probably was a prude and apt to express herself like a prude, said, on hearing it, "that if she had thought the King would have given them to such whores and strumpets and bastards, he never should have had them." This reached the Court; the poor woman's annuity was stopped and she never received it afterwards.

Anecdotes of painting in England, with some account of the principal artists; etc. collected by the late Mr. George Vertue, and now digested and published by Mr. Horace Walpole. Strawberry hill, printed 1762, [FROM HIS OWN PRESS, mark that ye Nobles, Gentry,] in two vol. quarto, vol. 2. p. 14.

One other extract from this author, to whom the public are variously obliged, cannot be improper in the *Memoirs of A. Sidney*. It is taken from the second volume of the above work, p. 147.

"The whole fabric [the intended palace of Whitehall by Inigo Jones] was so glorious an idea, that one forgets for a moment, in the regret for its not-being executed, the confirmation of our liberties obtained by a melancholy scene that passed before the windows of that very banquetting-house."

Alfred was of person comlier than all his brethren, of pleasing tongue and graceful behaviour, ready wit and memory; yet through the fondness of his parents towards him, had not been taught to read till the twelfth year of his age; but the great desire of learning which was in him, soon appeared, by his conning of Saxon poems day and night, which with great attention

nearer home, that if an opportunity should offer, "he might not,"

23

attention he heard by others repeated. He was besides, excellent at hunting and the new art then of hawking, *but more exemplary in devotion*, having collected into a book certain prayers and psalms which he carried ever with him in his bosome to use on all occasions. *He thirsted after all liberal knowledge*, and oft complained, that in his youth he had no teachers, in his middle age so little vacancy from wars and the cares of his kingdome; *yet leisure he found sometimes, not only to learn much himself, but to communicate therof what he could to his people*, by translating books out of Latin into English, *Orosius, Boethius, Beda's history and others*; *permitted none unlearn'd to bear office, either in Court or Commonwealth*. At twenty years of age, not yet reigning, he took to wife *Egelswitha* the daughter of *Ethelred a Mercian Earl*. The extremities which befell him in the sixt of his reign, *Neethan Abbot* told him, were justly come upon him for neglecting in his younger days the complaints of such as injured and oppressed repaired to him, as then second person in the kingdom for redress; *which neglect were it such indeed, were yet excusable in a youth*, through jollity of mind unwilling perhaps to be detained long with sad and sorrowful narrations; *but from the time of his undertaking regal charge, no man more patient in hearing causes, more inquisitive in examining, more exact in doing justice, and providing good laws which are yet extant; more severe in punishing unjust judges or obstinate offenders. Theeves especially and robbers, to the terror of whom in cross waies were hung upon a high post certain chains of gold, as it were daring any one to take them thence; so that justice seemed in his daies not to flourish only but to triumph. No man then bee more frugal of two pretious things in man's life, his time and his revenue; no man wiser in the disposal of both*. His time, the day and night he distributed by the burning of certain tapours into three equal portions; the one was for devotion, the other for public or private affairs, the third for bodily refreshment: how each hour past, he was put in minde by one who had that office. His whole annual revenue, which his first care was should be justly his own, he divided into two equal parts. The first he imploy'd to secular uses, and subdivided those into three; the first to pay his souldiers, household-servants and guard, of which divided into three bands one attended monthly by turn; the second was to pay his architects and workmen, *whom he had got together of several nations*, for he was also an elegant builder, *above the custome and conceit of Englishmen in those days*: the third he had in readines to relieve or honor strangers according to their worth, who came from all parts to see him, and live under him. The other equal part of his yearly wealth he dedicated to religious uses, those of fowr forts. The first to relieve the poor; the second to the building and maintenance of two monasteries; the third of a school, *where he had persuaded the sons of many noblemen to study sacred knowledge and liberal arts*, some say at *Oxford*; the fourth was for the relief of foreign churches as far as *India* to the shrine of *St. Thomas*, sending thether *Sigelm* bishop of *Sherburn*, who both returned safe and brought with him many rich gems and spices: gifts also and a letter he received from the Patriarch of *Jerusalem*, sent many to *Rome*, and for them received reliques. Thus far, and much more might be said of his NOBLE minde, which rendered him the miror of Princes. His body was diseased in his youth with a great soreness in the feige, and that ceasing of itself, with another inward pain of unknown cause, which held him by frequent fits to his dying day; *yet not disabled to sustain those many glorious labors of his life both in peace and war*.

The history of Britain, that part especially now called England, from the first traditional beginning to the Norman conquest. By John Milton. London printed 1671, in quarto.

The Reader will forgive the following digression, if it be a digression, respecting good and bad ministers, which makes part of *Milton's inimitable prayer*, in his first prose tract, intitled "Of Reformation" etc. printed London 1641, in quarto.

"Then amidst the hymns and halleluiahs of Saints, some one may perhaps bee heard offering at high strains in new and lofty measures, to sing and celebrate thy divine mercies and marvellous judgments in this land throughout all ages; whereby this great and warlike nation instructed and inured to the fervent and continuall practice of truth and righteousness, and casting farre from her the rags of her old vices, may presse on hard to that high and happy emulation to be found the soberest, wisest, and most christian people, at that day when thou

the

as general Ludlow observes*, be wanting to his duty and the public service." In his way he visited that general and his friends, in their retirement in Switzerland; assuring them of his affection and friendship, and no way declining to own them and the cause for which they suffered. He staid with them about three weeks; and designing to go for Flanders, where he resolved to pass the ensuing winter, he took his journey by the way of Berne, doing all the good offices he could for general Ludlow † and his friends, with the advoyer and other principal magistrates of that city. He was at Bruffels in the end of the year 1663, whence he wrote to his father, with relation to transporting a body of the best officers and soldiers of the old army into the service of the emperor.

In 1665, upon the breaking out of the war between England and the United Provinces, ten persons were sent by king Charles II. to Augsburg in Germany to *assassinate* colonel Sydney ‡; and probably might have effected their design, if he, having undertaken a journey to Holland,

upon

the eternal and shortly-expected King shalt open the clouds to judge the severall kingdoms of the world, and distributing *national honors and rewards* to religious and just *Commonwealths*, shalt put an end to all earthly *Tyrannies*, proclaiming thy universal and milde *Monarchy* through heaven and earth. Where they undoubtedly, *that by their labors, counsels and prayers, have been earnest for the common good of religion and their Country*, shall receive above the inferior orders of the blessed, the regall addition of principalities, legions and thrones into their glorious titles, and in supereminence of beatific vision progressing the dateless and irrevoluble circle of *Eternity*, shall clasp *inseparable* hands with joy and blisse, in *over-measure* for ever. But they contrary, *that by the impairing and diminution of the true faith, the distresses and servitude of their Country*, aspire to high dignity, rule and promotion here, after a shameful end in this life, WHICH GOD GRANT THEM, shall be throwne downe eternally into the darkest and deepest gulfe of hell, where under the despightfull controule, the trample and spurne of all the other damned, that in the anguish of their torture shall have no other ease then to exercise a raving and bestiall tyranny over them as their slaves and negro's, they shall remaine in that plight for ever, *the basest, the lowermost, the most dejected, most underfoot and downe-trodden vassals of perdition.*"

* Memoirs, p. 384, folio edit.

† Edmund Ludlow, Knight of the shire for the County of Wilts, in the Parliament which began Nov. 3, 1640; one of the Council of State, Lieutenant General of Horse and Commander in chief of the Forces in Ireland. An honest man by the confession of his enemies. His feat was *Maiden Bradley*, with a paternal estate, it is said of upwards of 3000 l. a year belonging to it. During his retirement in *Switzerland*, he wrote his "*Memoirs*," and several curious valuable tracts.

It may not be improper here, to give an extract of a letter from *Philip*, Lord Viscount *Liste*, to his father *Robert*, earl of *Leicester*, dated Nov. 6, 1649, taken from the *Sidney* State papers; as it accounts, in part, for the kindness and attention shewn afterwards in *Switzerland* to the *Commonwealth party* which sheltered themselves there. "The Parliament's declaration made since the change of the government, hath been, as the Council is informed, much approved of, in many parts of the *Swisses* Country; and the Ministers there, do publicly give God thanks for the establishment of the *Republic* and pray for it: upon which I believe an Agent will shortly be sent thither."

The Latin edition of the Declaration was printed Mar. 22, 1648, in quarto, under this title, "Parliamenti Angliae declaratio. In qua Res nuperum gestae, et Decretum de Statu Angliae Regio in liberam Rempubliam vertendo, afferuntur." And the following order was placed before the title, "Die Sabbathi 17 Martii, 1648. Comitii Populi Parliamentariis decernitur, hanc Declarationem typis esse illicè mandandam. Hen. Scobell Cleric. Parliamenti."

‡ Memoirs of Edmund Ludlow, p. 404.

upon business relating to the public, had not removed from that city before their arrival.

He continued abroad till the year 1677, when he procured leave to return to England; and obtained a particular pardon, according to bishop Sprat, “upon repeated promises of constant quiet and obedience for the future.” Bishop Burnet affirms, that ‘he came back when the parliament was pressing the king into a war. The court of France obtained leave for him to return. He did all he could to divert the people from the war; so that some took him for a pensioner of France §. But he said, our court was in an entire confidence in France, and had no other design in this shew of a war, but to raise an army and keep it beyond-sea till it was trained and modelled.’ But it is evident from a letter of his to Henry Savile, the English ambassador in France *, that it was that gentleman

§ Hist. of the Rye-house plot.

[§ Some took him for a Pensioner of France.]

The following anecdote having been communicated to Dr. Hutcheson of Glasgow, was frequently related by him to his friends: “Mr. Sidney, during his stay in France, being one day hunting with the French King, and mounted on a fine English horse, the form and spirit of which caught the King’s eye, received a message, that he would be pleased to oblige the King with his horse at his own price. He answered, that he did not choose to part with him. The King determined to have no denial, and gave orders to tender him money or to seize the horse; which being made known to Mr. Sidney, he instantly took a pistol and shot him, saying, That his horse was born a free creature, had served a free man, and should not be mastered by a King of slaves.”

[* To Henry Savile, the English ambassador in France, etc.]

Mr. Savile is said to have replied to a Frenchman, who exulted upon the fine writings of his countrymen, *That there were but two subjects in nature worth a wise man’s thoughts, namely religion and government, and they durst speak of neither.*

The Independent Whig, numb. I.

The celebrated Monf. Voltaire, in his “Ode sur la mort de Madame de Bareith, avec une lettre, etc.” seems to have entertained, nearly, the same idea as Mr. Savile; and fixes the superiority of the English Nation, where *alone* it centers, UPON ITS LIBERTY.

“Les Italiens, ces peuples ingénieux, ont craint de penser; les Français n’ont osé penser qu’à demi, et les Anglais qui ont volé jusqu’au ciel, PARCE QU’ON NE LEVRA POINT COUPE LES AILES, sont devenus les précepteurs des nations. Nous leur devons tout, depuis les loix primitives de la gravitation, depuis le calcul de l’infini et la connaissance précise de la lumière si vainement combattues, jusqu’à la nouvelle charue, et à l’insertion de la petite vérole, combattues encore.”

Signor Martinelli has a note also to the same effect in his elegant edition of the “Decamerone di Giouanne Boccacio.”

“La lingua Toscana, può dirsi il miracolo delle lingue sì morte come viventi. Ella nacque, si può dir, come rosa infra le spine della perfecuzione; perche Dante e il Petrarca le loro belle opere in esilio composero, e il Boccaccio il suo Decamerone terminò, siccome nel proemio alla quarta giornata dichiara, saettato dall’invidia e dalla calunnia. Il Machiavelli fù martoriato dalla fazione dei Medici, per essersi ingegnato d’impedir loro d’occupare la tirannide della sua patria. Il Guicciardini si prese un volontario esilio in una sua villa, per non vedere spirare la libertà della Republica Fiorentina nelle mani di Cosimo primo, e quivi terminò di scrivere la sua Istoria d’Italia. Al Segni e al Varchi, proibirono i Granduchi di pubblicare le loro Istorie di Firenze. Il Galileo, tra le perfecuzioni con le quali convenne combattere, ebbe quella d’Impostore che si arrogarono le sue mirabili invenzioni, con le quali ha aperto ai mortali la via d’indagare l’indole e movimenti de’ corpi celesti; e finalmente l’Ariosto visse povero e Torquato Tasso morì poverissimo.

Parlando

gentleman who obtained leave for him to return. The letter is dated from Nerac, December 28, 1682, but the year erroneously printed.

He was at Penhurst * on the 13th of November, 1677, and then gave a discharge to the executors of his father's will, Robert earl of Sunderland, Henry Sydney his brother, and Sir John Pelham, bart. for the legacy left him therein of 5000 and 100l.

The year following, he stood candidate for the town of Guildford in Surrey; but the court opposing his election he lost it: and though he drew up an account of the irregular proceedings in it, yet he did not think proper to pursue his claim. In 1679, he stood likewise candidate for the borough of Bramber, in Suffex; but was not chosen, the interest being before made by Sir John Pelham and the Sydney family, fearing the ardour and intrepidity of his temper in such times, for his brother Henry Sydney, afterwards earl of Romney.

In 1683, he was accused of being concerned in the Rye-house plot; and after the lord Ruffel had been examined, he was brought before the king and council. He told them, that he would make the best defence he could, if they had any proof against him, but he would not fortify their evidence by any thing he should say; so that his examination was very short. † He lay some time in the Tower, and was brought thence by Habeas Corpus, on the 7th of November, 1683, to the king's-bench bar, where he was arraigned on an indictment of high treason. On the 21st of November he was tried. For particulars, the reader will be pleased to consult his trial.

The colonel being found guilty, when he was brought into court to receive sentence, he repeated his objections to the evidence against him; in which judge Withins interrupted him, and by a strange indecency gave him the lye in open court, which he bore patiently ‡.

His execution was respited for three weeks; the trial being universally exclaimed against, as a piece of most enormous injustice. After conviction he sent to the lord Halifax, who was his nephew by marriage, a paper to be laid before the king, containing the main points of his defence, upon which he appealed to his majesty, and desired he would review the whole

Parlando dei Latini, Ennio fù produzione del favore di Caton maggiore, Terenzio di quello di Scipione, Lucrezio fù l'ammirazione e la delizia dei Grandi, e Cavalier-riguardevole egli stesso, e Cicerone fù l'Arbitro un tempo della Republica; Virgilio e Orazio ebbero uno Augusto che gli colmò di benefizj, e Cornelio Tacito ebbe l'Imperator Traiano per protettore e per amico.

E venendo alle lingue viventi, la lingua Francese ebbe varj governi, che premiarono grandemente quelli scrittori che in essa in qualche maniera si distinsero; nondimeno non oltrepasò, il figurar nel Teatro, e divenire la lingua franca di alcune Nazioni d'Europa per il militare e la mercatura: e se la lingua Inglese è divenuta la lingua della filosofia e di ogni altra scienza lo deve AL GENIO LIBERO e inquisitivo della Nazione, fecondato dalle vastissime ricchezze che le ha somministrate il commercio, mezzo efficacissimo a condur gl'ingegni a gran cose non meno che alla corruzione."

* Collins's Memoirs.

† Burnet, vol. i. p. 548.

‡ See the note in the Trial; p. 118.

MEMOIRS OF THE LIFE OF A. SYDNEY

whole matter. Whereupon the lord chief justice Jefferies, who had tried him, said, ‘*That either Sydney must dye or he must dye* §.’ During his imprisonment, he sent for some independent preachers, and expressed to them a deep remorse for his past sins and a great confidence in the mercies of God. When he saw the warrant for execution he expressed no concern at it, and the change that was in his temper amazed all who went to him. He told the sheriffs who brought the warrant †, that he would not expostulate upon any thing on his account, for the world was now nothing to him, but he desired they would consider, how guilty they were of his blood, who had not returned a fair jury but one packed, and as they were directed by the king’s solicitor; he spoke this to them, not for his own sake but for their sake. One of the sheriffs was struck with this and wept. He wrote a long vindication of himself, which bishop Burnet says he had read; and that he summed up the substance of it in the paper which he gave to the sheriffs: and suspecting they might suppress it, he gave a copy of it to a friend. It was a fortnight before it was printed; though the speeches
of

§ Burnet, vol. i. p. 572.

† “ This indenture made the seventh day of December, in the five and thirtieth year of the reign of our sovereign Lord Charles the Second, by the grace of God king of England, Scotland, France and Ireland, Defender of the Faith, etc. and in the year of our Lord 1683, between the honourable Thomas Cheeke Esq. Lieutenant of his Majesty’s Tower of London of the one part, and Peter Daniel Esq. and Samuel Dashwood Esq. Sheriffs of the county of Middlesex of the other part: Whereas Algernoon Sydney, Esq. by warrant of the Right Honourable Sir Leolin Jenkins, Knight, his Majesty’s principal Secretary of State, bearing date at Whitehall the five and twentieth day of June, in the five and thirtieth year of the reign of King Charles the Second aforesaid, was committed to the custody of the said Lieutenant of the Tower for High Treason in compassing the death of the King, and conspiring to levy war against him, by him the said Lieutenant to be safely kept up until he should be delivered by due course of law; and whereas, by writ issuing out of his Majesty’s Court of King’s Bench, under the seal of the said Court, bearing date the eight and twentieth day of November last past, reciting the judgment of the said Court against the said Algernoon Sydney for divers high treasons touching his Majesty’s person, whereof he then stood convicted and attainted, the said Lieutenant of the Tower was commanded, that upon Friday the seventh day of December then next coming, he the said Lieutenant should meet the Sheriffs of Middlesex at Tower-Hill, and there cause the said Algernoon Sydney to be delivered to the said Sheriffs, to the intent that the said Sheriffs might cause execution to be made of him the said Algernoon Sydney, in such manner as in the said writt, is recited. Now this indenture witnesseth, that the said Thomas Cheeke, in obedience to the said writt, and in performance of his Majesty’s command therein specified, doth, the day of the date of these present indentures, deliver unto the said Peter Daniel and Samuel Dashwood, the body of the said Algernoon Sydney, in the said writt mentioned, according to the form and effect of the said writt; and the said Peter Daniel and Samuel Dashwood do hereby acknowledge to have received, on the day of the date of this present indenture, of and from the said Thomas Cheeke, the body of the said Algernoon Sydney, and of him do acquit and discharge the said Thomas Cheeke by these presents; in witness whereof the parties to these presents have hereunto interchangeably set their hands and seals, the day and year first above written.

Peter Daniel.
Samuel Dashwood.

Sealed and delivered
in the presence of
Rich. Bradborne,
Ob. Reynolds,

of those who had died for the popish plot, were published the very next day: and it would not have been suffered to have been printed, but that written copies were daily dispersed. He met death with an unconcernedness which became one, who had set up Marcus Drutus for his pattern. He was but a few minutes on the scaffold on Tower-hill; he spake little and his prayer was very short; and his head was cut off at one blow, on the 7th of December, 1683, aged about sixty one years. The next day his body was interred with his ancestors at Penshurst. The paper which he delivered to the Sheriffs, sets forth his innocence and the violent treatment which he had undergone with such force, that it deserves to be inserted here at full length.

Men, Brethren, and Fathers; Friends, Countrymen, and Strangers!

It may be expected, that I should now say some great matters unto you; but the rigour of the season, and the infirmities of my age, increased by a close imprisonment of above five months, do not permit me.

Moreover, we live in an age that makes truth pass for treason: I dare not say any thing contrary unto it, and the ears of those that are about me will probably be found too tender to hear it. My tryal and condemnation doth sufficiently evidence this.

West, Rumsey, and Keyling, who were brought to prove the plot, said no more of me, than that they knew me not; and some others, equally unknown to me, had used my name and that of some others, to give a little reputation to their designs. The lord Howard is too infamous by his life, and the many perjuries not to be denied or rather sworn by himself, to deserve mention; and being a single witness, would be of no value, though he had been of unblemished credit, or had not seen and confessed, that the crimes committed by him would be pardoned only for committing more; and even the pardon promised could not be obtained till the drudgery of swearing was over.

This being laid aside, the whole matter is reduced to the papers said to be found in my closet by the king's officers, without any other proof of their being written by me, than what is taken from suppositions upon the similitude of an hand that is easily counterfeited, and which hath been lately declared in the lady Car's case, to be no lawful evidence in criminal causes.

But, if I had been seen to write them, the matter would not be much altered. They plainly appear to relate to a large treatise written long since in answer to Filmer's book, which by all intelligent men is thought to be grounded upon wicked principles, equally pernicious to magistrates and people.

If he might publish to the world his opinion, That all men are born under a necessity derived from the laws of God and nature, to submit to an absolute kingly government, which could be restrained by no law, or oath; and that he that has the power, whether he came to it by creation, election, inheritance, usurpation, or any other way, had the right; and
none

none must oppose his will; but the persons and estates of his subjects must be indispensably subject unto it; I know not why I might not have published my opinion to the contrary, without the breach of any law I have yet known.

I might, as freely as he, publicly have declared my thoughts, and the reasons upon which they were grounded; and I am persuaded to believe, that God had left nations to the liberty of setting up such governments as best pleased themselves.

That magistrates were set up for the good of nations, not nations for the honour or glory of magistrates.

That the right and power of magistrates in every country was that which the laws of that country made it to be.

That those laws were to be observed, and the oaths taken by them, having the force of a contract between magistrate and people, could not be violated without danger of dissolving the whole fabric.

That usurpation could give no right; and the most dangerous of all enemies to kings were they, who raising their power to an exorbitant height allowed to usurpers all the rights belonging unto it.

That such usurpations being seldom compassed without the slaughter of the reigning person or family, the worst of all villanies was thereby rewarded with the most glorious privileges.

That if such doctrines were received, they would stir up men to the destruction of princes with more violence than all the passions that have hitherto raged in the hearts of the most unruly.

That none could be safe, if such a reward were proposed to any that could destroy them.

That few would be so gentle as to spare even the best, if, by their destruction, a wild usurper could become God's anointed, and by the most execrable wickedness invest himself with that divine character.

This is the scope of the whole treatise; the writer gives such reasons, as at that time did occur to him, to prove it. This seems to agree with the doctrines of the most revered authors of all times, nations and religions. The best and wisest of kings have ever acknowledged it. The present king of France has declared, that kings have that happy want of power, that they can do nothing contrary to the laws of their country; and grounds his quarrel with the king of Spain, anno 1667, upon that principle. King James, in his Speech to the Parliament, anno 1603, doth in the highest degree assert it: the scripture seems to declare it. If nevertheless the writer was mistaken, he might have been refuted by law, reason, and scripture; and no man for such matters was ever otherwise punished, than by being made to see his error; and it has not, as I think, been ever known that they had been referred to the judgment of a jury, composed of men utterly unable to comprehend them.

But there was little of this in my case: the extravagance of my prosecutors goes higher: the above-mentioned treatise was never finished, nor could be in many years, and most probably would never have been. So
much

much as is of it was written long since, never reviewed, nor shewn to any man; and the fiftieth part of it was not produced, and not the tenth of that offered to be read. That which was never known to those who are said to have conspired with me, was said to be intended to stir up the people in prosecution of the designs of those conspirators.

When nothing of particular application to time, place, or person, could be found in it, as has ever been done by those who endeavoured to raise insurrections, all was supplied by innuendo's.

Whatsoever is said of the expulsion of Tarquin; the insurrection against Nero; the slaughter of Caligula or Domitian; the translation of the crown of France from Meroveus's race to Pepin, and from his descendants to Hugh Capet and the like, was applied by innuendo to the king.

They have not considered, that if such acts of state be not good, there is not a king in the world that has any title to the crown he wears; nor can have any unless he could deduce his pedigree from the eldest son of *Noah*, and shew that the succession had still continued in the eldest of the eldest line, and been so deduced to him.

Every one may see what advantage this would be to all the kings of the world; and whether, that failing, it were not better for them to acknowledge they had received their crowns by the consent of willing nations, or to have no better title to them than usurpation and violence; which, by the same ways, may be taken from them.

But I was long since told, that I must die or the plot must die.

Lest the means of destroying the best protestants in England should fail, the bench must be filled with such as had been blemishes to the bar.

None but such as these would have advised with the king's council of the means of bringing a man to death; suffered a jury to be packed by the king's solicitors and the under-sheriff; admit of jurymen who are not freeholders; receive such evidence as is above-mentioned; refuse a copy of an indictment, or suffer the statute of 46 Edw. III. to be read, that doth expressly enact, It should in no case be denied to any man, upon any occasion whatsoever; over-rule the most important points of law without hearing. And whereas the statute, 25 Edw. III. upon which they said I should be tried, doth reserve to the parliament all constructions to be made in points of treason, they could assume to themselves not only a power to make constructions, but such constructions as neither agree with law, reason or common sense.

By these means I am brought to this place. The Lord forgive these practices, and avert the evils that threaten the nation from them! The Lord sanctify these my sufferings unto me! and though I fall as a sacrifice to idols, suffer not idolatry to be established in this land! Bless thy people, and save them. Defend thy own cause, and defend those that defend it. Stir up such as are faint; direct those that are willing; confirm those that waver; give wisdom and integrity unto all. Order all things so, as may most redound to thine own glory. Grant that I may die glorifying thee for all thy mercies; and that at the last thou hast permitted

me

me to be singled out as a witness of thy truth, and even by the confession of my opposers, for that OLD CAUSE* in which I was from my youth engaged, and for which thou hast often and wonderfully declared thyself.

Upon the revolution †, such regard was had to his innocence and the justice due to his memory, that the parliament made it one of their first acts to repeal his attainder, on the 13th of February, 1688-9, the preamble to the act being in the following words,

‘ Whereas Algernon Sydney, Esq. in the term of St. Michael, in the
‘ five and thirtieth year of the reign of our late sovereign lord king Charles
‘ the Second, in the court of King’s bench at Westminster, by means of
‘ an unlawful return of Jurors, and by denial of his lawful challenges to
‘ divers

* Col. Sydney bore this only motto, without figure, on the Parliament’s part in the late war, SANCTVS · AMOR · PATRIAE · DAT · ANIMVM.

———— Atque Sidneium, quod ego illustre nomen nostris semper adhaesisse partibus laetor.
Johannis Miltoni, Angli, pro Populo Anglicano defensio secunda.

[† Upon the Revolution.]

See “ A letter humbly address’d to the most excellent father of his Country, the wife and victorious Prince, King William III. By a dutiful and well-meaning subject [the Rev. Mr. Stephens, Rector of Sutton in Surrey.] London, printed by J. Darby, 1698.”—in quarto.

———— Nothing therefore could determine that unfortunate King [James II.] to depart once and again, but the fixt resolution I have already mentioned, to carry through his scheme by force; for otherwise and if he had been resolv’d to give up that scheme, after he saw such manifest proofs of the aversion of the whole nation and of his own family to it, it is easy and obvious to see what must have been his conduct: He would have remained in his palace and granted all the demands of the Prince of Orange’s declaration; and agreed to the very thing which You now promise by yours, namely, *to refuse nothing that a free Parliament could have asked, for the security of the religion, laws and liberties of his people.*

Now, as he might and ought to have done this and did not do it, which was the only method of retaining his crown, consistent with that security of the religion and liberties of his people, it is evident, that he did indeed *abdicate his Crown.*

And in respect of the many essential *miscarriages* by him committed and persisted in, the people had undeniable reasons to declare the *Throne vacant*; and having thus far done themselves justice, and provided for their own security against the evils of popery and slavery with which they had been threatened, it remained for them to provide for *the future government* of this kingdom by making A NEW SETTLEMENT.

Here it was, *that the wisdom and moderation of the leading men of this nation, at that time, was discovered*: it was a *regal government* though limited by laws, and they resolv’d that it should continue such, justly dreading a relapse into the anarchy and confusions, and the despotick government of the usurper, which had succeeded the abolition of the royal authority about the middle of that century.

It was a *hereditary kingdom*, though not *indefeasibly such*; and therefore they departed as little as possible from the regular course of succession in the royal family, and no farther than was necessary for securing the liberties of the subject. They acted as any wise and good man would do, who is master of his own estate. If his eldest son proves unworthy, and merits being disinherited, he will settle his estate on his second son and his issue in their order. And thus we settle the crown on the eldest daughter of the abdicated prince; and in default of her issue on the second daughter; in default of her issue on the Prince of Orange himself, who was the next in succession, if he should have any by another wife than the Princess Mary; and when the prospect of successors failed amongst the protestant descendants

of

' divers of them, for want of freehold, and without sufficient legal
 ' evidence of any treasons committed by him; there being at that time
 ' produced a paper, found in the closet of the said Algernon, supposed to
 ' be his hand-writing; which was not proved by the testimony of any
 ' one witness, to be written by him; but the jury was directed to believe
 ' it, by comparing it with other writings of the said Algernon: and
 ' besides that paper so produced, there was but one single witness to prove
 ' any matter against the said Algernon; and by a partial and unjust con-
 ' struction of the statute, declaring what was his treason, was most un-
 ' justly

of King *Charles* the First, the Nation looked out for the next protestant heir, who was a grandchild of King *James* the First, and settled the crown upon her and the heirs of her body, being protestants.

Thus was the constitution maintained, and the government re-established in its natural and regular state of a *limited* and *hereditary monarchy*, which fell afterwards by succession, upon the death of Queen *Anne*, to the late King *George*; a prince who was born of a dignity next to the regal; whose family have been remarkable for affording good princes over their subjects, whom they are intitled to govern absolutely; who was himself, as mild and amiable a Monarch as ever reigned. He was succeeded by our present Sovereign, whom all the world must allow to be remarkably possessed of two virtues the most deserving of esteem amongst mankind, probity and magnanimity: and for the mildness of his government, let this singular circumstance bear witness; that we are now in the 19th year of his reign, and hitherto not one drop of blood shed for a state crime, even in the legal methods of trial, though there have not been wanting occasions, even before you were pleased to make us a visit, for just severities of that kind.

Of this Prince, now reigning, the nation is blessed with a numerous and hopeful issue; whereof the greater part has been born and educated amongst ourselves.

And the case so standing, in respect to the abdication of your grandfather, and the succeeding NEW SETTLEMENT of the crown in the protestant line of the royal family, which has already taken effect during the space of fifty-seven years, which you mention as the duration of the exile of your family, and urge as being more than sufficient atonement for the miscarriages of your grandfather; You come, Sir, a great deal too late with your professions of repentance and promises of amendment: for as I began with the question of expediency, I am now considering the question of right and strict justice, and by this You are cut off, independent of the former.

This is indeed the true state of the question, where the right and title now lies; and upon this I maintain, that supposing a great deal which is not true, that your family was not still popish, bred at *Rome*, and favour'd by FRANCE THE NATURAL ENEMY OF GREAT BRITAIN and the common enemy of the liberties of Europe; supposing You were sincere in your promises, and that your religion did not authorise and require You to break them; and supposing You personally, as I am willing to believe, possessed of many good qualities becoming a Prince, still You come too late; we cannot listen to your declaration, though You should lift up your voice like *Esau* and cry, *Have you but one blessing O my People?* For it is true that we have but one, and that is already conferred and settled upon thy Protestant Brother; and we cannot with justice deprive him of it, supposing we could do it with prudence, or consistently with the security of our religion, laws and liberties.

And to make You sensible of the force of this consideration, if You can see the truth when it is repugnant to your own interest and wishes, suffer me, etc. etc. etc.

The occasional writer [a very fine Liberty-tract] Or an answer to the second manifesto of the Pretender's eldest son, which bears date at the Palace of Holy-Rood-House Oct. 10, 1745; containing reflections political and historical upon the last Revolution, and the progress of the present Rebellion in Scotland. Tandem triumphans, Motto to the Pretender's standard. Nondum immemores, Answer. The second edition corrected. London, printed for A. Millar, 1746
 —in octavo.

‘ justly and wrongfully convicted and attainted, and afterwards executed
 ‘ for high treason: may it therefore please your most excellent majesties,
 ‘ at the humble petition and request of the right honourable Philip earl
 ‘ of Leiceſter, brother and heir of the ſaid Algernon Sydney, and of the
 ‘ right honourable Henry viſcount Sydney of Sheppey, the other brother
 ‘ of the ſaid Algernon, that it be declared and enacted, etc. That the ſaid
 ‘ conviction and attainder be repealed, reverſed, etc. And to the end that
 ‘ right be done to the memory of the ſaid Algernon Sydney, deceaſed,
 ‘ be it further enacted, That all records and proceedings relating to the
 ‘ ſaid attainder be wholly cancelled and taken off the file, or otherwiſe
 ‘ defaced and obliterated, to the intent that the ſame may not be viſible
 ‘ in after-ages: and that the records and proceedings relating to the ſaid
 ‘ conviction, judgment and attainder, in the court of King’s-bench, now
 ‘ remaining, ſhall and be forthwith brought into the court this preſent
 ‘ Eaſter term, and then and there be taken off the file and cancelled.’

Biſhop Burnet’s character of him is, ‘ That he was a man of moſt ex-
 ‘ traordinary courage; a ſteady man even to obſtinacy; ſincere but of a
 ‘ rough and boiſterous temper that could not bear contradiction. He
 ‘ ſeemed to be a chriſtian, but in a particular form of his own; he thought
 ‘ it was to be like a divine philoſophy in the mind: but he was againſt
 ‘ all public worſhip, and every thing that looked like a church. He was
 ‘ ſtiff to all republican principles, and ſuch an enemy to every thing that
 ‘ looked like a monarchy, that he ſet himſelf in high oppoſition againſt
 ‘ Cromwell,

The NEW SETTLEMENT before mentioned, ſeems to have been gratefully perpetuated by that excellent Prince, George I. in the following medals or rather Medaglions, which, it is apprehended, were ſtruck at Hanover by his orders.

I] MATILDA . FILIA . H . II . R . ANGL . VX . H . LEON . D . BAV . ET . SAX .
 MATER . OTT . IV . IMP . PRIVS . DVCIS . AQVIT . H . PAL . RHEN . D . S . WILH .
 SATORIS . DOMVS . BRVNS . Buſt of the Empreſs, in profile.

SOPHIA . EX . STIRPAE . EL . PAL . NEPT . IAC . I . REG . M . BRIT . VIDVA .
 ERN . AVG . EL . BRVNS . ET . L . ANGLIAE . PRINCEPS . AD . SVCCESſ .
 NOMINATA . MDCCI . Buſt of the Princeſs, in profile.

II] SOPHIA . D . G . EX . STIRPE . EL . PAL . ELECT . VID . BR . ET . LVN .
 MAG . BRIT . HAERES . Buſt of the Princeſs, in profile.

TRANSMISSA . LVCE . REFVLGET . The ſetting ſun, with a view of the garden of Her-
 renhauſen. In the exurge, OBIIT . VIII . IVN . MDCCXIV

III] GEORGIVS . D . G . MAG . BRIT . FR . ET . HIB . REX . Buſt of the King,
 in profile.

PRINC . OPT . RELIGIONIS . ET . LIBERTATIS . CVSTODI . Britannia preſenting the
 Regalia to the King, who is accompanied by Religion and Liberty. In the exurge,
 PVBLICA . AVCTORITATE . PROCLAMATO . I . AUG . ANNO . MDCCXIII

XII

Three ſmaller medals, about the ſizes of a crown, half crown and ſhilling, were likewiſe
 ſtruck by him; the faces of which agree with medal II, but the reverſes bear only the fol-
 lowing inſcription. NATA . XIII . OCT . MDCXXX . NVPTA . MENSE . SEPT . MDCLVIII .
 AD . SVCCESſIONEM . M . BRIT . NOMINATA . MDCCI . SVB . VESPERAM .
 VIII . IVNII . MDCCXIV . IN . HORTIS . HERRENHAVSANIS . ADHVC . VEGETO . ET .
 FIRMO . PASSV . DEAMBYLANO . SVBITA . ET . PLACIDA . MORTE . EREPTA

‘ Cromwell, when he was made protector. *He had studied the history of government, in all its branches, beyond any man I ever knew* *. He had a particular

[* *He had studied the history of government, in all its branches, beyond any man I ever knew.*]

Lords and Commons of England, consider what Nation it is wherof ye are, and wherof ye are the governours: a Nation not slow and dull, but of a quick, ingenious, and piercing spirit, acute to invent, suttle and sinewy to discours, not beneath the reach of any point the highest that human capacity can soar to. Therefore the studies of learning in her deepeft sciences have bin so ancient, and so eminent among us, that writers of good antiquity, and ablest judgment have bin perswaded that ev’n the school of *Pythagoras* and the *Persian* wisdom took beginning from the old philosophy of this island. And that wise and civill Roman, *Julius Agricola*, who govern’d once here for *Caesar*, prefer’d the naturall wits of Britain, before the labour’d studies of the French.—Behold now this vast city; a city of refuge, *the mansion house of liberty*, encompassed and surrounded with his protection; the shop of warre hath not there more anvils and hammers waking, to fashion out the plates and instruments of armed justice in defence of beleagur’d truth, then there be pens and heads there, sitting by their studious lamps, musing, searching, revolving new notions and idea’s wherewith to present, as with their homage and their fealty the approaching Reformation: others as fast reading, trying all things, assenting to the force of reason and conviction. What could a man require more from a Nation so pliant and so prone to seek after knowledge. What wants there to such a towardly and pregnant soile, but wise and *faithful* labourers, to make a knowing people, a Nation of prophets, of sages, and of worthies.—

Areopagitica. A speech of John Milton for the liberty of *unlicenc’d printing*.
[GUARD IT YE BRITONS!] To the Parliament of England. London, printed in the yeare 1644—in quarto.

Cromwell seemeth to be distinguished in the most eminent manner, with regard to his abilities, from all other great and wicked men, who have overturned the liberties of their country. The times in which others succeeded in this attempt, were such as saw the spirit of liberty suppressed and stifled by a general luxury and venality: but *Cromwell* subdued his Country, *when this spirit was at its height, by a successful struggle against court oppression; and while it was conducted and supported by a set of the greatest geniuses for government the world ever saw.*

The very eminent Prelate, Dr. Warburton, in his notes on Pope’s Essay on man.

Cromwell was one of those geniuses who are oftimes buried in obscurity, *through want of occasion of being known*. Thousands spend their lives in retirement, who are capable of greater things than most of those whose names are tossed from every tongue and voic’d for wise, skilful, able, valiant. In times of peace these men are little known and notic’d. They are overlook’d among the herd, or treated with a coolness or disregard, *that damps their ambition and establishes their virtue.* etc.

The Rev. William Harris, a sensible, candid writer, in his
“Historical and critical account of the life of O. Cromwell.”

The Parliament of Nov. 3, 1640, that MASTER Parliament having singularly promoted learning, witness *their pupils*, who figur’d in *all professions* down to and beyond the Revolution, *and obtained it too*; the following note, taken from Dr. John Wallis’s “Account of some passages of his own life, who, in the Year 1644, *was one of the Secretaries to the Assembly of Divines at Westminster*, and in the year 1649, *became public Professor of Geometry, of the foundation of Sir Henry Savile, at Oxford*, may not be unacceptable.

“About the year 1645, while I lived in *London*, at a time, when, by our civil wars, academical studies were much interrupted in both our Universities, besides the conversation of divers eminent Divines, as to matters theological, I had the opportunity of being acquainted with divers worthy persons, inquisitive into natural philosophy and other parts of humane learning: and particularly of what hath been called *the new philosophy or experimental philosophy*.”

We did by agreement, divers of us, meet weekly in *London*, on a certain day, to treat and discourse of such affairs. Of such number were Dr. John Wilkins, afterwards bishop of Chester, Dr. Jonathan Goddard, Dr. George Ent, Dr. Glisson, Dr. Merret, doctors in
f 2
physic,

‘ particular way of insinuating himself into people, that would hearken to his *notions* *, and not contradict him.’

Several manuscript treatises of his in Latin and Italian, and an “ Essay on virtuous love ” in English, are still extant among the papers of his family at Penshurst † : but his “ Discourses concerning Government ” alone will immortalize his name, and are sufficient to supply the loss of Cicero’s six books “ De Republica,” which have been so much regretted by men of sense and probity. In short, it is one of the *noblest* books that ever the mind of man produced ‡ ; and we cannot with a greater or more extensive blessing

physic, Mr. Samuel Foster, then professor of astronomy at Gresham College; Mr. Theodore Haak, a German, of the Palatinate and then resident in London (*who, I think, gave the first occasion and first suggested those meetings*) and many others.

These meetings we held sometimes at Dr. Goddard’s lodgings in Wood-street, or some convenient place near, on occasion of his keeping an operator for grinding glasses for telescopes and microscopes; and sometimes at a convenient place in Cheap-side; sometimes at Gresham College or some place near adjoining.

Our business was, precluding matters of theology and state affairs, to discourse and consider of *philosophical enquiries*, and such as related thereunto; as physick, anatomy, geometry, astronomy, navigation, staticks, magneticks, chymicks, mechanicks and natural experiments, with the state of these studies, as then cultivated at home and abroad.

About the year 1648, 1649, some of us being removed to Oxford, first Dr. Wilkins, then I, and soon after Dr. Goddard, our company divided. Those in London continued to meet there, as before, and we with them, when we had occasion to be there. And those of us at Oxford, with Dr. Ward, since bishop of Salisbury, Dr. Ralph Bathurst, now president of Trinity College in Oxford, Dr. Petty, since Sir William Petty, Dr. Willis, then an eminent Physician in Oxford, and divers others, continued such meetings in Oxford, and brought those studies into fashion there; meeting first at Dr. Pettie’s lodgings in an apothecary’s house, because of the convenience of inspecting drugs, and the like, as there was occasion; and after his remove to Ireland, tho’ not so constantly, at the lodgings of Dr. Wilkins, then warden of Wadham college, and after his removal to Trinity College in Cambridge, at the lodgings of the honourable Mr. Robert Boyle, then resident for divers years in Oxford.

Those meetings in London continued; and, after the King’s return in 1660, were increased with the accession of divers worthy and honourable persons; and were afterwards incorporated by the name of *the Royal Society*, etc. and so continue to this day.”

* *Notions!* a strange word after what had been just before declared. But the character is *roughly*, and inaccurately drawn.

† In the year 1744, a work was published in 2 vol. oct. intitled, “ Of the Use and Abuse of Parliaments; in two historical discourses, viz. I. *A general view of Government in Europe*. II. *A Detection of the Parliaments of England, from the Year 1660.*” To that work the following advertisement is prefixed. “ As an act of justice to the memory of a great man, it is necessary to acquaint the Reader, that he stands indebted for the first of the following discourses, to the celebrated *Algernon Sydney*.”

[‡ *It is one of the noblest books that ever the mind of man produced.*]

Many circumstances at present loudly call upon us to exert ourselves. *Venality and corruption have well nigh extinguished all principles of liberty. The bad books also that this age hath produced, have ruined our youth. The novels and romances which are eagerly purchased and read, emasculate the mind, and banish every thing grave and manly. One remedy for these evils is, to revive the reading of our old writers, of which we have good store, the study whereof would fortify our youth against the blandishments of pleasure and the arts of corruption.*

MILTON in particular ought to be read and studied by all our young gentlemen as an oracle.

He was a great and noble genius, perhaps the greatest that ever appeared amongst men; and his learning was equal to his genius. He had the highest sense of liberty, glorious thoughts,

bleffing to the world, than that it may be every where read, and its principles univerfally received and propagated.

Thoughts, with a ftrong and nervous fyle. His works are full of wifdom, a treasure of knowledge. In them the Divine, the Statesman, the Historian, the Philofofist, may be all inftructed and entertained. *It is to be lamented that his divine writings are fo little known.* Very few are acquainted with them, many have never heard of them. *The fame is true, with refpect to another great writer, contemporary with Milton, and an advocate for the fame glorious caufe; I mean ALGERNON SYDNEY, whose Difcourfes Concerning Government are the moft precious legacy to thefe Nations.*

All Antiquity cannot fhew two writers equal to thefe. They were both great mafters of reafon, both great mafters of expreffion. They had the ftrongeft thoughts, and the boldeft images, and are the beft models that can be followed. The fyle of *Sydney* is always clear and flowing, ftrong and mafculine. The great *Milton* has a fyle of his own, one fit to exprefs the aftonifhing fublimity of his thoughts, the mighty vigour of his fpirit, and that *copia* of invention, that redundancy of imagination, which no writer before or fince hath equalled. In fome places, it is confefled, that his periods are too long, which renders him intricate, if not altogether unintelligible to vulgar readers; but thefe places are not many. In the book before us his fyle is for the moft part free and eafy, and it abounds both in eloquence and wit and argument. I am of opinion that the fyle of this work is the beft and moft perfect of all his profe writings. Other men have commended the fyle of his *History* as matchlefs and incomparable, whose malice could not fee or would not acknowledge the excellency of his other works. It is no fecret whence their averfion to *Milton* proceeds: and whence their caution of naming him as any other writer than a Poet. *Milton* combated fuperftition of every form, and in every degree. Againft them he employed his mighty ftrength, and, like a BATTERING RAM, beat down all before him. But notwithstanding thefe mean arts either to hide or to difparage him, a little time will make him better known; and the more he is known, the more he will be admired. His works are not like the fugitive fhort-lived things of this age, few of which furvive their authors: they are fubftantial, durable, eternal, writings, which will never die, never perifh, whilft reafon, truth and liberty have a being in thefe Nations.

The Editor's preface to *Eikonoklaftes*, printed for A. Millar, 1756, in quarto.

There is a long and fingular paffage in the *Leviathan*, edit. 1651, p. 110, under this marginal head, "the libertie which writers praife is the libertie of Sovereigns not of private men," which concludes in the following manner, "And by reading of thefe *Greek* and *Latine* authors, men from their childhood have gotten a habit, under a falfe fhew of libertie, of favouring tumults and of licentious controlling the actions of their Sovereigns; and again of controlling thofe controllers; with the effufion of fo much blood, as I think I may truly fay, there never was any thing *fo deer'y bought*, as thefe western parts have bought the learning of the greek and latine tongues."

The accomplished, beneficent Earl of Shaftesbury, in his "Effay on the freedom of wit and humour," remarks on this paffage, "And yet an able and witty Philofofher of our Nation was, we know, of late years, fo poffefs'd with a horror of this kind, that both with refpect to *Politics* and *Morals*, he directly acted in this fpirit of MASSACRE. The fright he took upon the fight of the then governing powers, who unjuftly affumed the authority of the People, gave him fuch an abhorrence of all popular government, and of the very notion of liberty itfelf; that to extinguifh it for ever, he recommends the very extinguifhing of letters, and exhorts Princes not to fpare fo much as an antient *Roman* or *Greek* hiftorian. Is not this in truth fomewhat *Gothick*? And has not our Philofofher, in appearance, fomething of the *favage*, that he fhould ufe Philofofhy and Learning as the *Scythians* are faid to have ufed *Anacharfis* and others, for having vifited the *Wife* of *Greece* and learnt the manners of a polite People?" And, in the notes, he adds, "By this reafoning of Mr. *Hobbes* it fhould follow, that there can never be any tumults or deposing of Sovereigns at *Conftantinople* or in *Mogol*."

DISCOURSES CONCERNING GOVERNMENT

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DISCOURSES CONCERNING GOVERNMENT

CHAPTER I. SECT. I

INTRODUCTION

Having lately seen a book, intitled "Patriarcha," written by Sir Robert Filmer, concerning the universal and undistinguished right of all kings, I thought a time of leisure might be well employed in examining his doctrine, and the questions arising from it; which seem so far to concern all mankind, that, besides the influence upon our future life, they may be said to comprehend all that in this world deserves to be cared for. If he say true, there is but one government in the world that can have any thing of justice in it: and they, who have hitherto been esteemed the best and wisest of men, for having constituted commonwealths or kingdoms, and taken much pains so to proportion the powers of several magistracies, that they might all concur in procuring the public good, or so to divide the powers between the magistrates and people, that a well-regulated harmony might be preserved in the whole, were the most unjust and foolish of all men. They were not builders, but overthrowers of governments: their business was to set up aristocratical, democratical, or mixed governments, in opposition to that monarchy, which, by the immutable laws of God and nature, is imposed upon mankind; or presumptuously to put shackles upon the monarch, who, by the same laws, is to be absolute and uncontrouled: they were rebellious and disobedient sons, who rose up against their father; and not only refused to hearken to his voice, but made him bend to their will. In their opinion, such only deserved to be called good men, who endeavoured to be good to mankind, or to that country to which they were more particularly related. And, inasmuch as that good consists in a felicity of estate, and perfection of person, they highly valued such as had endeavoured to make men better, wiser, and happier. This they understood to be the end for which men entered into societies. And though Cicero says, that commonwealths were instituted for the obtaining of justice, he contradicts them not, but comprehends all in that word; because it is just, that whoever receives a power, should employ it wholly for the accomplishment of the ends for which it was given. This work could be performed only by such as excelled in virtue: but lest they should defect from it, no government was thought to be well constituted, unless the laws prevailed above the commands of men*; and they were

* *Potentiora legum quam hominum imperia.* Liv. l. 2, c. 1

CHAP. I accounted as the worst of beasts, who did not prefer such a condition before a subjection to the fluctuating and irregular will of a man.

If we believe Sir Robert, all this is mistaken; nothing of this kind was ever left to the choice of men; they are not to inquire what conduces to their own good; God and nature have put us into a way from which we are not to swerve; we are not to live to him, nor to ourselves, but to the master that he hath set over us; one government is established over all, and no limits can be set to the power of the person that manages it; this is the prerogative, or, as another author of the same stamp calls it, "the royal charter" granted to kings by God; they all have an equal right to it; women and children are patriarchs; and the next in blood, without any regard to age, sex, or other qualities of the mind or body, are fathers of as many nations as fall under their power; we are not to examine, whether he or she be young or old, virtuous or vicious, sober-minded or stark-mad; the right and power is the same in all; whether virtue be exalted or suppressed, whether he that bears the sword be a praise to those that do well, and a terror to those that do evil, or a praise to those that do evil, and a terror to such as do well, it concerns us not; for the king must not lose his right, nor have his power diminished, on any account.

I have been sometimes apt to wonder, how things of this nature could enter into the head of any man; or, if no wickedness or folly be so great, but some may fall into it, I could not well conceive why they should publish it to the world. But these thoughts ceased when I considered, that a people from all ages in love with liberty, and desirous to maintain their own privileges, could never be brought to resign them, unless they were made to believe, that in conscience they ought to do it; which could not be, unless they were also persuaded to believe, that there was a law set to all mankind, which none might transgress, and which put the examination of all those matters out of their power. This is our author's work. By this it will appear whose throne he seeks to advance, and whose servant he is, whilst he pretends to serve the king. And that it may be evident he hath made use of means suitable to the ends proposed for the service of his great master, I hope to shew, that he hath not used one argument that is not false, nor cited one author whom he hath not perverted and abused. Whilst my work is so to lay open these snares, that the most simple may not be taken in them, I shall not examine how Sir Robert came to think himself a man fit to undertake so great a work, as to destroy the principles, which from the beginning seem to have been common to all mankind; but only, weighing the positions and arguments that he alleges, will, if there be either truth or strength in them, confess the discovery comes from him that gave us least reason to expect it; and that, in spite of the antients, there is not in the world a piece of wood, out of which a Mercury may not be made.

SECTION II

THE COMMON NOTIONS OF LIBERTY ARE NOT FROM SCHOOL
DIVINES, BUT FROM NATURE.

In the first lines of his book he seems to denounce war against mankind, endeavouring to overthrow the principle of liberty in which God created us, and which includes the chief advantages of the life we enjoy, as well as the greatest helps towards the felicity, that is the end of our hopes in the other. To this end he absurdly imputes to the school divines that which was taken up by them as a common notion, written in the heart of every man, denied by none, but such as were degenerated into beasts, from whence they might prove such points as of themselves were less evident. Thus did Euclid lay down certain axioms, which none could deny that did not renounce common sense, from whence he drew the proofs of such propositions as were less obvious to the understanding. And they may with as much reason be accused of paganism, who say that the whole is greater than a part, that two halves make the whole, or that a straight line is the shortest way from point to point, as to say, that they who in politics lay such foundations, as have been taken up by schoolmen and others as undeniable truths, do therefore follow them, or have any regard to their authority. Though the schoolmen were corrupt, they were neither stupid nor unlearned: they could not but see that which all men saw, nor lay more approved foundations, than, that man is naturally free; that he cannot justly be deprived of that liberty without cause; and that he doth not resign it, or any part of it, unless it be in consideration of a greater good, which he proposes to himself. But if he doth unjustly impute the invention of this to school divines, he in some measure repairs his fault in saying, "this hath been fostered by all succeeding papists for good divinity; the divines of the reformed churches have entertained it, and the common people every where tenderly embrace it." That is to say, all christian divines, whether reformed or unreformed, do approve it, and the people every where magnify it, as the height of human felicity. But Filmer, and such as are like to him, being neither reformed nor unreformed christians, nor of the people, can have no title to christianity; and, inasmuch as they set themselves against that which is the height of human felicity, they declare themselves enemies to all that are concerned in it, that is, to all mankind.

But, says he, "they do not remember, that the desire of liberty was the first cause of the fall of man." And I desire it may not be forgotten, that the liberty asserted is not a licentiousness of doing what is pleasing to every one against the command of God, but an exemption from all human laws, to which they have not given their assent. If he would make us believe there was any thing of this in Adam's sin, he ought to have proved, that the law which he transgressed was imposed upon him by

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 CHAP. I man, and, consequently, that there was a man to impose it; for it will easily appear, that neither the reformed nor unreformed divines, nor the people following them, do place the felicity of man in an exemption from the laws of God, but in a most perfect conformity to them. Our Saviour taught us “not to fear such as could kill the body, but him that could kill, and cast into hell;” and the apostle tells us, that “we should obey God rather than man.” It has been ever hereupon observed, that they, who most precisely adhere to the laws of God, are least solicitous concerning the commands of men, unless they are well grounded; and those, who most delight in the glorious liberty of the sons of God, do not only subject themselves to him, but are most regular observers of the just ordinances of man, made by the consent of such as are concerned, according to the will of God.

The error of not observing this may perhaps deserve to be pardoned in a man that had read no books, as proceeding from ignorance; if such as are grossly ignorant can be excused, when they take upon them to write of such matters as require the highest knowledge: but in Sir Robert it is prevarication and fraud to impute to schoolmen and puritans that which in his first page he acknowledged to be the doctrine of all reformed and unreformed christian churches, and that he knows to have been the principle in which the Grecians, Italians, Spaniards, Gauls, Germans, and Britons, and all other generous nations ever lived, before the name of Christ was known in the world; inasmuch that the base effeminate Asiatics and Africans, for being careless of their liberty, or unable to govern themselves, were by Aristotle and other wise men called “slaves by nature,” and looked upon as little different from beasts.

This which hath its root in common sense, not being to be overthrown by reason, he spares his pains of seeking any; but thinks it enough to render his doctrine plausible to his own party, by joining the Jesuits to Geneva, and coupling Buchanan to Doleman as both maintaining the same doctrine; though he might as well have joined the puritans with the Turks, because they all think that one and one makes two. But whoever marks the proceedings of Filmer and his masters, as well as his disciples, will rather believe, that they have learned from Rome and the Jesuits to hate Geneva, than that Geneva and Rome can agree in any thing farther, than as they are obliged to submit to the evidence of truth; or that Geneva and Rome can concur in any design or interest that is not common to mankind.

These men allowed to “the people a liberty of deposing their princes.” This is a “desperate” opinion. “Bellarmine and Calvin look asquint at it.” But why is this a desperate opinion? If disagreements happen between king and people, why is it a more desperate opinion to think the king should be subject to the censures of the people, than the people subject to the will of the king? Did the people make the king, or the king make the people? Is the king for the people, or the people for the king? Did God create the Hebrews, that Saul might reign over them? or did they, from

an opinion of procuring their own good, ask a king that might judge them, and fight their battles? If God's interposition, which shall be hereafter explained, do alter the case, did the Romans make Romulus, Numa, Tullus Hostilius, and Tarquinius Priscus kings? or did they make or beget the Romans? If they were made kings by the Romans, it is certain, they that made them fought their own good in so doing: and if they were made by and for the city and people, I desire to know, if it was not better, that, when their successors departed from the end of their institution, by endeavouring to destroy it, or all that was good in it, they should be censured and ejected, than be permitted to ruin that people, for whose good they were created? Was it more just, that Caligula or Nero should be suffered to destroy the poor remains of the Roman nobility and people, with the nations subject to that empire, than that the race of such monsters should be extinguished, and a great part of mankind, especially the best, against whom they were most fierce, preserved by their deaths?

I presume our author thought these questions might be easily decided; and that no more was required to shew the fore-mentioned assertions were not at all desperate, than to examine the grounds of them. But he seeks to divert us from this inquiry, by proposing the dreadful consequences of subjecting kings to the censures of their people: whereas no consequence can destroy any truth; and the worst of this is, that if it were received, some princes might be restrained from doing evil; or punished, if they will not be restrained. We are therefore only to consider, whether the people, senate, or any magistracy made by and for the people, have, or can have, such a right; for if they have, whatsoever the consequences may be, it must stand. And as the one tends to the good of mankind in restraining the lust of wicked kings, the other exposes them without remedy to the fury of the most savage of all beasts. I am not ashamed in this to concur with Buchanan, Calvin, or Bellarmine; and without envy leave to Filmer, and his associates, the glory of maintaining the contrary.

But notwithstanding our author's aversion to truth, he confesses, "that Hayward, Blackwood, Barclay, and others, who have bravely vindicated the right of kings in most points, do with one consent admit as an unquestionable truth, and assent unto the natural liberty and equality of mankind, not so much as once denying or opposing it." And indeed I believe, that though, since the sin of our first parents, the earth hath brought forth briars and brambles, and the nature of men hath been fruitful only in vice and wickedness; neither the authors he mentions, nor any others, have had impudence enough to deny such evident truth as seems to be planted in the hearts of all men; or to publish doctrines so contrary to common sense, virtue, and humanity, till these times. The production of Laud, Manwaring, Sibthorp, Hobbes, Filmer, and Heylin, seems to have been reserved as an additional curse to complete the shame and misery of our age and country. They, who had wit and learning, with something of ingenuity and modesty, though they believed, that nations might possibly make an ill use of their power, and were very desirous

CHAP. I to maintain the cause of kings, as far as they could put any good colour upon it, yet never denied, that some had suffered justly, (which could not be, if there were no power of judging them) nor ever asserted any thing that might arm them with an irresistible power of doing mischief, animate them to persist in the most flagitious courses, with assurance of perpetual impunity, or engage nations in an inevitable necessity of suffering all manner of outrages. They knew, that the actions of those princes, who were not altogether detestable, might be defended by particular reasons drawn from them, or the laws of their country; and would neither undertake the defence of such as were abominable, nor bring princes, to whom they wished well, into the odious extremity of justifying themselves by arguments that favoured Caligula and Nero, as well as themselves, and that must be taken for a confession, that they were as bad as could be imagined; since nothing could be said for them that might not as well be applied to the worst that had been, or could be. But Filmer, Heylin, and their associates, scorning to be restrained by such considerations, boldly lay the ax to the root of the tree, and rightly enough affirm, "that the whole fabric of" that which they call "popular sedition would fall to the ground, if the principle of "natural liberty were removed." And, on the other hand, it must be acknowledged, that the whole fabric of tyranny will be much weakened, if we prove, that nations have a right to make their own laws, and constitute their own magistrates; and that such as are so constituted owe an account of their actions to those by whom, and for whom, they are appointed.

SECTION III

IMPLICIT FAITH BELONGS TO FOOLS; AND TRUTH IS COMPRE-
HENDED BY EXAMINING PRINCIPLES.

Whilst Filmer's business is to overthrow liberty and truth, he, in his passage, modestly professeth "not to meddle with mysteries of state," or "arcana imperii." He renounces those inquiries through an implicit faith, which never entered into the head of any but fools, and such as, through a carelessness of the point in question, acted as if they were so. This is the foundation of the papal power; and it can stand no longer than those that compose the Roman church can be persuaded to submit their consciences to the word of the priests, and esteem themselves discharged from the necessity of searching the scriptures, in order to know whether the things that are told them are true or false. This may shew whether our author or those of Geneva do best agree with the Roman doctrine. But his instance is yet more sottish than his profession: "an implicit faith," says he, "is "given to the meanest artificer." I wonder by whom! Who will wear a shoe that hurts him, because the shoemaker tells him it is well made? or who will live in a house that yields no defence against the extremities of weather, because the mason or carpenter assures him it is a very good house?

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Such as have reason, understanding, or common sense, will, and ought to make use of it in those things that concern themselves, and their posterity, and suspect the words of such as are interested in deceiving or persuading them not to see with their own eyes, that they may be more easily deceived. This rule obliges us so far to search into matters of state, as to examine the original principles of government in general, and of our own in particular. We cannot distinguish truth from falsehood, right from wrong, or know what obedience we owe to the magistrate, or what we may justly expect from him, unless we know what he is, why he is, and by whom he is made to be what he is. These perhaps may be called "mysteries of state," and some would persuade us they are to be esteemed "arcana;" but whoever confesses himself to be ignorant of them, must acknowledge that he is incapable of giving any judgment upon things relating to the superstructure: and in so doing evidently shews to others, that they ought not at all to hearken to what he says.

His argument to prove this is more admirable: "if an implicit faith," says he, "is given to the meanest artificer in his own craft, much more is it due to a prince in the profound secrets of government." But where is the consequence? If I trust to the judgment of an artificer, or one of a more ingenuous profession, it is not because he is of it, but because I am persuaded he does well understand it, and that he will be faithful to me in things relating to his art. I do not send for Lower or Micklethwait when I am sick, nor ask the advice of Mainard or Jones in a suit of law, because the first are physicians, and the other lawyers; but because I think them wise, learned, diligent, and faithful, there being a multitude of others who go under the same name, whose opinion I would never ask. Therefore if any conclusion can be drawn from thence in favour of princes, it must be of such as have all the qualities of ability and integrity, that should create this confidence in me; or it must be proved, that all princes, inasmuch as they are princes, have such qualities. No general conclusion can be drawn from the first case, because it must depend upon the circumstances, which ought to be particularly proved. And if the other be asserted, I desire to know whether Caligula, Claudius, Nero, Vitellius, Domitian, Commodus, Heliogabalus, and others not unlike to them, had those admirable endowments, upon which an implicit faith ought to have been grounded; how they came by them; and whether we have any promise from God, that all princes should for ever excel in those virtues; or whether we by experience find that they do so. If they are or have been wanting in any, the whole falls to the ground; for no man enjoys, as a prince, that which is not common to all princes. And if every prince have not wisdom to understand these profound secrets, integrity to direct him, according to what he knows to be good, and a sufficient measure of industry and valour to protect me, he is not the artificer, to whom the implicit faith is due. His eyes are as subject to be "dazzled" as my own. But it is a shame to insist on such a point as this. We see princes of all sorts; they are born as other men. The vilest flatterer dares not deny, that they are wise or foolish.

CHAP. I foolish, good or bad, valiant or cowardly, like other men; and the crown doth neither bestow extraordinary qualities, ripen such as are found in princes sooner than in the meanest, nor preserve them from the decays of age, sickness, or other accidents, to which all men are subject: and if the greatest king in the world falls into them, he is as incapable of that mysterious knowledge, and his judgment is as little to be relied on, as that of the poorest peasant.

This matter is not mended by sending us to seek those virtues in the ministers, which are wanting in the prince. The ill effects of Rehoboam's folly could not be corrected by the wisdom of Solomon's counsellors: he rejected them; and such as are like to him will always do the same thing. Nero advised with none but musicians, players, chariot-drivers, or the abominable ministers of his pleasures and cruelties. Arcadius's senate was chiefly composed of buffoons and cooks, influenced by an old rascally eunuch. And it is an eternal truth, that a weak or wicked prince can never choose a wise council, nor receive any benefit by one that is imposed upon him, unless they have a power of acting without him; which would render the government in effect aristocratical, and would probably displease our author as much as if it were so in name also. Good and wise counsellors do not grow up like mushrooms: great judgment is required in choosing and preparing them. If a weak or vicious prince should be so happy to find them chosen to his hand, they would avail him nothing. There will ever be variety of opinions amongst them; and he that is of a perverted judgment will always choose the worst of those that are proposed, and favour the worst men, as most like to himself. Therefore, if this implicit faith be grounded upon a supposition of profound wisdom in the prince, the foundation is overthrown, and cannot stand; for to repose confidence in the judgment and integrity of one that has none, is the most brutish of all follies. So that if a prince may have or want the qualities, upon which my faith in him can be rationally grounded, I cannot yield the obedience he requires, unless I search into the secrets relating to his person and commands, which he forbids. I cannot know how to obey, unless I know in what, and to whom; nor in what, unless I know what ought to be commanded; nor what ought to be commanded, unless I understand the original right of the commander, which is the great arcanum. Our author, finding himself involved in many difficulties, proposes an expedient as ridiculous as any thing that had gone before, being nothing more than an absurd begging the main question, and determining it without any shadow of proof. He enjoins an active or passive obedience, before he shews what should oblige or persuade us to it. This indeed were a compendious way of obviating that which he calls popular sedition, and of exposing all nations, that fall under the power of tyrants, to be destroyed utterly by them. Nero or Domitian would have desired no more, than that those, who would not execute their wicked commands, should patiently have suffered their throats to be cut by such as were less scrupulous. And the world, that had suffered those monsters for some years, must have con-

tinued

tinued under their fury, till all that was good and virtuous had been abolished. But in those ages and parts of the world, where there hath been any thing of virtue and goodness, we may observe a third sort of men, who would neither do villainies, nor suffer more than the laws did permit, or the consideration of the public peace did require. Whilst tyrants, with their slaves, and the instruments of their cruelties, were accounted the dregs of mankind, and made the objects of detestation and scorn, these men, who delivered their countries from such plagues, were thought to have something of divine in them, and have been famous above all the rest of mankind to this day. Of this sort were Pelopidas, Epaminondas, Thraſybulus, Harmodius, Aristogiton, Philopoemen, Lucius Brutus, Publius Valerius, Marcus Brutus, Caius Cassius, Marcus Cato, with a multitude of others amongst the ancient heathens. Such as were instruments of the like deliverances amongst the Hebrews, as Moses, Othniel, Ehud, Barak, Gideon, Samson, Jephthah, Samuel, David, Jehu, the Maccabees and others, have from the Scriptures a certain testimony of the righteousness of their proceedings, when they neither would act what was evil, nor suffer more than was reasonable. But lest we should learn by their examples, and the praises given to them, our author confines the choice of the subject to acting or suffering, that is, doing what is commanded, or lying down to have his throat cut, or to see his family and country made desolate. This he calls giving to Caesar that which is Caesar's. Whereas he ought to have considered, that the question is not, whether that which is Caesar's should be rendered to him, for that is to be done to all men; but who is Caesar, and what doth of right belong to him, which he no way indicates to us: so that the question remains entire, as if he had never mentioned it, unless we do in a compendious way take his word for the whole.

SECTION IV

THE RIGHTS OF PARTICULAR NATIONS CANNOT SUBSIST, IF GENERAL PRINCIPLES CONTRARY TO THEM ARE RECEIVED AS TRUE.

Notwithstanding this, our author, if we will believe him, "doth not question or quarrel at the rights or liberties of this or any other nation." He only denies they can have any such, but in subjecting them necessarily and universally to the will of one man; and says not a word that is not applicable to every nation in the world, as well as to our own. But as the bitterness of his malice seems to be more especially directed against England, I am inclined to believe he hurts other countries only by accident, as the famous French lady* intended only to poison her father, husband, brother, and some more of her nearest relations; but rather than they should escape,

* The Marchioness de Brinvilliers.

CHAP. I destroyed many other persons of quality, who at several times dined with them. And if that ought to excuse her, I am content he also should pass uncondemned; though his crimes are incomparably greater than those for which she was condemned, or than any can be which are not of a public extent.

SECTION V

TO DEPEND UPON THE WILL OF A MAN IS SLAVERY.

This, as he thinks, is farther sweetened, by asserting, that he does not inquire what the rights of a people are, but from whence: not considering, that while he denies they can proceed from the laws of natural liberty, or any other root than "the grace and bounty of the prince," he declares they can have none at all. For, as liberty solely consists in an independency upon the will of another, and by the name of slave we understand a man, who can neither dispose of his person nor goods, but enjoys all at the will of his master, there is no such thing in nature as a slave, if those men or nations are not slaves, who have no other title to what they enjoy, than the grace of the prince, which he may revoke whenever he pleases. But there is more than ordinary extravagance in his assertion, that "the greatest liberty in the world is for a people to live under a monarch," when his whole book is to prove, that this monarch has his right from God and nature, is endowed with an unlimited power of doing what he pleases, and can be restrained by no law. If it be liberty to live under such a government, I desire to know what is slavery. It has been hitherto believed in the world, that the Assyrians, Medes, Arabs, Egyptians, Turks, and others like them, lived in slavery, because their princes were masters of their lives and goods: whereas the Grecians, Italians, Gauls, Germans, Spaniards, and Carthaginians, as long as they had any strength, virtue, or courage amongst them, were esteemed free nations, because they abhorred such a subjection. They were, and would be governed only by laws of their own making: "*potentiora erant legum quam hominum imperia.*" Even their princes had the authority or credit of persuading, rather than the power of commanding. But all this was mistaken: these men were slaves, and the Asiatics were freemen. By the same rule the Venetians, Switzers, Grisons, and Hollanders, are not free nations: but liberty in its perfection is enjoyed in France and Turkey. The intention of our ancestors was, without doubt, to establish this amongst us by Magna Charta, and other preceding or subsequent laws; but they ought to have added one clause, that the contents of them should be in force only so long as it should please the king. King Alfred, upon whose laws Magna Charta was grounded, when he said the English nation was as free as the internal thoughts of a man, did only mean, that it should be so, as long as it pleased their master. This, it seems, was the end of our law, and we, who are born under it, and

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are descended from such as have so valiantly defended their rights against the encroachments of kings, have followed after vain shadows, and without the expence of sweat, treasure, or blood, might have secured our beloved liberty, by casting all into the king's hands. SECT. 5

We owe the discovery of these secrets to our author, who, after having so gravely declared them, thinks no offence ought to be taken at the freedom he assumes of examining things relating to the liberty of mankind, because he has the right which is common to all. But he ought to have considered, that in asserting that right to himself, he allows it to all mankind. And as the temporal good of all men consists in the preservation of it, he declares himself to be a mortal enemy to those who endeavour to destroy it. If he were alive, this would deserve to be answered with stones rather than words. He that oppugns the public liberty, overthrows his own, and is guilty of the most brutish of all follies, whilst he arrogates to himself that which he denies to all men.

I cannot but commend his modesty and care "not to detract from the worth of learned men." But it seems they were all subject to error, except himself, who is rendered infallible through pride, ignorance, and impudence. But if Hooker and Aristotle were wrong in their fundamentals concerning natural liberty, how could they be in the right when they built upon it? or if they did mistake, how can they deserve to be cited? or rather, why is such care taken to pervert their sense? It seems, our author is by their errors brought to the knowledge of the truth. "Men have heard of a dwarf standing upon the shoulders of a giant, who saw farther than the giant:" but now that the dwarf standing on the ground sees that which the giant did overlook, we must learn from him. If there be sense in this, the giant must be blind, or have such eyes only as are of no use to him. He minded only the things that were far from him. These great and learned men mistook the very principle and foundation of all their doctrine. If we will believe our author, this misfortune befel them because they too much trusted to the schoolmen. He names Aristotle; and, I presume, intends to comprehend Plato, Plutarch, Thucydides, Xenophon, Polybius, and all the ancient Grecians, Italians, and others who asserted the natural freedom of mankind, only in imitation of the schoolmen, to advance the power of the pope; and would have compassed their design, if Filmer, and his associates, had not opposed them. These men had taught us to make "the unnatural distinction between royalist and patriot," and kept us from seeing, "that the relation between king and people is so great, that their well being is reciprocal." If this be true, how came Tarquin to think it good for him to continue king at Rome, when the people would turn him out? or the people to think it good for them to turn him out, when he desired to continue in? Why did the Syracusians destroy the tyranny of Dionysius, which he was not willing to leave, till he was pulled out by the heels? How could Nero think of burning Rome? Or why did Caligula wish the people had but one neck, that he might strike it off at one blow, if their welfare was thus reciprocal? It

CHAP. I is not enough to say, these were wicked or mad men; for other princes may be so also; and there may be the same reason of differing from them. For if the proposition be not universally true, it is not to be received as true in relation to any, till it be particularly proved; and then it is not to be imputed to the quality of the prince, but to the personal virtue of the man.

I do not find any great matters in the passages taken out of Bellarmine, which, our author says, comprehend the strength of all that ever he had heard, read, or seen produced for the natural liberty of the subject; but as he does not inform us where they are to be found, I do not think myself obliged to examine all his works, to see whether they are rightly cited or not. However, there is certainly nothing new in them: we see the same, as to the substance, in those who wrote many ages before him, as well as in many that have lived since his time, who neither minded him, nor what he had written. I dare not take upon me to give an account of his works, having read few of them. But, as he seems to have laid the foundation of his discourses in such common notions as were assented to by all mankind, those who follow the same method have no more regard to jesuitism and popery, though he was a jesuit and a cardinal, than they who agree with Faber, and other jesuits, in the principles of geometry, which no sober man did ever deny.

SECTION VI

GOD LEAVES TO MAN THE CHOICE OF FORMS IN GOVERNMENT;
AND THOSE WHO CONSTITUTE ONE FORM MAY ABROGATE IT.

But Sir Robert “desires to make observations on Bellarmine’s words, before he examines or refutes them.” And indeed it were not possible to make such stuff of his doctrine as he does, if he had examined or did understand it. First, he very wittily concludes, “that if, by the law of God, the power be immediately in the people, God is the author of a democracy.” And why not, as well as of a tyranny? Is there any thing in it repugnant to the being of God? Is there more reason to impute to God Caligula’s monarchy, than the democracy of Athens? Or is it more for the glory of God, to assert his presence with the Ottoman or French monarchs, than with the popular governments of the Switzers and Grisons? Is pride, malice, luxury, and violence so suitable to his being, that they who exercise them are to be reputed his ministers? And is modesty, humility, equality, and justice so contrary to his nature, that they who live in them should be thought his enemies? Is there any absurdity in saying, that, since God in goodness and mercy to mankind hath, with an equal hand, given to all the benefit of liberty, with some measure of understanding how to employ it, it is lawful for any nation, as occasion shall require, to give the exercise of that power to one or more men, under certain limitations and conditions; or to retain it to themselves, if they think

think it good for them? If this may be done, we are at an end of all controversies concerning one form of government established by God, to which all mankind must submit; and we may safely conclude, that having given to all men, in some degree, a capacity of judging what is good for themselves, he hath granted to all likewise a liberty of inventing such forms as please them best, without favouring one more than another. SECT. 6

His second observation is grounded upon a falsity in matter of fact. Bellarmine does not say, that "democracy is an ordinance of God" more than any other government; nor that the people have no power to make use of their right; but that they do, that is to say ordinarily, transmit the exercise of it to one or more. And it is certain they do sometimes, especially in small cities, retain it in themselves. But whether that were observed or not by Bellarmine, makes nothing to our cause, which we defend, and not him.

The next point is subtle; and he thinks thereby to have brought Bellarmine, and such as agree with his principle, to a nonplus. He doubts who shall judge of the lawful cause of changing the government; and says, it is a "pestilent conclusion" to place that power in the multitude. But why should this be esteemed pestilent? or to whom? If the allowance of such a power to the senate was pestilent to Nero, it was beneficial to mankind; and the denial of it, which would have given to Nero an opportunity of continuing in his villainies, would have been pestilent to the best of men, whom he endeavoured to destroy, and to all others that received benefit from them. But this question depends upon another: for if governments are constituted for the pleasure, greatness, or profit of one man, he must not be interrupted; the opposing of his will, is to overthrow the institution. On the other side, if the good of the governed be sought, care must be taken that the end be accomplished, though it be with the prejudice of the governor. If the power be originally in the multitude, and one or more men, to whom the exercise of it, or a part of it was committed, had no more than their brethren, till it was conferred on him or them, it cannot be believed, that rational creatures would advance one, or a few of their equals above themselves, unless in consideration of their own good; and then I find no inconvenience in leaving to them a right of judging, whether this be duly performed or not. We say in general, "he that institutes, may also abrogate*;" more especially when the institution is not only by, but for himself. If the multitude therefore do institute, the multitude may abrogate; and they themselves, or those who succeed in the same right, can only be fit judges of the performance of the ends of the institution. Our author may perhaps say, the public peace may be hereby disturbed: but he ought to know, there can be no peace, where there is no justice; nor any justice, if the government instituted for the good of a nation be turned to its ruin. But in plain English, the inconvenience, with which such as he endeavour

* Cujus est instituire, ejus est abrogare.

CHAP. I to affright us, is no more than that he or they, to whom the power is given, may be restrained or chastised, if they betray their trust; which I presume will displease none, but such as would rather subject Rome, with the best part of the world depending upon it, to the will of Caligula or Nero, than Caligula or Nero to the judgment of the senate and people; that is, rather expose many great and brave nations to be destroyed by the rage of a savage beast, than subject that beast to the judgment of all, or the choicest men of them, who can have no interest to pervert them, or other reason to be severe to him, than to prevent the mischiefs he would commit, and to save the people from ruin.

In the next place he recites an argument of Bellarmine, that "it is evident in Scripture God hath ordained powers; but God hath given them to no particular person, because by nature all men are equal; therefore he hath given power to the people or multitude." I leave him to untie that knot, if he can; but, as it is usual with impostors, he goes about by surmises to elude the force of this argument, pretending that in some other place he had contradicted himself, and acknowledged that every man was prince of his posterity; "because, that if many men had been created together, they ought all to have been princes of their posterity." But it is not necessary to argue upon passages cited from authors, when he that cites them may be justly suspected of fraud, and neither indicates the place nor treatise, lest it should be detected; more especially when we are no way concerned in the author's credit. I take Bellarmine's first argument to be strong; and if he in some place did contradict it, the hurt is only to himself. But in this particular I should not think he did it, though I were sure our author had faithfully repeated his words; for in allowing every man to be prince of his posterity, he only says, every man should be chief in his own family, and have a power over his children, which no man denies. But he does not understand Latin, who thinks that the word "princeps" doth in any degree signify an absolute power, or a right of transmitting it to his heirs and successors, upon which the doctrine of our author wholly depends. On the contrary, the same law that gave to my father a power over me, gives me the like over my children; and if I had a thousand brothers, each of them would have the same over their children. Bellarmine's first argument therefore being no way enervated by the alleged passage, I may justly insist upon it, and add, that God has not only declared in Scripture, but written on the heart of every man, that as it is better to be clothed, than to go naked, to live in a house, than to lie in the fields, to be defended by the united force of a multitude, than to place the hopes of his security solely in his own strength, and to prefer the benefits of society, before a savage and barbarous solitude, he has also taught them to frame such societies, and to establish such laws as were necessary to preserve them. And we may as reasonably affirm, that mankind are for ever obliged to use no other clothes than leather breeches, like Adam, to live in hollow trees, and eat acorns, or to seek after the model of his house for a habitation, and to

use no arms except such as were known to the patriarchs, as to think all nations for ever obliged to be governed, as they governed their families. This I take to be the genuine sense of the Scripture, and the most respectful way of interpreting the places relating to our purpose. It is hard to imagine, that God, who has left all things to our choice, that are not evil in themselves, should tie us up in this; and utterly incredible, that he should impose upon us a necessity of following his will, without declaring it to us. Instead of constituting a government over his people, consisting of many parts, which we take to be a model fit to be imitated by others, he might have declared in a word, that the eldest man of the eldest line should be king; and that his will ought to be their law. This had been more suitable to the goodness and mercy of God, than to leave us in a dark labyrinth, full of precipices; or rather, to make the government given to his own people, a false light to lead us to destruction. This could not be avoided, if there were such a thing as our author calls a "lord paramount over his childrens children to all generations." We see nothing in Scripture, of precept or example, that is not utterly abhorrent to this chimera. The only sort of kings mentioned there with approbation, is such a one "as may not raise his heart above his brethren*." If God had constituted a lord paramount with an absolute power, and multitudes of nations were to labour and fight for his greatness and pleasure, this were to raise his heart to a height, that would make him forget he was a man. Such as are versed in Scripture not only know, that it neither agrees with the letter nor spirit of that book; but that it is unreasonable in itself, unless he were of a species different from the rest of mankind. His exaltation would not agree with God's indulgence to his creatures, though he were the better for it; much less when probably he would be made more unhappy, and worse, by the pride, luxury, and other vices, that always attend the highest fortunes. It is no less incredible, that God, who disposes all things in wisdom and goodness, and appoints a due place for all, should, without distinction, ordain such a power, to every one succeeding in such a line, as cannot be executed; the wise would refuse, and fools cannot take upon them the burden of it, without ruin to themselves, and such as are under them: or expose mankind to a multitude of other absurdities and mischiefs; subjecting the aged to be governed by children; the wise, to depend on the will of fools; the strong and valiant, to expect defence from the weak or cowardly; and all in general to receive justice from him, who neither knows nor cares for it.

* Deut. c. 17, v. 20

SECTION VII

ABRAHAM AND THE PATRIARCHS WERE NOT KINGS.

If any man say, that we are not to seek into the depth of God's counsels, I answer, that if he had, for reasons known only to himself, affixed such a right to any one line, he would have set a mark upon those who come of it, that nations might know to whom they owe subjection; or given some testimony of his presence with Filmer and Heylin, if he had sent them to reveal so great a mystery. Till that be done, we may safely look upon them as the worst of men, and teachers only of lies and follies. This persuades me a little to examine, what would have been, if God had at once created many men, or what conclusions can be drawn from Adam's having been alone. Nothing can be more evident, than that, if many had been created, they had been all equal, unless God had given a preference to one. All their sons had inherited the same right after their death; and no dream was ever more empty, than his whimsy of Adam's kingdom, or that of the ensuing patriarchs. To say the truth, it is hard to speak seriously of Abraham's kingdom, or to think any man to be in earnest who mentions it. He was a stranger, and a pilgrim in the land where he lived, and pretended to no authority beyond his own family, which consisted only of a wife and slaves. He lived with Lot as with his equal, and would have no contest with him, because they were brethren. His wife and servants could neither make up, nor be any part of a kingdom, inasmuch as the despotical government, both in practice and principle, differs from the regal. If his kingdom was to be grounded on the paternal right, it vanished away of itself; he had no child; Eliezer of Damascus, for want of a better, was to be his heir; Lot, though his nephew, was excluded; he durst not own his own wife; he had not one foot of land, till he bought a field for a burying place; his three hundred and eighteen men were servants, bought according to the custom of those days, or their children; and the war he made with them, was like to Gideon's enterprize; which shews only that God can save by a few as well as by many, but makes nothing to our author's purpose. For if they had been as many in number as the army of Semiramis, they could have no relation to the regal, much less to the paternal power; for a father doth not buy, but beget children.

Notwithstanding this, our author bestows the proud title of lord paramount upon him, and transmits it to Isaac, who was indeed a king like his father, great, admirable, and glorious, in wisdom and holiness, but utterly void of all worldly splendor or power. This spiritual kingdom was inherited by Jacob, whose title to it was not founded on prerogative of birth, but election, and peculiar grace; but he never enjoyed any other worldly inheritance, than the field and cave which Abraham had bought for a burying place, and the goods he had gained in Laban's service.

The

The example of Judah's sentence upon Tamar is yet farther from the purpose, if it be possible; for he was then a member of a private family, the fourth son of a father then living; neither in possession, nor under the promise of the privileges of primogeniture, though Reuben, Simeon, and Levi, fell from it by their sins. Whatever therefore the right was, which belonged to the head of the family, it must have been in Jacob; but as he professed himself a keeper of sheep, as his fathers had been, the exercise of that employment was so far from regal, that it deserves no explication. If that act of Judah is to be imputed to a royal power, I have as much as I ask. He, though living with his father, and elder brothers, when he came to be of age to have children, had the same power over such, as were of, or came into his family, as his father had over him; for none can go beyond the power of life and death: the same, in the utmost extent, cannot at the same time equally belong to many. If it be divided equally, it is no more than that universal liberty which God hath given to mankind; and every man is a king, till he divest himself of his right, in consideration of something that he thinks better for him.

SECTION VIII

NIMROD WAS THE FIRST KING, DURING THE LIFE OF CUSH, HAM, SHEM, AND NOAH.

The creation is exactly described in the Scripture; but we know so little of what passed between the finishing of it and the flood, that our author may say what he pleases, and I may leave him to seek his proofs where he can find them. In the mean time, I utterly deny, that any power did remain in the heads of families after the flood, that does in the least degree resemble the regal in principle or practice. If in this I am mistaken, such power must have been in Noah, and transmitted to one of his sons. The Scripture says only, that he built an altar, sacrificed to the Lord, was a husbandman, planted a vineyard, and performed such offices as bear nothing of the image of a king; for the space of three hundred and fifty years. We have reason to believe, that his sons after his death continued in the same manner of life, and the equality properly belonging to brethren. It is not easy to determine, whether Shem or Japhet was the elder; but Ham is declared to be the younger*; and Noah's blessing to Shem seems to be purely prophetic and spiritual, of what should be accomplished in his posterity; with which Japhet should be persuaded to join. If it had been worldly, the whole earth must have been brought under him, and have for ever continued in his race; which never was ac-

* Gen. c. 9, v. 24

CHAP. I accomplished, otherwise than in the spiritual kingdom of Christ, which relates not to our author's lord paramount.

As to earthly kings, the first of them was Nimrod, the sixth son of Cush the son of Ham, Noah's younger and accursed son. This kingdom was set up about a hundred and thirty years after the flood, whilst Cush, Ham, Shem, and Noah, were yet living; whereas if there were any thing of truth in our author's proposition, all mankind must have continued under the government of Noah whilst he lived; and that power must have been transmitted to Shem, who lived about three hundred and seventy years after the erection of Nimrod's kingdom; and must have come to Japhet, if he was the elder; but could never come to Ham, who is declared to have been certainly the younger, and condemned to be a servant to them both; much less to the younger son of his son, whilst he, and those to whom he and his posterity were to be subjects, were still living.

This rule therefore, which the partisans of absolute monarchy fancy to be universal and perpetual, falling out, in its first beginning, directly contrary to what they assert, and being never known to have been recovered, were enough to silence them, if they had any thing of modesty, or regard to truth. But the matter may be carried farther: for the Scripture not only testifies, that this kingdom of Nimrod was an usurpation, void of all right, proceeding from the most violent and mischievous vices, but exercised with the utmost fury, that the most wicked man of the accursed race, who set himself up against God, and all that is good, could be capable of. The progress of this kingdom was suitable to its institution: that which was begun in wickedness, was carried on with madness, and produced confusion. The mighty hunter, whom the best interpreters call a cruel tyrant, receding from the simplicity and innocence of the patriarchs, who were husbandmen or shepherds, arrogating to himself a dominion over Shem, to whom he and his fathers were to be servants, did thereby so peculiarly become the heir of God's curse, that whatever has been said to this day, of the power that did most directly set itself against God and his people, has related literally to the Babel that he built, or figuratively to that which resembles it in pride, cruelty, injustice, and madness.

But the shameless rage of some of these writers is such, that they rather choose to ascribe the beginning of their idol to this odious violence, than to own it from the consent of a willing people; as if they thought, that as all action must be suitable to its principle, so that which is unjust in its practice ought to scorn to be derived from that which is not detestable in its principle. It is hardly worth our pains to examine, whether the nations, that went from Babel after the confusion of languages, were more or less than seventy two, for they seem not to have gone according to families, but every one to have associated himself to those that understood his speech; and the chief of the fathers, as Noah and his sons, were not there, or were subject to Nimrod; each of which points doth destroy, even in the root, all pretence to paternal government. Besides, it is evident in Scripture, that Noah lived three hundred and fifty years after the flood;

five hundred; Abraham was born about two hundred and ninety years after the flood, and lived one hundred seventy five years: he was therefore born under the government of Noah, and died under that of Shem. So that in leaving his country, and setting up a family for himself that never acknowledged any superior, and never pretending to reign over any other, he fully shewed he thought himself free, and that he owed subjection to none; and, being as far from arrogating to himself any power upon the title of paternity, as from acknowledging it in any other, left every one to the same liberty. SECT. 8

The punctual enumeration of the years, that the fathers of the holy seed lived, gives us ground of making a more than probable conjecture, that they of the collateral lines were, in number of days, not unequal to them; and if that be true, Ham and Cush were alive when Nimrod set himself up to be king. He must therefore have usurped this power over his father, grandfather and great grandfather; or, which is more probable, he turned into violence and oppression the power given to him by a multitude; which, like a flock without a shepherd, not knowing whom to obey, set him up to be their chief. I leave to our author the liberty of choosing which of these two doth best suit with his paternal monarchy; but as far as I can understand, the first is directly against it, as well as against the laws of God and man; the other, being from the consent of the multitude, cannot be extended farther than they would have it, nor turned to their prejudice, without the most abominable ingratitude and treachery, from whence no right can be derived, nor any justifiable example taken.

Nevertheless, if our author resolve that Abraham was also a king, he must presume that Shem did emancipate him, before he went to seek his fortune. This was not a kingly posture: but I will not contradict him, if I may know over whom he reigned. Paternal monarchy is exercised by the father of the family over his descendents, or such as had been under the dominion of him, whose heir he is. But Abraham had neither of these: those of his nearest kindred continued in Mesopotamia, as appears by what is said of Bethuel and Laban. He had only Lot with him, over whom he pretended no right. He had no children till he was an hundred years old, that is to say, he was a king without a subject, and then he had but one. I have heard, that "sovereigns do impatiently bear competitors*;" but now I find subjection also doth admit of none. Abraham's kingdom was too great when he had two children; and, to disburden it, Ishmael must be expelled soon after the birth of Isaac. He observed the same method after the death of Sarah: he had children by Keturah; but he gave them gifts, and sent them away, leaving Isaac like a stoical king reigning in and over himself, without any other subject, till the birth of Jacob and Esau. But his kingdom was not to be of a larger extent than that of his father; the two twins could not agree: Jacob

* — Omnisque potestas
Impatiens consortis erit.—Luc. l. i, v. 92

CHAP. I was sent away by his mother; he reigned over Esau only; and it is not easy to determine who was the heir of his worldly kingdom: for though Jacob had the birthright, we do not find he had any other goods, than what he had gotten in Laban's service. If our author say true, the right of primogeniture, with the dominion perpetually annexed by the laws of God and nature, must go to the eldest: Isaac therefore, though he had not been deceived, could not have conferred it upon the younger; for man cannot overthrow what God and nature have instituted. Jacob, in the court language, had been a double rebel, in beguiling his father, and supplanting his brother; the blessing of being lord over his brethren could not have taken place; or, if Isaac had power, and his act was good, the prerogative of the elder is not rooted in the law of God or nature, but is a matter of conveniency only, which may be changed at the will of the father, whether he know what he does or not. But if this paternal right to dominion were of any value, or dominion over men were a thing to be desired, why did Abraham, Isaac, and Jacob, content themselves with such a narrow territory, when, after the death of their ancestors, they ought, according to that rule, to have been lords of the world? All authors conclude, that Shem was the eldest by birth, or preferred by the appointment of God, so as the right must have been in him, and from him transmitted to Abraham and Isaac; but if they were so possessed with the contemplation of a heavenly kingdom, as not to care for the greatest on earth, it is strange, that Esau, whose modesty is not much commended, should so far forget his interest, as neither to lay claim to the empire of the world, nor dispute with his brother the possession of the field and cave bought by Abraham, but rather to fight for a dwelling on mount Seir, that was neither possessed by, nor promised to his fathers. If he was fallen from his right, Jacob might have claimed it: but God was his inheritance; and, being assured of his blessing, he contented himself with what he could gain by his industry, in a way that was not at all suitable to the pomp and majesty of a king. Which way soever therefore the business be turned, whether, according to Isaac's blessing, Esau should serve Jacob, or our author's opinion, Jacob must serve Esau, neither of the two was effected in their persons: and the kingdom of two being divided into two, each of them remained lord of himself.

SECTION IX

THE POWER OF A FATHER BELONGS ONLY TO A FATHER.

This leads us to an easy determination of the question, which our author thinks insoluble: "If Adam was lord of his children, he does not see how any can be free from subjection to his parents." For as no good man will

will ever desire to be free from the respect that is due to his father, who did beget and educate him, no wise man will ever think the like to be due to his brother or nephew, that did neither. If Esau and Jacob were equally free; if Noah, as our author affirms, divided Europe, Asia and Africa, amongst his three sons, though he cannot prove it; and if seventy two nations under so many heads or kings went from Babylon to people the earth, about a hundred and thirty years after the flood; I know not why, according to the same rule and proportion, it may not be safely concluded, that in four thousand years kings are so multiplied, as to be in number equal to the men that are in the world; that is to say, they are, according to the laws of God and nature, all free, and independent upon each other, as Shem, Ham, and Japhet were. And therefore, though Adam and Noah had reigned alone, when there were no men in the world, except such as issued from them, that is no reason why any other should reign over those that he has not begotten. As the right of Noah was divided among the children he left, and when he was dead, no one of them depended on the other, because no one of them was father of the other, and the right of a father can only belong to him that is so, the like must for ever attend every other father in the world. This paternal power must necessarily accrue to every father: he is a king by the same right as the sons of Noah; and how numerous soever families may be upon the increase of mankind, they are all free, till they agree to recede from their own right, and join together in or under one government, according to such laws as best please themselves.

SECT. 10

SECTION X

SUCH AS ENTER INTO SOCIETY, MUST IN SOME DEGREE DIMINISH
THEIR LIBERTY.

Reason leads them to this: no one man or family is able to provide that which is requisite for their convenience or security, whilst every one has an equal right to every thing, and none acknowledges a superior to determine the controversies, that upon such occasions must continually arise, and will probably be so many and great, that mankind cannot bear them. Therefore though I do not believe, that Bellarmine said, "a commonwealth could not exercise its power;" for he could not be ignorant, that Rome and Athens did exercise theirs, and that all the regular kingdoms in the world are commonwealths; yet there is nothing of absurdity in saying, that man cannot continue in the perpetual and entire fruition of the liberty that God hath given him. The liberty of one is thwarted by that of another; and whilst they are all equal, none will yield to any, otherwise than by a general consent. This is the ground of all just governments; for violence or fraud can create no right; and the same consent gives the form to them all,

CHAP. I how much soever they differ from each other. Some small numbers of men, living within the precincts of one city, have, as it were, cast into a common stock, the right which they had of governing themselves and children, and by common consent joining in one body, exercised such power over every single person as seemed beneficial to the whole; and this men call perfect "democracy." Others chose rather to be governed by a select number of such as most excelled in wisdom and virtue; and this, according to the signification of the word, was called "aristocracy." When one man excelled all others, the government was put into his hands under the name of "monarchy." But the wisest, best, and by far the greatest part of mankind, rejecting these simple species, did form governments mixed or composed of the three, as shall be proved hereafter, which commonly received their respective denomination from the part that prevailed, and did deserve praise or blame, as they were well or ill proportioned.

It were a folly hereupon to say, that the liberty, for which we contend, is of no use to us, since we cannot endure the solitude, barbarity, weakness, want, misery, and dangers, that accompany it whilst we live alone, nor can enter into a society without resigning it; for the choice of that society, and the liberty of framing it according to our own wills, for our own good, is all we seek. This remains to us, whilst we form governments, that we ourselves are judges how far it is good for us to recede from our natural liberty; which is of so great importance, that from thence only we can know whether we are freemen or slaves; and the difference between the best government and the worst, doth wholly depend upon a right or wrong exercise of that power. If men are naturally free, such as have wisdom and understanding will always frame good governments: but if they are born under the necessity of a perpetual slavery, no wisdom can be of use to them; but all must for ever depend on the will of their lords, how cruel, mad, proud, or wicked, soever they be.

SECTION XI

NO MAN COMES TO COMMAND MANY, UNLESS BY CONSENT OR
BY FORCE.

But because I cannot believe God hath created man in such a state of misery and slavery as I just now mentioned; by discovering the vanity of our author's whimsical patriarchal kingdom, I am led to a certain conclusion, that every father of a family is free, and exempt from the domination of any other, as the seventy two that went from Babel were. It is hard to comprehend how one man can come to be master of many, equal to himself in right, unless it be by consent, or by force. If by consent, we are at an end of our controversies: governments, and the magistrates that execute them, are created by man. They who give a being to them, cannot but have a right of regulating, limiting, and directing them as best pleaseth them-

themselves; and all our author's assertions concerning the absolute power of one man, fall to the ground. If by force, we are to examine how it can be possible or justifiable. This subduing by force we call conquest; but as he that forceth must be stronger than those that are forced, to talk of one man who in strength exceeds many millions of men, is to go beyond the extravagance of fables and romances. This wound is not cured by saying, that he first conquers one, and then more, and with their help others; for as to matter of fact, the first news we hear of Nimrod is, that he reigned over a great multitude, and built vast cities; and we know of no kingdom in the world, that did not begin with a greater number than any one man could possibly subdue. If they who chose one to be their head, did under his conduct subdue others, they were fellow-conquerors with him; and nothing can be more brutish, than to think, that by their virtue and valour they had purchased perpetual slavery to themselves, and their posterity. But if it were possible, it could not be justifiable: and whilst our dispute is concerning right, that which ought not to be is no more to be received, than if it could not be. No right can come by conquest, unless there were a right of making that conquest, which, by reason of the equality that our author confesses to have been amongst the heads of families, and as I have proved goes on to infinity, can never be on the aggressor's side. No man can justly impose any thing upon those who owe him nothing. Our author therefore, who ascribes "the enlargement of Nimrod's kingdom to usurpation and tyranny," might as well have acknowledged the same in the beginning, as he says all other authors have done. However, he ought not to have imputed to Sir Walter Raleigh an approbation of his right, as lord or king over his family; for he could never think him to be a lord by the right of a father, who by that rule must have lived and died a slave to his fathers that over-lived him. Whoever therefore like Nimrod grounds his pretensions of right upon usurpation and tyranny, declares himself to be, like Nimrod, an usurper and a tyrant, that is, an enemy to God and man, and to have no right at all. That which was unjust in its beginning, can of itself never change its nature: "*Tempus enim,*" saith Grotius, "*ex suapte natura vim nullam effectricem habet*.*" He that persists in doing injustice, aggravates it, and takes upon himself all the guilt of his predecessors. But if there be a king in the world, that claims a right by conquest, and would justify it, he might do well to tell whom he conquered, when, with what assistance, and upon what reason he undertook the war; for he can ground no title upon the obscurity of an unsearchable antiquity; and if he does it not, he ought to be looked upon as an usurping Nimrod.

* *De Jure Belli*, l. 2, c. 4, § 1. *Duratio naturam rei non immutat.* *ib.* l. 1, c. 3, § 14

SECTION XII

THE PRETENDED PATERNAL RIGHT IS DIVISIBLE OR INDIVISIBLE: IF DIVISIBLE, IT IS EXTINGUISHED; IF INDIVISIBLE, UNIVERSAL.

This paternal right to regality, if there be any thing in it, is divisible or indivisible; if indivisible, as Adam has but one heir, ONE man is rightly lord of the whole world; and neither Nimrod, nor any of his successors, could ever have been kings, nor the seventy two that went from Babylon: Noah survived him near two hundred years: Shem continued one hundred and fifty years longer. The dominion must have been in him, and by him transmitted to his posterity for ever. Those, that call themselves kings in all other nations, set themselves up against the law of God and nature. This is the man we are to seek out, that we may yield obedience to him. I know not where to find him; but he must be of the race of Abraham. Shem was preferred before his brethren: the inheritance that could not be divided must come to him, and from him to Isaac, who was the first of his descendants that outlived him. It is a pity that Jacob did not know this, and that the lord of all the earth, through ignorance of his title, should be forced to keep one of his subjects sheep for wages; and strange, that he, who had wit enough to supplant his brother, did so little understand his own bargain, as not to know, that he had bought the perpetual empire of the world. If in conscience he could not take such a price for a dish of pottage, it must remain in Esau: however, our lord paramount must come from Isaac. If the deed of sale made by Esau be good, we must seek him amongst the Jews: if he could not easily divest himself of his right, it must remain amongst his descendants, who are Turks. We need not scruple the reception of either, since the late Scots act tells us, “that kings derive their royal power from God alone; and no difference of religion, &c. can divert the right of succession.” But I know not what we shall do, if we cannot find this man; for “*de non apparentibus, et non existentibus eadem est ratio.*” The right must fall if there be none to inherit. If we do not know who he is that hath the right, we do not know who is near to him. All mankind must inherit the right, to which every one hath an equal title; and that which is dominion, if in one, when it is equally divided among all men, is that universal liberty which I assert. Wherefore I leave it to the choice of such as have inherited our author’s opinions, to produce this Jew or Turk that ought to be lord of the whole earth, or to prove a better title in some other person, and to persuade all the princes and nations of the world to submit. If this be not done, it must be confessed this paternal right is a mere whimsical fiction; and that no man by birth hath a right above another, or can have any, unless by the concession of those who are concerned.

If this right to an universal empire be divisible, Noah did actually divide it among his three sons: if seventy and two absolute monarchs did at
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once arise out of the multitude that had assembled at Babel ; Noah, nor his sons, nor any of the holy seed, nor probably any elder than Nimrod having been there, many other monarchs must necessarily have arisen from them. Abraham, as our author says, was a king : Lot must have been so also, for they were equals. His sons Ammon and Moab had no dependence upon the descendants of Abraham. Ishmael and Esau set up for themselves, and great nations came of them. Abraham's sons by Keturah did so also ; that is to say, every one, as soon as he came to be of age to provide for himself, did so, without retaining any dependence upon the stock from whence he came : those of that stock, or the head of it, pretended to no right over those who went from them. Nay, nearness in blood was so little regarded, that though Lot was Abraham's brother's son, Eliezer his servant had been his heir, if he had died childless. The like continued amongst Jacob's sons ; no jurisdiction was given to one above the rest ; an equal division of land was made amongst them ; their judges and magistrates were of several tribes and families, without any other preference of one before another, than what did arise from the advantages God had given to any particular person. This I take to be a proof of the utmost extent and certainty, that the equality among mankind was then perfect : he therefore that will deny it to be so now, ought to prove, that neither the prophets, patriarchs, or any other men, did ever understand or regard the law delivered by God and nature to mankind ; or, that having been common and free at the first, and so continued for many hundreds of years after the flood, it was afterwards abolished, and a new one introduced. He that asserts this must prove it ; but till it does appear to us, when, where, how, and by whom this was done, we may safely believe there is no such thing ; and that no man is, or can be a lord amongst us, till we make him so ; and that by nature we are all brethren.

Our author, by endeavouring farther to illustrate the patriarchal power, destroys it, and cannot deny to any man the right which he acknowledges to have been in Ishmael and Esau. But if every man has a right of setting up for himself with his family, or before he has any, he cannot but have a right of joining with others if he pleases. As his joining or not joining with others, and the choice of those others, depends upon his own will, he cannot but have a right of judging upon what conditions it is good for him to enter into such a society, as must necessarily hinder him from exercising the right which he has originally in himself. But as it cannot be imagined, that men should generally put such fetters upon themselves, unless it were in expectation of a greater good thereby to accrue to them, no more can be required to prove, that they do voluntarily enter into these societies, institute them for their own good, and prescribe such rules and forms to them as best please themselves, without giving account to any. But if every man be free, till he enter into such a society as he chooseth for his own good, and those societies may regulate themselves as they think fit, no more can be required to prove the natural equality in which all men are born, and continue, till they resign

CHAP. I it as into a common stock, in such measure as they think fit for the constituting of societies for their own good, which I assert, and our author denies.

SECTION XIII

THERE WAS NO SHADOW OF A PATERNAL KINGDOM AMONGST
THE HEBREWS, NOR PRECEPT FOR IT.

Our author is so modest as to confess, that Jacob's kingdom, consisting of seventy two persons, was swallowed up by the power of the greater monarch Pharaoh. But if this was an act of tyranny, it is strange, that the sacred and eternal right, grounded upon the immutable laws of God and nature, should not be restored to God's chosen people, when he delivered them from that tyranny. Why was not Jacob's monarchy conferred upon his right heir? how came the people to neglect a point of such importance? or if they did forget it, why did not Moses put them in mind of it? why did not Jacob declare to whom it did belong? or if he is understood to have declared it, in saying the sceptre should not depart from Judah, why was it not delivered into his hands, or unto his heirs? If he was hard to be found in a people of one kindred, but four degrees removed from Jacob their head, who were exact in observing genealogies, how can we hope to find him after so many thousand years, when we do not so much as know from whom we are derived? or rather how comes that right, which is eternal and universal, to have been nipped in the bud, and so abolished before it could take any effect in the world, as never to have been heard of amongst the gentiles, nor the people of God, either before or after the captivity, from the death of Jacob to this day? This I assert, and I give up the cause, if I do not prove it. To this end I begin with Moses and Aaron the first rulers of the people, who were neither of the eldest tribe according to birth, nor the disposition of Jacob, if he did, or could give it to any; nor were they of the eldest line of their own tribe; and even between them the superiority was given to Moses, who was the younger, as it is said, "I have made thee a God to Pharaoh, and Aaron thy brother shall be thy prophet." If Moses was a king, as our author says, but I deny, and shall hereafter prove, the matter is worse: he must have been an usurper of a most unjust dominion over his brethren; and this patriarchal power, which by the law of God was to be perpetually fixed in his descendents, perished with him, and his sons continued in an obscure rank amongst the Levites. Joshua of the tribe of Ephraim succeeded him: Othniel was of Judah, Ehud of Benjamin, Barak of Naphtali, and Gideon of Manasseh. The other judges were of several tribes; and they being dead, their children lay hid amongst the common people, and we hear no more of them. The first king was taken out of the least family of the
least

least and youngest tribe. The second, whilst the children of the first king were yet alive, was the youngest of eight sons of an obscure man in the tribe of Judah. Solomon one of his youngest sons succeeded him. Ten tribes deserted Rehoboam, and by the command of God set up Jeroboam to be their king. The kingdom of Israel by the destruction of one family passed into another: that of Judah by God's peculiar promise continued in David's race till the captivity; but we know not that the eldest son was ever preferred, and have no reason to presume it. David their most revered king left no precept for it, and gave an example to the contrary: he did not set up the eldest, but the wisest. After the captivity they who had most wisdom or valour to defend the people, were thought most fit to command; and the kingdom at the last came to the Asmonean race, whilst the posterity of David was buried in the mass of the common people, and utterly deprived of all worldly rule or glory. If the judges had not a regal power, or the regal were only just as instituted by God, and eternally annexed to paternity, all that they did was evil; there could be nothing of justice in the powers exercised by Moses, Joshua, Gideon, Samuel, and the rest of the judges. If the power was regal and just, it must have continued in the descendants of the first; Saul, David, and Solomon, could never have been kings; the right failing in them, their descendants could inherit none from them; and the others after the captivity were guilty of the like injustice.

Now as the rule is not general, to which there is any one just exception, there is not one of these examples that would not overthrow our author's doctrine: if one deviation from it were lawful, another might be, and so to infinity. But the utmost degree of impudent madness, to which perhaps any man in the world has ever arrived, is to assert that to be universal and perpetual, which cannot be verified by any one example to have been in any place of the world, nor justified by any precept.

If it be objected, that all these things were done by God's immediate disposition, I answer, that it were an impious madness to believe, that God did perpetually send his prophets to overthrow what he had ordained from the beginning, and, as it were in spite, to bring the minds of men into inextricable confusion and darkness, and by particular commands to overthrow his universal and eternal law. But to render this point more clear, I desire it may be considered, that we have but three ways of distinguishing between good and evil.

1. When God by his word reveals it to us.
2. When by his deeds he declares it; because that which he does is good, as that which he says is true.
3. By the light of reason; which is good, inasmuch as it is from God.

And first: It cannot be said we have an explicit word for that continuance of the power in the eldest; for it appears not: and having none, we might conclude it to be left to our liberty. For it agrees not with the goodness of God to leave us in a perpetual ignorance of his will in a matter

CHAP. I of ſo great importance; nor to have ſuffered his own people, or any other, to periſh, without the leaſt reproof or admonition, in a perpetual oppoſition to it, if it had diſpleaſed him.

Secondly, The diſpenſations of his providence, which are the emanations of his will, have gone contrary to this pretended law. There can therefore be no ſuch thing; for God is conſtant to himſelf; his works do not contradict his word; and both of them do equally declare to us that which is good.

Thirdly, If there be any precept, that by the light of nature we can in matters of this kind look upon as certain, it is, that the government of a people ſhould be given to him that can beſt perform the duties of it. No man has it for himſelf, or from himſelf; but for and from thoſe, who, before he had it, were his equals, that he may do good to them. If there were a man, who in wiſdom, valour, juſtice, and purity, ſurpaſſed all others, he might be called a king by nature; becauſe he is beſt able to bear the weight of ſo great a charge; and, like a good ſhepherd, to lead the people to good. “*Detur digniori*” is the voice of reaſon; and, that we may be ſure “*detur ſeniori*” is not ſo, Solomon tells us, “that a wiſe child is better than an old and fooliſh king.” But if this pretended right do not belong to him that is truly the eldeſt, nothing can be more abſurd than a fantaſtical pretence to a right deduced from him that is not ſo. Now left I ſhould be thought to follow my own inventions, and call them reaſon, or the light of God in us, I deſire it may be obſerved, that God himſelf has ever taken this method. When he raiſed up Moſes to be the leader of his people, he endowed him with the moſt admirable gifts of his Spirit that ever he beſtowed upon a man. When he choſe ſeventy men to aſſiſt him; he endowed them with the ſame Spirit. Joſhua had no other title to ſucceed him than the like evidence of God’s preſence with him. When the people through ſin fell into miſery, he did not ſeek out their deſcendents, nor ſuch as boaſted in a prerogative of birth; but ſhewed whom he deſigned for their deliverer, by beſtowing ſuch gifts upon him as were required for the performance of his work; and never failed of doing this, till that miſerable, finful people, rejecting God, and his government, deſired that which was in uſe among their accuſed neighbours, that they might be as like to them in the moſt ſhameful ſlavery to man, as in the worſhip of idols ſet up againſt God.

But if this pretended right be grounded upon no word or work of God, nor the reaſon of man, it is to be accounted a mere figment, that has nothing of truth in it.

SECTION XIV

IF THE PATERNAL RIGHT HAD INCLUDED DOMINION, AND WAS TO BE TRANSFERRED TO A SINGLE HEIR, IT MUST PERISH IF HE WERE NOT KNOWN; AND COULD BE APPLIED TO NO OTHER PERSON.

Having shewn, that the first kings were not fathers, nor the first fathers kings; that all the kings of the Jews and gentiles mentioned in Scripture came in upon titles different from, and inconsistent with, that of paternity; and that we are not led by the word, nor the works of God, nor the reason of man, or light of nature, to believe there is any such thing, we may safely conclude there never was any such thing, or that it never had any effect; which to us is the same. It is as ridiculous to think of retrieving that which from the beginning of the world was lost, as to create that which never was. But I may go farther, and affirm, that though there had been such a right in the first fathers of mankind exercised by them, and for some ages individually transmitted to their eldest sons, it must necessarily perish, since the generations of men are so confused, that no man knows his own original; and consequently this heir is no where to be found: for it is a folly for a man to pretend to an inheritance, who cannot prove himself to be the right heir. If this be not true, I desire to know from which of Noah's sons the kings of England, France, or Spain, do deduce their original; or what reason they can give, why the title to dominion, which is fancied to be in Noah, did rather belong to the first of their respective races, that attained to the crowns they now enjoy, than to the meanest peasant of their kingdoms; or how that can be transmitted to them, which was not in the first. We know, that no man can give what he has not; that if there be no giver, there is no gift; if there be no root, there can be no branch; and that the first point failing, all that should be derived from it must necessarily fail.

Our author, who is good at resolving difficulties, shews us an easy way out of this strait. "It is true," says he, "all kings are not natural parents of their subjects; yet they either are, or are to be reputed, the next heirs to those first progenitors, who were at first the natural parents of the whole people, and in their right succeed to the exercise of the supreme jurisdiction; and such heirs are not only lords of their own children, but also of their brethren, and all those that were subject to their fathers, &c. By this means it comes to pass, that many a child succeeding a king hath the right of a father over many a grey-headed multitude, and hath the title of *pater patriae*."

An assertion comprehending so many points, upon which the most important rights of all mankind do depend, might deserve some proof; but he, being of opinion we ought to take it upon his credit, does not vouchsafe to give us so much as the shadow of any. Nevertheless, being unwilling:

CHAP. I willing either crudely to receive, or rashly to reject it, I shall take the liberty of examining the proposition, and hope I may be pardoned, if I dwell a little more than ordinarily upon that which is the foundation of his work.

We are beholden to him for confessing modestly, that all kings are not the natural fathers of their people, and sparing us the pains of proving, that the kings of Persia, who reigned from the Indies to the Hellespont, did not beget all the men that lived in those countries; or that the kings of France and Spain, who began to reign before they were five years old, were not the natural fathers of the nations under them. But if all kings are not fathers, none are, as they are kings: if any one is, or ever was, the rights of paternity belong to him, and to no other who is not so also. This must be made evident; for matters of such importance require proof, and ought not to be taken upon supposition. If Filmer therefore will pretend, that the right of father belongs to any one king, he must prove, that he is the father of his people; for otherwise it does not appertain to him; he is not the man we seek.

It is no less absurd to say, he is to be reputed heir to the first progenitor: for it must be first proved, that the nation did descend from one single progenitor without mixture of other races; that this progenitor was the man, to whom Noah (according to Filmer's whimsical division of Asia, Europe, and Africa, among his sons) did give the land now inhabited by that people; that this division so made was not capable of subdivisions; and that this man is by a true and uninterrupted succession descended from the first and eldest line of that progenitor; and all fails, if every one of these points be not made good. If there never was any such man who had that right, it cannot be inherited from him. If by the same rule that a parcel of the world was allotted to him, that parcel might be subdivided amongst his children as they increased, the subdivisions may be infinite, and the right of dominion thereby destroyed. If several nations inhabit the same land, they owe obedience to several fathers: that which is due to their true father, cannot be rendered to him that is not so; for he would by that means be deprived of the right which is inseparably annexed to his person: and lastly, whatever the right of an heir may be, it can belong only to him that is heir.

Lest any should be seduced from these plain truths by frivolous suggestions, it is good to consider, that the title of "pater patriae," with which our author would cheat us, has no relation to the matters of right, upon which we dispute. It is a figurative speech, that may have been rightly enough applied to some excellent princes, on account of their care and love to their people, resembling that of a father to his children; and can relate to none but those who had it. No man that had common sense, or valued truth, did ever call Phalaris, Dionysius, Nabis, Nero, or Caligula, fathers of their countries; but monsters, that to the utmost of their power endeavoured their destruction. Which is enough to prove that sacred name cannot be given to all, and in consequence to none but such, as by their virtue, piety, and good government, do deserve it.

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These matters will yet appear more evident, if it be considered, that though Noah had reigned as a king, that Zoroaster, as some suppose, was Ham, who reigned over his children, and that thereby some right might perhaps be derived to such as succeeded them, yet this can have no influence upon such as have not the like original; and no man is to be presumed to have it, till it be proved, since we have proved that many had it not. If Nimrod set himself up against his grandfather, and if Ninus, who was descended from him in the fifth generation, slew him, they ill deserved the name and rights of fathers; and none, but those who have renounced all humanity, virtue, and common sense, can give it to them, or their successors. If therefore Noah and Shem had not so much as the shadow of regal power, and the actions of Nimrod, Ninus, and others, who were kings in their times, shew they did not reign in the right of fathers, but were set up in a direct opposition to it, the titles of the first kings were not from paternity, nor consistent with it.

Our author therefore, who should have proved every point, does neither prove any one, nor assert that which is agreeable to divine or human story as to matter of fact, or indeed conformable to common sense. It does not only appear contrary to his general proposition, that all governments have not begun with the paternal power; but we do not find, that any ever did. They who, according to his rules, should have been lords of the whole earth, lived and died private men, whilst the most wicked and boisterous of their children commanded the greatest part of the then inhabited world, not excepting even those countries where they spent and ended their days; and instead of entering upon the government by the right of fathers, or managing it as fathers, they did by the most outrageous injustice usurp a violent domination over their brethren and fathers.

It may easily be imagined what the right is, that could be thus acquired, and transmitted to their successors. Nevertheless our author says, "all kings either are, or ought to be reputed next heirs, &c." But why reputed, if they are not? How could any of the accursed race of Ham be reputed father of Noah or Shem, to whom he was to be a servant? How could Nimrod and Ninus be reputed fathers of Ham, and of those whom they ought to have obeyed? Can reason oblige me to believe that which I know to be false? Can a lie, that is hateful to God and good men, not only be excused, but enjoined, when (as he will perhaps say) it is for the king's service? Can I serve two masters, or, without the most unpardonable injustice, repute him to be my father, who is not my father; and pay the obedience due to him who did beget and educate me, to one from whom I never received any good? If this be so absurd, that no man dares affirm it in the person of any, it is as preposterous in relation to his heirs: for Nimrod the first king could be heir to no man as king, and could transmit to no man a right which he had not. If it was ridiculous and abominable to say, that he was father of Cush, Ham, Shem, and Noah, it is as ridiculous to say, he had the right of father, if he was not their father; or that his successors inherited it from him, if he never
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CHAP. I had it. If there be any way through this, it must have accrued to him by the extirpation of all his elders, and their races; so that he, who will assert this pretended right to have been in the Babylonian kings, must assert, that Noah, Shem, Japhet, Ham, Cush, and all Nimrod's elder brothers, with all their descendents, were utterly extirpated before he began to reign; and that all mankind were descended from him.

This must be, if Nimrod, as the Scripture says, was the first that became mighty in the earth; unless men might be kings, without having more power than others for Cush, Ham, and Noah, were his elders and progenitors in the direct line; and all the sons of Shem and Japhet, and their descendents in the collaterals, were to be preferred before him; and he could have no right at all, that was not directly contrary to those principles, which, our author says, are grounded upon the eternal and indispensable laws of God and nature. The like may be said of the seventy two heads of colonies, which (following, as I suppose, Sir Walter Raleigh) he says, went out to people the earth, and whom he calls kings: for, according to the same rule, Noah, Shem, and Japhet, with their descendents, could not be of the number; so that neither Nimrod, nor the others that established the kingdoms of the world, and from whence he thinks all the rest to be derived, could have any thing of justice in them, unless it were from a root altogether inconsistent with his principles. They are therefore false, or the establishments before-mentioned could have no right. If they had none, they cannot be reputed to have any; for no man can think that to be true, which he knows to be false: having none, they could transmit none to their heirs and successors. And if we are to believe, that all the kingdoms of the earth are established upon this paternal right, it must be proved, that all those, who in birth ought to have been preferred before Nimrod, and the seventy two, were extirpated; or that the first and true heir of Noah did afterwards abolish all these unjust usurpations; and, making himself master of the whole, left it to his heirs, in whom it continues to this day. When this is done, I will acknowledge the foundation to be well laid, and admit of all that can be rightly built upon it; but if this fails, all fails: the poison of the root continues in the branches. If the right heir be not in possession, he is not the right who is in possession: if the true heir be known, he ought to be restored to his right: if he be not known, the right must perish: for nothing can be said to belong to any man, if no man knows to whom it belongs, and can have no more effect than if it were not. This conclusion will continue unmoveable, though the division into seventy two kingdoms were allowed; which cannot be without destroying the paternal power, or subjecting it to be subdivided into as many parcels as there are men, which destroys regality; for the same thing may be required in every one of the distinct kingdoms, and others derived from them. We must know who was that true heir of Noah, that recovered all; how, when, and to whom he gave the several portions; and that every one of them do continue in the possession of those, who by this prerogative of birth are raised above the rest of mankind; and if they are not,

it is an impious folly to repute them so, to the prejudice of those that are; and if they do not appear, to the prejudice of all mankind; who, being equal, are thereby made subject to them. For as truth is the rule of justice, there can be none, when he is reputed superior to all who is certainly inferior to ———

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[In this place two pages are wanting in the original manuscript.]

—degenerated from that reason which distinguishes men from beasts. Though it may be fit to use some ceremonies, before a man be admitted to practise physic, or set up a trade, it is his own skill that makes him a doctor, or an artificer; and others do but declare it. An ass will not leave his stupidity, though he be covered with scarlet; and he, that is by nature a slave, will be so still, though a crown be put upon his head. And it is hard to imagine a more violent inversion of the laws of God and nature, than to raise him to the throne, whom nature intended for the chain; or to make them slaves to slaves, whom God hath endowed with the virtues required in kings. Nothing can be more preposterous, than to impute to God the frantic domination, which is often exercised by wicked, foolish, and vile persons, over the wise, valiant, just, and good; or to subject the best to the rage of the worst. If there be any family therefore in the world, which can by the law of God and nature, distinct from the ordinance of man, pretend to an hereditary right of dominion over any people, it must be one that never did, and never can produce any person, who is not free from all the infirmities and vices, which render him unable to exercise the sovereign power; and is endowed with all the virtues required to that end; or at least a promise from God, verified by experience, that the next in blood shall ever be able and fit for that work. But since we do not know, that any such has yet appeared in the world, we have no reason to believe, that there is, or ever was any such; and consequently none, upon whom God has conferred the rights that cannot be exercised without them.

If there was no shadow of a paternal right in the institution of the kingdoms of Saul and David, there could be none in those that succeeded. Rehoboam could have no other than from Solomon. When he reigned over two tribes, and Jeroboam over ten, it is not possible, that both of them could be the next heir of their last common father Jacob; and it is absurd to say, that ought to be reputed, which is impossible: for our thoughts are ever to be guided by truth, or such an appearance of it, as does persuade or convince us.

The same title of father is yet more ridiculously or odiously applied to the succeeding kings. Baasha had no other title to the crown, than by killing Nadab the son of Jeroboam, and destroying his family. Zimri purchased the same honour by the slaughter of Elah when he was drunk; and dealing with the house of Baasha, as he had done with that of Jeroboam. Zimri, burning himself, transferred the same to Omri, as a reward for bringing him to that extremity. As Jehu was more fierce than these, he seems to

CHAP. I have gained a more excellent recompence than any since Jeroboam, even a conditional promise of a perpetual kingdom; but falling from these glorious privileges, purchased by his zeal in killing two wicked kings, and above one hundred of their brethren, Shallum must have inherited them, by destroying Zechariah and all that remained of his race. This in plain English is no less than to say, that whoever kills a king, and invades a crown, though the act and means of accomplishing it be ever so detestable, does thereby become father of his country, and heir of all the divine privileges annexed to that glorious inheritance. And though I cannot tell whether such a doctrine be more sottish, monstrous, or impious, I dare affirm, that if it were received, no king in the world could think himself safe in his throne for one day. They are already encompassed with many dangers; but left pride, avarice, ambition, lust, rage, and all the vices that usually reign in the hearts of worldly men, should not be sufficient to invite them perpetually to disturb mankind, through the desire of gaining the power, riches, and splendor, that accompany a crown, our author proposes to them the most sacred privileges, as a reward of the most execrable crimes. He that was stirred up only by the violence of his own nature, thought that a kingdom could never be bought at too dear a rate:

————— “ Pro regno velim

“ Patriam, penates, conjugem flammis dare:

“ Imperia pretio quolibet constant bene*.”

But if the sacred character of God's anointed or vicegerent, and father of a country, were added to the other advantages that follow the highest fortunes, the most modest and just men would be filled with fury, that they might attain to them. Nay, it may be, even the best would be the most forward in conspiring against such as reign. They, who could not be tempted with external pleasures, would be most in love with divine privileges; and since they should become the sacred ministers of God, if they succeeded, and traitors or rogues only if they miscarried, their only care would be so to lay their designs, that they might be surely executed. This is a doctrine worthy of Filmer's invention, and Heylin's approbation; which, being well weighed, will shew to all good and just kings, how far they are obliged to those, who, under pretence of advancing their authority, fill the minds of men with such notions as are so desperately pernicious to them.

* The words of Polynices. Senec. Theb. vers. ult.

SECTION XVI

THE ANTIENTS CHOSE THOSE TO BE KINGS, WHO EXCELLED IN THE VIRTUES THAT ARE MOST BENEFICIAL TO CIVIL SOCIETIES.

If the Israelites, whose lawgiver was God, had no king in the first institution of their government, it is no wonder that other nations should not think themselves obliged to set up any. If they who came all of one stock, and knew their genealogies, when they did institute kings, had no regard to our author's chimerical right of inheritance, nor were taught by God or his prophets to have any, it is not strange, that nations, who did not know their own original, and who probably, if not certainly, came of several stocks, never put themselves to the trouble of seeking one, who by his birth deserved to be preferred before others. And various changes happening in all kingdoms, (whereby in process of time the crowns were transported into divers families, to which the right of inheritance could not without the utmost impiety and madness be imputed) such a fancy certainly could only enter into the heads of fools; and we know of none so foolish as to have harboured it.

The Grecians, among others who followed the light of reason, knew no other original title to the government of a nation than that wisdom, valour, and justice, which was beneficial to the people. These qualities gave beginning to those governments, which we call "heroum regna;" and the veneration paid to such as enjoyed them, proceeded from a grateful sense of the good received from them. They were thought to be descended from the gods, who in virtue and beneficence surpassed other men. The same attended their descendents, till they came to abuse their power, and by their vices shewed themselves like to, or worse than others. Those nations did not seek the most antient, but the most worthy; and thought such only worthy to be preferred before others, who could best perform their duty. The Spartans knew, that Hercules and Achilles were not their fathers; for they were a nation before either of them were born; but thinking their children might be like to them in valour, they brought them from Thebes and Epirus to be their kings. If our author is of another opinion, I desire to know, whether the Heraclidae, or the Aeacidae were, or ought to be, reputed fathers of the Lacedemonians; for if the one were, the other were not.

The same method was followed in Italy; and they, who esteemed themselves Aborigines*, could not set up one to govern them under the title of parent. They could pay no veneration to any man under the name of a common father, who thought they had none; and they who esteemed themselves equal, could have no reason to prefer any one, unless he were

* ——— Qui rupto robore nati,
Compositive luto, nullos habuere parentes.

Juv. Sat. 6, l. 13

CHAP. I distinguished from others by the virtues that were beneficial to all. This may be illustrated by matters of fact. Romulus and Remus, the sons of a Nun, constuprated, as is probable, by a lusty soldier, who was said to be Mars, for their vigour and valour were made heads of a gathered people. We know not that ever they had any children; but we are sure they could not be fathers of the people that flocked to them from several places, nor in any manner be reputed heirs of him or them that were so; for they never knew who was their own father; and when their mother came to be discovered, they ought to have been subjects to Amulius, or, when they had killed him, to Numitor. They could not be his heirs whilst he lived, and were not when he died. The government of the Latins continued at Alba, and Romulus reigned over those who joined with him in building Rome. The power, not coming to him by inheritance, must have been gained by force, or conferred upon him by consent. It could not be acquired by force; for one man could not force a multitude of fierce and valiant men, as they appear to have been. It must therefore have been by consent: and when he aimed at more authority than they were willing to allow, they slew him. He being dead, they fetched Numa from among the Sabines. He was not their father, nor heir to their father, but a stranger; not a conqueror, but an unarmed philosopher. Tullus Hostilius had no other title. Ancus Martius was no way related to such as had reigned. The first Tarquin was the son of a banished Corinthian. Servius Tullius came to Rome in the belly of his captive mother, and could inherit nothing but chains from his vanquished father. Tarquin the Proud murdered him, and first took upon himself the title of king, "sine jussu populi*." If this murder and usurpation be called a conquest, and thought to create a right, the effect will be but small: the conqueror was soon conquered, banished, and his sons slain, after which we hear no more of him, or his descendents. Whatever he gained from Servius, or the people, was soon lost, and did accrue to those that conquered and ejected him; and they might retain what was their own, or confer it upon one or more, in such manner and measure as best pleased themselves. If the regal power, which our author says was in the consuls, could be divided into two parts, limited to a year, and suffer such restrictions as the people pleased to lay upon it, they might have divided it into as many parcels, and put it into such form, as best suited with their inclinations; and the several magistracies which they did create for the exercise of the kingly, and all other powers, shews they were to give account to none but themselves.

The Israelites, Spartans, Romans, and others, who thus framed their governments according to their own will, did it not by any peculiar privilege, but by a universal right conferred upon them by God and nature. They were made of no better clay than others; they had no right, that does not as well belong to other nations: that is to say, the constitution of every government is referred to those who are concerned in it, and no other has any thing to do with it.

* Liv. l. i, c. 49

Yet if it be asserted, that the government of Rome was paternal, or they had none at all, I desire to know, how they came to have six fathers of several families, whilst they lived under kings; and two or more new ones every year afterwards; or how they came to be so excellent in virtue and fortune, as to conquer the best part of the world, if they had no government. Hobbes indeed doth scurrilously deride Cicero, Plato and Aristotle, "caeterosque Romanae & Graecae anarchiae fautores." But it is strange, that this anarchy, which he resembles to a chaos, full of darkness and confusion, that can have no strength or regular action, should overthrow all the monarchies that came within its reach, "if (as our author says) the best order, greatest strength, and most stability, be in them." It must therefore be confessed, that these governments are, in their various forms, rightly instituted by several nations, without any regard to inheritance; or that these nations have had no governments, and were more strong, virtuous, and happy, without government, than under it; which is most absurd.

SECT. 16

But if governments arise from the consent of men, and are instituted by men according to their own inclinations, they do therein seek their own good; for the will is ever drawn by some real good, or the appearance of it. This is that which man seeks by all the regular or irregular motions of his mind. Reason and passion, virtue and vice, do herein concur, though they differ vastly in the objects, in which each of them thinks this good to consist. A people therefore that sets up kings, dictators, consuls, pretors, or emperors, does it not, that they may be great, glorious, rich, or happy, but that it may be well with themselves, and their posterity. This is not accomplished simply by setting one, a few, or more men in the administration of powers, but by placing the authority in those who may rightly perform their office. This is not every man's work: valour, integrity, wisdom, industry, experience, and skill, are required for the management of those military and civil affairs that necessarily fall under the care of the chief magistrates. He or they therefore may reasonably be advanced above their equals, who are most fit to perform the duties belonging to their stations, in order to the public good, for which they were instituted.

Marius, Sylla, Catiline, Julius or Octavius Caesar, and all those who by force or fraud usurped a dominion over their brethren, could have no title to this right; much less could they become fathers of the people, by using all the most wicked means that could well be imagined to destroy them; and not being regularly chosen for their virtues, or the opinion of them, nor preferred on account of any prerogative that had been from the beginning annexed to their families, they could have no other right than occupation could confer upon them. If this can confer a right, there is an end of all disputes concerning the laws of God or man. If Julius and Octavius Caesar did successively become lords and fathers of their country, by slaughtering almost all the senate, and such persons as were eminent for nobility or virtue, together with the greater part of the people, it

CHAP. I cannot be denied, that a thief, who breaks into his neighbour's house, and kills him, is justly master of his estate; and may exact the same obedience from his children, that they render to their father. If this right could be transferred to Tiberius, either through the malice of Octavius, or the fraud of his wife; a wet blanket laid over his face, and a few corrupted soldiers, could invest Caligula with the same. A vile rascal, pulling Claudius out by the heels from behind the hangings, where he had hid himself, could give it to him. A dish of mushrooms well seasoned by the infamous strumpet's wife, and a potion prepared for Britannicus by Locusta, could transfer it to her son, who was a stranger to his blood. Galba became heir to it, by driving Nero to despair and death. Two common soldiers, by exciting his guards to kill him, could give a just title to the empire of the world to Otho, who was thought to be the worst man in it. If a company of villains in the German army, thinking it as fit for them as others, to create a father of mankind, could confer the dignity upon Vitellius; and if Vespasian, causing him to be killed, and thrown into a jakes less impure than his life, did inherit all the glorious and sacred privileges belonging to that title, it is in vain to inquire after any man's right to any thing.

But if there be such a thing as right or wrong to be examined by men, and any rules set, whereby the one may be distinguished from the other, these extravagancies can have no effect of right. Such as commit them are not to be looked upon as fathers, but as the most mortal enemies of their respective countries. No right is to be acknowledged in any, but such as is conferred upon them by those who have the right of conferring, and are concerned in the exercise of the power, upon such conditions as best please themselves. No obedience can be due to him or them, who have not a right of commanding, which cannot reasonably be conferred upon any, that are not esteemed willing and able rightly to execute it. This ability to perform the highest work that comes within the reach of men, and integrity of will not to be diverted from it by any temptation, or consideration of private advantages, comprehending all that is most commendable in man, we may easily see, that whenever men act according to the law of their own nature, which is reason, they can have no other rule to direct them in advancing one above another, than the opinion of a man's virtue and ability, best to perform the duty incumbent upon him; that is, by all means to procure the good of the people committed to his charge. He is only fit to conduct a ship, who understands the art of a pilot. When we are sick, we seek the assistance of such as are best skilled in physic. The command of an army is prudently conferred upon him that has most industry, skill, experience, and valour. In like manner, he only can, according to the rules of nature, be advanced to the dignities of the world, who excels in the virtues required for the performance of the duties annexed to them; for he only can answer the end of his institution. The law of every instituted power is to accomplish the end of its institution, as creatures are to do the will of their creator, and,
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in deflecting from it, overthrow their own being. Magistrates are distinguished from other men, by the power with which the law invests them for the public good: he that cannot or will not procure that good, destroys his own being, and becomes like to other men. In matters of the greatest importance, "detur digniori" is the voice of nature. All her most sacred laws are perverted, if this be not observed in the disposition of governments; and all are neglected and violated, if they are not put into the hands of such as excel in all manner of virtues; for they only are worthy of them, and they only can have a right who are worthy; because they only can perform the end for which they are instituted. This may seem strange to those, who have their heads infected with Filmer's whimsies; but to others, so certainly grounded upon truth, that Bartolomeo de las Casas Bishop of Chiapa, in a treatise written by him, and dedicated to the emperor Charles the Vth, concerning the Indies, makes it the foundation of all his discourse, that notwithstanding his grant of all those countries from the Pope, and his pretensions to conquest, he could have no right over any of those nations, unless he did in the first place, as the principal end, regard their good. "The reason," says he, "is, that regard is to be had to the principal end and cause, for which a supreme or universal lord is set over them, which is their good and profit, and not that it should turn to their destruction and ruin; for if that should be, there is no doubt but from thenceforward, that power would be tyrannical and unjust, as tending more to the interest and profit of that lord, than to the public good and profit of the subjects; which, according to natural reason, and the laws of God and man, is abhorred, and deserves to be abhorred*." And in another place, speaking of the governors, who, abusing their power, brought many troubles and vexations upon the Indians, he says, "they had rendered his majesty's government intolerable, and his yoke insupportable, tyrannical, and most justly abhorred †." I do not allege this through an opinion, that a Spanish bishop is of more authority than another man; but to shew, that these are common notions in which all mankind are agreed; and that the greatest monarchs do neither refuse to hear them, or to regulate themselves according to them, till they renounce common sense, and degenerate into beasts.

But if that government be unreasonable, and abhorred by the laws of God and man, which is not instituted for the good of those that live under it; and an empire, grounded upon the donation of the Pope, which

* La razon es porque siempre se ha de tener respeto al fin y causa final, por el qual, el tal supremo y universal fennor se les pone, que es su bien y utilidad; y a que no se le convierte el tal supremo fennorio in danno, pernicie y destruycion. Porque si assi fuesse, no ay que dudar, que non desde entonees inclusivamente seria injusto, tyrannico y iniquo tal fennorio, come mas se enderezasse al proprio interesse y provecho del fennor, que al bien y utilidad comun de los subditos; lo qual de la razon natural y de todas las leyes humanas y divinas es abhorrecido y abhorrecible. Bart. de las Casas, destr. de las Indias, pag. 111.

† El yugo y governacion de vuestra magestad importable, tyrannico y degno de todo abhorrecimiento. Pag. 167.

CHAP. I amongst those of the Roman religion is of great importance, and an entire conquest of the people, with whom there had been no former compact, do degenerate into a most unjust and detestable tyranny, so soon as the supreme lord begins to prefer his own interest or profit before the good of his subjects; what shall we say of those who pretend to a right of dominion over free nations, as inseparably united to their persons, without distinction of age or sex, or the least consideration of their infirmities and vices; as if they were not placed in the throne for the good of their people, but to enjoy the honours and pleasures that attend the highest fortune? What name can be fit for those, who have no other title to the places they possess, than the most unjust and violent usurpation, or being descended from those, who for their virtues were, by the people's consent, duly advanced to the exercise of a legitimate power; and having sworn to administer it, according to the conditions upon which it was given, for the good of those who gave it, turn all to their own pleasure and profit, without any care of the public? These may be liable to hard censures; but those, who use them most gently, must confess, that such an extreme deviation from the end of their institution, annuls it; and the wound thereby given to the natural and original rights of those nations cannot be cured, unless they resume the liberties, of which they have been deprived, and return to the antient custom of choosing those to be magistrates, who for their virtues best deserve to be preferred before their brethren, and are endowed with those qualities that best enable men to perform the great end of providing for the public safety.

SECTION XVII

GOD, HAVING GIVEN THE GOVERNMENT OF THE WORLD TO NO ONE MAN, NOR DECLARED HOW IT SHOULD BE DIVIDED, LEFT IT TO THE WILL OF MAN.

Our author's next inquiry is, "What becomes of the right of fatherhood, "in case the crown should escheat for want of an heir? whether it doth "not then devolve to the people?" His answer is, "it is but the negligence or ignorance of the people, to lose the knowledge of the true "heir, &c." And a little below, "the power is not devolved to the "multitude: no, the kingly power escheats to independent heads of "families. All such prime heads have power to consent in uniting, or "conferring their fatherly right of sovereign authority on whom they "please; and he that is so elected, claims not his power as a donative "from the people, but as being substituted by God, from whom he receives his royal charter of universal father," &c.

In my opinion, before he had asked, what should be done "in case the "crown should escheat for want of an heir?" he ought to have proved, that

that there had been a man in the world, who had the right in himself, and, telling who he was, have shewed how it had been transmitted for some generations, that we might know where to seek his heir. And before he accused the multitude of ignorance or negligence, in not knowing this heir, he ought to have informed us, how it may be possible to know him, or what it would avail us if we did know him; for it is in vain to know to whom a right belongs, that never was, and never can be executed. But we may go farther, and affirm, that as the universal right must have been in Noah and Shem, if in any, who never exercised it, we have reason to believe there never was any such thing. And, having proved from Scripture and human history, that the first kingdoms were set up in a direct opposition to this right, by Nimrod and others, he that should seek and find their heirs, would only find those, who, by a most accursed wickedness, had usurped and continued a dominion over their fathers, contrary to the laws of God and nature. And we should neither be more wise, nor more happy, than we are, though our author should furnish us with certain and authentic genealogies, by which we might know the true heirs of Nimrod, and the seventy two kings that went from Babylon, who, as he supposes, gave beginning to all the kingdoms of the earth.

Moreover, if the right be universal, it must be in one; for the world being but one, the whole right of commanding it cannot at the same time be in many, and proceed from the ordinance of God, or of man. It cannot proceed from the ordinance of God; for he does nothing in vain. He never gave a right that could not be executed. No man can govern that which he does not so much as know. No man did ever know all the world: no man therefore did or could govern it; and none could be appointed by God to do that which is absolutely impossible to be done; for it could not consist with his wisdom. We find this in ourselves. It were a shame for one of us poor, weak, short-sighted creatures, in the disposal of our affairs, to appoint such a method, as were utterly ineffectual for the preservation of our families, or destructive to them; and the blasphemy of imputing to God such an ordinance, as would be a reproach to one of us, can suit only with the wicked and impudent fury of such as our author, who delights in monsters. This also shews us, that it cannot be from men: one, or a few, may commit follies; but mankind does not universally commit, and perpetually persist in any: they cannot therefore, by a general and permanent authority, enact that which is utterly absurd and impossible; or if they do, they destroy their own nature, and can no longer deserve the name of reasonable creatures. There can be therefore no such man, and the folly of seeking him, or his heir that never was, may be left to the disciples of Filmer.

The difficulties are as great, if it be said, the world might be divided into parcels, and we are to seek the heirs of the first possessors. For besides that no man can be obliged to seek that which cannot be found, all men knowing, that “*caliginosa nocte haec premit Deus* *,” and that the

* Hor. l. 3, Od. 29

CHAP. I genealogies of mankind are so confus'd, that, unless possibly among the Jews, we have reason to believe there is not a man in the world who knows his own original, it could be of no advantage to us, though we knew that of every one; for the division would be of no value, unless it were at the first rightly made by him who had all the authority in himself, which does no where appear, and rightly deduced to him, who, according to that division, claims a right to the parcel he enjoys. And I fear our author would terribly shake the crowns, in which the nations of Europe are concerned, if they should be persuaded to search into the genealogies of their princes, and to judge of their rights according to the proofs they should give of titles rightly deduced by succession of blood from the seventy two first kings, from whom our author fancies all the kingdoms of the world to be derived.

Besides, though this were done, it would be to no purpose; for the seventy two were not sent out by Noah; nor was he, or his sons, of that number; but they went, or were sent from Babylon, where Nimrod reigned, who, as has been already proved, neither had nor could have any right at all; but was a mighty hunter, even a proud and cruel tyrant, usurping a power to which he had no right, and which was perpetually exercised by him and his successors against God and his people. From whence, I may safely conclude, no right can ever be derived. And this conclusion, I may justly presume, will be denied by none who are of better morals, and of more sound principles, in matters of law and religion, than Filmer and Heylin; since it is no less absurd to deduce a right from him that had none, than to expect pure and wholesome waters from a filthy, polluted, and poisonous fountain.

If it be pretended, that some other man since Noah had this universal right, it must either remain in one single person, as his right heir, or be divided. If in one, I desire to know who he is, and where we may find him, that the empire of the world may be delivered to him. But if he cannot be found, the business is at an end; for every man in the world may pretend himself to be the person; and the infinite controversies arising thereupon can never be decided, unless either the genealogies of every one from Noah were extant and proved, or we had a word from heaven, with a sufficient testimony of his mission who announces it. When this is done, it will be time to consider what kind of obedience is due to this wonderfully happy and glorious person. But while the first appears to be absolutely impossible, and we have no promise or reason to expect the other, the proposition is to be esteemed one of our author's empty whimsies, which cannot be received by mankind, unless they come all to be possessed with an epidemical madness, which would cast them into that which Hobbes calls "bellum omnium contra omnes;" when every man's sword would be drawn against every man, if God should so abandon the world to suffer them to fall into such misery.

If this pretended right be divided, it concerns us to know by whom, when, how, or to whom, for the division cannot be of any value, unless

the right was originally in one ; that he did exercise this right in making the division ; that the parcels into which the world is divided are according to the allotment that was made ; and that the persons claiming them by virtue of it are the true heirs of those to whom they were first granted. Many other difficulties may be alleged no less inextricable than these ; but this seeming sufficient for the present, I shall not trouble myself with more, promising that, when they shall be removed, I will propose others, or, confessing my errors, yield up the cause. SECT. 17

But if the dominion of the whole world cannot belong to any one man, and every one has an equal title to that which should give it ; or if it did belong to one, none did ever exercise it in governing the whole, or dividing it ; or if he did divide it, no man knows how, when, and to whom ; so that they, who lay claim to any parcels, can give no testimony of that division, nor shew any better title than other men derived from his first progenitor, to whom it is said to have been granted ; and that we have neither a word, nor the promise of a word, from God to decide the controversies arising thereupon, nor any prophet giving testimony of his mission that takes upon him to do it, the whole fabric of our author's patriarchal dominion falls to the ground. And they who propose these doctrines, which, if they were received, would be a root of perpetual and irreconcilable hatred in every man against every man, can be accounted no less than ministers of the devil, though they want the abilities he has sometimes infused into those who have been employed on the like occasions. And we may justly conclude, that, God having never given the whole world to be governed by one man, nor prescribed any rule for the division of it, nor declared where the right of dividing or subdividing that which every man has should terminate, the whole is for ever left to the will and discretion of man. We may enter into, form, and continue in, greater or less societies, as best pleases ourselves. The right of paternity as to dominion is at an end ; and no more remains, but the love, veneration, and obedience, which, proceeding from a due sense of the benefits of birth and education, have their root in gratitude, and are esteemed sacred and inviolable by all that are sober and virtuous. And as it is impossible to transfer these benefits by inheritance, so it is impossible to transfer the rights arising from them. No man can be my father, but he that did beget me ; and it is as absurd to say I owe that duty to one who is not my father, which I owe to my father, as to say, he did beget me, who did not beget me : for the obligation that arises from benefits can only be to him that conferred them. It is in vain to say the same is due to his heir ; for that can take place only when he has but one, which in this case signifies nothing. For if I, being the only son of my father, inherit his right, and have the same power over my children as he had over me, if I had one hundred brothers, they must all inherit the same ; and the law of England, which acknowledges one only heir, is not general, but municipal ; and is so far from being general, as the precept of God and nature, that I doubt whether it was

CHAP. I ever known or used in any nation of the world beyond our island. The words of the apostle, "if we are children, we are therefore heirs and "co-heirs with Christ," are the voice of God and nature; and as the universal law of God and nature is always the same, every one of us who have children have the same right over them, as Abraham, Isaac, and Jacob, had over theirs; and that right which was not devolved to any one of them, but inherited by them all (I mean the right of father as father, not the peculiar promises, which were not according to the law of nature, but the election of grace) is also inherited by every one of us, and ours, that is, by all mankind. But if that which could be inherited was inherited by all, and it be impossible that a right of dominion over all can be due to every one, then all that is or can be inherited by every one is that exemption from the dominion of another, which we call liberty, and is the gift of God and nature.

SECTION XVIII

IF A RIGHT OF DOMINION WERE ESTEEMED HEREDITARY ACCORDING TO THE LAW OF NATURE, A MULTITUDE OF DESTRUCTIVE AND INEXTRICABLE CONTROVERSIES WOULD THEREUPON ARISE.

There being no such thing therefore, according to the law of nature, as an hereditary right to the dominion of the world, or any part of it, nor any one man that can derive to himself a title from the first fathers of mankind, by which he can rightly pretend to be preferred before others to that command, or a part of it, and none can be derived from Nimrod, or other usurpers, who had none in themselves, we may justly spare our pains of seeking farther into that matter. But as things of the highest importance can never be too fully explained, it may not be amiss to observe, that if mankind could be brought to believe, that such a right of dominion were by the law of God and nature hereditary, a great number of the most destructive and inextricable controversies must thereupon arise, which the wisdom and goodness of God can never injoin, and nature, which is reason, can never intend. At present I shall only mention two, from whence others must perpetually spring. First, if there be such a law, no human constitution can alter it; no length of time can be a defence against it; all governments that are not conformable to it are vicious and void, even in their root, and must be so for ever: that which is originally unjust may be justly overthrown. We do not know of any, at least in that part of the world in which we are most concerned, that is established, or exercised with such an absolute power, as by the authors of those opinions is esteemed inseparable from it: many, as the empire, and other states, are directly contrary; and on that account can have no justice in them. It being cer-

tain therefore, that he or they, who exercise those governments, have no right; that there is a man to whom it does belong, and no man knowing who he is, there is no one man who has not as good a title to it as any other: there is not therefore one who has not a right, as well as any, to overthrow that which has none at all. He that has no part in the government may destroy it, as well as he that has the greatest; for he neither has that which God ordained he should have, nor can shew a title to that which he enjoys, from that original prerogative of birth, from whence it can only be derived.

SECT. 18

If it be said, that some governments are arbitrary, as they ought to be, and France, Turkey, and the like be alleged as instances, the matter is not mended: for we do not only know when those, who deserve to be regarded by us, were not absolute, and how they came to be so; but also, that those very families which are now in possession, are not of a very long continuance, had no more title to the original right we speak of than any other men, and consequently can have none to this day. And though we cannot perhaps say, that the governments of the barbarous eastern nations were ever other than they are, yet the known original of them deprives them of all pretence to the patriarchal inheritance, and they may be as justly as any other deprived of the power to which they have no title.

In the second place, though all mens genealogies were extant, and fully verified, and it were allowed, that the dominion of the world, or every part of it, did belong to the right heir of the first progenitor, or any other to whom the first did rightly assign the parcel, which is under question, yet it were impossible for us to know who should be esteemed the true heir, or according to what rule he should be judged so to be: for God hath not by a precise word determined it, and men cannot agree about it, as appears by the various laws and customs of several nations, disposing severally of hereditary dominions.

It is a folly to say, they ought to go to the next in blood; for it is not known who is that next. Some give the preference to him, who among many competitors is the fewest degrees removed from their common progenitor who first obtained the crown. Others look only upon the last that possessed it. Some admit of representation, by which means the grandchild of a king by his eldest son is preferred before his second son, he being said to represent his dead father, who was the eldest. Others exclude these, and advance the younger son, who is nearer by one degree to the common progenitor that last enjoyed the crown, than the grandchild. According to the first rule, Richard the second was advanced to the crown of England, as son of the eldest son of Edward the third, before his uncles, who by one degree were nearer to the last possessor. And in pursuance of the second, Sancho surnamed the Brave, second son of Alphonso the Wise, king of Castile, was preferred before Alphonso son of Ferdinand his elder brother, according to the law of thanestry, which was in force in Spain, ever since we have had any knowledge of that country, as appears by the contest between Corbis and Orfua, decided by combat before Scipio Africanus,

CHAP. I canus *, continued in full force as long as the kingdom of the Goths lasted, and was ever highly valued, till the house of Auftria got possession of that country, and introduced laws and customs formerly unknown to the inhabitants.

The histories of all nations furnish us with innumerable examples of both forts. And whoever takes upon him to determine which side is in the right, ought to shew by what authority he undertakes to be the judge of mankind, and how the infinite breaches thereby made upon the rights of the governing families shall be cured, without the overthrow of those that he shall condemn, and of the nations where such laws have been in force as he dislikes: and till that be done, in my opinion, no place will afford a better lodging for him, that shall impudently assume such a power, than the new buildings in Moor-fields.

It is no less hard to decide, whether this next heir is to be fought in the male line only, or whether females also may be admitted. If we follow the first as the law of God and nature, the title of our English kings is wholly abolished; for not one of them, since Henry the first, has had the least pretence to an inheritance by the masculine line; and if it were necessary, we have enough to say of those that were before him.

If it be said, that the same right belongs to females, it ought to be proved, that women are as fit as men to perform the office of a king, that is, as the Israelites said to Samuel, to go in and out before us, to judge us, and to fight our battles; for it were an impious folly to say, that God had ordained those for the offices on which the good of mankind so much depends, who by nature are unable to perform the duties of them. If, on the other side, the sweetness, gentleness, delicacy, and tenderness of the sex, render them so unfit for manly exercises, that they are accounted utterly repugnant to, and inconsistent with that modesty, which does so eminently shine in all those that are good among them, that law of nature which should advance them to the government of men, would overthrow its own work, and make those to be the heads of nations, which cannot be the heads of private families: for, as the apostle says, "the woman is not the head of the man, but the man is the head of the woman." This were no less than to oblige mankind to lay aside the name of reasonable creatures: for if reason be his nature, it cannot injoin that which is contrary to itself; if it be not, the definition "homo est animal rationale," is false, and ought no longer to be assumed.

If any man think these arguments to be mistaken or misapplied, I desire him to inquire of the French nation, on what account they have always excluded females, and such as descended from them. How comes the house of Bourbon to be advanced to the throne before a great number of families that come from the daughters of the house of Valois? Or what

* Corbis et Orsua, patruales fratres, de principatu civitatis, quam Ibem vocabant, ambigentes, ferro se certaturos professi sunt. Corbis, qui major erat aetate, usu armorum et astu facile stolidas vires minoris superavit. Liv. l. 28, c. 21. Val. Max. l. 9, c. 11. Sil. Ital. l. 16, v. 533

title could those have before the daughters of the other lines, descended from Hugh Capet, Pepin, Meroveus, or Pharamond? I know not how such questions would be received; but I am inclined to think, that the wickedness and folly of those, who should thereby endeavour to overthrow the most ancient and most venerated constitutions of the greatest nations, and by that means to involve them in the most inextricable difficulties, would be requited only with stones. SECT. 18

It cannot be denied, that the most valiant, wise, learned, and best polished nations, have always followed the same rule, though the weak and barbarous acted otherwise*; and no man ever heard of a queen, or a man deriving his title from a female among the antient civilized nations. But if this be not enough, the law of God, that wholly omits females, is sufficient to shew, that nature, which is his handmaid, cannot advance them. When God describes who should be the king of his people, if they would have one, and how he should govern, no mention is made of daughters †. The Israelites offered the kingdom to Gideon, and to his sons. God promised, and gave it to Saul, David, Jeroboam, Jehu, and their sons. When all of them, save David, by their crimes fell from the kingdom, the males only were extirpated, and the females, who had no part in the promises, did not fall under the penalties, or the vengeance that was executed upon those families. And we do not, in the word of God, or in the history of the Jews, hear of any feminine reign, except that which was usurped by Athaliah; nor that any consideration was had of their descendants in relation to the kingdom: which is enough to shew, that it is not according to the law of God, nor to the law of nature, which cannot differ from it. So that females, or such as derive their right by inheritance from females, must have it from some other law, or they can have none at all.

But though this question were authentically decided, and concluded, that females might or might not succeed, we should not be at the end of our contests. For if they were excluded, it would not from thence follow, as in France, that their descendants should be so also; for the privilege which is denied to them, because they cannot, without receding from the modesty and gentleness of the sex, take upon them to execute all the duties required, may be transferred to their children, as Henry the second, and Henry the seventh, were admitted, though their mothers were rejected.

If it be said, that every nation ought in this to follow their own constitutions, we are at an end of our controversies; for they ought not to be followed, unless they are rightly made: they cannot be rightly made, if they are contrary to the universal law of God and nature. If there be a general rule, it is impossible but some of them, being directly contrary to each other, must be contrary to it. If therefore all of them are to be followed, there can be no general law given to all; but every people is by God and nature left to the liberty of regulating these matters relating to

* ———Reginarumque sub armis
Barbariae pars magna jacet. ——— Claud. in Eutrop. l. 1, v. 322

† Deut. ch. 17

CHAP. I themselves according to their own prudence or convenience: and this seems to be so certainly true, that whoever does, as our author, propose doctrines to the contrary, must either be thought rashly to utter that which he does not understand, or maliciously to cast balls of division among all nations, whereby every man's sword would be drawn against every man, to the total subversion of all order and government.

SECTION XIX

KINGS CANNOT CONFER THE RIGHT OF FATHER UPON PRINCES,
NOR PRINCES UPON KINGS.

Left what has been said before by our author should not be sufficient to accomplish his design of bringing confusion upon mankind, and some may yet lie still for want of knowing at whose command he should cut his brother's throat, if he has not power or courage to set up a title for himself, he has a new project that would certainly do his work, if it were received. Not content with the absurdities and untruths already uttered in giving the incommunicable right of fathers, not only to those, who, as is manifestly testified by sacred and profane histories, did usurp a power over their fathers, or such as owed no manner of obedience to them; and justifying those usurpations, which are most odious to God, and all good men, he now fancies a kingdom so gotten may escheat for want of an heir; whereas there is no need of seeking any, if usurpation can confer a right; and that he who gets the power into his hands ought to be reputed the right heir of the first progenitor; for such a one will seldom be wanting, if violence and fraud be justified by the command of God, and nations stand obliged to render obedience, till a stronger or more successful villain throws him from the throne he had invaded. But if it should come to pass that no man would step into the vacant place, he has a new way of depriving the people of their right to provide for the government of themselves. "Be-
" cause," says he, " the dependency of antient families is oft obscure or
" worn out of knowledge; therefore the wisdom of all or most princes
" has thought fit many times to adopt those for heads of families, and
" princes of provinces, whose merits, abilities, or fortunes, have enno-
" bled them, and made them fit and capable of such regal favours: all
" such prime heads and fathers have power to consent in the uniting or
" conferring of their fatherly right of sovereign authority on whom they
" please, &c."

I may justly ask how any one or more families come to be esteemed more ancient than others, if all are descended from one common father, as the Scriptures testify; or to what purpose it were to inquire what families were the most ancient, if there were any such, when the youngest and meanest by usurpation gets an absolute right of dominion over the eldest,
though

though his own progenitors, as Nimrod did : but I may certainly conclude, that whatever the right be, that belongs to those ancient families, it is inherent in them, and cannot be conferred on any other by any human power; for it proceeds from nature only. The duty I owe to my father does not arise from an usurped or delegated power, but from my birth derived from him; and it is as impossible for any man to usurp, or receive, by the grant of another, the right of a father over me, as for him to become, or pretend to be made my father by another who did not beget me. But if he say true, this right of father does not arise from nature; nor the obedience that I owe to him that begot me, from the benefits which I have received, but is merely an artificial thing, depending upon the will of another: and that we may be sure there can be no error in this, our author attributes it to the wisdom of princes. But before this comes to be authentic, we must at the least be sure that all princes have this great and profound wisdom, which our author acknowledges to be in them, and which is certainly necessary for the doing of such great things, if they were referred to them. They seem to us to be born like other men, and to be generally no wiser than other men. We are not obliged to believe that Nebuchadnezzar was wise, till God had given him the heart of a man; or that his grandson Belshazzar, who being laid in the balance was found too light, had any such profound wisdom. Ahasuerus shewed it not in appointing all the people of God to be slain, upon a lye told to him by a rascal; and the matter was not very much mended, when, being informed of the truth, he gave them leave to kill as many of their enemies as they pleased. The hardness of Pharaoh's heart, and the overthrow thereby brought upon himself and people, does not argue so profound a judgment as our author presumes every prince must have. And it is not probable, that Samuel would have told Saul, "he had done foolishly," if kings had always been so exceeding wise. Nay, if wisdom had been annexed to the character, Solomon might have spared the pains of asking it from God, and Rehoboam must have had it. Not to multiply examples out of Scripture, it is believed, that Xerxes had not inflicted stripes upon the sea for breaking his navy in pieces, if he had been so very wise*. Caligula, for the same reason, might have saved the labour of making love to the moon †, or have chosen a fitter subject to advance to the consulate than his horse Incitatus ‡: Nero had not endeavoured to make a woman of a man, nor married a man as a woman §. Many other examples might be alleged to shew, that kings are not always

* Ὡς ἐπυθετο Ξερξῆς, δεινὰ ποιεῦμενος, τὸν Ἑλλησποντὸν ἐκείλευσε τριηκοσίαις ἐπιπέσθαι μασιγί πληγῶν, καὶ κατείνειν εἰς τὸ πελαγὸς πέδων ζευγὸς. Herod. l. 7, § 35

† Noctibus quidem plenam fulgentemque lunam invitabat assidue in amplexus atque concubitum. Suet. in vitâ Calig. §. 22

‡ Incitato equo, cujus causâ pridie Circenses, ne inquietaretur, viciniae silentium per milites indicere solebat, præter equile marmoreum, et præsepe eburneum, præterque purpurea tegumenta, ac monilia è gemmis, domum etiam, et familiam, et supellectilem dedit, quo lautius nomine ejus invitati acciperentur: consulatum quoque traditur destinasse. Ibid. §. 55

§ Puerum Sporum, exfectis testibus, etiam in muliebrem naturam transfigurare conatus est: cum dote et flammeo persolenni nuptiarum celeberrimo officio, deductum ad se pro uxore habuit. Id. in vitâ Neronis, §. 28

CHAP. I wife: and not only the Roman satirist, who says, “*quicquid delirant reges,*” “*&c.**” shews that he did not believe them to be generally wiser than other men; but Solomon himself judges them to be as liable to infirmities, when he prefers a wife child before an old and foolish king. If therefore the strength of our author’s argument lies in the certainty of the wisdom of kings, it can be of no value, till he proves it to be more universal in them than history or experience will permit us to believe. Nay, if there be truth or wisdom in the Scripture, which frequently represents the wicked man as a fool, we cannot think, that all kings are wise, unless it be proved, that none of them have been wicked; and when this is performed by Filmer’s disciples, I shall confess my error.

Men give testimony of their wisdom, when they undertake that which they ought to do, and rightly perform that which they undertake; both which points do utterly fail in the subject of our discourse. We have often heard of such as have adopted those to be their sons who were not so, and some civil laws approve it. This signifies no more, than that such a man, either through affection to one who is not his son, or to his parents, or for some other reason, takes him into his family, and shews kindness to him, as to his son; but the adoption of fathers is a whimsical piece of nonsense. If this be capable of an aggravation, I think none can be greater, than not to leave it to my own discretion, who, having no father, may resolve to pay the duty I owed to my father to one who may have shewed kindness to me; but for another to impose a father upon a man, or a people composed of fathers, or such as have fathers, whereby they should be deprived of that natural honour and right, which he makes the foundation of his discourse, is the utmost of all absurdities. If any prince therefore have ever undertaken to appoint fathers of his people, he cannot be accounted a man of profound wisdom, but a fool, or a madman; and his acts can be of no value. But if the thing were consonant to nature, and referred to the will of princes (which I absolutely deny) the frequent extravagancies committed by them in the elevation of their favourites shew, that they intend not to make them fathers of the people, or know not what they do when they do it.

To choose or institute a father is nonsense in the very term; but if any were to be chosen to perform the office of fathers to such as have none, and are not of age to provide for themselves (as men do tutors or guardians for orphans) none could be capable of being elected, but such as, in kindness to the person they were to take under their care, did most resemble his true father, and had the virtues and abilities required rightly to provide for his good. If this fails, all right ceases; and such a corruption is introduced as we saw in our court of wards, which the nation could not bear, when the institution was perverted, and the king, who ought to have taken a tender care of the wards and their estates, delivered them as a prey to those whom he favoured.

* Hor. l. 1, Epist. 2

Our author ridiculouſly attributes the title and authority of father to the word prince, for it hath none in it, and ſignifies no more than a man who in ſome kind is more eminent than the vulgar. In this ſenſe Mutius Scaevola told Porſenna, that “ three hundred princes of the Roman youth had conſpired againſt him *.” By which he could not mean, that three hundred fathers of the Roman youth, but three hundred Roman young men had conſpired : and they could not be fathers of the city, unleſs they had been fathers of their own fathers. “ Princeps ſenatûs ” was underſtood in the ſame ſenſe ; and P. Sempronius the cenſor, chooſing Q. Fabius Maximus to that honour, gave for a reaſon, “ ſe lecturum Q. Fabium Maximum, quem tum principem Romanæ civitatis eſſe, vel Annibale judice, dicturus eſſet † ;” which could not be underſtood that Hannibal thought him to be the father or lord of the city, for he knew he was not ; but the man, who for wiſdom and valour was the moſt eminent in it.

The like are, and ought to be, the princes of every nation ; and though ſomething of honour may juſtly be attributed to the deſcendents of ſuch as have done great ſervices to their country, yet they who degenerate from them cannot be eſteemed princes ; much leſs can ſuch honours or rights be conferred upon court-creatures or favourites. Tiberius, Caligula, Claudius, Nero, Galba, and others, could advance Macro, Pallas, Narciffus, Tigellinus, Vinus, Laco, and the like, to the higheſt degrees of riches and power ; but they ſtill continued to be villains, and ſo they died.

No wife or good man ever thought otherwiſe of thoſe, who, through the folly of princes, have been advanced to the higheſt places in ſeveral countries. The madneſs of attributing to them a paternal power ſeems to have been peculiarly reſerved to complete the infamy of our author ; for he only could acknowledge a cooptitious father, or give to another man the power of chooſing him. I confeſs, that a man in his infancy may have been expoſed, like Moſes, Cyrus, Oedipus, Romulus. He may have been taken in war ; or by the charity of ſome good perſon ſaved from the teeth of wild beaſts, or from the ſword by which his parents fell, and may have been educated with that care which fathers uſually have of their children : it is reaſonable, that ſuch a one in the whole courſe of his life ſhould pay that veneration and obedience to him, who gave him as it were a ſecond birth, which was due to his natural father ; and this, though improperly, may be called an adoption. But to think that any man can aſſume it to himſelf, or confer it upon another, and thereby arrogate to himſelf the ſervice and obedience, which, by the moſt tender and ſacred laws of nature, we owe to thoſe from whom we receive birth and education, is the moſt prepoſterous folly that hitherto has ever entered into the heart of man.

Our author nevertheleſs is not aſhamed of it, and gives reaſons no way unſuitable to the propoſition. “ Men are, ſays he, adopted fathers of

* Trecenti principes juventutis Romanæ. Liv. l. 2, c. 12

† Liv. l. 27, c. 13

CHAP. I

“provinces for their abilities, merits, or fortunes.” But these abilities can simply deserve nothing; for if they are ill employed, they are the worst of vices, and the most powerful instruments of mischief. Merits, in regard of another, are nothing, unless they be to him. He alone can merit from me the respect due to a father, who has conferred benefits upon me, in some measure proportionable to those, which we usually receive from our fathers: and the world may judge, whether all the court-ministers and favourites that we have known, do, upon this account, deserve to be esteemed fathers of nations. But to allow this on account of their fortunes, is, if possible, more extravagant than any thing that has been yet uttered. By this account Mazarine must have been father of the French nation. The same right was inherited by his chaste niece, and remained in her, till she and her silly husband dissipated the treasures which her uncle had torn from the bowels of that people. The partisans may generally claim the same right over the provinces they have pillaged: old Audley, Dog Smith, Bishop Duppa, Brownloe, Child, Dashwood, Fox, &c. are to be esteemed fathers of the people of England. This doctrine is perfectly canonical, if Filmer and Heylin were good divines: and legal, if they judged more rightly touching matters of law. But if it be absurd and detestable, they are to be reputed men, who, by attributing the highest honours to the vilest wretches of the world, for what they had gained by the most abominable means, endeavour to increase those vices, which are already come to such a height, that they can by no other way be brought to a greater. Daily experience too plainly shews, with what rage avarice usually fills the hearts of men. There are not many destructive villainies committed in the world, that do not proceed from it. In this respect it is called “idolatry,” and “the root of all evil.” Solomon warns us to beware of such as make haste to grow rich, and says, they shall not be innocent. But it is no matter what the prophets, the apostles, or the wisest men, say of riches, and the ways of gaining them; for our author tells us, that men of the greatest fortunes, without examining how they came to them, or what use they make of them, deserve to be made fathers of provinces.

But this is not his only quarrel with all that is just and good: his whole book goes directly against the letter and spirit of the Scripture. The work of all those, whom God in several ages has raised up to announce his word, was to abate the lusts and passions that arise in the hearts of men; to shew the vanity of worldly enjoyments, with the dangers that accompany riches and honour, and to raise our hearts to the love of those treasures that perish not. Honest and wise men, following the light of nature, have in some measure imitated this. Such as lived private lives, as Plato, Socrates, Epictetus, and others, made it their business to abate mens lusts, by shewing the folly of seeking vain honours, useless riches, or unsatisfying pleasures; and those who were like to them, if they were raised to supreme magistracies, have endeavoured by the severest punishments to restrain men from committing the crimes by which riches are
most

most commonly gained: but Filmer and Heylin lead us into a new way. If they deserve credit, whoever would become supreme lord and father of his country, absolute, sacred, and inviolable, is only to kill him that is in the head of the government: usurpation confers an equal right with election or inheritance: we are to look upon the power, not the ways by which it is obtained: possession only is to be regarded: and men must venerate the present power, as set up by God, though gained by violence, treachery, or poison: children must not impose laws upon, nor examine the actions of their father. Those who are a little more modest, and would content themselves with the honour of being fathers and lords only of provinces, if they get riches by the favour of the king, or the favour of the king by riches, may receive that honour from him: the lord paramount may make them peculiar lords of each province as sacred as himself; and by these means every man shall have an immediate and subaltern father. This would be a spur to excite even the most sleeping lusts; and a poison that would fill the gentlest spirits with the most violent furies. If men should believe this, there would hardly be found one of whom it might not be said, "hâc spe, minanti fulmen occurret Jovi*." No more is required to fill the world with fire and blood, than the reception of these precepts. No man can look upon that as a wickedness, which shall render him sacred; nor fear to attempt that which shall make him God's vicerent. And I doubt, whether the wickedness of filling mens heads with such notions was ever equalled, unless by him who said, "ye shall not die, but be as gods."

But since our author is pleased to teach us these strange things, I wish he would also have told us, how many men in every nation ought to be looked upon as adopted fathers; what proportion of riches, ability, or merit, is naturally or divinely required to make them capable of this sublime character; whether the right of this chimerical father does not destroy that of the natural; or whether both continue in force, and men thereby stand obliged, in despite of what Christ said, to serve two masters. For if the right of my artificial father arise from any act of the king, in favour of his riches, abilities, or merit, I ought to know whether he is to excel in all, or any one of these points, how far, and which of them gives the preference; since it is impossible for me to determine whether my father, who may be wise, though not rich, is thereby divested of his right, and it comes to be transferred to another, who may be rich, though not wise, nor of any personal merit at all, till that point be decided; or so much as to guess, when I am emancipated from the duty I owe to him, by whom I was begotten and educated, unless I know whether he be fallen from his right, through want of merit, wisdom, or estate; and that can never be, till it be determined, that he has forfeited his right, by being defective in all or any of the three; and what proportion of merit, wisdom, or estate, is required in him, for the enjoyment of his right, or in another that would acquire it: for no man can succeed to the right of another, unless

* Sen. Thyest. Act. 2

CHAP. I the first possessor be rightly deprived of it ; and it cannot belong to them both, because common sense universally teaches, that two distinct persons cannot, at the same time, and in the same degree, have an equal right to the same individual thing.

The right of father cannot therefore be conferred upon princes by kings, but must for ever follow the rule of nature. The character of a father is indelible, and incommunicable. The duty of children arising from benefits received is perpetual, because they can never not have received them ; and can be due only to him from whom they are received. For these reasons, we see, that such as our author calls princes, cannot confer it upon a king ; for they cannot give what they have not in themselves : they who have nothing, can give nothing : they, who are only supposititious, cannot make another to be real ; and the whimsy of kings making princes to be fathers, and princes conferring that right on kings, comes to nothing.

SECTION XX

ALL JUST MAGISTRATICAL POWER IS FROM THE PEOPLE.

Having proved that the right of a father proceeds from the generation and education of his children ; that no man can have that right over those, whom he has not begotten and educated ; that every man has it over those, who owe their birth and education to him ; that all the sons of Noah, Abraham, Isaac, Jacob, and others, did equally inherit it ; that, by the same reason, it does for ever belong to every man that begets children ; it plainly appears, that no father can have a right over others, unless it be by them granted to him, and that he receives his right from those who granted it. But our author, with an admirable sagacity peculiar to himself, discovers, and with equal confidence tells us, that that which is from the people, or the chief heads of them, is not from the people : “ he that is so elected, says he, claims not his right from the people as a donative, but from God.” That is, if I mistake not, Romulus was not made king of the Romans by that people, but by God. Those men, being newly gathered together, had two fathers, though neither of them had any children ; and no man knew who was their father, nor which of them was the elder. But Romulus by the slaughter of his brother decided all questions, and purchased to himself a royal charter from God ; and the act of the people which conferred the power on him, was the act of God. We had formerly learned, that whatever was done by monarchs, was to be imputed to God ; and that whoever murdered the father of a people, acquired the same right to himself : but now it seems, that nations also have the same privilege, and that God does what they do. Now I understand why it was said of old, “ vox populi est vox Dei :” but if it was

was so in regard of Romulus, the same must be confessed of Tullus Hostilius, Ancus Martius, Tarquinius Priscus, and Servius Tullius; who being all strangers to each other, and most of them aliens also, were successively advanced by the same people, without any respect to the children, relations, or heirs of their predecessors. And I cannot comprehend, why the act of the same people should not have the same virtue, and be equally attributed to God, when they gave the same or more power to consuls, military tribunes, decemviri, or dictators; or why the same divine character should not be in the same manner conferred upon any magistracies, that by any people have been, are, or shall be at any time erected for the same ends.

Upon the same grounds we may conclude, that no privilege is peculiarly annexed to any form of government; but that all magistrates are equally the ministers of God, who perform the work for which they were instituted; and that the people which institutes them, may proportion, regulate and terminate their power, as to time, measure, and number of persons; as seems most convenient to themselves, which can be no other than their own good. For it cannot be imagined, that a multitude of people should send for Numa, or any other person to whom they owed nothing, to reign over them, that he might live in glory and pleasure; or for any other reason, than that it might be good for them and their posterity. This shews the work of all magistrates to be always and every where the same, even the doing of justice, and procuring the welfare of those that create them. This we learn from common sense: Plato, Aristotle, Cicero, and the best human authors, lay it as an immoveable foundation, upon which they build their arguments relating to matters of that nature. And the apostle from better authority declares, "that rulers are not a terror to good works, but to evil. Wilt thou then, says he, be afraid of the power? do that which is good, and thou shalt have praise of the same; for he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain; for he is the minister of God, a revenger to execute wrath upon him that doeth evil*." And the reason he gives "for praying for kings, and all that are in authority," is, "that we may live a quiet and peaceable life, in all godliness and honesty †." But if this be the work of the magistrate, and the glorious name of God's minister be given to him for the performance of it, we may easily see to whom that title belongs. "His children and servants ye are, whose works ye do." He therefore, and he only, is the servant of God, who does the work of God; who is a terror to those that do evil, and a praise to those that do well; who bears the sword for the punishment of wickedness and vice, and so governs, that the people may live quietly in all godliness and honesty. The order of his institution is inverted, and the institution vacated, if the power be turned to the praise of those that do evil, and become a terror to such as do well; so that none

* Rom. ch. 13, v. 3.

† Tim. 1, ch. 2, v. 2.

CHAP. I who live honestly and justly can be quiet under it. If God be the fountain of justice, mercy, and truth, and those his servants who walk in them, no exercise of violence, fraud, cruelty, pride, or avarice, is patronized by him. And they, who are the authors of those villainies, cannot but be the ministers of him, who sets himself up against God; because it is impossible, that truth and falshood, mercy and cruelty, justice and the most violent oppression, can proceed from the same root. It was a folly and a lye in those Jews, to call themselves the children of Abraham, who did not the works of Abraham*; and Christ declared them to be the children of the devil, whose works they did: which words, proceeding from the eternal truth, do as well indicate to us, whose child and servant every man is to be accounted, as to those who first heard them.

If our author's former assertions were void of judgment and truth, his next clause shews a great defect in his memory, and contradicts the former: "The judgments of God," says he, "who hath power to give and take away kingdoms, are most just; yet the ministry of men, who execute God's judgments without commission, is sinful and damnable." If it be true, as he says, that we are to look at the power, not the ways by which it is gained; and that he who has it, whether it be by usurpation, conquest, or any other means, is to be accounted as father, or right heir to the father of the people, to which title the most sublime and divine privileges are annexed, a man, who by the most wicked and unjust actions advances himself to the power, becomes immediately the father of the people, and the minister of God; which I take to be a piece of divinity worthy our author and his disciples.

It may be doubted what he means by a commission from God; for we know of none but what is outwardly by his word, or inwardly by his Spirit; and I am apt to think, that, neither he nor his abettors allowing of either, as to the point in question, he does foully prevaricate, in alleging that which he thinks cannot be of any effect. If any man should say, that the word of God to Moses, Joshua, Ehud, Gideon, Samuel, Jereboam, and Jehu, or any others, are, in the like cases, rules to be observed by all, because that which was from God was good, that which was good, is good, and he that does good, is justified by it, he would probably tell us, that what was good in them, is not good in others; and that the word of God does justify those only to whom it is spoken: that is to say, no man can execute the just judgments of God, to the benefit of mankind, according to the example of those servants of God, without damnable sin, unless he have a precise word particularly directed to him for it, as Moses had. But if any man should pretend, that such a word was come to him, he would be accounted an enthusiast, and obtain no credit. So that, which way soever the clause be taken, it appears to be full of fraud, confessing only in the theory, that which he thinks can never be brought into practice; that his beloved villainies may be thereby secured, and that the glo-

* John ch. 8, v. 39

rious examples of the most heroic actions, performed by the best and wisest men that ever were in the world for the benefit of mankind, may never be imitated. SECT. 19

The next clause shews, that I did our author no wrong in saying, that he gave a right to usurpation; for he plainly says, “that whether the prince be the supreme father of the people, or but the true heir of such a father; or whether he come to the crown by usurpation, or by election of the nobles, or of the people, or by any other way whatsoever, &c. it is the only right and authority of the natural father.” In the 3d Chap. Sect. 8. he tells us “it skills not which way the king comes by his power, whether by election, donation, succession, or by any other means.” And in another place, “that we are to regard the power, not the means by which it is gained.” To which I need say no more, than that I cannot sufficiently admire the ingeniously invented title of father by usurpation. And I must confess, that since there is such a thing in the world, to which not only private men but whole nations owe obedience, whatever has been said antiently, as was thought, to express the highest excess of fury and injustice, as, “*jus datum sceleri, jus omne in ferro est situm,*” and

“*Jus licet in jugulos nostros sibi fecerit ense*

“*Sylla potens, Mariusque ferox, et Cinna cruentus,*

“*Caesareaeque domûs series**”

were solid truths, good law and divinity; which did not only signify the actual exercise of the power, but induced a conscientious obligation of obeying it. The powers so gained did carry in themselves the most sacred and inviolable rights; and the actors of the most detestable villainies thereby became the ministers of God, and the fathers of their subdued people. Or if this be not true, it cannot be denied, that Filmer and his followers, in the most impudent and outrageous blasphemy, have surpassed all that have gone before them.

To confirm his assertions, he gives us a wonderful explanation of the fifth commandment; which, he says, enjoins obedience to princes, under the terms of “honour thy father and thy mother;” drawing this inference, “that as all power is in the father, the prince who hath it, cannot be restrained by any law; which being grounded upon the perfect likeness between kings and fathers, no man can deny it to be true.” But if Claudius was the father of the Roman people, I suppose the chaste Messalina was the mother, and to be honoured by virtue of the same commandment; but then I fear, that such as met her in the most obscene places were not only guilty of adultery, but of incest. The same honour must needs belong to Nero, and his virtuous Poppaea, unless it were transferred to his new made woman Sporus: or perhaps he himself was the mother, and the glorious title of “*pater patriae*” belonged to the rascal, who married her as a woman. The like may be said of Agathocles, Dionysius, Phalaris, Busiris, Machanidas, Peter the Cruel of Castile, Christiern

* Luc. l. 4. v. 821

CHAP. I of Denmark, the last princes of the house of Valois in France, and Philip the second of Spain. Those actions of theirs, which men have ever esteemed most detestable, and the whole course of their abominable government, did not proceed from pride, avarice, cruelty, madness, and lust, but from the tender care of most pious fathers. Tacitus sadly describes the state of his country: “*Urbs incendiis vastata, consumptis antiquissimis delubris, ipso capitolio civium manibus incenso; pollutae caerimoniae; magna adulteria; plenum exiliis mare; infecti caedibus scopuli; atrocibus in urbe saevitum; nobilitas, opes, omitti gestique honores pro crimine, et ob virtutes certissimum exitium**.” But he was to blame: all this proceeded from the ardency of paternal affection. When Nero, by the death of Helvidius Priscus and Thrasea Paetus, endeavoured to cut up virtue by the roots, “*ipsam excindere virtutem †*,” he did it, because he knew it was good for the world that there should be no virtuous man in it. When he fired the city, and when Caligula wished the people had but one neck, that he might strike it off at one blow, they did it through a prudent care of their childrens good, knowing that it would be for their advantage to be destroyed; and that the empty desolated world would be no more troubled with popular seditions. By the same rule Pharaoh, Eglon, Nebuchodonosor, Antiochus, Herod, and the like, were fathers of the Hebrews. And without looking far backward, or depending upon the faith of history, we may enumerate many princes, who in a parental care of their people, have not yielded to Nero or Caligula. If our author say true, all those actions of theirs, which we have ever attributed to the utmost excess of pride, cruelty, avarice and perfidiousness, proceeded from their princely wisdom, and fatherly kindness to the nations under them; and we are beholden to him for the discovery of so great a mystery, which has been hid from mankind from the beginning of the world to this day: if not, we may still look upon them as children of the devil; and continue to believe, that princes as well as other magistrates were set up by the people for the public good; that the praises given to such as are wise, just, and good, are purely personal, and can belong only to those, who by a due exercise of their power do deserve it, and to no others.

* Tacit. Hist. l. 1, § 2.

† Tacit. Ann. l. 16, § 21

CHAPTER II. SECTION I

THAT IT IS NATURAL FOR NATIONS TO GOVERN, OR TO CHOOSE GOVERNORS; AND THAT VIRTUE ONLY GIVES A NATURAL PREFERENCE OF ONE MAN ABOVE ANOTHER, OR REASON WHY ONE SHOULD BE CHOSEN RATHER THAN ANOTHER.

In this chapter our author fights valiantly against Bellarmine and Suarez, seeming to think himself victorious, if he can shew, that either of them has contradicted the other, or himself; but being no way concerned in them, I shall leave their followers to defend their quarrel. My work is to seek after truth; and, though they may have said some things, in matters not concerning their beloved cause of popery, that are agreeable to reason, law, or Scripture, I have little hope of finding it among those who apply themselves chiefly to school-sophistry, as the best means to support idolatry. That which I maintain, is the cause of mankind; which ought not to suffer, though champions of corrupt principles have weakly defended, or maliciously betrayed it. And therefore, not at all relying on their authority, I intend to reject whatever they say that agrees not with reason, Scripture, or the approved examples of the best polished nations. He also attacks Plato and Aristotle, upon whose opinions I set a far greater value, inasmuch as they seem to have penetrated more deeply into the secrets of human nature; and not only to have judged more rightly of the interests of mankind, but also to have comprehended in their writings the wisdom of the Grecians, with all they had learned from the Phoenicians, Egyptians, and Hebrews; which may lead us to the discovery of the truth we seek. If this be our work, the question is not, whether it be a "paradox," or a received opinion, that people naturally govern, or choose governors, but whether it be true or not; for many paradoxes are true, and the most gross errors have often been most common. Though I hope to prove, that what he calls a paradox, is not only true, but a truth planted in the hearts of men, and acknowledged so to be by all that have hearkened to the voice of nature, and disapproved by none, but such as through wickedness, stupidity, or baseness of spirit, seem to have degenerated into the worst of beasts, and to have retained nothing of men, but the outward shape, or the ability of doing those mischiefs which they have learned from their master the devil.

We have already seen, that the patriarchal power resembles not the regal in principle or practice; that the beginning and continuance of regal power was contrary to, and inconsistent with the patriarchal; that the first fathers of mankind left all their children independent on each other, and in an equal liberty of providing for themselves; that every man continued in this liberty, till the number so increased, that they became trou-

CHAP. II blefome and dangerous to each other; and finding no other remedy to the diforders growing, or like to grow among them, joined many families into one civil body, that they might the better provide for the conveniency, fafety, and defence of themfelves and their children. This was a collation of every man's private right into a public ftock. And no one having any other right than what was common to all, except it were that of fathers over their children, they were all equally free when their fathers were dead; and nothing could induce them to join, and leffen that natural liberty by joining in focieties, but the hopes of a public advantage. Such as were wife and valiant procured it, by fetting up regular governments, and placing the beft men in the adminiftration; whilst the weakeft and bafeft fell under the power of the moft boifterous and violent of their neighbours. Thofe of the firft fort had their root in wifdom and juftice, and are called lawful kingdoms or commonwealths; and the rules, by which they are governed, are known by the name of laws. Thefe governments have ever been the nurfes of virtue. The nations living under them have flourifhed in peace and happinefs, or made wars with glory and advantage. Whereas the other fort fpringing from violence and wrong, have ever gone under the odious title of tyrannies; and by fomenting vices, like to thofe from whence they grew, have brought fhame and mifery upon thofe who were fubject to them. This appears fo plainly in Scripture, that the affertors of liberty want no other patron than God himfelf; and his word fo fully juftifies what we contend for, that it were not neceffary to make ufe of human authority, if our adverfaries did not oblige us to examine fuch as are cited by them. This, in our prefent cafe, would be an eafy work, if our author had rightly marked the paffages he would make ufe of, or had been faithful in his interpretation or explication of fuch as he truly cites; but failing grofsly in both, it is hard to trace him.

He cites the 16th chapter of the third book of Aristotle's politics, and I do not find there are more than twelve*; or though that wound might be cured, by faying the words are in the twelfth, his fraud in perverting the fenfe is unpardonable. It is true, Aristotle does there feem to doubt, whether there be any fuch thing as one man naturally a lord over many citizens, fince a city confifts of equals†. But in the whole fcope of that chapter, book, and his other writings, he fully fhews, his doubt did not arife from an imagination, that one man could naturally inherit a right of dominion over many not defcended from him, or that they were born under a neceffity of being flaves to him, (for fuch fancies can proceed only from diftempered brains;) but that civil focieties aiming at the public good, thofe, who by nature were endowed with fuch virtues or talents as were moft beneficial to them, ought to be preferred. And nothing can be more contrary to the frantic whimfy of our author, who fancies an heredi-

* This is a miftake: Aristotle's third book of Politics is divided into 18 chapters.

† Δοκει τισιν εδε κατα φυσι ειναι το κυριον ενα πασιων ειναι των πολιων, οπε συνετεκεν εξ ομοιων η πολις· τοις γαρ ομοιοις φυσει το αυλο δικαιον αναγκαιον, και την αυλην αξιαν κατα φυσι ειναι. Arift. Polit. l. 3, c. 16

tary prerogative of dominion inherent in a person as father of a people, or heir, or that he is to be reputed heir of the first father, when it is certain he is not, but that either he or his predecessor came in by election or usurpation, than to shew, that it is only wisdom, justice, valour, and other commendable virtues, which are not hereditary, that can give the preference; and that the only reason why it should be given, is, that men so qualified can better than others accomplish the ends for which societies are constituted. For though, says he, all are equally free, all are not equally endowed with those virtues that render liberty safe, prosperous, and happy. That equality which is just among equals, is just only among equals; but such as are base, ignorant, vicious, slothful, or cowardly, are not equal in natural or acquired virtues, to the generous, wise, valiant, and industrious; nor equally useful to the societies in which they live: they cannot therefore have an equal part in the government of them; they cannot equally provide for the common good; and it is not a personal, but a public benefit, that is sought in their constitution and continuance. There may be a hundred thousand men in an army, who are all equally free; but they only are naturally most fit to be commanders or leaders, who most excel in the virtues required for the right performance of those offices; and that, not because it is good for them to be raised above their brethren, but because it is good for their brethren to be guided by them, as it is ever good to be governed by the wisest and the best. If the nature of man be reason, “*detur digniori,*” in matters of this kind, is the voice of nature; and it were not only a deviation from reason, but a most desperate and mischievous madness, for a company going to the Indies, to give the guidance of their ship to the son of the best pilot in the world, if he want the skill required for that employment, or to one who was maliciously set to destroy them. He only can have a right, grounded upon the dictates of nature, to be advanced to the helm, who best knows how to govern it, and has given the best testimonies of his integrity and intentions to employ his skill for the good of those that are embarked. But as the work of a magistrate, especially if he be the supreme, is the highest, noblest, and most difficult, that can be committed to the charge of a man, a more excellent virtue is required in the person who is to be advanced to it, than in any other; and he that is most excellent in that virtue, is reasonably and naturally to be preferred before any other. Aristotle, having this in his view, seems to think, that those who believed it not to be natural for one man to be lord of all the citizens, since a city consists of equals, had not observed that inequality of endowments, virtues, and abilities, in men, which render some more fit than others, for the performance of their duties, and the work intended; but it will not be found, as I suppose, that he did ever dream of a natural superiority, that any man could ever have in a civil society, unless it be such a superiority in virtue, as most conduces to the public good*.

* Φανερον, ὡς εν μεν τοις ὁμοιοις, και ισοις, ὡς συμφερον εστιν, ὡς δικαιον, ἕνα κυριον ειναι παντων ὅδ' αν κατ' ἀρετην ἀμεινων η, ΕΙ ΜΗ ΤΡΟΠΟΝ ΤΙΝΑ. Arist. Polit. l. 3, c. 17—Καθίσταται βασιλευς

CHAP. II

He confirms this in proceeding to examine the different sorts of governments, according to the different dispositions of nations; and is so bold as to say, “that a popular government is the best for a people, who are naturally generous and warlike; that the government of a few suits best with those, among whom a few men are found to excel others in those virtues that are profitable to societies; and that the government of one is good, when that one does so far surpass all others in those virtues, that he has more of them than all the rest of the people together*.” And for the same reason that induced him to believe, that equality is just among equals, he concludes inequality of power to be most unjust, unless there be inequality of merit; and equality of power to be so also, when there is inequality of virtue, that being the only rule by which every man’s part ought to be regulated.

But if it be neither reasonable nor just, that those who are not equal in virtue should be made equal in power, or that such as are equal in virtue should be unequal in power, the most brutal and abominable of all extravagancies is to make one or a few, who in virtue and abilities to perform civil functions are inferior to others, superior to all in power; and the miseries suffered by those nations, who inverting the laws of nature and reason, have placed children, or men of no virtue, in the government, when men that excelled in all virtues were not wanting, do so far manifest this truth, that the pains of proving it may be spared.

It is not necessary for me to inquire, whether it be possible to find such a man as Aristotle calls “*naturâ regem* †,” or whether he intended to recommend Alexander to the world, for the man designed by God and nature to be king over all, because no man was equal to him in the virtues that were beneficial to all. For pursuing my position, that virtue only can give a just and natural preference, I ingenuously confess, that when such a man, or race of men, as he describes, shall appear in the world, they carry the true marks of sovereignty upon them. We ought to believe, that God has raised them above all, whom he has made to excel all. It were an impious folly to think of reducing him to the ordinary level of mankind, whom God has placed above it. It were better for us to be guided by him, than to follow our own judgment; nay, I could almost say, it were better to serve such a master, than to be free ‡.

βασιλευς εκ των επιεικων καθ' ὑπεροχην αρετης, η πραξεν των απο της αρετης, η καθ' ὑπεροχην τοις τε γενεσ. Arist. Polit. l. 5, c. 10

* Αριστοκρατικον πληθος, ο πεφυκε φερειν πληθος αρχεσθαι δυναμενον την των ελευθερων αρχην, ὑπο των κατ' αρετην ηγεμονικων προς πολιτικην αρχην. Πολιτικον δε πληθος, εν ω πεφυκε εγγι- νεσθαι πληθος πολεμικον, δυναμενον αρχεσθαι και αρχειν κατα νομον, τον κατ' αξιαν διανεμοντα τοις αποροις τας αρχας. Όταν εν η γενος όλον, η και των αλλων ένα τινα συμψη διαφεροντα γενεσθαι κατ' αρετην τοστων, ως ὑπερεχεν την εκεινη της των αλλων παύλων, τότε δικαιον το γενος ειναι τω βασιλικον, και κυριον παύλων, και βασιλευα του ένα τωτον. Ibid. l. 3, c. 17

† Το δυναμενον τη διανοια προοραν, αρχου φυσει, και δεσποζον φυσει. Ibid. l. 1, c. 2. Φυσει γαρ τον βασιλευα διαφερειν μεν δει, τω γενει δ' ειναι του αυτου. Ibid. l. 1, c. 12

‡ Ωσπερ γαρ θεον εν ανθρωποις εικος ειναι τον τοιουτον. Ibid. l. 3, c. 13—Ωσε λειπεται μια, το πειθεσθαι τω τοιουτω, και κυριον ειναι. Ibid. l. 3, c. 17

But this will be nothing to the purpose, till such a man, or succession of men, do appear. And if our author would persuade us, that all mankind, or every particular, is obliged to a perpetual subjection to one man or family, upon any other condition, he must do it by the credit of those who favour his design more than Aristotle. SECT. I

I know not who that will be, but am confident he will find no help from Plato: for if his principles be examined, by which a grave author's sense is best comprehended, it will appear, that all his books of laws, and of a commonwealth, are chiefly grounded upon this, "that magistrates are chosen by societies, seeking their own good; and that the best men ought to be chosen for the attaining of it*." Whereas, if one rule were by nature appointed for all, and none could justly transgress it, if God had designed an universal lord over the whole world, or a particular one over every nation, who could be bound by no law, his whole design of seeking which is the best form of government, or what laws do most conduce to its perfection and permanency, were utterly absurd; and they who write books concerning political matters, and take upon them to instruct nations how to govern themselves, would be found either foolishly to mispend their time, or impiously to incite people to rebel against the ordinance of God. If this can justly be imputed to Plato, he is not the wise man he is supposed to have been; and can less deserve the title of divine, which our author gives him. But if he remain justly free from such censures, it must be confessed, that whilst he seeks what is good for a people, and to convince them by reason that it is so, he takes it for granted, that they have a liberty of choosing that which appears to them to be the best. He says †, that this good consists in the obtaining of justice; but farther explaining himself, he shews, that under the name of justice he comprehends all that tends to their perfection and felicity; inasmuch as every people, by joining in a civil society, and creating magistrates, doth seek its own good; and it is just, that he or they who are created, should, to the utmost of their power, accomplish the end of their creation, and lead the people to justice, without which there is neither perfection nor happiness; that the proper act of justice is to give to every one his due; to man that which belongs to man, and to God that which is God's. But as no man can be just, or desire to be so, unless he know that justice is good; nor know that it is good, unless he know that original justice and goodness, through which all that is just is just, and all that is good is good, it is impossible for any man to perform the part of a good magistrate, unless he have the knowledge of God; or to bring a people

* Τῆ ποιμενικῆ οὐ δὴπρ ἀλλῆ τῆ μελεῖ, ἢ εἴ ὧ τεταλῆαι, ὅπως τῆτω το βελτιστον εκπορειεῖ οὕτω δε ὡμην εγωγε νυν δη αναγκαιον ειναι ἡμιν ὁμολογεῖν, πασαν αρχην, καθοσον αρχη, μηδενᾶ ἀλλῶ το βελτιστον σκοπεισθαι, ἢ ἐκεινω τῶ αρχομενω τε και θεραπευομενω, εν τε πολιτικῆ και ιδιωτικῆ αρχῆ. Plato de Rep. l. 1

Μεμνησαι εν τῆν προτερην εκλογην των αρχοντων, οἰς ἐξελεξαμεν; τῆς τε γαρ βεβαιωτατης και τῆς ἀνδρειωτατης προαιρετεον, &c. Ibid. l. 7

† Vide Plat. de Rep. de Leg. etc.

CHAP. II to justice, unless he bring them to the knowledge of God, who is the root of all justice and goodness. If Plato therefore deserve credit, he only can duly perform the part of a good magistrate, whose moral virtues are ripened and heightened by a superinduction of divine knowledge. The misery of man proceeds from his being separated from God: this separation is wrought by corruption: his restitution therefore to felicity and integrity, can only be brought about by his reunion to the good from which he is fallen. Plato looks upon this as the only worthy object of man's desire. And in his laws and politics he intends not to teach us how to erect manufactures, and to increase trade or riches; but how magistrates may be helpful to nations in the manner before-mentioned, and consequently what men are fit to be magistrates. If our author therefore would make use of Plato's doctrine to his end, he ought to have proved, that there is a family in every nation, to the chief of which, and successively to the next in blood, God does ever reveal and infuse such a knowledge of himself, as may render him a light to others; and, failing in this, all that he says is to no purpose.

The weakness in which we are born, renders us unable to attain the good of ourselves: we want help in all things, especially in the greatest. The fierce barbarity of a loose multitude, bound by no law, and regulated by no discipline, is wholly repugnant to it. Whilst every man fears his neighbour, and has no other defence than his own strength, he must live in that perpetual anxiety, which is equally contrary to that happiness, and that sedate temper of mind, which is required for the search of it. The first step towards the cure of this pestilent evil, is for many to join in one body, that every one may be protected by the united force of all; and the various talents that men possess, may by good discipline be rendered useful to the whole: as the meanest piece of wood or stone, being placed by a wise architect, conduces to the beauty of the most glorious building. But every man bearing in his own breast affections, passions, and vices, repugnant to this end, and no man owing any submission to his neighbour, none will subject the correction or restriction of themselves to another, unless he also submit to the same rule. They are rough pieces of timber or stone, which it is necessary to cleave, saw, or cut: this is the work of a skilful builder, and he only is capable of erecting a great fabric, who is so. Magistrates are political architects; and they only can perform the work incumbent on them, who excel in political virtues. Nature, in variously framing the minds of men, according to the variety of uses, in which they may be employed, in order to the institution and preservation of civil societies, must be our guide, in allotting to every one his proper work. And Plato, observing this variety, affirms, that the laws of nature cannot be more absurdly violated, than by giving the government of a people to such, as do not excel others in those arts and virtues, that tend to the ultimate ends for which governments are instituted. By this means those who are slaves by nature, or rendered so by their vices, are often set above those that God and nature had fitted for

for the highest commands; and societies, which subsist only by order, fall into corruption, when all order is so preposterously inverted, and the most extreme confusion introduced*. This is an evil that Solomon detested: "Folly is set in great dignity, and the rich sit in low places. I have seen servants upon horses, and princes walking as servants upon the earth †." They who understand Solomon's language, will easily see, that the rich, and the princes he means, are such only who are rich in virtue and wisdom, and who ought to be preferred for those qualities. And when he says, a servant that reigneth is one of the "three things the earth cannot bear," he can only mean such as deserve to be servants; for when they reign, they do not serve, but are served by others. Which perfectly agrees with what we learn from Plato, and plainly shews, that true philosophy is perfectly conformable with what is taught us by those who were divinely inspired. Therefore, though I should allow to our author, that Aristotle, in these words, "it seems to some, not to be natural for one man to be lord of all the citizens, since the city consists of equals ‡," did speak the opinion of others rather than his own; and should confess, that he, and his master Plato, did acknowledge a natural inequality among men, it would be nothing to his purpose. For the inequality, and the rational superiority due to some, or to one, by reason of that inequality, did not proceed from blood or extraction, and had nothing patriarchal in it; but consisted solely in the virtues of the persons, by which they were rendered more able than others to perform their duty, for the good of the society. Therefore, if these authors are to be trusted, whatever place a man is advanced to in a city, it is not for his own sake, but for that of the city; and we are not to ask, who was his father, but what are his virtues in relation to it. This induces a necessity of distinguishing between a simple and a relative inequality. For, if it were possible for a man to have great virtues, and yet no way beneficial to the society of which he is, or to have some one vice that renders them useless, he could have no pretence to a magistratical power more than any other. They, who are equally free, may equally enjoy their freedom; but the powers that can only be executed by such as are endowed with great wisdom, justice, and valour, can belong to none, nor be rightly conferred upon any, except such as excel in those virtues. And if no such can be found, all are equally by turns to participate of the honours annexed to magistracy; and law, which is said to be written reason, cannot justly exalt those whom nature, which is reason, has depressed, nor depress those whom nature has exalted. It cannot make kings slaves, nor slaves kings, without introducing that evil, which,

SECT. I

* Πανί δηλον, ότι μεγαλη της νομοθεσιας ουτος εργα, τς πολιν ευ παρεσκευασμενη αρχας ανεπιτηδεις επισησαι τοις ευ κειμενοις νομοις, ε μονου εδεν πλεον ευ τεθεντων, εδ' ότι γελωσ αν παμπολυς θυμβαινοι, σχεδον δε βλαβαι και λωβαι πολυμερισαι ταις πολεσι γιγνοιντ' αν εξ αυτων. Plato de Leg. l. 6, §. 1

† Eccl. ch. 10, v. 6, 7

‡ Δοκει δε τισιν εδε κατα φυσιν ειναι το κυριον ενα παντων ειναι των πολιτων, οπως συνεστηκεν εξ ομοιων η πολις. Arist. Polit. l. 3, c. 16

CHAP. II if we believe Solomon, and the Spirit by which he spoke, “the earth cannot bear.” This may discover what lawgivers deserve to be reputed wise or just; and what decrees or sanctions ought to be reputed laws. Aristotle, proceeding by this rule, rather tells us, who is naturally a king, than where we should find him; and after having given the highest praises to this true natural king, and his government, he sticks not to declare that of one man, in virtue equal or inferior to others, to be a mere tyranny, even the worst of all, as it is the corruption of the best, or, as our author calls it, the most divine, and such as can be fit only for those barbarous and stupid nations, which, though bearing the shape of men, are little different from beasts. Whoever therefore will from Aristotle’s words infer, that nature has designed one man, or succession of men, to be lords of every country, must shew that man to be endowed with all the virtues, that render him fit for so great an office, which he does not bear for his own pleasure, glory, or profit, but for the good of those that are under him; and, if that be not done, he must look after other patrons than Aristotle for his opinion.

Plato does more explicitly say, that the civil or politic man, the shepherd, father, or king of a people, is the same, designed for the same work, enabled to perform it by the excellency of the same virtues, and made perfect by the infusion of the divine wisdom. This is Plato’s monarch; and I confess, that wherever he does appear in the world, he ought to be accounted as sent from God for the good of that people. His government is the best that can be set up among men; and if assurance can be given, that his children, heirs, or successors, shall for ever be equal to him in the above-mentioned virtues, it were a folly, and a sin, to bring him under the government of any other, or to an equality with them, since God had made him to excel them all; and it is better for them to be ruled by him, than to follow their own judgment. This is that which gives him the preference: he is wise through the knowledge of the truth, and thereby becomes good, happy, pure, beautiful, and perfect. The divine light, shining forth in him, is a guide to others; and he is a fit leader of a people to the good that he enjoys*. If this can be expressed by words in fashion, this is his prerogative; this is the royal charter given to him by God; and to him only, who is so adapted for the performance of his office. He that should pretend to the same privileges, without the same abilities to perform the works for which they are granted, would exceed the folly of a child, that takes upon him a burden, which can only be borne by a giant; or the madness of one who presumes to give physic, and understands not the art of a physician, thereby drawing guilt upon himself, and death upon his patient. It were as vain to expect that a child should carry the giant’s burden, and that an ignorant man

* Δικαιώς μὲν γὰρ πράττοντες καὶ σωφρονῶς σὺ τε καὶ ἡ πόλις θεοφιλῶς πράξετε· καὶ εἰς τὸ θεῖον καὶ λαμπρὸν ὄροντες πράξετε. Ἀλλὰ μὴν ἐνταῦθα γε βλέποντες, ὑμᾶς τε αὐτοὺς καὶ ταῦ μίμετρα ἀγαθὰ καλοῦσθε τε καὶ γινώσκθε. Plato in Alcib. Dial. 1

should

should give wholesome physic, as that one, who lives void of all knowledge of good, should conduct men to it. Whenever therefore such a man, as is above described, does not appear, nature and reason instruct us to seek him or them who are most like to him, and to lay such burdens upon them, as are proportionable to their strength; which is as much as to say, to prefer every man according to his merit, and assign to every one such works, as he seems able to accomplish.

But that Plato and Aristotle may neither be thought unreasonably addicted to monarchy, nor, wholly rejecting it, to have talked in vain of a monarch, that is not to be found, it is good to consider, that this is not a fiction. Moses, Joshua, Samuel, and others, were such as they define; and were made to be such, by that communion with God, which Plato requires. And he in all his writings, intending the institution of such a discipline as should render men happy, wise, and good, could take no better way to bring his countrymen to it, than by shewing them, that wisdom, virtue, and purity, only, could make a natural difference among men.

It is not my work to justify these opinions of Plato, and his scholar Aristotle: they were men, and, though wise and learned, subject to error. If they erred in these points, it hurts not me, nor the cause I maintain; since I make no other use of their books, than to shew the impudence and prevarication of those, who gather small scraps out of good books, to justify their assertions concerning such kings as are known amongst us; which, being examined, are found to be wholly against them; and, if they were followed, would destroy their persons and power.

But our author's intention being only to cavil, or to cheat such as are not versed in the writings of the antients, or at least to cause those, who do not make truth their guide, to waver and fluctuate in their discourses, he does in one page say, "that without doubt Moses's history of the creation guided these philosophers in finding out this lineal subjection;" and in the next affirms, "that the ignorance of the creation occasioned several amongst the heathen philosophers to think that men met together as herds of cattle." Whereas they could not have been ignorant of the creation, if they had read the books that Moses wrote; and, having that knowledge, they could not think that men met together as herds of cattle. However, I deny that any of them did ever dream of that lineal subjection, derived from the first parents of mankind, or that any such thing was to be learned from Moses. Though they did not perhaps justly know the beginning of mankind, they did know the beginnings and progress of the governments under which they lived; and, being assured that the first kingdoms had been those, which they called "heroum regna," that is, of those who had been most beneficial to mankind; that their descendents in many places, degenerating from their virtues, had given nations occasion to set up aristocracies; and they also falling into corruption, to institute democracies, or mixed governments, did rightly conclude, that every nation might justly order their

CHAP. II their own affairs, according to their own pleasure; and could have neither obligation nor reason to set up one man or a few above others, unless it did appear to them that they had more of those virtues, which conduce to the good of civil societies, than the rest of their brethren.

Our author's cavil upon Aristotle's opinion, "that those who are wise in mind are by nature fitted to be lords, and those who are strong of body ordained to obey *," deserves no answer; for he plainly falsifies the text. Aristotle speaks only of those qualities which are required for every purpose; and means no more, than that such as are eminent in the virtues of the mind deserve to govern, though they do not excel in bodily strength; and that they who are strong of body, though of little understanding, and incapable of commanding, may be useful in executing the commands of others: but is so far from denying that one man may excel in all the perfections of mind and body, that he acknowledges him only to be a king by nature who does so, both being required for the full performance of his duty. And if this be not true, I suppose that one who is like Agrippa Posthumus, "robore corporis stolidè ferox †," may be fit to govern many nations; and Moses or Samuel, if they naturally wanted bodily strength, or if it was decayed by age, might justly be made slaves; which is a discovery worthy our author's invention.

SECTION II

EVERY MAN THAT HAS CHILDREN, HAS THE RIGHT OF A FATHER, AND IS CAPABLE OF PREFERMENT IN A SOCIETY COMPOSED OF MANY.

I am not concerned in making good what Suarez says: a jesuit may speak that which is true; but it ought to be received, as from the devil, cautiously, lest mischief be hid under it. And Sir Robert's frequent prevarications upon the Scripture, and many good authors, give reason to suspect he may have falsified one, that few protestants read, if it served to his purpose; and not mentioning the place, his fraud cannot easily be discovered, unless it be by one who has leisure to examine all his vastly voluminous writings. But as to the point in question, that pains may be saved: there is nothing that can be imputed to the invention of Suarez. "That Adam had only an oeconomical, not a political power," is not the voice of a jesuit, but of nature and common sense: for politic signifying no more in Greek, than civil in Latin, it is evident there could be no civil power, where there was no civil society; and there could be none between him and his children; because a civil society is composed of equals,

* Το μὲν δυναμενον τη διανοια προοραυ, αρχου φυσει, και δεσποζον φυσει· το δε δυναμενον τω σωματι ταυτα ποιειν, αρχομενον, και φυσει δελεει. Arist. Polit. l. 1, c. 2

† Tacit. Ann. l. 1, c. 3

and fortified by mutual compacts, which could not be between him and his children; at least, if there be any thing of truth in our author's doctrine, "that all children do perpetually and absolutely depend upon the will of their father." Suarez seems to have been of another opinion; and observing the benefits we receive from parents, and the veneration we owe to them to be reciprocal, he could not think any duty could extend farther than the knowledge of the relation upon which it was grounded; and makes a difference between the power of a father, before and after his children are made free; that is in truth, before and after they are able to provide for themselves, and to deliver their parents from the burden of taking care of them. Which will appear rational to any, who are able to distinguish between what a man of fifty years old, subsisting by himself, and having a family of his own, and a child of eight, does owe to his father. The same reason that obliges a child to submit entirely to the will of his parents, when he is utterly ignorant of all things, does permit, and often injoin, men of ripe age to examine the commands they receive before they obey them. And it is not more plain, that I owe all manner of duty, affection, and respect, to him that did beget and educate me, than that I can owe nothing on any such account to one that did neither.

This may have been the opinion of Suarez. But I can hardly believe such a notion, as, "that Adam in process of time might have servants," could proceed from any other brain than our author's; for if he had lived to this day, he could have had none under him but his own children; and if a family be not complete without servants, his must always have been defective; and his kingdom must have been so too, if that has such a resemblance to a family, as our author fancies. This is evident, that a hard father may use his children as servants, or a rebellious stubborn son may deserve to be so used; and a gentle and good master may shew that kindness to faithful and well-deserving servants, which resembles the sweetness of a fatherly rule: but neither of them can change their nature; a son can never grow to be a servant, nor a servant to be a son. If a family therefore be not complete, unless it consist of children and servants, it cannot be like to a kingdom or city, which is composed of freemen and equals: servants may be in it, but are not members of it. As truth can never be repugnant to justice, it is impossible this should be a prejudice to the paternal rule, which is most just; especially when a grateful remembrance of the benefits received doth still remain, with a necessary and perpetual obligation of repaying them in all affection and duty. Whereas the care of ever providing for their families, as they did probably increase in the time of our first long-living fathers, would have been an insupportable burden to parents, if it had been incumbent on them. We do not find that Adam exercised any such power over Cain, when he had slain Abel, as our author fancies to be regal. The murderer went out, and built a city for himself, and called it by the name of his first-born. And we have not the least reason to believe, that after Adam's death Cain had any dominion over his brethren, or their posterity; or any one of

CHAP. II them over him and his. He feared that whoever saw him would kill him: which language does not agree with the rights belonging to the haughty title of heir apparent to the dominion of the whole earth. The like was practised by Noah and his sons, who set up colonies for themselves; but lived as private men in obscure places, whilst their children of the fourth or fifth generation, especially of the youngest and accursed son, were great and powerful kings, as is fully proved in the first chapter.

Though this had been otherwise, it would have no effect upon us; for no argument, drawn from the examples of Shem, Ham, and Japhet, if they and their children had continued under the dominion of Noah as long as he lived, can oblige me to resign myself, and all my concernments, absolutely into the hands of one who is not my father. But when the contrary is evidently true in them, and their next ensuing generations, it is an admirable boldness in our author, to think of imposing upon us, for an eternal and universal law (when the knowledge of our first progenitors is utterly extinguished) that which was not at all regarded by those, who could not be ignorant of their own original, or the duty thereby incumbent upon them, or their immediate fathers then living, to whom the rights must have belonged, if there had been any such thing in nature, or they had been of any advantage to them. Whereas in truth, if there had been such a law in the beginning, it must have vanished of itself, for want of being exercised in the beginning; and could not possibly be revived after four thousand years, when no man in the world can possibly know to whom the universal right of dominion over the whole world, or particular nations, does belong: for it is in vain to speak of a right, when no one man can have a better title to it than any other. But there being no precept in the Scripture for it; and the examples directed or approved by God himself, and his most faithful servants, being inconsistent with, and contrary to it, we may be sure there never was any such thing; and that men, being left to the free use of their own understanding, may order and dispose of their own affairs as they think fit. No man can have a better title than another, unless for his personal virtues; every man, that in the judgment of those concerned excels in them, may be advanced. And those nations, that through mistake set up such as are unworthy, or do not take right measures in providing for a succession of men worthy, and other things necessary to their welfare, may be guilty of great folly, to their own shame and misery; but can do no injustice to any, in relation to an hereditary right, which can be naturally in none.

SECTION III

GOVERNMENT IS NOT INSTITUTED FOR THE GOOD OF THE GOVERNOR, BUT OF THE GOVERNED; AND POWER IS NOT AN ADVANTAGE, BUT A BURDEN.

The follies, with which our author endeavours to corrupt and trouble the world, seem to proceed from his fundamental mistakes of the ends, for which governments are constituted; and from an opinion, that an excessive power is good for the governor, or the diminution of it a prejudice. Whereas common sense teaches, and all good men acknowledge, that governments are not set up for the advantage, profit, pleasure, or glory of one or a few men, but for the good of the society. For this reason Plato and Aristotle find no more certain way of distinguishing between a lawful king and a tyrant, than that the first seeks to procure the common good, and the other his own pleasure or profit; and doubt not to declare; that he, who according to his institution was the first, destroys his own being, and degenerates into the latter, if he deflect from that rule: he that was the best of men, becomes the worst; and the father or shepherd of the people makes himself their enemy. And we may from hence collect, that, in all controversies concerning the power of magistrates, we are not to examine what conduces to their profit or glory, but what is good for the public.

His second error is no less gross and mischievous than the first; and that absolute power, to which he would exalt the chief magistrate, would be burdensome, and desperately dangerous, if he had it. The highest places are always slippery: mens eyes are dazzled when they are carried up to them; and all falls from them are mortal. Few kings or tyrants, says Juvenal, go down to the grave in peace*; and he did not imprudently couple them together, because in his time few or no kings were known, who were not tyrants. Dionysius thought no man left a tyranny, till he was drawn out by the heels. But Tacitus says, “*nescit quam grave & intolerandum sit cuncta regendi onus* †.” Moses could not bear it. Gideon would not accept of any resemblance of it. The moral sense of Jotham's wife parable is eternal: the bramble coveted the power, which the vine, olive, and fig-tree refused. The worst and basest of men are ambitious of the highest places, which the best and wisest reject; or if some, who may be otherwise well qualified—

[In this place two pages are wanting in the original manuscript.]

*———*Sine caede & vulnere pauci*

Descendunt reges, & siccâ morte tyranni. Juv. Sat. x, v. 112

† The passage in Tacitus is expressed in a different manner. Tiberius, after Augustus's death, says, in his speech to the senate, “*Se—experiendo didicisse, quam arduum, quam subjectum fortunæ, regendi cuncta onus.*” Ann. l. 1, c. 11

CHAP. II ——— as the fittest to be followed by mankind. If these philosophers and divines deserve credit, Nimrod, Ninus, Pharoah, and the rest of that accursed crew, did not commit such excesses as were condemned by God, and abhorred by good men; but, gaining to themselves the glorious character of his vicegerents, left their practices as a perpetual law to all succeeding generations; whereby the world, and every part of it, would be for ever exposed to the violence, cruelty, and madness, of the most wicked men that it should produce. But if these opinions comprehend an extravagancy of wickedness and madness, that was not known among men, till some of these wretches presumed to attempt the increase of that corruption under which mankind groans, by adding fuel to the worst of all vices, we may safely return to our propositions, that, God having established no such authority as our author fancies, nations are left to the use of their own judgment, in making provision for their own welfare; that there is no lawful magistrate over any of them, but such as they have set up; that, in creating them, they do not seek the advantage of their magistrate, but their own: and, having found that an absolute power over the people is a burden, which no man can bear, and that no wise or good man ever desired it; from thence we may conclude, that it is not good for any to have it, nor just for any to affect it, though it were personally good for himself; because he is not exalted to seek his own good, but that of the public.

SECTION IV

THE PATERNAL RIGHT DEVOLVES TO, AND IS INHERITED BY
ALL THE CHILDREN.

Though the perversity of our author's judgment and nature may have driven him into the grossest errors, it is not amiss to observe, that many of those delivered by him proceed from his ignorance of the most important differences between father and lord, king and tyrant; which are so evident and irreconcilable, that one would have thought no man could be so stupid as not to see it impossible for one and the same man, at the same time, to be father and master, king and tyrant, over the same persons. But lest he should think me too scrupulous, or too strict in inquiring after truth, I intend for the present to wave that inquiry, and to seek what was good for Adam and Noah; what we have reason to believe they desired to transmit to their posterity, and to take it for a perpetual law in its utmost extent; which I think will be of no advantage to our author: for this authority, which was universal during their lives, must necessarily, after their decease, be divided, as an inheritance, into as many parcels as they had children. The apostle says, "If children, then heirs, heirs of God, and joint-heirs with Christ*;" which, alluding to the laws

* Rom. ch. 8, v. 17

and customs of nations, could have been of no force, unless it had been true and known to be so. But if children are heirs, or joint-heirs, whatever authority Adam or Noah had, is inherited by every man in the world; and that title of heir, which our author so much magnifies, as if it were annexed to one single person, vanishes into nothing: or else the words of the apostle could have neither strength nor truth in them, but would be built upon a false foundation; which may perhaps agree with our author's divinity.

Yet, if the apostle had not declared himself so fully in this point, we might easily have seen, that Adam and Noah did leave their children in that equality: for fathers are ever understood to embrace all their children with equal affection, till the discovery of personal virtues and vices makes a difference. But the personal virtues, that give a reasonable preference of one before another, or make him more fit to govern than the others, cannot appear before he is, nor can be annexed to any one line: therefore the father cannot be thought to have given to one man, or his descendants, the government of his brethren and their descendants.

Besides, though the law of England may make one man to be sole heir of his father, yet the laws of God and nature do not so. All the children of Noah were his heirs. The land promised to Abraham, Isaac, and Jacob, was equally divided among their children. If the children of Joseph made two tribes, it was not as the first-born, but by the will of Jacob, who adopted Ephraim and Manasseh; and they thereby became his sons, and obtained an inheritance equal to that of the other tribes. The law allowed a double portion to the first-begotten; but this made a difference between the brothers only in proportion: whereas that between lord and servant is in specie, not in degree. And if our author's opinion might take place, instead of such a division of the common inheritance between brothers, as was made between the children of Jacob, all must continue for ever slaves to one lord; which would establish a difference in specie between brethren, which nature abhors.

If nature does not make one man lord over his brethren, he can never come to be their lord, unless they make him so, or he subdue them. If he subdue them, it is an act of violence contrary to right, which may consequently be recovered. If they make him lord, it is for their own sakes, not for his; and he must seek their good, not his own, lest, as Aristotle says, he degenerate from a king into a tyrant. He therefore who would persuade us, that the dominion over every nation does naturally belong to one man, woman, or child, at a venture, or to the heir, whatever he or she be, as to age, sex, or other qualifications, must prove it good for all nations to be under them. But as reason is our nature, that can never be natural to us that is not rational. Reason gives "paria paribus," equal power to those who have equal abilities and merit: it allots to every one the part he is most fit to perform; and this fitness must be equally lasting with the law that allots it. But as it can never be good for

CHAP. II great nations, having men amongst them of virtue, experience, wisdom, and goodness, to be governed by children, fools, or vicious and wicked persons, and we neither find, that the virtues required in such as deserve to govern them, did ever continue in any race of men, nor have reason to believe they ever will, it can never be reasonable to annex the dominion of a nation to any one line. We may take this upon Solomon's word, "Wo to thee, O land, when thy king is a child, and thy princes eat in the morning*!" and I wish the experience of all ages did not make this truth too evident to us. This therefore can never be the work, much less the law, of nature. And if there be any such thing in the world, as the dominion over a nation inseparably united to a man and his family, it can have no other root, than a civil or municipal law, which is not the subject of our discourse.

Moreover, every father's right must cease, when he ceases to be; or be transmitted to those, who, being also fathers, have the same title to it. And, though the contrary method of annexing the whole inheritance to one person, or exposing all his brethren to be destroyed by his rage, if they will not submit, may conduce to the enlargement of a proud and violent empire, as in Turkey, where he that gains the power, usually begins his reign with the slaughter of his brothers and nephews, yet it can never agree with the piety, gentleness, and wisdom, of the patriarchs, or the laws of God and nature.

These things being agreed, we need not trouble ourselves with the limits or definition of a family, and as little with the titles given to the head of it: it is all one to us, whether it be confined to one roof and fire, or extended farther; and none but such as are strangers to the practice of mankind, can think that titles of civility have a power to create a right of dominion. Every man in Latin is called "dominus," unless such as are of the vilest condition, or in a great subjection to those who speak to them; and yet the word, strictly taken, relates only to "servus;" for a man is lord only of his servant or slave. The Italians are not less liberal of the titles of "signore" and "padrone," and the Spaniards of "senor:" but he would be ridiculous in those countries, who thereupon should arrogate to himself a right of dominion over those who are so civil. The vanity of our age seems to carry this point a little higher, especially among the French, who put a great weight upon the word "prince:" but they cannot change the true signification of it; and even in their sense, "prince du sang" signifies no more than a chief man of the royal blood, to whom they pay much respect, because he may come to the crown; as they at Rome do to cardinals, who have the power of choosing popes, and out of whose number, for some ages, they have been chosen. In this sense did Scaevola, when he was apprehended by Porfenna, say, "trecenti conjuravimus principes juventutis Romanae †;" which was never otherwise understood, than of such young citizens as were remarkable among

* Eccl. ch. 10, v. 16.

† Liv. l. 2, c. 12

their companions. And nothing can be more absurd than to think, if the name of prince had carried an absolute and despotical power with it, that it could belong to three hundred in a city, that possessed no more than a ten miles territory; or that it could have been given to them, whilst they were young, and the most part of their fathers, as is most probable, still living.

I should, like our author, run round in a circle, if I should refute what he says of a regal power in our first parents; or shew that the regal, where it is, is not absolute, as often as he does assert it. But, having already proved, that Adam, Noah, Abraham, Isaac, Jacob, &c. enjoyed no such power, transmitted to every one of their sons that which they had, and they became fathers of many great nations, who always continued independent on each other, I leave to our author to prove, when, and by what law, the right of subdividing the paternal power was stopped; and how any one or more of their descendents came to have that power over their brethren, which none of their immediate children had over theirs.

His question to Suarez, how and when sons become free, favours more of jesuitical sophistry, than any thing said by the jesuit. But the solution is easy: for if he mean the respect, veneration, and kindness proceeding from gratitude, it ceases only with the life of the father to whom it is due, and the memory of it must last as long as that of the son; and if they had been possessed of such an absolute power as he fancies, it must have ceased with the reasons upon which it was grounded.

First, because the power, of which a father would probably have made a wise and gentle use, could not be rightly trusted in the hands of one who is not a father; and that, which tended only to the preservation of all the children, could not be turned to the increase of the pride, luxury, and violence of one, to the oppression of others, who are equally heirs.

In the second place, societies cannot be instituted, unless the heads of the families, that are to compose them, resign so much of their right, as seems convenient, into the public stock, to which every one becomes subject. But that the same power should, at the same time, continue in the true father, and the figurative father, the magistrate, and that the children should owe entire obedience to the commands of both, which may often cross each other, is absurd.

Thirdly, it ceases when it cannot be executed; as when men live to see four or five generations, as many do at this day; because the son cannot tell whether he shall obey his father, grandfather, or great-grandfather, and cannot be equally subject to them all; especially, when they live in divers places, and set up families of their own, as the sons of the patriarchs did. Which being observed, I know no place where this paternal power could have any effect, unless in the fabulous island of Pines; and even there it must have ceased, when he died, who, by the inventor of the story, is said to have seen above ten thousand persons issued of his body.

And if it be said, that Noah, Shem, Abraham, &c. consented that their children should go where they thought fit, and provide for themselves, I

CHAP. II answer, that the like has been done in all ages, and must be done for ever. It is the voice of nature, obeyed, not only by mankind, but by all living creatures; and there is none so stupid as not to understand it. A hen leaves her chickens, when they can seek their own nourishment. A cow looks after her calf no longer, than till it is able to feed. A lioness gives over hunting for her whelps, when they are able to seek their own prey, and have strength enough to provide what is sufficient for themselves. And the contrary would be an insupportable burden to all living creatures, but especially to men: for the good order, that the rational nature delights in, would be overthrown, and civil societies, by which it is best preserved, would never be established.

We are not concerned to examine, whether the political and oeconomical powers be entirely the same, or in what they differ: for that absolute power, which he contends for, is purely despotical, different from both, or rather inconsistent with either as to the same subject; and that which the patriarchs exercised, having been equally inherited by their children, and consequently by every one of their posterity, it is as much as is required for my purpose of proving the natural universal liberty of mankind; and I am no way concerned in the question, whether the first parents of mankind had a power of life and death over their children, or not.

SECTION V

FREEMEN JOIN TOGETHER, AND FRAME GREATER OR LESS SOCIETIES, AND GIVE SUCH FORMS TO THEM AS BEST PLEASE THEMSELVES.

This being established, I shall leave Filmer to fight against Suarez or Bellarmine; or to turn one of them against the other, without any concernment in the combat, or the success of it. But since he thereupon raises a question, "whether the supreme power be so in the people, that there is
" but one and the same power in all the people of the world, so that no
" power can be granted, unless all the men upon the earth meet, and
" agree to choose a governor," I think it deserves to be answered, and might do it by proposing a question to him: whether in his opinion, the empire of the whole world does, by the laws of God and nature, belong to one man, and who that man is? or, how it came so to be divided, as we have ever known it to have been, without such an injury to the universal monarch, as can never be repaired? But intending to proceed more candidly, and not to trouble myself with Bellarmine or Suarez, I say, that they, who place the power in a multitude, understand a multitude composed of freemen, who think it for their convenience to join together, and to establish such laws and rules as they oblige themselves to observe: which multitude, whether it be great or small, has the same right; because ten
men

men are as free as ten millions of men; and though it may be more prudent in some cases to join with the greater than the smaller number, because there is more strength, it is not so always. But however every man must therein be his own judge; since if he mistake, the hurt is only to himself; and the ten may as justly resolve to live together, frame a civil society, and oblige themselves to laws, as the greatest number of men that ever met together in the world.

Thus we find that a few men, assembling together upon the banks of the Tiber, resolved to build a city, and set up a government among themselves. And the multitude that met at Babylon, when their design of building a tower that should reach up to heaven failed, and their language was confounded, divided themselves, as our author says, into seventy two parcels, and by the same right might have divided into more, as their descendents did into almost an infinite number, before the death of their common father Noah. But we cannot find a more perfect picture of freemen, living according to their own will, than in Abraham and Lot. They went together into Canaan, continued together as long as was convenient for them, and parted when their substance did so increase, that they became troublesome to each other. In the like manner Ishmael, Isaac, and Abraham's six sons by Keturah might have continued together, and made one nation. Isaac and Esau, Moab and Ammon, might have done so too; or all of them that came of the same stock might have united together: but they did not. Their descendents by the same rule might have subdivided perpetually, if they had thought it expedient for themselves. And if the sons of Jacob did not do the like, it is probable they were kept together by the hope of an inheritance promised to them by God; in which we find no shadow of a despotical dominion, affected by one as father or heir to the first father, or reputed to be the heir; but all continued in that fraternal equality, which, according to Abraham's words to Lot, they ought to do*. There was no lord, slave or vassal; no strife was to be among them; they were brethren; they might live together, or separate, as they found it convenient for themselves. By the same law that Abraham and Lot, Moab and Ammon, Ishmael, Isaac, and the sons of Keturah, Jacob, Esau, and their descendents, did divide, and set up several governments, every one of their children might have done the like: and the same right remained to their issue, till they had by agreement engaged themselves to each other. But if they had no dependence upon each other, and might live together in that fraternal equality which was between Abraham and Lot, or separate, and continue in that separation, or reunite, they could not but have a right of framing such conditions of their reunion as best pleased themselves. By this means every number of men, agreeing together, and framing a society, became a complete body, having all power in themselves over themselves, subject to no other human law than their own.

* Let there be no strife, I pray thee, between me and thee; for we are brethren. Gen. ch. 13, v. 8.

CHAP. II All those, that compose the society, being equally free to enter into it or not, no man could have any prerogative above others, unless it were granted by the consent of the whole. And nothing obliging them to enter into this society, but the consideration of their own good, that good, or the opinion of it, must have been the rule, motive, and end, of all that they did ordain. It is lawful therefore for any such bodies to set up one, or a few men, to govern them, or to retain the power in themselves. And he or they who are set up, having no other power but what is so conferred upon them by that multitude, whether great or small, are truly by them made what they are; and, by the laws of their own creation, are to exercise those powers according to the proportion, and to the ends, for which they were given.

These rights, in several nations and ages, have been variously executed in the establishment of monarchies, aristocracies, democracies, or mixed governments, according to the variety of circumstances; and the governments have been good or evil, according to the rectitude or pravity of their institution, and the virtue and wisdom, or the folly and vices of those to whom the power was committed. But the end which was ever proposed, being the good of the public, they only performed their duty, who procured it according to the laws of the society, which were equally valid as to their own magistrates, whether they were few or many.

This might suffice to answer our author's question; but he endeavours farther to perplex it, by a fiction of his own brain, "that God gave this power to the whole multitude only, and not to any particular assembly of men;" and expects a proof, "that the whole multitude met, and divided this power which God gave them in gross, by breaking into parcels, and by appointing a distinct power to each commonwealth." He also fathers it upon the assertors of liberty; "and does not see," as he says, "how there can be an election of a magistrate by any commonwealth, that is not an usurpation upon the privilege of the whole world, unless all mankind had met together, and divided the power into parcels which God had given them in gross." But before I put myself to the trouble of answering that which is but an appendix to a whim of his own, I may justly ask, what hurt he finds in usurpation, who asserts, that the same obedience is due to all monarchs, whether they come in by inheritance, election or usurpation? If usurpation can give a right to a monarch, why does it not confer the same upon a people? or rather, if God did in gross confer such a right upon all mankind, and they neither did, nor can meet together by consent to dispose of it for the good of the whole, why should not those, who can, and do consent to meet together, agree upon that which seems most expedient to them for the government of themselves? Did God create man under the necessity of wanting government, and all the good that proceeds from it, because at the first all did not, and afterwards all could not meet to agree upon rules? Or did he ever declare, that, unless they used the first opportunity of dividing themselves into such parcels as were to remain unalterable, the right of reigning

reigning over every one should fall to the first villain that should dare to attempt it? Is it not more consonant to the wisdom and goodness of God, to leave to every nation a liberty of repairing the mischiefs, fallen upon them through the omission of their first parents, by setting up governments among themselves, than to lay them under a necessity of submitting to any that should insolently aspire to a domination over them? Is it not more just and reasonable to believe, that the universal right, not being executed, devolves upon particular nations, as members of the great body, than that it should become the reward of violence or fraud? Or is it possible that any one man can make himself lord of a people, or parcel of that body, to whom God had given the liberty of governing themselves, by any other means than violence or fraud, unless they did willingly submit to him? If this right be not devolved upon any one man, is not the invasion of it the most outrageous injury that can be done to all mankind, and most particularly to the nation that is enslaved by it? Or if the justice of every government depends necessarily upon an original grant, and a succession certainly deduced from our first fathers, does not he by his own principles condemn all the monarchies of the world, as the most detestable usurpations; since not one of them, that we know, do any way pretend to it? Or, though I, who deny any power to be just that is not founded upon consent, may boldly blame usurpation, is it not an absurd and unpardonable impudence in Filmer, to condemn usurpation in a people, when he has declared that the right and power of a father may be gained by usurpation; and that nations in their obedience are to regard the power, not the means by which it was gained? But not to lose more time upon a most frivolous fiction, I affirm, that the liberty, which we contend for, is granted by God to every man in his own person, in such a manner as may be useful to him and his posterity, and as it was exercised by Noah, Shem, Abraham, Isaac, Jacob, &c. and their children, as hath been proved, and not to the vast body of all mankind, which never did meet together since the first age after the flood, and never could meet to receive any benefit by it.

His next question deserves scorn and hatred, with all the effects of both, if it proceed from malice; though perhaps he may deserve compassion, if his crime proceed from ignorance. "Was a general meeting of a whole kingdom," says he, "ever known for the election of a prince?" But if there never were any general meetings of whole nations, or of such as they did delegate and intrust with the power of the whole, how did any man that was elected come to have a power over the whole? Why may not a people meet to choose a prince, as well as any other magistrate? Why might not the Athenians, Romans, or Carthaginians, have chosen princes as well as archons, consuls, dictators, or suffetes, if it had pleased them? Who chose all the Roman kings, except Tarquin the Proud, if the people did not; since their histories testify, that he was the first who took upon him to reign "sine jussu populi*?" Who

* *Conscius malè quaerendi regni ab se ipso adversus se exemplum capi posse, armatis corpus circumsepfit: neque enim ad jus regni quicquam praeter vim habebat, ut qui neque populi jussu, neque auctoribus patribus regnaret.* Liv. l. 1, § 49

CHAP. II ever heard of a king of the Goths in Spain, that was not chosen by the nobility and people? Or, how could they choose him, if they did not meet in their persons, or by their deputies, which is the same thing, when a people has agreed it should be so? How did the kings of Sweden come by their power, unless by the like election, till the crown was made hereditary, in the time of Gustavus the First, as a reward of his virtue and service in delivering that country from the tyranny of the Danes? How did Charles Gustavus come to be king, unless it was by the election of the nobility? He acknowledged by the act of his election, and upon all occasions, that he had no other right to the crown than what they had conferred on him. Did not the like custom prevail in Hungary and Bohemia, till those countries fell under the power of the house of Austria? and in Denmark, till the year 1660? Do not the kings of Poland derive their authority from this popular election, which he derides? Does not the stile of the oath of allegiance used in the kingdom of Arragon, as it is related by Antonio Perez, secretary of state to Philip II. shew, that their kings were of their own making? Could they say, "we, who are as good as you, make you our king, on condition that you keep and observe our privileges and liberties, and if not, not *," if he did not come in by their election? Were not the Roman emperors in disorderly times chosen by the soldiers; and in such as were more regular, by the senate with the consent of the people?

Our author may say, the whole body of these nations did not meet at their elections; though that is not always true. For in the infancy of Rome, when the whole people dwelt within the walls of a small city, they did meet for the choice of their kings, as afterwards for the choice of other magistrates. Whilst the Goths, Franks, Vandals, and Saxons, lived within the precincts of a camp, they frequently met for the election of a king, and raised upon a target the person they had chosen. But, finding that to be inconvenient, or rather impossible, when they were vastly increased in number, and dispersed over all the countries they had conquered, no better way was found, than to institute gemotes, parliaments, diets, cortes, assemblies of estates, or the like, to do that which formerly had been performed by themselves. And when a people is, by mutual compact, joined together in a civil society, there is no difference, as to right, between that which is done by them all in their own persons, or by some deputed by all, and acting according to the powers received from all.

If our author was ignorant of these things, which are the most common in all histories, he might have spared the pains of writing upon more abstruse points; but it is a stupendous folly in him, to presume to raise doctrines depending upon the universal law of God and nature, without examining the only law that ever God did, in a public manner, give to man. If he had looked into it, he might have learned, that all Israel was, by the command of God, assembled at Mizpeh to choose a king, and did choose Saul. He being slain, all Judah came to Hebron, and made David

* Nos que valemus tanto como vos, os hacemos nuestro rey, con tal que vos guardéis nuestros fueros y libertades, y sino, no. Relacion. de Ant. Perez.

their king: after the death of Ishbosheth, all the tribes went to Hebron, and anointed him king over them, and he made a covenant with them before the Lord. When Solomon was dead, all Israel met together in Sechem; and ten tribes, disliking the proceedings of Rehoboam, rejected him, and made Jeroboam their king*. The same people, in the time of the judges, had general assemblies, as often as occasion did require, to set up a judge, to make war or the like: and the several tribes had their assemblies to treat of business relating to themselves. The histories of all nations, especially of those that have peopled the best parts of Europe, are so full of examples in this kind, that no man can question them, unless he be brutally ignorant, or maliciously contentious. The great matters among the Germans were transacted *omnium consensu*. “*De minoribus consultant principes; de majoribus omnes* †.” The “*micelgemote*” among the Saxons was an assembly of the whole people: the “*baronagium*” is truly said to be the same, in as much as it comprehended all the freemen, that is, all the people; for the difference between “*civis*” and “*servus*” is irreconcilable; and no man, whilst he is a servant, can be a member of a commonwealth; for he, that is not in his own power, cannot have a part in the government of others. All the fore-mentioned northern nations had the like customs among them: the governments they had were so instituted. The utmost, that any now remaining pretends to, is, to derive their right from them. If, according to Filmer, these first assemblies could not confer it upon the first, they had none: such as claim under them, can inherit none from those that had none; and there can be no right in all the governments we so much venerate; and nothing can tend more to their overthrow than the reception of our author’s doctrine.

Though any one instance would be sufficient to overthrow his general negative proposition (for a rule is not generally true, if there be any just exception against it) I have alleged many, and find it so easy to increase the number, that there is no nation, whose original we know, out of whose histories I will not undertake to produce the like. But I have not been solicitous precisely to distinguish, which nations have acted in their own persons, and which have made use of delegates; nor in what times they have changed from one way to the other: for, if any have acted by themselves, the thing is possible; and whatever is done by delegated powers, must be referred to their principals; for none can give to any a power which they have not in themselves.

He is graciously pleased to confess, that “when men are assembled by a human power, the power that doth assemble them, may also limit the manner of the execution of that power, &c. But in assemblies that take their authority from the law of nature, it is not so; for what

* 1 Sam. ch. 10, v. 17. 2 Sam. ch. 2, v. 4. 2 Sam. ch. 5, v. 3. 1 Kings, ch. 22, v. 20

† *De minoribus rebus principes consultant, de majoribus omnes: ita tamen, ut ea quoque, quorum penes plebem arbitrium est, apud principes pertractentur.* Tacit. *De Mor. Germ.* § 11

CHAP. II “liberty or freedom is due to any man by the law of nature, no inferior power can alter, limit, or diminish: no one man, or multitude of men, can give away the natural right of another.” These are strong lines, and such as, if there be any sense in them, utterly overthrow all our author’s doctrine. For if any assembly of men did ever take their authority from the law of nature, it must be of such as, remaining in the entire fruition of their natural liberty, and restrained by no contract, meet together to deliberate of such matters as concern themselves; and if they can be restrained by no one man, or number of men, they may dispose of their own affairs as they think fit. But because no one of them is obliged to enter into the society that the rest may constitute, he cannot enjoy the benefit of that society unless he enter into it: he may be gone, and set up for himself, or set up another with such as will agree with him. But if he enter into the society, he is obliged by the laws of it; and if one of those laws be, that all things should be determined by the plurality of voices, his assent is afterwards comprehended in all the resolutions of that plurality. Reuben or Simeon might, according to the laws of nature, have divided themselves from their brethren, as well as Lot from Abraham, or Ishmael and the sons of Keturah from Isaac. But when they, in hopes of having a part in the inheritance promised to their fathers, had joined with their brethren, a few of their descendents could not have a right, by their dissent, to hinder the resolutions of the whole body, or such a part of it, as by the first agreement was to pass for an act of the whole. And the Scripture teaches us, that when the lot was fallen upon Saul, they who despised him were stiled “men of Belial* ;” and the rest, after his victory over the Ammonites, would have slain them, if he had permitted. In the like manner, when a number of men met together to build Rome, any man who had disliked the design, might justly have refused to join in it; but when he had entered into the society, he could not by his vote invalidate the acts of the whole, nor destroy the rights of Romulus, Numa, and the others, who by the senate and people were made kings; nor those of the other magistrates, who after their expulsion were legally created.

This is as much as is required to establish the natural liberty of mankind in its utmost extent, and cannot be shaken by our author’s surmise, “that a gap is thereby opened for every seditious multitude to raise a new commonwealth.” For till the commonwealth be established, no multitude can be seditious, because they are not subject to any human law; and sedition implies an unjust and disorderly opposition of that power which is legally established; which cannot be when there is none, nor by him who is not a member of the society that makes it; and when it is made, such as entered into it, are obliged by the laws of it.

This shewing the root and foundation of civil powers, we may judge of the use and extent of them, according to the letter of the law, or the true intentional meaning of it; both which declare them to be purely human ordinances, proceeding from the will of those who seek their

* 1 Sam. ch. 10, v. 27

own good; and may certainly infer, that, since all multitudes are composed of such as are under some contract, or free from all, no man is obliged to enter into those contracts against his own will, nor obliged by any to which he does not assent. Those multitudes, that enter into such contracts, and thereupon form civil societies, act according to their own will: those that are engaged in none, take their authority from the law of nature; their rights cannot be limited or diminished by any one man, or number of men; and consequently whoever does it, or attempts the doing of it, violates the most sacred laws of God and nature.

His cavils concerning proxies, and the way of using them, deserve no answer, as relating only to one sort of men amongst us, and can have no influence upon the laws of nature, or the proceedings of assemblies, acting according to such rules as they set to themselves. In some places they have voted all together in their own persons, as in Athens; in others by tribes, as in Rome; sometimes by delegates, when the number of the whole people is so great, that no one place can contain them, as in the parliaments, diets, general assemblies of estates, long used in the great kingdoms of Europe. In other parts many cities are joined together in leagues, as antiently the Achaians, Etolians, Samnites, Tuscans; and in these times the states of Holland, and cantons of Switzerland. But our author, not regarding such matters, in pursuance of his folly, with an ignorance as admirable as his stupidity, repeats his challenge: "I ask," says he, "but one example out of the history of the whole world; let the common-wealth be named, where the multitude, or so much as the major part of it, consented, either by voice, or procuration, to the election of a prince;" not observing, that if an answer could not be given, he did overthrow the rights of all the princes that are, or ever have been, in the world. For if the liberty of one man cannot be limited or diminished by one, or any number of men, and none can give away the right of another, it is plain, that the ambition of one man, or of many, a faction of citizens, or the mutiny of an army, cannot give a right to any over the liberties of a whole nation. Those, who are so set up, have their root in violence or fraud, and are rather to be accounted robbers and pirates, than magistrates. Leo Africanus, observing in his history, that, since the extinction of Mahomet's race (to whom his countrymen thought God had given the empire of the world) their princes did not come in by the consent of those nations which they governed, says, that they are esteemed thieves; and that on this account, the most honourable men among the Arabians and Moors scorn to eat, drink, or make alliances with them*. And if the case were as general as that author makes it, no better rule could be any where followed by honourable and worthy men. But a good cause must not be lost by the fault of an ill advocate: the rights of kings must not perish, because Filmer knows not how to defend, or does maliciously betray them. I have already proved that David, and divers of the judges, were chosen by all Israel; Jeroboam by ten tribes; all the kings

* Desc. Afric. ***

CHAP. II of Rome, except Tarquin the Proud, by the whole city. I may add many examples of the Saxons in our own country. Ina and Offa were made kings "omnium consensu." These "all" are expressed plainly by the words, "archiepiscope, episcopis, abbatibus, senatoribus, ducibus, et populo terrae*." Egbert came to the crown by the same authority: "omnium consensu rex creatur †." Ethelwolf the monk, "necessitate cogente, factus est rex, et consensus publicus in regem dari petiit ‡." Ethelstan, though a bastard, "electus est magno consensu optimatum, et à populo consalutatus §." In the like manner, Edwin's government being disliked, they chose Edgar: "unanimes omnium conspersione, Edwinum dejecto, elegerunt, Deo dictante, Edgarum in regem, et annuente populo;" and in another place, "Edgarus ab omni Anglorum populo electus est**." Ironside being dead, Canutus was received by the general consent of all, "juraverunt illi, quod eum regem sibi eligere vellent: foedus etiam cum principibus et omni populo ipse, et illi cum ipso percusserunt:" whereupon, "omnium consensu super totam Angliam Canutus coronatur ††." "Hardicanutus gaudenter ab omnibus suscipitur, & electus est ††." The same author says, Edward the Confessor

* Gens de regno Merciorum, contra regem suum Beornredum insurgens, pro eo quod populum non aequis legibus, sed per tyrannidem gubernaret, convenerunt in unum omnes tam nobiles quam ignobiles, et Offa duce, adolescente strenuissimo, ipsum à regno expulerunt. Quo facto, unanimi omnium consensu Offam in regem tam clerus quam populus coronarunt. Mat. West. Flor. Hist. ann. 758

Ina, magis pro insitivae virtutis industria, quam successivae sobolis profapia, in principatum ascitur. Will. Malmesb. l. 1, p. 14

In the council at Calchuth, A. D. 787, it was decreed, Ut legitime reges à sacerdotibus & senioribus populi eligantur. And, at the conclusion of the decrees which were made in that assembly, it is said: Haec decreta, beatissime papa Hadriane, in concilio publico, coram rege Aelfuualdo, et archiepiscopo Eanbaldo, et omnibus episcopis et abbatibus regionis, seu senatoribus, et ducibus, et populo terrae, proposuimus, etc. Spelm. Concil. p. 296, 300

† Egbertus, ex Gallia prope in patriam reversus, omnium consensu rex creatur. Rex occiduis à Cerdicio decimus septimus ab omnibus consalutatus. Polyd. Verg. Angl. Hist. l. 4, p. 88, et l. 5, p. 89. Ed. Basil. 1534

‡ Adewulfus primum fuerat episcopus; sed Egbrictho patre suo defuncto, necessitate cogente, factus est rex. Hovend. Annal. p. 413. Hunting. Hist. l. 5, p. 348. Ed. Franc. 1601

§ Magno consensu optimatum Aethelstanus electus; apud regiam villam, quae vocatur Kingston coronatus. Will. Malmesb. l. 2, c. 6.——Adelstanus à Cerdicio vigesimus quartus, ex concubina Edouardi filius, rex à populo consalutatur. Polyd. Verg. l. 6. p. 109

** Quo [Eadwio] unanimi omnium conspersione, dejecto, elegerunt, Deo dictante, fratrem ejus Eadgarem in regem, et annuente populo, res regni publica dispertita inter fratres, Themesis fluvius regnum determinaret amborum. Eadwii regnum frater ejus Eadgarus, ab omni populo electus, suscipiens, divisa regna in unum compaginavit. Mat. West. ann. 957, et 959

†† Rex Canutus ab optimatibus fidelia juramenta recepit; et illi juraverunt illi quod illum regem sibi eligere vellent.——Hoc anno totius Angliae suscepit imperium: foedus etiam cum principibus, et omni populo percussit, et amicitiam firmam inter se juramentis stabilierunt. Hovend. Annal. p. 436.——Infidiis Edmundus occisus est, et omnium consensu Cnutus super totam Angliam coronatus. Ingulphi Hist. p. 892

‡‡ Hardicanutus gaudenter ab omnibus suscipitur, regniq; solio mox sublimatur. Hovend.

feffor “electus est in regem ab omni populo;” and another, “omnium electione in Edwardum concordatur*.” Though the name of “Conqueror” be odiously given to William the Norman, he had the same title to the crown with his predecessors: “in magna exultatione à clero et populo susceptus, & ab omnibus rex acclamatus †.” I cannot recite all the examples of this kind, that the history of almost all nations furnishes, unless I should make a volume in bulk not inferior to the book of martyrs. But those which I have mentioned out of the sacred, Roman, and English history, being more than sufficient to answer our author’s challenge, I take liberty to add, that though there could not be one example produced of a prince, or any other magistrate, chosen by the general consent of the people, or by the major part of them, it could be of no advantage to the cause he has undertaken to maintain. For when a people has either indefinitely, or under certain conditions and limitations, resigned their power into the hands of a certain number of men, or agreed upon rules, according to which persons should, from time to time, be deputed for the management of their affairs, the acts of those persons, if their power be without restrictions, are of the same value as the acts of the whole nation, and the assent of every individual man is comprehended in them. If the power be limited, whatever is done, according to that limitation, has the same authority. If it does therefore appear, as is testified by the laws and histories of all our northern nations, that the power of every people is either wholly, or to such a degree as is necessary for creating kings, granted to their several gemotes, diets, cortex, assemblies of estates, parliaments, and the like, all the kings, that they have any where, or at any time chosen, do reign by the same authority, and have the same right, as if every individual man of those nations had assented to their election. But that these gemotes, diets, and other assemblies of state, have every where had such powers, and executed them by rejecting or setting up kings, and that the kings, now in being among us, have received their beginning from such acts, has been fully proved, and is so plain in itself, that none but those who are grossly stupid or impudent can deny it. Which is enough to shew, that all kings are not set up by violence, deceit, faction of a few powerful men, or the mutinies of armies; but from the consent of such multitudes, as joining together, frame civil societies; and either in their own persons at general assemblies, or by their delegates, confer a just and legal power upon them: which our author rejecting, he does, as far as in him lies, prove them all to be usurpers and tyrants.

vend. Annal. p. 438.—Hardecnut filius regis Cnut, et Emmae reginae, veniens à Daciâ, illicò susceptus est, et electus in regem simul ab Anglis et Dacis. Hunting. Hist. 1. 6, p. 365

* Edwardus cum paucis venit in Angliam, et electus est in regem ab omni populo. Hunting. Hist. 1. 6, p. 365.—Post Hardecnuti obitum omnium electione in Edwardum concordatur. Ingulphi Hist. p. 950

† Anno Domini 1067 Dux Normanniae Willielmus, urbem Londinarum adiens, in magnâ exultatione à clero et populo susceptus, et ab omnibus rex acclamatus, dominicae nativitatis die ab Aldredo, Eboracensi archiepiscopo, regni diadema suscepit. Mat. Paris. p. 5. Mat. West. ann. 1067. p. 225

SECTION VI

THEY, WHO HAVE A RIGHT OF CHOOSING A KING, HAVE THE
RIGHT OF MAKING A KING

Though the right of magistrates does essentially depend upon the consent of those they govern, it is hardly worth our pains to examine, “ whether “ the silent acceptation of a governor, by part of the people, be an “ argument of their concurring in the election of him ; or whether, by “ the same reason, the tacit consent of the whole commonwealth may be “ maintained.” For when the question is concerning right, fraudulent surmises are of no value ; much less will it from thence follow, “ that a “ prince commanding by succession, conquest, or usurpation, may be said “ to be elected by the people ;” for evident marks of dissent are often given. Some declare their hatred ; others murmur more privately ; many oppose the governor or government, and succeed according to the measure of their strength, virtue, or fortune. Many would resist, but cannot ; and it were ridiculous to say, that the inhabitants of Greece, the kingdom of Naples, or dutchy of Tuscany, do tacitly assent to the government of the Great Turk, king of Spain, or duke of Florence ; when nothing is more certain than that those miserable nations abhor the tyrannies they are under ; and, if they were not mastered by a power that is much too great for them, they would soon free themselves. And they who are under such governments, do no more assent to them, though they may be silent, than a man approves of being robbed, when, without saying a word, he delivers his purse to a thief that he knows to be too strong for him.

It is not therefore the bare sufferance of a government when a disgust is declared, nor a silent submission when the power of opposing is wanting, that can imply an assent or election, and create a right ; but an explicit act of approbation, when men have ability and courage to resist or deny. Which being agreed, it is evident that our author’s distinction between “ eligere ” and “ instituire ” signifies nothing : though, if the power of instituting were only left to nations, it would be sufficient ; for he is in vain elected who is not instituted ; and he that is instituted is certainly elected ; for his institution is an election. As the Romans, who chose Romulus, Numa, and Hostilius, to be kings, and Brutus, Valerius, or Lucretius, to be consuls, did make them so, and their right was solely grounded upon their election. The text brought by our author against this does fully prove it : “ Thou shalt set him king over thee, whom the “ Lord shall choose *.” For God did not only make the institution of a king to be solely an act of the people, but left it to them to institute one or more, as should best please themselves ; and the words, “ whom the

* Deut. ch. 17, v. 15

“ Lord shall choofe,” can have no other fignification, than that the people refolving to have a king, and following the rules prefcribed by his fervant Mofes, he would direct them in their choice: which relates only to that particular people in covenant with God, and immediately under his government, which no other was. But this pains might have been faved, if God by a univerfal law had given a rule to all. The Ifraelites could not have been three hundred years without a king, and then left to the liberty of making one, or not, if he by a perpetual law had ordained, that every nation fhould have one; and it had been as well impertinent as unjust to deliberate who fhould be king, if the dominion had by right of inheritance belonged to one: they muft have fubmitted to him whether they would or not. No care was to be taken in the election or inftitution of him, who, by his birth, had a right annexed to his perfon, that could not be altered. He could not have been forbidden “ to multiply filver or gold,” who by the law of his creation might do what he pleafed. It had been ridiculous to fay, “ he fhould not raife his heart above his brethren,” who had no brethren, that is, no equals; but was raifed above all by God, who had impofed upon all others a neceffity of obeying him. But God, who does nothing in vain, did neither conftitute or elect any till they defired it, nor command them to do it themfelves, unlefs it fo pleafed themfelves; nor appoint them to take him out of any one line. Every Ifraelite might be chofen; none but ftrangers were excluded; and the people were left to the liberty of choofing and inftituting any one of their brethren.

Our author, endeavouring by Hooker’s authority to eftablifh his diftinction between “ eligere” and “ inftituere,” deftroys it, and the paternal right, which he makes the foundation of his doctrine. “ Heaps of “ Scriptures are alleged,” fays he, “ concerning the folemn coronation or “ inauguration of Saul, of David, of Solomon, and others, by the “ nobles, antients, and people of the commonwealth of Ifrael *:” which is enough to prove that the whole work was theirs; that no other had any title more than what they beftowed upon him; that kings were fet up by the nobles, antients, and people. Even God did no otherwife intervene than by fuch a fecret difpofition of the lots by his providence, as is exercifed in the government of all the things in the world. And we cannot have a more certain evidence, that a paternal right to dominion is a mere whimfy, than that God did not caufe the lot to fall upon the eldeft, of the eldeft line; of the eldeft tribe; but upon Saul, a young man, of the youngeft tribe. And afterwards, though he had defigned David, Solomon, Jeroboam, and others, who had no pretence to the paternal right to be kings, he left both the election and inftitution of them to the elders and people.

But Hooker being well examined, it will appear, that his opinions are as contrary to the doctrine of our author, as thofe we have mentioned

* Hooker’s Eccl. Polit. b. 8, ch. 2, cited by Filmer.

CHAP. II out of Plato and Aristotle. He plainly says, "it is impossible, that any
 " should have a complete lawful power over a multitude, consisting of so
 " many families, as every politic society doth, but by consent of men, or
 " immediate appointment of God; because not having the natural supe-
 " riority of fathers, their power must needs be either usurped, and then
 " unlawful; or if lawful, then either granted or consented unto by them
 " over whom they exercise the same, or else given extraordinarily by
 " God*." And though he thinks kings to have been the first governors
 so constituted, he adds, "that this is not the only regiment that hath
 " been received in the world. The inconveniences of one kind have
 " caused fundry others to be devised. So that in a word, all public regi-
 " ment, of what kind soever, seemeth evidently to have risen from deli-
 " berate advice, consultation, and composition, between men, judging it
 " convenient and behoveful." And a little below, "man's nature stand-
 " ing therefore as it doth, some kind of regiment the law of nature doth
 " require; yet the kinds thereof being many, nature tieth not to any
 " one, but leaveth the choice as a thing arbitrary." And again, "to
 " live by one man's will, became the cause of all men's misery. This
 " constrained them to come unto laws, &c. But as those laws do not
 " only teach that which is good, but enjoin it, they have in them a
 " constraining force; and to constrain men to any thing inconvenient
 " doth seem unreasonable. Most requisite therefore it is, that, to devise
 " laws, which all men shall be forced to obey, none but wise men should
 " be admitted. . . Moreover, that which we say, concerning the power of
 " government, must here be applied unto the power of making laws,
 " whereby to govern; which power God hath over all; and by the na-
 " tural law, whereunto he hath made all subject, the lawful power of
 " making laws, to command whole politic societies of men, belongeth so
 " properly unto the same entire societies, that for any prince or potentate,
 " of what kind soever upon earth, to exercise the same of himself, and
 " not either by express commission immediately from God, or else by
 " authority derived at the first from their consent, upon whose persons
 " they impose laws, it is no better than mere tyranny. Laws therefore
 " they are not, which public consent hath not made so †." The humour
 of our age considered, I should not have ventured to say so much; but if
 Hooker be a man of such great authority, I cannot offend in transcribing
 his words, and shewing how vilely he is abused by Filmer; concluding,
 that if he be in the right, the choice and constitution of government, the
 making of laws, coronation, inauguration, and all that belongs to the
 choosing and making of kings, or other magistrates, is merely from the
 people; and that all power exercised over them, which is not so, is usur-
 pation and tyranny, unless it be by an immediate commission from God;
 which if any man has, let him give testimony of it, and I will confess he

* Eccl. Polit. b. 1, ch. 10

† Ibid.

comes not within the reach of our reasonings, but ought to be obeyed by those to whom he is sent, or over whom he is placed. SECT. 6

Nevertheless our author is of another opinion; but scorning to give us a reason, he adds to Hooker's words, "as if these solemnities were a kind of deed, whereby the right of dominion is given: which strange, untrue, and unnatural conceits are set abroad by feedsmen of rebellion." And a little farther, "unless we will openly proclaim defiance unto all law, equity, and reason, we must (there is no remedy) acknowledge, that in kingdoms hereditary, birth giveth a right unto sovereign dominion, &c. Those solemnities do either serve for an open testification of the inheritor's right, or belong to the form of inducting him into possession*." These are bold censures, and do not only reach Mr. Hooker, whose modesty, and peaceableness of spirit, is no less esteemed than his learning, but the Scriptures also, and the best of human authors, upon which he founded his opinions. But why should it be thought a strange, untrue, or unnatural conceit, to believe, that, when the Scriptures say, Nimrod was the first that grew powerful in the earth long before the death of his fathers, and could consequently neither have a right of dominion over the multitude met together at Babylon, nor subdue them by his own strength, he was set up by their consent; or that they who made him their governor, might prescribe rules, by which he should govern? Nothing seems to me less strange, than that a multitude of reasonable creatures, in the performance of acts of the greatest importance, should consider why they do them. And the infinite variety which is observed in the constitution, mixture, and regulation of governments, does not only shew, that the several nations of the world have considered them; but clearly prove, that all nations have perpetually continued in the exercise of that right. Nothing is more natural than to follow the voice of mankind. The wisest and best have ever employed their studies in forming kingdoms and commonwealths, or in adding to the perfections of such as were already constituted: which had been contrary to the laws of God and nature, if a general rule had been set, which had obliged all to be for ever subject to the will of one; and they had not been the best, but the worst of men who had departed from it. Nay, I may say, that the law given by God to his peculiar people, and the commands delivered by his servants in order to it, or the prosecution of it, had been contrary to his own eternal and universal law; which is impossible. A law therefore having been given by God, which had no relation to, or consistency with the absolute paternal power; judges and kings created, who had no pretence to any preference before their brethren, till they were created,

* These are Hooker's words, which Sidney has mistaken for Filmer's. Perhaps he would not have objected to the doctrine they contain, if he had observed, that the author speaks of kingdoms, which are "hereditary" by the consent of the people; allowing, "that even kings, even inheritors, do hold their right in the power of dominion, with dependency upon the whole body politic, over which they have rule as kings." Eccl. Polit. b. 8, ch. 2

CHAP. II and commanded not to raise their hearts above them, when they should be created; the wisdom and virtue of the best men, in all ages, shewn in the constitution or reformation of governments; and nations, in variously framing them, preserving the possession of their natural right, to be governed by none, and in no other way than they should appoint; the opinions of Hooker, that all public regiment, of what kind soever, arises from the deliberate advice of men seeking their own good, and that all other is mere tyranny, are not “untrue and unnatural conceits set abroad by the feedsmen of rebellion;” but real truths grounded upon the laws of God and nature, acknowledged and practised by mankind. And no nation being justly subject to any, but such as they set up, nor in any other manner than according to such laws as they ordain, the right of choosing and making those, that are to govern them, must wholly depend upon their will.

SECTION VII

THE LAWS OF EVERY NATION ARE THE MEASURE OF MAGISTRATICAL POWER.

Our author lays much weight upon the word hereditary; but the question is, what is inherited in an hereditary kingdom, and how it comes to be hereditary? It is in vain to say, “the kingdom;” for we do not know what he means by the kingdom: it is one thing in one place, and very different in others; and I think it not easy to find two in the world that in power are exactly the same. If he understands all that is comprehended within the precincts over which it reaches, I deny that any such is to be found in the world. If he refers to what preceding kings enjoyed, no determination can be made, till the first original of that kingdom be examined, that it may be known what that first king had, and from whence he had it.

If this variety be denied, I desire to know whether the kings of Sparta and Persia had the same power over their subjects? if the same, whether both were absolute, or both limited? if limited, how came the decrees of the Persian kings to pass for laws? if absolute, how could the Spartan kings be subject to fines, imprisonment, or the sentence of death; and not have power to send for their own supper out of the common hall? Why did Xenophon call Agesilaus a good and faithful king, obedient to the laws of his country*, when, upon the command of the Ephori, he left the war that he had with so much glory begun in Asia, if he was subject to none? How came the Ephori to be established to restrain the

* Επειθετο τη πολει μαλα ενδηλον ποιων, ως ουτε αν πασαν την γην δεξαιτο αντι πατριδος, στε αισχροα και ακινδυνα κερδη μαλλον, η ματα κινδυνων τα καλα και δικαια. Xenop. Orat. de Agesil.

power of kings, if it could no way be restrained, if all owed obedience to them, and they to none? Why did Theopompus's wife reprove him for suffering his power to be diminished by their creation, if it could not be diminished? Or why did he say, he had made the power more permanent in making it less odious, if it was perpetual and unalterable*? We may go farther, and taking Xenophon and Plutarch for our guides, assert, that the kings of Sparta never had the powers of war or peace, life and death, which our author esteems inseparable from regality, and conclude, either that no king has them, or that all kings are not alike in power. If they are not in all places the same, kings do not reign by an universal law, but by the particular laws of each country; which give to every one so much power, as in the opinion of the givers conduces to the end of their institution, which is the public good.

It may be also worth our inquiry how this inherited power came to be hereditary. We know that the sons of Vespasian and Constantine inherited the Roman empire, though their fathers had no such title; but, having gained the empire by violence, which Hooker says is mere tyranny, that can create no right, they could devolve none to their children. The kings of France of the three races have inherited the crown; but Meroveus, Pepin, and Hugh Capet, could neither pretend title nor conquest, nor any other right than what was conferred upon them by the clergy, nobility, and people; and consequently whatever is inherited from them can have no other original; for that is the gift of the people which is bestowed upon the first, under whom the successors claim, as if it had been by a peculiar act given to every one of them. It will be harder to shew, how the crown of England is become hereditary, unless it be by the will of the people; for though I should grant, that some of the Saxon kings came in by inheritance (which I do not, having, as I think, proved them to have been absolutely elective) yet William the Norman did not, for he was a bastard, and could inherit nothing. William Rufus and Henry did not; for their elder brother Robert, by right of inheritance, ought to have been preferred before them. Stephen, and Henry the second did not; for Maud the only heiress of Henry the first was living when both were crowned. Richard, and John, did not, for they were bastards born in adultery. They must therefore have received their right from the people, or they could have none at all; and their successors fall under the same condition.

Moreover, I find great variety in the deduction of this hereditary right. In Sparta there were two kings of different families, endowed with an equal power. If the Heraclidae did reign as fathers of the people, the Aeacidae did not; if the right was in the Aeacidae, the Heraclidae could have none; for it is equally impossible to have two fathers as two thou-

* 'Ον [Θεοπομπου] και Φασιν, ὑπο της ἐαυτῆς γυναικος ονειδιζομενον ὡς ελαττω παρκαδωσούτω τοις παισι την βασιλειαν η παρελαβε, μειζω μεν ουν (ειπειν) ὄση χρονιωτεραν. Plutar. in vitâ Lycurg.

CHAP. II

land. It is in vain to say, that two families joined, and agreed to reign jointly: for it is evident the Spartans had kings before the time of Hercules or Achilles, who were the fathers of the two races. If it be said, that the regal power, with which they were invested, did intitle them to the right of fathers, it must in like manner have belonged to the Roman consuls, military tribunes, dictators, and pretors; for they had more power than the Spartan kings; and that glorious nation might change their fathers every year, and multiply or diminish the number of them as they pleased. If this be most ridiculous and absurd, it is certain, that the name and office of king, consul, dictator, or the like, does not confer any determined right upon the person that has it: every one has a right to that which is allotted to him by the laws of the country by which he is created.

As the Persians, Spartans, Romans, or Germans, might make such magistrates, and under such names, as best pleased themselves, and accordingly enlarge or diminish their power, the same right belongs to all nations; and the rights due unto, as well as the duties incumbent upon every one, are to be known only by the laws of that place. This may seem strange to those who know neither books nor things, histories nor laws; but is well explained by Grotius; who, denying the sovereign power to be annexed to any name, speaks of divers magistrates under several names that had, and others that under the same names had it not; and distinguishes those who have the “*summum imperium summo modo*,” from those who have it “*modo non summo* *.” And though probably he looked upon the first sort as a thing merely speculative, if by that “*summo modo*” a right of doing what one pleases be understood, yet he gives many examples of the other; and among those who had “*liberrimum imperium*,” if any had it, he names the kings of the Sabians; who nevertheless were under such a condition, that though they were, as Agatharchides reports, obeyed in all things, whilst they continued within the walls of their palace, might be stoned by any that met them without it †. He finds also another obstacle to the absolute power, “*cum rex partem habeat summi imperii, partem senatus, five populus* ;” which parts are proportioned according to the laws of each kingdom, whether hereditary or elective, both being equally regulated by them.

The law, that gives and measures the power, prescribes rules how it should be transmitted. In some places the supreme magistrates are annu-

* Grot. de Jure Belli, I. 1, c. 3, § 16

† Quid si addatur, si rex fidem fallat, ut tum regno cadat? ne sic quidem imperium definit esse summum, sed erit habendi modus imminutus per conditionem, & imperium temporario non abfimile. De Sabaeorum rege narrabat Agatharchides fuisse ανυπευθυνου liberrimâ potestate praeditum, sed si regiâ exiret potuisse lapidari. Grot. ib.

Ο δε βασιλευων τε παντος εθνους, προεδριαν εχει παρα τε λαοις, τη μεν ευτιμον, τη δε ακληροτατην ευτιμον μεν, οτι πολλοις επιταττει, κατα κρισιν ανυπευθυνον ο βυλεται πρατων ακληρονον δε, οτι παραλαβων την επιμελειαν, & δυναται παλιν εκ των βασιλειων εξελθειν· ει δε μη, λιθολευσος υπο παντων γινεται κατα χρησημον αρχαιου. Phot. Bibl. ex Agatharchide. c. 50, p. 1374

ally elected, in others their power is for life; in some they are merely elective, in others hereditary, under certain rules or limitations. The antient kingdoms and lordships of Spain were hereditary; but the succession went ordinarily to the eldest of the reigning family, not to the nearest in blood. This was the ground of the quarrel between Corbis the brother, and Orfua the son of the last prince, decided by combat before Scipio *. I know not whether the Goths brought that custom with them when they conquered Spain, or whether they learned it from the inhabitants; but certain it is, that, keeping themselves to the families of the Balthi and Amali †, they had more regard to age than proximity; and almost ever preferred the brother, or eldest kinsman of the last king before his son. The like custom was in use among the Moors in Spain and Africa, who, according to the several changes that happened among the families of Almoravides, Almohedes, and Benimerini ‡, did always take one of the reigning blood; but in the choice of him had most respect to age and capacity. This is usually called the law of thaneftry; and, as in many other places, prevailed also in Ireland, till that country fell under the English government.

In France and Turky, the male that is nearest in blood, succeeds. And I do not know of any deviation from that rule in France, since Henry the first was preferred before Robert his elder brother, grandchild to Hugh Capet. But, notwithstanding the great veneration they have for the royal blood, they utterly exclude females, lest the crown should fall to a stranger; or a woman, that is seldom able to govern herself, should come to govern so great a people. Some nations admit females, either simply, as well as males; or under a condition of not marrying out of their country, or without the consent of the estates, with an absolute exclusion of them, and their children, if they do. According to which law, now in force among the Swedes, Charles Gustavus was chosen king, upon the resignation of queen Christina, as having no title; and the crown settled upon the heirs of his body, to the utter exclusion of his brother Adolphus, their mother having married a German. Though divers nations have differently disposed their affairs, all those that are not naturally slaves, and like to beasts, have preferred their own good before the personal interests of him that expects the crown, so as upon no pretence whatever to admit of one, who is evidently guilty of such vices as are prejudicial to the state. For this reason the French, though much addicted to their

* See p. 46

† The Visigoths were governed by princes of the race of the Balthi; the Ostrogoths by princes of the house of the Amali.—Vesegothae familiae Balthorum, Ostrogothae praeclearis Amalis serviebant. Jornand. De Reb. Getic. c. 5. Vide Saaved. Coron. Gothic.

‡ The family of the Almoravides, having dispossessed the Alavecines, who were descended from Fatima the daughter of Mahommed, usurped the government of Africa, about the year 1052. In the following century the Almoravides were extirpated by the Almohedes; who, having made a considerable figure in the kingdom of Fez, and other parts, during the space of about 120 years, were dethroned, and succeeded by the family of the Benimerini. Marian. De Reb. Hisp. l. 11, c. 1. et l. 13, c. 7

CHAP. II kings, rejected the vile remainders of Meroveus's race, and made Pepin the son of Charles Martel king. And when his descendents fell into the like vices, they were often deposed, till at last they were wholly rejected, and the crown given to Capet, and to his heirs male, as formerly. Yet for all this, Henry his grandchild, being esteemed more fit to govern, than his elder brother Robert, was, as is said before, made king; and that crown still remains in his descendents, no consideration being had of the children of Robert, who continued dukes of Burgundy during the reigns of ten kings. And, in the memory of our fathers, Henry of Navarre was rejected by two assemblies of the estates, because he differed in religion from the body of the nation, and could never be received as king, till he had renounced his own; though he was certainly the next in blood, and, in all other respects, excelled in those virtues which they most esteem.

We have already proved, that our own history is full of the like examples; and might enumerate a multitude of others, if it were not too tedious. And as the various rules, according to which all the hereditary crowns of the world are inherited, shew, that none is set by nature, but that every people proceeds according to their own will, the frequent deviations from those rules do evidently testify, that "*salus populi est lex suprema;*" and that no crown is granted otherwise, than in submission to it.

But though there were a rule, which in no case ought to be transgressed, there must be a power of judging to whom it ought to be applied. It is perhaps hard to conceive one more precise than that of France, where the eldest legitimate male in the direct line is preferred; and yet that alone is not sufficient. There may be bastardy in the case: bastards may be thought legitimate, and legitimate sons bastards. The children born of Isabel of Portugal, during her marriage with John the third of Castile, were declared bastards; and the title of the house of Austria to that crown depends upon that declaration. We often see, that marriages which have been contracted, and for a long time taken to be good, have been declared null. And the legitimation of the present king of France is founded solely upon the abolition of the marriage of Henry the fourth with Margaret of Valois, which for the space of twenty seven years was thought to have been good. While Spain was divided into five or six kingdoms, and the several kings were linked to each other by mutual alliances, incestuous marriages were often contracted, and upon better consideration annulled: many have been utterly void, through the pre-engagement of one of the parties. These are not feigned cases, but such as happen frequently. And the diversity of accidents, as well as the humours of men, may produce many others, which would involve nations in the most fatal disorders, if every one should think himself obliged to follow such a one who pretended a title, that to him might seem plausible, when another should set up one as pleasing to others, and there were no power, to terminate those disputes, to which both must submit, but the decision must be left to the sword.

This

This is that which I call the application of the rule, when it is as plain and certain as human wisdom can make it; but if it be left more at large, as where females inherit, the difficulties are inextricable. And he that says, the next heir is really king, when one is dead, before he be so declared by a power that may judge of his title, does, as far as in him lies, expose nations to be split into the most desperate factions, and every man to fight for the title which he fancies to be good till he destroy those of the contrary party, or be destroyed by them. This is the blessed way proposed by our author to prevent sedition: but, God be thanked, our ancestors found a better. They did not look upon Robert the Norman as king of England after the death of his father. And when he did proudly endeavour, on pretence of inheritance, to impose himself upon the nation, that thought fit to prefer his younger brothers before him, he paid the penalty of his folly, by the loss of his eyes and liberty. The French did not think the grandchild of Pharamond to be king after the death of his father, nor seek who was the next heir of the Merovingian line, when Childeric the third was dead; nor regard the title of Charles of Lorraine after the death of his brother Lotharius, or of Robert of Burgundy eldest son of king Robert; but advanced Meroveus, Pepin, Capet, and Henry the first, who had no other right than what the nobility and people bestowed upon them. And if such acts do not destroy the pretences of all who lay claim to crowns by inheritance, and do not create a right, I think it will be hard to find a lawful king in the world, or that there ever have been any; since the first did plainly come in like Nimrod; and those who have been every where, since histories are known to us, owed their exaltation to the consent of nations, armed or unarmed, by the deposition or exclusion of the heirs of such as had reigned before them.

Our author, not troubling himself with these things, or any other relating to the matter in question, is pleased to slight Hooker's opinions concerning coronation and inauguration, with "the heaps of Scripture" upon which he grounds them. Whereas these solemnities would not only have been foolish and impertinent, but profane and impious, if they were not deeds by which the right of dominion is really conferred. What could be more wickedly superstitious, than to call all Israel together before the Lord, and to cast lots upon every tribe, family, and person, for the election of a king, if it had been known to whom the crown did belong by a natural and unalterable right? or if there had been such a thing in nature, how could God have caused that lot to fall upon one of the youngest tribe, for ever to discountenance his own law, and divert nations from taking any notice of it? It had been absurd for the tribe of Judah to choose and anoint David, and for the other tribes to follow their example after the death of Ishboeth, if he had been king by a right not depending on their will. David did worse in slaying the sons of Rimmon, saying, they had killed a righteous man lying on his bed, if Ishboeth, whose head they presented, had most unrighteously detained from him, as long as he lived, the dominion of the ten tribes: the king, elders, and people, had
most

CHAP. II most scornfully abused the most sacred things, by using such ceremonies in making him king, and completing their work in a covenant made between him and them before the Lord, if he had been already king, and if those acts had been empty ceremonies conferring no right at all.

I dare not say, that a league does imply an absolute equality between both parties; for there is a "foedus inaequale," wherein the weaker, as Grotius says, does usually obtain protection, and the stronger honour*; but there can be none at all, unless both parties are equally free to make it, or not to make it. David therefore was not king, till he was elected, and those covenants made; and he was made king by that election and covenants.

This is not shaken by our author's supposition, "that the people would not have taken Joash, Manasseh, or Josiah, if they had had a right of choosing a king; since Solomon says, wo to the land whose king is a child." For they who at the first had a right of choosing whom they pleased to be king, by the covenant made with him whom they did choose, may have deprived themselves of the farther execution of it, and rendered the crown hereditary even to children, unless the conditions are violated upon which it was granted. In the second place, if the infancy of a king brings wo upon a people, the government of such a one cannot be according to the laws of God and nature; for governments are not instituted by either for the pleasure of a man, but for the good of nations; and their weal, not their wo, is sought by both. And if children are any where admitted to rule, it is by the particular law of the place, grounded perhaps upon an opinion, that it is the best way to prevent dangerous contests; or that other ways may be found to prevent the inconveniences that may proceed from their weakness. Thirdly, it cannot be concluded, that they might not reject children, because they did not; such matters require positive proofs; suppositions are of no value in relation to them, and the whole matter may be altered by particular circumstances. The Jews might reasonably have a great veneration for the house of David. They knew what was promised to that family; and whatever respect was paid, or privilege granted, on that account, can be of no advantage to any other in the world. They might be farther induced to set up Joash, in hope the defects of his age might be supplied by the virtue, experience and wisdom of Jehoiada. We do not know what good opinion may have been conceived of Manasseh when he was twelve years old; but much might be hoped from one that had been virtuously educated, and was probably under the care of such as had been chosen by Hezekiah. And though the contrary did fall out, the mischiefs brought upon the people, by his wicked reign, proceeded not from the weakness of his childhood, but from the malice of his riper years. And both the exam-

* Rectè Andronicus Rhodius, post Aristotelem, amicitiae inter dispares hoc ait proprium, ut potentiori plus honoris, infirmiori plus auxilii deferatur. Grot. de Jure Belli, l. 1, c. 3, §. 21

ples of Joash and Josiah prove, that neither of them came in by their own right, but by the choice of the people. “Jehoiada gathered the Levites out of all the cities of Judah, and the chief of the fathers of Israel, and they came to Jerusalem. And all the congregation made a covenant with the king in the house of God, and brought out the king’s son, and put upon him the crown, and gave him the testimony, and made him king †:” whereupon they slew Athaliah. And when Amon was slain, “the people of the land slew them that had conspired against him, and made Josiah his son king in his stead ‡:” which had been most impertinent, if he was of himself king before they made him so. Besides, though infancy may be a just cause of excepting against, and rejecting the next heir to a crown, it is not the greatest or strongest. It is far more easy to find a remedy against the folly of a child, if the state be well regulated, than the more rooted vices of grown men. The English, who willingly received Henry the sixth, Edward the fifth and sixth, though children, resolutely opposed Robert the Norman. And the French, who willingly submitted to Charles the ninth, Lewis the thirteenth and fourteenth, in their infancy, rejected the lewd remainders of Meroveus’s race, Charles of Lorraine, with his kindred, descended from Pepin, Robert duke of Burgundy with his descendants, and Henry of Navarre, till he had satisfied the nobility and people in the point of religion. And though I do not know that the letter upon the words, “*Vae regno cujus rex puer est,*” recited by Lambard, was written by Eleutherius bishop of Rome; yet the authority given to it by the Saxons, who made it a law, is much more to be valued than what it could receive from the writer. And whoever he was, he seems rightly to have understood Solomon’s meaning, who did not look upon him as a child that wanted years, or was superannuated, but him only who was guilty of insolence, luxury, folly, and madness*. And he that said, “a wise child was better than an old and foolish king,” could have no other meaning, unless he should say, it was worse to be governed by a wise person than a fool: which may agree with the judgment of our author, but could never enter into the heart of Solomon.

Lastly, though the practice of one or more nations may indicate what laws, covenants, or customs, were in force among them, yet they cannot

† 2 Chron. ch. 23, v. 2, 3, 11

‡ 2 Chron. ch. 33, v. 25

* Anno 169 à passione Christi, dominus Eleutherius papa, Lucio regi Britanniae scripsit, ad petitionem regis, et procerum regni Britanniae. “Petistis à nobis, &c. . . . Vae regno, cujus rex puer est, et cujus principes manè comedunt. Non voco regem puerum, propter parvam et nimiam aetatem, sed propter stultitiam, et iniquitatem, et insanitatem, juxta prophetam regem: viri sanguinum, et dolosi non dimidiabunt dies suos. Per comeffionem intelligimus gulam, per gulam luxuriam, per luxuriam omnia turpia et mala, juxta Solomonem regem. In malevolam animam non introibit sapientia, nec habitabit in corpore subdito peccatis. Rex dicitur à regendo, non à regno. Rex eris, dum benè regis; quod nisi feceris, nomen regis in te non constabit, et nomen regis perdes; quod absit. Det vobis omnipotens Deus regnum Britanniae sic regere, ut possitis cum eo regnare in aeternum, cujus vicarius estis in regno praedicto.” This letter is quoted under the article, De Regis Officio, among the laws of Edward the Confessor. See Lamb. de Angl. Leg. p. 142. — Spelm. Concil. vol. 1, p. 34. Alfordi Annal. Eccl. Brit. Ann. Chr. 183

CHAP. II bind others. The diversity of them proceeds from the variety of mens judgments, and implies that the direction of all such affairs depends upon their own will. According to which every people for themselves forms and measures the magistracy, and magistratical power; which, as it is directed solely for the good, has its exercises and extent proportionable to the command of those that institute it: and such ordinances being good for men, God makes them his own.

SECTION VIII

THERE IS NO NATURAL PROPENSITY IN MAN OR BEAST TO MONARCHY.

I see no reason to believe, "that God did approve the government of one over many, because he created but one;" but on the contrary, inasmuch as he did endow him, and those that came from him, as well the youngest as the eldest line, with understanding to provide for themselves, and by the invention of arts and sciences, to be beneficial to each other, he shewed, that they ought to make use of that understanding in forming governments, according to their own convenience, and such occasions as should arise, as well as in other matters. And it might as well be inferred, that it is unlawful for us to build, clothe, arm, defend, or nourish ourselves, otherwise than as our first parents did, before or soon after the flood, as to take from us the liberty of instituting governments that were not known to them. If they did not find out all that conduces to the use of man, but a faculty as well as a liberty was left to every one, and will be to the end of the world, to make use of his wit, industry, and experience, according to present exigencies, to invent and practise such things as seem convenient to himself and others in matters of the least importance, it were absurd to imagine, that the political science, which of all others is the most abstruse and variable according to accidents and circumstances, should have been perfectly known to them who had no use of it; and that their descendents are obliged to add nothing to what they practised. But the reason given by our author to prove this extravagant fancy, is yet more ridiculous than the thing itself: "God," says he, "shewed his opinion," that all should be governed by one, "when he endowed not only men, but beasts, with a natural propensity to monarchy: neither can it be doubted, but that a natural propensity is to be referred to God, who is the author of nature:" which I suppose may appear if it be considered.

Nevertheless I cannot but commend him in the first place for introducing God speaking so modestly, not declaring his will, but his opinion. He puts haughty and majestic language into the mouth of kings. They command and decide, as if they were subject to no error, and their wills ought to be taken for perpetual laws; but to God he ascribes an humble delivery of his opinion only, as if he feared to be mistaken. In the second place,
I deny

I deny that there is any such general propensity in man or beast, or that SECT. 8
 monarchy would thereby be justified, though it were found in them. It cannot be in beasts, for they know not what government is; and being incapable of it, cannot distinguish the several sorts, nor consequently incline to one more than another. Salmassius's story of bees is only fit for old women to prate of in chimney corners*. And they who represent lions and eagles as kings of birds and beasts, do it only to shew, that their power is nothing but brutish violence, exercised in the destruction of all that are not able to oppose it, and that has nothing of goodness or justice in it: which similitude (though it should prove to be in all respects adequate to the matter in question) could only shew, that those who have no sense of right, reason, or religion, have a natural propensity to make use of their strength, to the destruction of such as are weaker than they; and not that any are willing to submit, or not to resist it if they can: which I think will be of no great advantage to monarchy. But whatever propensity may be in beasts, it cannot be attributed generally to men; for if it were, they never could have deviated from it, unless they were violently put out of their natural course; which in this case cannot be; for there is no power to force them. But that they have most frequently deviated, appears by the various forms of government established by them. There is therefore no natural propensity to any one; but they choose that, which in their judgment seems best for them. Or, if he would have that inconsiderate impulse, by which brutish and ignorant men may be swayed, when they know no better, to pass for a propensity, others are no more obliged to follow it, than to live upon acorns, or inhabit hollow trees, because their fathers did it, when they had no better dwellings, and found no better nourishment in the uncultivated world. And he that exhibits such examples, as far as in him lies, endeavours to take from us the use of reason, and extinguishing the light of it, to make us live like the worst of beasts, that we may be fit subjects to absolute monarchy. This may perhaps be our author's intention, having learned from Aristotle, that such a government is only suitable to the nature of the most bestial men, who being incapable of governing themselves, fall under the power of such as will take the conduct of them. But he ought withal to have remembered, that, according to Aristotle's opinion, this conductor must be in nature different from those he takes the charge of: and if he be not

* Sidney seems to allude to the following passage: — *Animalia ipsa, quae eandem habent cum homine naturam, societate et congregatione gaudentem, ut aves quae gregatim volitant, pascuntur & stabulantur, plerumque ab uno duce et rege diriguntur. Apes regem habent. Coturnices sub ortyometra duce trans mare abeunt, et inde ad nos redeunt. Taurus est unus quem tota sequuntur armenta. Dux gregis caper est. Arietes singuli ovium gregem ducunt. Inter aves cohortales gallus gallinaceus, qui reliquis fortior est ac pugnacior, tam maribus quam feminis imperitat, easque congregat, & congregatis praest. Quod ait poeta de apibus, id de universo hominum genere, qui à regibus gubernatur, dici debet.*

— Rege incolumi mens omnibus una;

Amisso, rupere fidem. — Salm. Defens. Reg. c. 5, p. 84

CHAP. II there can be no government, nor order by which it subsists: beasts follow beasts, and the blind lead the blind to destruction.

But though I should grant this propensity to be general, it could not be imputed to God, since man by sin is fallen from the law of his creation. "The wickedness of man, even in the first ages, was great in the world: All the imaginations of his heart are evil, and that continually. All men are liars. There is none that doth good, no not one. Out of the heart proceed evil thoughts, murders, adulteries, fornication, thefts, false testimonies," &c. These are the fruits of our corrupted nature; which the apostle observing does not only make a difference between the natural and the spiritual man, whose proceeding only can be referred to God, and that only so far as he is guided by his Spirit, but shews, that the natural man is in a perpetual enmity against God, without any possibility of being reconciled to him, unless by the destruction of the old man, and the regenerating or renewing him through the spirit of grace. There being no footsteps of this in our author's book, he and his master Heylin may have differed from the apostle, referring that propensity of nature to God, which he declares to be utter enmity against him; and we may conclude, that this propensity, however general it may be, cannot be attributed to God as the author of nature, since it cannot be more general than the corruptions into which we are fallen.

SECTION IX.

THE GOVERNMENT INSTITUTED BY GOD OVER THE ISRAELITES WAS ARISTOCRATICAL.

Notwithstanding all this, our author is resolved that monarchy must be from God. "What form of government, says he, God ordained by his authority, may be gathered by that commonwealth which he instituted amongst the Hebrews; which was not aristocratical, as Calvin saith, but plainly monarchical." I may in as few words deny the government set up by God to have been monarchical, as he asserts it; but finding such language ordinarily to proceed from a mixture of folly, impudence, and pride, I choose rather to shew upon what I ground my opinions, than nakedly to deliver them; especially, when, by insisting upon the government instituted by God over his people, he refers us to the Scripture. And I do this the more boldly, since I follow Calvin's exposition; and believe that he, having been highly esteemed for his wit, judgment, and learning, by such as were endowed with the like, and revered as a glorious servant of God, might, if he were now alive, comfort himself, though he had the misfortune to fall under the censures of Filmer and his followers. It is probable he gave some reasons for his opinions; but our author, having maliciously concealed them, and I, not having

ing leisure at present to examine all his writings to find them, must content myself with such as my small understanding may suggest, and such as I have found in approved authors. SECT. 9

In the first place I may safely say, he was not alone of that opinion: Josephus, Philo, and Moses Maimonides, with all the best of the Jewish and Christian authors, had long before delivered the same. Josephus says, that Saul's first sin, by which he fell, was, "that he took away the aristocracy;" which he could not do, if it had never been established*. Philo imputes the institution of kingly government, as it was in Israel, neither to God, nor his word, but to the fury of the sinful people. Abarbenel says, it proceeded from their delight in the idolatry, to which their neighbours were addicted, and which could be upheld only by a government, in practice and principle contrary to that which God had instituted. Maimonides frequently says the same thing, grounded upon the words of Hosea, "I gave them kings in my wrath." And whoever will call that a divine institution, may give the same name to plagues or famines, and induce a necessity incumbent upon all men to go and search the one where they may find it; and to leave their lands for ever uncultivated, that they may be sure of the other; which being too bestial to be asserted by a man, I may safely say, the Hebrew kings were not instituted by God, but given as a punishment of their sin, who despised the government that he had instituted. And the above-mentioned authors agree in the same thing, calling the people's desire to have a king, furious, mad, wicked, and proceeding from their love to the idolatry of their neighbours, which was suited to their government; both which were inconsistent with what God had established over his own people.

But waving the opinions of men, it is good to see what we can learn from the Scripture, and inquire if there be any precept there expressly commanding them to make a king; or any example that they did so, whilst they continued obedient to the word of God; or any thing from whence we may reasonably infer, they ought to have done it: all which, if I mistake not, will be found directly contrary.

* Josephus makes Moses, in his address to the people, a little before his death, deliver the following sentiment concerning aristocratical government: *Αριστοκρατία μὲν οὐκ κρατίσων, καὶ ὁ κατ' αὐτὴν βίος· καὶ μὴ λαβοῖ ποθὸς ὑμᾶς ἀλλῆς πολιτείας, ἀλλὰ ταυτὴν ἐργαίετε, τὰς νόμους ἔχοντες δεσποτίας, καὶ κατ' αὐτὰς ἕκαστα πράττοντες· ἀρκεῖ γὰρ ὁ Θεὸς ἡγέμων εἶναι.* Antiq. Jud. l. 4, c. 8, § 17

When he speaks of the Israelites demanding a king, he says: *Ἐλυπήσαν δὲ σφοδρὰ τοῦ Σαμουὴλον οἱ λόγοι, διὰ τὴν συμφυτοῦν δικαιοσύνην, καὶ τὸ πρὸς τὰς βασιλείας μίσος· ἤτητο γὰρ δεῖξαι τῆς ἀριστοκρατείας, ὡς δεῖς καὶ μακαρίως ποιήσῃς τὰς χρωμένους αὐτῆς τῇ πολιτείᾳ.* Ibid. l. 6, c. 3, § 3

Samuel, according to the same author, in his speech to the people on this occasion, says: *Τίς οὐκ ἔσχεν ὑμᾶς ἀνοίᾳ, φυγεῖν μὲν τὸν Θεόν, ὑπὸ βασιλεῖα δὲ εἶναι θελεῖν; ἀλλ' ἐγὼ μὲν ἀπέδειξα τῆτον ὃν αὐτὸς ἐπέλεξατο· ἵνα μὲν τοίγε φανερόν ὑμῖν ποιήσω τὸν Θεὸν ὀργιζόμενον καὶ δυσχεραίνοντα τῇ τῆς βασιλείας ὑμῶν αἵρεσει, δηλώσαι τεθ' ὑμῖν τὸν Θεὸν παρασκευάσω διασημειῶν ἐναργῶς.* Ibid. l. 6, c. 5, § 6

It were to be wished, that our author had informed us, where he found the passages in Josephus, Philo, &c. to which he alludes in this place

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The only precept that we find in the law concerning kings, is that of Deuteronomy xvii. already mentioned; and that is not a command to the people to make, but instructions what manner of king they should make, if they desired to have one: there was therefore none at all.

Examples do as little favour our author's assertions. Moses, Joshua, and the other judges, had not the name or power of kings. They were not of the tribe to which the sceptre was promised: they did not transmit the power they had to their children, which, in our adversary's opinion, is a right inseparable from kings; and their power was not continued by any kind of succession, but created occasionally, as need required, according to the virtues discovered in those, who were raised by God to deliver the nation in the time of their distress; which being done, their children lay hid among the rest of the people. Thus were Ehud, Gideon, Jephthah, and others, set up. "Whoever will give battle," say the princes and people of Gilead, "to the children of Ammon, shall be head over the inhabitants of Gilead*." And, finding Jephthah to be such a man as they sought, they made him their chief, and all Israel followed them. When Othniel had shewed his valour in taking Kirjath-sepher, and delivering his brethren from Cushan-rilhathaim, he was made judge. When Ehud had killed Eglon; when Shamgar and Samson had destroyed great numbers of the Philistines; and when Gideon had defeated the Midianites, they were fit to be advanced above their brethren. These dignities were not inherent in their persons, or families, but conferred upon them; nor conferred, that they might be exalted in riches and glory, but that they might be ministers of good to the people. This may justify Plato's opinion, that if one man be found incomparably to excel all others in the virtues that are beneficial to civil societies, he ought to be advanced above all. But I think it will be hard from thence to deduce an argument in favour of such a monarchy as is necessarily to descend to the next in blood, whether man, woman, or child, without any consideration of virtue, age, sex, or ability: and that failing, it can be of no use to our author. But whatever the dignity of a Hebrew judge was, and however he was raised to that office, it certainly differed from that of a king. Gideon could not have refused to be a king when the people would have made him so, if he had been a king already; or if God from the beginning had appointed that they should have one. The elders and people could not have asked a king of Samuel, if he had been king; and he could not, without impiety, have been displeased with them for asking for such a one as God had appointed; neither would God have said to him, "they have not rejected thee, but "they have rejected me, that I should not reign over them," if he had ordained what they desired.

They did not indeed reject God with their mouths: they pretended to use the liberty he had given them to make a king; but would have such a one as he had forbidden. They drew near to him with their lips, but

* Judg. ch. 10, v. 18

their hearts were far from him. And he, seeing their hypocrisy, severely chastised them in granting their ill-conceived request; and foretold the miseries that should thereupon befall them; from which he would not deliver them, though they should cry to him by reason of what they suffered from their king: he was their creature, and the mischiefs thereby brought upon them were the fruits of their own labour.

SECT. 9.

This is that which our author calls God's institution of kings; but the prophet explains the matter much better: "I gave them kings in my anger, and took them away in my wrath*." In destroying them God brought desolation upon the people that had sinned in asking for them, and following their example in all kind of wickedness. This is all our author has to boast of. But God, who acknowledges those works only to be his own, which proceed from his goodness and mercy to his people, disowns this: "Israel hath cast off the thing that is good," even the government that he had established: "the enemy shall pursue him. They have set up kings, but not by me; and princes, but I know them not †." As if he sought to justify the severity of his judgments brought upon them by the wickedness of their kings, that they, not he, had ordained.

Having seen what government God did not ordain, it may be reasonable to examine the nature of the government which he did ordain; and we shall easily find, that it consisted of three parts, besides the magistrates of the several tribes and cities. They had a chief magistrate, who was called judge or captain, as Joshua, Gideon, and others, a council of seventy chosen men ‡, and the general assemblies of the people.

The first was merely occasional, like to the dictators of Rome. And as the Romans in times of danger frequently chose such a man as was much esteemed for valour and wisdom, God's peculiar people had a peculiar regard to that wisdom and valour which was accompanied with his presence, hoping for deliverance only from him.

The second is known by the name of the great sanhedrim, which being instituted by Moses, according to the command of God, continued, till they were all save one slain by Herod. And the third part, which is the assembly of the people, was so common, that none can be ignorant of it, but such as never looked into the Scripture. When the tribes of Reuben, Gad, and half that of Manasseh, had built an altar by the side of Jordan, "the whole congregation of the children of Israel gathered together at Skiloh to go up to war against them, and sent Phineas the son of Eleazer, and with him ten princes §." This was the highest and most important action that could concern a people, even war or peace, and that not with strangers, but their own brethren. Joshua was then alive; the elders never failed: but this was not transacted by him or them, but by the collected body of the people; "for they sent Phineas." This democratical embassy was democratically received: it was not directed to one

* Hof. ch. 13, v. 11
§ Josh. ch. 22, v. 12.

† Hof. ch. 8, v. 3.

‡ Numb. ch. 11, v. 16.

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The last eminent act performed by Joshua was the calling of a like assembly to Sechem, composed of elders, heads of families, judges, officers, and all the people, to whom he proposed, and they agreeing made a covenant before the Lord*.

Joshua being dead, the proceedings of every tribe were grounded upon counsels taken at such assemblies among themselves for their own concerns, as appears by the actions of Judah, Simeon, &c. against the Canaanites. And when the levite complained that his wife had been forced by those of Gibeah, the whole congregation of Israel met together at Mizpeh from all parts, "even from Dan to Beersheba," as one man, and there resolved upon that terrible war which they made against the tribe of Benjamin. The like assembly was gathered together for the election of Saul; every man was there. And though the elders only are said to have asked a king of Samuel, they seem to have been deputed from the whole congregation; for God said, "hearken to the voice of the people †." In the same manner the tribe of Judah, and after that the rest, chose and anointed David to be their king. After the death of Solomon all Israel met together to treat with Rehoboam; and not receiving satisfaction from him, ten of the tribes abrogated his kingdom.

If these actions were considered singly by themselves, Calvin might have given the name of a democracy to the Hebrew government, as well as to that of Athens; for without doubt they evidently manifest the supreme power to have been in the supreme manner in these general assemblies. But the government, as to its outward order, consisting of those three parts, which comprehend the three simple species, and no times having been appointed, nor occasions specified, upon which judges should be chosen, or these assemblies called, whereas the sanhedrim, which was the aristocratical part, was permanent, the whole might rightly be called an aristocracy, that part prevailing above the others. And though Josephus calls it a theocracy ‡, by reason of God's presence with his people, yet in relation to man he calls it an aristocracy, and says, that Saul's first sin, by which he fell from the kingdom, was, that "gubernationem optimatum sustulit;" which could not be, if they were governed by a monarch before he was chosen.

Our author, taking no notice of these matters, first endeavours to prove the excellency of monarchy from natural instinct; and then, begging the question, says, that God did always govern his people by monarchy. Whereas he ought in the first place to have observed, that this instinct (if there be any such thing) is only an irrational appetite, attributed to

* Josh. ch. 24

† 1 Sam. ch. 8, v. 7

‡ Ο δ' ἡμετερος νομοθετης θεοκρατικον απεδειξε το πολιτευμα. Contra Apion. l. 2

beasts, that know not why they do any thing; and is to be followed only by those men, who, being equally irrational, live in the same ignorance. And the second being proved to be absolutely false by the express words of the Scripture, "there was then no king in Israel*," several times repeated, and the whole series of the history, he has no other evasion than to say, "that even then the Israelites were under the kingly government of the fathers of particular families."

In the assembly of the people, gathered together to take counsel concerning the war against Benjamin, "were four hundred thousand footmen that drew sword." They all arose together, saying, "not a man of us shall go to his tent. So all the men of Israel were gathered together against the city †." The Benjamites proceeded in the like manner in preparing for their defence; and if all these, who did so meet to "consult" and determine, were monarchs, there were then in Israel and Benjamin four hundred and twenty six thousand seven hundred monarchs or kings, though the Scriptures say there was not one.

If yet our author insist upon his notion of kingly government, I desire to know who were the subjects, if all these were kings; for the text says, that the "whole congregation was gathered together as one man from Dan to Beersheba." If there can be so many kings without one subject, what becomes of the right of Abraham, Isaac, and Jacob, that was to have been devolved upon one man as heir to them, and thereby lord of all? If every man had an equal part in that inheritance, and by virtue of it became a king, why is not the same eternally subdivided to as many men as are in the world, who are also kings? If this be their natural condition, how comes it to be altered, till they dethrone themselves by consent to set up one or more to have a power over them all? Why should they divest themselves of their natural right to set up one above themselves, unless in consideration of their own good? If the four hundred and twenty six thousand seven hundred kings might retain the power in themselves, or give it to one, why might they not give it to any such number of men as should best please themselves, or retain it in their own hands, as they did till the days of Saul; or frame, limit, and direct it, according to their own pleasure? If this be true, God is the author of democracy; and no assertor of human liberty did ever claim more than the people of God did enjoy and exercise, at the time when our author says, they were under the kingly government: which liberty being not granted by any peculiar concession or institution, the same must belong to all mankind.

It is in vain to say, the four hundred and twenty six thousand seven hundred men were heads of families; for the Scripture only says, "they were footmen that drew the sword," or rather all the men of Israel from Dan to Beersheba, who were able to make war. When six hundred Benjamites did only remain of the twenty six thousand seven hundred, it is plain that no more were left of that tribe, their women and children having been

* Judg. ch. 18, v. 1

† Judg. ch. 20, v. 2, 8, 11

CHAP. II destroyed in the cities after their defeat. The next chapter makes the matter yet plainer; for when all that were at the congregation in Mizpeh were found to have sworn, they would not give their daughters to any of the tribe of Benjamin, no Israelite was free from the oath, but the men of Jabesh-gilead, who had not been at the assembly. All the rest of Israel was therefore comprehended; and they continuing to govern in a popular way, with absolute power, sent twelve thousand of their most valiant men to destroy all the males of Jabesh-gilead, and the women that had lain by man, reserving the virgins for the Benjamites. This is enough for my purpose. For the question is not concerning the power that every householder in London has over his wife, children, and servants; but whether they are all perpetually subject to one man and family; and I intend not to set up their wives, prentices, and children, against them, or to diminish their rights, but to assert them, as the gift of God and nature, no otherwise to be restrained, than by laws made with their consent.

Reason failing, our author pleases himself with terms of his own invention. "When the people begged a king of Samuel, they were governed by a kingly power. God, out of a special love and care to the house of Israel, did choose to be their king himself, and did govern them at that time by his viceroy Samuel and his sons." The behaviour of the Israelites towards Samuel has been thought proud, perverse, and obstinate; but the fine court-word "begging" was never before applied to them; and their insolent fury was not only seen against Samuel, but against God: "they have not rejected thee, but they have rejected me." And I think Filmer is the first who ever found, that beggars in begging did reject him, of whom they begged. Or if they were beggars, they were such as would not be denied: for after all that Samuel had said to dissuade them from their wicked design, they said, "nay, but we will have a king."

But lest I should be thought too much inclined to contradict our author, I confess that once he has happened to be in the right. "God, out of a special love to the house of Israel chose to be their king." He gave them laws, prescribed a form of government, raised up men in a wonderful manner to execute it, filled them with his spirit, was ever present when they called upon him; he gave them council in their doubts, and assistance in all their extremities; he made a covenant with them, and would be exalted by them. But what is this to an earthly monarch? Who can from hence derive a right to any one man to play the lord over his brethren, or a reason why any nation should set him up? God is our Lord by right of creation, and our only Lord, because he only has created us. If any other were equal to him in wisdom, power, goodness, and beneficence to us, he might challenge the same duty from us. If growing out of ourselves, receiving being from none, depending on no providence, we were offered the protection of a wisdom subject to no error, a goodness that could never fail, and a power that nothing could resist, it were reasonable for us to enter into a covenant,

submit:

submit ourselves to him, and with all the faculties of our minds to addict ourselves to his service. But what right can from hence accrue to a mortal creature like to one of us, from whom we have received nothing, and who stands in need of help as much as we? Who can from hence deduce an argument to persuade us to depend upon his wisdom, who has as little as other men? to submit to his will, who is subject to the same frailties, passions, and vices, with the rest of mankind? or to expect protection and defence from him, whose life depends upon as slender threads as our own; and who can have no power but that which we confer upon him? If this cannot be done, but is of all things the most contrary to common sense, no man can in himself have any right over us; we are all as free as the four hundred twenty six thousand seven hundred Hebrew kings: we can naturally owe allegiance to none. And I doubt whether all the lusts that have reigned amongst men, since the beginning of the world, have brought more guilt and misery upon them than that preposterous and impudent pretence of imitating what God had instituted. When Saul set himself most violently to oppose the command of God, he pretended to fulfil it. When the Jews grew weary of God's government, and resolved to reject him, that he should not reign over them, they used some of Moses's words, and asked that king of God, whom they intended to set up against him. But this king had not been set up against God, the people had not rejected God, and sinned in asking for him, if every nation by a general law ought to have one, or by a particular law one had been appointed by him over them. There was therefore no king amongst them, nor any law of God or nature, particular or general, according to which they ought to have one.

SECTION X

ARISTOTLE WAS NOT SIMPLY FOR MONARCHY, OR AGAINST POPULAR GOVERNMENT; BUT APPROVED OR DISAPPROVED OF EITHER ACCORDING TO CIRCUMSTANCES.

Our author well observes, that Aristotle is hardly brought to give a general opinion in favour of monarchy, as if it were the best form of government, or to say true, never does it. He uses much caution, proposes conditions, and limitations, and makes no decision but according to circumstances. Men of wisdom and learning are subject to such doubts; but none ought to wonder if stupidity and ignorance defend Filmer and his followers from them; or that their hatred to the antient virtue should give them an aversion to the learning that was the nurse of it. They, who neither understand the several species of government, nor the various tempers of nations, may without fear or shame give their opinions in favour of that which best pleases them; but wise men will

CHAP. II always proportion their praises to the merit of the subject, and never commend that simply, which is good only according to circumstances. Aristotle highly applauds monarchy, when the monarch has more of those virtues that tend to the good of a commonwealth, than all they who compose it. This is the king mentioned in his Ethics, and extolled in his Politics. He is above all by nature, and ought not by a municipal law to be made equal to others in power; he ought to govern, because it is better for a people to be governed by him, than to enjoy their liberty; or rather they do enjoy their liberty; which is never more safe, than when it is defended by one who is a living law to himself and others. Wherever such a man appears, he ought to reign; he bears in his person the divine character of a sovereign; God has raised him above all; and such as will not submit to him ought to be accounted sons of Belial, brought forth and slain. But he does withal confess, that if no such man be found, there is no natural king: all the prerogatives belonging to him vanish, for want of one who is capable of enjoying them. He lays severe censures upon those, who, not being thus qualified, take upon them to govern men equal to, or better than themselves; and judges the assumption of such powers, by persons who are not naturally adapted to the administration of them, as barbarous usurpations, which no law or reason can justify; and is not so much transported with the excellency of this true king, as not to confess he ought to be limited by law. “*Qui legem praeesse jubet, videtur jubere praeesse Deum et leges; qui autem hominem praeesse jubet, adjungit et bestiam; libido quippe talis est, atque obliquos agit etiam viros optimos, qui sunt in potestate; quocirca lex mens est appetitione vacans**.” This agrees with the words of the best king that is known to have been in the world, proceeding, as is most probable, from a sense of the passions that reigned in his own breast: “man being in honour, hath no understanding, but is like to the beast that perisheth.” This shews that such as deny that kings do reign by law, or that laws may be imposed upon kings, do equally set themselves against the opinions of wise men, and the word of God. And our author, having found that learning made the Grecians seditious, may reasonably doubt, that religion may make others worse: so that none will be fit subjects of his applauded government, but those who have neither religion nor learning; nor can it be introduced, till both be extinguished.

Aristotle having declared his mind concerning government, in the books expressly written on that subject, whatever is said by the by, in his moral discourses, must be referred to and interpreted by the other. And if he said (which I do not find) that monarchy is the best form of government, and a popular state the worst, he cannot be thought to have meant otherwise, than that those nations were the most happy, who

* Ὁ μὲν ἐν τῷ νόμῳ [αἰ. νόμου] κελύων ἀρχεῖν, δοκεῖ κελύειν ἀρχεῖν τοῦ θεοῦ, καὶ τὰς νόμους δὲ ἀνθρώπου κελύων, προσθήσει καὶ θείον· ἢ τε γὰρ ἐπιθυμία τοιαύτη, καὶ ὁ θυμὸς ἀρχόντας ἕλαστροφεί. καὶ τὰς ἀρίστους ἀνδράς· διόπερ ἀνευ ὀρεξέως νόμος ὁ νόμος ἐστίν. Arist. Polit. l. 3, c. 16

had such a man as he thinks fit to be made a monarch; and those the most unhappy, who neither had such a one, nor a few, that any way excelled the rest; but all being equally brutish must take upon them the government they were unable to manage. For he does no where admit any other end of just and civil government, than the good of the governed; nor any advantage due to one or a few persons, unless for such virtues as conduce to the common good of the society. And as our author thinks learning makes men seditious, Aristotle also acknowledges, that those who have understanding and courage, which may be taken for learning, or the effect of it, will never endure the government of one, or a few that do not excel them in virtue; but no where dispraises a popular government, unless the multitude be composed of such as are barbarous, stupid, lewd, vicious, and incapable of the happiness for which governments are instituted; who cannot live to themselves, but, like a herd of beasts, must be brought under the dominion of another; or who, having among themselves such an excellent person as is above described, will not submit to him, but either kill, banish, or bring him to be equal with others, whom God had made to excel all. I do not trouble myself, or the reader, with citing here or there a line out of his books, but refer myself to those who have perused his moral and political writings, submitting to the severest censures, if this be not the true sense of them; and that virtue alone, in his opinion, ought to give the pre-eminence. And as Aristotle, following the wise men of those times, shews us how far reason, improved by meditation, can advance in the knowledge and love of that which is truly good; so we may in Filmer, guided by Heylin, see an example of corrupted christians, who, extinguishing the light of religion by their vices, and degenerating into beasts (whilst they endeavour to support the personal interest of some men, who are raised to dignities by the consent of nations, or by unwarrantable ways and means) would cast all the power into the hands of such as happen to be born in certain families; as if governments had not been instituted for the common good of nations, but only to increase their pride, and foment their vices; or as if the care and direction of a great people were so easy a work, that every man, woman, or child, how young, weak, foolish, or wicked soever, may be worthy of it, and able to manage it.

SECT. II

SECTION XI

LIBERTY PRODUCES VIRTUE, ORDER, AND STABILITY: SLAVERY IS ACCOMPANIED WITH VICE, WEAKNESS, AND MISERY.

Our author's judgment, as well as inclinations to virtue, are manifested in the preference he gives to the manners of the Assyrians, and other eastern nations, before the Grecians and Romans. Whereas the first were never remarkable for any thing, but pride, lewdness,

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ness, treachery, cruelty, cowardice, madness, and hatred to all that is good; whilst the others excelled in wisdom, valour, and all the virtues that deserve imitation. This was so well observed by St. Augustin, that he brings no stronger argument to prove, that God leaves nothing that is good in man unrewarded, than that he gave the dominion of the best part of the world to the Romans, who in moral virtues excelled all other nations †. And I think no example can be alleged of a free people, that has ever been conquered by an absolute monarch, unless he did incomparably surpass them in riches and strength. Whereas many great kings have been overthrown by small republics: and the success being constantly the same, it cannot be attributed to fortune, but must necessarily be the production of virtue and good order. Machiavel, discoursing of these matters, finds virtue to be so essentially necessary to the establishment and preservation of liberty, that he thinks it impossible for a corrupted people to set up a good government, or for a tyranny to be introduced, if they be virtuous; and makes this conclusion, “that where
“ the matter, that is, the body of the people, is not corrupted, tumults
“ and disorders do no hurt; and where it is corrupted, good laws do no
“ good ‡:” which being confirmed by reason and experience, I think no wise man has ever contradicted him.

But I do not more wonder, that Filmer should look upon absolute monarchy to be the nurse of virtue, though we see they did never subsist together, than that he should attribute order and stability to it. Whereas

† *Quamobrem, quamvis, ut potui, satis exposuerim quâ causâ Deus unus verus, et justus, Romanos secundum quandam formam terrenae civitatis bonos adjuverit, ad tanti imperii gloriam consequendam; potest tamen et alia causa esse latentior, propter diversa merita generis humani, Deo magis nota, quam nobis.* Aug. *De Civ. Dei*, l. 5, c. 19

‡ Che dove la materia non è corrotta, i tumulti ed altri scandali non nuocono; là dove la è corrotta le buone leggi non giovano. Machiav. *Disc. sopra T. Livio*, l. 1, c. 17

Livy, in the preface to his history, makes this remark: “Ad illa mihi pro se quisque acriter intendat animum, quae vita, qui mores fuerint: per quos viros, quibusque artibus, domi militiaeque, et partum et auctum imperium sit. Labente deinde paulatim disciplinâ, velut defidentes primo mores sequatur animo: deinde ut magis magisque lapsi sint, tum ire coeperint praecipites, donec ad haec tempora, quibus nec vitia nostra, nec remedia pati possumus, perventum est.” In the first book, ch. 19. he mentions the battle of Actium, and speaks of Octavius Caesar, under the titles of Emperor and Augustus: “haec tempora,” therefore must refer to the commencement of the Roman monarchy. About that period, as Tacitus observes, the people were become uncontrollably licentious: “nullus tunc legibus locus. Non aliud,” said the friends of Augustus, “discordantis patriae remedium fuit, quam ut ab uno rege retur.” *Ann.* l. 1, § 9, 10. Seneca blames Brutus for acting as if he imagined that the state could be instantly reformed at such a crisis: “qui aut ibi speravit libertatem futuram, ubi tam magnum praemium erat et imperandi, et serviendi; aut existimavit civitatem in priorem formam posse revocari, amissis pristinis moribus, futuramque ibi aequalitatem civilis juris, et staturas suo loco leges, ubi viderat tot millia hominum pugnantia, non an fervirent, sed cui. Quanto vero illum aut rerum naturae, aut urbis suae tenuis oblivio, qui uno interempto, defuturum credidit alium, qui idem vellet; cum Tarquinius esset inventus post tot reges ferro ac fulminibus occisos?” *Sen. De Benef.* l. 2, c. 20

order principally consists in appointing to every one his right place, office, or work; and he lays the whole weight of the government upon one person, who very often does neither deserve, nor is able to bear the least part of it. Plato, Aristotle, Hooker, and I may say, in short, all wise men have held, that order requires, that the wisest, best, and most valiant should be placed in the offices where wisdom, virtue, and valour, are requisite. If common sense did not teach us this, we might learn it from the Scripture. When God gave the conduct of his people to Moses, Joshua, Samuel, and others, he endowed them with all the virtues and graces, required for the right performance of their duty. When the Israelites were oppressed by the Midianites, Philistines, and Ammonites, they expected help from the wisest and most valiant. When Hannibal was at the gates of Rome, and had filled Italy with fire and blood, and when the Gauls overwhelmed that country with their multitudes and fury, the senate and people of Rome put themselves under the conduct of Camillus, Manlius, Fabius, Scipio, and the like; and when they failed to choose such as were fit for the work to be done, they received such defeats as convinced them of their error. But if our author say true, order required, that the power of defending the country should have been annexed, as an inheritance, to one family, or left to him that could get it; and the exercise of all authority committed to the next in blood, though the weakest of women, or the basest of men.

The like may be said of judging, or doing of justice; and it is absurd to pretend, that either is expected from the power, not the person, of the monarch: for experience does too well shew, how much all things halt in relation to justice or defence, when there is a defect in him that ought to judge us, and to fight our battles. But of all things this ought least to be alleged by the advocates for absolute monarchy, who deny that the authority can be separated from the person, and lay it as a fundamental principle, that whoever has it, may do what he pleases, and be accountable to no man.

Our author's next work is to shew, that stability is the effect of this good order. But he ought to have known, that stability is then only worthy of praise, when it is in that which is good. No man delights in sickness or pain, because it is long or incurable; nor in slavery and misery, because it is perpetual: much less will any man in his senses commend a permanency in vice and wickedness. He must therefore prove, that the stability he boasts of is in things that are good, or all that he says of it signifies nothing.

I might leave him here with as little fear, that any man, who shall espouse his quarrel, will ever be able to remove this obstacle, as that he himself should rise out of his grave, and do it: but I hope to prove, that of all things under the sun, there is none more mutable or unstable than absolute monarchy; which is all that I dispute against, professing much veneration for that which is mixed, regulated by law, and directed to the public good.

CHAP. II This might be proved by many arguments ; but I shall confine myself to two ; the one drawn from reason, the other from matters of fact.

Nothing can be called stable, that is not so in principle and practice ; in which respect human nature is not well capable of stability : but the utmost deviation from it that can be imagined, is, when such an error is laid for a foundation as can never be corrected. All will confess, that if there be any stability in man, it must be in wisdom and virtue, and in those actions that are thereby directed : for in weakness, folly, and madness there can be none. The stability therefore that we seek, in relation to the exercise of civil and military powers, can never be found, unless care be taken, that such as exercise those powers, be endowed with the qualities that shall make them stable. This is utterly repugnant to our author's doctrine : he lays for a foundation, that the succession goes to the next in blood, without distinction of age, sex, or personal qualities. Whereas even he himself could not have the impudence to say, that children and women, where they are admitted, or fools, madmen, and such as are full of all wickedness, do not come to be the heirs of reigning families, as well as of the meanest. The stability therefore, that can be expected from such a government, either depends upon those who have none in themselves, or is referred wholly to chance, which is directly opposite to stability.

This would be the case, though it were, as we say, an even wager, whether the person would be fit or unfit, and there were as many men in the world able as unable to perform the duty of a king. But experience shewing, that, among many millions of men, there is hardly one that possesses the qualities required in a king, it is so many to one, that he, upon whom the lot shall fall, will not be the man we seek, in whose person and government there can be such a stability as is asserted. And that failing, all must necessarily fail : for there can be no stability in his will, laws, or actions, who has none in his person.

That we may see whether this be verified by experience, we need not search into the dark relations of the Babylonian and Assyrian monarchies : those rude ages afford us little instruction. And though the fragments of history remaining do sufficiently shew, that all things there were in perpetual fluctuation, by reason of the madness of their kings, and the violence of those who transported the empire from one place or family to another, I will not much rely upon them, but slightly touching some of their stories, pass to those that are better known to us.

The kings of those ages seem to have lived rather like beasts in a forest, than men joined in civil society. They followed the example of Nimrod the mighty hunter. Force was the only law that prevailed, the stronger devoured the weaker, and continued in power till he was ejected by one of more strength or better fortune. By these means the race of Ninus was destroyed by Belochus. Arbaces rent the kingdom asunder, and took Media to himself. Merodach extinguished the race of Belochus, and was made king. Nebuchodonosor like a flood overwhelmed all for a
time,

time, destroyed the kingdoms of Jerusalem and Egypt, with many others, and found no obstacle, till his rage and pride turned to a most bestial madness. The Assyrian empire was wholly abolished at the death of his grandson Belshazzar. And no stability can be found in the reigns of those great kings, unless that name be given to the pride, idolatry, cruelty, and wickedness, in which they remained constant. If we examine matters more distinctly, we shall find that all things varied according to the humour of the Prince. Whilst Pharaoh lived, who had received many signal services from Joseph, the Israelites were well used; but when another rose up who knew him not, they were persecuted with all the extremities of injustice and cruelty, till the furious king persisting in his design of exterminating them, brought destruction upon himself and the nation. Where the like power has prevailed, it has ever produced the like effects. When some great men of Persia had persuaded Darius, that it was a fine thing to command, that no man for the space of thirty days should make any petition to God or man, but to the king only, Daniel the most wise and holy man then in the world must be thrown to the lions. When God had miraculously saved him, the same sentence was passed against the princes of the nation. When Haman had filled Ahasuerus's ears with lies, all the Jews were appointed to be slain; and when the fraud of that villain was detected, leave was given them, with the like precipitancy, to kill whom they pleased. When the Israelites came to have kings, they were subject to the same storms, and always with their blood suffered the penalty of their prince's madness. When one kind of fury possessed Saul, he slew the priests, persecuted David, and would have killed his brave son Jonathan: when he fell under another, he took upon him to do the priest's office, pretended to understand the word of God better than Samuel, and spared those that God had commanded him to destroy. Upon another whim he killed the Gibeonites, and never rested from finding new inventions to vex the people, till he had brought many thousands of them to perish with himself and his sons, on mount Gilboa. We do not find any king, in wisdom, valour, and holiness, equal to David; and yet he, falling under the temptations that attend the greatest fortunes, brought civil wars, and a plague, upon the nation. When Solomon's heart was drawn away by strange women, he filled the land with idols, and oppressed the people with intolerable tributes. Rehoboam's folly made that rent in the kingdom which could never be made up. Under his successors the people served God, Baal, or Ashtaroth, as best pleased him who had the power; and no other marks of stability can be alleged to have been in that kingdom, than the constancy of their kings in the practice of idolatry, their cruelty to the prophets, and their civil wars, producing such slaughters as are reported in few other stories. The kingdom was in the space of about two hundred years possessed by nine several families, not one of them getting possession, otherwise than by the

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slaughter.

CHAP. II slaughter of his predecessor, and the extinction of his race; and ended in the bondage of the ten tribes, which continues to this day.

He that desires farther proofs of this point, may seek them in the histories of Alexander of Macedon, and his successors. He seems to have been endowed with all the virtues, that nature improved by discipline did ever attain; so that he is believed to be the man meant by Aristotle, who, on account of the excellency of his virtues, was by nature framed for a king; and Plutarch ascribes his conquests rather to these, than to his fortune †. But even these virtues were overthrown by the successes that accompanied them. He burnt the most magnificent palace of the world, in a frolick, to please a mad drunken whore. Upon the most frivolous suggestions of eunuchs and rascals, he killed the best and bravest of his friends. And his valour, which had no equal, not subsisting without his other virtues, perished when he became lewd, proud, cruel, and superstitious; so that it may be truly said, he died a coward. His successors did not differ from him. When they had killed his mother, wife, and children, they exercised their fury against one another; and tearing the kingdom to pieces, the survivors left the sword as an inheritance to their families, who perished by it, or under the weight of the Roman chains.

When the Romans had lost that liberty which had been the nurse of their virtue, and gained the empire in lieu of it, they attained to our author's applauded stability. Julius being slain in the senate, the first question was, whether it could be restored, or not? and that being decided by the battle of Philippi, the conquerors set themselves to destroy all the eminent men in the city, as the best means to establish the monarchy. Augustus gained it by the death of Antonius, and the corruption of the soldiers. And he dying naturally, or by the fraud of his wife, the empire was transferred to her son Tiberius; under whom the miserable people suffered the worst effects of the most impure lust, and inhuman cruelty. He being stifled, the government went on with much uniformity and stability. Caligula, Claudius, Nero, Galba, Otho, Vitellius, regularly and constantly did all the mischief they could, and were not more like to each other in the villainies they committed, than in the deaths they suffered. Vespasian's more gentle reign did no way compensate for the blood he spilt to attain the empire. And the benefits received from Titus's short-lived virtue were infinitely overbalanced by the detestable vices of his brother Domitian, who turned all things into the old channel of cruelty, lust, rapine, and perfidiousness. His slaughter gave a little breath to the gasping, perishing world; and men might

† Plutarch speaks in the highest terms of Alexander's virtues, and makes these encomiums upon his heroism: Εβρατηγησεν των απο της τυχης υπαρχοντων προς το νικησαι, βελτιου. . . . Η τε γαρ τυχη ταις επιβολαις υπεικουσα την γνωμην ισχυραν εποει, και το θυμοειδες αχρι των πραγματος επεξεφερε την φιλονεικίαν απτήτητον, ου μονον πολεμικη, αλλα και τοπη, και καιρη καταβιαζομενη. Plut. in vitâ Alex.

be virtuous under the government of Nerva, Trajan, Antoninus, Aurelius, and a few more; though even in their time religion was always dangerous. But when the power fell into the hands of Commodus, Heliogabalus, Caracalla, and others of that sort, nothing was safe but obscurity, or the utmost excesses of lewdness and baseness. However, whilst the will of the governor passed for a law, and the power did usually fall into the hands of such as were most bold and violent, the utmost security, that any man could have for his person or estate, depended upon his temper. And princes themselves, whether good or bad, had no longer leases of their lives, than the furious and corrupted soldiers would give them; and the empire of the world was changeable, according to the success of a battle.

Matters were not much mended when the emperors became christians. Some favoured those who were called orthodox, and gave great revenues to corrupt the clergy. Others supported Arianism, and persecuted the orthodox with as much asperity as the pagans had done. Some revolted, and shewed themselves more fierce against the professors of christianity, than they who had never had any knowledge of it. The world was torn in pieces amongst them; and often suffered as great miseries by their sloth, ignorance, and cowardice, as by their fury and madness, till the empire was totally dissolved and lost. That which, under the weakness and irregularity of a popular government, had conquered all from the Euphrates to Britain, and destroyed the kingdoms of Asia, Egypt, Macedon, Numidia, and a multitude of others, was made a prey to unknown barbarous nations, and rent into as many pieces as it had been composed of, when it enjoyed the stability that accompanies divine and absolute monarchy!

The like may be said of all the kingdoms in the world: they may have their ebbs and flowings according to the virtues or vices of princes, or their favourites; but can never have any stability, because there is, and can be none in them. Or if any exception may be brought against this rule, it must be of those monarchies only, which are mixed and regulated by laws, where diets, parliaments, assemblies of estates, or senates, may supply the defects of a prince, restrain him if he prove extravagant, and reject such as are found to be unworthy of their office; which are as odious to our author and his followers, as the most popular governments, and can be of no advantage to his cause.

There is another ground of perpetual fluctuation in absolute monarchies, or such as are grown so strong, that they cannot be restrained by law, though according to their institution they ought to be, distinct from, but in some measure relating to the inclinations of the monarch, that is, the impulse of ministers, favourites, wives, or whores, who frequently govern all things according to their own passions or interests. And though we cannot say, who were the favourites of every one of the Assyrian or Egyptian kings, yet the examples before-mentioned of the different method followed in Egypt before and after the death of Joseph, and in Persia whilst the idolatrous princes, and Haman or Daniel, Esther and Mordecai were in credit, with the violent changes happening thereupon, give

CHAP. II us reason to believe the like were in the times of other kings. And if we examine the histories of later ages, and the lives of princes, that are more exactly known, we shall find, that kingdoms are more frequently swayed by those who have power with the prince, than by his own judgment: so that whoever has to deal with princes concerning foreign or domestic affairs, is obliged more to regard the humour of those persons, than the most important interests of a prince or people.

I might draw too much envy upon myself, if I should take upon me to cite all the examples of this kind that are found in modern histories, or the memoirs that do more precisely shew the temper of princes, and the secret springs by which they were moved. But as those who have well observed the management of affairs in France during the reigns of Francis the first, Henry the second, Francis the second, Charles the ninth, Henry the third, Henry the fourth, and Lewis the thirteenth, will confess, that the interests of the dukes of Montmorency and Guise, queen Catherine de Medicis, the duke d'Esperson, la Fosseuse, madam de Guiche, d'Estrées, d'Entraques*, the marshal d'Ancre, the constable de Luines, and the cardinal de Richelieu, were more to be considered by those who had any private or public business to transact at court, than the opinions of those princes, or the most weighty concerns of the state; so it cannot be denied, that other kingdoms where princes legally have, or wrongfully usurp the like power, are governed in the like manner; or if it be, there is hardly any prince's reign that will not furnish abundant proof of what I have asserted.

I agree with our author, that "good order and stability produce strength." If monarchy therefore excel in them, absolute monarchies should be of more strength than those that are limited, according to the proportion of their riches, extent of territory, and number of people they govern; and those limited monarchies, in the like proportion, more strong than popular governments or commonwealths. If this be so, I wonder how a few of those giddy Greeks, who, according to our author, "had learning enough only to make them seditious," came to overthrow those vast armies of the Persians, as often as they met with them; and seldom found any other difficulty than what did arise from their own countrymen, who sometimes sided with the barbarians. Seditions are often raised by a little prating; but when one man was to fight against fifty, or a hundred, as at the battles of Salamine, Platea, Marathon, and others, then industry, wisdom, skill, and valour, were required; and if their learning had not made them to excel in those virtues, they must have been overwhelmed by the prodigious multitudes of their enemies. This was so well known to the Persians, that when Cyrus the younger prepared to invade his brother Artaxerxes, he brought together indeed a vast army of Asiatics; but chiefly relied upon the counsel and valour of ten thousand Grecians, whom he had engaged to serve him. These giddy heads, accompanied with good hands, in the great battle near Babylon, found no

* See an account of these ladies, favourites of Henry the fourth, in Sully's Memoirs.
I resistance

resistance from Artaxerxes's army *. And when Cyrus was killed by accident, in the pursuit of the victory they had gained, and their own officers treacherously murdered, they made good their retreat into Greece, under the conduct of Xenophon, in despite of above four hundred thousand horse and foot, who endeavoured to oppose them. They were destitute of horse, money, provisions, friends, and all other help, except what their wisdom and valour furnished them; and thereupon relying, they passed over the bellies of all the enemies that ventured to appear against them, in a march of a thousand miles. These things were performed in the weakness of popular confusion. But Agesilaus not being sensible of so great defects, accompanied only with six and thirty Spartans, and such other forces as he could raise upon his personal credit, adventured, without authority or money, to undertake a war against the great king Artaxerxes; and having often beaten Pharnabazus and Tissaphernes his lieutenants, was preparing to assault him in the heart of his kingdom, when he was commanded by the Ephori to return for the defence of his own country.

It may in like manner appear strange, that Alexander with the forces of Greece, much diminished by the Phœcean, Peloponnesian, Theban, and other intestine wars, could overthrow all the powers of the east, and conquer more provinces than any other army ever saw, if so much order and stability were to be found in absolute monarchies, and if the liberty in which the Grecians were educated did only fit them for seditions. And it would seem no less astonishing, that Rome and Greece, whilst they were free, should furnish such numbers of men excelling in all moral virtues, to the admiration of all succeeding ages, and thereby become so powerful that no monarchs were able to resist them; and that the same countries since the loss of their liberty, should have always been weak, base, cowardly, and vicious, if the same liberty had not been the mother and nurse of their virtue, as well as the root of their power.

It cannot be said, that Alexander was a monarch in our author's sense; for the power of the Macedonian kings was small. Philip confessed the people were freemen, and his son found them to be so, when his fortune had overthrown his virtue, and he fell to hate and fear that generosity of spirit which it creates. He made his conquests by it, and loved it as long as he deserved to be loved. His successors had the same fortune: when their hearts came to be filled with barbaric pride, and to delight only in rendering men slaves, they became weak and base, and were easily overthrown by the Romans, whose virtue and fortune did also perish with their liberty. All the nations they had to deal with, had the same fate. They never conquered a free people without extreme difficulty. They received many great defeats, and were often necessitated to fight for their lives against the Latins, Sabines, Tuscans, Samnites, Carthaginians, Spa-

* *Οἱ μὲν γὰρ Ἕλληνας ὅσον ἐβόλουτο τὰς βαρβάρους ἐνίκων, καὶ διακόντες ἐπὶ τῷ πλείσθῳ προήλθον.* Plut. in vitâ Artax.

CHAP. II niards; and in the height of their power found it a hard work to subdue a few poor Etolians: but the greatest kings were easily overcome. When Antiochus had insolently boasted that he would cover Greece and Italy with the multitude of his troops, Quintus Flaminius ingeniously compared his army of Persians, Chaldeans, Syrians, Mesopotamians, Cappadocians, Arabians, and other base Asiatic slaves, to a supper set before him by a Grecian friend, which, seeming to be of several sorts of venison, was all cut out of one hog, variously dressed*. And not long after, that vast multitude was as easily slaughtered as the hog had been. The greatest danger of the war with Mithridates was to avoid his poisons and treacheries; and to follow him through the deserts where he fled. When Lucullus, with less than twenty thousand men, had put Tigranes with two hundred thousand to flight, the Roman soldiers, who for a while had pursued the chase, stood still on a sudden, and fell into a loud laughter at themselves for using their arms against such wretched cowardly slaves †. If this be not enough to prove the falshood of our author's proposition, I desire it may be considered, whether good order or stability be wanting in Venice; whether Tuscany be in a better condition to defend itself since it fell under the power of the house of Medicis, or when it was full of free cities; whether it were an easy work to conquer Switzerland; whether the Hollanders are of greater strength since the recovery of their liberty, or when they groaned under the yoke of Spain; and lastly, whether the entire conquest of Scotland and Ireland, the victories obtained against the Hollanders when they were in the height of their power, and the reputation to which England did rise in less than five years after 1648, be good marks of the instability, disorder, and weakness of free nations: and if the contrary be true, nothing can be more absurdly false than our author's assertion.

SECTION XII

THE GLORY, VIRTUE, AND POWER OF THE ROMANS BEGAN
AND ENDED WITH THEIR LIBERTY.

Among many fine things proposed by our author, I see none more to be admired, or that better declares the soundness of his judgment, than that he is only pleased with the beginning and end of the Roman empire;

* Προς δὲ τῆς Ἀχαιοῦ τῶν παρὰ Ἀντιόχου πρεσβέων πλῆθος τι τῆς βασιλικῆς σφραγίδος καταλέγοντων, καὶ καταριθμουμένων πολλὰς προσηγορίας, ὁ Τίτος εἶπε, δειπνούντος αὐτοῦ παρὰ τῷ ξενίῳ, καὶ μεμφομένῳ τοῦ πλῆθους τῶν κρέων, καὶ θαυμάζοντος ποθεν οὕτω ποικίλης ἀγορᾶς εὐπορήσεν, εἶπεν τοῦ ξενίου, ὡς ἕνα πάντα εἶναι, τῆ σκευασίᾳ διαφέροντα καὶ τοῖς ἡδύσμασιν. Plut. in vitâ T. Q. Flamin.

† Στραβῶν δ' ἐν τοῖς ἱστορικοῖς ὑπομνήμασιν, αὐτὸς λέγει τῆς Ῥωμαίων ἀσχυροῦσθαι καὶ καταγελαῖν ἑαυτῶν ἐπ' ἀνδραποδῶν τοιαῦτα δεσφέντας ὄπλα. Plut. in vitâ Lucul.

and says, that their time of liberty (between those two extremes) had nothing of good in it, but that it was of short continuance. Whereas I dare affirm, that all that was ever desirable, or worthy of praise and imitation in Rome, proceeded from its liberty, grew up, and perished with it: which I think will not be contradicted by any, but those who prefer the most fordid vices before the most eminent virtues; who believe the people to have been more worthily employed by the Tarquins in cleansing jakes and common sewers, than in acquiring the dominion of the best part of mankind; and account it better for a people to be oppressed with hard labour under a proud master in a sterile, unhealthy ten-mile territory, than to command all the countries that lie between the Euphrates and Britain. Such opinions will hardly find any better patrons than Filmer and his disciples; nor the matters of fact, as they are represented, be denied by any that know the histories of those times. Many Romans may have had seeds of virtue in them, whilst in the infancy of that city they lived under kings; but they brought forth little fruit. Tarquin surnamed the Proud, being a Grecian by extraction, had perhaps observed, that the virtue of that nation had rendered them averse to the divine government he desired to set up; and having by his well-natur'd Tullia poisoned his own brother her husband, and his own wife her sister, married her, killed her father, and spared none that he thought able to oppose his designs, to finish the work, he butchered the senate, with such as seemed most eminent among the people, and like a most pious father endeavoured to render the city desolate. During that time they, who would not be made instruments of those villainies, were obliged for their own safety to conceal their virtues; but, he being removed, they shined in their glory. Whilst he reigned, Brutus, Valerius, Horatius, Herminius, Lartius, and Coriolanus, lay hid and unregarded; but when they came to fight for themselves, and to employ their valour for the good of their country, they gave such testimonies of bravery, as have been admired by all succeeding ages; and settled such a discipline, as produced others like to them, or more excellent than they, as long as their liberty lasted. In two hundred and sixty years, that they remained under the government of kings, though all of them, the last only excepted, were chosen by the senate and people, and did as much to advance the public service as could reasonably be expected from them, their dominion hardly extended so far as from London to Hounslow. But in little more than three hundred years after they recovered their liberty, they had subdued all the warlike nations of Italy, destroyed vast armies of the Gauls, Cimbri, and Germans; overthrown the formidable power of Carthage, conquered the Cisalpine and Transalpine Gauls, with all the nations of Spain, notwithstanding the ferocity of the one, and the more constant valour of the other, and the prodigious multitudes of both; they had brought all Greece into subjection, and, by the conquest of Macedon, the spoils of the world to adorn their city; and found so little difficulty in all the wars, that happened between them and the greatest kings

CHAP. II kings after the death of Alexander of Epirus, and Pyrrhus, that the defeats of Syphax, Perseus, Antiochus, Prusias, Tigranes, Ptolemy, and many others, did hardly deserve to be numbered among their victories.

It were ridiculous to impute this to chance, or to think, that fortune, which of all things is the most variable, could for so many ages continue the same course, unless supported by virtue; or to suppose, that all these monarchies, which are so much extolled, could have been destroyed by that commonwealth, if it had wanted strength, stability, virtue, or good order. The secret counsels of God are impenetrable; but the ways by which he accomplishes his designs are often evident. When he intends to exalt a people, he fills both them and their leaders with the virtues suitable to the accomplishment of his end; and takes away all wisdom and virtue from those he resolves to destroy. The pride of the Babylonians and Assyrians fell through the baseness of Sardanapalus; and the great city was taken while Belshazzar lay drunk amongst his whores. The empire was transported to the Persians and Grecians by the valour of Cyrus, Alexander, and the brave armies that followed them. Histories furnish us with innumerable examples of this kind: but I think none can be found of a cowardly, weak, effeminate, foolish, ill-disciplined people, that have ever subdued such as were eminent in strength, wisdom, valour, and good discipline; or that these qualities have been found or subsisted any where, unless they were cultivated and nourished by a well-ordered government. If this therefore was found among the Romans, and not in the kingdoms they overthrew, they had the order and stability which the monarchies had not; and the strength and virtue, by which they obtained such success, was the product of them. But if this virtue, and the glorious effects of it, did begin with liberty, it also expired with the same. The best men that had not fallen in battle were gleaned up by the proscriptions, or circumvented for the most part by false and frivolous accusations. Mankind is inclined to vice, and the way to virtue is so hard, that it wants encouragement; but when all honours, advantages, and preferments, are given to vice, and despised virtue finds no other reward than hatred, persecution, and death, there are few who will follow it. Tacitus well describes the state of the empire, when the power was absolutely fallen into the hands of one: "*Italia novis cladi-*
"*bus, vel post longam seculorum seriem repetitis, afflicta; urbs incendiis*
"*vastata, consumptis antiquissimis delubris, ipso capitolio civium mani-*
"*bus incenso; pollutae caerimoniae; magna adulteria; plenum exiliis*
"*mare; infecti caedibus scopuli; atrocius in urbe saevitum; nobilitas,*
"*opes, omissi gestique honores pro crimine, et ob virtutes certissimum*
"*exitium†.*" His following words shew, that the rewards of these abominations were not less odious than the things themselves: the highest dignities were bestowed upon the "delatores," who were a kind of

† Tacit. Hist. l. 1, §. 2

rogues like to our Irish witnesses, or those that by a new coined word we call "trepanners." This is not a picture drawn by a vulgar hand, but by one of the best painters in the world; and being a model that so much pleases our author, it is good to see what it produced. The first fruit was such an entire degeneracy from all good, that Rome may be justly said never to have produced a brave man since the first age of her slavery. Germanicus and Corbulo were born "expirante libertate;" and the recompence they received did so little encourage others to follow their example, that none have been found in any degree like to them. Those of the most noble families applied themselves to sleep, laziness, and luxury, that they might not be suspected to be better than their masters. Thrasea, Soranus, and Helvidius, were worthy men, who resolved to persist in their integrity, though they should die for it: but that was the only thing that made them eminent; for they were of unknown families, not Romans by birth, nor ever employed in war. And those emperors who did arrive to any degree of virtue were Spaniards, Gauls, Africans, Thracians, and of all nations, except Romans. The patrician and plebeian families, which for many ages had filled the world with great commanders, and such as excelled in all virtues, being thus extinguished or corrupted, the common people fell into the lowest degree of baseness: "plebs fordida, et circo ac theatris fueta*." That people, which in magnanimity surpassed all that have been known in the world, who never found any enterprize above their spirit to undertake, and power to accomplish, with their liberty lost all their vigour and virtue. They, who by their votes had disposed of kingdoms and provinces, fell to desire nothing but to live and see plays †. Whether their emperors were good or bad, they usually rejoiced at their death, in hopes of getting a little money or victuals from the successor. Though the empire was by these means grown weak and bloodless, yet it could not fall on a sudden: so vast a body could not die in a moment. All the neighbouring nations had been so much broken by their power, that none was able to take advantage of their weakness; and life was preserved by the strength of hungry barbarians, allured by the greatness of the pay they received to defend those, who had no power left to defend themselves. This precarious and accidental help could not be durable. They, who for a while had been contented with their wages, soon began to think it fit for them rather to fight for themselves, than for their weak masters; and thereupon fell to set up emperors depending on themselves, or to seize upon the naked provinces, where they found no other difficulty than to contend with other strangers, who might have the like design upon the same. Thus did the armies of the east and west set up emperors at their pleasure. And though the Goths, Vandals, Huns, Sueves, Alans, and others, had

* Tacit. Hist. l. 1, § 4

† Duas tantum res anxius optat,
Panem et Circenses.

CHAP. II cruel wars among themselves, yet they feared and suffered little or nothing from the Romans. This state of things was so soon observed, that in the beginning of Tiberius's reign, they who endeavoured to excite the Gauls to take arms used no other arguments, than such as were drawn from the extreme weakness of the Romans *. It was evident, that after the battles of Philippi and Actium, the strength of the Roman armies consisted of strangers; and even the victories that went under their name were gained by those nations, which in the time of their liberty they had subdued. They had nothing left but riches gathered out of their vast dominions; and they learned by their ruin, that an empire acquired by virtue could not long be supported by money. They, who by their valour had arrived at such a height of glory, power, greatness, and happiness, as was never equalled, and who in all appearance had nothing to fear from any foreign power, could never have fallen, unless their virtue and discipline had decayed, and the corruption of their manners had excited them to turn their victorious swords into their own bowels. Whilst they were in that flourishing condition, they thought they had nothing more to desire than continuance. But if our author's judgment is to be followed, there was nothing of good in it, except the shortness of its continuance; they were beholden to those who wrought the change; they were the better for the battles of Pharsalia, Philippi, Munda, and Actium; the destruction of two thirds of the people, with the slaughter of all the most eminent men among them, was for their advantage; the proscriptions were wholesome remedies; Tacitus did not understand the state of his own country, when he seems to be ashamed to write the history of it, and says, "nobis in arcto et inglorius labor;" when instead of such glorious things as had been achieved by the Romans, whilst either the senate, or the common people prevailed, he had nothing left to relate, but "saeva
" iussa, continuas accusationes, fallaces amicitias, perniciem inno-
" centium †;" they enjoyed nothing that was good from the expulsion of the Tarquins, to the re-establishment of divine absolute monarchy in the persons of those pious fathers of the people, Tiberius, Caligula, Claudius, Nero, Galba, Otho, Vitellius, and the like; there was no virtue in the Junii, Horatii, Cornелии, Quintii, Decii, Manlii; but the generous and tender-hearted princes before-mentioned were perfect examples of it; while annual magistrates governed, there was no stability; Sejanus, Macro, and Tigellinus, introduced good order; virtue was not esteemed by the antient senate and people; Messalina, Agrippina, Poppaea, Narcissus, Pallas, Vinus, and Laco, knew how to put a just value upon it; the irregularities of popular assemblies, and want of prudence in the senate, were repaired by the temperate proceedings of the German,

* Egregium resumendae libertati tempus, si ipsi florentes, quam inops Italia, quam imbellis urbana plebes, nihil validum in exercitibus, nisi quod externum, cogitarent. Tacit. Ann. l. 3, § 40

† Ibid. l. 4, § 32, 33

Pannonian, and eastern armies, or the modest discretion of the pretorian bands; the city was delivered by them from the burden of governing the world, and for its own good frequently plundered, fired, and, at last, with the rest of desolated Italy, and the noblest provinces of Europe, Asia, and Africa, brought under the yoke of the most barbarous and cruel nations. By the same light we may see, that they who endeavoured to perpetuate the misery of liberty to Rome, or lost their lives in the defence of it, were the worst, or the most foolish of men; and that they were the best who did overthrow it. This rectifies all our errors. And if the highest praises are due to him who did the work, the next are well deserved by those who perished in attempting it. And if the sons of Brutus, with their companions the Vitellii and Aquilii, Appius Claudius the decemvir, those that would have betrayed the city to Porfenna, Spurius Maelius, Spurius Cassius, Manlius Capitolinus, Saturninus, Catiline, Cethegus, Lentulus, had been as fortunate as Julius Caesar, they might as well have deserved an apotheosis. But if all this be false, absurd, bestial, and abominable, the principles that necessarily lead us to such conclusions are so also: which is enough to shew, that the strength, virtue, glory, wealth, power, and happiness of Rome, proceeding from liberty, did rise, grow, and perish with it.

SECTION XIII

THERE IS NO DISORDER OR PREJUDICE IN CHANGING THE NAME OR NUMBER OF MAGISTRATES, WHILE THE ROOT AND PRINCIPLE OF THEIR POWER CONTINUES ENTIRE.

In the next place, our author would persuade us, that the Romans were inconstant because of their changes from annual consuls to military tribunes, decemviri, and dictators; and gives the name of sedition to the complaints made against usury, or the contests concerning marriages and magistracy. But I affirm,

1. That no change of magistracy, as to the name, number, or form, testifies irregularity, or brings any manner of prejudice, as long as it is done by those who have a right of doing it, and he or they who are created continue within the power of the law to accomplish the end of their institution; many forms being in themselves equally good may be used as well one as another, according to times, and other circumstances.

2. It is a rare thing for a city at the first to be rightly constituted: men can hardly at once foresee all that may happen in many ages, and the changes that accompany them ought to be provided for. Rome in its foundation was subject to these defects; and the inconveniencies arising from them were by degrees discovered and remedied. They did not think of regulating usury, till they saw the mischiefs proceeding from the cruelty

CHAP. II of usurers; or setting limits to the proportion of land that one man might enjoy, till the avarice of a few had so far succeeded, that their riches were grown formidable, and many by the poverty to which they were reduced became useless to the city. It was not time to make a law, that the plebeians might array with the patricians, till the distinction had raised the patricians to such pride, as to look upon themselves to have something of divine, and the others to be "inauspicati," or "profane †," and brought the city into danger by that division; nor to make the plebeians capable of being elected to the chief magistracies, till they had men able to perform the duties of them. But these things being observed, remedies were seasonably applied without any bloodshed or mischief, though not without noise and wrangling.

3. All human constitutions are subject to corruption, and must perish, unless they are timely renewed, and reduced to their first principles: this was chiefly done by means of those tumults which our author ignorantly blames. The whole people, by whom the magistracy had been at first created, executed their power in those things which comprehend sovereignty in the highest degree, and brought every one to acknowledge it: there was nothing that they could not do, who first conferred the supreme honours upon the patricians, and then made the plebeians equal to them. Yet their modesty was not less than their power or courage. And therefore, when by the law they might have made a plebeian consul, they did not choose one in forty years; and when they did make use of their right in advancing men of their own order, they were so prudent, that they cannot be said to have been mistaken in their elections three times, while their votes were free. Whereas, of all the emperors that came in by usurpation, pretence of blood from those who had usurped; or that were set up by the soldiers, or a few electors, hardly three can be named who deserved that honour, and most of them were such as seemed to be born for plagues to mankind.

4. He manifests his fraud or ignorance in attributing the legislative power sometimes to the senate, and sometimes to the people; for the senate never had it. The stile of "senatus censuit, populus jussit," was never altered; but the right of advising continuing in the senate, that of enacting ever continued in the people.

5. An occasion of commending absolute power, in order to the establishment of hereditary monarchy, is absurdly drawn from their custom of creating a dictator in time of danger; for no man was ever created, but such as seemed able to bear so great a burden, which in hereditary governments is wholly left to chance. Though his power was great, it did arise from the law; and being confined to six months, it was almost impossible for any man to abuse it, or to corrupt so many of those who had enjoyed the same honour, or might aspire to it, as to bring them for his pleasure to betray their country. And as no man was ever chosen who

† Penes quos sunt auspicia, more majorum? nempe penes patres: nam plebeius quidem magistratus nullus auspicato creatur. Claud. Crass. orat. Liv. l. 6, c. 41

had not given great testimonies of his virtues, so no one did ever forfeit the good opinion conceived of him. Virtue was then honoured, and thought so necessarily to comprehend a sincere love and fidelity to the commonwealth, that without it the most eminent qualities were reputed vile and odious; and the memory of former services could no way expiate the guilt of conspiring against it. This seeming severity was in truth the greatest clemency. For though our author has the impudence to say, that during the Roman liberty the best men thrived worst, and the worst best, he cannot allege one example of any eminent Roman put to death, except Manlius Capitolinus, from the expulsion of the Tarquins to the time of the Gracchi, and the civil wars not long after ensuing; and of very few who were banished. By these means crimes were prevented; and the temptations to evil being removed, treachery was destroyed in the root; and such as might be naturally ambitious were made to see there was no other way to honour and power, than by acting virtuously.

But lest this should not be sufficient to restrain aspiring men, what power soever was granted to any magistrate, the sovereignty still remained in the people, and all, without exception, were subject to them. This may seem strange to those who think the dictators were absolute, because they are said to have been “*sine provocatione* *;” but that is to be only understood in relation to other magistrates, and not to the people, as is clearly proved in the case of Q. Fabius, whom Papirius the dictator would have put to death. “*Tribunos plebis appello,*” says the father of Fabius Maximus, “*et provoco ad populum; eumque tibi fugienti exercitûs tui, fugienti senatûs judicium, judicem fero, qui certè unus plus quam tua dictatura potest polletque; videro, cessurusne provocationi sis, cui rex Romanus Tullus Hostilius cessit †.*” Though the people did rather intercede for Fabius than command his deliverance, that modesty did evidently proceed from an opinion that Papirius was in the right. And though they desired to save Fabius, who seems to have been one of the greatest and best men that ever the city produced, they would not enervate that military discipline, to which they owed, not only their greatness, but their subsistence: especially when their sovereign authority was acknowledged by all, and the dictator himself had submitted. This right of appeals to the people was the foundation of the Roman commonwealth, laid in the days of Romulus, submitted to by Hostilius in the case of Horatius †, and never violated, till the laws and the liberty, which they supported, were overthrown by the power of the sword. This is confirmed by the speech of Metellus the tribune, who, in the time of the second Carthaginian war, causelessly disliking the proceedings of Q. Fabius Maximus then dictator, in a public assembly of the people, said, “*Si antiquus animus plebi Romanae esset, audacè se laturum fuisse de abrogando Q. Fabii imperio; nunc modicam rogationem promulgaturum, de aequando magistrî equitum et dictatoris jure §.*” which

* Liv. l. 2, c. 18, 29. Sine provocatione dictatura. Ibid. l. 3, c. 20.

† Ibid. l. 8, c. 33

‡ Ibid. l. 1, c. 26

§ Ibid. l. 22, c. 25.

CHAP. II was done. And that action which had no precedent shews, that the people needed none, and that their power, being eminently above that of all magistrates, was obliged to no other rule than that of their own will. Though I do therefore grant, that a power like to the dictatorian, limited in time, circumscribed by law, and kept perpetually under the supreme authority of the people, may, by virtuous and well-disciplined nations, upon some occasions, be prudently granted to a virtuous man, it can have no relation to our author's monarch, whose power is in himself, subject to no law, perpetually exercised by himself, and for his own sake, whether he have any of the abilities required for the due performance of so great a work, or be entirely destitute of them: nothing being more unreasonable than to deduce consequences from cases, which in substance and circumstances are altogether unlike. But on the contrary, these examples, shewing that the Romans, even in the time of such magistrates as seemed to be most absolute, did retain and exercise the sovereign power, do most evidently prove, that the government was ever the same, remaining in the people, who without prejudice might give the administration to one or more men, as best pleased themselves: and the success shews, that they did it prudently.

SECTION XIV

NO SEDITION WAS HURTFUL TO ROME, TILL THROUGH THEIR PROSPERITY SOME MEN GAINED A POWER ABOVE THE LAWS.

Little pains is required to confute our author, who imputes much blood shed to the popular government of Rome; for he cannot prove, that one man was unjustly put to death, or slain, in any sedition before Publius Gracchus. The foundations of the commonwealth were then so shaken, that the laws could not be executed; and whatever did then fall out ought to be attributed to the monarchy for which the great men began to contend. While they had no other wars than with neighbouring nations, they had a strict eye upon their commanders, and could preserve discipline among the foldiers. But when, by the excellence of their valour and conduct, the greatest powers of the world were subdued, and, for the better carrying on of foreign wars, armies were suffered to continue in the same hands longer than the law did direct, soldiery came to be accounted a trade, and those, who had the worst designs against the commonwealth, began to favour all manner of licentiousness and rapine, that they might gain the favour of the legions, who by these means became unruly and seditious. It was hard, if not impossible, to preserve a civil equality, when the spoils of the greatest kingdoms were brought to adorn the houses of private men; and they, who had the greatest cities and nations their dependents and clients, were apt

apt to scorn the power of the law. This was a most dangerous disease, like those to which human bodies are subject, when they are arrived to that which physicians call the athletic habit, proceeding from the highest perfection of health, activity, and strength, that the best constitution by diet and exercise can attain. Whoever falls into them shews, that he had attained that perfection; and he, who blames that which brings a state into the like condition, condemns that which is most perfect among men. While the Romans were in the way to this, no sedition did them any hurt: they were composed without blood; and those that seemed to be the most dangerous produced the best laws. But when they were arrived to that condition, no order could do them good; the fatal period set to human things was come; they could go no higher:

——“ Summisque negatum
“ Stare diu.”*

And all that our author blames is not to be imputed to their constitution, but their departing from it. All men were ever subject to error; and it may be said, that the mistaken people, in the space of about three hundred years, did unjustly fine or banish five or six men. But those mistakes were so frankly acknowledged, and carefully repaired by honours bestowed upon the injured persons, as appears by the examples of Furius Camillus, Livius Salinator, Aemilius Paulus, and others, that they deserve more praise than if they had not failed.

If for the above-mentioned time seditions were harmless or profitable, they were also absolutely exempted from civil wars. Those of Apulia and Greece were revolts of conquered nations, and can no way fall under that name: but it is most absurdly applied to the servile and gladiatorian wars; for the gladiators were slaves also, and civil wars can be made only by those who are members of the civil society, which slaves are not. Those that made the “bellum sociale,” were freemen, but not citizens; and the war they made could not be called civil. The Romans had three ways of dealing with conquered nations.

1. Some were received into the body of the city, “civitate donati:” as the Latins by Romulus; the Albans by Hostilius; the Privernates, when their ambassador declared, that no peace could be durable unless it were just and easy; and the senate said, “se viri et liberi vocem audivisse, talesque dignos esse qui Romani fiant †;” and the like favour was shewn to many others.

2. By making leagues with them, as Livy says, “populum Romanum devictas bello gentes malle fide ac societate junctas habere, quam tristi subjectas servitio ‡:” of which sort were the Samnites, who, not liking their condition, joined with Hannibal; and afterwards, under the conduct of the brave Telefinus, with other nations that lived

* Luc. Phar. l. 1, v. 70

† Liv. l. 8, c. 21

‡ Ibid. l. 26, c. 49
under

CHAP. II under the condition of “*focii*,” made an unprosperous attempt to deliver themselves*.

3. Others, who were subdued after many rebellions, were “*in provinciam redacti* :” as the Capuans, when their city was taken by Appius Claudius, and Q. Fulvius Flaccus †.

We often hear of wars made by those of the two latter forts ; but of none that can be called civil, till the times of Marius, Sylla, and Catiline. And as they are to be esteemed the last strugglings of expiring liberty, when the laws, by which it had subsisted, were enervated, so those that happened between Caesar and Pompey, Octavius and Antonius, with the proscriptions, triumvirate, and all the mischiefs that accompanied them, are to be imputed wholly to the monarchy for which they contended, as well as those between Nero, Galba, Otho, Vitellius, and Vespasian, that hardly ever ceased till the empire was abolished : for the name of commonwealth continued to the end ; and I know not why Tiberius or Nero might not use it as well as Sylla or Marius.

Yet if our author be resolved to impute to popular government all that passed before Caesar made himself perpetual dictator, he will find no more than is seen in all places. We have known few small states, and no great one free from revolts of subjects or allies ; and the greatest empire of the east was overthrown by the rebellion of the Mammelucs their slaves. If there is any difference to be observed between what happened at Rome, it is chiefly, that, whilst there was any shadow of liberty, the slaves, gladiators, subjects or allies, were always beaten and suppressed. Whereas, in the time of the emperors, the revolt of a province was sufficient to give a new master to the best part of mankind ; and he, having no more power than was required for a present mischief, was for the most part, in a short time, destroyed by another. But to please our author, I will acknowledge a second defect, even that “*wantonness*” to which he ascribes all their disorders ; though I must withal desire him to consider from whence wantonness proceeds. If the people of Turkey or France did rebel, I should think they were driven to it by misery, beggary, or despair ; and could lay wantonness only to the charge of those who enjoy much prosperity. Nations, that are oppressed and made miserable, may fall into rage, but can never grow wanton. In the time of the Roman emperors, the pretorian cohorts, or the armies that had the liberty of ravaging the richest provinces, might be proud of their strength, or grow wanton through the abundance of their enjoyments. The Janizaries in latter ages may, for the same reasons, have fallen into the like excesses : but such as have lost their liberty are in no danger of them. When all the nobility of Rome was destroyed, and those, who excelled in reputation or virtue, were fallen in the wars, or by the proscriptions ; when two thirds of the people were slain, the

* Flor. l. 3, c. 18

† Ager omnis, et tecta publica populi Romani facta. Liv. l. 26, c. 16

best cities and colonies burnt, the provinces exhausted, and the small remains left in them oppressed with a most miserable slavery, they may have revolted, and sometimes did, as the Britons, Batavians, and others mentioned in the Roman history : but they were driven to those revolts by fury and necessity, arising from the miseries and indignities they suffered under an insupportable tyranny ; and wantonness had no part in them. The people of Rome, when they were a little freed from the terror of the soldiers, did sometimes for the same reasons conspire against the emperors ; and when they could do no more, expressed their hatred by breaking their statues. But after the battles of Pharsalia, Philippi, and the proscriptions, they never committed any folly through wantonness. In the like manner Naples and Sicily have revolted within these few years ; and some, who are well acquainted with the state of those kingdoms, think them ready again to do the like : but if it should so happen, no man of understanding would impute it to wantonness. The pressures under which they groan, have cured them of all such diseases ; and the Romans after the loss of their liberty could never fall into them. They may have grown wanton when their authority was revered, their virtue admired, their power irresistible, and the riches of the world were flowing in upon them, as it were, to corrupt their manners, by enticing them to pleasure. But when all that was lost, and they found their persons exposed to all manner of violence from the basest of men, their riches exhausted by tributes and rapine, whilst the treasures of the empire were not sufficient to supply the luxury of their masters, the misery they suffered, and the shame of suffering it, with the contemptible weakness to which they were reduced, did too strongly admonish them, that the vices of wantonness belonged only to those who enjoyed a condition far different from theirs ; and the memory of what they had lost sharpened the sense of what they felt. This is the state of things which pleases our author ; and, by praising that government, which deprived those who were under it of all that is most desirable in the world, and introduced all that ought to be detested, he sufficiently shews, that he delights only in that which is most abominable, and would introduce his admired absolute monarchy, only as an instrument of bringing vice, misery, devastation, and infamy, upon mankind.

SECTION XV

THE EMPIRE OF ROME PERPETUALLY DECAYED, WHEN IT FELL
INTO THE HANDS OF ONE MAN.

In pursuance of his design our author, with as much judgment as truth, denies that Rome became mistress of the world under the popular government. “ It is not so,” says he, “ for Rome began her empire under
S
“ kings,

CHAP. II “kings, and did perfect it under emperors: it did only increase under that popularity. Her greatest exaltation was under Trajan, and her longest peace under Augustus.” For the illustration of which, I desire these few things may be considered.

1. That the first monarchy of Rome was not absolute. The kings were made by the people without regard to any man's title, or other reason than the common good, choosing him that seemed most likely to procure it; setting up at the same time a senate, consisting of a hundred of the most eminent men among them; and, after the reception of the Sabines into the city, adding as many more to them, and committing the principal part of the government to their care, retaining the power of making those laws, to which the kings who reigned by their command were subject, and reserving to themselves the judgment of all great matters upon appeal. If any of their kings deserved to be called a monarch, according to Filmer's definition, it was the last Tarquin; for he alone of all their kings reigned not “*jussu populi*,” but came in by treachery and murder. If he had continued, he had cured the people of all vices proceeding from wantonness. But his farthest conquest was of the small town of Gabii, ten miles distant from Rome, which he effected by the fraud of his detestable son †; and that, being then the utmost limit of the Roman empire, must deserve to be called the world, or the empire of it was not gained by their kings.

2. The extent of conquests is not the only, nor the chief thing that ought to be considered in them; regard is to be had to the means by which they are made, and the valour or force that was employed by the enemy. In these respects not only the overthrow of Carthage, and the conquests of Spain, but the victories gained against the Sabines, Latins, Tuscans, Samnites, and other valiant nations of Italy, who most obstinately defended their liberty, when the Romans had no forces but their own, shew more virtue, and deserve incomparably more praise, than the defeats of any nations whatever, when they were increased in number, riches, reputation, and power, and had many other warlike people instructed in their discipline, and fighting under their ensigns. But I deny, that the Romans did ever make any considerable acquisition after the loss of their liberty. They had already subdued all Italy, Greece, Macedon, the islands of the Mediterranean Sea, Thracia, Illyrium, Asia the less, Pontus, Armenia, Syria, Egypt, Africa, Gaul, and Spain. The forces of Germany were broken; a bridge laid over the Rhine, and all the countries on this side subdued. This was all that was ever gained by the valour of their own forces, and that could bring either honour or profit. But I know of no conquest made after that time, unless the name of conquest be given to Caligula's expedition, when he said he had subdued the sea, in making an useless bridge from Puteoli to

† Liv. l. 1, c. 54.

Baiæ*; or when he entered Rome in triumph, for having gathered shells on the sea-shore †. Trajan's expedition into the east was rather a journey than a war. He rambled over the provinces, that Augustus had abandoned as not worth keeping, and others that had nothing to defend them, but ill-armed and unwarlike barbarians. Upon the whole matter, he seems to have been led only by curiosity; and the vanity of looking upon them as conquests appears in their being relinquished as soon as gained. Britain was easily taken from a naked and unskilful, though a brave people; hardly kept, and shamefully lost. But supposing the emperors had made greater wars than the commonwealth, vanquished nations of more valour and skill than their Italian neighbours, the Grecians, or Carthaginians, subdued and slaughtered those that in numbers and ferocity had exceeded the Cimbri, Gauls, and Teutons, encountred captains more formidable than Pyrrhus and Hannibal, it might indeed increase the glory of him that should have done it, but could add nothing of honour or advantage to the Roman name. The nobility was extirpated long before, the people corrupted and enslaved, Italy lay desolate, so that a Roman was hardly to be found in a Roman army, which was generally composed of such, as fighting for themselves or their commander, never thought of any thing less than the interest of Rome. And as it is impossible that what is so neglected and betrayed should be durable, that empire, which was acquired by the valour and conduct of the bravest and best disciplined people of the world, decayed and perished in the hands of those absolute monarchs, who ought to have preserved it.

3. Peace is desirable by states that are constituted for it, who, contenting themselves with their own territories, have no desires of enlarging them: or perhaps it might simply deserve praise, if mankind were so framed, that a people intending hurt to none could preserve themselves. But the world being so far of another temper, that no nation can be safe without valour and strength, those governments only deserve to be commended, which by discipline and exercise increase both, and the Roman above all, that excelled in both. Peace therefore may be good in its season, and was so in Numa's reign. Yet two or three such kings would have encouraged some active neighbours to put an end to that aspiring city, before its territory had extended beyond Fidenæ. But the discipline, that best agreed with the temper and designs of a warlike people, being renewed by his brave successors, the dangers were put on their enemies; and all of them, the last only excepted,

* Suet. in vitâ Calig. § 19. Dion Cass. l. 59

† Quasi perpetraturus bellum, directâ acie in litore oceani, ac balistis machinisque dispositis, nemine gnaro ac opinante quidnam coepturus esset, repente ut conchas legissent, galeasque et sinus replerent, imperavit, "spolia oceani," vocans, "capitolio palatioque debita." Et in indicium victoriæ altissimam turtem excitavit. Ibid. § 46. Dion Cass. l. 59. Aur. Vict. de Caligula.

CHAP. II persisting in the same way, did reasonably well perform their duty. When they were removed, and the affairs of the city depended no longer upon the temper or capacity of one man, the ends for which the city was constituted were vigourously pursued, and such magistrates annually chosen, as would not long continue in an universal peace, till they had gotten the empire to which they aspired, or were by ill fortune brought to such a weakness, as to be no longer able to make war. Both of these happened in the so much magnified reign of Augustus. He found the empire so great, that all additions might rationally be rejected, as useless or prejudicial; and Italy so exhausted, that wars could only be carried on by the strength of strangers. It was time to lie still, when they had no power to act; and they might do it safely, while the reputation gained by former victories preserved them from foreign invasions. When Crassus, Pompey, and Caesar, who had torn the commonwealth into three monarchies, were killed, and the flower of the Roman nobility and people destroyed with them, or by them; when Cato's virtue had proved too weak to support a falling state, and Brutus with Cassius had perished in their noble attempt to restore their liberty; when the best part of the senate had been exposed for a prey to the vultures and wolves of Thessaly, and one hundred and thirty of those who deserved the hatred of tyrants, and had escaped the fury of war, had been destroyed by the proscriptions; when neither captains nor soldiers remained in the desolate city; when the tyrant abhorred and feared all those who had either reputation or virtue, and by the most subtle arts endeavoured so to corrupt or break the spirits of the remaining people, that they might not think of their former greatness, or the ways of recovering it, we ought not to wonder, that they ceased from war. But such a peace is no more to be commended, than that which men have in the grave; as in the epitaph of the marquis Trivulcio seen at Milan: "*Qui nunquam quievit, quiescit. Tace*.*" This peace is in every wilderness. The Turks have established it in the empty provinces of Asia and Greece. Where there are no men, or if those men have no courage, there can be no war. Our ancestors the Britons observed, that the peace, which in that age the Romans established in the provinces, consisted in the most wretched

* The whole of this epitaph, which is on the tomb of Trivulcio, in the church of S. Nazaro, at Milan, is as follows:

IOHANNES IACOBUS MAGNUS TRIVULTIUS, ANTONII FILIUS,
QUI NUNQUAM QUIEVIT, QUIESCIT. TACE.

These lines allude to the bravery and activity of Trivulcio. But to one, unacquainted with his character, they may seem to have an air of ridicule, and to intimate, that he was a man of a restless and troublesome disposition. Something of this nature might possibly be intended by the writer. Trivulcio was a Milanese, was banished from his country, was taken into the service of the king of France, and by him made governor of Milan. It is probable, therefore, that his activity was troublesome to those, who had been concerned in his expulsion. See Wright's Travels, p. 466

slavery

slavery and solitude : “ *miserrimam servitutem pacem vocant.*” And in another place, “ *solitudinem faciunt, pacem appellant* *.” This is the peace the Spaniards settled in their dominions of the West-Indies, by the destruction of forty millions of souls †. The countries were very quiet, when wild beasts only were left to fight in them, or a few miserable wretches, who had neither strength nor courage to resist their violence. This was the peace the Romans enjoyed under Augustus : a few of those who made themselves subservient to his pleasure, and ministers of the public calamities, were put into a flourishing condition ; but the rest pined, withered, and never recovered. If yet our author will have us to think the liberty and people of Rome obliged to Augustus, who procured such a peace for them, he ought to remember, that, besides what they suffered in settling it, they paid dear for it even in the future. For Italy was thereby so weakened, as never to recover any strength or virtue to defend itself ; but, depending absolutely upon barbarous nations, or armies composed of them, was ravaged and torn in pieces by every invader.

4. That peace only is to be valued, which is accompanied with justice ; and those governments only deserve praise, who put the power into the hands of the best men. This was wholly wanting during the reigns of Augustus and his successors. The worst of men gained the sovereignty by alliance, fraud, or violence, and advanced such as most resembled themselves. Augustus was worse in the beginning than in the latter part of his reign. But his bloody and impure successor grew every day more wicked as long as he lived. Whilst he sat upon the rocks at Caprae ‡ with his Chaldeans, he meditated nothing but lust or mischief, and had Sejanus and Macro always ready to execute his detestable designs. Caligula could find none equal to himself in all manner of villainies, but favoured those most, who were likest to himself. Claudius’s stupidity, drunkenness, and subjection to the fury of two impudent strumpets and manumised slaves, proved as hurtful to the empire, as the savage fury of his predecessor. Though Nero was a monster, that the world could not bear : yet the raging soldiers killed Galba, and gave the empire to Otho, for no other reason, than that he had been the companion of his debaucheries, and of all men was thought most to resemble him. With them all evils came in like a flood. And their successors finding none so bad as themselves, but the favourites, whores, and slaves, that governed them, would suffer no virtue to grow up ; and filled the city with a base, lewd, and miser-

* *Miseram servitutem falso pacem vocarent.* Tacit. Hist. l. 4, § 17. — *Romani ubi solitudinem faciunt, pacem appellant.* Id. in vitâ Agric. § 20

The former of these passages is in the address of Claudius Civilis to the Gauls ; the latter is in the speech of Galgacus to the Caledonians.

† Bart. de las Casas *Destr. de las Indias.* See Purch. Pilg. part 4. b. 8. The Spanish friar has certainly exceeded the truth ; and Sidney has exaggerated his account of these horrible barbarities.

‡ An island on the coast of Naples, where Tiberius, during the ten last years of his reign, kept his infamous court. Suet. in vitâ Tiber. § 40.

CHAP. II able rabble, that cared for nothing beyond stages-plays and bread. Such a people could not be seditious; but Rome had been desolate, if they had not thus filled it. And though this temper and condition of a people may please our author, yet it was an incurable wound to the state, and in consequence to the best part of the world.

When the city had been burnt by the Gauls, it was soon restored. The defeats of Ticinum, Trebia, Thrasymene, and Cannae, were repaired with equal or greater victories. The war of the allies ended in their overthrow. The fury of the gladiators was extinguished with their blood. The commonwealth lost battles, but was never conquered in any war; and in the end triumphed over all that had contended with them. Whilst liberty continued, it was the nurse of virtue; and all the losses suffered in foreign or civil wars were easily recovered. But when liberty was lost, valour and virtue were torn up by the roots, and the Roman power proceeding from them perished.

I have not dwelt so long upon this point to expose the folly of our author, but to shew, that the above-mentioned evils did proceed from a permanent cause, which will always produce the like effects: and histories testify that it has done the same in all places. Carthage was rebuilt, after it had been destroyed by Scipio, and continued to be a rich city for almost a thousand years; but produced no such men as Amilcar, Asdrubal, and Hannibal. Cleomenes and Euclidas were the last that deserved to be called Spartans †. Athens never had an eminent man, after it felt the weight of the Macedonian yoke. And Philopoemen was the last of the Achaians. Though the commonwealths of Italy in latter ages, having too much applied themselves to the acquisition of money, wanted that greatness of spirit, which had reigned in their ancestors, yet they have not been without valour and virtue. That of Pisa was famous for power at sea, till the Genoese overthrew it. Florence had a brave nobility, and a stout people. Arezzo, Pistoia, Cortona, Sienna, and other small towns of Tuscany, were not without strength, though for the most part unhappily exercised in the factions of Gibelines and Guelphs, Neri and Bianchi, which divided all Italy. ‡ But since the introduction of Filmer's divine absolute monarchy, all power, virtue, reputation, and strength, are utterly perished from among them, and no man dares to oppose the public mischiefs. They usually decide private quarrels by assassination or poison; and in other respects they enjoy the happiness of that peace, which is always found within empty walls, and desolated countries. And if this be according to the laws of God and nature, it cannot be denied, that weakness, baseness, cowardice, destruction, and desolation, are so likewise. These are the blessings our well-natured author would confer upon us: but if they were to be esteemed so, I cannot tell why those that felt them com-

† Cleomenes associated his brother Euclidas with him in the kingdom of Sparta, about the year A. C. 226

‡ See Heyl. Cosm. p. 131. Sigon. Hist. Ital. l. 11, etc.

plained so much of them. Tacitus, reciting what passed in his time, and somewhat before, for want of a christian spirit, in the bitterness of his soul, says, “ nec unquam atrocioribus populi Romani cladibus, magisque iustis judiciis probatum est, non esse curae deis securitatem nostram, esse ultionem*.” Some thought that no punishments could be justly deserved by a people that had so much favoured virtue; others, that even the gods they adored envied their felicity and glory; but all confessed they were fallen, from the highest pitch of human happiness, into the lowest degree of infamy and misery. And our author being the first that ever found they had gained by the change, we are to attribute the discovery of so great a secret to the excellency of his wisdom. If, suspending my judgment in this point, till it be proved by better authority than his word, I in the mean time follow the opinion of those who think slavery does naturally produce meanness of spirit, with its worst effect, flattery, which Tacitus calls “ foedum servitutis crimen †,” I must believe, that the impudence of carrying it to such a height, as to commend nothing in the most glorious liberty, that made the most virtuous people in the world, but the shortness of its continuance, and to prefer the tyranny of the basest of men, or worst of monsters, is peculiar to Filmer; and that their wickedness, which had never been equalled, is surpassed by him, who recommends, as the ordinance of God, the principles that certainly produce them.

But, says our author, “ though Rome for a while was miraculously upheld in glory by a greater prudence than her own, yet in a short time, after manifold alterations, she was ruined by her own hands.” But it is absurd to say, that the overthrow of a government, which had nothing of good in it, can be a ruin; or that the glory in which it continued had nothing of good in it; and most of all, that it could be ruined by no hands but its own, if that glory had not been gained, and immediately or instrumentally supported by such virtue and strength, as is worthy to be preferred before all other temporal happiness, and does ever produce it. This shews that liars ought to have good memories. But passing over such foolish contradictions, I desire to know, how that “ prudence, greater than her own” (which, till I am better informed, I must think to be inseparably united to justice and goodness) came miraculously to support a government, which was not only evil in itself, as contrary to the laws of God and nature, but so perpetually bent against that monarchy, which he says is according to them, as to hate all monarchs, despise all that would live under them, destroy as many of them as came within its reach, and make a law, by which any man was authorized to kill him, who should endeavour to set up this divine power in its place †. Moreover, no human prudence pre-

* Tacit. Hist. l. 1, § 3

† Ibid. l. 1, § 1

‡ *Ανευ κρισεως κτεινειν του βαλομενου τυραννειν ει τις επιχειροι τυραννειν, Σολων μιν αλονται την δικην επιτιθησιν, ο δε Ποπλικολας και προ της κρισεως ανελειν διδωσι.* Plut. in vitâ Popl. et compar. Solonis et Poplicolae. Dionys. Hal. l. 5, c. 19

CHAP. II served the Roman glory but their own: the others directly fet themselves to oppose it, and the most eminent fell under it. We know of no prudence surpassing the human, unless it be the divine: but the divine prudence did never miraculously exert itself, except to bear witness to the truth, and to give authority to those that announced it. If therefore the glory of this popular government was miraculously supported by a more than human prudence, it was good in itself; the miracles done in favour of it did testify it, and all that our author says against it is false and abominable.

If I lay aside the word "miraculous," as put in by chance, it will be hard to know how God, who in the usual course of his providence guides all things by such a gentle and undiscerned power, that they seem to go on of themselves, should give such virtue to this popular government, and the magistrates bred up under it, that the greatest monarchs of the earth were as dust before them, unless there had been an excellency in their discipline, far surpassing that of their enemies; or how that can be called ill in its principle, and said to comprehend no good, which God did so gloriously support, and no man was ever able to resist. This cannot be better answered than by our author's citation, "*fuis et ipsa Roma viribus ruit* *." That city, which had overthrown the greatest powers of the world, must, in all appearance, have lasted for ever, if their virtue and discipline had not decayed, or their forces been turned against themselves. If our author therefore say true, the greatest good that ever befel the Romans, was the decay of their virtue and discipline; and the turning of their own arms against themselves was not their ruin, but their preservation.

When they had brought the warlike nations of Italy into subjection, or association; often repressed the fury of the Gauls, Cimbri, and Teutons; overthrown the wealth, power, and wit of Carthage, supported by the skill, industry, and valour of Hannibal, and his brave relations; almost extirpated the valiant Spaniards, who would no other way be subdued; defeated Philip, Perseus, Antiochus, Gentius, Syphax, and Jugurtha; struck an awe into Ptolemy; avoided the snares and poisons of Mithridates; followed him in his flights, revenged his treacheries, and carried their victorious arms beyond his conquered kingdoms to the banks of the Tigris; when neither the revolt of their Italian associates, nor the rebellion of their slaves led by Spartacus (who in skill seems to have been equal to Hannibal, and above him in courage) could put a stop to their victories; when Greece had been reduced to yield to a virtue, rather than a power, greater than its own, we may well say that government was supported by a more than human prudence, which led them through virtue to a height of glory, power, and happiness, that till that day had been unknown to the world, and could never have been ruined, if by the decay of that virtue they had not turned their victorious arms against them-

* Hor. Epod. 16, v. 2

selfes. That city was a giant that could die by no other hand than his own: like Hercules poisoned and driven into madness, after he had destroyed thieves, monsters, and tyrants, and found nothing on the earth able to resist him. The wisest of men in antient times, looking upon this as a point of more than human perfection, thought or feigned to think, that he was descended from the gods, and at his death received into their number; though perhaps Filmer would prefer a weak, base, and effeminate slave before him. The matter will not be much different, if we adhere to the fore-mentioned similitude of the athletic habit; for the danger proceeds only from the perfection of it, and he who dislikes it must commend that weakness and vice which may perish, but can never be changed into any thing worse than itself, as those that lie upon the ground can never fall. However, this fall of the Romans, which our author, speaking truth against his will, calls their ruin, was into that which he recommends as the ordinance of God: which is as much as to say, that they were ruined, when they fell from their own unnatural inventions to follow the law of God, and of nature; that luxury also, through which they fell, was the product of their felicity; and that the nations, that had been subdued by them, had no other way of avenging their defeats, than by alluring their masters to their own vices. This was the source of their civil wars. When that proud city found no more resistance, it grew wanton*. Honest poverty became uneasy, when honours were given to ill-gotten riches. This was so monarchical, that a people infected with such a custom must needs fall by it. They, who by vice had exhausted their fortunes, could repair them only by bringing their country under a government, that would give impunity to rapine. And such as had not virtues to deserve advancement from the senate and people would always endeavour to set up a man, that would bestow the honours due to virtue upon those, who would be most abjectly subservient to his will and interests. When mens minds are filled with this fury, they sacrifice the common good to the advancement of their private concerns. This was the temper of Catiline: "luxuria
"principi onerosa, inopia vix privato toleranda †;" and this put him upon that desperate extremity to say, "incendium meum ruinâ extin-
"guam ‡." Others in the same manner being filled with the same rage, he could not want companions in his most villainous designs. It is not long since a person of the highest quality, and no less famous for learning and wit, having observed the state of England, as it stood not many years ago, and that to which it has been reduced since the year sixty, as is thought very much by the advice and example of France, said, that they were now taking a most cruel vengeance upon us for all the overthrows received from our ancestors, by introducing their most damnable

* ——— Saevior armis

Luxuria incubit, victumque ulciscitur orbem.

Juv. Sat. 6, v. 291

† These words are applied by Tacitus to Otho. Hist. l. 1, § 21

‡ Sall. Bell. Catil. § 32

CHAP. II maxims, and teaching us the worst of their vices. It is not for me to determine whether this judgment was rightly made or not; for I intend not to speak of our affairs. But all historians agreeing, that the change of the Roman government was wrought by such means as I have mentioned, and our author acknowledging that change to have been their ruin, as in truth it was, I may justly conclude, that the overthrow of that government could not have been a ruin to them, unless it had been good; and that the power which did ruin it, and was set up in the room of it, cannot have been according to the laws of God or nature; for they confer only that which is good, and destroy nothing that is so; but must have been most contrary to that good which was overthrown by it.

SECTION XVI

THE BEST GOVERNMENTS OF THE WORLD HAVE BEEN COMPOSED
OF MONARCHY, ARISTOCRACY, AND DEMOCRACY.

Our author's cavils concerning I know not what vulgar opinions, that democracies were introduced to curb tyranny, deserve no answer; for our question is, whether one form of government be prescribed to us by God and nature, or we are left according to our own understanding, to constitute such as seem best to ourselves. As for democracy, he may say what he pleases of it; and I believe it can suit only with the convenience of a small town, accompanied with such circumstances as are seldom found. But this no way obliges men to run into the other extreme, inasmuch as the variety of forms between mere democracy and absolute monarchy is almost infinite. And if I should undertake to say, there never was a good government in the world, that did not consist of the three simple species of monarchy, aristocracy, and democracy, I think I might make it good. This at the least is certain, that the government of the Hebrews, instituted by God, had a judge, the great sanhedrim, and general assemblies of the people. Sparta had two kings, a senate of twenty eight chosen men, and the like assemblies. All the Dorian cities had a chief magistrate, a senate, and occasional assemblies. The cities of Ionia, Athens, and others, had an Archon, the Areopagitæ, &c. and all judgments concerning matters of the greatest importance, as well as the election of magistrates, were referred to the people. Rome in the beginning had a king and a senate, while the election of kings, and judgments upon appeals, remained in the people; afterwards consuls representing kings, and vested with equal power, a more numerous senate, and more frequent meetings of the people. Venice has at this day a duke, the senate of the *pregadi*, and the great assembly of the nobility, which is the whole city, the rest of the inhabitants being only "*incolæ*," not "*cives*;" and those of the other cities or countries are their subjects, and do

do not participate of the government. Genoa is governed in like manner; Luca not unlike to them. Germany is at this day governed by an emperor, the princes or great lords in their several precincts; the cities by their own magistrates, and by general diets, in which the whole power of the nation resides, and where the emperor, princes, nobility, and cities, have their places in person, or by their deputies. All the northern nations, which, upon the dissolution of the Roman empire, possessed the best provinces that had composed it, were under that form which is usually called the Gothic polity. They had king, lords, commons, diets, assemblies of estates, cortes*, and parliaments, in which the sovereign powers of those nations did reside, and by which they were exercised. The like was practised in Hungary, Bohemia, Sweden, Denmark, Poland. And if things are changed in some of those places within these few years, they must give better proofs of having gained by the change, than are yet seen in the world, before I think myself obliged to change my opinion.

Some nations, not liking the name of king, have given such a power as kings enjoyed in other places to one or more magistrates, either limited to a certain time, or left to be perpetual, as best pleased themselves: others, approving the name, made the dignity purely elective. Some have in their elections principally regarded one family as long as it lasted: others considered nothing but the fitness of the person, and reserved to themselves a liberty of taking where they pleased. Some have permitted the crown to be hereditary, as to its ordinary course; but restrained the power, and instituted officers to inspect the proceedings of kings, and to take care, that the laws were not violated. Of this sort were the Ephori of Sparta, the *maires du palais*, and afterwards the constable of France, the justiciar† in Arragon, the *reichs-hofmeister* in Denmark †, the high-steward in England; and in all places such assemblies as are before-mentioned under several names, who had the power of the whole nation. Some have continued long, and it may be always in the same form: others have changed it. Some being incensed against their kings, as the Romans exasperated by the villainies of Tarquin, and the Tuscans by the cruelties of Mezentius, abolished the name of king. Others, as Athens, Sicyon, Argos, Corinth, Thebes, and the Latins, did not stay for such extremities, but set up other governments when they thought it best for themselves; and by this conduct prevented the evils that usually fall upon nations, when their kings degenerate into tyrants, and a nation is brought to enter into a war by which all may be lost, and nothing can be gained which was not their own before. The Romans took not this salu-

* See an account of the antient Spanish Cortes in Geddes's Tracts, Vol. 1

† See Heyl. Cosm. p. 288

† Count Uhlefeld was *reichs-hofmeister*, or lord high steward of the kingdom of Denmark, about the middle of the last century. In the year 1651, he was displaced for treasonable practices, and Joachim Gerstorff, another nobleman and senator, appointed in his room. He continued in this important office till the memorable revolution, which happened in Denmark in the year 1660; when the kingdom was changed from an estate, little differing from an aristocracy, to an absolute monarchy, and the office of *reichs-hofmeister* ceased of course.

CHAP. II tary course; the mischief was grown up before they perceived, or set themselves against it. And when the effects of pride, avarice, cruelty, and lust, were grown to such a height, that they could no longer be endured, they could not free themselves without a war. And whereas upon other occasions their victories had brought them increase of strength, territory, and glory, the only reward of their virtue in this was, to be delivered from a plague they had unadvisedly suffered to grow up among them. I confess this was most of all to be esteemed: for if they had been overthrown, their condition under Tarquin would have been more intolerable, than if they had fallen under the power of Pyrrhus or Hannibal; and all their following prosperity was the fruit of their recovered liberty. But it had been much better to have reformed the state after the death of one of their good kings, than to be brought to fight for their lives against that abominable tyrant. Our author, in pursuance of his aversion to all that is good, disapproves this; and, wanting reasons to justify his dislike, according to the custom of impostors and cheats, has recourse to the ugly terms of a "back-door, sedition, and faction:" as if it were not as just for a people to lay aside their kings, when they receive nothing but evil, and can rationally hope for no benefit by them, as for others to set them up in expectation of good from them. But if the truth be examined, nothing will be found more orderly than the changes of government, or of the persons and races of those that governed, which have been made by many nations. When Pharamond's grandson seemed not to deserve the crown he had worn, the French gave it to Meroveus, who more resembled him in virtue. In process of time when this race also degenerated, they were rejected, and Pepin advanced to the throne; and the most remote in blood of his descendants having often been preferred before the nearest, and bastards before the legitimate issue, they were at last all laid aside; and the crown remains to this day in the family of Hugh Capet, on whom it was bestowed upon the rejection of Charles of Lorraine. In like manner the Castilians took Don Sancho surnamed the Brave, second son to Alphonso the Wise, before Alphonso el Desheredado, son of the elder brother Ferdinand. The states of Arragon preferred Martin, brother to John the first, before Mary his daughter married to the count de Foix, though females were not excluded from the succession: and the house of Austria now enjoys that crown from Joan daughter to Ferdinand. In that and many other kingdoms, bastards have been advanced before their legitimate brothers. Henry count of Transamara, bastard to Alphonso the eleventh king of Castile, received the crown, as a reward of the good service he had done to his country against his brother Peter the Cruel, without any regard had to the house of La Cerda descended from Alphonso el Desheredado, which to this day never enjoyed any greater honour than that of duke de Medina Celi. Not long after, the Portuguese, conceiving a dislike of their king Ferdinand, and his daughter married to John king of Castile, rejected her and her uncle by the father's side, and gave the crown to John a knight of Calatrava, and bastard to an uncle of Ferdinand their king. About the beginning of this age the

Swedes deposed their king Sigismund, for being a papist, and made Charles his uncle king. Divers examples of the like nature in England have been already mentioned. All these transportations of crowns were acts performed by assemblies of the three estates in the several kingdoms; and these crowns are to this day enjoyed under titles derived from such as were thus brought in by the deposition or rejection of those, who according to descent of blood had better titles than the present possessors. The acts therefore were lawful and good, or they can have no title at all; and they who made them had a just power so to do.

If our author can draw any advantage from the resemblance of regality that he finds in the Roman consuls, and Athenian Archons, I shall without envy leave him the enjoyment of it; but I am much mistaken, if that do not prove my assertion, that those governments "were composed of the three simple species." For if the monarchical part was in them, it cannot be denied that the aristocratical was in the senate or Areopagitae, and the democratical in the people. But he ought to have remembered, that if there was something of monarchical in those governments, when they are said to have been popular, there was something of aristocratical and democratical in those that were called regal; which justifies my proposition on both sides, and shews, that the denomination was taken from the part that prevailed. And if this were not so, the governments of France, Spain, and Germany, might be called democracies, and those of Rome and Athens monarchies, because the people have a part in the one, and an image of monarchy was preserved in the other.

If our author will not allow the cases to be altogether equal, I think he will find no other difference, than that the consuls and Archons were regularly made by the votes of the consenting people, and orderly resigned their power, when the time was expired for which it was given. Whereas Tarquin, Dionysius, Agathocles, Nabis, Phalaris, Caesar, and almost all his successors, whom he takes for complete monarchs, came in by violence, fraud, and corruption, by the help of the worst men, by the slaughter of the best, and most commonly, when the method was once established, by that of their predecessors, who, if our author say true, were fathers of their country. This was the root and foundation of the only government that deserves praise. This is that which stamped the divine character upon Agathocles, Dionysius, and Caesar, and that had bestowed the same upon Manlius, Marius, or Catiline, if they had gained the monarchies they affected. But I suppose that such as God has blessed with better judgment, and a due regard to justice and truth, will say, that all those, who have attained to such greatness, as destroys all manner of good in the places where they have set up themselves by the most detestable villainies, came in by a "back-door;" and that such magistrates, as were orderly chosen by a willing people, were the true shepherds, who came in by the gate of the sheepfold, and might justly be called the ministers of God, so long as they performed their duty in providing for the good of the nations committed to their charge.

SECTION XVII

GOOD GOVERNMENTS ADMIT OF CHANGES IN THE SUPERSTRUCTURES, WHILE THE FOUNDATIONS REMAIN UNCHANGEABLE.

If I go a step farther, and confess the Romans made some changes in the outward form of their government, I may safely say they did well in it, and prospered by it. After the expulsion of the kings, the power was chiefly in the nobility, who had been leaders of the people; but it was necessary to humble them, when they began to presume too much upon the advantages of their birth. And the city could never have been great, unless the plebeians, who were the body of it, and the main strength of their armies, had been admitted to a participation of honours. This could not be done at the first. They who had been so vilely oppressed by Tarquin, and harassed with making or cleaning sinks, were not then fit for magistracies, or the command of armies. But they could not justly be excluded from them, when they had men who in courage and conduct were equal to the best of the patricians. And it had been absurd for any man to think it a disparagement to him to marry the daughter of one, whom he had obeyed as dictator or consul, and perhaps followed in his triumph. Rome, that was constituted for war, and fought its grandeur by that means, could never have arrived to any considerable height, if the people had not been exercised in arms, and their spirits raised to delight in conquests, and willing to expose themselves to the greatest fatigues and dangers to accomplish them. Such men as these were not to be used like slaves, or oppressed by the unmerciful hand of usurers. They, who by their sweat and blood were to defend and enlarge the territories of the state, were to be convinced they fought for themselves; and they had reason to demand a magistracy of their own, vested with a power that none might offend, to maintain their rights, and to protect their families, while they were abroad in the armies. These were the tribunes of the people, made, as they called it, "sacrosancti," or inviolable †; and the creation of them was the most considerable change that happened till the time of Marius, who brought all into disorder. The creation or abolition of military tribunes, with consular power, ought to be accounted as nothing; for it imported little whether that authority was exercised by two, or by five. That of the decemviri was as little to be regarded; they were intended only for one year; and though new ones were created for another, on pretence that the laws they were to frame could not be brought to perfection in so short a time, yet they were soon thrown down from the power they usurped, and endeavoured to retain contrary to law. The creation of dictators was no novelty, they were made occasionally from the beginning, and never otherwise than occasion-

† Liv. l. 2, c. 33. l. 3, c. 55

ally, till Julius Caesar subverted all order, and, invading that supreme magistracy by force, usurped the right which belonged to all*. This indeed was a mortal change even in root and principle. All other magistrates had been created by the people for the public good, and always were within the power of those that had created them. But Caesar coming in by force, sought only the satisfaction of his own raging ambition, or that of the soldiers, whom he had corrupted to destroy their country. And his successors governing for themselves, by the help of the like villains, perpetually exposed the empire to be ravaged by them. But whatever opinion any man may have of the other changes, I dare affirm, there are few or no monarchies (whose histories are so well known to us as that of Rome) which have not suffered changes incomparably greater, and more mischievous, than those of Rome, whilst it was free. The Macedonian monarchy fell into pieces immediately after the death of Alexander. It is thought he perished by poison. His wives, children, and mother, were destroyed by his own captains. The best of those who had escaped his fury, fell by the sword of each other. When the famous Argyraspides might have expected some reward of their labours, and a little rest in old age, they were maliciously sent into the east by Antigonus to perish by hunger and misery, after he had corrupted them to betray Eumenes. No better fate attended the rest; all was in confusion; every one followed whom he pleased; and all of them seemed to be filled with such a rage, that they never ceased from mutual slaughters till they were consumed; and their kingdoms continued in perpetual wars against each other, till they all fell under the Roman power. The fortune of Rome was the same after it became a monarchy: treachery, murder, and fury, reigned in every part; there was no law but force; he that could corrupt an army, thought he had a sufficient title to the empire. By these means there were frequently three or four, and at one time thirty several pretenders, who called themselves emperors: of which number he only reigned that had the happiness to destroy all his competitors; and he himself continued no longer, than till another durst attempt the destruction of him and his posterity. In this state they remained, till the wasted and bloodless provinces were possessed by a multitude of barbarous nations. The kingdoms established by them enjoyed as little peace or justice. That of France was frequently divided into as many parts as the kings of Meroveus or Pepin's race had children, under the names of the kingdoms of Paris, Orleans, Soissons, Arles, Burgundy, Austrasia, and others. These were perpetually vexed by the unnatural fury of brothers or nearest relations, while the miserable nobility and people were obliged to fight upon their foolish quarrels, till all fell under the power of the strongest. This mischief was in some measure cured by a law made in the time of Hugh Capet, that the kingdom should no more be divided. But the appanages,

* Tacitus says of Augustus, *munia senatûs, magistratum, legum in se traxit.* Ann. l. 1, § 2

CHAP. II as they call them, granted to the king's brothers, with the several dukedoms and earldoms erected to please them, and other great lords, produced frequently almost as bad effects. This is testified by the desperate and mortal factions, that went under the names of Burgundy and Orleans, Armagnac and Orleans, Montmorency and Guise. These were followed by those of the league, and the wars of the Hugonots. They were no sooner finished by the taking of Rochelle, but new ones began by the intrigues of the duke of Orleans, brother to Lewis the thirteenth, and his mother; and pursued with that animosity by them, that they put themselves under the protection of Spain. To which may be added, that the houses of Condé, Soissons, Montmorency, Guise, Vendôme, Angoulême, Bouillon, Rohan, Longueville, Rochefoucault, Espèron, and I think I may say every one that is of great eminency in that kingdom, with the cities of Paris, Bourdeaux, and many others, in the space of these last fifty years, have sided with the perpetual enemies of their own country.

Again, other great alterations have happened within the same kingdom: the races of kings four times wholly changed; five kings deposed in less than 150 years after the death of Charles the Great; the offices of *maire du palais*, and constable, erected and laid aside; the great dukedoms and earldoms, little inferior to sovereign principalities, established and suppressed; the decision of all causes, and the execution of the laws, placed absolutely in the hands of the nobility, their deputies, *seneschals*, or vice-*seneschals*, and taken from them again; parliaments set up to receive appeals from the other courts, and to judge sovereignly in all cases, expressly to curb them; the power of these parliaments, after they had crushed the nobility, brought so low, that within the last twenty years they are made to register, and give the power of laws, to edicts, of which the titles only are read to them; and the general assemblies of estates, that from the time of Pepin had the power of the nation in their hands, are now brought to nothing, and almost forgotten.

Though I mention these things, it is not with a design of blaming them, for some of them deserve it not. It ought to be considered, that the wisdom of man is imperfect, and unable to foresee the effects that may proceed from an infinite variety of accidents, which according to emergencies, necessarily require new constitutions, to prevent or cure the mischiefs arising from them, or to advance a good that at the first was not thought of. And as the noblest work in which the wit of man can be exercised, were (if it could be done) to constitute a government that should last for ever, the next to that is to suit laws to present exigences, and so much as is in the power of man to foresee. He that would resolve to persist obstinately in the way he first entered upon, or to blame those who go out of that, in which their fathers had walked, when they find it necessary, does, as far as in him lies, render the worst of errors perpetual. Changes therefore are unavoidable; and the wit of man can go no farther than to institute such as in relation to the forces, manners,
nature

nature, religion, or interests of a people, and their neighbours, are suitable and adequate to what is seen, or apprehended to be seen. He, who would oblige all nations at all times to take the same course, would prove as foolish as a physician who should apply the same medicine to all distempers, or an architect that would build the same kind of house for all persons, without considering their estates, dignities, the number of their children or servants, the time or climate in which they live, and other circumstances: or, which is, if possible, more foolish, a general who should obstinately resolve always to make war in the same way, and to draw up his army in the same form, without examining the nature, number, and strength of his own and his enemies forces, or the advantages and disadvantages of the ground. But as there may be some universal rules in physic, architecture, and military discipline, from which men ought never to depart, so there are some in politics also which ought always to be observed: and wise legislators, adhering to them only, will be ready to change all others, as occasion may require, in order to the public good. This we may learn from Moses, who laying the foundation of the law given to the Israelites in that justice, charity, and truth, which having its root in God is subject to no change, left them the liberty of having judges or no judges, kings or no kings, or to give the sovereign power to high-priests or captains, as best pleased themselves; and the mischiefs they afterwards suffered proceeded not simply from changing, but changing for the worse. The like judgment may be made of the alterations that have happened in other places. They who aim at the public good, and wisely institute means proportionable and adequate to the attainment of it, deserve praise; and those only are to be disliked, who either foolishly or maliciously set up a corrupt private interest in one or a few men. Whoever therefore would judge of the Roman changes, may see, that in expelling the Tarquins, creating consuls, abating the violence of usurers, admitting plebeians to marry with the patricians, rendering them capable of magistracies, deducing colonies, dividing lands gained from their enemies, erecting tribunes to defend the rights of the commons, appointing the decemviri to regulate the law, and abrogating their power when they abused it, creating dictators and military tribunes with a consular power, as occasions required, they acted in the face of the sun for the good of the public; and such acts having always produced effects suitable to the rectitude of their intentions, they consequently deserve praise. But when another principle began to govern, all things were changed in a very different manner: evil designs, tending only to the advancement of private interests, were carried on in the dark by means as wicked as the end. If Tarquin, when he had a mind to be king, poisoned his first wife and his brother, contracted an incestuous marriage with his second, by the death of her first husband, murdered her father, and the best men in Rome, yet Caesar did worse. He favoured Catiline, and his villainous associates, bribed and corrupted magistrates, conspired

CHAP. II with Crassus and Pompey, continued in the command of an army beyond the time prescribed by law, and turned the arms, with which he had been entrusted for the service of the commonwealth, to the destruction of it, which was rightly represented by his dream, that he had conspired his mother. In the like manner, when Octavius, Antonius, and Lepidus, divided the empire, and then quarrelled among themselves; and when Galba, Otho, Vitellius, and Vespasian, set up parties in several provinces, all was managed with treachery, fraud, and cruelty; nothing was intended but the advancement of one man, and the recompence of the villains that served him. And when the empire had suffered infinite calamities by pulling down or rejecting one, and setting up another, it was for the most part difficult to determine who was the worst of the two; or whether the prevailing side had gained or lost by their victory. The question therefore, upon which a judgment may be made to the praise or dispraise of the Roman government, before or after the loss of their liberty, ought not to be, whether either were subject to changes, for neither they nor any thing under the sun were ever exempted from them; but whether the changes, that happened after the establishment of absolute power in the emperors, did not solely proceed from ambition, and tend to the public ruin. Whereas those alterations, related by our author, concerning consuls, dictators, decemviri, tribunes, and laws, were far more rare, less violent, tending to, and procuring the public good, and therefore deserving praise. The like having been proved by the examples of other kingdoms, and being capable of farther confirmation, which on account of brevity I omit, is in my opinion sufficient to manifest, that while the foundation and principle of a government remains good, the superstructures may be changed according to occasions, without any prejudice to it.

SECTION XVIII

XENOPHON, IN BLAMING THE DISORDERS OF DEMOCRACIES,
FAVOURS ARISTOCRACIES, NOT MONARCHIES.

In the next place our author introduces Xenophon disallowing popular governments, cites Rome and Athens as places where the best men thrived worst, and the worst best, and condemns the Romans for making it capital to pass sentence of death, banishment, loss of liberty, or stripes, upon any citizen of Rome. But lest his fraud in this should be detected, he cites no precise passage of any author, alleges few examples, and those mistaken, never tells us what that law was, when made, or where to be found. Whereas I hope to prove, that he has upon the whole matter abominably prevaricated, and advanced things that he knows to be either impertinent or false.

1. To this end we are in the first place to consider, whether Xenophon speaks of popular governments simply, or comparatively. If simply, it is confessed, that a pure democracy can never be good, unless for a small town: if comparatively, we must examine to what he compares it. We are sure it was not to absolute monarchy: there was no such thing among the Greeks established by law. The little tyrants who had enslaved their own countries, as Jason, Pheraeus, Phalaris, and the like, had no pretence to it, and were accounted as the worst of beasts: none, but such as in all bestiality were like to them, did ever speak or think well of them. Xenophon's opinion, in this point, may be easily found out by what passed between his master Plato, and the Sicilian tyrant. The matter will not be mended by referring to his own experience. He had seen the vast monarchy of Persia torn in pieces by the fury of two brothers, and more than a million of men brought to fight upon their private quarrel. Instead of that order, stability, and strength, which our author ascribes to absolute monarchy, as the effect of wisdom and justice, he knew, that by filling one man with pride and cruelty, it brought unspeakable miseries upon all others, and infected them with all the vices that accompany slavery. Men lived like fishes; the great ones devoured the small; and as appeared by Tissaphernes, Pharnabazus, and others, with whom he had to deal, the worst and basest were made to be the greatest. The satrapae insulted over those of meaner rank, with an insolence and cruelty that equalled the depth of their servile submission to their proud master. Luxury and avarice reigned in all. Many great nations were made to live for the service of one man, and to foment his vices. This produced weakness and cowardice. No number of those slaves were able to stand against a few free Grecians. No man knew this better than Xenophon, who, after the death of Cyrus the younger, and the treacherous murder of Clearchus, and other officers that commanded the Greeks who had served him, made his retreat from Babylon to the Hellespont with ten thousand foot, and passed over the bellies of all that dared to oppose him. He would never have spent his life in exciting his countrymen to attempt the conquest of Asia, nor have persuaded Agesilaus to put himself at the head of the enterprize, if he had thought there was such admirable order, stability, and strength, in that monarchy, and in the Greeks nothing but giddiness of spirit, and "so much learning as made them seditious." Nor could he, being a wise man, and an excellent captain, have conceived such a design, if he had not by experience found, that liberty inspired his countrymen with such solid virtue, and produced such stability, good order, and strength, that with small numbers of them he might hope to overthrow the vain pomp of the barbarians, and to possess himself of their riches, though they could bring more than a hundred men to fight against one: which design, being interrupted in his time by domestic wars, was soon after his death accomplished by Alexander.

But that Xenophon's meaning may be better understood, it is good to consider, that he spoke of such governments as were then in use among

CHAP. II the Greeks; which though mixed, yet took their denomination from the prevailing part: so that the Dorians, who placed the power chiefly in the hands of a few chosen men, were said to be governed aristocratically; and the Ionians, giving more power to the common people, democratically. And he, though an Ionian, either through friendship to Agefilaus, conversation with the Spartans, or for other reasons best known to himself, preferred the government of Sparta, or some other, which he thought he could frame, and desired to introduce, before that of Athens; as Cimon, Thucydides, and many other excellent men of that city, are said to have done. And if I acknowledge they were in the right, and that Athens was more subject to disorder, and had less stability than Sparta, I think it will be of little advantage to absolute monarchy.

2. The Athenians did banish some worthy men, and put others to death. But our author, like the devil, never speaking truth, unless to turn it into a lye, prevaricates in his report of them. The temporary banishment, which they called "ostracism," was without hurt or dishonour, never accounted as a punishment, nor intended for any other end, than to put a stop to the too eminent greatness of a man, that might prove dangerous to the city: and some excellent persons, who fell under it, were soon recalled, and brought home with glory. But I am not solicitous whether that reason be sufficient to justify it or not. We are upon a general thesis relating to the laws of God and nature; and if the Athenians, by a fancy of their own, did make an imprudent use of their liberty, it cannot prejudice the public cause. They who make the worst of it can only say, that by such means they, for a time, deprived themselves of the benefits they might have received from the virtues of some excellent men, to the hurt of none but themselves; and the application of it as an injustice done to Themistocles is absolutely false. He was a man of great wit, industry, and valour, but of uncertain faith, too much addicted to his own interest, and held a most dangerous correspondence with the Persians, who then threatened the destruction of Greece. Through envy and spite to Aristides, and to increase his own power, he raised dangerous factions in the city. And being summoned to render an account of his proceedings, he declined the judgment of his country, fled to its enemies, and justly deserved the sentence pronounced against him*. Some among them were unjustly put to death, and above all Socrates. But the people, who, deceived by false witnesses, (against whom neither the laws of God or man have ever prescribed a sufficient defence) had condemned him, did so much lament their crime, when the truth was discovered to them, that I doubt whether a more righteous judgment had given better testimony of their righteous intentions. But our author's impudence appears, in the highest excess, in imputing the death of Phocion to the popular state of Athens: Their forces had been broken in the Sicilian war; and the city taken, and the principal men slain by Lyfander; the remains of the most

* Vide Plut. in vitâ Themist.

worthy destroyed by the thirty tyrants set up by him; their ill-recovered liberty overthrown by the Macedonians; and the death of Phocion compassed by Polyperchon, who with foreign soldiers, slaves, vagabonds, and outlaws, overpowered the people. SECT. 18

The proceedings of Rome may be more completely justified. Coriolanus was duly condemned. He set too great a price upon his own valour, and arrogated to himself a power in Rome, which would hardly have been endured in Corioli. His violence and pride over-balanced his services; and he, that would submit to no law, was justly driven from the society which could subsist only by law. Quintius was not unlike him, and Manlius Capitolinus far worse than either. Their virtues were not to be considered when they departed from them. Consideration ought to be had of human frailty, and some indulgence may be extended to those who commit errors, after having done important services; but a state cannot subsist, which, compensating evil actions with good, gives impunity to the most dangerous crimes, in remembrance of any services whatever. He that does well performs his duty, and ought always to do so: justice and prudence concur in this. And it is no less just than profitable, that every action be considered by itself, and such a reward or punishment allotted to it, as in nature and proportion it best deserves.

This, as I suppose, is enough for their cases; but relates not to those of Mamercus, Camillus, Livius Salinator, and Aemilius Paulus: their virtue was complete; they were wrongfully sentenced. The best princes, senate, or people, that ever was in the world, by the deceit of evil men, may and have been drawn out of the way of justice: yet of all the states that are known to us, none was ever so free from crimes of malice and wilful injustice, none was ever guilty of so few errors, as that of Rome; and none did ever give better testimonies of repentance, when they were discovered, than the Romans did by the veneration they shewed to those worthy persons, and the honours they conferred upon them afterwards. Mamercus was made dictator, to repair the unjust mark of infamy laid upon him by the censors*. Camillus being recalled from his banishment often enjoyed the same honour, and died the most revered man that had ever been in that city †. Livius Salinator was not only made consul after he had been fined, but the people, as it were to expiate the guilt of having condemned him, suffered that asperity of speech and manners,

* *Mœsta civitas fuit, vinci infueta, odisse tribunos, poscere dictatorem, in eo verti spes civitatis . . . A. Cornelius dictatorem Mamercum Aemilium dixit: adeò simul fortuna civitatis virtute verà eguit, ut nihil censoria animadversio effecerit, quo minus regimen rerum ex notatâ indignè domo peteretur.* Liv. l. 4, c. 31

† *Crimini datum est, quod albis equis triumphasset, et praedam iniquè divisisset: die dictâ ab L. Apuleio, tribuno plebis, damnatus, Ardeam concessit.* Aur. Vict. c. 23. Liv. l. 5, c. 32, 46. l. 6, c. 38. — *Fuit M. Furius verè vir unicus in omni fortunâ, princeps pace belloque, priusquam exulatum iret: clarior in exilio, vel desiderio civitatis, quae capta absentis imploravit opem; vel felicitate, quâ restitutus in patriam, secum patriam ipsam restituit.* Par deinde per quinque et viginti annos, tot enim postea vixit, titulo tantae gloriae fuit, dignusque habitus, quem secundum à Romulo conditorem urbis Romae ferrent. Ibid. l. 7, c. 1.

CHAP. II which might have persuaded such as had been less confident of his virtue, and their own, that he desired to be revenged, though it were with the ruin of the city*. They dealt in the like manner with Aemilius Paulus, repairing the injury of a fine unduly imposed †. Their generosity in leaving the tribunes in the Forum with their accusation against Scipio Africanus, and following him to celebrate an annual sacrifice in the capitol, in commemoration of his victory against Hannibal ‡, was no less admirable than the greatness of his mind, who thought his virtue should be so well known, that no account ought to be expected from him: which was an error proceeding from a noble root, but not to be borne in a well-governed commonwealth. The laws that aim at the public good make no distinction of persons; and none can be exempted from the penalties of them, otherwise than by approved innocence, which cannot appear without a trial. He that will not bend his mind to them shakes off the equality of a citizen, and usurps a power above the law, to which no man submits upon any other condition, than that none should be exempted

* M. Salinator consularis damnatus est à populo, quod praedam non aequaliter diviserat militibus. Front. Strat. l. 4, c. 1, § 45. Aur. Vict. c. 20.—M. Livius erat multis antè annis ex consulatu populi judicio damnatus: quam ignominiam adeò acgrè tulerat, ut et rus migrarit; et per multos annos et urbe, et omni coetu caruerit hominum. Octavo fermè post damnationem anno M. Claudius Marcellus, et M. Valerius Laevinus consules redixerant eum in urbem, sed erat veste obsoletà, capilloque et barbà promissà, praefrens in vultu habituque insignem memoriam ignominiae acceptae. L. Veturius, et P. Licinius censores eum tondere, et squallorem deponere, et in senatum venire, fungique aliis publicis muneribus coegerunt. Sed tum quoque aut verbo assentiabatur, aut pedibus in sententiam ibat, donec cognati hominis eum causà M. Livii Macati, cum de famà ejus ageretur, stantem coegit in senatu sententiam dicere. Tum ex tanto intervallo auditus convertit ora hominum in se, causamque sermonibus praebuit, “ indigno injuriam à populo factam, magnoque id damno fuisse, quòd tam gravi bello nec operà nec consilio talis viri usa respublica esset. . . egrè-
“ gium par consulum fore, si M. Livium C. Claudio collegam adjunxissent.” Unus eam rem in civitate, is cui deferebatur honos, abnuebat: “ levitatem civitatis accusans: forditati
“ rei non misertos, candidam togam invito offerre; eodem honores, poenasque congeri: si
“ bonum virum ducerent, quid ita pro malo ac noxio damnassent; si noxium comperissent,
“ quid ita malè credito priore consulatu alterum crederent.” Haec taliaque arguentem, et
querentem castigabant patres; et “ M. Furium memorantes revocatum de exilio, patriam
“ pulsam sede suà restituisse; ut parentum saevitiam, sic patriae, patiendo ac ferendo lenien-
“ dam esse.” Adnixi omnes cum C. Claudio M. Livium consulem fecerunt. Liv. l. 27, c. 36. l. 29, c. 37

† Nobilitas L. Aemilium Paulum, qui cum M. Livio consul fuerat, et damnatione collegae, et suà propè ambuffus evaserat, infestum plebi, diu ac multum recusantem ad petitionem compellit. Is proximo comitali die, concedentibus omnibus, qui cum Varrone certaverant, parque magis in adversando, quam collega datur consuli. Liv. l. 22, c. 35

This was L. Aemilius Paulus, who was killed in the battle at Cannae. The accusation, which Livy speaks of, was, that he and his colleague, Livius Salinator, had made a partial distribution of the spoils which they had taken from the Illyrians, and had illegally applied some part of them to their own private use. Salinator was condemned; but Aemilius was acquitted. If Sidney alludes to this incident, he seems to have committed a small mistake, in saying, that a fine was imposed upon Aemilius. — We do not find that any penalty of this kind was ever inflicted on the son of this unfortunate commander, the celebrated L. Aemilius Paulus Macedonicus.

‡ Ab rostris in capitolium ascendit: simul se universa concio avertit, et secuta Scipionem est; adeò ut postremò scribae viatoresque tribunos relinquerent: nec cum iis praeter fervilem comitatum, et praeconem, qui reum ex rostris citabat, quisquam esset. Liv. l. 38, c. 51
from

from the power of it. And Scipio being the first Roman that thus disdain-
ed the power of the law, I do not know whether the prejudice, brought
upon the city by so dangerous an example, did not outweigh all the ser-
vices he had done. Nevertheless the people contented with his retirement
to his own house, and afterwards convinced of his innocence, would prob-
ably, if he had not died in a few months, have brought him back with
the honours that fate reserved for his ashes. SECT. 18

I do not at present remember any other eminent men, who can be said
in any respect to have "thrived ill," while the people and senate of Rome
acted freely. And if this be not sufficient to clear the point, I desire to
know the names of those "worst men that thrived best." If they may
have been judged to thrive, who were frequently advanced to the supreme
magistracies, and enjoyed the chief honours, I find no men so eminent as
Brutus, Publicola, Quintius Cincinnatus, and Capitolinus, the two Fabii
surnamed Maximi, Corvinus, Torquatus, Camillus, and the like. And
if these were the worst men that Rome produced in those ages, valour,
wisdom, industry in the service of their country, and a most entire love
to it, must have been the worst of qualities: and I presume our author
may have thought them so, since they were invincible obstacles to the intro-
duction of that divine monarchy, which Appius Claudius the decemvir,
Manlius Capitolinus, Spurius Cassius, Spurius Moelius, and some others,
may be thought to have affected.

However, these instances are not to be understood as they are simply in
themselves, but comparatively with what has happened in other places,
under absolute monarchies: for our inquiry is not after that which is per-
fect, well knowing that no such thing is found among men; but we seek
that human constitution, which is attended with the least, or the most
pardonable inconveniences. And if we find, that in the space of three
hundred years, while the senate, people, and legally created magistrates,
governed Rome, not one worthy man was put to death, not above five or
six condemned to fines by the beguiled people, and those injuries repaired
by the most honourable satisfaction that could be given, so that virtue con-
tinued ever flourishing; that the best men which could be found were put
into the chief commands, and the city filled with more excellent men,
than were ever known to be in any other place: on the other side, if the
emperors, so soon as the government was changed, made it their business
to destroy the best, and so far succeeded in their design, that they left
none; and never failed to advance the worst, unless it fell out as to queen
Catharine de Medicis, who is said never to have done any good but by
mistake, and some few may have proved better than was intended, it will
appear, that our author's assertions are in the utmost degree false. Of this
we need no better witness than Tacitus. The civil wars, and the proscrip-
tions, upon which he touches, are justly to be attributed to that monarchy
which was then setting up, the only question being, who should be the
monarch, when the liberty was already overthrown. And if any eminent
men escaped, it was much against the will of those who had usurped the
power.

CHAP. II power. He acknowledges his histories to be a continued relation of the slaughter of the most illustrious persons, and that in the times of which he writes, virtue was attended with certain destruction. After the death of Germanicus and his eldest children, Valerius Asiaticus, Seneca, Corbulo, and an infinite number more, who were thought most to resemble them, found this to be true at the expence of their lives. Nero, in pursuance of the same tyrannical design, murdered Helvidius and Thrasea, that he might "tear up virtue by the roots*." Domitian spared none willingly that had either virtue or reputation; and though Trajan, with perhaps some others, might grow up under him in the remote provinces, yet no good man could escape, who came under his eye, and was so eminent as to be observed by him. While these, who were thought to be the best men that appeared in the Roman empire, did thrive in this manner, Sejanus, Macro, Narcissus, Pallas, Tigellinus, Ictus, Vinus, Laco, and others like to them, had the power of the empire in their hands. Therefore, unless mankind have been mistaken to this day, and these, who have hitherto been accounted the worst of villains, were indeed the best men in the world, and those destroyed by them, who are thought to have been the best, were truly the worst, it cannot be denied, that the best men, during the liberty of Rome, thrived best; that good men suffered no indignity, unless by some fraud imposed upon the well-meaning people; and that so soon as the liberty was subverted, the worst men thrived best. The best men were exposed to so many calamities and snares, that it was thought a matter of great wonder to see a virtuous man die in his bed. And if the account were well made, I think it might appear, that every one of the emperors before Titus shed more noble and innocent blood, than Rome and all the commonwealths in the world have done, while they had the free enjoyment of their own liberty. But if any man in favour of our author seek to diminish this vast disproportion between the two differing sorts of government, and impute the disorders that happened in the time of the Gracchi, and others, while Rome was struggling for her liberty, to the government of a commonwealth, he will find them no more to be compared with those that fell out afterwards, than the railings of a turbulent tribune against the senate, to the villainies and cruelties that corrupted and dispeopled the provinces from Babylon to Scotland. And whereas the state never failed to recover from any disorders, as long as the root of liberty remained untouched, and became more powerful and glorious than ever, even after the wars of Marius and Sylla; when that was destroyed, the city fell into a languishing condition, and grew weaker and weaker, till that, and the whole empire, were ruined by the barbarians.

3. Our author, to shew that his memory is as good as his judgment, having represented Rome in the times of liberty as a public slaughter-house, soon after blames the clemency of their laws. Whereas it is impossible,

* *Trucidatis tot insignibus viris, ad postremum Nero virtutem ipsam excindere concupivit, interfecto Barea Sorano, et Thrasea Paeto, olim utriusque infensus. Tacit. Ann. l. 16, § 21*

that the same city could at the same time be guilty of those contrary extremities; and no less certain, that it was perfectly free from them both. His assertion seems to be grounded upon Caesar's speech, related by Sallust, in favour of Lentulus and Cethegus, companions of Catiline. But though Caesar endeavoured to put the best colour he could upon their cause, it signified only thus much, that a Roman citizen could not be put to death, without being heard in public: which law will displease none, that in understanding and integrity may not be compared to Filmer, and his followers. It is a folly to extend it farther: for it is easily proved, that there was always a power of putting citizens to death, and that it was exercised when occasion required. The laws were the same in the time of the kings, and when that office was executed by consuls, excepting such changes as are already mentioned. The "lex perduellionis," cited by Livy in the case of Horatius, who had killed his sister, continued in force from the foundation to the end of that government: the condemnation was to death, the words of the sentence these, "Caput obnubito; infelici arbori recte suspendito; verberato vel intra pomoerium, vel extra pomoerium*." He was tried by this law upon an appeal made to the people by his father, and absolved "admiratione magis virtutis quàm jure causae †;" which could not have been, if by the law no citizen might be put to death. The sons of Brutus were condemned to death in public, and executed with the Aquilii and Vitellii their companions in the same conspiracy ‡. Manlius Capitolinus was put to death by the vote of the people §; Titus Manlius by the command of his father Torquatus, for fighting without order ¶. Two legions were decimated by Appius Claudius**. Spurius Maelius, refusing to appear before the dictator, was killed by Servilius Ahala general of the horse, and pronounced "jure caesum ††." Quintus Fabius was by Papirius the dictator condemned to die, and could not have been saved, but by the intercession and authority of the people ††. If this be not so, I desire to
be

* Liv. l. 1, c. 26

† Ibid.

‡ Liv. l. 2, c. 4, 5

§ In campo Martio cum centuriatim populus citaretur, et reus ad capitolium manus tendens, ab hominibus ad deos preces avertisset, apparuit tribunis, nisi oculos quoque hominum liberassent à tanti memoriâ decoris, nunquam fore in praeoccupatis beneficio animis vero crimini locum. Ita productâ die, in Petelinum lucum, extra portam Flumentanam, undè conspectus in capitolium non esset, concilium populi indictum est. Ibi crimen valuit, et obstinatis animis triste judicium, invisumque etiam judicibus factum . . . Damnatum tribuni de saxo Tarpeio dejecerunt. Id. l. 6, c. 20

¶ Apud majores nostros, A. Manlius Torquatus bello Gallico filium suum, quod is contra imperium in hostem pugnaverit, necari jussit. Sall. Bell. Catil. § 56. Liv. l. 8, c. 7

** Appius, advocatâ concione, invectus haud falsò in proditorem exercitum militaris disciplinae, desertorem signorum: "ubi signa, ubi arma essent," singulos rogans, inermes milites, signo amisso signiferos, ad hoc centuriones duplicariosque qui reliquerant ordines, virgis caesos securi percussit. Caetera multitudo forte decimus quisque ad supplicium lecti. Liv. l. 2, c. 59

†† Dictator tumultuantem multitudinem incertâ existimatione facti ad concionem vocari jussit, et Moelium jure caesum pronunciavit: etiam si regni crimine insons fuerit, qui vocatus à magistro equitum ad dictatorem non venisset. Liv. l. 4, c. 15

‡‡ Lucius Papirius, à velocitate Cursor, cum dictatorem se adversis omnibus contra Samnites profectum esse sensisset, ad auspicia repetenda Romam regressus, edixit Fabio Ruti-

CHAP. II be informed what the senate meant by condemning Antistius Sofianus, in the reign of Nero, to be put to death "more majorum*," if "more "majorum" no citizen might be put to death? Why the consuls, dictators, military tribunes, decemviri, caused rods and axes to be carried before them, as well within as without the city, if no use was to be made of them? Were they only vain badges of a power never to be executed; or upon whom was the supreme power, signified by them, to be exercised within and without the city, if the citizens were not subject to it? It is strange that a man, who had ever read a book of matters relating to the affairs of Rome, should fancy these things; or hope to impose them upon the world, if he knew them to be foolish, false, and absurd. But of all the marks of a most supine stupidity that can be given by a man, I know no one equal to this of our author, who in the same clause, wherein he says no citizen could be put to death or banished, adds, that the magistrates were upon pain of death forbidden to do it; for if a magistrate might be put to death for banishing a citizen, or causing him to be executed, a citizen might be put to death: for the magistrates were not strangers, but citizens. If this was not so, he must think, that no crime was capital, but the punishment of capital crimes; or that no man was subject to the supreme power, but he that was created for the execution of it. Yet even this will not stop the gap; for the law that condemned the magistrate to die could be of no effect, if there were no man to execute it; and there could be none if the law prohibited it, or if he who did it was to die for it: and this goes on to infinity. For if a magistrate could not put a citizen to death, I suppose a citizen could not put to death a magistrate; for he also is a citizen. So that upon the whole matter we may conclude, that malice is blind, and that wickedness is madness. It is hard to say more in praise of popular governments than will result from what he says against them: his reproaches are praises, and his praises reproaches. As government is instituted for the preservation of the governed, the Romans were sparing of blood, and are wisely commended by Livy for it: "glo-
"riari licet, nulli gentium mitiores placuisse poenas †;" which gentleness will never be blamed, unless by those who are pleased with nothing so much as the fury of those monsters, who, with the ruin of the best part of mankind, usurped the dominion of that glorious city. But if the Romans were gentle in punishing offences, they were also diligent in preventing them: the excellence of their discipline led the youth to virtue, and the honours they received for recompence confirmed them in it. By

liano, quem exercitui imponebat, ne manum cum hoste confereret. Sed ille opportunitate ductus, pugnavit. Reverfus Papius securi eum ferire voluit: ille in urbem confugit; nec supplicem tribuni tuebantur. Dein pater lachrymis, populus precibus veniam impetrarunt. Aur. Vict. c. 31. Liv. l. 8, c. 30—35

* Antistius praetor probrosa adversus principem carmina factitavit, vulgavitque celebri convivio dum apud Ostorium Scapulam epulatur. Exin à Cossutiano Capitone majestatis delatus est . . . Censuit Junius Marullus, consul designatus, adimendam reo praeturam, necandumque more majorum. Tacit. Ann. l. 14, § 48.

† Liv. l. 1, c. 28

these means many of them became laws to themselves; and they, who were not the most excellent, were yet taught so much of good, that they had a veneration for those they could not equal, which not only served to incite them to do well according to their talents, but kept them in such awe, as to fear incurring their ill opinion by any bad action, as much as by the penalty of the law. This integrity of manners made the laws as it were useless; and, while they seemed to sleep, ignorant persons thought there were none. But their discipline being corrupted by prosperity, those vices came in which made way for the monarchy; and wickedness being placed in the throne, there was no safety for any but such as would be of the same spirit, and the empire was ruined by it.

SECTION XIX

THAT CORRUPTION AND VENALITY, WHICH IS NATURAL TO COURTS, IS SELDOM FOUND IN POPULAR GOVERNMENTS.

Our author's next work is, with that modesty and truth which is natural to him, to impute corruption and venality to commonwealths. He knows that monarchies are exempted from those evils; and has discovered this truth from the integrity observed in the modern courts of England, France, and Spain, or the more antient ones of Rome and Persia. But after many falsehoods in matter of fact, and misrepresentations of that which is true, he shews, that, the corruption, venality, and violence he blames were neither the effects of liberty, nor consistent with it. Cn. Manlius, who with his Asiatic army brought in the luxury that gave birth to those mischiefs, did probably follow the looseness of his own disposition: yet the best and wisest men of that time knew from the beginning, that it would ruin the city, unless a stop were put to the course of that evil. But they who had seen kings under their feet, and could no longer content themselves with that equality which is necessary among citizens, fomented it as the chief means to advance their ambitious designs. Though Marius was rigid in his nature, and cared neither for money, nor sensual pleasures, yet he favoured those vices in others, and is said to be the first that made use of them to his advantage. Catiline was one of the lowest men in the world, and had no other way of compassing his designs, than by rendering others as bad as himself. Caesar set up his tyranny by spreading that corruption farther than the others had been able to do. And though he, Caligula, and some others were slain, yet the best men found it as impossible to restore liberty to the city, when it was corrupted*, as the worst had done to set up a tyranny, while the integrity of their manners did continue. Men have a strange propensity

* See p. 110

CHAP. II to run into all manner of excesses, when plenty of means invite, and there is no power to deter; of which the succeeding emperors took advantage. And knowing that even their subsistence depended upon it, they thought themselves obliged by interest, as well as inclination, to make honours and preferments the rewards of vice. Though it be not always true in the utmost extent, that all men follow the example of the king, yet it is of very great efficacy. For though some are so good, that they will not be perverted, and others so bad, that they will not be corrected, yet a great number does always follow the course that is favoured and rewarded by those that govern. There were idolaters doubtless among the Jews in the days of David and Hezekiah; but they prospered better under Jeroboam and Ahab. England was not without papists in the time of queen Elizabeth; but they thrived much better during the reign of her furious sister. False witnesses and accusers had a better trade under Tiberius, who called them "custodes legum*," than under Trajan, who abhorred them. And whores, players, fiddlers, with other such vermin, abounded certainly more when encouraged by Nero, than when despised by Antoninus and Marcus Aurelius. But as every one of these manifested what he was, by those he favoured or punished, and a man can only be judged by his principles or practices, he that would know whether absolute monarchies, or mixed governments, do most foment or punish venality and corruption, ought to examine the principle and practice of both, and compare them one with the other.

As to the principle, the above-mentioned vices may be profitable to private men; but they can never be so to the government, if it be popular or mixed. No people was ever the better for that which renders them weak or base. And a duly created magistracy, governing a nation with their consent, can have no interest distinct from that of the public, or desire to diminish the strength of the people, which is their own, and by which they subsist. On the other side, the absolute monarch, who governs for himself, and chiefly seeks his own preservation, looks upon the strength and bravery of his subjects as the root of his greatest danger, and frequently desires to render them weak, base, corrupt, and unfaithful to each other, that they may neither dare to attempt the breaking of the yoke he lays upon them, nor trust one another in any generous design for the recovery of their liberty. So that the same corruption which preserves such a prince, if it were introduced by a people, would weaken, if not utterly destroy them.

Again, all things have their continuance from a principle in nature suitable to their original. All tyrannies have had their beginnings from corruption. The histories of Greece, Sicily, and Italy shew, that all those who made themselves tyrants in several places did it by the help of the worst, and the slaughter of the best. Men could not be made subser-

* Caesar "irritas leges, rempublicam in praecipiti, conquestus est; subverterent potius jura, quam custodes eorum amoverent." Tacit. Ann. l. 4, § 30

vient to their lusts, while they continued in their integrity; so that their business was to destroy those who would not be corrupted. They must therefore endeavour to maintain or increase the corruption by which they attain their greatness. If they fail in this point, they must fall, as Tarquin, Pifistratus, and others have done. But if they succeed so far, that the vicious part do much prevail, the government is secure, though the prince may be in danger. And the same thing does in a great measure accidentally conduce to the safety of his person. For they who for the most part are the authors of great revolutions, not being so much led by a particular hatred to the man, as by a desire to do good to the public, seldom set themselves to conspire against the tyrant, unless he be altogether detestable and intolerable, if they do not hope to overthrow the tyranny.

The contrary is seen in all popular and well-mixed governments: they are ever established by wise and good men, and can never be upheld otherwise than by virtue: the worst men always conspiring against them, they must fall, if the best have not power to preserve them. Where-ever therefore a people is so governed, the magistrates will obviate afar off the introduction of vices, which tend as much to the ruin of their persons and government, as to the preservation of the prince and his. This is evidenced by experience. It is not easy to name a monarch that had so many good qualities as Julius Caesar, till they were extinguished by his ambition, which was inconsistent with them. He knew, that his strength lay in the corruption of the people, and that he could not accomplish his designs without increasing it. He did not seek good men, but such as would be for him; and thought none sufficiently addicted to his interests, but such as stuck at the performance of no wickedness that he commanded. He was a soldier according to Caesar's heart, who said,

“ *Pectore si fratris gladium, juguloque parentis,*

“ *Condere me jubeas, gravidæve in viscera partu*

“ *Conjugis, invitâ peragam tamen omnia dextrâ. **”

And lest such as were devoted to him should grow faint in villainy, he industriously inflamed their fury:

—————“ *Vult omnia Caesar*

“ *A se faeva peti, vult præmia Martis amari. †*”

Having spread this poison among the soldiers, his next work was, by corrupting the tribunes, to turn that power to the destruction of the people, which had been erected for their preservation; and pouring the treasures he had gained by rapine in Gaul into the bosom of Curio, he made him an instrument of mischief, who had been a most eminent supporter of the laws. Though he was thought to have affected the glory of sparing Cato, and with trouble to have found, that he despised life when it was to be accounted his gift; yet in suspecting Brutus and Cassius, he shewed he could not believe, that virtuous men who loved their country could be his friends. Such as carry on the like designs with less valour, wit, and

* Luc. Phar. l. 1, v. 376.

† Ibid. l. 5, v. 307

CHAP. II generosity of spirit, will always be more bitterly bent to destroy all that are good, knowing, that the deformity of their own vices is rendered most manifest, when they are compared with the good qualities of those who are most unlike them; and that they can never defend themselves against the scorn and hatred they incur by their vices, unless such a number can be infected with the same, and made to delight in the recompences of iniquity that foment them, as may be able to keep the rest of the people in subjection.

The same thing happens, even when the usurpation is not so violent as that of Agathocles, Dionysius, or the last king of Denmark, who in one day by the strength of a mercenary soldiery overthrew all the laws of his country*. And a lawfully created magistrate is forced to follow the same ways

* As the revolution in Denmark, to which Sidney alludes in this passage, is one of the most remarkable events in history, the following short account of it may not be unacceptable to the reader.

Immediately after the peace was concluded with Sweden, in 1660, the states of Denmark were convened, in order to settle the affairs of the nation, to repair the disorders which had been occasioned by a ruinous war, and to raise large sums of money for the payment of the army. The king foresaw the difficulties and dissensions which would inevitably arise in this convention. It was therefore by his direction insinuated to the clergy, and the president of Copenhagen, speaker of the commons, that the public tranquillity might be easily restored, if all the members of the state would bear their proportion of the expence. In consequence of this intimation, the commons laid before the nobility the deplorable situation of the people, and the impossibility of raising money for the present exigencies, unless they consented to pay their share: which was the more reasonable as they had the wealth of the nation in their hands. The nobles, who were numerous, powerful, and insolent, not apprised of the collusion between the king and the commons, replied, "that they had been always exempted from taxes; that their tenants were their vassals and slaves; and that it was presumption in them, to contest the privileges of the nobility." The commons, exasperated by this contemptuous answer, withdrew from the assembly; and after some deliberations, determined to surrender their authority to the king. Several messages passed between them and the court in the evening; and the next morning they had an audience of his majesty. They represented to him, that as the present constitution did not, in their opinion, answer the end of government, and they were fully convinced of his majesty's prudence, virtue, and paternal love for his people, they had resolved to put the whole administration of the kingdom into his hands. At first, the king pretended to have some scruples about accepting an arbitrary power; but upon the commons persisting in their request, he told them, that he was much obliged to them for the favourable sentiments they entertained of his affection towards his people; that they might depend upon his royal protection; and that he would certainly redress their grievances, and encourage them suitably to their merit: but he observed, that on this occasion it was necessary to have the concurrence of the nobility. In the mean time, the king ordered the governor of the city to shut the gates; and as he had the army absolutely in his power, it was impossible for any of the nobility to retire to their estates, without his permission, which brought his designs to an immediate issue. The nobility now discovered their error, but it was irreparable. Some part of their privileges they determined therefore to resign, in order to secure the rest. With this view they made his majesty an offer to advance his prerogative considerably, and to settle the succession in the male line of his descendants; but they were told, that this would neither answer his majesty's purpose, nor satisfy the clergy and commons. The people continued loud in their clamours against them; and in this situation they were forced to comply, to render his majesty arbitrary, and the kingdom hereditary in his issue, whether male or female. In two or three days afterwards, the king,

ways as soon as he begins to affect a power which the laws do not confer upon him. I wish I could say there were few of these; but experience shews, that such a proportion of wisdom, moderation of spirit, and justice, is required in a supreme magistrate, to render him content with a limited power, as is seldom found. Man is of an aspiring nature, and apt to put too high a value upon himself. They who are raised above their brethren, though but a little, desire to go farther; and if they gain the name of king, they think themselves wronged and degraded, when they are not suffered to do what they please*. In these things they never want masters; and the nearer they come to a power that is not easily restrained by law, the more passionately they desire to abolish all that opposes it. When their hearts are filled with this fury, they never fail to choose such ministers as will be subservient to their will: and this is so well known, that those only approach them who resolve to be so. Their interests, as well as their inclinations, incite them to diffuse their own manners as far as they can; which is no less than to bring those, who are under their power, to all that wickedness of which the nature of man is capable. And no greater testimony can be given of the efficacy of these means towards the utter corruption of nations, than the accursed effects we see of them in our own and the neighbouring countries.

It may be said, that some princes are so full of virtue and goodness, as not to desire more power than the laws allow, and are not obliged to choose ill men, because they desire nothing but what the best are willing to do. This may be, and sometimes is. The nation is happy that has such a king: but he is not easily found, and more than a human power is required to keep him in so good a way. The strength of his own affections will ever be against him. Wives, children, and servants, will always join with those enemies that arise in his own breast to pervert him; if he has any weak side, any lust unsubdued, they will gain the victory. He has not searched into the nature of man, who thinks that any one can resist, when he is thus on all sides assaulted. Nothing but the wonderful and immediate power of God's Spirit can preserve him; and to allege it, will be nothing to the purpose, unless it can be proved, that all princes are

king, queen, and royal family, under canopies of state, received the homage of the nobility, clergy, and people, in the sight of the army, which attended to grace the solemnity, and prevent any disturbance or opposition that might be made to this change in the constitution. Thus the states of Denmark, within the space of two days, rashly, and fatally divested themselves of those privileges, which their ancestors had purchased with their blood and treasure. There are various opinions with respect to the share his majesty bore in this great event. Some writers wholly ascribe it to the insolence of the nobility and the united resentment of the people, arising from unavoidable circumstances. But others affirm, that his majesty fomented their divisions by the most artful policy, in order to establish the royal prerogative on the ruins of public liberty. See Univ. Hist. Vol. 32, and Moleworth's account of Denmark.

* " ——— Sanctitas, pietas, fides,
" Privata bona sunt: quæ juvat, reges eant."

Sen. Thyest. Act. 2

CHAP. II blessed with such an assistance, or that God has promised it to them and their successors for ever, by what means soever they came to the crowns they enjoy.

Nothing is farther from my intention than to speak irreverently of kings; and I presume no wise man will think I do so, if I profess, that, having observed, as well as I can, what history, and daily experience teach us concerning the virtues and religions, that are or have been from the beginning of the world encouraged and supported by monarchs, the methods they have followed since they have gone under the name of christians, their moral as well as their theological graces, together with what the Scriptures tell us of those, who in the last days will principally support the throne of antichrist, I cannot be confident, that they are generally, in an extraordinary manner, preserved by the hand of God from the vices and frailties, to which the rest of mankind are subject. If no man can shew, that I am in this mistaken, I may conclude, that as they are more than any other men in the world exposed to temptations and snares, they are more than any in danger of being corrupted, and made instruments of corrupting others, if they are no otherwise defended than the rest of men.

This being the state of the matter on both sides, we may easily collect, that all governments are subject to corruption and decay; but with this difference, that absolute monarchy is by principle led unto, or rooted in it. Whereas mixed or popular governments are only in a possibility of falling into it. As the first cannot subsist, unless the prevailing part of the people be corrupted, the other must certainly perish, unless they are preserved in a great measure free from vices. I doubt, whether any better reason can be given, why there have been and are more monarchies than popular governments in the world, than that nations are more easily drawn into corruption than defended from it; and I think that monarchy can be said to be natural in no other sense, than that our depraved nature is most inclined to that which is worst.

To avoid unnecessary disputes, I give the name of popular governments to those of Rome, Athens, Sparta, and the like, though improperly, unless the same may also be given to many that are usually called monarchies, since there is nothing of violence in either: the power is conferred upon the chief magistrates of both by the free consent of a willing people, and such a part as they think fit is still retained and executed in their own assemblies; and in this sense it is that our author seems to speak against them. As to popular government in the strictest sense, that is, pure democracy, where the people in themselves, and by themselves, perform all that belongs to government, I know of no such thing; and if it be in the world, have nothing to say for it. In asserting the liberty, generally, as I suppose, granted by God to all mankind, I neither deny, that so many, as think fit to enter into a society, may give so much of their power as they please to one or more men, for a time, or perpetually, to them and their heirs, according to such rules as they prescribe; nor approve the disorders that must arise if they keep it entirely in their own hands. And looking upon the several governments, which, under different forms and names,

names, have been regularly constituted by nations, as so many undeniable testimonies, that they thought it good for themselves, and their posterity, so to do, I infer, that as there is no man who would not rather choose to be governed by such as are just, industrious, valiant, and wise, than by those that are wicked, slothful, cowardly, and foolish; and to live in society with such as are qualified like those of the first sort, rather than with those who will be ever ready to commit all manner of villainies, or want experience, strength, or courage, to join in repelling the injuries that are offered by others: so there are none who do not, according to the measure of their understanding, endeavour to set up those who seem to be best qualified, and to prevent the introduction of those vices, which render the faith of the magistrate suspected, or make him unable to perform his duty, in providing for the execution of justice, and the public defence of the state, against foreign or domestic enemies. For as no man, who is not absolutely mad, will commit the care of a flock to a villain, that has neither skill, diligence, nor courage, to defend them, or perhaps is maliciously set to destroy them, rather than to a stout, faithful, and wise shepherd, it is less to be imagined, that any would commit the same error in relation to that society which comprehends himself, with his children, friends, and all that is dear to him.

The same considerations are of equal force in relation to the body of every nation. For since the magistrate, though the most perfect in his kind, cannot perform his duty, if the people be so base, vicious, effeminate, and cowardly, as not to second his good intentions, those who expect good from him, cannot desire so to corrupt their companions that are to help him, as to render it impossible for him to accomplish it. Though I believe there have been in all ages bad men in every nation, yet I doubt whether there were any in Rome, except a Catiline or a Caesar, who designed to make themselves tyrants, that would not rather have wished the whole people as brave and virtuous as in the time of the Carthaginian wars, than vile and base, as in the days of Nero and Domitian. But it is madness to think, that the whole body would not rather have wished to be as it was when virtue flourished, and nothing upon earth was able to resist their power, than weak, miserable, base, slavish, trampled under foot by any that would invade them, and forced as chattels to become a prey to those that were strongest. Which is sufficient to shew, that a people, acting according to the liberty of their own will, never advance unworthy men, unless it be by mistake, nor willingly suffer the introduction of vices. Whereas the absolute monarch always prefers the worst of those who are addicted to him, and cannot subsist unless the prevailing part of the people be base and vicious.

If it be said, that those governments, in which the democratical part governs most, do more frequently err in the choice of men, or the means of preserving that purity of manners which is required for the well-being of a people, than those wherein aristocracy prevails, I confess it, and that in Rome and Athens the best and wisest men did for the most part incline

CHAP. II to aristocracy. Xenophon, Plato, Aristotle, Thucydides, Livy, Tacitus, Cicero, and others, were of this sort. But if our author there seek patrons for his absolute monarchy, he will find none but Phalaris, Agathocles, Dionysius, Catiline, Cethegus, Lentulus, with the corrupted crew of mercenary rascals, who did, or endeavoured to fet them up. These are they "quibus ex honesto nulla est spes*:" they abhor the dominion of the law, because it curbs their vices, and make themselves subservient to the lusts of a man who may nourish them. Similitude of interests, manners, and designs, is a link of union between them; both are enemies to popular and mixed government; and those governments are enemies to them, and by preserving virtue and integrity oppose both, knowing that if they do not they must certainly perish.

SECTION XX

MAN'S NATURAL LOVE TO LIBERTY IS TEMPERED BY REASON,
WHICH ORIGINALLY IS HIS NATURE.

That our author's book may appear to be a heap of incongruities and contradictions, it is not amiss to add to what has already been observed, that, having asserted absolute monarchy to be "the only natural government," he now says, "that the nature of all people is to desire liberty without restraint." But if monarchy be that power which above all restrains liberty, and subjects all to the will of one, this is as much as to say, that all people naturally desire that which is against nature; and by a wonderful excess of extravagance and folly to assert contrary propositions, that on both sides are equally absurd and false. For, as we have already proved, that no government is imposed upon men by God or nature, it is no less evident, that, man being a rational creature, nothing can be universally natural to him, that is not rational. But this liberty without restraint being inconsistent with any government, and the good which man naturally desires for himself, children, and friends, we find no place in the world where the inhabitants do not enter into some kind of society or government to restrain it: and to say that all men desire liberty without restraint, and yet that all do restrain it, is ridiculous. The truth is, man is hereunto led by reason, which is his nature. Every one sees they cannot well live asunder, nor many together, without some rule to which all must submit. This submission is a restraint of liberty, but could be of no effect as to the good intended, unless it were general; nor general, unless it were natural. When all are born to the same freedom, some will not resign that which is their own, unless others do the like. This general consent of all to

* Homines quibus mala abundè omnia erant, sed neque res, neque spes bona ulla. Sall. Bell. Catil. § 22.

resign such a part of their liberty, as seems to be for the good of all, is the voice of nature, and the act of men, according to natural reason, seeking their own good. And if all go not in the same way, according to the same form, it is an evident testimony that no one is directed by nature. But as a few or many may join together, and frame smaller or greater societies, so those societies may institute such an order or form of government as best pleases themselves; and if the ends of government are obtained, they all equally follow the voice of nature in constituting them.

Again, if man were by nature so tenacious of his liberty without restraint, he must be rationally so. The creation of absolute monarchies, which entirely extinguishes it, must necessarily be most contrary to it, though the people were willing; for they thereby abjure their own nature. The usurpation of them can be no less than the most abominable and outrageous violation of the laws of nature, that can be imagined. The laws of God must be in the like measure broken. And of all governments, democracy, in which every man's liberty is least restrained, because every man has an equal part, would certainly prove to be the most just, rational, and natural: whereas our author represents it as a perpetual spring of disorder, confusion, and vice. This consequence would be unavoidable, if he said true. But it being my fate often to differ from him, I hope to be excused if I do so in this also, and affirm, that nothing but the plain and certain dictates of reason can be generally applicable to all men, as the law of their nature: and they, who according to the best of their understanding provide for the good of themselves and their posterity, do all equally observe it. He that inquires more exactly into the matter may find, that reason enjoins every man not to arrogate to himself more than he allows to others, nor to retain that liberty which will prove hurtful to him; nor to expect that others will suffer themselves to be restrained, while he, to their prejudice, remains in the exercise of that freedom which nature allows. He, who would be exempted from this common rule, must shew for what reason he should be raised above his brethren; and, if he do it not, he is an enemy to them. This is not popularity, but tyranny; and tyrants are said "*exuisse hominem,*" to throw off the nature of men, because they do unjustly and unreasonably assume to themselves that which agrees not with the frailty of human nature, and set up an interest in themselves contrary to that of their equals, which they ought to defend as their own. Such as favour them are like to them. We know of no tyranny that was not set up by the worst, nor of any that have been destroyed, unless by the best of men. The several tyrannies of Syracuse were introduced by Agathocles, Dionysius, Hieronymus, Hippocrates, Epycides, and others, by the help of lewd dissolute mercenary villains; and overthrown by Timoleon, Dion, Theodorus, and others, whose virtues will be remembered in all ages. These, and others like to them, never sought liberty without restraint, but such as was restrained by laws tending to the public good; that all might concur in

CHAP. II promoting it, and the unruly desires of those who affected power and honours, which they did not deserve, might be repressed.

The like was seen in Rome. When Brutus, Valerius, and other virtuous citizens, had thrown out the lewd Tarquins, they trusted to their own innocence and reputation; and thinking them safe under the protection of the law, contented themselves with such honours as their countrymen thought they deserved. This would not satisfy the dissolute crew that used to be companions to the Tarquins. “*Sodales adolescentium. Tarquiniorum affluenti more regio vivere, eam tum aequato jure omnium licentiam quaerentes, libertatem aliorum in suam vertisse servitutem inter se conquerebantur. Regem hominem esse, à quo impetres ubi jus, ubi injuria opus sit. Esse gratiae locum, esse beneficio; et irasci et ignoscere posse. Leges rem surdam, inexorabilem esse, salubriorem melioremque inopi quàm potenti: nihil laxamenti nec veniae habere, si modum excefferis: periculosum esse in tot humanis erroribus solâ innocentia vivere**.” I cannot say, that either of these sought a liberty without restraint; for the virtuous were willing to be restrained by the law, and the vicious to submit to the will of a man, to gain impunity in offending. But if our author say true, the licentious fury of these lewd young men, who endeavoured to subvert the constitution of their country, to procure the impunity of their own crimes, would have been more natural, that is, more reasonable than the orderly proceedings of the most virtuous, who desired that the law might be the rule of their actions, which is most absurd.

The like vicious wretches have in all times endeavoured to put the power into the hands of one man, who might protect them in their villainies, and advance them to exorbitant riches, or undeserved honours; while the best men, trusting in their innocence, and desiring no other riches or preferments than what by their equals they were thought to deserve, were contented with a due liberty, under the protection of a just law: and I must transcribe the histories of the world, or at least so much of them as concerns the tyrannies that have been set up or cast down, if I should here insert all the proofs that might be given of it. But I shall come nearer to the point, which is, not to compare democracy with monarchy, but a regular mixed government with such an absolute monarchy, as leaves all to the will of that man, woman, or child, who happens to be born in the reigning family, how ill soever they may be qualified. I desire those who are lovers of truth to consider, whether the wisest, best, and bravest of men, are not naturally led to be pleased with a government that protects them from receiving wrong, when they have not the least inclination to do any? Whether they, who desire no unjust advantage above their brethren, will not always desire that a people or senate constituted as that of Rome, from the expulsion of Tarquin to the setting up of Caesar, should rather judge of their merit, than Tarquin,

* Liv. l. 2, c. 3.

Caesar, or his successors? Or whether the lewd or corrupted pretorian bands, with Macro, Sejanus, Tigellinus, and the like, commanding them, will not ever, like Brutus's sons, abhor the inexorable power of the laws, with the necessity of living only by their innocence, and favour the interest of princes like to those that advanced them? If this be not sufficient, they may be pleased a little to reflect upon the affairs of our own country, and seriously consider, whether Hyde, Clifford, Falmouth, Arlington and Danby, could have pretended to the chief places, if the disposal of them had been in a free and well-regulated parliament? Whether they did most resemble Brutus, Publicola, and the rest of the Valerii, the Fabii, Quintii, Cornelii, &c. or Narcissus, Pallas, Ictus, Laco, Vinius, and the like? Whether all men, good and bad, do not favour that state of things, which favours them, and such as they are? Whether Cleveland, Portsmouth, and others of the same trade, have attained to the riches and honours they enjoy by services done to the commonwealth? And what places Chiffinch, Fox and Jenkins, could probably have attained, if our affairs had been regulated as good men desire? Whether the old arts of begging, stealing, and bawding, or the new ones of informing and trepanning, thrive best under one man who may be weak or vicious, and is always subject to be circumvented by flatterers, or under the severe scrutinies of a senate or people? In a word, whether they who live by such arts, and know no other, do not always endeavour to advance the government under which they enjoy, or may hope to obtain the highest honours, and abhor that, in which they are exposed to all manner of scorn and punishment? Which being determined, it will easily appear, why the worst men have ever been for absolute monarchy, and the best against it: and which of the two in so doing can be said to desire an unrestrained liberty of doing that which is evil.

SECTION XXI

MIXED AND POPULAR GOVERNMENTS PRESERVE PEACE, AND
MANAGE WARS, BETTER THAN ABSOLUTE MONARCHIES.

Being no way concerned in the defence of democracy; and having proved, that Xenophon, Thucydides, and others of the antients, in speaking against the over great power of the common people, intended to add reputation to the aristocratical party to which they were addicted, and not to set up absolute monarchy, which never fell under discourse among them, but as an object of scorn and hatred, evil in itself, and only to be endured by base and barbarous people, I may leave our knight, like Don Quixote, fighting against the phantasms of his own brain, and saying what he pleases against such governments as never were, unless in such a place as St. Marino near Sinigaglia in Italy, where a hundred clowns govern a barbarous rock that no man invades, and relates nothing to

our

CHAP. II our question*. If his doctrine be true, the monarchy he extols is not only to be preferred before unruly democracy, and mixed governments, but is the only one, that, without a gross violation of the laws of God and nature, can be established over any nation. But having, as I hope, sufficiently proved, that God did neither institute, nor appoint any such to be instituted, nor approve those that were; that nature does not incline us to it, and that the best as well as the wisest men have always abhorred it; that it has been agreeable only to the most stupid and base nations; and that if others have submitted to it, they have done so only as to the greatest of evils brought upon them by violence, corruption, or fraud, I may now proceed to shew, that the progress of it has been in all respects suitable to its beginning.

To this end it will not be amiss to examine our author's words —
 “ Thus do they paint to the life this beast with many heads: let me
 “ give the cypher of their form of government: as it is begot by sedition,
 “ so it is nourished by arms: it can never stand without wars, either with
 “ an enemy abroad, or with friends at home—” and in order to this I
 will not criticise upon the terms, though “ the cypher of a form,” and “ war
 with friends,” may be justly called nonsense; but coming to his assertions,
 that popular or mixed governments have their birth in sedition, and are
 ever afterwards vexed with civil or foreign wars, I take liberty to say, that
 whereas there is no form appointed by God or nature, those governments
 only can be called just, which are established by the consent of nations.
 These nations may at the first set up popular or mixed governments, or
 without the guilt of sedition introduce them afterwards, if that which was
 first established prove unprofitable or hurtful to them; and those that have
 done so have enjoyed more justice in times of peace, and managed wars,
 when occasion required, with more virtue, and better success, than any
 absolute monarchies have done. And whereas he says, that “ in popular
 “ governments each man hath a care of his particular, and thinks basely of
 “ the common good; that they look upon approaching mischiefs as they
 “ do upon thunder, only every man wisheth it may not touch his own
 “ person;” I say, that men can no otherwise be engaged to take care
 of the public, than by having such a part in it, as absolute monarchy
 does not allow: for under it they can neither obtain the good for them-
 selves, posterity, and friends, that they desire, nor prevent the mischiefs
 they fear; which are the principal arguments that persuade men to expose
 themselves to labours or dangers. It is a folly to say, that the vigilance
 and wisdom of the monarch supplies the defect of care in others; for we
 know, that no men under the sun were ever more void of both, and all
 manner of virtue required to such a work, than very many monarchs

* The republic of St. Marino, next to that of Mellingen in Switzerland, is the smallest republic in Europe. The limits of it extend no farther than the base of the mountain, on which it is seated. Its insignificance is its security. No neighbouring prince ever thought it worth his while to destroy the independency of such a bee-hive. See Blainville's Trav. vol. 2, p. 227. Addison's Remarks on several parts of Italy.

have been : and, which is yet worse, the strength and happiness of the people being frequently dangerous to them, they have not so much as the will to promote it ; nay, sometimes set themselves to destroy it. Antient monarchies afford us frequent examples of this kind. And if we consider those of France and Turkey, which seem most to flourish in our age, the people will appear to be so miserable under both, that they cannot fear any change of governor and government ; and all, except a few ministers, are kept so far from the knowledge of, or power in the management of affairs, that if any of them should fancy a possibility of something that might befall them worse than what they suffer, or hope for that which might alleviate their misery, they could do nothing towards the advancement of the one, or prevention of the other. Tacitus observes, that in his time no man was able to write what passed, “ *inficitia reipublicae ut alienae.* *” They neglected the public affairs in which they had no part. In the same age it was said, that the people, who, while they fought for their own interests, had been invincible, being enslaved were grown fordid, idle, base, running after stage-plays and shows ; so that the whole strength of the Roman armies consisted of strangers. When their spirits were depressed by servitude, they had neither courage to defend themselves, nor will to fight for their wicked masters ; and least of all to increase their power, which was destructive to themselves. The same thing is found in all places. Though the Turk commands many vast provinces, that naturally produce as good soldiers as any, yet his greatest strength is in children that do not know their fathers ; who not being very many in number, may perish in one battle, and the empire by that means be lost, the miserable nations that groan under that tyranny having neither courage, power, nor will to defend it. This was the fate of the Mamelucs. They had for the space of almost two hundred years domineered in Egypt, and a great part of Asia ; but the people under them being weak and disaffected, they could never recover the defeat they received from Selim near Aleppo, who, pursuing his victory, in a few months utterly abolished their kingdom †.

Notwithstanding the present pride of France, the numbers and warlike inclinations of that people, the bravery of the nobility, extent of dominion, convenience of situation, and the vast revenues of their king, his greatest advantages have been gained by the mistaken counsels of England, the valour of our soldiers unhappily sent to serve him, and the strangers of whom the strength of his armies consists ; which is so unsteady a support, that many who are well versed in affairs of this nature incline to think, he subsists rather by little arts, and corrupting ministers in foreign courts, than by the power of his own armies ; and that some reformation in the counsels of his neighbours might prove sufficient to overthrow that greatness, which is grown formidable to Europe, the same misery to which he

* Tacit. Hist. l. 1, § 1

† Selim I. An. 1517. See Knolles's Turkish History, p. 361, 375.

CHAP. II has reduced his people, rendering them as unable to defend him, upon any change of fortune, as to defend their own rights against him.

This proceeds not from any particular defect in the French government, but that which is common to all absolute monarchies. And no state can be said to stand upon a steady foundation, except those whose strength is in their own soldiery, and the body of their own people. Such as serve for wages, often betray their masters in distress, and always want the courage and industry which is found in those, who fight for their own interests, and are to have a part in the victory. The business of mercenaries is so to perform their duty, as to keep their employments, and to draw profit from them; but that is not enough to support the spirits of men in extreme dangers. The shepherd, who is a hireling, flies when the thief comes. And this adventitious help failing, all that a prince can reasonably expect from a disaffected and oppressed people is, that they should bear the yoke patiently in the time of his prosperity: but upon the change of his fortune, they leave him to shift for himself, or join with his enemies to avenge the injuries they had received. Thus did Alphonso and Ferdinand kings of Naples, and Ludovico Sforza duke of Milan fall, in the times of Charles the eighth, and Louis the twelfth, kings of France. The two first had been false, violent, and cruel; nothing within their kingdom could oppose their fury. But when they were invaded by a foreign power, they lost all, as Guicciardini says, without breaking one lance; and Sforza was by his own mercenary soldiers delivered into the hands of his enemies.

I think it may be hard to find examples of such as proceeding in the same way have had better success. But if it should so fall out, that a people living under an absolute monarchy, should through custom, or fear of something worse (if that can be) not only suffer patiently, but desire to uphold the government, neither the nobility, nor commonalty can do any thing towards it. They are strangers to all public concerns: all things are governed by one or a few men, and others know nothing either of action or counsel. Filmer will tell us it is no matter; the profound wisdom of the prince provides for all. But what if this prince be a child, a fool, a superannuated dotard, or a madman? Or if he does not fall under any of these extremities, and possesses such a proportion of wit, industry, and courage, as is ordinarily seen in men, how shall he supply the office that indeed requires profound wisdom, and an equal measure of experience and valour? It is to no purpose to say a good council may supply his defects; for it does not appear how he should come by this council, nor who should oblige him to follow their advice. If he be left to his own will to do what he pleases, though good advice be given to him, yet his judgment being perverted, he will always incline to the worst. If a necessity be imposed upon him of acting according to the advice of his council, he is not that absolute monarch of whom we speak, nor the government monarchical, but aristocratical. These are imperfect fig-leaf coverings of nakedness. It was in vain to give good counsel to
Sardanapaus;

Sardanapalus; and none could defend the Assyrian empire, when he lay wallowing among his whores, without any other thought than of his lusts. None could preserve Rome, when Domitian's chief business was to kill flies, and that of Honorius to take care of his hens. The monarchy of France must have perished under the base kings they call "les rois faineants," if the scepter had not been wrested out of their unworthy hands*. The world is full of examples of this kind. When it pleases God to bestow a just, wife, and valiant king, as a blessing upon a nation, it is only a momentary help, his virtues end with him; and there being neither any divine promise nor human reason moving us to believe, that they shall always be renewed and continued in his successors, men cannot rely upon it; and to allege a possibility of such a thing is nothing to the purpose.

On the other side, in a popular or mixed government every man is concerned; every one has a part, according to his quality or merit; all changes are prejudicial to all; whatever any man conceives to be for the public good, he may propose it in the magistracy, or to the magistrate; the body of the people is the public defence, and every man is armed and disciplined; the advantages of good success are communicated to all, and every one bears a part in the losses. This makes men generous and industrious, and fills their hearts with love to their country †. This, and the desire of that praise which is the reward of virtue, raised the Romans above the rest of mankind; and where-ever the same ways are taken, they will in a great measure have the same effects. By these means they had as many soldiers to fight for their country as there were freemen in it. While they had to deal with the free nations of Italy, Greece, Africa, or Spain, they never conquered a country, till the inhabitants were exhausted. But when they came to fight against kings, the success of a battle was enough to bring a kingdom under their power. Antiochus, upon a repulse received from Acilius at Thermopylae ‡, left all that he possessed in Greece; and being defeated by Scipio Nasica, he quitted all the kingdoms and territories of Asia on this side Taurus. Aemilius Paulus became master of Macedon by one prosperous fight against Perseus. Syphax, Gentius, Tigranes, Ptolemy, and others, were more easily subdued. The mercenary armies on which they relied being broken, the cities and countries, not caring for their masters, submitted to those who had more virtue, and better fortune. If the power of the Romans had

* From the beginning of the reign of Clovis the second, to the reign of Pepin le Bref, that is, for the space of 105 years, historians have written with so little order, that we find scarce any regular series of the history of France. According to their accounts, ten or eleven princes reigned successively, without concerning themselves in the least with the affairs of their kingdom; for which reason they have called them "the idle kings." The first of them was Clovis the second, the last Childeric the Stupid, from whom the French took the crown, to place it on the head of Pepin le Bref, his mayor of the palace.

† — Amor patriae laudumque immensa cupido. Virg. Aen. l. 6, v. 823

‡ Liv. l. 36, c. 15, et seq.

CHAP. II not been built upon a more sure foundation, they could not have subsisted. Notwithstanding their valour, they were often beaten; but their losses were immediately repaired by the excellence of their discipline. When Hannibal had gained the battles of Trebia, Ticinum, Thrasymene, and Cannae; defeated the Romans in many other encounters, and slain above two hundred thousand of their men, with Aemilius Paulus, C. Servilius, Sempronius Gracchus, Crispinus, Marcellus, and many other excellent commanders; when about the same time the two brave Scipio's had been cut off with their armies in Spain, and many great losses had been sustained in Sicily, and by sea, one would have thought it impossible for the city to have resisted: but their virtue, love to their country, and good government, was a strength that increased under all their calamities, and in the end overcame all. The nearer Hannibal came to the walls, the more obstinate was their resistance. Though he had killed more great captains than any kingdom ever had, others daily stepped up in their place, who excelled them in all manner of virtue. I know not, if at any time that conquering city could glory in a greater number of men fit for the highest enterprises, than at the end of that cruel war, which had consumed so many of them; but I think, that the finishing victories by them obtained, are but ill proofs of our author's assertion, that they "thought basely of the common good, and fought only to save themselves." We know of none except Caecilius Metellus, who, after the battle of Cannae, had so base a thought as to design the withdrawing himself from the public ruin; but Scipio, afterwards surnamed Africanus, threatening death to those who would not swear never to abandon their country *, forced him to alter his intention. This may in general be imputed to good government and discipline, with which all were so seasoned from their infancy, that no affection was so rooted in them, as an ardent love to their country, and a resolution to die for it, or with it. But the means by which they accomplished their great ends, so as after their defeats to have such men as carried on their noblest designs, with more glory than ever, were their annual elections of magistrates; many being thereby advanced to the supreme commands, and every one, by the honours he enjoyed, filled with a desire of rendering himself worthy of them.

I should not much insist upon these things, if they had been seen only among the Romans. But though their discipline seems to have been more perfect, better observed, and to have produced a virtue that surpassed all others, the like has been found, though perhaps not in the same degree, in all nations that have enjoyed their liberty, and were admitted to such a part of the government, as might give them a love to it. This was

* Ex mei animi sententiâ, inquit, juro, ut ego rempublicam non deseram, neque alium civem Romanum deserere patiar. Si sciens fallo, tum me, Jupiter optime maxime, domum, familiam, remque meam pessimo letho afficias! In haec verba, L. Caecili, jures expostulo, caeterique qui adestis: qui non juraverit in se hunc gladium strictum esse sciat. Liv. l. 22, c. 53. Val. Max. l. 5, c. 6, § 7

evident in all the nations of Italy. The Sabines, Volsci, Aequi, Tuscans, Samnites, and others, were never conquered till they had no men left. The Samnites alone inhabiting a small and barren province, suffered more defeats before they were subdued, than all the kingdoms of Numidia, Egypt, Macedon, and Asia; and, as it is expressed in their embassy to Hannibal, never yielded, till they who had brought vast numbers of men into the field, and by them defeated some of the Roman armies, were reduced to such weakness, that they could not resist one legion*. We hear of few Spartans, who did not willingly expose their lives for the service of their country; and the women themselves were so far inflamed with the same affection, that they refused to mourn for their children and husbands, who died in the defence of it. When the brave Brasidas was slain, some eminent men went to comfort his mother upon the news of his death; and telling her he was the most valiant man in the city, she answered, that he was indeed a valiant man, and died as he ought to do; but that, through the goodness of the gods, many others were left as valiant as he †.

When Xerxes invaded Greece, there was not a citizen of Athens able to bear arms, who did not leave his wife and children to shift for themselves in the neighbouring cities, and their houses to be burnt, when they embarked with Themistocles; and never thought of either, till they had defeated the Barbarians at Salamis by sea, and at Platea by land. When men are thus spirited, some will ever prove excellent; and as none did ever surpass those, who were bred under this discipline, in all moral, military, and civil virtues, those very countries, where they flourished most, have not produced any eminent men, since they lost that liberty which was the mother and nurse of them.

Though I should fill a volume with examples of this kind, as I might easily do, such as our author will say, that in popular governments “men look upon mischiefs as thunder, and only wish it may not touch themselves.” But, leaving them to the scorn and hatred they deserve for their impudence and folly, I conclude this point with the answer, that Trajano Boccalini puts into the mouth of Apollo, to the princes who complained that their subjects had not that love to their countries, as had been, and was daily seen, in those who lived under commonwealths, which amounted to no more than to tell them, that their ill government was the cause of that defect, and that the prejudices incurred by rapine,

* Per centum propè annos cum populo Romano bellum gessimus . . . Magni dictatores cum magistris equitum, bini consules, cum binis consularibus exercitibus, ingrediebantur fines nostros, antè exploratos, et subsidiis positis, et sub signis ad populandum ducebant . . . Jam ne manipulatim quidem, sed latronum modo percursant totis finibus nostris negligentius, quàm si in Romano vagarentur agro. Liv. l. 23, c. 42

† Μεγαλυνοτων δε εκεινω του ανδρα, και λεγοντων, ως ουκ εχει τοιουτου αλλου η Σπαρτη μη λεγετε, ειπεν, ω ξενοι, καλος μεν γαρ ην και αγαθος ο Βρασιδας, πολλες δε ανδρας Λακεδαιμων εχει τηνς κερρονας. Plut. in vitâ Lycurgi.

CHAP. II violence, and fraud, were to be repaired only by liberality, justice, and such a care of their subjects, that they might live happily under them*.

SECTION XXII

COMMONWEALTHS SEEK PEACE OR WAR, ACCORDING TO THE
VARIETY OF THEIR CONSTITUTIONS.

If I have hitherto spoken in general of popular or mixed governments, as if they were all founded on the same principle, it was only because our author without distinction has generally blamed them all, and generally imputed to every one those faults, which perhaps never were in any; but most certainly are directly opposite to the temper and constitution of many among them. Malice and ignorance reign so equally in him, that it is not easy to determine from which of the two this false representation proceeds. But lest any man should thereby be imposed upon, it is time to observe, that the constitutions of commonwealths have been so various, according to the different temper of nations and times, that if some of them seem to have been principally constituted for war, others have as much delighted in peace. And many, having taken the middle, and, as some think, the best way, have so moderated their love to peace, as not to suffer the spirits of the people to fall, but kept them in a perpetual readiness to make war when there was occasion: and every one of those, having followed several ways and ends, deserve our particular consideration.

The cities of Rome, Sparta, Thebes, and all the associations of the Etolians, Achaians, Sabines, Latins, Samnites, and many others that antiently flourished in Greece and Italy, seem to have intended nothing but the just preservation of liberty at home, and making war abroad. All the nations of Spain, Germany, and Gaul, fought the same things. Their principal work was to render their people valiant, obedient to their commanders, lovers of their country, and always ready to fight for it. And for this reason, when the senators of Rome had killed Romulus, they persuaded Julius Proculus to affirm, that he had seen him in a most glorious form ascending to heaven, and promising great things to the city: “*proinde rem militarem colant.*†” The Athenians were not less inclined

* All' ambasciadore rispose Apollo, che i principi con un buon governo di una piacevole giustizia, e con la liberalità, e con la perpetua abbondanza, molto più di lui, ne' cuori de' sudditi loro potevano inferire l'amore verso la patria loro: perchè il genere umano, che per istinto di natura ardentissimamente amava il terreno, quale si fosse, ove egli nasceva, anco facilmente lo difamava, quando altri con le incommodità glielo rendeva odioso, essendo particolar istinto de' gli uomini di più tosto volere interizzirsi di freddo, che stare a quel fuoco, che empiedo la stanza di fumo faceva lagrimar gli occhi. Boccal. Rag. di Parnaf. cent. I. rag. 99

† Liv. l. 1, c. 16

to war: but applied themselves to trade, as subservient to that end, by increasing the number of the people, and furnishing them with the means of carrying it on with more vigour and power. The Phenician cities, of which Carthage was the most eminent, followed the same method; but knowing that riches do not defend themselves, or scorning slothfully to enjoy what was gained by commerce, they so far applied themselves to war, that they grew to a power, which Rome only was able to overthrow. Venice, Florence, Genoa, Lucca, and some other cities of Italy, seem chiefly to have aimed at trade; and placing the hopes of their safety in the protection of more powerful states, unwillingly entered into wars, especially by land: and when they did, they made them by mercenary soldiers.

Again, some of those that intended war, desired to enlarge their territories by conquest; others only to preserve their own, and to live with freedom and safety upon them. Rome was of the first sort; and knowing that such ends cannot be accomplished without great numbers of men, they freely admitted strangers into the city, senate, and magistracy. Numa was a Sabine. Tarquinius Priscus was the son of a Grecian. One hundred of those Sabines, who came with Tatius, were admitted into the senate. Appius Claudius, of the same people, came to Rome, was made a member of the senate, and created consul. They demolished several cities, and brought the inhabitants to their own; gave the right of citizens to many others, sometimes to whole cities and provinces, and cared not how many they received, so they could ingraft them upon the same interest with the old stock, and season them with the same principles, discipline, and manners. On the other side, the Spartans desiring only to continue free, virtuous, and safe in the enjoyment of their own territory, and thinking themselves strong enough to defend it, framed a most severe discipline, to which few strangers would submit. They banished all those curious arts, which are useful to trade; prohibited the importation of gold and silver; appointed the Helotes to cultivate their lands, and to exercise such trades as are necessary to life*; admitted few strangers to live among them; made none of them free of their city, and educated their youth in such exercises only as prepared them for war. I will not take upon me to judge, whether this proceeded from such a moderation of spirit, as placed felicity rather in the fulness and stability of liberty, integrity, virtue, and the enjoyment of their own, than in riches, power, and dominion over others; nor which of these two different methods deserves most to be commended: but certain it is, that both succeeded according to the intention of the founders.

Rome conquered the best part of the world, and never wanted men to defend what was gained. Sparta lived in such happiness and reputation, that, till it was invaded by Epaminondas, an enemy's trumpet had not been heard by those within the town for the space of eight hundred years;

* Est genus quoddam hominum, quod Helotes vocatur, quorum magna multitudo agros Lacedaemoniorum colit, servorumque munere fungitur. Nep. Pauf. c. 3

CHAP. II and never suffered any great disaster, till receding from their own institutions, they were brought by prosperity to affect the principality of Greece, and to undertake such wars as could not be carried on without money, and greater numbers of men than a small city was able to furnish : by which means they were obliged to beg assistance from the barbarians, whom they scorned and hated, as appears by the stories of Callicratides, Lyfander, and Agefilaus, and involved themselves in difficulties which they never surmounted.

The like variety has been observed in the constitutions of those northern nations, which invaded the Roman empire. For though all of them intended war, and looked upon those only to be members of their commonwealths, who used arms to defend them ; yet some did immediately incorporate themselves with those of the conquered countries. Of this number were the Franks, who presently became one nation with the Gauls. Others kept themselves in a distinct body, as the Saxons did from the Britons. And the Goths, for more than three hundred years that they reigned in Spain, never contracted marriages, or otherwise mixed with the Spaniards, till their kingdom was overthrown by the Moors.

These things, and others of the like nature, being weighed, many have doubted, whether it were better to constitute a commonwealth for war, or for trade ; and of such as intend war, whether those are most to be praised who prepare for defence only, or those who design by conquest to enlarge their dominions. Or, if they admit of trade, whether they should propose the acquisition of riches for their ultimate end, and depend upon foreign or mercenary forces to defend them ; or to be as helps to enable their own people to carry on those wars, in which they may be frequently engaged. These questions might perhaps be easily decided, if mankind were of a temper to suffer those to live in peace, who offer no injury to any ; or if men, who have money to hire soldiers when they stand in need of them, could find such as would valiantly and faithfully defend them, while they apply themselves to their trades. But experience teaching us, that those only can be safe who are strong, and that no people was ever well defended, but those who fought for themselves, the best judges of these matters have always given the preference to those constitutions that principally intend war, and make use of trade as assisting to that end ; and think it better to aim at conquest, than simply to stand upon their own defence : since he that loses all, if he be overcome, fights upon very unequal terms ; and if he obtain the victory, gains no other advantage, than for the present to repel the danger that threatened him.

These opinions are confirmed by the examples of the Romans, who prospered much more than the Spartans. And the Carthaginians, who made use of trade as a help to war, raised their city to be one of the most potent that ever was in the world. Whereas the Venetians having relied on trade, and mercenary soldiers, are always forced too much to depend upon foreign potentates ; very often to buy peace on ignominious and prejudicial conditions ; and sometimes to fear the infidelity of their own commanders, no less than the violence of their enemies. But that which
ought

ought to be valued above all, in point of wisdom as well as justice, is the government given by God to the Hebrews, which chiefly fitted them for war, and to make conquests. Moses divided them under several captains, into thousands, hundreds, fifties, and tens. This was a perpetual ordinance among them. In numbering them, those only were counted, who were able to bear arms. Every man was obliged to go out to war, except such as were lately married*, or upon other special occasions were for a time excused. And the whole series of the sacred history shews, that there were always as many soldiers to fight for their country as there were men able to fight. And if this be taken for a picture of “a many-headed beast,” delighting in blood, “begotten by sedition, and nourished by arms,” God himself was the drawer of it.

In this variety of constitutions and effects proceeding from them, I can see nothing more justly and generally to be attributed to them all, than that love to their country, which our author impudently affirms to be wanting in all. In other matters their proceedings are not only different, but contrary to each other: yet it cannot be said, that any nations have enjoyed so much peace as some republics. The too great inclination of the Venetians to peace is accounted to be a mortal error in their constitution; and they have not been less free from domestic seditions than foreigners. The conspiracies of the Falerii and Tiepoli were extinguished by their punishment, and that of La Cueva crushed before it was ripe. Genoa has not been altogether so happy. The factions of the Guelphs and Gibelins, that spread themselves over all Italy, infected that city; and the malice of the Spaniards and French raised others under the Fregosi and Adorni: but they being composed, they have for more than an hundred and fifty years rested in quiet.

There is another sort of commonwealth, composed of many cities associated together, and living “aequo jure;” every one retaining and exercising a sovereign power within itself, except in some cases expressed in the act of union, or league made between them. These I confess are more hardly preserved in peace. Disputes may arise among them concerning limits, jurisdiction, and the like. They cannot always be equally concerned in the same things. The injuries offered to one do not equally affect all. Their neighbours will sow divisions among them; and, not having a mother-city to decide their controversies by her authority, they may be apt to fall into quarrels, especially if they profess christianity; which having been split into a variety of opinions ever since it was preached, and the papists, by their cruelty to such as dissent from them, shewing to all, that there is no other way of defending themselves against them, than by using the same, almost every man is come to think he ought, as far as in him lies, to impose his belief on others, and that he can give no better testimony of his zeal, than the excess of his violence on that account. Nevertheless the cantons of the Switzers, though accompanied with all

* Deut. ch. 24, v. 5.

CHAP. II the most dangerous circumstances that can be imagined, being thirteen in number, independent on each other, governed in a high degree popularly, professing christianity differing in most important points, eight of them much influenced by the Jesuits, and perpetually excited to war against their brethren by the powerful crowns of Spain and France, have ever since they cast off the insupportable yoke of the earls of Habsburg, enjoyed more peace than any other state of Europe; and, from the most inconsiderable people, are grown to such a power, that the greatest monarchs do most solicitously seek their friendship; and none have dared to invade them, since Charles duke of Burgundy did it to his ruin. And he who for a long time had been a terror to the great, dangerous, and subtile king of France, gave by the loss of three armies, and his own life, a lasting testimony of his temerity in assaulting a free and valiant, though a poor people, fighting in their own quarrel. Comines well relates that war*; but a vast heap of bones remaining to this day at Morat with this inscription — “Caroli fortissimi Burgundiae ducis exercitus Muratum obsidens, ab Helvetiis caesus, hoc sui monumentum reliquit †” — best shews the success of it. Since that time their greatest wars have been for the defence of Milan; or such as they have undertaken for pay under the ensigns of France or Spain, that by the use of arms they may keep up that courage, reputation, and experience, which is required for the defence of their own country. No government was ever more free from popular seditions. The revolts of their subjects have been few, weak, and easily suppressed. The dissention raised by the Jesuits between the cantons of Zurich and Lucern was as soon composed as the rebellion of the country of Vaux against the canton of Bern; and those few of the like nature that have happened among them have had the like success. So that Thuanus, in the history of his time, comprehending about fifty years, and relating the horrid domestic and foreign wars that distracted Germany, France, Spain, Italy, Flanders, England, Scotland, Poland, Denmark, Sweden, Hungary, Transilvania, Muscovy, Turkey, Afric, and other places, has no more to say of them, than to shew, what arts had been in vain used to disturb their so much envied quiet. But if the modest temper of the people, together with the wisdom, justice, and strength of their government, could not be discomposed by the measures of Spain and France, by the industry of their embassadors, or the malicious

* Memoires de Ph. de Comines, l. 5, c. 1, 4.

† The bones of the Burgundians are deposited in a sort of chapel, which stands on the high-road to Avenches, about a quarter of a league from Morat. The inscription is engraved on a plate of brass, and, in its proper form, and at full length, is as follows:

D. O. M.
CAROLI INCLYTI ET FORTISSIMI
BURGUNDIAE DUCIS EXERCITUS
MURATUM OBSIDENS, AB HELVETIIS CAESUS,
HOC SUI MONUMENTUM RELIQUIT.
ANNO M. CCCC. LXXVI.

See Blainville's Trav. vol. 1, p. 353
craft

craft of the Jesuits, we may safely conclude, that their state is as well settled as any thing among men can be, and can hardly comprehend what is like to interrupt it. As much might be said of the cities of the Hanseatic society, if they had an entire sovereignty in themselves. But the cities of the United Provinces in the Low Countries, being every one of them sovereign within themselves, and many in number, still continuing in their union, in spite of all the endeavours that have been used to divide them, give us an example of such steadiness in practice and principle, as is hardly to be paralleled in the world, and that undeniably proves a temper in their constitutions directly opposite to that which our author imputes to all popular governments. And if the death of Barneveldt and de Witt, or the preferment of some most unlike to them, be taken for a testimony that the best men thrive worst, and the worst best, I hope it may be considered that those violences proceeded from that which is most contrary to popularity, though I am not very willing to explain it.

If these matters are not clear in themselves, I desire they may be compared with what has happened between any princes that from the beginning of the world have been joined in league to each other, whether they were of the same or of different nations. Let an example be brought of six, thirteen, or more princes or kings, who entered into a league, and for the space of one or more ages, did neither break it, nor quarrel upon the explication of it. Let the states of the Switzers, Grisons, or Hollanders, be compared with that of France, when it was sometimes divided between two, three, or four brothers of Meroveus or Pepin's races; with the heptarchy of England; the kingdoms of Leon, Arragon, Navarre, Castile, and Portugal, under which the christians in Spain were divided; or those of Cordova, Seville, Malaga, Granada, and others under the power of the Moors; and if it be not evident, that the popular states have been remarkable for peace among themselves, constancy to their union, and fidelity to the leagues made with their associates; whereas all the above-mentioned kingdoms, and such others as are known among men to have been joined in the like leagues, were ever infested with domestic rebellions and quarrels, arising from the ambition of princes, so that no confederacy could be so cautiously made, but they would find ways to elude it, or so solemn and sacred, but they would in far less time break through it, I will confess, that kingdoms have sometimes been as free from civil disturbances; and that leagues made between several princes have been as constantly and religiously observed, as by commonwealths. But if no such thing do appear in the world, and no man who is not impudent or ignorant dare pretend it, I may justly conclude, that though every commonwealth has its action suitable to its constitution, and that many associated together are not so free from disturbances, as those that wholly depend upon the authority of a mother-city; yet we know of none that have not been, and are more regular and quiet than any principalities: and as to foreign wars, they seek or avoid them according to their various constitutions.

SECTION XXIII

THAT IS THE BEST GOVERNMENT WHICH BEST PROVIDES
FOR WAR.

Our author, having huddled up all popular and mixed governments into one, has, in some measure, forced me to explain the various constitutions and principles upon which they are grounded. But as the wisdom of a father is seen, not only in providing bread for his family, or increasing his patrimonial estate, but in making all possible provision for the security of it; so that government is evidently the best, which, not relying upon what it does at first enjoy, seeks to increase the number, strength, and riches, of the people; and by the best discipline to bring the power so improved into such order, as may be of most use to the public. This comprehends all things conducing to the administration of justice, the preservation of domestic peace, and the increase of commerce; that the people, being pleased with their present condition, may be filled with love to their country, encouraged to fight boldly for the public cause, which is their own; and, as men do willingly join with that which prospers, that strangers may be invited to fix their habitations in such a city, and to espouse the principles that reign in it. This is necessary for several reasons; but I shall principally insist upon one, which is, that all things in their beginning are weak. The whelp of a lion newly born has neither strength nor fierceness. He that builds a city, and does not intend it should increase, commits as great an absurdity, as if he should desire his child might ever continue under the same weakness, in which he is born. If it do not grow, it must pine and perish; for in this world nothing is permanent: that which does not grow better will grow worse. This increase also is useless, or perhaps hurtful, if it be not in strength, as well as in riches, or number; for every one is apt to seize upon ill-guarded treasures. The terror that the city of London was possessed with, when a few Dutch ships came to Chatham, shews, that no numbers of men, though naturally valiant, are able to defend themselves, unless they be well armed, disciplined, and conducted. Their multitude brings confusion; their wealth, when it is like to be made a prey, increases the fears of the owners; and they, who, if they were brought into good order, might conquer a great part of the world, being destitute of it, dare not think of defending themselves.

If it be said, that the wise father, mentioned by me, endeavours to secure his patrimony by law, not by force, I answer, that all defence terminates in force; and if a private man does not prepare to defend his estate with his own force, it is because he lives under the protection of the law, and expects the force of the magistrate should be a security to him. But kingdoms and commonwealths, acknowledging no superior, except God alone, can reasonably hope to be protected by him only; and by
him.

him, if with industry and courage they make use of the means he has given them for their own defence. God helps those who help themselves; and men are by several reasons (suppose to prevent the increase of a suspected power) induced to succour an industrious and brave people: but such as neglect the means of their own preservation are ever left to perish with shame. Men cannot rely upon any league. The state that is defended by one potentate against another becomes a slave to its protector. Mercenary soldiers always want fidelity or courage, and most commonly both. If they are not corrupted or beaten by the invader, they make a prey of their masters. These are the followers of camps, who have neither faith nor piety, but prefer gain before right*. They, who expose their blood to sale, look where they can make the best bargain, and never fail of pretences for following their interests.

Moreover, private families may by several arts increase their wealth, as they increase in number; but when a people multiplies, as they will always do in a good climate under a good government, such an enlargement of territory, as is necessary for their subsistence, can be acquired only by war. This was known to the northern nations that invaded the Roman empire: but for want of such constitutions as might best improve their strength and valour, the numbers they sent out when they were over-burdened, provided well for themselves, but were of no use to the countries they left; and while those Goths, Vandals, Franks, and Normans, enjoyed the most opulent and delicious provinces of the world, their fathers languished obscurely in their frozen climates. For the like reasons, or through the same defect, the Switzers are obliged to serve other princes; and often to employ that valour, in advancing the power of their neighbours, which might be used to increase their own. Genoa, Lucca, Geneva, and other small commonwealths, having no wars, are not able to nourish the men they breed; but sending many of their children to seek their fortunes abroad, scarce a third part of those that are born among them die in those cities; and if they did not take this course, they would have no better than the nations inhabiting near the river Niger, who sell their children as the increase of their flocks.

This does not less concern monarchies than commonwealths; nor the absolute less than the mixed: all of them have been prosperous or miserable, glorious or contemptible, as they were better or worse armed, disciplined, or conducted. The Assyrian valour was irresistible under Nabuchodonozor; but was brought to nothing under his base and luxurious grandson Belshazzar. The Persians, who under Cyrus conquered Asia, were likewise exposed to slaughter, when their discipline failed, and they were commanded by his proud, cruel, and cowardly successors. The Macedonian army overthrown by Paulus Aemilius was not less in number,

* Nulla fides, pietasque viris, qui castra sequuntur,
Venalesque manus; ibi fas, ubi maxima merces.

Luc. Pharf. l. 10, v. 407

CHAP. II than that with which Alexander gained the empire of the east; and perhaps had not been inferior in valour, if it had been as well commanded. Many poor and almost unknown nations have been carried to such a height of glory by the bravery of their princes, that I might incline to think their government as fit as any other for disciplining a people to war, if their virtues continued in their families, or could be transmitted to their successors. The impossibility of this is a breach never to be repaired; and no account is to be made of the good that is always uncertain, and seldom enjoyed. This disease is not only in absolute monarchies, but in those also where any regard is had to succession of blood, though under the strictest limitations. The fruit of all the victories gained by Edward the first and third, or Henry the fifth of England, perished by the baseness of their successors. The glory of our arms was turned into shame; and we, by the loss of treasure, blood and territory, suffered the punishment of their vices. The effects of these changes are not always equally violent; but they are frequent, and must fall out as often as occasion is presented. It was not possible for Lewis the thirteenth of France to pursue the great designs of Henry the fourth. Christina of Sweden could not supply the place of her brave father; nor the present king in his infancy accomplish what the great Charles Gustavus had nobly undertaken. And no remedy can be found for this mortal infirmity, unless the power be put into the hands of those who are able to execute it, and not left to the blindness of fortune. When the regal power is committed to an annual or otherwise chosen magistracy, the virtues of excellent men are of use, but all does not depend upon their persons: one man finishes what another had begun; and when many are by practice rendered able to perform the same things, the loss of one is easily supplied by the election of another. When good principles are planted, they do not die with the person that introduced them; and good constitutions remain, though the authors of them perish. Rome did not fall back into slavery when Brutus was killed, who had led them to recover their liberty. Others like to him pursued the same ends. And notwithstanding the loss of so many great commanders consumed in their almost continual wars, they never wanted such as were fit to execute whatever they could design. A well-governed state is as fruitful to all good purposes, as the seven-headed serpent is said to have been in evil: when one head is cut off, many rise up in the place of it. Good order being once established makes good men; and as long as it lasts, such as are fit for the greatest employments will never be wanting. By these means the Romans could not be surpris'd: no king or captain ever invaded them, who did not find many excellent commanders to oppose him. Whereas they themselves found it easy to overthrow kingdoms, though they had been established by the bravest princes, through the baseness of their successors.

But if our author say true, it is of no advantage to a popular state to have excellent men; and therefore he imposes a necessity upon every people to choose the worst men for being the worst, and most like to themselves;

themselves; “left, if virtuous and good men should come into power, SECT. 23
 “they should be excluded for being vicious and wicked. Wise men
 “would seize upon the state, and take it from the people.” For the
 understanding of these words, it is good to consider, whether they are to
 be taken simply, as usually applied to the devil, and some of his instru-
 ments, or relatively, as to the thing in question. If simply, it must be
 concluded, that Valerius, Brutus, Cincinnatus, Capitolinus, Mamercus,
 Aemilius, Nafica, and others like to them, were not only the worst men
 of the city; but that they were so often advanced to the supreme magis-
 tracies, because they were so: if in the other sense relating to magistracy,
 and the command of armies, the worst are the most ignorant, unfaithful,
 slothful, or cowardly; and our author to make good his proposition,
 must prove, that when the people of Rome, Carthage, Athens, and other
 states, had the power of choosing whom they pleased, they did choose
 Camillus, Corvinus, Torquatus, Fabius, Scipio, Amilcar, Hannibal,
 Asdrubal, Pelopidas, Epaminondas, Pericles, Aristides, Themistocles,
 Phocion, Alcibiades, and others like to them, for their ignorance, infi-
 delity, sloth, and cowardice; and on account of those vices, most like to
 those who chose them. But if these were the worst, I desire to know,
 what wit or eloquence can describe or comprehend the excellency
 of the best, or of the discipline that brought whole nations to such
 perfection, that worse than these could not be found among them: and if
 they were not so, but such as all succeeding ages have justly admired for their
 wisdom, virtue, industry, and valour, the impudence of so wicked and
 false an assertion ought to be rejected with scorn and hatred.

But if all governments, whether monarchical or popular, absolute or
 limited, deserve praise or blame as they are well or ill constituted for making
 war; and if the attainment of this end do entirely depend upon the
 qualifications of the commanders, and the strength, courage, number,
 affection, and temper of the people out of which the armies are drawn,
 those governments must necessarily be the best, which take the best
 care that those armies may be well commanded; and so provide
 for the good of the people, that they may daily increase in number,
 courage, and strength, and be so satisfied with the present state of
 things, as to fear a change, and fight for the preservation or advancement
 of the public interest, as of their own. We have already found, that in
 hereditary monarchies no care at all is taken of the commander: he is not
 chosen, but comes by chance; and does not only frequently prove defect-
 ive, but for the most part utterly incapable of performing any part of
 his duty. Whereas in popular governments excellent men are generally
 chosen; and there are so many of them, that if one or more perish, others
 are ready to supply their places. And this discourse having, if I mistake
 not, in the whole series, shewn, that the advantages of popular govern-
 ments, in relation to the increase of courage, number, and strength in a
 people, out of which armies are to be formed, and bringing them to such
 a temper as prepares them bravely to perform their duty, are as much
 above:

CHAP. II above those monarchies, as the prudence of choice surpasses the accidents of birth, it cannot be denied, that, in both respects, the part which relates to war is much better performed in popular governments, than in monarchies.

That which we are by reason led to believe, is confirmed to us by experience. We every where see the difference between the courage of men fighting for themselves, and their posterity, and those that serve a master, who by good success is often rendered insupportable. This is of such efficacy, that no king could ever boast to have overthrown any considerable commonwealth, unless it was divided within itself, or weakened by wars made with such as were also free; which was the case of the Grecian commonwealths, when the Macedonians fell in upon them. Whereas the greatest kingdoms have been easily destroyed by commonwealths; and these also have lost all strength, valour, and spirit, after the change of their government. The power and virtue of the Italians grew up, decayed, and perished, with their liberty. When they were divided into many commonwealths, every one of them was able to send out great armies, and to suffer many defeats before they were subdued; so that their cities were delivered up by the old men, women, and children, when all those who were able to bear arms had been slain. And when they were all brought under the Romans, either as associates or subjects, they made the greatest strength that ever was in the world.

Alexander of Epirus was in valour thought equal, and in power little inferior, to Alexander of Macedon. But having the fortune to attack those who had been brought up in liberty, taught to hazard or suffer all things for it, and to think that God has given to men hands and swords only to defend it, he perished in his attempt; while the other encountering slavish nations, under the conduct of proud, cruel, and for the most part unwarlike tyrants, became master of Asia.

Pyrrhus seems to have been equal to either of them. But the victories he obtained by an admirable valour and conduct, cost him so dear, that he desired peace with those enemies who might be defeated, not subdued.

Hannibal, wanting the prudence of Pyrrhus, lost the fruits of all his victories; and being torn out of Italy, where he had nested himself, fell under the sword of those, whose fathers he had defeated or slain; and died a banished man from his ruined country.

The Gauls did once bring Rome, when it was small, to the brink of destruction: but they left their carcasses to pay for the mischiefs they had done. And in succeeding times their invasions were mentioned as tumults rather than wars.

The Germans did perhaps surpass them in numbers and strength, and were equal to them in fortune, as long as Rome was free. They often entered Italy; but they continued not long there, unless under the weight of their chains. Whereas the same nations, and others like to them, assaulting that country, or other provinces under the emperors, found no other difficulty, than what arose upon contests among themselves, who should be master of them. No manly virtue or discipline remained among

the Italians. Those who governed them relied upon tricks and shifts; and they, who could not defend themselves, hired some of those nations to undertake their quarrels against others. These trinklings could not last. The Goths, scorning to depend upon those who in valour and strength were much inferior to themselves, seized upon the city that had commanded the world, whilst Honorius was so busy in providing for his hens, that he could not think of defending it*. Arcadius had the luck not to lose his principal city; but passing his time among fidlers, players, eunuchs, cooks, dancers, and buffoons, the provinces were securely plundered and ransacked by nations, that are known only from their victories against him.

It is in vain to say, that this proceeded from the fatal corruption of that age; for that corruption proceeded from the government, and the ensuing desolation was the effect of it. And as the like disorder in government has been ever since in Greece, and the greatest part of Italy, those countries which for extent, riches, convenience of situation, and numbers of men, are equal to the best in the world, and for the wit, courage, and industry of the natives, perhaps justly preferable to any, have since that time been always exposed as a prey to the first invader. Charles the eighth of France is by Guicciardini, and other writers, represented as a prince equally weak in body, mind, money, and forces: but, as an ill-hare is said to make a good dog, he conquered the best part of Italy without breaking a lance. Ferdinand and Alphonso of Arragon, kings of Naples, had governed by trepanners, false witnesses, corrupt judges, mercenary soldiers, and other ministers of iniquity: but these could afford no help against an invader. And neither the oppressed nobility, nor people, concerning themselves in the quarrel, they who had been proud, fierce, and cruel, against their poor subjects, never durst look an enemy in the face; and the father dying with anguish and fear, the son shamefully fled from his ill-governed kingdom.

The same things are no less evident in Spain. No people ever defended themselves with more obstinacy and valour than the Spaniards did against the Carthaginians and Romans, who surpassed them in wealth and skill. Livy calls them “*gentem ad bella gerenda et reparanda natam,*” and who generally killed themselves when they were mastered and disarmed, “*nul- lam sine armis vitam esse rati †.*” But though the mixture of Roman blood could not impair their race, and the conjunction of the Goths had improved their force; yet no more was required for the overthrow of them all, than the weakness and baseness of the two lewd tyrants Vitiza and

* Aiunt Honorio Ravennae agenti eunuchorum unum, aviario praepositum, attulisse nuntium, Romam perisse, eoque audito exclamasse principem, “*atqui modò de manu meâ comedit,*” de gallo gallinaceo tunc quoque cogitantem, quem immensae magnitudinis Romam vocabat. At eunuchum intellecto errore explicatè dixisse, amissam Romam, capiente Alaricho: illum verò, tanto stupore fuisse dicitur, regessisse: “*at ego, amice, gallum Romam nobis perisse seriò existimabam.*” Procop. Hist. Vandal. l. 1.

† Hispania non quàm Italia modò, sed quàm ulla pars terrarum bello reparando aptior erat, locorum hominumque ingeniis. Liv. l. 28, c. 12.

Ferox gens nullam vitam ratifine armis esse, Id. l. 34, c. 17.

CHAP. II Roderic, who disdain'd all laws, and resolv'd to govern according to their lust. They, who for more than two hundred years had resist'd the Romans, were entirely subdued by the vile, half-naked Moors, in one slight skirmish; and do not to this day know what became of the king who brought the destruction upon them. That kingdom, after many revolutions, is with many others come to the house of Austria, and enjoys all the wealth of the Indies; whereupon they are thought to have affected an universal monarchy. "*Sed ut sunt levia aulicorum ingenia,*" this was grounded upon nothing except their own vanity. They had money and craft; but, wanting that solid virtue and strength, which makes and preserves conquests, their kings have nothing but Milan, that did not come to them by marriage. And though they have not received any extraordinary disasters in war, yet they languish and consume through the defects of their own government, and are forced to beg assistance from their mortal and formerly despis'd enemies. These are the best hopes of defence that they have from abroad; and the only enemy an invader ought to fear in their desolate territories, is that want and famine which testifies the good order, strength, and stability of our author's divine monarchy, the profound wisdom of their kings in subtilly finding out to sure a way of defending the country, their paternal care in providing for the good of their subjects, and that whatever is defective in the prince, is assuredly supplied by the sedulity of a good council.

We have already said enough to obviate the objections that may be drawn from the prosperity of the French monarchy. The beauty of it is false and painted. There is a rich and haughty king, who is blessed with such neighbours as are not likely to disturb him, and has nothing to fear from his miserable subjects. But the whole body of that state is full of boils, and wounds, and putrid sores: there is no real strength in it. The people are so unwilling to serve him, that he is said to have put to death above fourscore thousand of his own soldiers within the space of fifteen years; for flying from their colours; and if he were vigorously attacked, little help could be expected from a discontented nobility, or a starving and despairing people. If to diminish the force of these arguments and examples, it be said, that in two or three thousand years all things are changed, the antient virtue of mankind is extinguished, and the love that every one had to his country is turned into a care of his private interests, I answer, that time changes nothing, and the changes produced in this time proceed only from the change of governments. The nations which have been governed arbitrarily, have always suffered the same plagues, and been infected with the same vices: which is as natural, as for animals ever to generate according to their kinds, and fruits to be of the same nature with the roots and seeds from which they come. The same order that made men valiant and industrious in the service of their country during the first ages, would have the same effect, if it were now in being. Men would have the same love to the public as the Spartans and Romans had, if there was the same reason for it. We need

need no other proof of this, than what we have seen in our own country, where, in a few years, good discipline, and a just encouragement given to those who did well, produced more examples of pure, complete, incorruptible, and invincible virtue, than Rome or Greece could ever boast; or if more be wanting, they may easily be found among the Switzers, Hollanders, and others: but it is not necessary to light a candle to the sun. SECT. 23

SECTION XXIV

POPULAR GOVERNMENTS ARE LESS SUBJECT TO CIVIL DISORDERS THAN MONARCHIES, MANAGE THEM MORE ABLY, AND MORE EASILY RECOVER OUT OF THEM.

It is in vain to seek a government in all points free from a possibility of civil wars, tumults, and seditions: that is a blessing denied to this life, and reserved to complete the felicity of the next. But if these are to be accounted the greatest evils that can fall upon a people, the rectitude or defects of governments will best appear, if we examine which species is more or less exposed to or exempted from them.

This may be done two ways.

1. By searching into the causes from whence they may or usually do arise.
2. By inquiring which kind has actually been most frequently and dangerously disturbed by them.

1. Seditions, tumults, and wars, do arise from mistake, or from malice, from just occasions, or unjust: from mistake, when a people thinks an evil to be done or intended, which is not done nor intended, or takes that to be evil which is done, though in truth it be not so. Well-regulated cities may fall into these errors. The Romans, being jealous of their newly recovered liberty, thought that Valerius Publicola designed to make himself king, when he built a house in a place that seemed too strong and eminent for a private man. The Spartans were not less suspicious of Lycurgus; and a lewd young fellow in a sedition put out one of his eyes. But no people ever continued in a more constant affection to their best deserving citizens, than both the Romans and Spartans afterwards manifested to those virtuous and wrongfully suspected men.

Sometimes the fact is true, but otherwise understood than was intended. When the Tarquins were expelled from Rome, the patricians retained to themselves the principal magistracies; but never thought of bringing back kings, or of setting up a corrupt oligarchy among themselves, as the plebeians imagined. This mistake being discovered, the fury they had conceived, vanished; and they, who seemed to intend nothing less than the extirpation of all the patrician families, grew quiet. Menenius Agrippa appeased one of the most violent seditions that ever happened among them (till civil interests were pursued by armed troops) with a fable

CHAP. II of the several parts of the body that murmured against the belly*: and the most dangerous of all was composed by creating tribunes to protect them. Some of the patrician young men had favoured the decemviri, and others being unwilling to appear against them, the people believed they had all conspired with those new tyrants. But Valerius and Horatius putting themselves at the head of those who fought their destruction, they perceived their error, and looked upon the patricians as the best defenders of their liberties: “et indè,” says Livy, “auram libertatis captare, undè “servitutem timuissent †.” Democratical governments are most liable to these mistakes: in aristocracies they are seldom seen. We hear of none in Sparta, after the establishment of the laws by Lycurgus: but absolute monarchies seem to be totally exempted from them. The mischiefs designed are often dissembled or denied, till they are past all possibility of being cured by any other way than force. And such as are by necessity driven to use that remedy know they must perfect their work, or perish. He that draws his sword against the prince, say the French, ought to throw away the scabbard: for though the design be ever so just, yet the authors are sure to be ruined if they miscarry. Peace is seldom made, and never kept, unless the subject retain such a power in his hands, as may oblige the prince to stand to what is agreed: and in time some trick is found to deprive them of that benefit.

Seditions proceeding from malice are seldom or never seen in popular governments; for they are hurtful to the people, and none have ever willingly and knowingly hurt themselves. There may be, and often is malice in those who excite them; but the people are ever deceived, and whatever is thereupon done ought to be imputed to error, as I said before. If this be discovered in time, it usually turns to the destruction of the contriver; as in the cases of Manlius Capitolinus, Spurius Moelius, and Spurius Cassius: if not, for the most part it produces a tyranny, as in those of Agathocles, Dionysius, Pisistratus, and Caesar. But in absolute monarchies, almost all the troubles that arise proceed from malice. They cannot be reformed, the extinction of them is exceeding difficult, if they have continued long enough to corrupt the people; and those who appear against them, seek only to set up themselves, or their friends. Thus we see, that in the civil wars of the east, the question was, whether Artaxerxes or Cyrus, Phraates or Bardanes, should reign over the Persians and Parthians: the people suffered equally from both while the contests lasted; and the decision left them under the power of a proud and cruel master. The like is seen in all places. After the death of Brutus and Cassius, no war was ever undertaken in the Roman empire upon a better account than one man's private concerns: the provinces suffered under all; and he, whom they had assisted to overthrow one wicked tyrant, very often proved worse than his predecessor. The only ground of all the dissensions, with which France was vexed under the princes of Meroveus and

* Liv. l. 2, c. 32.

† Liv. l. 3, c. 37.

Pepin's races, were, which of them should reign, the people remaining miserably under them all. SECT. 24

The case is not much different in mixed monarchies. Some wars may be undertaken upon a just and public account, but the pretences are commonly false: a lasting reformation is hardly introduced, an entire change often disliked. And though such kingdoms are frequently and terribly distracted, as appears by the before-mentioned examples of England, Spain, &c. the quarrels are, for the most part, begun upon personal titles, as between Henry the first and Robert, Stephen and Maud, or the houses of Lancaster and York. And the people, who get nothing by the victory which way soever it fall, and might therefore prudently leave the competitors to decide their own quarrels, like Eteocles and Polynices, with their own swords, become cruelly engaged in them.

It may seem strange to some that I mention seditions, tumults, and wars, upon just occasions; but I can find no reason to retract the term. God, intending that men should live justly with one another, does certainly intend, that he or they, who do no wrong, should suffer none; and the law that forbids injuries were of no use, if no penalty might be inflicted on those who will not obey it. If injustice therefore be evil, and injuries forbidden, they are also to be punished; and the law instituted for their prevention must necessarily intend the avenging of such as cannot be prevented. The work of the magistracy is to execute this law: the sword of justice is put into their hands to restrain the fury of those within the society, who will not be a law to themselves; and the sword of war to protect the people against the violence of foreigners. This is without exception, and would be in vain if it were not. But the magistrate, who is to protect the people from injury, may, and is often known not to have done it. He sometimes renders his office useless by neglecting to do justice; sometimes mischievous by overthrowing it. This strikes at the root of God's general ordinance, that there should be laws, and the particular ordinances of all societies, that appoint such as seem best to them. The magistrate therefore is comprehended under both, and subject to both, as well as private men.

The ways of preventing or punishing injuries are judicial or extrajudicial. Judicial proceedings are of force against those who submit or may be brought to trial; but are of no effect against those who resist, and are of such power that they cannot be constrained. It were absurd to cite a man to appear before a tribunal who can awe the judges, or has armies to defend him; and impious to think, that he, who has added treachery to his other crimes, and usurped a power above the law, should be protected by the enormity of his wickedness. Legal proceedings therefore are to be used when the delinquent submits to the law; and all are just, when he will not be kept in order by the legal.

The word sedition is generally applied to all numerous assemblies, without or against the authority of the magistrate, or of those who assume that power. Athaliah and Jezebel were more ready to cry out treason

CHAP. II than David: and examples of that sort are so frequent, that I need not allege them.

Tumult is from the disorderly manner of those assemblies, where things can seldom be done regularly; and war is that "decertatio per vim," or trial by force, to which men come when other ways are ineffectual*.

If the laws of God and men are therefore of no effect, when the magistracy is left at liberty to break them, and if the lusts of those, who are too strong for the tribunals of justice, cannot be otherwise restrained, than by sedition, tumults, and war, those seditions, tumults, and wars, are justified by the laws of God and man.

I will not take upon me to enumerate all the cases in which this may be done, but content myself with three, which have most frequently given occasion for proceedings of this kind.

The first is, when one or more men take upon them the power and name of a magistracy, to which they are not justly called.

The second, when one or more, being justly called, continue in their magistracy longer than the laws by which they are called do prescribe.

And the third, when he or they, who are rightly called, do assume a power, though within the time prescribed, that the law does not give; or turn that which the law does give, to an end different and contrary to that which is intended by it.

For the first, Filmer forbids us to examine titles. He tells us, we must submit to the power, whether acquired by usurpation or otherwise; not observing the mischievous absurdity of rewarding the most detestable villainies with the highest honours, and rendering the veneration due to the supreme magistrate, as father of the people, to one who has no other advantage above his brethren, than what he has gained by injuriously dispossessing or murdering him that was so. Hobbes, fearing the advantages that may be taken from such desperate nonsense, or not thinking it necessary to his end to carry the matter so far, has no regard at all to him who comes in without title or consent; and, denying him to be either king or tyrant, gives him no other name than "hostis et latro;" and allows all things to be lawful against him, that may be done to a public enemy or pirate †: which is as much as to say, any man may destroy him how he can. Whatever he may be guilty of in other respects, he does in this follow the voice of mankind, and the dictates of common sense: for no man can make himself a magistrate for himself; and no man can have the right of a magistrate, who is not a magistrate. If he be justly accounted

* Cicero dixit bellum certationem per vim. Grot. de Jure Belli, l. 1, c. 1, § 2. — Cum sint duo genera decertandi, unum per disceptationem, alterum per vim; cumque illud proprium sit hominis, hoc belluarum, confugiendum est ad posterius, si uti non licet superiore. Cic. de Offic. l. 1, § 34

† Si in civitate democraticâ, vel aristocraticâ, summum imperium civis aliquis vi occuparet, habito civium consensu, legitimus fit monarcha; eo consensu non habito, hostis est, non tyrannus. Hobbes de Cive, c. 7, § 3

Is quem occidi, ut tyrannum, volunt, vel jure imperat, vel absque jure: si absque jure, hostis est, et jure occiditur. Ibid. c. 12, § 3

an enemy to all, who injures all, he above all must be the public enemy of a nation, who, by usurping a power over them, does the greatest and most public injury that a people can suffer. For which reason, by an established law among the most virtuous nations, every man might kill a tyrant; and no names are recorded in history with more honour, than of those who did it. SECT. 24

These are by other authors called "tyranni sine titulo." And that name is given to all those who obtain the supreme power by illegal and unjust means. The laws which they overthrow can give them no protection; and every man is a soldier against him who is a public enemy.

The same rule holds, though they are more in number; as the magi, who usurped the dominion of Persia after the death of Cambyfes; the thirty tyrants at Athens overthrown by Thrafsybulus; those of Thebes slain by Pelopidas; the decemviri of Rome, and others. For though the multitude of offenders may sometimes procure impunity, yet that act which is wicked in one, must be so in ten or twenty; and whatever is lawful against one usurper is so against them all.

2. If those who were rightly created continue beyond the time limited by the law, it is the same thing. That which is expired is as if it had never been. He that was created consul for a year, or dictator for six months, was after that a private man; and, if he had continued in the exercise of his magistracy, had been subject to the same punishment as if he had usurped it at the first. This was known to Epaminondas; who finding that his enterprize against Sparta could not be accomplished within the time for which he was made Boeotarchon, rather chose to trust his countrymen with his life than to desist*; and was saved merely through an admiration of his virtue, assurance of his good intentions, and the glory of the action.

The Roman decemviri, though duly elected, were proceeded against as private men usurping the magistracy, when they continued beyond their time. Other magistrates had ceased; there was none that could regularly call the senate or people to an assembly. But when their ambition was manifest, and the people exasperated by the death of Virginia, they laid aside all ceremonies. The senate and people met; and, exercising their authority in the same manner, as if they had been regularly called by the magistrate appointed to that end, they abrogated the power of the decemviri, proceeded against them as enemies and tyrants, and by that means preserved themselves from utter ruin.

3. The same course is justly used against a legal magistrate, who takes upon him, though within the time prescribed by the law, to exercise a power which the law does not give; for in that respect he is a private

* Lex erat Thebis, quae morte mulabat, si quis imperium diutius retinisset, quam lege praefinitum foret. Hanc Epaminondas, cum reipublicae conservandae causa latam videret, ad perniciem civitatis conferre noluit; et quatuor mensibus diutius, quam populus jufferat, gessit imperium. Nep. in vitâ Epam. c. 7. Xen. Hist. Graec. l. 7. Plut. in vitâ Pelopidae.

CHAP. II

man, "quia," "as Grotius says, eatenus non habet imperium*," and may be restrained as well as any other, because he is not set up to do what he lists, but what the law appoints for the good of the people; and as he has no other power than what the law allows, so the same law limits and directs the exercise of that which he has. This right, naturally belonging to nations, is no way impaired by the name of supreme given to their magistrates; for it signifies no more, than that they do act sovereignly in the matters committed to their charge. Thus are the parliaments of France called "cours souveraines;" for they judge of life and death, determine controversies concerning estates, and there is no appeal from their decrees. But no man ever thought, that it was therefore lawful for them to do what they pleased; or that they might not be opposed, if they should attempt to do that which they ought not. And though the Roman dictators and consuls were supreme magistrates, they were subject to the people, and might be punished, as well as others, if they transgressed the law. Thuanus carries the word so far, that when Burlota, Giustiniano, and others who were but colonels, were sent as commanders in chief of three or four thousand men upon an enterprize, he always says, "summum imperium ei delatum †." Grotius explains this point, by distinguishing those who have the "summum imperium summo modo," from those who have it "modo non summo ‡." I know not where to find an example of this sovereign power, enjoyed without restriction, under a better title than "occupation;" which relates not to our purpose, who seek only that which is legal and just. Therefore, laying aside that point for the present, we may follow Grotius in examining the right of those who are certainly limited, "ubi partem imperii habet rex, partem senatus sine populus:" in which case he says, "regi in partem non suam involanti vis justa opponi potest;" inasmuch as they who have a part cannot but have a right of defending that part; "quia, datâ facultate, datur jus facultatem tuendi," without which it could be of no effect §.

The particular limits of the rights belonging to each can only be judged by the precise letter, or general intention of the law. The dukes of Venice have certainly a part in the government, and could not be called magistrates, if they had not. They are said to be supreme: all laws and public acts bear their names. The ambassador of the state, speaking to

* Si rex partem habeat summi imperii, partem alteram populus, aut senatus, regi in partem non suam involanti vis justa opponi poterit, quia eatenus imperium non habet. Quod docum habere cenfeo, etiamsi dictum sit, belli potestatem penes regem fore: id enim de bello externo intelligendum est; cum alioqui quisquis imperii summi partem habeat non possit non jus habere eam partem tuendi: quod ubi fit, potest rex etiam suam imperii partem belli jure amittere. Grot. de Jure Belli, l. 1, c. 4, § 13

† Fontano secundum Ronaeum praecipuus obsidionis persequendae auctor erat Burlota: ei cura data, ut ex Ronaei consilio cuncta in vallo tuendo ordinaret, et cum summo imperio in eo praesesset. Thuan. Hist. l. 113, p. 562. Edit. Genev. 1626. — Urbi cum summo imperio praerant Loeus castrorum praefectus. Ibid. l. 45, p. 592. — In iis erant dccc equites, quibus cum summo imperio praerant S. Sfortia, comes Sanflorius. Ibid. l. 45, p. 577

‡ Grot. de Jure Belli, l. 1, c. 3, § 16

§ Ibid. l. 1, c. 4, § 13

SECT. 24.
 pope Paul the fifth, denied that he acknowledged any other superior besides God*. But they are so well known to be under the power of the law, that divers of them have been put to death for transgressing it; and a marble gallows is seen at the foot of the stairs in St. Mark's palace, upon which some of them, and no others, have been executed. But if they may be duly opposed, when they commit undue acts, no man of judgement will deny, that if one of them by an outrageous violence should endeavour to overthrow the law, he might by violence be suppressed and chastised.

Again, some magistrates are entrusted with a power of providing ships, arms, ammunition, and victuals for war, raising and disciplining soldiers, appointing officers to command in forts and garrisons, and making leagues with foreign princes and states. But if one of these should imbezzle, sell, or give to an enemy those ships, arms, ammunition, or provisions, betray the forts, employ only or principally such men as will serve him in those wicked actions, and, contrary to the trust reposed in him, make such leagues with foreigners, as tend to the advancement of his personal interests, and to the detriment of the public, he abrogates his own magistracy; and the right he had, perishes, as the lawyers say, "frustratione finis." He cannot be protected by the law which he has overthrown, nor obtain impunity for his crimes from the authority that was conferred upon him, only that he might do good with it. He was "singulis major," on account of the excellence of his office; but "universis minor," from the nature and end of his institution. The surest way of extinguishing his prerogative was by turning it to the hurt of those who gave it. When matters are brought to this posture, the author of the mischief, or the nation, must perish. A flock cannot subsist under a shepherd that seeks its ruin, nor a people under an unfaithful magistrate. Honour and riches are justly heaped upon the heads of those who rightly perform their duty, because the difficulty as well as the excellency of the work is great. It requires courage, experience, industry, fidelity, and wisdom. "The good shepherd, says our Saviour, lays down his life for his sheep." The hireling, who flies in time of danger, is represented under an ill character; but he that sets himself to destroy his flock, is a wolf. His authority is incompatible with their subsistence. And whoever disapproves tumults, seditions, or war, by which he may be removed from it, if gentler means are ineffectual, subverts the foundation of all law, exalts the fury of one man to the destruction of a nation, and giving an irresistible power to the most abominable iniquity, exposes all that are good to be destroyed, and virtue to be utterly extinguished.

Few will allow such a pre-eminence to the dukes of Venice or Genoa, the avoyers of Switzerland †, or the burgomasters of Amsterdam. Many

* Venetorum principes neminem in-temporalibus praeter Deum se superiorem agnoscit. Thuan. Hist. l. 137, p. 1250, 1258. Edit. Genev. 1626

† Les juges de Suisse s'appellent encore avoyers, c'est à dire, défenseurs de la justice, et du peuple opprimé. Dict. Univ. par M. Furetiere.

CHAP. II will say these are rascals if they prove false, and ought rather to be hanged, than suffered to accomplish the villainies they design. But if this be confessed in relation to the highest magistrates that are among those nations, why should not the same be in all others, by what name soever they are called? When did God confer upon those nations the extraordinary privilege of providing better for their own safety than others? Or was the gift universal, though the benefit accrue only to those who have banished great titles from among them? If this be so, it is not their felicity, but their wisdom, that we ought to admire and imitate. But why should any think their ancestors had not the same care? Have not they, who retained in themselves a power over a magistrate of one name, the like over another? Is there a charm in words, or any name of such efficacy, that he who receives it should immediately become master of those that created him; whereas all others do remain for ever subject to them? Would the Venetian government change its nature, if they should give the name of king to their prince? Are the Polanders less free since the title of king is conferred upon their dukes? Or are the Moscovites less slaves, because their chief magistrate has no other than that of duke? If we examine things but a little, it will appear, that magistrates have enjoyed large powers, who never had the name of kings; and none were ever more restrained by laws than those of Sparta, Arragon, the Goths in Spain, Hungary, Bohemia, Sweden, Denmark, Poland, and others, who had that title. There is therefore no such thing as a right universally belonging to a name; but every one enjoys that which the laws, by which he is, confer upon him. The law that gives the power, regulates it. And they, who give no more than what they please, cannot be obliged to suffer him to whom they give it, to take more than they thought fit to give, or to go unpunished if he do. The agreements made are always confirmed by oath, and the treachery of violating them is consequently aggravated by perjury. They are excellent philosophers, and able divines, who think that this can create a right to those who had none; or that the laws can be a protection to such as overthrow them, and give opportunity of doing the mischiefs they design! If not, then he that was a magistrate, by such actions returns into the condition of a private man; and whatever is lawful against a thief, who submits to no law, is lawful against him.

Men who delight in cavils may ask, who shall be the judge of these occasions? and whether I intend to give to the people the decision of their own cause? To which I answer, that when the contest is between the magistrate and the people, the party, to which the determination is referred, must be the judge of his own case; and the question is only, whether the magistrate should depend upon the judgment of the people, or the people on that of the magistrate, and which is most to be suspected of injustice? that is, whether the people of Rome should judge Tarquin, or Tarquin judge the people? He that knew all good men abhorred him for the murder of his wife, brother, father-in-law, and the best of the senate, would certainly strike off the heads of the most eminent remaining poppies;

and having incurred the general hatred of the people by the wickedness of his government, he feared revenge; and endeavouring to destroy those he feared, that is the city, he might easily have accomplished his work, if the judgment had been referred to him. If the people judge Tarquin, it is hard to imagine how they should be brought to give an unjust sentence: they loved their former kings, and hated him only for his villainies: they did not fancy, but know his cruelty. When the best were slain, no man that any way resembled them could think himself secure. Brutus did not pretend to be a fool, till, by the murder of his brother, he found how dangerous a thing it was to be thought wise. If the people, as our author says, be always lewd, foolish, mad, wicked, and desirous to put the power into the hands of such as are most like to themselves, he and his sons were such men as they sought, and he was sure to find favourable judges: if virtuous and good, no injustice was to be feared from them, and he could have no other reason to decline their judgment, than what was suggested by his own wickedness. Caligula, Nero, Domitian, and the like, had probably the same considerations. But no man of common sense ever thought that the senate and people of Rome did not better deserve to judge, whether such monsters should reign over the best part of mankind to their destruction, than they to determine whether their crimes should be punished or not.

If I mention some of these known cases, every man's experience will suggest others of the like nature. And whoever condemns all seditions, tumults, and wars, raised against such princes, must say, that none are wicked, or seek the ruin of their people, which is absurd; for Caligula wished the people had but one neck, that he might cut it off at a blow.* Nero set the city on fire †. And we have known such as have been worse than either of them. They must either be suffered to continue in the free exercise of their rage, that is, to do all the mischief they design, or must be restrained by a legal, judicial, or extrajudicial way. They who disallow the extrajudicial, do as little like the judicial. They will not hear of bringing a supreme magistrate before a tribunal, when it may be done. "They will," says our author, "depose their kings." Why should they not be deposed, if they become enemies to their people, and set up an interest in their own persons inconsistent with public good, for the promoting of which they were erected? If they were created by the public consent, for the public good, shall they not be removed when they prove to be of public damage? If they set up themselves, may they not be thrown down? Shall it be lawful for them to usurp a power over the liberty of others, and shall it not be lawful for an injured people to resume their

* *Inferus turbæ exclamavit, "utinam populus Romanus unam cervicem haberet!"* Suet. in vitâ Calig. § 30

† *Quasi offensus deformitate veterum aedificiorum, et angustiis flexurisque vicorum, incendit urbem . . . Hoc incendium è turri Maecenatianâ prospectans, lætusque "flammae," ut aiebat, "pulcritudine," αλωσω Ilii in illο suo scenico habitu decantavit.* Suet. in vitâ Neronis, § 38. Tacit. Ann. l. 15, § 38

CHAP. II

own? If injustice exalt itself, must it be for ever established? Shall great persons be rendered sacred by rapine, perjury, and murder? Shall the crimes, for which private men do justly suffer the most grievous punishments, exempt them from all, who commit them in the highest excess, with most power, and most to the prejudice of mankind? Shall the laws that solely aim at the prevention of crimes be made to patronize them, and become snares to the innocent, whom they ought to protect? Has every man given up into the common store his right of avenging the injuries he may receive, that the public power, which ought to protect or avenge him, should be turned to the destruction of himself, his posterity, and the society into which they enter, without any possibility of redress? Shall the ordinance of God be rendered of no effect; or the powers he has appointed to be set up, for the distribution of justice, be made subservient to the lusts of one or a few men, and by impunity encourage them to commit all manner of crimes? Is the corruption of man's nature so little known, that such as have common sense should expect justice from those, who fear no punishment if they do injustice; or that the modesty, integrity, and innocence, which is seldom found in one man, though ever so cautiously chosen, should be constantly found in all those who by any means attain to greatness, and continue for ever in their successors; or that there can be any security under their government, if they have them not? Surely if this were the condition of men living under government, forests would be more safe than cities; and it were better for every man to stand in his own defence, than to enter into societies. He that lives alone might encounter such as should assault him upon equal terms, and stand or fall according to the measure of his courage and strength; but no valour can defend him, if the malice of his enemy be upheld by a public power. There must therefore be a right of proceeding judicially or extrajudicially against all persons who transgress the laws; or else those laws, and the societies that should subsist by them, cannot stand; and the ends for which governments are constituted, together with the governments themselves, must be overthrown. Extrajudicial proceedings, by sedition, tumult, or war, must take place, when the persons concerned are of such power, that they cannot be brought under the judicial. They who deny this deny all help against an usurping tyrant, or the perfidiousness of a lawfully created magistrate, who adds the crimes of ingratitude and treachery to usurpation. These of all men are the most dangerous enemies to supreme magistrates. For as no man desires indemnity for such crimes as are never committed, he that would exempt all from punishment, supposes they will be guilty of the worst; and by concluding, that the people will depose them if they have the power, acknowledges, that they pursue an interest annexed to their persons, contrary to that of their people, which they would not bear if they could deliver themselves from it. This, shewing all those governments to be tyrannical, lays such a burden upon those who administer them, as must necessarily weigh them down to destruction.

If

If it be said, that the word sedition implies that which is evil, I answer, SECT. 24 that it ought not then to be applied to those who seek nothing but that which is just; and though the ways of delivering an oppressed people from the violence of a wicked magistrate, who has armed a crew of lewd villains, and fattened them with the blood and confiscations of such as were most ready to oppose them, be extraordinary, the inward righteousness of the act does fully justify the authors. "He that has virtue and power to save a people, can never want a right of doing it." Valerius Asiaticus had no hand in the death of Caligula; but when the furious guards began tumultuously to inquire who had killed him, he appeased them with wishing he had been the man *. No wise man ever asked by what authority Thrasylulus, Harmodius, Aristogiton, Pelopidas, Epaminondas, Dion, Timoleon, Lucius Brutus, Publicola, Horatius, Valerius, Marcus Brutus, Caius Cassius, and the like, delivered their countries from tyrants. Their actions carried in themselves their own justification, and their virtues will never be forgotten, while the names of Greece and Rome are remembered in the world.

If this be not enough to declare the justice inherent in, and the glory that ought to accompany these works, the examples of Moses, Aaron, Othniel, Ehud, Barak, Gideon, Samuel, Jephthah, David, Jehu, Jehoiada, the Maccabees, and other holy men raised up by God for the deliverance of his people from their oppressors, decide the question. They are perpetually renowned for having led the people by extraordinary ways (which such as our author expresses under the names of sedition, tumult, and war) to recover their liberties, and avenge the injuries received from foreign or domestic tyrants. The work of the apostles was not in their time to set up or pull down any civil state; but they so behaved themselves in relation to all the powers of the earth, that they gained the name of pestilent, seditious fellows, disturbers of the people; and left it as an inheritance to those, who, in succeeding ages, by following their steps, should deserve to be called their successors; whereby they were exposed to the hatred of corrupt magistrates, and brought under the necessity of perishing by them, or defending themselves against them. And he who denies them that right does at once condemn the most glorious actions of the wisest, best, and holiest men that have been in the world, together with the laws of God and man, upon which they were founded.

Nevertheless, there is a sort of sedition, tumult, and war, proceeding from malice, which is always detestable, aiming only at the satisfaction of private lust, without regard to the public good. This cannot happen in a popular government, unless it be among the rabble; or when the body of the people is so corrupted, that it cannot stand; but is most frequent in, and natural to absolute monarchies. When Abimelech desired to make himself king, he raised a tumult among the basest of the people: "he hired light and vain persons," some translations call them lewd vaga-

* Εἶθε ἔγω αὐτὸν ἀπεκταίειν. Dion. Cass. l. 59.

CHAP. II

bonds, killed his brethren, but perished in his design, the corrupt party that favoured him not having strength enough to subdue the other, who were more sincere *. Spurius Maelius, Spurius Callius, and Manlius, attempted the like in Rome †: they acted maliciously; their pretences to procure the public good were false. It is probable, that some in the city were as bad as they, and knew that mischief was intended; but the body of the people not being corrupted, they were suppressed. It appeared, says Livy, “*nilil esse minus populare quam regnum* [.]” They who had favoured Manlius condemned him to death, when it was proved, that “*egregias alioqui virtutes foeda regni cupiditate maculasset* §.” But when the people is generally corrupted, such designs seldom miscarry, and the success is always the erection of a tyranny. Nothing else can please vain and profligate persons, and no tyranny was ever set up by such as were better qualified. The ways of attaining it have always been by corrupting the manners of the people, bribing soldiers, entertaining mercenary strangers, opening prisons, giving liberty to slaves, alluring indigent persons with hopes of abolishing debts, coming to a new division of lands, and the like. Seditions raised by such men always tend to the ruin of popular governments; but when they happen under absolute monarchies, the hurt intended is only to the person, who being removed, the promoters of them set up another; and he that is set up, subsisting only by the strength of those who made him, is obliged to foment the vices that drew them to serve him; though another may perhaps make use of the same against him.

The consequence of this is, that those, who uphold popular governments, look upon vice and indigence as mischiefs that naturally increase each other, and equally tend to the ruin of the state. When men are by vice brought into want, they are ready for mischief. There is no villainy that men of profligate lives, lost reputation, and desperate fortunes, will not undertake. Popular equality is an enemy to these; and they who would preserve it must preserve integrity of manners, sobriety, and an honest contentedness with what the law allows. On the other side, the absolute monarch, who will have no other law than his own will, desires

* *Judg.* ch. 9, v. 4—55

† Maelius, ut est humanus animus insatiabilis eo quod fortuna spondet, ad altiora et non concessa tendere, et quoniam cumulatus quoque cupendus invidis patribus esset, de regno aquare, etc. *Liv.* l. 4, c. 13

Callius, quia in agraria largitione ambitiosus in facios, eoque civibus vilior erat, ut alio munere sibi conciliaret civium animos, pubere pro Siculo frumento pecuniam acceptam retribui populo. Id vero haud secus, quam praecentem mercedem regni aspernata plebs: adeo propter insipientem insitam regni, velut abundarent omnia, munera eius in animis hominum respiciantur, quem ubi primum magistratu abuit, damnatum, necatumque constat. *Liv.* l. 2, c. 41

M. Manlius, undè Gallios depulerat, undè ipse praecipitatus est; quia fortiter defensam libertatem notare opprimere conatus fuerat. *Val. Max.* l. 6, c. 3, § 1. *Liv.* l. 6, c. 11—20

‡ *Liv.* l. 6, c. 19

§ Illud notandum videtur, ut sciant homines, quae et quanta decora foeda cupiditas regni, non ingrata solum, sed invida etiam reddiderit. *Ibid.* c. 20

to increase the number of those, who through lewdness and beggary may incline to depend upon him; though the same temper of mind, and condition of fortune, prepare them also for such seditions as may bring him into danger: and the same corruption, which led them to set him up, may invite them to sell him to another, that will give them better wages.

I do not by this conclude, that all monarchs are vicious men; but that whoever will set up an absolute power must do it by these means; and that if such a power be already established, and should fall into the hands of a person, who by his virtue, and the gentleness of his nature, should endeavour to render the yoke so easy, that a better disciplined people might be contented to bear it, yet this method could last no longer than his life, and probably would be a means to shorten it: that which was at first established by evil arts always returning to the same. That which was vicious in the principle, can never be long upheld by virtue. We see, that the worst of the Roman emperors were not in greater danger from such good men as remained undestroyed, than the best from the corrupt party that would not be corrected, and sought such a master as would lay no restriction upon their vices. Those few, who escaped the rage of these villains, only gave a little breathing-time to the afflicted world, which by their children or successors was again plunged into that extremity of misery, from which they intended to deliver it. An extraordinary virtue was required to keep a prince in a way contrary to the principles of his own government: which being rarely found, and never continuing long in a family or succession of men, the endeavours of the best became ineffectual; and either they themselves perished in them, or after their death all things returned into the old polluted channel.

Though the power of the Hebrew kings was not unlimited, yet it exceeded the rule set by God, and was sufficient to increase the number of the worst of men, and to give them opportunities of raising perpetual disturbances. On the king's side there were flatterers and instruments of mischief: on the other side there were indebted and discontented persons. Notwithstanding the justice of David's cause, the wisdom, valour, and piety of his person, none would follow him, except a few of his own kindred, who knew what God had promised to him, and such as were uneasy in their worldly circumstances. After the death of Saul there was a long and bloody war between Ishbosheth and David. The former being killed, the slightest matters were sufficient to put the whole nation into blood. Absalom with a few fair words was able to raise all Israel against his father*. Sheba the son of Bichri with as much ease raised a more dangerous tumult †. David by wisdom, valour, and the blessing of God, surmounted these difficulties, and prepared a peaceable reign for Solomon. But after his death the people broke out into a flame that was never quenched, till the nation was so dispersed, that no man knew where to find his enemies. Solomon by his magnificence had reduced Israel to such

* 2 Sam. ch. 15, v. 6

† Ch. 20, v. 1

CHAP. II poverty, as inclined them to revolt upon the first offer of an opportunity by Jeroboam. From that time forward Israel was perpetually vexed with civil seditions and conspiracies, or wars with their brethren of Judah. Nine kings with their families were destroyed by the first; and the latter brought such slaughters upon the miserable people, as were never suffered by any, who were not agitated with the like fury. And the course of these mischiefs was never interrupted, till they had brought the nation into captivity, and the country to desolation. Though God, according to his promise, did preserve a light in the house of David, yet the tribe of Judah was not the more happy. Joash was slain by a private conspiracy; and Amaziah, as is most probable, by public authority, for having foolishly brought a terrible slaughter upon Judah. Athaliah destroyed the king's race, and was killed herself by Jehoiada; who, not having learned from our author to regard the power only, and not the ways by which it was obtained, caused her to be dragged out of the temple, and put to a well-deserved death. The whole story is a tragedy. And if it be pretended, that this proceeded rather from the wrath of God against his people for their idolatry, than from such causes as are applicable to other nations, I answer, that this idolatry was the production of the government they had set up, and most suitable to it; and choosing rather to subject themselves to the will of a man, than to the law of God, they deservedly suffered the evils that naturally follow the worst counsels. We know of none, who taking the like course have not suffered the like miseries. Notwithstanding the admirable virtue and success of Alexander, his reign was full of conspiracies, and his knowledge of them prompted him to destroy Philotes, Parmenio, Clitus, Callisthenes, Hermolaus, and many more of his best friends*. If he escaped the sword, he fell by poison. The murder of his wives, mother, and children, by the rage of his own soldiers, the fury of his captains employed in mutual slaughters, till they were consumed, his paternal kingdom after many revolutions transferred to Cassander his most mortal enemy, the utter extinction of his conquering army, and particularly the famous Argyraspides, who, being grown faithless and seditious, after the death of Eumenes were sent to perish in unknown parts of the east, abundantly testify the admirable stability, good order, peace, and quiet that is enjoyed under absolute monarchy.

The next government of the like nature that appeared upon the stage of the world was that of Rome, introduced by wars that consumed two thirds of the people, confirmed by proscriptions, in which all that were eminent for nobility, riches, or virtue, perished. The peace they had under Augustus was like that which the devil allowed to the child in the Gospel, whom he rent sorely, and left as dead. The miserable city was only cast into a swoon; after long and violent vexations by seditions, tumults, and wars, it lay as dead; and finding no helper like to him who cured the child, it was delivered to new devils to be tormented, till it was utterly

* Q. Curt. l. 6, c. 11. l. 7, c. 2. l. 8, c. 1, 8

destroyed. Tiberius was appointed as a fit instrument for such a purpose. SECT. 24
 It was thought, that those who should feel the effects of his pride, cruelty, and lust, would look upon the death of Augustus as a loss. He performed the work for which he was chosen; his reign was an uninterrupted series of murders, subornation, perjuries, and poisonings, intermixed with the most detestable impurities, the revolts of provinces, and mutinies of armies. The matter was not mended by his successors. Caligula was killed by his own guards; Claudius poisoned by his wife. Spain, Gaul, Germany, Pannonia, Moesia, Syria, and Egypt, revolted at once from Nero. The people and senate followed the example of the provinces. This I think was, in our author's sense, sedition with a witness. Nero being dead by the hand of a slave, or his own, to prevent that of the hangman, Galba entered the city with blood and slaughter. But when his own soldiers found he would not give the money for which they intended to sell the empire, they killed him. And, to shew the stability of absolute monarchy, it may be observed, that this was not done by the advice of the senate, or by a conspiracy of great men: "suscepere duo
 " manipulares imperium populi Romani transferendum, et transfule-
 " runt*." Two rascals gave the empire to Otho, and the whole senate was like to be butchered for not being so ready to follow their venerable authority, as they ought to have been, and hardly escaped the fury of their mad and drunken companions. As a farther testimony that these monarchies are not subject to sedition and tumults, he had at once only two competitors against whom he was to defend the well acquired empire; his army was defeated at Bedriacum; he killed himself †; and his successor Vitellius was soon after thrown into the Tiber ‡. The same method still continued. Rome was filled with blood and ashes; and to recite all the public mischiefs would be to transcribe the history: for as Pyrrhus, being asked who should succeed him, answered, "he who has the sharpest sword §," that was the only law that governed in the following ages. Whoever could corrupt two or three legions thought he had a good title to the empire; and unless he happened to be killed by treachery, or another tumult of his own soldiers, he seldom receded from it without a battle, wherein he that was most successful had no other security, than what the present temper of the soldiers afforded him. The miserable provinces, having neither virtue nor force, were obliged slavishly to follow the fury or fortune of those villains. In this state did Rome dedicate to Constantine the triumphal arch, that had been prepared for Maxentius; and those provinces which had set up Albinus and Niger submitted to Septimius Severus. In the vast variety of accidents that in those ages

* Tacit. Hist. l. 1, c. 25

† Uno se trajecit ictu, infra laevam papillam. Suet. in vitâ Othonis, § 11

‡ Confosso corpore in Tiberim dejecit tyrannidis octavo mense. Aur. Vict. de Caesari-
 bus, c. 8. Suet. in vitâ Vitel. § 17

§ Αεγεται ως ερωτηθεις, ω τινη καταλειπει την βασιλειαν, ειπειν, ος αν υμων την μαχαιραν
 εξυτεραν εχη. Plut. in vitâ Pyrrhi.

CHAP. II disturbed the world, no emperor had a better title than what he purchased by money or violence; and enjoyed it no longer than those helps continued: which of all things were the most uncertain. By these means most of the princes perished by the sword, Italy was made desolate, and Rome was several times sackt and burnt. The mistress of the world being made a slave, the provinces which had been acquired by the blood of her antient virtuous citizens, became part of an usurper's patrimony; who, without any regard to the public good, distributed them to his children, according to their number, or his passion. These either destroyed one another, or fell under the sword of a third, who had the fortune of their father, the greatest part most commonly falling to the share of the worst. If at any time the contrary happened, the government of the best was but a lucid interval. Well-wishing men grew more extremely to abhor the darkness that followed when they were gone. The best of them could do no more than suspend mischief for a while, but could not correct the corrupt principle of their government. Some of them were destroyed as soon as they were thought to intend it: and others, who finished their days in peace, left the empire to such persons of their relations as were most unlike to them. Domitian came in as brother to Titus. Commodus and Helio-gabalus were recommended by the memory of those virtues, that had been found in Antoninus and Aurelius. Honorius and Arcadius, who by their baseness brought utter ruin upon the western and eastern empires, were the sons of the brave Theodosius. They who could keep their hands free from blood, and their hearts from malice, covetousness, and pride, could not transmit their virtues to their successors, nor correct the perverseness that lay at the root and foundation of their government. The whole mass of blood was vitiated. The body was but one vast sore, which no hand but that of the Almighty could heal. And he, who from an abhorrence of iniquity had declared he would not hear the cries of his own people, when they had chosen the thing that was not good, would not shew mercy to strangers, who had done the same thing.

I have insisted upon the Hebrew, Macedonian, and Roman histories, because they are the most eminent, and best known to us. We are in the dark concerning the Babylonian, Assyrian, Chaldean, Bactrian, and Egyptian monarchs: we know little more of them than the Scripture occasionally relates concerning their barbarous cruelty, bestial pride, and extravagant folly. Others have been like to them; and I know not where to find a peaceable monarchy unless it be in Peru, where the Inca Garcilasso de la Vega says, a man and a woman, children of the sun and the moon, appearing amongst a barbarous people, living without any religion or law, established a government among them, which continued in much peace and justice for twelve generations*. But this seeming to be as fabulous as their

* Garcilasso, or Garcias-laso de la Vega was a native of Cusco. His father was a Spaniard, his mother a Peruvian, descended from the Incas. He wrote in Spanish the history of Peru and Florida. His Peruvian history was translated into English by Sir Paul Rycaut, and

their birth, we may pass it over, and fix upon those that are better known; of which there is not one that has not suffered more dangerous and mischievous seditions, than all the popular governments that have been in the world. And the condition of those kingdoms which are not absolute, and yet give a preference to birth, without consideration of merit or virtue, is not much better. SECT. 24

This is proved by the reasons of those seditions and tumults, as well as from the fact itself.

The reasons arise from the violence of the passions that incite men to them, and the intricacy of the questions concerning succession.

Every man has passions; few know how to moderate, and no one can wholly extinguish them. As they are various in their nature, so they are governed by various objects; and men usually follow that which is predominant in them, whether it proceed from anger or desire, and whether it terminate in ambition, covetousness, lust, or any other more or less blameable appetite. Every manner of life furnishes something, that in some measure may foment these: but a crown comprehends all that can be grateful to the most violent and vicious. He who is covetous has vast revenues, besides what he may get by fraud and rapine, to satisfy his appetite. If he be given to sensuality, the variety of pleasures, and the facility of accomplishing whatever he desires, tends farther to inflame that passion. Such as are ambitious are incited by the greatness of their power to attempt great matters; and the most sottish or lazy may discharge themselves of cares, and hope that others will be easily hired to take the burden of business upon them, while they lie at ease. They who naturally incline to pride and cruelty are more violently tempted to usurp dominion; and the wicked advices of flatterers, always concurring with their passions, incite them to exercise the power they have gotten with the utmost rigour, to satiate their own rage, and to secure themselves against the effects of the public hatred, which they know they have deserved. If there be, as our author says, no other rule than force and success, and if he must be taken for the father of a people who is in possession of a power over them, whoever has the one, may put the other to a trial. Nay, even those who have regard to justice will seldom want reasons to persuade them, that it is on their side. Something may be amiss in the state; injuries may be done to themselves and their friends. Such honours may be denied as they think they deserve; or others of less merit, as they suppose, may be preferred before them. Men do so rarely make a right estimate of their own merits, that those who mean well may be often deceived; and if nothing but success be required to make a monarch, they may think it just to attempt whatever they can hope to accomplish. This was the case

and published in 1688, under the title of *The Royal Commentaries of Peru*. The story, which our author mentions, is related in those Commentaries, b. 1, ch. 7. Purch. Pilg. part 4, b. 7, ch. 13

CHAP. II of Julius Caesar: he thought all things lawful, when the consulatè, which he supposed he had deserved, was denied*.

These enterprizes seem to belong to men of great spirits; but there are none so base as not to be capable of undertaking, and, as things may stand, of bringing them to perfection. History represents no man under a more contemptible character of sottish laziness, cowardice, and drunkenness, than Vitellius; no one more impure and fordid than Galba. Otho was advanced for being in his manners like to Nero. Vespasian was scorned for his avarice, till the power fell into such hands as made the world believe, none could be unworthy of the empire: and in the following ages the worst men by the worst means most frequently obtained it.

These wounds are not cured by saying, that the law of God and nature prevents this mischief, by annexing the succession of crowns to proximity of blood: for mankind had not been continually afflicted with them if there had been such a law, or if they could have been prevented by it. And though there were such a law, yet more questions would arise about that proximity, than any wise man would dare to determine. The law can be of no effect, unless there be a power to decide the contests arising upon it. But the fundamental maxim of the great monarchies is, that there can be no interregnum: the heir of the crown is in possession, as soon as he who did enjoy it is dead. "Le mort," as the French say, "fait le vif †." There can be therefore no such law, or it serves for nothing. If there be judges to interpret the law, no man is a king till judgment be given in his favour; and he is not king by his own title, but by the sentence given by them. If there be none, the law is merely imaginary, and every man may, in his own case, make it what he pleases. He who has a crown in his view, and arms in his hand, wants nothing but success to make him a king; and if he prosper, all men are obliged to obey him.

It is a folly to say the matter is clear, and needs no decision; for every man knows, that no law concerning private inheritances can be so exactly drawn, but many controversies will arise upon it, that must be decided by a power to which both parties are subject. The dispute concerning kingdoms are so much the more difficult, because this law is no where to be found; and the more dangerous, because the competitors are for the most part more powerful.

Again, this law must either be general to all mankind, or particular to each nation. If particular, a matter of such importance requires good proof, when, where, how, and by whom it was given to every one. But the Scriptures testifying to the contrary, that God gave laws to the

* "Viribus utendum est, quas fecimus: arma tenenti

"Omnia dat, qui iusta negat."

Luc. Pharf. l. 1, v. 348

† On dit en jurisprudence, que "le mort fait le vif," son plus prochain heritier habile à lui succeder, pour dire, qu' un heritier se peut mettre en possession des biens d' un defunct de son autorité privée, sans implorer celle de la justice, au lieu qu' un legataire universel ou particulier s' y doit pourvoir pour avoir delivrance de son legs. Dict. Univ. par M. Furetiere

Jews only, and that no such thing as hereditary monarchy, according to proximity of blood, was prescribed by them, we may safely say, that God never gave any such law to every particular, nor to any nation. If he did not give it to any one, he did not give it to all; for every one is comprehended in all. And if no one has it, it is impossible that all can have it; or that it should be obligatory to all, when no man knows or can tell, when, where, and by what hand it was given, nor what is the sense of it. All which is evident by the various laws and customs of nations in the disposal of hereditary successions. And no one of them, that we know, has to this day been able to shew, that the method followed by them, is more according to nature than that of others.

SECT. 24

If our author pretend to be God's interpreter, and to give the solution of these doubts, I may ask which of the five following ways are appointed by God; and then we may examine cases resulting from them.

1. In France, Turkey, and other places, the succession comes to the next male, in the straight eldest line: according to which the son is preferred before the brother of him who last enjoyed the crown, as the present king of France* before his uncle the duke of Orleans, and the son of the eldest before the brothers of the eldest, as in the case of Richard the second of England, who was advanced preferably to all the brothers of the Black Prince his father.

2. Others keep to the males of the reigning family, yet have more regard to the eldest man than to the eldest line. And representation taking no place among them, the eldest man is thought to be nearest to the first king; and a second son of the person that last reigned, to be nearer to him than his grandchild by the eldest son: according to which rule, any one of the sons of Edward the third, remaining after his death, should have been preferred before Richard the second, who was his grandchild.

3. In the two cases before-mentioned, no manner of regard is had to females, who being thought naturally incapable of commanding men, or performing the functions of a magistrate, are, together with their descendants, utterly excluded from the supreme, as well as from the inferior magistracies; and in Turkey, France, and other great kingdoms, have no pretence to any title. But in some places, and particularly in England, the advantages of proximity belong to them, as well as to males: by which means our crown has been transported to several families and nations.

4. As in some places they are utterly rejected, and in others received simply without any condition; so those are not wanting, where that of not marrying out of the country, or without the consent of the estates, is imposed: of which Sweden is an example.

5. In some places proximity of blood is only regarded, whether the issue be legitimate or illegitimate; in others bastards are wholly excluded.

* Lewis XIV

CHAP. II

By this variety of judgments, made by several nations, upon this point, it may appear, that though it were agreed by all, that the next in blood ought to succeed, yet such contests would arise upon the interpretation and application of the general rule, as must necessarily be a perpetual spring of irreconcilable and mortal quarrels.

If any man say, the rule observed in England is that which God gave to mankind, I leave him first to dispute that point with the kings of France, and many others, who can have no right to the crowns they wear, if it be admitted; and, in the next place, to prove, that our ancestors had a more immediate communication with God, and a more certain knowledge of his will than others, who, for any thing we know, may be of authority equal to them. But in the mean time we may rationally conclude, that if there be such a rule, we have had no king in England, for the space of almost a thousand years, having not had one who did not come to the crown by a most manifest violation of it; as appears by the fore-cited examples of William the first and second, Henry the first, Henry the second and his children, John, Edward the third, Henry the fourth, Edward the fourth and his children, Henry the seventh, and all that claim under any of them. And if possession or success can give a right, it will I think follow, that Jack Straw, Wat Tyler, Perkin Warbeck, or any other rascal, might have had it, if he had been as happy as bold in his enterprize. This is no less than to expose crowns to the first that can seize them, to destroy all law and rule, and to render right a slave to fortune. If this be so, a late earl of Pembroke, whose understanding was not thought great, judged rightly when he said, his grandfather was a wise man though he could neither write nor read, inasmuch as he resolved to follow the crown, though it were upon a coal-staff. But if this be sufficient to make a wise man, it is pity the secret was no sooner discovered; since many, who for want of it lived and died in all the infamy that justly accompanies knavery, cowardice, and folly, might have gained the reputation of the most excellent men in their several ages. The bloody factions, with which all nations subject to this sort of monarchy have been perpetually vexed, might have been prevented by throwing up crosses or pile, or by battle between the competitors body to body; as was done by Corbis and Orfua, Eteocles and Polynices, Ironside and Canutus: it being most unreasonable, or rather impiously absurd, for any to venture their lives and fortunes, when their consciences are not concerned in the contest, and they are to gain nothing by the victory.

If reason teaches, that, till this expeditious way of ending controversies be received, the ambition of men will be apt to embroil nations in their quarrels, and others judging variously of those matters, which can be reduced to no certain rule, will think themselves in conscience obliged to follow the party that seems to them to be most just; experience manifests the same, and that ambition has produced more violent mischiefs than all the other desires and passions, that have ever possessed the hearts of men. That

this may appear, it will not be amiss to divide these mischiefs into such as SECT. 24
 proceed from him who is in possession of the power, through jealousy of
 state, as they call it, to prevent the enterprizes of those who would dis-
 possess him, and such as arise between competitors contending for it.

Tarquin's counsel concerning the poppies, and Periander's heads of
 corn*, are of the first sort. The most eminent are always most feared, as
 the readiest to undertake, and most able to accomplish, great designs.
 This eminence proceeds from birth, riches, virtue, or reputation, and is
 sometimes wrought up to the greatest height by a conjunction of all these.
 But I know not where to find an example of such a man, who could long
 subsist under absolute monarchy. If he be of high birth, he must, like
 Brutus, conceal his virtue, and gain no reputation, or resolve to perish, if
 he do not prevent his own death by that of the tyrant. All other ways are
 ineffectual: the suspicions, fears, and hatred, thereupon arising, are not
 to be removed; personal respects are forgotten; and such services, as can-
 not be sufficiently valued, must be blotted out by the death of those who
 did them. Various ways may be taken, and pretences used, according to
 the temper of times and nations; but the thing must be done; and
 whether it be coloured by a trick of law, or performed by a mute with a
 bow-string, imports little. Henry the fourth was made king by the earl
 of Northumberland, and his brave son Hotspur; Edward the fourth by
 the valiant earl of Warwick; Henry the seventh by Stanley: but neither
 of them could think himself safe, till his benefactor was dead. No con-
 tinued fidelity, no testimonies of modesty and humility, can prevent this.
 The modesty of Germanicus in rejecting the honours that were offered to
 him, and his industry in quieting the mutinied legions, accelerated his
 ruin †. When it was evident he might be emperor if he pleased, he
 must be so, or die: there was no middle station between the throne and
 the grave. It is probable, that Caligula, Nero, and other beasts like to
 them, might hate virtue for the good which is in it. But I cannot think,
 that either they, their predecessors or successors, would have put them-
 selves upon the desperate design of extirpating it, if they had not found
 it to be inconsistent with their government: and that being once concluded,
 they spared none of their nearest relations. Artaxerxes killed his son
 Darius. Herod murdered the best of his wives, and all his sons, except
 the worst. Tiberius destroyed Agrippa Posthumus, and Germanicus with
 his wife and two sons. How highly soever Constantine the Great be
 commended, he was polluted with the blood of his father-in-law, wife,
 and son. Philip the second of Spain did in the like manner deliver him-
 self from his fears of Don Carlos; and it is not doubted, but that Philip
 the fourth, for the same reasons, dispatched his brother Don Carlos, and
 his son Balthasar. The like cases were so common in England, that all
 the Plantagenets, and the noble families allied to them being extinguished,
 our ancestors were sent to seek a king in one of the meanest in Wales.

* Arist. Polit. l. 3, c. 13

† Tacit. Ann. l. 1, § 35, 52, etc.

CHAP. II

This method being known, those who are unwilling to die so tamely endeavour to find out ways of defending themselves; and there being no other than the death of the person who is in the throne, they usually seek to compass it by secret conspiracy, or open violence. The number of princes that have been destroyed, and countries disturbed, by those who through fear have been driven to extremities, is not much less than of those, who have suffered the like from men following the impulse of their own ambition.

The disorders arising from contests between several competitors, before any one could be settled in the possession of kingdoms, have been no less frequent and bloody than those above-mentioned, and the miseries suffered by them, together with the ruin brought upon the empires of Macedon and Rome, may be sufficient to prove it: however, to make the matter more clear, I shall allege others. But because it may be presumption in me to think I know all the histories of the world, or tedious to relate all those I know, I shall content myself with some of the most eminent and remarkable. And if it appear, that they have all suffered the same mischiefs, we may believe they proceed not from accidents, but from the power of a permanent cause, that always produces the same, or the like effects.

To begin with France. The succession not being well settled in the time of Meroveus, who had dispossessed the grandchildren of Pharamond, he was no sooner dead than Gillon set up himself, and with much slaughter drove his son Childeric out of the kingdom; who, after a little time returning with like fury, is said to have seen a vision, first of lions and leopards, then of bears and wolves, and lastly of dogs and cats, all tearing one another to pieces*. This has been always accounted by the French to be a representation of the nature and fortune of the three races, that were to command them, and has been too much verified by experience. Clovis their first christian and most renowned king, having by good means or evil exceedingly enlarged his territories, but chiefly by the murders of Alaric and Ragnachaire, with his children, and, persuading Chloderic son of Sigebert, king of Cologne, to kill his father†, left his kingdom to be torn in pieces by the rage of his four sons, each of them endeavouring to make himself master of the whole. And when, according to the usual fate of such contests, success had crowned Clotaire, who was the worst of them all, by the slaughter of his brothers and nephews, with all the flower of the French and Gaulish nobility, the advantages of his fortune

* Fredegarii Scholastici Epitome, § 12. Inventaire general de l'Hist. de France, par M. De Serres, p. 18.— Few modern historians take any notice of this legendary anecdote.

† Sidney tells us, Clovis “suborned Sigismund of Metz to kill his father Sigebert.” But this is certainly a mistake. The alteration, which the editor of the present edition has taken the liberty to make in this passage, is supported by the following authorities: viz. Gregor. Turon. Hist. Francorum, l. 2, c. 40. Aimoini Monachi Hist. Franc. l. 1, c. 18. Histoire de France, par le Sieur de Mezeray, en la vie de Clovis. Hist. de France, par M. Chalons, etc.

only resulted to his own person. For after his death the miserable nations SECT. 24 suffered as much from the madness of his sons, as they had done by himself and his brothers. They had learned from their predecessors not to be slow in doing mischief; but were farther incited by the rage of two infamous strumpets, Fredegonde and Brunehaud, which is a sort of vermin, that I am inclined to think, has not usually governed senates, or popular assemblies. Chilperic the first, who by the slaughter of many persons of the royal blood, with infinite numbers of the nobility and people, came to be master of so much of the country, as procured him the name of king of France, killed his eldest son on suspicion, that he was excited against him by Brunehaud; and his second, lest he should revenge the death of his brother*. He married Fredegonde, and was soon after killed by her adulterer Landry. The kingdom continued in the same misery through the rage of the surviving princes, and found no relief, though most of them fell by the sword; and Brunehaud, who had been a principal cause of those tragedies, was tied to the tails of four wild horses, and suffered a death as foul as her life. These were lions and leopards. They involved the kingdom in desperate troubles. But, being men of valour and industry, they kept up in some measure the reputation and power of the nation; and he who attained to the crown defended it. They being fallen by the hands of each other, the poisonous root put forth another plague more mortal than their fury. The vigour was spent, and the succession becoming more settled, ten base and slothful kings, by the French called "les rois faineants," succeeded. Some may say, they who do nothing, do no hurt; but the rule is false in relation to kings. He that takes upon him the government of a people, can do no greater evil than by doing nothing; nor be guilty of a more unpardonable crime, than by negligence, cowardice, voluptuousness, and sloth, to desert his charge. Virtue and manhood perish under him; good discipline is forgotten; justice slighted; the laws perverted, or rendered useless; the people corrupted; the public treasures exhausted; and the power of the government always falling into the hands of flatterers, whores, favourites, bawds, and such base wretches as render it contemptible, a way is laid open for all manner of disorders. The greatest cruelty that has been known in the world, if accompanied with wit and courage, never did so much hurt as this slothful bestiality; or rather these slothful beasts have ever been most cruel. The reigns of Septimius Severus, Mahomet the second, or Selim the second, were cruel and bloody. But their fury was turned against foreigners, and some of their near relations, or against such as fell under the suspicion of making attempts against them. The condition of the people was tolerable; those who would be quiet might be safe; the laws kept their right course; the reputation of the empire was maintained, the limits defended, and the public peace preserved. But when the sword passed into the hands of lewd, slothful, foolish, and cowardly princes, it

* Meroveus and Clovis. Gregor. Turon. l. 5, c. 19, 40. De Serres, p. 29.

CHAP. II was of no power against foreign enemies, or the disturbers of domestic peace, though always sharp against the best of their own subjects. No man knew how to secure himself against them, unless by raising civil wars; which will always be frequent, when a crown defended by a weak hand is proposed as a prize to any that dare invade it. This is a perpetual spring of disorders; and no nation was ever quiet, when the most eminent men found less danger in the most violent attempts, than in submitting patiently to the will of a prince, that suffers his power to be managed by vile persons, who get credit by flattering him in his vices. But this is not all: such princes naturally hate and fear those who excel them in virtue and reputation, as much as they are inferior to them in fortune; and think their persons cannot be secured, nor their authority enlarged, except by their destruction. It is ordinary for them, “*inter ganea et supra illustribus viris perniciem meditari,**” and to make cruelty a cover to ignorance and cowardice. Besides the mischiefs brought upon the public by the loss of eminent men, who are the pillars of every state, such reigns are always accompanied with tumults, and civil wars, the great men striving with no less violence who shall get the weak prince into his power, when such regard is had to succession, that they think it not fit to divest him of the title, than when with less respect they contend for the sovereignty itself. And, while this sort of princes reigned, France was not less afflicted with the contests between Grimoald, Erchenbald, Ebroin, and others, for the mayoralty of the palace, than they had been before by the rage of those princes who had contested for the crown. The issue also was the same. After many revolutions, Charles Martel gained the power of the kingdom, which he had so bravely defended against the Saracens; and, having transmitted it to his son Pepin, the general assembly of estates, with the approbation of mankind, conferred the title also upon him. This gave the nation ease for the present; but the deep-rooted evil could not be so cured; and the kingdom, that by the wisdom, valour, and reputation of Pepin, had been preserved from civil troubles during his life, fell as deeply as ever into them so soon as he was dead. His sons, Charles and Carloman, divided the dominions; but in a little time each of them would have all. Carloman filled the kingdom with tumult; raised the Lombards, and marched with a great army against his brother, till his course was interrupted by death, caused, as is supposed, by such helps as princes liberally afford to their aspiring relations. Charles deprived his two sons of their inheritance, put them in prison, and we hear no more of them †. But all the advantages which, by an extraordi-

* Tacit. Ann. l. 6, § 4

† What became of Carloman's two sons, after they fell into the hands of Charlemagne, is a secret which history has not disclosed. — Sidney adds: “his third brother Griffon was not more quiet, nor more successful; and there could be no peace in Gascony, Italy, or Germany, till he was killed.” — Griffon was the son of Charles Martel, and had been dead several years before Charlemagne came to the crown: this passage therefore, in the present edition, for obvious reasons, is omitted.

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nary virtue and fortune, he had purchased for his country, ended with his life. He left his son Lewis the Gentle in possession of the empire, and kingdom of France, and his grandson Bernard king of Italy. But these two could not agree; and Bernard, falling into the hands of Lewis, was deprived of his eyes, and some time after killed. This was not enough to preserve the peace. Lothaire, Lewis, and Pepin, all three sons to Lewis, rebelled against him; called a council at Lyons, deposed him, and divided the empire among themselves. After five years he escaped from the monastery where he had been kept, renewed the war, and was again taken prisoner by Lothaire. When he was dead, the war broke out more fiercely than ever between his children. Lothaire the emperor assaulted Lewis king of Bavaria, and Charles king of Rhaetia, was defeated by them, and confined to a monastery*, where he died. New quarrels arose between the two brothers, upon the division of the countries taken from him, and Lorrain only was left to his son. Lewis died soon after, and Charles, getting possession of the empire and kingdom, ended an inglorious reign in an unprosperous attempt to deprive Hermingarde, daughter to his brother Lewis, of the kingdom of Arles, and other places left to her by her father. Lewis his son, called the Stutterer, reigned two years in much trouble; and his only legitimate son, Charles the Simple, came not to the crown till after the death of his two bastard brothers, Lewis and Carloman, Charles le Gros, and Eudes duke of Angers. Charles le Gros was deposed from the empire and kingdom, stripped of his goods, and left to perish through poverty in an obscure village. Charles the Simple, and the nations under him, thrived no better. Robert duke of Anjou raised war against him, and was crowned at Rheims; but was himself slain soon after in a bloody battle near Soissons. His son-in-law Hebert, earl of Vermandois, gathered up the remains of his scattered party, got Charles into his power, and called a general assembly of estates, who deposed him, and gave the crown to Rodolph duke of Burgundy; though he was no otherwise related to the royal blood than by his mother, which in France is nothing at all. He being dead, Lewis son to the deposed Charles was made king; but his reign was as inglorious to him, as miserable to his subjects. This is the peace which the French enjoyed for the space of five or six ages under their monarchy. And it is hard to determine whether they suffered most by the violence of those who possessed, or the ambition of others who aspired to the crown; and whether the fury of active, or the baseness of slothful princes was most pernicious to them. But upon the whole matter, through the defects of those of the latter sort, they lost all that they had gained by sweat and blood under the conduct of the former. Henry and Otho of Saxony, by a virtue like that of Charlemagne, deprived them of the empire, and settled it in Germany, leaving

* He was not confined by his brothers, but voluntarily retired into a monastery; that, according to the superstition of those ages, he might atone for his crimes. — *Promiae monasterium regno temporis se exuens ingreditur.* Vide *Hist. Franc. Script.* Tom. 2. p. 402. *Annales Fuldenses*, ad ann. 855, De Serres, Mezeray, Chalons, etc.

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France only to Lewis surnamed Outremer, and his son Lothaire. These seemed to be equally composed of treachery, cruelty, ambition, and baseness. They were always mutinous, and always beaten. Their frantic passions put them always upon unjust designs; and they were such plagues to their subjects and neighbours, that they became equally detested and despised. These things extinguished the veneration due to the memory of Pepin and Charles; and obliged the whole nation rather to seek relief from a stranger, than to be ruined by their worthless descendents. They had tried all ways that were in their power; deposed four crowned kings within the space of a hundred and fifty years; crowned five who had no other title than the people conferred upon them; and restored the descendents of those they had rejected. But all was in vain: their vices were incorrigible, the mischiefs produced by them intolerable. They never ceased from murdering one another in battle, or by treachery, and bringing the nation into civil wars upon their wicked or foolish quarrels, till the whole race was rejected, and the crown placed upon the head of Hugh Capet. These mischiefs raged not in the same extremity under him and his descendents; but the abatement proceeded from a cause no way advantageous to absolute monarchy. The French were by their calamities taught more strictly to limit the regal power; and by turning the dukedoms and earldoms into patrimonies, which had been offices, gave an authority to the chief of the nobility, by which that of kings was curbed. And though by these means the commonalty was exposed to some pressures, yet they were small, in comparison of what they had suffered in former times. When many great men had estates of their own, that did not depend upon the will of kings, they grew to love their country; and though they cheerfully served the crown in all cases of public concernment, they were not easily engaged in the personal quarrels of those who possessed it, or had a mind to gain it. To preserve themselves in this condition, they were obliged to use their vassals gently. And this continuing in some measure till within the last fifty years, the monarchy was less tumultuous, than when the king's will had been less restrained. Nevertheless, they had not much reason to boast: there was a root still remaining, that from time to time produced poisonous fruit. Civil wars were frequent among them, though not carried on with such desperate madness as formerly; and many of them upon the account of disputes between competitors for the crown. All the wars with England, since Edward the second married Isabella, daughter, and, as he pretended, heir of Philip le Bel, were of this nature. The defeats of Cressy, Poitiers, and Agincourt, with the slaughters and devastations suffered from Edward the third, the Black Prince, and Henry the fifth, were merely upon contests for the crown, and for want of an interpreter of the law of succession, who might determine the question between the heir male, and the heir general. The factions of Orleans and Burgundy, Orleans and Armagnac, proceeded from the same spring; and the murders, that seem to have been the immediate causes of those quarrels, were only the effects of the hatred growing

growing from their competition. The more odious, though less bloody contests between Charles the seventh, and his son Lewis the eleventh, with the jealousy of the latter against his son, Charles the eighth, arose from the same principle. Charles of Bourbon prepared to fill France with fire and blood upon the like quarrel; when his designs were overthrown by his death in the assault of Rome. If the dukes of Guise had been more fortunate, they had soon turned the cause of religion into a claim to the crown, and repaired the injury done, as they pretended, to Pepin's race, by destroying that of Capet. Henry the third, thinking to prevent this by the slaughter of Henry le Balafre*, and his brother the cardinal de Guise, brought ruin upon himself, and cast the kingdom into a most horrid confusion. Our own age furnishes us with more than one attempt of the same kind, attended with the like success. The duke of Orleans was several times in arms against Lewis the thirteenth his brother; the queen-mother drew the Spaniards to favour him; Montmorency perished in his quarrel; Fontrailles revived it by a treaty with Spain, which struck at the king's head, as well as the cardinal's, and was suppressed by the death of Cinq Mars and de Thou. Those who understand the affairs of that kingdom make no doubt, but that the count de Soissons would have set up for himself, and been followed by the best part of France, if he had not been killed in the pursuit of his victory at the battle of Sedan. Since that time the kingdom has suffered such disturbances as shew, that more was intended than the removal of Mazarin: and the marshal de Turenne was often told, that the check he gave to the prince of Condé at Gien, after he had defeated Hoquincourt, had preserved the crown upon the king's head. And to testify the stability, good order, and domestic peace, that accompanies absolute monarchy, we have in our own days seen the house of Bourbon often divided within itself; the duke of Orleans, the count de Soissons, the princes of Condé and Conti, in war against the king; the dukes of Angoulesme, Vendôme, Longueville, the count de Moret, and other bastards of the royal family, following their example; the houses of Guise, d'Elbeuf, Bouillon, Nemours, Rochefoucault, and almost all the most eminent in France, with the parliaments of Paris, Bourdeaux, and some others, joining with them. I might allege many more examples, to shew, that this monarchy, as well as all others, has from the first establishment been full of blood and slaughter, through the violence of those who possessed the crown, and the ambition of such as aspired to it; and that the end of one civil war has been the beginning of another: but I presume, upon the whole, these will be thought sufficient to prove, that it never enjoyed any permanent domestic quiet.

The kingdoms of Spain have been no less disturbed by the same means; but especially that of Castile, where the kings had more power than in other places. To cite all the examples, were to transcribe their histories; but whoever has leisure to examine them will find, that after many

* Henry le Balafre, Duke of Guise, was stabbed by the order of Henry the third, in 1588

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He that is not convinced of these truths, by what has been said, may come nearer home, and see what mischiefs were brought upon Scotland by the contests between Baliol and Bruce, with their consequences, till the crown came to the Stuart family; the quiet reigns, and happy deaths, of the five James's, together with the admirable stability and peace of the government under queen Mary, and the perfect union in which she lived with her husband, son, and people, as well as the happiness of the nation whilst it lasted †.

But the miseries of England, upon the like occasions, surpass all. William the Norman was no sooner dead, but the nation was rent in pieces by his eldest son Robert, contesting with his younger sons William and Henry for the crown. They being all dead, and their sons, the like happened between Stephen and Maud. Henry the second was made king to terminate all disputes; but it proved a fruitless expedient. Such as were more scandalous, and not less dangerous, did soon arise between him and his sons; who, besides the evils brought upon the nation, vexed him to death by their rebellion. The reigns of John and Henry the third were yet more tempestuous. Edward the second's lewd, foolish, infamous, and detestable government, ended in his deposition and death, to which he was brought by his wife and son. Edward the third employed his own and his subjects valour against the French and Scots. But while the foundations were out of order, the nation could never receive any advantage by their victories: all was calculated for the glory, and turned to the advantage of one man. He being dead, all that the English held in Scotland, and in France, was lost through the baseness of his successor, with more blood than it had been gained; and the civil wars raised by his wickedness and madness ended as those of Edward the second had done. The peace of Henry the fourth's reign was interrupted by dangerous civil

* Don Ferdinand and don Sancho el Bravo were the sons of Alphonso, or Alonso, el Sabio. Alphonso el Desheredado was the son of don Ferdinand.

† Buchan. Rerum Scot. Hist. Drummond's Hist. of Scotland, containing that of the five James's, from the year 1423 to 1542. Melvil's Memoirs, etc.

wars; and the victory obtained at Shrewsbury had not perhaps secured him in the throne, if his death had not prevented new troubles. Henry the fifth acquired such reputation by his virtue and victories, that none dared to invade the crown, during his life; but immediately after his death, the storms prepared against his family broke out with the utmost violence. His son's weakness encouraged Richard duke of York to set up a new title, which produced such mischiefs as hardly any people have suffered, unless upon the like occasion. For besides the slaughter of many thousands of the people, and especially of those who had been accustomed to arms, the devastation of the best parts of the kingdom, and the loss of all that our kings had inherited in France, or gained by the blood of their subjects, fourscore princes of the blood royal, as Philip de Comines calls them *, died in battle, or under the hand of the hangman. Many of the most noble families were extinguished; others lost their most eminent men. Three kings, and two presumptive heirs of the crown, were murdered, and the nation brought to that shameful exigence, to set up a young man to reign over them, who had no better cover for his fordid extraction than a Welsh pedigree, that might shew how a tailor was descended from prince Arthur, Cadwallader †, or Brutus. But the wounds of the nation were not to be healed with such a plaister. He could not rely upon a title made up of such stuff, and patched with a marriage to a princess of a very questionable birth. His own meanness inclined him to hate the nobility; and thinking it to be as easy for them to take the crown from him, as to give it to him, he industriously applied himself to glean up the remainders of the house of York, from whence a competitor might arise, and by all means to crush those who were most able to oppose him. This exceedingly weakened the nobility, who held the balance between him and the commons, and was a great step towards the dissolution of our antient government. But he was so far from settling the kingdom in peace, that such rascals as Perkin Warbeck and Simnel were able to disturb it. The reign of Henry the eighth was turbulent and bloody; that of Mary furious, and such as had brought us into subjection to the most powerful, proud, and cruel nation at that time in the world, if God had not wonderfully protected us. Nay, Edward the sixth, and queen Elizabeth, notwithstanding the natural excellency of their dispositions, and their knowledge of the truth in matters of religion, were forced, by that which men call "jealousy of state," to foul their hands so often with illustrious blood, that if their reigns deserve to be accounted among the most gentle of monarchies, they were more heavy than the government of any commonwealth: and yet their lives were never secure against such as conspired against them upon the account of title.

* Memoires de Ph. de Comines, l. 1, c. 7

† Edmund Tudor earl of Richmond, the father of Henry the seventh, deduced his pedigree from Cadwallader.

Having

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Having in some measure shewn, what miseries have been usually, if not perpetually, brought upon nations subject to monarchies, by the violence of some princes, and the baseness, folly, and cowardice of others, together with what they have suffered in contests for the several crowns, whilst men divided into divers factions strive with as much vehemency to advance the person they favour, as if they or their country were interested in the quarrel, and fight as fiercely for a master, as they might reasonably do to have none, I am not able to determine which of the two evils is the most mortal. It is evident the vices of princes result to the damage of the people; but whether pride and cruelty, or stupidity and sloth, be the worst, I cannot tell. All monarchies are subject to be afflicted with civil wars; but whether the most frequent and bloody do arise from the quarrels of divers competitors for crowns, before any one gain the possession of them, or afterwards, through the fears of him that would keep what he has gained, or the rage of those who would wrest it from him, is not so easily decided. But commonwealths are less troubled with those distempers. Women, children, or such as are notoriously foolish or mad, are never advanced to the supreme power. While the laws, and that discipline which nourishes virtue is in force, men of wisdom and valour are never wanting; and every man desires to give testimony of his virtue, when he knows it will be rewarded with honour and power. If unworthy persons creep into magistracies, or are by mistake any way preferred, their vices, for the most part, turn to their own hurt. The state cannot easily receive any great damage by the incapacity of one, who is not to continue in office above a year, and is usually encompassed with those, who, having borne, or are aspiring to the same, are by their virtue able to supply his defects, cannot hope for a reward from one unable to corrupt them, and are sure of the favour of the senate and people to support them in the defence of the public interest. As long as this good order continues, private quarrels are suppressed by the authority of the magistrate, or prove to be of little effect. Such as arise between the nobles and commons frequently produce good laws for the maintenance of liberty (as they did in Rome for above three hundred years after the expulsion of Tarquin) and almost ever terminate with little or no blood. Sometimes the errors of one or both parties are discovered by the discourse of a wise and good man; and those who have most violently opposed one another become the best friends, every one joining to remove the evil that causes the division. When the senate and people of Rome seemed to be most furiously incensed against each other, the creation of tribunes, communication of honours and marriages between the patrician and plebeian families, or the mitigation of usury, composed all. And these were not only harmless things, but such as gave opportunities of correcting the defects that had been in the first constitution of the government, without which they could never have attained to the greatness, glory, and happiness, they afterwards enjoyed. Such as had seen that people meeting in tumult, running through the city, crying out against the king, consuls, senate,

senate, or decemviri, might have thought they would have filled all with blood and slaughter; but no such thing happened. They desired no more than to take away the kingdom which Tarquin had wickedly usurped; and never went about so much as to punish one minister of the mischiefs he had done, or to take away his goods, till, upon pretence of treating, his ambassadors by a new treachery had cast the city into greater danger than ever. Though the decemviri had by the like villainies equally provoked the people, they were used with the like gentleness. Appius Claudius and Oppius having by voluntary death substracted themselves from public punishment, their colleagues were only banished*, and the magistracies of the city reduced to the former order, without the effusion of more blood. They who contended for their just rights were satisfied with the recovery of them. Whereas such as follow the impulse of an unruly ambition never think themselves safe, till they have destroyed all that seem able to disturb them, and satiated their rage with the blood of their adversaries. This makes as well as shews the difference between the tumults of Rome, or the secession of the common people to mount Aventine, and the battles of Lewes, Evesham, St. Alban's, Towton, Hexham, Barnet, Tewkesbury, and Bosworth. It is in vain to say these ought rather to be compared to those of Pharsalia, Actium, or Philippi; for when the laws of a commonwealth are abolished, the name also ceases. Whatever is done by force or fraud to set up the interests and lusts of one man, in opposition to the laws of his country, is purely and absolutely monarchical. Whatever passed between Marius, Sylla, Cinna, Catiline, Caesar, Pompey, Crassus, Augustus, Antonius, and Lepidus, is to be imputed to the contests that arise between competitors for monarchy, as well as those that in the next age happened between Galba, Otho, Vitellius, and Vespasian: or, which is worse, whereas all men in commonwealths fight for themselves, when there is occasion, and, if they succeed, enjoy the fruits of their victory, so that even those who remain of the vanquished party partake of the liberty thereby established, or the good laws thereupon made; such as followed the ensigns of those men, who sought to set up themselves, did, rather like beasts than men, hazard and suffer many unspeakable evils to purchase misery to themselves and their posterity, and to make one their master, who, increasing in pride, avarice and cruelty, was to be thrown down again with as much blood as he had been set up.

These things, if I mistake not, being in the last degree evident, I may leave to our author all the advantages he can gain by his rhetorical description of the tumults of Rome, "when blood was in the market-places sucked up with sponges, and the jakes stuffed with carcases;" to which he may add the crimes of Sylla's life, and the miseries of his death. But withal I desire to know, what number of sponges were sufficient to suck

* Spe incisa, priusquam predicta dies adesset, Appius sibi mortem conscivit . . . Oppius quoque ductus in vincula est, et ante iudicii diem finem ibi vitae fecit. Bona Claudii Oppiique tribuni publicaverunt. Collegae eorum exilii causa solum verterunt; bona publicata sunt. Liv. l. 3, c. 58.

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SECTION XXV

COURTS ARE MORE SUBJECT TO VENALITY AND CORRUPTION
THAN POPULAR GOVERNMENTS.

Though court-flatterers impute many evils to popular governments they no way deserve, I could not think any so impudent as to lay corruption and venality to their charge, till I found it in our author. They might in my opinion have taken those faults upon themselves, since they certainly abound most where bawds, whores, buffoons, players, slaves, and other base people, who are naturally mercenary, are most prevalent. And whoever would know whether this does more frequently befall commonwealths than monarchies, especially if they are absolute, need only to inquire, whether the Cornelii, Junii, Fabii, Valerii, Quintii, Curii, Fabricii, and others, who most prevailed in Rome after the expulsion of the kings, or Sejanus, Macro, Narcissus, Pallas, Ictus, Tigellinus, Vinus, Laco, Agrippina, Messalina, Lollia, Poppaea, and the like, were most subject to those base vices; whether it were more easy to corrupt one or two of those villains and strumpets, or the senates and people of Rome, Carthage, Athens, and Sparta; and whether that sort of rabble had more power over the princes they served, than such as most resembled them had, while the popular government continued. It is in vain to say those princes were wicked and vile; for many others are so likewise: and when the power is in the hands of one man, there can be no assurance he

† This transaction is recorded 2 Chron. ch. 13, v. 17. But probably there is an error in the text. The number of the slain is incredible. Our author immediately adds — “or of four hundred thousand who fell in one battle, between Joash and Amaziah, on the same occasion.”— The occasion was not the same; and we are not informed, what number fell in the battle. These words are therefore omitted in this edition.

will not be like them. Nay, when the power is so placed, ill men will always find opportunities of compassing their desires. “ Bonus, cautus, optimus imperator venditur,” said Dioclesian *. And though he was no unwise man, yet that which principally induced him to renounce the empire, was the impossibility he found of defending himself against those that were in credit with him, who daily betrayed and sold him. They see with the eyes of other men, and cannot resist the frauds that are perpetually put upon them. Antoninus Pius and Marcus Aurelius seem to have been the best and wisest of all the Roman emperors; but the two Faustina’s had such an ascendancy over them, as was most shameful to their persons, and mischievous to the empire, and the best men in it. Such as these may gain too much upon the affections of one man in the best regulated government: but that could be of no great danger to the public, when many others, equal or not much inferior to him in authority, are ready to oppose whatever he should endeavour to promote by their impulse. But there is no remedy, when all depends upon the will of a single person who is governed by them. There was more of acuteness and jest, than of truth, in that saying of Themistocles, “ that his little boy had more power than any man in Greece; for he governed his mother, she him, he Athens, and Athens Greece †.” For he himself was found to have little power, when for private passions and concerns he departed from the interest of the public. And the like has been found in all places that have been governed in the like manner.

Again, corruption will always reign most, where those who have the power do most favour it, where the rewards of such crimes are greatest, easiest, and most valued, and where the punishment of them is least feared.

1. We have already proved, that liberty cannot be preserved, if the manners of the people are corrupted, nor absolute monarchy introduced, if they are sincere; which is sufficient to shew, that those who manage free governments ought always, to the utmost of their power, to oppose corruption, because otherwise both they and their government must inevitably perish; and that, on the other hand, the absolute monarch must endeavour to introduce it, because he cannot subsist without it. It is also so natural for all such monarchs to place men in power, who pretend to love their persons, and will depend upon their pleasure, that possibly it would be hard to find one in the world, who has not made it the rule of his government: and this is not only the way to corruption, but the most dangerous of all. For though a good man may love a good monarch, he will obey him only when he commands that which is just; and no one

* Trebellius Pollio meminit, Diocletianum dicere solitum, quum in privatâ esset vitâ, nihil esse difficilius, quàm bene imperare: nam quisque pro voto de principe loquitur. Ad haec, principem cubiculo clusum vera minimè noscere, aures suis praebere, et horum verbis accendi, ac sedari, magistratus creare: denique sit qui imperat bonus, sit cautus, sit optimus, omninò venditur ab aulicis ac decipitur. Pomponii Laeti Rom. Hist. Compend. c. 17

† Εκείνος γαρ, επιταύτητος αντω πολλα τε υιε δια της μητρος, ω γυναι, ειπεν, Αθηναιοι μεν αρχουσι των Ελληνων· εγω δε, Αθηναϊων· εμε, δε συ· σε δε, ο υιος. Plut. in vitâ Catonis

CHAP. II can engage himself blindly to do whatever he is commanded, without renouncing all virtue and religion; because he knows not whether that which shall be commanded is consistent with either, or directly contrary to the laws of God and man. But if such a monarch be evil, and his actions such as they are too often found to be, whoever bears an affection to him, and second his designs, declares himself an enemy to all that is good; and the advancement of such men to power does not only introduce, foment, and increase corruption, but fortifies it in such a manner, that without an entire renovation of that state it cannot be removed. Ill men may possibly creep into any government; but when the worst are placed nearest to the throne, and raised to honours for being so, they will with that force endeavour to draw all men to a conformity of spirit with themselves, that it can no otherwise be prevented, than by destroying them, and the principle in which they live.

2. Man naturally follows that which is good, or seems to him to be so. Hence it is, that in well-governed states, where a value is put upon virtue, and no one honoured, unless for such qualities as are beneficial to the public, men are from their tenderest years brought up in a belief, that nothing in this world deserves to be sought after, but such honours as are acquired by virtuous actions. By this means virtue itself becomes popular, as in Sparta, Rome, and other places, where riches (which, with the vanity that follows them, and the honours men give to them, are the root of all evil) were either totally banished, or little regarded. When no other advantage attended the greatest riches, than the opportunity of living more sumptuously or deliciously, men of great spirits slighted them. When Aristippus told Diogenes, that if he would go to court, and flatter the tyrant, he need not seek his supper under a hedge, the philosopher answered, that he who could content himself with such a supper, need not go to court, or flatter the tyrant*. Epaminondas, Aristides, Phocion, and even the Lacedemonian kings, found no inconvenience in poverty, while their virtue was honoured, and the richest princes in the world feared their valour and power. It was not difficult for Curius †, Fabricius, Quintus Cincinnatus, or Aemilius Paulus, to content themselves with the narrowest fortune, when it was no obstacle to them in the pursuit of those honours, which their virtues deserved. It was in vain to think of bribing a man who supped upon the coleworts of his own garden. He could not be gained by gold, who did not think it necessary. He that could rise from the plough to the triumphal chariot, and contentedly return thither again, could not be corrupted; and he that left the sense of his poverty to his executors, who found not wherewith to bury him, might leave Macedon and Greece to the pillage of his soldiers, without taking to himself any part of the booty. But when luxury was brought into fashion,

* Cum olera ei lavanti Aristippus dixisset, "si Dionysium adulare velles, ista non esses, imo, inquit, si tu ista esse velles, non adulares Dionysium." Val. Max. l. 4, c. 3, § 4. Hor. l. 1, Ep. 17, v. 13. Diog. Laert. in vitâ Aristippi, l. 2, c. 10

† Vide Val. Max. l. 4, c. 3, § 5

and they came to be honoured who lived magnificently, though they had in themselves no qualities to distinguish them from the basest of slaves, the most virtuous men were exposed to scorn if they were poor; and that poverty, which had been the mother and nurse of their virtue, grew insupportable. The poet well understood what effect this change had upon the world, who said,

“ Nullum crimen abest, facinusque libidinis, ex quo

“ Paupertas Romana perit *.”

When riches grew to be necessary, the desire of them, which is the spring of all mischief, followed. They, who could not obtain honours by the noblest actions, were obliged to get wealth to purchase them from whores and villains, who exposed them to sale. And when they were once entered into this track, they soon learned the vices of those from whom they had received their preferment, and to delight in the ways that had brought them to it. When they were come to this, nothing could stop them: all thought and remembrance of good was extinguished. They, who had bought the commands of armies or provinces from Ictus or Narcissus, sought only how to draw money from them, to enable them to purchase higher dignities, or gain a more assured protection from those patrons. This brought the government of the world under a most infamous traffic, and the treasures arising from it were, for the most part, dissipated by worse vices than the rapine, violence, and fraud, with which they had been gotten. The authors of those crimes had nothing left but their crimes, and the necessity of committing more, through the indigence into which they were plunged by the extravagance of their expences. These things are inseparable from the life of a courtier. For as servile natures are guided rather by sense than reason, such as addict themselves to the service of courts, find no other consolation in their misery, than what they receive from sensual pleasures, or such vanities as they put a value upon; and have no other care, than to get money for their supply by begging, stealing, bribing, and other infamous practices. Their offices are more or less esteemed, according to the opportunities they afford for the exercise of these virtues; and no man seeks them for any other end than for gain, nor takes any other way, than that which conduces to it. The usual means of attaining them are, by observing the prince's humour, flattering his vices, serving him in his pleasures, fomenting his passions, and by advancing his worst designs, to create an opinion in him, that they love his person and are entirely addicted to his will. When valour, industry, and wisdom, advanced men to offices, it was no easy matter for a man to persuade the senate he had such qualities as were required, if he had them not. But when princes seek only such as love them, and will do what they command, it is easy to impose upon them; and because none that are good will obey them, when they command that which is not so, they are always encompassed by the worst. Those who

* Juv. Sat. 6, v. 293

CHAP. II follow them only for reward are most liberal in professing affection to them, and by these means rise to places of authority and power. The fountain being thus corrupted, nothing that is pure can come from it. These mercenary wretches having the management of affairs, justice and honours are set at a price, and the most lucrative traffic in the world is thereby established. Eutropius, when he was a slave, used to pick pockets and locks; but, being made a minister, he sold cities, armies, and provinces*. And some have undertaken to give probable reasons to believe, that Pallas, one of Claudius's manumised slaves, by these means brought together more wealth in six years, than all the Roman dictators and consuls had done from the expulsion of the kings to their passage into Asia. The rest walked in the same way, used the same arts, and many of them succeeded in the same manner. Their riches consisted not of spoils taken from enemies, but were the base product of their own corruption. They valued nothing but money. Those who would bribe them were sure to be advanced to the highest offices, and, whatever they did, feared no punishment. Like effects will ever proceed from the like causes. When vanity, luxury, and prodigality are in fashion, the desire of riches must necessarily increase in proportion to them; and when the power is in the hands of base mercenary persons, they will always (to use the courtiers phrase) make as much profit of their places as they can. Not only matters of favour, but of justice too, will be exposed to sale; and no way will be open to honours or magistracies, but by paying largely for them. He that gets an office by these means, will not execute it gratis: he thinks he may sell what he has bought; and would not have entered by corrupt ways, if he had not intended to deal corruptly. Nay, if a well-meaning man should suffer himself to be so far carried away by the stream of a prevailing custom, as to purchase honours of such villains, he would be obliged to continue in the same course, that he might gain riches to procure the continuance of his benefactors protection, or to obtain the favour of such as happen to succeed them. The corruption, thus beginning in the head, must necessarily diffuse itself into all the members of the commonwealth. Or, if any one, (which is not to be expected) after having been guilty of one villainy, should resolve to commit no more, it could have no other effect than to bring him to ruin; and he being taken away, all things would return to their former channel.

Besides this, whoever desires to advance himself must use such means as are suitable to the time in which he lives, and the humour of the persons with whom he is to deal. It had been as absurd for any man void of

* *Quid nervos secuisse juvat? vis nulla cruentam.
 Castrat avaritiam: parvis exercita furtis,
 Quae vastare penum, neglectaque sueverat arcae.
 Clausura remoliti, nunc uberiore rapinâ.
 Peccat in orbe manus: quicquid se Tigris ab Aemo.
 Dividit, hoc certâ proponit merce locandum
 Institor imperii, caupo famosus honorum.*

Claud. in Eutrop. l. 1, v. 191:
 merita

merit to set himself up against Junius Brutus, Cincinnatus, Papirius SEXT. 25
 Cursor, Camillus, Fabius Maximus, or Scipio; and, by bribing the
 senate and people of Rome, think to be chosen captain against the Tar-
 quins, Tuscans, Latins, Samnites, Gauls, or Carthaginians; as for the
 most virtuous men by the most certain proofs of their wisdom, experience,
 integrity, and valour, to expect advancement from Caligula, Claudius,
 and Nero, or the lewd wretches that governed them. They hated and
 feared all those that excelled in virtue; and, setting themselves to destroy
 the best for being the best, they placed the strength of the government in
 the hands of the worst, which produced the effects before-mentioned.
 This seems to have been so well known, that no man pretended to be
 great at court, but those who had cast off all thoughts of honour and
 common honesty. “*Revertar, cum leno, meretrix, scurra, cinaedus*
ero,” said one who saw what manners prevailed there; and where-ever
 they do prevail, such as will rise must render themselves conformable in
 all corruption and venality. And it may be observed, that a noble person
 now living among us, who is a great enemy to bribery, was turned out
 from a considerable office, as a scandal to the court: for, said the principal
 minister, he will make no profit of his place, and by that means casts a
 scandal upon those that do.

If any man say, this is not generally the fate of all courts, I confess
 it; and that, if the prince be just, virtuous, wise, of great spirit, and not
 pretending to be absolute, he may choose such men as are not mercenary,
 or take such a course as may render it hard for them to deserve bribes, or
 to preserve themselves from punishment, if they should deflect from his
 intention. A prince of this age, speaking familiarly with some great men
 about him, said, he had heard much of vast gains made by those who
 were near to princes; and asked, if they made the like? One of them
 answered, that they were as willing as others to get something, but that
 no man would give them a farthing; for, every one finding a free admit-
 tance to his majesty, no man needed a solicitor. And it was no less
 known, that he did of himself grant those things that were just, than that
 none of them had so much credit as to promote such as were not so. I
 will not say such a king is a phoenix: perhaps more than one may be
 found in an age; but they are certainly rare; and, all that is good in
 their government proceeding from the excellency of their personal virtues,
 it must fail, when that virtue fails, which was the root of it. Experi-
 ence shews, how little we can rely upon such a help; for, where crowns
 are hereditary, children seldom prove like to their fathers; and such as
 are elective have also their defects. Many seem to be modest and innocent
 in private fortunes, who prove corrupt and vicious, when they are raised
 to power. The violence, spite, and malice of Saul was never discovered,
 till the people had placed him on the throne. But where the government
 is absolute, or the prince endeavours to make it so, this integrity can
 never be found: he will always seek such as are content to depend upon
 his will; which being always unruly, good men will never comply; ill
 men.

CHAP. II men will be paid for it; and that opens a gap to all manner of corruption. Something like to this may befall regular monarchies, or popular governments. They who are placed in the principal offices of trust may be treacherous; and when they are so, they will always by these means seek to gain partisans and dependents upon themselves. Their designs being corrupt, they must be carried on by corruption; but such as would support monarchy in its regularity, or popular governments, must oppose it, or be destroyed by it. And nothing can better manifest how far absolute monarchies are more subject to this venality and corruption than the regular and popular governments, than that they are rooted in the principle of the one, which cannot subsist without them; and are so contrary to the others, that they must certainly perish, unless they defend themselves from them.

If any man be so far of another opinion, as to believe, that Brutus, Camillus, Scipio, Fabius, Hannibal, Pericles, Aristides, Agesilaus, Epaminondas, or Pelopidas, were as easily corrupted as Sejanus, Tigellinus, Vinus, or Laco; that the senate and people of Rome, Carthage, Athens, Sparta or Thebes, were to be bought at as easy rates as one profligate villain, a slave, a eunuch, or a whore; or though it was not in former ages, yet it is so now; he may be pleased to consider, by what means men now rise to places of judicature, church preferment, or any offices of trust, honour, or profit, under those monarchies which we know, that either are or would be absolute. Let him examine how all the offices of justice are now disposed of in France; how Mazarin came to be advanced; what traffic he made of abbies and bishopricks, and what treasures he gained by these means; whether the like has not continued since his death, and as a laudable example been transmitted to us since his majesty's happy restauration; whether bawds, whores, thieves, buffoons, parasites, and such vile wretches as are naturally mercenary, have not more power at Whitehall, Versailles, the Vatican, and the Escorial, than in Venice, Amsterdam, and Switzerland; whether Hyde, Arlington, Danby, their graces of Cleveland and Portsmouth, Sunderland, Jenkins, or Chiffinch, could probably have attained such power as they have had among us, if it had been disposed of by the suffrages of the parliament and people; or lastly, whether such as know only how to work upon the personal vices of a man, have more influence upon one who happens to be born in a reigning family, or upon a senate consisting of men chosen for their virtues and quality, or the whole body of a nation.

But if he, who possesses or affects an absolute power, be by his interest led to introduce that corruption, which the people, senate, and magistrates, who uphold popular governments, abhor, as that which threatens them with destruction; if the example, arts, and means used by him and his dependents, be of wonderful efficacy towards the introduction of it; if nothing but an admirable virtue, which can hardly be in one that enjoys or desires such a power, can divert him from that design; and if such virtue never did, nor probably ever will continue long in any one family,

we cannot rationally believe there ever was a race of men invested with, SECT. 25
 or possessing such a power; or that there will ever be any who have not,
 and will not endeavour to introduce that corruption, which is so necessary
 to the defence of their persons, and most important concerns, and
 certainly accomplish their great design, unless they are opposed or removed:

SECTION XXVI

CIVIL TUMULTS AND WARS ARE NOT THE GREATEST EVILS THAT BEFAL NATIONS.

“But skin for skin,” says our author, “and all that a man hath, will
 he give for his life.” And since it was necessary to grace his book
 with some Scripture phrases, none could be fitter for that purpose than
 those that were spoken by the devil. But they will be of little use to him.
 For though I should so far recede from truth, as to avow those words to
 be true, I might safely deny the conclusions he draws from them, “that
 those are the worst governments, under which most men are slain; or
 that more are slain in popular governments, than in absolute monar-
 chies.” For, having proved that all the wars and tumults, that have
 happened in commonwealths, have never produced such slaughters as
 were brought upon the empires of Macedon and Rome, or the kingdoms
 of Israel, Judah, France, Spain, Scotland, or England, by contests
 between several competitors for those crowns; if tumult, war, and
 slaughter, be the point in question, those are the worst of all governments,
 where they have been most frequent and cruel. But though these are
 terrible scourges, I deny that government to be simply the worst, which
 has most of them. It is ill, that men should kill one another in seditions,
 tumults, and wars; but it is worse, to bring nations to such misery,
 weakness, and baseness, as to have neither strength nor courage to con-
 tend for any thing; to have left nothing worth defending, and to give
 the name of peace to desolation. I take Greece to have been happy and
 glorious, when it was full of populous cities, flourishing in all the arts
 that deserve praise among men; when they were courted and feared by
 the greatest kings, and never assaulted by any but to his own loss and
 confusion; when Babylon and Susa trembled at the motion of their arms;
 and their valour, exercised in those wars and tumults, which our author
 looks upon as the greatest evils, was raised to such a power, that nothing
 upon earth was found able to resist them. And I think it now miserable,
 when peace reigns within their empty walls, and the poor remains of
 those exhausted nations, sheltering themselves under the ruins of the
 desolated cities, have neither any thing that deserves to be disputed among
 them, nor spirit or force to repel the injuries they daily suffer from a
 proud and insupportable master.

CHAP. II

The like may be said of Italy. Whilst it was inhabited by nations governing themselves by their own will, they fell sometimes into domestic seditions, and had frequent wars with their neighbours. When they were free, they loved their country, and were always ready to fight in its defence. Such as succeeded well, increased in vigour and power; and even those which were the most unfortunate in one age found means to repair their greatest losses, if their government continued. While they had a property in their goods, they would not suffer the country to be invaded, since they knew they could have none, if it were lost. This gave occasion to wars and tumults; but it sharpened their courage, kept up a good discipline, and the nations that were most exercised by them, always increased in power and number; so that no country seems ever to have been of greater strength than Italy was, when Hannibal invaded it: and after his defeat, the rest of the world was not able to resist their valour and power. They sometimes killed one another; but their enemies never got any thing but burying-places within their territories. All things are now brought into a very different method by the blessed governments they are under. The fatherly care of the king of Spain, the pope, and other princes, has established peace among them. We have not in many ages heard of any sedition among the Latins, Sabines, Volsci, Equi, Samnites, or others. The thin, half-starved inhabitants of walls supported by ivy fear neither popular tumults, nor foreign alarms; and their sleep is only interrupted by hunger, the cries of their children, or the howling of wolves. Instead of many turbulent, contentious cities, they have a few scattered, silent cottages; and the fierceness of those nations is so tempered, that every rascally collector of taxes extorts, without fear, from every man, that which should be the nourishment of his family. And if any of those countries are free from these pernicious vermin, it is through the extremity of their poverty. Even in Rome a man may be circumvented by the fraud of a priest, or poisoned by one who would have his estate, wife, whore, or child; but nothing is done that looks like tumult or violence. The governors do as little fear Gracchus as Hannibal; and instead of wearying their subjects in wars, they only seek, by perverted laws, corrupt judges, false witnesses, and vexatious suits, to cheat them of their money and inheritance. This is the best part of their condition. Where these arts are used, there are men, and they have something to lose; but for the most part the lands lie waste; and they, who were formerly troubled with the disorders incident to populous cities, now enjoy the quiet and peaceable estate of a wilderness.

Again, there is a way of killing worse than that of the sword: for as Tertullian says upon a different occasion, “*vetare nasci est interficere;**” those governments are in the highest degree guilty of blood, which by

* *Quomodo saluum hominem volet, quem vetat nasci . . . Non erit immanior duritia Pharaonis, nascentium enecatrix: nam ille animas adimit, hic non dat. . . Sub utroque homo interficitur; sub altero, jam editus; sub altero, edendus. Tert. adv. Marc. l. 1, sub finem.*

taking from men the means of living, bring some to perish through want, drive others out of the country, and generally dissuade men from marriage, by taking from them all ways of supporting their families. Notwithstanding all the seditions of Florence, and other cities of Tuscany, the horrid factions of Guelphs and Ghibelines, Neri and Bianchi*, nobles and commons, they continued populous, strong, and exceeding rich; but in the space of less than a hundred and fifty years, the peaceable reign of the Medici is thought to have destroyed nine parts in ten of the people of that province. Among other things it is remarkable; that when Philip the second of Spain gave Sienna to the duke of Florence, his ambassador then at Rome sent him word, that he had given away more than six hundred and fifty thousand subjects; and it is not believed there are now twenty thousand souls inhabiting that city and territory. Pisa, Pistoia, Arezzo, Cortona, and other towns, that were then good and populous, are in the like proportion diminished, and Florence more than any. When that city had been long troubled with seditions, tumults, and wars, for the most part unprosperous, they still retained such strength, that when Charles the eighth of France, being admitted as a friend with his whole army, which soon after conquered the kingdom of Naples, thought to master them, the people, taking up arms, struck such a terror into him, that he was glad to depart upon such conditions as they thought fit to impose †. Machiavel reports, that in the year 1298 Florence alone, with the Val d' Arno, a small territory belonging to that city, could, in a few hours, by the sound of a bell, bring together a hundred thousand well armed men ‡. Whereas now that city, with all the others in that province, are brought to such despicable weakness, emptiness, poverty, and baseness, that they can neither resist the oppressions of their own prince, nor defend him or themselves, if they were assaulted by a foreign enemy. The people are dispersed or destroyed, and the best families sent to seek habitations in Venice, Genoa, Rome, and Lucca. This is not the effect of war or pestilence: they enjoy a perfect peace, and suffer no other plague than the government they are under. But he who has thus cured them of disorders and tumults does, in my opinion, deserve no greater praise than a physician, who should boast there was not a sick person in a house committed to his care, when he had poisoned all that were in it. The Spaniards have established the like peace in the kingdoms of Naples and Sicily, the West-Indies, and other places. The Turks by the same means prevent tumults in their domi-

* Machiav. Ist. Florent. l. 2

† Gallis non mediocrem injiciebat metum Florentini populi ingens multitudo; qui, quo tempore status reipublicae fuerat mutatus, argumenta audaciae majora quam quisquam credidisset, ostenderat. Is quoque rumor pervulgatus non parum eos terrebat, nimirum, ad campani aeris, quod in turribus suspendi solet, ingentem sonitum, infinitam armatorum vim ex toto Florentinorum agro concursum facturam. In hoc communi metu, ad inanes saepe rumores utraque pars magno tumultu repente ad arma concurrebat. F. Guicciardini Hist. Sui Temporis, C. S. Curione interprete, l. 1, p. 110, et seq. Edit. Basil. 1567

‡ Machiav. Ist. Florent. l. 2

CHAP. II nions. And they are of such efficacy in all places, that Mario Chigi, brother to pope Alexander the seventh, by one fordid cheat upon the sale of corn, is said within eight years to have destroyed above a third part of the people in the ecclesiastical state. And that country, which was the strength of the Romans in the time of the Carthaginian wars, suffered more by the covetousness and fraud of that villain, than by all the defeats received from Hannibal.

It were an endless work to mention all the places, where this peaceable solitude has been introduced by absolute monarchy. But popular and regular governments have always applied themselves to increase the number, strength, power, riches, and courage, of their people, by providing comfortable ways of subsistence for their own citizens, inviting strangers, and inspiring them all with such a love to their country, that every man might look upon the public cause as his own, and be always ready to defend it. This may sometimes give occasion to tumults and wars, as the most vigorous bodies may fall into distempers. When every one is solicitous for the public, there may be difference of opinion; and some, by mistaking the way, may bring prejudice when they intend profit: but unless a tyrant do arise, and destroy the government, which is the root of their felicity; or they should be overwhelmed by the irresistible power of a virtue or fortune greater than their own, they soon recover, and, for the most part, rise up in greater glory and prosperity than before. This was seen in the commonwealths of Greece and Italy, which for this reason were justly called nurseries of virtue, and their magistrates preservers of men. Whereas our author's peace-making monarchs can deserve no better title than that of enemies and destroyers of mankind.

I cannot think him in earnest, when he exaggerates Sylla's cruelties, as a proof, that the mischiefs suffered under free states are more universal, than under kings and tyrants, for there never was a tyrant in the world, if he was not one; though through weariness, infirmity of body, fear, or perhaps the horror of his own wickedness, he at length resigned his power: but the evil had taken root so deep, that it could not be removed. There was nothing of liberty remaining in Rome. The laws were overthrown by the violence of the sword. The remaining contest was, who should be lord. And there is no reason to believe, that if Pompey had gained the battle of Pharsalia, he would have made a more modest use of his victory than Caesar did; or that Rome would have been more happy under him than under the other. His cause was more plausible because the senate followed him, and Caesar was the invader; but he was no better in his person, and his designs seem to have been the same. He had been long before "*suarum legum auctor ac subversor* *." He gave the beginning to the first triumvirate; and it were folly to think, that he,

* Cn. Pompeius tertium consul corrigendis moribus dilectus, et gravior remediis quam delicta erant, suarumque legum auctor idem ac subversor, quae armis tuebatur, armis amisit. Tacit. Ann. l. 3, § 28

who had been insolent when he was not come to the highest pitch of fortune, would have proved moderate if success had put all into his hands. The proceedings of Marius, Cinna, Catiline, Octavius, and Antonius, were all of the same nature. No laws were observed; no public good intended; the ambition of private persons reigned; and whatever was done by them, or for their interests, can no more be applied to popular, aristocratical, or mixed governments, than the furies of Caligula and Nero.

SECTION XXVII

THE MISCHIEFS AND CRUELITIES PROCEEDING FROM TYRANNY
ARE GREATER THAN ANY, THAT CAN COME FROM POPULAR
OR MIXED GOVERNMENTS.

It is now time to examine the reasons of our author's general maxims. "The cruelty," says he, "of a tyrant extends ordinarily no farther than to some particular men that offend him, and not to the whole kingdom. It is truly said by his late majesty king James, a king can never be so notoriously vicious, but he will generally favour justice, and maintain some order: except in particular cases, wherein his inordinate lusts may carry him away. Even the cruel Domitian, Dionysius the tyrant, and many others, are commended by historians as great observers of justice." It may be said of popular governments, that, though a people through error do sometimes hurt a private person, and that may possibly result to the public damage, because the man that is offended or destroyed might have been useful to the society, they never do it otherwise than by error. For, having the government in themselves, whatever is prejudicial to it is so to them; and if they ruin it, they ruin themselves: which no man ever did willingly and knowingly. In absolute monarchies the matter is quite otherwise. A prince that sets up an interest in himself becomes an enemy to the public. In following his own lusts he offends all, except a few of his corrupt creatures, by whose help he oppresses others with a yoke they are unwilling to bear, and thereby incurs the universal hatred. This hatred is always proportionable to the injuries received, which being extreme, that must be so too; and every people being powerful in comparison to the prince that governs, he will always fear those that hate him, and always hate those he fears. When Luigi Farnese, first duke of Parma, had by his tyranny incensed the people of that small city, their hatred was not less mortal to him than that of the whole empire had been to Nero; and as the one burned Rome, the other would have destroyed Parma, if he had not been prevented. The like has been, and will be every where, inasmuch as every man endeavours to destroy those he hates and fears; and the greatness of the danger often drives this fear to rage

CHAP. II and madness*. For this reason Caligula wished but one neck to all the people; and Nero triumphed over the burning city, thinking by that ruin he had prevented his own danger. I know not who the good authors are that commend Domitian for his justice: Tacitus calls him “principem virtutibus infensum †;” and it is hard to find out how such a man can be an observer of justice, unless it be just, that whoever dares to be virtuous under a vicious and base prince should be destroyed. Another author of the same time, speaking of him, does not say he was unjust, but gives us reason to think that he was so, unless it were just for him, who had a power over the best part of the world, to destroy it; and that he, who by his cruelty had brought it to the last gasp, would have finished the work, if his rage had not been extinguished ‡.

Many princes, not having in themselves power to destroy their people, have stirred up foreign nations against them, and placed the only hopes of their safety in the public calamity. And lawful kings, when they have fallen into the first degree of madness, so as to assume a power above that which was allowed by the law, have in fury proved equal to the worst usurpers. Cleonymus of Sparta was of this sort. He became, says Plutarch, an enemy to the city, because they would not allow him the absolute power he affected §; and brought Pyrrhus, the fiercest of their enemies, with a mighty and excellently well disciplined army, to destroy them. Vortigern the Briton called in the Saxons to the ruin of his own people, who were incensed against him for his lewdness, cruelty, and baseness ¶. King John for the like reasons offered the kingdom of England to the Moors, and to the pope. Peter the Cruel, and other kings of Castile, brought vast armies of Moors into Spain, to the ruin of their own people, who detested their vices, and would not part with their privileges. Many other examples of the like nature might be alleged: and I wish our own experience did not too well prove that such designs are common. Let him that doubts this examine the causes of the wars with Scotland in the years 1639, 1640; the slaughters of the protestants in Ireland 1641; the whole course of alliances and treaties for the space of fourscore years; the friendship contracted with the French; frequent quarrels with the Dutch; together with other circumstances that are already made too public. If he be not convinced by this, he may soon see a man in the throne, who had rather be a tributary to France than a lawful king of England, whilst either parliament or people shall dare to

* Cuncta ferit, dum cuncta timet.

Claud. in Eutrop. l. 1, v. 182.

† Crebro per eos dies apud Domitianum absens accusatus, absens absolutus est. Causa periculi non crimen ullum, aut querela laesi cujusquam, sed infensus virtutibus princeps, et gloria viri, ac pessimum inimicorum genus, laudantes. Tacit. in vitâ Agric. § 41

‡ Cum jam semianimum laceraret Flavius orbem

Ultimus, et calvo ferviret Roma Neroni.

Juv. Sat. 4, v. 37

§ ‘Ο δε Κλεωνυμος ην μεν γενος βασιλικος, δοκων δε βιαιος ειναι και μοναρχικος, ουτε ευνοϊαν, ουτε πισιν ειχεν, αλλ’ Αρεως εβασιλευσε και τρω μεν ην κοινον εγυλημα και βρεσβυτερου, αυτω προς τας πολιτας. Plut. in vitâ Pyrrhi.

¶ Mat. West. Flor. Hist. sub ann. 449. p. 81. Will. Malmesb. de Gestis Reg. Ang. l. 1, p. 8. dispute.

dispute his commands, insist upon their own rights, or defend a religion inconsistent with that which he has espoused; and then the truth will be so evident as to require no proof. SECT. 27

Grotius was never accused of dealing hardly with kings, or laying too much weight upon imaginary cases; nevertheless, among other reasons, that, in his opinion, justify subjects in taking arms against their princes, he alleges this, “*propter immanem saevitiam,*” and “*quando rex in populi exitium fertur* *;” inasmuch as it is “*contrary to, and inconsistent with the ends for which governments are instituted:*” which were most impertinent, if no such thing could be; for that which is not can have no effect. There are therefore princes who seek the destruction of their people, or none could be justly opposed on that account.

If king James was of another opinion, I could wish the course of his government had been suited to it. When he said, that whilst he had the power of making judges and bishops, he would make that to be law and gospel, which best pleased him, and filled those places with such as turned both according to his will and interests, I must think, that by overthrowing justice, which is the rule of civil and moral action, and perverting the gospel, which is the light of the spiritual man, he left nothing unattempted that he durst attempt, by which he might bring the most extensive and universal evils upon our nation that any can suffer. This would stand good, though princes never erred, unless they were transported with some “*inordinate lusts:*” for it is hard to find one that does not live in the perpetual power of them. They are naturally subject to the impulse of such appetites as well as others, and whatever evil reigns in their nature is fomented by education. It is the handle by which their flatterers lead them: and he that discovers to what vice a prince is most inclined, is sure to govern him by rendering himself subservient. In this consists the chief art of a courtier; and by these means it comes to pass, that such lusts, as in private men are curbed by fear, do not only rage as in a wild beast, but are perpetually inflamed by the malice of their own servants. Their hatred to the laws of God or men, that might restrain them, increases in proportion with their vices, or their fears of being punished for them. When they are come to this, they can set no limits to their fury; and there is no extravagance into which they do not frequently fall. But many of them do not expect these violent motives: the perversity of their own nature carries them to the extremities of evil. They hate virtue for its own sake, and virtuous men for being most unlike to themselves. Virtue is the dictate of reason, or the remains of divine light, by which men are made benevolent and beneficial to each other. Religion proceeds from the same spring, and tends to the same end; and the good of mankind so entirely depends upon these two, that no people ever enjoyed any

* *Ait Barclaius amitti regnum, si rex verè hostili animo in totius populi exitium fertur: quod concedo; consistere enim simul non possunt voluntas imperandi, et voluntas perdendi.* Grot. de Jure Belli, l. 1, c. 4, § 11

CHAP. II thing worth desiring that was not the product of them; and whatever any have suffered, that deserves to be abhorred and feared, has proceeded either from the defect of these, or the wrath of God against them. If any prince therefore has been an enemy to virtue and religion, he must also have been an enemy to mankind, and especially to the people under him. Whatever he does against those that excel in virtue and religion, tends to the destruction of the people who subsist by them. I will not take upon me to define who they are, or to tell the number of those that do this: but it is certain there have been such; and I wish I could say they were few in number, or that they had lived only in past ages. Tacitus does not fix this upon one prince, but upon all that he writes of; and to give his readers a taste of what he was to write, he says, “that nobility and honours were dangerous, but that virtue brought most certain destruction* ;” and in another place, that, “after the slaughter of many excellent men, Nero resolved to cut down virtue itself, and therefore killed Thrasea Paetus, and Barea Soranus †.” And whoever examines the christian or ecclesiastical histories, will find those princes to have been no less enemies to virtue and religion than their predecessors, and consequently, enemies to the nations under them: unless religion and virtue be things prejudicial or indifferent to mankind.

But our author may say, these were particular cases.—And so was the slaughter of the prophets and apostles, the crucifixion of Christ, and all the villainies that have ever been committed; yet they proceeded from a universal principle of hatred to all that is good, exerting itself, as far as it could, to the ruin of mankind; and nothing but the over-ruling power of God, who resolved to preserve to himself a people, could set bounds to their rage, which in other respects had as full success, as our author, or the devil, could have wished.

Dionysius, his other example of justice, deserves observation. More falsehood, lewdness, treachery, ingratitude, cruelty, baseness, avarice, impudence, and hatred to all manner of good, was hardly ever known in a mortal creature. For this reason, Diogenes seeing him at Corinth, though in a poor and contemptible condition, said, he rather deserved to have continued in the misery, fears, and villainies, of his tyranny, than to be suffered peaceably to converse with honest men ‡. And if such as these are to be called observers of justice, it must be concluded, that the laws of God, and of men, are either of no value, or contrary to it; and that the destruction of nations is a better work than their preservation. No faith is to be observed; temples may be justly sacked; the best men slain for daring to be better than their masters; and the whole world, if it were in the power of one man, rightly torn in pieces and destroyed.

* Nobilitas, opes, omisi gestique honores, pro crimine; et ob virtutes, certissimum exitium. Tacit. Hist. l. 1, § 3.

† Trucidatis tot insignibus viris, ad postremum Nero virtutem ipsam excindere concupivit, interfectis Barea Sorano, et Thrasea Paeto. Ann. l. 16, § 21.

‡ Plut. de Gerend. Rep. Vol. 2, c. 54.

His reasons for this are as good as his doctrine. "It is, says he, the SECT. 27
 " multitude of people, and abundance of their riches, which are the
 " only strength and glory of every prince. The bodies of his subjects
 " do him service in war, and their goods supply his public wants.
 " Therefore, if not out of affection to his people, yet out of natural love
 " unto himself, every tyrant desires to preserve the lives and goods of
 " his subjects." I should have thought that princes, though tyrants,
 being God's vicegerents, and fathers of their people, would have sought
 their good, though no advantage had thereby redounded to themselves:
 but it seems no such thing is to be expected from them. They consider
 nations, as graziers do their herds and flocks, according to the profit that
 can be made of them. And if this be so, a people has no more security
 under a prince, than a herd or flock under their master. Though he
 desire to be a good husband, yet they must be delivered up to the slaughter,
 when he finds a good market, or a better way of improving his land:
 but they are often foolish, riotous, prodigal, and wantonly destroy their
 flock, though to their own prejudice. We thought that all princes and
 magistrates had been set up, that under them we might live quietly and
 peaceably, in all godliness and honesty. But our author teaches us, that
 they only seek what they can make of our bodies and goods, and that
 they do not live and reign for us, but for themselves. If this be true,
 they look upon us not as children, but as beasts; nor do us any good for
 our own sakes, or because it is their duty, but only that we may be useful
 to them, as oxen are put into plentiful pastures, that they may be strong
 for labour, or fit for slaughter. This is the divine model of government
 that he offers to the world. The just magistrate is the minister of God
 for our good. But this absolute monarch has no other care of us, than
 as our riches and multitude may increase his own glory and strength. We
 might easily judge what would be the issue of such a principle, when the
 being of nations depending upon his will must also depend upon his opi-
 nion, whether the strength, multitude, and riches, of a people, do con-
 duce to the increase of glory and power, or not, though histories were
 silent in the case; for these things speak of themselves. The judgment
 of a single man is not to be relied upon: the best and wisest do often err,
 the foolish and perverse always. And our discourse is not of what Moses
 or Samuel would do, but what may come into the fancy of a furious or
 wicked man, who may usurp the supreme power, or a child, a woman,
 or a fool, that may inherit it. Besides, the proposition upon which he
 builds his conclusion, proves often false. For as the riches, power, num-
 ber, or courage, of our friends, is for our advantage, and that of our
 enemies threatens us with ruin, those princes only can reasonably believe
 the strength of their subjects beneficial to them, who govern so as to be
 assured of their affection, and that their strength will be employed for
 them. But those who know they are, or deserve to be hated, cannot but
 think it will be employed against them, and always seek to diminish that
 which creates their danger. This must certainly befall as many as are
 lewd,

CHAP. II lewd, foolish, negligent, imprudent, cowardly, wicked, vicious, or any way unworthy the places they obtain : for their reign is a perpetual exercise of the most extreme and ruinous injustice. Every man, who follows an honest interest, is prejudiced; every one who finds the power that was ordained for his good, to be turned to his hurt, will be angry, and hate him that does it. If the people be of uncorrupted manners, this hatred will be universal, because every one of them desires that which is just. If composed of good and evil, the first will always be averse to the evil government, and the others endeavouring to uphold it, the safety of the prince must depend upon the prevalence of either party. If the best prove to be the strongest, he must perish. And knowing himself to be supported only by the worst, he will always destroy as many of his enemies as he can; weaken those that remain; enrich his creatures with their spoils and confiscations; by fraud and rapine accumulate treasures to increase the number of his party, and advance them into all places of power and trust, that by their assistance he may crush his adversaries; and every man is accounted his adversary who has either estate, honour, virtue, or reputation. This naturally casts all the power into the hands of those who have no such dangerous qualities, nor any thing to recommend them, but an absolute resignation of themselves to do whatever they are commanded. These men having neither will nor knowledge to do good, as soon as they come to be in power, justice is perverted, military discipline neglected, the public treasures exhausted, new projects invented to raise more; and the prince's wants daily increasing, through their ignorance, negligence, or deceit, there is no end of their devices and tricks to gain supplies. To this end, swarms of spies, informers, and false witnesses, are sent out to circumvent the richest and most eminent men; the tribunals are filled with court-parasites of profligate consciences, fortunes, and reputation, that no man may escape who is brought before them. If crimes are wanting, the diligence of well-chosen officers and prosecutors, with the favour of the judges, supply all defects; the law is made a snare, virtue suppressed, vice fomented, and, in a short time, honesty and knavery, sobriety and lewdness, virtue and vice, become badges of the several factions; and every man's conversation and manners shewing to what party he is addicted, the prince who makes himself head of the worst must favour them to the overthrow of the best: which is so straight a way to an universal ruin, that no state can prevent it, unless that course be interrupted.

These things considered, no general judgment can be made of a magistrate's counsels, from his name or duty. He that is just, and become grateful to the people by doing good, will find his own honour and security in increasing their number, riches, virtue, and power. If on the other side, by doing evil, he has drawn upon himself the public hatred, he will always endeavour to take from them the power of doing him any hurt, by bringing them into the utmost weakness, poverty, and baseness. And whoever would know whether any particular prince desires to increase

increase or destroy the bodies and goods of his subjects, must examine whether his government be such as renders him grateful or odious to them; and whether he pursues the public interest, or, for the advancement of his own authority, sets up one in himself contrary to that of his people, which can never befall a popular government; and consequently, no mischief equal to it can be produced by any such, unless something can be imagined worse than corruption and destruction. SECT. 28

SECTION XXVIII

MEN LIVING UNDER POPULAR OR MIXED GOVERNMENTS ARE MORE CAREFUL OF THE PUBLIC GOOD, THAN IN ABSOLUTE MONARCHIES.

Our author delighting in strange things does in the next place, with an admirable sagacity, discover two faults in popular governments, which were never found by any man before him; and these are no less than ignorance and negligence. Speaking of the care of princes to preserve their subjects, he adds, "on the contrary, in a popular state, every man knows the public good doth not wholly depend on his care, but the commonwealth may be well enough governed by others, though he only tend his private business." And a little below, "nor are they much to be blamed for their negligence, since it is an even wager their ignorance is as great. The magistrates among the people, being for the most part annual, do always lay down their office before they understand it; so that a prince of a duller understanding must needs excel them." This is bravely determined, and the world is beholden to Filmer for the discovery of the errors that have hitherto been epidemical. Most men had believed, that such as live in free states are usually pleased with their condition, and desire to maintain it; and that every man finding his own good comprehended in that of the public, as those who sail in the same ship, employs the talent he has in endeavouring to preserve it, knowing that he must perish if that miscarry. This was an encouragement to industry; and the continual labours and dangers, to which the Romans and other free nations exposed themselves, have been taken for testimonies, that they thought themselves concerned in the businesses that passed among them, and that every one did not neglect them, through an opinion that they would be done well enough by others. It was also thought, that free cities, by frequent elections of magistrates, became nurseries of great and able men, every man endeavouring to excel others, that he might be advanced to the honour he had no other title to, than what might arise from his merit or reputation; in which they succeeded so well, that one of them may be justly said to have produced more eminent men, than all the absolute monarchies that have been in the world. But these

CHAP. II were mistakes. Perhaps Brutus, Valerius, and other Roman senators or magistrates, for the space of three hundred years, might have taken some care of the commonwealth, if they had thought it wholly depended upon one of them. But believing it would be well enough governed by others, they neglected it. Camillus, Cincinnatus, Papirius, Fabius Rutilianus and Maximus, Scipio Africanus, Amilcar, Hannibal, Pericles, Themistocles, Alcibiades, Epaminondas, Philopoemen, and others, might have proved able men in affairs of war or government; but they were removed from their offices before they understood them, and must needs be excelled in both by princes, though of duller understanding. This may be enough to excuse them for performing their duty so slackly and meanly. But it is strange, that Tacitus, and others, should so far overlook the reason, and so grossly mistake the matter of fact, as not only to say, that great and excellent spirits failed when liberty was lost, and all preferments given to those who were most propense to slavery; but that there wanted men even to write the history, “*in scitiâ reipublicae ut alienae**.” They never applied themselves to understand affairs depending upon the will of one man, in whom they were no otherwise concerned, than to avoid the effects of his rage; and that was chiefly to be done, by not falling under the suspicion of being virtuous. This was the study then in request; and the most cunning in this art were called “*scientes temporum.*” No other wisdom was esteemed in that and the ensuing ages; and no more was required, since the paternal care, deep wisdom, and profound judgment of the princes provided for all. And though they were of duller understandings, they must needs excel other magistrates, who having been created only for a year, left their offices before they could understand the duties of them. This was evidenced by that tenderness, and sincerity of heart, as well as the great purity of manners, observed in Tiberius; the clemency, justice, solid judgment, and frugality of Caligula; the industry, courage, and sobriety of Claudius; the good-nature, and prudent government of Nero; the temperance, vivacity, and diligence of Vitellius; the liberality of Galba and Vespasian; together with the encouragement given by Domitian, Commodus, Heliogabalus, and many others, to all manner of virtues, and favours conferred upon those that excelled in them. Our author, giving such infallible proof of his integrity and understanding, by teaching us these things that would never have come into our heads, ought to be credited, though that which he proposes seems to be most absurd. But if we believe such as lived in those times, or those who in later ages have perused their writings, we cannot but think the princes before-mentioned, and the greatest part of those, who possessed the same places, not only to have been void of all virtue, and to have suffered none to grow up under them, but in baseness, sottishness, and malice, to have been equal to the worst of all beasts. Whilst one prince †, polluted with lust and blood, sat in

* Tacit. Hist. l. 1, § 1

† Tiberius

his grotto at Capreae, furrounded with an infamous troop of astrologers; and others were governed by whores, bardaches, manumifed flaves, and other villains, the empire was ruined through their negligence, incapacity, and wickednefs; and the city that had flourifhed in all manner of virtue, as much or more than any that has been yet known in the world, produced no more; the difcipline was diffolved that nourifhed it; no man could hope to advance a public good, or obviate an evil, by his diligence and valour; and he who acquired reputation by either, could expect no other reward than a cruel death. If Germanicus and Corbulo, who were born when liberty was expiring*, be brought for examples againft the firft part of my affertion, their ends will juftify the latter; and no eminent Roman family is known to have brought forth a man that deferved to be named in hiftory fince their time. This is as probable in reafon, as true in fact. Men are valiant and induftrious, when they fight for themfelves, and their country. They prove excellent in all the arts of war and peace, when they are bred up in virtuous exercifes, and taught by their fathers and mafters to rejoice in the honours gained by them. They love their country, when the good of every particular man is comprehended in the public profperity, and the fuccefs of their atchievements is improved to the general advantage. They undertake hazards and labours for the government, when it is juftly adminiftered; when innocence is fafe, and virtue honoured; when no man is diftinguifhed from the vulgar, but fuch as have diftinguifhed themfelves by the bravery of their actions; when no honour is thought too great for thofe who do it eminently, unlefs it be fuch as cannot be communicated to others of equal merit. They do not fpare their perfons, purfes, or friends, when the public powers are employed for the public benefit, and imprint the like affections in their children from their infancy. The difcipline of obedience, in which the Romans were bred, taught them to command; and few were admitted to the magiftracies of inferior rank, till they had given fuch proof of their virtue as might deferve the fupreme. Cincinnatus, Camillus, Papirius, Mamercus, Fabius Maximus, were not made dictators, that they might learn the duties of the office; but becaufe they were judged to be of fuch wifdom, valour, integrity, and experience, that they might be fafely trusted with the higheft powers. And, while the law reigned, not one was advanced to that honour, who did not fully anfwer what was expected from him. By thefe means the city was fo replenifhed with men fit for the greateft employments, that even in its infancy, when three hundred and fix of the Fabii, “quorum neminem,” fays Livy, “ducem fperneret quibuilibet temporibus fenatus †,” were killed in one day, the city did lament the lofs; but was not fo weakened as to give any advantage to

* Tacitus fpeaking of the beginning of the reign of Tiberius, fays, *Manebant etiam tum veftigia morientis libertatis.* Tacit. Ann. l. i. § 74

† *Sex et trecenti milites, omnes patricii, omnes unius gentis, quorum neminem ducem fperneret egregius quibuilibet temporibus fenatus, ibant unius familiae viribus, Veiento populo peftem minitantes.* Liv. l. 2, c. 49

CHAP. II their enemies. And when every one of those who had been eminent before the second Punic war, Fabius Maximus only excepted, had perished in it, others arose in their places, who surpassed them in number, and were equal to them in virtue. The city was a perpetual spring of such men, as long as liberty lasted; but that was no sooner overthrown, than virtue was torn up by the roots; the people became base and fordid, the small remains of the nobility slothful and effeminate, and their Italian associates becoming like to them, the empire, whilst it stood, was only sustained by the strength of foreigners.

The Grecian virtue had the same fate, and expired with liberty. Instead of such soldiers as in their time had no equals, and such generals of armies and fleets, legislators and governors, as all succeeding ages have justly admired, they sent out swarms of fiddlers, jesters, chariot-drivers, players, bawds, flatterers, ministers of the most impure lusts, or idle, babbling, hypocritical philosophers, not much better than they. The emperors courts were always crowded with these vermin; and notwithstanding the necessity our author imagines, that princes must needs understand matters of government better than magistrates annually chosen, they did for the most part prove so brutish as to give themselves, and the world, to be governed by such as these, and that without any great prejudice, since none could be found more ignorant, lewd, and base, than themselves.

It is absurd to impute this to the change of times; for time changes nothing; and nothing was changed in those times, but the government, and that changed all things. This is not accidental, but according to the rules given to nature by God, imposing upon all things a necessity of perpetually following their causes. Fruits are always of the same nature with the seeds and roots from which they come, and trees are known by the fruits they bear. As a man begets a man, and a beast a beast, that society of men which constitutes a government upon the foundation of justice, virtue, and the common good, will always have men to promote those ends; and that which intends the advancement of one man's desires and vanity, will abound in those that will foment them. All men follow that which seems advantageous to themselves. Such as are bred under a good discipline, and see that all benefits, procured to their country by virtuous actions, redound to the honour and advantage of themselves, their children, friends, and relations, contract from their infancy a love to the public, and look upon the common concerns as their own. When they have learned to be virtuous, and see that virtue is in esteem, they seek no other preferments than such as may be obtained that way; and no country ever wanted great numbers of excellent men, where this method was established. On the other side, when it is evident, that the best are despised, hated, or marked out for destruction; that all things are calculated to the humour or advantage of one man, who is often the worst, or governed by the worst; that honours, riches, commands, and dignities, are disposed by his will, and his favour gained only by a most obsequious respect, or a pretended affection to his person, together with a servile obedience

obedience to his commands, all application to virtuous actions will cease; and no man caring to render himself or his children worthy of great employments, such as desire to have them will, by little intrigues, corruption, servility, and flattery, endeavour to make way to them: by which means true merit in a short time comes to be abolished; as fell out in Rome as soon as the Cæsars began to reign.

SECT. 28

He who does not believe this, may see whether the like did not happen in all the other commonwealths of Italy and Greece. Or if modern examples are thought to be of more value, let him examine, whether the noblemen of Venice, who are born and bred in families that never knew a master, who act for themselves, and have a part in all the good or evil that befalls the commonwealth, and know, that if it be destroyed, they must perish, or at least, that all changes are to their prejudice, do neglect the public interests, as thinking, that the whole not depending upon any one of them, things will be well enough governed, though they attend only to their private benefit. Let it be observed, whether they do better understand the common concerns, than the great men of France or Spain, who never come to the knowledge of any thing, unless they happen to be favoured by the king, or his ministers, and know themselves never to be more miserable than when their master is most prosperous. For my own part, I cannot think it necessary to allege any other proof of this point, than that when Maximilian the emperor, Lewis the twelfth of France, the fierce pope Julius the second, and Ferdinand the subtle and powerful king of Spain, had, by the league of Cambray, combined against the Venetians, gained the battle of Giera d'Adda, taken Alviano their general prisoner, deprived them of all their dominion on the Terra firma *, and prepared to assault the city, it was, under God, solely preserved by the vigour and wisdom of their nobility, who, though no way educated to war, unless by sea, sparing neither persons nor purses, did with admirable industry and courage first recover Padua, and then many other cities, so that at the end of that terrible war they came off without any diminution of their territories. Whereas Portugal having in our age revolted from the house of Austria, no one doubts, but that it had been immediately reduced, if the great men of Spain had not been pleased with such a lessening of their master's power, and resolved not to repair it by the recovery of that kingdom, nor to deprive themselves of an easy retreat, when they should be oppressed by him, or his favourites. The like thought was more plainly expressed by the marshal de Bassompierre, who, seeing how hardly Rochelle was pressed by Lewis the thirteenth, said, "he thought they should be such fools as to take it †." It was believed they would

* Omnes propemodum orbis Christiani principes societatem contraxerant adversus Venetos, quos cum Ludovicus XII, memorabili apud Ripaltam pugna cecidisset, imperium eorum exuere Bergamum, Brixia, Cremona, Verona, Vicentia, Patavium, &c. Leand. Alberti Descript. Italiae. Paulo Paruta Istor. Veneziana. Guicciard. l. 8.—The battle of Giera d'Adda, or, as it is here called, Ripalta, was fought A. D. 1509

† Je croy qu' enfin nous serons assez fous pour prendre la Rochelle. ***

never

CHAP. II never have been such fools; and the treachery only of our countrymen did enable the cardinal Richelieu to do it, as, for his own glory, and the advancement of the popish cause, he really intended. And nothing is, to this day, more common in the mouths of their wisest and best men, though papists, than the acknowledgment of their own folly in suffering that place to fall, the king having by that means gotten power to proceed against them at his pleasure. The brave monsieur de Turenne is said to have carried this to a greater height in his last discourse to the present king of France. "You think, said he, you have armies, but you have none. "The one half of the officers are the bawdy-house companions of monsieur de ***, or the creatures of his whore, madam de ***: the other half may be men of experience, and fit for their employments; but they are such as would be pleased with nothing more than to see you lose two or three battles, that coming to stand in need of them, you might cause them to be better used by your ministers, than of late they have been." It may easily be imagined how men with such sentiments do serve their master. And nothing is more evident, than that the French in this age have had so great advantages, that they might have brought Europe, and perhaps Asia, under their power, if the interest of the nation had been united to that of the government, and the strength, vigour, and bravery of the nobility employed that way. But since it has pleased God to suffer us to fall into a condition of being little able to help ourselves, and they are in so good terms with the Turk as not to attack him, it is our happiness that they do not know their own strength, or cannot, without ruin to themselves, turn it to our prejudice.

I could give yet more pregnant testimonies of the difference between men fighting for their own interests, in the offices to which they had been advanced by the votes of numerous assemblies, and such as serve for pay, and get preferments by corruption or favour, if I were not unwilling to stir the spleen of some men by obliging them to reflect upon what has passed in our own age and country; to compare the justice of our tribunals, within the time of our memory, and the integrity of those, who for a while managed the public treasure*; the discipline, valour, and strength of our armies and fleets; the increase of our riches and trade; the success of our wars in Scotland, Ireland, and at sea; the glory and reputation not long since gained, with that condition into which we are of late fallen. But I think I shall offend no wise or good man, if I say, that as neither the Romans, nor Grecians, in the time of their liberty, ever performed any actions more glorious, than freeing the country from a civil war that had raged in every part, the conquest of two such kingdoms as Scotland and Ireland, and crushing the formidable power of the Hollanders by sea; nor ever produced more examples of valour, industry, integrity, and in all respects complete, disinterested, unmoveable, and incorruptible virtue, than were at that time seen in our nation; so neither of them, upon the change of their affairs, did exceed us in weakness,

* The parliament of 1641

cowardice, baseness, venality, lewdness, and all manner of corruption. We have reason therefore not only to believe, that all princes do not necessarily understand the affairs of their people, or provide better for them than those who are otherwise chosen; but that, as there is nothing of greatness, power, riches, strength, and happiness, which we might not reasonably have hoped for, if we had rightly improved the advantages we had, so there is nothing of shame and misery which we may not justly fear, since we have neglected them. SECT. 28

If any man think that this evil of advancing officers for personal respects, favour, or corruption, is not of great extent, I desire him to consider, that the officers of state, courts of justice, church, armies, fleets, and corporations, are of such number and power, as wholly to corrupt a nation, when they themselves are corrupted; and will ever be corrupt, when they attain to their offices by corruption. The good management of all affairs, civil, military, and ecclesiastical, necessarily depends upon good order and discipline; and it is not in the power of common men to reform abuses patronized by those in authority, nor to prevent the mischiefs thereupon ensuing; and, not having power to direct public actions to the public good, they must consequently want the industry and affection that is required to bring them to a good issue. The Romans were easily beaten under the decemviri, though immediately before the erection, and after the extinction of that power, none of their neighbours were able to resist them. The Goths, who with much glory had reigned in Spain for about three hundred years, had neither strength nor courage under their lewd and odious king Roderic, and were in one day subdued with little loss of blood by the Saracens*, and could not in less than eight hundred years free their country from them. That brave nation, having of late fallen under as base a conduct, has now as little heart or power to defend itself. Court parasites have rendered valour ridiculous; and they who have ever shewed themselves as much inclined to arms as any people of the world, do now abhor them, and are sent to the wars by force, laid in carts, bound like calves brought to the shambles, and left to starve in Flanders, as soon as they arrive. It may easily be judged what service can be expected from such men, though they should happen to be well commanded: but the great officers, by the corruption of the court, think only of enriching themselves; and, increasing the misery of the soldiers by their frauds, both become equally useless to the state.

Notwithstanding the seeming prosperity of France, matters there are not much better managed. The warlike temper of that people is so worn out by the frauds and cruelties of corrupt officers, that few men list themselves willingly to be soldiers; and, when they are engaged or forced, they are so little able to endure the miseries to which they are exposed, that they daily run away from their colours, though they know not whither to go, and expect no mercy, if they are taken. The king has in vain attempted to correct this humour by the severity of martial law. But mens minds

* A. D. 714

CHAP. II will not be forced; and though his troops are perfectly well armed, clothed, and exercised, they have given many testimonies of little worth. When the prince of Condé had by his own valour, and the strength of the king's guards, broken the first line of the prince of Orange's army at the battle of Seneff, and put the rest into disorder, he could not make the second and third line of his own army advance, and reinforce the first; by which means, he lost all the fair hopes he had conceived of an entire victory. Not long after, the marshal de Crequi was abandoned by his whole army near Triers, which ran away, hardly striking a stroke, and left him with sixteen horse to shift for himself. When monsieur de Turenne, by the excellency of his conduct and valour, had gained such a reputation amongst the soldiers, that they thought themselves secure under him, he did not suffer such disgraces. But he being killed, they returned to the usual temper of forced and ill-used soldiers: half the army was lost in a retreat, little differing from a flight; and the rest, as they themselves confess, saved by the bravery of two English regiments. The prince of Condé was soon after sent to command; but he could not, with all his courage, skill, and reputation, raise their fallen spirits, nor preserve his army any other way, than by lodging them in a camp near Schlestadt, so fortified by art and nature, that it could not be forced.

To these we may add some examples of our own. In our late war, the Scots foot, whether friends or enemies, were much inferior to those of the parliament, and their horse esteemed as nothing. Yet in the year 1639, and 1640, the king's army, though very numerous, excellently armed and mounted, and, in appearance, able to conquer many such kingdoms as Scotland, being under the conduct of courtiers, and affected as men usually are towards those that use them ill, and seek to destroy them, they could never resist a wretched army commanded by Leven; but were shamefully beaten at Newburn, and left the northern counties to be ravaged by them.

When Van Tromp set upon Blake in Folkstone Bay, the parliament had not above thirteen ships against threescore, and not a man that had ever seen any other fight at sea, than between a merchant-ship and a pirate, to oppose the best captain in the world, attended with many others in valour and experience not much inferior to him. Many other difficulties were observed in the unsettled state: few ships, want of money, several factions, and some, who to advance particular interests betrayed the public. But such was the power of wisdom and integrity in those that sat at the helm, and their diligence in choosing men only for their merit was blessed with such success, that in two years our fleets grew to be as famous as our land-armies; the reputation and power of our nation rose to a greater height, than when we possessed the better half of France, and the kings of France and Scotland were our prisoners. All the states, kings, and potentates of Europe, most respectfully, not to say submissively, sought our friendship; and Rome was more afraid of Blake and his fleet, than they had been of the great king of Sweden, when he was ready to invade

Italy with a hundred thousand men. This was the work of those, who, if our author says true, "thought basely of the public concernments;" and, believing things might be well enough managed by others, minded only their private affairs. These were the effects of the negligence and ignorance of those, who, being suddenly advanced to offices, were removed before they understood the duties of them. These diseases, which proceed from popular corruption and irregularity, were certainly cured by the restitution of that integrity, good order and stability, that accompany divine monarchy. The justice of the war made against Holland in the year 1665; the probity of the gentleman, who, without partiality or bribery, chose the most part of the officers that carried it on; the wisdom, diligence, and valour manifested in the conduct, and the glory with which it was ended, justifies all that our author can say in its commendation. If any doubt remains, the subtilty of making the king of France desire, that the Netherlands might be an accession to his crown; the ingenious ways taken by us to facilitate the conquest of them; the industry of our embassadors in diverting the Spaniards from entering into the war, till it was too late to recover the losses sustained; the honourable design upon the Smyrna fleet, and our frankness in taking the quarrel upon ourselves; together with the important figure we now make in Europe, may wholly remove it; and in confirmation of our author's doctrine, shew, that princes do better perform the offices that require wisdom, industry, and valour, than annual magistrates; and do more seldom err in the choice of officers, than senates and popular assemblies.

SECTION XXIX

THERE IS NO ASSURANCE THAT THE DISTEMPERS OF A STATE SHALL BE CURED BY THE WISDOM OF A PRINCE.

But, says our author, the virtue and wisdom of a prince supplies all: "though he were of a duller understanding, by use and experience he must needs excel all." Nature, age, or sex, are, as it seems, nothing to the case. A child, as soon as he comes to be a king, has experience; the head of a fool is filled with wisdom, as soon as a crown is set upon it; and the most vicious do in a moment become virtuous. This is more strange than that an ass being trained to a course should out-run the best Arabian horse; or a hare bred up in an army become more strong and fierce than a lion: for fortune does not only supply all natural defects in princes, and correct their vices, but gives them the benefit of use and experience, when they have none. Some reasons and examples might have been expected to prove this extraordinary proposition: but according to his laudable custom, he is pleased to trouble himself with neither; and thinks, that the impudence of an assertion is sufficient to make that to pass,

I i

which

CHAP. II which is repugnant to experience and common sense, as may appear by the following discourse.

I will not insist upon terms; for though "duller understanding" signifies nothing, inasmuch as no understanding is dull, and a man is said to be dull only because he wants it; but presuming he means little understanding, I shall so take it. This defect may possibly be repaired in time; but to conclude it must be so, is absurd, for no one has this use and experience when he begins to reign. At that time many errors may be committed to the ruin of himself or people, and many have perished even in their beginning. Edward the fifth and sixth of England, Francis the second of France, and divers other kings, have died in the beginning of their youth. Charles the ninth lived only to add the furies of youth to the follies of his childhood; and our Henry the second, Edward the second, Richard the second, and Henry the sixth, seem to have been little wiser in the last, than in the first year of their reign or life. The present kings of Spain, France, and Sweden, came to the crowns they wear before the sixth year of their age; and if they did then surpass all annual magistrates in wisdom and valour, it was by a peculiar gift of God, which, for any thing we know, is not given to every king, and it was not use and experience that made them to excel. If it be pretended, that this experience, with the wisdom that it gives, comes in time, and by degrees, I may modestly ask, what time is required to render a prince excellent in wisdom, who is a child or a fool? And who will give security that he shall live to that time, or that the kingdom shall not be ruined in the time of his folly? I may also doubt how our author, who concludes, that every king, in time, must needs become excellent in wisdom, can be reconciled to Solomon, who, in preferring a wise child before an old and foolish king that will not be advised, shews, that an old king may be a fool, and that he who will not be advised is one. Some are so naturally brutish and stupid, that neither education nor time will mend them. It is probable that Solomon took what care he could to instruct his only son Rehoboam; but he was certainly a fool at forty years of age, and we have no reason to believe that he deserved a better name. He seems to have been the very fool his father intended, who, though brayed in a mortar, would never leave his folly. He would not be advised, though the hand of God was against him; ten tribes revolted from him, and the city and temple was pillaged by the Egyptians. Neither experience nor afflictions could mend him, and he is called to this day by his own countrymen "stultitia gentium*." I might offend tender ears, if I should allege all the examples of princes mentioned in history, or known in our own age, who have lived and died as foolish and incorrigible as he: but no man, I presume, will be scandalized if I say, that the ten last kings of Meroveus's race, whom the French historians call "les rois faineants," were so far from excelling other men in understanding, that they lived and died more like to beasts than men. Nay, the wisdom and valour of Charles Martel expired in his grandchild

* *Δια ἀποσυν, populi stultitia.* Escl, c. 47, v. 28

Charles the Great; and his posterity grew to be so sottish, that the French nation must have perished under their conduct, if the nobility and people had not rejected them, and placed the crown upon a more deserving head. SECT. 29

This is as much as is necessary to be said to the general proposition; for, if it be not always true, no conclusion can be drawn from it. But I need not be so strict with our author, there being no one sound part in his assertion. Many children come to be kings when they have no experience, and die, or are deposed, before they can gain any. Many are by nature so sottish that they can learn nothing. Others falling under the power of women, or corrupt favourites and ministers, are persuaded and seduced from the good ways to which their own natural understanding or experience might lead them. The evils drawn upon themselves, or their subjects, by the errors committed in the time of their ignorance, are often grievous, and sometimes irreparable, though they should be made wise by time and experience. A person of royal birth, and excellent wit, was so sensible of this as to tell me, “that the condition of kings was most miserable, inasmuch as they never heard truth till they were ruined by lies; and then every one was ready to tell it to them, not by way of advice, but reproach, and rather to vent their own spite, than to seek a remedy to the evils brought upon them, and the people.” Others attain to crowns when they are of full age, and have experience as men, though none as kings; and therefore are apt to commit as great mistakes as children. And, upon the whole matter, all the histories of the world shew, that, instead of this profound judgment, and incomparable wisdom, which our author generally attributes to all kings, there is no sort of men that do more frequently and entirely want it.

But though kings were always wise by nature, or made to be so by experience, it would be of little advantage to nations under them, unless their wisdom were pure, perfect, and accompanied with clemency, magnanimity, justice, valour, and piety. Our author himself durst hardly have said, that these virtues or graces are gained by experience, or annexed by God to any rank of men or families. He gives them where he pleases without distinction. We sometimes see those upon thrones, who by God and nature seem to have been designed for the most sordid offices; and those have been known to pass their lives in meanness and poverty, who had all the qualities that could be desired in princes. There is likewise a kind of ability to dispatch some sort of affairs, that princes who continue long on a throne may to a degree acquire or increase. Some men take this for wisdom; but king James more rightly called it by the name of “king-craft;” and as it principally consists in dissimulation, and the arts of working upon mens passions, vanities, private interests, or vices, to make them for the most part instruments of mischief, it has the advancement or security of their own persons for its object, is frequently exercised with all the excesses of pride, avarice, treachery, and cruelty; and no men have been ever found more notoriously to deflect from all that deserves

CHAR. II praise in a prince, or a gentleman, than those that have most excelled in it. Pharasmanes king of Iberia is recorded by Tacitus to have been well versed in this science*. His brother Mithridates king of Armenia had married his daughter, and given his own daughter to Rhadamistus son of Pharasmanes. He had some contests with Mithridates; but, by the help of these mutual alliances, nearness of blood, the diligence of Rhadamistus, and an oath, strengthened with all the ceremonies that among those nations were esteemed most sacred, not to use arms or poison against him, all was composed; and, by these means getting him into his power, he stifled him with a great weight of clothes thrown upon him †, killed his children, and not long after his own son Rhadamistus. Louis the eleventh of France, James the third of Scotland, Henry the seventh of England, were great masters of these arts: and those who are acquainted with history, will easily judge, how happy nations would be, if all kings did in time certainly learn them.

Our author, as a farther testimony of his judgment, having said, that kings must needs excel others in understanding, and grounded his doctrine upon their profound wisdom, imputes to them those "base and panic fears," which are inconsistent with it, or any royal virtue; and to carry the point higher, tells us, "there is no tyrant so barbarously wicked, but his own reason and sense will tell him, that though he be a god, yet he must die like a man; and that there is not the meanest of his subjects, but may find a means to revenge himself of the injustice that is offered him;" and from thence concludes, that "there is no such tyranny as that of a multitude, which is subject to no such fears." But if there be such a thing in the world as a barbarous and wicked tyrant, he is something different from a king, or the same; and his wisdom is consistent or inconsistent with barbarity, wickedness, and tyranny. If there be no difference, the praises he gives, and the rights he ascribes to the one, belong also to the other; and the excellency of wisdom may consist with barbarity, wickedness, tyranny, and the panic fears that accompany them; which hitherto have been thought to comprehend the utmost excesses of folly and madness. I know no better testimony of the truth of that opinion, than that wisdom always distinguishing good from evil, and being seen only in the rectitude of that distinction, in following and adhering to the good, rejecting that which is evil, preferring safety before danger, happiness before misery, and in knowing rightly how to use the means of attaining or preserving the one, and preventing or avoiding the other, there cannot be a more extravagant deviation from reason, than for a man, who in a private condition might live safely and happily, to invade a principality; or if he be a prince, who by governing with justice and clemency might obtain the inward satisfaction of his own mind, hope for

* Tacit. Ann. l. 12, § 44, et seq. l. 13, § 37

† Rhadamistus was the principal agent in these acts of treachery and cruelty.—Rhadamistus quasi jurisjurandi memor, non ferrum, non venenum in forem et patrum expro-mit, sed projectos in humum, et veste multâ gravique opertos necat. Ibid. l. 12, § 47

the blessing of God upon his just and virtuous actions, acquire the love and praises of men, and live in safety and happiness amongst his safe and happy subjects, to fall into that barbarity, wickedness, and tyranny, which brings upon him the displeasure of God, and detestation of men, and is always attended with those base and panic fears, which comprehend all that is shameful and miserable. This being perceived by Machiavel, he could not think, that any man in his senses would not rather be a Scipio than a Caesar; or, if he came to be a prince, would not rather choose to imitate Agefilaus, Timoleon, or Dion, than Nabis, Phalaris, or Dionysius; and imputes the contrary choice to madness*. Nevertheless, it is too well known, that many of our author's profound wise men in the depth of their judgment, made perfect by use and experience, have fallen into it.

If there be a difference between this barbarous wicked tyrant, and a king, we are to examine who is the tyrant, and who the king; for the name conferred or assumed cannot make a king, unless he be one. He who is not a king, can have no title to the rights belonging to him who is truly a king: so that a people, who find themselves wickedly and barbarously oppressed by a tyrant may destroy him and his tyranny, without giving offence to any king.

But it is strange that Filmer should speak of the barbarity and wickedness of a tyrant, who looks upon the world to be the patrimony of one man; and, for the foundation of his doctrine, asserts such a power in every one that makes himself master of any part, as cannot be limited by any law. His title is not to be questioned; usurpation and violence confer an incontestable right; the exercise of his power is no more to be disputed than the acquisition; his will is a law to his subjects; and no law can be imposed by them upon his conduct. For if these things be true, I know not how any man could ever be called a tyrant, that name having never been given to any, unless for usurping a power that did not belong to him, or an unjust exercise of that which had been conferred upon him, and violating the laws which ought to be a rule to him. It is also hard to imagine how any man can be called barbarous and wicked, if he be obliged by no law but that of his own pleasure; for we have no other notion of wrong, than that it is a breach of the law which determines what is right. If the lives and goods of subjects depend upon the will of the prince, and he in his profound wisdom preserve them only to be beneficial to himself, they can have no other right than what he gives, and without injustice may retain when he thinks fit. If there be no wrong, there can be no just revenge; and he that pretends to seek it is not a free man vindicating his right, but a perverse slave rising up against his master. But if there

* Ed è impossibile che quelli che in stato privato vivono in una repubblica, o che per fortuna o virtù ne diventano principi, se leggessino l'istorie, e delle memorie delle antiche cose facessino capitale, che non volessero quelli tali privati vivere nella loro patria, piuttosto Scipioni che Cesari; e quelli che sono principi piuttosto Agefilai, Timoleoni, e Dioni, che Nabidi, Falari, e Dionisi; perche vedrebbero questi essere sommamente vituperati, e quelli eccessivamente laudati. Discorsi sopra T. Livio, l. 1, c. 10

CHAP. II be such a thing as a barbarous and wicked tyrant, there must be a rule relating to the acquisition and exercise of the power, by which he may be distinguished from a just king; and a law superior to his will, by the violation of which he becomes barbarous and wicked.

Though our author so far forgets himself, as to confess this to be true, he seeks to destroy the fruits of it by such flattery as comprehends all that is most detestable in profaneness and blasphemy, and gives the name of “gods” to the most execrable of men. He may by such language deserve the name of Heylin’s disciple; but will find few among the heathens so basely servile, or so boldly impious. Though Claudius Caesar was a drunken sot, and transported with the extravagance of his fortune, he detested the impudence of his predecessor Caligula, who affected that title; and in his edict in favour of the Jews, gives it no better name than “*insolentem Cæii infaniam* *.” For this reason it was rejected by all his pagan successors, who were not as furiously wicked as he: yet Filmer has thought fit to renew it, for the benefit of mankind, and the glory of the christian religion.

I know not whether these extreme and barbarous errors of our author are to be imputed to wickedness or madness; or whether, to save the pains of a distinction, they may not rightly be said to be the same thing; but nothing less than the excess of both could induce him to attribute any thing of good to the fears of a tyrant, since they are the chief causes of all the mischiefs he does †. Tertullian says, they are “*metu quàm furore* “*saeviores.*” Tacitus, speaking of a most wicked king, says, *ignaviam saevitiâ texit* ‡; and we do not more certainly find, that cowards are the cruellest of men, than that wickedness makes them cowards; that every man’s fears bear a proportion with his guilt, and with the number, virtue, and strength of those he has offended. He who usurps a power over all, or abuses a trust reposed in him by all, in the highest measure offends all: he fears and hates those he has offended, and to secure himself aggravates the former injuries. When these are public, they beget a universal hatred, and every man desires to extinguish a mischief that threatens ruin to all. This will always be terrible to one who knows he has deserved it; and when those he dreads are the body of the people, nothing but a public destruction can satisfy his rage, and appease his fears.

I wish I could agree with Filmer, in exempting multitudes from fears; for they having seldom committed any injustice, unless through fear, would, as far as human fragility permits, be free from it. Though the

* Επιγινους ... Αλεξάνδρεις επάρθηναι κατὰ των παρ’ αυτοις Ιουδαιων επι τῆ Γαίῃ Καίσαρος χρονων, τῆ δια την πολλην ΑΠΟΝΟΙΑΝ και ΠΑΡΑΦΡΟΣΥΝΗΝ, ὅτι μη παραβῆναι ἠθέλησε τὸ Ιουδαιων ἔθνος την πατριον Ἰερουσαλειαν, και ΘΕΟΝ προσαγορευειν αυτου, ταπεινωσαντος αυτας βελομαι μηδεν δια την Γαίῃ παραφροσυνην των δικαιων τῶ Ιουδαιων ἔθνει παραπεπῳκεναι. *Jos. Antiq. Jud. l. 19, c. 5.* Edit. Hudsoni

† Josephus says of Caligula — τὰ μεν φοβερα καταπεπληγμενος, και δια τῆτο φουρικωτατος. *Antiq. Jud. l. 19, c. 2*

‡ Gotarzes, dum secors domi, bellis infaustus, ignaviam saevitiâ tegat. *Tacit. Ann. l. 12, § 10*

Attic ostracism was not an extreme punishment, I know nothing usually practised in any commonwealth, that did so much favour of injustice: but it proceeded solely from a fear that one man, though in appearance virtuous, when he came to be raised too much above his fellow-citizens, might be tempted to invade the public liberty. We do not find, that the Athenians, or any other free cities, ever injured any man, unless through such a jealousy, or the perjury of witnesses, by which the best tribunals that ever were, or can be established in the world, may be misled; and no injustice could be apprehended from any, if they did not fall into such fears.

SECT. 29

But though multitudes may have fears as well as tyrants, the causes and effects of them are very different. A people, in relation to domestic affairs, can desire nothing but liberty, and neither hate nor fear any but such as do, or would, as they suspect, deprive them of that happiness. Their endeavours to secure that seldom hurt any, except such as invade their rights; and if they err, the mistake is for the most part discovered before it produce any mischief; and the greatest that ever came that way was the death of one or a few men. Their hatred and desire of revenge can go no farther than the sense of the injury received or feared, and is extinguished by the death or banishment of the persons; as may be gathered from the examples of the Tarquins, decemviri, Cassius, Moelius, and Manlius Capitolinus. He therefore that would know whether the hatred and fear of a tyrant, or of a people, produces the greater mischiefs, needs only to consider, whether it be better, that the tyrant destroy the people, or the people destroy the tyrant; or, at the worst, whether one that is suspected of affecting the tyranny should perish, or a whole people, amongst whom very many are certainly innocent; and experience shews, that such are always first sought out to be destroyed for being so. Popular furies or fears, how irregular or unjust soever they may be, can extend no farther. General calamities can only be brought upon a people by those who are enemies to the whole body, which can never be the multitude, for they are that body. In all other respects, the fears that render a tyrant cruel render a people gentle and cautious; for every single man, knowing himself to be of little power, not only fears to do injustice, because it may be revenged upon his person, by him, or his friends, kindred, and relations, that suffers it; but because it tends to the overthrow of the government, which comprehends all public and private concerns, and which every man knows cannot subsist unless it be so easy and gentle, as to be pleasing to those who are the best, and have the greatest power. And as the public considerations divert them from doing those injuries that may bring immediate prejudice to the public, so there are strict laws to restrain all such as would do private injuries. If neither the people nor the magistrates of Venice, Switzerland, and Holland, commit such extravagancies as are usual in other places, it does not perhaps proceed from the temper of those nations different from others, but from a knowledge, that whoever offers an injury to a private person, or attempts a public mischief,

CHAP. II mischief, is exposed to the impartial and inexorable power of the law. Whereas the chief work of an absolute monarch is to place himself above the law, and thereby rendering himself the author of all the evils that the people suffer, it is absurd to expect that he should remove them.

SECTION XXX

A MONARCHY CANNOT BE WELL REGULATED, UNLESS THE POWERS OF THE MONARCH ARE LIMITED BY LAW.

Our author's next step is not only to reject popular governments, but all such monarchies as are not absolute: "for if the king," says he, "admits the people to be his companions, he leaves to be a king." This is the language of French lackeys, valet-de-chambres, taylor, and others like them in wisdom, learning, and policy, who when they fly to England for fear of a well-deserved gally, gibbet, or wheel, are ready to say, "Il faut que le roi soit absolu, autrement il n'est point roi." And finding no better men to agree with Filmer in this sublime philosophy, I may be pardoned if I do not follow them, till I am convinced in these ensuing points.

1. It seems absurd to speak of kings admitting the nobility or people to part of the government: for though there may be, and are, nations without kings, yet no man can conceive a king without a people. These must necessarily have all the power originally in themselves; and though kings may and often have a power of granting honours, immunities, and privileges, to private men or corporations, he does it only out of the public stock, which he is entrusted to distribute; but can give nothing to the people, who give to him all that he can rightly have.

2. It is strange, that he, who frequently cites Aristotle and Plato, should unluckily acknowledge such only to be kings as they call tyrants, and deny the name of king to those, who, in their opinion, are the only kings.

3. I cannot understand why the Scripture should call those kings whose powers were limited, if they only are kings who are absolute; or why Moses did appoint, that the power of kings in Israel, if they resolved to have them, should be limited*, if that limitation destroyed the being of a king.

4. And lastly, how he knows, that in the kingdoms which have a shew of popularity, the power is wholly in the king.

The first point was proved when we examined the beginning of monarchies, and found it impossible, that there could be any thing of justice in them, unless they were established by the common consent of those who

* Deut. ch. 17, v. 16—20

were to live under them; or that they could make any such establishment, unless the right and power were in them. SECT. 30

Secondly, neither Plato nor Aristotle acknowledge either reason or justice in the power of a monarch, unless he has more of the virtues conducing to the good of the civil society than all those who compose it; and employ them for the public advantage, and not to his own pleasure and profit, as being set up by those who seek their own good, for no other reason than that he should procure it. To this end a law is set as a rule to him, and the best men, that is, such as are most like to himself, made to be his assistants, because, say they, "lex est mens sine affectu, et quasi deus*;" whereas the best of men have their affections and passions, and are subject to be misled by them: which shews, that as the monarch is not for himself, nor by himself, he does not give, but receive power, nor admit others to the participation of it, but is by them admitted to what he has. Whereupon they conclude, that to prefer the absolute power of a man, as in those governments which they call "barbarorum regna," before the regular government of kings justly exercising a power instituted by law, and directed to the public good, is to choose rather to be subject to the lust of a beast, than to be governed by a god. And because such a choice can only be made by a beast, I leave our author to find a description of himself in their books, which he so often cites.

But if Aristotle deserve credit, the princes who reign for themselves and not for the people, preferring their own pleasure or profit before the public, become tyrants †; which, in his language, is, enemies to God and man. On this account Boccacini introduces the princes of Europe raising a mutiny against him in Parnassus, for giving such definitions of tyrants as they said comprehended them all; and forcing the poor philosopher to declare by a new definition, that "tyrants were certain men of antient times, whose race is now extinguished ‡." But with all his wit and learning he could not give a reason, why those, who do the same things that rendered the antient tyrants detestable, should not be so also in our days.

In the third place, the Scriptures declare the necessity of setting bounds to those who are placed in the highest dignities. Moses seems to have had as great abilities as any man that ever lived in the world; but he alone was not able to bear the weight of the government, and therefore God appointed seventy chosen men to be his assistants. This was a perpetual law to Israel; and as no king was to have more power than Moses, or more abilities to perform the duties of his office, none could be exempted from the necessity of wanting the like helps. Our author therefore must

* *Ανευ ορέξεως υης ὁ νομος ἐστὶ.* Arist. Polit. l. 3, c. 16. Vide suprà, p. 108

† *Ἡ μὲν τυραννὶς ἐστὶ μοναρχία πρὸς τὸ συμφέρον τοῦ μοναρχουμένου.* Arist. Polit. l. 3, c. 7.—*Ὁ μὲν τυραννὸς τὸ ἑαυτοῦ συμφέρον σκοπεῖ ὁ δὲ βασιλεὺς, τὸ τῶν ἀρχομένων.* Arist. Ethic. l. 8, c. 12. Polit. l. 4, c. 10

‡ Che i tiranni furono certi uomini del tempo antico, de' quali oggi giorno affatto si era perdutala razza. Boccac. Rag. di Parnass. cent. 1, rag. 76

CHAP. II

confess, that they are kings who have them, or that kingly government is contrary to the Scriptures. When God by Moses gave liberty to his people to make a king, he did it under these conditions. "He must be one of their brethren: they must choose him: he must not multiply gold, silver, wives, or horses: he must not lift up his heart above his brethren*." And Josephus paraphrasing upon the place, says, "he shall do nothing without the advice of the sanhedrim; or if he do, they shall oppose him †." This agrees with the confession of Zedekiah to the princes, who were the sanhedrim, "the king can do nothing without you ‡;" and seems to have been in pursuance of the law of the kingdom, which was written in a book, and laid up before the Lord; and could not but agree with that of Moses, unless they spake by different spirits, or the spirit by which they did speak was subject to error or change: and the whole series of God's law shews, that the pride, magnificence, pomp, and glory, usurped by their kings, was utterly contrary to the will of God. They did lift up their hearts above their brethren, which was forbidden by the law. All the kings of Israel, and most of the kings of Judah, utterly rejected it, and every one of them did very much depart from the observation of it. I will not deny, that the people in their institution of a king intended they should do so: they had done it themselves, and would have a king that might uphold them in their disobedience. They were addicted to the idolatry of their accursed neighbours, and desired that government by which it was maintained amongst them. In doing this they did not reject Samuel; but they rejected God, that he should not reign over them. They might perhaps believe, that, unless their king were such as the law did not permit, he would not perform what they intended; or that the name of king did not belong to him, unless he had a power that the law denied. But since God and his prophets give the name of king to the chief magistrate, endowed with a power that was restrained within very narrow limits, whom they might without offence set up, we also may safely give the same to those of the same nature, whether it please Filmer or not.

4. The practice of most nations, and, I may truly say, of all that deserve imitation, has been as directly contrary to the absolute power of one man, as their constitutions: or if the original of many governments lie hid in the impenetrable darknefs of antiquity, their progress may serve to shew the intention of the founders. Aristotle seems to think, that the first monarchs, having been chosen for their virtue, were little restrained in the exercise of their power; but that they, or their children, falling into corruption and pride, grew odious; and that nations did on that account.

* Deut. ch. 17, v. 15, 16, 17, 20

† Πρασσετω μηδεν διχα τα αρχιερωσ, και της των γερασιαων γνωμησ γαμοις τε μη πολλαισ χρημενοσ, &c. . . . κωλυεσθω δ', ει τετων τι δια σπαδησ εχοι, γινεσθαι τε συμφεροντοσ υμιν δυνατωτεροσ. Jos. Antiq. Jud. l. 4, c. 8

‡ Then Zedekiah the king said, behold Jeremiah is in your hand; for the king is not he that can do any thing against you. Jer. ch. 38, v. 5

either abolish their authority, or create senates, and other magistrates, who, having part of the power, might keep them in order *. The Spartan kings were certainly of this nature; and the Persian, till they conquered Babylon. Nay, I may safely say, that neither the kings which the frantic people set up in opposition to the law of God, nor those of the bordering nations, whose example they chose to follow, had that absolute power which our author attributes to all kings, as inseparable from the name. Achish the Philistine loved and admired David; he looked upon him as an angel of God; and promised that he should be the keeper of his head for ever; but when the princes suspected him, and said, "he shall not go down with us to battle," he was obliged to dismiss him †. This was not the language of slaves, but of those who had a great part in the government; and the king's submission to their will shews, that he was more like to the kings of Sparta, than to an absolute monarch, who does whatever pleases him. I know not whether the Spartans were descended from the Hebrews, as some think, but their kings were under a regulation much like that of the xvii of Deut. though they had two. Their senate of twenty eight, and the ephori, had a power like to that of the sanhedrim; and by them kings were condemned to fines, imprisonment, banishment, and death, as appears by the examples of Pausanias, Cleonymus, Leonidas, Agis, and others. The Hebrew discipline was the same: "Reges Davidicae stirpis," says Maimonides, "judicabant et judicabantur ‡." They gave testimony in judgment when they were called, and testimony was given against them. Whereas the kings of Israel, as the same author says, were "superbi, corde elati, et spretores legis, nec judicabant, nec judicabantur;" proud, insolent, and contemners of the law, who would neither judge, nor submit to judgment as the law commanded. The fruits they gathered were suitable to the seed they had sown. Their crimes were not left unpunished: they who despised the law were destroyed without law; and when no ordinary course could be taken against them for their excesses, they were overthrown by force, and the crown within the space of a few years was transported into nine several families, with the utter extirpation of those that had possessed it. On the other hand, there never was any sedition against the Spartan kings; and after the moderate discipline, according to which they lived, was established, none of them died by the hands of their subjects, except only two, who were put to death in a way of justice: the kingdom continued in the same races, till Cleomenes was defeated by Antigonus, and the government overthrown by the Macedonians. This gave occasion to those bestial tyrants Nabis and Machanidas to set up such a govern-

* Arist. Polit. l. 3, c. 15

† 1 Sam. ch. 29, v. 4, 10

‡ "Rex non judicat neque judicatur." Hoc tantum de Israelitarum regibus intelligendum est, qui transgressores erant in regno ipsorum, non cordi habentibus humilitatem, neque ad legis verba attendentibus. Sed reges ex stirpe Davidis judicabant et judicabantur, quia illi legem intelligebant, et humilitas non erat mala in oculis eorum. Comment. Maimonid. apud Mischna, in Tract. de Synedriis. vol. 4, p. 217, Edit. Surenhusii. Seld. de Syned. l. 3, c. 9

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ment as our author recommends to the world, which immediately brought destruction upon themselves, and the whole city. The Germans, who pretended to be descended from the Spartans, had the like government. Their princes, according to their merit, had the credit of persuading, not the power of commanding *; and the question was not, what part of the government they would allow to the nobility and people, but what the nobility and people would give to their princes: and it is not much material to our present dispute, whether they learned this from some obscure knowledge of the law which God gave to his people, or whether, led by the light of reason, which is also from God, they discovered what was altogether conformable to that law. Whoever understands the affairs of Germany knows that the present emperors, notwithstanding their haughty title, have a power limited as in the days of Tacitus. If they are good and wise, they may persuade; but they can command no farther than the law allows. They do not admit the princes, noblemen, and cities, to the power which they all exercise in their general diets, and each of them within their own precincts; but they exercise that which has been by public consent bestowed upon them. All the kingdoms peopled from the north observed the same rules. In all of them the powers were divided between the kings, the nobility, clergy, and commons; and by the decrees of councils, diets, parliaments, cortes, and assemblies of estates, authority and liberty were so balanced, that such princes as assumed to themselves more than the law did permit, were severely punished; and those, who did by force or fraud invade thrones, were by force thrown down from them.

This was equally beneficial to kings and people. The powers, as Theopompus king of Sparta said, were most safe, when they were least envied and hated †. Lewis the eleventh of France was one of the first that broke this golden chain; and, by more subtle arts than had been formerly known, subverted the laws, by which the fury of kings had been restrained, and taught others to do the like; though all of them have not so well saved themselves from punishment. James the third of Scotland was one of his most apt scholars; and Buchanan, in his life, says, “that he was precipitated into all manner of infamy by men of the most abject condition; that the corruption of those times, and the ill example of neighbouring princes, were considerable motives to pervert him: for Edward the fourth of England, Charles of Burgundy, Lewis the eleventh of France, and John the second of Portugal, had already laid the foundations of tyranny in those countries; and Richard the third was then most cruelly exercising the same in the kingdom of England ‡.”

* Rex vel princeps, prout aetas cuique, prout nobilitas, prout decus bellorum, prout facundia est, audiuntur, auctoritate suadendi magis quam jubendi potestate. Tacit. de Morib. Germ. § 11

† Vide supra, p. 91.—Plutarch observes, that Theopompus, by the creation of the Ephori, μετα τα φθονε διεφυγε τον κινδυνον. Plut. in vitâ Lycurgi.

‡ Ab hominibus infimae fortis in omnia simul vitia est praeceps datus: tempora etiam corrupta, et vicinorum regum exempla, non parum ad eum evertendum juverunt. Nam et Edvardus

This could not have been, if all the power had always been in kings, and neither the people, nor the nobility, had ever had any: for no man can be said to gain that which he, and his predecessors always possessed, or to take from others that which they never had; nor to set up any sort of government, if it had been always the same. But the aforesaid Lewis the eleventh did assume to himself a power above that of his predecessors; and Philip de Comines shews the ways by which he acquired it, with the miserable effects of his acquisition, both to himself and to his people. Modern authors observe, that the change was made by him; and, for that reason, he is said by Mezeray, and others, “to have brought those kings out of guardianship* :” they were not therefore so, till he did emancipate them. Nevertheless, this emancipation had no resemblance to the unlimited power, of which our author dreams. The general assemblies of estates were often held long after his death, and continued in the exercise of the sovereign power of the nation. Davila, speaking of the general assembly held at Orleans in the time of Francis the second, asserts the whole power of the nation to have been in them †. Monsieur de Thou says the same thing, and adds, that the king dying suddenly, the assembly continued, even at the desire of the council, in the exercise of that power, till they had settled the regency, and other affairs of the highest importance, according to their own judgment ‡. Hottoman a lawyer of that time and nation, famous for his learning, judgment, and integrity, having diligently examined the antient laws and histories of that kingdom, distinctly proves, that the French nation never had any kings, but of their own choosing; that their kings had no power, except what was conferred upon them; and that they had been removed, when they excessively abused, or rendered themselves unworthy of that trust §. This is sufficiently clear by the forecited examples of Pharamond’s grandchildren, and the degenerated races of Meroveus and Pepin; of which many were deposed, some of the nearest in blood excluded; and, when their vices seemed to be incorrigible, they were wholly rejected. All this was done by virtue of that rule, which they call the *falic law*: and though some of

Edvardus quartus in Angliâ, Carolus in Burgundiâ, Ludovicus undecimus in Galliâ, Joannes secundus in Lusitaniâ, tyrannidis fundamenta jecerunt: Richardus tertius in Angliâ immanissimè eam exercuit. Buch. Rer. Scot. Hist. l. 12, prope finem.

* Il aime mieux suivre ses fantaisies déréglées, que les sages loix de l’etat, et il fit consister sa grandeur dans l’oppression de ses peuples, dans l’abaissement des grands, et l’élévation des gens de néant. C’est ce qu’un autre a appelé “mettre les rois hors de page:” il devoit dire les “mettre hors du sens, et de la raison.” Mezeray, en la vie de Louis XI

† Convengono trè deputati per ciaschedun bagliaggio, uno degli ecclesiastici, uno della nobilita, et uno del corpo della plebe: radunati tutti insieme alla presenza del rè, de i principi del sangue, e de gli officiali della corona, formano il corpo degli stati generali, e rappresentano l’ autorità, il nome, e la potestà di tutta la nazione. Istor. delle Guerre Civili, l. 2, p. 36, Edit. 1646.—Nella congregazione de’ quali si riduce la potestà di tutta la nazione. l. 1, p. 5

‡ Interim dum rex adolescat, et ipse per se regno administrando superesse possit, è revivum, ut comitia regni cogherentur, et ex eorum sententiâ et auctoritate publico regimini prospiceretur. Thuan. Hist. l. 27, sub ann. 1560. tom. 2, p. 6. Edit. Genev. 1626

§ Hottomanni Franco-Gallia, c. 6.

CHAP. II our princes, pretending to the inheritance of that crown by marrying the heirs general, denied that there was any such thing, no man can say, that, for the space of above twelve hundred years, females, or their descendants, who are by that law excluded, have ever been thought to have any right to the crown: and no law, unless it be explicitly given by God, can be of greater authority than one, which has been in force for so many ages. What the beginning of it was, is not known: but Charles the sixth, receding from this law, and thinking to dispose of the succession otherwise than was ordained by it, was esteemed mad, and all his acts rescinded. And though the reputation, strength, and valour of the English, commanded by Henry the fifth, one of the bravest princes that have ever been in the world, was terrible to the French nation; yet they opposed him to the utmost of their power, rather than suffer that law to be broken. And though our success under his conduct was great and admirable; yet soon after his death, with the expence of much blood and treasure, we lost all that we had on that side, and suffered the penalty of having unadvisedly entered into that quarrel. By virtue of the same law, the agreement made by king John, when he was prisoner at London, by which he had alienated part of that dominion, as well as that of Francis the first, concluded when he was under the same circumstances at Madrid, were reputed null; and upon all occasions that nation has given sufficient testimony, that the laws by which they live are their own, made by themselves, and not imposed upon them. And it is as impossible for them, who made and deposed kings, exalted or depressed reigning families, and prescribed rules to the succession, to have received from their own creatures the power, or part of the government they had, as for a man to be begotten by his own son. Nay, though their constitutions were much changed by Lewis the eleventh, yet they retained so much of their antient liberty, that in the last age, when the house of Valois was as much depraved as those of Meroveus and Pepin had been, and Henry the third by his own lewdness, hypocrisy, cruelty, and impurity, together with the baseness of his minions and favourites, had rendered himself odious and contemptible to the nobility and people, the great cities, parliaments, the greater, and in political matters the fonder part of the nation, declared him to be fallen from the crown, and pursued him to death, though the blow was given by the hand of a base and half-distracted monk.

Henry of Bourbon was without controversy the next heir; but neither the nobility nor the people, who thought themselves in the government, would admit him to the crown, till he had given them satisfaction, that he would govern according to their laws, by abjuring his religion, which they judged inconsistent with them.

The later commotions in Paris, Bourdeaux, and other places, together with the wars for religion, shew, that though the French do not complain of every grievance, and cannot always agree in the defence and vindication of their violated liberties, yet they very well understand their rights; and

and that, as they do not live by or for the king, but he reigns by and for them, their privileges are not from him, but his crown is from them; and that, according to the true rule of their government, he can do nothing against their laws, or if he do, they may oppose him. SECT. 30

The institution of a kingdom is the act of a free nation; and whoever denies them to be free, denies that there can be any thing of right in what they set up. That which was true in the beginning is so, and must be so for ever. This is so far acknowledged by the highest monarchs, that in a treatise published in the year 1667, by authority of the present king of France, to justify his pretensions to some part of the Low Countries, notwithstanding all the acts of himself, and the king of Spain to extinguish them, it is said, "that kings are under the happy inability to do any thing against the laws of their country*." And though perhaps he may do things contrary to law, yet he grounds his power upon the law; and the most able and most trusted of his ministers declare the same. About the year 1660, the count d'Aubijoux, a man of eminent quality in Languedoc, but averse to the court, and hated by cardinal Mazarin, had been tried by the parliament of Tholouse for a duel, in which a gentleman was killed; and it appearing to the court, then in that city, that he had been acquitted upon forged letters of grace, false witnesses, powerful friends, and other undue means, Mazarin desired to bring him to a new trial: but the chancellor Seguier told the queen-mother, it could not be done; for the law did not permit a man once acquitted to be again questioned for the same fact; and that if the course of the law were interrupted, neither the salic law, nor the succession of her children, nor any thing else, could be secure in France.

This is farther proved by the histories of that nation. The kings of Meroveus and Pepin's races were suffered to divide the kingdom amongst their sons; or, as Hottoman says, the estates made the division, and allotted to each such a part as they thought fit †. But when this way was found to be prejudicial to the public, an act of state was made in the time of Hugh Capet, by which it was ordained, that for the future the kingdom should not be dismembred: which constitution continuing in force to this day, the sons or brothers of their kings receive such an appanage, they call it, as is bestowed on them, remaining subject to the crown as well as other men. And there has been no king of France since that time, except only Charles the sixth, who has not acknowledged, that he cannot alienate any part of their dominion.

Whoever imputes the acknowledgment of this to king-craft, and says, that they who avow this, when it is for their advantage, will deny it on a different occasion, is of all men their most dangerous enemy. In laying such fraud to their charge he destroys the veneration by which they subsist, and teaches subjects not to keep faith with those, who by the most mali-

* Que les rois ont cette bien-heureuse impuissance, de ne pouvoir rien faire contre les loix de leur pays. Traité des Droits de la regne.

† Franco-Gall. c. 7.

CHAP II. cious deceits shew, that they are tied by none. Human societies are maintained by mutual contracts, which are of no value if they are not observed. Laws are made, and magistrates created, to cause them to be performed in public and private matters, and to punish those who violate them. But none will ever be observed, if he who receives the greatest benefit by them, and is set up to oversee others, give the example to those who of themselves are too much inclined to break them. The first step that Pompey made to his own ruin was, by violating the laws he himself had proposed*. But it would be much worse for kings to break those that are established by the authority of a whole people, and confirmed by the succession of many ages.

I am far from laying any such blemishes on them, or thinking that they deserve them. I must believe the French king speaks sincerely when he says, he can do nothing against the laws of his country; and that our king James did the like, when he acknowledged himself to be the servant of the commonwealth; and the rather, because it is true, and he was placed in the throne to that end. Nothing is more essential and fundamental in the constitutions of kingdoms, than that diets, parliaments, and assemblies of estates, should see this performed. It is not the king that gives them a right to judge of matters of war or peace, to grant supplies of men and money, or to deny them; and to make or abrogate laws at their pleasure: all the powers rightly belonging to kings, or to them, proceed from the same root. The northern nations seeing what mischiefs were generally brought upon the eastern, by referring too much to the irregular will of a man, and what those who were more generous had suffered, when one man by the force of a corrupt mercenary soldiery had overthrown the laws by which they lived, feared they might fall into the same misery; and therefore retained the greater part of the power to be exercised by their general assemblies, or by delegates, when they grew so numerous that they could not meet. These are the kingdoms of which Grotius speaks, "where the king has his part, and the senate or people their part of the supreme authority;" and where the law prescribes such limits, "that if the king attempt to seize that part which is not his, he may justly be opposed †:" which is as much as to say, that the law upholds the power it gives, and turns against those who abuse it.

This doctrine may be displeasing to court parasites, but no less profitable to such kings as follow better counsels, than to the nations that live under them. The wisdom and virtue of the best is always fortified by the concurrence of those who are placed in part of the power. They always do what they will, when they will nothing but that which is good; and it is a happy impotence in those, who through ignorance or malice desire to do evil, not to be able to effect it. The weakness of such as by defects of nature, sex, age, or education, are not able of themselves to bear the weight of a kingdom, is thereby supported, and they, together with the people under them, preserved from ruin; the furious rashness of the info-

* Vide suprà, p. 226

† Vide suprà, p. 190

lent is restrained; the extravagance of those, who are naturally lewd, is awed; and the bestial madness of the most violently wicked and outrageous suppressed. When the law provides for these matters, and prescribes ways by which they may be accomplished, every man who receives or fears an injury seeks a remedy in a legal way, and vents his passions in such a manner, as brings no prejudice to the commonwealth. If his complaints against a king may be heard, and redressed by courts of justice, parliaments, and diets, as well as against private men, he is satisfied, and looks no farther for a remedy. But if kings, like those of Israel, will neither judge nor be judged, and there be no power orderly to redress private or public injuries, every man has recourse to force, as if he lived in a wood, where there is no law; and that force is generally mortal to those who provoke it. No guards can preserve a hated prince from the vengeance of one resolute hand; and they as often fall by the swords of their own guards as of others. Wrongs will be done, and when they that do them cannot or will not be judged publicly, the injured persons become judges in their own case, and executioners of their own sentence. If this be dangerous in matters of private concernment, it is much more so in those relating to the public. The lewd extravagances of Edward the second, and Richard the second, while they acknowledged the power of the law, were gently reprov'd and restrained with the removal of some profligate favourites; but, when they would admit of no other law than their own will, no relief could be had but by their deposition. The lawful Spartan kings, who were obedient to the laws of their country, lived in safety, and died with glory. Whereas it was a strange thing to see a lawless tyrant die without such infamy and misery, as held a just proportion with the wickedness of his life: they did, as Plutarch says of Dionysius, many mischiefs, and suffered more*. This is confirmed by the examples of the kingdom of Israel, and of the empires of Rome and Greece: they who would submit to no law, were destroyed without any. I know not whether they thought themselves to be gods, as our author says they were; but I am sure the most part of them died like dogs, and had the burial of asses rather than of men.

This is the happiness to which our author would promote them all. "If a king admit a people to be his companions, he ceases to be a king, and the state becomes a democracy." And a little farther: "if in such assemblies, the king, nobility, and people, have equal shares in the sovereignty, then the king hath but one voice, the nobility likewise one, and the people one; and then any two of these voices should have power to over-rule the third: thus the nobility and commons should have power to make a law to bind the king, which was never seen in any kingdom." We have heard of nations, that admitted a man to reign over them, that is, made him king, but of no man that made a people. The Hebrews made Saul, David, Jeroboam, and other kings. When they returned from captivity, they conferred the same title upon

*. Ἄ.δ' ἐπράξε τυραννῶν, οἷς ἐπαίδεν ὑπερβαλομένους. Plut. in vitâ Timol. p. 242

CHAP. II the Afmonean race, as a reward of their valour and virtue. The Romans chose Romulus, Numa, Hostilius, and others, to be their kings: the Spartans instituted two, one of the Heraclidae, the other of the Acacidae. Other nations set up one, a few, or more magistrates to govern them. All the world agrees, that "qui dat esse, dat modum esse:" he that makes him to be, makes him to be what he is; and nothing can be more absurd than to say, that he who has nothing but what is given, can have more than is given to him. If Saul and Romulus had no other title to be kings, than what the people conferred upon them, they could be no otherwise kings, than as pleased the people: they therefore did not admit the people to be partakers of the government; but the people, who had all in themselves, and could not have made a king, if they had not had it, bestowed upon him what they thought fit, and retained the rest in themselves. If this were not so, then, instead of saying to the multitude, "will ye have this man to reign?" they ought to have said to the man, "wilt thou have this multitude to be a people?" And whereas the nobles of Arragon used to say to their new-made king, "we who are as good as you, make you our king, on condition you keep and maintain our rights and liberties, and if not, not*;" he should have said to them, "I, who am better than you, make you to be a people, and will govern you as I please." But I doubt whether he would have succeeded, till that kingdom was joined to others of far greater strength, from whence a power might be drawn to force them out of their usual method.

That which has been said of the governments of England, France, and other countries, shews them to be of the same nature. And if they do not deserve the name of kingdoms, and their princes will by our author's arguments be persuaded to leave them, those nations perhaps will be so humble as to content themselves without that magnificent title, rather than resign their own liberties to purchase it: and, if this will not please him, he may seek his glorious sovereign monarchy among the wild Arabs, or in the island of Ceylon; for it will not be found among civilized nations.

However, more ignorance cannot be expressed, than by giving the name of democracy to those governments that are composed of the three simple species, as we have proved that all the good ones have ever been: for in a strict sense it can only suit with those, where the people retain to themselves the administration of the supreme power; and more largely, when the popular part, as in Athens, greatly over-balances the other two, and the denomination is taken from the prevailing part. But our author, if I mistake not, is the first that ever took the antient governments of Israel, Sparta, and Rome, or those of England, France, Germany, and Spain, to be democracies, only, because every one of them had senates and assemblies of the people, who in their persons, or by their deputies, did join with their chief magistrates in the exercise of the supreme power. That of Israel, to the time of Saul, is called by Josephus an aristocracy †.

* Vide suprà, p. 80

† Vide suprà, p. 101, 104

The same name is given to that of Sparta by all the Greek authors. And the great contest in the Peloponnesian war was between the two kinds of government: the cities that were governed aristocratically, or desired to be so, following the Lacedaemonians; and such as delighted in democracy taking part with the Athenians. In like manner Rome, England, and France, were said to be under monarchies: not that their kings might do what they pleased, but because one man had a pre-eminence above any other. Yet if the Romans could take Romulus, the son of a man that was never known, Numa a Sabine, Hostilius and Ancus Martius, private men, and Tarquinius Priscus the son of a banished Corinthian, who had no title to a preference before others till it was bestowed upon them, it is ridiculous to think, that they who gave them what they had, could not set what limits they pleased to their own gift.

But, says our author, "the nobility will then have one voice, and the people another; and they joining may over-rule the third, which was never seen in any kingdom." This may perhaps be one way of regulating the monarchical power; but it is not necessary, nor the only one. There may be a senate, though the people be excluded; that senate may be composed of men chosen for their virtue, as well as for the nobility of their birth; the government may consist of king and people without a senate; or the senate may be composed only of the people's delegates. But, if I should grant his assertion to be true, the reasonableness of such a constitution cannot be destroyed by the consequences he endeavours to draw from it; for he who would instruct the world in matters of state, must shew what is or ought to be, not what he fancies may thereupon ensue. Besides, it does not follow, that where there are three equal votes, laws should be always made by the plurality; for the consent of all the three is in many places required. And it is certain, that in England, and other parts, the king and one of the estates cannot make a law without the concurrence of the other. But, to please Filmer, I will avow, that where the nobles and commons have an equal vote, they may join and over-rule or limit the power of the king; and I leave any reasonable man to judge, whether it be more safe and fit, that those two estates, comprehending the whole body of the nation in their persons, or by representation, should have a right to over-rule or limit the power of that man, woman, or child, who sits in the throne; or that he or she, young or old, wife or foolish, good or bad, should over-rule them, and by their vices, weakness, folly, impertinence, incapacity, or malice, put a stop to their proceedings; and whether the chief concerns of a nation may more safely and prudently be made to depend upon the votes of so many eminent persons, among whom many wise and good men will always be found, if there be any in the nation, and who in all respects have the same interests with them, or upon the will of one, who may be, and often is, as vile, ignorant, and wretched, as the meanest slave; and either has, or is for the most part made to believe he has, an interest so contrary to them, that their suppression is his advancement. Common sense so naturally leads us

CHAP. II to the decision of this question, that I should not think it possible for mankind to have mistaken, though we had no examples of it in history. It is in vain to say, that all princes are not such as I represent; for if a right were annexed to the being of a prince, and his single judgment should over-balance that of a whole nation, it must belong to him as a prince, and be enjoyed by the worst and basest, as well as by the wisest and best, which would inevitably draw on the absurdities above-mentioned. But that many are, and have been such, no man can deny, or reasonably hope, that they will not often prove to be such, as long as any preference is granted to those who have nothing to recommend them, but the families from whence they are descended: a continual succession of those who excel in virtue, wisdom, and experience, being promised to none, nor reasonably to be expected from any. Such a right therefore cannot be claimed by all; and if not by all, then not by any, unless it proceed from a particular grant in consideration of personal virtue, ability, and integrity, which must be proved: and when any one goes about to do it, I will either acknowledge him to be in the right, or give the reasons of my denial.

However this is nothing to the general proposition. Nay, if a man were to be found, who had more of the qualities required for making a right judgment in matters of the greatest importance, than a whole nation, or an assembly of the best men chosen out of it (which I have never heard to have been, unless in the persons of Moses, Joshua, or Samuel, who had the Spirit of God for their guide) it would be nothing to our purpose; for even he might be biased by his personal interests, which governments are not established to promote.

I may go a step farther, and truly say, that as such vast powers cannot be generally granted to all who happen to succeed in any families, without evident danger of utter destruction, when they come to be executed by children, women, fools, vicious, incapable, or wicked persons, they can be reasonably granted to none, because no man knows what any one will prove till he be tried; and the importance of the affair requires such a trial as can be made of no man till he be dead. He that resists one temptation may fall under the power of another; and nothing is more common in the world, than to see those men fail grossly in the last actions of their lives, who had passed their former days without reproach. Wise and good men will with Moses say of themselves, "I cannot bear the burden;" and every man who is concerned for the public good, ought to let fools know, they are not fit to undergo it, and by law to restrain the fury of such as will not be guided by reason. This could not be denied, though governments were constituted for the good of the governor. It is good for him that the law appoints helps for his infirmities, and restrains his vices: but all nations ought to do it though it were not so, inasmuch as kingdoms are not established for the good of one man, but of the people; and that king, who seeks his own good before that of the people, departs from the end of his institution.

This

This is so plain, that all nations who have acted freely have some way or other endeavoured to supply the defects, or restrain the vices of their supreme magistrates; and those among them deserve most praise, who, by appointing means adequate to so great a work, have taken care that it might be easily and safely accomplished. Such nations have always flourished in virtue, power, glory, and happiness, while those who wanted their wisdom have suffered all manner of calamities by the weakness and injustice of their princes, or have had their hands perpetually in blood to preserve themselves from their fury. We need no better example of the first, than that of the Spartans, who, by appointing such limits to the power of their kings as could hardly be transgressed, continued many ages in great union with them, and were never troubled with civil tumults. The like may be said of the Romans, from the expulsion of the Tarquins, till they overthrew their own orders, by continuing Marius for five years in the consulate, whereas the laws did not permit a man to hold the same office two years together; and when that rule was broken, their own magistrates grew too strong for them, and subverted the commonwealth. When this was done, and the power came into the hands of one man, all manner of evils and calamities broke in like a flood. It is hard to judge, whether the mischief he did, or those he suffered, were the greater. He, who set up himself to be lord of the world, was like to a beast crowned for the slaughter, and his greatness was the forerunner of his ruin. By this means some of those, who seem not to have been naturally prone to evil, were by their fears put upon such courses to preserve themselves, as being rightly estimated, were worse than the death they apprehended. The so much celebrated Constantine the Great died no less polluted with the blood of his nearest relations and friends, than Nero himself. But no place can shew a more lively picture of this, than the kingdoms of Granada, and others possessed by the Moors in Spain; where, there being neither senate, nor assemblies of the nobility and people, to restrain the violence and fury of their kings, they had no other way than to kill them, when their vices became insupportable; which happening for the most part, they were almost all murdered: and things were brought to such an extremity, that no man would accept a crown, except he who had neither birth nor virtue to deserve it*.

If it be said, that kings have now found out more easy ways of doing what they please, and securing themselves, I answer, that they have not proved so to all, and it is not yet time for such as tread in the same steps to boast of their success. Many have fallen when they thought their designs accomplished; and no man, as long as he lives, can reasonably assure himself the like shall not befall him. But if in this corrupted age, the treachery and perjury of princes be more common than formerly, and the number of those, who are brought to delight in the rewards of injustice, be so increased, that their parties are stronger than formerly, this rather

* Mariana de Reb. Hispanicis.

CHAP. II shews, that the balance of power is broken, or hard to be kept up, than that there ought to be none; and it is difficult for any man, without the spirit of prophecy, to tell what this will produce. While the ancient constitutions of our northern kingdoms remained entire, such as contested with their princes fought only to reform the governments, and by redressing what was amiss, to reduce them to their first principles; but they may not perhaps be so modest, when they see the very nature of their government changed, and the foundations overthrown. I am not sure that they, who were well pleased with a moderate monarchy, will submit to one that is absolute; and it is not improbable, but that when men see there is no medium between tyranny and popularity, they who would have been contented with the reformation of their government may proceed farther, and have recourse to force, when there is no help in the law. This will be a hard work in those places where virtue is wholly abolished; but the difficulty will lie on the other side, if any sparks of that remain. If vice and corruption prevail, liberty cannot subsist; but if virtue have the advantage, arbitrary power cannot be established. Those who boast of their loyalty, and think they give testimonies of it, when they addict themselves to the will of one man, though contrary to the law from whence that quality is derived, may consider, that by putting their masters upon illegal courses they certainly make them the worst of men, and bring them into danger of being also the most miserable. Few or no good princes have fallen into disasters, unless through an extremity of corruption introduced by the most wicked; and cannot properly be called unhappy, if they perished in their innocence; since the bitterness of death is asswaged by the tears of a loving people, the assurance of a glorious memory, and the quiet of a well satisfied mind. But of those who have abandoned themselves to all manner of vice, followed the impulse of their own fury, and set themselves to destroy the best men for opposing their pernicious designs, very few have died in peace. Their lives have been miserable, death infamous, and memory detestable.

They therefore who place kings within the power of the law, and the law to be a guide to kings, equally provide for the good of king and people. Whereas they who admit of no participants in power, and acknowledge no rule but their own will, set up an interest in themselves against that of their people, lose their affections, which is their most important treasure, and incur their hatred, from whence results their greatest danger.

SECTION XXXI

THE LIBERTIES OF NATIONS ARE FROM GOD AND NATURE,
NOT FROM KINGS.

Whatever is usually said in opposition to this seems to proceed from a groundless conceit, that the liberties enjoyed by nations arise from the concessions of princes. This point has been already treated: but being the foundation of the doctrine I oppose, it may not be amiss farther to examine, how it can be possible for one man, born under the same condition with the rest of mankind, to have a right in himself that is not common to all others, till it be by them, or a certain number of them, conferred upon him; or how he can, without the utmost absurdity, be said to grant liberties and privileges to them who made him to be what he is.

If I had to do with a man that fought after truth, I should think he had been led into this extravagant opinion by the terms ordinarily used in patents and charters granted to particular men; and not distinguishing between the proprietor and the dispenser, might think kings had given, as their own, that which they only distribute out of the public treasury, and could have had nothing to distribute by parcels, if it had not been given to them in gross by the public. But I need not use our author so gently. The perversity of his judgment, and obstinate hatred to truth, is sufficient to draw him into the most absurd errors without any other inducement; and it were not charity, but folly, to think otherwise of one who attributes in general to all princes, without any regard to the ways by which they attain to their power, such an authority as never justly belonged to any.

This will be evident to all those who consider, that no man can confer upon others that which he has not in himself: if he be originally no more than they, he cannot grant to them, or any of them, more than they to him. In the 7th, 8th, 9th, and subsequent sections of the first chapter, it has been proved, that there is no resemblance between the paternal right, and the absolute power, which he asserts in kings; that the right of a father, whatever it be, is only over his children; that this right is equally inherited by them all when he dies; that every one cannot inherit dominion, for the right of one would be inconsistent with that of all others; that the right which is common to all is that which we call liberty, or exemption from dominion; that the first fathers of mankind after the flood had not the exercise of regal power, and whatever they had was equally devolved to every one of their sons, as appears by the examples of Noah, Shem, Abraham, Isaac, Jacob, and their children; that the erection of Nimrod's kingdom was directly contrary to, and inconsistent with the paternal right, if there was any regality in it; that the other kingdoms of that time were of the same nature; that Nimrod, not exceeding the age of threescore years when he built Babel, could not be the father

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father of those that assisted him in that attempt; that if the seventy two kings, who, as our author says, went from Babylon upon the confusion of languages, were not the sons of Nimrod, he could not govern them by the right of a father; if they were, they must have been very young, and could not have children of their own to people the kingdoms they set up; that whose children soever they were, who out of a part of mankind did, within a hundred and thirty two years after the flood, divide into so many Kingdoms, they shewed that others in process of time might subdivide into as many as they pleased; and kingdoms multiplying in the space of four thousand years since the seventy two, in the same proportion they did in one hundred and thirty two years into seventy two, there would now be as many kings in the world as there are men; that is, no man could be subject to another; that this equality of right, and exemption from the domination of any other, is called liberty; that he, who enjoys it, cannot be deprived of it, unless by his own consent, or by force; that no one man can force a multitude; or, if he did, it could confer no right upon him; that a multitude, consenting to be governed by one man, confers upon him the power of governing them: the powers therefore that he has, are from them; and they who have all in themselves can receive nothing from him, who has no more than every one of them, till they do invest him with it. This is proved by sacred and profane histories. The Hebrews in the creation of judges, kings, or other magistrates, had no regard to paternity, or to any who by extraction could in the least pretend to the right of fathers: God did never direct them to do it, nor reprove them for neglecting it. If they would choose a king, he commanded them to take one of their brethren, not one who called himself their father. When they did resolve to have one, he commanded them to choose him by lot, and caused the lot to fall upon a young man of the youngest tribe. David, and the other kings of Israel or Judah, had no more to say for themselves in that point than Saul. All the kings of that nation before and after the captivity, ordinarily or extraordinarily set up, justly or unjustly, were raised without regard to any prerogative they could claim or arrogate to themselves on that account. All that they had therefore was from their elevation, and their elevation from those that elevated them. It was impossible for them to confer any thing upon those from whom they received all they had; or for the people to give power to kings, if they had not had it in themselves: which power, universally residing in every one, is that which we call liberty. The method of other nations was much like to this. They placed those on the throne who seemed best to deserve so great an honour, and most able to bear so great a burden. The kingdoms of the heroes were nothing else but the government of those, who were most beneficent to the nations among whom they lived, and whose virtues were thought fit to be raised above the ordinary level of the world. Though perhaps there was not any one Athenian or Roman equal to Theseus or Romulus in courage and strength, yet they were not able to subdue many. Or if any man should be so vain as to

think,

think, that each of them did at first subdue one man, then two, and so proceeding by degrees conquered a whole people, he cannot without madness ascribe the same to Numa, who, being sent for from a foreign country, was immediately made king of a fierce people, that had already conquered many of their neighbours, and was grown too boisterous even for Romulus himself. The like may be said of the first Tarquin, and of Servius: they were strangers. And though Tullus Hostilius and Ancus Martius were Romans, they had as little title to a dominion over their fellow-citizens, or means of attaining to it, as if they had come from the farthest parts of the earth. This must be in all places, unless one man could prove by a perfect and uninterrupted genealogy, that he is the eldest son of the eldest line of Noah, and that the same line has continued perpetually in the government of the world: for if the power has been divided, it may be subdivided to infinity; if interrupted, the chain is broken, and can never be made whole. But if our author can perform this for the service of any man, I willingly surrender my arms, and yield up the cause I defend. If he fail, it is ridiculous to pretend a right that belongs to no man, or to go about to retrieve a right, which for the space of four thousand years has lain dormant; and much more to create that which never had a subsistence. This leads us necessarily to a conclusion, that all kingdoms are at the first erected by the consent of nations, and given to whom they please; or else all are set up by force, or some by force, and some by consent. If any are set up by the consent of nations, their kings do not confer liberties upon those nations, but receive all from them, and the general proposition is false. If our author therefore, or his followers, would confute me, they must prove, that all the kingdoms of the world have their beginning from force, and that force does always create a right. Or, if they recede from the general proposition, and attribute a peculiar right to one or more princes, who are so absolute lords of their people, that those under them have neither liberty, privilege, property, or part, in the government, but by their concessions, they must prove, that those princes did by force gain the power they have, and that their right is derived from it. This force also must have been perpetually continued; for if that force be the root of the right that is pretended, another force, by the same rule, may overturn, extinguish, or transfer it to another hand. If contracts have intervened, the force ceases; and the right that afterwards accrues to the persons, must proceed from, and be regulated according to those contracts.

This may be sufficient to my purpose. For as it has been already proved, that the kingdoms of Israel, Judah, Rome, Sparta, France, Spain, England, and all that we are concerned in, or that deserve to be examples to us, did arise from the consent of the respective nations, and were frequently reduced to their first principles, when the princes endeavoured to transgress the laws of their institution, it could be nothing to us, though Attila or Tamerlane had by force gained the dominions they possessed. But I dare go a step farther, and boldly assert, that there never was, nor

CHAP. II can be, a man in the world, that did or can subdue a nation; and that the right of one grounded upon force is a mere whimsy. It was not Agathocles, Dionysius, Nabis, Marius, Sylla, or Caesar, but the mercenary soldiers, and other villains that joined with them, who subdued the Syracusans, Spartans, or Romans. And as the work was not performed by those tyrants alone, if a right had been gained by the violence they used, it must have been common to all those that gained it; and he that commanded them could have had no more than they thought fit to confer upon him. When Miltiades desired leave to wear an olive garland, in commemoration of the victory obtained at Marathon, an Athenian did in my opinion rightly say: "If you alone did fight against the Persians, it were just that you only should be crowned; but if others did participate in the victory, they ought also to have a part in the honour*." And the principal difference that I have observed between the most regular proceedings of the wisest senates or assemblies of the people in their persons or delegates, and the fury of the most dissolute villains, has been, that the first seeking the public good do usually set up such a man, and invest him with such powers as seem most conducing to that good. Whereas the others, following the impulse of a bestial rage, and aiming at nothing but the satisfaction of their own lusts, always advance one from whom they expect the greatest advantages to themselves, and give him such powers as most conduce to the accomplishment of their own ends: but as to the person it is the same thing. Caesar and Nero did no more make themselves what they were, than Numa; and could no more confer any right, liberty, or privilege upon the army, that gave them all they had, than the most regular magistrate could upon the senate or people that chose them.

This also is common to the worst as well as the best, that they who set up either, do, as into a public treasury, confer upon the person they choose, a power of distributing to particular men, or numbers of men, such honours, privileges, and advantages, as they may seem, according to the principles of the government, to deserve. But there is this difference, that the ends of the one being good, and those of the other evil, the first do, for the most part, limit the powers, that something may remain to reward services done to the public, in a manner proportioned to the merit of every one, placing other magistrates to see it really performed, so that they may not, by the weakness or vices of the governor, be turned to the public detriment. The others think they never give enough, that the prince, having all in his power, may be able to gratify their most exorbitant desires, if by any ways they can get his favour; and his infirmities and vices being most beneficial to them, they seldom allow to any other magistrate a power of opposing his will, or suffer those who for the public good would assume it. The world affords many examples of both sorts, and every one of them have had their progress suitable to their constitution. The regular kingdoms of England, France,

* Όταν γαρ, εφη, μονος αγωνισαμενος, ω Μιλτιαδη, νικησης της βαρβαρης, τοτε και τιμασθαι μονος αξιου. Plut. in vitâ Cimonis, p. 483.

Spain, Poland, Bohemia, Denmark, Sweden, and others, whether elective or hereditary, have had high stewards, constables, mayors of the palace, reichts-hofmeisters, parliaments, diets, assemblies of estates, cortes, and the like, by which those have been admitted to succeed who seemed most fit for the public service; the unworthy have been rejected; the infirmities of the weak supplied; the malice of the unjust restrained; and when necessity required, the crown transferred from one line or family to another. But in the furious tyrannies that have been set up by the violence of a corrupted soldiery, as in the antient Roman empire, the kingdoms of the Moors and Arabians, the tyrannies of Ezzelino of Padua, those of the Visconti and Sforzi of Milan, Castruccio Castracani of Lucca, Caesar Borgia, and others, there was nothing of all this. The will of the prince was a law; all power was in him, and he kept it, till another stepped up and took it from him, by the same means that he had gained it. This fell out so frequently, that though all the Roman emperors endeavoured to make their power hereditary, it hardly continued three generations in one line from Augustus to Augustulus, unless in that of Constantine, and that with extreme confusion and disorder. They who had madly set up a man to be their head, and exposed so much of the world as was under their power, to be destroyed by him, did by the like fury throw him down, and never ceased till they had brought the empire to utter ruin.

But if this paternal sovereignty be a mere fiction, that never had any effect, and no nation was ever commanded by God to make it their rule, nor any reprov'd for the neglect of it, none ever learned it from the light of nature, nor were by wise men taught to regard it; if the first fathers claimed no privilege from it, when every man's genealogy was known, and though there were such a thing in nature, it could be of no use at this day, when the several races of men are so confus'd, that not one in the world can prove his own original; if the first kingdoms, whether well or ill constituted, according to the command of God, or the inventions of men, were contrary to, and incompatible with it, and there can have been no justice in any, if such a rule was to have been observed, the continuance of an unjust usurpation can never have created a right, but aggravated the injustice of overthrowing it; if no man could ever by his own strength and courage subdue a multitude, nor gain any other right over them, if he did, than they might have to tear it from him, whoever denies kingdoms, and other magistracies, to have been set up by men, according to their own will, and from an opinion of receiving benefit by them, accuses all the governments that are, or ever have been, in the world, of that outrageous injustice in their foundation, which can never be repaired. If there be therefore, or ever was, any just government amongst men, it was constituted by them; and whether their proceedings were regular or violent, just or unjust, the powers annexed to it were their donation; the magistracies erected by them, whether in one or more men, temporary or perpetual, elective or hereditary, were their creatures, and receiving all from them, could confer nothing upon them.

SECTION XXXII

THE CONTRACTS MADE BETWEEN MAGISTRATES AND THE NATIONS THAT CREATED THEM WERE REAL, SOLEMN, AND OBLIGATORY.

Our author, having with big words, and little sense, inveighed against popular and mixed governments, proceeds as if he had proved they could not, or ought not to be. "If it be," says he, "unnatural for the multitude to choose their governors, or to govern, or to partake in the government, what can be thought of that damnable conclusion which is made by too many, that the multitude may correct or depose their princes if need be? Surely the unnaturalness and injustice of this position cannot sufficiently be expressed. For admit that a king make a contract or paction with his people either originally in his ancestors, or personally at his coronation (for both these pactions some dream of, but cannot offer any proof of either) yet by no law of any nation can a contract be thought broken, except first a lawful trial be had by the ordinary judge of the breakers thereof; or else, every man may be both party and judge in his own case, which is absurd once to be thought; for then it will lie in the hands of the headless multitude, when they please to cast off the yoke of government that God has laid upon them, to judge and punish him, by whom they should be judged and punished themselves." To this I answer first briefly, that if it be natural for the multitude to choose their governors, or to govern, or to participate of the government as best pleases themselves, or if there never was a government in the world that was not so set up by them, in pursuance of the power naturally inherent in themselves, what can be thought of that damnable conclusion, which has been made by fools or knaves, that the multitude may not, if need be, correct or depose their own magistrates? Surely the unnaturalness and injustice of such a position cannot be sufficiently expressed. If that were admitted, all the most solemn pacts and contracts made between nations and their magistrates, originally or personally, and confirmed by laws and mutual oaths, would be of no value; he that would break the most sacred bonds, that can be among men, should by perjury and wickedness become judge of his own case, and by the worst of crimes procure impunity for all; it would be in his power by folly, wickedness, and madness, to destroy the multitude, which he was created and sworn to preserve, though wise, virtuous, and just, and headed by the wisest and justest of men, or to lay a yoke upon those who by the laws of God and nature ought to be free; he might in his own case judge that body by which he ought to be judged, and who in consideration of themselves, and their own good, made him to be whatever he is more than every one of them; the governments instituted for the preservation of nations would turn to their destruction; it would be impossible

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to check the fury of a corrupt and perfidious magistrate; the worst of men would be raised to a height, that was never deserved by the best; and the assurance of indemnity would, by increasing their insolence, turn their other vices into madness, as has been too often seen in those, who have had more power than they deserved, and were more hardly brought to account for their actions than ought to have been; though I never heard of any who had so much as our author asserts to be in all, or that any was absolutely assured he should not be questioned for the abuse of what he had.

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Besides, if every people may govern, or constitute and choose one or more governors, they may divide the powers between several men, or ranks of men, allotting to every one so much as they please, or retaining so much as they think fit. This has been practised in all the governments, which under several forms have flourished in Palestine, Greece, Italy, Germany, France, England, and the rest of the world. The laws of every place shew what the power of the respective magistrate is, and, by declaring how much is allowed to him, declare what is denied; for he has not that which he has not; and is to be accounted a magistrate whilst he exercises that which he has.

If any doubts do hereupon arise, I hope to remove them, proving, in the first place, that several nations have plainly and explicitly made contracts with their magistrates.

2. That they are implicit, and to be understood, where they are not plainly expressed.

3. That they are not dreams, but real things, and perpetually obliging.

4. That judges are in many places appointed to decide the contests arising from the breach of these contracts; and where they are not, or the party offending is of such force or pride, that he will not submit, nations have been obliged to take the extremest courses.

1. I suppose it will not be denied, that the annual magistrates of divers commonwealths are under some compact, and that there is a power of constraining them to perform the contents, or to punish them for the violation. The modest behaviour of the Roman consuls and dictators, as long as their laws were in force, might not probably proceed from their good-nature. Though the people had not been, as our author says, "mad, foolish, and always desirous to choose the worst men for being most like to themselves," but admirably wise and virtuous, it is not to be imagined, that in the space of three or four hundred years they should never have fallen upon one who would have transgressed, if he could have done it safely, though they had used the utmost caution in their choice. But the power of the consuls being only for a year, that of the dictator for six months at most, and the commission, that they should take care the commonwealth might suffer no damage*, shews the end and condition upon which they were chosen; and though their power is by some

* Ne quid respublica detrimenti caperet. Liv. l. 3, c. 4

CHAP. II thought to have been absolute, yet the consuls were frequently opposed, and brought into order by the senate, tribunes, or people, and sometimes the dictator himself. Camillus in his fourth dictatorship was threatened by the tribunes with a great fine, and by that means obliged to abdicate his magistracy*. I have already mentioned Marcus Fabius, who, in the behalf of his son Quintus condemned to die by Papirius the dictator, appealed to the people †. And when the conduct of Fabius Maximus, in the war against Hannibal, was not approved, Metellus the tribune thought he made a very modest proposition, in that he did not desire his magistracy should be abrogated; but that the master of the horse should be made equal to him in power ‡: which was done accordingly. It is agreed by all, that the consuls were in the place of kings, and that the power of the dictator was at the least equal to what theirs had been. If they therefore were under such a rule, which they could not transgress, or might be reduced to order if they did, and forced to submit to the people as the kings had done, the kings were also made upon the same conditions, and equally obliged to perform them.

The Scripture is more clear in the case. The judges are said to have been in power equal to kings; and I may perhaps acknowledge it, with relation to the deuteronomical king, or such as the people might have chosen without offending God. The Gileadites made a covenant with Jephthah that he should be their head and captain; and he would not return to his country till they had done it. This was performed solemnly before the Lord in Mispeh; and all Israel followed them. They might therefore make a covenant with their kings, for the difference of name does not increase or diminish the right. Nay, they were in duty obliged to do it: the words of the xvii of Deuteronomy, “he shall not multiply wives, etc. that his heart be not lifted up above his brethren,” can have no other signification, than that they should take care he did it not, or, as Josephus says, hinder him if he attempt it; for the law was not given to the king who was not, but to those who might make him if they thought fit. In pursuance of this law——

[The rest of this chapter is wanting in the original manuscript.]

* Plut. in vitâ Camil. p. 149, 150. Edit. Par. 1624

† Provoco ad populum, qui certè unus plus quàm tua dictatura potest polletque. Liv. l. 8, c. 33. Vide suprà, p. 125

‡ Si antiquus animus plebi Romanae esset, audacter se laturum fuisset de abrogando Q. Fabii imperio; nunc modicam rogationem promulgaturum de aequando magistræ equitum, et dictatoris jure. Metelli orat. Liv. l. 22, c. 25, 26. Vide suprà, p. 125

CHAPTER III. SECTION I

KINGS, NOT BEING FATHERS OF THEIR PEOPLE, NOR EXCELLING ALL OTHERS IN VIRTUE, CAN HAVE NO OTHER JUST POWER THAN WHAT THE LAWS GIVE; NOR ANY TITLE TO THE PRIVILEGES OF THE LORD'S ANOINTED.

Having proved, that the right of fathers is from nature, and incommunicable, it must follow, that every man perpetually owes all love, respect, service, and obedience, to him that did beget, nourish, and educate him, and to no other under that name. No man therefore can claim the right of a father over any, except one that is so. No man can serve two masters: the extent and perpetuity of the duty which every man owes to his father, renders it impossible for him to owe the same to any other. This right of father cannot be devolved to the heir of the father, otherwise than as every son by the law of nature is heir to his father, and has the same right of commanding his children, as his father had of commanding him when he was a child. No man can owe to his brother that which he owed to his father, because he cannot receive that from him which he had from his father. But the utmost of all absurdities that can enter into the heart of man is, for one to exact the rights due to a father, who has no other title than force and usurpation, it being no less than to say, that I owe as much to one who has done me the greatest of all injuries, as to him who has conferred upon me the greatest benefits: or, which is yet worse, if possible, that as these usurpations cannot be made but by robbing, spoiling, imprisoning, or killing, the person in possession, that duty, which by the eternal law of nature I owe to my father, should oblige me to pay the same veneration, obedience, and service, to the man that has spoiled, imprisoned, or killed my father, as I owed to him; or that the same law, which obliged me to obey and defend my father, because he was so, should oblige me to obey and defend his enemy, because he has imprisoned or killed him; and not only to pass over the law of God, which makes me the avenger of my father's blood, but to reward his murderer with the rights that comprehend all that is most tender and sacred in nature, and to look upon one that has done me the greatest of all injustices and injuries, as upon him to whom I owe my birth and education. This being evident to all those who have any measure of common sense, I suppose it may be safely concluded, that whatever right soever a father may have over his family, it cannot relate to that which a king has over his people; unless he, like the man in the island of Pines, mentioned before, be also the father of them all. That which is absolutely unlike in manner and substance, institution and exercise, must be unlike in all respects; and the conclusions, which have their strength from similitude and parity, can have none when there is not the least similitude:

CHAP. III similitude of either. And though it were true, that fathers are held by no contracts (which generally it is not: for when the son is of age, and does something for the father to which he is not obliged, or gives him that which he is not bound to give, suppose an inheritance received from a friend, goods of his own acquisition, or that he be emancipated, all good laws look upon those things as a valuable consideration, and give the same force to contracts thereupon made, as to those that pass between strangers) it could have no relation to our question concerning kings. One principal reason, that renders it very little necessary, by the laws of nations, to restrain the power of parents over their children, is, because it is presumed they cannot abuse it. They are thought to have a law in their bowels, obliging them more strictly to seek their good, than all those that can be laid upon them by another power; and yet if they depart from it, so as inhumanly to abuse or kill their children, they are punished with as much rigour, and accounted more unpardonable than other men. Ignorance or wilful malice persuading our author to pass over all this, he boldly affirms, "that the father of a family governs it by no other law than his own will;" and from thence infers, that the condition of kings is the same. He would seem to soften the harshness of this proposition by saying, "that a king is always tied by the same law of nature to keep this general ground, that the safety of the kingdom be his chief law." But he spoils it in the next page, by asserting, "that it is not right for kings to do injury; but it is right, that they go unpunished by the people, if they do: so that in this point it is all one, whether Samuel describe a king or a tyrant; for patient obedience is due to both; no remedy in the text against tyrants, but crying and praying unto God in that day." In this our author, according to the custom of theatres, runs round in a circle, pretends to grant that which is true, and then by a lye endeavours to destroy all again. Kings by the law of nature are obliged to seek chiefly the good of the kingdom; but there is no remedy, if they do it not; which is no less than to put all upon the conscience of those who manifestly have none. But if God has appointed, that all other transgressions of the laws of nature, by which a private man receives damage, should be punished in this world, notwithstanding the right reserved to himself of a future punishment, I desire to know, why this alone, by which whole nations may be, and often are destroyed, should escape the hands of justice? If he presume no law to be necessary in this case, because it cannot be thought, that kings will transgress, as there was no law in Sparta against adultery, because it was not thought possible for men educated under that discipline to be guilty of such a crime; and as divers nations left a liberty to fathers to dispose of their children as they thought fit, because it could not be imagined, that any one would abuse that power, he ought to remember, that the Spartans were mistaken, and for want of that law, which they esteemed useless, adulteries became as common there as in any part of the world. And the other error being almost every where discovered, the laws of all civilized nations

nations make it capital for a man to kill his children; and give redress to children, if they suffer any other extreme injuries from their parents, as well as other persons. But though this were not so, it would be nothing to our question, unless it could be supposed, that whoever gets the power of a nation into his hands, must be immediately filled with the same tenderness of affection to the people under him, as a father naturally has towards the children he has begotten. He that is of this opinion may examine the lives of Herod, Tiberius, Caligula, and some later princes of like inclinations, and conclude it to be true, if he find, that the whole course of their actions, in relation to the people under them, do well suit with the tender and sacred name of father; and altogether false, if he find the contrary. But since every man that considers what has been, or sees what is every day done in the world, must confess, that princes, or those who govern them, do most frequently so utterly reject all thoughts of tenderness and piety towards the nations under them, as rather to seek what can be drawn from them, than what should be done for them, and sometimes become their most bitter and public enemies, it is ridiculous to make the safety of nations to depend upon a supposition, which by daily experience we find to be false; and impious, to prefer the lusts of a man, who violates the most sacred laws of nature, by destroying those he is obliged to preserve, before the welfare of that people, for whose good he is made to be what he is, if there be any thing of justice in the power he exercises.

Our author foolishly thinks to cover the enormity of this nonsense, by turning "*salutem populi*" into "*salutem regni*:" for though "*regnum*" may be taken for the power of commanding, in which sense the preservation of it is the usual object of the care of princes, yet it does more rightly signify the body of that nation, which is governed by a king. And therefore if the maxim be true, as he acknowledges it to be, then "*salus populi est lex suprema**;" and the first thing we are to inquire is, whether the government of this or that man do conduce to the accomplishment of that supreme law, or not; for otherwise it ought to have been said, "*salus regis est lex suprema*," which certainly never entered into the head of a wiser or better man than Filmer.

His reasons are as good as his doctrine: no law, says he, can be imposed on kings, "because there were kings, before any laws were made." This would not follow, though the proposition were true; for they, who imposed no laws upon the kings they at first made, from an opinion of their virtue, as in those called by the antients "*heroum regna*," might lay restrictions upon them, when they were found not to answer the expectation conceived of them, or when their successors degenerated from their virtue. Other nations also, being instructed by the ill effects of an unlimited power given to some kings, if there was any such, might wisely avoid the rock upon which their neighbours had split, and justly moderate

* *Salus populi suprema lex esto.* Cic. de Leg. l. 1, c. 3

CHAP. III that power, which had been pernicious to others. However, a proposition of so great importance ought to be proved; but that being hard, and perhaps impossible, because the original of nations is almost wholly unknown to us, and their practice seems to have been so various, that what is true in one is not so in another, he is pleased only to affirm it, without giving the least shadow of a reason to persuade us to believe him. This might justify me, if I should reject his assertion as a thing said gratis: but I may safely go a step farther, and affirm, that men lived under laws before there were any kings; which cannot be denied, if such a power necessarily belongs to kings as he ascribes to them. For Nimrod, who established his kingdom in Babel, is the first who by the Scripture is said to have been a mighty one in the earth. He was therefore the first king, or kings were not mighty; and he being the first king, mankind must have lived till his time without laws, or else laws were made before kings. To say that there was then no law is in many respects most absurd; for the nature of man cannot be without it, and the violences committed by ill men before the flood could not have been blamed, if there had been no law; for that which is not cannot be transgressed. Cain could not have feared, that every man who met him would slay him, if there had not been a law to slay him that had slain another. But in this case the Scripture is clear, at least from the time that Noah went out of the ark; for God then gave him a law sufficient for the state of things at that time, if all violence was prohibited under the name of shedding blood, though not under the same penalty as murder. But penal laws being in vain, if there be none to execute them, such as know God does nothing in vain may conclude, that he who gave this law did appoint some way for its execution, though unknown to us. There is therefore a law not given by kings, but laid upon such as should be kings, as well as on any other persons, by one who is above them; and perhaps I may say, that this law presses most upon them, because they who have most power do most frequently break out into acts of violence, and most of all disdain to have their will restrained: and he that will exempt kings from this law, must either find, that they are excepted in the text, or that God who gave it has not a power over them.

Moreover, it has been proved at the beginning of this treatise, that the first kings were of the accursed race, and reigned over the accursed nations, while the holy seed had none. If therefore there was no law where there was no king, the accursed posterity of Ham had laws, when the blessed descendents of Shem had none, which is most absurd; the word "outlaw," or "lawless," being often given to the wicked, but never to the just and righteous.

The impious folly of such assertions goes farther than our author perhaps suspected. For if there be no law where there is no king, the Israelites had no law till Saul was made king, and then the law they had was from him. They had no king before, for they asked one. They could not have asked one of Samuel, if he had been a king. He had not been
offended,

offended, and God had not imputed to them the sin of rejecting him, if they had asked that only which he had set over them. If Samuel were not king, Moses, Joshua, and the other judges, were not kings, for they were no more than he. They had therefore no king, and consequently, if our author say true, no law. If they had no law till Saul was king, they never had any, for he gave them none; and the prophets were to blame for denouncing judgments against them for receding from, or breaking their law, if they had none. He cannot say that Samuel gave them a law; for that which he wrote in a book*, and laid up before the Lord, was not a law to the people, but to the king. If it had been a law to the people, it must have been made public; but as it was only to the king, he laid it up before God, to testify against him if he should adventure to break it. Or if it was a law to the people, the matter is not mended; for it was given in the time of a king by one who was not king. But in truth it was the law of the kingdom by which he was king, and had been wholly impertinent, if it was not to bind him; for it was given to no other person, and to no other end.

Our author's assertion, upon which all his doctrine is grounded, "that there is no nation that allows children any action or remedy for being unjustly governed," is as impudently false as any other proposed by him. For though a child will not be heard that complains of the rod, yet our own law gives relief to children against their fathers, as well as against other persons that do them injuries; upon which we see many ill effects, and I do rather relate than commend the practice. In other places the law gives relief against the extravagances, of which fathers may be guilty in relation to their children, though not to that excess as to bring them so near to an equality as in England. They cannot imprison, sell, or kill their children, without exposing themselves to the same punishments with other men; and if they take their estates from them, the law is open, and gives relief against them. But, on the other side, children are punished with death, if they strike or outrageously abuse their parents; which is not so with us.

Now, if the laws of nations take such care to preserve private men from being too hardly used by their true and natural fathers, who have such a love and tenderness for them in their own blood, that the most wicked and barbarous do much more frequently commit crimes for them than against them; how much more necessary is it to restrain the fury that kings, who at the best are but fantastical fathers, may exercise to the destruction of the whole people? It is a folly to say, that David, and some other kings, have had, or that all should have as tender an affection towards their people as towards their children; for besides that even the first proposition is not acknowledged, and will be hardly verified in any one instance, there is a vast distance between what men ought to be, and what they are. Every man ought to be just, true, and charit-

* 1 Sam. ch. 10, v. 25

CHAP. III able; and if they were so, laws would be of no use: but it were a madness to abolish them upon a supposition that they are so; or to leave them to a future punishment, which many do not believe, or not regard. I am not obliged to believe, that David loved every Israelite as well as his son Absalom; but though he had, I could not from thence infer, that all kings do so, unless I were sure, that all of them were as wise and virtuous as he.

But to come more close to the matter: do we not know of many kings who have come to their power by the most wicked means that can enter into the heart of man, even by the most outrageous injuries done to the people, sometimes by a foreign aid? As kings were by the power of the Romans imposed upon the Britons, that they might waste the forces, and break the spirits of that fierce people. This Tacitus acknowledges, and says, "that among other instruments of enslaving nations, they imposed kings upon them*." The Medici were made masters of Florence by the force of Charles the fifth's army. Sometimes, by a corrupt party in their own country, they have destroyed the best men, and subdued the rest: as Agathocles, Dionysius, and Caesar, did at Rome and Syracuse. Others, taking upon them to defend a people, have turned the arms with which they were entrusted, against their own masters: as Francesco Sforza, who, being chosen by those of Milan to be their general against the Venetians, made peace with them, and by their assistance made himself prince, or, in our author's phrase, father of that great city. If these be acts of tenderness, love, justice, and charity, those who commit them may well think they have gained the affections of their people, and grow to love those from whom they fear nothing, and by whom they think they are loved. But if, on the other hand, they know they have attained to their greatness by the worst of all villainies, and that they are on that account become the object of the public hatred, they can do no less, than hate and fear those by whom they know themselves to be hated. The Italians ordinarily say, that he who does an injury never pardons †, because he thinks he is never pardoned: but he that enslaves and oppresses a people does an injury, which can never be pardoned, and therefore fears it will be revenged.

Other princes, who come to their thrones by better ways, and are not contented with the power that the law allows, draw the same hatred upon themselves, when they endeavour by force or fraud to enlarge it; and must necessarily fear and hate their own people, as much as he, who by the ways before-mentioned has betrayed or subdued them. Our author makes nothing of this; but, taking it for granted, that it was all one whether Samuel spoke of a king or a tyrant, declares, that the same

* Redacta paulatim in formam provinciae proxima pars Britanniae, addita insuper veteranorum colonia. Quaedam civitates Cogiduno regi donatae: is ad nostram usque memoriam fidiſſimus mansit, vetere ac jam pridem recepta populi Romani consuetudine, ut haberet instrumenta servitutis et reges. Tacit. in vitâ Agric. § 14

† Chi fa ingiuria non perdona mai.

patient obedience is due to both : but, not being pleased to give any reason, why we should believe him, I intend to offer some, why we should not. SECT. I

First, there is nothing in the nature or institution of monarchy, that obliges nations to bear the exorbitances of it, when it degenerates into tyranny.

In the second place, we have no precept for it.

Thirdly, we have many approved examples, and occasional particular commands to the contrary.

To the first. The point of paternity being explained, the duty of children to parents proved to proceed from the benefits received from them, and the power over them, which at the first, seems to have been left at large, because it was thought they would never abuse it, shewn to have long since been much restrained in all civilized nations, and particularly in our own, we may conclude, that men are all made of the same paste, and that one owes no more to another, than another to him, unless for some benefit received, or by virtue of some promise made. The duty arising from a benefit received must be proportionable to it: that which grows from a promise, is determined by the promise or contract made, according to the true sense and meaning of it. He therefore, that would know what the Babylonians, Hebrews, Athenians, or Romans, did owe to Nimrod, Saul, Theseus, or Romulus, must inquire what benefits were received from them, or what was promised to them. It cannot be said, that any thing was due to them for the sake of their parents: they could have no prerogative by birth. Nimrod was the sixth son of Cush, the son of Ham, who was the youngest son of Noah. His kingdom was erected, whilst Noah, and his elder sons Shem and Japhet, as well as Ham, Cush, and his elder sons, were still living. Saul was the son of Kish, a man of Benjamin, who was the youngest son of Jacob; and he was chosen in the most democratical way by lot from among the whole people. Theseus, according to the custom of the times, pretended to be the son of Neptune; and Rhea was so well pleased with the soldier, that had gotten her with child, that she resolved to think, or say, that Mars was the father of the children, that is to say, they were bastards; and therefore, whatever was due to them, was upon their own personal account, without any regard to their progenitors. This must be measured according to what they did for those nations before they were kings, or by the manner of their advancement. Nothing can be pretended before they were kings. Nimrod rose up after the confusion of languages, and the people, that understood the tongue he spoke, followed him. Saul was a young man unknown in Israel. Theseus and Romulus had nothing to recommend them, before other Athenians and Romans, except the reputation of their valour; and the honours conferred upon them for that reason must proceed from expectation or hope, and not from gratitude or obligation. It must therefore proceed from the manner by which they came to be kings. He that neither is nor has any title to be a king can

CHAP. III come to be so only by force, or by consent. If by force, he does not confer a benefit upon the people, but injures them in the most outrageous manner. If it be possible therefore, or reasonable to imagine, that one man did ever subdue a multitude, he can no otherwise resemble a father, than the worst of all enemies, who does the greatest mischiefs, resembles the best of all friends, who confers the most inestimable benefits; and consequently does as justly deserve the utmost effects of hatred, as the other does of love, respect, and service. If by consent, he who is raised from among the people, and placed above his brethren, receives great honours and advantages, but confers none. The obligations of gratitude are on his side, and whatever he does, in acknowledgment to his benefactors for their love to him, is no more than his duty; and he can demand no more from them, than what they think fit to add to the favours already received. If more be pretended, it must be by virtue of that contract, and can no otherwise be proved, than by producing it to be examined, that the true sense, meaning, and intention of it may be known.

This contract must be in form and substance according to a general rule given to all mankind, or such as is left to the will of every nation. If a general one be pretended, it ought to be shewn, that, by inquiring into the contents, we may understand the force and extent of it. If this cannot be done, it may justly pass for a fiction; no conclusion can be drawn from it; and we may be sure, that what contracts soever have been made between nations and their kings, have been framed according to the will of those nations; and consequently, how many soever they are, and whatever the sense of any or all of them may be, they can oblige no man, except those, or at the most the descendants of those that made them. Whoever therefore would persuade us, that one or more nations are, by virtue of those contracts, bound to bear all the insoules of tyrants, is obliged to shew, that by those contracts they did for ever indefinitely bind themselves so to do, how great soever they might be.

I may justly go a step farther, and affirm, that if any such should appear in the world, the folly and turpitude of the thing would be a sufficient evidence of the madness of those that made it, and utterly destroy the contents of it. But no such having been yet produced, nor any reason given to persuade a wise man that there has ever been any such, at least among civilized nations, for whom only we are concerned, it may be concluded there never was any; or if there were, they do not at all relate to our subject; and consequently, that nations still continue in their native liberty, and are no otherwise obliged to endure the insoules of tyrants, than they, or each of them, may esteem them tolerable.

To the second. Though the words of Samuel had implied a necessity incumbent upon the Hebrews to bear all the injuries that their kings should do to them, it could no way relate to us; for he does not speak of all kings, but of such as they had asked, even such as reigned over the slavish Asiatics their neighbours, who are no less infamous in the world for their baseness and cowardice, than detestable for their idolatry and vices.

It

It was not a plot or trick of Samuel to keep the government in himself and family: such scurrilous expressions or thoughts are fit only for Filmer, Heylin, and their disciples. But the prophet, being troubled at the folly and wickedness of the people, who chose rather to subject themselves to the irregular will of a man, than to be governed by God, and his law, did, by the immediate command of God, declare to them what would be the event of their fury; that since they would be like to their neighbours in sin and folly, he told them they should be like to them in shame and misery; since they desired to cast off the thing that was good, they should suffer evil as the product of their own counsels; and that when they should cry to the Lord, from a sense of their miseries, he does not tell them, as our author falsely says, they should have no other remedy against tyrants but crying and praying, but that their cries and prayers should not be heard. It was just, that when they had rejected God, he should reject them, and leave them under the weight of the calamities they had brought upon themselves. In all other cases God had ever said, that when his people returned to him, he would hear and save them. When they cried, by reason of the oppressions they suffered under the Egyptians, Canaanites, Midianites, Philistines, and others, though their crimes had deserved them all, yet God heard, and relieved them. But when they meditated this final defection from his law, and rejection of his government, God seemed to change his nature, and forget to be gracious: "when ye shall cry to me by reason of your king, I will not hear you." This was the strongest dehortation from their wicked intention that can be imagined; but being not enough to reclaim them, they answered, "nay, but we will have a king." They were like to their neighbours in folly and vice, and would be like to them in government; which brought all the calamities upon them that the others suffered. But I know not what conclusion can be drawn from hence in favour of our author's doctrine, unless all nations are obliged furiously to run into the same crimes with the Israelites, or to take upon themselves the same punishment, though they do not commit the same crimes.

If this was not a precept to the Israelites, instructing them what they should do, but a denunciation of what they should suffer for the evil which they had committed, the Old Testament will afford none; and I hope in due time to answer such as he alleges from the New. Nay, we may conclude there can be none there, because, being dictated by the same spirit, which is always uniform, and constant to itself, it could not agree with the xvii of Deuteronomy, which so extremely restrains such a king as God allowed, as not to suffer him in any manner to raise his heart above his brethren; and was said in vain, if at the same time it gave him a power which might not be resisted, or forbid others to resist him if he would not obey the law.

To the third. Whatever was done by the command of God against Pharaoh king of Egypt, and against the kings of the Canaanites, Midianites, Moabites, Edomites, Amorites, or Philistines, by Moses, Joshua, Ehud,

CHAP. III Ehud, Barak, Gideon, Samson, Jephthah, Samuel, and the rest of the judges, comes expressly under the particular precepts and examples promised by me, to shew, that God had occasionally commanded, and his servants executed his commands in resisting and destroying the persons of kings, who were their own kings also, if possession was only to be regarded. And though this be sufficient to overthrow our author's doctrine; "that we are not to examine the titles of kings, whether they be "from usurpation, or any other means, but only to look upon the "power;" yet they who seek truth, ought not to content themselves merely with victory, or to esteem that a victory, which is obtained by what the schools call "argumentum ad hominem," grounded upon a false proposition, and is of no force, except against those who are so ill advised as to advance it. Therefore laying aside the advantages that may be justly taken against Filmer, for the folly of asserting the same right to be in a usurper, as in a lawful prince; and confessing, that though such as have no title may and ought to be suppressed as enemies and robbers, when respect and obedience is due to those who are rightly instituted; I say, that none can be claimed by a prince lawfully instituted, if he assume to himself a power which is not granted to him by the law of his institution, because, as Grotius says, "his legal power does not extend so far*;" or turn the power that is given him to ends contrary to those for which it was given, because he thereby destroys it, and puts himself into the same condition as if it had never been. This is proved by the example of Saul: though the people sinned grievously in asking a king, yet God assenting to their demand, no prince was ever more solemnly instituted than he. The people chose him by lot from among all the tribes, and he was placed in the throne by the general consent of the whole nation. But he turning his lawful power into tyranny, disobeying the word of the prophet, slaying the priests, sparing the Amalekites, and oppressing the innocent, overthrew his own right; and God declared the kingdom, which had been given him, under a conditional promise of perpetuity, to be entirely abrogated. This did not only give a right to the whole people of opposing him, but to every particular man; and upon this account David did not only fly from his fury, but resisted it. He made himself head of all the discontented persons that would follow him. He had at first four, and afterwards six hundred men: he kept these in arms against Saul, and lived upon the country; and resolved to destroy Nabal, with all his house, only for refusing to send provisions for his men. Finding himself weak and unsafe, he went to Achish the Philistine, and offered his service even against Israel. This was never reputed a sin in David, or in those that followed him, by any except the wicked court-flatterer Doeg the Edomite, and the drunken fool Nabal, who is said to have been a man of Belial.

If it be objected, that this was rather a flight than a war, inasmuch as he neither killed Saul nor his men, or that he made war as a king anointed

* Quia eatenus imperium non habet. Grot. de Jure Belli, l. 1, c. 4, § 13

by Samuel, I answer, that he who had six hundred men, and entertained as many as came to him, sufficiently shewed his intention rather to resist than to fly; and no other reason can be given why he did not farther pursue that intention, than that he had no greater power: for he who arms six hundred men against his prince, when he can have no more, can no more be said to obey patiently, than if he had so many hundreds of thousands. This holds, though he kill no man; for that is not the war, but the manner of making it. And it were as absurd to say, David made no war, because he killed no men, as that Charles the eighth made no war in Italy, because Guicciardini says, he conquered Naples without breaking a lance. But as David's strength increased, he grew to be less sparing of blood. Those who say kings never die, but that the right is immediately transferred to the next heirs, cannot deny that Ishbosheth inherited the right of Saul, and that David had no other right of making war against him, than against Saul, unless it were conferred upon him by the tribe of Judah, that made him king. If this be true, it must be confessed, that not only a whole people, but a part of them, may at their own pleasure abrogate a kingdom, though ever so well established by common consent; for none was ever more solemnly instituted than that of Saul; and few subjects have more strongly obliged themselves to be obedient. If it be not true, the example of Nabal is to be followed; and David, though guided by the Spirit of God, deserves to be condemned as a fellow that rose up against his master.

If to elude this it be said, that God instituted and abrogated Saul's kingdom, and that David, to whom the right was transmitted, might therefore proceed against him and his heirs as private men, I answer, that if the obedience due to Saul proceeded from God's institution, it can extend to none, but those who are so peculiarly instituted and anointed by his command, and the hand of his prophet, which will be of little advantage to the kings, that can give no testimony of such an institution or unction; and an indisputable right will remain to every nation of abrogating the kingdoms which are instituted by and for themselves. But as David did resist the authority of Saul and Ishbosheth, without assuming the power of a king, though designed by God, and anointed by the prophet, till he was made king of Judah by that tribe; or arrogating to himself a power over the other tribes, till he was made king by them, and had entered into a covenant with them, it is much more certain, that the persons and authority of ill kings, who have no title to the privileges, due to Saul by virtue of his institution, may be justly resisted: which is as much as is necessary to my purpose.

Object. But David's heart smote him, when he had cut off the skirt of Saul's garment, and he would not suffer Abishai to kill him*. — This might be of some force, if it were pretended, that every man was obliged to kill an ill king, whenever he could do it, which I think no man ever

* 1 Sam. ch. 24, v. 5. ch. 26, v. 9

CHAP. III did say; and no man having ever affirmed it, no more can be concluded than is confessed by all. But how is it possible, that a man of a generous spirit, like David, could see a great and valiant king, chosen from among all the tribes of Israel, anointed by the command of God, and the hand of the prophet, famous for victories obtained against the enemies of Israel, and a wonderful deliverance thereby purchased to that people, cast at his feet to receive life or death from the hand of one, whom he had so furiously persecuted, and from whom he least deserved, and could least expect mercy, without extraordinary commotion of mind; especially when Abishai, who saw all that he did, and thereby ought best to have known his thoughts, expressed so great a readiness to kill him? This could not but make him reflect upon the instability of all that seemed to be most glorious in men, and shew him, that if Saul, who had been named even among the prophets, and assisted in an extraordinary manner to accomplish such great things, was so abandoned and given over to fury, misery, and shame, he that seemed to be most firmly established ought to take care lest he should fall.

Surely these things are neither to be thought strange in relation to Saul, who was God's anointed, nor communicable to such as are not. Some may suppose he was king by virtue of God's unction, though if that were true he had never been chosen and made king by the people, but it were madness to think he became God's anointed by being king: for if that were so, the same right and title would belong to every king, even to those, who by his command were accursed and destroyed by his servants Moses, Joshua, and Samuel. The same men, at the same time, and in the same sense, would be both his anointed and accursed, loved and detested by him; and the most sacred privileges made to extend to the worst of his enemies.

Again, the war made by David was not upon the account of being king, as anointed by Samuel, but upon the common natural right of defending himself against the violence and fury of a wicked man. He trusted to the promise, "that he should be king," but knew that as yet he was not so. And when Saul found he had spared his life, he said, "I now know well; that thou shalt surely be king, and that the kingdom of Israel shall be established in thy hand;" not that it was already. Nay David himself was so far from taking upon him to be king, till the tribe of Judah had chosen him, that he often acknowledged Saul to be his lord. When Baanah and Rechab brought the head of Ishbosheth to him, he commanded them to be slain; "because they had killed a righteous man upon his bed, in his own house*;" which he could not have said, if Ishbosheth had unjustly detained from him the ten tribes, and he had a right to reign over them before they had chosen him. The word of God did not make him king, but only foretold, that he should be king; and by such ways as he pleased prepared the hearts of the people

* 2 Sam. ch. 4, v. 11

to fet him up; and till the time defigned by God for that work was accomplished, he pretended to no other authority, than what the fix hundred men who firft followed him, afterwards the tribe of Judah, and at laft all the reft of the people, conferred upon him. SECT. 2

I no way defend Abfalom's revolt; he was wicked, and acted wickedly: but after his death no man was ever blamed or questioned for fiding with him. Amafa, who commanded his army, is represented in Scripture as a good man, Solomon faying, that Joab, by flaying Abner and Amafa, had killed "two men who were better than himfelf*;" which could not have been, unlefs the people had a right of looking into matters of government, and of redreffing abufes: though being deceived by Abfalom, they fo far erred, as to prefer him, who was in all refpects wicked, before the man, who, except in the matter of Uriah, is faid to be after God's own heart. This right was acknowledged by David himfelf, when he commanded Hufhai to fay to Abfalom, "I will be thy fervant, O king †;" and by Hufhai in the following chapter, "nay, but whom the Lord, and "his people, and all the men of Ifrael choofe, his will I be, and with "him will I abide ‡:" which could have no fense in it, unlefs the people had a right of choofing, and the choice in which they generally concurred was efteemed to be from God.

But if Saul, who was made king by the whole people, and anointed by the command of God, might be lawfully refifted when he departed from the law of his inftitution, it cannot be doubted, that any other, for the like reafon, may be refifted. If David, though defigned by God to be king, and anointed by the hand of the prophet, was not king till the people had chofen him, and he had made a covenant with them, it will, if I miftake not, be hard to find a man who can claim a right which is not originally from them. And if the people of Ifrael could erect, and pull down, inftitute, abrogate, or transfer to other perfons or families, kingdoms more firmly eftablifhed than any we know, the fame right cannot be denied to other nations.

SECTION II

THE KINGS OF ISRAEL AND JUDAH WERE UNDER A LAW NOT SAFELY TO BE TRANSGRESSED.

Our author might be pardoned if he only vented his own follies; but he aggravates his own crime, by imputing them to men of more credit. And though I cannot look upon Sir Walter Raleigh as a very good interpreter of Scripture, he had too much underftanding to fay, "that if practice "declare the greatnefs of authority, even the beft kings of Ifrael and

* 1 Kings ch. 2, v. 32

† 2 Sam. ch. 15, v. 34

‡ 2 Sam. ch. 16, v. 18

CHAP. III “Judah were not tied to any law, but they did whatever they pleased in “the greatest matters;” for there is no sense in those words. “If practice “declares the greatness of authority, even the best were tied to no law,” signifies nothing, for practice cannot declare the greatness of authority. Peter the Cruel of Castile, and Christiern the second of Denmark, killed whom they pleased; but no man ever thought they had therefore a right to do so: and if there was a law, all were tied by it, and the best were less likely to break it than the worst. But if Sir Walter Raleigh’s opinion, which he calls a conjecture, be taken, there was so great a difference between the kings of Israel and Judah, that, as to their general proceedings in point of power, hardly any thing can be said which may rightly be applied to both; and he there endeavours to shew, that the reason why the ten tribes did not return to the house of David, after the destruction of the houses of Jeroboam and Baasha, was, because they would not endure a power so absolute as that which was exercised by the house of David*. If he has therefore any where said, that the kings did what they pleased, it must be in the sense that Moses Maimonides says, the kings of Israel committed many extravagances, because they were “insolent, impious, and despisers of the law †.” But whatever Sir Walter Raleigh may say (for I do not remember his words, and have not leisure to seek whether any such are found in his books) it is most evident, they did not what they pleased. The tribes, that did not submit to David, nor crown him till they thought fit, and then made a covenant with him, took care it might be observed, whether he would or not. Absalom’s rebellion, followed by almost all Israel, was a terrible check to his will. That of Sheba, the son of Bichri, was like to have been worse, if it had not been suppressed by Joab’s diligence; and David often confessed the sons of Zeruiah were too hard for him. Solomon indeed, overthrowing the law given by Moses, multiplying gold and silver, wives and horses, introducing idolatry, and lifting up his heart above his brethren, did what he pleased. But Rehoboam paid for all: the ten tribes revolted from him, by reason of the heavy burdens laid upon them, stoned Adoram, who was sent to levy the tributes, and set up Jeroboam, who, as Sir Walter Raleigh says in the place before cited, had no other title than the courtesy of the people, and utterly rejected the house of David. If practice therefore declares a right, the practice of the people to avenge the injuries they suffered from their kings, as soon as they found a man fit to be their leader, shews they had a right of doing it.

It is true, the best of the kings, with Moses, Joshua, and Samuel, may in one sense be said to have done what they pleased, because they

* “He that shall take pains to look into those examples which are extant, of the different courses held by the kings of Israel and Judah, in administration of justice, will find it most probable, that upon this ground it was, that the ten tribes continued so averse from the line of David, as to think all adversity more tolerable, than the weighty sceptre of that house.” *Hist. of the World*, b. 2, c. 19, § 6.

† Vide *suprà*, p. 251

desired to do that only which was good. But this will hardly be brought to confer a right upon all kings: and I deny, that even the kings of Judah did what they pleased, or that it were any thing to our question, if they did. Zedekiah professed to the great men, that is, to the sanhedrim, “that without them he could do nothing*.” When Amaziah, by his folly, had brought a great slaughter upon the tribe of Judah, they conspired against him in public council. Whereupon he fled to Lachish, and they, pursuing him thither, killed him, avowed the fact, and it was neither questioned, nor blamed †: which examples agree with the paraphrase of Josephus on Deut. xvii, “he shall do nothing without the consent of the sanhedrim; and if he attempt it, they shall hinder him ‡.” This was the law of God, not to be abrogated by man; a law of liberty directly opposite to the necessity of submitting to the will of a man. This was a gift bestowed by God upon his children and people: whereas slavery was a great part of the curse denounced against Ham for his wickedness, and perpetually incumbent upon his posterity. The great sanhedrim were constituted judges, as Grotius says, particularly of such matters as concerned their kings §; and Maimonides affirms, that the kings were judged by them. The distribution of the power to the inferior sanhedrims, in every tribe and city, with the right of calling the people together in general assemblies as often as occasion required, was the basis of their liberty; and, being added to the law of the kingdom, prescribed in the xvii of Deuteronomy (if they should think fit to have a king) established the freedom of that people upon a solid foundation. And though they in their fury did in a great measure wave the benefits God had bestowed upon them, yet there was enough left to restrain the lusts of their kings. Ahab did not treat with Naboth, as with a servant, whose person and estate depended upon his will; and does not seem to have been so tender-hearted as to grieve much for his refusal, if by virtue of his royal authority he could have taken away his vineyard, and his life: but, that failing, he had no other way of accomplishing his design, than by the fraud of his accursed wife, and the perfidious wretches she employed. And no better proof, that it did fail, can reasonably be required, than that he was obliged to have recourse to such fordid, odious, and dangerous remedies. But we are furnished with one, that is more unquestionable: “hast thou killed, and also taken possession? In the place where dogs licked the blood of Naboth, shall they lick thy blood, even thine ¶.” This shews, that the kings were not only under a law, but under a law of equality with the rest of the people, even that of retaliation. He had raised his heart above his brethren; but God brought him down, and made him to suffer what he had done. He was in all respects wicked; but the justice of this sentence consisted in the law he had broken, which could not have been, if he had been subject to none. But as this reta-

* Jer. ch. 38, v. 5 † 2 Kings ch. 14, v. 19.
 § Vide Grot. de Jure Belli, l. 1, c. 3, § 20.

‡ Vide suprâ, p. 250.
 ¶ 1 Kings ch. 21, v. 19.
 liation:

CHAP. III liation was the sum of all the judicial law given by God to his people, the sentence pronounced against Ahab, in conformity to it, and the execution committed to Jehu shews, that the kings were no less obliged to perform the law, than other men, though they were not so easily punished for transgressing it, as others were : and, if many of them did escape, it perfectly agrees with what had been foretold by Samuel.

SECTION III

SAMUEL DID NOT DESCRIBE TO THE ISRAELITES THE GLORY OF A FREE MONARCHY, BUT THE EVILS THE PEOPLE SHOULD SUFFER, THAT HE MIGHT DIVERT THEM FROM DESIRING A KING.

Though no restraint had been put upon the Hebrew kings, it could be no prejudice to any other nation. They deflected from the law of God; and, rejecting him, that he should reign over them no longer, they fell into that misery, which could affect none, but those who enjoy the same blessings, and with the same fury despise them. If their kings had no more power than consisted with their welfare, they gave it, and God renounces the institution of such *. He gave them a law of liberty; and if they fell into the shame and misery that accompanies slavery, it was their own work. They were not obliged to have any king; and could not without a crime have any, but one who must not raise his heart above the rest of them. This was taught by Moses: and Samuel, who spoke by the same spirit, could not contradict him; and in telling the people, what such a king as they desired would do, when he should be established, he did announce to them the misery they would bring upon themselves, by choosing such a one as he had forbidden. This free monarchy, which our author thinks to be so majestically described, was not only displeasing to the prophet, but declared by God to be a rejection of him, and inconsistent with his reign over them. This might have been sufficient to divert any other people from their furious resolution; but the prophet, farther enforcing his dissuasion, told them, that God, who had in all other cases been their helper, would not hear them when they should cry to him by reason of their king †. This is the majestic description of that free monarchy, with which our author is so much pleased: it was displeasing to the prophet, hateful to God, an aggravation of all the crimes they had committed since they came out of Egypt, and that which would bring (as it did) most certain and irreparable destruction upon them.

* "They have set up kings, but not by me: they have made princes, and I know them not." Hof. ch. 8, v. 4

† 1 Sam. ch. 8, v. 18

But it seems, the regal majesty in that age was in its infancy, and little in comparison of that, which we find described by Tacitus, Suetonius, and others, in later times. "He shall take your sons," says Samuel, "and set them over his chariots, and your daughters to make them confecti-
 oners and cooks;" but the majesty of the Roman emperors was carried to a higher pitch of glory. Ahab could not, without employing treachery and fraud, get a small spot of ground for his money to make a garden of herbs: but Tiberius, Caligula, and Nero, killed whom they pleased, and took what they pleased of their estates. When they had satiated their cruelty and avarice, by the murders and confiscations of the most eminent and best men, they commonly exposed their children to the lust of their slaves. If the power of doing evil be glorious, the utmost excess is its perfection; and it is pity, that Samuel knew no more of the effects produced by unrestrained lust, that he might have made the description yet more majestic: and as nothing can be suffered by man beyond constupration, torments, and death, instead of such trifles as he mentioned, he might have shewed them the effects of fury in its greatest exaltation.

If it be good for a nation to live under such a power, why did not God of his own goodness institute it? Did his wisdom and love to his people fail? Or if he himself had not set up the best government over them, could he be displeas'd with them for asking it? Did he separate that nation from the rest of mankind, to make their condition worse than that of others? Or can they be said to have sinned and rejected God, when they desired nothing but the government, which, by a perpetual ordinance, he had established over all the nations of the world? Is not the law of nature a rule which he has given to things? and the law of man's nature, which is reason, an emanation of the divine wisdom, or some footsteps of divine light remaining in us? Is it possible that this, which is from God, can be contrary to his will; and can he be offended with those who desire to live in a conformity to that law? Or could it justly be said, the people had chosen that which is not good, if nothing in government be good but what they chose?

But as the worst men delight in the worst things, and fools are pleas'd with the most extreme absurdities, our author not only gives the highest praises to that which bears so many marks of God's hatred; but after having said, that Abraham, Isaac, Jacob, and Moses, were kings, he tells us, "the Israelites begged a king of Samuel;" which had been impertinent, if the magistrates instituted by the law were kings. And though it might be a folly in them to ask what they had already, it could be no sin to desire that which they enjoyed by the ordinance of God. If they were not kings, it follows, that the only government set up by God, among men, wanted the principal part, even the head and foundation, from whence all the other parts have their action and being: that is, God's law is against God's law, and destroys itself.

But if God did neither by a general and perpetual ordinance establish over all nations the monarchy which Samuel describes, nor prescribe it to his own people by a particular command, it was purely the people's creature, the production of their own fancy, conceived in wickedness, and brought forth in iniquity, an idol set up by themselves to their own destruction, in imitation of their accursed neighbours; and their reward was no better than the concession of an impious petition, which is one of God's heaviest judgments. Samuel's words are acknowledged by all interpreters, who were not malicious or mad, to be a dissuasion from their wicked purpose; not a description of what a king might justly do by virtue of his office, but what those, who should be set up against God and his law, would do when they came to have the power in their hands: and I leave such as have the understandings of men, and are not abandoned by God, to judge what influence this ought to have upon other nations, either as to obligation or imitation.

SECTION IV

NO PEOPLE CAN BE OBLIGED TO SUFFER FROM THEIR KINGS
WHAT THEY HAVE NOT A RIGHT TO DO.

Our author's next work is to tell us, "that the scope of Samuel was to teach the people a dutiful obedience to their king, even in those things which they did esteem mischievous and inconvenient. For, by telling them what a king would do, he indeed instructs them what a subject must suffer; yet not so, that it is right for kings to do injury, but it is right for them to go unpunished by the people, if they do it: so that in this point it is all one, whether Samuel describe a king, or a tyrant." This is hard, but the conclusion is grounded upon nothing. There is no relation between a prediction, that a thing shall be attempted or done to me, and a precept, that I shall not defend myself, or punish the person that attempts or does it. If a prophet should say, that a thief lay in the way to kill me, it might reasonably persuade me not to go, or to go in such a manner as to be able to defend myself; but can no way oblige me to submit to the violence that shall be offered, or my friends and children not to avenge my death if I fall; much less can other men be deprived of the natural right of defending themselves, by my imprudence or obstinacy in not taking the warning given, whereby I might have preserved my life. For every man has a right of resisting, some way or other, that which ought not to be done to him; and though human laws do not, in all cases, make men judges and avengers of the injuries offered to them, I think there is none that does not justify the man who kills another that offers violence to him, if it appear, that the way prescribed by the law, for the preservation of the innocent, cannot be taken. This is not only true

true in the case of outrageous attempts to assassinate or rob upon the highway, but in divers others of less moment. I knew a man who being appointed to keep his master's park killed three men in one night, that came to destroy his deer; and putting himself into the hands of the magistrate, and confessing the fact, both in matter and manner, he was at the public assizes not only acquitted, but commended for having done his duty; and this, in a time when it is well known, justice was severely administered, and little favour expected by him or his master. Nay, all laws must fall, human societies that subsist by them be dissolved, and all innocent persons be exposed to the violence of the most wicked, if men might not justly defend themselves against injustice by their own natural right, when the ways prescribed by public authority cannot be taken.

Our author may perhaps say, this is true in all except the king: and I desire to know why, if it be true in all except the king, it should not be true in relation to him? Is it possible, that he who is instituted for the obtaining of justice, should claim the liberty of doing injustice as a privilege? Were it not better for a people to be without law, than that a power should be established by law to commit all manner of violences with impunity? Did not David resist those of Saul? Did he not make himself head of the tribe of Judah, when they revolted against his son, and afterwards of the ten tribes, that rejected his posterity? Did not the Israelites stone Adoram who collected the taxes, revolt from the house of David, set up Jeroboam; and did not the prophet say it was from the Lord? If it was from the Lord, was it not good? If it was good then, is it not so for ever? Did good proceed from one root then, and from another now? If God had avenged the blood of Naboth by fire from heaven, and destroyed the house of Ahab, as he did the two captains, and their men, who were sent to apprehend Elijah*, it might be said, he reserved that vengeance to himself; but he did it by the sword of Jehu and the army, which was the people who had set him up, for an example to others.

But it is good to examine what this "dutiful obedience" is, that our author mentions. Men usually owe no more than they receive. It is hard to know what the Israelites owed to Saul, David, Jeroboam, Ahab, or any other king, whether good or bad, till they were made kings; and the act of the people, by which so great a dignity was conferred, seems to have laid a duty upon them, who did receive more than they had to give. So that something must be due from them, unless it were released by virtue of a covenant or promise made; and none could accrue to them from the people afterwards, unless from the merit of the person in rightly executing his office. If a covenant or promise be pretended, the nature and extent of the obligation can only be known by the contents expressed, or the true intention of it. If there be a general form of covenant set and agreed upon, to which all nations must submit, it were good to know where it may be found, and by whose authority it is established, and then we may examine the sense of it. If no such do appear, we may rationally

* 2 Kings, ch. 1, v. 10, 11, 12

CHAP. III look upon those to be impostors, who should go about from thence to derive a right. And as that which does not appear is as if it were not, we may justly conclude there is no other, or none that can have any effect, but such as have been made by particular nations with their princes; which can be of no force or obligation to others, nor to themselves, any farther than according to the true intention of those that made them. There is no such thing therefore as a dutiful obedience, or duty of being obedient, incumbent upon all nations by virtue of any covenant; nor upon any particular nation, unless it be expressed by a covenant. And whoever pretends to a right of taking our sons and daughters, lands or goods, or to go unpunished if he do, must shew, that these things are expressed or intended by the covenant.

But though nations, for the most part, owe nothing to kings, till they are kings, and it can hardly be conceived, that any people did ever owe so much to a man, as might not be fully repaid by the honour and advantages of such an advancement; yet it is possible, that when they are made kings, they may, by their good government, lay such obligations upon their subjects, as ought to be recompensed by obedience and service. There is no mortal creature that deserves so well from mankind, as a wise, valiant, diligent, and just king, who as a father cherishes his people, as a shepherd feeds, defends, and is ready to lay down his life for his flock; who is a terror to evil-doers, and a praise to those that do well. This is a glorious prerogative, and he who has it is happy. But before this can be adjudged to belong to all, it must be proved, that all have the virtues that deserve it; and he that exacts the dutiful obedience that arises from them must prove, that they are in him. He that does this, need not plead for impunity when he does injuries; for if he do them, he is not the man we speak of: not being so, he can have no title to the duty, by human institution or covenant; nor by divine law, since, as is already proved, God has neither established kings over all nations by precept, nor recommended them by example, in setting them over his own people. He has not therefore done it at all; there is no such thing in nature; and nations can owe nothing to kings merely as kings, but what they owe by the contract made with them.

As these contracts are made voluntarily, without any previous obligation, it is evident, that men make them in consideration of their own good, and they can be of force no longer, than he with whom they are made performs his part in procuring it; and that, if he turn the power which was given to him for the public good, to the public inconvenience and damage, he must necessarily lose the benefit he was to receive by it. The word "think" is foolishly and affectedly put in by our author; for those matters are very often so evident, that even the weakest know them. No great sagacity is required to understand, that lewd, slothful, ignorant, false, unjust, covetous, and cruel princes bring inconveniences and mischiefs upon nations; and many of them are so evidently guilty of some or all these vices, that no man can be mistaken in imputing them; and

the utmost calamities may rationally be expected from them, unless a remedy be applied. SECT. 4

But, says he, Samuel, by telling them "what the king would do, "instructs them what the subjects must suffer, and that it is right he "should go unpunished." But, by his favour, Samuel says no such thing; neither is it to be concluded, that because a king will do wickedly, he must be suffered, any more than a private man, who should take the same resolution. But he told them, that "when they should cry to the "Lord by reason of their king, he would not hear them." This was as much as to say, their ruin was unavoidable; that, having put the power into the hands of those, who, instead of protecting, would oppress them, and thereby having provoked God against them, so that he would not hearken to their cries, they could have no relief. But this was no security to the authors of their calamity. The houses of Jeroboam, Baasha, and Omri, escaped not unpunished, though the people did not thereby recover their liberty. The kings had introduced a corruption that was inconsistent with it. But they, who could not settle upon a right foundation to prevent future mischiefs, could avenge such as they had suffered, upon the heads of those who had caused them, and frequently did it most severely. The like befel the Romans, when, by the violence of tyranny, all good order was overthrown, good discipline extinguished, and the people corrupted. Ill princes could be cut in pieces, and mischiefs might be revenged, though not prevented. But it is not so every where, nor at all times; and nothing is more irrational, than from one or a few examples to conclude a general necessity of future events. They alter according to circumstances; and as some nations by destroying tyrants could not destroy tyranny, others in removing the tyrant have cut up tyranny by the roots. This variety has been seen in the same nation at different times. The Romans recovered their liberty by expelling Tarquin; but remained slaves notwithstanding the slaughter of Caesar. While the body of the people was uncorrupted, they cured the evil wrought by the person, in taking him away. It was no hard matter to take the regal power, that by one man had been enjoyed for life, and to place it in the hands of two annual magistrates, while the nobility and people were, according to the condition of that age, strong, and ready to maintain it. But when the mischief had taken deeper root, when the best part of the people had perished in the civil wars, when all their eminent men had fallen in battle, or by the proscriptions, when their discipline was lost, and virtue abolished, the poor remains of the distressed people were brought under the power of a mercenary soldiery, and found no relief. When they killed one tyrant, they often made room for a worse: it availed them nothing to cut off a rotten branch, while the accursed root remained, and sent forth new sprouts of the same nature to their destruction. Other generous nations have been subdued beyond a possibility of recovery; and those that are naturally base slide into the like misery, without the impulse of an exterior power. They are slaves by nature, and have neither the under-

CHAP. III standing nor courage that is required for the constitution and management of a government within themselves. They can no more subsist without a master, than a flock without a shepherd. They have no comprehension of liberty, and can neither desire the good they do not know, nor enjoy it if it were bestowed upon them. They bear all burdens; and whatever they suffer, they have no other remedy or refuge, than in the mercy of their lord. But such nations as are naturally strong, stout, and of good understanding, whose vigour remains unbroken, manners uncorrupted, reputation unblemished, and increasing in numbers; who neither want men to make up such armies as may defend them against foreign or domestic enemies, nor leaders to head them, do ordinarily set limits to their patience. They know how to preserve their liberty, or to vindicate the violation of it; and the more patient they have been, the more inflexible they are when they resolve to be so no longer. Those who are so foolish as to put them upon such courses, do to their cost find there is a difference between lions and asses; and he is a fool who knows not, that swords were given to men, that none might be slaves*, but such as know not how to use them.

SECTION V

THE MISCHIEFS SUFFERED FROM WICKED KINGS ARE SUCH AS
 RENDER IT BOTH REASONABLE AND JUST FOR ALL NATIONS,
 THAT HAVE VIRTUE AND POWER, TO EXERT BOTH IN
 REPELLING THEM.

If our author deserve credit, we need not examine, whether nations have a right of resisting, or a reasonable hope of succeeding in their endeavours to prevent or avenge the mischiefs that are feared or suffered, for it is not worth their pains. "The inconveniences," says he, "and miseries, which are reckoned by Samuel, as belonging to kingly government, were not intolerable, but such as have been and are still borne by the free consent of subjects towards their princes. Nay, at this day, and in this land, many tenants by their tenures are tied to the same subjection, even to subordinate and inferior lords." He is an excellent advocate for kingly government, that accounts inconveniences and miseries to be some of the essentials of it, which others esteem to be only incidents. Though many princes are violent and wicked, yet some have been gentle and just: though many have brought misery upon nations, some have been beneficial to them; and they who are esteemed most severe against monarchy think the evils, which are often suffered under that form of government, proceed from the corruption of it, or deviation

* Ignoratque datos, ne quisquam serviat, enses. Luc. Phar. l. 4, v. 579.

from the principle of its institution; and that they are rather to be imputed to the vices of the person, than to the thing itself: but if our author speak truth, it is universally and eternally naught, inconvenience and misery belong to it. SECT. 5

He thinks to mend this, by saying, they are not intolerable: but what is intolerable, if inconveniences and miseries be not? For what end can he think governments to have been established, unless to prevent or remove inconveniences and miseries; or how can that be called a government, which does not only permit, but cause them? What can incline nations to set up governments? Is it that they may suffer inconveniences, and be brought to misery? or if it be to enjoy happiness, how can that subsist under a government, which, not by accident, deflection, or corruption, but by a necessity inherent in itself, causes inconveniences and miseries? If it be pretended, that no human constitution can be altogether free from inconveniences, I answer, that the best may to some degree fall into them, because they may be corrupted; but evil and misery can properly belong, to none that is not evil in its own nature. If Samuel deserve credit, or may be thought to have spoken sense, he could not have enumerated the evils, which he foresaw the people should suffer from their kings, nor say, that they should cry to the Lord by reason of them, unless they were in themselves grievous, and in comparison greater than what they had suffered or known; since that would not have diverted them from their intention, but rather have confirmed them in it. And I leave it to our author to shew, why any people should, for the pleasure of one or a few men, erect or suffer that government, which brings more of evil with it than any other.

Moreover, there is a great difference between that which nations sometimes suffer under kings, and that which they willingly suffer; especially if our author's maxim be received, that all laws are the mandates of kings, and the liberties and privileges of subjects no more than their gracious concessions; for how patient soever they are under the evils they suffer, it might reasonably be believed they are so, because they know not how to help it: and this is certainly the case of too many places that are known to us. Whoever doubts of this, if he will not put himself to the trouble of going to Turkey or Morocco, let him pass only into Normandy, and ask the naked, barefooted, and half-starved people, whether they are willing to suffer the miseries under which they groan; and whether the magnificence of Versailles, and the pomp of their haughty master, do any way alleviate their calamities. If this also be a matter of too much pains, the wretches that come hither every day will inform him, that it is not by their own consent they are deprived of all honours and offices in the commonwealth, even of those, which, by a corrupt custom that had gained the force of a law, they had dearly bought; prohibited to exercise any trade; exposed to the utmost effects of fraud and violence, if they refuse to adore their master's idols. They will tell him, that it is not willingly they leave their lands and estates to seek a shelter in the most remote parts of the world, but because they are under a force which they are not able

CHAP. III to resist; and because one part of the nation, which is enriched with the spoils of the other, have foolishly contributed to lay a yoke upon them which they cannot break.

To what he says concerning tenures, I answer, no man in England owes any service to his lord, unless by virtue of a contract made by himself or his predecessors, under which he holds the land granted to him on that condition by the proprietor. There may be something of hardship, but nothing of injustice. It is a voluntary act in the beginning and continuance; and all men know, that what is done to one who is willing is no injury *." He who did not like the conditions was not obliged to take the land; and he might leave it, if afterwards he came to dislike them. If any man say, the like may be done by any one in the kingdom, I answer, that it is not always true; the protestants now in France cannot without extreme hazard go out of that country, though they are contented to lose their estates. It is accounted a crime, for which they are condemned perpetually to the galleys, and such as are aiding to them, to grievous fines. But before this be acknowledged to have any similitude or relation to our discourse concerning kings, it must be proved, that the present king, or those under whom he claims, is or were proprietors of all the lands in England, and granted the several parcels under the condition of suffering patiently such inconveniences and miseries as are above-mentioned; or that they who did confer the crown upon any of them, did also give a propriety in the land; which I do not find in any of the fifteen or sixteen titles that have been since the coming in of the Normans: and if it was not done to the first of every one, it cannot accrue to the others, unless by some new act to the same purpose, which will not easily be produced.

It will be no less difficult to prove, that any thing unworthy of freemen is by any tenures imposed in England, unless it be the offering up of the wives and daughters of tenants to the lust of abbots and monks; and they are so far from being willingly suffered, that since the dens and nurseries of those beasts were abolished, no man that succeeds them has had impudence sufficient to exact the performance; and though the letter of the law may favour them, the turpitude of the thing has extinguished the usage.

But even the kings of Israel and Judah, who brought upon the people those evils that had been foretold by Samuel, did not think they had a right to the powers they exercised. If the law had given a right to Ahab to take the best of their vineyards, he might without ceremony have taken that of Naboth, and by the majestic power of an absolute monarch, have chastised the churlish clown, who refused to sell or change it for another: but for want of it, he was obliged to take a very different course. If the lives of subjects had in the like manner depended upon the will of kings, David might without scruple have killed Uriah, rather than placed him in the front of the army, that he might fall by his own courage.

* Volenti non fit injuria.

The malice and treachery of such proceedings argues a defect of power; and he that acts in such an oblique manner shews, that his actions are not warranted by the law, which is boldly executed in the face of the sun. This shews the interpretation put upon the words, "against thee only have I sinned *," by court-flatterers, to be false. For if he had not sinned against Bathsheba, whom he corrupted, Uriah whom he caused to be killed, the people that he scandalized, and the law which he violated, he had never endeavoured to cover his guilt by so vile a fraud. And as he did not thereby fly the sight of God, but of men, it is evident, that in that action he feared men more than God.

If by the examples of Israel and Judah we may judge, whether the inconveniences and miseries brought upon nations by their kings be tolerable or intolerable, it will be enough to consider the madness of Saul's cruelty towards his subjects, and the slaughter brought upon them by the hand of the Philistines on mount Gilboa, where he fell with the flower of all Israel; the civil wars that happened in the time of David, and the plague brought upon the people by his wickedness; the heavy burdens laid upon them by Solomon, and the idolatry favoured by him; the wretched folly of Rehoboam, and the defection of the ten tribes caused by it; the idolatry established by Jeroboam, and the kings of Israel, with that of many of those of Judah also; the frequent wars, and unheard of slaughters ensuing thereupon between the tribes; the daily devastations of the country by all sorts of strangers; the murders of the prophets; the abolition of God's worship; the desolation of towns and provinces; the dispersion of the ten tribes carried away into unknown countries; and, in the end, the abolition of both kingdoms, with the captivity of the tribe of Judah, and the utter destruction of the city. It cannot be said, that these things were suffered under kings, and not from or by them; for the desolation of the cities, people, and country, is, in many places of Scripture, imputed to the kings that taught Israel to sin, as appears by what was denounced against Jeroboam, Jehu, Ahaz, Manasseh, Zedekiah, and others †. Nay, the captivity of Babylon with the evils ensuing was first announced to Hezekiah for his vanity ‡; and Josiah, by the like, brought a great slaughter upon himself and people. But if mischiefs fell upon the people by the frailty of these, who, after David, were the best, nothing surely less than the utmost of all miseries could be expected from such as were set to do evil, and to make the nation like to themselves, in which they met with too great success.

If it be pretended, that God's people, living under an extraordinary dispensation, can be no example to us, I desire other histories may be examined. For I confess, I know no nation so great, happy, and prosperous, nor any power, so well established, that two or three ill kings, immediately succeeding each other, have not been able to destroy, and

* Psalm li, v. 4.

† 1 Kings, ch. 14, v. 16. 2 Kings, ch. 21, v. 11, 12, etc.

‡ 2 Kings, ch. 20, v. 17

CHAP. III bring to such a condition, that it appeared the nations must perish, unless the senates, diets, and other assemblies of state, had put a stop to the mischief, by restraining or deposing them. And though this might be proved by innumerable testimonies, I shall only say, that the Roman empire perished by the vices, corruption, and baseness of their princes; the noble kingdom of the Goths in Spain was overthrown by the tyranny of Vitiza and Roderic; the present state of Spain now languishes, and threatens ruin from the same causes; France was brought to the last degree of misery and weakness by the degenerate races of Pharamond and Charles: to which may be added those of our own country, which are so well known that I need not mention them.

SECTION VI

IT IS NOT GOOD FOR SUCH NATIONS AS WILL HAVE KINGS,
TO SUFFER THEM TO BE GLORIOUS, POWERFUL, OR
ABOUNDING IN RICHES.

Our author having hitherto spoken of all nations, as born under a necessity of being subject to absolute monarchy, which he pretends to have been set up by the universal and indispenfible law of God and nature, now seems to leave it to their discretion whether they will have a king or not; but says, that those “who will have a king are bound to allow him royal maintenance, by providing revenues for the crown; since it is for the honour, profit, and safety of the people, to have their king glorious, powerful, and abounding in riches.” If there be any thing of sense in this clause, there is nothing of truth in the foundation or principle of his whole book. For as the right and being of a father is natural or inherent, and no ways depending upon the will of the child, that of a king is so also, if he be, and ought to enjoy the rights belonging to the father of the people: and it is not less ridiculous to say, “those who will have a king,” than it would be to say, “he that will have a father;” for every one must have one whether he will or not. But if the king be a father, as our author from thence infers, that all laws are from him, none can be imposed upon him, and whatever the subject enjoys is by his concessions, it is absurd to speak of an obligation lying upon the people to allow him royal maintenance, by providing revenues, since he has all in himself, and they have nothing, that is not from him, and depending upon his will. For this reason a worthy gentleman of the house of commons, in the year 1640, desired, that the business of the judges, who in the star-chamber had given for their opinion concerning ship-money, “that, in cases of necessity, the king might provide it by his own authority, and that he was judge of that necessity,” might be
first

first examined, that they might know whether they had any thing to give, before they should speak of giving. And as it is certain, that if the sentence of those perjured wretches had stood, the subjects of England by consequence would have been found to have nothing to give, it is no less sure, that if our author's principle concerning the paternal and absolute power of kings be true, it will, by a more compendious way, appear, that it is not left to the choice of any nation, whether they will have a king or not; for they must have him, and can have nothing to allow him, but must receive all from him.

But if those only who "will have a king" are bound to have one, and to allow this "royal maintenance," such as will not have a king are, by one and the same act, delivered from the necessity of having one, and from providing maintenance for him, which utterly overthrows the magnificent fabric of paternal monarchy; and the kings, who were lately represented by our author, as placed on the throne by God and nature, and endowed with an absolute power over all, appear to be purely the creatures of the people, and to have nothing but what is received from them.

From hence it may be rationally inferred, that he who makes a thing to be, makes it to be only what he pleases*. This must hold in relation to kings as well as other magistrates. And as they who made consuls, dictators, and military tribunes, gave them only such power, and for such a time, as best pleased themselves, it is impossible they should not have the same right in relation to kings, in making them what they please, as well as not to make them unless they please: except there be a charm belonging to the name, or the letters that compose it; which cannot belong to all nations, for they are different in every one according to their several languages.

But, says our author, it is "for the honour, profit, and safety of the people, that the king should be glorious, powerful, and abounding in riches." There is therefore no obligation upon them, and they are to judge whether it be so or not. The Scripture says plainly the contrary: "he shall not multiply silver and gold, wives and horses; he shall not lift up his heart above his brethren †." He shall not therefore be glorious, powerful, or abounding in riches. Reason and experience teach us the same thing. If those nations that have been proud, luxurious, and vicious, have desired by pomp and riches to foment the vices of their princes, thereby to cherish their own, such as have excelled in virtue and good discipline have abhorred it; and, except in the immediate exercise of their office, have kept their supreme magistrates to a manner of living little different from that of private men. And it had been impossible to maintain that frugality, in which the integrity of their manners did chiefly consist, if they had set up an example directly contrary to it in him, who was to be an example to others; or to provide for their own safety, if they had overthrown that integrity of manners, by which it could only be

* Qui dat esse, dat modum esse.

† Deut. ch. 17, v. 16—20

CHAP. III obtained and preserved. There is a necessity incumbent upon every nation, that lives in the like principle, to put a stop to the entrance of those vices which arise from the superfluity of riches, by keeping their kings in that honest poverty, which is the mother and nurse of modesty, sobriety, and all manner of virtue: and no man can deny this to be well done, unless he will affirm, that pride, luxury, and vice, is more profitable to a nation, than the virtues that are upheld by frugality.

There is another reason of no less importance to those nations, who, though they think fit to have kings, yet desire to preserve their liberty, which obliges them to set limits to the glory, power, and riches of their kings; and that is, that they can no otherwise be kept within the rules of the law. Men are naturally propense to corruption; and if he, whose will and interest it is to corrupt them, be furnished with the means, he will never fail to do it. Power, honours, riches, and the pleasures that attend them, are the baits by which men are drawn to prefer a personal interest before the public good; and the number of those who covet them is so great, that he who abounds in them will be able to gain so many to his service, as shall be sufficient to subdue the rest. It is hard to find a tyranny in the world that has not been introduced this way; for no man by his own strength could ever subdue a multitude: none could ever bring many to be subservient to his ill designs, but by the rewards they received or hoped. By these means Caesar accomplished his work, and overthrew the liberty of his country, and with it all that was then good in the world. They who were corrupted in their minds desired to put all the power and riches into his hands, that he might distribute them to such as served him. And he, who was nothing less than covetous in his own nature, desired riches, that he might gain followers; and by the plunder of Gaul he corrupted those that betrayed Rome to him. And though I do not delight to speak of the affairs of our own time, I desire those who know the present state of France to tell me, whether it were possible for the king to keep that nation under servitude, if a vast revenue did not enable him to gain so many to his particular service, as are sufficient to keep the rest in subjection. And if this be not enough, let them consider, whether all the dangers, that now threaten us at home, do not proceed from the madness of those, who gave such a revenue, as is utterly disproportionable to the riches of the nation, unsuitable to the modest behaviour expected from our kings, and which in time will render parliaments unnecessary to them.

On the other hand, the poverty and simplicity of the Spartan kings was no less safe and profitable to the people, than truly glorious to them. Agesilaus denied that Artaxerxes was greater than he, unless he were more temperate, or more valiant; and he made good his words so well, that, without any other assistance than what his wisdom and valour afforded, he struck such a terror into that great, rich, powerful, and absolute monarch, that he did not think himself safe in Babylon or Ecbatane, till the poor Spartan was by a captain of as great valour, and greater poverty, obliged

obliged to return from Asia to the defence of his own country. This was not peculiar to the severe Laconic discipline. When the Roman kings were expelled, a few carts were prepared to transport their goods: and their lands, which were consecrated to Mars, and now go under the name of Campus Martius, consisted of hardly ten acres of ground. Nay, the kings of Israel, who led such vast armies into the field, that is, were followed by all the people who were able to bear arms, seem to have possessed little. Ahab, one of the most powerful, was so fond of Naboth's vineyard (which, being the inheritance of his fathers, according to their equal division of lands, could not be above two acres) that he grew sick when it was refused.

SECT. 6

But, if an allowance is to be made to every king, it must be either according to an universal rule or standard, or must depend upon the judgment of nations. If the first, they who have it, may do well to produce it; if the other, every nation, proceeding according to the measure of their own discretion, is free from blame.

It may also be worth observation, whether the revenue given to a king be in such manner committed to his care, that he is obliged to employ it for the public service without the power of alienation; or whether it be granted as a propriety, to be spent as he thinks fit. When some of the ancient Jews and Christians scrupled the payment of tribute to the emperors, the reasons alleged to persuade them to a compliance seem to be grounded upon a supposition of the first: for, said they, the defence of the state lies upon them, which cannot be performed without armies and garrisons: these cannot be maintained without pay, nor money raised to pay them without tributes and customs. This carries a face of reason with it, especially in those countries which are perpetually or frequently subject to invasions: but this will not content our author. He speaks of employing the revenue in keeping the king's house, and looks upon it as a propriety to be spent as he thinks convenient; which is no less than to cast it into a pit, of which no man ever knew the bottom. That which is given one day, is squandered away the next: the people is always oppressed with impositions, to foment the vices of the court: these daily increasing, they grow insatiable; and the miserable nations are compelled to hard labour, in order to satiate those lusts that tend to their own ruin.

It may be considered, that the virtuous pagans, by the light of nature, discovered the truth of this*. Poverty grew odious in Rome, when great men, by desiring riches, put a value upon them, and introduced that pomp and luxury which could not be borne by men of small fortunes. From thence all furies and mischiefs seemed to break loose †. The base, slavish, and so often subdued Asia, by the basest of men revenged the defeats they had received from the bravest; and by infusing into them a

* ——— Saevior armis

Luxuria incubuit, victumque ulciscitur orbem. Juv. Sat. 6, v. 291

† Nullum crimen abest, facinusque libidinis, ex quo
Paupertas Romana perit. Ibid. v. 293

CHAP. III delight in pomp and luxury, in a short time rendered the strongest and bravest of nations the weakest and basest. I wish our own experience did not too plainly manifest, that these evils were never more prevalent than in our days, when the luxury, majestic pomp, and absolute power of a neighbouring king, must be supported by an abundance of riches, torn out of the bowels of his subjects, which renders them, in the best country of the world, and at a time when the crown most flourishes, the poorest and most miserable of all the nations under the sun. We too well know who are most apt to learn from them, and by what means and steps they endeavour to lead us into the like misery. But the bird is safe when the snare is discovered; and if we are not abandoned by God to destruction, we shall never be brought to consent to the settling of that pomp, which is against the practice of all virtuous people, and has brought all the nations that have been taken with it into the ruin that is intended for us.

SECTION VII

WHEN THE ISRAELITES ASKED FOR SUCH A KING AS THE NATIONS ABOUT THEM HAD, THEY ASKED FOR A TYRANT, THOUGH THEY DID NOT CALL HIM SO.

“ Now that Saul was no tyrant, ” says our author, “ note, that the people asked a king, as all nations had. God answers, and bids Samuel “ to hear the voice of the people, in all things which they spake, and “ appoint them a king. They did not ask a tyrant; and to give them a “ tyrant when they asked a king, had not been to hear their voice in all “ things, but rather, when they asked an egg, to have given them a scorpion; “ unless we will say, that all nations had tyrants.” But before he drew such a conclusion, he should have observed, that God did not give them a scorpion when they asked an egg, but told them, that was a scorpion which they called an egg. They would have a king to judge them, to go out before them, and to fight their battles; but God in effect told them, he would overthrow all justice, and turn the power that was given him, to the ruin of them, and their posterity. But since they would have it so, he commanded Samuel to hearken to their voice, and for the punishment of their sin and folly, to give them such a king as they asked, that is, one who would turn to his own profit, and their misery, the power with which he should be entrusted; and this truly denominates a tyrant. Aristotle makes no other distinction between a king and a tyrant, than that the king governs for the good of the people, the tyrant for his own pleasure or profit*: and they who asked such a one, asked a tyrant, though they

* Ὅ μιν γὰρ τυραννὸς τοῦ αὐτοῦ συμφέρον σκαπεῖ, ὁ δὲ βασιλεὺς τοῦ τῶν ἀρχομένων. Arist. de Morib. l. 8, c. 12

called him a king. This is all that could be done in their language: for, as they who are skilled in the oriental tongues assure me, there is no name for a tyrant in any of them, or any other way of expressing the thing, than by circumlocution, and adding proud, insolent, lustful, cruel, violent, or the like epithets, to the word lord, or king. They did in effect ask a tyrant: they would not have such a king as God had ordained, but such a one as the nations had. Not that all nations had tyrants; but those who were round about them, of whom they had knowledge, and which in their manner of speaking, went under the name of all, were blessed with such masters. This way of expression was used by Lot's daughters, who said, there was not a man in all the earth to come in to them*; because there was none in the neighbourhood with whom it was thought fit they should accompany. Now, that the eastern nations were then, and are still, under the government of those which all free people call tyrants, is evident to all men. God therefore, in giving them a tyrant, or rather a government, that would turn into tyranny, gave them what they asked, under another name; and, without any blemish to the mercy promised to their fathers, suffered them to bear the penalty of their wickedness and folly in rejecting him, that he should not reign over them.

But though the name of tyrant was unknown to them, yet in Greece, from whence the word comes, it signified no more than one who governed according to his own will, distinguished from kings that governed by law; and was not taken in an ill sense, till those who had been advanced for their justice, wisdom, and valour, or their descendants, were found to depart from the ends of their institution, and to turn that power to the oppression of the people, which had been given for their protection. But by these means it grew odious, and that kind of government came to be thought only tolerable by the basest of men; and those who destroyed it were in all places esteemed to be the best.

If monarchy had been universally evil, God had not in the xvii of Deuteronomy given leave to the Israelites to set up a king; and if that kind of king had been asked, he had not been displeased. And they could not have been said to reject God, if they had not asked that which was evil; for nothing that is good is contrary, or inconsistent with a people's obedience to him. The monarchy they asked was displeasing to God, it was therefore evil. But a tyrant is no more than an evil or corrupted monarch: the king therefore that they demanded was a tyrant. God, in granting one who would prove a tyrant, gave them what they asked; and that they might know what they did, and what he would be, he told them they rejected him, and should cry by reason of the king they desired.

This denotes him to be a tyrant: for as the government of a king ought to be gentle and easy, tending to the good of the people, resembling the tender care of a father to his family, if he who is set up to be a king,

* Gen. ch. 19, v. 32

CHAP. III and to be like to that father, do lay a heavy yoke upon the people, and use them as slaves, and not as children, he must renounce all resemblance of a father, and be accounted an enemy.

“ But, ” says our author, “ whereas the people’s crying argues some tyrannical oppression, we may remember, that the people’s cries are not always an argument of their living under a tyrant. No man can say Solomon was a tyrant, yet all the congregation complained, that Solomon made their yoke grievous. ” It is strange, that when children, nay, when whelps cry, it should be accounted a mark that they are troubled, and that the cry of the whole people should be none: or that the government, which is erected for their ease, should not be esteemed tyrannical, if it prove grievous to those it should relieve. But as I know no example of a people, that did generally complain without cause, our adversaries must allege some other than that of Solomon, before I believe it of any. We are to speak reverently of him: he was excellent in wisdom; he built the temple, and God appeared twice to him. But it must be confessed, that during a great part of his life he acted directly contrary to the law given by God to kings; and that his ways were evil and oppressive to the people, if those of God were good. Kings were forbidden to multiply horses, wives, silver, and gold: but he brought together more silver and gold, and provided more horses, wives, and concubines, than any man is known to have had. And though he did not actually return to Egypt, yet he introduced their abominable idolatry; and so far raised his heart above his brethren, that he made them subservient to his pomp and glory. The people might probably be pleased with a great part of this: but when the yoke became grievous, and his foolish son would not render it more easy, they threw it off; and the thing being from the Lord, it was good, unless he be evil.

But as just governments are established for the good of the governed, and the Israelites desired a king, that it might be well with them, not with him, who was not yet known to them, that which exalts one, to the prejudice of those that made him, must always be evil, and the people that suffers the prejudice must needs know it better than any other. He that denies this, may think the state of France might have been best known from Bulion the late treasurer, who, finding Lewis the thirteenth to be troubled at the people’s misery, told him, they were too happy, since they were not reduced to eat grass. But if words are to be understood as they are ordinarily used, and we have no other than that of “ tyranny ” to express a monarchy that is either evil in the institution, or fallen into corruption, we may justly call that “ tyranny ” which the Scripture calls a “ grievous yoke, ” and which neither the old nor the new counsellors of Rehoboam could deny to be so. For though the first advised him to promise amendment, and the others to do worse, yet all agreed, that what the people said was true.

This yoke is always odious to such as are not by natural stupidity and baseness fitted for it; but those who are so, never complain. An ass will bear

bear a multitude of blows patiently; but the least of them drives a lion into rage. He who said, the rod is made for the back of fools, confessed that oppreffion will make a wife man mad. And the most unnatural of all oppreffions is to use lions like asses, and to lay that yoke upon a generous nation, which only the basest can deserve: and, for want of a better word, we call this tyranny.

Our author is not contented to vindicate Solomon only, but extends his indulgence to Saul. His custom is to patronize all that is detestable; and no better testimony could be given of it. "It is true," says he, "Saul lost his kingdom, but not for being too cruel or tyrannical to his subjects, but for being too merciful to his enemies." But he alleges no other reason, than that the slaughter of the priests is not blamed*; not observing that the writers of the Scripture, in relating those things that are known to be abominable by the light of nature, frequently say no more of them. And if this be not so, Lot's drunkenness and incest, Reuben's pollution of his father's bed, Abimelech's slaughter of his seventy brothers †, and many of the most wicked acts that ever were committed may pass for laudable and innocent. But if Saul were not to be blamed for killing the priests, why was David blamed for the death of Uriah ‡? why were the dogs to lick the blood of Ahab and Jezebel, if they did nothing more than kings might do without blame? Now, if the slaughter of one man was so severely avenged upon the authors, and their families, none but such as Filmer can think that of so many innocent men, with their wives and children, could escape unreprieved or unpunished. But the whole series of the history of Saul shewing evidently, that his life and reign were full of the most violent cruelty and madness, we are to seek no other reason for the ruin threatened and brought upon him, and his family. And as those princes who are most barbarously savage against their own people, are usually most gentle to the enemies of their country, he could not give a more certain testimony of his hatred to those he ought to have protected, than by preserving those nations, who were their most irreconcilable enemies. This is proved by reason, as well as by experience; for every man knows he cannot bear the hatred of all mankind: such as know they have enemies abroad, endeavour to get friends at home: those who command powerful nations, and are beloved by them, fear not to offend strangers. But if they have rendered their own people

* And Saul said unto the footmen that stood about him, Turn and slay the priests of the Lord; because their hand is with David, and because they knew when he fled, and did not shew it to me. But the servants of the king would not put forth their hand to fall upon the priests of the Lord. And the king said to Doeg, Turn thou, and fall upon the priests; and Doeg turned, and fell upon them, and slew on that day fourscore and five persons that did wear a linen ephod. And Nob, the city of the priests, smote he with the edge of the sword, both men and women, children and sucklings, and oxen, and asses, and sheep, with the edge of the sword. 1 Sam. ch. 22, v. 17—19

† Abimelech, the bastard son of Gideon, slew his seventy brothers, in order to obtain the government of Sechem. Jud. ch. 9, v. 5

‡ Thou hast killed Uriah with the sword of the children of Ammon; now therefore the sword shall never depart from thy house. 2 Sam. ch. 12, v. 9, 10

CHAP. III enemies to them, they cannot hope for help in a time of distress, nor so much as a place of retreat or refuge, unless from strangers; nor from them, unless they deserve it by favouring them to the prejudice of their own country. As no man can serve two masters, no man can pursue two contrary interests. Moses, Joshua, Gideon, and Samuel, were severe to the Amorites, Midianites, and Canaanites, but mild and gentle to the Hebrews. Saul, who was cruel to the Hebrews, spared the Amalekites, whose preservation was their destruction. And whilst he destroyed those he should have saved, and saved those, that by a general and particular command of God he should have destroyed, he lost his ill-governed kingdom, and left an example to posterity of the end that may be expected from pride, folly, and tyranny.

The matter would not be much altered, if I should confess, that, in the time of Saul, all nations were governed by tyrants (though it is not true, for Greece did then flourish in liberty, and we have reason to believe, that other nations did so also); for though they might not think of a good government at the first, nothing can oblige men to continue under one that is bad, when they discover the evils of it, and know how to mend it. They who trusted men, that appeared to have great virtues, with such a power as might easily be turned into tyranny, might justly retract, limit, or abolish it, when they found it to be abused. And though no condition had been reserved, the public good, which is the end of all government*, had been sufficient to abrogate all that should tend to the contrary. As the malice of men, and their inventions to do mischief, increase daily, all would soon be brought under the power of the worst, if care were not taken, and opportunities embraced, to find new ways of preventing it. He that should make war at this day, as the best commanders did two hundred years past, would be beaten by the meanest soldier. The places then accounted impregnable are now slighted as indefensible; and if the arts of defending were not improved as well as those of assaulting, none would be able to hold out a day. Men were sent into the world rude and ignorant, and if they might not have used their natural faculties to find out that which is good for themselves, all must have been condemned to continue in the ignorance of our first fathers, and to make no use of their understanding to the ends for which it was given.

The bestial barbarity in which many nations, especially of Africa, America, and Asia, now live, shews what human nature is, if it be not improved by art and discipline; and if the first errors, committed through ignorance, might not be corrected, all would be obliged to continue in them; and for any thing I know, we must return to the religion, manners, and policy, that were found in our country at Caesar's landing. To affirm this is no less than to destroy all that is commendable in the world, and to render the understanding given to men utterly useless. But if it be lawful for us, by the use of that understanding, to build houses, ships,

* *Salus populi suprema lex.* Cic. de Leg. 1. 3, § 3

and forts, better than our ancestors, to make such arms as are most fit for our defence, and to invent printing, with an infinite number of other arts beneficial to mankind, why have we not the same right in matters of government, upon which all others do almost absolutely depend? If men are not obliged to live in caves, and hollow trees, to eat acorns, and to go naked, why should they be for ever obliged to continue under the same form of government, that their ancestors happened to set up in the time of their ignorance? Or if they were not so ignorant as to set up one that was not good enough for the age in which they lived, why should it not be altered, when tricks are found out to turn that to the prejudice of nations, which was erected for their good? From whence should malice and wickedness gain a privilege of putting new inventions to do mischief every day into practice? and who is it that so far protects them, as to forbid good and innocent men to find new ways also of defending themselves? If there be any that do this, they must be such as live in the same principle; who, while they pretend to exercise justice, provide only for the indemnity of their own crimes, and the advancement of unjust designs. They would have a right of attacking us, with all the advantages of the arms now in use, and the arts, which by the practice of so many ages have been wonderfully refined, whilst we should be obliged to employ no others in our just defence, than such as were known to our naked ancestors, when Caesar invaded them, or to the Indians, when they fell under the dominion of the Spaniards. This would be a compendious way of placing uncontrouled iniquity in all the kingdoms of the world, and of overthrowing all that deserves the name of good, by the introduction of such accursed maxims. But if no man dares to acknowledge any such, except those whose acknowledgement is a discredit, we ought not to suffer them to be obliquely obtruded upon us, nor to think, that God has so far abandoned us into the hands of our enemies, as not to leave us the liberty of using the same arms in our defence, which they do to offend and injure us.

We shall be told, that prayers and tears were the only arms of the first Christians, and that Christ commanded his disciples to pray for those that persecuted them. But besides, that those precepts of the most extreme lenity do ill suit with the violent practices of those who attempt to enslave nations, and who, by alleging them, do plainly shew, either that they do not extend to all Christians, or that they themselves are none, while they act contrary to them, they are to know, that those precepts were merely temporary, and directed to the persons of the apostles, who were armed only with the sword of the spirit; that the primitive Christians used prayers and tears only no longer, than while they had no other arms. But knowing, that by listing themselves under the ensigns of Christianity they had not lost the rights belonging to all mankind, when nations came to be converted, they no way thought themselves obliged to give their enemies a certain opportunity of destroying them, when God had put means into their hands of defending themselves; and proceeded so far in this way, that the Christian valour soon became no less famous and

CHAP. III remarkable than that of the pagans. They did with the utmost vigour defend both their civil and religious rights against all the powers of earth and hell, who by force and fraud endeavoured to destroy them.

SECTION VIII

UNDER THE NAME OF TRIBUTE NO MORE IS UNDERSTOOD, THAN WHAT THE LAW OF EACH NATION GIVES TO THE SUPREME MAGISTRATE FOR THE DEFRAIVING OF PUBLIC CHARGES; TO WHICH THE CUSTOMS OF THE ROMANS, OR SUFFERINGS OF THE JEWS, HAVE NO RELATION.

“ If any desire the directions of the New Testament,” says our author, “ he may find our Saviour limiting and distinguishing royal power, by giving to Caesar those things that were Caesar’s, and to God the things that were God’s.” But that will be of no advantage to him in this contest. We do not deny to any man, that which is his due; but do not so well know who is Caesar, nor what it is that can truly be said to be due to him. I grant, that when those words were spoken, the power of the Romans, exercised by Tiberius, was then expressed by the name of Caesar, which he without any title had assumed. The Jews, among many other nations, having been subdued, submitted to it; and, being no way competent judges of the rights belonging to the senate or people of Rome, were obliged to acknowledge that power which their masters were under. They had no commonwealth of their own, nor any other government among themselves, that was not precarious. They thought Christ was to have restored their kingdom, and by them to have reigned over the nations: but he shewed them they were to be subject to the Gentiles, and that within few years their city and temple should be destroyed. Their commonwealth must needs expire, when all that was prefigured by it was accomplished. It was not for them at such a time to presume upon their abrogated privileges, nor the promises made to them, which were then fulfilled. Nay, they had by their sins profaned themselves, and given to the Gentiles a right over them, which none could have had, if they had continued in their obedience to the law of God. This was the foundation of the Caesars dominion over them, but can have no influence upon us. The first of the Caesars had not been set up by them; the series of them had not been continued by their consent; they had not interrupted the succession by placing or displacing such as they pleased; they had not brought in strangers or bastards, nor preferred the remotest in blood before the nearest; they had no part in making the laws, by which they were governed, nor had the Caesars sworn to them; they had no “ great charter,” acknowledging their liberties to be innate or inherent in them, confirmed by immemorial custom, and strengthened by thirty acts of their

their own general assemblies, with the assent of the Romans; the Caesar SECT. 8 who then governed came not to the power by their consent; the question, “ will ye have this man to reign ? ” had never been asked; but he being imposed upon them, they were to submit to the laws, by which he governed their masters. This can be nothing to us, whose case is in every respect most unlike to theirs. We have no dictatorial power over us; and neither we nor our fathers have rendered or owed obedience to any human laws, but our own, nor to any other magistracy, than what we have established. We have a king who reigns by law. His power is from “ the law that makes him king * : ” and we can know only from thence what he is to command, and what we are obliged to obey. We know the power of the Caesars was usurped, maintained, and exercised, with the most detestable violence, injustice, and cruelty. But though it had been established by the consent of the Romans, from an opinion that it was good for them in that state of affairs, it were nothing to us; and we could be no more obliged to follow their example in that, than to be governed by consuls, tribunes, and decemviri, or to constitute such a government as they set up, when they expelled their kings. Their authority was as good at one time as at the other: or if a difference ought to be made, the preference is to be given to what they did when their manners were most pure, the people most free, and when virtue was most flourishing among them. But if we are not obliged to set up such a magistracy as they had, it is ridiculous to think, that such an obedience is due to one who is not in being, as they paid to him that was. And if I should confess, that Caesar, holding the senate and people of Rome under the power of the sword, imposed what tribute he pleased upon the provinces; and that the Jews, who had no part in the government, were obliged to submit to his will, our liberty of paying nothing, except what the parliament appoints, and yielding obedience to no laws, but such as are made to be so by their authority, or by our own immemorial customs, could not be thereby infringed. But we may justly affirm, that the tribute imposed was not, as our author infers, “ all their coin, ” nor a considerable part of it, nor more than what was understood to go for the defraying of the public charges. Christ by asking, whose image and superscription was stamped upon their money, and thereupon commanding them to give to Caesar that which was Caesar’s, did not imply, that all was his; but that Caesar’s money being current among them, it was a continual and evident testimony, that they acknowledged themselves to be under his jurisdiction, and therefore could not refuse to pay the tribute laid upon them by the same authority, as other nations did.

It may also be observed, that Christ did not so much say this to determine the questions, that might arise, concerning Caesar’s power, for he

* *Lex facit regem.* Bracton de Leg. et Consuet. Angliae. l. 1, c. 8, fol. 5. — *Nihil tam proprium est imperii, quàm legibus vivere, et majus imperio est legibus submittere principum, et merito debet retribuere legi, quia lex tribuit ei; facit enim lex quòd ipse sit rex.* Ibid. l. 3, c. 9, fol. 107

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plainly ſays, that was not his work, but to put the Pharifees to ſilence, who tempted him. According to the opinion of the Jews, that the Meſſias would reſtore the kingdom of Iſrael, they thought his firſt work would be to throw off the Roman yoke; and not believing him to be the man, they would have brought him to avow the thing, that they might deſtroy him. But as that was not his buſineſs and his time was not yet come, it was not neceſſary to give them any other anſwer, than ſuch as might diſappoint their purpoſe. This ſhews that, without detracting from the honour due to Auſtin, Ambroſe, or Tertullian, I may juſtly ſay, that the deciſion of ſuch queſtions, as ariſe concerning our government, muſt be decided by our laws, and not by their writings. They were excellent men, but living in another time, under a very different government, and applying themſelves to other matters, they had no knowledge at all of thoſe that concern us. They knew what government they were under, and thereupon judged what a broken and diſperſed people owed to that which had given law to the beſt part of the world, before they were in being, under which they had been educated, and which, after a moſt cruel perſecution, was become propitious to them. They knew, that the word of the emperor was a law to the ſenate and people, who were under the power of that man that could get the beſt army; but perhaps had never heard of ſuch mixed governments as ours, though about that time they began to appear in the world. And it might be as reaſonably concluded, that there ought to be no rule in the ſucceſſion or election of princes, becauſe the Roman emperors were ſet up by the violence of the ſoldiers, and for the moſt part, by the ſlaughter of him who was in poſſeſſion of the power, as that all other princes muſt be abſolute when they have it, and do what they pleaſe, till another ſtronger and happier may, by the like means, wreſt the ſame power from them.

I am much miſtaken if this be not true: but without prejudice to our cauſe, we may take that which they ſay, according to their true meaning, in the utmoſt extent. And to begin with Tertullian: it is good to conſider the ſubject of his diſcourſe, and to whom he wrote. The treatiſe cited by our author is the Apologetic, and tends to perſuade the pagans, that civil magiſtrates might not intermeddle with religion; and that the laws made by them touching thoſe matters, were of no value, as relating to things of which they had no cognizance. “It is not,” ſays he, “length of time, nor the dignity of the legiſlators, but equity only, that can commend laws; and when any are found to be unjuſt, they are deſervedly condemned*.” By which words he denied, that the magiſtratical power, which the Romans acknowledged in Caefar, had any thing to do in ſpiritual things. And little advantage can be taken by Chriſtian princes from what he ſays concerning the Roman emperors; for he expreſly declares, “that the Caefars would have believed in Chriſt, if

* *Leges neque annorum numerus, neque conditorum dignitas commendat, ſed aequitas ſola; et ideo, cum iniquae recognoscuntur, merito damnantur.* Tertul. Apol. p. 6, Edit. Rigaltii, 1664

“ they

“ they had either not been necessary to the secular government, or if Christians might have been Caesars *.” This seems to have proceeded from an opinion received by Christians in the first ages, that the use of the civil as well as the military sword was equally accursed; that, Christians were to be sons of peace, enemies to no man; and that Christ, by commanding Peter to put up his sword, did for ever disarm all Christians †.” He proceeds to say, “ we cannot fight to defend our goods, having in our baptism renounced the world, and all that is in it; nor to gain honours, accounting nothing more foreign to us than public affairs, and acknowledging no other commonwealth than that of the whole world ‡; nor to save our lives, because we account it a happiness to be killed.” He dissuades the pagans from executing Christians, rather from charity to them in keeping them from the crime of slaughtering the innocent, than that they were unwilling to suffer; and gives no other reasons of their prayers for the emperors, than that they were commanded to love their enemies §, and to pray for those who persecuted them, except such as he drew from a mistake, that the world was shortly to finish with the dissolution of the empire. All his works, as well those that were written before he fell into Montanism, as those published afterwards, are full of the like opinions; and if Filmer acknowledges them to be true, he must confess, that princes are not fathers, but enemies ¶; and that not only they, but all those who render themselves ministers of the powers they execute, in taking upon them the sword that Christ had cursed, do renounce him; and we may consider how to proceed with such as do so. If our author will not acknowledge this, then no man was ever guilty of a more vile prevarication than he, who alleges those words in favour of his cause, which have their only strength in opinions that he thinks false, and in the authority of a man whom in that very thing he condemns; and must do so, or overthrow all that he endeavours to support. But Tertullian’s opinions concerning these matters have no relation to our present question. The design of his Apology, and the treatise to Scapula, almost upon the same subject, was to shew, that the civil magistracy, which he comprehends under the name of Caesar, had nothing to do with matters of religion; and that, as no man could be a Christian who would undertake the work of a magistrate, they, who were jealous the public offices might be taken out of their hands, had nothing to fear from Chris-

* Sed et Caesares credidissent super Christo, si aut Caesares non essent saeculo necessarii, aut si et Christiani potuissent esse Caesares. Ibid. p. 20

† Filii pacis Christianus nullius est hostis. Id. ad Scapulam, p. 69. ———
Omnem postea militem Dominus in Petro exarmando discinxit. De Idol. p. 97

‡ Nobis ab omni gloriae et dignitatis ardore frigentibus nulla est necessitas coetus; nec ulla magis res aliena, quam publica: unam omnium rempublicam agnoscimus, mundum. Apol. p. 30

§ Scitote praeceptum esse nobis, ad redundantiam benignitatis, etiam pro inimicis Deum orare, et persecutoribus nostris bona precari. Apol. p. 27

¶ Qui magis inimici et persecutores Christianorum, quam de quorum majestate convenimur in crimen? Ibid. p. 27

CHAP. III tians who resolved not to meddle with them. Whereas our question is only, whether that magiftratical power, which, by law or ufurpation, was then in Caefar, muft neceffarily in all times, and in all places, be in one man, or may be divided and balanced according to the laws of every country, concerning which he fays nothing: or whether we, who do not renounce the ufe of the civil or military fword, who have a part in the government, and think it our duty to apply ourfelves to public cares, fhould lay them afide, becaufe the antient Chriftians, every hour expecting death, did not trouble themfelves with them.

If Ambrofe, after he was a bifhop, employed the ferocity of a foldier, which he ftill retained, rather in advancing the power of the clergy, than the good of mankind, by refraining the rage of tyrants, it can be no prejudice to our caufe, of which he had no cognizance. He fpoke of the violent and defpotic government, to which he had been a minifter before his baptifm, and feems to have had no knowledge of the Gothic polity, that within a few years grew famous by overthrowing the Roman tyranny, and delivering the world from the yoke which it could no longer bear. And if Auftin might fay, that “ the emperor is fubject to no laws, becaufe “ he has a power of making laws *,” I may juftly fay, that our kings are fubject to laws, becaufe they can make no law, and have no power but what is given by the laws. If this be not the cafe, I defire to know who made the laws, to which they and their predeceffors have fworn; and whether they can, according to their own will, abrogate thofe antient laws, by which they are made to be what they are, and by which we enjoy what we have; or whether they can make new laws by their own power? If no man but our author have impudence enough to affert any fuch thing, and if all the kings we ever had, except Richard the fecond, did renounce it, we may conclude, that Auftin’s words have no relation to our difpute; and that it were to no purpofe to examine, whether the fathers mention any refervation of power to the laws of the land, or to the people, it being as lawful for all nations, if they think fit, to frame governments different from thofe that were then in being, as to build battions, half-moons, hornworks, ravelins, or counterfcarps, or to make ufe of mufquets, cannon, mortars, carabines, or piftols, which were unknown to them.

What Solomon fays of the Hebrew kings does as little concern us. We have already proved their power not to have been abfolute, though greater than that which the law allows to ours. It might, upon occafion, be a prudent advice to private perfons living under fuch governments as were ufual in the eastern countries, “ to keep the king’s commandments, “ and not to fay, what doft thou? becaufe where the word of a king is, “ there is power, and all that he pleafeth he will do.” But all thefe words are not his; and thofe that are, muft not be taken in a general fenfe. For though his fon was a king, yet in his words there was no

* Imperator non eft fubjectus legibus, qui habet in poteftate alias leges ferre. Auguft. * * *
power :

power: he could not do what he pleased, nor hinder others from doing what they pleased. He would have added weight to the yoke that lay upon the necks of the Israelites, but he could not; and we do not find him to have been master of much more than his own tongue, to speak as many foolish things as he pleased. In other things, whether he had to deal with his own people, or with strangers, he was weak and impotent; and the wretches who flattered him in his follies could be of no help to him. The like has befallen many others. Those who are wise, virtuous, valiant, just, and lovers of their people, have and ought to have power; but such as are lewd, vicious, foolish, and haters of their people, ought to have none, and are often deprived of all. This was well known to Solomon, who says, that "a wise child is better than an old and foolish king, that will not be advised." When Nabuchodonosor set himself in the place of God, his kingdom was taken from him, and he was driven from the society of men to herd with beasts. There was power for a time in the word of Nero: he murdered many excellent men; but he was called to account, and the world abandoned the monster it had too long endured. He found none to defend him, nor any better help, when he desired to die, than the hand of a slave. Besides, some kings by their institution have little power; some have been deprived of what they had, for abusing, or rendering themselves unworthy of it; and history affords us innumerable examples of both sorts.

But though I should confess that there is always power in the word of a king, it would be nothing to us, who dispute concerning right, and have no regard to that power which is void of it. A thief or a pirate may have power; but that avails him not, when, as often befel the Caesars, he meets with one who has more, and is always unsafe, since, having no effect upon the consciences of men, every one may destroy him that can: and I leave it to kings to consider how much they stand obliged to those, who, placing their rights upon the same foot, expose their persons to the same dangers.

But if kings desire, that in their word there should be power, let them take care, that it be always accompanied with truth and justice. Let them seek the good of their people, and the hands of all good men will be with them. Let them not exalt themselves insolently, and every one will desire to exalt them. Let them acknowledge themselves to be the servants of the public, and all men will be theirs. Let such as are most addicted to them talk no more of Caesars, nor the tributes due to them. We have nothing to do with the name of Caesar. They, who at this day live under it, reject the prerogatives antiently usurped by those who had it, and are governed by no other laws than their own. We know no law to which we owe obedience, but that of God, and ourselves. Asiatic slaves usually pay such tributes as are imposed upon them; and whilst braver nations lay under the Roman tyranny, they were forced to submit to the same burdens. But even those tributes were paid for maintaining armies, fleets, and garrisons, without which the poor and abject life they led could

●CHAP. III not have been preserved. We owe none but what we freely give. None is or can be imposed upon us, unless by ourselves. We measure our grants according to our own will, or the present occasions, for our own safety. Our ancestors were born free, and, as the best provision they could make for us, they left us that liberty entire, with the best laws they could devise to defend it. It is no way impaired by the opinions of the fathers. The words of Solomon do rather confirm it. The happiness of those who enjoy the like, and the shameful misery under which they lie, who have suffered themselves to be forced or cheated out of it, may persuade, and the justice of the cause encourage us, to think nothing too dear to be hazarded in the defence of it.

SECTION IX

OUR OWN LAWS CONFIRM TO US THE ENJOYMENT OF OUR NATIVE RIGHTS.

If that which our author calls divinity did reach the things in dispute between us, or if the opinions of the fathers, which he alleges, related to them, he might have spared the pains of examining our laws; for a municipal sanction were of little force to confirm a perpetual and universal law given by God to mankind, and of no value against it, since man cannot abrogate what God has instituted, nor one nation free itself from a law that is given to all. But having abused the Scriptures, and the writings of the fathers (whose opinions are to be valued only so far as they rightly interpret them) he seems desirous to try, whether he can as well put a false sense upon our law, and has fully compassed his design. According to his custom he takes pieces of passages from good books, and turns them directly against the plain meaning of the authors, expressed in the whose scope and design of their writings. To shew that he intends to spare none, he is not ashamed to cite Bracton, who, of all our antient law-writers, is most opposite to his maxims. He lived, says he, in Henry the third's time, since parliaments were instituted: as if there had been a time when England had wanted them; or the establishment of our liberty had been made by the Normans, who, if we will believe our author, came in by force of arms, and oppressed us. But we have already proved the essence of parliaments to be as antient as our nation, and that there was no time, in which there were not such councils or assemblies of the people as had the power of the whole, and made or unmade such laws as best pleased themselves. We have indeed a French word from a people that came from France, but the power was always in ourselves; and the Norman kings were obliged to swear they would govern according to the laws that had been made by those assemblies. It imports little, whether Bracton lived before or after they came among us. His words are,

“ Omnes

“ Omnes sub eo, et ipse sub nullo, nisi tantum sub Deo; all are under him, and he under none, but God only. If he offend, since no writ can go against him, their remedy is, by petitioning him to amend his fault; which if he shall not do, it will be punishment sufficient for him to expect God as a revenger. Let none presume to search into his deeds, much less to oppose them*.” Here is a mixture of sense and nonsense, truth and falsehood, the words of Bracton, with our author’s foolish inferences from them. Bracton spoke of the politic capacity of the king, when no law had forbidden him to divide it from his natural. He gave the name of king to the sovereign power of the nation, as Jacob called that of his descendants the sceptre; which he said should not depart from Judah till Shiloh came, though all men know, that his race did not reign the third part of that time over his own tribe, nor full fourscore years over the whole nation. The same manner of speech is used in all parts of the world. Tertullian, under the name of Caesar, comprehended all magistratical power, and imputed to him the acts, of which in his person he never had any knowledge. The French say, their king is always present, “ sur son lit de justice,” in all the sovereign courts of the kingdom, which are not easily numbered; and that maxim could have in it neither sense nor truth, if by it they meant a man, who can be but in one place at one time, and is always comprehended within the dimensions of his own skin. These things could not be unknown to Bracton, the like being in use among us; and he thought it no offence so far to follow the dictates of reason prohibited by no law, as to make a difference between the invisible and omnipresent king, who never dies, and the person that wears the crown, whom no man, without the guilt of treason, may endeavour to kill, since there is an act of parliament in the case. I will not determine whether he spoke properly or no as to England; but if he did not, all that he said, being upon a false supposition, is nothing to our purpose. The same Bracton says, the king does no wrong, inasmuch as he does nothing but by law: “ the power of the king is the power of the law, a power of right not of wrong †.” Again, “ if the king does injustice, he is not king.” In another place he has these words, “ the king therefore ought to exercise the power of the law, as becomes the vicar and minister of God upon earth, because that power is the power of God alone; but the power of doing wrong is the power of the devil, and not of God. And the king is his minister, whose work he does: whilst he does justice, he is the vicar of the eternal king;

* Omnes quidem sub eo [rege] et ipse sub nullo, nisi tantum sub Deo Si jus ab eo petatur, cum breve non currat contra ipsum, locus erit supplicationi, quod factum suum corrigat et emendet, quod quidem si non fecerit, satis sufficit ei ad poenam, quod Dominum expectet ultorem. Nemo quidem de factis suis praesumat disputare, multo fortius contra factum suum venire. Bracton. l. 1, c. 8, fol. 5. — Our author seems not to have observed, that the words which he cites from Filmer, and which he calls his “ foolish inferences,” are the documents of old Bracton, in the passage before us, which Filmer has translated.

† Nihil aliud potest rex in terris, cum sit Dei minister et vicarius, nisi id solum quod de jure potest. . . . Potestas sua juris est, et non injuriae. Bract. l. 2, c. 9, fol. 107

CHAP. III

“ but if he deflect from it to act unjustly, he is the minister of the devil*.” He also says, that the king is, “ *singulis major, universis minor;*” and that he who is, “ *in justitiâ exequendâ omnibus major, in justitiâ recipiendâ cuilibet ex plebe fit aequalis †.*” I shall not say Bracton is in the right when he speaks in this manner; but it is a strange impudence in Filmer to cite him as a patron of the absolute power of kings, who does so extremely depress them. But the grossest of his follies is yet more pardonable than his detestable fraud in falsifying Bracton’s words, and leaving out such as are not for his purpose, which shew his meaning to be directly contrary to the sense put upon them. That this may appear, I shall set down the words as they are found in Bracton. “ *Ipse autem rex non debet esse sub homine, sed sub Deo, et sub lege, quia lex facit regem. Attribuat ergo lex regi quod lex attribuit ei, videlicet dominationem et potestatem: non est enim rex ubi dominatur voluntas et non lex; et quòd sub lege esse debeat, cum sit Dei vicarius, evidenter apparet ‡.*” If Bracton therefore be a competent judge, the king is under the law, and he is not a king, nor God’s vicegerent, unless he be so; and we all know how to proceed with those, who, being under the law, offend against it: for the law is not made in vain. In this case something more is to be done than petitioning: and it is ridiculous to say, that if “ he will not amend, it is punishment enough for him to expect God an avenger;” for the same may be said of all malefactors. God can sufficiently punish thieves and murderers: but the future judgment, of which perhaps they have no belief, is not sufficient to restrain them from committing more crimes, nor to deter others from following their example. God was always able to punish murderers, but yet by his law he commands man to shed the blood of him who should shed man’s blood; and declares, that the land cannot be purged of the guilt by any other means. He had judgments in store for Jeroboam, Ahab, and those that were like them; but yet he commanded that, according to that law, their houses should be destroyed from the earth. The dogs licked up the blood of Ahab, where they had licked that of Naboth, and eat Jezebel, who had contrived his murder. “ But,” says our author, “ we must not look into his deeds, much less oppose them.” Must not David look into Saul’s deeds, nor oppose them? Why did he then bring together as many men as he could

* Exercere igitur debet rex potestatem juris, sicut Dei vicarius et minister in terrâ, quia illa potestas solius Dei est: potestas autem injuriæ diaboli et non Dei; et cujus horum opera fecerit rex, ejus minister erit. Igitur dum facit justitiam, vicarius est Regis æterni; minister autem diaboli, dum declinet ad injuriam. Ibid. l. 3, c. 9, fol. 107

† Parem habere non debet, nec multò fortius superiorem, maximè in justitiâ exhibendâ, ut dicatur verè de eo magnus dominus noster, et magna virtus ejus, etc. Licèt in justitiâ recipiendâ minime de regno suo comparetur; et licèt omnes potentiâ præcellat, tamen, cum cor regis in manu Dei esse debeat, ne sit effraenata, fraenum apponat temperantiæ, et lora moderantiæ, ne cum ineffraenata sit trahatur ad injuriam. Ibid. l. 3, c. 9, fol. 107. — Sic ergò rex, ne potestas sua maneat infraenata, non debet esse major eo in regno suo in exhibitione juris, minimus autem esse debet vel quasi in judicio suscipiendo, si petat, etc. Ibid. l. 1, c. 8, fol. 5

‡ Ibid. l. 1, c. 8, fol. 5

to oppose, and make foreign alliances against him, even with the Moabites, and the accursed Philistines? Why did Jehu not only destroy Ahab's house, but kill the king of Judah, and his forty brothers, only for going to visit his children? Our author may perhaps say, because God commanded them. But if God commanded them to do so, he did not command them, and all mankind, not to do so; and if he did not forbid, they have nothing to restrain them from doing the like, unless they have made municipal laws of their own to the contrary, which our author and his followers may produce when they can find them.

His next work is, to go back again to the tribute paid by Christ to Caesar, and judiciously to infer, that all nations must pay the same duty to their magistrates, as the Jews did to the Romans, who had subdued them. "Christ did not," says he, "ask what the law of the land was, nor inquire whether there was a statute against it, nor whether the tribute were given by the consent of the people, but upon sight of the superscription concluded, etc." It had been strange, if Christ had inquired after their laws, statutes, or consent, when he knew, that their commonwealth, with all the laws by which it had subsisted, was abolished; and that Israel was become a servant to those, who exercised a most violent domination over them: which, being a peculiar punishment for their peculiar sins, can have no influence upon nations, that are not under the same circumstances.

But of all that he says, nothing is more incomprehensible, than what he can mean by lawful kings, to whom all is due that was due to the Roman usurpers. For lawful kings are kings by the law: in being kings by the law, they are such kings as the law makes them, and that law only must tell us what is due to them: or by an universal patriarchal right, to which no man can have a title, as is said before, till he prove himself to be the right heir of Noah. If neither of these are to be regarded, but right follows possession, there is no such thing as an usurper; he who has the power has the right, as indeed Filmer says; and his wisdom, as well as his integrity, is sufficiently declared by the assertion.

This wicked extravagancy is followed by an attempt of as singular ignorance and stupidity, to shuffle together usurpers and conquerors, as if they were the same: whereas, there have been many usurpers, who were not conquerors, and conquerors, that deserved not the name of usurpers. No wise man ever said, that Agathocles or Dionysius conquered Syracuse; Tarquin, Galba, or Otho, Rome; Cromwell, England; or that the magi, who seized the government of Persia, after the death of Cambyfes, conquered that country. When Moses and Joshua had overthrown the kingdoms of the Amorites, Moabites, and Canaanites; or when David subdued the Ammonites, Edomites, and others, none, as I suppose, but such divines as Filmer, will say they usurped a dominion over them. There is such a thing among men as just war, or else true valour could not be a virtue, but a crime; and instead of glory, the utmost infamy would always be the companion of victory. There are, says Grotius, laws of

CHAP. III war, as well as of peace *. He who for a just cause, and by just means, carries on a just war, has as clear a right to what is acquired as can be enjoyed by man; but all usurpation is detestable and abominable.

SECTION X

THE WORDS OF ST. PAUL, INJOINING OBEDIENCE TO HIGHER POWERS, FAVOUR ALL SORTS OF GOVERNMENTS, NO LESS THAN MONARCHY.

Our author's next quarrel is with St. Paul, "who did not," as he says, "in injoining subjection to the higher powers, signify the laws of the land, or mean the highest powers, as well aristocratical and democratical as regal, but a monarch that carries the sword, etc." But what if there be no monarch in the place? or what if he do not carry the sword? Had the apostle spoken in vain, if the liberty of the Romans had not been overthrown by the fraud and violence of Caesar? Was no obedience to be exacted while that people enjoyed the benefit of their own laws, and virtue flourished under the moderate government of a legal and just magistracy, established for the common good, by the common consent of all? Had God no minister among them, till law and justice was overthrown, the best part of the people destroyed by the fury of a corrupt mercenary soldiery, and the world subdued under the tyranny of the worst monsters, that it had ever produced? Are these the ways of establishing God's vicegerents? And will he patronize no governors or governments, but such as these? Does God uphold evil, and that only? If the world has been hitherto mistaken, in giving the name of evil to that which is good, and calling that good which is evil, I desire to know, what can be called good among men, if the government of the Romans, till they entered Greece and Asia, and were corrupted by the luxury of both, do not deserve that name? Or what is to be esteemed evil, if the establishment and exercise of the Caesars power were not so? But says he, "wilt thou not be afraid of the power?" And was there no power in the governments, that had no monarchs? Were the Carthaginians, Romans, Grecians, Gauls, Germans, and Spaniards, without power? Was there no sword in that nation, and in the hands of their magistrates, who overthrew the kingdoms of Armenia, Egypt, Numidia, Macedon, with many others, whom none of the monarchs were able to resist? Are the Venetians, Switzers, Grifons, and Hollanders, now left in the same weakness, and no obedience at all due to their magistrates? If this be so, how comes it to pass, that justice is so well administered among them? Who is it that defends the Hollanders in such a manner, that the greatest monarchs, with all their swords, have

* Sunt et belli, sicut pacis jura. Grot. de Jure Belli, Proleg. § 26. Liv. l. 5, c. 27

had no great reason to boast of any advantages gained against them? at least till we (whom they could not resist, when we had no monarch, though we have been disgracefully beaten by them since we had one) by making leagues against them, and sowing divisions among them, instigated and assisted the greatest power now in the world to their destruction and our own. But our author is so accustomed to fraud, that he never cites a passage of Scripture, which he does not abuse or vitiate; and that he may do the same in this place, he leaves out the following words, "for there is no power but of God," that he might intitle one sort only to his protection. If therefore the people and popular magistrates of Athens; the two kings, ephori, and senate of Sparta; the sanhedrim among the Hebrews; the consuls, tribunes, praetors, and senate of Rome; the magistrates of Holland, Switzerland, and Venice, have or had power, we may conclude, that they also were ordained by God; and that, according to the precept of the apostle, the same obedience, for the same reason, is due to them as to any monarch.

The apostle, farther explaining himself, and shewing, who may be accounted a magistrate, and what the duty of such a one is, informs us, when we should fear and on what account. "Rulers," says he, "are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same; for he is the minister of God, a revenger to execute wrath upon him that doth evil*." He therefore is only the minister of God, who is not a terror to good works, but to evil; who executes wrath upon those that do evil, and is a praise to those that do well. And he who does well ought not to be afraid of the power; for he shall receive praise. Now if our author were alive, though he was a man of a hard forehead, I would ask him, whether in his conscience he believed, that Tiberius, Caligula, Claudius, Nero, and the rabble of succeeding monsters, were a praise to those who did well, and a terror to those who did ill; and not the contrary, a praise to the worst, and a terror to the best men of the world? Or for what reason Tacitus could say, that virtue brought men who lived under them to certain destruction †, and recite so many examples of the brave and good, who were murdered by them for being so, unless they had endeavoured to extinguish all that was good, and to tear up virtue by the roots ‡? Why did he call Domitian an enemy to virtue §, if he was a terror only to those that did evil? If the world has hitherto been misled in these things, and given the name of virtue to vice, and of vice to virtue, then Germanicus, Valerius Asiaticus, Corbulo, Helvidius Priscus, Thrasea, Soranus, and others, that resembled them, who fell under the rage of those beasts, nay, Paul himself, and his disciples, were evil doers; and Macro, Narcissus, Pallas, Vinius, Laco, and Tigellinus, were virtuous and good men. If this be so, we are beholden to Filmer

* Rom. ch. 13, v. 3, 4. † Ob virtutes certissimum exitium. Tacit. Hist. l. 1, § 2.

‡ Ipsam excindere virtutem. Id. Annal. l. 16, § 21.

§ Infensus virtutibus princeps. Id. in vitâ Agricæ.

CHAP. III for admonishing mankind of the error in which they had so long continued. If not, those who persecuted and murdered them for their virtues, were not a terror to such as did evil, and a praise to those who did well. The worst men had no need to fear them; but the best had, because they were the best. All princes, therefore, that have power, are not to be esteemed equally the ministers of God. They that are so must receive their dignity from a title, that is not common to all, even from a just employment of their power to the encouragement of virtue, and to the discouragement of vice. He that pretends to the veneration and obedience due to the ministers of God, must by his actions manifest, that he is so. And though I am unwilling to advance a proposition, that may found harshly to tender ears, I am inclined to believe, that the same rule, which obliges us to yield obedience to the good magistrate, who is the minister of God, and assures us, that in obeying him we obey God, does equally oblige us not to obey those, who make themselves the ministers of the devil, lest in obeying them we obey the devil, whose works they do.

That none, but such as are wilfully ignorant, may mistake Paul's meaning, Peter, who was directed by the same spirit, says distinctly, "submit yourselves to every ordinance of man for the Lord's sake*." If therefore there be several ordinances of men tending to the same end, that is, the obtaining of justice, by being a terror to the evil, and a praise to the good, the like obedience is for conscience sake enjoined to all, and upon the same condition. But, as no man dares to say, that Athens and Persia, Carthage and Egypt, Switzerland and France, Venice and Turkey, were and are under the same government, the same obedience is due to the magistrate in every one of those places, and all others on the same account, while they continue to be the ministers of God.

If our author say, that Peter cannot comprehend kings under the name of human ordinances, since Paul says, they are the ordinance of God, I may as well say, that Paul cannot call that the ordinance of God, which Peter calls the ordinance of man. But as it was said of Moses and Samuel, that they who spoke by the same spirit could not contradict each other, Peter and Paul, being full of wisdom and sanctity, and inspired by the same spirit, must needs say the same thing. And Grotius shews, that they perfectly agree, though the one calls kings, rulers, and governors, the ordinance of man, and the other, the ordinance of God; inasmuch as God having from the beginning ordained, that men should not live like wolves in woods, every man by himself, but together in civil societies, left to every one a liberty of joining with that society which best pleased him, and to every society to create such magistrates, and frame such laws, as should seem most conducing to their own good, according to the measure of light and reason they might have. And every magistracy so instituted might rightly be called the ordinance of man, who was the instituter, and the ordinance of God, according to which it was instituted: because

* 1 Pet. ch. 2, v. 3

says he, " God approved and ratified the salutary constitutions of government made by men.*"

But, says our author, " Peter expounds his own words of the human ordinance, to be the king, who is the *lex loquens*." But he says no such thing, and I do not find, that any such thought ever entered into the apostle's mind. The words are often found in the works of Plato and Aristotle, but applied only to such a man as is a king by nature, who is endowed with all the virtues that tend to the good of human societies in a greater measure than any or all those that compose them; which character, I think, will be ill applied to all kings. And that this may appear to be true, I desire to know whether it would well have agreed with Nero, Caligula, Domitian, or others like to them; and if not with them, then not with all, but only with those who are endowed with such virtues. But if the king be made by man, he must be such as man makes him to be; and if the power of a law had been given by any human sanction to the word of a foolish, mad, or wicked man, which I hardly believe, it would be destroyed by its own iniquity and turpitude, and the people left under the obligation of rendering obedience to those, who so use the sword, that the nations under them may live soberly, peaceably, and honestly.

This obliges me a little to examine what is meant by the sword. The pope says there are two swords, the one temporal, the other spiritual; and that both of them were given to Peter, and to his successors. Others more rightly understand the two swords to be that of war, and that of justice, which, according to several constitutions of governments, have been committed to several hands, under several conditions and limitations. The sword of justice comprehends the legislative and the executive power: the one is exercised in making laws, the other in judging controversies according to such as are made. The military sword is used by those magistrates who have it, in making war or peace with whom they think fit, and sometimes by others who have it not, in pursuing such wars as are resolved upon by another power. The Jewish doctors generally agree, that the kings of Judah could make no law, because there was a curse denounced against those who should add to, or detract from that which God has given by the hand of Moses; that they might sit in judgment with the high-priest and sanhedrim, but could not judge by themselves, unless the sanhedrim did plainly fail of performing their duty. Upon this account Maimonides excuses David for commanding Solomon not to suffer the grey hairs of Joab to go down to the grave in peace, and Solomon for appointing him to be killed at the foot of the altar: for he having killed Abner and Amasa, and by those actions shed the blood of war in time of

* Notandum est, primò homines non Dei praecepto, sed sponte adductos experimento infirmitatis familiarum fegregum adversus violentiam, in societatem civilem coisse, unde ortum habet potestas civilis, quam idèò humanam ordinationem Petrus vocat, quanquam alibi et divina ordinatio vocatur, quia hominum salubre institutum Deus probavit. Grot. de Jure Belli, l. 1, c. 4, § 7.

CHAP. III peace, the sanhedrim should have punished him; but, being protected by favour or power, and even David himself fearing him, Solomon was put in mind of his duty; which he performed, though Joab laid hold upon the horns of the altar, which, by the express words of the law, gave no protection to wilful-murderers.

The use of the military sword among them was also moderated. Their kings might make war upon the seven accursed nations, that they were commanded to destroy, and so might any other man; for no peace was to be made with them: but not against any other nation, without the assent of the sanhedrim. And when Amaziah, contrary to that law, had foolishly made war upon Joash king of Israel, and thereby brought a great slaughter upon Judah, the princes, that is, the sanhedrim, combined against him, pursued him to Lachish, and killed him there*.

The legislative power of Sparta was evidently in the people. The laws that go under the name of Lycurgus, were proposed by him to the general assembly of the people, and from them received their authority †. But the discipline they contained was of such efficacy for framing the minds of men to virtue, and by banishing silver and gold they so far banished all manner of crimes, that from the institution of those laws to the times of their corruption, which was more than eight hundred years, we hardly find, that three men were put to death, of whom two were kings. So that it seems difficult to determine where the power of judging did reside, though it is most probable, considering the nature of their government, that it was in the senate, and, in cases extraordinary, in the ephori, with a right of appealing to the people. Their kings therefore could have little to do with the sword of justice, neither the legislative nor the judicial power being any ways in them.

The military sword was not much more in their power, unless the excellency of their virtues gave them the credit of persuading, when the law denied the right of commanding. They were obliged to make war against those, and those only, who were declared enemies by the senate and ephori, and in the manner, place, and time, they directed: so that Agesilaus, though carrying on a glorious war in Persia, no sooner received the parchment-roll, wherein he was commanded by the ephori to come home for the defence of his own country, than he immediately returned, and is on that account called by no less a man than Xenophon, a good and faithful king, rendering obedience to the laws of his country ‡.

By this it appears, that there are kings who may be feared by those that do ill, and not by such as do well; for, having no more power than what the law gives, and being obliged to execute it as the law directs, they cannot depart from the precept of the apostle. My own actions

* 2 Kings ch. 14, v. 19. It is only supposed from circumstances, not asserted in the text, that the princes, or the sanhedrim, were the authors of this combination. "VIDENTUR conjurati fuisse viri potentes ac primarii, quibus rex ausus non est resistere, aut plectere, sed se subduxit." Menochius, in locum.

† Plut. in vitâ Lycurgi, p. 42.

‡ Vide suprâ, p. 90

therefore,

therefore, or the sense of my own guilt arising from them, is to be the measure of my fear of that magistrate who is the minister of God, and not his power. SECT. 10

The like may be said of almost all the nations of the world, that have had any thing of civil order among them. The supreme magistrate, under what name soever he was known, whether king, emperor, asymnetes *, suffetes †, consul, dictator, or archon, has usually a part assigned to him in the administration of justice, and making war; but that he may know it to be assigned, and not inherent, and so assigned as to be employed for the public good, not to his own profit or pleasure, it is circumscribed by such rules as he cannot safely transgress. This is above all seen in the German nations, from whom we draw our original and government; and is so well described by Tacitus, in his treatise of their customs and manners, that I shall content myself to refer to it, and to what I have cited from him in the former part of this work. The Saxons, coming into our country, retained to themselves the same rights. They had no kings but such as were set up by themselves, and they abrogated their power when they pleased ‡. Offa acknowledged, “that he was chosen for the
“ defence

* Οἱ Αἰσυμνηται καλεσμενοι παρ' Ἑλλησι το αρχαιον αιρετοι τινες ησαν τυραννοι. Dion. Halic. l. 5, p. 336, Edit. Lips. 1691. — Αἰσυμνητεια εστι αιρετη τυραννις, Aesymnetia est tyrannis optiva, seu suffragio et consensu populi delata. Vide Arist. Polit. l. 3, c. 14. Alex. ab Alex. l. 4, c. 13

† The principal magistrates at Carthage. Vide Liv. l. 28, c. 37. l. 30, c. 7. The word is probably derived from שׁוֹפֵטִים Suphetim, judges.

‡ OFFA. Unanimi omnium consensu, Offam in regem tam clerus quàm populus coronarunt. Mat. West. Flor. Hist. sub ann. 758. — Amici et commilitones mei, qui me ad libertatis vestrae unanimiter, non meis meritis, sed solâ liberalitate vestrâ, convocastis tuitionem, etc. Mat. Paris. in vitâ Offae secundi, p. 13, Edit. Lond. 1640

In the council at Calchuth, which was held in the year 787, c. 12, “De ordinatione et honore regum,” it was decreed, “ut legitimè reges à sacerdotibus et senioribus populi eligerentur.” The laws which were made in that assembly are said to have been proposed and ratified, “in concilio publico, coram rege Alfuualdo, et archiepiscopo Eanbaldo, et omnibus episcopis et abbatibus regionis, seu senatoribus, et ducibus, et populo terrae;” and at the same time to have been received and confirmed by king Offa, and the nobles and prelates of Mercia. Spelm. Concil. vol. 1, p. 296, 300

EGBERT. Ordinatur Ecgbyrht super Occidentales Anglos in regnum. Chron. Ethelwerdi, l. 3, c. 2. — Defuncto Brietrico, frequentibus suorum nunciis Britanniam reversus, moxque imperare jussus, patriae desideriis satisfecit. Will. Malmesb. de Gest. Reg. Angl. l. 2, c. 1. — Egbertus, ex Galliâ properè in patriam reversus, omnium consensu rex creatur. Polyd. Verg. Angl. Hist. l. 4, p. 88, Edit. Basil. 1534

ETHELWOLF. Adewulfus, Egbriçto patre suo defuncto, necessitate cogente, factus est rex. Hen. Hunting. Hist. l. 5, p. 348. Hovend. Annal. p. 413. — Iste autem rex, Deo devotus, ante obitum Egberti regis patris sui, Wentanae urbis fuerat episcopus ordinatus, sed patre defuncto, licet multum repugnans, rex creatus est, cum non esset alius de regio genere, qui regnare debuisset. Mat. West. sub ann. 837, p. 159

ETHELBALD. Ineffabili patris clementiâ, et omnium astipulatione nobilium adunatum antea regnum inter patrem et filium dividitur. Asserii Annal. sub ann. 855, p. 156, Edit. Oxon. 1691. Idem, de Reb. Gest. Aelfredi, p. 3. — Post obitum Athulfi regis, ordinati sunt filii ejus in regnum. Chron. Ethelw. l. 4, c. 1

CHAP. III “defence of their liberty, not from his own merit, but by their favour.”
And in the Conventus Pananglicus, at which all the chief men, as well
secular

ETHELBERT. Aethelbyrht ordinatus est super Cantuarios, et Orientales; Auftrales quoque, et medios Anglos. Ibid.

ETHELRED. Concessum est regnum totius provinciae Occidentalium Saxonum post mortem Ethilbyrti Ethelredo fratri suo. Rudburni Hist. Major. Winton. l. 3, c. 5. — Ethelredus deinde Ethelberti frater rex creatur. Polyd. Verg. l. 5, p. 94

ALFRED. Ego Aelfredus divino munere, labore ac studio Athelredi archiepiscopi, nec non totius West-Saxoniae nobilitatis consensu pariter et assensu, Occidentalium Saxonum rex, quos in testimonium meae ultimae voluntatis complementi, ut sint advocati in disponendis pro salute animae meae, regali electione confirmo, tam de haereditate, quam Deus ac principes, cum senioribus populi, misericorditer ac benignè dederunt, etc. . . . Ego in nomine domini exhortor, et in nomine omnium sanctorum, quòd nemo consanguineorum meorum in posterum contra aliquem meae consanguinitatis laboret quovis modo, quoad ea, quae ego ipsi dedi perantèa pariter et legavi. Et mecum tota nobilitas West-Saxonicae gentis pro recto jure consentiunt, quòd me oportet dimittere eos ita liberos, sicut in homine cogitatio ipsius consistet. Testam. Alfredi regis. Vide Asser. de Aelfredi Reb. Gest. sub finem.

EDWARD THE ELDER. Successor equidem monarchiae post filium supra memorati regis coronatur, ipse stemmate regali, à primatis electus pentecostes in die. Chron. Ethelw. l. 4, c. 4, sub ann. 901

ETHELSTAN. Athelstanus fuit à Mercciis electus in regem, et apud Cingestune consecratus. Chron. Saxon. sub ann. 925. — Magno consensu optimatum Aethelstanus electus est. Will. Malmesb. l. 2, c. 6. — Adelftan filius Edwardi electus est rex in Merce, et sacratus apud Kingstun. Hen. Hunting. l. 5, p. 354. — Rege Edwardo defuncto, filius ejus Aethelwardus ex legitimâ conjugè generatus, patrem citâ morte secutus est. Tunc Aethelstanus, omnium favore, licèt ex concubinâ susceptus, in regem electus, spreto Eadwino, nondum ad regnandum propter teneros annos idoneo, in Kingstonâ, villâ regiâ, ipsum consecraverunt. Mat. West. sub ann. 934, p. 186. — Rex à populo consalutatur. Polyd. Verg. l. 6, p. 109

EDMUND. Frater ejus Edmundus locum decedentis rex factus obtinuit. Osbernus in vitâ Odonis. Anglia Sacra, vol. 2, p. 81. Edit. Lond. 1691

EDRED. Duos filios ex Elfgivâ conjugè Edmundus rex susceperat adhuc superstitès, cum vitâ et regno defungitur; sed quia neuter ad coronam maturus erat, Edredus, Edmundi frater, procerum populique suffragio regnare jubetur. Alfordi Annal. sub ann. 946

EDWI. Edwys filius supra memorati regis Edmundi in regem electus est. Osbern. in vitâ Odonis, p. 83

EDGAR. Rex Anglorum Eadwius, quoniam in commisso regimine insipienter egit, à Mercensibus et Northimbrensis contemptus relinquitur, et suus germanus Clyto Eadgarus ab eis rex eligitur. Florent. Wigorn. sub ann. 957. Sim. Dunelm. ann. 957. Hovend. Annal. p. 425. — Cujus [Edwii] regnum suus germanus, rex Mercensium, Edgarus, ab omni Anglorum populo electus, suscepit, divisaeque regna in unum copulavit. Floren. Wigorn. sub ann. 959. Hovend. Annal. p. 425. — Quo unanimi omnium conspiratione dejecto, elegerunt, Deo dictante, fratrem ejus Eadgarum in regem, et annuente populo, etc. Mat. West. sub ann. 957, p. 190

Elapso tandem septennalis poenitentiae termino, congregatis omnibus Angliae principibus, episcopis, et abbatibus, imposuit [Dunstanus] regi coronam, coram omni multitudine populi Anglorum, cunctis laetantibus, et Deum in S. Dunstano laudantibus. Capgravius in vitâ

secular as ecclesiastical, were present, it was decreed by the king, arch-SECT. 10
bishops, bishops, abbots, dukes, and senators, that the kings should be
chosen

vitâ S. Dunst. fol. 93. Osbern. in vitâ S. Dunstani. Baronii Annal. sub ann. 970. Spelm.
Concil. ann. 969, p. 482

EDWARD THE MARTYR. Quo [Eadgaro] defuncto, de rege eligendo magna inter regni principes dissensio est exorta. Quidam enim filium regis primogenitum Eadwardum, quidam verò fratrem suum Aethelredum de secundâ uxore generatum unanimiter elegerunt. Quam ob causam duo archipraefules, Dunstanus Cantuariensis, et Oswaldus Eboracensis, cum episcopis, abbatibus, et ducibus, in unum convenientes, Eadwardum, ut pater ejus moriens dictaverat, elegerunt, electum consecraverunt, et in regem, quibusdam murmurantibus, inunxerunt. Mat. West. sub ann. 975, p. 193. Florent. Wigorn. sub ann. 975, p. 607. Sim. Dunelm. ann. 975. Hovend. Annal. p. 427. — Edgare rege mortuo, et Edwardo ad regnum relicto, dum quidam principes acquiescere nolent, Dunstanus, arrepto crucis vexillo, in medio constitit, Edwardum illis ostendit, elegit, sacraivit. Capgrav. in vitâ S. Dunstan. fol. 94

ETHELRED II. Eadwardus rex occiditur, Atheldredus eligitur. Annal. Thor-nienfes, in biblioth. Cotton. sub ann. 978. — In demortui Edwardi locum Etheldredus rex substituitur. Polyd. Verg. l. 7, p. 119

Anno dominicae incarnationis 979, Ethelredus filius Edgari, et Elfredae, regnum adeptus, obsedit potius quàm rexit annis 37. Ejus vitae cursus saevus in principio, miser in medio, turpis in exitu, asseritur. Will. Malmesb. l. 2, c. 10

EDMUND IRONSIDE. Omnes proceres, qui in Londoniâ erant, et cives, elegerunt Eadmundum in regem. Chron. Saxon. sub ann. 1016. — Cui [Ethelredo] successit in regnum, Londoniensium et West-Saxonum electione, filius ejus primogenitus Edmundus, Ferreum Latus pro suâ fortitudine cognominatus. Ingulph. p. 892. — Cives Londonienses et pars nobilium, qui eo tempore consistebant Londoniae, Clytonem Eadmundum, unanimi consensu, in regem levavêre. Florent. Wigorn. sub ann. 1016, p. 617. Sim. Dunelm. ann. 1016. — Post quem [Adelredum] Eadmundus filius ejus electus est in regem. Hen. Hunting. l. 6, p. 362

CANUTUS. Omnium consensu, Cnutus super totam Angliam coronatus. Ingulph. p. 892. — Post cujus [Aethelredi] mortem episcopi, abbates, duces, et quique nobiliores Angliae, in unum congregati, pari consensu, in dominum et regem sibi Canutum elegêre. Florent. Wigorn. sub ann. 1016, p. 616. — Totius Angliae suscepit imperium. Foedus etiam cum principibus, et omni populo ipse, et illi cum ipso percusserunt. Ibid. p. 619. — Juraverunt illi, quòd illum regem sibi eligere vellent. Hovend. Annal. 436. — Post cujus [Aethelredi] mortem, maxima pars regni tam clericorum quam laicorum in unum congregati, pari consensu, Cnutonem in regem elegerunt; et ad eum apud Suthamptoniam venientes, pacem cum eo pepigerunt, et fidelitatem juraverunt. Mat. West. sub ann. 1016, p. 203

HAROLD. Leofricus comes, et omnes propè thani à boreoli parte Thamefis, et nau-tae de Londoniâ, elegerunt Haroldum in regem totius Angliae. Annal. Saxon. sub ann. 1036. — Elegerunt eum Dani et Londoniae cives. Will. Malmesb. l. 2, c. 12. Haraldus filius Cnut regis, et Ailivae, filiae Alfelmi ducis, electus est in regem. Hen. Hunting. l. 6, p. 364. Haroldus rex Merciorum et Northimbrorum, anno 1037, ut per totam regnaret Angliam, à principibus et omni populo rex eligitur. Hovend. Annal. p. 438. Sim. Dunelm. sub ann. 1037. Radulph. de Diceto, ann. 1038. — Defuncto Cnutone, convenerunt apud Oxoniam ad colloquium proceres regni, ut de novo rege creando tractarent ibidem. Ubi consul Leofricus et omnes Danorum principes, cum Londoniensibus, elegerunt Haraldum, filium Cnutonis, ex concubinâ Algivâ generatum. Mat. West. sub ann. 1035, p. 209

CHAP. III chosen by the priests, and by the elders of the people. In pursuance of which, Egbert, who had no right to the succession, was made king. [Ethelwerd was chosen in the same manner by the consent of all.] Ethelwolf a monk, for want of a better, was advanced to the same honour. His son Alfred, though crowned by the pope, [and marrying without the consent of the nobility and kingdom, against their customs and

HARDICANUTE. Cujus [Cnuti] duo filii, Haroldus et Hardeknutus, tum de regno disceptantes, videbantur bellum maximum parturire. Nam et Dani Londonienses Haroldum filium Elfginae Northamptoniae, sed defamatum, fictum filium regis Cnuti; Angli verò, cum totà caeterà terrà, potiùs Edwardum, filium regis Ethelredi, seu saltem Cnuti regis filium Hardeknutum, ex Emmà reginà genitum, eligebant. Ingulph. p. 894. — Hardeknut, filius regis Cnuti, veniens à Dacià illicò susceptus est, et electus in regem simul ab Anglis et Dacis. Hen. Hunting. l. 6, p. 365. — Haraldus apud Oxoniam defunctus est. Tum proceres tam Anglorum quam Danorum, in unam concordantes sententiam, miserunt legatos ad Brigges in Flandriam, ad regem Daniae Hardeknutonem, qui cum matre suà ibidem morabatur, rogantes ut ad Angliam veniret regni diadema suscepturus: qui consiliis magnatum illicò adquefcens, aestate medià venit in Angliam, et gratanter ab omnibus susceptus, ab Eadwio Cantuariensi archiepiscopo in regem est consecratus. Mat. West. sub ann. 1040, p. 210. — Interea Canutus, quem Anglici scriptores perperàm Hardecanutum vocant, cognitâ morte Haraldì . . . Londinum profectus libentissimis animis accipitur, communique omnium consensu rex dicitur. Polyd. Verg. p. 132, 133

EDWARD THE CONFESSOR. Post ejus [Hardeknuti] obitum, omnium electione in Edwardum concordatur. Ingulph. p. 895. — Edwardus cum paucis venit in Angliam, et electus est in regem ab omni populo. Hen. Hunting. l. 6, p. 365. — Eadwardus, annuente clero et populo, Londoniis in regem eligitur. Mat. West. sub ann. 1042, p. 212

HAROLD II. Tunc Haroldus comes capessit regnum, sicut rex ei concesserat, omnesque ad id eum eligebant, et consecratus est in regem in festo Epiphaniae. Annal. Saxon. sub ann. 1066, p. 172. — Quo [Edwardo] tumulato, subregulus Haraldus, Godwini ducis filius, quem rex ante suam decessionem regni successorem elegerat, à totius Angliae primatibus ad regale culmen electus est. Hist. Eccl. Eliensis. l. 2, c. 43, p. 515. Edit. Gale, 1691. Floren. Wigorn. sub ann. 1066, p. 633. Sim. Dunelm. sub eod. anno.

Haroldus de regno addebat, praesumptuosum fuisse, quod, absque generali senatùs et populi conventu et edicto, alienam illi haereditatem juraverit. Will. Malmesb. l. 3, p. 99. Mat. West. sub ann. 1066, p. 222

WILLIAM THE CONQUEROR. Anno gratiae 1067, dux Normannorum Gulihelmus, urbem Londoniarum adiens, in magnâ exultatione, à clero et populo susceptus, et ab omnibus rex acclamatus, ab Aeldredo Eboracensi archiepiscopo, regni Angliae accepit diadema. Mat. West. l. 2, p. 225. Mat. Paris, p. 5. — Die ordinationi decreto elocutus ad Anglos condecienti sermone Eboracensis archiepiscopus, an consentirent cum sibi dominum coronari, inquisivit. Protestati sunt hilarem consensum universi minimè haesitantes, ac si coelitus unâ mente datâ unâque voce . . . electum consecravit idem archiepiscopus. Guil. Pictavenfis, de Gest. Guil. Ducis Norm. p. 206. Edit. Par. 1619. — Ab omnibus tam Normannorum quam Anglorum proceribus rex est electus. Will. Gemet. Hist. Norm. l. 7, c. 37. — Cuncti praesules regni proceres cum Guillelmo concordiam fecerunt, ac ut diadema regium fumeret, sicut mos Anglici principatùs exigit, oraverunt. Ord. Vitalis Eccl. Hist. l. 3, p. 503. Par. 1619

Neminem Anglici regni constituo haeredom, sed aeterno conditori cujus sum, et in cujus manu sunt omnia, illud commendo: non enim tantum decus haereditario jure possedi, sed diro conflictu, et multâ effusione humani cruoris perjurio regi Haraldo abstuli, et, interfectis vel effugatis fautoribus ejus, dominatui meo subegi. Fragment. apud Anglicarum, Normannicarum, et Hibernicarum rerum Scriptores, edit. à G. Camdeno. p. 32

statutes,

statutes,]* acknowledged, that he had received the crown from the bounty of the princes, elders, and people; and in his will declared, that he left the people as he had found them, free as the inward thoughts of man. His son Edward was elected to be his successor. Ethelstan, though a bastard, and without all title, was elected by the consent of the nobility and people. Edred, by the same authority, was elected and preferred before the sons of Edmund his predecessor. Edwin, though rightly chosen, was deposed for his ill life, and Edgar elected king, by “the will of God, and consent of the people.” But he also was deprived of the crown for the rape of a nun, and after seven years restored by the whole people, “coram omni multitudine populi Anglorum.” Ethelred, who is said to have been cruel in the beginning, wretched in the course, and infamous in the end of his reign, was deposed by the same power that had advanced him. Canutus made a contract with the princes, and the whole people, and thereupon was, by general consent, crowned king over all England. After him Harold was chosen in the usual manner. He being dead, a message was sent to Hardicanute, with an offer of the crown, which he accepted, and accordingly was received. Edward the Confessor was elected king with the consent of the clergy and people at London; and Harold excused himself for not performing his oath to William the Norman, because he said, he had made it unduly and presumptuously, without consulting the nobility and people, and without their authority. William was received with great joy by the clergy and people, and saluted king by all, swearing to observe the antient good and approved laws of England. And though he did but ill perform his oath, yet before his death he seemed to repent of the ways he had taken, and only wishing his son might be king of England, he confessed in his last will, made at Rouen in Normandy, that he neither found nor left the kingdom as an inheritance. If he possessed no right except what was conferred upon him, no more was conferred than had been enjoyed by the antient kings, according to the approved laws, which he swore to observe †. Those laws gave no power to any, till he was elected; and that which they did then

* Rex magnificus Occidentalium Saxonum Aethelulfus cum honore maximo Romam profectus, duxit secum Aelfredum filium suum juniorem, quem caeteris omnibus plus dilexit, ut à papâ Leone moribus pariter et religione informaretur ibidem. Ubi cum anno integro rex cum filio demoratus fuisset, fecit filium suum ibi à papâ in regem coronari, atque post dies paucos ad patriam rediens duxit Judetham, Caroli regis Francorum filiam, secum in Angliam, sibi matrimonio copulatam. Sed interea dum rex moram faceret in partibus transmarinis exorta est contra regem praedictum magnatum quorundam conspiratio Causa bifaria erat; una quod filium juniorem Aelfredum, quasi aliis à sorte regni exclusis, in regem Romae fecerat coronari. Alia verò quòd, spretis omnibus Angliae mulieribus, filiam regis Francorum alienigenam sibi per conjugium copulavit. Praeterea audierunt conspiratores, quod, “contra morem et statuta” regum West-Saxonum, Judetham regis Francorum filiam, quam nuper desponsaverat, reginam appellabat, et in mensâ, ad latus suum convivari faciebat. Gens verò West-Saxonum non permittit reginam juxta regem sedere; nec etiam reginam, sed regis conjugem nominari. Mat. West. sub ann. 854, p. 158. Afferius de Aelfredi Reb. Gestis, p. 2. Edit. Franc. 1603

By this and other testimonies it appears, that it was Ethelwolf, and not Alfred as our author says, who married Judith, daughter of the king of France, “contra morem et statuta.”

† Vide infra, ch. 3, sect. 17.

CHAP. III give was so limited, that the nobility and people reserved to themselves the disposition of the greatest affairs, even to the deposition and expulsion of such as should not well perform the duty of their oath and office. And I leave it to our author to prove, how they can be said to have had the sword, and the power, so as to be feared, otherwise than, as the apostle says, by those that do evil; which we acknowledge to be not only in the king, but in the lowest officer of justice in the world.

If it be pretended, that our later kings are more to be feared than William the Norman, or his predecessors, it must not be, as has been proved, either from the general right of kings, or from the doctrine of the apostle, but from something else, that is peculiar and subsequent, which I leave our author's disciples to prove, and an answer may be found in due time. But to shew, that our ancestors did not mistake the words of the apostle, it is good to consider when, to whom, and upon what occasion, he spoke. The Christian religion was then in its infancy: his discourses were addressed to the professors of it, who, though they soon grew to be considerable in number, were, for the most part, of the meanest sort of people, servants, or inhabitants of the cities, rather than citizens and freemen; joined in no civil body or society, nor such as had or could have any part in the government. The occasion was, to suppress the dangerous mistake of many converted Jews, and others, who, knowing themselves to be freed from the power of sin and the devil, presumed they were also freed from the obligation of human laws. And if this error had not been cropped in the bud, it would have given occasion to their enemies (who desired nothing more) to destroy them all; and who, knowing that such notions were stirring among them, would have been glad, that they, who were not easily to be discovered, had by that means discovered themselves.

This induced a necessity of diverting a poor, mean, scattered people from such thoughts concerning the state; to convince them of the error into which they were fallen, that Christians did not owe the same obedience to civil laws and magistrates as other men, and to keep them from drawing destruction upon themselves by such ways, as not being warranted by God, had no promise of his protection. St. Paul's work was to preserve the professors of Christianity, as appears by his own words: "I exhort, that first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; for kings, and for all that are in authority, that we may lead a quiet and peaceable life, in all godliness and honesty. Put them in mind to be subject to principalities and powers, to obey magistrates, to be ready for every good work*." St. Peter agrees with him fully in describing the magistrate, and his duty; shewing the reasons why obedience should be paid to him, and teaching Christians to be humble, and contented with their condition, as free, yet not using their liberty for a cover to malice; and not only to fear God, and honour the king (of which conjunction of words such as Filmer are very proud) but to honour all men, as is said in the same verse. This

* 1 Tim. ch. 2, v. 1, 2. Tit. ch. 3

was, in a peculiar manner, the work of that time, in which those who were to preach and propagate the gospel were not to be diverted from that duty, by entangling themselves in the care of state-affairs. But it does in some sense agree with all times: for it can never be the duty of a good man to oppose such a magistrate, as is the minister of God, in the exercise of his office, nor to deny to any man that which is his due.

But as the Christian law exempts no man from the duty he owes to his father, master, or the magistrate, it does not make him more a slave than he was before, nor deprive him of any natural or civil right; and if we are obliged to pay tribute, honour, or any other thing, where it is not due, it must be by some precept very different from that which commands us to give to Caesar that which is Caesar's. If he define the magistrate to be the minister of God doing justice, and from thence draw the reasons he gives for rendering obedience to him, we are to inquire, whose minister he is who overthrows it, and look for some other reason for rendering obedience to him, than the words of the apostles. If David, who was willing to lay down his life for the people, "who hated iniquity," and would not "suffer a liar to come into his presence*," was the minister of God, I desire to know, whose minister Caligula was, who set up himself to be worshipped for a god †, and would at once have destroyed all the people, that he ought to have protected? Whose minister was Nero, who, besides the abominable impurities of his life, and hatred to all virtue, as contrary to his person and government, set fire to the great city? If it be true, that "contrariorum contraria est ratio," these questions are easily decided; and if the reasons of things are eternal, the same distinction, grounded upon truth, will be good for ever. Every magistrate, and every man by his works, will for ever declare whose minister he is, in what spirit he lives, and consequently what obedience is due to him according to the precept of the apostle. If any man ask, what I mean by justice, I answer, that the law of the land, as far as it is "sanctio recta, jubens honesta, prohibens contraria ‡," declares what it is. But there have been and are laws, that are neither just nor commendable. There was a law in Rome, that no god should be worshipped without the consent of the senate: upon which, Tertullian says scoffingly, "that God shall not be God, unless he please man §." By virtue of this law, the first Christians were exposed to all manner of cruelties; and some of the emperors, in other respects excellent men, most foully polluted themselves and their government with innocent blood. Antoninus Pius was taken in this snare; and Tertullian bitterly derides Trajan, for glorying in his clemency, when he had commanded Pliny, who was proconsul in Asia,

* Psal. 101, v. 10

† Vide supra, p. 246

‡ Est lex nihil aliud, nisi recta, et à numine deorum tracta ratio, imperans honesta, prohibens contraria. Cic. Philip. 11, § 28. — Licet largissimè dicatur lex omne quod legitur, tamen specialiter significat sanctionem justam, jubentem honesta, prohibentem contraria. Bract. l. 1, c. 3, fol. 2

§ Vetus erat decretum, ne qui deus ab imperatore consecraretur, nisi à senatu probatus . . . Nisi homini deus placuerit, deus non erit. Tertul. Apol. p. 6.

CHAP. III not to make any search for Christians, but only to punish them according to law, when they should be brought before him*. No municipal law can be more firmly established by human authority, than that of the inquisition in Spain, and other places: and each of those accursed tribunals, which have shed more Christian blood than all the pagans, that ever were in the world, is commonly called "the holy office." If a gentleman in Poland kill a peasant, he is by a law now in use free from punishment, if he lay a ducat upon the dead body. Evenus the third, king of Scotland, caused a law to pass, by which the wives and daughters of noblemen were exposed to his lust, and those of the commons to the lust of the nobility †. These, and an infinite number of others like to them, were not right sanctions, but such as have produced unspeakable mischiefs and calamities. They were not therefore laws: the name of justice is abusively attributed to them: those that govern by them cannot be the ministers of God: and the apostle commanding our obedience to the minister of God for our good, commands us not to be obedient to the minister of the devil to our hurt; for we cannot serve two masters.

SECTION XI

THAT WHICH IS NOT JUST IS NOT LAW; AND THAT WHICH IS NOT LAW OUGHT NOT TO BE OBEYED.

Our author, having for a long time pretended conscience, now pulls off his mask, and plainly tells us, that it is not on account of conscience, but for fear of punishment, or in hope of reward, that laws are to be obeyed. "That familiar distinction of the schoolmen, ‡" says he, "whereby they subject kings to the directive, but not to the coercive power of laws, is a confession, that kings are not bound by the positive laws of any nation, since the compulsory power of laws is that which properly makes laws to be laws." Not troubling myself with this distinction of the schoolmen, nor acknowledging any truth to be in it, or that they are competent judges of such matters, I say, that if it be true, our author's conclusion is altogether false; for the directive power of the law, which is certain, and grounded upon the inherent good and rectitude that is in it, is that alone which has a power over the conscience, whereas the coercive is merely contingent; and the most just powers, commanding the most just things, have so often fallen under the violence of the most unjust men, commanding the most execrable villainies, that if they were therefore to be obeyed,

* Trajanus rescripsit, hoc genus inquirendos quidem non esse, oblatos verò puniri oportere. O sententiam necessitate confusam! negat inquirendos, ut innocentes, et mandat puniendos ut nocentes: parcit et saevit, dissimulat et animadvertit. Tertul. Apol. p. 4

† Tulit legem Evenus, ut cuius liceret, pro opibus quot alere possit, uxores ducere; ut rex ante nuptias sponfarum nobilium, nobiles plebeiarum praelibarent pudicitiam, ut plebeiorum uxores cum nobilitate communes essent. Buch. l. 4, c. 16

‡ Aquin. quæst. 95, art. 5, tom. 2

the consciences of men must be regulated by the success of a battle or conspiracy; than which nothing can be affirmed more impious and absurd. By this rule, David was not to be obeyed, when by the wickedness of his son he was driven from Jerusalem, and deprived of all coercive power; and the conscientious obedience that had been due to him was transferred to Absalom, who fought his life. And in St. Paul's time it was not from him, who was guided only by the Spirit of God, and had no manner of coercive power, that Christians were to learn their duty, but from Caligula, Claudius, and Nero, who had that power well established by the mercenary legions. If this were so, the governments of the world might be justly called "*magna latrocinia* *;" and men laying aside all consideration of reason or justice, ought only to follow those, who can inflict the greatest punishments, or give the greatest rewards. But since the reception of such opinions would be the extirpation of all that can be called good, we must look for another rule of our obedience; and shall find that to be the law, which being, as I said before, "*sanctio recta*," must be founded upon that eternal principle of reason and truth, from whence the rule of justice, which is sacred and pure, ought to be deduced, and not from the depraved will of man, which, fluctuating according to the different interests, humours, and passions, that at several times reign in several nations, one day abrogates what had been enacted the other. The sanction therefore, that deserves the name of a law, "which derives not its excellency from antiquity, or from the dignity of the legislators, but from an intrinsic equity and justice †," ought to be made, in pursuance of that universal reason, to which all nations, at all times, owe an equal veneration and obedience. By this we may know, whether he who has the power does justice or not; whether he be the minister of God to our good, a protector of good, and a terror to ill men; or the minister of the devil to our hurt, by encouraging all manner of evil, and endeavouring, by vice and corruption, to make the people worse, that they may be miserable, and miserable, that they may be worse. I dare not say, I shall never fear such a man, if he be armed with power; but I am sure I shall never esteem him to be the minister of God, and shall think I do ill if I fear him. If he has therefore a coercive power over me, it is through my weakness; "for he that will suffer himself to be compelled knows not how to die ‡." If therefore he, who does not follow the directive power of the law, be not the minister of God, he is not a king, at least not such a king as the apostle commands us to obey. And if that sanction, which is not just, be not a law, and can have no obligation upon us, by what power soever it be established, it may well fall out, that the magistrate, who will not follow the directive power of the law, may fall under the coercive, and then the fear is turned upon him, with this aggravation, that it is not only actual, but just. This was the case of Nero: the coer-

* *Remotâ justitiâ, quid sunt regna, nisi magna latrocinia?* Aug. de Civ. Dei, l. 4, c. 4

† Tertul. Apol. p. 6. Vide supra, p. 308

‡ *Cogi qui potest nescit mori.* Sen. Herc. Fur. act. 2, sc. 3, v. 90

CHAP. III cive power was no longer in him, but against him. He that was forced to fly, and to hide himself, that was abandoned by all men, and condemned to die "according to antient custom *," did, as I suppose, fear, and was no way to be feared. The like may be said of Amaziah king of Judah, when he fled to Lachish; of Nabuchodonosor, when he was driven from the society of men; and of many emperors and kings of the greatest nations in the world, who have been so utterly deprived of all power, that they have been imprisoned, deposed, confined to monasteries, killed, drawn through the streets, cut in pieces, thrown into rivers, and indeed suffered all that could be suffered by the vilest slaves.

If any man say these things ought not to have been done, an answer may be given in a proper place; though it were enough to say, that the justice of the world is not to be overthrown by a mere assertion without proof; but that is nothing to the present question: for if it was ill done to drive Nero to despair, or to throw Vitellius into the Tiber, it was not because they were the ministers of God; for their lives were no way conformable to the character which the apostle gives of those who deserve that sacred name. If those only are to be feared who have the power, there was a time when they were not to be feared, for they had none; and if those princes are not obliged by the law, who are not under the coercive power, it gave no exemption to these, for they fell under it: and as we know not what will befall others who walk in their steps, till they are dead, we cannot till then know whether they are free from it or not.

SECTION XII

THE RIGHT AND POWER OF A MAGISTRATE DEPENDS UPON
HIS INSTITUTION, NOT UPON HIS NAME.

It is usual with impostors to obtrude their deceits upon men, by putting false names upon things, by which they may perplex mens minds, and from thence deduce false conclusions. But the points above-mentioned being settled, it imports little whether the governors, to whom Peter enjoins obedience, were only kings, and such as are employed by them, or all such magistrates as are the ministers of God; for he informs us of their works, that we may know them, and accordingly yield obedience to them. This is that therefore which distinguishes the magistrate to whom obedience is due, from him to whom none is due, and not the name that he either assumes, or others put upon him. But if there be any virtue in the word king, and the admirable prerogatives, of which our author dreams, were annexed to that name, they could not be applied to the

* Inter moras perlato à curfore Phaontis codicilos praeripuit, legitque, "se hostem à senatu judicatum, et quaeri, ut puniatur, more majorum." Suet. in vitâ Ner. § 49

Roman emperors, nor their substituted officers, for they had it not. It is true, Mark Antony, in a drunken fit, at the celebration of the impure Lupercalia, did offer a diadem to Julius Caesar, which some flatterers pressed him to accept (as our great lawyers did Cromwell) but he durst not think of putting it upon his head. Caligula's affectation of that title, and the ensigns of royalty he wore, were taken for the most evident marks of his madness. And though the greatest and bravest of their men had fallen by the wars or proscriptions, though the best part of the senate had perished in Theffaly, though the great city was exhausted, and Italy brought to desolation, yet they were not reduced so low as to endure a king. Piso was sufficiently addicted to Tiberius, yet he could not suffer, that Germanicus should be treated as the son of a king; "principis Romani, non Parthi regis filio eas epulas dari*." And whoever understands the Latin tongue, and the history of those times, will easily perceive, that the word "princeps" signified no more than a principal or eminent man, as has been already proved: and the words of Piso could have no other meaning, than that the son of a Roman ought not to be distinguished from others, as the sons of the Parthian kings were. This is verified by his letter to Tiberius, under the name of friend, and the answer of Tiberius promising to him "whatever one friend could do for another †." Here was no mention of majesty, or sovereign lord, nor the base subscriptions of servant, subject, or creature. And I fear, that as the last of those words was introduced among us by our bishops, the rest of them had been also invented by such Christians as were too much addicted to the Asiatic slavery. However, the name of king was never solemnly assumed by, nor conferred upon those emperors; and could have conferred no right if it had. They exercised as they pleased, or as they durst, the power that had been gained by violence or fraud. The exorbitances they committed could not have been justified by a title, any more than those of a pirate, who should take the same. It was no otherwise given to them than by way of assimilation, when they were guilty of the greatest crimes: and Tacitus, describing the detestable lust of Tiberius, says, "quibus adeò indomitis exarserat, ut more regio pubem ingenuam stupris pollueret; nec formam tantùm, et decora corpora, sed in his modestam pueritiam, in aliis imagines majorum, incitamentum cupidinis habebat ‡." He also informs us, that Nero took his time to put Barea Soranus to death, who was one of the most virtuous men of that age, when Tiridates king of Armenia was at Rome, "that he might shew the imperial grandeur by the slaughter of the most illustrious men, which he accounted a royal action §." I leave it to the judgment of

* Vox ejus [Pisonis] audita est in convivio, cum apud regem Nabathaeorum coronae aureae magno pondere Caesari [Germanico] et Agrippinae, leves Pisoni et caeteris offerrentur, "principis Romani, non Parthi regis filio eas epulas dari." Tacit. Annal. l. 2, § 57

† Tacit. Annal. l. 4, § 16, 17. * * * ‡ Annal. l. 6, § 1

§ Ut magnitudinem imperatoriam caede insignium virorum, quasi regio facinore, ostentaret. Annal. l. 16, § 23

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all wise men; whether it be probable, that the apostles should distinguish such as these from other magistrates, and dignify those only with the title of God's ministers, who distinguished themselves by such ways; or that the succeeding emperors should be ennobled with the same prerogative, who had no other title to the name, than by resembling those that had it in such things as these. If this be too absurd and abominable to enter into the heart of a man, it must be concluded, that their intention was only to divert the poor people to whom they preached, from involving themselves in the care of civil matters, to which they had no call. And the counsel would have been good, as things stood with them, if they had been under the power of a pirate, or any other villain, substituted by him.

But though the apostles had looked upon the officers set over the provinces belonging to the Roman empire, as sent by kings, I desire to know, whether it can be imagined, that they could think the subordinate governors to be sent by kings, in the countries that had no kings; or that obedience became due to the magistrates in Greece, Italy, or other provinces under the jurisdiction of Rome, only after they had emperors, and that none was due to them before? The Germans had then no king: the brave Arminius had been lately killed for aiming at a crown*. When he had blemished all his virtues by that attempt, they forgot his former services. They never considered how many Roman legions he had cut in pieces, nor how many thousands of their allies he had destroyed. His valour was a crime deserving death, when he fought to make a prey of his country, which he had so bravely defended, and to enslave those who with him had fought for the public liberty. But if the apostles were to be understood to give the name of God's ministers only to kings, and those who are employed by them, and obedience is due to no other, a domestic tyrant had been their greatest benefactor. He had set up the only government that is authorized by God, and to which a conscientious obedience is due. Agathocles, Dionysius, Phalaris, Pheraeus, Pisistratus, Nabis, Machanidas, and an infinite number of the most detestable villains that the world has ever produced, did confer the same benefits upon the countries they enslaved. But if this be equally false, sottish, absurd, and execrable, all those epithets belong to our author, and his doctrine, for attempting to depress all modest and regular magistracies, and endeavouring to corrupt the Scripture to patronize the greatest of crimes. No man therefore, who does not delight in error, can think, that the apostle designed precisely to determine such questions as might arise concerning any one man's right, or, in the least degree, to prefer any one form of government before another. In acknowledging the magistrate to be man's ordinance, he declares, that man, who makes him to be, may make him to be what he pleases; and though there is found more prudence and virtue in one nation than in another, that magistracy, which is established in any one, ought to be obeyed, till they who made the establishment think fit to alter

* Tacit. Annal. l. 2, c. 88.

it. All therefore, while they continue, are to be looked upon with the same respect. Every nation, acting freely, has an equal right to frame their own government, and to employ such officers as they please. The authority, right, and power, of these must be regulated by the judgment, right, and power, of those who appoint them, without any relation at all to the name that is given; for that is no way essential to the thing. The same name is frequently given to those, who differ exceedingly in right and power; and the same right and power is as often annexed to magistracies, that differ in name. The same power which had been in the Roman kings, was given to the consuls; and that which had been legally in the dictators, for a time not exceeding six months, was afterwards usurped by the Cæsars, and made perpetual. The supreme power, which some pretend belongs to all kings, has been and is enjoyed in the fullest extent by such as never had the name; and no magistracy was ever more restrained than those that had the name of kings in Sparta, Arragon, England, Poland, and other places. They therefore that did thus institute, regulate, and restrain, create magistracies, and give them names and powers, as seemed best to them, could not but have in themselves the coercive as well as the directive over them, for the regulation and restriction is coercion; but most of all the institution, by which they could make them to be or not to be. As to the exterior force, it is sometimes on the side of the magistrate, and sometimes on that of the people; and as magistrates, under several names, have the same work incumbent upon them, and the same power to perform it, the same duty is to be exacted from them, and rendered to them: which being distinctly proportioned by the laws of every country, I may conclude, that all magistratical power, being the ordinance of man, in pursuance of the ordinance of God, receives its being and measure from the legislative power of every nation. And whether the power be placed simply in one, a few, or many men, or in one body composed of the three simple species; whether the single person be called king, duke, marquis, emperor, sultan, mogul, or grand signior; or the number go under the name of senate, council, pregadi, diet, assembly of estates, and the like, it is the same thing. The same obedience is equally due to all, whilst, according to the precept of the apostle, they do the work of God for our good: and if they depart from it, no one of them has a better title than the other to our obedience.

SECTION XIII

LAWS WERE MADE TO DIRECT AND INSTRUCT MAGISTRATES,
AND IF THEY WILL NOT BE DIRECTED, TO RESTRAIN THEM.

I know not who they are, that our author introduces to say, that “the first invention of laws was, to bridle or moderate the over great power of kings;” and unless they give some better proof of their judgment in
other

CHAP. III other things, shall little esteem them. They should have considered, that there are laws in many places where there are no kings; that there were laws in many before there were kings, as in Israel, the law was given three hundred years before they had any; but especially, that as no man can be a rightful king, except by law, nor have any just power, but from the law, if that power be found to be over great, the law that gave it must have been before that which was to moderate, or restrain it; for that could not be moderated, which was not in being. Leaving therefore our author to fight with these adversaries, if he pleases, when he finds them, I shall proceed to examine his own positions. "The truth is," says he, "the original of laws was, for the keeping of the multitude in order. Popular estates could not subsist at all without laws; whereas kingdoms were governed many ages without them. The people of Athens, as soon as they gave over kings, were forced to give power to Draco first, then to Solon, to make them laws." If we will believe him therefore, wherever there is a king, or a man, who, by having power in his hands, is in the place of a king, there is no need of law. He takes them all to be so wise, just, and good, that they are laws to themselves, "leges viventes." This was certainly verified by the whole succession of the Cæsars, the ten last kings of Pharamond's race, all the successors of Charles the Great, and others, that I am not willing to name; but, referring myself to history, I desire all reasonable men to consider, whether the piety and tender care, that was natural to Caligula, Nero, or Domitian, was such a security to the nations that lived under them, as without law to be sufficient for their preservation: for, if the contrary appear to be true, and their government was a perpetual exercise of rage, malice, and madness, by which the worst of men were armed with power to destroy the best, so that the empire could only be saved by their destruction, it is most certain, that mankind can never fall into a condition, which stands more in need of laws to protect the innocent, than when such monsters reign, who endeavour their extirpation, and are too well furnished with means to accomplish their detestable designs. Without any prejudice therefore to the cause I defend, I might confess, that all nations were at the first governed by kings; and that no laws were imposed upon those kings, till they, or the successors of those, who had been advanced for their virtues, by falling into vice and corruption, did manifestly discover the inconveniences of depending upon their will. Besides these, there are also children, women, and fools, that often come to the succession of kingdoms, whose weakness and ignorance stand in as great need of support and direction, as the desperate fury of the others can do of restriction. And if some nations had been so sottish, as not to foresee the mischief of leaving them to their will, others, or the same in succeeding ages discovering them, could no more be obliged to continue in so pernicious a folly, than we are to live in that wretched barbarity, in which the Romans found our ancestors, when they first entered this island.

If any man say, that Filmer does not speak of monsters, nor of children, women, or fools, but of wise, just, and good princes, I answer, that if there be a right inherent in kings, as kings, of doing what they please, and in those who are next in blood, to succeed them, and inherit the same, it must belong to all kings, and such as upon title of blood would be kings. And as there is no family that may not, and does not often produce such as I mentioned, it must also be acknowledged in them; and that power which is left to the wise, just, and good, upon a supposition, that they will not make an ill use of it, must be devolved to those, who will not or cannot make a good one; but will either maliciously turn it to the destruction of those they ought to protect, or through weakness suffer it to fall into the hands of those that govern them, who are found by experience to be for the most part the worst of all, most apt to use the basest arts, and to flatter the humours, and foment the vices, that are most prevalent in weak and vicious princes. Germanicus, Corbulo, Valerius Asiaticus, Thrasea, Soranus, Helvidius Priscus, Julius Agricola, and other excellent men, lived in the times of Tiberius, Caligula, Claudius, and Nero; but the power was put into the hands of Sejanus, Macro, Tigellinus, and other villains like to them: and I wish there were not too many modern examples to shew, that weak and vicious princes will never choose such as shall preserve nations from the mischiefs that would ensue upon their own incapacity or malice; but that they must be imposed upon them by some other power, or nations be ruined for want of them. This imposition must be by law, or by force. But as laws are made to keep things in good order without the necessity of having recourse to force, it would be a dangerous extravagance to arm that prince with force, which probably in a short time must be opposed by force. And those who have been guilty of this error, as the kingdoms of the east, and the antient Roman empire, where no provision was made by law against ill-governing princes, have found no other remedy than to kill them, when by extreme sufferings they were driven beyond patience: and this fell out so often, that few of their princes were observed to die by a common death. But since the empire was transmitted to Germany, and the emperors restrained by laws, that nation has never been brought to the odious extremities of suffering all manner of indignities, or revenging them upon the heads of princes. And if the pope had not disturbed them upon the account of religion, nor driven their princes to disturb others, they might have passed many ages without any civil dissension, and all their emperors might have lived happily, and died peaceably, as most of them have done.

This might be sufficient to my purpose: for, if all princes without distinction, whether good or bad, wise or foolish, young or old, sober or mad, cannot be entrusted with an unlimited power; and if the power they have, ought to be limited by law, that nations may not with danger to themselves, as well as to the prince, have recourse to the last remedy, this law must be given to all, and the good can be no otherwise distinguished from the bad, and the wise from the foolish, than by the obser-

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* After the death of Augustus, Tiberius told the senate, "se in partem curarum ab illo vocatum, experiendo didicisse, quam arduum, quam subjectum fortunæ, regendi cuncta onus." Tacit. Annal. l. 1, § 11

“ a worfe mafter*.” The want of restraint made him a beaft, who might have continued to be a man. And though I cannot fay, that our law neceffarily admits the next in blood to the fucceffion, for the contrary is proved, yet the facility of our ancestors, in receiving children, women, or fuch men as were not more able than themfelves to bear the weight of a crown, convinces me fully, that they had fo framed our laws, that even children, women, or ill men, might either perform as much as was neceffarily required of them, or be brought to reafon, if they tranfgreffed, and arrogated to themfelves more than was allowed. For it is not to be imagined, that a company of men fhould fo far degenerate from their own nature, which is reafon, as to give up themfelves, and their pofterity, with all their concerns in the world, to depend upon the will of a child, a woman, an ill man, or a fool.

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If therefore laws are neceffary to popular ftates, they are no lefs to monarchies; or rather, that is not a ftate or government, which has them not: and it is no lefs impoffible for any to fubfift without them, than for the body of a man to be, and perform its functions, without nerves or bones. And if any people had ever been fo foolifh as to eftablifh that which they called a government, without laws to fupport and regulate it, the impoffibility of fubfifting would evidence the madnefs of the conftitution, and ought to deter all others from following their example.

It is no lefs incredible, that thofe nations which rejected kings did put themfelves into the power of one man, to prefcribe to them fuch laws as he pleafed. But the instances alleged by our author are evidently falfe. The Athenians were not without laws when they had kings: Aegeus was fubject to the laws, and did nothing of importance without the confent of the people; and Thefeus, not being able to pleafe them, died a banifhed man. Draco and Solon did not make, but propofe laws †; and they were of no force till they were eftablifhed by the authority of the people. The Spartans dealt in the fame manner with Lycurgus: he invented their laws, but the people made them. And, when the affembly of all the citizens had approved and fworn to obferve them till his return from Crete, he refolved rather to die in a voluntary banifhment, than by his return to abfolve them from the oath they had taken. The Romans alfo had laws during the government of their kings; but not finding in them that perfection they defired, the decemviri were chofen to frame others, which yet were of no value till they were paffed by the people in the “ comitia “ centuriata;” and being fo approved, they were eftablifhed ‡. But this fanktion, to which every man, whether magistrate or private citizen, was fubject, did no way bind the whole body of the people, who ftill

* Tanti in avum, et qui juxta erant, obfequii, ut non immeritò fit dictum, “ nec “ fervum meliorem ullum, nec deteriorem dominum fuiffe.” Suet. in vitâ Calig. § 10. Tacit. Annal. l. 6, § 20

† Vide Plut. in vitâ Solonis.

‡ Ingenti hominum expectatione propositis decem tabulis populum ad concionem advocaverunt; et quod bonum, faustum, felixque fit reipublicae, ipsis, liberisque eorum effet, ire, et legere leges propositas jussere. Liv. l. 3, c. 34

CHAP. III retained in themselves the power of changing both the matter and the form of their government, as appears by their instituting and abrogating kings, consuls, dictators, tribunes with consular power, and decemviri, when they thought good for the commonwealth. And if they had this power, I leave our author to shew, why the like is not in other nations.

SECTION XIV

LAWS ARE NOT MADE BY KINGS, NOT BECAUSE THEY ARE BUSIED IN GREATER MATTERS THAN DOING JUSTICE, BUT BECAUSE NATIONS WILL BE GOVERNED BY RULE, AND NOT ARBITRARILY.

Our author pursuing the mistakes to which he seems perpetually condemned, says, that “when kings were either busied with wars, or distracted with public cares, so that every private man could not have access to their persons, to learn their wills and pleasure, then of necessity were laws invented, that so every particular subject might find his prince’s pleasure.” I have often heard, that governments were established for the obtaining of justice; and if that be true it is hard to imagine what business a supreme magistrate can have to divert him from accomplishing the principal end of his institution. And it is as commonly said, that this distribution of justice to a people, is a work surpassing the strength of any one man. Jethro seems to have been a wise man, and it is probable he thought Moses to be so also; but he found the work of judging the people to be too heavy for him, and therefore advised him to leave the judgment of causes to others, who should be chosen for that purpose*; which advice Moses accepted, and God approved. The governing power was as insupportable to him as the judicial. He desired rather to die than to bear so great a burden; and God, neither accusing him of sloth nor impatience, gave him seventy assistants. But if we may believe our author, the powers judicial and legislative, that of judging, as well as that of governing, are not too much for any man, woman, or child, whatever; he stands in no need, either of God’s statutes to direct him, or man’s counsel to assist him, unless it be when he is otherwise employed; and his will alone is sufficient for all. But what if he be not busied in greater matters, or distracted with public cares, is every prince capable of this work? Though Moses had not found it too great for him, or it should be granted, that a man of excellent natural endowments, great wisdom, learning, experience, industry, and integrity, might perform it, is it certain, that all those who happen to be born in reigning families are so? If Moses had the law of God before his eyes, and could repair to

* Exod. ch. 17, v. 17—24

God himself for the application or explanation of it, have all princes the same assistance? Do they all speak with God face to face, or can they do what he did, without the assistance he had? If all kings of mature years are of that perfection, are we assured, that none shall die before his heir arrive to the same? Or shall he have the same ripeness of judgment in his infancy? If a child come to a crown, does that immediately infuse the most admirable endowments and graces? Have we any promise from heaven, that women shall enjoy the same prerogatives, in those countries where they are made capable of the succession? Or does that law which renders them capable, not only defend them against the frailty of their own nature, but confer the most sublime virtues upon them? But who knows not; that no families do more frequently produce weak or ill men, than the greatest? and that which is worse, their greatness is a snare to them; so that they who in a low condition might have passed unregarded, being advanced to the highest, have often appeared to be, or become the worst of all beasts. And they who advance them are like to them: for if the power be in the multitude, as our author is forced to confess (otherwise the Athenians and Romans could not have given all, as he says, nor a part, as I say, to Draco, Solon, or the decemviri) they must be beasts also, who should have given away their right and liberty, in hopes of receiving justice from such as probably will neither understand nor regard it, or protection from those who will not be able to help themselves, and expect such virtue, wisdom, and integrity, should be, and for ever remain, in the family they set up, as was never known to continue in any. If the power be not conferred upon them, they have it not; and if they have it not, their want of leisure to do justice cannot have been the cause for which laws are made; and they cannot be the signification of their will, but are that to which the prince owes obedience, as well as the meanest subject. This is that which Bracton calls, "esse sub lege," and says, that "rex in regno superiores habet Deum et legem*." Fortescue says, the kings of England cannot change the laws †. And indeed, they are so far from having any such power, that the judges swear to have no regard to the king's letters or commands, but if they receive any, to proceed according to law, as if they had not been. And the breach of this oath does not only bring a blemish upon their reputation, but exposes them to capital punishments, as many of them have found. It is not therefore the king that makes the law, but the law that makes the king. It gives the rule for succession, making kingdoms sometimes hereditary, and sometimes elective, and (oftner than either simply) hereditary under condition. In some places males only are capable of inheriting, in others females are admitted. Where the monarchy is regular, as in Germany,

* Ipse autem rex non debet esse sub homine, sed sub Deo et sub lege, quia lex facit regem. Bract. l. 1, c. 8, fol. 5. — Rex habet superiorem, Deum scilicet item legem, per quam factus est rex. Bract. l. 2, c. 16, fol. 33

† Non potest rex Angliæ ad libitum suum leges mutare regni sui: principatu namque nedum regali, sed et politico ipse suo populo dominatur. Fortesc. de Laud. Leg. Angl. c. 9

CHAP. III England, &c. the kings can neither make nor change laws. They are under the law, and the law is not under them; their letters or commands are not to be regarded. In the administration of justice, the question is not what pleases them, but what the law declares to be right, which must have its course, whether the king be busy, or at leisure, whether he will or not. The king who never dies, is always present in the supreme courts, and neither knows nor regards the pleasure of the man, that wears the crown. But left by his riches and power he might have some influence upon judicial proceedings, the Great Charter, that recapitulates and acknowledges our antient inherent liberties, obliges him to swear, that he will neither sell, delay, nor deny justice to any man, according to the laws of the land*: which were ridiculous and absurd, if those laws were only the signification of his pleasure, or any way depended upon his will. This charter having been confirmed by more than thirty parliaments, all succeeding kings are under the obligation of the same oath, or must renounce the benefit they receive from our laws; which if they do, they will be found to be equal to every one of us.

Our author, according to his custom, having laid down a false proposition, goes about to justify it by misapplying the examples of Draco, Solon, the decemviri, and Moses, of whom no one had the power he attributes to them; and it were nothing to us, if they had. The Athenians and Romans, as was said before, were so far from resigning the absolute power without appeal to themselves, that nothing done by their magistrates was of any force, till it was enacted by the people. And the power given to the decemviri, " sine provocatione," was only in private cases, there being no superior magistrate, then in being, to whom appeals could be made. They were vested with the same power the kings and dictators enjoyed, from whom there lay no appeal, but to the people, and always to them; as appears by the case of Horatius, in the time of Tullus Hostilius; that of Marcus Fabius, when Papirius Cursor was dictator; and of Metellus the tribune, when Q. Fabius Maximus was in the same office †; all which I have cited already, and refer to them. There was therefore a reservation of the supreme power in the people, notwithstanding the creation of magistrates without appeal: and as it was quietly exercised in making strangers, or whom they pleased, kings, restraining the power of dictators to six months, and that of the decemviri to two years, when the last did, contrary to law, endeavour, by force, to continue their power, the people did, by force, destroy it and them.

The case of Moses is yet more clear. He was the most humble and gentle of all men: he never raised his heart above his brethren, and commanded kings to live in the same modesty: he never desired the people should depend upon his will: in giving laws to them he fulfilled the will of God, not his own; and those laws were not the signification of his will,

* Nulli vendemus, nulli negabimus, aut differemus rectum vel justitiam. Mag. Chart. c. 29
 † Liv. l. 1, c. 26. Id. l. 8, c. 33. Id. l. 22, c. 25.

but of the will of God. They were the production of God's wisdom and goodness, not the invention of man; given to purify the people, not to advance the glory of their leader. He was not proud and insolent, nor pleased with that ostentation of pomp, to which fools give the name of majesty. And whoever so far exalts the power of a man, as to make nations depend upon his pleasure, does not only lay a burden upon him, which neither Moses, nor any other could ever bear, and every wise man will always abhor; but, with an impious fury, endeavours to set up a government contrary to the laws of God, presumes to accuse him of want of wisdom, or goodness to his own people, and to correct his errors: which is a work fit to be undertaken by such as our author.

From hence, as upon a solid foundation, he proceeds, and making use of king James's words, infers, that kings are above the laws, because he so teaches us. But he might have remembered, that, having affirmed the people could not judge of the disputes that might happen between them and kings, because they must not be judges in their own case, it is absurd to make a king judge of a case so nearly concerning himself, in the decision of which his own passions and interests may probably lead him into errors. And if it be pretended that I do the same, in giving the judgment of those matters to the people, the case is utterly different, both in the nature and consequences. The king's judgment is merely for himself; and if that were to take place, all the passions and vices, that have most power upon men, would concur to corrupt it. He that is set up for the public good can have no contest with the whole people, whose good he is to procure, unless he deflect from the end of his institution, and set up an interest of his own in opposition to it. This is in its nature the highest of all delinquencies; and if such a one may be judge of his own crimes, he is not only sure to avoid punishment, but to obtain all that he sought by them; and the worse he is, the more violent his desires will be, to get all the power into his hands, that he may gratify his lusts, and execute his pernicious designs. On the other side, in a popular assembly, no man judges for himself, otherwise, than as his good is comprehended in that of the public. Nothing hurts him, but what is prejudicial to the commonwealth. Such among them as may have received private injuries, are so far only considered by others, as their sufferings may have influence upon the public: if they be few, and the matters not great, others will not suffer their quiet to be disturbed by them; if they are many and grievous, the tyranny thereby appears to be so cruel, that the nation cannot subsist, unless it be corrected or suppressed. Corruption of judgment proceeds from private passions, which in these cases never govern: and though a zeal for the public good may possibly be misguided, yet till it be so, it can never be capable of excess. The last Tarquin, and his lewd son, exercised their fury and lust in the murders of the best men in Rome, and the rape of Lucretia. Appius Claudius was filled with the like madness. Caligula and Nero were so well established in the power of committing the worst of villainies, that we do not hear of any man that offered to defend himself,

CHAP. III himself, or woman that presumed to refuse them. If they had been judges in these cases, the utmost of all villainies and mischiefs had been established by law: but as long as the judgment of these matters was in the people, no private or corrupt passion could take place. Lucius Brutus, Valerius, Horatius, and Virginus, with the people that followed them, did not by the expulsion of the kings, or the suppression of the decemviri, assume to themselves a power of committing rapes and murders, nor any advantages beyond what their equals might think they deserved by their virtues, and services to the commonwealth; nor had they more credit than others for any other reason, than that they shewed themselves most forward in procuring the public good, and by their valour and conduct best able to promote it.

Whatever happened, after the overthrow of their liberty, belongs not to my subject, for there was nothing of popularity in the judgments that were made. One tyrant destroyed another; the same passions and vices for the most part reigned in both. The last was often as bad as his predecessor whom he had overthrown; and one was sometimes approved by the people for no other reason, than that it was thought impossible for him to be worse than he who was in possession of the power. But if one instance can be of force among an infinite number of various accidents, the words of Valerius Asiaticus *, who, by wishing he had been the man that had killed Caligula, did in a moment pacify the fury of the soldiers, who were looking for those that had done it, shew, that as long as men retain any thing of that reason which is truly their nature, they never fail of judging rightly of virtue and vice. Whereas violent and ill princes have always done the contrary, and even the best do often deflect from the rules of justice; as appears not only by the examples of Edward the first and third, who were brought to confess it, but even those of David and Solomon.

Moreover, to shew that the decision of these controversies cannot belong to any king, but to the people, we are only to consider, that as kings, and all other magistrates, whether supreme or subordinate, are constituted only for the good of the people, the people only can be fit to judge whether the end be accomplished. A physician does not exercise his art for himself, but for his patients; and when I am, or think I shall be sick, I send for him of whom I have the best opinion, that he may help me to recover, or preserve my health; but I lay him aside if I find him to be negligent, ignorant, or unfaithful; and it would be ridiculous for him to say, I make myself judge in my own case, for I only, or such as I shall consult, am fit to be the judge of it. He may be treacherous, and through corruption or malice endeavour to poison me, or have other defects, that render him unfit to be trusted: but I cannot, by any corrupt passion, be led wilfully to do him injustice, and if I mistake, it is only to my own hurt. The like may be said of lawyers, stewards, pilots, and

* Vide *suprà*, p. 195.

generally of all that do not act for themselves, but for those who employ them. And if a company going to the Indies should find, that their pilot was mad, drunk or treacherous, they whose lives and goods are concerned can only be fit to judge, whether he ought to be trusted or not, since he cannot have a right to destroy those he was chosen to preserve; and they cannot be thought to judge perversely, because they have nothing to lead them but an opinion of truth, and cannot err but to their own prejudice. In the like manner, not only Solon and Draco, but Romulus, Numa, Hostilius, the consuls, dictators, and decemviri, were not distinguished from others, that it might be well with them, “*sed ut bonum, faustum felixque sit populo Romano* *,” but that the prosperity and happiness of the people might be procured; which being the thing always intended, it were absurd to refer the judgment of the performance to him who is suspected of a design to overthrow it, and whose passions, interests, and vices, if he has any, lead him that way. If king James said any thing contrary to this, he might be answered with some of his own words: “I was,” says he, “sworn to maintain the laws of the land, and therefore had been perjured if I had broken them †.” It may also be presumed, he had not forgotten what his master Buchanan had taught in the books he wrote chiefly for his instruction ‡, that the violation of the laws of Scotland could not have been so fatal to most of his predecessors, kings of that country, nor as he himself had made them to his mother, if kings as kings were above them.

SECT. 15

SECTION XV

A GENERAL PRESUMPTION, THAT KINGS WILL GOVERN WELL,
IS NOT A SUFFICIENT SECURITY TO THE PEOPLE.

“But,” says our author, “yet will they rule their subjects by the law; and a king, governing in a settled kingdom, leaves to be a king, and degenerates into a tyrant, so soon as he ceases to rule according to his laws: yet where he sees them rigorous or doubtful, he may mitigate and interpret.” This is therefore an effect of their goodness; they are

* Vide supra, p. 337

† “My intention was always to effect union, by uniting Scotland to England, and not England to Scotland: for I ever meant, being ever resolved, that this law should continue in this kingdom; and two things moved me thereunto. One is, that in matter of policy and state, you shall never see any thing anciently and maturely established, but by innovation or alteration it is worse than it was, I mean not by purging of it from corruptions, and restoring it to the ancient integrity. Another reason was, I was sworn to maintain the law of the land, and therefore I had been perjured if I had altered it. And this I speak to root out the conceit, and misapprehension, if it be in any heart, that I would change, damnify, vilify, or suppress the law of this land: God is my judge I never meant it; and this confirmation I make before you all.” Speech in the Star-Chamber, 1616. King James’s Works, p. 553

‡ Rerum Scoticarum Historia, Dialogus de Jure Regni apud Scotos.

above.

CHAP. III above laws, but will rule by law, we have Filmer's word for it. But I know not how nations can be assured their princes will always be so good: goodness is always accompanied with wisdom, and I do not find those admirable qualities to be generally inherent or entailed upon supreme magistrates. They do not seem to be all alike, and we have not hitherto found them all to live in the same spirit and principle. I can see no resemblance between Moses and Caligula, Joshua and Claudius, Gideon and Nero, Samson and Vitellius, Samuel and Otho, David and Domitian; nor indeed between the best of these and their own children. If the sons of Moses and Joshua had been like to them in wisdom, valour, and integrity, it is probable they had been chosen to succeed them; if they were not, the like is less to be presumed of others. No man has yet observed the moderation of Gideon to have been in Abimelech; the piety of Eli in Hophni and Phineas; the purity and integrity of Samuel in Joel and Abiah, nor the wisdom of Solomon in Rehoboam. And if there was so vast a difference between them, and their children, who doubtless were instructed by those excellent men in the ways of wisdom and justice, as well by precept as example, were it not madness to be confident, that they who have neither precept nor good example to guide them, but, on the contrary, are educated in an utter ignorance and abhorrence of all virtue, will always be just and good; or to put the whole power into the hands of every man, woman, or child, that shall be born in governing families, upon a supposition, that a thing will happen, which never did; or that the weakest and worst will perform all that can be hoped, and was seldom accomplished by the wisest and best, exposing whole nations to be destroyed without remedy, if they do it not? And if this be madness in all extremity, it is to be presumed, that nations never intended any such thing, unless our author prove, that all nations have been mad from the beginning, and must always continue to be so. To cure this, he says, "they degenerate into tyrants;" and if he meant as he speaks, it would be enough. For a king cannot degenerate into a tyrant by departing from that law, which is only the product of his own will. But if he do degenerate, it must be by departing from that, which does not depend upon his will, and is a rule prescribed by a power that is above him. This indeed is the doctrine of Bracton, who, having said, that the power of the king is the power of the law, because the law makes him king, adds, "that if he do injustice, he ceases to be king, degenerates into a tyrant, and becomes the vicegerent of the devil*." But I hope this must be understood with temperance, and a due consideration of human frailty, so as to mean only those injuries that are extreme; for otherwise he would terribly shake all the crowns of the world.

But lest our author should be thought once in his life to have dealt sincerely, and spoken truth, the next lines shew the fraud of his last asser-

* Dum facit justitiam, vicarius est regis aeterni; minister autem diaboli, dum declinet ad injuriam . . . rex est dum benè regit, tyrannus dum populum sibi creditum violentà opprimit dominatione. Bract. l. 3, c. 9, fol. 107

tion, by giving to the prince a power of “mitigating and interpreting the laws, which he sees to be rigorous or doubtful.” But as he cannot degenerate into a tyrant by departing from the law, which proceeds from his own will, so he cannot mitigate or interpret that which proceeds from a superior power, unless the right of mitigating or interpreting be conferred upon him by the same. For as all wise men confess, that “none can abrogate, but those who may institute*,” and that all mitigation and interpretation varying from the true sense is an alteration, that alteration is an abrogation; for whatever is changed, is dissolved †: and therefore the power of mitigating is inseparable from that of instituting. This is sufficiently evidenced by Henry the eighth’s answer to the speech made to him by the speaker of the house of commons 1545, in which he, though one of the most violent princes we ever had, confesses the parliament to be the law-makers, and that an obligation lay upon him rightly to use the power with which he was entrusted ‡. The right therefore of altering being inseparable from that of making laws, the one being in the parliament, the other must be so also. Fortescue says plainly, the king cannot change any law. Magna Charta casts all upon the laws of the land, and customs of England §: but to say, that the king can by his will make that to be a custom, or an antient law, which is not, or that not to be so, which is, is most absurd. He must therefore take the laws and customs as he finds them, and can neither detract from, nor add any thing to them. The ways are prescribed as well as the end. Judgments are given by equals, “per pares.” The judges, who may be assisting to

* Cujus est institueré, ejus est abrogare.

† Quicquid mutatur, dissolvitur: interit ergò.

‡ “I cannot a little rejoice, when I consider the perfect trust and confidence, which you have put in me, and, as men having undoubted hope and unfeigned belief in my good doings and just proceedings for you, without my desire or request have committed to mine order and disposition all chantries, colleges, hospitals, and other places specified in a certain act, firmly trusting that I will order them to the glory of God, and the profit of the commonwealth. Surely if I, contrary to your expectation, should suffer the ministers of the church to decay, or learning, which is so great a jewel, to be diminished, or poor and miserable people to be unrelieved, you might say, that I, being put into so special a trust, as I am in this case, were no trusty friend to you, nor charitable to mine, even as a Christian, neither a lover of the public wealth, nor yet one that feared God, to whom account must be rendered of all our doings. . . . To the making of laws, which you have now made and concluded, I exhort you, the makers, to be as diligent in putting them in execution, as you were in the making and furthering of the same, or else your labour shall be in vain, and your commonwealth nothing relieved.” Henry the eighth’s last speech to his parliament, 1545. See Herbert’s Life of Hen. VIII

§ Nullus liber homo capiatur vel imprisonetur aut disseisnetur de libero tenemento suo, vel libertatibus, vel liberis consuetudinibus suis, aut utlagetur, aut exulet, aut aliquo modo destruat; nec super eum ibimus, nec super eum mittemus, nisi per legale iudicium parium suorum, vel per legem terrae. Mag. Chart. c. 29. Imprimis, concessimus Deo, et hâc praesenti chartâ nostrâ confirmavimus pro nobis et haeredibus nostris, in perpetuum, quòd ecclesia Anglicana libera sit, et habeat omnia jura sua integra, et libertates suas illaesas. Ibid. c. 1. Salvae sint archiepiscopis, episcopis, abbatibus, prioribus, templariis, hospitalariis, comitibus, baronibus, et omnibus aliis, tam ecclesiasticis personis, quàm saecularibus, omnes libertates, et liberae consuetudines, quas prius habuerunt. c. 37. Et alibi passim.

Y y

those,

CHAP. III those, are sworn to proceed according to law, and not to regard the king's letters or commands. The doubtful cases are reserved, and to be referred to the parliament, as in the statute of 25 Edw. III, concerning treasons,* but never to the king. The law intending that these parliaments should be annual, and leaving to the king a power of calling them oftener, if occasion require, takes away all pretence of a necessity, that there should be any other power to interpret or mitigate laws. For it is not to be imagined, that there should be such a pestilent evil in any antient law, custom, or later act of parliament, which, being on the sudden discovered, may not without any great prejudice continue for forty days, till a parliament may be called. Whereas the force and essence of all laws would be subverted, if, under colour of mitigating and interpreting, the power of altering were allowed to kings, who often want the inclination, and for the most part the capacity of doing it rightly. It is not therefore upon the uncertain will or understanding of a prince, that the safety of a nation ought to depend. He is sometimes a child, and sometimes overburdened with years. Some are weak, negligent, slothful, foolish, or vicious. Others, who may have something of rectitude in their intentions, and naturally are not incapable of doing well, are drawn out of the right way by the subtilty of ill men, who gain credit with them. That rule must always be uncertain, and subject to be distorted, which depends upon the fancy of such a man. He always fluctuates, and every passion that arises in his mind, or is infused by others, disorders him. The good of a people ought to be established upon a more solid foundation. For this reason, the law is established, which no passion can disturb. It is void of desire and fear, lust and anger. It is "mens sine affectu," written reason, retaining some measure of the divine perfection. It does not injoin that which pleases a weak, frail man; but, without any regard to persons, commands that which is good, and punishes evil in all, whether rich or poor, high or low. It is deaf, inexorable, inflexible.

By this means, every man knows when he is safe, or in danger, because he knows, whether he has done good or evil. But if all depended upon the will of a man, the worst would be often the safest, and the best in the greatest hazard; slaves would be often advanced, the good and the brave scorned and neglected. The most generous nations have above all things sought to avoid this evil: and the virtue, wisdom, and generosity of each, may be discerned by the right fixing of the rule, which must be the guide of every man's life, and so constituting their magistracy, that it may be duly observed. Such as have attained to this perfection have always flourished in virtue and happiness: they are, as Aristotle says,

* " And because that many other like cases of treason may happen in time to come, which a man cannot think nor declare at this present time, it is accorded, that if any other case, supposed treason, which is not above specified, doth happen before any justices, the justices shall tarry, without any going to judgement of the treason, till the cause be shewed and declared before the king and his parliament, whether it ought to be judged treason or other felony." 25 Edw. III. Stat. 5

governed by God, rather than by men, while those who subjected themselves to the will of a man, were governed by a beast*.

This being so, our author's next clause, that "though a king do frame all his actions to be according to law, yet he is not bound thereto, but at his good will, and for good example, or so far forth as the general law of the safety of the commonweal doth naturally bind him," is wholly impertinent. For if the king, who governs not according to law, degenerates into a tyrant, he is obliged to frame his actions according to law, or not to be a king; for a tyrant is none, but as contrary to him, as the worst of men is to the best. But if these obligations were untied, we may easily guess, what security our author's word can be to us, that the king of his own good will, and for a good example, will frame his actions according to the laws; when experience instructs us, that notwithstanding the strictest laws, and most exquisite constitutions, which men of the best abilities in the world could ever invent to restrain the irregular appetites of those in power, with the dreadful examples of vengeance taken against such as would not be restrained, they have frequently broken out; and the most powerful have, for the most part, no otherwise distinguished themselves from the rest of men, than by the enormity of their vices, and being the most forward in leading others to all manner of crimes by their example.

SECTION XVI

THE OBSERVATION OF THE LAWS OF NATURE IS ABSURDLY EXPECTED FROM TYRANTS, WHO SET THEMSELVES UP AGAINST ALL LAWS: AND HE THAT SUBJECTS KINGS TO NO OTHER LAW, THAN WHAT IS COMMON TO TYRANTS, DESTROYS THEIR BEING.

Our author's last clause, acknowledging kings to be bound by a general law to provide for the safety of the people, would be sufficient for my purpose, if it were sincere; for municipal laws do only shew how that should be performed: and if the king, by departing from that rule, degenerates, as he says, into a tyrant, it is easily determined what ought then to be done by the people. But his whole book being a heap of contradictions and frauds, we can rely upon nothing that he says: and his following words, which under the same law comprehend both kings and tyrants, shew that he intends kings should be no otherwise obliged than tyrants, which is, not at all. "By this means," says he, "are all kings, even tyrants and conquerors, bound to preserve the lands, goods, liberties, and lives of all their subjects, not by any municipal law of

* Vide *suprà*, p. 108

CHAP. III

“ the land, but by the natural law of a father, which binds them to ratify
 “ the acts of their forefathers and predecessors, in things necessary for
 “ the public good of their subjects.” If he be therefore in the right,
 tyrants and conquerors are kings and fathers. The words that have been
 always thought to comprehend the most irreconcilable contrariety, the
 one expressing the most tender love and care, evidently testified by the
 greatest obligations conferred upon those who are under it, the other the
 utmost of all injuries that can be offered to men, signify the same thing:
 there is no difference between a magistrate, who is what he is by law,
 and a public enemy, who by force or fraud sets himself up against all law;
 and what he said before, that kings degenerated into tyrants, signifies
 nothing, for tyrants also are kings.

His next words are no less incomprehensible; for neither king nor
 tyrant can be obliged to preserve the lands, goods, and liberties of their
 subjects, if they have none. But as liberty consists only in being subject
 to no man's will, and nothing denotes a slave but a dependence upon the
 will of another, if there be no other law in a kingdom than the will of a
 prince, there is no such thing as liberty. Property is also an appen-
 dage to liberty; and it is as impossible for a man to have a right to lands
 or goods, if he has no liberty, and enjoys his life only at the pleasure of
 another, as it is to enjoy either, when he is deprived of them. He
 therefore who says kings and tyrants are bound to preserve their subjects
 lands, liberties, goods, and lives, and yet lays for a foundation, that
 laws are no more than the significations of their pleasure, seeks to delude
 the world with words which signify nothing.

The vanity of these whimsies will farther appear, if it be considered,
 that as kings are kings by law, and tyrants are tyrants by overthrowing
 the law, they are most absurdly joined together; and it is not more ridicu-
 lous to set him above the law, who is what he is by the law, than to
 expect the observation of the laws, that injoin the preservation of the lands,
 liberties, goods, and lives of the people, from one who by fraud or vio-
 lence makes himself master of all, that he may be restrained by no law,
 and is what he is by subverting all law.

Besides, if the safety of the people be the supreme law, and this safety
 extend to, and consist in the preservation of their liberties, goods, lands,
 and lives, that law must necessarily be the root and beginning, as well as
 the end and limit of all magistratical power; and all laws must be subser-
 vient and subordinate to it. The question will not then be what pleases
 the king, but what is good for the people; not what conduces to his
 profit or glory, but what best secures the liberties he is bound to preserve.
 He does not therefore reign for himself, but for the people; he is not
 the master, but the servant, of the commonwealth; and the utmost extent
 of his prerogative is to be able to do more good than any private man. If
 this be his work and duty, it is easily seen whether he is to judge of his
 own performance, or they by whom, and for whom, he reigns; and
 whether, in order to this, he be to give laws, or to receive them. It is
 ordinarily

ordinarily said in France, "Il faut que chacun soit servi à sa mode," every man's business must be done according to his own mind: and if this be true in particular persons, it is more plainly so in whole nations. Many eyes see more than one: the collected wisdom of a people much surpasses that of a single person; and though he should truly seek that which is best, it is not probable he would so easily find it, as the body of a nation, or the principal men chosen to represent the whole. This may be said with justice of the best and wisest princes that ever were; but another language is to be used, when we speak of those who may succeed, and who very often through the defects of age, person, or sex, are neither fit to judge of other mens affairs, nor of their own; and are so far from being capable of the highest concerns relating to the safety of whole nations, that the most trivial cannot reasonably be referred to them.

SECT. 16

There are few men (except such as are like Filmer, who, by bidding defiance to the laws of God and man, seems to declare war against both) whom I would not trust to determine whether a people that can never fall into nonage or dotage, and can never fail of having men of wisdom and virtue among them, be not more fit to judge in their own persons, or by representatives, what conduces to their own good, than one who at a venture may be born in a certain family, and who, besides his own infirmities, passions, vices, or interests, is continually surrounded by such as endeavour to divert him from the ways of truth and justice. And if no reasonable man dare prefer the latter before the former, we must rely upon the laws made by our forefathers, and interpreted by the nation, and not upon the will of a man.

It is in vain to say, that a wise and good council may supply the defects, or correct the vices, of a young, foolish, or ill-disposed king. For Filmer denies, that a king, whatever he be, without exception (for he attributes profound wisdom to all) is obliged to follow the advice of his council; and even he himself would hardly have had the impudence to say, that good counsel, given to a foolish or wicked prince, were of any value, unless he were obliged to follow it. This council must be chosen by him, or imposed upon him. If it be imposed upon him, it must be by a power that is above him, which he says cannot be. If chosen by one who is weak, foolish, or wicked, it can never be good; because such virtue and wisdom is required to discern and choose a few good and wise men, from a multitude of foolish and bad, as he has not. And it will generally fall out, that he will take for his counsellors, rather those he believes to be addicted to his person or interests, than such as are fitly qualified to perform the duty of their places. But if he should, by chance, or contrary to his intentions, make choice of some good and wise men, the matter would not be much mended; for they will certainly differ in opinion from the worst. And though the prince should intend well, of which there is no assurance, nor any reason to put so great a power into his hands, if there be none, it is almost impossible for him to avoid the snares that will
be

CHAP. III be laid to seduce him. I know not how to put a better face upon this matter: for if I examine rather what is probable than possible, foolish or ill princes will never choose such as are wise and good; but, favouring those who are most like to themselves, will prefer such as second their vices, humours, and personal interests; and, by so doing, will rather fortify and rivet the evils that are brought upon the nation through their defects, than cure them. This was evident in Rehoboam: he had good counsel, but he would not hearken to it. We know too many of the same sort; and though it were not impossible, as Machiavel says it is, for a weak prince to receive any benefit from a good council *, we may certainly conclude, that a people can never expect any good from a council chosen by one who is weak or vicious.

If a council be imposed upon him, and he be obliged to follow their advice, it must be imposed by a power that is above him: his will therefore is not a law, but must be regulated by the law; the monarchy is not above the law; and if we will believe our author, it is no monarchy, because the monarch has not his will; and perhaps he says true. For if that be an aristocracy, where those that are, or are reputed to be the best, do govern, then that is certainly a mixed state, in which the will of one man does not prevail. But if princes are not obliged by the law, all that is founded upon that supposition falls to the ground: they will always follow their own humours, or the suggestions of those who second them. Tiberius hearkened to none but Chaldeans, or the ministers of his impurities and cruelties. Claudius was governed by slaves, and the profligate strumpets his wives. There were many wise and good men in the senate during the reigns of Caligula, Nero, and Domitian; but instead of following their counsel, they endeavoured to destroy them all, lest they should head the people against them: and such princes as resemble them will always follow the like courses.

If I often repeat these hateful names, it is not for want of fresher examples of the same nature; but I choose such as mankind have universally condemned, against whom I can have no other cause of hatred, than what is common to all those who have any love to virtue, and which can have no other relation to the controversies of later ages, than what may flow from the similitude of their causes, rather than such as are too well known to us, and which every man, according to the measure of his experience, may call to mind in reading these. I may also add, that as nothing is to be received as a general maxim, which is not generally true, I need no more to overthrow such as Filmer proposes, than to prove how frequently they have been found false, and what desperate mischiefs have been brought upon the world as often as they have been practised, and excessive powers put into the hands of such as had neither inclination nor ability to make a good use of them. And therefore,

* Questa non falla mai, ed è regola generale, che un principe, il quale non sia savio per se stesso, non può esser consigliato bene. Il Princ. c. 23

1. If the safety of nations be the end for which governments are instituted, such as take upon them to govern, by what title soever, are by the law of nature bound to procure it; and in order to this, to preserve the lives, lands, liberties, and goods, of every one of their subjects: and he that, upon any title whatever, pretends, assumes, or exercises a power of disposing of them according to his own will, violates the laws of nature in the highest degree.

2. If all princes are obliged, by the law of nature, to preserve the lands, goods, lives, and liberties of their subjects, those subjects have, by the law of nature, a right to their liberties, lands, goods, &c. and cannot depend upon the will of any man; for that dependence destroys liberty, &c.

3. Ill men will not, and weak men cannot provide for the safety of the people; nay, the work is of such extreme difficulty, that the greatest and wisest men that have been in the world are not able, by themselves, to perform it; and the assistance of council is of no use, unless princes are obliged to follow it. There must be therefore a power in every state to restrain the ill, and to instruct weak princes, by obliging them to follow the councils given, else the ends of government cannot be accomplished, nor the rights of nations preserved.

All this being no more than is said by our author, or necessarily to be deduced from his propositions, one would think he were become as good a commonwealths-man as Cato: but the washed swine will return to the mire. He overthrows all by a preposterous conjunction of the rights of kings, which are just, and by law, with those of tyrants, which are utterly against law; and gives the sacred and gentle name of father to those beasts, who by their actions declare themselves enemies not only to all law and justice, but to mankind that cannot subsist without them. This requires no other proof, than to examine, whether Attila or Tamerlane did well deserve to be called fathers of the countries they destroyed. The first of these was usually called the scourge of God, and he gloried in the name*. The other, being reproved for the detestable cruelties he exercised, made answer, "you speak to me as to a man, I am not a man, but the scourge of God, and the plague of mankind †." This is certainly sweet and gentle language, favouring much of a fatherly tenderness: there is no doubt but that those who use it will provide for the safety of the nations under them; and the preservation of the laws of nature is rightly

* Tu, inquit eremita, Dei es flagellum, ad vitia Christiani populi corrigenda missus. Nic. Olahi Attila, c. 6. — Dixisse fertur superbum illud dictum, stellas prae se cadere, terram tremere, se malleum esse universi orbis. Dein in id arrogantiae processit, ut jussit, sicut eremita dixerat, "flagellum Dei" adjici suo titulo; ac eo epitheto se et nominari et in literas referri. Ibid. c. 9

† Apud Ligurem negotiatorem amicum, qui in communi colloquio feram ejus in vicis multandis crudelitatem temerè magis ac familiariter, quàm prudenter accusabat, obversis in eum flammantibus turbatisque oculis, in haec verba prorupit: "Si me hominem esse arbitrare, falleris, equidem ira Dei sum, et ruina ac perniciès hominum." Richerius de rebus Turcarum l. 3, prope finem. Vide Rerum Germ. Script. à Schardio collectos. Vol. 2, p. 397. Edit. Giesiae, 1673. Bizari Genev. Hist. l. 9, prope finem.

CHAP. III referred to them : and it is very probable, that they who came to burn the countries, and destroy the nations, that fell under their power, should make it their business to preserve them, and look upon the former governors “ as their fathers, whose acts they were obliged to confirm,” though they seldom attained to the dominion by any other means, than the slaughter of them and their families,

But if the enmity be not against the nation, and the cause of the war be only for dominion against the ruling person or family, as that of Baasha against the house of Jeroboam, of Zimri against that of Baasha, of Omri against Zimri, and of Jehu against Joram*, the prosecution of it is a strange way of becoming the son of the person destroyed. And Filmer alone is subtle enough to discover, that Jehu, by extinguishing the house of Ahab, drew an obligation upon himself of looking on him as his father, and confirming his acts. If this be true, Moses was obliged to confirm the acts of the kings of the Amalekites, Moabites, and Amorites, that he destroyed ; the same duty lay upon Joshua, in relation to the Canaanites : but it is not so easily decided, to which of them he did owe that deference ; for the same could not be due to all, and it is hard to believe, that by killing above thirty kings, he should purchase to himself so many fathers : and the like may be said of divers others.

Moreover, there is a sort of tyrant who has no father, as Agathocles, Dionysius, Caesar, and generally all those, who subvert the liberties of their own country. And if they stood obliged to look upon the former magistrates as their predecessors, and to confirm their acts, the first should have been to give impunity and reward to any that would kill them, it having been a fundamental maxim in those states, “ that any man might kill a tyrant †.”

This

* 1 Kings, ch. 15, v. 29. ch. 16, v. 9, 17. 2 Kings, ch. 9, v. 14

† Unicum licere tyrannum occidere. * * * * Εἰ γὰρ τις ἐπιχειροῖ τὴν τυραννίαν, ὃ Σόλων μὲν ἀλόγιον τὴν δίκην ἐπιτίθεισιν. Plut. Compar. Sol. et Poplic. p. 110. — Ὡς δὲ διὰ τὰς πατρίδας ἀσφαλῶς ἕκαστος βίβηται τῶν πολιτῶν τοῖς δὲ τυράννοις καὶ τῷτο ἐμπάλιν ἀνεστραπία. αὐτὸ γὰρ τε τιμῶν αἱ πόλεις αὐτοῖς, μεγάλας τιμῶσι τὸν ἀποκτείναντα τυράννον· καὶ ἀπὸ γὰρ τε εὐργεῖν ἐκ τῶν ἱερῶν, ὡς περὶ τῶν ἰδιωτῶν φονεῶν, αὐτὸ τε καὶ εἰκόνας ἐν τοῖς ἱεροῖς ἴσασιν αἱ πόλεις τῶν τῷτο ποιησάντων. Xen. de Regno, p. 909, Edit. Leunclavii, 1596. — Ἐκεῖνοις [Λακεδαιμονίων βασιλευσὶ] ἀδικεῖν μὲν, ἤτιον ἔχουσιν ἢ τοῖς ἰδιωταῖς· τούτων δὲ μακαριώτεροι τυγχάνουσιν οὐτὲς, τῶν βίβηταις τυραννίδας κατέχοντων, ὅσον οἱ μὲν τῶν τοιούτων ἀποκτείναντες, τὰς μεγάλας δῶρας παρὰ τῶν συμπολιτευομένων λαμβάνουσιν. Isoc. Orat. de Pace, prope finem. Graeci homines deorum honores tribuunt iis viris, qui tyrannos necaverunt. Cic. Orat. pro Milone, § 80. — Armodius et Aristogeiton, homines plebei, Hippiam et Hipparchum Pisistrati filios faevè dominantes factâ conjuratione opprēserunt; ideoque, ut conservatoribus, divini honores eis sunt constituti. Ampelii Lib. Memorialis. c. 15

Such were the laws and sentiments of the Greeks concerning the killing of tyrants. The Romans were animated by the same spirit of liberty, and abhorrence of arbitrary power.

Ὁ γὰρ Ποπλικόλας ἐγράψεν νόμον, ἀνεὺ κρίσεως κτεῖναι δίδουσα τὸν βεβλομένου τυράννου, Plut. in vitâ Poplic. p. 103. — Lex est, “ Qui tyrannum occiderit Olympionicarum praemium capito, et quam volet sibi rem à magistratu deposcito, et magistratus ei concedito. Cic. de Invent. l. 2, § 29. — Non intelligis fati esse viris fortibus didicisse quàm sit pulchrum, beneficio gratum, famâ gloriosum, tyrannum occidere? Id. Philip. 2, § 117, ibid. § 96. 114. — Quod potest esse majus scelus, quàm non modò hominem, sed etiam familiarem occidere?

This being in all respects ridiculous and absurd, it is evident, that our author, who, by proposing such a false security to nations for their liberties, endeavours to betray them, is not less treacherous to kings, when, under a pretence of defending their rights, he makes them to be the same with those of tyrants, who are known to have none, and are tyrants because they have none; and gives no other hopes to nations of being preserved by the kings they set up for that end, than what upon the same account may be expected from tyrants, whom all wise men have ever abhorred, and affirmed to have been “produced to bring destruction upon the world *,” and whose lives have verified the sentence.

This is truly to depose and abolish kings, by abolishing that by which, and for which, they are so. The greatness of their power, riches, state, and the pleasures that accompany them, cannot but create enemies. Some will envy that which is accounted happiness; others may dislike the use they make of their power: some may be unjustly exasperated by the best of their actions, when they find themselves incommoded by them; others may be too severe judges of slight miscarriages. These things may reasonably temper the joys of those, who delight most in the advantages of crowns. But the worst and most dangerous of all their enemies are these accursed sycophants, who, by making those that ought to be the best of men like to the worst, destroy their being; and by persuading the world they aim at the same things, and are bound to no other rule than is common to all tyrants, give a fair pretence to ill men to say, they are all of one kind. And if this should be received for truth, even they, who think the miscarriages of their governors may be easily redressed, and desire no more, would be the most fierce in procuring the destruction of that, which is naught in principle, and cannot be corrected.

SECTION XVII

KINGS CANNOT BE THE INTERPRETERS OF THE OATHS THEY TAKE.

Our author's book is so full of absurdities and contradictions, that it would be a rope of sand, if a continued series of frauds did not, like a string of poisons running through the whole, give it some consistence with itself, and shew it to be the work of one and the same hand. After having

dere? num igitur se adstrinxit scelere, si quis tyrannum occidit, quamvis familiarem? Populo quidem Romano non videtur, qui ex omnibus praeclaris factis illud pulcherrimum existimat. Id. de Offic. l. 3, § 19.—Nulla nobis societas cum tyrannis, sed potius summa distractio; neque est contra naturam spoliare eum, si possis, quem honestum est necare: atque hoc omne genus pestiferum, atque impium, ex hominum communitate exterminandum est. Ibid. § 32

* In generis humani exitium natos. * * *

Z z

endeavoured

CHAP. III endeavoured to subvert the laws of God, nature, and nations, especially our own, by abusing the Scriptures, falsely alleging the authority of many good writers, and seeking to obtrude upon mankind a universal law, that would take from every nation the right of constituting such governments within themselves, as seem most convenient for them, and giving rules for the administration of such as they had established, he gives us a full view of his religion and morals, by destroying the force of the oath taken by our kings at their coronation. "Others," says he, "affirm, that although laws of themselves do not bind kings, yet the oaths of kings at their coronation tie them to keep all the laws of their kingdoms. How far this is true, let us but examine the oath of the kings of England at their coronation; the words whereof are these — Art thou pleased to cause to be administered in all thy judgments indifferent and upright justice, and to use discretion with mercy and verity? — Art thou pleased, that our upright laws and customs be observed; and dost thou promise, that those shall be protected and maintained by thee? &c. — To which the king answers in the affirmative, being first demanded by the archbishop of Canterbury — Pleaseth it you, to confirm and observe the laws and customs of antient times, granted from God by just and devout kings unto the English nation, by oath unto the said people, especially laws, customs, and liberties, granted unto the clergy and laity by the famous king Edward *?" From this he infers, that the king is not to observe all laws, but such as are upright, because he finds evil laws mentioned in the oath of Richard the second, which he swears to abolish †. "Now, says he, what laws are upright, and what

* Filmer has taken this oath from Milles's Catalogue of Honour, p. 53. Edit. 1610. Prynne, in his treatise on the Loyalty of God's true saints, tells us, that the following form was used at the coronations of Henry VII, and VIII, James I, Charles I, &c.

Juramentum domini regis in die coronationis suae.

Archiepiscopus Cantuariensis regem interrogat, si leges et consuetudines ab antiquis, justis, et Deo devotis regibus, plebi Anglorum concessas, cum sacramenti confirmatione eidem plebi concedere et servare voluerit, et praesertim leges, consuetudines, et libertates à glorioso rege Edwardo clero et populo concessas. — Dicto principe se promittente omnia praemissa concessurum et servaturum, tunc exponet ei archiepiscopus articulos, de quibus jurabit, sic dicens:

1. "Servabis ecclesiae Dei, cleroque et populo, pacem ex integro et concordiam in Deo, secundum vires tuas?" respondebit, "servabo."
2. "Facies fieri in omnibus judiciis tuis aequam et rectam justitiam, et discretionem cum misericordiâ et veritate, secundum vires tuas?" respondebit, "faciam."
3. "Concedis justas leges et consuetudines esse tenendas, et promittis eas per te esse regendas, et ad honorem Dei corroborandas, quas vulgus elegerit, secundum vires tuas?" respondebit, "concedo et promitto." Prynne on Loyalty, p. 246, 270

† The oath taken by Richard the second was to this purpose — Quòd ecclesiam suis permitteret gaudere libertatibus, et eam et ministros ejus honoraret, et fidem rectam teneret, rapacitatem et omnes iniquitates in omnibus gradibus interdiceret. Secundò, ut leges terrae bonas ubique servari faceret, et praecipuè leges S. Edwardi regis et confessoris, qui in eâdem requiescit ecclesiâ, et malas leges faceret abrogari. Tertiò, ut non esset personarum acceptor, sed judicium rectum inter virum et virum faceret, et praecipuè misericordiam observaret, sicut sibi suam indulgeat misericordiam clemens, et misericors Deus. Walsing. Hist. Angl. p. 195. — Since our author's time, viz. in 1688, an act was pass'd for ascertaining and establishing the form of the coronation oath. 1 W. & M. sess. 1, c. 6

"evil,

“ evil, who shall judge but the king? &c. So that in effect the king doth swear to keep no laws but such as in his judgment are upright, &c. And if he did strictly swear to observe all laws, he could not without perjury give his consent to the repealing or abrogating of any statute by act of parliament, &c.” And again: “ but, let it be supposed for truth, that kings do swear to observe all laws of their kingdoms, yet no man can think it reason, that the kings should be more bound by their voluntary oaths than common persons. Now if a private person make a contract, either with oath, or without oath, he is no farther bound than the equity and justice of the contract ties him: for a man may have relief against an unreasonable and unjust promise, if either deceit or error, force or fear, induced him thereunto, or if it be hurtful or grievous in the performance. Since the laws in many cases give the king a prerogative above common persons, &c.” Left I should be thought to insist upon small advantages, I will not oblige any man to shew, where Filmer found this oath, nor observe the faults committed in the translation: but, notwithstanding his false representation, I find enough for my purpose, and intend to take it in his own words. But first I shall take leave to remark, that those, who for private interests addict themselves to the personal service of princes, though to the ruin of their country, find it impossible to persuade mankind, that kings may govern as they please, when all men know there are laws to direct and restrain them, unless they can make men believe they have their power from an universal and superior law; or that princes can attempt to dissolve the obligations laid upon them by the laws, which they so solemnly swear to observe, without rendering themselves detestable to God and man, and subject to the revenging hands of both, unless they can invalidate those oaths. Mr. Hobbes, I think, was the first who very ingeniously contrived a compendious way of justifying the most abominable perjuries, and all the mischiefs ensuing thereupon, by pretending, that as the king’s oath is made to the people, the people may absolve him from the obligation: and that the people having conferred upon him all the power they had, he can do all that they could: he can therefore absolve himself, and is actually free, since he is so when he pleases*. This is only false in the minor: for the people not having conferred upon him all, but only a part of their power, that of absolving him remains in themselves, otherwise they would never have obliged him to take the oath. He cannot there-

* Societati civili adversa opinio eorum est, qui censent, legibus civilibus subjectos esse etiam eos qui habent summum imperium. Quam veram non esse satis ostenditur, ex eo quod civitas, neque sibi ipsi, neque civi cuiquam obligari potest: non sibi, quia nemo obligatur nisi alii; non civi, quia civium voluntates singulae in voluntate civitatis continentur, ita ut si civitas se liberam à tali obligatione esse velit, etiam cives velint, et proinde libera sit. Quod autem de civitate verum est, id verum esse intelligitur de eo homine, vel coetu hominum, qui summam habet potestatem; illi enim civitas sunt, quae nisi per summam eorum potestatem non existit. Hobbes de Cive c. 12, § 4, c. 6, § 14. — In eum [monarcham] jus omne populi pluralitate suffragiorum transfertur; ita ut quicquid potuerat populus, antequam eligeretur, id omne postea jure possit facere electus. c. 7, § 11

CHAP. III fore absolve himself. The pope indeed finds a help for this, and as Christ's vicar pretends the power of absolution to be in him, and exercised it in absolving king John. But our author, despairing to impose either of these upon our age and nation, with more impudence, and less wit, would enervate all coronation-oaths by subjecting them to the discretion of the taker: whereas all men have hitherto thought their force to consist in the declared sense of those who give them*. This doctrine is so new, that it surpasses the subtilty of the schoolmen, who, as an ingenious person said of them, had minced oaths so fine, that a million of them, as well as angels, might stand upon the point of a needle; and were never yet equalled but by the Jesuits, who have overthrown them by mental reservations: which is so clearly demonstrated from their books, that it cannot be denied; but so horrible, that even those of their own order, who have the least spark of common honesty, condemn the practice. And one of them, being a gentleman of a good family, told me, he would go the next day and take all the oaths that should be offered, if he could satisfy his conscience in using any manner of equivocation, or mental reservation; or if he might put any other sense upon them, than he knew to be intended by those who offered them. And if our author's conscience were not more corrupted than that of the Jesuit, who had lived fifty years under the worst discipline that I think ever was in the world, I would ask him seriously, if he truly believe, that the nobility, clergy, and commonalty of England, who have been always so zealous for their antient laws, and so resolute in defending them, did mean no more by the oaths they so solemnly imposed, and upon which they laid so much weight, than that the king should swear to keep them, so far only as he should think fit. But he swears only "to observe those that are upright, &c." How can that be understood otherwise, than that those who give the oath do declare their laws and customs to be upright and good, and he by taking the oath affirms them to be so? Or, how can they be more precisely specified than by the ensuing clause, "granted from God by just and devout kings by oath, especially those of the famous king Edward?" But, says he, by the same oath, "Richard the second was bound to abolish those that were evil." If any such had crept in through error, or been obtruded by malice, the evil being discovered and declared by the nobility and commons who were concerned, he was not to take advantage of them, or by his refusal to evade the abolition, but to join with his people in annulling them, according to the general clause of assenting to those "quas vulgus elegerit †."

Magna Charta being only an abridgment of our antient laws and customs, the king that swears to it, swears to them all; and not being admitted to be the interpreter of it, or to determine what is good or evil,

* Verba jurantis obligare in sensu quo ea creditur accepisse cui juratum est. . . . Dictis ipsis testem adhibens Deum, debet dicta facere vera quomodo putat intelligi. Grot. de Jure Belli, l. 2, c. 13, § 3. Vide ejusd. cap. argumenta, § 3

† See the third article in the coronation oath above cited, p. 354

fit to be observed or annulled in it, can have no more power over the rest. This having been confirmed by more parliaments than we have had kings since that time, the same obligation must still lie upon them all, as upon John and Henry, in whose time that claim of right was compiled. The act was no less solemn than important; and the most dreadful curses that could be conceived in words, which were denounced against such as should any way infringe it, by the clergy in Westminster-hall, in the presence, and with the assent, of king Henry the third, many of the principal nobility, and all the estates of the kingdom, shew whether it was referred to the king's judgment or not; when it is evident they feared the violation from no other than himself, and such as he should employ*. I confess the church, as they then called the clergy, was fallen into such corruption, that their arms were not much to be feared by one who had his conscience clear; but that could not be in the case of perjury: and our ancestors could do no better, than employ the spiritual sword, reserving to themselves the use of the other, in case that should be despised. Though the pope's excommunications proved sometimes to be but "bruta fulmina," when a just cause was wanting, it may be easily judged what obedience a prince could expect from his subjects, when every man knew he had by perjury drawn the most heavy curses upon himself. King John was certainly wicked, but he durst not break these bonds till he had procured the pope's absolution for a cover; and when he had done so, he found himself unsafe under it, and could not make good what he had promised to the pope to obtain it, the parliament declaring, that his grants to the pope were unjust, illegal, contrary to his coronation-oath, and that they would not be held by them. This went so far in that king's time, that writs were issued out to men of all conditions to oblige themselves by oath to keep the great charter; and if other means failed, "to compel the king to perform the conditions †." It is expressly said in his charter, that "the barons and commonalty of the land shall freighten and compel us by all means possible, as by seizing our towns, lands, and possessions, or any other way, till satisfaction be made according to their pleasure ‡." And in the charter of his son Henry it is, upon the same supposition of not performing the agreement, said, "It shall be lawful for all men in our kingdom to rise up against us, and to do all things that may be grievous to us, as if they were absolutely free from any engagements.

* See the sentence of excommunication denounced against all the infringers of Magna Charta in Matthew Paris, p. 866. sub ann. 1253

† Rex Anglorum Johannes misit literas suas patentes in omnes fines Angliae praecipiens firmiter vicecomitibus universis totius regni, ut facerent jurare de ballivis suis homines cujuscunque conditionis, quod leges et libertates praedictas observarent, et quod ipsum regem pro posse suo per captionem castrorum suorum distringerent et gravarent ad praefata omnia exequenda, sicut in charta continebatur. Mat. Paris. sub ann. 1215. p. 262.

‡ Et illi barones, cum communitate totius terrae, distringent et gravabunt nos modis omnibus quibus poterunt, scilicet per captionem castrorum, terrarum, possessionum, et aliis modis quibus potuerint, donec fuerit emendatum secundum arbitrium eorum. Mat. Paris. p. 261

CHAP. III

“ to our person *.” These words seem to have been contrived to be so full and strong “ *propter duplicitatem regis,*” which was with too much reason suspected. And it is not, as I suppose, the language of slaves and villains begging something from their lord, but of noble and free men, who knew their lord was no more than what they made him, and had nothing but what they gave him: nor the language of a lord treating with such as enjoyed their liberties by his favour, but with those whom he acknowledged to be the judges of his performing what had been stipulated; and equals the agreements made between the kings and people of Arragon, which I cited before from the Relations of Antonio Perez. This is as far as men can go; and the experience of all ages manifests, that princes, performing their office, and observing these stipulations, have lived glorious, happy, and beloved. And I can hardly find an example of any, who have notoriously broken these oaths, and been adjudged to have incurred the penalties, who have not lived miserably, died shamefully, and left an abominable memory to posterity.

“ But,” says our author, “ kings cannot be more obliged by voluntary oaths than other men, and may be relieved from unjust and unreasonable promises, if they be induced by deceit, error, force, or fear, or the performance be grievous.” Which is to say, that no oath is of any obligation; for there is none that is not voluntary, or involuntary; and there never was any, upon which some such thing may not be pretended: which would be the same, if such as Filmer had the direction of their consciences who take the oaths, and of those who are to exact the performance. This would soon destroy all confidence between king and people, and not only unhinge the best established governments, but by a detestable practice of annihilating the force of oaths, and most solemn contracts, that can be made by men, overthrow all societies that subsist by them. I leave it to all reasonable men to judge how fit a work this would be for the supreme magistrate, who is advanced to the highest degree of human glory and happiness, that he may preserve them; and how that justice, for the obtaining of which governments are constituted, can be administered, if he, who is to exact it from others, do in his own

* Our author has taken these words from the following passage in “ *Charta pardonationis per regem Henricum post bellum de Lewes, anno regni, 49:*” — Quòd si nos, vel dominus Edwardus filius noster, contra prædictam ordinationem, promissionem nostram, seu juramentum, quod abist, in aliquo venire, seu pacem et tranquillitatem regni nostri turbare, seu occasione factorum præcedentium, tempore turbationis ac guerræ præcedentis, aliquem de prædictis, aut de parte prædictorum, quos diffidavimus, occasionare, seu alicui de eis dānum facere, aut fieri procurare præsumpserimus, liceat omnibus de regno nostro contra nos insurgere, et ad gravamen nostrum opem et operam dare, juxta posse: ad quod ex præsentis præcepto nostro omnes et singulos volumus obligari, fidelitate, et homagio nobis facto non obstante. Ita quòd nobis in nullo intendant, sed omnia, quæ gravamen nostrum respiciunt, faciant, ac si in nullo nobis tenerentur, donec quod in hâc parte transgressum fuerit, seu commissum, cum satisfactione congruâ, in statum debitum, secundum prædictorum, ordinationis et promissionis nostræ, et juramenti formam, fuerit reformatum etc. *Annal. Waverleienfes, sub ann. 1264. Vide Hist. Anglic. Scriptores quinque, p. 217. Tyrrel's Hist. of England, p. 1042, and Append. p. 34*

person utterly subvert it; and what they deserve, who by such base prevocations would teach them to pervert and abolish the most sacred of all contracts. A worthy person of our age was accustomed to say, that contracts in writing were invented only to bind villains, who having no law, justice, or truth, within themselves, would not keep their words, unless such testimonies were given as might compel them. But if our author's doctrine were received, no contract would be of more value than a cobweb. Such as are not absolutely of a profligate conscience so far reverence the religion of an oath, as to think, that even those which are most unjustly and violently imposed ought to be observed*; and Julius Caesar, who I think was not over-scrupulous, when he was taken by pirates, and set at liberty upon his word, caused the ransom he had promised to be paid to them †. We see the like is practised every day by prisoners taken in unjust as well as just wars: and there is no honest man that would not abhor a person, who being taken by the pirates of Algiers, should not pay what he had promised for his liberty. It were in vain to say they had no right of exacting, or that the performance was grievous; he must return to the chains, or pay. And though the people of Artois, Alfatia, or Flanders, do perhaps, with reason, think the king of France has no right to impose oaths of allegiance upon them, no man doubts, but that if they choose rather to take those oaths, than to suffer what might ensue upon their refusal, they are as much bound to be faithful to him as his antient subjects.

The like may be said of promises extorted by fraud; and no other example is necessary to prove they are to be performed, than that of Josphua made to the Gibeonites ‡. They were an accursed nation, which he was commanded to destroy: they came to him with lies, and by deceit induced him to make a league with them, which he ought not to have done; but being made, it was to be performed. On that account he did not only spare but defend them; and the action was approved by God.

* Non persona sola respicitur cui juratur, sed is qui juratur, Deus, qui ad obligationem pariendam sufficit. Repudiandus ergo Cicero, cum ait, perjurium nullum esse, si praedonibus pactum pro capite pretium non adferatur, ne si juratum quidem sit. Grot. de Jure Belli. l. 2, c. 13, § 15. Cic. de Offic. l. 3, § 107. — Puffendorf seems to favour the opinion of Cicero. Vide Puffend. de Jure Nat. l. 4, c. 2, § 8

† Our author has misrepresented the transaction, to which he alludes in this passage. When Caesar was taken by the pirates, he acted more like an artful and political warrior, than a man of honour. He was kept in custody till the ransom was paid. As soon as he was released, he pursued the pirates, obliged them to restore all the money they had received, and crucified them for their illegal practices, and their insolence in apprehending him. — Rhodum secedere statuit . . . Huc dum hibernis jam mensibus trajicit, circa Pharmacusam insulam à praedonibus captus est; mansitque apud eos, non sine summâ indignatione, propè quadraginta dies, cum uno medico et cubiculariis duobus. Nam comites servosque caeteros initio statim, ad expediendas pecunias, quibus redimeretur, dimiserat. Numeratis deinde quinquaginta talentis, expositus in litore, non distulit quin è vestigio classe deducta persequeretur abeuntes; ac redactos in potestatem supplicio, quod illis saepè minatus inter jocum fuerat, afficeret. Suet. in vitâ Jul. Caesaris, § 4, 74. Plut. in ejusdem vitâ. Polyæni. Strat. l. 8, c. 23. Vel. Paterc. l. 2, § 41, 42

‡ Josh. ch. 9, v. 18. Vide Grot. de Jure Belli, l. 2, c. 13, § 4

CHAP. III When Saul by a preposterous zeal violated that league, the anger of God for that breach of faith could no otherwise be appeased than by the death of seven of his children. This case is so full, so precise, and of such undoubted authority, that I shall not trouble myself with any other. But if we believe our man of good morals, voluntary oaths and promises are of no more value than those gained by force or deceit, that is to say, none are of any. For voluntary signifying nothing but free, all human acts are either free or not free, that is, from the will of the person, or some impulse from without. If therefore there be no force in those that are free, nor in those that are not free, there is none in any.

No better use can be made of any pretension of "error," or that the "performance was grievous;" for no man ought to be grieved at the performance of his contract. David assures us, that a good man performs his agreement, though he lose by it*; and the lord chancellor Egerton told a gentleman who desired relief against his own deed, upon an allegation that he knew not what he did when he signed it, that he did not fit to relieve fools.

But though voluntary promises or oaths, when, to use the lawyers language, there is not a valuable consideration, were of no obligation; or men brought by force, fear, or error, into such contracts as are grievous in the performance, might be relieved, this would not at all reach the cases of princes, in the contracts made between them and their subjects, and confirmed by their oaths, there being no colour of force or fraud, fear or error, for them to allege; nor any thing to be pretended that can be grievous to perform, otherwise than as it may be grievous to an ill man not to do the mischiefs he had conceived.

Nations, according to their own will, frame the laws by which they resolve to be governed; and if they do it not wisely, the damage is only to themselves: but it is hard to find an example of any people that did by force oblige a man to take upon him the government of them. Gideon was indeed much pressed by the Israelites to be their king; and the army of Germanicus, in a mutiny, more fiercely urged him to be emperor: but both desisted when their offers were refused. If our kings have been more modest, and our ancestors more pertinacious in compelling them to accept the crowns they offered, I shall, upon proof of the matter, change my opinion. But till that do appear, I may be pardoned if I think there was no such thing. William the Norman was not by force brought into England, but came voluntarily, and desired to be king: the nobility, clergy, and commons, proposed the conditions upon which they would receive him. These conditions were to govern according to their antient laws, especially those that had been granted, or rather collected in the time of the famous king Edward. Here was neither force nor fraud; if he had disliked the terms, he might have retired as freely as he came. But he did like them; and though he was not perhaps so modest, as to

* Psalm. 15, v. 5

say with the brave Saxon king Offa, “ ad libertatis vestrae tuitionem, SECT. 17
 “ non meis meritis, sed solâ liberalitate vestrâ, unanimiter me convo-
 “ câstis *,” he accepted the crown upon the conditions offered and swore
 upon the evangelists to observe them. Not much valuing this, he pre-
 tended to govern according to his own will; but finding the people would
 not endure it, he renewed his oath upon the same evangelists, and the
 reliques of St. Alban †, which he needed not to have done, but might
 have departed to his dutchy of Normandy, if he had not liked the con-
 ditions, or thought not fit to observe them. It is probable he examined
 the contents of Edward’s laws before he swore to them, and could not
 imagine, that a free nation, which never had any other kings, than such
 as had been chosen by themselves for the preservation of their liberty, and
 from whose liberality the best of their kings acknowledged the crowns
 they wore, did intend to give up their persons, liberties, and estates,
 to him, who was a stranger, especially when they would not receive
 him till he had sworn to the same laws, by which the others had
 reigned, of which one was, as appears by the act of the Conventus
 Pananglicus, that “ reges à sacerdotibus et senioribus populi eligerentur,
 “ the kings should be elected by the clergy and elders of the people †.”
 By these means he was advanced to the crown, to which he could have
 no title, unless they had the right of conferring it upon him. Here was
 therefore no force, deceit, or error; and whatever equity there might be
 to relieve one that had been forced, frightened, or circumvented, it was
 nothing to this case. We do not find, that William the second, or Henry,
 were forced to be kings; no sword was put to their throats; and for any
 thing we know, the English nation was not then so contemptible, but
 men might have been found in the world, who would willingly have
 accepted the crown, and even their elder brother Robert would not have
 refused. But the nobility and commons, trusting to their oaths and
 promises, thought fit to prefer them before him; and when he endea-
 voured to impose himself upon the nation by force, they so severely
 punished him, that no better proof can be required to shew, that they
 were accustomed to have no other kings than such as they approved.
 And this was one of the customs that all their kings swore to maintain,
 it being as antient, just, and well-approved, as any other.

Having already proved, that all the kings we have had since that time,
 have come in upon the same title; that the Saxon laws, to which all have
 sworn, continue to be of force among us, and that the words pronounced
 four times, on the four sides of the scaffold, by the archbishop, “ will ye
 “ have this man to reign?” do testify it; I may spare the pains of a

* Mat. Paris. in vitâ Offae secundi, p. 13

† Rex, pro bono pacis, juravit super omnes reliquias ecclesiae sancti Albani, tactisque sacrosanctis evangelis, ministrante juramentum abbate Fretherico, bonas et approbatas antiquas regni leges, quas sancti et pii Angliae reges, ejus antecessores, et maxime Edwardus statuit, inviolabiliter observare. Mat. Paris. in vitâ Fretherici S. Albani abbatis xiii. p. 48

‡ Vide supra, p. 321

CHAP. III repetition, and justly conclude, that if there was neither force nor fraud, fear nor error, to be pretended by the first, there could be none in those that followed.

But the "observation of this oath may be grievous." If I received money the last year upon bond, promise, or sale of a manor or farm, can it be thought grievous to me to be compelled to repay, or to make over the land according to my agreement? Or if I did not seal the bond till I had the money, must not I perform the condition, or at the least restore what I had received? If it be grievous to any king to preserve the liberties, lives, and estates of his subjects, and to govern according to their laws, let him resign the crown, and the people to whom the oath was made will probably release him. Others may possibly be found who will not think it grievous: or if none will accept a crown unless they may do what they please, the people must bear the misfortune of being obliged to govern themselves, or to institute some other sort of magistracy, that will be satisfied with a less exorbitant power. Perhaps they may succeed as well as some others have done, who, without being brought to that necessity, have voluntarily cast themselves into the misery of living without the majestic splendor of a monarch: or, if that fail, they may, as their last refuge, surrender up themselves to slavery. When that is done, we will acknowledge, that whatever we have is derived from the favour of our master. But no such thing yet appearing among us, we may be pardoned, if we think we are free-men governed by our own laws, and that no man has a power over us, which is not given and regulated by them; nor that any thing, but a new law made by ourselves, can exempt our kings from the obligation of performing their oaths taken, to govern according to the old, in the true sense of the words, as they are understood in our language by those who give them, and conducing to the ends for which they are given; which can be no other, than to defend us from all manner of arbitrary power, and to fix a rule to which we are to conform our actions, and from which, according to our deserts, we may expect reward or punishment. And those who by prevarications, cavils, or equivocations, endeavour to dissolve these obligations, do either maliciously betray the cause of kings, by representing them to the world as men, who prefer the satisfaction of their irregular appetites before the performance of their duty, and trample under foot the most sacred bonds of human society; or from the grossest ignorance do not see, that by teaching nations how little they can rely upon the oaths of their princes, they instruct them as little to observe their own; and that not only, because men are generally inclined to follow the examples of those in power, but from a most certain conclusion, that he, who breaks his part of a contract, cannot without the utmost impudence and folly expect the performance of the other; nothing being more known among men, than, that all contracts are of such mutual obligation, that he who fails of his part discharges the other. If this be so between man and man, it must needs be so between one and many millions of men: if he were free,

because:

because he says he is, every man must be free also when he pleases. If a private man, who receives no benefit, or perhaps prejudice, from a contract, be obliged to perform the conditions, much more are kings, who receive the greatest advantages the world can give. As they are not by themselves, nor for themselves, so they are not different "in specie" from other men: they are born, live, and die, as we all do. The same law of truth and justice is given to all by God and nature; and perhaps I may say, the performance of it is most rigorously exacted from the greatest of men. The liberty of perjury cannot be a privilege annexed to crowns; and it is absurd to think, that the most venerable authority, that can be conferred upon a man, is increased by a liberty to commit, or impunity in committing such crimes, as are the greatest aggravations of infamy to the basest villains in the world.

SECTION XVIII

THE NEXT IN BLOOD TO DECEASED KINGS CANNOT GENERALLY
BE SAID TO BE KINGS, TILL THEY ARE CROWNED.

It is hereupon usually objected, that kings do not come in by contract nor by oath; but are kings by, or according to proximity of blood, before they are crowned. Though this be a bold proposition, I will not say, it is universally false. It is possible, that in some places the rule of succession may be set down so precisely, that, in some cases, every man may be able to see and know the sense, as well as the person designed to be the successor: but before I acknowledge it to be universally true, I must desire to know what this rule of succession is, and from whence it draws its original.

I think I may be excused, if I make these scruples, because I find the thing in dispute to be variously adjudged in several places; and have observed five different manners of disposing crowns esteemed hereditary, besides an infinite number of collateral controversies arising from them, of which we have divers examples; and if there be one universal rule appointed, one of these only can be right, and all the others must be vicious. The first gives the inheritance to the eldest male of the eldest legitimate line, as in France, according to that which they call the salic law. The second, to the eldest legitimate male of the reigning family, as antiently in Spain: according to which the brother of the deceased king has been often, if not always, preferred before the son, if he were elder, as may appear by the dispute between Corbis and Orsua, cited before from Titus Livius*. And in the same country, during the reign of the Goths, the eldest male succeeded, whether legitimate or illegitimate. The

* Vide suprà, p. 46

CHAP. III fourth receives females, or their descendants, without any other condition distinguishing them from males, except that the younger brother is preferred before the elder sister, but the daughter of the elder brother is preferred before the son of the younger. The fifth gives the inheritance to females under a condition, as in Sweden, where they inherit, unless they marry out of the country without the consent of the estates: according to which rule, Charles Gustavus was chosen, as any stranger might have been, though son to a sister of Gustavus Adolphus, who by marrying a German prince had forfeited her right. And by the same act of estates, by which her eldest son was chosen, and the crown entailed upon the heirs of his body, her second son, the prince Adolphus, was wholly excluded.

Till these questions are decided by a judge of such an undoubted authority, that all men may safely submit, it is hard for any man, who really seeks the satisfaction of his conscience, to know whether the law of God and nature (though he should believe there is one general law) do justify the customs of the antient Medes and Sabeans, mentioned by the poet, who admitted females *, or those of France, which totally exclude them as unfit to reign over men, and utterly unable to perform the duty of a supreme magistrate, as we see they are every where excluded from the exercise of all other offices in the commonwealth. If it be said, that we ought to follow the customs of our own country, I answer, that those of our own country deserve to be observed, because they are of our own country: but they are no more to be called the laws of God and nature than those of France or Germany; and though I do not believe, that any general law is appointed, I wish I were sure, that our customs in this point were not more repugnant to the light of nature, and prejudicial to ourselves, than those of some other nations. But if I should be so much an Englishman, as to think the will of God to have been more particularly revealed to our ancestors, than to any other nation, and that all of them ought to learn from us, yet it would be difficult to decide many questions that may arise. For though the parliament, in the 39 of Henry the sixth, made an act in favour of Richard duke of York, descended from a daughter of Mortimer, who married the daughter of the duke of Clarence, elder brother to John of Gaunt †, they rather asserted their own power of giving the crown to whom they pleased, than determined the question.

* ———Medis levibusque Sabaeis

Imperat hic sexus, reginarumque sub armis

Barbariae pars magna jacet.—Claud. in Eutrop. l. 1, v. 321

† The duke of York's claim to the crown of England was as follows: king Edward the third had seven sons, Edward prince of Wales, William of Hatfield, Lionel duke of Clarence, John of Gaunt duke of Lancaster, Edmund duke of York, Thomas duke of Gloucester, and William of Windsor. Edward the eldest died during his father's life, and left one son, king Richard the second, who died without issue, as did also king Edward's second son William. Lionel the third son had only one daughter, named Philippa, who being married to Edmund Mortimer earl of March, she had by him Roger earl of March, who afterwards had two sons and two daughters, of whom three died without issue; only

question. For if they had believed, that the crown had belonged to him by a general and eternal law, they must immediately have rejected Henry as a usurper, and put Richard into the possession of his right, which they did not. And though they did something like to this in the cases of Maud the empress, in relation to king Stephen, and her son Henry the second; and of Henry the seventh, in relation to the house of York, both before he had married a daughter of it, and after her death; they did the contrary in the cases of William the first and second, Henry the first, Stephen, John, Richard the third, Henry the seventh, Mary, Elizabeth, and others. So that, for any thing I can yet find, it is equally difficult to discover the true sense of the law of nature, that should be a guide to my conscience, whether I so far submit to the laws of my country, as to think, that England alone has produced men that rightly understand it, or examine the laws and practices of other nations.

SECT. 18

While this remains undecided, it is impossible for me to know, to whom I owe the obedience that is exacted from me. If I were a Frenchman, I could not tell whether I owed allegiance to the king of Spain, duke of Lorraine, duke of Savoy, or many others descended from daughters of the house of Valois, one of whom ought to inherit, if the inheritance belongs to females; or to the house of Bourbon, whose only title is founded upon the exclusion of them. The like controversies will be in all places; and he that would put mankind upon such enquiries, goes about to subvert all the governments of the world, and arms every man to the destruction of his neighbour.

We ought to be informed when this right began. If we had the genealogy of every man from Noah, and the crowns of every nation had since his time continued in one line, we were only to inquire, into how many kingdoms he appointed the world to be divided, and how well the division we see at this day agrees with the allotment made by him. But mankind having for many ages lain under such a vast confusion, that no man pretends to know his own original, except some Jews, and the princes of the house of Austria, we cannot so easily arrive at the end of our work; and the Scriptures making no other mention of this part of the world, than what may induce us to think it was given to the sons of Japhet, we have nothing that can lead us to guess how it was to be subdivided, nor to whom the several parcels were given: so that the difficulties are absolutely inextricable;

only Anne the sole heiress of the house married to Richard earl of Cambridge, the son of Edmund duke of York, the fifth son of king Edward the third, which earl of Cambridge begot Richard duke of York the claimant.

On the other side John of Gaunt, the fourth son of king Edward the third, and younger brother to Lionel, had a son named Henry, who immediately after king Richard's resignation, entered upon the throne unrighteously, because Edmund earl of March, son to Philippa the daughter and heiress of the aforesaid Lionel elder brother to John of Gaunt, was then alive; and the said Henry son to John of Gaunt, and his successors, had hitherto held the crown of England unjustly, because the said Richard Plantagenet duke of York was the lawful heir, as being the son of Richard earl of Cambridge, and Anne before mentioned. Echard's Hist. of England, anno 1460

CHAP. III inextricable; and though it were true, that some one man had a right to every parcel that is known to us, it could be of no use; for that right must necessarily perish, which no man can prove, nor indeed claim. But as all natural rights by inheritance must be by descent, this descent not being proved, there can be no natural right; and all rights being either natural, created, or acquired, this right to crowns not being natural must be created or acquired, or none at all.

There being no general law common to all nations, creating a right to crowns (as has been proved by the several methods used by several nations in the disposal of them, according to which all those that we know are enjoyed) we must seek the right, concerning which we dispute, from the particular constitutions of every nation, or we shall be able to find none.

Acquired rights are obtained, as men say, either by fair means or by foul, that is, by force or by consent. Such as are gained by force, may be recovered by force; and the extent of those, that are enjoyed by consent, can only be known by the reasons for which, or the conditions upon which that consent was obtained, that is to say, by the laws of every people. According to these laws it cannot be said, that there is a king in every nation before he is crowned. John Sobieski, now reigning in Poland, had no relation in blood to the former kings, nor any title till he was chosen*. The last king of Sweden acknowledged he had none, but was freely elected; and the crown being conferred upon him, and the heirs of his body, if the present king dies without issue, the right of electing a successor returns undoubtedly to the estates of the country. The crown of Denmark was elective till it was made hereditary by an act of the general diet, held at Copenhagen in the year 1660; and it is impossible, that a right should otherwise accrue to a younger brother of the house of Holstein, which is derived from a younger brother of the counts of Oldenburgh. The Roman empire having passed through the hands of many persons of different nations, no way relating to each other in blood, was by Constantine transferred to Constantinople; and after many revolutions coming to Theodosius, by birth a Spaniard, was divided between his two sons Arcadius and Honorius. From thence passing to such as could gain most credit with the soldiers, the western empire being brought almost to nothing, was restored by Charles the Great of France; and, continuing for some time in his descendants, came to the Germans; who, having created several emperors of the houses of Suevia, Saxony, Bavaria, and others, as they pleased, about three hundred years past chose Rodolphus of Austria. And though, since that time, they have not had any emperor who was not of that family, yet such as were chosen had nothing to recommend them, but the merits of their ancestors, their own personal virtues, or such political considerations as might arise from the power of their hereditary countries, which, being joined with those of the empire,

* John Sobieski commanded the Polish army, and obtained a memorable victory over the Turks at Choczim in 1673. For this, and other important services to his country, he was soon afterwards, upon the death of Michael Wisnowiski, elected king of Poland.

might enable them to make the better defence against the Turks. But, in this line also, they have had little regard to inheritance according to blood; for the elder branch of the family is that which reigns in Spain; and the empire continues in the descendants of Ferdinand younger brother to Charles the fifth, though so unfixed even to this time, that the present emperor Leopold was in great danger of being rejected. SECT. 18

If it be said, that these are elective kingdoms, and our author speaks of such as are hereditary, I answer, that if what he says be true, there can be no elective kingdom, and every nation has a natural lord, to whom obedience is due. But if some are elective, all might have been so, if they had pleased, unless it can be proved, that God created some under a necessity of subjection, and left to others the enjoyment of their liberty. If this be so, the nations that are born under that necessity may be said to have a natural lord, who has all the power in himself, before he is crowned, or any part conferred on him by the consent of the people; but it cannot extend to others. And he who pretends a right over any nation upon that account, stands obliged to shew, when and how that nation came to be discriminated by God from others, and deprived of that liberty, which he in goodness had granted to the rest of mankind. I confess, I think there is no such right, and need no better proof, than the various ways of disposing inheritances in several countries, which, not being naturally or universally better or worse one than another, cannot spring from any other root, than the consent of the several nations where they are in force, and their opinions, that such methods were best for them. But if God have made a discrimination of people, he, that would thereupon ground a title to the dominion of any one, must prove that nation to be under the curse of slavery; which, for any thing I know, was only denounced against Ham: and it is as hard to determine whether the sense of it be temporal, spiritual, or both, as to tell precisely what nations, by being descended from him, fall under the penalties threatened.

If these therefore be either entirely false, or impossible to be proved true, there is no discrimination, or not known to us; and every people has a right of disposing of their government, as well as the Polanders, Danes, Swedes, Germans, and such as are or were under the Roman empire. And if any nation has a natural lord before he be admitted by their consent, it must be by a peculiar act of their own; as the crown of France by an act of that nation, which they call the salic law, is made hereditary to males in a direct line, or the nearest to the direct; and others in other places are otherwise disposed.

I might rest here with full assurance, that no disciple of Filmer can prove this of any people in the world, nor give so much as the shadow of a reason to persuade us there is any such thing in any nation, or at least in those where we are concerned; and presume little regard will be had to what he has said, since he cannot prove of any that which he so boldly affirms of all. But because good men ought to have no other object than truth, which in matters of this importance can never be made too evident,

I will

CHAP. III I will venture to go farther, and assert, that as the various ways, by which several nations dispose of the succession to their respective crowns, shew they were subject to no other law than their own, which they might have made different, by the same right they made it to be what it is, even those who have the greatest veneration for the reigning families, and the highest regard for proximity of blood, have always preferred the safety of the commonwealth before the concerns of any person or family; and have laid aside the nearest in blood, not only when they were found to be notoriously vicious and wicked, but when they have thought it more convenient to take others: and to prove this I intend to make use of no other examples, than those I find in the histories of Spain, France, and England.

Whilst the Goths governed Spain, not above four persons in the space of three hundred years were the immediate successors of their fathers; but the brother, cousin-german, or some other man of the families of the Balthi or Amali was preferred before the children of the deceased king: and if it be said, this was according to the law of that kingdom, I answer, that it was therefore in the power of that nation to make laws for themselves, and consequently others have the same right. One of their kings called Wamba was deposed, and made a monk, after he had reigned well many years; but falling into a swoon, and his friends thinking him past recovery, cut off his hair, and put a monk's frock upon him, that, according to the superstition of those times, he might die in it; and the cutting off the hair being a most disgraceful thing among the Goths, they would not restore him to his authority*. Suintila, another of their kings, being deprived of the crown for his ill government, his children and brothers were excluded, and Sifinandus crowned in his room †.

* Wamba was not deposed by his subjects for misconduct in his government, but was deprived of his crown by the following ingenious though cruel artifice of his successor Ervigius.—Regi clam aquam, ubi spartum erat maceratum, praebendam curavit. Eo veneni genere, cum venis conceptum esset, repente rex morbo gravissimo implicatus, sacris Christianis atque poenitentiam Quirici Toletani praefulis curam expiatus, sub primam noctis horam, cum jam videretur animam agere, positam comam, atque in sacerdotis morem detonsus, monachi ritu cucullum induit. Eo videlicet ritu divinum numen amplius propitiari credebatur; utrumque Ervigii fausu, (sic creditum est) quo nimirum regnandi spe, si maxime superviveret penitus caderet, ut in concilio Toletano sexto cautum erat. Additum praeterea ut interorientibus vocibus, menteque vi veneni alienata, Ervigium ipsum successorem diceret; idque extemporaria syngrapha atque diplomate regio confirmatum. Cum sequenti luce, morbo tantisper remittente, ad se rediens confideraret, ex potenti paulo ante rege monachum repente factum, mutare noluit: sive animi magnitudine rursus spernentis, quae alii per ignes ferrumque petunt; sive desperatione regnum recuperandi, cum Ervigius rerum potiretur, intra eundem diem corona suscepta. Itaque Wamba in Pampligae monasterium se contulit: ubi septem annos et menses tres (alii diutius tradunt) purissimo religionis studio vitae reliquum propagavit. Mariana de Reb. Hispan. l. 6, anno 680. Baronii Annal. sub eodem anno, § 56

† De Suintillane vero, qui, scelera propria metuens, seipsum regno privavit, et potestatis fascibus exiit, id cum gentis consultu decrevimus, ut neque eundem, vel uxorem ejus, propter mala quae commiserunt, neque filios eorum, unitati nostrae unquam consociemus; nec eos ad honores, a quibus ob iniquitatem dejecti sunt, aliquando promoveamus, etc. Concil. Toletan. iv. anno 633. Vide Concil. edit. per P. Labb. tom. 5, col. 1726, § 75. Saaved. Corona Gothica.

This kingdom being not long after overthrown by the Moors, a new one arose from its ashes, in the person of Don Pelayo first king of the Asturias, which, increasing by degrees, at last came to comprehend all Spain, and so continues to this day. But, not troubling myself with all the deviations from the common rule in the collateral lines of Navarre, Arragon, and Portugal, I find that by fifteen several instances in that one series of kings in the Asturias and Leon (who afterwards came to be kings of Castile) it is fully proved, that what respect soever they shewed to the next in blood, who by the law were to succeed, they preferred some other person, as often as the supreme law of "taking care, that the nation might receive no detriment," persuaded them to it.

Don Pelayo enjoyed for his life the kingdom conferred upon him by the Spaniards, who with him retired into the mountains to defend themselves against the Moors, and was succeeded by his son Favila. But though Favila left many sons when he died, Alphonso furnamed the Catholic was advanced to the crown, and they all laid aside*. Froila, son to Alphonso, was for his cruelty deposed, put to death, and his sons excluded †. Aurelio his brother, or, as some say, his cousin-german succeeded him; and at his death Silo, who married his wife's sister ‡, was preferred before the males of the blood royal. Alphonso, furnamed el Casto, was first violently dispossessed of the crown by a bastard of the royal family; but he being dead, the nobility and people, thinking Alphonso more fit to be a monk than a king §, gave the crown to Bermudo called el Diacono; but Bermudo after several years resigning the kingdom, they conceived a better opinion of Alphonso, and made him king. Alphonso dying without issue, Don Ramiro son to Bermudo was preferred before the nephews of Alphonso. Don Ordogno, fourth from Ramiro, left four legitimate sons; but they being young, the estates laid them aside, and made his brother Froila king ¶. Froila had several chil-

* Mariana affirms, that Favila died without issue. Favila sine prole defuncto, Alfonso, et Ormisinda [Pelagii filia] reges renunciati sunt, magnâ gentis lætitiâ. Mariana de Reb. Hisp. l. 7, c. 4. Edit. Hagae, 1733

† We do not find that Froila, or Fruela, had any son besides Alphonso el Casto, who was superceded, when his father died, ob ætatis imbecillitatem, et paternæ memoriæ invidiam; but afterwards accepted without opposition. Ibid. c. 6, 9

‡ This lady was probably the sister of Aurelio. In Aurelii locum Silo, sororis vir, cum Adosindâ uxore, regno est inauguratus. Ibid. c. 6

§ Mariana gives us a different idea of this prince. Silonis funere procurato, regnum ei, penes quem reipublicæ procuratio erat, Alfonso procerum voluntate confirmatum est. Paterni odii memoria recederat, et virtutis specimen quod interea dederat singulare cunctorum ordinum voluntates conciliârat. Ibid. c. 7.—He adds, that Mauregato obtained the crown by force, and an infamous association with the Moors. Bermudo, or Veremundo, is supposed by some writers to have accepted of the sovereignty with the approbation of Alphonso. For as soon as he was seated on the throne, he sent for that prince and gave him a share in the administration: ad regni consortium revocavit. Ibid. c. 7.—Our author speaks of the nephews of Alphonso, but it does not appear, that he had any, except Bernardo del Carpio, the son of his sister Ximena; and he is generally supposed to have been illegitimate.

¶ Froila, according to Mariana, got possession of the crown by force of arms without the concurrence of the estates. Extincto Ordonio, Froila eo nomine secundus, defuncti frater, nullo procerum suffragio, neque legibus, neque auspiciatò, regnum invasit armis. Ibid. l. 8, c. 3

CHAP. III dren ; but the same estates gave the crown to Alphonso the fourth, who was his nephew. Alphonso turning monk recommended his son Ordogno to the estates of the kingdom ; but they refused him, and made his brother Ramiro king *. Ordogno the third, son to Ramiro, dying, left a son called Bermudo ; but the estates took his brother Sancho, and advanced him to the throne. Henry the first of Castile, being accidentally killed in his youth, left only two sisters, Blanche married to Lewis, son to Philip Augustus king of France, and Berengaria married to Alphonso king of Leon. The estates made Ferdinand, son of Berengaria the youngest sister, king, excluding Blanche, with her husband and children, for being strangers, and Berengaria herself, because they thought not fit that her husband should have any part in the government †. Alphonso el Sabio seems to have been a very good prince ; but, applying himself more to the study of astrology than to affairs of government, his eldest son Ferdinand de la Cerda dying, and leaving his sons Alphonso and Ferdinand very young, the nobility, clergy, and people deposed him, excluded his grand-children, and gave the crown to Don Sancho his younger son surnamed el Bravo ‡, thinking him more fit to command them against the Moors, than an old astrologer, or a child. Alphonso and Sancho being dead, Alphonso el Desheredado laid claim to the crown : but it was given to Ferdinand the fourth, and Alphonso, with his descendents the dukes de Medina Celi, remain excluded to this day. Peter surnamed the Cruel was twice driven out of the kingdom, and at last killed by Bertrand du Guesclin constable of France, or Henry count of Transstamara his bastard-brother, who was made king without any regard to the daughters of Peter, or to the house of la Cerda. Henry the fourth left a daughter called Joanna, whom he declared his heir ; but the estates gave the kingdom to Isabella his sister, and crowned her with Ferdinand of Arragon her husband. Joanna daughter to this Ferdinand and Isabella falling mad, the estates committed the care of the government to her father Ferdinand, and after his death to Charles her son.

But the French have taught us, that when a king dies, his next heir is really king before he take his oath, or be crowned §. From them we learn, that “ le mort fait le vif. ” And yet I know no history that proves more

* Mariana says, that Alphonso voluntarily resigned the crown to his brother, without any recommendation of his son Ordogno. *Rerum gerendarum mole oppressus fratri Ramiro, cum Zomoram evocatus esset, regnum de manu tradidit, otii cupidior, quam pietatis: nullâ neque decoris curâ, neque Ordonii filii, quem in tenerâ aetate praesidio destitutum relinquebat.* Ibid. l. 8, c. 5

† Mariana, l. 12, c. 7

‡ Sancho did not obtain the possession of the throne till the death of his father: *Alfonſi defuncti regnum ad Sanctium pervenit, nullo prohibente, jure controverso.* Mariana, though he acknowledges his bravery, speaks of him as an usurper: *imperio FLAGITIO partum bonis artibus exercuit.* Ibid. l. 14, c. 8.—The remark which this writer makes on Froila the second is applicable to many of those kings, which our author has mentioned in this section: *in armis jura regnandi fuere.*

§ *Regem nunquam in Franco-Gallorum imperio mori; sed mortuum vivo regnum tradere.* Thuan. tom. 5, l. 97, p. 8

plainly than theirs, that there neither is, nor can be in any man, a right to the government of a people, which does not receive its being, manner, and measure, from the law of that country; which I hope to justify by four reasons.

SECT. 18

1. When a king of Pharamond's race died, the kingdom was divided into as many parcels as he had sons; which could not have been, if one certain heir had been assigned by nature, for he ought to have had the whole. And if the kingdom might be divided, they who inhabited the several parcels could not know to whom they owed obedience, till the division was made, unless he who was to be king of Paris, Metz, Soissons, or Orleans, had worn the name of his kingdom upon his forehead. But, in truth, if there might be a division, the doctrine is false, and there was no lord of the whole. This wound will not be healed by saying, the father appointed the division, and that by the law of nature every man may dispose of his own as he thinks fit; for we shall soon prove, that the kingdom of France neither was, nor is, disposeable as a patrimony or chattel. Besides, if that act of kings had been then grounded upon the law of nature, they might do the like at this day. But the law, by which such divisions were made, having been abrogated by the assembly of estates in the time of Hugh Capet*, and never practised since, it follows that they were grounded upon a temporary law, and not upon the law of nature, which is eternal. If this were not so, the pretended certainty could not be; for no man could know to whom the last king had bequeathed the whole kingdom, or parcels of it, till the will were opened; and that must be done before such witnesses as may deserve credit in a matter of this importance, and are able to judge whether the bequest be rightly made; for otherwise no man could know, whether the kingdom was to have one lord or many, nor who he or they were to be; which intermission must necessarily subvert their polity, and this doctrine. But the truth is, the most monarchical men among them are so far from acknowledging any such right to be in the king, of alienating, bequeathing, or dividing the kingdom, that they do not allow him the right of making a will; and that of the last king Lewis the thirteenth, touching the regency during the minority of his son, was of no effect †.

2. This matter was made more clear under the second race. If a lord had been assigned to them by nature, he must have been of the royal family: but Pepin had no other title to the crown except the merits of his father, and his own, approved by the nobility and people who made

* De Serres en la vie de Hugues Capet.

† Lewis the thirteenth, by his will, appointed a regency; and the monarch, who was but ill obeyed in his life-time, flattered himself with having more respect paid to him after his death: but the first step taken by his widow, Anne of Austria, was, to cause the will of her deceased husband to be annulled, by a decree of the parliament of Paris, dated August 18, 1643. This body, which had long opposed the court, and which, under Lewis, had scarce preserved the liberty of making remonstrances, annulled the will of its king with the same facility it would have determined the cause of a common citizen. Siecle de Louis XIV. tom. 1, c. 2. Mem. du Duc de la Rochefoucault.

CHAP. III him king *. The estates of France divided the kingdom between his sons Charles the Great and Carloman †. The latter of these dying in a few years left two sons; but the nobility made Charles king of all France ‡. Lewis le Debonnaire succeeded upon the same title, was deposed and put into a monastery by his three sons Lothaire, Pepin, and Lewis, whom he had by his first wife. But though these left many sons, the kingdom came to Charles the Bald. The nobility and people gave the kingdom to Lewis le Begue §, who had a legitimate son, called Charles le Simple; but his two bastards, Lewis and Carloman, were made kings. Carloman had a son called Lewis le Faineant ¶: he was made king, but after-

* In former editions it is added: "He had three sons; the eldest was made king of Italy, and, dying before him, left a son called Bernard heir of that kingdom. The estates of France divided what remained between Charles the Great and Carloman. The last of these dying in a few years, left many sons; but the nobility made Charles king of all France, and he dispossessed Bernard of the kingdom of Italy, inherited from his father: so that he also was not king of the whole before the expulsion of Bernard the son of his elder brother; nor of Aquitain, which by inheritance should have belonged to the children of his younger brother, any otherwise than by the will of the estates. Lewis le Debonnaire, &c." Sidney, by trusting to his memory, has here made several gross mistakes. Pepin le Bref had four sons, Charles or Charlemagne, Carloman, Pepin and Gilles. Pepin died when he was three years old; Gilles when very young was sent into the monastery of Mount Soracte. Charlemagne and Carloman, on the death of their father, divided the kingdom, by the advice and direction of the states. Writers do not agree in the account of their respective departments. Carloman however died soon afterwards, and left two sons, but what became of them is not known. Charlemagne, upon this event, took possession of the whole empire, in the year 771. This monarch had four sons, Charles, Pepin, Lewis, and Lothaire. Lothaire died young, Charles was his father's assistant in the empire, Pepin was made king of Italy, and Lewis king of Aquitain in 781. Pepin died in 810, and Charles about the end of the following year. In 813 Charlemagne finding himself enfeebled with age, and daily declining, assembled the grandees of his kingdom at Aix la Chapelle; and, with their approbation, declared his son Lewis his associate in the empire, and Bernard his grandson, the illegitimate son of Pepin, king of Italy. In the reign of his son and successor Lewis le Debonnaire, Bernard, having been persuaded, that, as the son of the elder brother, he had a right to the whole kingdom, raised a conspiracy against his uncle le Debonnaire. But before he had time to take his measures, his scheme was discovered, and he was apprehended, and put to death. See Mezeray, &c.

This account of king Pepin, and his immediate successors, which might be confirmed by numerous authorities, will, it is hoped, convince the reader, that the passage above-cited is not altered, without sufficient reason, in the present edition.

† *Franci, facto solemniter generali conventu, ambos sibi reges constituunt, eâ conditione præmissâ, ut totum regni corpus ex æquo partirentur; et Karolus eam partem, quam pater eorum Pippinus tenuerat, Karlomannus verò eam, cui patruus eorum Karlomannus præerat, regendi gratiâ susciperet. Susceptæ sunt utrinque conditiones, et pars regni divisi, juxta modum sibi propositum, ab utroque recepta est. Vita Karoli Magni ab Eginardo scripta, apud Hist. Franc. Scriptores, per Du Chesne editos, tom. 2, p. 95*

‡ *Carolus, mortuo, cum jam tertium regnaret annum, fratre, proceres regni ejus ad se ultrò venientes, regemque se unum omnis Galliae salutantes, benignissimè excepit. P. Aemil. de Reb. Gestis Franc. vol. 1. p. 72. Edit. Par. 1555*

§ This passage in former editions stands thus: "The nobility and people, disliking the eldest son of Charles, gave the kingdom to Lewis le Begue, &c." Charles the Bald, when he died, had only one son alive, which was Lewis le Begue. Vide Mezeray, P. Aemil. de Reb. Gestis Franc. p. 109. — According to Aemilius, Le Begue was the eldest.

¶ Mezeray in his account of Carloman, says, "ce Louis le Faineant, que quelques-uns lui donnent, est un pure chimere."

wards deposed for his vicious life. Charles le Gros succeeded him, but for his ill government was also deposed; and Eudes, who was a stranger to the royal blood, was made king. The same nobility that had made five kings since Lewis le Begue, now made Charles le Simple king, who, according to his name, was entrapped at Peronne by Rodolph duke of Burgundy, and forced to resign his crown, leaving only a son called Lewis, who fled into England. Rodolph being dead, they took Lewis surnamed Outremer, and placed him in the throne: he had two sons, Lothaire and Charles. Lothaire succeeded him, and died without issue. Charles had as fair a title as could be by birth, and the estates confessed it; but their ambassadors told him, that he having by an unworthy life rendered himself unworthy of the crown, they, whose principal care was to have a good prince at the head of them, had chosen Hugh Capet*: and the crown continues in his race to this day, though not altogether without interruption. Robert, son to Hugh Capet, succeeded him. He left two sons Robert and Henry; but Henry the younger son appearing to the estates of the kingdom to be more fit to reign than his elder brother, they made him king; Robert, and his descendants, continuing dukes of Burgundy only for about ten generations, at which time his issue male failing, that dutchy returned to the crown during the life of king John, who gave it to his second son Philip for an appanage still depending upon the crown. The same province of Burgundy was by the treaty of Madrid granted to the emperor Charles the fifth, by Francis the first†: but the people refused to be alienated, and the estates of the kingdom approved their refusal. By the same authority Charles the sixth was removed from the government, when he appeared to be mad: and other examples of a like nature may be alleged. From which we may safely conclude, that if the death of one king do really invest the next heir with the right and power, or if he who is so invested be subject to no law but his own will, all matters relating to that kingdom must have been horribly confused during the reigns of twenty two kings of Pharamond's race; they can have had no rightful king from the death of Childeric to king John; and the succession since that time is very liable to be questioned, if not utterly overthrown by the house of Austria and others, who by the counts of Habsburg derive their descent from Pharamond, and by the house of Lorraine claiming from Charles, who was excluded by Capet: all which is most absurd; and they who pretend it, bring as much confusion into their own laws, and upon the polity of their own nation, as shame and guilt upon the memory of their ancestors, who, by the most extreme injustice, have rejected their natural lord, or dispossessed those who had been in the most solemn manner placed in the government, and to whom they had generally sworn allegiance.

3. If the next heir be actually king, seized of the power by the death of his predecessor, so that there is no intermission, then all the solemnities,

* De Serres en la vie de Hugues Capet.

† In 1526. See Mezeray, De Serres.
and

CHAP. III and religious ceremonies, used at the coronations of their kings, with the oaths given and taken, are the most profane abuses of sacred things, in contempt of God and man, that can be imagined; especially if the act be, as our author calls it, voluntary, and the king, receiving nothing by it, be bound to keep it no longer than he pleases. The prince who is to be sworn, might spare the pains of watching all night in the church, fasting, praying, confessing, communicating, and swearing, "that he will, to the utmost of his power, defend the clergy, maintain the union of the church, obviate all excess, rapine, extortion, and iniquity; take care, that in all judgments justice may be observed, with equity and mercy, &c.*" or of invoking the assistance of the Holy Ghost for the better performance of his oath; and without ceremony tell the nobility and people, that he would do what he thought fit. It were to as little purpose for the archbishop of Rheims to take the trouble of saying mass, delivering to him the crown, sceptre, and other ensigns of royalty, explaining what is signified by them, anointing him with the oil which they say was delivered by an angel to St. Remigius †, blessing him, and praying to God to bless him, if he rightly performed his oath to God and the people, and denouncing the contrary in case of failure on his part, if these things conferred nothing upon him but what he had before, and were of no obligation to him. Such ludifications of the most sacred things are too odious and impious to be imputed to nations that have any virtue, or profess Christianity. This cannot fall upon the French and Spaniards, who had certainly a great zeal for religion, whatever it was; and were so eminent for moral virtues as to be a reproach to us, who live in an age of more knowledge. But their meaning is so well declared by their most solemn acts, that none but those who are wilfully ignorant can mistake. One of the councils held at Toledo declared by the clergy, nobility, and others assisting, "that no man should be placed in the royal seat till he had sworn to preserve the church," &c. † Another held in the same place

* *Juramentum regis Franciae.*

Haec populo Christiano et mihi subdito, in Christi nomine promitto, In primis, ut ecclesiae Dei omnis populus Christianus, veram pacem nostrae arbitrio in omni tempore servet; et superioritatem, jura, et nobilitates coronae Franciae inviolabiliter custodiam, et illa nec transportabo nec alienabo. Item, ut omnes rapacitates et omnes iniquitates omnibus gradibus interdiciam. Item, ut in omnibus judiciis aequitatem et misericordiam praecipiam, ut mihi et vobis indulgeat per suam misericordiam clemens et misericors Dominus. Item, de terrâ meâ ac jurisdictione mihi subditâ universos haeticos ab ecclesiâ denotatos, pro viribus, bonâ fide, exterminare studebo. Haec omnia praedicta firmo juramento. Ordo ad inungendum, et coronandum Regem Franciae, cited by Selden in his Titles of Honor, p. 177, 181. Vide Bodin. de Repub. l. 1, c. 8, p. 138, Edit. Ursel. 1601

† The French have a ridiculous tradition, that a vial of holy oil was brought from heaven by an angel, or as it is more usually reported, by a dove, at the coronation of Clovis the first; and that he was anointed with it by Remigius archbishop of Rheims. This oil, they tell us, still remains at Rheims unwaisted, and is the same with which the French kings have ever since been anointed. See Selden's Titles of Honor, ch. 8, p. 112. Baronii Annal. vol. 6, sub ann. 499, § 29.

‡ *Cum optimatum illustriumque virorum consensu et deliberatione sancimus, ut quisquis succedentium temporum regni sortitus fuerit apicem, non antè conscendat regiam sedem, quam*

place signified to Sifinandus, who was then newly crowned, "that if he, SECT. 18
 " or any of his successors, should, contrary to their oaths, and the laws
 " of their country, proudly and cruelly presume to exercise domination
 " over them, he should be excommunicated, and separated from Christ
 " and them to eternal judgment*." The French laws, and their best
 writers, asserting the same things, are confirmed by perpetual practice,
 Henry of Navarre, though certainly, according to their rules, and in
 their esteem, a most accomplished prince, was by two general assemblies
 of the estates held at Blois, deprived of the succession for being a protes-
 tant; and notwithstanding the greatness of his reputation, valour, vic-
 tories, and affability, could never be admitted till he had made himself
 capable of the ceremonies of his coronation, by conforming to the religion
 which by the oath he was to defend †. Nay this present king, though
 haughty enough by nature, and elevated by many successes, has acknow-
 ledged, as he says, with joy, that he can do nothing contrary to law, and
 calls it a happy impotence: in pursuance of which, he has annulled many
 acts of his father and grandfather, alienating the demesnes of the crown,
 as things contrary to law, and not within their power.

These things being confirmed by all the good authors of that nation,
 Filmer finds only the worst to be fit for his turn; and neither minding law
 nor history, takes his maxims from a vile flattering discourse of Beloy ‡,
 calculated for the personal interest of Henry the fourth then king of
 Navarre, in which he says, "that the heir apparent, though furious,
 " mad, a fool, vicious, and in all respects abominably wicked, must be
 " admitted to the crown." But Beloy was so far from attaining the ends
 designed by his book, that by such doctrines, which filled all men with
 horror, he brought great prejudice to his master, and procured little favour
 from Henry, who desired rather to recommend himself to his people, as
 the best man they could set up, than to impose a necessity upon them of
 taking him, if he had been the worst. But our author, not contented
 with what this sycophant says, in relation to such princes as are placed in
 the government by a law establishing the succession by inheritance, with
 an impudence peculiar to himself, asserts the same right to be in any man,
 who by any means gets into power; and imposes the same necessity of

quàm inter reliquas conditiones sacramento pollicitus fuerit, hanc se catholicam non permis-
 surum eos violare fidem, &c. Concil. Toletan. vi, anno 638. Vide Concil. edit. per P.
 Labb. tom. 5, col. 1743, § 3

* Sanè de futuris regibus hanc sententiam promulgamus, ut si quis ex eis contra reveren-
 tiam legum superbâ dominatione, et fastu regio, in flagitiis et facinore, sive cupiditate, cru-
 delissimam potestatem in populis exercuerit, anathematis sententiâ à Christo domino
 condemnetur, et habeat à Deo seperationem atque judicium, propter quod præsumperit
 prava agere, et in perniciem regnum convertere. Concil. Toletan. iv, anno 633. Ibid.
 col. 1725, § 75

† Henry the third died in 1589, and Henry the fourth was not crowned till 1594. Vide
 Thuani Hist. tom. 5, l. 97, et seq.

‡ Apologie Catholique. See an account of M. Beloy and his Apology in Bayle's Dict.
 art. Beloy.

obedience

CHAP. III obedience upon the subject where there is no law, as Beloy does by virtue of one that is established.

4. In the last place: as Beloy acknowledges, that the right belongs to princes only, where it is established by law, I deny that there is, was, or ever can be any such. No people is known to have been so mad or wicked, as by their own consent, for their own good, and for the obtaining of justice, to give the power to beasts, under whom it could never be obtained. Or if we could believe, that any had been guilty of an act so full of folly, turpitude, and wickedness, it could not have the force of a law, and could never be put in execution; for though the rules, by which the proximity should be judged, be ever so precise, it will still be doubted whose case suits best with them. Though the law in some places gives private inheritances to the next heir, and in others makes allotments according to several proportions, no one knows to whom, or how far, the benefit shall accrue to any man, till it be adjudged by a power to which the parties must submit. Contests will in the like manner arise concerning successions to crowns, how exactly soever they be disposed by law. For though every one will say, that the next ought to succeed, yet no man knows who is the next: which is too much verified by the bloody decisions of such disputes in many parts of the world. And he that says, the next in blood is actually king, makes all questions thereupon arising impossible to be otherwise determined, than by the sword; the pretender to the right being placed above the judgment of man, and the subjects, for any thing I know, obliged to believe, serve, and obey him, if he says he has it. For otherwise, if either every man in particular, or all together, have a right of judging his title, it can be of no value till it be adjudged.

I confess, that the law of France, by the utter exclusion of females, and their descendants, does obviate many dangerous and inextricable difficulties; but others remain, which are sufficient to subvert all the polity of that kingdom, if there be not a power of judging them; and there can be none if it be true, that "*le mort saisit le vif.*" Not to trouble myself with feigned cases, that of legitimation alone will suffice. It is not enough to say, that the children born under marriage are to be reputed legitimate; for not only several children born of Joanna daughter to the king of Portugal, wife to Henry the fourth of Castile, during the time of their marriage, were utterly rejected, as begotten in adultery, but also her daughter Joanna, whom the king during his life, and at the hour of his death, acknowledged to have been begotten by him; and the only title that Isabella, who was married to Ferdinand of Arragon, had to the crown of Spain, was derived from their rejection*. It would be tedious, and might give offence to many great persons, if I should relate all the dubious cases, that have been, or still remain in the world, touching matters of this nature. But the lawyers of all nations will testify, that hardly any one

* Isabella was sister to Henry the fourth. Mariana, l. 23, c. 13

point comes before them, which affords a greater number of difficult cases, than that of marriages, and the legitimation of children upon them; and nations must be involved in the most inextricable difficulties, if there be not a power somewhere to decide them; which cannot be, if there be no intermission, and the next in blood (that is, he who says he is the next) be immediately invested with the right and power. But surely no people have been so careless of their most important concerns, as to leave them in such uncertainty, and simply to depend upon the humour of a man, or the faith of women, who, besides their other frailties, have been often accused of supposititious births: and mens passions are known to be so violent in relation to women they love or hate, that none can safely be trusted with those judgments. The virtue of the best would be exposed to a temptation, that flesh and blood can hardly resist; and such as are less perfect would follow no other rule than the blind impulse of the passion, that for the present reigns in them. There must therefore be a judge of such disputes as may in these cases arise in every kingdom; and though it is not my business to determine, who is that judge in all places, yet I may justly say, that in England it is the parliament. If no inferior authority could debar Ignotus son to the lady Rosse, born under the Protection, from the inheritance of a private family, none can certainly assume a power of disposing of the crown upon any occasion. No authority, but that of the parliament, could legitimate the children of Catharine Swinford, with a proviso, not to extend to the inheritance of the crown*. Others might say, if they were lawfully begotten, they ought to inherit every thing; and nothing, if they were not: but the parliament knew how to limit a particular favour, and prevent it from extending to a public mischief. Henry the eighth took an expeditious way of obviating part of the controversies, that might arise from the multitude of his wives, by cutting off the heads of some, as soon as he was weary of them, or had a mind to take another; but having been hindered from dealing in the same manner with Catharine, by the greatness of her birth and kindred, he left such as the parliament only could resolve. And no less power would ever have thought of making Mary and Elizabeth capable of the succession, when, according to ordinary rules, one of them must have been a bastard; and it had been absurd to say, that both of them were immediately upon the death of their predecessors possessed of the crown, if an act of parliament had not conferred the right upon them, which they could not have by birth. But the kings and princes of England have not been of a temper different from those of other nations. And many examples may be brought of the like occasions of dispute happening every where; and the like will probably be for ever; which must necessarily introduce the most mischievous confusions, and expose the titles, which, as is pretended, are to be esteemed most sacred, to be overthrown by violence and fraud, if

SECT. 18

* Wife to John of Gaunt, and sister to the wife of Chaucer the poet.—Anno 1397, factum fuit parliamentum Londini, in quo dux Lancastriae legitimi fecit sobolem, quam susceperat de Catharina Swynforde. Walsing. Hist. Angl. p. 353. Vide Rym. Foedera, vol. 7, sub ann. 1397, De legitimatione.

CHAP. III there be not in all places a power of deciding the controversies that arise from the uncertainty of titles, according to the respective laws of every nation, upon which they are grounded. No man can be thought to have a just title, till it be so adjudged by that power: this judgment is the first step to the throne: the oath taken by the king obliges him to observe the laws of his country; and that concerning the succession being one of the principal, he is obliged to keep that part as well as any other.

SECTION XIX

THE GREATEST ENEMY OF A JUST MAGISTRATE IS HE WHO ENDEAVOURS TO INVALIDATE THE CONTRACT BETWEEN HIM AND THE PEOPLE, OR TO CORRUPT THEIR MANNERS.

It is not only from religion, but from the law of nature, that we learn the necessity of standing to the agreements we make; and he who departs from the principle written in the hearts of men, "pactis standum," seems to degenerate into a beast. Such as had virtue, though without true religion, could tell us, as a brave and excellent Grecian did, that it was not necessary for him to live, but it was necessary to preserve his heart from deceit, and his tongue from falsehood. The Roman satirist carries the same notion to a great height and affirms, that "though the worst of tyrants should command a man to be false and perjured, and back his injunction with the utmost of torments, he ought to prefer his integrity before his life.*" And though Filmer may be excused if he often mistake in matters of theology; yet his inclinations to Rome, which he prefers before Geneva, might have led him to the principles in which the honest Romans lived, if he had not observed, that such principles as make men honest and generous do also make them lovers of liberty, and constant in the defence of their country; which favouring too much of a republican spirit, he prefers the morals of that city, since they are become more refined by the pious and charitable Jesuits, before those that were remarkable in them, as long as they retained any shadow of their antient integrity, which admitted of no equivocations, and detested prevarications; by that means preserving innocence in the hearts of private men, for their inward contentment, and in civil societies, for the public good; which if once extinguished, mankind must necessarily fall into the condition Hobbes rightly calls "bellum omnium contra omnes †," wherein no man can promise to himself any other wife, children, or goods, than he can procure by his own sword.

* —Phalaris licet imperet, ut sis
Falsus, et admoto dicitur perjuriam tauro,
Summum crede nefas animam praeferre pudori. Juv. Sat. 8, v. 81

† Negari non potest quin status hominum naturalis, antequam in societatem coiretur, bellum fuerit, neque hoc simpliciter, sed bellum omnium in omnes. Hobbes de Cive, c. 1, § 12. — Conditio hominum est conditio belli omnium contra omnes. Leviath. c. 14

Some may perhaps think, that the endeavours of our author to introduce such accursed principles, as tend to the ruin of mankind, proceed from his ignorance. But though he appears to have had a great measure of that quality, I fear the evil proceeds from a deeper root; and that he attempts to promote the interests of ill magistrates, who make it their business to destroy all good principles in the people, with as much industry, as the good endeavour to preserve them where they are, and teach them where they are wanting. Reason and experience instruct us, that every man acts according to the end he proposes to himself. The good magistrate seeks the good of the people committed to his care, that he may perform the end of his institution: and knowing that chiefly to consist in justice and virtue, he endeavours to plant and propagate them; and by doing this he procures his own good as well as that of the public. He knows there is no safety where there is no strength, no strength without union, no union without justice, no justice where faith and truth, in accomplishing public and private contracts, is wanting. This he perpetually inculcates, and thinks it a great part of his duty, by precept and example, to educate the youth in a love of virtue and truth, that they may be seasoned with them, and filled with an abhorrence of vice and falsehood, before they attain that age which is exposed to the most violent temptations, and in which they may, by their crimes, bring the greatest mischiefs upon the public. He would do all this, though it were to his own prejudice. But as good actions always carry a reward with them, these contribute in a high measure to his advantage. By preferring the interest of the people before his own, he gains their affection, and all that is in their power comes with it; whilst he unites them to one another, he unites all to himself: in leading them to virtue, he increases their strength, and by that means provides for his own safety, glory, and power.

On the other side, such as seek different ends must take different ways. When a magistrate fancies he is not made for the people, but the people for him; that he does not govern for them, but for himself; and that the people live only to increase his glory, or furnish matter for his pleasures, he does not inquire what he may do for them, but what he may draw from them. By this means he sets up an interest of profit, pleasure, or pomp, in himself, repugnant to the good of the public, for which he is made to be what he is. These contrary ends certainly divide the nation into parties; and whilst every one endeavours to advance that to which he is addicted, occasions of hatred for injuries every day done, or thought to be done, and received, must necessarily arise. This creates a most fierce and irreconcilable enmity, because the occasions are frequent, important, and universal, and the causes thought to be most just. The people think it the greatest of all crimes, to convert that power to their hurt, which was instituted for their good; and that the injustice is aggravated by perjury and ingratitude, which comprehend all manner of ill; and the magistrate gives the name of sedition or rebellion to whatever they do for the preservation of themselves, and their own rights. When men's

CHAP. III spirits are thus prepared, a small matter sets them on fire; but if no accident happen to blow them into a flame, the course of justice is certainly interrupted, the public affairs are neglected; and when any occasion, whether foreign or domestic, arises, in which the magistrate stands in need of the people's assistance, they, whose affections are alienated, not only shew an unwillingness to serve him with their persons and estates, but fear that by delivering him from his distress, they strengthen their enemy, and enable him to oppress them: and he, fancying his will to be unjustly opposed, or his due more unjustly denied, is filled with a dislike of what he sees, and a fear of worse for the future. Whilst he endeavours to ease himself of the one, and to provide against the other, he usually increases the evils of both, and jealousies are on both sides multiplied. Every man knows, that the governed are in a great measure under the power of the governor; but as no man, or number of men, is willingly subject to those who seek their ruin, such as fall into so great a misfortune, continue no longer under it than force, fear, or necessity, may be able to oblige them. But as such a necessity can hardly lie longer upon a great people, than till the evil be fully discovered and comprehended, and their virtue, strength, and power, be united to expel it, the ill magistrate looks upon all things, that may conduce to that end, as so many preparatives to his ruin; and by the help of those, who are of his party, will endeavour to prevent that union, and diminish that strength, virtue, power, and courage, which he knows to be bent against him. And as truth, faithful dealing, due performance of contracts, and integrity of manners, are bonds of union, and helps to good, he will always by tricks, artifices, cavils, and all means possible, endeavour to establish falsehood and dishonesty; whilst other emissaries and instruments of iniquity, by corrupting the youth, and seducing such as can be brought to lewdness and debauchery, bring the people to such a pass, that they may neither care nor dare to vindicate their rights, and that those who would do it, may so far suspect each other, as not to confer upon, much less to join in any action tending to the public deliverance.

This distinguishes the good from the bad magistrate, the faithful from the unfaithful: and those who adhere to either, living in the same principle, must walk in the same ways. They who uphold the rightful power of a just magistracy, encourage virtue and justice; teach men what they ought to do, suffer, or expect from others; fix them upon principles of honesty; and generally advance every thing that tends to the increase of the valour, strength, greatness, and happiness of the nation, creating a good union among them, and bringing every man to an exact understanding of his own and the public rights. On the other side, he that would introduce an ill magistrate, make one evil who was good, or preserve him in the exercise of injustice when he is corrupted, must always open the way for him by vitiating the people, corrupting their manners, destroying the validity of oaths and contracts, teaching such evasions, equivocations, and frauds, as are inconsistent with the thoughts, that become men of
virtue

virtue and courage; and overthrowing the confidence they ought to have in each other, make it impossible for them to unite among themselves. The like arts must be used with the magistrate: he cannot be for their turn, till he is persuaded to believe he has no dependence upon, and owes no duty to the people; that he is of himself, and not by their institution; that no man ought to inquire into, nor be judge of his actions; that all obedience is due to him, whether he be good or bad, wise or foolish, a father or an enemy to his country. This being calculated for his personal interest, he must pursue the same designs, or his kingdom is divided within itself, and cannot subsist. By this means those who flatter his humour, come to be accounted his friends, and the only men that are thought worthy of great trusts, while such as are of another mind are exposed to all persecution. These are always such as excel in virtue, wisdom, and greatness of spirit. They have eyes, and they will always see the way they go; and, leaving fools to be guided by implicit faith, will distinguish between good and evil, and choose that which is best. They will judge of men by their actions, and by them discovering whose servant every man is, know whether he is to be obeyed or not. Those who are ignorant of all good, careless, or enemies to it, take a more compendious way; their slavish, vicious, and base natures, inclining them to seek only private and present advantages, they easily slide into a blind dependence upon one, who has wealth and power; and, desiring only to know his will, care not what injustice they do, if they may be rewarded. They worship what they find in the temple, though it be the vilest of idols; and always like that best which is worst, because it agrees with their inclinations and principles. When a party comes to be erected upon such a foundation, debauchery, lewdness, and dishonesty, are the true badges of it. Such as wear them are cherished. But the principal marks of favour are reserved for those, who are the most industrious in mischief, either by seducing the people with the allurements of sensual pleasures, or corrupting their understandings by false and slavish doctrines. By this means, a man who calls himself a philosopher, or a divine, is often more useful than a great number of tapsters, cooks, buffoons, players, fiddlers, whores, or bawds. These are the devil's ministers of a lower order; they seduce single persons; and such as fall into their snares are for the most part men of the simpler sort. But the principal supporters of his kingdom are they, who by false doctrines poison the springs of religion and virtue, and by preaching or writing, if their falsehood and wickedness were not detected, would extinguish all principles of common honesty, and bring whole nations to be best satisfied with themselves, when their actions are most abominable. And as the means must always be suitable to the end proposed, the governments that are to be established or supported by such ways must needs be the worst of all, and comprehend all manner of evil.

SECTION XX

UNJUST COMMANDS ARE NOT TO BE OBEYED; AND NO MAN IS OBLIGED TO SUFFER FOR NOT OBEYING SUCH AS ARE AGAINST LAW.

In the next place our author gravely proposes a question, “whether it be a sin to disobey the king, if he command any thing contrary to law?” and as gravely determines, “that not only in human laws, but even in divine, a thing may be commanded contrary to law, and yet obedience to such a command is necessary. The sanctifying of the sabbath is a divine law, yet if a master command his servant not to go to church upon a sabbath-day, the best divines teach us, that the servant must obey, &c. It is not fit to tie the master to acquaint the servant with his secret counsels.” Though he frequently contradicts in one line what he says in another, this whole clause is uniform, and suitable to the main design of his book. He sets up the authority of man in opposition to the command of God, gives it the preference, and says, the best divines instruct us so to do. St. Paul then must have been one of the worst, for he knew, that the powers under which he lived had, under the severest penalties, forbidden the publication of the gospel; and yet he says, “wo to me if I preach it not.” St. Peter was no better than he, for he tells us, “that it is better to obey God than man.” And they could not speak otherwise, unless they had forgotten the words of their Master, who told them, “they should not fear them, that could only kill the body, but him who could kill, and cast into hell.” And if I must not fear him, that can only kill the body, not only the reason, but all excuse for obeying him, is taken away.

To prove what he says, he cites a pertinent example from St. Luke*, and very logically concludes, that because Christ reprov'd the hypocrisy of the Pharisees (who generally adhered to the external and circumstantial part of the law, neglecting the essential, and taking upon themselves to be the interpreters of that which they did not understand) the law of God is not to be obeyed: and as strongly proves, that because Christ shewed them, that the same law, which, by their own confession, permitted them to pull an ass out of a pit on the sabbath-day, could not but give a liberty of healing the sick, therefore the commands of kings are to be obeyed, though they should be contrary to human and divine laws. But if perverseness had not blinded him, he might have seen, that this very text is wholly against his purpose; for the magistratical power was on the side of the Pharisees, otherwise they would not have sought an occasion to ensnare him; and that power having perverted the law of God by false glosses, and a superinduction of human traditions, prohibited the most necessary

* Ch. 14, v. 5

acts of charity to be done on the sabbath-day, which Christ reprov'd, and restored the sick man to his health in their fight. SECT. 20

But I could wish our author had told us the names of those divines, who, he says, are the best, and who pretend to teach us these fine things. I know some who are thought good, that are of a contrary opinion, and say, that God having required that day to be set apart for his service and worship, man cannot dispense with the obligation, unless he can abrogate the law of God. Perhaps, for want of other arguments to prove the contrary, I may be told, that this favours too much of puritanism and calvinism. But I shall take the reproach, till some better patrons than Laud, and his creatures, may be found for the other opinion. By the advice and instigation of these men, from about the year 1630, to 1640, sports and revelings, which ended, for the most part, in drunkenness and lewdness, were not only permitted on that day, but injoined. And though this did advance human authority in derogation to the divine, to a degree that may please such as are of our author's mind; yet others, resolving rather to obey the laws of God than the commands of men, could not be brought to pass the Lord's day in that manner. Since that time no man, except Filmer and Heylin, has been so wicked as to conceive, or so impudent as to assert such brutal absurdities. But leaving the farther consideration of the original of this abuse, I desire to know, whether the authority given to masters to command things contrary to the law of God be peculiar in relation to the sabbath, or to a few other points, or ought generally to extend to all God's laws; and whether he who may command his servant to act contrary to the law of God, have not a right in himself of doing the same. If peculiar, some authority or precept must be produced, by which it may appear, that God has slighted his ordinance concerning that day, and suffered it to be contemned, whilst he exacts obedience to all others. If we have a liberty left to us of slighting others also more or less in number, we ought to know how many, what they are, and how it comes to pass, that some are of obligation, and others not. If the empire of the world is not only divided between God and Caesar, but every man also, who can give five pounds a year to a servant, has so great a part in it, that, in some cases, his commands are to be obeyed preferably to those of God, it were fit to know the limits of each kingdom, lest we happen preposterously to obey man, when we ought to obey God, or God, when we are to follow the commands of men. If it be general, the law of God is of no effect, and we may safely put an end to all thoughts and discourses of religion; the word of God is nothing to us; we are not to inquire what he has commanded, but what pleases our master, how insolent, foolish, vile, or wicked, soever he may be. The apostles and prophets, who died for preferring the commands of God before those of men, fell like fools, and perished in their sins. But if every particular man that has a servant, can exempt him from the commands of God, he may also exempt himself, and the laws of God are at once abrogated throughout the world.

CHAP. III

It is a folly to say there is a passive, as well as an active obedience, and that he who will not do what his master commands, ought to suffer the punishment he inflicts: for, if the master has a right of commanding, there is a duty incumbent on the servant of obeying. He who suffers for not doing that which he ought to do draws upon himself both the guilt and the punishment. But no one can be obliged to suffer for that which he ought not to do, because he who pretends to command, has not so far an authority. However, our question is, whether the servant should forbear to do that which God commands, rather than whether the master should put away or beat him, if he do not: for if the servant ought to obey his master rather than God, as our author says the best divines assert, he sins in disobeying, and that guilt cannot be expiated by his suffering. If it be thought I carry this point to undue extremity, the limits ought to be demonstrated, by which it may appear that I exceed them, though the nature of the case cannot be altered: for if the law of God may not be abrogated by the commands of men, a servant cannot be exempted from keeping the sabbath according to the ordinance of God, at the will of his master. But if a power be given to man at his pleasure to annul the laws of God, the apostles ought not to have preached, when they were forbidden by the powers to which they were subject; the tortures and deaths they suffered for not obeying that command were just, and their blood was upon their own heads.

His second instance concerning wars, in which he says the subject is not to examine whether they are just or unjust, but must obey, is weak and frivolous, and very often false: whereas consequences can rightly be drawn from such things only as are certainly and universally true. Though God may be merciful to a soldier, who by the wickedness of a magistrate, whom he honestly trusts, is made a minister of injustice, it is nothing to this case. For, if our author say true, that the word of a king can justify him in going against the command of God, he must do what is commanded, though he think it evil; the christian soldiers under the pagan emperors were obliged to destroy their brethren, and the best men in the world, for being so; such as now live under the Turk have the same obligation upon them of defending their master, and slaughtering those he repotes his enemies for adhering to christianity; and the king of France may, when he pleases, arm one part of his protestant subjects to the destruction of the other; which is a godly doctrine, and worthy our author's invention.

But, if this be so, I know not how the Israelites can be said to have sinned in following the examples of Jeroboam, Omri, Ahab, or other wicked kings: they could not have sinned in obeying, if it had been a sin to disobey their commands; and God would not have punished them so severely, if they had not sinned. It is impertinent to say they were obliged to serve their kings in unjust wars, but not to serve idols; for though God be jealous of his glory, yet he forbids rapine and murder as well as idolatry. If there be a law that forbids the subject to examine the

commands tending to the one, it cannot but injoin obedience to the other. SECT. 21
 The same authority which justifies murder takes away the guilt of idolatry; and the wretches, both judges and witnesses, who put Naboth to death, could as little allege ignorance, as those that worshipped Jeroboam's calves; the same light of nature by which they should have known, that a ridiculous image was not to be adored as God, instructing them also, that an innocent man ought not, under pretence of law, to be murdered by perjury.

SECTION XXI

IT CANNOT BE FOR THE GOOD OF THE PEOPLE, THAT THE
 MAGISTRATE HAVE A POWER ABOVE THE LAW: AND HE IS
 NOT A MAGISTRATE, WHO HAS NOT HIS POWER BY LAW.

That we may not be displeas'd, or think it dangerous and slavish to depend upon the will of a man, which perhaps may be irregular or extravagant in one who is subject to no law, our author very dexterously removes the scruples by telling us,

1. "That the prerogative of the king to be above all laws is only for the good of them that are under the laws, and to preserve their liberties."
 2. "That there can be no laws without a supreme power to command or make them. In aristocracies the nobles are above the laws; in democracies the people. By the like reason, in a monarchy, the king must of necessity be above the laws: there can be no sovereign majesty in him that is under them: that which gives the very being to a king is the power to give laws: without this power he is but an equivocal king: it skills not how he comes by this power, whether by election, donation, succession, or any other means." I am contented in some degree to follow our author, and to acknowledge, that the king neither has, nor can have, any prerogative which is not for the good of the people, and the preservation of their liberties. This therefore is the foundation of magistratical power, and the only way of discerning, whether the prerogative of making laws, of being above laws, or any other he may pretend, be justly due to him or not. And if it be doubted who is the fittest judge to determine that question, common sense will inform us, that if the magistrate receive his power by election or donation, they who elect, or give him that power, best know whether the good they sought be performed or not: if by succession, they who instituted the succession: if otherwise, that is, by fraud or violence, the point is decided; for he has no right at all, and none can be created by those means. This might be said, though all the princes were of ripe age, sober, wise, just, and good; for even the best are subject to mistakes and passions, and therefore unfit to be judges of their own concernments, in which they may by various

CHAP. III means be misguided: but it would be extreme madness to attribute the same to children, fools, or madmen, who are not able to judge of the least things concerning themselves or others; but especially to those who, coming in by usurpation, declare their contempt of all human and divine laws, and are enemies to the people they oppress. None therefore can be judges of such cases but the people, for whom and by whom the constitutions are made; or their representatives and delegates, to whom they give the power of doing it.

But nothing can be more absurd than to say, that one man has an absolute power above law to govern according to his will, "for the people's good, and the preservation of their liberty:" for no liberty can subsist where there is such a power; and we have no other way of distinguishing between free nations, and such as are not so, than that the free are governed by their own laws and magistrates, according to their own mind, and the others either have willingly subjected themselves, or are by force brought under the power of one or more men, to be ruled according to his or their pleasure. The same distinction holds in relation to particular persons. He is a free man who lives as best pleases himself, under laws made by his own consent; and the name of slave can belong to no man, unless to him who is either born in the house of a master, bought, taken, subdued, or willingly gives his ear to be nailed to the post, and subjects himself to the will of another. Thus were the Grecians said to be free, in opposition to the Medes and Persians, as Artabanus acknowledged in his discourse to Themistocles*. In the same manner the Italians, Germans, and Spaniards, were distinguished from the eastern nations, who, for the most part, were under the power of tyrants †. Rome was said to have recovered liberty by the expulsion of the Tarquins; or as Tacitus expresses it, "Lucius Brutus established liberty and the consulate together ‡," as if before that time they had never enjoyed any; and Julius Caesar is said to have overthrown the liberty of that people. But if Filmer deserve credit, the Romans were free under Tarquin, enslaved when he was driven away, and his prerogative extinguished, that was so necessarily required for the defence of their liberty; and were never restored to it, till Caesar assumed all the power to himself. By the same rule the Switzers, Grisons, Venetians, Hollanders, and some other nations, are now slaves; and Tuscany, the kingdom of Naples, the ecclesiastical state, with such as live under a more gentle master on the other side of the water, I mean the Turk, are free nations. Nay, the Florentines, who complain of slavery under the house of the Medici, were made free by the power of a Spanish army, who set up a prerogative in

* Ὅτι μὲν εἶπεν ὁ Ἀρταβανός, ἐλευθερίαν μαγιστὰ φανμάζειν καὶ ἰσότητα, λόγος ἦν δὲ πολλῶν νόμων καὶ καλῶν οὐλῶν καλῆς ἕως ἐστὶ, τὸ τιμᾶν βασιλεία. Plut. in vitâ Themist. p. 125

† Οἱ περὶ τὴν Ἀσίαν ὑπομένουσι τὴν δεσποτικὴν ἀρχὴν ἔθεν δυσχραινοῦτες. Arist. Polit. l. 3, c. 14. — Ἀσσυριοὶ καὶ Μήδοι τὰς τυραννίδας προσκυνεῖσι. Philostr. de vitâ Apollonii, l. 7, c. 6. — Judæis et Syris, nationibus natis servituti. Cic. Orat. de Provinciâ consulari. § 10. — Servirent Syria, Asiaque, et fœtus regibus oriens. Tacit. Hist. l. 4, § 17.

‡ Libertatem et consulatum L. Brutus instituit. Tacit. Annal. l. 1, § 1

that gentle family, which for their good has destroyed all that could justly be called so in that country, and almost wholly dispeopled it. I who esteem myself free, because I depend upon the will of no man, and hope to die in the liberty I inherit from my ancestors, am a slave; and the Moors or Turks, who may be beaten and killed, whenever it pleases their insolent masters, are free men. But surely the world is not so much mistaken in the signification of words and things. The weight of chains, number of stripes, hardness of labour, and other effects of a master's cruelty, may make one servitude more miserable than another: but he is a slave who serves the best and gentlest man in the world, as well as he who serves the worst; and he does serve him, if he must obey his commands, and depends upon his will. For this reason the poet ingeniously flattering a good emperor, said, that liberty was not more desirable, than to serve a gentle master; but still acknowledged, that it was a service, distinct from, and contrary to liberty*: and it had not been a handsome compliment, unless the evil of servitude were so extreme, that nothing but the virtue and goodness of the master could any way compensate or alleviate it. Now, though it should be granted, that he had spoken more like to a philosopher than a poet; that we might take his words in the strictest sense, and think it possible to find such conveniences in a subjection to the will of a good and wise master, as may balance the loss of liberty, it would be nothing to the question; because that liberty is thereby acknowledged to be destroyed by the prerogative, which is only instituted to preserve it. If it were true, that no liberty were to be preferred before the service of a good master, it could be of no use to the perishing world, which Filmer, and his disciples, would, by such arguments, bring into a subjection to children, fools, mad, or vicious men. These are not cases feigned upon a distant imaginary possibility, but so frequently found among men, that there are few examples of the contrary. And as it is folly to suppose, that princes will always be wise, just, and good, when we know, that few have been able alone to bear the weight of a government, or to resist the temptations to ill, that accompany an unlimited power, it would be madness to presume they will for the future be free from infirmities and vices. And if they be not, the nations under them will not be in such a condition of servitude to a good master as the poet compares to liberty, but in a miserable and shameful subjection to the will of those who know not how to govern themselves, or to do good to others. Though Moses, Joshua, and Samuel, had been able to bear the weight of an unrestrained power; though David and Solomon had never abused that which they had, what effect could this have had upon a general proposition? Where are the families that always produce such as they were? When did God promise to assist all those who should attain to the sovereign

* Sidney seems to allude to the following lines:

Fallitur egregio quisquis sub principe credit
 Servitium: nunquam libertas gratior extat,
 Quàm sub rege pio. — Claud. de Laud. Stilic. l. 3, v. 114

CHAP. III power, as he did them whom he chose for the works he designed? Or what testimony can Filmer give us, that he has been present with all those who have hitherto reigned in the world? But if we know, that no such thing either is, or has been; and can find no promise to assure us, nor reason to hope, that it ever will be, it is as foolish to found the hopes of preserving a people upon that which never was, or is so likely to fail, nay rather which in a short time most certainly will fail, as to root up vines and fig-trees, in expectation of gathering grapes and figs from thistles and briars. This would be no less than to extinguish the light of common sense, to neglect the means that God has given us to provide for our security, and to impute to him a disposition of things utterly inconsistent with his wisdom and goodness. If he has not therefore ordered, that thorns and thistles should produce figs and grapes, nor that the most important works in the world, which are not without the utmost difficulty, if at all, to be performed by the best and wisest of men, should be put into the hands of the weakest, most foolish, and worst, he cannot have ordained, that such men, women, or children, as happen to be born in reigning families, or get the power into their hands by fraud, treachery, or murder, as very many have done, should have a right of disposing all things according to their will. And if men cannot be guilty of so great an absurdity as to trust the weakest and worst with a power which usually subverts the wisdom and virtue of the best; or to expect such effects of virtue and wisdom from those who come by chance, as can hardly, if at all, be hoped from the most excellent, our author's proposition can neither be grounded upon the ordinance of God, nor the institution of man. Nay, if any such thing had been established by our first parents in their simplicity, the utter impossibility of attaining what they expected from it must wholly have abrogated the establishment: or rather, it had been void from the beginning, because it was not "a just sanction, commanding things good, and forbidding the contrary *," but a foolish and perverse sanction, setting up the unruly appetite of one person to the subversion of all that is good in the world, by making the wisdom of the aged and experienced to depend upon the will of women, children, and fools; by sending the strong and the brave to seek protection from the most weak and cowardly, and subjecting the most virtuous and best of men to be destroyed by the most wicked and vicious. These being the effects of that unlimited prerogative, which, our author says, was only instituted for the good and defence of the people, it must necessarily fall to the ground, unless slavery, misery, infamy, destruction, and desolation, tend to the preservation of liberty, and are to be preferred before strength, glory, plenty, security, and happiness. The state of the Roman empire after the usurpation of Caesar will set this matter in the clearest light; but having done it already in the former parts of this work, I content myself to refer to those places. And though the calamities they suffered were a

* *Sanctio recta, jubens honesta, prohibens contraria.* Vide supra, p. 327.

little allayed and moderated by the virtues of Antoninus and M. Aurelius, SECT. 21 with one or two more, yet we have no example of the continuance of them in a family, nor of any nation, great or small, that has been under an absolute power, which does not too plainly manifest, that no man, or succession of men, is to be trusted with it.

But, says our author, "there can be no law where there is not a supreme power;" and from thence very strongly concludes it must be in the king; for "otherwise there can be no sovereign majesty in him, and he is but an equivocal king." This might have been of some force, if governments were established, and laws made, only to advance that sovereign majesty; but nothing at all to the purpose, if, as he confesses, the power which the prince has, be given for the good of the people, and for the defence of every private man's life, liberty, lands and goods; for that which is instituted cannot be abrogated for want of that which was never intended in the institution. If the public safety be provided for, liberty and propriety secured, justice administered, virtue encouraged, vice suppressed, and the true interest of the nation advanced, the ends of government are accomplished; and the highest must be contented with such a proportion of glory and majesty as is consistent with the public; since the magistracy is not instituted, nor any person placed in it for the increase of his majesty, but for the preservation of the whole people, and the defence of the liberty, life, and estate of every private man, as our author himself is forced to acknowledge.

But what is this sovereign majesty, so inseparable from royalty, that one cannot subsist without the other? Caligula placed it in a power of doing what he pleased to all men*. Nimrod, Nabuchodonosor, and others, with an impious and barbarous insolence boasted of the greatness of their power. They thought it a glorious privilege to kill or spare whom they pleased. But such kings, as by God's permission might have been set up over his people, were to have nothing of this. They were not to multiply gold, silver, wives, or horses; they were not to govern by their own will, but according to the law; from which they might not recede, nor raise their hearts above their brethren. Here were kings without that unlimited power, which makes up the sovereign majesty, that Filmer affirms to be so essential to kings, that without it they are only equivocal; which proving nothing but the incurable perverseness of his judgment, the malice of his heart, or malignity of his fate, always to oppose reason and truth, we are to esteem those to be kings who are described to be so by the Scriptures, and to give another name to those who endeavour to advance their own glory, contrary to the precept of God, and the interest of mankind.

But unless the light of reason had been extinguished in him, he might have seen, that though no law could be made without a supreme power, that supremacy may be in a body consisting of many men, and several

* Memento, ait, omnia mihi in omnes licere. Suet. in vitâ Calig. § 29.

CHAP. III orders of men. If it be true, which perhaps may be doubted, that there have been in the world simple monarchies, aristocracies, or democracies, legally established, it is certain, that the most part of the governments of the world (and I think all that are or have been good) were mixed. Part of the power has been conferred upon the king, or the magistrate that represented him, and part upon the senate and people, as has been proved in relation to the governments of the Hebrews, Spartans, Romans, Venetians, Germans, and all those who live under that which is usually called the Gothic polity. If the single person participating of this divided power dislike either the name he bears, or the authority he has, he may renounce it; but no reason can be from thence drawn to the prejudice of nations, who give so much as they think consistent with their own good, and reserve the rest to themselves, or to such other officers as they please to establish.

No man will deny, that several nations have had a right of giving power to consuls, dictators, archons, suffetes, dukes, and other magistrates, in such proportions as seemed most conducive to their own good; and there must be a right in every nation of allotting to kings so much as they please, as well as to the others, unless there be a charm in the word king, or in the letters that compose it. But this cannot be; for there is no similitude between "king," "rex," and "basileus:" they must therefore have a right of regulating the power of kings, as well as that of consuls or dictators; and it had not been more ridiculous in Fabius, Scipio, Camillus, or Cincinnatus, to assert an absolute power in himself, under pretence of advancing his sovereign majesty against the law, than for any king to do the like. But as all nations give what form they please to their government, they are also judges of the name to be imposed upon each man, who is to have a part in the power: and it is as lawful for us to call him king, who has a limited authority among us, as for the Medes or Arabs to give the same name to one who is more absolute. If this be not admitted, we are content to speak improperly; but utterly deny, that when we give the name, we give any thing more than we please; and had rather his majesty should change his name, than we renounce our own rights and liberties, which he is to preserve, and which we have received from God and nature.

But that the folly and wickedness of our author may not be capable of any farther aggravation, he says, "that it skills not how he come by the "power." Violence therefore, or fraud, treachery or murder, are as good as election, donation, or legal succession. It is in vain to examine the laws of God or man, the rights of nature, whether children do inherit the dignities and magistracies of their fathers, as patrimonial lands and goods, whether regard ought to be had to the fitness of the person, whether all should go to one, or be divided among them, or by what rule we may know who is the right heir to the succession, and consequently, what we are in conscience obliged to do. Our author tells us in short, it matters not how he that has the power comes by it.

It has been hitherto thought, that to kill a king, especially a good king, was a most abominable action. They who did it were thought to be incited by the worst of passions, that can enter into the hearts of men; and the severest punishments have been invented to deter them from such attempts, or to avenge their death upon those who should accomplish it. But, if our author may be credited, it must be the most commendable and glorious act that can be performed by man: for, besides the outward advantages that men so earnestly desire, he that does it is presently invested with the sovereign majesty, and at the same time becomes God's vicegerent, and the father of his country, possessed of that government, which, in exclusion to all other forms, is only favoured by the laws of God and nature. The only inconvenience is, that all depends upon success, and he that is to be the minister of God, and father of his country if he succeed, is the worst of all villains, if he fail; and, at the best, may be deprived of all by the same means he employed to gain it. Though a prince should have the wisdom and virtues of Moses, the valour of Joshua, David, and the Maccabees, with the gentleness and integrity of Samuel, the most foolish, vicious, base, and detestable man in the world that kills him, and seizes the power, becomes his heir, and father of the people that he governed: it skills not how he did it, whether in open battle, or by secret treachery, in the field, or in the bed, by poison, or by the sword. The vilest slave in Israel had become the Lord's anointed, if he could have killed David or Solomon, and found villains to place him in the throne. If this be right, the world has to this day lived in darkness, and the actions which have been thought to be the most detestable, are the most commendable and glorious. But not troubling myself at present to decide this question, I leave it to kings to consider how much they are beholden to Filmer, and his disciples, who set such a price upon their heads, as would render it hard to preserve their lives one day, if the doctrines were received which they endeavour to infuse into the minds of the people; and concluding this point, only say, that we in England know no other king than he who is so by law, nor any power in that king except that which he has by law. And though the Roman empire was held by the power of the sword, and Ulpian, a corrupt lawyer, undertakes to say, that "the prince is not obliged by the laws*," yet Theodosius confessed, that it was the glory of a good emperor to acknowledge himself bound by them †.

* *Princeps legibus solutus est. Augusta autem, licet legibus soluta non est, principes tamen eadem illi privilegia tribuunt, quae ipsi habent. Ulpian. ad legem Juliam et Papiam, l. 13. Cujacius and other commentators agree, that this passage is not to be taken in an absolute sense, but to be understood only, "de poenariis legibus."* Cujacii Observ. l. 15, c. 30. tom. 3, p. 406. Gothofredi Corpus Juris Civilis, p. 79. Edit. Amst. 1663.

† *Digna vox est majestate regnantis legibus alligatum se principem profiteri: adeo de auctoritate juris nostra pendet auctoritas; et revera majus imperio est submittere legibus principatum.* Edict. ad Volufianum. Justin. Cod. l. 1, tit. 14, c. 4.

SECTION XXII

THE RIGOUR OF THE LAW IS TO BE TEMPERED BY MEN OF KNOWN INTEGRITY AND JUDGMENT, AND NOT BY THE PRINCE, WHO MAY BE IGNORANT OR VICIOUS.

Our author's next shift is to place the king above the law, that he may mitigate the rigour of it, without which, he says, "the case of subjects would be desperately miserable." But this cure would prove worse than the disease. Such pious fathers of the people as Caligula, Nero, or Domitian, were not like to mitigate the rigour; nor such as inherit crowns in their infancy (as the present kings of Spain, France, and Sweden) so well to understand the meaning of it as to decide extraordinary cases. The wisdom of nations has provided more assured helps; and none could have been so brutish and negligent of the public concerns, as to suffer the succession to fall to women, children, &c. if they had not reserved a power in themselves to prefer others before the nearest in blood, if reason require; and prescribed such rules as might preserve the public from ruin, notwithstanding their infirmities and vices. These helps provided by our laws, are principally by grand and petty juries, who are not only judges of matters of fact, as whether a man be killed, but whether he be killed criminally. These men are upon their oaths, and may be indicted of perjury if they prevaricate: the judges are present, not only to be a check upon them, but to explain such points of the law as may seem difficult. And though these judges may be said in some sense to be chosen by the king, he is not understood to do it otherwise than by the advice of his council, who cannot perform their duty, unless they propose such as in their consciences they think most worthy of the office, and most capable of performing the duty rightly; nor he accomplish the oath of his coronation, unless he admit those, who upon deliberation seem to be the best. The judges being thus chosen, are so far from depending upon the will of the king, that they swear faithfully to serve the people as well as the king, and to do justice to every man according to the law of the land, notwithstanding any writs, letters, or commands received from him; and in default thereof they are to forfeit their bodies, lands, and goods, as in cases of treason*. These laws have been so often, and so severely executed,

* The form of the oath of the justices of both benches, made A. D. 1344

"Ye shall sware, that well and faithfully ye shall serve our lord the king, and his people,
 "in the office of justice . . . that ye shall do equal law, and execution of right to all
 "his subjects, rich and poor, without having regard to any person . . . that ye deny to
 "no man common right, by the king's letters, nor none other man's, nor for none other
 "cause; and in case any letters come to you contrary to the law, that ye do nothing by such
 "letters, but certify the king thereof, and proceed to execute the law, notwithstanding
 "the

uted, that it concerns all judges well to consider them; and the cases of Trefilian, Empson, Dudley, and others, shew, that neither the king's preceding command, nor subsequent pardon, could preserve them from the punishment they deserved. All men knew, that what they did was agreeable to the king's pleasure; for Trefilian advanced the prerogative of Edward the second, and Empson brought great treasures into the coffers of Henry the seventh. Nevertheless they were charged with treason for subverting the laws of the land, and executed as traitors. Though England ought never to forget the happy reign of queen Elizabeth, yet it must be acknowledged, that she as well as others had her failings. She was full of love to the people, just in her nature, sincere in her intentions; but could not so perfectly discover the snares that were laid for her, or resist the importunity of the persons she most trusted, as not sometimes to be brought to attempt things against law. She and her counsellors pressed the judges very hardly to obey the patent under her great seal, in the case of Cavendish: but they answered, "that both she and they had taken an oath to keep the law; and, if they should obey her commands, the law would not warrant them, etc." And besides the offence against God, their country, and the commonwealth, they alleged the example of Empson and Dudley, whereby, they said, "they were deterred from obeying her illegal commands*." They who had sworn to keep the law, notwithstanding the king's writs, knew that the law depended not upon his will. And the same oath, that obliged them not to regard any command they should receive from him, shewed that they were not to expect indemnity by it; and not only that the king had neither the power of making, altering, mitigating, or interpreting the law, but that he was not at all to be heard, in general or particular matters, otherwise than as he speaks in the common course of justice, by the courts legally established, which say the same thing, whether he be young or old, ignorant or wise, wicked or good. And nothing does better evidence the wisdom and care of our ancestors, in framing the laws and government we live under, than that the people did not suffer extremities by the vices or infirmities of kings, till an age more full of malice than those in which they lived had found tricks to pervert the rule, and frustrate their honest intentions. It was not safe for the kings to violate their oaths by an undue interposition of their authority; but the ministers who served them in those violations have seldom escaped punishment. This is to be understood when the deviations from justice are extreme and mischievous, for something must always be allowed to human frailty: the best have their defects, and none could stand, if a too exact scrutiny were made of all their actions.

"the same letters: and that ye shall do and procure the profit of the king, and of his crown, with all things, where ye may reasonably do the same. And in case ye be from henceforth found in default in any of the points aforefaid, ye shall be at the king's will, of body, lands, and goods, thereof to be done as shall please him, as God you help, and all saints."

18 Edw. III, stat. 4

* Anderson's Reports, c. 201, p. 155

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Edward the third, about the twentieth year of his reign, acknowledged his own in parliament, and, as well for the ease of his conscience, as the satisfaction of his people, promoted an act, "commanding all judges to do justice notwithstanding any writs, letters, or commands from himself, and forbidding those that belonged to the king, queen, and prince, to intermeddle in those matters*." But if the best and wisest of our princes, in the strength and maturity of their years, had their failings, and every act proceeding from them, that tended to the interruption of justice, was a failing, how can it be said, that the king in his personal capacity, directly or indirectly, may enter into a discussion of these matters, much less determine them according to his will?

"But," says our author, "the law is no better than a tyrant; general pardons at the coronation, and in parliament, are but the bounty of the prerogative; there may be hard cases;" and, citing some perverted pieces from Aristotle's ethics and politics, adds, "that when something falls out besides the general rule, then it is fit, that what the law-maker hath omitted, or where he hath erred by speaking generally, it should be corrected and supplied, as if the law-maker were present that ordained it. The governor, whether he be one man or more, ought to be lord of these things, whereof it was impossible that the law should speak exactly †." These things are in part true; but our author

* "Edward, by the grace of God, &c. Because that by divers complaints made to us we have perceived, that the law of the land, which we by our oath be bound to maintain, is the less well kept, and the execution of the same disturbed many times by maintenance and procurement, as well in the court as in the country, we greatly moved of conscience in this matter, and for this cause desiring, as much for the pleasure of God, and ease and quietness of our subjects, as to save our conscience, and for to save and keep our said oath, by the assent of the great men and other wise men of our council, we have ordained these things following.

"First, we have commanded all our justices, that they shall from henceforth do equal law and execution of right to all our subjects, rich and poor, without having regard to any person, and without omitting to do right, for any letters or commandment, which may come to them from us, or from any other, or by any other cause. And if that any letters, writs, or commandments, come to the justices, or to other deputed to do law and right, according to the usage of the realm, in disturbance of the law, or of the execution of the same, or of right to the parties, the justices, and other aforesaid shall proceed and hold their courts and processes, where the pleas and matters be depending before them, as if no such letters, writs, or commandments were come to them. Item, we have commanded and utterly defended, that none of our house, nor of them that be about us, nor other which be towards our dear beloved companion the queen, or our son prince of Wales, or towards our courts, nor prelates, earls, barons nor other great nor small of the land, of what estate or condition they be, shall not take in hand quarrels other than their own, nor the same maintain by them, nor by other, privily nor apertly, for gift, promise, amity, favour, doubt, nor fear, nor for none other cause, in disturbance of law, and hinderance of right, upon the pains aforesaid, but that every man may be free to sue for, and defend his right, in our courts and elsewhere, according to the law." 20 Edw. III, c. 1, 4

† Όταν εν λεγει μιν ο νομος καθολικη, συμβη δ' επι τισι παρα το καθολικη, τότε ορθως εχει η παραλειπει ο νομοθετης, και ημαρτεν απλως ειπων, επανορθωεν το ελλειφθεν, ο κριν ο νομοθετης ετως αν ειποι, εκει παρων. Arist. de Morib. l. 5, c. 14. — Τον αρχοντα δε, αν τε εις, αν τε πλειυ ωσι, περι τισων ειναι κυριυς, περι οσων εξουνατυσιν οι νομοι λεγειν ακριβως, δια το μη ραδιον ειναι καθολικη δηλωσαι περι παντων. Polit. l. 3, c. 11

makes use of them, as the devil does of Scripture, to subvert the truth. SECT. 22
 There may be something of rigour in the law, that in some cases may be mitigated; and the law itself, in relation to England, does so far acknowledge it, as to refer much to the consciences of juries, and those who are appointed to assist them; and the most difficult cases are referred to the parliament as the only judges that are able to determine them. Thus the statute of the 25 Edw. III. enumerating the crimes then declared to be treason, leaves to future parliaments to judge what other facts equivalent to them may deserve the same punishment*. And it is a general rule in the law, which the judges are sworn to observe, that difficult cases should be reserved till the parliament meet, who are only able to decide them: and if there be any inconvenience in this, it is because they do not meet so frequently as the law requires, or by sinister means are interrupted in their sitting. But nothing can be more absurd than to say, that because the king does not call parliaments as the law and his oath requires, that power should accrue to him, which the law and the consent of the nation has placed in them.

There is also such a thing in the law, as a general or particular pardon, and the king may in some degree be entrusted with the power of giving it, especially for such crimes as merely relate to himself, as every man may remit the injuries done to himself; but the confession of Edward the third, “that the oath of the crown had not been kept by reason of the grant of pardons contrary to statutes,” and a new act made, “that all such charters of pardon from henceforth granted against the oath of the crown, and the said statutes, should be held for none†,” demonstrate that this power was not in himself, but granted by the nation, and to be executed according to such rules as the law prescribed, and the parliament approved.

Moreover, there have been many, and sometimes bloody contests for the crown, upon which the nation was almost equally divided; and it being difficult for them to know, or even for us who have all the parties before us, to judge which was the better side, it was understood, that he who came to be crowned by the consent of the people was acceptable to all. And the question being determined, it was no way fit that he should have a liberty to make use of the public authority then in his hands, to revenge such personal injuries as he had, or might suppose he had received,

* Vide supra, p. 345

† “Because by divers statutes made before this time, in divers parliaments, it was assented, that no charter of pardon of the death of a man should be granted by the king, but in case where he may do it, keeping the oath of his crown, which statutes have not been holden, but charters have been granted without number to divers felons and manslaughterers, to the evil example and fear of good people, and lawful, whereby thieves, felons, and offenders be comforted, to do their robberies and manslaughter, and the same do from day to day, and the more be encouraged to do the same, because of hope easily to have their charters of pardon; it is assented, established, and accorded, that no charter of pardon of the death of a man, nor of other felony shall be from henceforth granted to any man, but in case where the king may the same do, saving the oath of his crown, as it is contained in the statutes made before this time; and if any charter be from henceforth granted against the said statutes, the same shall be holden for none.” 14 Edw. III, c. 15

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which might raise new, and perhaps more dangerous troubles, if the authors of them were still kept in fear of being prosecuted; and nothing could be more unreasonable, than that he should employ his power to the destruction of those who had consented to make him king. This made it a matter of course for a king, as soon as he was crowned, to issue out a general pardon; which was no more than to declare, that being now what he was not before, he had no enemy upon any former account. For this reason Lewis the twelfth of France, when he was incited to revenge himself against those, who, in the reign of his predecessor Charles the eighth, had caused him to be imprisoned, with great danger of his life, made this answer, "that the king of France did not care to revenge the injuries done to the duke of Orleans*." And the last king of Sweden seemed no otherwise to remember who had opposed the queen's abdication and his election than by conferring honours upon them; because he knew they were the best men of the nation, and such as would be his friends, when they should see how he would govern; in which he was not deceived. But, lest all those who might come to the crown of England should not have the same prudence and generosity, the kings were obliged by a custom of no less force than a law, immediately to put an end to all disputes, and the inconveniences that might arise from them. This did not proceed from the bounty of the prerogative (which I think is nonsense, for though he that enjoys the prerogative may have bounty, the prerogative can have none) but from common sense, from the king's obligation, and the care of his own safety; and could have no other effect in law, than what related to his person, as appears by the fore-mentioned statute.

Pardons granted by act of parliament are of another nature: for as the king, who has no other power than by law, can no otherwise dispense with the crimes committed against the laws, than the law does enable him, the parliament, that has the power of making laws, may entirely abolish the crimes, and unquestionably remit the punishment as they please.

Though some words of Aristotle's ethics are without any coherence shuffled together by our author, with others taken out of his politics, I do not much except against them. No law made by man can be perfect, and there must be in every nation a power of correcting such defects as in time may arise or be discovered. This power can never be so rightly placed as in the same hand that has the right of making laws, whether in one person or in many. If Filmer therefore can tell us of a place, where one man, woman, or child, however he or she be qualified, has the power of making laws, I will acknowledge, that not only the "hard cases," but as many others as he pleases, are referred to his or her judgment, and that they may give it, whether they have any understanding of what they do or not, whether they be drunk or sober, in their senses or stark-mad. But as I know no such place, and should not be much concerned for the suffering of a people that should bring such misery upon themselves, as must accompany an absolute dependance upon the

* Un roi de France n'epouse point les querelles d'un duc d'Orleans. De Serres, en la vie de Louis XII

unruly will of such a creature, I may leave him to seek it, and rest in a perfect assurance, that he does not speak of England, which acknowledges no other law than its own; and instead of receiving any from kings, does, to this day, obey none, but such as have been made by our ancestors, or ourselves, and never admitted any king that did not swear to observe them. And if Aristotle deserve credit, the power of altering, mitigating, explaining, or correcting the laws of England, is only in the parliament, because none but the parliament can make them.

SECTION XXIII

ARISTOTLE PROVES, THAT NO MAN IS TO BE ENTRUSTED WITH AN ABSOLUTE POWER, BY SHEWING, THAT NO ONE KNOWS HOW TO EXECUTE IT, BUT SUCH A MAN AS IS NOT TO BE FOUND.

Our author having falsely cited and perverted the sense of Aristotle, now brings him in saying, “that a perfect kingdom is that wherein the king rules all according to his own will*.” But though I have read his books of government with some attention, I can find no such thing in them, unless the word which signifies “mere” or “absolute” may be justly translated into “perfect;” which is so far from Aristotle’s meaning, that he distinguishes the absolute or despotical kingdoms from the legitimate; and commending the latter, gives no better name than that of “barbarous†” to the first, which he says can agree only with the nature of such nations as are base and stupid, little differing from beasts; and having no skill to govern, or courage to defend themselves, must resign all to the will of one that will take care of them. Yet even this cannot be done, unless he that should take that care be wholly exempted from the vices which oblige the others to stand in need of it; for otherwise it is no better than if a sheep should undertake to govern sheep, or a hog to command swine; Aristotle plainly saying, “that as men are by nature equal, if it were possible, all should be magistrates.” But that being repugnant to the nature of government, he finds no other way of solving the difficulty, than by “obeying and commanding alternately;” that they may do by turns that which they cannot do all together, and to which no one man has more right than an other, because they are all by nature equal ‡. This might be composed by a more compendious way,

* *Περι δε της ΠΑΜΒΑΣΙΛΕΙΑΣ καλεσμενης, αυτη δ' εστι καθ' ην αρκει παντων, κατα την εαυτης βυλησιν, ο βασιλευς.* Arist. Polit. l. 3, c. 16

† *Αλλο μοναρχιας ειδος, οϊαι παρ' ενιοις εισι βασιλειαι των βαρβαρων, etc.* Ibid. l. 3, c. 14. l. 4, c. 10

‡ *Δηλον ως της αυτης αιε βελτιον αρχειν, ει δυνατον εν οϊς δε μη δυνατον (δια το την φυσιν ισθαι ειναι παντας αμα δε και δικαιον (ειτ' αγαθον ειτε φαυλον το αρχειν) παντας αυτης μετεχειν, εν τυτοις δε μιμεισθαι το εν μερει της ισθαι εικειν ομοιωσ τοις εξ αρχης οϊ μεν γαρ αρχουσιν, οϊ δ' αρχονται παρα μερος, ωτ περ αν αλλοι γενομενοι.* Ibid. l. 2, c. 2. l. 3, c. 16

CHAP. III if, according to our author's doctrine, possession could give a right. But Aristotle, speaking like a philosopher, and not like a public enemy to mankind, examines what is just, reasonable, and beneficial to men, that is, what ought to be done, and which being done, is to be accounted just, and therefore to be supported by good men. But as "that which is unjust in the beginning can never have the effect of justice*;" and it being manifestly unjust for one, or a few men, to assume a power over those who by nature are equal to them, no such power can be just or beneficial to mankind; nor fit to be upheld by good men, if it be unjust and prejudicial. In the opinion of Aristotle, this natural equality continues till virtue makes the distinction, which must be either simply complete and perfect in itself, so that he who is endued with it, is a God among men †, or relatively, as far as concerns civil society, and the ends for which it is constituted, that is, defence, and the obtaining of justice. This requires a mind unbiassed by passion, full of goodness and wisdom, firm against all the temptations to ill, that may arise from desire or fear, tending to all manner of good, through a perfect knowledge and affection to it; and this to such a degree, that he or they have more of these virtues and excellencies than all the rest of the society, though computed together. Where such a man is found, he is by nature a king, and it is best for the nation where he is, that he govern ‡. If a few men, though equal and alike among themselves, have the same advantages above the rest of the people, nature, for the same reason, seems to establish an aristocracy in that place; and the power is more safely committed to them, than left in the hands of the multitude. But if this excellency of virtue do not appear in one, nor in a few men, the right and power is by nature equally lodged in all; and to assume or appropriate that power to one, or a few men, is unnatural and tyrannical, which, in Aristotle's language, comprehends all that is detestable and abominable.

If any man should think Aristotle a trifler, for speaking of such a man as can never be found §, I answer, that he went as far as his way could be warranted by reason or nature, and was obliged to stop there by the defect of his subject. He could not say, that the government of one was simply good, when he knew so many qualifications were required in the person to make it so; nor, that it is good for a nation to be under the power of a fool, a coward, or a villain, because it is good to be under a

* Quod ab initio injustum est nullum potest habere juris effectum. Grot. de Jure Belli. **

† Ὡς περ θεον εν ανθρωποις ειμος ειναι του τοιουτου. Arist. Polit. l. 3, c. 13

‡ Λειπεται τοιουν, οπερ ειχε πεφυκεναι, πειθεσθαι τη τοιωτη παντας ασμενως' ωστε βασιλεας ειναι τες τοιυτες αιδιες εν ταις πολεσιν. Ibid. l. 3, c. 13, 17, etc.

§ Barbeyrac, in his notes on Puffendorf, makes the following remark. "The qualifications which Aristotle requires in an absolute monarch are very rare, and this gives room to Sidney, in his Discourses concerning government, to maintain, that Aristotle supposes a man who is not to be found in the world, in order to insinuate, that no man is to be trusted with absolute power. But perhaps that philosopher never conceived any idea of a perfect virtue; and, supposing men to be as they really are, designed only to exclude those vices, which denominate a tyrant." b. 7, c. 6, § 5, note 1

man of admirable wisdom, valour, industry, and goodness; or that the government of one should be continued in such as by chance succeed in a family, because it was given to the first who had all the virtues required, though all the reasons for which the power was given fail in the successor: much less could he say, that any government was good, which was not good for those whose good only it was constituted to promote. SECT. 24

Moreover, by shewing who only is fit to be a monarch, or may be made such, without violating the laws of nature and justice, he shews who cannot be one. And he who says, that no such man is to be found, as, according to the opinion of Aristotle, can be a monarch, does most ridiculously allege his authority in favour of monarchs, or the power which some among us would attribute to them. If any thing therefore may be concluded from his words, it is this; that since no power ought to be admitted which is not just; that none can be just, which is not good, profitable to the people, and conducing to the ends for which it is constituted; that no man can know how to direct the power to those ends, can deserve, or administer it, unless he do so far excel all those that are under him in wisdom, justice, valour, and goodness, as to possess more of those virtues than all of them: I say, if no such man, or succession of men be found, no such power is to be granted to any man, or succession of men. But if such power be granted, the laws of nature and reason are overthrown, and the ends for which societies are constituted utterly perverted, which necessarily implies an annihilation of the grant. And if a grant, so made by those who have a right of setting up a government among themselves, do perish through its own natural iniquity and perversity, I leave it to any man, whose understanding and manners are not so entirely corrupted as those of our author, to determine what name ought to be given to that person, who, not excelling all others in civil and moral virtues, in the proportion required by Aristotle, does usurp a power over a nation, and what obedience the people owe to such a one. But if his opinion deserve our regard, the king, by having those virtues, is "omnium optimus," and the best guide to the people, to lead them to happiness by the ways of virtue. And he who assumes the same power, without the qualifications required, is "tyrannus omnium pessimus," leading the people to all manner of ill, and, in consequence, to destruction.

SECTION XXIV

THE POWER OF AUGUSTUS CAESAR WAS NOT GIVEN, BUT USURPED.

Our author's next instance is ingeniously taken from the Romans, "who," he says, "though they were a people greedy of liberty, freed Augustus from the necessity of laws." If it be true, as he affirms, that such a prerogative is instituted only for the preservation of liberty, they who are

CHAP. III most greedy of it ought to be most forward in establishing that which defends it best. But if the weight laid upon the words "greedy of liberty, &c." render his memory and judgment liable to censure, the unpardonable prevarication of citing any act done by the Romans in the time of Augustus, as done freely, shews him to be a man of no faith. "Omnium jura in se traxerat*," says Tacitus of Augustus; nothing was conferred upon him, he took all to himself; there could be nothing of right in that which was wholly usurped. And neither the people nor the senate could do any thing freely, while they were under the power of a mad corrupted soldiery, who first betrayed, and then subdued them. The greatest part of the senate had fallen at the battle of Pharsalia, others had been gleaned up in several places, the rest destroyed by the proscriptions; and that which then retained the name of a senate was made up chiefly of those who had been his ministers, in bringing the most miserable slavery upon their own country. The Roman liberty, and that bravery of spirit by which it had been maintained, was not only abolished, but almost forgotten. All consideration of law and right was trampled under foot; and none could dispute with him, who by the power of the sword had seized the authority both of the senate and people. Nothing was so extravagant, that might not be extorted by the insolent violence of a conqueror, who had thirty mercenary legions to execute his commands. The uncorrupted part of the people, that had escaped the sword of Julius, had either perished with Hirtius and Pansa, Brutus and Cassius, or been destroyed by the detestable triumvirate. Those that remained could lose nothing by a verbal resignation of their liberty, which they had neither strength nor courage to defend. The magistracies were possessed by the creatures of the tyrant; and the people were composed of such as were either born under slavery, and accustomed to obey, or remained under the terror of those arms that had consumed the assertors of their liberty. Our author, standing in need of some Roman example, was obliged to seek it in an age, when the laws were subverted, virtue extinguished, injustice placed in the throne, and such as would not be of the same spirit exposed to the utmost cruelty. This was the time when the sovereign majesty shined in glory; and they who had raised it above the law made it also the object of their religion, by adoring the statues of their oppressor. The corruption of this court spread itself over the best part of the world; and reduced the empire to that irrecoverable weakness in which it languished and perished. This is the state of things that pleases Filmer, and those that are like him, who, for the introduction of the same among us, recommend such an elevation of the sovereign majesty, as is most contrary to the laws of God and men, abhorred by all generous nations, and especially by our ancestors, who thought nothing too dear to be hazarded in the defence of themselves and us from it.

* *Munia senatus, magistratum, legum in se trahere.* Tacit. Annal. l. 1, § 2

SECTION XXV

THE REGAL POWER WAS NOT THE FIRST IN THIS NATION;
NOR NECESSARILY TO BE CONTINUED, THOUGH IT HAD BEEN
THE FIRST.

Truth being uniform in itself, those who desire to propagate it for the good of mankind lay the foundations of their reasonings in such principles, as are either evident to common sense, or easily proved: but cheats and impostors, delighting in obscurity, suppose things that are dubious or false, and think to build one falsehood upon another; and our author can find no better way to persuade us, that all our privileges and laws are from the king, than by saying, "that the first power was the kingly power, which was both in this and in all other nations of the world long before any laws, or any other kind of government was thought of; from whence we must necessarily infer, that the common law, or common customs of this land, were originally the laws and commands of the king." But denying both these points, I affirm,

1. First, that there was a power to make kings before there was any king.
2. Though kings had been the first created magistrates in all places, as perhaps they were in some, it does not follow, that they must continue for ever, or that laws are from them.

To the first. I think no man will deny, that there was a people at Babylon, before Nimrod was king of that place. This people had a power; for no number of men can be without it: nay this people had a power of making Nimrod king, or he could never have been king. He could not be king by succession, for the Scripture shews him to have been the first. He was not king by the right of father, for he was not their father, Cush, Ham, with his elder brothers, and father Noah, being still living; and, which is worst of all, were not kings: for if they who lived in Nimrod's time, or before him, neither were kings, nor had kings, he that ought to have been king over all by the right of nature (if there had been any such thing in nature) was not king. Those who immediately succeeded him, and must have inherited his right, if he had any, did not inherit, or pretend to it: and therefore he that shall now claim a right from nature, as father of a people, must ground it upon something more certain than Noah's right of reigning over his children, or it can have no strength in it.

Moreover, the nations who in and before the time of Nimrod had no kings, had power, or else they could have performed no act, nor constituted any other magistrate, to this day, which is absurd. There was therefore a power in nations before there were kings, or there could never have been any; and Nimrod could never have been king, if the people of Babylon had not made him king, which they could not have done if

CHAP. III they had not a power of making him so. It is ridiculous to say he made himself king; for though he might be strong and valiant, he could not be stronger than a multitude of men. That which forces must be stronger than that which is forced; and if it be true, according to the antient saying, that Hercules himself is not sufficient to encounter two, it is sure more impossible for one man to force a multitude, for that must be stronger than he. If he came in by persuasion, they who were persuaded, were persuaded to consent, that he should be king. That consent therefore made him king. But, "qui dat esse, dat modum esse:" they who made him king, made him such a king as best pleased themselves. He had therefore nothing but what was given: his greatness and power must be from the multitude who gave it: and their laws and liberties could not be from him; but their liberties were naturally inherent in themselves, and their laws were the product of them.

There was a people that made Romulus king. He did not make or beget that people, nor, for any thing we know, one man of them. He could not come in by inheritance, for he was a bastard, the son of an unknown man; and when he died, the right that had been conferred upon him reverted to the people, who, according to that right, chose Numa, Hostilius, Martius, Tarquinius Priscus, and Servius, all strangers, and without any other right than what was bestowed upon them; and Tarquinius Superbus, who invaded the throne "without the command of the "people*," was ejected, and the government of kings abolished, by the same power that had created it.

We know not certainly by what law Moses, and the judges, created by the advice of Jethro, governed the Israelites; but may probably conjecture it to have been by that law which God had written in the hearts of mankind; and the people submitted to the judgment of good and wise men, though they were under no coercive power: but it is certain they had a law, and a regular magistracy, under which they lived, four hundred years before they had a king, for Saul was the first. This law was not therefore from the king, nor by the king; but the king was chosen and made by the people, according to the liberty they had by the law, though they did not rightly follow the rules therein prescribed, and by that means brought destruction upon themselves.

The country in which we live lay long concealed under obscure barbarity, and we know nothing of the first inhabitants, but what is involved in fables, that leave us still in the dark. Julius Caesar is the first who speaks distinctly of our affairs, and gives us no reason to believe there was any monarchy then established among us. Cassivellaunus was occasionally chosen by the nations that were most exposed to the violence of the Romans, for the management of those wars against them †. By others we hear of Boadicia, Arviragus, Galgacus, and many more set up afterwards, when

* Sine jussu populi. Liv. l. 1, c. 49

† Summa imperii bellique administrandi, communi consilio, permissa est Cassivellauno. Caes. Comment. l. 5, § 9

need required; but we find no footsteps of a regular succession either by inheritance or election. And as they had then no kings, or any other general magistrate, that can be said to be equivalent to a king, they might have had none at all, unless they had thought fit. Tacitus mentions a sort of kings, used by the Romans to keep nations in servitude to them*; and though it were true, that there had been such a man as Lucius, and he one of this sort, he is to be accounted only as a Roman magistrate, and signifies no more to our dispute, than if he had been called proconsul, praetor, or by any other name. However there was no series of them: that which was temporary and occasional depended upon the will of those, who, thinking there was occasion, created such a magistrate, and omitted to do so, when the occasion ceased, or was thought to cease; and might have had none at all, if they had so pleased. The magistracy therefore was from them, and depended upon their will.

We have already mentioned the histories of the Saxons, Danes, and Normans, from which nations, together with the Britains, we are descended, and, finding that they were severe assertors of their liberties, acknowledged no human laws but their own, received no kings, but such as swore to observe them, and deposed those who did not well perform their oaths and duty, it is evident, that their kings were made by the people according to the law; and that the law, by which they became what they were, could not be from themselves. Our ancestors were so fully convinced, that in the creation of kings they exercised their own right, and were only to consider what was good for themselves, that without regard to the memory of those who had gone before, they were accustomed to take such as seemed most like, wisely, justly and gently to perform their office; refused those that were suspected of pride, cruelty, or any other vice that might bring prejudice upon the public, what title soever they pretended; and removed such as had been placed in the throne, if they did not answer the opinion conceived of their virtue: which I take to be a manner of proceeding that agrees better with the quality of masters, making laws and magistrates for themselves, than of slaves receiving such as were imposed upon them.

2. To the second. Though it should be granted, that all nations had at the first been governed by kings, it were nothing to the question; for no man, or number of men, was ever obliged to continue in the errors of his predecessors. The authority of custom, as well as of law (I mean in relation to the power that made it to be) consists only in its rectitude; and the same reason which may have induced one or more nations to create kings, when they knew no other form of government, may not only induce them to set up another, if that be found inconvenient to them, but proves, that they may as justly do so, as remove a man who performs not what was expected from him. If there had been a rule given by God, and written in the minds of men by nature, it must have been from the

* Ut haberet instrumenta servitutis et reges. Tacit. in vitâ Agric. § 14. Vide suprà, p. 276

CHAP. III beginning, universal and perpetual; or at least must have been observed by the wisest and best instructed nations: which not being in any measure (as I have proved already) there can be no reason, why a polite people should not relinquish the errors committed by their ancestors in the time of their barbarism and ignorance, and why they should not do it in matters of government, as well as in any other thing relating to life. Men are subject to errors, and it is the work of the best and wisest to discover and amend such as their ancestors may have committed, or to add perfection to those things which by them have been well invented. This is so certain, that whatever we enjoy, beyond the misery in which our barbarous ancestors lived, is due only to the liberty of correcting what was amiss in their practice, or inventing that which they did not know. And I doubt whether it be more brutish to say, we are obliged to continue in the idolatry of the druids, with all the miseries and follies that accompany the most savage barbarity, or to confess, that though we have a right to depart from these, yet we are for ever bound to continue the government they had established, whatever inconveniencies might attend it. Tertullian, disputing with the pagans, who objected the novelty of the christian religion, troubled not himself with refuting that error; but proving Christianity to be good and true, he thought he had sufficiently proved it to be antient*. A wise architect may shew his skill, and deserve commendation for building a poor house of vile materials, when he can procure no better, but he no way ought to hinder others from erecting more glorious fabrics, if they are furnished with the means required. Besides, such is the imperfection of all human constitutions, that they are subject to perpetual fluctuation, which never permits them to continue long in the same condition. Corruptions slide in insensibly, and the best orders are sometimes subverted by malice and violence. So that he, who only regards what was done in such an age, often takes the corruption of the state for the institution, follows the worst example, thinks that to be the first, that is the most antient he knows. And if a brave people, seeing the original defects of their government, or the corruption into which it may be fallen, do either correct and reform what may be amended, or abolish that which was evil in the institution, or so perverted, that it cannot be restored to integrity, these men impute it to sedition, and blame those actions, which, of all that can be performed by men, are the most glorious. We are not therefore so much to inquire after that which is most antient, as that which is best, and most conducing to the good ends to which it was directed. As governments were instituted for the obtaining of justice, and (as our author says) the preservation of liberty, we are not to seek what government was the first, but what best provides for the obtaining of justice, and the preservation of liberty. For whatever the institution be, and how long soever it may have lasted, it is void, if it thwarts, or does not provide for the ends of its establishment. If such a law or custom therefore, as is not good in

* Nullum tempus, nulla praescriptio, occurrit veritati. Tertul. * * * Id antiquius quod verius. Ibid. * * * Vide Apol. § 20, et tract. de Virg. veland. § 1.

itself, had in the beginning prevailed in all parts of the world (which in relation to absolute, or any kind of monarchy, is not true) it ought to be abolished; and if any man should shew himself wiser than others by proposing a law or government, more beneficial to mankind than any that had been formerly known, providing better for justice and liberty than all others had done, he would merit the highest veneration. If any man ask, who shall be judge of that rectitude or pravity which either authorizes or destroys a law? I answer, that as this consists not in formalities and niceties, but in evident and substantial truths, there is no need of any other tribunal than that of common sense, and the light of nature, to determine the matter: and he that travels through France, Italy, Turkey, Germany, and Switzerland, without consulting Bartolus or Baldus, will easily understand whether the countries that are under the kings of France and Spain, the pope and the great Turk, or such as are under the care of a well-regulated magistracy, do best enjoy the benefits of justice and liberty. It is as easily determined, whether the Grecians, when Athens and Thebes flourished, were more free than the Medes; whether justice was better administered by Agathocles, Dionysius, and Phalaris, than by the legal kings and regular magistrates of Sparta; or whether more care was taken, that justice and liberty might be preserved by Tiberius, Caligula, Claudius, Nero, and Vitellius, than by the senate and people of Rome, while the laws were more powerful than the commands of men. The like may be said of particular laws, as those of Nabuchodonosor and Caligula, for worshipping their statutes; our acts of parliament against heretics and Lollards, with the statutes and orders of the inquisition, which is called the holy office. And if that only be a law which is "*sanctio recta, jubens honesta, prohibens contraria,*" the meanest understanding, if free from passion, may certainly know, that such as these cannot be laws, by what authority soever they were enacted, and that the use of them, and others like to them, ought to be abolished for their turpitude and iniquity. Infinite examples of the like nature might be alleged, as well concerning divine as human things. And if there be any laws which are evil, there cannot be an incontestable rectitude in all, and if not in all, it concerns us to examine where it is to be found. Laws and constitutions ought to be weighed; and whilst all due reverence is paid to such as are good, every nation may not only retain in itself a power of changing or abolishing all such as are not so, but ought to exercise that power according to the best of their understanding, and in the place of what was either at first mistaken or afterwards corrupted, to constitute that which is most conducing to the establishment of justice and liberty.

But such is the condition of mankind, that nothing can be so perfectly framed as not to give some testimony of human imbecillity, and frequently to stand in need of reparations and amendments. Many things are unknown to the wisest, and the best men can never wholly divest themselves of passions and affections. By this means the best and wisest are sometimes led into error, and stand in need of successors like to themselves,

CHAP. III selves, who may find remedies for the faults they have committed, and nothing can or ought to be permanent, but that which is perfect. No natural body was ever so well tempered and organized, as not to be subject to diseases, wounds, or other accidents, and to need medicines, and other occasional helps, as well as nourishment and exercise; and he who, under the name of innovation, would deprive nations of the like, does, as much as lies in him, condemn them all to perish by the defects of their own foundations. Some men observing this, have proposed a necessity of reducing every state, once in an age or two, to the integrity of its first principle*: but they ought to have examined, whether that principle be good or evil, or so good, that nothing can be added to it, which none ever was; and this being so, those who will admit of no change would render errors perpetual, and depriving mankind of the benefits of wisdom, industry, experience, and the right use of reason, oblige all to continue in the miserable barbarity of their ancestors: which suits better with the nature of a wolf than that of a man.

Those who are of better understanding weigh all things, and often find reason to abrogate that which their fathers, according to the measure of the knowledge they had, or the state of things among them, had rightly instituted, or to restore that which they had abrogated; and there can be no greater mark of a most brutish stupidity, than for men to continue in an evil way, because their fathers had brought them into it. But if we ought not too strictly to adhere to our own constitutions, those of other nations are less to be regarded by us; for the laws that may be good for one people are not for all, and that which agrees with the manners of one age is utterly abhorrent from those of another. It were absurd to think of restoring the laws of Lycurgus to the present inhabitants of Peloponnesus, who are accustomed to the most abject slavery. It may easily be imagined, how the Romans, Sabines, and Latins, now under the tyranny of the pope, would relish such a discipline as flourished among them after the expulsion of the Tarquins; and it had been no less preposterous to give a liberty to the Parthians of governing themselves, or for them to assume it, than to impose an absolute monarch upon the German nation. Titus Livius, having observed this, says, that if a popular government had been set up in Rome immediately upon the building of the city; and if that fierce people, which was composed of unruly shepherds, herdsmen, fugitive slaves, and outlawed persons, who could not suffer the governments under which they were born, had come to be incited by turbulent orators, they would have brought all into confusion †. Whereas that boisterous humour being gradually tempered by discipline under Romulus, or taught to vent its fury against foreign enemies, and softened by the

* Machiav. Discors. l. 3, c. 1

† Quid futurum fuit, si illa pastorum convenarumque plebs transfuga ex suis populis, sub tutelâ inviolati templi, aut libertatem, aut certè impunitatem adepta, soluta regio metu, agitari coepta esset tribunitiis procellis? . . . Dissipatae res nondum adultae discordiâ forent, &c. Liv. l. 2, c. 1

peaceable reign of Numa, a new race grew up, which, being all of one blood, contracted a love to their country, and became capable of liberty, which the madness of their last king, and the lewdness of his son, gave them occasion to resume. If this was commendable in them, it must be so in other nations. If the Germans might preserve their liberty, as well as the Parthians submit themselves to absolute monarchy, it is as lawful for the descendants of those Germans to continue in it, as for the eastern nations to be slaves. If one nation may justly choose the government that seems best to them, and continue or alter it according to the changes of times and things, the same right must belong to others. The great variety of laws that are or have been in the world proceeds from this; and nothing can better shew the wisdom and virtue, or the vices and folly of nations, than the use they make of this right: they have been glorious or infamous, powerful or despicable, happy or miserable, as they have well or ill executed it.

If it be said, that the law given by God to the Hebrews, proceeding from his wisdom and goodness, must needs be perfect and obligatory to all nations, I answer, that there is a simple and a relative perfection. The first is only in God, the other in the things he has created: "he saw that they were good;" which can signify no more than that they were good in their kind, and suited to the end for which he designed them. For if the perfection were absolute, there could be no difference between an angel and a worm, and nothing could be subject to change or death; for that is imperfection. This relative perfection is seen also by his law given to mankind in the persons of Adam and Noah. It was good in the kind, fit for those times; but could never have been enlarged or altered, if the perfection had been simple; and no better evidence can be given to shew, that it was not so, than that God did afterwards give one much more full and explicit to his people. This law also was peculiarly applicable to that people and season; for, if it had been otherwise, the apostles would have obliged Christians to the entire observation of it, as well as to abstain from idolatry, fornication, and blood. But if all this be not so, then their judicial law, and the form of their commonwealth, must be received by all; no human law can be of any value; we are all brethren; no man has a prerogative above another; lands must be equally divided among all; inheritances cannot be alienated for above fifty years; no man can be raised above the rest, unless he be called by God, and enabled by his Spirit to conduct the people; when this man dies, he that has the same Spirit must succeed, as Joshua did to Moses, and his children can have no title to his office; when such a man appears, a sanhedrim of seventy men, chosen out of the whole people, are to judge such causes as relate to themselves, while those of greater extent and importance are referred to the general assemblies. Here is no mention of a king; and consequently, if we must take this law for our pattern, we cannot have one. If the point be driven to the utmost, and the precept of Deuteronomy, where God permitted them to have a king, if they thought fit, when they came

into

CHAP. III into the promised land, be understood to extend to all nations, every one of them must have the same liberty of taking their own time, choosing him in their own way, dividing the kingdom, having no king, and setting up other governors when they please, as before the election of Saul, and after the return from the captivity: and even when they have a king, he must be such a one as is described in the same chapter, who no more resembles the sovereign majesty that our author adores, and agrees as little with his maxims, as a tribune of the Roman people.

We may therefore conclude, that if we are to follow the law of Moses, we must take it with all the appendages; a king can be no more, and no otherwise, than he makes him: for whatever we read of the kings they had, were extreme deviations from it. No nation can make any law; and our lawyers, burning their books, may betake themselves to the study of the pentateuch; in which though some of them may be well versed, yet probably the profit arising from thence will not be very great.

But, if we are not obliged to live in a conformity to the law of Moses, every people may frame laws for themselves, and we cannot be denied the right that is common to all. Our laws were not sent from heaven, but made by our ancestors according to the light they had, and their present occasions. We inherit the same right from them, and, as we may without vanity say, that we know a little more than they did, if we find ourselves prejudiced by any law that they made, we may repeal it. The safety of the people was their supreme law, and is so to us: neither can we be thought less fit to judge what conduces to that end, than they were. If they in any age had been persuaded to put themselves under the power, or, in our author's phrase, under the sovereign majesty, of a child, a fool, a mad or desperately wicked person, and had annexed the right conferred upon him, to such as should succeed, it had not been a "just and right sanction;" and, having none of the qualities essentially belonging to a law, could not have the effect of a law. It cannot be for the good of a people to be governed by one, who by nature ought to be governed, or by age or accident is rendered unable to govern himself. The public interests, and the concerns of private men in their lands, goods, liberties, and lives (for the preservation of which, our author says, that regal prerogative is only constituted) cannot be preserved by one who is transported by his own passions or follies, a slave to his lusts and vices; or, which is sometimes worse, governed by the vilest of men and women, who flatter him in them, and push him on to do such things as even they would abhor, if they were in his place. The turpitude and impious madness of such an act must necessarily make it void, by overthrowing the ends for which it was made, since that justice which was sought cannot be obtained, nor the evils that were feared, prevented; and they for whose good it was intended must necessarily have a right of abolishing it. This might be sufficient for us, though our ancestors had enslaved themselves. But, God be thanked, we are not put to that trouble: we have no reason to believe we are descended from such fools and beasts, as would willingly

willingly cast themselves, and us, into such an excess of misery and shame, or that they were so tame and cowardly as to be subjected by force or fear. We know the value they set upon their liberties, and the courage with which they defended them: and we can have no better example to encourage us never to suffer them to be violated or diminished.

SECT. 26

SECTION XXVI

THOUGH THE KING MAY BE ENTRUSTED WITH THE POWER OF
CHOOSING JUDGES, YET THAT BY WHICH THEY ACT IS
FROM THE LAW.

I confess, that no laws can be so perfect, as “to provide exactly for every case that may fall out, so as to leave nothing to the discretion of the judges,” who in some measure are to interpret them; but “that laws or customs are ever few, or that the paucity is the reason that they cannot give special rules, or that judges do resort to those principles, or common-law axioms, whereupon former judgments, in cases something alike, have been given by former judges, who all receive their authority from the king in his right to give sentence,” I utterly deny; and affirm,

1. That in many places, and particularly in England, the laws are so many, that the number of them has introduced an uncertainty and confusion, which is both dangerous and troublesome; and the infinite variety of adjudged cases, thwarting and contradicting each other, has rendered these difficulties inextricable. Tacitus imputes a great part of the miseries suffered by the Romans in his time to this abuse, and tells us, that “the laws grew to be innumerable in the worst and most corrupt state of things*,” and that justice was overthrown by them. By the same means in France, Italy, and other places, where the civil law is rendered municipal, judgments are in a manner arbitrary; and though the intention of our laws be just and good, they are so numerous, and the volumes of our statutes, with the interpretations, and adjudged cases, so vast, that hardly any thing is so clear and fixed, but men of wit and learning may find what will serve for a pretence to justify almost any judgment they have a mind to give. Whereas the laws of Moses, as to the judicial part, being short and few, judgments were easy and certain. And in Switzerland, Sweden, and some parts of Denmark, the whole volume that contains them may be read in few hours, and by that means no injustice can be done which is not immediately made evident.

2. Axioms are not rightly grounded upon judged cases; but cases are to be judged according to axioms: the certain is not proved by the uncertain, but the uncertain by the certain; and every thing is to be esteemed

* *Corruptissimâ republicâ plurimæ leges.* Tacit. *Annal.* l. 3, § 27

CHAP. III uncertain, till it be proved to be certain. Axioms in law are, as in mathematics, evident to common sense; and nothing is to be taken for an axiom, that is not so. Euclid does not prove his axioms by his propositions, but his propositions, which are abstruse, by such axioms as are evident to all. The axioms of our law do not receive their authority from Coke or Hales, but Coke and Hales deserve praise for giving judgment according to such as are undeniably true.

3. The judges receive their commissions from the king; and perhaps it may be said, that the custom of naming them is grounded upon a right with which he is entrusted; but their power is from the law, as that of the king also is. For he who has none originally in himself, can give none, unless it be first conferred upon him. I know not how he can well perform his oath to govern according to law, unless he execute the power with which he is entrusted, in naming those men to be judges, whom in his conscience, and by the advice of his council, he thinks the best and ablest to perform that office: but both he and they are to learn their duty from that law, by which they are, and which allots to every one his proper work. As the law intends, that men should be made judges for their integrity and knowledge in the law, and that it ought not to be imagined, that the king will break his trust by choosing such as are not so, till the violation be evident, nothing is more reasonable than to intend, that the judges so qualified should instruct the king in matters of law. But that he who may be a child, over-aged, or otherwise ignorant and incapable, should instruct the judges, is equally absurd, as for a blind man to be a guide to those who have the best eyes; and so abhorrent from the meaning of the law, that the judges, as I said before, are sworn to do justice according to the laws, without any regard to the king's words, letters, or commands. If they are therefore to act according to a set rule, from which they may not depart, what command soever they receive, they do not act by a power from him, but by one that is above both. This is commonly confessed; and though some judges have been found in several ages, who, in hopes of reward and preferment, have made little account of their oath, yet the success that many of them have had, may reasonably deter others from following their example; and if there are not more instances of this kind, no better reason can be given, than that nations do frequently fail, by being too remiss in asserting their own rights, or punishing offenders*, and hardly ever err on the severer side.

4. Judgments are variously given in several states and kingdoms; but he, who would find one where they lie in the breast of the king, must go at least as far as Morocco. Nay, the ambassador who was lately here from that place denied, that they were absolutely in him. However, it is certain, that in England, according to the great charter, judgments are passed by equals: "no man can be imprisoned, disseised of his freehold,

* *Jure igitur plectimur; nisi enim multorum impunita scelera tulissemus, nunquam ad unum tanta pervenisset licentia.* Cic. de Offic. l. 2, § 28.

“deprived of life or limb, unless by the sentence of his peers*.” SECT. 26
 The kings of Judah “judged and were judged;” and the judgments they gave, were in and with the sanhedrim †. In England the kings do not judge, but are judged: and Bracton says, “that in receiving justice “the king is equal to another man ‡;” which could not be, if judgments were given by him, and he were exempted from the judgment of all by that law, which has put all judgments into the hands of the people. This power is executed by them in grand or petty juries, and the judges are assistants to them, in explaining the difficult points of the law, in which, it is presumed, they should be learned. The strength of every judgment consists in the verdict of these juries, which the judges do not give, but pronounce or declare. And the same law that makes good a verdict, given contrary to the advice or direction of the judges, exposes them to the utmost penalties, if, on their own heads, or a command from the king, they should presume to give a sentence, without or contrary to a verdict; and no pretensions to a power of interpreting the law can exempt them, if they break it. The power also, with which the judges are entrusted, is but of a moderate extent, and to be executed “bonâ fide.” Prevarications are capital, as they proved to Tresilian, Empson, Dudley, and many others. Nay, even in special verdicts, the judges are only assistants to the juries, who find it specially, and the verdict is from them, though the judges, having heard the point argued, declare the sense of the law thereupon. Wherefore, if I should grant, that the king might personally assist in judgments, his work could only be to prevent frauds, and, by the advice of the judges, to see that the laws be duly executed, or perhaps to inspect their behaviour. If he has more than this, it must be by virtue of his politic capacity, in which he is understood to be always present in the principal courts, where justice is always done, whether he who wears the crown, be young or old, wise or ignorant, good or bad, or whether he like or dislike what is done.

Moreover, as governments are instituted for the obtaining of justice, and the king is in a great measure entrusted with the power of executing it, it is probable, that the law would have required his presence in the distribution, if there had been but one court; if at the same time he could be present in more than one; if it were certain he would be guilty of no miscarriages; if all miscarriages were to be punished in him, as well as in the judges; or if it were certain he should always be a man of such wisdom, industry, experience, and integrity, as to be an assistance to, and a watch over those who are appointed for the administration of justice. But there being many courts sitting at the same time, of equal authority, in several places far distant from each other; an impossibility that the king should be present in all; no manner of assurance that the same, or greater

* Nullus liber homo capiatur, vel imprisonetur, aut disseisietur de libero tenemento suo, etc. nisi per legale iudicium parium suorum. Mag. Charta. c. 29. Vide supra, p. 345

† Judicabant et iudicabantur. Maimonid. Vide supra, p. 250, 251

‡ In iustitiâ recipiendâ rex cuilibet ex plebe aequalis est. Vide supra, p. 314

CHAP. III miscarriages may not be committed in his presence than in his absence, by himself than others; no opportunity of punishing every delict in him, without bringing the nation into such disorder, as may be of more prejudice to the public, than an injury done to a private man; the law, which intends to obviate offences, or to punish such as cannot be obviated, has directed, that those men should be chosen, who are most knowing in it; imposes an oath upon them, not to be diverted from the due course of justice, by fear or favour, hopes or reward, particularly by any command from the king; and appoints the severest punishments for them, if they prove false to God, and their country.

If any man think, that the words cited from Bracton by our author upon the question, "*Quis primò et principaliter possit, et debeat judicare? sciendum quòd ipse rex, et non alius, si solus ad hoc sufficere possit, cùm ad hoc per virtutem sacramenti teneatur astrictus**," are contrary to what I have said, I desire the context may be considered, that his opinion may be truly understood, though the words, taken simply and nakedly, may be enough for my purpose. For it is ridiculous to infer, that the king has a right of doing any thing, upon a supposition, that it is impossible for him to do it. He therefore, who says the king cannot do it, says it must be done by others, or not at all. But, having already proved, that the king, merely as king, has none of the qualities required for judging all, or any cases; and that many kings have all the defects of age and person, that render men most unable and unfit to give any sentence; we may conclude, without contradicting Bracton, that no king, as king, has a power of judging, because some of them are utterly unable and unfit to do it; and if any one has such a power, it must be conferred upon him by those who think him able and fit to perform that work. When Filmer finds such a man, we must inquire into the extent of that power which is given to him: but this would be nothing to his general proposition; for he himself would hardly have inferred, that because a power of judging in some cases was conferred upon one prince, on account of his fitness and ability, therefore all of them, however unfit and unable, have a power of deciding all cases. Besides, if he believe Bracton, this power of judging is not inherent in the king, but incumbent upon him, by virtue of his oath, which our author endeavours to enervate and annul. But as that oath is grounded upon the law, and the law cannot presume impossibilities and absurdities, it cannot intend, and the oath cannot require, that a man should do that, which he is unable and unfit to do. Many kings are unfit to judge causes: the law cannot therefore intend they should do it. The context also shews, that this imagination of the king's judging all causes, if he could, is merely chimerical: for Bracton says, in the same chapter, that "the power of the king is the power of the law †;" that is, that he has no power but by the law. And the law that aims at justice cannot make it to depend upon the uncertain humour

* Bract. de Leg. l. 3, c. 9, fol. 107

† Potestas sua juris est. Ibid.

of a child, a woman, or a foolish man ; for by that means it would destroy itself. The law cannot therefore give any such power, and the king cannot have it. SECT. 26

If it be said, that all kings are not so ; that some are of mature age, wise, just, and good ; or, that the question is, not what is good for the subject, but what is glorious to the king ; and that he must not lose his right, though the people perish ; I answer, first, that whatever belongs to kings as kings belongs to all kings : this power of judging cannot belong to all, for the reasons above-mentioned : it cannot therefore belong to any, as king, nor, without madness, be granted to any, till he has given testimony of such wisdom, experience, diligence, and goodness, as is required for so great a work. It imports not what his ancestors were ; virtues are not entailed ; and it were less improper for the heirs of Hales and Harvey to pretend, that the clients and patients of their ancestors should depend upon their advice, in matters of law and physic, than for the heirs of a great and wise prince, to pretend to powers given on account of virtue, if they have not the same talents for the performance of the works required.

Common sense declares, that governments are instituted, and judicatures erected, for the obtaining of justice. The king's bench was not established, that the chief justice should have a great office, but that the oppressed should be relieved, and right done. The honour and profit he receives comes in as it were by accident, as the rewards of his service, if he rightly perform his duty : but he may as well pretend he is there for his own sake, as the king. God did not set up Moses or Joshua, that they might glory in having six hundred thousand men under their command, but that they might lead the people into the land they were to possess : that is, they were not for themselves, but for the people ; and the glory they acquired was, by rightly performing the end of their institution. Even our author is obliged to confess this, when he says, that the king's prerogative is instituted, for the good of those that are under it. It is therefore for them that he enjoys it, and it can no otherwise subsist, than in concurrence with that end. He also yields, that " the safety of the people is the supreme law." The right therefore that the king has, must be conformable and subordinate to it. If any one therefore set up an interest in himself, that is not so, he breaks this supreme law ; he does not live and reign for his people, but for himself, and, by departing from the end of his institution, destroys it. And, if Aristotle (to whom our author seems to have a great deference) deserves credit, such a one ceases to be a king, and becomes a tyrant* ; he who ought to have been the best of men, is turned into the worst ; and he, who is recommended to us under the name of a father, becomes a public enemy to the people. The question therefore is not, what is good for the king, but what is good for the people ; and he can have no right repugnant to them.

* Vide *suprà*, p. 249

CHAP. III

Bracton is not more gentle. "The king," says he, "is obliged by his oath, to the utmost of his power, to preserve the church, and the christian world, in peace; to hinder rapine, and all manner of iniquity; to cause justice and mercy to be observed: he has no power but from the law: that only is to be taken for law, quod rectè fuerit definitum*:" he is therefore to cause justice to be done according to that rule, and not to pervert it for his own pleasure, profit, or glory. He may choose judges also, not such as will be subservient to his will, but "viros sapientes, et timentes Deum, in quibus est veritas eloquiorum, et qui oderunt avaritiam †." Which proves that kings, and their officers, do not possess their places for themselves, but for the people, and must be such as are fit and able to perform the duties they undertake. The mischievous fury of those, who assume a power above their abilities, is well represented by the known fable of Phaeton: they think they desire fine things for themselves, when they seek their own ruin. In conformity to this, the same Bracton says, that, "if any man who is unskilful, assume the seat of justice, he falls as from a precipice, &c. and it is the same thing, as if a sword be put into the hand of a madman ‡;" which cannot but affect the king, as well as those who are chosen by him. If he neglect the functions of his office, "he does unjustly, and becomes the vicegerent of the devil; for he is the minister of him whose works he does." This is Bracton's opinion: but desiring to be a more gentle interpreter of the law, I only wish, that princes would consider the end of their institution; endeavour to perform it; measure their own abilities; content themselves with that power which the laws allow; and abhor those wretches, who, by flattery and lyes, endeavour to work upon their frailest passions, by which means they draw upon them that hatred of the people, which frequently brings them to destruction.

Though Ulpian's words, "princeps legibus non tenetur," be granted to have been true in fact, with relation to the Roman empire, in the time when he lived, yet they can conclude nothing against us. The liberty of Rome had been overthrown long before, by the power of the sword, and the law rendered subservient to the will of the usurpers. They were not Englishmen, but Romans, who lost the battles of Pharsalia and Philippi.

* Debet rex in coronatione sua, in nomine Jesu Christi praestito sacramento, haec tria promittere populo sibi subdito. Imprimis, se esse praecepturum, et pro viribus opem impensurum, ut ecclesiae Dei et omni populo Christiano vera pax omni suo tempore observetur. Secundò, ut rapacitates et omnes iniquitates omnibus gradibus interdicat. Tertio, ut in omnibus judiciis aequitatem praecipiat et misericordiam. . . . Nihil aliud potest rex in terris, nisi id solum quod de jure potest . . . Legis habet vigorem, non quicquid de voluntate regis temerè praesumptum est, sed animo condendi jura, sed quod consilio magistratuum suorum, rege auctoritatem praestante, et habità super hoc deliberatione, et tractatu, rectè fuerit definitum. Bract. l. 3, c. 9, fol. 107

† Ibid. c. 10, fol. 108

‡ Si quis minus sapiens, et indoctus, sedem judicandi conscendere, et honestatem judicandi sibi praesumerit, ex alto corruit, quia volare satagit, antequam pennas assumat; et qui tali potestatem judicandi dederit perinde erit, ac si gladium poneret in manu furientis. c. 10, fol. 108. l. 1, c. 2, fol. 1

The carcases of their senators, not ours, were exposed to the wolves and vulturs. Pompeius, Scipio, Lentulus, Afranius, Petreius, Catò, Cassius, and Brutus, were defenders of the Roman, not the English liberty; and that of their country, not ours, could only be lost by their defeat. Those who were destroyed by the proscriptions left Rome, not England, to be enslaved. If the best had gained the victory, it could have been no advantage to us, and their overthrow can be no prejudice. Every nation is to take care of their own laws; and whether any one has had the wisdom, virtue, fortune, and power, to defend them or not, concerns only themselves. The examples of great and good men acting freely deserve consideration; but they only perish by the ill success of their designs; and whatever is afterwards done by their subdued posterity ought to have no other effect upon the rest of the world, than to admonish them so to join in the defence of their liberties, as never to be brought under the necessity of acting by the command of one, to the prejudice of themselves, and their country. If the Roman greatness persuade us to put an extraordinary value upon what passed among them, we ought rather to examine what they did, said, or thought, when they enjoyed that liberty, which was the mother and nurse of their virtue, than what they suffered, or were forced to say, when they were fallen under that slavery which produced all manner of corruption, and made them the most base and miserable people of the world.

For what concerns us, the actions of our ancestors resemble those of the antient rather than the later Romans. Though our government be not the same with theirs in form, yet it is in principle; and if we are not degenerated, we shall rather desire to imitate the Romans in the time of their virtue, glory, power, and felicity, than what they were, in that of their slavery, vice, shame, and misery. In the best times, when "the laws were more powerful than the commands of men*," fraud was accounted a crime so detestable as not to be imputed to any but slaves; and he who had fought a power above the law, under colour of interpreting it, would have been exposed to scorn or greater punishments, if any can be greater than the just scorn of the best men. And as neither the Romans, nor any people of the world, have better defended their liberties than the English nation, when any attempt has been made to oppress them by force, they ought to be no less careful to preserve them from the more dangerous efforts of fraud and falsehood.

Our ancestors were certainly in a low condition in the time of William the first: many of their best men had perished in the civil wars, or with Harold: their valour was great, but rough, and void of skill. The Normans by frequent expeditions into France, Italy, and Spain, had added subtilty to the boisterous violence of their native climate. William had engaged his faith, but broke it, and turned the power with which he was entrusted to the ruin of those that had trusted him. He destroyed many

* Imperia legum potentiora quàm hominum. Liv. l. 2, c. 1

CHAP. III worthy men, carried others into Normandy, and thought himself master of all. He was crafty, bold, and elated with victory; but the resolution of a brave people was invincible. When their laws and liberties were in danger, they resolved to die, or to defend them; and made him see he could no otherwise preserve his crown and life, than by the performance of his oath, and accomplishing the ends of his election. They neither took him to be the giver nor interpreter of their laws, and would not suffer him to violate those of their ancestors. In this way they always continued. And though perhaps they might want skill to fall upon the surest and easiest means of restraining the lusts of princes, yet they maintained their rights so well, that the wisest princes seldom invaded them; and the success of those who were so foolish as to attempt it was such, as may justly deter others from following their unprosperous examples. We have had no king since William the first more hardy than Henry the eighth, and yet he so entirely acknowledged the power of making, changing, and repealing laws, to be in the parliament, as never to attempt any extraordinary thing otherwise than by their authority. It was not he, but the parliament, that dissolved the abbies. He did not take their lands to himself, but received what the parliament thought fit to give him. He did not reject the supremacy of the pope, nor assume any other power in spiritual matters than the parliament conferred upon him. The intricacies of his marriages, and the legitimation of his children, were settled by the same power: at least one of his daughters could not inherit the crown upon any other title. They who gave him a power to dispose of the crown by will might have given it to his groom; and he was too haughty to ask it from them, if he had it in himself; which he must have had, if the laws and judicatures had been in his hand.

This is farther evidenced by what passed in the tower between Sir Thomas More, and Rich the king's solicitor; who asking, if it would not be treason to oppose Richard Rich, if the parliament should make him king, More said that was "casus levis;" for the parliament could make and depose kings as they thought fit; and then (as more conducing to his own case) asked Rich, if the parliament should enact, "that God should not be God," whether such as did not submit should be esteemed traitors*? It is evident, that a man of the acuteness and learning of Sir Thomas More would not have made use of such an argument to avoid the necessity of obeying what the parliament had ordained, by shewing his case to be of a nature far above the power of man, unless it had been confessed by all men, that the parliament could do whatever lay within the reach of human power. This may be enough to prove, that the king cannot have a power over the law; and, if he has it not, the power of interpreting laws is absurdly attributed to him, since it is founded upon a supposition, that he can make them, which is false.

* See Herbert's Life of Hen. VIII, anno 1535

SECTION XXVII

MAGNA CHARTA WAS NOT THE ORIGINAL, BUT A DECLARATION, OF THE ENGLISH LIBERTIES. THE KING'S POWER IS NOT RESTRAINED, BUT CREATED, BY THAT AND OTHER LAWS; AND THE NATION THAT MADE THEM CAN ONLY CORRECT THE DEFECTS OF THEM.

I agree with our author, that "Magna Charta was not made to restrain the absolute authority;" for no such thing was in being or pretended (the folly of such visions seeming to have been reserved to complete the misfortunes and ignominy of our age) but it was to assert the native and original liberties of our nation by the confession of the king then being, that neither he nor his successors should any way encroach upon them. And, it cannot be said that the power of kings is diminished by that or any other law; for as they are kings only by law, the law may confer power upon one in particular, or upon him and his successors; but can take nothing from them, because they have nothing except what is given to them. But as that which the law gives is given by those who make the law, they only are capable of judging whether he to whom they gave it, do well or ill employ that power, and consequently are only fit to correct the defects that may be found in it. Therefore, though I should confess, that faults may be found in many statutes, and that the whole body of them is greatly defective, it will not follow, that the compendious way of referring all to the will of the king should be taken. But what defects soever may be in our law, the disease is not so great as to require extreme remedies, and we may hope for a cheaper cure. Our law may possibly have given away too much from the people, and provided only insufficient defences of our liberties against the encroachments of bad princes; but none, who are not in judgment and honesty like to our author, can propose, for a remedy to the evils that proceed from the error of giving too much, the resignation of all the rest to them. Whatever he says, it is evident, that he knows this to be true, though, when he denies that the power of kings can be restrained by acts of parliament, he endeavours to take advantage of such clauses as were either fraudulently inserted by the king's officers, who till the days of Henry the fifth, for the most part had the penning of the public acts, or through negligence did not fully explain the intentions of the legislators; which would be to no purpose, if all were put into the hands of the king by a general law from God, that no human power could diminish or enlarge; and as his last shift would obliquely put all into the power of the king, by giving him a right of interpreting the law, and judging such cases as are not clearly decided; which would be equally impertinent, if he had openly and plainly a right of determining all things according to his will.

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But what defects soever may be in any statutes, no great inconveniences could probably ensue, if that for annual parliaments was observed, as of right it ought to be. Nothing is more unlikely, than that a great assembly of eminent and chosen men should make a law evidently destructive to their own designs; and no mischief, that might emerge upon the discovery of a mistake, could be so extreme, that the cure might not be deferred till the meeting of the parliament, or at least forty days (in which time the king may call one) if that which the law has fixed seem to be too long. If he fail of this, he performs not his trust; and he that would reward such a breach of it, with a vast and uncontrollable power, may be justly thought equal in madness to our author, who by forbidding us to examine the titles of kings, and injoining an entire veneration of the power, by what means soever obtained, encourages the worst of men to murder the best of princes, with an assurance, that, if they prosper, they shall enjoy all the honours and advantages that this world can afford.

Princes are not much more beholden to him for the haughty language he puts into their mouths, it having been observed, that the worst are always most ready to use it; and their extravagances having been often chastised by law sufficiently proves, that their power is not derived from a higher original, than the law of their own countries.

If it were true, that the answer sometimes given by kings to bills presented for their assent, did, as our author says, amount to a denial, it could only shew, that they have a negative voice upon that which is agreed by the parliament, and is far from a power of acting by themselves, being only a check upon the other parts of the government. But indeed it is more than an elusion; and he, that does by art obliquely elude, confesses he has not a right absolutely to refuse. It is natural to kings, especially to the worst, to screw up their authority to the height; and nothing can more evidently prove the defect of it, than the necessity of having recourse to such pitiful evasions, when they are unwilling to do that which is required. But if I should grant, that the words import a denial, and that (notwithstanding those of the coronation oath, "quas vulgus elegerit") they might deny, no more could be inferred from thence, than that they are entrusted with a power equal, in that point, to that of either house, and cannot be supreme in our author's sense, unless there were in the same state at the same time three distinct supreme and absolute powers; which is absurd.

His cases, relating to the proceedings of the star-chamber and council-table, do only prove, that some kings have encroached upon the rights of the nation, and been suffered till their excesses growing to be extreme, they turned to the ruin of the ministers that advised them, and sometimes of the kings themselves. But the jurisdiction of the council having been regulated by the statute of the 16 Car. I. and the star-chamber more lately abolished, they are nothing to our dispute.

Such as our author usually impute to treason and rebellion the changes that upon such occasions have ensued; but all impartial men do not only justify

justify them, but acknowledge, that all the crowns of Europe are at this day enjoyed by no other title than such acts solemnly performed by the respective nations, who, either disliking the person that pretended to the crown (though next in blood) or the government of the present possessor, have thought fit to prefer another person or family. They also say, that as no government can be so perfect but some defect may be originally in it, or afterwards introduced, none can subsist, unless they be from time to time reduced to their first integrity, by such an exertion of the power of those for whose sake they were instituted, as may plainly shew them to be subject to no power under heaven, but may do whatever appears to be for their own good. And as the safety of all nations consists in rightly placing and measuring this power, such as have been found always to prosper, who have given it to those from whom usurpations were least to be feared; who have been least subject to be awed, cheated, or corrupted; and who, having the greatest interest in the nation, were most concerned to preserve its power, liberty, and welfare. This is the greatest trust that can be reposed in men. This power was by the Spartans given to the ephori, and the senate of twenty eight; in Venice to that which they call “*concilio de pregadi**;” in Germany, Spain, France, Sweden, Denmark, Poland, Hungary, Bohemia, Scotland, England, and generally all the nations that have lived under the Gothic polity, it has been in their general assemblies under the names of diets, cortes, parliaments, senates, and the like. But in what hands soever it is, the power of making, abrogating, changing, correcting, and interpreting laws, has been in the same; kings have been rejected or deposed; the succession of the crown settled, regulated, or changed: and I defy any man to shew me one king among all the nations above-mentioned, that has any right to the crown he wears, unless such acts are good.

If this power be not well placed, or rightly proportioned to that which is given to other magistrates, the state must necessarily fall into great disorders, or the most violent and dangerous means must be frequently used to preserve their liberty. Sparta and Venice have rarely been put to that trouble, because the senates were so much above the kings and dukes in power, that they could without difficulty bring them to reason. The Gothic kings in Spain never ventured to dispute with the nobility; and Vitiza and Roderic exposed the kingdom as a prey to the Moors, rather by weakening it through the neglect of military discipline, joined to their own ignorance and cowardice, and by evil example bringing the youth to resemble them in lewdness and baseness, than by establishing in themselves a power above the law. But in England our ancestors, who seem to have had some such thing in their eye, as balancing the powers, by a fatal mistake placed usually so much in the hands of the king, that whenever he

* The Venetian senate is called *Concilio de pregadi*, because formerly the principal members of the city were called together, or “invited,” when any extraordinary emergency required their attendance.

CHAP. III happened to be bad, his extravagances could not be repressed without great danger. And as this has in several ages cost the nation a vast proportion of generous blood, so it is the cause of our present difficulties, and threatens us with more, but can never deprive us of the rights we inherit from our fathers.

SECTION XXVIII

THE ENGLISH NATION HAS ALWAYS BEEN GOVERNED BY ITSELF,
OR ITS REPRESENTATIVES.

Having proved, that the people of England have never acknowledged any other human law than their own, and that our parliaments only, having the power of making and abrogating laws, can interpret them, and decide hard cases, it plainly appears there can be no truth in our author's assertion, that "the king is the author, corrector, and moderator of both statute and common law." And nothing can be more frivolous than what he adds, that "neither of them can be a diminution of that natural power which kings have over their people as fathers;" inasmuch as the differences between paternal and monarchical power (as he asserts it) are vast and irreconcilable in principle and practice, as I have proved at large in the former parts of this work.

But lest we should be too proud of the honour he is pleased to do to our parliaments by making use of their authority, he says, "we are first to remember, that till the conquest" (which name, for the glory of our nation, he gives to the coming in of the Normans) "there could be no parliaments assembled of the general states, because till those days we cannot find it was entirely united into one kingdom." Secondly, he doubts, "whether the parliaments, in the time of the Saxons, were composed of the nobility and clergy, or whether the commons were also called;" but concludes, "there could be no knights of any shires, because there were no shires." Thirdly, "that Henry the first caused the commons first to assemble knights and burgessees of their own choosing;" and would make this to be an act of grace and favour from that king: but adds, that "it had been more for the honour of parliaments, if a king, whose title to the crown had been better, had been the author of the form of it."

In answer to the first, I do not think myself obliged to insist upon the name or form of the parliament; for the authority of a magistracy proceeds not from the number of years that it has continued, but the rectitude of the institution, and the authority of those that instituted it. The power of Saul, David, and Jeroboam, was the same with that which belonged to the last kings of Israel and Judah. The authority of the Roman consuls, dictators, praetors, and tribunes, was the same as soon as it was established; was as legal and just as that of the kings of Denmark, which

is said to have continued above three thousand years. For as time can make nothing lawful or just, that is not so of itself (though men are unwilling to change that which has pleased their ancestors, unless they discover great inconveniences in it) that which a people does rightly establish for their own good is of as much force the first day, as continuance can ever give to it: and therefore in matters of the greatest importance, wise and good men do not so much inquire what has been, as what is good, and ought to be; for that which of itself is evil, by continuance is made worse, and, upon the first opportunity, is justly to be abolished. But if that liberty, in which God created man, can receive any strength from continuance, and the rights of Englishmen can be rendered more unquestionable by prescription, I say, that the nations, whose rights we inherit, have ever enjoyed the liberties we claim, and always exercised them in governing themselves popularly, or by such representatives as have been instituted by themselves, from the time they were first known in the world.

The Britons and Saxons lay so long hid in the obscurity that accompanies barbarism, that it is in vain to seek what was done by either in any writers more antient than Caesar and Tacitus. The first describes the Britons to have been a fierce people, zealous for liberty, and so obstinately valiant in the defence of it, that though they wanted skill, and were overpowered by the Romans, their country could no otherwise be subdued, than by the slaughter of all the inhabitants that were able to bear arms. He calls them a free people, inasmuch as they were not like the Gauls, governed by laws made by the great men, but by the people. In his time they chose Cassivellaunus, and afterwards Caractacus, Arviragus, Galgacus, and others, to command them in their wars, but they retained the government in themselves. That no force might be put upon them, they met armed in their general assemblies; and though the smaller matters were left to the determination of the chief men, chosen by themselves for that purpose, they reserved the most important (among which the choosing of those men was one) to themselves. When the Romans had brought them low, they set up certain kings to govern such as were within their territories*: but those who defended themselves by the natural strength of their situation, or retired into the north, or the islands, were still governed by their own customs, and were never acquainted with domestic or foreign slavery. The Saxons, from whom we chiefly derive our original and manners, were no less lovers of liberty, and better understood the ways of defending it. They were certainly the most powerful and valiant people of Germany; and what the Germans performed under Ariovistus, Arminius, and Maroboduus, shews both their force, and their temper. If ever fear entered into the heart of Caesar, it seems to have been when he had to deal with Ariovistus. The advantages, that the brave Germanicus obtained against Arminius, were at least thought equal

* Ut haberet instrumenta servitutis et reges. Tacit. in vitâ Agricæ § 14.

CHAP. LII to the greatest victories that had been gained by any Roman captain, because these nations fought not for riches, or any instruments of luxury or pleasure, which they despised, but for liberty. This was the principle in which they lived, as appears by their words and actions so that Arminius, when his brother Flavius, who served the Romans, boasted of the increase of his pay, and the marks of honour he had received, in scorn called them the “rewards of the vilest servitude*.” But when he himself endeavoured to usurp a power over the liberty of his country, which he had so bravely defended, he was killed by those he would have oppressed. Tacitus, farther describing the nature of the Germans, shews that the Romans had run greater hazards from them than from the Samnites, Carthaginians, and Parthians; and attributes their bravery to the liberty they enjoyed, for they are, says he, neither exhausted by tribute, nor vexed by publicans †. And lest this liberty should be violated, “the chief men consult about things of lesser moment, but the most important matters are determined by all ‡.” Whoever would know the opinion of that wise author concerning the German liberty, may read his excellent treatise of their manners and customs; but I presume this may be enough to prove, that they lived free under such magistrates as they chose, regulated by such laws as they made, and retained the principal powers of the government in their general or particular councils. Their kings and princes had no other power than was conferred upon them by these assemblies, who, having all in themselves, could receive nothing from them, who had nothing to give §.

It is as easily proved, that the Saxons or Angli, from whom we descend, were eminent among those, whose power, virtue, and love to liberty the above-mentioned historian so highly extols, inasmuch as, besides what he says in general of the Saxons, he names the Angli, describes their habitation near the Elb, and their religious worship of the goddess Erthum, or the Earth ¶, celebrated in an island lying in the mouth of that river, thought to be Heyligland, in resemblance of which a small one lying over against Berwick, is called Holy island. If they were free in their own country, they must be so when they came hither. The

* Flavius aucta stipendia, torquem, et coronam, aliaque militaria dona memorat, irridente Arminio vilia servitii pretia. Tacit. Annal. l. 2, § 9

† Quippe regno Arfacis acrior est Germanorum libertas. Tacit. de Morib. Germ. § 37. — Batavi exempti oneribus et collationibus, et tantum in usum praeliorum sepositi, velut tela atque arma bellis reservantur. Ibid. § 29

‡ De minoribus rebus principes consultant, de majoribus omnes. Ibid. § 11

§ Ut turbæ placuit, confidunt armatis: silentium per sacerdotes, quibus tum et coercendi jus est, imperatur. Mox rex vel princeps, prout aetas cuique, prout nobilitas, prout decus bellorum, prout facundia est, audiuntur, auctoritate suadendi magis quam jubendi potestate. Si displicuit sententia, fremitu aspernantur; sin placuit, frameas concutiunt. Ibid. § 11

¶ Nec quidquam notabile in singulis, nisi quod in commune Herthum, id est, Terram matrem colunt, eamque intervenire rebus hominum, invehi populis arbitrantur. Est in insulâ oceani castum nemus, dicatum in eo vehiculum veste contactum, attingere uni sacerdoti concessum. Is adesse penetrali deam intelligit, vectamque bubus feminis multâ cum veneratione prosequitur. Ibid. § 40

manner of their coming shews they were more likely to impose, than submit to slavery; and if they had not the name of parliament, it was because they did not speak French; or, not being yet joined with the Normans, they had not thought fit to put their affairs into that method: but, having the root of power and liberty in themselves, they could not but have a right of establishing the one in such form as best pleased them, for the preservation of the other.

This being, as I suppose, undeniable, it imports not whether the assemblies, in which the supreme power of each nation did reside, were frequent or rare; composed of many or few persons; sitting all together in one place, or in more; what name they had; or whether every free man did meet and vote in his own person, or a few were delegated by many. For they who have a right inherent in themselves, may resign it to others; and they who can give a power to others may exercise it themselves, unless they recede from it by their own act; for it is only matter of convenience, of which they alone can be the judges, because it is for themselves only that they judge. If this were not so, it would be very prejudicial to kings: for it is certain that Cassivellaunus, Caractacus, Arviragus, Galgacus, Hengist, Horfa, and others among the Britons and Saxons, what name soever may have been abusively given to them, were only temporary magistrates chosen upon occasion of present wars; but we know of no time in which the Britons had not their great council to determine their most important affairs: and the Saxons in their own country had their councils, where all were present, and in which Tacitus assures us they dispatched their greatest business. These were the same with the micel-gemotes which they afterwards held here, and might have been called by the same name, if Tacitus had spoken Dutch.

If a people therefore have not a power to create at any time a magistracy which they had not before, none could be created at all; for no magistracy is eternal. And if for the validity of the constitution it be necessary, that the beginning must be unknown, or that no other could have been before it, the monarchy among us cannot be established upon any right; for, though our ancestors had their councils and magistrates, as well here as in Germany, they had no monarchs. This appears plainly by the testimony of Caesar and Tacitus; and our later histories shew, that as soon as the Saxons came into this country, they had their micel-gemotes, which were general assemblies of the noble and free-men, who had in themselves the power of the nation: and though when they increased in numbers, they erected seven kingdoms, yet every one retained the same usage within itself. These assemblies were evidently the same in power with our parliaments; and though they differed in name or form, it matters not; for they who could act in the one, could not but have a power of instituting the other; that is, the same people that could meet together in their own persons, and according to their own pleasure order all matters relating to themselves, whilst three or four counties only were under one government, and their numbers were not so great, or their habitation so far distant, that they

CHAP. III they might not meet all together without inconvenience, with the same right might depute others to represent them, when, being joined in one, no place was capable of receiving so great a multitude, and the frontiers would have been exposed to the danger of foreign invasions, if any such thing had been practised.

But if the authority of parliaments, for many ages representing the whole nation, were less to be valued, as our author insinuates, because they could not represent the whole, when it was not joined in one body, that of kings must come to nothing; for there could be no one king over all, when the nation was divided into seven distinct governments: and it is most absurd to think, that the nation, which had seven great councils, or micel-gemotes, at the same time they had seven kingdoms, could not as well unite the seven councils as the seven kingdoms into one. It is to as little purpose to say, that the nation did not unite itself, but the several parcels came to be inherited by one; for that one could inherit no more from the others than what they had; and the seven being only magistrates set up by the micel-gemotes, &c. the one must be so also. And it is neither reasonable to imagine, nor possible to prove, that a fierce nation, jealous of liberty, and who had obstinately defended it in Germany, against all invaders, should conquer this country to enslave themselves, and purchase nothing by their valour but that servitude which they abhorred; or be less free when they were united into one state, than they had been when they were divided into seven; and least of all, that one man could first subdue his own people, and then all the rest, when, by endeavouring to subdue his own, he had broken the trust reposed in him, and lost the right conferred upon him, and without them had not power to subdue any. But as it is my fate almost ever to dissent from our author, I affirm that the variety of government, which is observed to have been among the Saxons, who in some ages were divided, in others united, sometimes under captains, in other times under kings, sometimes meeting personally in the micel-gemotes, sometimes by their delegates in the wittena-gemotes, does evidently testify, that they ordered all things according to their own pleasure; which being the utmost act of liberty, it remained inviolable under all those changes, as we have already proved by the examples of Offa, Ina, Alfred, Canutus, Edward, and other particular, as well as universal kings: and we may be sure those of the Norman race can have no more power, since they came in by the same way, and swore to govern by the same laws.

2. I am no way concerned in our author's doubt, "whether parliaments did, in those days, consist of nobility and clergy; or whether the commons were also called." For if it were true, as he asserts, that, according to the eternal law of God and nature, there can be no government in the world but that of an absolute monarch, whose sovereign majesty can be diminished by no law or custom, there could be no parliaments, or other magistracies, that did not derive their power and being from his will. But having proved, that the Saxons had their general councils

councils and assemblies, when they had no kings, that by them kings were made, and the greatest affairs determined, whether they had kings or not, it can be of no importance, whether in one or more ages the commons had a part in the government, or not. For the same power that instituted a parliament without them might, when they thought fit, receive them into it: or rather, if they who had the government in their hands did, for reasons known to themselves, recede from the exercise of it, they might resume it when they pleased.

Nevertheless it may be worth our pains to inquire, what our author means by nobility. If such, as at this day by means of patents obtained for money, or by favour, without any regard to merit in the persons, or their ancestors, are called dukes, marquises, &c. I give him leave to impute as late and base an original to them as he pleases, without fearing, that the rights of our nation can thereby be impaired; and am content, that, if the king do not think fit to support the dignity of his own creatures, they may fall. But if by noblemen we are to understand such as have been ennobled by the virtues of their ancestors, manifested in services done to their country, I say, that all nations, among whom virtue has been esteemed, have had a great regard to them and their posterity. And though kings, when they were made, have been entrusted by the Saxons, and other nations, with a power of ennobling those, who, by services rendered to their country, might deserve that honour, yet the body of the nobility was more antient than such; for it had been equally impossible to take kings, according to Tacitus, out of the nobility*, if there had been no nobility, as to take captains for their virtue, if there had been no virtue. Princes could not, without breach of trust, confer honours upon those that did not deserve them: which is so true, that this practice was objected as the greatest crime against Vortigern, the last and the worst of the British kings †. And though he might pretend (according to such cavils as are usual in our time) that the judgment of those matters was referred to him, yet the world judged of his crimes; and when he had rendered himself odious to God and men by them, he perished in them, and brought destruction upon his country, that had suffered them too long.

As among the Turks, and most of the eastern tyrannies, there is no nobility, and no man has any considerable advantage above the common people, unless by the immediate favour of the prince, so in all the legal kingdoms of the north, the strength of the government has always been placed in the nobility; and no better defence has been found against the encroachments of ill kings, than by setting up an order of men, who, by

* Reges ex nobilitate, duces ex virtute sumunt. Tacit. de Morib. Germ. § 7

† Sublimato eo, coepit lues omnium scelerum crescere: saeviebat scurrilis nequitia, odium veritatis, contemptus Dei, litigium, contentio luxûs, flagitium, ut vas omnium scelerum solus videretur Vortigernus: et, quod maximè regiae honestati contrarium est, nobiles deprimens, et moribus et sanguine ignobiles extollens, Deo et hominibus efficitur odiosus. Mat. Westm. sub ann. 445, p. 80

CHAP. III holding large territories, and having great numbers of tenants and dependents, might be able to restrain the exorbitances, that either the kings, or the commons, might run into. For this end Spain, Germany, France, Poland, Denmark, Sweden, Scotland, and England, were almost wholly divided into lordships under several names, by which every particular possessor owed allegiance (that is, such an obedience as the law required) to the king, and he reciprocally swore to perform that which the same law exacted from him.

When these nations were converted to the Christian religion, they had a great veneration for the clergy; and, not doubting but that the men whom they esteemed holy would be just, thought their liberties could not be better secured, than by joining those, who had the direction of their consciences, to the noblemen who had the command of their forces. This succeeded so well, in relation to the defence of the public rights, that in all the fore-mentioned states, the bishops, abbots, &c. were no less zealous or bold in defending the public liberty, than the best and greatest of the lords. And if it were true, that things being thus established, the commons did neither personally, nor by their representatives, enter into the general assemblies, it could be of no advantage to kings: for such a power as is above-mentioned is equally inconsistent with the absolute sovereignty of kings, if placed in the nobility and clergy, as if the commons had a part. If the king has all, no other man, nor number of men, can have any. If the nobility and clergy have the power, the commons may have their share also. But I affirm, that those whom we now call commons have always had a part in the government, and their place in the councils that managed it; for if there was a distinction, it must have been by patent, birth, or tenure.

As for patents, we know they began long after the coming of the Normans, and those that now have them cannot pretend to any advantage on account of birth or tenure, beyond many of those who have them not. Nay, besides the several branches of the families that now enjoy the most antient honours, which consequently are as noble as they, and some of them of the elder houses, we know many that are now called commoners, who in antiquity and eminency are no way inferior to the chief of the titular nobility: and nothing can be more absurd, than to give a prerogative of birth to Craven, Tufton, Hyde, Bennet, Osborn, and others, before the Cliftons, Hampdens, Courtneys, Pelhams, St. Johns, Baintons, Wilbrahams, Hungerfords, and many others. And if the tenures of their estates be considered, they have the same, and as antient as any of those who go under the names of duke, or marquis. I forbear to mention the fordid ways of attaining to titles in our days; but whoever will take the pains to examine them shall find, that they rather defile than ennoble the possessors. And whereas men are truly ennobled only by virtue, and respect is due to such as are descended from those who have bravely served their country, because it is presumed, till they shew the contrary, that they will resemble their ancestors, these modern courtiers, by their names
and

and titles, frequently oblige us to call to mind such things as are not to be mentioned without blushing. Whatever the antient noblemen of England were, we are sure they were not such as these. And though it should be confessed, that no others than dukes, marquises, earls, viscounts, and barons, had their places in the councils mentioned by Caesar and Tacitus, or in the great assemblies of the Saxons, it could be of no advantage to such as are now called by those names. They were the titles of offices conferred upon those, who did and could best conduct the people in time of war, give counsel to the king, administer justice, and perform other public duties; but were never made hereditary except by abuse; much less were they sold for money, or given as recompences of the vilest services. If the antient order be totally inverted, and the ends of its institution perverted, they, who from thence pretend to be distinguished from other men, must build their claim upon something very different from antiquity.

This being sufficient, if I mistake not, to make it appear, that the antient councils of our nation did not consist of such as we now call noblemen, it may be worth our pains to examine, of what sort of men they did consist. And though I cannot much rely upon the credit of Camden, which he has forfeited by a great number of untruths, I will begin with him, because he is cited by our author. If we will believe him, “that which the Saxons called wittena-gemote, we may justly name parliament, which has the supreme and most sacred authority of making, abrogating, and interpreting laws, and generally of all things relating to the safety of the commonwealth*.” This wittena-gemote was, according to William of Malmesbury, “the general meeting of the senate and people †;” and Sir Harry Spelman calls it, “the general council of the clergy and people ‡.” In the assembly at Calchuth it was decreed by the archbishops, bishops, abbots, dukes, senators, and the people of the land (populo terrae) that “the kings should be elected by the priests and elders of the people §.” By these Offa, Ina, and others, were made kings; and Alfred, in his will, acknowledged his crown from them ¶. Edgar was elected by all the people, and not long after deposed by them, and again restored in a general assembly **. These things being sometimes

* Quod Saxones olim wittena-gemot, id est, sapientium conventus, nos PARLAMENTUM; et ut universum Aetoliae concilium Panaetolium Livio nominatur, ita PANANGLIUM rectè dici possit. Ex tribus enim Angliae ordinibus constat, et totius Angliae corpus repraesentat, à principe pro arbitrio indicitur, summamque et sacrosanctam auctoritatem habet, in legibus ferendis, confirmandis, antiquandis, interpretandis, et in omnibus quae ad reipublicae salutem spectant. Camd. Brit. p. 106, Edit. Franc. 1590

† Generalis senatus et populi conventus. Malmesb. l. 3, p. 99

‡ Commune concilium tam cleri quam populi. Hoc erat Concil. Cantuariae sub Ethelberto rege, anno 605. Spelm. Concil. p. 127

§ Ut reges à sacerdotibus et senioribus populi eligantur. Spelm. Concil. p. 296

¶ Quam Deus ac principes cum senioribus populi misericorditer ac benignè dederunt. Testam. Alfredi. Vide suprà, p. 322

** Coram omni multitudine populi Anglorum. Spelm. Concil. sub ann. 969, p. 482. Vide suprà, p. 322

CHAP. III said to be done by the assent of the barons of the kingdom, Camden says, that "under the name of the baronage, all the orders of the kingdom are in a manner comprehended*;" and it cannot be otherwise understood, if we consider, that those called noblemen, or the nobility of England, are often, by the historians, said to be "infinita multitudo," an infinite multitude.

If any man ask how the nobility came to be so numerous, I answer, that the northern nations, who were perpetually in arms, put a high esteem upon military valour; fought by conquest to acquire better countries than their own; valued themselves according to the numbers of men they could bring into the field; and to distinguish them from villains, called those noblemen, who nobly defended and enlarged their dominions by war; and for a reward of their services, in the division of lands gained by conquest, they distributed to them freeholds, under the obligation of continuing the same service to their country. This appears by the name of knight's service, a knight being no more than a soldier, and a knight's fee no more than was sufficient to maintain one. It is plain, that knighthood was always esteemed nobility; so that no man, of what quality soever, thought a knight inferior to him, and those of the highest birth could not act as noblemen till they were knighted. Among the Goths in Spain, the cutting off the hair (which being long was the mark of knighthood) was accounted a degrading, and looked upon to be so great a mark of infamy, that he who had suffered it, could never bear any honour or office in the commonwealth; and there was no dignity so high, but every knight was capable of it. There was no distinction of men above it, and even to this day "baron," or "varon," in their language, signifies no more than "vir" in Latin, which is not properly given to any man, unless he be free. The like was in France, till the coming in of the third race of kings, in which time the twelve peers (of whom six only were laymen) were raised to a higher dignity, and the commands annexed made hereditary; but the honour of knighthood was thereby no way diminished. Though there were dukes, earls, marquises, and barons, in the time of Froissart, yet he usually calls them knights: and Philip de Comines, speaking of the most eminent men of his time, calls them good, wise, or valiant knights. Even to this day the name of gentleman comprehends all that is raised above the common people. Henry the fourth usually called himself the first gentleman in France: and it is an ordinary phrase among them, when they speak of a gentleman of good birth, to say, "il est noble comme le roi, he is as noble as the king." In their general assembly of estates, "the chamber of the noblesse," which is one of three,

* BARO ex illis nominibus videatur, quae tempus paulatim meliora, et molliora reddidit: nam longo post tempore, non milites, sed qui liberi erant domini, et thani Saxonibus dicebantur, barones vocari coeperunt; necdum magni honoris erat, nam et primis Normannorum temporibus comites nonnulli suos sub se barones habuerunt, et melioris notae cives barones vocabantur. Paulò autem post eò honoris pervenit, ut nomine baronagii Angliae omnes quodammodo regni ordines continerentur. Camd. Brit. p. 104.

is composed of the deputies sent by the gentry of every province. And in the inquiry, made about the year 1668 concerning nobility, no notice was taken of such as had assumed the titles of earl, marquis, viscount, or baron, but only of those who called themselves gentlemen; and if they could prove that name to belong to them, they were left to use the other titles as they pleased. When duels were in fashion (as all know they were lately) no man, except the princes of the blood, and marshals of France, could with honour refuse a challenge from any gentleman: the first, because it was thought unfit, that he who might be king should fight with a subject to the danger of the commonwealth, which might, by that means, be deprived of its head: the others being by their office commanders of the nobility, and judges of all the controversies relating to honour, that happen among them, cannot reasonably be brought into private contests with any. In Denmark, noblemen and gentlemen are the same thing; and till the year 1660, they had the principal part of the government in their hands. When Charles Gustavus, king of Sweden, invaded Poland in the year 1655, it is said, that there were above three hundred thousand gentlemen in arms to resist him. This is the nobility of that country, kings are chosen by them: every one of them will say, as in France, "he is noble as the king." The last king was a private man among them, not thought to have had more than four hundred pounds a year. He who now reigns was not at all above him in birth or estate, till he had raised himself by great services done for his country in many wars; and there was not one gentleman in the nation who might not have been chosen as well as he, if it had pleased the assembly that did it.

This being the nobility of the northern nations, and the true baronage of England, it is no wonder that they were called "nobiles;" the most eminent among them "magnates, principes, proceres;" and so numerous, that they were esteemed to be "multitudo infinita*." One place was hardly able to contain them; and the inconveniences of calling them all together appeared to be so great, that in time they chose rather to meet by representatives, than every one in his own person. The power therefore remaining in them, it matters not what method they observed in the execution. They who had the substance in their hands, might give it what form they pleased. Our author sufficiently manifests his ignorance, in saying, there could be no knights of the shires in the time of the Saxons, because there were no shires; for the very word is Saxon, and we find the names of Berkshire, Wiltshire, Devonshire, Dorsetshire, and others, most frequently in the writings of those times; and dukes, earls, thanes, or aldermen, appointed to command the forces, and look to the

* When a grant of tithe was made to the church under Ethelwolf, in a *prænagemote*, or parliament, held at Winchester in 855, it was done, *praesentibus et subscribentibus archiepiscopis et episcopis Angliae universis, necnon Beorredo rege Merciae, et Edmundo Eastanglorum rege, abbatum, et abbatissarum, ducum, comitum, procerumque totius terrae, aliorumque fidelium INFINITA MULTITUDINE, qui omnes regium chirographum laudaverunt, dignitates verò sua nomina subscripserunt.* Ingulph. p. 863. Spelm. Concil. p. 350

CHAP. III distribution of justice in them. Selden cites Ingulphus for saying, that “ Alfred was the first that changed the provinces, &c. into counties *;” but refutes him, and proves, that the distinction of the land into shires or counties (for shire signified no more than the share or part committed to the care of the earl or comes) was far more antient. Whether the first divisions by the Saxons were greater or lesser than the shires or counties now are, is nothing to the question: they who made them to be as they were could have made them greater or lesser, as they pleased. And whether they did immediately, or some ages after that distinction, cease to come to their great assemblies, and rather choose to send their deputies; or whether such deputies were chosen by counties, cities, and boroughs, as in our days, or in any other manner, can be of no advantage or prejudice to the cause that I maintain. If the power of the nation, when it was divided into seven kingdoms, or united under one, did reside in the micel-gemotes or wittena-gemotes; if these consisted of the nobility and people, who were sometimes so numerous, that no one place could well contain them; and if the preference given to the chief among them was on account of the offices they executed, either in relation to war or justice, which no man can deny, I have as much as serves for my purpose. It is indifferent to me, whether they were called earls, dukes, aldermen, heretochs †, or thanes; for it is certain, that the titular nobility, now in mode among us, has no resemblance to this antient nobility of England. The novelty therefore is on the other side, and that of the worst sort; because, by giving the name of noblemen (which antiently belonged to such as had the greatest interests in nations, and were the supporters of their liberty) to court-creatures, who often have none, and either acquire their honours by money, or are preferred for servile, and sometimes impure services rendered to the person that reigns, or else for mischiefs done to their country, the constitution has been wholly inverted, and the trust reposed in the kings (who in some measure had the disposal of offices and honours) misemployed. This is farther aggravated by appropriating the name of noblemen solely to them: whereas the nation having been antiently divided only into freemen or noblemen (who were the same) and villains, the first were, as Tacitus says of their ancestors the Germans, “ exempted “ from burdens and contributions, and reserved like arms for the uses of “ war †,” while the others were little better than slaves, appointed to cultivate the lands, or to other servile offices. And I leave any reasonable man to judge, whether the latter condition be that of those we now call

* Totius Angliae pagos et provincias in comitatus primus omnium commutavit, etc. Ingulph. p. 870. See Selden’s Titles of Honor, p. 2, c. 5, p. 509

† Erant et aliae potestates et dignitates per provincias, et patrias universas, et per singulos comitatus totius regni constitutae, qui heretoches apud Anglos vocabantur, scilicet barones nobiles et insignes, sapientes et fideles, et animosi: Latine verò dicebantur ductores exercitûs: apud Gallos capitales constabularii, vel mareschalli exercitûs. Vide Leges Edovardi regis, c. 35. Edit. Lambardi, p. 147

‡ Exempti oneribus et collationibus, et tantum in usum praeliorum sepositi, veluti tela atque arma bellis reservantur. Tacit. de Morib. Germ. § 29

commoners. Nevertheless, he that will believe the title of noblemen still to belong to those only, who are so by patent, may guess how well our wars would be managed, if they were left solely to such as are so by that title. If this be approved, his majesty may do well with his hundred and fifty noblemen, eminent in valour and military experience as they are known to be, to make such wars as may fall upon him, and leave the despised commons, under the name of villains, to provide for themselves, if the success do not answer his expectations. But if the commons are as free as the nobles, many of them in birth equal to the patentees, in estate superior to most of them; and if it is not only expected they should assist him in wars with their persons and purses, but acknowledged by all, that the strength and virtue of the nation is in them, it must be confessed, that they are true noblemen of England, and that all the privileges, antiently enjoyed by such, must necessarily belong to them, since they perform the offices to which they were annexed. This shews how the nobility were justly said to be almost infinite in number, so that no one place was able to contain them. The Saxon armies, that came over into this country to a wholesome and generative climate, might well increase in four or five ages to those vast numbers, as the Franks, Goths, and others, had done in Spain, France, Italy, and other parts; and when they were grown so numerous, they found themselves necessarily obliged to put the power into the hands of representatives chosen by themselves, which they had before exercised in their own persons. But these two ways differing rather in form than essentially, the one tending to democracy, the other to aristocracy, they are equally opposite to the absolute dominion of one man reigning for himself, and governing the nation as his patrimony; and equally assert the rights of the people to put the government into such a form as best pleases themselves. This was suitable to what they had practised in their own country: "*de minoribus rebus principes consultant, de majoribus omnes* *." Nay, even these "smaller matters" cannot be said properly to relate to the king; for he is but one, and the word "principes" is in the plural number, and can only signify such principal men, as the same author says were chosen by the general assemblies to do justice, &c. and to each of them one hundred comites joined, not only to give advice, but authority to their actions.

The word "omnes," spoken by a Roman, must likewise be understood as it was used by them, and imports all the citizens, or such as made up the body of the commonwealth. If he had spoken of Rome or Athens while they remained free, he must have used the same word (because all those, of whom the city consisted, had votes) how great soever the number of slaves or strangers might have been. The Spartans are rightly said to have gained, lost, and recovered the lordship or principality of Greece. They were all lords in relation to their helots; and so were the Dorians in relation to that sort of men, which under several names they kept, as the

* Ibid. § 11

CHAP. III Saxons did their villains, for the performance of the offices which they thought too mean for those, who were ennobled by liberty, and the use of arms, by which the commonwealth was defended and enlarged. Though the Romans scorned to give the title of lord to those, who had usurped a power over their lives and fortunes, yet every one of them was a lord in relation to his own servants, and all together are often called "lords of the world*:" the like is seen almost every where. The government of Venice, having continued for many ages in the same families, has ennobled them all. No phrase is more common in Switzerland, than "the lords of Bern," or "the lords of Zurich," and other places; though perhaps there is not a man among them, who pretends to be a gentleman, according to the modern sense put upon that word. The states of the United Provinces are called "high and mighty lords," and the same title is given to each of them in particular. Nay, the word *heer*, which signifies lord both in high and low Dutch, is as common as *monsieur* in France, *signior* in Italy, or *fennor* in Spain; and is given to every one, who is not of a sordid condition, but especially to soldiers. And though a common soldier be now a much meaner thing than it was antiently, no man speaking to a company of soldiers in Italian, uses any other style than "*signiori soldati*:" and the like is done in other languages. It is not therefore to be thought strange, if the Saxons, who in their own country had scorned any other employment than that of the sword, should think themselves farther ennobled, when by their arms they had acquired a great and rich country, and driven out or subdued the former inhabitants. They might well distinguish themselves from the villains they brought with them, or the Britons they had enslaved. They might well be called "*magnates, proceres regni, nobiles, Angliae nobilitas, barones*;" and the assemblies of them justly called "*concilium regni generale, universitas totius Angliae nobilium, universitas baronagii*," according to the variety of times, and other occurrences. We have such footsteps remaining of the name of baron, as plainly shew the signification of it. The barons of London and the Cinque Ports are known to be only the freemen of those places. In the petty court-barons, every man who may be of a jury is a baron. These are noblemen; for there are noble nations as well as noble men in nations. The Mamelucs accounted themselves to be all noble, though born slaves; and when they had ennobled themselves by the use of arms, they looked upon the noblest of the Egyptians, as their slaves. Tertullian writing, not to some eminent men, but to the whole people of Carthage, calls them, "*antiquitate nobiles, nobilitate felices* †." Such were the Saxons, ennobled by a perpetual application to those exercises that belong to noblemen, and an abhorrence to any thing that is vile and sordid.

Left this should seem far fetched to those who please themselves with cavilling, they are to know, that the same general councils are expressed,

* *Romanos rerum dominos.* Virg. Aen. l. 1, v. 286

† *Principes semper Africae, viri Carthaginenses, vetustate nobiles, novitate felices.* Tert. de Pallio, § 1. Edit. Rigaltii.

by other authors, in other words. They are called "the general council SECT. 29
 " of the bishops, noblemen, counts, all the wise men, elders, and people,
 " of the whole kingdom," in the time of Ina*. In that of Edward the
 elder, "the great council of the bishops, abbots, noblemen, and people †."
 William of Malmesbury calls them, "the general senate and assembly of
 " the people †." Sometimes they are in short called "clergy and peo-
 " ple;" but all express the same power, neither received from, nor
 limitable by kings, who are always said to be chosen, or made, and
 sometimes deposed by them. William the Norman found and left the
 nation in this condition. Henry the second, John, and Henry the third,
 who had nothing but what was conferred upon them by the same clergy
 and people, did so too. Magna Charta could give nothing to the people,
 who, in themselves, had all; and only reduced into a small volume the
 rights which the nation was resolved to maintain; brought the king to
 confess, they were perpetually inherent, and time out of mind enjoyed,
 and to swear that he would no way violate them; if he did, he was,
 " ipso facto," excommunicated; and, being thereby declared to be an
 execrable perjured person, they knew how to deal with him. This act
 has been confirmed by thirty parliaments; and the proceedings with
 kings, who have violated their oaths, as well before as after the time of
 Henry the third, which have been already mentioned, are sufficient to
 shew, that England has always been governed by itself, and never acknow-
 ledged any other lord, than such as they thought fit to set up.

SECTION XXIX

THE KING WAS NEVER MASTER OF THE SOIL.

Those who without regard to truth resolve to insist upon such points, as
 they think may serve their designs, when they find it cannot be denied,
 that the powers before-mentioned have been exercised by the English, and
 other nations, say, that they were the concessions of kings, who, being

* Univerſi Angli, qui tunc temporis extiterunt, uxores ſuas ceperunt de Britonum genere
 et Britones uxores ſuas de illuſtri ſanguine et genere Anglorum, hoc eſt, de genere Saxonum.
 Hoc enim factum fuit per commune conſilium et aſſenſum omnium epiſcoporum et principum,
 procerum, comitum, et omnium ſapientum, ſeniorum, et populorum totius regni, et per
 praeceptum regis Inae. Vide Leges Edovardi regis, c. 35. Edit. Lambardi, p. 148.
 Spelm. Concil. vol. 1, p. 219

† A. D. 905, Plegmundus Cantuarienſis archiepiſcopus, unà cum rege magnifico, cog-
 nomento Edwardo Seniore, concilium magnum epiſcoporum, abbatum, fidelium, procerum,
 et populorum, in provinciâ Gewiſorum, i. e. in illâ parte Angliae quae in plagâ auſtrali ſita
 eſt fluminis Thameſis, convocavit. Mat. Parker De Antiq. Brit. Eccleſiae. c. 19, de
 Plegmundo. — Rex magnificus Edwardus, et Plegmundus Cant. archiep. collegerunt
 concilium grande epiſcoporum, abbatum, et fidelium populorum, in provinciâ Gewiſorum.
 Mat. Weſt. ſub ann. 905, p. 181

‡ Generalis ſenatus et populi conventus. Will. Malmesb. l. 3, p. 99. Vide ſuprà, p. 324

CHAP. III masters of the soil, might bestow parcels upon some persons, with such conditions as they pleased, retaining to themselves the supreme dominion of the whole: and, having already, as they think, made them the fountains of honour, they proceed to make them also the fountains of property; and, for proof of this, allege, that all lands, though held of mean lords, do by their tenures at last result upon the king, as the head from whom they are enjoyed. This might be of force, if it were true: but matters of the highest importance requiring a most evident proof, we are to examine, first, if it be possible; and in the next place, if it be true.

i. For the first: no man can give what he has not. Whoever therefore will pretend, that the king has bestowed this propriety, must prove, that he had it in himself. I confess, that the kings of Spain and Portugal obtained from the pope grants of the territories they possessed in the West-Indies; and this might be of some strength, if the pope, as vicar of Christ, had an absolute dominion over the whole earth; but if that fail, the whole falls to the ground, and he is ridiculously liberal of that, which no way belongs to him. My business is not to dispute that point; but, before it can have any influence upon our affairs, our kings are to prove, that they are lords of England upon the same title, or some other equivalent to it. When that is done, we shall know upon whom they have a dependence, and may at leisure consider, whether we ought to acknowledge, and submit to such a power, or give reasons for our refusal. But, there being no such thing in our present case, their property must be grounded upon something else, or, we may justly conclude, they have none.

In order to this, it is hardly worth the pains, to search into the obscure remains of the British histories. For when the Romans deserted our island, they did not confer the right they had, whether more or less, upon any man, but left the enjoyment of it to the poor remainders of the nation, and their own established colonies, who were grown to be one people with the natives. The Saxons came under the conduct of Hengist and Horsa, who seem to have been sturdy pirates; but did not, that I can learn, bear any characters in their persons, of the so much admired sovereign majesty, that should give them an absolute dominion or propriety, either in their own country, or any other they should set their feet upon. They came with about a hundred men; and, choosing rather to serve Vortigern, than to depend upon what they could get by rapine at sea, lived upon a small proportion of land, by him allotted to them*. Though this seems to be but a slender encouragement, yet it was enough to invite many others to follow their example and fortune; so that their number increasing, the

* Anno Gratiae 449, gens Anglorum sive Saxonum, à rege Vortigerno invitata, Britanniam tribus longis navibus advehetur; et in orientali parte insulae locum manendi à rege, quasi pro patriâ pugnatura, suscepit. Advenerunt de tribus Germaniae populis fortioribus, i. e. Saxonibus, Anglis, et Jutis. Mat. West. sub ann. 449. Will. Malmesb. p. 8. Chron. Saxon. sub ann. 449.—What number of men came into this island under the conduct of Hengist and Horsa, the Saxon annals do not inform us. As three ships were employed on that occasion, there must have been more than “a hundred,” probably 1000, or 1500

county of Kent was given to them, under the obligation of serving the Britons in their wars. Not long after, lands in Northumberland were bestowed upon another company of them, with the same condition. This was all the title they had to what they enjoyed, till they treacherously killed four hundred and sixty*, or, as William of Malmesbury says, three hundred principal men of the British nobility †, and made Vortigern prisoner, who had been so much their benefactor, that he seems never to have deserved well, but from them, and to have incensed the Britons by the favour he shewed them, as much as by the worst of his vices. And, certainly, actions of this kind, composed of falshood and cruelty, can never create a right, in the opinion of any better men than Filmer and his disciples, who think that the power only is to be regarded, and not the means by which it is obtained. But though it should be granted, that a right had been thus acquired, it must accrue to the nation, not to Hengist and Horsa. If such an acquisition be called a conquest, the benefit must belong to those that conquered. This was not the work of two men; and those who had been free at home can never be thought to have left their own country, to fight as slaves, for the glory and profit of two men in another. It cannot be said, that their wants compelled them; for their leaders suffered the same, and could not be relieved, but by their assistance. And whether their enterprize was good or bad, just or unjust, it was the same to all: no one man could have any right, peculiar to himself, unless they who gained it did confer it upon him: and it is no way probable, that they, who in their own country had kept their princes within very narrow limits, as has been proved, should resign themselves; and all they had, as soon as they came hither. But we have already shewn, that they always continued most obstinate defenders of their liberty, and the government to which they had been accustomed; that they managed it by themselves, and acknowledged no other laws than their own. Nay, if they had made such a resignation of their right, as was necessary to create one in their leaders, it would be enough to overthrow the proposition; for it is not then the leader that gives to the people, but the people to the leader. If the people had not a right to give what they did give, none was conferred upon the receiver: if they had a right, he that should pretend to derive a benefit from thence must prove the grant, that the nature and intention of it may appear.

To the second. If it be said, that records testify all grants to have been originally from the king, I answer, that though it were confessed

* Hengistus illicò Vortigernum per pallium detinuit. Caeteros autem astantes principes, circiter quadringentos sexaginta viros, barones inclytos, et consules jugulârunt. Mat. West. sub ann. 461

† Hengistus vitio quodam humani ingenii, ut quo plus habeas, plus ambias, fraude subornatâ, generum Vortigernum ad convivium cum 300 suorum invitat: cumque frequentioribus poculis invitatos ad tumultum animasset, et unumquemque ex industriâ falsâ dicacitate perfringeret, primò ad jurgia, mox ad arma ventum est. Ita Britones ad unum jugulati animas inter vina evomuere. Rex ipse captus, datis tribus provinciis, libertatem redemit. Will. Malmesb. l. 1, c. 1

CHAP. III (which I absolutely deny, and affirm that our rights and liberties are innate, inherent, and enjoyed time out of mind, before we had kings) it could be nothing to the question, which is concerning reason and justice; and, if they are wanting, the defect can never be supplied by any matter of fact, though ever so clearly proved. Or, if a right be pretended to be grounded upon a matter of fact, the thing to be proved is, that the people did really confer such a right upon the first, or some other kings: and, if no such thing do appear, the proceedings of one or more kings, as if they had it, can be of no value. But, in the present case, no such grant is pretended to have been made, either to the first, or to any of the following kings: the right they had not, their successors could not inherit, and consequently cannot have it, or, at most, no better title to it, than that of usurpation.

But, as they who inquire for truth ought not to deny or conceal any thing, I may grant that manors, &c. were enjoyed by tenure from kings; but that will no way prejudice the cause I defend, nor signify more, than that the countries which the Saxons had acquired were to be divided among them; and, to avoid the quarrels that might arise, if every man took upon him to seize what he could, a certain method of making the distribution was necessarily to be fixed; and it was fit, that every man should have something in his own hands, to justify his title to what he possessed, according to which controversies should be determined. This must be testified by somebody, and no man could be so fit, or of so much credit, as he who was chief among them; and this is no more than is usual in all the societies of the world. The mayor of every corporation, the speaker or clerk of the house of peers, or house of commons, the first president of every parliament, or presidial in France; the consul, burgo-master, advoyer, or bailiff, in every free town of Holland, Germany, or Switzerland, sign the public acts, that pass in those places. The dukes of Venice and Genoa do the like, though they have no other power, than what is conferred upon them, and, of themselves, can do little or nothing. The grants of our kings are of the same nature, though the words "mero motu nostro" seem to imply the contrary; for kings speak always in the plural number, to shew that they do not act for themselves, but for the societies over which they are placed; and all the veneration that is, or can be given to their acts, does not exalt them, but those from whom their authority is derived, and for whom they are to execute. The tyrants of the East, and other barbarians, whose power is most absolute, speak in the single number, as appears by the decrees of Nabuchodonosor, Cyrus, Darius, and Ahasuerus, recited in Scripture, with others that we hear of daily from those parts: but, where-ever there is any thing of civility or regularity in government, the prince uses the plural, to shew that he acts in a public capacity. From hence says Grotius, the rights of kings to send ambassadors, make leagues, &c. do arise: the confederacies made by them do not terminate with their lives, because they are not for themselves; they speak not in their own persons, but as representing their
people:

people: and “ a king who is deprived of his kingdom, loses the right of sending ambassadors *,” because he can no longer speak for those, who, by their own consent, or by a foreign force, are cut off from him. The question is, not whether such a one be justly or unjustly deprived (for that concerns only those who did it, or suffer it) but whether he can oblige the people; and it is ridiculous for any nation to treat with a man, that cannot perform what shall be agreed, or for him to stipulate that which can oblige, and will be made good only by himself.

But though much may be left to the discretion of kings in the distribution of lands, and the like, yet it no way diminishes the right of the people, nor confers any upon them, otherwise to dispose of what belongs to the public, than may tend to the common good, and the accomplishment of those ends, for which they are entrusted. Nay, if it were true, that a conquered country did belong to the crown, the king could not dispose of it, because it is annexed to the office, and not alienable by the person. This is not only found in regular mixed monarchies (as in Sweden, where the grants made by the last kings have been lately rescinded by the general assembly of estates, as contrary to law) but even in the most absolute, as in France, where the present king, who has stretched his power to the utmost, has lately acknowledged, that he cannot do it; and, according to the known maxim of the state, that the demesnes of the crown, which are designed for the defraying of public charges, cannot be alienated, all the grants made within the last fifteen years have been annulled; even those who had bought lands of the crown have been called to account, and the sums given being compared with the profits received, and a moderate interest allowed to the purchasers, so much of the principal as remained due to them has been repaid, and the lands resumed.

SECTION XXX.

HENRY THE FIRST WAS KING OF ENGLAND BY AS GOOD A TITLE AS ANY OF HIS PREDECESSORS OR SUCCESSORS.

Having made it appear, as I suppose, that the antient nobility of England was composed of such men as had been ennobled by bearing arms in the defence or enlargement of the commonwealth; that the dukes, earls, &c. were those who commanded them; that they and their dependents received lands for such services, under an obligation of continuing to render the like, and according to their several degrees and proportions, to provide and maintain horses, arms, and men, for the same uses; it cannot be denied, but that they were such gentlemen, and lords of manors, as we now call commoners, together with the freeholders, and such as in war

* Reges qui bello solenni victi, regnoque exuti sunt, cum aliis regni bonis et jus legandi perdidierunt. Grot. de Jure Belli. l. 2, c. 18, § 2.

CHAP. III were found most able to be their leaders. Of these the micel-gemotes, wittena-gemotes, and other public assemblies, did consist; and nothing can be more absurd than to assign the names and rights of duke, earl, and viscount, which were names of offices, to those who have not the offices, and are no way fit for them. If our author therefore had said, that such as these, who had always composed the great councils of our nation, had, in favour of Henry the first, bestowed the crown upon him, as they had done upon his father and brother, I should agree with him: but it is the utmost extravagance to say, that he who had neither title nor possession should give the power to those, who had always been in the possession of it, and exercised it in giving to him whatever he had. But I most wonder he should so far forget himself, as to call this Henry a usurper, and detract from the validity of his acts, because he had no title; whereas there neither is, was, nor can be, a usurper, if there be any truth in his doctrine: for he plainly tells us, we are only to look to the power, and not at all to the means and ways by which it is obtained; and making no difference between a king and a tyrant enjoins an equal submission to the commands of both. If this were only a slip of his pen, and he did really take this Henry to be a usurper, because he had not a good title, I should desire to know the marks by which a lawful king is distinguished from a usurper, and in what a just title does consist. If he place it in an hereditary succession, we ought to be informed, whether this right must be deduced from one universal lord of mankind, or from a particular lord of every people. If from the universal lord, the same descent that gives him a right to the dominion of any one country, enslaves the whole world to him. If from the particular lord of one place, proof must be given how he came to be so: for if there was a defect in the first, it can never be repaired, and the possession is no more than a continued usurpation. But having already proved the absurdity of any pretence to either, I shall forbear the repetition, and only say, that if the course of succession may never be justly interrupted, the family of Meroveus could not have had any right to the crown of France; Pepin was a usurper, if it must forever have continued in the descendants of Meroveus; and Hugh Capet could have no title, if the race of Pepin might not be dispossessed. I leave our author to dispute this point with the king of France; and when he has so far convinced him that he is a usurper, as to persuade him to resign his crown to the house of Austria, claiming from Pharamond, or to that of Lorraine, as descended from Pepin, I can give him half a dozen more knots, which will not be with less difficulty untied, and which, instead of establishing the titles of such kings as are known to us, will overthrow them all, unless a right be given to usurpation, or the consent of a people do confer it.

But if there be such a thing as a usurper, and a rule by which men may judge of usurpation, it is not only lawful, but necessary, to examine the titles of such as go under the name of kings, that we may know whether they are truly so or not, lest through ignorance we chance

to give the veneration and obedience that is due to a king, to one who is not a king, and deny it to him, who by an uninterrupted line of descent is our natural lord, and thereby prefer the worst of men, and our most bitter enemy, before the person we ought to look upon as our father: and if this prove dangerous to one or more kings, it is our author's fault, not mine. SECT. 30

If there be no usurper, nor rule of distinguishing him from a lawful prince, Filmer is the worst of all triflers and impostors, who grounds his arguments in the most serious matters upon what he esteems to be false. But the truth is, he seems to have set himself against humanity and common sense, as much as against law and virtue. And if he who so frequently contradicts himself can be said to mean any thing, he would authorize rapine and murder, and persuade us to account those to be rightful kings, who, by treachery, and other unjust means, overthrow the right of descent, which he pretends to esteem sacred, as well as the liberties of nations, which by better judges are thought to be so; and gives the odious name of usurpation to the advancement of one who is made king by the consent of a willing people.

But if Henry the first were a usurper, I desire to know whether the same name belongs to all our kings, or which of them deserves a better, that we may understand whose acts ought to be reputed legal, and to whose descent we owe veneration, or whether we are wholly exempted from all: for I cannot see a possibility of fixing the guilt of usurpation upon Henry the first, without involving many, if not all our kings, in the same.

If his title was not good, because his brother Robert was still living, that of Rufus is by the same reason overthrown; and William their father, being a bastard, could have none. This fundamental defect could never be repaired; for the successors could inherit no more than the right of the first, which was nothing. Stephen could deduce no title either from Norman or Saxon; whatever Henry the second pretended must be from his mother Maud, and any other might have been preferred before her as well as he. If her title was from the Normans, it must be void, since they had none, and the story of Edgar Atheling is too impertinent to deserve mention. But, however, it could be of no advantage to her: for David king of Scotland, brother to her mother, from whom only her title could be derived, was then alive with his son Henry, who, dying not long after, left three sons, and three daughters, whose posterity, being distributed into many families of Scotland, remains to this day; and, if proximity of blood is to be considered, ought always to have been preferred before her, and her descendants, unless there be a law, that gives the preference to daughters before sons. What right soever Henry the second had, it must necessarily have perished with him, all his children having been begotten in manifest adultery on Eleanor of Gascony, during the life of Lewis king of France her first husband. And nothing could be alleged to colour the business, but a dispensation from the pope directly
against

CHAP. III against the law of God, and the words of our Saviour, who says, "that a wife cannot be put away unless for adultery; and that he who marrieth her that is put away committeth adultery." The pollution of this spring is not to be cured: but though it should pass unregarded, no one part of the succession since that time has remained entire. John was preferred before Arthur his elder brother's son. Edward the third was made king by the deposition of his father: Henry the fourth by that of Richard the second. If the house of Mortimer or York had the right, Henry the fourth, fifth, and sixth, were not kings, and all who claim under them have no title. However, Richard the third could have none; for the children of his elder brother the duke of Clarence were then living. The children of Edward the fourth may be suspected of bastardy: and though it may have been otherwise, yet that matter is not so clear, as things of such importance ought to be; and the consequence may reach very far. But, though that scruple were removed, it is certain, that Henry the seventh was not king in the right of his wife Elizabeth; for he reigned before and after her; and for his other titles we may believe Philip de Comines, who says, "he had neither cross nor pile*." If Henry the eighth had a right in himself, or from his mother, he should have reigned immediately after her death, which he never pretended, nor to succeed till his father was dead, thereby acknowledging he had no right but from him, unless the parliament and people can give it. The like may be said of his children. Mary could have no title, if she was a bastard, begotten in incest; but if her mother's marriage was good, and she legitimate, Elizabeth could have none.

Yet all these were lawful kings and queens; their acts continue in force to this day to all intents and purposes: the parliament and people made them to be so, when they had no other title. The parliament and people therefore have the power of making kings: those who are so made are not usurpers: we have had none but such for more than seven hundred years. They were therefore lawful kings, or this nation has had none in all that time. And if our author like this conclusion, the account from whence it is drawn may without difficulty be carried as high as our English histories do reach.

This being built upon the steady foundation of law, history, and reason, is not to be removed by any man's opinion; especially by one, accompanied with such circumstances as Sir Walter Raleigh was in, during the last years of his life: and there is something of baseness, as well as prevarication, in turning the words of an eminent person, reduced to great difficulties, to a sense no way agreeing with his former actions or writings, and no less tending to impair his reputation than to deceive others. Our author is highly guilty of both, in citing Sir Walter Raleigh to invalidate the great charter of our liberties, as "begun by usurpation,

* Qui n'avoit ne croix, ne pile, ne nul droit, comme je crois, à la couronne d'Angleterre. Mem. de Phil. de Comines. l. 6, c. 9

“ and shewed to the world by rebellion * : ” whereas no such thing, nor any thing like it in word or principle, can be found in the works that deserve to go under his name. The dialogue in question, with some other small pieces published after his death, deserves to be esteemed spurious : or if, from a desire of life, when he knew his head lay under the ax, he was brought to say things no way agreeing with what he had formerly professed, they ought rather to be buried in oblivion, than produced to blemish his memory. But, that the public cause may not suffer by his fault, it is convenient the world should be informed, that though he was a well qualified gentleman, yet his morals were no way exact, as appears by his dealings with the brave earl of Effex. And he was so well assisted in his History of the World, that an ordinary man, with the same helps, might have performed the same things. Neither ought it to be accounted strange, if that which he wrote by himself had the tincture of another spirit, when he was deprived of that assistance, though his life had not depended upon the will of the prince, and he had never said, that “ the bonds of subjects to their kings should always be wrought out of iron, the bonds of kings unto subjects but with cobwebs † . ”

SECTION XXXI

FREE NATIONS HAVE A RIGHT OF MEETING, WHEN AND WHERE THEY PLEASE, UNLESS THEY DEPRIVE THEMSELVES OF IT.

A perverted judgment always leads men into a wrong way, and persuades them to believe, that those things favour their cause, which utterly overthrow it. For a proof of this, I desire our author's words may be considered. “ In the form of parliaments, ” says he, “ instituted and continued since Henry the first's time, is not to be found the usage of any natural liberty of the people ; for all those liberties that are claimed in parliament are liberties of grace from the king, and not the liberties of nature to the people : for if the liberty were natural, it would give power to the multitude to assemble themselves, when and where they

* “ Henry the first, to content his vassals, gave them the Great Charter and the Charter of Forests . . . He usurped the kingdom, and therefore the better to assure himself against Robert his elder brother, he flattered the nobility and people with those charters . . . King John, who confirmed them, had the like respect ; for Arthur, duke of Bretagne, was the undoubted heir of the crown, upon whom John usurped . . . The charter of Henry the first was left, in deposit, in the hands of the archbishop of Canterbury for the time, and so to his successors. Stephen Langton shewed it to the barons, thereby encouraging them to make war against the king . . . The king was forced to grant the Magna Charta and Charta de Forestis, at such time as he was environed with an army . . . Thus much for the beginning of the Great Charter, which had first an obscure birth from usurpation, and was, secondly, fostered and shewed to the world by rebellion. ” Dial. on the Prerog. of Parliaments, republished among the works of Sir W. Raleigh, in 1751.

† See Sir W. Raleigh's Dedic. of his Dial. on the Prerog. of Parliaments to king James.

CHAP. III “ please, to bestow sovereignty, and by pactions to limit and direct the exercise of it.” And I say, that nations, being naturally free, may meet, when and where they please; may dispose of the sovereignty, and may direct or limit the exercise of it, unless by their own act they have deprived themselves of that right: and there could never have been a lawful assembly of any people in the world, if they had not had that power in themselves. It was proved in the preceding section, that all our kings, having no title, were no more than what the nobility and people made them to be; that they could have no power but what was given to them, and could confer none except what they had received. If they can therefore call parliaments, the power of calling them must have been given to them, and could not be given by any who had it not in themselves. The Israelites met together, and chose Ehud, Gideon, Samson, Jephthah, and others, to be their leaders, whom they judged fit to deliver them from their enemies. By the same right they assembled at Mispeh to make war against the tribe of Benjamin, when justice was denied to be done against those who had villainously abused the Levite’s concubine. In the like manner, they would have made Gideon king, but he refused. In the same place they met, and chose Saul to be their king. He being dead, the men of Judah assembled themselves, and anointed David: not long after, all the tribes met at Hebron, made a contract with him, and received him as their king. In the same manner, though by worse counsel, they made Absalom king. And the like was attempted in favour of Sheba the son of Bichri, though they then had a king chosen by themselves. When they found themselves oppressed by the tributes that had been laid upon them by Solomon, they met at Sechem; and being displeas’d with Rehoboam’s answer to their complaints, ten of the tribes made Jeroboam king. Jehu, and all the other kings of Israel, whether good or bad, had no other title than was conferred upon them by the prevailing part of the people, which could not have given them any, unless they had met together; nor could they have met together without the consent and against the will of those that reigned, unless the power had been in themselves.

Where governments are more exactly regulated, the power of judging when it is fit to call the senate or people together is referred to one or more magistrates; as in Rome to the consuls or tribunes, in Athens to the archons, and in Thebes to the Boeotarches: but none of them could have these powers, unless they had been given by those who advanced them to the magistracies to which they were annexed; nor could they have been so annexed, if those who created them had not had the right in themselves. If the officers neglected their duty of calling such assemblies when the public affairs required, the people met by their own authority, and punished the person, or abrogated the magistracy; as appears in the case of the decemviri, and many others that might be alleged, if the thing were not so plain as to need no farther proof. The reason of this is, that they who institute a magistracy best know whether the end of the institution be

be rightly pursued or not: and all just magistracies being the same in essence, though differing in form, the same right must perpetually belong to those who put the sovereign power into the hands of one, a few, or many men, which is what our author calls the disposal of the sovereignty. Thus the Romans did when they created kings, consuls, military tribunes, dictators, or decemviri: and it had been most ridiculous to say, that those officers gave authority to the people to meet and choose them; for they who are chosen are the creatures of those who choose, and are nothing more than others till they are chosen. The last king of Sweden, Charles Gustavus, told a gentleman who was ambassador there, that the Swedes having made him king, when he was poor, and had nothing in the world, he had but one work to do, which was so to reign, that they might never repent of the good opinion they had conceived of him. They might therefore meet, and did meet to confer the sovereignty upon him, or he could never have had it. For though the kingdom be hereditary to males or females, and his mother was sister to the great Gustavus, yet having married a stranger without the consent of the estates, she performed not the condition upon which women are admitted to the succession; and thereby falling from her right, he pretended not to any. The act of his election declares he had none, and gives the crown to him, and the heirs of his body, with this farther declaration, that the benefit of his election should no way extend to his brother prince Adolphus: and it is confessed by all the Swedish nation, that if the king now reigning should die without children, the estates would proceed to a new election.

It is rightly observed by our author, that if the people might meet, and give the sovereign power, they might also direct and limit it; for they did meet in this and other countries, they did confer the sovereign power, they did limit and direct the exercise; and the laws of each people shew in what manner and measure it is every where done. This is as certain in relation to kings, as any other magistrates. The commission of the Roman dictators was, to take care "that the commonwealth might receive no detriment." The same was sometimes given to the consuls*. King Offa's confession, that he was made king "to preserve the public liberty †," expresses the same thing. And Charles Gustavus, who said he had no other work, than to govern in such a manner, that they who had made him king might not repent, shewed there was a rule which he stood obliged to follow, and an end which he was to procure, that he

* This commission was frequently given to the consuls; but seldom, if ever, to the dictators. — *Tantum terrorem incussere patribus, ut (quae forma senatus consulti ultimae semper necessitatis habita est) Posthumio alteri consulum negotium daretur, videret, "ne quid respublica detrimenti caperet."* Liv. l. 3, c. 4. — *Senatus decrevit, darent operam consules, "ne quid respublica detrimenti caperet."* Sall. Bell. Catil. § 30. — *Consules provideant "ne quid respublica detrimenti accipiat."* Cic. Phil. 5, § 34. — *Decrevit senatus, ut L. Opimius consul videret, "ne quid respublica detrimenti caperet."* Id. in Catil. orat. 1, § 4. Orat. pro Milone, § 70. Ad famil. l. 16, ep. 11. Caesar de Bello Civ. l. 1, § 6

† In vestrae libertatis tuitionem. Mat. Paris. in vita Offae secundi. Vide supra, p. 321

CHAP. III might merit and preserve their good opinion. This power of conferring the sovereignty was exercised in France by those who made Meroveus king, to the prejudice of the two grandchildren of Pharamond, sons to Clodion; by those who excluded his race, and gave the crown to Pepin; by those who deposed Lewis le Debonnaire and Charles le Gros; by those who brought in five kings, that were either bastards or strangers, between him and Charles le Simple; by those who rejected his race, and advanced Hugh Capet; by those who made Henry the first king, to the prejudice of Robert his elder brother, and continued the crown in the race of Henry for ten generations, while the descendants of Robert were only dukes of Burgundy. The like was done in Castile and Arragon, by frequently preferring the younger before the elder brother; the descendants of females before those of the male line in the same degree; the more remote in blood before the nearest; and sometimes bastards before the legitimate issue. The same was done in England in relation to every king, since the coming in of the Normans, as I have shewn in the last section, and other places of this work.

That they who gave the sovereignty might also circumscribe and direct it is manifest, by the several ways of providing for the succession instituted by several nations. Some are merely elective, as the empire of Germany, and the kingdom of Poland, to this day; the kingdom of Denmark till the year 1660; that of Sweden till the time of Gustavus Ericson, who delivered that nation from the oppression of Christiern the second, the cruel king of the Danes*. In others the election was confined to one or more families, as the kingdom of the Goths in Spain to the Balthi and Amali. In some, the eldest man of the reigning family was preferred before the nearest, as in Scotland before the time of Kenneth †. In other places the nearest in blood is preferred before the elder, if more remote. In some, no regard is had to females, or their descendants, as in France and Turkey. In others, they or their descendants are admitted, either simply, as well as males; or under a condition of marrying in the country, or with the consent of the estates, as in Sweden. And no other reason can be given for this almost infinite variety of constitutions, than that they who made them would have it so; which could not be, if God and nature had appointed one general rule for all nations. For in that case, the kingdom of France must be elective, as well as that of Poland and the empire; or the empire and Poland hereditary, as that of France; daughters must succeed in France, as well as in England, or be excluded in England, as in France; and he that would establish one, as the ordinance of God and nature, must of necessity overthrow all the rest.

A farther exercise of the natural liberty of nations is discovered in the several limitations put upon the sovereign power. Some kings, says Grotius, have the "summum imperium summo modo;" others, "modo

* A. D. 1523.

† Kenneth the third, who began his reign in 961. Vide Buchan, Rerum Scot. Hist. l. 6

non fummo*.” And among those that are under limitations, the degrees, as to more or less, are almost infinite, as I have proved already by the example of Arragon, antient Germany, the Saxon kings, the Normans, the kings of Castile, the present empire, with divers others. And I may safely say, that the antient government of France was much of the same nature to the time of Charles the seventh, and Lewis the eleventh; but the work of emancipating themselves, as they call it, begun by them, is now brought to perfection in a boundless elevation of the king’s greatness and riches, to the unspeakable misery of the people.

SECT. 31

It were a folly to think this variety proceeds from concessions of kings, who naturally delight in power, and hate that which crosses their will. It might with more reason be imagined, that the Roman consuls, who were brought up in liberty, who had contracted a love to their country, and were contented to live upon an equal foot with their fellow-citizens, should confine the power of their magistracy to a year; or that the dukes of Venice should be graciously pleased to give power to the Council of Ten to punish them capitally, if they transgressed the laws, than that kings should put such fetters upon their power, which they so much abhor; or that they would suffer them, if they could be easily broken. If any one of them should prove so moderate, like Trajan, to command the prefect of the Praetorian guard to use the sword for him, if he governed well, and against him, if he did not †, it would soon be rescinded by his successor: the law which has no other strength than the act of one man, may be annulled by another. So that nothing does more certainly prove, that the laws made in several countries to restrain the power of kings, and variously to dispose of the succession, are not from them, than the frequent examples of their fury, who have exposed themselves to the greatest dangers, and brought infinite miseries upon the people, through the desire of breaking them. It must therefore be concluded, that nations have power of meeting together, and of conferring, limiting, and directing the sovereignty; or all must be grounded upon most manifest injustice and usurpation.

No man can have a power over a nation otherwise than “de jure,” or “de facto.” He who pretends to have a power “de jure” must prove, that it is originally inherent in him, or his predecessor, from whom he inherits; or that it was justly acquired by him. The vanity of any pretence to an original right appears sufficiently, I hope, from the proofs already given, that the first fathers of mankind had it not; or if they had, no man could now inherit the same, there being no man able to make good the genealogy that should give him a right to the succession. Besides, the facility we have of proving the beginnings of all the families

* Quod autem monuimus, distinguendam esse summam imperii ab habendi plenitudine, adeo verum est, ut non modo pleraque imperia summa non plenè habeantur, sed et multa non summa habeantur plenè. Grot. de Jure Belli, l. 1, c. 3, § 14

† Tibi istum ad munimentum mei committo, si rectè agam: sin aliter, in me magis. Aur. Victor de Caesaribus, c. 13. Xiphilini Epit. Dionis, l. 68, p. 778, Edit. Hanov. 1606

that

CHAP. III that reign among us makes it as absurd for any of them to pretend a perpetual right to dominion, as for any citizen of London, whose parents and birth we know, to say he is the very man Noah, who lived in the time of the flood, and is now four or five thousand years old.

If the power were conferred on him or his predecessors, it is what we ask; for the collation can be of no value, unless it be made by those who had a right to do it; and the original right by descent failing, no one can have any over a free people but themselves, or those to whom they have given it.

If acquisition be pretended, it is the same thing; for there can be no right to that which is acquired, unless the right of invading be proved; and that being done, nothing can be acquired except what belonged to the person that was invaded, and that only by him who had the right of invading. No man ever did or could conquer a nation by his own strength: no man therefore could ever acquire a personal right over any; and if it was conferred upon him by those who made the conquest with him, they were the people that did it. He can no more be said to have the right originally in and from himself, than a magistrate of Rome or Athens immediately after his creation; and having no other at the beginning, he can have none to eternity; for the nature of it must refer to the original, and cannot be changed by time.

Whatever therefore proceeds not from the consent of the people must be "de facto" only, that is, void of all right; and it is impossible there should not be a right of destroying that which is grounded upon none: and by the same rule that one man enjoys what he gained by violence, another may take it from him. Cyrus overthrew the Assyrians and Babylonians, Alexander the Medes and Persians; and if they had no right of making war upon those nations, the nations could not but have a right of recovering all that had been unjustly taken from them, and avenging the evils they had suffered. If the cause of the war was originally just, and not corrupted by an intemperate use of the victory, the conquered people was perhaps obliged to be quiet; but the conquering armies, that conferred upon their generals what they had taken from their enemies, might as justly expect an account of what they had given, and that it should be employed according to the intention of the givers, as the people of any city might do from their regularly created magistrates; because it was as impossible for Cyrus, Alexander, or Caesar, to gain a power over the armies they led, without their consent, as for Pericles, Valerius, or any other disarmed citizen, to gain more power in their respective cities than was voluntarily conferred upon them. And I know no other difference between kingdoms so constituted by conquering armies, and such as are established in the most orderly manner, than that the first usually incline more to war and violence, the latter to justice and peace. But there have not been wanting many of the first sort, especially the nations coming from the north, who were no less exact in ordaining that which tended to the preservation of liberty, nor less severe in seeing it punctually performed,

performed, than the most regular commonwealths that ever were in the world. And it can with no more reason be pretended, that the Goths received their privileges from Alan or Theodoric, the Franks from Pharamond or Meroveus, and the English from Ina or Ethelred, than that the liberty of Athens was the gift of Themistocles or Pericles, that the empire of Rome proceeded from the liberality of Brutus or Valerius, and that the commonwealth of Venice, at this day, subsists by the favour of the Contarini or Morosini: which must reduce us to matter of right, since that of fact, void of right, can signify nothing. SECT. 32

SECTION XXXII

THE POWERS OF KINGS ARE SO VARIOUS, ACCORDING TO THE CONSTITUTIONS OF SEVERAL STATES, THAT NO CONSEQUENCE CAN BE DRAWN TO THE PREJUDICE OR ADVANTAGE OF ANY ONE, MERELY FROM THE NAME.

In opposition to what is above said, some allege the name of king, as if there were a charm in the word; and our author seems to put more weight upon it, than in the reasons he brings to support his cause. But that we may see there is no efficacy in it, and that it conveys no other right than what particular nations may annex to it, we are to consider,

1. That the most absolute princes that are or have been in the world never had the name of king; whereas it has been frequently given to those whose powers have been very much restrained. The Caesars were never called kings, till the sixth age of Christianity. The caliphs and foldan of Egypt and Babylon, the Great Turk, the cham of Tartary, or the Great Mogul, never took that name, nor any other of the same signification. The czar of Moscow has it not, though he is as absolute a monarch, and his people as miserable slaves, as any in the world. On the other side, the chief magistrates of Rome and Athens for some time, those of Sparta, Arragon, Sweden, Denmark, and England, "who could do nothing but by law," have been called kings. This may be enough to shew, that a name being no way essential, what title soever is given to the chief magistrate, he can have no other power than the laws and customs of his country do give, or the people confer upon him.

2. The names of magistrates are often changed, though the power continue to be the same; and the powers are sometimes altered though the name remain. When Octavius Caesar, by the force of a mad corrupted soldiery, had overthrown all law and right, he took no other title in relation to military affairs than that of "imperator," which in the time of liberty was by the armies often given to praetors and consuls. In civil matters he was, as he pretended, content with the power of tribune.

CHAP. III *bune* *: and the like was observed in his successor, who to new-invented usurpations “gave old and approved names †.” On the other side, those titles, which have been rendered odious and execrable by the violent exercise of an absolute power, are sometimes made popular by moderate limitations; as in Germany, where, though the monarchy seem to be as well tempered as any, the princes retain the same names of “imperator,” “Caesar,” and “Augustus,” as those had done, who by the excess of their rage and fury had desolated and corrupted the best part of the world.

Sometimes the name is changed, though the power in all respects continue the same. The lords of Castile had for many ages no other title than that of count; and when the nobility and people thought good, they changed it to that of king ‡, without any addition to the power.

The sovereign magistrate in Poland was called duke till within the last two hundred years, when they gave the title of king to one of the Jagellan family §, which title has continued to this day, though without any change in the nature of the magistracy. And I presume, no wise man will think, that if the Venetians should give the name of king to their duke, it could confer any other power upon him, than he has already, unless more should be conferred by the authority of the great council.

3. The same names, which in some places denote the supreme magistracy, in others are subordinate, or merely titular. In England, France, and Spain, dukes and earls are subjects: in Germany, the electors and princes who are called by those names are little less than sovereigns; and the dukes of Savoy, Tuscany, Moscow, and others, acknowledge no superior, as well as those of Poland and Castile had none, when they went under those titles. The same may be said of kings. Some are subject to a foreign power, as divers of them were subject to the Persian and Babylonian monarchs, who for that reason were called the kings of kings. Some also are tributaries. When the Spaniards first landed in America, the great kings of Mexico and Peru had many others under them. Threecore and ten kings gathered up meat under the table of Adonibczek ¶. The Romans had many kings depending upon them. Herod and those of his race were of this number; and the dispute between him and his sons Aristobulus and Alexander was to be determined by them; neither durst he decide the matter till it was referred to him. But a right of appeal did still remain, as appears by the case of St. Paul, when Agrippa was king. The kings of Mauritania, from the time of Masinissa,

* *Posito triumviri nomine, consulem se ferens, et ad tuendam plebem tribunitio jure contentum.* Tacit. *Annal.* l. 1, § 2

† *Proprium id Tiberio fuit, scelera nuper reperta priscis verbis obtegere.* Ibid. l. 4, § 19

‡ The first who was stiled king of Castile was Don Ferdinand, about the year 1036. Mariana, l. 9, c. 1. Saaved. *Corona Gothica.*

§ The Jagellan family ascended the throne of Poland in 1386; but Premislaus II. assumed the title of king, and all the badges of royalty, in 1295. — Anno 1295, *Praemislaus rex creatur . . . et mox solenni ritu inunctus, diadema regium accepit.* Cromer *De Orig. et Reb. Gest. Polonorum*, l. 11, § 1

¶ Judges, ch. 1, v. 7

were under the like dependence. Jugurtha went to Rome to justify himself for the death of Micipsa. Juba was commanded by the Roman magistrates Scipio, Petreius, and Afranius. Another Juba was made king of the same country by Augustus, and Tiridates of Armenia by Nero: and infinite examples of this nature may be alleged. Moreover, their powers are variously regulated, according to the variety of tempers in nations and ages. Some have restrained the powers that by experience were found to be exorbitant; others have dissolved the bonds that were laid upon them: and laws relating to the institution, abrogation, enlargement, or restriction of the regal power, would be utterly insignificant, if this could not be done. But such laws are of no effect in any other country than where they are made. The lives of the Spartans did not depend upon the will of Agefilaus or Leonidas, because Nabuchodonosor could kill or save whom he pleased. And though the king of Morocco may stab his subjects, throw them to the lions, or hang them upon tenterhooks, yet a king of Poland would probably be called to a severe account, if he should unjustly kill a single man.

SECT. 33

SECTION XXXIII

THE LIBERTY OF A PEOPLE IS THE GIFT OF GOD AND NATURE.

If any man ask, how nations come to have the power of doing these things, I answer, that liberty being only an exemption from the dominion of another, the question ought not to be, how a nation can come to be free, but how a man comes to have a dominion over it; for till the right of dominion be proved and justified, liberty subsists, as arising from the nature and being of a man. Tertullian, speaking of the emperors, says, “*ab eo imperium, à quo spiritus**,” and we, taking man in his first condition, may justly say, “*ab eo libertas, à quo spiritus;*” for no man can owe more than he has received. The creature having nothing, and being nothing but what the Creator makes him, must owe all to him, and nothing to any one from whom he has received nothing. Man therefore must be naturally free, unless he be created by another power than we have yet heard of. The obedience due to parents arises from hence, in that they are the instruments of our generation; and we are instructed by the light of reason, that we ought to make great returns to those from whom under God we have received all. When they die, we are their heirs, we enjoy the same rights, and devolve the same to our posterity. God only, who confers this right upon us, can deprive us of it: and we can no way understand that he does so, unless he had so declared by

* *Indè est imperator, undè et homo antequam imperator: indè potestas illi, undè et spiritus.* Tert. Apol. § 30, p. 27

CHAP. III **express** revelation, or had set some distinguishing marks of dominion and subjection upon men; and, as an ingenious person not long since said, caused some to be born with crowns upon their heads, and all others with saddles upon their backs. This liberty therefore must continue, till it be either forfeited or willingly resigned. The forfeiture is hardly comprehensible in a multitude, that is not entered into any society; for as they are all equal, and "equals can have no right over each other*," no man can forfeit any thing to one, who can justly demand nothing, unless it may be by a personal injury, which is nothing to this case; because where there is no society, one man is not bound by the actions of another. All cannot join in the same act, because they are joined in none; or if they should, no man could recover, much less transmit the forfeiture; and not being transmitted, it perishes, as if it had never been, and no man can claim any thing from it.

It will be no less difficult to bring resignation to be subservient to our author's purpose; for men could not resign their liberty, unless they naturally had it in themselves. Resignation is a public declaration of their assent to be governed by the person to whom they resign; that is, they do by that act constitute him to be their governor. This necessarily puts us upon the inquiry, why they do resign, how they will be governed, and proves the governor to be their creature; and the right of disposing the government must be in them, or they who receive it can have none. This is so evident to common sense, that it were impertinent to ask who made Carthage, Athens, Rome, or Venice, to be free cities. Their charters were not from men, but from God and nature. When a number of Phoenicians had found a port on the coast of Africa, they might perhaps agree with the inhabitants for a parcel of ground; but they brought their liberty with them. When a company of Latins, Sabines, and Tuscans, met together upon the banks of the Tiber, and chose rather to build a city for themselves, than to live in such as were adjacent, they carried their liberty in their own breasts, and had hands and swords to defend it. This was their charter; and Romulus could confer no more upon them, than Dido upon the Carthaginians. When a multitude of barbarous nations infested Italy, and no protection could be expected from the corrupted and perishing empire, such as agreed to seek a place of refuge in the scattered islands of the Adriatic gulf had no need of any man's authority, to ratify the institution of their government. They who were the formal part of the city, and had built the material, could not but have a right of governing it as they pleased, since, if they did amiss, the hurt was only to themselves. It is probable enough, that some of the Roman emperors, as lords of the soil, might have pretended to a dominion over them, if there had been any colour for it: but nothing of that kind appearing in thirteen hundred years, we are not like to hear of any such cavils. It is agreed by mankind, that subjection and protection are relative; and that

* Par in parem non habet imperium. Braët. l. 1, c. 8, fol. 5

he who cannot protect those that are under him in vain pretends to a dominion over them. The only ends for which governments are constituted, and obedience rendered to them, are the obtaining of justice and protection; and they who cannot provide for both give the people a right of taking such ways as best please themselves, in order to their own safety. SECT. 33

The matter is yet more clear in relation to those who never were in any society, as at the beginning, or renovation of the world after the flood; or who, upon the dissolution of the societies to which they did once belong, or by some other accident, have been obliged to seek new habitations. Such were those who went from Babylon upon the confusion of tongues; those who escaped from Troy when it was burnt by the Grecians; almost all the nations of Europe, with many of Asia and Africa, upon the dissolution of the Roman empire. To which may be added a multitude of northern nations, which, when they had increased to such numbers, that their countries could no longer nourish them, or because they wanted skill to improve their lands, were sent out to provide for themselves; and having done so, did erect many kingdoms and states, either by themselves, or in union and coalition with the antient inhabitants.

It is in vain to say, that where-ever they came, the land did belong to somebody; and that they who came to dwell there must be subject to the laws of those, who were lords of the soil: for that is not always true in fact. Some come into desert countries that have no lord; others into such as are thinly peopled, by men who, knowing not how to improve their land, do either grant part of it upon easy terms to the new comers, or grow into a union with them in the enjoyment of the whole: and histories furnish us with infinite examples of this nature.

If we will look into our own original, without troubling ourselves with the senseless stories of Samothés the son of Japhet*, and his magicians, or the giants begotten by spirits upon the thirty daughters of Danaus sent from Phœnicia in a boat without sail, oars, or rudder, we shall find, that when the Romans abandoned this island, the inhabitants were left to a full liberty of providing for themselves: and whether we deduce our original from them, or the Saxons, or from both, our ancestors were perfectly free; and the Normans having inherited the same right when they came to be one nation with the former, we cannot but continue so still, unless we have enslaved ourselves.

Nothing is more contrary to reason, than to imagine this. When the fierce barbarity of the Saxons came to be softened by a more gentle climate, the arts and religion they learned taught them to reform their manners, and better enabled them to frame laws for the preservation of their liberty, but no way diminished their love to it. And though the Normans might desire to get the lands of those who had joined with Harold, and of others,

* Samothés, qui et Dis, Celtas colonias fundavit. Berosi Antiq. ab Annio Viterbensi. l. 5, § 1. — Samothés fuit frater Comeri atque Tubalis ex Japeto patre, à quo primùm Britones, indè Galli Samothei dicti fuerunt. Ibid. in comment. Annii. Seldenii Janus Anglorum, c. 1

CHAP. III into their hands, yet when they were settled in the country, and by marriages united to the antient inhabitants, they became true Englishmen, and no less lovers of liberty, and resolute defenders of it, than the Saxons had been. There was then neither conquering Norman, nor conquered Saxon, but a great and brave people composed of both, united in blood and interest in the defence of their common rights, which they so well maintained, that no prince since that time has too violently encroached upon them, who, as the reward of his folly, has not lived miserably, and died shamefully.

Such actions of our ancestors do not, as I suppose, favour much of the submission which patrimonial slaves do usually render to the will of their lord. On the contrary, whatever they did was by a power inherent in themselves to defend that liberty in which they were born. All their kings were created upon the same condition, and for the same ends. Alfred acknowledged he found and left them perfectly free; and the confession of Offa, that they had not made him king for his own merits, but for the defence of their liberty, comprehends all that were before and after him. They well knew how great the honour was, to be made head of a great people; and rigorously exacted the performance of the ends for which such a one was elevated, severely punishing those who basely and wickedly betrayed the trust reposed in them, and violated all that is most sacred among men; which could not have been, unless they were naturally free; for the liberty that has no being, cannot be defended.

SECTION XXXIV

NO VENERATION PAID, OR HONOUR CONFERRED UPON A JUST
AND LAWFUL MAGISTRATE, CAN DIMINISH THE
LIBERTY OF A NATION.

Some have supposed, that though the people be naturally free, and magistrates created by them, they do by such creations deprive themselves of that natural liberty; and that the names of "king, sovereign lord," and "dread sovereign," being no way consistent with liberty, they who give such titles do renounce it. Our author carries this very far, and lays great weight upon the submissive language used by the people, when they "humbly crave, that his majesty would be pleased to grant them their accustomed freedom of speech, and access to his person;" and "give the name of supplications and petitions to the addresses made to him:" whereas he answers in the haughty language of "le roi le veut, le roi s'avifera," and the like. But they who talk at this rate, shew, that they neither understand the nature of magistracy, nor the practice of nations. Those who have lived in the highest exercise of their liberty, and have been most tenacious of it, have thought no honour too great for
such

such magistrates as were eminent in the defence of their rights, and were set up for that end. The name of dread sovereign might justly have been given to a Roman dictator, or consul; for they had the sovereign authority in their hands, and power sufficient for its execution. Whilst their magistracy continued, they were a terror to the same men, whose axes and rods had been a terror to them the year or month before, and might be so again the next. The Romans thought they could not be guilty of excess in carrying the power and veneration due to their dictator to the highest: and Livy tells us, that his "edicts were esteemed sacred*." I have already shewn, that this haughty people, who might have commanded, condescended to join with their tribunes in a petition to the dictator Papirius for the life of Quintus Fabius, who had fought a battle in his absence, and without his order, though he had gained a great and memorable victory. The same Fabius, when consul, was commended by his father Q. Fabius Maximus, for obliging him, by his lictors, to dismount from his horse, and to pay him the same respect that was due from others. The tribunes of the people, who were instituted for the preservation of liberty, were also esteemed sacred and inviolable, as appears by that phrase, "sacrosancta tribunorum potestas †," so common in their antient writers. No man, I presume, thinks any monarchy more limited, or more clearly derived from a delegated power, than that of the German emperors; and yet "sacra Caesarea majestas" is the public stile. Nay, the Hollanders at this day call their burgomasters, though they see them selling herring or tar, "high and mighty lords," as soon as they are advanced to be of the thirty six, forty two, or forty eight magistrates of a small town. It is no wonder therefore, if a great nation should think it conducing to their own glory, to give magnificent titles, and use submissive language, to that one man, whom they set up to be their head; especially, if we consider, that they came from a country where such titles and language were principally invented.

Among the Romans and Grecians we hear nothing of majesty, highness, serenity, and excellence, appropriated to a single person; but receive them from Germany, and other northern countries. We find "majestas populi Romani," and "majestas imperii ‡," in their best authors; but no man, speaking to Julius or Augustus, or even to the vainest of their successors, ever used those empty titles, nor took upon themselves the name of servants, as we do to every fellow we meet in the streets. When such ways of speaking are once introduced they must needs swell to a more than ordinary height in all transactions with princes. Most of them naturally delight in vanity, and courtiers never speak more truth, than

* Dictatoris edictum pro numine semper observatum. Liv. l. 8, c. 34

† Tribunos vetere jurejurando plebis, cum primum eam potestatem creavit, sacrosanctos esse. Liv. l. 3, c. 55.— Jure sacrosanctae potestatis. Ibid. l. 29, c. 20

‡ Fit S. C. ut consules operam darent, ut imperium populi Romani majestasque conservaretur. Cic. Orat. pro Rab. § 20. Me ex manibus impiis eripite, per majestatem imperii, per amicitiae fidem. Sall. Bell. Jug. § 26. Urbem non pro majestate imperii ornatam. Suet. in vita Augusti, § 28

CHAP. III when they most extol their masters, and assume to themselves the names that best express the most abject slavery. These, being brought into mode, like all ill customs, increase by use; and then no man can omit them without bringing that hatred and danger upon himself, which few will undergo, except for something that is evidently of great importance. Matters of ceremony and title, at the first, seem not to be so; and, being for some time neglected, they acquire such strength as not to be easily removed. From private usage they pass into public acts; and those flatterers who gave a beginning to them, proposing them in public councils, where too many of that sort have always insinuated themselves, gain credit enough to make them pass. This work was farther advanced by the church of Rome, according to their custom of favouring that most, which is most vain and corrupt; and it has been usual with the popes, and their adherents, liberally to gratify princes for services rendered to the church, with titles that tended only to the prejudice of the people. These poisonous plants, having taken root, grew up so fast, that the titles which, within the space of a hundred years, were thought sufficient for the kings and queens of England, have of late been given to Monk, and his honourable dutchess. New phrases have been invented to please princes, or the sense of the old perverted, as has happened to that of "*le roi s'avifera*:" and that, which was no more than a liberty to consult with the lords upon a bill presented by the commons, is by some men now taken for a right inherent in the king of denying such bills as may be offered to him by the lords and commons; though the coronation-oath obliges him to hold, keep, and defend the just laws and customs, "*quas vulgus elegerit*." And, if a stop be not put to this exorbitant abuse, the words still remaining in acts of parliament, which shew that their acts are our laws, may perhaps be also abolished.

But though this should come to pass, by the slackness of the lords and commons, it could neither create a new right in the king, nor diminish that of the people: but it might give a better colour to those who are enemies to their country, to render the power of the crown arbitrary, than any thing that is yet among us.

SECTION XXXV

THE AUTHORITY GIVEN BY OUR LAW TO THE ACTS PERFORMED BY A KING DE FACTO DETRACTS NOTHING FROM THE PEOPLE'S RIGHT OF CREATING WHOM THEY PLEASE.

They who have more regard to the prevailing power than to right, and lay great weight upon the statute of Henry the seventh *, which authorizes the acts of a "king de facto," seem not to consider, that thereby they destroy all the pretended right of inheritance; that he only is king "de facto," who is received by the people; and that this reception could neither be of any value in itself, nor be made valid by a statute, unless the people, and their representatives, who make the statute, had in themselves the power of receiving, authorizing, and creating whom they please. For he is not king "de facto" who calls himself so, as Perkin or Simnel, but he who, by the consent of the nation, is possessed of the regal power. If there were such a thing in nature, as a natural lord over every country, and if the right must go by descent, it would be impossible for any other man to acquire it, or for the people to confer it upon him, and to give the authority to the acts of one, who neither is, nor can be, a king, which belongs only to him who has the right inherent in himself, and inseparable from him. Neither can it be denied, that the same power which gives the validity to such acts as are performed by one who is not a king, that belongs to those of a true king, may also make him king: for the essence of a king consists in the validity of his acts. And it is equally absurd for one to pretend to be a king, whose acts as king are not valid, as that his own can be valid, if those of another are; for then the same indivisible right which our author, and those of his principles, assert to be inseparable from the person, would be at the same time exercised and enjoyed by two distinct and contrary powers.

Moreover, it may be observed, that this statute was made, after frequent and bloody wars concerning titles to the crown; and whether the cause were good or bad, those who were overcome were not only subject to be killed in the field, but afterwards to be prosecuted as traitors under

* The preamble of the statute of 11 Hen. VII, c. 1— "The king our sovereign lord calling to remembrance the duty of allegiance of his subjects of this his realm, and that they, by reason of the same, are bound to serve their prince and sovereign lord for THE TIME BEING in his wars, for the defence of him and the land, against every rebellion, power, and might reared against him, and with him to enter and abide in service in battle, if case so require; and that for the same service, what fortune ever fall by chance in the same battle, against the mind and will of the prince (as in this land sometime past hath been seen) it is not reasonable, but against all laws, reason, and good conscience, that the said subjects going with their sovereign lord in wars, attending upon him in his person, or being in other places by his commandment, within this land or without, any thing should lose or forfeit, for doing their duty and service of allegiance. It be therefore ordained, enacted, &c."

CHAP. III the colour of law. He who gained the victory was always set up to be king by those of his party; and he never failed to proceed against his enemies as rebels. This introduced a horrid series of the most destructive mischiefs. The fortune of war varied often; and I think it may be said, that there were few, if any, great families in England, that were not either destroyed, or at least so far shaken, as to lose their chiefs, and many considerable branches of them: and experience taught, that instead of gaining any advantage to the public, in point of government, he for whom they fought seldom proved better than his enemy. They saw that the like might again happen, though the title of the reigning king should be as clear, as descent of blood could make it. This brought things into an uneasy posture; and it is not strange, that both the nobility and commonalty should be weary of it. No law could prevent the dangers of battle; for he that had followers, and would venture himself, might bring them to such a decision, as was only in the hand of God. But thinking no more could justly be required to the full performance of their duty to the king, than to expose themselves to the hazard of battle for him, and not being answerable for the success, they would not have that law which they endeavoured to support, turned to their destruction by their enemies, who might come to be the interpreters of it. But as they could be exempted from this danger, only by their own laws, which could authorize the acts of a king without a title, and justify them for acting under him, it is evident, that the power of the law was in their hands, and that the acts of the person who enjoyed the crown, were of no value in themselves. The law had been impertinent if it could have been done without law; and the intervention of the parliament useless, if the kings "de facto" could have given authority to their own acts. But if the parliament could make that to have the effect of law, which was not law, and exempt those that acted according to it from the penalties of the law, and give the same force to the acts of one who is not king, as of one who is, they cannot but have a power of making him to be king, who is not so; that is to say, all depends entirely upon their authority.

Besides, he is not king who assumes the title to himself, or is set up by a corrupt party; but he who, according to the usages required in the case, is made king. If these are wanting, he is neither "de facto," nor "de jure," but "tyrannus sine titulo." Nevertheless, this very man, if he comes to be received by the people, and placed in the throne, he is thereby made king "de facto." His acts are valid in law; the same service is due to him as to any other; they who render it are in the same manner protected by the law; that is to say, he is truly king. If our author therefore do allow such to be kings, he must confess that power to be good, which makes them so, when they have no right in themselves. If he deny it, he must not only deny, that there is any such thing as a king "de facto," which the statute acknowledges, but that we ever had any

any king in England; for we never had any other than such, as I have SECT. 36 proved before.

By the same means he will so unravel all the law, that no man shall know what he has, or what he ought to do or avoid; and will find no remedy for this, unless he allow, that laws made without kings are as good as those made with them, which returns to my purpose: for they who have the power of making laws may by law make a king, as well as any other magistrate. And indeed the intention of this statute could be no other than to secure mens persons and possessions, and so far to declare the power of giving and taking away the crown to be in the parliament, as to remove all disputes concerning titles, and to make him to be a legal king, whom they acknowledge to be king.

SECTION XXXVI

THE GENERAL REVOLT OF A NATION CANNOT BE CALLED A REBELLION.

As impostors seldom make lyes to pass in the world, without putting false names upon things, such as our author endeavour to persuade the people they ought not to defend their liberties, by giving the name of rebellion to the most just and honourable actions, that have been performed for the preservation of them; and, to aggravate the matter, tell us, that rebellion is like the sin of witchcraft. But those who seek after truth will easily find, that there can be no such thing in the world as the rebellion of a nation against its own magistrates, and that rebellion is not always evil. That this may appear, it will not be amiss to consider the word, as well as the thing commonly understood by it, as it is used in an evil sense.

The word is taken from the Latin "rebellare," which signifies no more than to renew a war. When a town or province had been subdued by the Romans, and brought under their dominion, if they violated their faith after the settlement of peace, and invaded their masters, who had spared them, they were said to rebel. But it had been more absurd to apply that word to the people that rose against the decemviri, kings, or other magistrates, than to the Parthians, or any of those nations who had no dependence upon them; for all the circumstances that should make a rebellion were wanting, the word implying a superiority in them against whom it is, as well as the breach of an established peace. But though every private man, singly taken, be subject to the commands of the magistrate, the whole body of the people is not so; for he is by and for the people, and the people is neither by nor for him. The obedience due to him from private men is grounded upon and measured by the general law; and that law, regarding the welfare of the people, cannot set up the interest of one or a few men against the public. The whole body there-

CHAP. III

fore of a nation cannot be tied to any other obedience than is consistent with the common good, according to their own judgment: and having never been subdued, or brought to terms of peace with their magistrates, they cannot be said to revolt or rebel against them, to whom they owe no more than seems good to themselves, and who are nothing of or by themselves, more than other men.

Again, the thing signified by rebellion is not always evil. For, though every subdued nation must acknowledge a superiority in those who have subdued them, and rebellion do imply a breach of the peace, yet that superiority is not infinite; the peace may be broken upon just grounds, and it may be neither a crime nor infamy to do it. The Privernates had been more than once subdued by the Romans, and had as often rebelled. Their city was at last taken by Plautius the consul, after their leader Vitruvius, and great numbers of their senate and people, had been killed. Being reduced to a low condition, they sent ambassadors to Rome to desire peace; where, when a senator asked them what punishment they deserved, one of them answered, "the same which they deserve, who think themselves worthy of liberty.*" The consul then demanded, "what kind of peace might be expected from them, if the punishment should be remitted." The ambassador answered, "if the terms you give be good, the peace will be observed by us faithfully and perpetually; if bad, it will soon be broken †." And though some were offended with the ferocity of the answer, yet the best part of the senate approved it, as "worthy of a man and a freeman ‡;" and confessing that no man or nation would continue under an uneasy condition, longer than they were compelled by force, said, "they only were fit to be made Romans, who thought nothing valuable but liberty §." Upon which they were all made citizens of Rome, and obtained whatever they had desired.

I know not how this matter can be carried to a greater height; for if it were possible, that a people resisting oppression and vindicating their own liberty could commit a crime, and incur either guilt or infamy, the Privernates did, who had been often subdued, and often pardoned; but, even in the judgment of their conquerors, whom they had offended, the resolution they professed of standing to no agreement, imposed upon them by necessity, was accounted the highest testimony of such a virtue, as rendered them worthy to be admitted into a society and equality with themselves, who were the most brave and virtuous people of the world.

But if the patience of a conquered people may have limits, and they, who will not bear oppression from those who had spared their lives, may deserve praise and reward from their conquerors, it would be madness to think, that any nation can be obliged to bear whatever their own magis-

* Eam quam merentur, qui se libertate dignos censent. Liv. l. 8, c. 21

† Si bonam dederitis, et fidam et perpetuam; si malam, haud diuturnam. Ibid.

‡ Viri, et liberi vocem auditam. Ibid.

§ Eos demum, qui nihil praeterquam de libertate cogitant, dignos esse, qui Romani-
sunt. Ibid.

trates think fit to do against them. This may seem strange to those who talk so much of conquests made by kings, immunities, liberties, and privileges, granted to nations, oaths of allegiance taken, and wonderful benefits conferred upon them. But, having already said as much as is needful concerning conquests, and that the magistrate, who has nothing except what is given to him, can only dispense out of the public stock such franchises and privileges as he has received for the reward of services done to the country, and encouragement of virtue, I shall at present keep myself to the two last points. SECT. 36

Allegiance signifies no more (as the words "ad legem" declare) than such an obedience as the law requires. But as the law can require nothing from the whole people, who are masters of it, allegiance can only relate to particulars, and not to the whole nation. No oath can bind any other than those who take it, and that only in the true sense and meaning of it: but single men only take this oath, and therefore single men are only obliged to keep it. The body of a people neither does, nor can perform any such act. Agreements and contracts have been made; as the tribe of Judah, and the rest of Israel afterward, made a covenant with David, upon which they made him king; but no wise man can think, that the nation did thereby make themselves the creature of their own creature.

The sense also of an oath ought to be considered. No man can by an oath be obliged to any thing beyond, or contrary to the true meaning of it. Private men, who swear obedience "ad legem," swear no obedience "extra" or "contra legem." Whatever they promise or swear can detract nothing from the public liberty, which the law principally intends to preserve. Though many of them may be obliged, in their several stations and capacities, to render peculiar services to a prince, the people continue as free as the internal thoughts of a man, and cannot but have a right to preserve their liberty, or avenge the violation.

If matters are well examined, perhaps not many magistrates can pretend to much upon the title of merit, especially if they or their progenitors have continued long in office. The conveniences annexed to the exercise of the sovereign power may be thought sufficient to pay such scores, as they grow due, even to the best: and as things of that nature are handled, I think it will hardly be found, that all princes can pretend to an irresistible power upon the account of beneficence to their people. When the family of the Medici came to be masters of Tuscany, that country was, without dispute, in men, money, and arms, one of the most flourishing provinces in the world, as appears by Machiavel's account, and the relation of what happened between Charles the eighth, and the magistrates of Florence, which I have mentioned already from Guicciardini. Now, whoever shall consider the strength of that country in those days, together with what it might have been in the space of a hundred and forty years, in which they have had no war, nor any other plague, than the extortion, fraud, rapine, and cruelty of their princes, and compare it with their present desolate, wretched, and contemptible condition, may, if he please,

CHAP. III think, that much veneration is due to the princes that govern them; but will never make any man believe, that their title can be grounded upon beneficence. The like may be said of the duke of Savoy, who, pretending, upon I know not what account, that every peasant in the dutchy ought to pay him two crowns every half-year, did in 1662 subtilly find out, that in every year there were thirteen halves; so that a poor man, who had nothing but what he gained by hard labour, was through his fatherly care and beneficence forced to pay six and twenty crowns to his royal highness, to be employed in his discreet and virtuous pleasures at Turin.

The condition of the seventeen provinces of the Netherlands (and even of Spain itself) when they fell to the house of Austria, was of the same nature: and I will confess as much as can be required, if any other marks of their government do remain, than such as are manifest evidences of their pride, avarice, luxury, and cruelty.

France, in outward appearance, makes a better shew; but nothing in this world is more miserable, than that people under the fatherly care of their triumphant monarch. The best of their condition is like asses and mastiff-dogs, to work and fight, to be oppressed and killed for him; and those among them, who have any understanding, well know, that their industry, courage, and good success, is not only unprofitable, but destructive to them; and that, by increasing the power of their master, they add weight to their own chains. And if any prince, or succession of princes, have made a more modest use of their power, or more faithfully discharged the trust reposed in them, it must be imputed peculiarly to them, as a testimony of their personal virtue, and can have no effect upon others.

The rights therefore of kings are not grounded upon conquest: the liberties of nations do not arise from the grants of their princes: the oath of allegiance binds no private man to more than the law directs, and has no influence upon the whole body of every nation. Many princes are known to their subjects only by the injuries, losses, and mischiefs, brought upon them. Such as are good and just ought to be rewarded for their personal virtue, but can confer no right upon those who no way resemble them; and whoever pretends to that merit must prove it by his actions. Rebellion, being nothing but a renewed war, can never be against a government that was not established by war, and of itself is neither good nor evil, more than any other war; but is just or unjust, according to the cause or manner of it. Besides, that rebellion, which by Samuel is compared to witchcraft*, is not of private men, or a people, against the prince, but of the prince against God. The Israelites are often said to have rebelled against the law, word, or command of God; but though they frequently opposed their kings, I do not find rebellion imputed to them on that account, nor any ill character put upon such actions. We are told also of some kings who had been subdued, and afterwards rebelled against Chedorlaomer, and other kings; but their

* 1. Sam. ch. 15, v. 23.

cause is not blamed, and we have some reason to believe it good, because SECT. 36
 Abraham took part with those who had rebelled. However, it can be of no prejudice to the cause I defend: for though it were true, that those subdued kings could not justly rise against the person who had subdued them, or that generally no king, being once vanquished, could have a right of rebellion against his conqueror, it could have no relation to the actions of a people vindicating their own laws and liberties against a prince who violates them; for that war which never was can never be renewed. And if it be true in any case, that hands and swords are given to men, that they only may be slaves who have no courage, it must be when liberty is overthrown by those, who of all men ought with the utmost industry and vigour to have defended it.

That this should be known, is not only necessary for the safety of nations, but advantageous to such kings as are wise and good. They who know the frailty of human nature will always distrust their own; and desiring only to do what they ought, will be glad to be restrained from that which they ought not to do. Being taught by reason and experience, that nations delight in the peace and justice of a good government, they will never fear a general insurrection, whilst they take care it be rightly administered; and finding themselves by this means to be safe will never be unwilling, that their children or successors should be obliged to tread in the same steps.

If it be said, that this may sometimes cause disorders, I acknowledge it; but no human condition being perfect, such a one is to be chosen, which carries with it the most tolerable inconveniences: and it being much better, that the irregularities and excesses of a prince should be restrained or suppressed, than that whole nations should perish by them, those constitutions that make the best provision against the greatest evils are most to be commended. If governments were instituted to gratify the lusts of one man, those could not be good that set limits to them; but all reasonable men confessing that they are instituted for the good of nations, they only can deserve praise, who above all things endeavour to procure it, and appoint means proportioned to that end. The great variety of governments, which we see in the world, is nothing but the effect of this care; and all nations have been, and are more or less happy, as they or their ancestors have had vigour of spirit, integrity of manners, and wisdom to invent and establish such orders, as have better or worse provided for this common good, which was sought by all. But as no rule can be so exact as to make provision against all contentions; and all disputes about right do naturally end in force when justice is denied (ill men never willingly submitting to any decision, that is contrary to their passions and interests) the best constitutions are of no value, if there be not a power to support them. This power first exerts itself in the execution of justice by the ordinary officers. But no nation having been so happy, as not sometimes to produce such princes as Edward the second and Richard the second, and such ministers, as Gaveston, Spencer; and Tresilian, the ordinary officers of justice

CHAP. III justice often want the will, and always the power, to restrain them. So that the rights and liberties of a nation must be utterly subverted and abolished, if the power of the whole may not be employed to assert them, or punish the violation of them. But as it is the fundamental right of every nation to be governed by such laws, in such manner, and by such persons, as they think most conducing to their own good, they cannot be accountable to any but themselves for what they do in that most important affair.

SECTION XXXVII

THE ENGLISH GOVERNMENT WAS NOT ILL CONSTITUTED, THE DEFECTS MORE LATELY OBSERVED PROCEEDING FROM THE CHANGE OF MANNERS, AND CORRUPTION OF THE TIMES.

I am not ignorant, that many honest and good men, acknowledging these rights, and the care of our ancestors to preserve them, think they wanted wisdom rightly to proportionate the means to the end. It is not enough, say they, for the general of an army to desire victory; he only can deserve praise, who has skill, industry, and courage, to take the best measures of obtaining it. Neither is it enough for wise legislators to preserve liberty, and to erect such a government as may stand for a time; but to set such clear rules to those, who are to put it in execution, that every man may know when they transgress; and appoint such means for restraining or punishing them, as may be used speedily, surely, and effectually, without danger to the public. Sparta being thus constituted, we hardly find, that, for more than eight hundred years, any king presumed to pass the limits prescribed by the law. If any Roman consul grew insolent, he might be reduced to order without blood, or danger to the public; and no dictator ever usurped a power over liberty till the time of Sylla, when all things in the city were so changed, that the antient foundations were become too narrow. In Venice the power of the duke is so circumscribed, that in 1300 years, no one, except Falerio and Tiepoli, has dared to attempt any thing against the laws: and they were immediately suppressed with little commotion in the city. On the other side, our law is so ambiguous, perplexed, and intricate, that it is hard to know when it is broken. In all the public contests we have had, men of good judgment and integrity have followed both parties. The means of transgressing, and procuring partisans to make good by force the most notorious violations of liberty, have been so easy, that no prince, who has endeavoured it, ever failed to get great number of followers, and to do infinite mischiefs, before he could be removed. The nation has been brought to fight against those they had made to be what they were, upon the unequal terms of hazarding all against nothing. If they had success, they gained

no more than what was their own before, and which the law ought to have secured: whereas it is evident, that if at any one time the contrary had happened, the nation had been utterly enslaved; and no victory was ever gained without the loss of much noble and innocent blood. SECT. 37.

To this I answer, that no right judgment can be given of human things, without a particular regard to the time in which they passed. We esteem Scipio, Hannibal, Pyrrhus, Alexander, Epaminondas, and Caesar, to have been admirable commanders in war, because they had in a most eminent degree all the qualities that could make them so, and knew best how to employ the arms then in use according to the discipline of their times; and yet no man doubts, that if the most skilful of them could be raised from the grave, restored to the utmost vigour of mind and body, set at the head of the best armies he ever commanded, and placed upon the frontiers of France or Flanders, he would not know how to advance or retreat, nor by what means to take any of the places in those parts, as they are now fortified and defended; but would most certainly be beaten by any insignificant fellow with a small number of men, furnished with such arms as are now in use, and following the methods now practised. Nay, the manner of marching, encamping, besieging, attacking, defending, and fighting, is so much altered within the last threecore years, that no man, observing the discipline that was then thought to be the best, could possibly defend himself against that which has been since found out, though the terms are still the same. And if it be considered, that political matters are subject to the same mutations (as certainly they are) it will be sufficient to excuse our ancestors, who, suiting their government to the ages in which they lived, could neither foresee the changes, that might happen in future generations, nor appoint remedies for the mischiefs they did not foresee.

They knew that the kings of several nations had been kept within the limits of the law, by the virtue and power of a great and brave nobility; and that no other way of supporting a mixed monarchy had ever been known in the world, than by putting the balance into the hands of those who had the greatest interest in nations, and who by birth and estate enjoyed greater advantage than kings could confer upon them for rewards of betraying their country. They knew, that when the nobility was so great as not easily to be numbered, the little that was left to the king's disposal was not sufficient to corrupt many; and if some might fall under the temptation, those who continued in their integrity would easily be able to chastise them for deserting the public cause, and by that means deter kings from endeavouring to seduce them from their duty. Whilst things continued in this posture, kings might safely be trusted (with the advice of their council) to confer the commands of the militia in towns and provinces upon the most eminent men in them: and whilst those kings were exercised in almost perpetual wars, and placed their glory in the greatness of the actions they achieved by the power and valour of their people, it was their interest always to choose such as seemed best to deserve that

that honour. It was not to be imagined, that through the weakness of some, and malice of others, those dignities should by degrees be turned into empty titles, and become the rewards of the greatest crimes, and the vilest services; or that the noblest of their descendents, for want of them, should be brought under the name of commoners, and deprived of all privileges, except such as were common to them with their grooms. Such a stupendous change being in process of time insensibly introduced, the foundations of that government, which they had established, were removed, and the superstructure overthrown. The balance by which it subsisted was broken; and it is as impossible to restore it, as for most of those who at this day go under the name of noblemen, to perform the duties required from the antient nobility of England. And though there were a charm in the name, and those who have it should be immediately filled with a spirit like to that which animated our ancestors, and endeavour to deserve the honours they possess, by such services to the country as they ought to have performed before they had them, they would not be able to accomplish it. They have neither the interest nor the estates required for so great a work. Those who have estates at a rack-rent have no dependents. Their tenants, when they have paid what is agreed, owe them nothing; and knowing they shall be turned out of their tenements, as soon as any other will give a little more, they look upon their lords as men, who receive more from them than they confer upon them. This dependence being lost, the lords have only more money to spend or lay up than others, but no command of men; and can therefore neither protect the weak, nor curb the insolent. By this means, all things have been brought into the hands of the king, and the commoners; and there is nothing left to cement them, and to maintain the union. The perpetual jarrings we hear every day, the division of the nation into such factions, as threaten us with ruin, and all the disorders that we see or fear, are the effects of this rupture. These things are not to be imputed to our original constitutions, but to those who have subverted them. And if they who by corrupting, changing, enervating, and annihilating the nobility, which was the principal support of the antient regular monarchy, have driven those who are truly noblemen into the same interest and name with the commons, and by that means increased a party which never was, and, I think, never can be, united to the court, they are to answer for the consequences; and if they perish, their destruction is from themselves.

The inconveniences therefore proceed not from the institution, but from the innovation. The law was plain, but it has been industriously perplexed: they who were to have upheld it are overthrown. That which might have been easily performed when the people was armed, and had a great, strong, virtuous, and powerful nobility to lead them, is made difficult, now they are disarmed, and that nobility abolished. Our ancestors may evidently appear, not only to have intended well, but to have taken a right course to accomplish what they intended. This had effect as long as the cause continued; and the only fault that can be ascribed

ascribed to that which they established is, that it has not proved to be perpetual; which is no more than may be justly said of the best human constitutions, that ever have been in the world. If we will be just to our ancestors, it will become us in our time rather to pursue what we know they intended, and by new constitutions to repair the breaches made upon the old, than to accuse them of the defects that will for ever attend the actions of men. Taking our affairs at the worst, we shall soon find, that if we have the same spirit they had, we may easily restore our nation to its antient liberty, dignity and happiness; and if we do not, the fault is owing to ourselves, and not to any want of virtue and wisdom in them.

SECTION XXXVIII

THE POWER OF CALLING AND DISSOLVING PARLIAMENTS IS NOT SIMPLY IN THE KING. THE VARIETY OF CUSTOMS IN CHOOSING PARLIAMENT-MEN, AND THE ERRORS A PEOPLE MAY COMMIT, NEITHER PROVE, THAT KINGS ARE OR OUGHT TO BE ABSOLUTE.

The original of magistratical power, the intention of our ancestors in its creation, and the ways prescribed for the direction and limitation of it may, I presume, sufficiently appear by what has been said. But because our author, taking hold of every twig, pretends, "that kings may call and dissolve parliaments at their pleasure," and from thence infers the power to be wholly in them; alleges the various customs in several parts of this nation, used in the elections of parliament-men, to proceed from the king's will; and because a people may commit errors, thinks all power ought to be put into the hands of the king:

I answer, 1. that the power of calling and dissolving parliaments is not simply in kings. They may call parliaments, if there be occasion, at times when the law does not exact it; they are placed as sentinels, and ought vigilantly to observe the motions of the enemy, and give notice of his approach: but if the sentinel fall asleep, neglect his duty, or maliciously endeavour to betray the city, those who are concerned may make use of all other means to know their danger, and to preserve themselves. The ignorance, incapacity, negligence, or luxury of a king, is a great calamity to a nation, and his malice is worse, but not an irreparable ruin. Remedies may be, and often have been found against the worst of their vices. The last French kings of the races of Meroveus and Pepin brought many mischiefs upon the kingdom, but the destruction was prevented. Edward the second and Richard the second of England were not unlike them, and we know by what means the nation was preserved. The question was not who had the right, or who ought to call parliaments, but how the commonwealth might be saved from ruin. The consuls, or
 O o o other

CHAP. III

other chief magistrates in Rome, had certainly a right of assembling and dismissing the senate. But when Hannibal was at the gates, or any other imminent danger threatened them with destruction, if that magistrate had been drunk, mad, or gained by the enemy, no wise man can think, that formalities were to have been observed. In such cases every man is a magistrate; and he who best knows the danger, and the means of preventing it, has a right of calling the senate or people to an assembly. The people would, and certainly ought to follow him, as they did Brutus and Valerius against Tarquin, or Horatius and Valerius against the decemviri; and whoever should do otherwise might, for sottishness, be compared to the courtiers of the two last kings of Spain. The first of these, by name Philip the third, being indisposed in cold weather, a braziero of coals was brought into his chamber, and placed so near to him, that he was cruelly scorched. A nobleman, then present, said to one who stood by him, "the king burns;" the other answered, it was true, but the page, whose office it was to bring and remove the braziero, was not there: and before he could be found, his majesty's legs and face were so burnt, that it caused an erysipelas, of which he died. Philip the fourth escaped not much better, who being surprised as he was hunting by a violent storm of rain and hail, and no man presuming to lend the king a cloak, he was so wet before the officer could be found who carried his own, that he took a cold, which cast him into a dangerous fever. If kings like the consequences of such a regularity, they may cause it to be observed in their own families; but nations, looking in the first place to their own safety, would be guilty of the most extreme stupidity, if they should suffer themselves to be ruined for adhering to such ceremonies.

This is said upon a supposition, that the whole power of calling and dissolving parliaments is, by the law, placed in the king: but I utterly deny that it is so; and to prove it, shall give the following reasons.

(1.) That the king can have no such power, unless it be given to him, for every man is originally free; and the same power that makes him king gives him all that belongs to his being king. It is not therefore an inherent, but a delegated power; and whoever receives it is accountable to those that gave it; for, as our author is forced to confess, "they who give authority by commission do always retain more than they grant."

(2.) The law for annual parliaments expressly declares it not to be in the king's power, as to the point of their meeting, nor consequently their continuance. For they meet to no purpose if they may not continue to do the work for which they meet: and it were absurd to give them a power of meeting, if they might not continue till it be done: for, as Grotius says, "*qui dat finem, dat media ad finem necessaria.**" The only reason why parliaments do meet is to provide for the public good; and they by law ought to meet for that end. They ought not therefore to be dissolved, till it be accomplished. For this reason the opinion given by Tresilian,

* *Qui dat formam, dat quae ad formam sunt necessaria.* Grot. de Jure Belli, l. 2, c. 7, § 4

that kings might dissolve parliaments at their pleasure, was adjudged to be a principal part of his treason. SECT. 38

(3.) We have already proved, that Saxons, Danes, Normans, &c. who had no title to the crown, were made kings by micel-gemotes, witen-gemotes, and parliaments; that is, either by the whole people, or their representatives: others have been by the same authority restrained, brought to order, or deposed. But as it is impossible, that such as were not kings, and had no title to be kings, could, by virtue of a kingly power, call parliaments, when they had none; and absurd to think, that such as were in the throne, who had not governed according to law, would suffer themselves to be restrained, imprisoned, or deposed by parliaments, called and sitting by themselves, and still depending upon their will to be, or not to be; it is certain that parliaments have in themselves a power of sitting and acting for the public good.

2. To the second. The various customs used in elections are nothing to this question. In the counties, which make up the body of the nation, all freeholders have their votes: these are properly "cives," members of the commonwealth, in distinction from those who are only "incolae," or inhabitants, villains, and such as being under their parents, are not yet "fui juris." These, in the beginning of the Saxons reign in England, composed the micel-gemotes; and when they grew to be so numerous, that one place could not contain them, or so far dispersed, that without trouble and danger they could not leave their habitations, they deputed such as should represent them. When the nation came to be more polished, to inhabit cities and towns, and to set up several arts and trades, those who exercised them were thought to be as useful to the commonwealth, as the freeholders in the country, and to deserve the same privileges. But it not being reasonable, that every one should in this case do what he pleased, it was thought fit, that the king with his council (which always consisted of the "proceres" and "magnates regni") should judge what numbers of men, and what places deserved to be made corporations, or bodies politic, and to enjoy those privileges; by which he did not confer upon them any thing that was his, but, according to the trust reposed in him, did dispense out of the public stock parcels of what he had received from the whole nation. And whether this was to be enjoyed by all the inhabitants, as in Westminster; by the common hall, as in London; or by the mayor, aldermen, jurats, and corporation, as in other places, it is the same thing: for in all these cases the king does only distribute, not give; and under the same condition that he might call parliaments, that is, for the public good. This indeed increases the honour of the person entrusted, and adds weight to the obligation incumbent upon him; but can never change the nature of the thing, so as to make that an inherent, which is only a delegated power. And as parliaments, when occasion required, have been assembled, have refused to be dissolved till their work was finished, have severely punished those who went about to persuade kings, that such matters depended absolutely upon their

CHAP. III their will, and made laws to the contrary, it is not to be imagined, that they would not also have interposed their authority in matters of charters, if it had been observed, that any king had notoriously abused the trust reposed in him, and turned the power to his private advantage, with which he was entrusted for the public good.

That which renders this most plain and safe is, that men chosen in this manner to serve in parliament, do not act by themselves, but in conjunction with others, who are sent thither by prescription; nor by a power derived from kings, but from those that choose them. If it be true therefore, that those who delegate powers do always retain to themselves more than they give, they who send these men do not give them an absolute power of doing whatever they please, but retain to themselves more than they confer upon their deputies: they must therefore be accountable to their principals, contrary to what our author asserts. This continues in force, though he knows not, that "any knights and burgesses have ever been questioned by those that sent them;" for it cannot be concluded they ought not, or may not be questioned, because none have been questioned. But in truth they are frequently questioned: the people do perpetually judge of the behaviour of their deputies. Whenever any of them has the misfortune not to satisfy the major part of those that chose him, he is sure to be rejected with disgrace the next time he shall desire to be chosen. This is not only a sufficient punishment for such faults, as he who is but one of five hundred may probably commit, but as much as the greatest and freest people of the world did ever inflict upon their commanders, that brought the greatest losses upon them. Appius Claudius, Pomponius, and Terentius Varro, survived the greatest defeats that ever the Romans suffered; and, though they had caused them by their folly and perverseness, were never punished. Yet I think no man doubts, but that the Romans had as much right over their own officers, as the Athenians and Carthaginians, who frequently put them to death. They thought the mind of a commander would be too much distracted, if at the same time he should stand in fear both of the enemy, and his own countrymen. And as they always endeavoured to choose the best men, they would lay no other necessity upon them of performing their duty, than what was suggested by their own virtue, and love to their country. It is not therefore to be thought strange, if the people of England have followed the most generous, and most prosperous examples. Besides, if any thing has been defective in their usual proceedings with their delegates, the inconvenience has been repaired by the modesty of the best and wisest of them that were chosen. Many in all ages, and sometimes the whole body of the commons, have refused to give their opinion in some cases, till they had consulted with those that sent them: the houses have been often adjourned to give them time to do it. And if this were done more frequently, or if the towns, cities, and counties, had on some occasions given instructions to their deputies, matters would probably have gone better in parliament than they have often done.

3. The question is not, whether the parliament be impeccable or infallible, but whether an assembly of nobility, with a house of commons composed of those who are best esteemed by their neighbours in all the towns and counties of England, are more or less subject to error or corruption, than such a man, woman, or child, as happens to be next in blood to the last king. Many men do usually see more than one; and if we may believe the wisest king, "in the multitude of counsellors there is safety*." Such as are of mature age, good experience, and approved reputation for virtue and wisdom, will probably judge better than children or fools. Men are thought to be more fit for war, than women; and those who are bred up in discipline to understand it better, than those who never knew any thing of it. If some counties or cities fail to choose such men as are eminently capable, all will hardly be so mistaken as to choose those who have no more of wisdom or virtue, than is usually entailed upon families. But Filmer at a venture admires the profound wisdom of the king; though besides such as we have known, histories give us too many proofs, that all those who have been possessed of crowns have not excelled that way. He speaks of kings in general, and makes no difference between Solomon and his foolish son. He distinguishes not our Edward the first from Edward the second, Edward the third from Richard the second, or Henry the fifth from Henry the sixth. And because all of them were kings, all of them, if he deserves credit, must needs have been endowed with profound wisdom. David was wise as an angel of God; therefore the present kings of France, Spain, and Sweden, must have been so also, when they were but five years old. Joan of Castile could not be mad, nor the two Joans of Naples infamous strumpets, or all his arguments fall to the ground. For though Solomon's wisdom surpassed that of all the people, yet men could not rely equally upon that of Rehoboam, unless it had been equal. And if they are all equal in wisdom when they come to be equally kings, Peres of Macedon was as great a captain as Philip or Alexander; Commodus and Heliogabalus were as wise and virtuous as Marcus Aurelius and Antoninus Pius: nay, Christina of Sweden, in her infancy, was as fit to command an army as her valiant father. If this be most absurd and false, there can be neither reason nor sense in proposing, as our author does, that the power should be in the king, because the parliament is not infallible. "It is," says he, "most proper for the head to correct, and not to expect the consent of the members, or parties peccant to be judges in their own cases; nor is it needful to confine the king, &c." Besides that this is directly contrary to his own fundamental maxim, that no man must be the judge of his own case, inasmuch as this would put the power into the king's hands, to decide the controversies between himself and the people, in which his own passions, private interest, and the corrupt counsels of ill ministers, will always lead him out of the way of justice, the inconveni-

* Prov. ch. II, v. 14.

CHAP. III ences, that may arise from a possibility that the parliament or people is not infallible, will be turned to the most certain and destructive mischiefs: as must have fallen out in Spain, if, upon a supposition that the estates of Castile might err, the correction of such errors had been left to the profound wisdom, and exquisite judgment of Joan their queen and head, who was stark-mad. And the like may be said of many other princes, who through natural or accidental infirmities, want of age, or dotage, have been utterly unable to judge of any thing.

The matter will not be much mended, though I pass from idiots and lunatics, to such as know well enough how to clothe and feed themselves, and to perform the ordinary functions of life; and yet have been as incapable of giving a right judgment concerning the weighty matters of government, as the weakest of children, or the most furious of madmen. Good manners forbid me to enumerate the examples of this kind, which Europe has produced even in this age: but I should commit a greater fault, if I did in silence pass over the extravagances of those, who being most weak in judgment, and irregular in their appetites, have been most impatient of any restraint upon their will. The brave Gustavus Adolphus, and his nephew Carolus Gustavus, who was not inferior to him in valour, wisdom, and love to his people, were content with the power that the laws of their country gave to them; but Frederic the fourth of Denmark never rested till he had overthrown the liberty of that nation. Casimir, by attempting the like in Poland, lost almost half of that kingdom; and flying from the other, left all to be ravaged by Swedes, Tartars, and Cossacs. The present emperor, who passed his time in setting songs to music with a wretched Italian eunuch, when he ought to have been at the head of a brave army, raised to oppose the Turks in the year 1664, and which under good conduct might have overthrown the Ottoman empire, as soon as he was delivered from the fear of that enemy, fell upon his own subjects with such cruelty, that they are now forced to fly to the Turks for protection: the protestants especially, who find their condition more tolerable under those professed enemies to Christianity, than to be exposed to the pride, avarice, perfidiousness, and violence, of the jesuits, by whom he is governed. And the qualities of the king of Portugal are so well known, together with the condition to which he would have brought his kingdom if he had not been sent to the Terceras, that I need not speak particularly of him.

If kings therefore, by virtue of their office, are constituted judges over the body of their people, because the people, or parliaments representing them, are not infallible, those kings who are children, fools, disabled by age, or madmen, are so also; women have the same right, where they are admitted to the succession; those men, who, though of ripe age, and not superannuated, nor directly fools or madmen, yet absolutely incapable of judging important affairs, or by their passions, interests, vices, or malice and wickedness of their ministers, servants, and favourites, are set to oppress and ruin the people, enjoy the same privilege; than which
nothing

nothing can be imagined more absurd and abominable, nor more directly tending to the corruption and destruction of the nations under them, for whose good and safety our author confesses they have their power. SECT. 39

SECTION XXXIX

THOSE KINGS ONLY ARE HEADS OF THE PEOPLE, WHO ARE GOOD, WISE, AND SEEK TO ADVANCE NO INTEREST BUT THAT OF THE PUBLIC.

The worst of men seldom arrive to such a degree of impudence, as plainly to propose the most mischievous follies and enormities. They who are enemies to virtue, and fear not God, are afraid of men, and dare not offer such things as the world will not bear, lest by that means they should overthrow their own designs. All poison must be disguised, and no man can be persuaded to eat arsenic, unless it be covered with something that appears to be harmless. Creusa would have abhorred Medea's present, if the pestilent venom had not been hidden by the exterior lustre of gold and gems*. The garment that destroyed Hercules appeared beautiful; and Eve had neither eaten of the forbidden tree, nor given the fruit to her husband, if it had not seemed to be good and pleasant, and she had not been induced to believe, that by eating it they should both be as gods. The servants of the devil have always followed the same method: their malice is carried on by fraud, and they have seldom destroyed any, but such as they had first deceived. Truth can never conduce to mischief, and is best discovered by plain words; but nothing is more usual with ill men, than to cover their mischievous designs with figurative phrases. It would be too ridiculous to say in plain terms, that all kings without distinction are better able to judge of all matters than any or all their people; they must therefore be called "the head," that thereby they may be invested with all the preeminences which in a natural body belong to that part; and men must be made to believe the analogy between the natural and political body to be perfect. But the matter must be better examined before this mortal poison seem fit to be swallowed.

The word "head" is figuratively used both in Scripture and profane authors in several senses, in relation to places or persons, and always implies something of real or seeming preeminence in point of honour or jurisdiction. Thus Damascus is said to be the head of Syria; Samaria of Ephraim †, and Ephraim of the ten tribes; that is, Ephraim was the

* Πείσει χάρις, αμύροσιος τ' αυγα πεπλα. Eurip. Medea, act. 4, v. 118, et seq.

----- Ignis fulvo

Clusus in auro latet obscurus. Sen. Medea, act. 4, sc. 2, v. 80

† Isa. ch. 7, v. 8, 9

CHAP. III chief tribe; Samaria was the chief city of Ephraim, and Damascus of Syria; though it be certain, that Ephraim had no jurisdiction over the other tribes, nor Samaria over the other cities of Ephraim, but every one according to the law had an equal power within itself, or the territories belonging to it; and no privileges were granted to one above another, except to Jerufalem, in the matter of religion, because the temple was placed there.

The words head, prince, principal man, or captain, seem also to be equivocal; and in this sense, the same men are called heads of the tribes, princes in the houses of their fathers: and it is said, that two hundred heads of the tribe of Reuben were carried away captive by Tiglath-Pilezer*, and proportionably in the other tribes; which were a strange thing, if the word did imply that supreme, absolute, and infinite power that our author attributes to it. And no man of less understanding than he can comprehend, how there should be two hundred or more sovereign unlimited powers in one tribe, especially when it is certain, that one series of kings had for many ages reigned over that tribe and nine more; and that every one of those tribes, as well as the particular cities, even from their first entrance into the promised land, had a full jurisdiction within itself. When the Gileadites came to Jephthah, he suspected them, and asked whether indeed they intended to make him their head? They answered, if he would lead them against the Ammonites, he should be their head †. In the like sense, when Julius Caesar in despair would have killed himself, one of his soldiers dissuaded him from that design, by telling him, “that the safety of so many nations, that had made him their head, depending upon his life, it would be cruelty in him to take such a resolution ‡.” But for all that, when this head was taken off, the body did still subsist: upon which I observe many fundamental differences, between the relation of this figurative head (even when the word is rightly applied) and that of the natural head, to their respective bodies.

The figurative heads may be many, the natural but one.

The people make or create the figurative head; the natural is from itself, or connate with the body.

The natural body cannot change or subsist without the natural head; but a people may change and subsist very well without the artificial. Nay, if it had been true, that the world had chosen Caesar, as it was not (for he was chosen only by a factious mercenary army, and the soundest part so far opposed that election, that they brought him to think of killing himself) there could have been no truth in this flattering assertion, “that the safety of the whole depended upon his life:” for the world

* 1 Chron. ch. 5, v. 24, 26. Our author has no authority for saying, that “two hundred” heads of the tribe of Reuben were carried into captivity by Tiglath-Pilezer. The number of the captives is not mentioned by the sacred historian.

† Judg. ch. 11, v. 8, 9

‡ *Cum tot ab hac animâ populorum vita salusque
Pendeat, et tantus caput hoc sibi fecerit orbis,
Sævitia est voluisse mori.* --- Luc. Pharf. l. 5, v. 685

could not only subsist without him, but without any such head, as it had done before he by the help of his corrupted soldiery had usurped the power: which also shews, that a civil head may be a matter of convenience, but not of necessity. Many nations have had none; and if the expression be so far stretched, as to make it extend to the annual or temporary magistrates set up by the Athenians, Carthaginians, Romans, and other antient commonwealths, or to those at this day in Venice, Holland, Switzerland, and other places, it must be confessed, that the people who made, deposed, abrogated, or abolished both the magistrates and magistracies, had the power of framing, directing, and removing their heads, which, our author will say, is most absurd. Yet they did it without any prejudice to themselves, and very often much to their advantage.

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In mentioning these vast and essential differences between the natural and political head, I no way intend to exclude others, that may be of equal weight; but as all figurative expressions have their strength only from similitude, there can be little or none in this, which differs in so many important points, and can therefore be of no effect.

However, right proceeds from identity, and not from similitude. The right of a man over me is by being my father, and not by being like my father. If I had a brother so perfectly resembling me, as to deceive our parents, which has sometimes happened to twins, it could give him no right to any thing that is mine. If the power therefore of correcting the parties peccant, which our author attributes to kings, be grounded upon the name of head, and a resemblance between the heads of the body politic and body natural; if this resemblance be found to be exceedingly imperfect, uncertain, or perhaps no way relating to the matter in question, or though it did, and were absolutely perfect, could confer no right, the allegation of it is impertinent and absurd.

This being cleared, it is time to examine, what the office of the head is in a natural body, that we may learn from thence, why that name is sometimes given to those, who are eminent in political bodies, and to whom it does belong.

Some men account the head to be so absolutely the seat of all the senses, as to derive even that of feeling, which is exercised in every part, from the brain; but I think it is not doubted, that all the rest have both their seat and function in the head; and whatever is useful or hurtful to a man, is by them represented to the understanding: as Aristotle says, "*nihil est in intellectu, quod non sit prius in sensu.*" This is properly the part of every magistrate: he is the sentinel of the public, and is to represent what he discovers beneficial or hurtful to the society; which office belongs not only to the supreme, but proportionably to the subordinate. In this sense were the chief men among the Israelites called, "heads of their fathers house, choice and mighty men of valour, chief of the princes." And in the following chapter mention is made of "nine hundred and fifty Benjamites, chief men in the house of their fathers*." These

* 1 Chron. ch. 7, v. 40, and ch. 9, v. 9

CHAP. III men exercis'd a charitable care over such as were inferior to them in power and valour, without any shadow of sovereignty, or possibility that there could be so many sovereigns; and such as were under their care are said to be their brethren; which is not a word of majesty and domination, but of dearness and equality. The name therefore of head may be given to a sovereign, but it implies nothing of sovereignty; and must be exercis'd with charity, which always terminates in the good of others. The head cannot correct or chastise; the proper work of that part is only to indicate; and he who takes upon him to do more is not the head. A natural body is homogeneous, and cannot subsist, if it be not so. We cannot take one part of a horse, another of a bear, and put upon them the head of a lion; for it would be a monster, that would have neither action nor life. The head must be of the same nature with the other members, or it cannot subsist. But the lord or master differs "in specie" from his servants and slaves: he is not therefore properly their head.

Besides, the head cannot have a subsistence without the body, nor any interest contrary to that of the body; and it is impossible for any thing to be good for the head, that is hurtful to the body. A prince therefore or magistrate, who sets up an interest in himself distinct from, or repugnant to that of the people, renounces the title or quality of their head. Indeed, Moses was the head of the Israelites: for when God threatened to destroy that people, and promised to make him a great nation, he waved the particular advantages offer'd to himself, interceded for them, and procur'd their pardon. Yet he was not able to bear the weight of the government alone; but desired that some might be appointed to assist him. Gideon was the head of the same people; but he would not reign himself, nor suffer his sons to reign over them. Samuel was also their head; he took nothing from any man, defrauded none, took bribes from no man, oppress'd none: God and the people were his witnesses. He blamed them for their rebellion against God in asking a king, but was no way concerned for himself, or his family. David likewise had a right to that title; for he desired, that God would spare the people, and turn the effect of his anger against himself, and the house of his father. But Rehoboam was not their head; for though he acknowledged, that his father had laid a heavy yoke upon them, yet he told them he would add to the weight; and that if his father had chastis'd them with whips, he would chastise them with scorpions. The head is no burden to the body, and can lay none upon it; the head cannot chastise any member; and he who does so, be it more or less, cannot be the head. Jeroboam was not the head of the revolting tribes; for the head takes care of the members, and provides for the safety of the whole: but he, through fear that the people going to Jerusalem to worship should return to the house of David, by setting up idols to secure his own interest, drew guilt and destruction upon them. Though it should be granted, that Augustus, by a gentle use of his power, had in a manner expiated the detestable villainies committed in the acquisition, and had truly deserved to be called the head of the Romans; yet that title could no way belong

to Caligula, Claudius, Nero, or Vitellius, who neither had the qualities SECT. 39 required in the head, nor the understanding or will to perform the office. Nay, if I should carry the matter farther, and acknowledge that Brutus, Cincinnatus, Fabius, Camillus, and others, who, in the time of their annual or shorter magistracies, had by their vigilance, virtue, and care to preserve the city in safety, and to provide for the public good, performed the office of the head, and might deserve the name, I might justly deny it to the greatest princes that have been in the world, who, having their power for life, and leaving it to descend to their children, have wanted the virtues required for the performance of their duty: and I should less fear to be guilty of an absurdity in saying, that a nation might every year change its head, than that he can be the head, who cares not for the members, nor understands the things that conduce to their good, especially if he set up an interest in himself against them. It cannot be said, that these are imaginary cases, and that no prince does these things; for the proof is too easy, and the examples too numerous. Caligula could not have wished the Romans but one head, that he might cut it off at once, if he had been that head, and had advanced no interest contrary to that of the members. Nero had not burned the city of Rome, if his concerns had been inseparably united to those of the people. He who caused above three hundred thousand of his innocent unarmed subjects to be murdered, and filled his whole kingdom with fire and blood, did set up a personal interest repugnant to that of the nation; and no better testimony can be required to shew, that he did so, than a letter written by his son, to take off the penalty due to one of the chief ministers of those cruelties, for this reason, that what he had done, was "by the command, and for the service, of his royal father." King John did not pursue the advantage of his people, when he endeavoured to subject them to the pope, or the Moors. And whatever prince seeks assistance from foreign powers, or makes leagues with any stranger or enemy for his own advantage against his people, however secret the treaty may be, declares himself not to be the head, but an enemy to them. The head cannot stand in need of an exterior help against the body, nor subsist when divided from it. He therefore that courts such an assistance divides himself from the body; and if he do subsist, it must be by a life he has in himself, distinct from that of the body, which the head cannot have.

But besides these enormities, that testify the most wicked rage and fury in the highest degree, there is another practice, which no man that knows the world can deny to be common with princes, and incompatible with the nature of a head. The head cannot desire to draw all the nourishment of the body to itself, nor more than a due proportion. If the rest of the parts are sick, weak, or cold, the head suffers equally with them; and, if they perish, must perish also. Let this be compared with the actions of many princes we know, and we shall soon see which of them are heads of their people. If the gold brought from the Indies has been equally distributed by the kings of Spain to the body of that nation, I

CHAP. III consent they may be called the heads. If the kings of France assume no more of the riches of that great kingdom than their due proportion, let them also wear that honourable name. But if the naked backs, and empty bellies of their miserable subjects evince the contrary, it can by no means belong to them. If those great nations waste and languish; if nothing be so common in the best provinces belonging to them, as misery, famine, and all the effects of the most outrageous oppression, whilst their princes and favourites possess such treasures, as the most wanton prodigality cannot exhaust; if that, which is gained by the sweat of so many millions of men, be torn out of the mouths of their starving wives and children, to foment the vices of those luxurious courts, or reward the ministers of their lusts, the nourishment is not distributed equally to all the parts of the body; the oeconomy of the whole is overthrown; and they who do these things cannot be the heads, nor parts of the body, but something distinct from, and repugnant to it. It is not therefore he who is found in, or advanced to the place of the head, who is truly the head. It is not he who ought, but he who does perform the office of the head, that deserves the name and privileges belonging to the head. If our author therefore will persuade us, that any king is head of his people, he must do it by arguments peculiarly relating to him, since those in general are found to be false. If he say, that the king, as king, may direct or correct the people, and that the power of determining all controversies must be referred to him, because they may be mistaken, he must shew that the king is infallible; for unless he do so, the wound is not cured. This also must be by some other way, than by saying he is their head; for such powers belong not to the office of the head, and we see, that all kings do not deserve that name: many of them want both understanding and will to perform the functions of the head; and many act directly contrary, in the whole course of their government. If any therefore among them have merited the glorious name of heads of nations, it must have been by their personal virtues, by a vigilant care of the good of their people, by an inseparable conjunction of interests with them, by an ardent love to every member of the society, by a moderation of spirit affecting no undue superiority, or assuming any singular advantage, which they are not willing to communicate to every part of the political body. He who finds this merit in himself will scorn all the advantages that can be drawn from misapplied names. He, that knows such honour to be peculiarly due to him for being the best of kings, will never glory in that which may be common to him with the worst. Nay, whoever pretends, by such general discourses as these of our author, to advance the particular interests of any one king, does either know he is of no merit, and that nothing can be said for him, which will not as well agree with the worst of men, or cares not what he says, so he may do mischief; and is well enough contented, that he, who is set up by such maxims as a public plague, may fall in the ruin he brings upon the people.

SECTION XL

GOOD LAWS PRESCRIBE EASY AND SAFE REMEDIES AGAINST THE EVILS PROCEEDING FROM THE VICIOUS OR INFIRMITIES OF THE MAGISTRATE; AND WHEN THEY FAIL, THEY MUST BE SUPPLIED.

Those who desire to advance the power of the magistrate above the law would persuade us, that the difficulties and dangers of inquiring into his actions, or opposing his will, when employed in violence and injustice, are so great, that the remedy is always worse than the disease; and that it is better to suffer all the evils that may proceed from his infirmities and vices, than to hazard the consequences of displeasing him. But, on the contrary, I think, and hope to prove,

1. That in well constituted governments, the remedies against ill magistrates are easy and safe.

2. That it is good, as well for the magistrate as the people, so to constitute the government, that the remedies may be easy and safe.

3. That how dangerous and difficult soever they may be through the defects of the first constitution, they must be tried.

To the first. It is most evident, that in well regulated governments these remedies have been found to be easy and safe. The kings of Sparta were not suffered in the least to deviate from the rule of the law: and Theopompus one of those kings, in whose time the ephori were created, and the regal power much restrained, doubted not to affirm, that it was by that means become more lasting, and more secure*. Pausanias had not the name of king, but commanded in the war against Xerxes with more than regal power: nevertheless, being grown insolent, he was, without any trouble to that state, banished, and afterwards put to death. Leonidas, father of Cleomenes, was in the like manner banished. The second Agis was most unjustly put to death by the ephori, for he was a brave and a good prince; but there was neither danger nor difficulty in the action. Many of the Roman magistrates, after the expulsion of the kings, seem to have been desirous to extend their power beyond the bounds of the law; and perhaps some others, as well as the decemviri, may have designed an absolute tyranny; but the first were restrained, and the others without much difficulty suppressed. Nay, even the kings were so well kept in order, that no man ever pretended to the crown, unless he were chosen; nor made any other use of his power than the law permitted, except the last Tarquin, who by his insolence, avarice, and cruelty, brought ruin upon himself and his family. I have already mentioned one or two dukes of Venice, who were not less ambitious; but their crimes

* Παραδειγμα πολυχρονιωτερον. Arist. Polit..l. 5, c. 11. Vide supra, p. 91

CHAP. III returned upon their own heads, and they perished without any other danger to the state, than what had passed before their treasons were discovered. Infinite examples of the like nature may be alleged: and if matters have not at all times, and in all places, succeeded in the same manner, it has been because the same courses were not every where taken; for all things do so far follow their causes, that, being ordered in the same manner, they will always produce the same effects.

2. To the second. Such a regulation of the magistratical power is not at all grievous to a good magistrate. He, who never desires to do any thing but what he ought, cannot desire a power of doing what he ought not, nor be troubled to find he cannot do that which he would not do if he could. This inability is also advantageous to those who are evil or unwise; that since they cannot govern themselves, a law may be imposed upon them, lest, by following their own irregular will, they bring destruction upon themselves, their families, and people, as many have done. If Apollo in the fable had not been too indulgent to Phaeton in granting his ill conceived request, the furious youth had not brought a necessity upon Jupiter, either of destroying him, or suffering the world to be destroyed by him.

Besides, good and wise men know the weight of sovereign power, and misdoubt their own strength. Sacred and human histories furnish us with many examples of those who have feared the lustre of a crown. Men, that find in themselves no delight in doing mischief, know not what thoughts may insinuate into their minds, when they are raised too much above their sphere. They who were able to bear adversity, have been precipitated into ruin by prosperity. When the prophet told Hazael the villainies he would commit, he answered, "is thy servant a dog, that I should do these things?" but yet he did them. I know not where to find an example of a man more excellently qualified than Alexander of Macedon; but he fell under the weight of his own fortune, and grew to exceed those in vice, whom he had conquered by his virtue. The nature of man can hardly suffer such violent changes, without being disordered by them; and every one ought to entertain a just diffidence of himself, and fear the temptations that have destroyed so many. If any man be so happily born, so carefully educated, so established in virtue, that no storm can shake him, nor any poison corrupt him, yet he will consider he is mortal; and, knowing no more than Solomon, whether his son shall be a wise man or a fool, he will always fear to take upon him a power, which must prove a most pestilent evil both to the person that has it, and to those that are under it, as soon as it shall fall into the hands of one, who either knows not how to use it, or may be easily drawn to abuse it. Supreme magistrates always walk in obscure and slippery places: but when they are advanced so high, that no one is near enough to support, direct, or restrain them, their fall is inevitable and mortal. And those nations that have wanted the prudence rightly to balance the powers of their magistrates, have been frequently obliged to have recourse to the most violent remedies,

remedies, and with much difficulty, danger, and blood, to punish the crimes which they might have prevented. On the other side, such as have been more wise in the constitution of their governments have always had regard to the frailty of human nature, and the corruption reigning in the hearts of men; and, being less liberal of the power over their lives and liberties, have reserved to themselves so much, as might keep their magistrates within the limits of the law, and oblige them to perform the ends of their institution. And as the law which denounces severe penalties for crimes is indeed merciful both to ill men, who are by that means deterred from committing them, and to the good, who otherwise would be destroyed, so those nations that have kept the reins in their hands, have by the same act provided as well for the safety of their princes, as for their own. They who know the law is well defended seldom attempt to subvert it: they are not easily tempted to run into excesses, when such bounds are set, as may not safely be transgressed. And whilst they are by these means rendered more moderate in the exercise of their power, the people is exempted from the odious necessity of suffering all manner of indignities and miseries from their princes, or by their destruction to prevent or avenge them.

3. To the third. If these rules have not been well observed in the first constitution, or from the changes of times, corruption of manners, insensible encroachments, or violent usurpations of princes, have been rendered ineffectual, and the people exposed to all the calamities that may be brought upon them by the weakness, vices, and malice of the prince, or those who govern him, I confess the remedies are more difficult and dangerous; but even in those cases they must be tried. Nothing can be feared that is worse than what is suffered, or must in a short time fall upon those who are in this condition. They who are already fallen into all that is odious, shameful, and miserable, cannot justly fear. When things are brought to such a pass, the boldest counsels are the most safe; and if they must perish who lie still, and they can but perish who are most active, the choice is easily made*. Let the danger be ever so great, there is a possibility of safety, whilst men have life, hands, arms, and courage to use them; but that people must certainly perish, who tamely suffer themselves to be oppressed, either by the injustice, cruelty, and malice of an ill magistrate, or by those who prevail upon the vices and infirmities of weak princes. It is in vain to say, that this may give occasion to men of raising tumults, or civil war; for though these are evils, yet they are not the greatest of evils. Civil war, in Machiavel's account, is a disease; but tyranny is the death of a state. Gentle ways are first to be used, and it is best if the work can be done by them; but it must not be left undone, if they fail. It is good to use supplications, advices, and remonstrances;

* *Moriendum victis, moriendum deditis: id solum referre, novissimum spiritum per ludibrium et contumelias effundunt, an per virtutem.* Tacit. Hist. 1. 3, § 66

Si nocentem innocentemque idem exitus maneat, acrioris viri est merito perire. Ibid. l. 1, § 21

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but those who have no regard to justice, and will not hearken to counsel, must be constrained. It is folly to deal otherwise with a man who will not be guided by reason, and a magistrate who despises the law; or rather, to think him a man, who rejects the essential principle of a man; or to account him a magistrate, who overthrows the law by which he is a magistrate. This is the last result; but those nations must come to it, which cannot otherwise be preserved. Nero's madness was not to be cured, nor the mischievous effects of it any otherwise to be suppressed than by his death. He who had spared such a monster when it was in his power to remove him, had brought destruction upon the whole empire; and by a foolish clemency made himself the author of his future villainies. This would have been yet more clear, if the world had then been in such a temper as to be capable of an entire liberty. But the antient foundations had been overthrown, and nothing better could be built upon the new, than something that might in part resist that torrent of iniquity which had overflowed the best part of the world, and give mankind a little time to breathe under a less barbarous master. Yet all the best men did join in the work that was then to be done, though they knew it would prove but imperfect. The sacred history is not without examples of this kind. When Ahab had subverted the law, set up false witnesses, and corrupt judges, to destroy the innocent, killed the prophets, and established idolatry, his house must then be cut off, and his blood be licked up by dogs. When matters are brought to this pass, the decision is easy. The question is only, whether the punishment of crimes shall fall upon one or a few persons who are guilty of them, or upon a whole nation that is innocent. If the father may not die for the son, nor the son for the father, but every one must bear the penalty of his own crimes, it would be most absurd to punish the people for the guilt of princes. When the earl of Morton was sent ambassador to queen Elizabeth by the estates of Scotland, to justify their proceedings against Mary their queen, whom they had obliged to renounce the government, he alleged among other things the murder of her husband plainly proved against her; asserted the antient right and custom of that kingdom of examining the actions of their kings; by which means, he said, many had been punished with death, imprisonment, and exile*; confirmed their actions by the examples of

* Factum ipsum, nec animadvertendi in reges vetus majorum consuetudo novum videri finit, nec moderatio poenae invidiosum: nam tot reges à nostris majoribus morte, vinculis, exilio punitos, enumerare nihil est opus . . . Gens Scotorum, cum ab initio libera esset, reges eo jure sibi creavit, ut imperium populi suffragiis eis mandatum, si res posceret, eisdem suffragiis ademerere possent . . . Hujus juris expressam habent imaginem quae in regno in-undo usurpantur caeremoniae; ex quibus scilicet apparet, regnum nihil aliud esse, quam mutuam inter populos et reges stipulationem . . . Cum tot reges, quos enumerare longum esset, majores nostri regno exuerint, exilio damnarint, carceribus coercuerint, supplicio denique affecerint; nec unquam tamen de legis acerbitate minuenda mentio est facta: nec immerito fortasse, cum ea non sit de illarum sanccionum genere, quae mutationibus temporum sunt obnoxiae, sed in primo generis humani exortu in mentes hominum incisae, et mutuo propè gentium omnium consensu comprobatae, et una cum rerum naturâ infragiles et sempiternae perennent. Buch. Rer. Scot. Hist. l. 20

other nations; and upon the whole matter concluded, that if she was still permitted to live, it was not on account of her innocence, or any exemption from the penalties of the law, but from the mercy and clemency of the people, who, contenting themselves with a resignation of her right and power to her son, had spared her. This discourse, which is set down at large by the historian cited in the margin, being of such strength in itself as never to have been any otherwise answered than by railing, and no way disapproved by queen Elizabeth, or her council, to whom it was made, either upon a general account of the pretensions of princes to be exempted from the penalties of the law, or any pretext that they had particularly misapplied them in relation to their queen, I may justly say, that when nations fall under such princes as are either utterly incapable of making a right use of their power, or do maliciously abuse that authority with which they are entrusted, those nations stand obliged, by the duty they owe to themselves and their posterity, to use the best of their endeavours to remove the evil, whatever danger or difficulties they may meet with in the performance. Pontius the Samnite said as truly as bravely to his countrymen, "that those arms were just and pious, that were necessary; and necessary, when there was no hope of safety by any other way*." This is the voice of mankind, and is disliked only by those princes, who fear the deserved punishments that may fall upon them; or by their servants and flatterers, who, being for the most part the authors of their crimes, think they shall be involved in their ruin.

SECTION XLI

THE PEOPLE, FOR WHOM AND BY WHOM THE MAGISTRATE IS CREATED, CAN ONLY JUDGE WHETHER HE RIGHTLY PERFORM HIS OFFICE OR NOT.

It is commonly said, that no man ought to be the judge of his own case; and our author lays much weight upon it as a fundamental maxim, though, according to his ordinary inconstancy, he overthrows it in the case of kings, where it ought to take place, if in any; for it often falls out, that no men are less capable of forming a right judgment than they. Their passions and interests are most powerful to disturb or pervert them. No men are so liable to be diverted from justice by the flatteries of corrupt servants. They never act as kings, except for those by whom and for whom they are created; and acting for others, the account of their actions cannot depend upon their own will. Nevertheless I am not afraid to say, that naturally and properly a man is the judge of his own concerns. No one is or can be deprived of this privilege, unless by his own consent,

* *Justum est bellum, quibus necessarium; et pia arma, quibus nulla nisi in armis relinquitur spes.* Liv. l. 9, c. 1

CHAP. III and for the good of that society into which he enters. This right therefore must necessarily belong to every man in all cases, except only such as relate to the good of the community, for whose sake he has divested himself of it. If I find myself afflicted with hunger, thirst, weariness, cold, heat, or sickness, it is a folly to tell me, I ought not to seek meat, drink, rest, shelter, refreshment, or physic, because I must not be the judge of my own case. The like may be said in relation to my house, land, or estate: I may do what I please with them, if I bring no damage upon others. But I must not set fire to my house, by which my neighbour's house may be burnt. I may not erect forts upon my own lands, or deliver them to a foreign enemy, who may by that means infect my country. I may not cut the banks of the sea, or those of a river, lest my neighbour's ground be overflowed, because the society into which I am incorporated would by such means receive prejudice. My land is not simply my own, but upon condition that I shall not thereby bring damage upon the public, by which I am protected in the peaceable enjoyment and innocent use of what I possess. But this society leaves me a liberty to take servants, and put them away, at my pleasure. No man is to direct me, of what quality or number they shall be, or can tell me, whether I am well or ill served by them. Nay, the state takes no other cognizance of what passes between me and them, than to oblige me to perform the contracts I make, and not to do that to them which the law forbids: that is to say, the power to which I have submitted myself, exercises that jurisdiction over me, which was established by my consent, and under which I enjoy all the benefits of life, which are of more advantage to me than my liberty could have been, if I had retained it wholly in myself. The nature also and measure of this submission must be determined by the reasons that induced me to it. The society in which I live cannot subsist, unless by rule. The equality in which men are born is so perfect, that no man will suffer his natural liberty to be abridged, except others do the like. I cannot reasonably expect to be defended from wrong, unless I oblige myself to do none; or to suffer the punishment prescribed by the law, if I perform not my engagement. But, without prejudice to the society into which I enter, I may and do retain to myself the liberty of doing what I please in all things relating peculiarly to myself, or in which I am to seek my own convenience.

Now if a private man is not subject to the judgment of any other, than those to whom he submits himself for his own safety and convenience; and, notwithstanding that submission, still retains to himself the right of ordering according to his own will all things merely relating to himself, and of doing what he pleases in that which he does for his own sake, the same right must more certainly belong to whole nations. When a controversy happens between Caius and Sejus in a matter of right, neither of them may determine the cause, but it must be referred to a judge superior to both; not because it is not fit that a man should be judge of his own case, but because they have both an equal right, and neither of

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them owes any subjection to the other. But if there be a contest between me and my servant concerning my service, I only am to decide it. He must serve me in my own way, or be gone, if I think fit, though he serve me ever so well; and I do him no wrong in putting him away, if either I intend to keep no servant, or find that another will please me better. I cannot therefore stand in need of a judge, unless the contest be with one who lives upon an equal foot with me. No man can be my judge, unless he be my superior; and he cannot be my superior, who is not so by my consent, nor to any other purpose than I consent to. This cannot be the case of a nation, which can have no equal within itself. Controversies may arise with other nations, the decision of which may be left to judges chosen by mutual agreement; but this relates not to our question. A nation, and especially one that is powerful, cannot recede from its own right, as a private man, from the knowledge of his own weakness, and inability to defend himself, must come under the protection of a greater power than his own. The strength of a nation is not in the magistrate, but the strength of the magistrate is in the nation. The wisdom, industry, and valour of a prince may add to the glory and greatness of a nation, but the foundation and substance will always be in itself. If the magistrate and people were upon equal terms, as Caius and Sejus, receiving equal and mutual advantages from each other, no man could be judge of their differences, but such as they should set up for that end. This has been done by many nations. The antient Germans referred the decision of the most difficult matters to their priests; the Gauls and Britons to the Druids; the Mahometans for some ages to the caliphs of Babylon; the Saxons in England, when they had embraced the Christian religion, to their clergy. Whilst all Europe lay under the popish superstition, the decision of such matters was frequently assumed by the pope: men often submitted to his judgment, and the princes that resisted were for the most part excommunicated, deposed and destroyed. All this was done for the same reasons. These men were accounted holy and inspired, and the sentence pronounced by them was usually revered as the judgment of God, who was thought to direct them; and all those who refused to submit were esteemed execrable. But no man or number of men, as I think, at the institution of a magistrate, did ever say, if any difference happen between you or your successors and us, it shall be determined by yourself, or by them, whether they be men, women, children, mad, foolish, or vicious. Nay, if any such thing had been, the folly, turpitude, and madness of such a sanction or stipulation must necessarily have destroyed it. But if no such thing was ever known, or could have no effect, if it had been in any place, it is most absurd to impose it upon all. The people therefore cannot be deprived of their natural rights upon a frivolous pretence to that which never was, and never can be. They who create magistracies, and give to them such name, form, and power, as they think fit, do only know, whether the end for which they were created be performed or not. They who give a being to the power which had none can only judge,

CHAP. III whether it be employed to their welfare, or turned to their ruin. They do not set up one or a few men, that they and their posterity may live in splendor and greatness, but that justice may be administered, virtue established, and provision made for the public safety. No wise man will think this can be done, if those who set themselves to overthrow the law are to be their own judges. If Caligula, Nero, Vitellius, Domitian, or Heliogabalus, had been subject to no other judgment, they would have completed the destruction of the empire. If the disputes between Durstus, Evenus the third, Dardanus, and other kings of Scotland, with the nobility and people, might have been determined by themselves, they had escaped the punishments they suffered, and ruined the nation as they designed. Other methods were taken; they perished by their madness; better princes were brought into their places, and their successors were by their example admonished to avoid the ways that had proved fatal to them. If Edward the second of England, with Gaveston and the Spencers, Richard the second with Tresilian and Vere, had been permitted to be the judges of their own cases, they who had murdered the best of the nobility would have pursued their designs to the destruction of such as remained, the enslaving of the nation, the subversion of the constitution, and the establishment of a mere tyranny in the place of a mixed monarchy. But our ancestors took better measures: they who had felt the smart of the vices and follies of their princes knew what remedies were most fit to be applied, as well as the best time of applying them. They found the effects of extreme corruption in government to be so desperately pernicious, that nations must necessarily perish, unless it be corrected, and the state reduced to its first principle, or altered. Which being the case, it was as easy for them to judge, whether the governor, who had introduced that corruption, should be brought to order, and removed if he would not be reclaimed, or whether he should be suffered to ruin them and their posterity, as it is for me to judge, whether I should put away my servant, if I knew he intended to poison or murder me, and had a certain facility of accomplishing his design; or whether I should continue him in my service till he had performed it. Nay, the matter is so much the more plain on the side of the nation, as the disproportion of merit between a whole people, and one or a few men entrusted with the power of governing them, is greater than between a private man and his servant. This is so fully confirmed by the general consent of mankind, that we know no government that has not frequently either been altered in form, or reduced to its original purity, by changing the families or persons who abused the power with which they had been entrusted. Those who have wanted wisdom and virtue, rightly and seasonably to perform this, have been soon destroyed; like the Goths in Spain, who, by omitting to curb the fury of Vitiza and Roderic in time, became a prey to the Moors. Their kingdom by this means destroyed was never restored, and the remainder of that nation, joining with the Spaniards, whom they had kept in subjection for three or four ages, could not, in less than eight hundred years,

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expel those enemies they might have kept out only by removing two base and vicious kings. Such nations as have been so corrupted, that, when they have applied themselves to seek remedies to the evils they suffered by wicked magistrates, they could not fall upon such as were proportionable to the disease, have only vented their passions in destroying the immediate instruments of their oppression, or for a while delayed their utter ruin. But the root still remaining, it soon produced the same poisonous fruit, and either quite destroyed, or made them languish in perpetual misery. The Roman empire was the most eminent example of the first: many of the monsters that had tyrannized over them were killed; but the greatest advantage gained by their death was a respite from ruin; and the government, which ought to have been established by good laws, depending only upon the virtue of one man, his life proved to be no more than a lucid interval, and at his death they relapsed into the depth of infamy and misery; and in this condition they continued till the empire was totally subverted.

All the kingdoms of the Arabians, Medes, Persians, Moors, and others of the east, are of the other sort. Common sense instructs them, that barbarous pride, cruelty, and madness grown to extremity, cannot be borne: but they have no other way than to kill the tyrant, and to do the like to his successor, if he fall into the same crimes. Wanting that wisdom and valour which is required for the institution of a good government, they languish in perpetual slavery, and propose to themselves nothing better than to live under a gentle master, which is but a precarious life, and little to be valued by men of bravery and spirit. But those nations that are more generous, who set a higher value upon liberty, and better understand the ways of preserving it, think it a small matter to destroy a tyrant, unless they can also destroy the tyranny. They endeavour to do the work thoroughly, either by changing the government entirely, or reforming it according to the first institution, and making such good laws as may preserve its integrity when reformed. This has been so frequent in all the nations, both antient and modern, with whose actions we are best acquainted, as appears by the foregoing examples, and many others that might be alleged, if the case were not clear, that there is not one of them which will not furnish us with many instances; and no one magistracy now in being, which does not owe its original to some judgment of this nature. So that they must either derive their right from such actions, or confess they have none at all, and leave the nations to their original liberty of setting up those magistracies which best please themselves, without any restriction or obligation to regard one person or family more than another.

SECTION XLII

THE PERSON THAT WEARS THE CROWN CANNOT DETERMINE
THE AFFAIRS WHICH THE LAW REFERS TO THE KING.

Our author, with the rest of the vulgar, seems to have been led into gross errors by the form of writs summoning persons to appear before the king. The common style used in the trial of delinquents, the name of the king's witnesses given to those who accuse them, the verdicts brought in by juries, "coram domino rege," and the prosecution made in the king's name, seem to have caused this. And they who understand not these phrases render the law a heap of the most gross absurdities, and the king an enemy to every one of his subjects, when he ought to be a father to them all; since without any particular consideration or examination of what any witness deposes in a court of justice, tending to the death, confiscation, or other punishment of any man, he is called the king's witness, whether he speak the truth, or a lye, and on that account favoured. It is not necessary to allege many instances in a case that is so plain; but it may not be amiss to insert two or three of the most important reasons to prove my assertion.

1. If the law did intend, that he or she who wears the crown should in his or her person judge all causes, and determine the most difficult questions, it must, like our author, presume that they will always be of profound wisdom to comprehend all of them, and of perfect integrity always to act according to their understanding. Which is no less than to lay the foundation of the government upon a thing merely contingent, that either never was, or very often fails, as is too much verified by experience, and the histories of all nations; or else to refer the decision of all to those who through the infirmities of age, sex, or person, are often incapable of judging the least, or subject to such passions and vices as would divert them from justice, though they did understand it; both which seem to be almost equally preposterous.

2. The law must also presume, that the prince is always present in all the places where his name is used. The king of France is, as I have said already, esteemed to be present "on the seat of justice*" in all the parliaments and sovereign courts of the kingdom: and if his corporeal presence were by that phrase to be understood, he must be in all those distinct and far distant places at the same time; which absurdity can hardly be paralleled, unless by the popish opinion of transubstantiation. But indeed they are so far from being guilty of such monstrous absurdity, that he cannot in person be present at any trial; and no man can be judged, if he be. This was plainly asserted to Lewis the thirteenth (when he would

* Sur son lit de justice

have been at the tryal of the duke of Candale) by the president de Bellievre, who told him, that as he could judge no man himself, so they could not judge any, if he were present: upon which he retired. SECT. 42

3. The laws of most kingdoms giving to kings the confiscation of delinquents estates, if they in their own persons might give judgment upon them, they would be constituted both judges and parties; which, besides the forementioned incapacities, to which princes are as much subject as other men, would tempt them by their own personal interest to subvert all manner of justice.

This therefore not being the meaning of the law, we are to inquire what it is; and the thing is so plain, that we cannot mistake, unless we do it wilfully. Some name must be used in all manner of transactions, and in matters of public concernment none can be so fit as that of the principal magistrate. Thus are leagues made, not only with kings and emperors, but with the dukes of Venice and Genoa, the avoyer and senate of a canton in Switzerland, the burgermeister of an imperial town in Germany, and the states-general of the United Provinces. But no man thinking, I presume, these leagues would be of any value, if they could only oblige the persons whose names are used, it is plain, that they do not stipulate only for themselves; and that their stipulations would be of no value, if they were merely personal. And nothing can more certainly prove, they are not so, than that we certainly know, these dukes, avoyers, and burgermeisters, can do nothing of themselves. The power of the states-general of the United Provinces is limited to the points mentioned in the act of union made at Utrecht. The empire is not obliged by any stipulation made by the emperor without their consent. Nothing is more common than for one king, making a league with another, to exact a confirmation of their agreement, by the parliaments, diets, or general estates; because, says Grotius, "a prince does not stipulate for himself, but for the people under his government; and a king deprived of his kingdom loses the right of sending an ambassador*." The powers of Europe shewed themselves to be of this opinion in the case of Portugal. When Philip the second had gained the possession, they treated with him concerning the affairs relating to that kingdom: few regarded Don Antonio; and no man considered the dukes of Savoy, Parma, or Braganza, who perhaps had the most plausible titles: but, when his grandson Philip the fourth had lost that kingdom, and the people had set up the duke of Braganza, they all treated with him as king. And the English court, though then in amity with Spain, and not a little influenced by a Spanish faction, gave example to others by treating with him, and not with Spain, touching matters relating to that state. Nay, I have been informed by those who well understood the affairs of that time, that the lord Cottington advising the late king not to receive any persons sent from the duke of Braganza, rebel to his ally the king of Spain, in the quality of ambaf-

* Vide *suprà*, p. 437

CHAP. III fadors, the king answered, that he must look upon that person to be king of Portugal who was acknowledged by the nation. And I am mistaken, if his majesty now reigning did not find all the princes and states of the world to be of the same mind, when he was out of his kingdom, and could oblige no man but himself, and a few followers, by any treaty he could make.

For the same reason the names of kings are used in treaties, when they are either children, or otherwise incapable of knowing what alliances are fit to be made or rejected; and yet such treaties do equally oblige them, their successors and people, as if they were of mature age, and fit for government. No man therefore ought to think it strange, if the king's name be used in domestic affairs, of which he neither ought nor can take any cognizance. In these cases he is perpetually a minor: he must suffer the law to take its due course; and the judges, though nominated by him, are obliged by oath not to have any regard to his letters, or personal commands. If a man be sued, he must appear; and a delinquent is to be tried "coram rege," but no otherwise than "secundum legem terrae," "according to the law of the land," not the king's personal will or opinion. And the judgments given must be executed, whether they please him or not, it being always understood, that he can speak no otherwise than the law speaks, and is always present as far as the law requires. For this reason a noble lord, who was irregularly detained in prison in 1681, being by habeas corpus brought to the bar of the king's bench, where he sued to be released upon bail; and an ignorant judge telling him he must apply himself to the king, he replied, that he came thither for that end; that the king might eat, drink, or sleep, where he pleased; but when he rendered justice, he was always in that place. The king that renders justice is indeed always there: he never sleeps; he is subject to no infirmity; he never dies, unless the nation be extinguished, or so dissipated as to have no government. No nation that has a sovereign power within itself does ever want this king. He was in Athens and Rome, as well as at Babylon and Susa; and is as properly said to be now in Venice, Switzerland, or Holland, as in France, Morocco, or Turkey. This is he to whom we all owe a simple and unconditional obedience. This is he "who never does any wrong:" it is before him we appear, when we demand justice, or render an account of our actions. All juries give their verdict in his sight: they are his commands that the judges are bound and sworn to obey, when they are not at all to consider such as they receive from the person that wears the crown. It was for treason against him, that Tresilian and others like to him in several ages were hanged. They gratified the lusts of the visible powers; but the invisible king would not be mocked. He caused justice to be executed upon Empson and Dudley. He was injured, when the perjured wretches, who gave that accursed judgment in the case of ship-money, were suffered to escape the like punishment by means of the ensuing troubles, which they had chiefly

chiefly raised. And I leave it to those who are concerned, to consider SECT. 42 how many in our days may expect vengeance for the like crimes.

I should here conclude this point, if the power of granting a “*noli prosequi, cesset processus,*” and pardons, which are said to be annexed to the person of the king, were not taken for a proof, that all proceedings at law depend upon his will. But whoever would from hence draw a general conclusion must first prove his proposition to be universally true. If it be wholly false, no true deduction can be made; and if it be true only in some cases, it is absurd to draw from thence a general conclusion; and to erect a vast fabric upon a narrow foundation is impossible. As to the general proposition, I utterly deny it. The king cannot stop any suit that I begin in my own name, nor invalidate any judgment I obtain upon it. He cannot release a debt of ten shillings due to me, nor a sentence for the like sum given upon an action of battery, assault, trespass, public nuisance, or the like. He cannot pardon a man condemned upon an appeal, nor hinder the person injured from appealing. His power therefore is not universal: if it be not universal, it cannot be inherent, but conferred upon him, or entrusted by a superior power, that limits it.

These limits are fixed by the law: the law therefore is above him. His proceedings must be regulated by the law, and not the law by his will. Besides, the extent of those limits can only be known by the intention of the law that sets them; and are so visible, that none but such as are wilfully blind can mistake. It cannot be imagined, that the law, which does not give a power to the king of pardoning a man that breaks my hedge, can intend he should have power to pardon one who kills my father, breaks my house, robs me of my goods, abuses my children and servants, wounds me, and brings me in danger of my life. Whatever power he has in such cases is founded upon a presumption, that he, who has sworn not to deny or delay justice to any man, will not break his oath to interrupt it. And farther, though he does nothing but what he may rightly do, “*cum magnatum et sapientum consilio;*” and it is supposed, they will never advise him to do any thing, but what ought to be done, in order to attain the great ends of the law, justice, and the public safety; yet, lest this should not be sufficient to keep things in their due order, or the king should forget his oath, not to delay or deny justice to any man, his counsellors are exposed to the severest punishments, if they advise him to do any thing contrary to it, and the law upon which it is grounded. So that the utmost advantage the king can pretend to, in this case, is no more than that of the Norman, who said he had gained his cause, because it depended upon a point that was to be decided by his oath; that is to say, if he will betray the trust reposed in him, and perjure himself, he may sometimes exempt a villain from the punishment he deserves, and take the guilt upon himself. I say sometimes; for appeals may be brought in some cases, and the waterman who had been pardoned by his majesty in the year 1680, for a murder he had committed, was condemned, and hanged, at the assizes upon an appeal. Nay, in cases of

CHAP. III treason, which some men think relate most particularly to the person of the king, he cannot always do it. Gaveston, the two Spencers, Tresilian, Empson, Dudley, and others, have been executed as traitors for things done by the king's command; and it is not doubted but they would have been saved, if the king's power had extended so far. I might add the cases of the earls of Strafford and Danby; for, though the king signed a warrant for the execution of the first, no man doubts but he would have saved him, if it had been in his power. The other continues in prison, notwithstanding his pardon; and, for any thing I know, he may continue where he is, or come out in a way that will not be to his satisfaction, unless he be found innocent, or something fall out more to his advantage than his majesty's approbation of what he has done. If therefore the king cannot interpose his authority to hinder the course of the law in contests between private men, nor remit the debts adjudged to be due, or the damages given to the persons aggrieved, he can in his own person have no other power in things of this nature, than in some degree to mitigate the vindictive power of the law; and this also is to be exercised no other way than as he is entrusted. But if he acts, even in this capacity, by a delegated power, and in few cases, he must act according to the ends for which he is so entrusted, as the same law says, "*cum magnatum et sapientum consilio;*" and is not therein to pursue his own will and interests; if his oath farther oblige him not to do it, and his ministers are liable to punishment, if they advise him otherwise; if in matters of appeal he have no power; and if his pardons have been of no value, when, contrary to his oath, he has abused that with which he is entrusted, to the patronizing of crimes, and exempting such delinquents from punishment, as could not be pardoned without prejudice to the public, I may justly conclude, that the king, before whom every man is bound to appear, who does perpetually and impartially distribute justice to the nation, is not the man or woman that wears the crown; and that he or she cannot determine those matters, which, by the law, are referred to the king. Whether therefore such matters are ordinary or extraordinary, the decision is and ought to be placed where there is most wisdom and stability, and where passion and private interest does least prevail to the obstruction of justice. This is the only way to obviate that confusion and mischief, which our author thinks it would introduce. In cases of the first sort, this is done in England by judges and juries: in the other by the parliament, which, being the representative body of the people, and the collected wisdom of the nation, is least subject to error, most exempted from passion, and most free from corruption, their own good, both public and private, depending upon the rectitude of their functions. They cannot do any thing that is ill without damage to themselves, and their posterity; which being all that can be done by human understanding, our lives, liberties, and properties, are by our laws directed to depend upon them.

SECTION XLIII

PROCLAMATIONS ARE NOT LAWS.

Our author, according to his usual method and integrity, lays great weight upon proclamations, as the significations of the king's pleasure, which in his opinion is our only law. But neither law nor reason openly directing, nor by consequences insinuating, that such a power should be put into an uncertain or suspected hand, we may safely deny them to be laws, or in any sense to have the effect of laws. Nay, they cannot be so much as significations of his will; for, as he is king, he can have no will but as the law directs. If he depart from the law, he is no longer king, and his will is nothing to us. Proclamations, at most, are but temporary, by the advice of the council, in pursuance of the law. If they be not so, the subject is no way obliged to obey them, and the counsellors are to be punished for them. These laws are either immemorial customs, or statutes. The first have their beginning and continuance from the universal consent of the nation. The latter receive their authority and force of laws from parliaments, as is frequently expressed in the preambles. These are, under God, the best defence of our lives, liberties, and estates: they proceed not from the blind, corrupt, and fluctuating humour of a man, but from the mature deliberation of the choicest persons of the nation, and such as have the greatest interest in it. Our ancestors have always relied upon these laws; and it is to be hoped, we shall not be so abandoned by God, so deprived of courage and common sense, as to suffer ourselves to be cheated of the inheritance which they have so frequently, so bravely, and so constantly defended. Though experience has too well taught us, that parliaments may have their failings, and that the vices, which are industriously spread among them, may be too prevalent, yet they are the best helps we have; and we may much more reasonably depend upon them, than upon those who propagate that corruption among them, for which only they can deserve to be suspected. We hope they will take care of our concerns, since they are as other men so soon as a session is ended, and can do nothing to our prejudice that will not equally affect them, and their posterity; besides the guilt of betraying their country, which can never be washed off. If some should prove false to their trust, it is probable that others would continue in their integrity. Or if the base arts, which are usually practised by those who endeavour to delude, corrupt, enslave, and ruin nations, should happen to prevail upon the youngest and weakest, it may be reasonably hoped, that the wisest will see the snares, and instruct their companions to avoid them. But if all things were so put into the hands of one man, that his proclamations were to be esteemed laws, the nation would be exposed to ruin, as soon as it should chance to fall into an ill hand. It is in vain to say we have a

CHAP. III good king, who will not make an ill use of his power; for even the best are subject to be deceived by flatterers, and crowned heads are almost ever encompassed by them. The principal art of a courtier is to observe his master's passions, and to attack him on that side where he seems to be most weak. It would be a strange thing to find a man impregnable in every part; and, if he be not, it is impossible he should resist all the attempts that are made upon him. If his judgment come to be prepossessed, he and all that depend on him are lost. Contradictions, though never so just, are then unsafe; and no man will venture upon them, but he who dares sacrifice himself for the public good. The nature of man is frail, and stands in need of assistance. Virtuous actions, that are profitable to a commonwealth, ought to be made, as far as it is possible, safe, easy, and advantageous; and it is the utmost imprudence, to tempt men to be enemies to the public, by suffering the most pernicious actions to be the means of obtaining honour and favour, while no man can serve his country, but with the ruin of himself, and his family.

However, in this case, the question is not concerning a person: the same counsels are to be followed, when Moses or Samuel is in the throne, as if Caligula had invaded it. Laws ought to aim at perpetuity; but the virtues of a man die with him, and very often before him. They, who have deserved the highest praises for wisdom and integrity, have frequently left the honours they enjoyed to foolish and vicious children. If virtue may in any respect be said to outlive the person, it can only be when good men frame such laws and constitutions as by favouring it preserve themselves. This has never been done otherwise, than by balancing the powers in such a manner, that the corruption which one or a few men might fall into, should not be suffered to spread the contagion to the ruin of the whole. The long continuance of Lycurgus's laws is to be attributed to this. They restrained the lusts of kings, and reduced those to order who adventured to transgress them: whereas the whole fabric must have fallen to the ground in a short time, if the first that had a fancy to be absolute, had been able to effect his design. This has been the fate of all governments that were made to depend upon the virtue of a man, which never continues long in any family; and, when that fails, all is lost. The nations therefore that are so happy as to have good kings ought to make a right use of them, by establishing the good that may outlast their lives. Those of them that are good will readily join in this work, and take care, that their successors may be obliged, in doing the like, to be equally beneficial to their own families, and the people they govern. If the rulers of nations be restrained, not only the people is by that means secured from the mischiefs of their vices and follies, but they themselves are preserved from the greatest temptations to ill, and the terrible effects of the vengeance that frequently ensues upon it. An unlimited prince might be justly compared to a weak ship exposed to a violent storm, with a vast sail, and no rudder. We have an eminent example of this in the book of Esther. A wicked villain having filled the ears of a foolish king with false stories of
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the Jews, he issues out a proclamation for their utter extirpation; and not long after, being informed of the truth, he gave them leave by another proclamation to kill whom they pleased, which they executed upon seventy thousand men. The books of Ezra, Nehemiah, and Daniel, manifestly discover the like fluctuation in all the councils of Nabuchodonosor, Cyrus, Darius, and Artaxerxes. When good men had credit with them, they favoured the Israelites; sent them back to their own country; restored the sacred vessels, that had been taken away; gave them all things necessary for the rebuilding of the city; and advanced the chief of them to the highest employments. But if they fell into ill hands, three just men must be thrown into the burning furnace for refusing to worship an idol; Daniel must be cast to the lions; the holy city esteemed rebellious, and those who endeavoured to rebuild it, enemies to kings. Such was the state of things, when their proclamations passed for laws; and numbers of flattering slaves were ready to execute their commands, without examining whether they were just or unjust, good or bad. The life of the best men, together with the very being of nations, was exposed to chance; and they were either preserved or destroyed according to the humour of that man who spoke last to the king, or happened to have credit with him. If a frantic fancy come into the head of a drunken whore, Persepolis must be burnt, and the hand of Alexander is ready to execute her will. If a dancing wench please Herod, the most venerable of all human heads must be offered in a dish for a sacrifice to the rage of her impure mother. The nature of man is so frail, that where-ever the word of a single person has had the force of a law, the innumerable extravagances and mischiefs it has produced have been so notorious, that all nations who are not stupid, slavish, and brutish, have always abominated it, and made it their principal care to find out remedies against it, by so dividing and balancing the powers of their government, that one or a few men might not be able to oppress and destroy those they ought to preserve and protect. This has always been as grateful to the best and wisest princes, as necessary to the weakest and worst, as I have proved already by the examples of Theopompus, Moses, and many others. These considerations have given beginning, growth, and continuance, to all the mixed governments that have been in the world; and I may justly say, there never was a good one that was not mixed. If other proofs of their rectitude were wanting, our author's hatred would be enough to justify them. He is so bitter an enemy to mankind, as to be displeas'd with nothing but that which tends to their good, and so perverse in his judgment, that we have reason to believe that to be good, which he most abhors. One would think he had taken the model of the government he proposes, from the monstrous tyranny of Ceylon, an island in the East-Indies, where the king knows no other law than his own will. He kills, tears in pieces, impales, or throws to his elephants, whomsoever he pleases: no man has any thing that he can call his own: he seldom fails to destroy those who have been employed in his domestic service, or public offices; and few obtain the favour of being

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CHAP. III put to death, and thrown to the dogs, without torments. His subjects approach him no otherwise, than on their knees, licking the dust, and dare assume to themselves no other name than that of dogs, or limbs of dogs. This is a true pattern of Filmer's patriarchal monarch. His majesty, I suppose, is sufficiently exalted; for he does whatever he pleases. The exercise of his power is as gentle as can reasonably be expected from one who has all by the unquestionable right of usurpation; and knows the people will no longer suffer him, and the villains he hires to be the instruments of his cruelty, than they can be kept in such ignorance, weakness, and baseness, as neither to know how to provide for themselves, or dare to resist him. We ought to esteem ourselves happy, if the like could be established among us; and are much obliged to our author for so kindly proposing an expedient that might terminate all our disputes. Let proclamations obtain the power of laws, and the business is done. They may be so ingeniously contrived, that the antient laws, which we and our fathers have highly valued, shall be abolished, or made a snare to all those that dare remember they are Englishmen, and are guilty of the unpardonable crime of loving their country, or have the courage, conduct, and reputation required to defend it. This is the sum of Filmer's philosophy, and this is the legacy he has left to testify his affection to the nation; which having for a long time lain unregarded, has been lately brought into the light again, as an introduction of a popish successor, who is to be established, as we ought to believe, for the security of the protestant religion, and our English liberties. Both will undoubtedly flourish under a prince, who is made to believe the kingdom is his patrimony; that his will is a law; and that he has a power, which none may resist. If any man doubt whether he will make a good use of it, he may only examine the histories of what others, in the same circumstances, have done in all places, where they have had power. The principles of that religion are so full of meekness and charity; the popes have always shewed themselves so gentle towards those who would not submit to their authority; the Jesuits, who may be accounted the soul that gives life to the whole body of the faction, are so well-natured, faithful, and exact in their morals; so full of innocence, justice, and truth; that no violence is to be feared from such as are governed by them. The fatherly care shewed to the protestants of France, by the five last kings of the house of Valois; the mercy of Philip the second of Spain to his pagan subjects in the West-Indies, and the more hated protestants in the Netherlands; the moderation of the dukes of Savoy towards the Vaudois in the marquissate of Saluzzo and the vallies of Piedmont; the gentleness and faith of the two Maries, queens of England and Scotland; the kindness of the papists to the protestants of Ireland in the year 1641, with what we have reason to believe they did and do still intend, if they can accomplish the ends of their conspiracy; in a word, the sweetness and apostolical meekness of the inquisition, may sufficiently convince us that nothing is to be feared where that principle reigns. We may suffer the word of such a prince to be a law, and the people to be made to believe it ought to be

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fo, when he is expected. Though we should wave the bill of exclusion, and not only admit him to reign as other kings have done, but resign the whole power into his hands, it would neither bring inconvenience or danger on the present king. He can with patience expect, that nature should take her course, and would neither anticipate nor secure his entrance into the possession of the power, by taking one day from the life of his brother. Though the papists know, that, like a true son of their church, he would prefer the advancement of their religion before all other considerations; and that one stab with a dagger, or a dose of poison, would put all under his feet; not one man would be found among them to give it. The assassins were Mahometans, not pupils of the honest Jesuits, nor ever employed by them. These things being certain, all our concerns would be secure, if, instead of the foolish statutes, and antiquated customs, on which our ancestors and we have hitherto doted, we may be troubled with no law but the king's will, and a proclamation may be taken for a sufficient declaration of it. We shall by this means be delivered from that "liberty with a mischief," in which our mistaken nation seems so much to delight. This phrase is so new, and so peculiar to our author, that it deserves to be written upon his tomb. We have heard of "tyranny with a mischief, slavery and bondage with a mischief;" and they have been denounced by God against wicked and perverse nations, as mischiefs comprehending all that is most to be abhorred and dreaded in the world. But Filmer informs us, that liberty, which all wise and good men have in all ages esteemed to be the most valuable and glorious privilege of mankind, is "a mischief." If he deserve credit, Moses, Joshua, Gideon, Samson, and Samuel, with others like them, were enemies to their country, in depriving the people of the advantages they enjoyed under the paternal care of Pharaoh, Adonibezek, Eglon, Jabin, and other kings of the neighbouring nations, and restoring them to that "liberty with a mischief," which he had promised to them. The Israelites were happy under the power of tyrants, whose proclamations were laws; and they ought to have been thankful to God for that condition, and not for the deliverances he wrought by the hands of his servants. Subjection to the will of a man is happiness, liberty is a "mischief." But this is so abominably wicked and detestable, that it can deserve no answer.

SECTION XLIV

A PEOPLE THAT IS NOT FREE CANNOT SUBSTITUTE DELEGATES.

How full soever the power of any person or people may be, he or they are obliged to give only so much to their delegates, as seems convenient to themselves, or conducing to the ends they desire to attain; but the delegate can have none, except what is conferred upon him by his principal. If
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CHAP. III therefore the knights, citizens, and burgesſes, ſent by the people of England to ſerve in parliament, have a power, it muſt be more perfectly and fully in thoſe that ſend them. But (as was proved in the laſt ſection) proclamations, and other ſignifications of the king's pleaſure, are not laws to us. They are to be regulated by the law, not the law by them. They are to be conſidered only ſo far as they are conformable to the law, from which they receive all the ſtrength that is in them, and can confer none upon it. We know no laws but our own ſtatutes, and thoſe immemorial cuſtoms eſtabliſhed by the conſent of the nation; which may be, and often are, changed by us. The legiſlative power therefore, that is exerciſed by the parliament, cannot be conferred by the writ of ſummons, but muſt be eſſentially and radically in the people, from whom their delegates and repreſentatives have all that they have. But, ſays our author, "they muſt only chooſe, and truſt thoſe whom they chooſe, to do what they liſt; and that is as much liberty as many of us deſerve for our irregular elections of burgesſes." This is ingeniouſly concluded: I take what ſervant I pleaſe, and, when I have taken him, I muſt ſuffer him to do what he pleaſes. But from whence ſhould this neceſſity ariſe? Why may not I take one to be my groom, another to be my cook, and keep them both to the offices for which I took them? What law does herein reſtrain my right? And if I am free in my private capacity to regulate my particular affairs according to my own diſcretion, and to allot to each ſervant his proper work, why have not I, with my aſſociates, the freemen of England, the like liberty of directing and limiting the powers of the ſervants we employ in our public affairs? Our author gives us reaſons proportionable to his judgment: "this were liberty with a miſchief; and that of chooſing only is as much as many of us deſerve." I have already proved, that, as far as our histories reach, we have had no princes or magiſtrates, but ſuch as we have made, and they have had no other power than what we have conferred upon them. They cannot be the judges of our merit, who have no power but what we gave them, through an opinion they did or might deſerve it. They may diſtribute in parcels to particulars that with which they are entrusted in the groſs. But it is impoſſible, that the public ſhould depend abſolutely upon thoſe who are nothing above other men, except what they are made to be for and by the public. The reſtrictions therefore of the people's liberty muſt be from themſelves, or there can be none.

Nevertheless I believe, that the powers of every county, city, and borough of England, are regulated by the general law to which they have all conſented, and by which they are all made members of one political body. This obliges them to proceed with their delegates in a manner different from that which is uſed in the United Netherlands, or in Switzerland. Among theſe, every province, city, or canton, making a diſtinct body independent from any other, and exerciſing the ſovereign power within itſelf, looks upon the reſt as allies, to whom they are bound only by ſuch acts as they themſelves have made; and when any new thing not comprehended

comprehended in them happens to arise, they oblige their delegates to give them an account of it, and retain the power of determining those matters in themselves. It is not so among us: every county does not make a distinct body, having in itself a sovereign power, but is a member of that great body which comprehends the whole nation. It is not therefore for Kent or Suffex, Lewis or Maidstone, but for the whole nation, that the members chosen in those places are sent to serve in parliament. And though it be fit for them as friends and neighbours, so far as may be, to hearken to the opinions of the electors for the information of their judgments, and to the end that what they shall say may be of more weight, when every one is known not to speak his own thoughts only, but those of a great number of men, yet they are not strictly and properly obliged to give account of their actions to any, unless the whole body of the nation for which they serve, and who are equally concerned in their resolutions, could be assembled. This being impracticable, the only punishment to which they are subject, if they betray their trust, is scorn, infamy, hatred, and an assurance of being rejected, when they shall again seek the same honour. And though this may seem a small matter to those who fear to do ill only from a sense of the pains inflicted; yet it is very terrible to men of ingenuous spirits, as they are supposed to be, who are accounted fit to be entrusted with so great powers. But why it should be called "liberty with a mischief," if it were otherwise, or how the liberty of particular societies would be greater, if they might do what they pleased, than whilst they send others to act for them, such wise men only as Filmer can tell us. For as no man, or number of men, can give a power which he or they have not, the Achaians, Etolians, Latins, Samnites, and Tuscans, who transacted all things relating to their associations by delegates; and the Athenians, Carthaginians, and Romans, who kept the power of the state in themselves, were all equally free. And in our days, the United Provinces of the Netherlands, the Switzers, and Grisons, who are of the first sort, and the Venetians, Genoese, and Lucchese, who are of the other, are so also. All men that have any degree of common sense plainly see, that the liberty of those who act in their own persons, and of those who send delegates, is perfectly the same, and the exercise is, and can only be changed by their consent.

But whatever the law or custom of England be in this point, it cannot concern our question. The general proposition concerning a patriarchal power cannot be proved by a single example. If there be a general power every where, forbidding nations to give instructions to their delegates, they can do it no where. If there be no such thing, every people may do it, unless they have deprived themselves of their right, all being born under the same condition. It is to no purpose to say, that the nations before-mentioned had not kings, and therefore might act as they did. For, if the general thesis be true, they must have kings; and, if it be not, none are obliged to have them, unless they think fit, and the kings they make are their creatures. But many of these nations had either kings,

CHAP. III or other magistrates in power like to them. The provinces of the Netherlands had dukes, earls, or marquises: Genoa and Venice have dukes. If any, on account of the narrowness of their territories, have abstained from the name, it does not alter the case; for our dispute is not concerning the name, but the right. If that one man, who is in the principal magistracy of every nation, must be reputed the father of that people, and has a power which may not be limited by any law, it imports not what he is called. But if in small territories he may be limited by laws, he may be so also in the greatest. The least of men is a man as well as a giant: and those in the West-Indies, who have not above twenty or thirty subjects able to bear arms, are kings as well as Xerxes. Every nation may divide itself into small parcels, as some have done, by the same law, by which they have restrained or abolished their kings, joined to one another, or taken their hazard of subsisting by themselves, acted by delegation, or retained the power in their own persons, given finite or indefinite powers, reserved to themselves a power of punishing those who should depart from their duty, or referred it to their general assemblies. And that liberty, for which we contend, as the gift of God and nature, remains equally to all.

If men who delight in cavilling should say, that great kingdoms are not to be regulated by the examples of small states, I desire to know, when it was, that God ordained great nations should be slaves, and deprived of all right to dispose matters relating to their government; whilst he left to such as had, or should divide themselves into small parcels, a right of making such constitutions as were most convenient for them. When this is resolved, we ought to be informed, what extent of territory is required to deserve the name of a great kingdom. Spain and France are esteemed great, and yet the deputies or procuradores of the several parts of Castile did in the cortes held at Madrid, in the beginning of Charles the fifth's reign, excuse themselves from giving the supplies he desired, because they had received no orders in that particular from the towns that sent them; and afterwards receiving express order not to do it, they gave his majesty a flat denial*. The like was frequently done during the reigns of that great prince, and of his son Philip the second. And generally those procuradores never granted any thing of importance to either of them, without particular orders from their principals. The same way was taken in France, as long as there were any general assemblies of estates; and, if it do not still continue, it is because there are none. For no man who understood the affairs of that kingdom did ever deny, that the deputies were obliged to follow the orders of those who sent them. And perhaps, if men would examine by what means they came to be abolished, they might find, that the cardinals de Richelieu and Mazarin, with other ministers who have accomplished that work, were actuated by some other principle than that of justice, or the establishment of the laws of

* Hist. de la Vida del Emperador Carlos v, por Sandoval.

God and nature. In the general assembly of estates held at Blois in the time of Henry the third, Bodin then deputy for the third estate of Vermandois, by their particular order, proposed so many things as took up a great part of their time. Other deputies alleged no other reason for many things said and done by them, highly contrary to the king's will, than that they were commanded to do so by their superiors*. These general assemblies being laid aside, the same custom is still used in the lesser assemblies of estates in Languedoc and Brittany. The deputies cannot, without the infamy of betraying their trust, and fear of punishment, recede from the orders given by their principals; and yet we do not find, that "liberty with a mischief" is much more predominant in France than among us. The same method is every day practised in the diets of Germany. The princes and great lords, who have their places in their own right, may do what they please: but the deputies of the cities must follow such orders as they receive. The histories of Denmark, Sweden, Poland, and Bohemia, testify the same thing: and if this "liberty with a mischief" do not still continue entire in all those places, it has been diminished by such means as suit better with the manners of pirates, than the laws of God and nature. If England therefore do not still enjoy the same, we must have been deprived of it either by such unjustifiable means, or by our own consent. But thanks be to God, we know no people who have a better right to liberty, or have better defended it, than our nation. And if we do not degenerate from the virtue of our ancestors, we may hope to transmit it entire to our posterity. We always may, and often do, give instructions to our delegates; but the less we fetter them, the more we manifest our own rights: for those who have only a limited power must limit that which they give; but they that can give an unlimited power must necessarily have it in themselves. The great treasurer Burleigh said, the parliament could do any thing but turn a man into a woman. Sir Thomas More, when Rich solicitor to king Henry the eighth asked him, if the parliament might not make Richard Rich king, said, that was "casus levis," taking it for granted that they might make or unmake whom they pleased †. The first part of this, which includes the other, is asserted by the statute of the 13th of queen Elizabeth, denouncing the most grievous punishments against all such as should dare to contradict it ‡. But if it be in the parliament, it must be in those who give to parliament-men the powers by which they act; for before they are chosen, they have none, and can never have any, if those that send them had it not in themselves. They cannot receive it from the magistrate; for that power which he has is derived from the same spring. The power of making

* Thuani Hist. l. 63

† Herbert's Life of Hen. VIII, anno 1535

‡ "Whosoever shall during the queen's life by any book, or work written or printed, expressly affirm, before the same be established by parliament, that any one particular person is, or ought to be heir and successor to the queen, except the same be the natural issue of her body . . . shall for the first offence be a whole year imprisoned, and forfeit half his goods, and for the second offence shall incur the penalty of praemunire." 13 Eliz. c. 1

CHAP. III and unmaking him cannot be from himself; for he that is not can do nothing; and when he is made, can have no other power than is conferred upon him by those that make him. Besides, he who departs from his duty desires to avoid the punishment: the power therefore of punishing him is not from himself. It cannot be from the house of peers, as it is constituted; for they act for themselves, and are chosen by kings: and it is absurd to think, that kings, who generally abhor all restriction of their power, should give that to others by which they might be unmade. If one or more princes, relying upon their own virtue and resolutions to do good, had given such a power against themselves, as Trajan did, when he commanded the prefect to use the sword for him, if he governed well, and against him, if he governed ill, it would soon have been rescinded by their successors. If our Edward the first had made such a law, his lewd son would have abolished it, before he would have suffered himself to be imprisoned and deposed by it. He would never have acknowledged his unworthiness to reign, if he had been tied to no other law than his own will; for he could not transgress that; nor have owned the mercy of the parliament, in sparing his life, if they had acted only by a power, which he had conferred upon them. This power must therefore be in those, who act by a delegated power; and none can give it to their delegates, but they who have it in themselves. The most certain testimony that can be given, of their unlimited power, is, that they rely upon the wisdom and fidelity of their deputies, so as to lay no restrictions upon them: they may do what they please, if they take care, "*ne quid detrimenti respublica accipiat,*" "that the commonwealth receive no detriment." This is a commission fit to be granted by wise and good men to those they choose, through an opinion that they are so also, and that they cannot bring any prejudice upon the nation, that will not fall upon themselves, and their posterity. This is also fit to be received by those, who, seeking nothing, but that which is just in itself, and profitable to their country, cannot foresee what will be proposed when they are all met together; much less resolve how to vote, till they hear the reasons on both sides. The electors must necessarily be in the same ignorance; and the law which should oblige them to give particular orders to their knights and burghesses, in relation to every vote, would make the decision of the most important affairs to depend upon the judgment of those, who know nothing of the matters in question, and by that means cast the nation into the utmost danger of the most inextricable confusion. This can never be the intention of that law, which is "*sanctio recta,*" and seeks only the good of those that live under it. The foresight therefore of such a mischief can never impair the liberties of the nation, but establish them.

SECTION XLV

THE LEGISLATIVE POWER IS ALWAYS ARBITRARY, AND NOT TO BE TRUSTED IN THE HANDS OF ANY WHO ARE NOT BOUND TO OBEY THE LAWS THEY MAKE.

If it be objected, that I am a defender of arbitrary powers, I confess I cannot comprehend how any society can be established or subsist without them; for the establishment of government is an arbitrary act, wholly depending upon the will of man. The particular forms and constitutions, the whole series of the magistracy, together with the measure of power given to every one, and the rules by which they are to exercise their charge, are so also. Magna Charta, which comprehends our antient laws, and all the subsequent statutes, were not sent from heaven, but made according to the will of men. If no men could have a power of making laws, none could ever have been made; for all that are or have been in the world, except those given by God to the Israelites, were made by them; that is, they have exercised an arbitrary power in making that to be law which was not, or annulling that which was. The various laws and governments, that are or have been in several ages and places, are the product of various opinions in those who had the power of making them. This must necessarily be, unless a general rule be set to all; for the judgments of men will vary, if they are left to their liberty; and the variety that is found among them shews they are subject to no rule, but that of their own reason, by which they see what is fit to be embraced or avoided, according to the several circumstances under which they live. The authority that judges of these circumstances is arbitrary, and the legislators shew themselves to be more or less wise and good, as they do rightly, or not rightly exercise this power. The difference therefore between good and ill governments is not, that those of one sort have an arbitrary power which the others have not, for they all have it; but that those which are well constituted, place this power so as it may be beneficial to the people, and set such rules as are hardly to be transgressed; whilst those of the other sort fail in one or both these points. Some also through want of courage, fortune, or strength, may have been oppressed by the violence of strangers, or have suffered a corrupt party to rise up within themselves, and by force or fraud to usurp a power of imposing what they pleased. Others, being sottish, cowardly, and base, have so far erred in the foundations, as to give up themselves to the will of one or a few men, who, turning all to their own profit or pleasure, have been just in nothing but in using such a people like beasts. Some have placed weak defences against the lusts of those they have advanced to the highest places, and given them opportunities of arrogating more power to themselves than the law allows. Where any of these errors are committed, the govern-
ment.

CHAP. III ment may be easy for a while, or at least tolerable, whilst it continues uncorrupted; but it cannot be lasting. When the law may be easily or safely overthrown, it will be attempted. Whatever virtue may be in the first magistrates, many years will not pass before they come to be corrupted; and their successors, deflecting from their integrity, will seize upon the ill-guarded prey. They will then not only govern by will, but by that irregular will, which turns the law, that was made for the public good, to the private advantage of one or few men. It is not my intention to enumerate the several ways that have been taken to effect this; or to shew what governments have deflected from the right, and how far. But I think I may justly say, that an arbitrary power was never well placed in any men, and their successors, who were not obliged to obey the laws they should make. This was well understood by our Saxon ancestors: they made laws in their assemblies and councils of the nation; but all those who proposed or assented to those laws, as soon as the assembly was dissolved, were comprehended under the power of them, as well as other men. They could do nothing to the prejudice of the nation, that would not be as hurtful to those who were present, and their posterity, as to those who by many accidents might be absent. The Normans entered into, and continued in the same path. Our parliaments at this day are in the same condition. They may make prejudicial wars, ignominious treaties, and unjust laws: yet when the session is ended, they must bear the burden as much as others; and, when they die, the teeth of their children will be set on edge with the sour grapes they have eaten. But it is hard to delude or corrupt so many: men do not in matters of the highest importance yield to slight temptations. No man serves the devil for nothing: small wages will not content those who expose themselves to perpetual infamy, and the hatred of a nation for betraying their country. Our kings had not wherewithal to corrupt many till these last twenty years, and the treachery of a few was not enough to pass a law. The union of many was not easily wrought, and there was nothing to tempt them to endeavour it; for they could make little advantage during the session, and were to be lost in the mass of the people, and prejudiced by their own laws, as soon as it was ended. They could not in a short time reconcile their various interests or passions, so as to combine together against the public; and the former kings never went about it. We are beholden to Hyde, Clifford, and Danby, for all that has been done of that kind. They found a parliament full of lewd young men chosen by a furious people in spite to the puritans, whose severity had disgusted them. The weakest of all ministers had wit enough to understand, that such as these might be easily deluded, corrupted, or bribed. Some were fond of their seats in parliament, and delighted to domineer over their neighbours by continuing in them: others preferred the cajoleries of the court before the honour of performing their duty to their country that employed them. Some sought to relieve their ruined fortunes, and were most forward to give the king a vast revenue, that from thence they might

receive penfions : others were glad of a temporary protection againft their creditors. Many knew not what they did when they annulled the triennial act; voted the militia to be in the king; gave him the excife, customs, and chimney-money; made the act for corporations, by which the greateft part of the nation was brought under the power of the worft men in it; drunk or sober paffed the five-mile act, and that for uniformity in the church. This emboldened the court to think of making parliaments to be the instruments of our flavery, which had in all ages paff been the firmeft pillars of our liberty. There might have been perhaps a poffibility of preventing this pernicious mischief in the conftitution of our government. But our brave ancestors could never think their pofterity would degenerate into fuch basenefs as to fell themfelves, and their country. Yet how great foever the danger may be, it is lefs than to put all into the hands of one man, and his minifters. The hazard of being ruined by thofe who muft perifh with us is not fo much to be feared, as by one who may enrich and ftrengthen himfelf by our deftruction. It is better to depend upon thofe who are under a poffibility of being again corrupted, than upon one who applies himfelf to corrupt them, becaufe he cannot otherwife accomplifh his defigns. It were to be wifhed, that our fecurity were more certain; but this being, under God, the beft anchor we have, it deferves to be preferved with all care, till one of a more unqueftionable ftrength be framed by the confent of the nation.

SECTION XLVI

THE COERCIVE POWER OF THE LAW PROCEEDS FROM THE AUTHORITY OF PARLIAMENT.

Having proved that proclamations are not laws, and that the legiflative power, which is arbitrary, is trufted only in the hands of thofe who are bound to obey the laws that are made, it is not hard to difcover what it is that gives the power of law to the fancies under which we live. Our author tells us, “ that all ftatutes or laws are made properly by the
“ king alone, at the rogation of the people, as his majesty king James
“ of happy memory affirms in his True Law of free Monarchy *; and
“ as Hooker teaches us, that laws do not take their conftaining power
“ from the quality of fuch as devife them, but from the power that giveth

* “ In the parliament, which is nothing elfe but the head court of the king and his vaffals, the laws are but craved by his fubjects, and only made by him at their rogation, and with their advice. For albeit the king make daily ordinances, enjoining fuch pains thereto as he thinks meet, without any advice of parliament or eftates, yet it lies in the power of no parliament, to make any kind of law or ftatute, without his fceptre be to it, for giving it the force of a law.” True Law of Free Monarchies. See K. James’s Works, p. 202. Edit. 1616

CHAP. III “ them the strength of laws *.” But if the rogation of the people be necessary, that cannot be a law which proceeds not from their rogation: the power therefore is not alone in the king; for a most important part is confessed to be in the people. And as none could be in them, if our author’s proposition, or the principles upon which it is grounded, were true, the acknowledgement of such a part to be in the people shews them to be false. For if the king had all in himself, none could participate with him: if any do participate, he hath not all; and it is from that law by which they do participate, that we are to know what part is left to him. The preambles of most acts of parliaments manifest this by the words, “ be it enacted by the lords spiritual and temporal, and commons, “ in parliament assembled, and by authority of the same.” But king James, says Filmer, “ in his Law of free Monarchy, affirms the contrary:” and it may be so; yet that is nothing to us. No man doubts, but that he desired it might be so in England: but it does not from thence appear, that it is so. The law of a free monarchy is nothing to us; for that monarchy is not free, which is regulated by a law not to be broken without the guilt of perjury, as he himself confessed in relation to ours §. As to the words cited from Hooker, I can find no hurt in them. To draw up the form of a good law is a matter of invention and judgment; but it receives the force of a law from the power that enacts it. We have no other reason for the payment of excise or customs, than that the parliament has granted those revenues to the king to defray the public charges. Whatever therefore king James was pleased to say in his books, or in those written for him, we do not so much as know that the killing of a king is treason, or to be punished with death, otherwise than as it is enacted by parliament; and it was not always so: for in the time of Ethelstan, the estimates of lives were agreed in parliament, and that of a king valued at thirty thousand thrymsæ †. And, if that law had not been altered by the parliament, it must have been in force at this day. It had been in vain for a king to say he would have it otherwise; for he is not created to make laws, but to govern according to such as are made, and sworn to assent to “ such as shall be proposed ‡.” He who thinks the crown not worth accepting on these conditions may refuse it. The words “ le roi le veut” are only a pattern of the French fashions, upon which some kings have laid great stress, and would no doubt have been glad to introduce “ car tel est notre plaisir;” but that may prove a difficult matter. Nay, in France itself, where that style, and all the ranting expressions that please the vainest of men are in mode, no edict has the

* Laws do not take their constraining force from the quality of such as devise them, but from that power which doth give them the strength of laws. Hooker’s Eccl. Pol. b. 1, § 10

§ Speech in the star-chamber, 1616. Vide supra, p. 343

† Regii capitis aestimatio, jure Anglorum communi, 30 thrimfarum millibus constat: quorum millia quindecim capitis aestimationis, reliqua regni nomine debentur: haec ad gentem, illa ad cognatos pertinent. Vide Leges Aethelstani, Edit. Lambardi, p. 55.—Thrimfa vel thrymsa est trium solidorum nummus, à τριμ, quod ternos significat. Lamb. Glos. Spelm. Glos. in voce Thrimfa.

‡ Quas vulgus elegerit. Vide supra, p. 354

power of a law, till it be registred in parliament. This is not a mere ceremony, as some pretend, but all that is essential to a law. Nothing has been more common, than for those parliaments to refuse edicts sent to them by the king. When John Chastel had, at the instigation of the Jesuits, stabbed Henry the fourth in the mouth, and that order had designed or executed many other execrable crimes, they were banished out of the kingdom by an arrêt of the parliament of Paris. Some other parliaments registred the same; but those of Toulouse and Bourdeaux absolutely refused; and, notwithstanding all that the king could do, the Jesuits continued at Tournon, and many other places within their precincts, till the arrêt was revoked. These proceedings are so displeasing to the court, that the most violent ways have been often used to abolish them. About the year 1650, Seguier then chancellor of France was sent with a great number of soldiers to oblige the parliament of Paris to pass some edicts upon which they had hesitated: but he was so far from accomplishing his design, that the people rose against him, and he thought himself happy, that he escaped with his life. If the parliaments do not in all parts of the kingdom continue in the liberty of approving or rejecting all edicts, the law is not altered, but oppressed by the violence of the sword: and the prince of Condé, who was principally employed to do that work, may, as I suppose, have had leisure to reflect upon those actions, and cannot but find reason to conclude, that his excellent valour and conduct was used in a most noble exploit, equally beneficial to his country and himself. However, those who are skilled in the laws of that nation do still affirm, that all public acts, which are not duly examined and registred, are void in themselves, and can be of no force longer than the miserable people lies under the violence of oppression; which is all that could reasonably be said, if a pirate had the same power over them. But whether the French have willingly offered their ears to be bored, or have been subdued by force, it concerns us not. Our liberties depend not upon their will, virtue, or fortune: how wretched and shameful soever their slavery may be, the evil is only to themselves. We are to consider no human laws but our own; and if we have the spirit of our ancestors we shall maintain them, and die as free as they left us. "Le roi le veut," though written in great letters, or pronounced in the most tragical manner, can signify no more than that the king in performance of his oath does assent to such laws as the lords and commons have agreed. Without prejudice to themselves, and their liberties, a people may suffer the king to advise with his council upon what they propose. Two eyes see more than one, and human judgment is subject to errors. Though the parliament consist of the most eminent men of the nation, yet, when they intend good, they may be mistaken. They may safely put a check upon themselves, that they may farther consider the most important matters, and correct the errors that may have been committed, if the king's council do discover them: but he can speak only by the advice of his council; and every man of them is with his head to answer for the advices he gives. If the

CHAP. III parliament has not been satisfied with the reasons given against any law that they offered, it has frequently passed; and if they have been satisfied, it was not the king, but they, that laid it aside. He that is of another opinion, may try whether "le roi le veut" can give the force of a law to any thing conceived by the king, his council, or any other than the parliament. But if no wise man will affirm that he can do it, or deny that by his oath he is obliged to assent to those that come from them, he can neither have the legislative power in himself, nor any other part in it than what is necessarily to be performed by him, as the law prescribes.

I know not what our author means by saying, "le roi le veut is the interpretive phrase* pronounced at the passing of every act of parliament:" for, if there be difficulty in any of them, those words do no way remove it. But the following part of the paragraph better deserves to be observed. "It was, says he, the antient custom for a long time, till the days of Henry the fifth, for the kings, when any bill was brought to them, that had passed both houses, to take and pick out what they liked not; and so much as they chose was enacted as a law: but the custom of the later kings hath been so gracious, as to allow always of the entire bill, as it passed both houses." He judiciously observes, when our kings began to be gracious, and we to be free. That king (excepting the persecution for religion, in his time, which is rather to be imputed to the ignorance of that age, than to any evil in his own nature) governed well; and as all princes, who have been virtuous and brave, have always desired to preserve their subjects liberty, which they knew to be the mother and nurse of their valour, fitting them for great and generous enterprizes, his care was to please them, and to raise their spirits. But, about the same time, those detestable arts, by which the mixed monarchies in this part of the world have been every where terribly shaken, and in many places totally overthrown, began to be practised. Charles the seventh of France, under pretence of carrying on a war against him and his son, took upon him to raise money, by his own authority; and we know how well that method has been pursued. The mischievous sagacity of his son Lewis the eleventh, which is now called king-craft, was wholly exerted in the subversion of the laws of France, and the nobility that supported them. His successors, except only Lewis the twelfth, followed his example; and in other nations, Ferdinand of Arragon, James the third of Scotland, and Henry the seventh of England, were thought to imitate him the most. Though we have little reason to commend all the princes that preceded Henry the fifth, yet I am inclined to date the general impairing of our government from the death of that king, and his valiant brothers. His weak son became a prey to a furious Frenchwoman, who brought the maxims of her own country into ours, and advanced the worst of villains to govern according to them. These measures were pursued by Edward the fourth, whose wants contracted by

* The word "interpretive" is a mistake in the first edition of Filmer's Patriarcha, for "imperative".

prodigality and debauchery, were to be supplied by fraud and rapine. The ambition, cruelty, and perfidiousness of Richard the third; the covetousness, and malicious subtilty of Henry the seventh; the violent lust, rage, and pride of Henry the eighth; and the bigotted fury of queen Mary, instigated by the craft and malice of Spain, persuaded me to believe, that the English liberty did not receive birth or growth from the favour and goodness of their gracious princes. But, it seems, all this is mistaken: Henry the sixth was wise, valiant, and no way guided by his wife; Edward the fourth, continent, sober, and contented with what the nation gave him; Richard the third, mild, gentle, and faithful; Henry the seventh, sincere, and satisfied with his own; Henry the eighth, humble, temperate, and just; and queen Mary, a friend to our country and religion. No less praises sure can be due to those who were so gracious as to recede from their own right of picking what they pleased out of our laws, and to leave them entirely to us, as they passed both houses. We are beholden to our author for the discovery of these mysteries. But though he seems to have taken an oath, like that of the gypsies when they enter into that virtuous society, never to speak one word of truth, he is not so subtle in concealing his lies. All kings were trusted with the publication of the laws; but all kings did not falsify them. Such as were not wicked and vicious, or so weak as to be made subservient to the malice of their ministers and flatterers, could never be drawn into the guilt of so infamous a cheat, directly contrary to the oath of their coronation. They swear to pass such "laws as the people choose;" but, if we will believe our author, they might have picked out whatever they pleased, and falsely imposed upon the nation, as a law made by the lords and commons, that which they had modelled according to their own will, and made to be different from, or contrary to the intention of the parliament. The king's part in this fraud, of which he boasts, was little more than might have been done by the speaker, or his clerks. They might have falsified an act as well as the king, though they could not so well preserve themselves from punishment. It is no wonder, if, for a while, no stop was put to such an abominable custom. It was hard to think a king would be guilty of a fraud, that were infamous in a slave; but that proved to be a small security, when the worst of slaves came to govern them. Nevertheless, it is probable they proceeded cautiously: the first alterations were, perhaps, innocent, or, it may be, for the best. But, when they had once found out the way, they stuck at nothing that seemed for their purpose. This was like the plague of leprosy, that could not be cured; the house infected was to be demolished; the poisonous plant must be torn up by the root; the trust that had been broken was to be abolished; they who had perverted or frustrated the law were no longer to be suffered to make the least alteration; and that brave prince readily joined with his people, to extinguish the mischievous abuse that had been introduced by some of his worthless predecessors. The worst and basest of them had continual disputes with their parliaments, and thought, that whatever they could

CHAP. III detract from the liberty of the nation would serve to advance their prerogative. They delighted in frauds, and would have no other ministers, but such as would be the instruments of them. Since their word could not be made to pass for a law, they endeavoured to impose their own, or their servants inventions, as acts of parliaments, upon the deluded people, and to make the best of them subservient to their corrupt ends, and pernicious counsels. This, if it had continued, might have overthrown all our rights, and deprived us of all that men can call good in the world. But the providence of God furnished our ancestors with an opportunity of providing against so great, so universal a mischief. They had a wise and valiant prince, who scorned to encroach upon the liberties of his subjects, and abhorred the detestable arts, by which they had been impaired. He esteemed their courage, strength, and love, to be his greatest advantage, riches, and glory. He aimed at the conquest of France, which was only to be effected by the bravery of a free and well satisfied people. Slaves will always be cowards, and enemies to their master. By bringing his subjects into that condition, he must infallibly have ruined his own designs, and made them unfit to fight, either for him or themselves. He desired, not only that his people should be free, during his time, but that his successors should not be able, by oblique and fraudulent ways, to enslave them. If it be a reproach to us, that women have reigned over us, it is much more to the princes that succeeded our Henry, that none of them did so much imitate him in his government, as queen Elizabeth. She did not go about to mangle acts of parliament, and to pick out what might serve her turn; but frequently passed forty or fifty in a session, without reading one of them. She knew that she did not reign for herself, but for her people; that what was good for them was either good for her, or that her good ought not to come into competition with that of the whole nation; and that she was, by oath, obliged to pass such laws, as were presented to her on their behalf. This not only shews, that there is no such thing as a legislative power placed in kings by the laws of God and nature, but that nations have it in themselves. It was not by law, nor by right, but by usurpation, fraud, and perjury, that some kings took upon them to pick what they pleased out of the public acts. Henry the fifth did not grant us the right of making our own laws; but, with his approbation, we abolished a detestable abuse, that might have proved fatal to us. And, if we examine our history, we shall find, that every good and generous prince has sought to establish our liberties, as much as the most base and wicked to infringe them.

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ADDENDA ET CORRIGENDA.

Page 37. Anarchiae fautores.] Tertia doctrina feditiofa ab eadem radice orta eft, “ tyrannicidium effe licitum.” Imò hodie à nonnullis theologis, et olim ab omnibus fophiftis, Platone, Aristotele, Cicerone, Seneca, Plutarcho, caeterisque Graeciae, et Romanae anarchiae fautoribus, non modò licitum, fed etiam maximà laude dignum exiftimatum eft. Hobbes de Cive, c. 12.

Page 84, to the note concerning the election of Ethelwolf add, “ Quùm Egbertus pater fati conceffiffet confenfus publicus Ethelvuolphum filium in regem dari petiit.” Balaei Script. Brit. Caal. cent. 2, c. 20.

Page 93, for Mahommed, read Mohammed.

Page 108, for *voev*, read *vovv*. and for *voev*, read *veg*.

Page 139, for *jufticiar*, read *jufticia*.

Page 154, inftead of “ condemning Antiftius Sofianus in the reign of Nero;” former editions have, “ condemning Nero;” and this reading is very right. Sydney alludes to the fame fact, p. 330. The alteration in this edition was owing to an improper reference, in the margin of the third edition, to the paffage in Tacitus, concerning Antiftius, which is quoted in the notes. Thefe examples, however are equally pertinent, and the alteration is of no moment.

Page 189, for “ mulabat,” read “ multabat.”

Page 204, inftead of “ coal-ftaff,” read “ cowl-ftaff.” Cowl is an old or provincial word, fignifying a tub with two ears, ufed for carrying water, etc. The cowl-ftaff is the pole by which the veffel is fufpended between two men. In all the editions of Sydney's Difcourfes, this word is erroneoufly printed, “ coal-ftaff.”

Page 224, to the quotation from Tertullian add, Homicidii feftinatio eft prohibere nafci. Tert. Apol. § 8.

Page 255, “ regne” for “ reine.”

Page 370, for “ imperio,” read “ imperium.”

Page 418. l. 26. for “ it is more,” read “ it is no more.”

LETTERS OF ALGERNON SYDNEY,
TAKEN FROM THURLOE'S STATE PAPERS

LETTERS OF ALGERNON SYDNEY,
TAKEN FROM THURLOE'S STATE PAPERS

COLONEL ALGERNON SYDNEY TO MYNHEER BEVERNING

My Lord, Hague, August 8, 1654. [N. S.]

I will not undertake to write any news to you, knowing that you are informed from a better hand; but I will take the boldness to advise you this, and upon good considerations, that in case your friends here do not secure themselves better than they do, they will run the hazard to repent themselves ere long. This by the bye. I have spoken with my lord de Witt, but very little yet in particular. My lord of Opdam hath done me the honour to come and see me at my lodging*.

COLONEL ALGERNON SYDNEY TO THE EARL OF LEICESTER

My Lord,

The states of Holland have put forth a book in justification of the article concerning the prince of Orange, and in answer to the provinces complaints. It is yet but in Dutch, but will suddenly be in other languages. The states of Holland go on vigorously with their designs; and it is thought they will suddenly silence the other grumbling provinces. The states of Holland carried the book to the states general, and read it to them. Many rant here; others disavow what is done; but what more they will do, I cannot tell †.

Hague, August 14, 1654. [N. S.]

COLONEL ALGERNON SYDNEY TO MR. SPENCER

Sir, Hague, October 16, 1654. [N. S.]

We have been of late alarmed by two dangerous elements, fire and water. The other day the town of Delft was almost blown up by a magazine, that took fire. It was such a terrible blow, that it shook the Hague. Since, by storm and rain, we have been in no less danger. Some take upon them to tell us, that these signs are very ominous to the province of Holland. Above two hundred houses were blown up: it made the very Hague shake again.

This

* Thurloe's State Papers, vol. ii. p. 501.

† Vol. ii. p. 522.

LETTERS OF ALGERNON SYDNEY,

This sad accident happened through the carelessness of one that hath the looking to the magazine. The commissioners went at ten o'clock into the magazine, and about eleven it was fired*.

THE ENGLISH PLENIPOTENTIARIES IN THE SOUND TO THE
PRESIDENT OF THE COUNCIL OF STATE

My Lord,

We are now approaching the Scaw, having by less favourable winds been detained these eight days at sea. By an Hamburger, whom we just now met coming from the Sound, we receive intelligence, that our fleet, with some Swedes, lie at present between Cronenburgh and Copenhagen; which city hath received some relief from merchant-men and victuallers; but according to the information, (which he confidently in this particular gives us) hath as yet no soldiers put into it. We are, it seems, looked for at the Sound, where a certain number of commissioners besides are expected from Holland, till the coming up whereof there is a cessation between the fleets. My lord, we could not omit communicating this, being careful of using all opportunities to approve ourselves,

Your lordship's humble servants,

From aboard the Langport,
12 leagues from the Scaw,
July 16, 1659.

Alg. Sydney.
Rob. Honeywood.
Tho. Boone.

The Dutch fleet lies below Copenhagen †.

THE ENGLISH PLENIPOTENTIARIES IN THE SOUND TO THE
PRESIDENT OF THE COUNCIL

My Lord,

Being arrived here the 21st of this month, we should, before this time, have given your lordship an account of ourselves, and so much as we could know of our business; but being promised every day, that the king of Sweden would be here either the same or the next, and that we might have audience the first hour after his coming; we did stay the dispatch of the ketch, until that were passed, that we might be more full in our relation. But we are kept in uncertainty; and though we sent a gentleman yesterday to Fredericksburgh with a copy of our credentials, to be shewed to the secretary of state, with our desire for a speedy audience, he is not yet returned. The most that we can at present say, is, that having been on board your fleet, we find it in a good condition of strength; but sickness doth grow amongst them, and
the

* Vol. ii. p. 649.

† Vol. vii. p. 699.

the victual doth grow short, which we do endeavour to supply by providing the particulars mentioned in the inclosed note, which, amounting unto about fifteen hundred pounds, over and above what is already provided, or ordered to be paid, we desire your lordship to cause to be paid accordingly. We have received from Mr. Downing a copy of an agreement made at the Hague the $\frac{1}{2}^{\text{d}}$ th instant; and though it is not authentically signed, we do proceed upon it with the Holland ministers without any dispute, finding it suitable unto our instructions; so that even without it we might have concluded with them the matter of it. There was some discourse between them and us of the "quindecim dies continuos," and when they should begin; which is now agreed on all sides, that it shall be "quindecim dies post tractatum initum;" and that in the mean time we should apply ourselves to both the kings, to persuade them unto a cessation of arms, for that time; and if that be refused, the Hollanders do engage themselves to compel the king of Denmark. And we have promised, that if the refuse be on the king of Sweden's side, we will give them full liberty to proceed against him, as they shall think fit, until he doth give his assent; which they like very well, knowing what power they have over him, in case we desist from assisting him. On the 24th of this month we had information, that Opdam and de Ruyter had left their station near Copenhagen, taken on board the 4000 men formerly brought out of Holland, joined themselves with Bielk the Danish admiral, gathered together about 100 barks and boats of several sorts, fit for the transportation of horse and foot, and set sail (as we thought) for Jutland or Holstein, to transport the Brandenburghers. Upon conference with the two Holland ministers that are here, upon the same day, and discoursing of the last agreement at the Hague, Mr. Slingerland did propose a cessation for the fifteen days of the treaty. We, by way of question, proposed, whether not only that was necessary, but that we, who were employed by the two commonwealths, ought not to take care to prevent any mischief, that might fall out between the two fleets, before such time as we could obtain the king's consent to the cessation, especially the Holland fleet having set sail so provided, that it was probable they went upon some great expedition? and whether it were not adviseable; that we should stop all such proceedings, by undertaking either of us for the fleet of our own nation, (they shewing, that they had sufficient power to engage their own) that they should not attempt any act of hostility during the time we were for preparing for the treaty? They offered to undertake for de Ruyter and his fleet, only leaving Opdam free; which we not accepting, parted without any conclusion, and thought it most for the commonwealth's service to prepare our fleet to follow the Dutch and Danes, and observe their motions. The next day we had a message from the two Dutch ministers here, that they had received notice from their colleagues at Copenhagen, that upon the receipt of the agreement at the Hague, they had stopped Opdam and de Ruyter's motions for the present; and that, if we would have a conference with

all the ministers of their state, to conclude that business, they would go with us to a place half-way betwixt this and Copenhagen, and send to their colleagues to meet us there; unto which we readily assented. And to avoid the dispute for place, which might happen with the French ambassador, who was thought necessary to be there, we desired to entertain them in a frigate, that was brought to lie near that place; which they taking very well, we all met there; and agreeing unanimously to prevent all action, that might disturb the treaty, and undertaking each for the fleet belonging to their own commonwealth, and that they should attempt nothing against one another, or either of the two kings, whilst we were preparing for the treaty, the Dutch did immediately dispatch orders to their commanders to give them notice of it, and accordingly to cease from all acts of hostility. The Dutch ministers have very fully assured us, that if the king of Denmark will not assent to the cessation or the peace to be concluded, they will use their power to force him, according to the contents of the late agreement. And though our instructions are large enough to shew us in what manner we should proceed with the king of Sweden, in case he should refuse, as also in relation to the said agreement; yet we desire your lordship, that if this new state of things has given you any other thoughts than such as are expressed in our instructions, your lordship will be pleased to let us know them, that they may be a further guide unto us, and we may in all things conform ourselves unto them. We have also a further scruple upon which we desire to know your lordship's pleasure; which is, in what manner we should proceed, in case neither of the kings will assent unto the peace; for we think, that probably will be the case, the king of Denmark not only insisting upon a general peace, and refusing any with the exclusion of the Brandenburgers and Imperialists; but, according to the best information we can have from sir Philip Meadowe and others, we have reason to doubt the king of Sweden will be very unwilling to assent unto a peace; according to the said agreement at the Hague, unless his peace may be also made with the emperor, whose power he is not able to withstand, unless England and France join in assisting him; and Pomerania being so wasted, that there is no subsistence for his army there, he will be extremely straitened how to provide quarters for his army this winter; and sums up his desires in these few words, either that we should make a general peace, that he may disband his army, or suffer him to stay here, where he may maintain it; by which your lordship may see, how different the inclinations of that king are from what is ordinarily represented in England. We think, the relation of his force at land and sea is not more truly represented. Those troops of his, that we have seen, are extremely weak, ill armed, ill mounted, few in number, and in all respects in an ill condition; and we are informed, his others are not better; but yet the strength in Copenhagen consisting of the most part of burghers, (who are only to defend walls) they well enough keep them in. His sea-force is not more considerable, and the state of it is so well known

unto

unto the Dutch, that they do not apprehend the English should receive any considerable assistance from them, which, we believe, doth increase their confidence. And we do humbly offer it unto your lordship, whether it would not be a great help to us in our treaty, and much advance the desired peace, if you would be pleased to send vice-admiral Lawson, with an addition of six or eight good ships, which we leave unto your lordship's consideration. We think ourselves obliged to represent unto your lordship, that sir Philip Meadowe is not willing to continue here this winter, the condition of his health not at all agreeing with this climate in that season, especially being incommodated with a shot in his hand, which he received in Portugal, his own affairs also requiring his return into England after his long absence; upon which considerations only he doth desire your lordship to discharge him by that time, and in the mean he doth offer to serve the commonwealth to the utmost of his power, or to obey your lordship's command, if you find it for your service, after his return, to employ him in any other place. The gentleman we sent to Fredericburg is now returned with his answer from the king, that lodgings are provided for us there, and that if we will come thither to-morrow, we shall have audience immediately, or the next day, at our choice. We incline to the most speedy, and have therefore agreed with his majesty's officers here, that it shall be to-morrow in the afternoon. The manner of our reception will be, that two senators will meet us half a mile from the place, and bring us first to our own lodgings, and from thence to the king; which, before the making up of our packet, we thought necessary to be signified unto your lordship, by,

My lord,

Your lordship's most humble and faithful servants,

E. Montagu.

Alg. Sydney.

Rob. Honeywood.

Tho. Boone.

Elfenore,
July 29, 1659.

We have received the packet, that was sent with the Forrester frigate, and shall conform ourselves unto the directions contained in it*.

THE ENGLISH COMMISSIONERS IN THE SOUND TO THE
KING OF SWEDEN

Serenissime potentissimeque Rex,

Incertam valetudinem, quâ etiamnum utitur vestra majestas, non sine dolore accepimus, sensuque eo graviore, quo majorem spem majestatem vestram de officiis studioque nostro certiorém faciendi animo praeceperamus; quin & coràm exponendi, quo in loco sint rationes illae majestati vestrae cum republicâ communes. Muneri autem nostro ne quâ deessemus, majestatem vestram rursus orandam duximus, ut renuntietur nobis, utrum

LETTERS OF ALGERNON SYDNEY,

(quo communius pax instauretur) foederis Roschildiani conditiones dignetur accipere, five id non videatur, quaenam illa sint, quae malit adjici, minui, aut mutari: chartam siquidem eo spectantem à rege Daniae dudum impetravimus, quasi unicum rationem, quâ inter majestates vestras orta dissidia brevi quindecim dierum spatio componantur (id quod non ita pridem majestatis vestrae commissariis fusius explicuimus): in tantillum temporis classis nostrae rationes nos compulerunt, quae nequaquam poterit diutius isthic commorari. Quod si interea temporis seu opera mediatoria seu naves nostrae majestati vestrae ex usu esse possint, nos exhibebimus,

Serenissime ac potentissime Rex,

Majestati vestrae addictissimos, atque ejusdem obsequentissimos,

Alg. Sydney.

R. Honywood.

Fridericiburgi, 7^o Augusti 1659.

Serenissimo ac potentissimo Suecorum regi*.

FROM THE ENGLISH COMMISSIONERS IN THE SOUND.

My Lord,

When we were ready to go to our audience from the king of Sweden, which, by our last dispatch of the twenty ninth of July, we informed your lordship we expected the next day, we received a message from his majesty, whereby it was deferred until the thirty first, with a promise we should be heard publicly in the morning, and privately in the afternoon.

The public audience passed in the ordinary ceremony, we speaking in English, and delivering what we had said in English in Latin, the king answered immediately in the Swedish language, and Mr. Berkman related in English what he had said. After the second or third speech of that kind, the king did in French civilly excuse himself for the ill entertainment we had received, the disorders of the time and straitness of the place not admitting of better. Our answer was then in French; but nothing passed more than ordinary civilities. In the afternoon we were admitted to a private audience, wherein in the French we did express the cause of our coming, proposed a treaty between him and the king of Denmark, and the nomination of time, place, commissaries, and granting of safe-conducts and a cessation during the time of, and our preparations unto the treaty. Unto which he answered in the same language, that he had by his several declarations sufficiently evidenced his desires of peace; and that he did leave it to the English to choose whether it should be general or particular with Denmark. Then he made a very large narrative of all the straits, in which he had found himself ever since he came to the crown, the multitude of enemies wherewith he was oppressed, his own desires of peace, both for the necessity of his affairs, and infirmities of his body; but that he could not nominate commissaries, time, or place, nor grant safe conduct or cessation, until he knew whether the king

of Denmark would treat; that he did not comprehend his allies. And concerning the cessation, he added, that the other things being once accorded, he would grant that also; but upon such conditions, as neither wood, victuals, or other necessaries that they wanted in Copenhagen, should be brought into that town during that time. With this answer we returned to Elfenore the same day. The first of August we had a conference with the Holland ambassadors there concerning our common affairs, and resolved all together to go to Copenhagen the second of August, to propose the same thing to the king of Denmark. Public audience was given to us on the third in the morning, which passed in the same manner as that of Sweden; only the king's answer was first made unto us by Peter Rytz (who was formerly ambassador in England) in the Dutch tongue, and then in Latin. In the afternoon we had a private audience with the king, having with him the reichs-hofmeister Rytz, and three other senators. We proposed the same points concerning peace, treaty, and cessation. The answer was delivered by the reichs-hofmeister in French, (as our discourse had been) that the peace of Roschild having been broken by the king of Sweden, contrary to his faith given, without any provocation, the countries wasted, king's houses pillaged, others destroyed, and the king forced to shut himself up in one city, which being hitherto maintained by a particular blessing of God, protecting an oppressed king and an innocent people; and that the said king had ever been desirous of peace, and forced by so many urging necessities to call the emperor, king of Poland, and duke of Brandenburg to his assistance, he did desire, that they might be also comprehended in the treaty. That being by us impossible to be effected in the short time, that was allotted to us, and that our fleet could stay here, we pressed him for a particular peace. Some discourses passed on the same subject on both sides, and so we parted, giving the king time to consider of it until the next day. We then returning, the reichs-hofmeister told us, that the king, finding himself more nearly allied to the duke of Brandenburg than any of his other allies, had dispatched a messenger unto him, to know whether he desired to be comprehended in the treaty or not; and that having done all that was in his power for him, and to persuade him, if he did refuse, he would proceed to treat with Sweden without him. Our business not admitting so much delay as the return of the messenger, we pressed for an immediate and particular treaty upon the grounds of that of Roschild. The hofmeister answered, That the treaty of Roschild did injoin the king of Sweden to deliver into the hands of the king of Denmark the provinces of Jutland and Holstein, which he did doubt would be hard for the Swede to do; and that if the Dane should treat without his allies, and peace should not ensue upon it, he should be deserted by them, and his condition made much worse than it is at present. We replied, that the treaty of Roschild could intend only, that the king of

Sweden should not detain those provinces from the Dane, which he now easily performed, not having a man in them; and that they being in the hands of the king of Denmark's allies, we could not but judge them to be in his own, not doubting but that his majesty had chosen such to call to his assistance, as would consider his interest, and be guided by his directions.

And these difficulties being thus removed, we did desire to know of his majesty, whether he did like the conditions of the treaty of Roschild; and if he did not, he would nominate his commissioners, agree upon the preliminaries, and give them instructions upon those points, that he did desire should be added, diminished, or changed; and we would endeavour by our mediation to obtain for his majesty so much as should appear to be just. The king and senators scrupled much to enter into a treaty with the Swede, affirming positively, that as soon as that was known, all his allies would turn against him; but offered to treat with us, who might go between, hear the pretences of both parties, and terminate the differences between them. We finding this way suitable to our instructions, and the most probable to put a speedy end to the business, the disputes of titles, precedence, time, place, powers, persons, and great animosities between the parties, (which were likely to take up much more time than was allotted to us for the conclusion of the whole) being thereby avoided, we readily accepted that proposition; and that we might bring it to effect, we desired to know, what the king desired should be altered of the Roschild treaty, which we promised the next day. And on the fifth in the morning, the reichs-hofmeister, and five other senators, which were then in town, came to our lodgings, and made us a discourse, of which the subject is contained in the first of these inclosed papers; and in the afternoon Peter Rytz brought it us in writing. On the sixth we had another conference with the Holland ambassadors, and they afterwards had one with the Danish senators; upon which Peter Rytz brought in this second paper, and in discourse told us much of the weakness of his master, the cruelty and unfaithfulness of the Swede, their dependence upon the mediators, principally upon the English, for making the peace, wherein he did desire us to consider, not only the just cause of an oppressed prince, but our own interest, which was nearly concerned in maintaining Denmark, to be a balance to the power of Sweden; which being once taken away, and he getting the entire mastery of the Sound and the Baltic sea, would prove troublesome to all his neighbours, which should have occasion to trade there. Unto which we returned no other answer, than that it was not our work to oppress the king of Denmark, but rather to make such a peace for him, as might consist with justice, and the present condition of the affairs of those states interested in this quarrel, and the commerce in those seas; and that we would omit no care and diligence in using such means as were probable to effect it. The next day, being the seventh, we returned to Elsenore. The eighth
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in the morning, two of us, viz. Honywood and Sydney, went to Fredericksburg, and immediately desired audience of the king of Sweden, who excused himself for not giving a personal audience, by reason of an indisposition, into which he was lately fallen; but would immediately appoint two senators to hear whatsoever we had to propose; which we accepted, though we knew well enough, that that was only a feigned pretence, upon an ill-humour, into which he was grown, upon a dislike of the agreement at the Hague, our communication with the Holland ministers, and his opinion, that we had an intention to oblige him to a peace, that he did not like. At the place appointed, we found two senators, two secretaries, and two other clerks; who whilst we were intent in discourse, not regarding them, wrote all that we said, which (though we thought a very unhandsome way of proceeding) we did not complain of; but took care not to say any thing, that could give them an advantage. We proposed the treaty to be managed between both parties by the mediators, without losing time in frivolous disputes upon the preliminaries and other points subject to raise cavils; but that if the king of Sweden would deliver us in writing his acceptance of the Roschild treaty, or his exceptions unto it, we would communicate it with the other mediators, and endeavour to procure such a peace for his majesty, as was suitable to the rules of honour and justice, adding thereunto many expressions of civility to his majesty from the commonwealth, and from ourselves.

They argue much against this way of proceeding, and we for it, as the only one, that could possibly bring the business to effect in the time, that our fleet could stay here. They promised us to make report to his majesty, and bring us a speedy answer. In the evening a gentleman came from them, to know at what time the next day, being the ninth, they might bring an answer to what we had proposed; we named eight in the morning. The two senators and two secretaries came accordingly, and refused to treat otherwise than by commissaries; we knowing that to be only a trick to delay the peace, until the English and Holland fleets should be forced to retire, did not accept of that, but sent to desire again audience from the king. He returned the like answer as the day before, offering also to appoint commissaries to hear whatsoever we should impart; but we finding that ending in nothing but loss of time in vain talking, having communicated our instructions to the Holland ambassadors, (who came with us, and had been used in the same manner) sent his majesty this inclosed letter, and immediately returned hither. This day we spent in making this dispatch, and framing a project of a treaty upon the grounds of the agreement made at the Hague, which we intend to offer unto the two kings, and to proceed according to our instructions against the refuser. To-morrow the Hollanders, and two of us, viz. Honywood and Sydney, intend to go to Copenhagen to begin with the Danish king, and then return to the Swede, hoping to find him in a better and more prudent temper than we left him. And though he did

rage and storm horribly upon the news he heard from the Hague, (which was a little before we came unto him) he finds all his council against him; and that such courses are of little force against those, who are not at all in his power. We hear, that he hath found reason to appease his choler: but the answer, which we have now received and sent inclosed to your lordship, doth not at all shew him to be much mended. We think it also our duty to inform your lordship, that upon consideration of the condition of our fleet, we find, that reserving one month's victuals from their return into England, they cannot stay here beyond the two or three and twentieth of August; and do doubt, that if the whole should return at that time, two great inconveniencies might follow; the one, that your lordship might be pressed to find money to pay them; and the other, that if no English force remain here to see the treaty executed, or to enforce the acceptance of what should be agreed by the mediators upon the refuser or refusers thereof, the whole fruition of the charge of this summer will be utterly lost, and the English will depend wholly upon the will of the Hollander and Dane, who will be able, as they please, to force the king of Sweden to an union with them, perhaps to our prejudice. We have therefore thought it the best expedient, that about fifteen of our ships do remain here, and a proportionable number of Hollanders, when all the rest return home; and do desire your lordship to give order, that a proportionable quantity of victuals be provided for that number of ships of the fourth or fifth rate for one month; and by the next, your lordship shall exactly know the number of men in every one of them; and that it may be here by the end of September to bring them back about that time, if the business can possibly be so soon settled; or that your lordship would be pleased to send so many others of the lately set out ships, as may serve here for that use. We should before now have agreed upon this course with the Holland ministers; but they had no power for that purpose, until within these two days. We do also humbly desire your lordship's order how to deal with the king of Swedes, if the refusal of the peace be on his side, as we believe it will, he having beside these inclosed papers, by message, desired us to mediate with the king of Denmark, that as a mark of his desiring peace, he would release the Swedish ambassador, that he hath kept prisoner ever since the last breach, without which he would admit of no treaty. But, we hope, he will be better advised than every day to come with new propositions to put off the treaty, and doubt not but that will be effected, if the Hollanders do faithfully perform the commands of their superiors, which they do very freely communicate unto us, and in all things seem very heartily to join in procuring a peace here upon the grounds agreed at the Hague, without seeking for their own nation any advantage, but what they desire should be granted to the English. We desire your lordship's pardon for this long and tedious letter, which could not be avoided, but by omitting the particulars of all things, that had passed here between the
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several princes, and their ministers and us, which would have made our relation imperfect, and less easy to your lordship to send us such certain and positive orders, as we desire, and shall ever be punctually observed by,

My lord,

Your lordship's most humble and most obedient servants;

Ellenore, August 10, 1659.

Read August 24, 1659.

Alg. Sydney.

Rob. Honeywood.

Tho. Boone.

E. Montagu*.

COL. ALGERNON SYDNEY TO THE COUNCIL OF STATE

My Lords,

General Montagu having thought fit to return into England with the whole fleet, I esteem it necessary for me, not only to testify unto your lordships, that I did in no ways assent unto that resolution, but to give you the reasons why I did endeavour to hinder it.

First, we had no positive order to send back the whole fleet until forty days after our arrival, of which about nine are yet wanting; nor implicate, until the business is done, for which we came, and the treaty of peace concluded and executed.

Secondly, we have an order, after the fifteen days are expired, one or both kings refusing or accepting the peace, to enforce the acceptance, or see the execution, which now we cannot do.

Thirdly, by the retirement of the whole fleet, the agreement made at the Hague, ratified by parliament, is broken; the charge of this summer lost; the interest of the commonwealth in these parts endangered; the Swede exposed to be destroyed by the Dutch, or compelled to join with them in a league against the English, which they may conclude, without breaking faith with us, the first breach having been on our side, who, instead of assisting them to make peace, leave them engaged in a war.

Fourthly, that by continuing a fleet of about sixteen ships, victualled with a month's sea provisions, which, at short allowance, lasts six weeks; and three weeks of fresh provisions, which might be had here for 1500*l.* that a merchant here did offer to lend upon a note from the general, my colleagues, and myself, we might have accomplished the ends aforesaid, and continued here, as occasion should have required, or your lordships orders direct.

Lastly, The scruple being the danger of leaving sixteen ships within the power of the Hollander, it is answered, that the ministers here have not yet

* Vol. vii. p. 724.

LETTERS OF ALGERNON SYDNEY,

yet received any orders to fend back part of their fleet, but do every day expect them. In the mean time they offer to join such a part of their fleet with ours, as we shall think fit to enforce the peace under the command of our admiral; and that the rest shall continue in any part of all these seas, that we shall desire; attempt nothing, but with our consent; and for the making good of this, do offer their own persons, to be kept on board our ships as hostages; and to take away farther scruples, did yesterday agree with us, that the joint force should be used against either of the two kings, only until he assents unto the conditions of peace proposed; that nothing shall be attempted against either of them, but with the consent of the ministers of both commonwealths; and that neither of them should make peace with either of the kings without the consent of the other.

I could not satisfy myself without representing this unto your lordships. If I have given you an unnecessary trouble, I hope your lordships will be pleased to pardon me, my zeal for the commonwealth's service being the inducement, and my desire to obey your lordships commands, which shall ever be a rule not to be transgressed by

Your lordships most humble, faithful, and most obedient servant,

Copenhagen, August 21, [1659]

Alg. Sydney*.

COMMISSIONERS IN THE SOUND TO SECRETARY THURLOE

My Lord,

As soon as we had made our last dispatch of the tenth of this month, two of us, viz. Honywood and Sydney, came to Copenhagen, and pressed the king of Denmark and his senate upon the two points of declaring, that he would treat with the king of Sweden, and that by commissaries; from whom we did obtain such a declaration as we desired, two senators being therein named commissioners; the king also adding thereunto, that the matter of the treaty should be ripened by the mediators, unto whose judgment he did absolutely refer the determination of all differences between the king of Sweden and himself, which was delivered unto us upon this condition, that we should only shew it to the king of Sweden, but not suffer any copy to be taken of it; and in case the peace succeeds not, that it should be returned again into his hand that gave it; which we promised to do. With this we returned to Elsenore, thinking our work well advanced; obtained an audience from the king of Sweden; shewed him the declaration, unto which he returned answer, "Je vous reçois comme mediateurs, non pas comme arbitres:"
named

* Vol. vii. p. 731.

named two senators to be his commissaries, of whom the one called Bielk hath been employed by him as ambassador in Copenhagen, and upon his last irruption into Zeland had been made a prisoner upon some pretence of practices contrary to the duty of a public minister, and detained until that time; adding many discourses of his apprehension, that if the peace were made, the king of Denmark, being probably forced unto it, would never keep it; and that he must not omit his own security. This discourse sounding, as if he, concluding that peace upon disadvantageous conditions, was certainly forced, that which was forced would never be kept; the king of Denmark would never part with so large a proportion of his country, if not forced; therefore it was not to be expected he would keep it; and sometimes spoke, as if he would have no peace at all with Denmark. We used what arguments we could draw from the Dane's weakness, and the mediating states readiness to interpose, to make good the treaty, to take away that groundless apprehension. But he continued the like discourses, and adding, that he must rely upon his own strength, not the assistance of his friends, for his security; and that having advantages in his hands, it were a great folly to leave them, and depend upon others: it was at last concluded, that his majesty should come to the camp, before this town, the next day, being the 16th of this month; where at a nearer distance he should be better able to discern, whether the Dane's assent were voluntary or forced. We then pressed, that Bielk being a prisoner, he would not propose any thing that was likely to obstruct the treaty; that he would have his liberty within a few days, upon the article for the general release of prisoners; and desired he would be pleased, whilst the safe conducts and other formalities of the treaty were preparing, to confer with us upon the principal points, that remained in difference between him and the Dane, which in that time we might ripen to be concluded by the commissioners on both sides at their meeting. His majesty insisted upon the nomination of Bielk, and refused to have any discourse with us upon the matter. Our journey was deferred until the 17th by his majesty; on which day he came to his camp, and we to this town, mediated with the king of Denmark for the release of Bielk; obtained it, and the 18th, carried him with us to the camp, and there delivered him free unto his majesty. We hoped at the same time for an opportunity of conferring with him upon the business in hand, the ministers of the three mediating states being present; but we were received in a public room full of officers, courtiers, and servants, not at all fit for any discourse, that ought not to be as public as they could make it. But resolving to lose no opportunity, we did offer unto his majesty a paper, of which we send your lordship, here inclosed, a copy, telling him it was drawn by the ministers of the mediating states, and offered unto his consideration. He asked what it was, and what it did contain. We answered, it was a project of the treaty, which if his majesty would peruse, we hoped would ripen matters
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against the meeting of the commissioners, and much expedite the work of that so much desired peace. He answered (directing this speech to us) that he did receive us "comme mediateurs, non pas arbitres;" that he would not receive the project of a treaty, nor treat with any but the king of Denmark: and then turning to the Holland ministers, he told them he looked upon them as his enemies, and would in no hand admit of their mediation, and in great choler turned away, and went to the other side of the room; and soon after told us, that we made projects upon our fleets, and he, laying his hand upon his sword, had a project by his side. Soon after we took our leaves, and returned to the town, thinking that behaviour something extraordinary to be used to the public ministers of so considerable states; and that his majesty shewed, he did not well remember, by whose help he had been maintained all this summer, and enabled to make his conquests, which yet would have appeared more strange unto us, if we had not been accustomed to that, which is fuitable unto it. After the first ceremonies of our reception were over, we have been forced to spend these eight days upon frivolous disputes in titles and forms of the safe conducts, which are now passed over, and the commissioners did meet this day. After the usual civilities passed on both sides, in a place midway between two tents, the Danes and the Swedes retired each into their own. Soon after the Danes went, and offered this inclosed paper, consisting of five general propositions. The Swede desires to remove the treaty to Elfenore, or Roschild; and unto which neither the Hollanders nor the Danes will consent. To-morrow we intend to offer unto the commissaries of both parties the project, which was first offered to the kings severally, and refused by the Swede: it was at first offered unto his consideration, but now his consent will be required. The Dane (to avoid the tedious disputes of all the mutations desired by both parties in the treaty of Roschild) resolves to agree unto them all, unto which one more is to be added for the time of the evacuation of the Swedish forces; and another of amnesty for the inhabitants of Bornholm, who having formerly slain all the Swedish garrison, must expect nothing but destruction, if they are not saved by the treaty. On the 22d of this month general Montagu went from hence. This day we hear he is set sail for England with the whole fleet, excepting two frigates and one ketch. This day we received a letter from Sir Phil. Meadowe, wherein he expresseth an intention of going into England with the fleet, and desires our advice in it, which we could not give, having no orders, though for many reasons, too long now to relate, we thought he might without prejudice to the commonwealth retire himself out of this public service. None of Mr. Noel's bills of exchange are accepted by de la Bistrate, nor can we get a penny upon his credit. We desire your lordship to be pleased to send us a supply of money or credit, we being obliged to be at an exceeding great expence by making journies perpetually in a wasted country, and living in a besieged town, where all things are excessively

dear;

dear; and also that your lordship will let us have your order, - how we shall dispose of ourselves, whether the treaty between the two kings can be perfected before winter or not. We are,

My lord,

Your lordship's most humble and most obedient servants,

Alg. Sydney.

Rob. Honeywood.

Tho. Boone.

Copenhagen, Aug. 24, 1659.

We desire your lordship to give order for the payment of 280*l.* charged upon the treasurer of contingencies, payable to sir Philip Meadowe, or his order.

Indorsed, Received September 16, 1659*.

FROM THE COMMISSIONERS IN THE SOUND

My Lord,

By ours of the 24th of August, we did give your lordship an account of what proceedings we had then made in the business you had commanded us. Since that time we have been able to make a very small progress. The king of Denmark did refuse to send his commissioners to the place of treaty, after they had declared, that their king did assent unto all that was agreed upon at the Hague by the ministers of the three states, unless the king of Sweden would do the like, which he hath refused absolutely to do, or to give any answer unto the project of the treaty, grounded upon the said agreement, and formerly delivered to his commissioners by the ministers of the mediating states. All that was left for us to do was, to persuade the king of Denmark to continue the treaty notwithstanding; and after much solicitation of the Holland ministers, and the servants your lordship employs here, it is at the last resolved, that the treaty shall be renewed, that the reichs-hofmeister be added to the commissioners on the Danish side; and we have this day sent to Fredericburg to desire a safe conduct for him, and for the Holland ministers, who do not think it fit for them to hazard themselves within the Swedish power without it, now that their fleet acts against them by their orders. We did not at the first find the reason of the Dane's unwillingness to renew the treaty; but within a while we discovered it to proceed from the ministers of Austria and Brandenburg, and their friends in the Danish court; who desire to avoid the peace. Whilst the Swede is detained in those hands, they may take from him that, which he holds in Prussia, Pomerania, and Bremen. The Swede might, as we conceive, have found great advantage by assenting to the points agreed at the Hague, stopped the proceedings of the Holland fleet against him, and at leisure might have debated of the time of evacuating of his forces, and other things, which would have gained him much advantage, and

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* Vol. vii. p. 732.

possibly have cast the refusal upon the Dane. But he is obstinate in refusing. We do not know in what his confidence lies. His force here is not great, and every day impairs. He is powerfully assaulted by the Muscovite in Livonia, the Polander in Prussia, the emperor and elector of Brandenburg in Pomerania; and we hear, that an army of Austrians, of about 1400 men, is preparing to assault Bremen about the end of this month. The Hollanders employ their whole force against him. A considerable number of Brandenburgish horse will be soon transported hither; and in what he can place any confidence, we cannot tell, unless it be, that he still expects such success, as he had when he came first into this island, when facing this town with about 400 horse and foot, he forced the Dane to the treaty of Roschild, that had 5000 horse, and 20,000 foot within it: or that he thinks still, that though for the necessity of present affairs, the parliament did make the agreement at the Hague, to gain time with the Hollanders, yet as soon as the troubles in England were over, that Cromwell's design should be pursued here. And though we do often tell his majesty, and his ministers, that the parliament hath ratified, and will make good their agreements at the Hague, that having given him so fair an opportunity of making peace here upon honourable terms, so as to have leisure to defend himself against the enemies, that assault him in other places, if he neglect that, no more is to be expected from thence; yet he still continues in the same mind, and says often to his servants, that let us say what we will, England and France will never suffer him to fall, but will rather employ their utmost forces to assist him. Perhaps the letter from the parliament will convert him, especially coming after the defeat of the rebels in England. We have sent this day to demand audience of him; but he is so perpetually in motion, that it is hard to find him, and perhaps many days may pass before we obtain it.

The Danes have seized on a place in Schonen called Aftede, with about eight hundred foot. Many of the country come in unto them. It is said the whole province is ready to revolt. The king of Sweden hath sent the marshal Steinbock against them. The place is weak, and may be in danger of being lost, if not speedily relieved. Colonel Killegrew, with about 1000 Holland foot, is commanded thither. He was on Saturday night sent with that force to seize upon Koeg, a place about three Dutch miles from this town, fortified by the Swede. But the design was discovered, the enemy prepared, and such a force brought into the place, as made the officers to conclude, it was best to return without attempting any thing; in which they did well, for probably they had been all lost. We say nothing unto your lordship of the fleet, presuming, that long before this time general Montagu hath given your lordship an exact account of all things belonging unto it; and hoping, that if your lordship shall think fit to send back to us such a part as was mentioned in the parliament's order, and your lordship's letter, you will give us directions how to employ them. The Holland ministers have now received punctual orders

orders from their superiors, and offer to join what part of their fleet we desire with ours. We do also desire your lordship to consider, how and how long we may in this place be serviceable to your lordship and the commonwealth, to let us know your mind, and receive your commands in it, which with all readiness to the utmost of our power shall be exactly observed by,

My lord,

Your lordship's most humble, and most obedient servants,

Alg. Sydney.

Robert Honeywood.

Tho. Boone.

Copenhagen,
Sept. 12, 1659.

Since the writing of this letter we hear that the Danes, who had surpris'd Aftede, upon the approach of marshal Steinbock, did think fit to retire to their ships, which they did without loss. Colonel Killegrew met them at sea, and all together are returned to this town.

Whereas the pursers of the Maidstone and Langport frigates have charged the sum of 120 l. sterling and 80 l. sterling upon the treasurer of the navy, we desire your lordship's order to the treasurer for the payment of the said bills*.

COL. ALGERNON SYDNEY TO SECRETARY THURLOE

Honoured Sir,

I did yesterday receive two letters from you, which, though they were not dated, by the matter contained in them, and coming after that, which I formerly received, dated the $\frac{1}{2}$ ⁶/₁₀th of March, shewed they were very freshly written. Though the important points, that have been in controversy between the crowns of Sweden and Denmark, are by general declarations on both sides admitted, we still find difficulties and delays in the treaty. The commissioners on both sides, did the last week meet three days successively, one after another, without advancing one step towards a conclusion. The method they agreed upon as the most expeditious was, to go through the Roschild treaty, examine every point, and change that, which should be necessary. The first day was spent by the Danes in a dispute upon the second article, desiring such a mutation, as might leave them at liberty, of continuing and contracting defensive alliances. The Swedes knowing, that under the name of defensive alliances they did intend those, that were truly offensive, and that there was a design betwixt the emperor, kings of Poland and Denmark, and elector of Brandenburg, under pretences of mutual defence, to make a league against Sweden, would not consent, that the article should be changed. The mediators, according to their orders, joined with them: the Danes yielded. Nevertheless the next day they brought

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* Vol. vii. p. 741.

the same point again into dispute, and spent their whole time upon it, without coming to any conclusion. The third day the Danes proposed the changing of their method of proceeding, offering, that they would give unto the mediators a project containing the conditions, upon which they would make peace. I was ready to accept this, knowing, that they must in that conform themselves unto the agreement of the Hague; and then the peace could be immediately concluded; or by varying from it, they must be refusants. But the other mediators did rather choose, that equally on both sides they should deliver unto us those mutations, which each of them desired should be made in the treaty of Roschild, in writing, that we might do our office in reconciling the differences between them. The Swedes assented unto that also. This morning was appointed for receiving the papers on both sides. The Swedes are ready, but I hear nothing from the Danes. I cannot but wonder at the confidence of those ambassadors, that desire satisfaction for their losses by the delays of the peace of this winter, when nothing is more true, than that they have been caused by the Danes, at least as much as by the Swedes. And now they do in all things proceed with more frivolous disputes, to evade the conclusion of the peace, than the others; and unless they be forced, will never consent to the conditions proposed, notwithstanding all their declarations and promises. In my opinion the states had no reason to wonder at our protest, unless they thought, that we, having no force here, should in all things receive the law from their ministers, as if we served a state, that had not a ship in the world, or that was plunged into such difficulties and disorders, that we could never hope to see it recover out of them. We were of another opinion; and though England hath no force here, nor is at present in a condition of sending any, whereby we can defend ourselves against the wrongs we receive, we thought it necessary to leave such a paper, as might justify our proceedings, whensoever it should please God to put us into a condition of demanding right

and satisfaction. The truth is, the proceedings of ^{the Dutch ambassadors} 292 are insupportable; for besides their insolency in ^{treating with France and England as subjects,} 112 109 76 181 330 207 302 217

137 147 48 86 63 11 142 138, 631 212 443 142 113. 176 141

^{The Fr. ambass. and we}

113 332 207 11 61 66 do sometimes humble them; but they return again to their old course. This obliged us to deliver the paper, which Slingerland did profess was reasonable, and that they could expect no less. And when they could not find fault with the matter, they took exceptions at it for being false Latin, which probably is true; for our two secretaries being absent, I wrote it, having never in my life written so much as three lines in that language. But I am not solicitous for that reproach in a man of my profession; the breaking of Priscian's head is no great crime. Pray do you take care, that the Danes do not obtain any order, that may retard the peace: perhaps they will not be sorry to

be denied. They think they must ask for the satisfaction of their allies; but I think are willing to be forced to the peace by the Hollanders, that they may visibly deny them any reward for their assistance. And I believe the chief reason, that makes the Hollanders unwilling to force them, is the knowledge, that they shall thereby ruin their pretence to be reimbursed for their charges. We shall not be unmindful of the interest of England in any time, wherein we may advance it; but very little liberty is left unto us more than by obtaining the same privileges in trade for our nation in the dominions of Sweden and Denmark, as by any treaty is allowed unto the Hollanders. And whatsoever is in the treaty of Elbing, which may be drawn unto prejudice under the name of *turbatores pacis*, &c. it is not in our power to hinder it; the agreements of the Hague ratified by parliament, and our instructions obliging us to endeavour the confirmation of it, together with its elucidations. I am, Sir,

Copenhagen, April $\frac{2}{12}$ [1660.]

Your humble servant,
Alg. Sydney*.

COL. ALGERNON SYDNEY TO MR. DOWNING

Honoured Sir,

I wrote this inclosed letter some days since, but had not an opportunity of sending it since that time. We have received a long formal project from the Swede, with a multitude of elucidations of the Roschild treaty, and other little things they would endeavour to bring in, but not in any material point contrary unto it. The Danes did at the same time give us their exceptions to our project delivered to them in January last. They do not consist of so many sheets of paper, as the other; but do directly contradict the Roschild treaty, their own declarations, and our agreements in all the material points, concerning alliances; the cession of provinces to Sweden, and the business of Holstein, with some others. We forgot not to make use of this, to shew the sincerity of their desires of peace, and how well they deserve the satisfaction expected. We have had some conferences with the commissioners on both sides upon their several papers communicated unto each party, what we had received from their adversaries, and heard what they would say to justify their own pretences; finding that they would dispute and cavil for ever, without concluding any thing. The mediating ministers are to meet tomorrow, and form a project suitable unto the treaty of Roschild, the declarations of both kings, and their own orders; by which we hope both parties will suffer their interests to be regulated. I am,

Copenhagen, April 7, [1660.]

Your humble servant,
Alg. Sydney †.

* Vol. vii. p. 881.

† Vol. vii. p. 887.

THE PROTECTOR'S ADVICE TO ALGERNON SYDNEY.

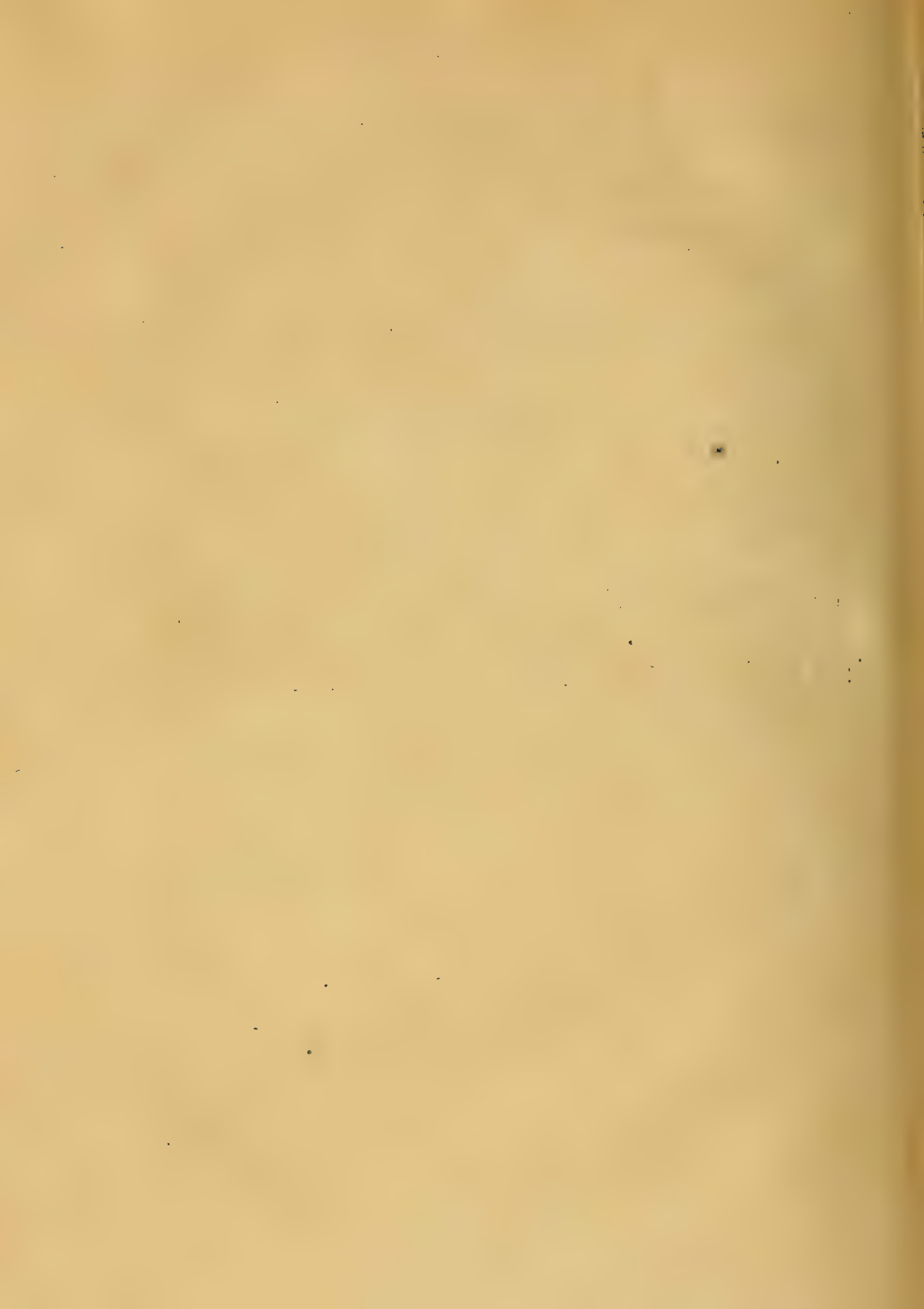
COMMUNICATED BY THE LATE DR. RAWLINSON.

The following curious anecdote was found indorsed on a paper, signed
ALG. SYDNEY.

The Protector's advice to me, when I went from him to the king of Sweden in Poland; which I wrote from his own dictating, and the alteration in the second particular is his own hand.

- I. If you would not miscarry in this business, know first, that all public businesses, and private too, prosper and succeed only as God is pleased to determine them.
- II. And ^{that} — therefore the greatest wisdom in them that are employed about business lies in this, that they seek to be accepted with God, which no man is, but by Jesus Christ.
- III. That there be a denial of a man's own abilities, and that work be undertaken with humility and meekness of spirit, and that one be swift to hear and slow to speak, well understanding before he answer.
- IV. That a man in his conversations, as he would have a blessing, abstain from all manner of evil, and do constantly, with all earnestness and truth of heart, cry to God for a blessing, seeing he disposes the issue of all businesses as he pleases.

LETTERS OF ALGERNON SYDNEY,
TAKEN FROM THE SYDNEY PAPERS



LETTERS OF ALGERNON SYDNEY,
TAKEN FROM THE SYDNEY PAPERS

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER.

My Lord,

I attended the last week upon the committee of sequestrations, but they did not sit. I had some expectation that they would this day; but the Painted Chamber is taken up this afternoon, by the commissioners, for the trial of the king. I have spoken with divers, concerning your lordship's business *, and find them all of opinion, it cannot be denied. The only difficulty is in getting a committee to sit, for all mens brains are so full of the great business, that they will not give themselves leave to think of any other. The proposition of the cavaliers, for the saving of the king, doth not obtain so much as a hearing. This day they are again to be sent out of town, by order of the house of commons, to the general. The lords sat yesterday, passed the ordinances for money, for the army, and navy; and are now very seasonably passing an ordinance *to make it treason for any king to make war upon the parliament*, and have desired a conference with the house of commons, to know, whether those votes, that go under their names, asserting all just power to be originally in the people themselves, to be the representative of the people, and that to the validity of any law, passed by them, neither the assent of king nor lords is necessary, were passed by them. *I think, that if the house of commons had not been very hasty in turning the ordinance for the king's trial into an act of their own, and contented themselves with their own power, the lords are now in a temper to have given their assent, if they had received a second message from us.* My lord of Northumberland, I think, intends to come to the house; our admiral hath not been there yet; he is so sick as not to come thither, but takes liberty to go to any other places; he is in great uncertainty, and knows not yet which party to join with. I will endeavour, if it be possible, to get your lordship's business heard this week; Mr. *Windbam* hath promised me to be there; Mr. *Hales* excuseth himself, he never having practised there. My brother *Robert*, I hear, is made lieutenant colonel to my lord of *Oxford*, old *Berinton* being dead, which is the cause we do not see him here. I am

Your Lordship's, etc.

Leicester House, Jan. 10, 1648.

Alg. Sydney.

I am in great haste called away, so that I cannot write to my lady. I desire your lordship to tell her that I will be at the committee the next week, if she thinks that my being there will be any ways serviceable to her ladyship.

* The taking off the sequestration of his estate. See more of this matter in *Collins's Memoirs of the Sydneys.*

4
LETTERS OF ALGERNON SYDNEY,

EDWARD MARQUIS OF WORCESTER TO COLONEL A. SYDNEY

Honoured Cousin,

Gold is tried in a furnace, and nothing approacheth to the purity of Gold, more than reality and truth; and consequently nothing endureth better the test: I think myself therefore happy, to have fallen into such knowing and ingenious hands as yours, whose former apprehended character of me, may by this means be rectified; for this, you will find me to have been real and faithful to the party, to which I professed subjection and obedience; but never to have used animosity nor rigor to that of the parliament, to which I am now resolved to carry myself, according to my profession of honour and conscience, with a like truth, industry, and courage, if accepted and confided in; then actively to afford my endeavours; if not, to lie still, and not tend any way to their prejudice; which I do not say out of any fear, since what I did then, I thought myself bound in honour and conscience to do it, in obedience to them who commanded me; and it shall not trouble me, to suffer under that notion, as it shall not hereafter to suffer for what I now do, should the tide turn. And therefore, to contribute my mite in duty and honour to my country, I herewith send you particulars of both kinds desired by Sir *Henry Mildmay* and you, applauding the council's choice of so industrious and capable persons to receive them; and since my lord *Bradshaw* hath been acquainted with my answers and proceedings, upon which more depends; intending not to swerve a tittle from any thing, I have said, whereof none can better judge than his lordship. My humble motion therefore is, that the right honourable the council of state, would impower you three to receive my particular address, and to give me special orders, from time to time, *ex re nata*, without further troubling them, but upon emergent occasions; for a business of this kind, agreed upon by the whole body in the generality, is fittest for a private committee of sufficiency and trust; such as you are, whose hands I humbly kiss, and on whom that I may the better attend, I humbly offer this petition; and be assured to have to do with a person of honour and fidelity, and

Your most affectionate cousin and servant,
Worcester*.

Jan. 5, 1652.

* The marquis was a great mathematician, and eminent both at home and abroad, for the engines and waterworks he projected; one of which, on the *Thames*, occasioned this letter, and was afterwards settled on him by act of Parliament 14 Car. II.

The letter being curious, is added to this collection.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I received your lordship's letter on *Tuesday* at night, but could not come to town soon enough on *Wednesday* to return any answer unto it. Since that time I have made some little progress in the business of the 2500*l.* and I am promised it by two scriveners. The one hath the money ready at a day's warning, and I am going just now to speak with him, and the person that owes it, to settle the business of the security. The other shall have the money within two or three days. I keep them both in treaty, that if one should make any scruple upon the settlement of the estate, the other may be made use of. Which of them soever you employ, will have the same terms, as was agreed with *Hall*. One of them asked higher, but I brought him into the sum of 30*l.* I spoke with my lord *Strangford*, concerning the settlement of his estate, which your lordship did expect he should make, according unto the deed signed by him before his marriage: unto which he answered, that he was now about making such a settlement of his estate, as he thinks when it is perfected, will shew his kindness unto his wife, and give such satisfaction unto her friends, as can in reason be required. Mrs. *Danvers* failed of coming unto Mr. *Villers* his house, according unto her promise; the reason I do not know, but I take the breach of a promise to be but an ill sign. When I was with her, my business went well enough, but I know not how firm she will now be to her own resolutions, against *Sakway's* persuasions, in her absence from hence, nor when she will return. If I had dispatched this business of your lordship's, I should wait upon you, having no other to detain me here, where my stay is seldom matter of election. I give your lordship many thanks for the favour expressed in your letter, which I will deserve, if it be in the power of

Your Lordship's, etc.
Alg. Sydney.

Leicester House, April 7, 1658.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

The passage of letters from *England* hither is so uncertain, that I did not, until within this very few days, hear the sad news of my mother's death. I was then with the king of *Sweden* at *Nycopin* in *Falster*. This is the first opportunity I have had, of sending to condole with your lordship, a loss that is so great to yourself, and your family; of which my sense was not so much diminished, in being prepared by her long, languishing, and certainly incurable sickness, as increased by the last words and actions of her life. I confess, persons in such tempers are most fit to

dye, but they are also most wanted here; and we, that for a while are left in the world, are most apt, and perhaps with reason, to regret most the loss of those we most want. It may be, light and humane passions are most suitably employed upon humane and worldly things, wherein we have some sensible concernment: thoughts, absolutely abstracted from ourselves, are more suitable unto that steadiness of mind that is much spoken of, little sought, and never found, than that which is seen amongst men. It were a small compliment for me to offer your lordship to leave the employment in which I am, if I may in any thing be able to ease your lordship's solitude. If I could propose that to myself, I would cheerfully leave a condition of much more pleasure and advantage, than I can with reason hope for. Before I undertook this, many difficulties did appear unto me, and I have not found them less than I expected; the ambition of the king of *Sweden*, and the weakness of the king of *Denmark*, make those businesses very difficult, that must be so ordered, as to satisfy them both; the one hates every thing that stops his conquests, and the other doth not well understand the state of his own affairs. *England* is too far engaged with the United Provinces, to assist *Sweden* in the *Danish* war, but if he make peace here, I think he will not be deserted. Our business is now brought to this, that the King of *Sweden* doth offer to make peace with *Denmark*, almost upon the same terms that were offered unto him by the mediating ministers, if their three states will endeavour to make his peace with the emperor king of *Poland*, and elector of *Brandenburgh*, or to assist him against the emperor, if he will not grant him peace upon the conditions of the *Munster* treaty. All are willing to offer their mediations, think their superiors will give their assistance of 40000 foot from each state as is desired, but find not themselves furnished with powers to engage them in any such treaty; but the thing agreeing with their judgments, they have all agreed to represent it to their superiors, as a thing wherein they are concerned, that the *Swedish* interest in *Germany* be not destroyed; which will certainly be, when he is assaulted by so many enemies, and not powerfully assisted, which he can expect to be from no others. Much more is expected from *France*, than is desired. The ambassador of that crown did lately shew me a letter from the cardinal *Mazarine*, wherein he said, he had several conferences with Don *Luys de Haro*, concerning the affairs of *Germany*, in which he had declared, that if the *Austrian* forces did not retire out of *Pomeraine*, it was resolved a *French* army should immediately enter the empire, of which he hath given the Ambassador power to assure the king of *Sweden*. *Holland* will not break openly with the emperor, but we have hopes, they will be brought to furnish *Sweden* with some money, and give that king liberty to raise some men upon their frontiers. I have drawn this inclosed representation of the northern affairs, to be sent unto the council. By the last letters we received from them, liberty was granted unto us to return home, if we thought it might consist with the good of affairs here; but we find so many inconveniences in leaving this place at present, without some *English* minister, that we dare

dare not return without a command; but we intend one of us should return immediately, and to that end have chosen Mr. *Boone*. I did sue for that employment, but the princes with whom we are to treat, and our fellow mediating ministers, did not consent, so that sir *Robert Honeywood* and I must stay, until we have further orders. I do not know how our stay here will be understood; but if it be not thought of merit, I shall think I have to very little purpose exposed myself unto a great deal of trouble. I am in all things uncertain how I shall dispose of myself, but think, that if I do not return as soon as I can have an answer to the letters I now send, the *French* ambassador, and I, shall take a journey into *Poland*, to mediate for peace there; in which there is little doubt, if we can be so happy as to see it established here. I do not at all expect it in *Germany*, all things there bend to a war, and I believe by the next summer, we shall see that country as much inflamed as ever. The protestant princes, and the electors of *Mentz* and *Cullen*, look upon *Sweden*, *France*, and *England*, for aid. The Emperor relies upon succours from *Spain*; we hope the elector of *Brandenburgh* will be drawn from his party. The treaty between *Sweden* and *Poland* is not yet begun; they have spent eight or nine months in disputes upon the preliminaries, and as I hear, the counts *Magnus de la Garde*, and *Slipenbach*, have instructions to make such haughty demands, as do not well suit with the present condition of their masters affairs; but he hath promises to reduce them all to such a sum of money for the places he holds in *Prussia*, as the ministers of the mediating states shall think reasonable. I may perhaps be guilty of some impertinence, in entertaining your lordship with these things, which perhaps you do not care to know; but this ugly northern part of the world being very considerable unto the rest, and as things now stand, peace or war in the principal places of *Europe* depending upon the settlement of affairs here, I thought your lordship would not be unwilling to receive an account of them; which, though it is rude, I think it is true, at least so far, as I could pierce into the knowledge of this affair, which is intricate enough, to excuse the mistakes of those that are much more versed in those of the like nature, and have much more reason to think themselves able to judge of them, than I can do, without a very unpardonable presumption. If I have mistaken your lordship's mind in this, by throwing these papers into the fire, your lordship hath an easy way of preserving yourself from trouble; and if you care to know any more of these businesses, I shall, as long as I am here, give your lordship an exact information of them, or any thing else that is in my power, and for your service, according to the duty of

Your Lordship's, etc.
Alg. Sydney.

Copenhagen, Nov. 5, 1659.

LETTERS OF ALGERNON SYDNEY,

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I fend this to your lordship by our secretary, whom we have dispatched unto the parliament and council, with the news of the king of *Sweden's* death, and to receive such orders, as upon a representation of the state of affairs here, the parliament will think fit to fend upon so great a change, as this is likely to bring unto all these northern parts of *Europe*. I think, never any prince had so many and potent enemies as he, that did so well defend himself against them, with a small strength; his greatest was, in his own industry, wit, and courage; and I make no doubt, but they will grow as insolent after his death, as they were fearful and humble when they were to deal with him singly, and will express their rage and hatred against the young king and his mother, which could never hurt him, unless when multitudes assembled on all sides to assault him. I have of late thought we should speedily have a peace here; I hope this will not retard it, but the conditions will be less for the advantage of *Sweden*. I was then desirous of seeing it concluded before I returned; I confess now, I am more unwilling to leave it undetermined; the chief inducement then was, the interest of *England*; I can now add to that consideration, an obligation, by all the rules of humanity and charity, to endeavour the protection of an infant, and a very virtuous mother. I am apt to think the queen *Christina*, will now think fit to turn *Lutheran* again, and endeavour to breed some disturbance in *Sweden*; but, I hope, her party is so much diminished by the reports that are made of the life she leads, that her designs will vanish, without doing any great mischief. I have appointed this bearer to wait upon your lordship, that if you care to know any thing of our business here, he may give you a very full relation, having been employed by me in it. I have not heard any thing of your lordship this many months, which is a great trouble unto me. I desire your lordship to take me out of it; and if your own affairs, or health, will not give you the convenience of writing unto me, that you would appoint some servant to fend me news of your health and concernments, how you are, and how you live, in this time, which, I know, must needs be solitary unto you; I fear, uneasy. I shall rejoice in hearing I am mistaken, and that all things do succeed according to your lordship's own desires, and the prayers of

Copenhagen, Feb. 22, 1659-60.

Your Lordship's, etc.
Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I have, by some letters, given your lordship as full relations of our affairs here as at *Penshurst* I could think you would be content to receive.

I hear your lordship is now called to a place, where the knowledge of what passeth in our negotiation, is a little more necessary unto you, than formerly, which will, I hope, persuade your lordship, to pardon the trouble I now give you. By the action of the *Hollanders* in detaining the *Swedish* ships, contrary to the conditions of the cessation, and their faith given to the *Swedes*, and to us, they had put themselves out of the mediation. The *French* ambassador, and we, thinking both *Swedes* and *Danes* well enough inclined to peace, the principal obstacles still proceeding from the *Hollanders*, did undertake the mediation by ourselves; in which work, we have so well succeeded, that the conditions are all agreed upon in *Latin*, translated, according to the custom of these parts, into the *Swedish* and *Danish* languages, and there is nothing now remaining, but to have them written out fair, to be signed. The *Hollanders* may then come in to sign the treaty, and the guaranty, releasing first the *Swedish* ships, which, I think, they will of themselves offer to do. The queen of *Denmark* hath mediated for their reception, that she may have some part in the conclusion of the peace; and more particularly in this, that having been (as is thought) the cause of their fault, she may also be the means of reconciling them to those they had hereby offended, and of bringing them out of the straits into which they had very unadvisedly cast themselves. The conditions granted to *Denmark*, are more easy than those offered for them by *Holland*, unto which the *Swedes* were induced, that they might oblige the king of *Denmark* to be their friend, as well as at peace with them, and to make the peace without the intervention of the *Hollanders*. By this means, I hope that these two kingdoms, finding the mischiefs both receive by their disagreements, will grow to be better friends than they have been in many former ages. We have proposed unto them both an alliance between themselves, for their mutual defence, unto which, in general, both parties seem much inclined; the particular conditions are referred unto a conference between the commissioners of both parts, when the treaty of peace is signed. Having composed the quarrel between the two kings, our next business must be to improve this peace to the good of our own nation. The first is, to break the alliances, that either of them have made to our prejudice, which are principally with the United Provinces; that state hath, ever since the war with *England*, endeavoured to strengthen itself, with defensive alliances, with almost all the princes of *Europe*. The northern kings were not forgotten; they have made such with either of them. We now endeavour to break them, or so to explain them, that there remain nothing that can be drawn to our prejudice. We are now in treaty with both crowns upon this point, and have agreed upon the substance. The *French* ambassador demands the like for *France*. The next work will be how to join these two crowns to us, as if the *Hollanders* would make war upon us, which is too much to be suspected they intend, we may have more help and favour from them, than is given to our enemies, which will be no hard matter, perhaps, to obtain here, if *England* be in so quiet a condition, as to look after things abroad, and make use of the advantages that are offered.

We:

LETTERS OF ALGERNON SYDNEY,

We hear they have the like alliances with *Poland*, and the elector of *Brandenburgh*. The intention of the embassy to be sent into *France*, upon pretence of a compliment, is to make a defensive alliance there also; and, as I hear, *Van Beuning*, one destined for that employment, hath drawn a project for that purpose, wherein are many points directly intended against *England*. The two first, I think, may be invalidated there, or, at least, that of *Poland*; the other requires your care at home. The *Hollanders* had, by a treaty with *Denmark*, in the year 1645, and in one with *Sweden* at *Elbing*, in the year 1656, and the elucidations agreed upon at *Thorne*, and the last year confirmed at *Elfinore*, gained so great advantages in all the provinces of *Sweden*, *Denmark*, and *Norway*, that the whole trade of those kingdoms must necessarily come into their hands, if others did not participate the same with them, which we have obtained for our nation. In the agreement with *Sweden*, we have this clause, To enjoy all privileges which now are, or hereafter shall be granted unto any state whatsoever. Besides those things which have happened here, to incline *Denmark* unto *England*, the change of government that is there expected, is not a small inducement: this king expects much kindness from him that is likely to be the head of it, both for the nearness of blood, and several acts of friendship shewed unto him, when he was in his distress. One of the dukes of *Lunenburgh*, brother to this Queen, hath lately been at *Breda*, and sent letters hither of what passed there, which gives very much satisfaction. The two kings desire we should stay here until the treaty be ratified, executed, and the evacuation of the *Swedes* forces out of *Denmark*, and the *Danes* out of the duke of *Holsteine's* territories made and perfected; which we hope will be all done before the end of *June*. In the mean time, we may take leave of both courts, and then immediately take our journey homewards, if we receive no commands to the contrary. I have written all things that have passed here at large to Mr. *Thurloe*. I hope your lordship will have reason to be pleased with this reentry upon the stage of the world; and that you may in all changes, find as much satisfaction and advantage, as your own heart can wish, is, and ever shall be, the constant desire of

Your Lordship's, etc.

Copenhagen, May 22, 1660.

Alg. Sydney.

I do not say any thing of my own intentions, in relation unto the changes that are fallen out already, or the other that are daily expected. The truth is, I know them not, the business is too difficult to judge of at this distance, especially, not knowing what will be in my power, or choice. If I do not receive new orders, I shall return speedily home, and shall then follow that way, which your lordship shall command, and my best friends advise, as far as I can, without breaking the rules of honour or conscience, which I am sure will never be expected from me, by your lordship, nor those whose opinions I consider. While I am here, I serve England, and will with as much care and diligence as I can, endeavour to advance its interests, and follow the orders of those that govern it. I reserve the determination of other points to councils upon the place.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I do not know whether I have erred in my opinion or not, in thinking it more necessary for your lordship to know what passeth now in these parts of the world, than formerly; but that hath persuaded me to give your lordship of late more exact relations of my motions, and actions, than before I thought your lordship would willingly receive. I am now at the utmost point of my journey northward, and have nothing more in my thoughts, than to return into *England* with as much expedition as I can, according to the liberty granted unto my colleague and me, by the council of state. We could not think it at all reasonable, to leave the work in which we were employed, when we saw a certainty of accomplishing it within a short time, unless we had received a positive command: now the peace is concluded, I think we may very well justify making use of that concession. I am here alone, my colleague intended to make the same journey, but the gout confined him unto his bed. I look upon all the powers granted unto us, as extinguished by the coming in of the king, and do not take upon me to act any thing as a public minister, except it be giving notice unto the crowns of *Sweden*, and *Denmark*, of the restitution of the ancient government in *England*, and the proclaiming of the king. Upon this occasion I accept of a public audience, which is here offered unto me; I should have avoided it upon all other occasions. I am detained here some days longer than I did expect; the queen and senate having been out of town when I arrived here. They returned the last night. One of the *Holland* ambassadors, and *Hannibal Lested*, lately reconciled to the king of *Denmark*, and now sent by him to the crown of *Sweden*, came hither the day before me. The government here, have not yet given audience unto either of them; they are not yet resolved in what manner to perform those ceremonies, but intend to follow the same way that was used in the minority of the queen *Christina*, and are now busy in examining that rule. In this particular only they differ, that the government was then administered only by the five great officers, which are *Rixbrost*, constable, admiral, chancellor, and treasurer; but the power is now in the whole senate, and whatever was then done by those officers, must now be performed by them all. When the king died, the places of constable, chancellor, and treasurer, were vacant; by his will he made the prince *Adolphus* his brother, constable; the count *Magnus de la Gardie*, chancellor, and one *Fleming*, treasurer: the first will hardly be assented unto, by the senate, and the other two do not yet take possession of their charges, lest they should discontent him. He is retired to a house of his own, with some mark of discontent. I am very civilly invited thither, and as I return toward *Denmark*, intend there to visit him, it being not above a mile or two out of my way. I shall not willingly admit of any other stop of my journey homeward, unless my

LETTERS OF ALGERNON SYDNEY,

resolution of returning be altered by new orders from thence. *I do not at all know in what condition I am there, nor what effects I shall find of general Monk's expressions of kindness towards me, and his remembrance of the ancient friendship that was between us; but the lord Fleetwood's letters to the senate and private persons here, mention discourses that he makes much to my advantage. I do receive neither more nor less civility here than is ordinary, unless the excuses I receive for receiving no more may deserve that name. I am in private told, they fear to offend the king by any extraordinary expressions towards me: your lordship may easily imagine how powerful that consideration will be, when those in my condition can pretend to no civilities upon any other account, but as they are respects unto their superiors, and masters. I have heard nothing of your lordship, more than that you were come to town. I hope you may find all things relating unto yourself, according unto my wishes, which I am sure are perfectly fuitable unto your own desires. I am*

Your Lordship's, etc.
Alg. Sydney.

Stockholme, June 16, 1660.

I have not this day time to write to my lord of *Northumberland*, for which I desire your lordship to make my excuse. *Hannibal Lested* is very shortly to come ambassador into *England*. The count *Rantzoe* was formerly nominated for that employment, and afterwards *Alefeld* his son in law: But now this gentleman hath made the court of *Denmark* believe, that *Bruxells* and *Antwerp* have gained great interest in the king, and he is preferred before others. He is pleased with this employment, and I am confident believes, he shall govern all *England*, not well distinguishing between the thoughts of a banished prince, who in his youth fought entertainments to mitigate his afflictions, and the serious actions of a great and established king.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I now write a few lines to your lordship in haste, to congratulate your lordship's reassuming your former place, in the house of peers; I do not know how far your lordship is inclined to any other as eminent as those you have possessed; but from my heart with a success equal to whatever you desire. I have been detained here some days longer than I did expect, the queen's being absent when I came, and since that time some scruples have been raised concerning my receditives. They are now solved, and the count *Magnus de la Gardie* (who was formerly treasurer of *Sweden*; and by the late king, a little before his death, made chancellor) hath been just now with me, and doth assure me, the queen, and senate, have this day ordered, that the answer to my creditives should

be drawn according to what I had proposed; and that they shall be ready as soon as is possible: I intend to stay here but a very few hours after the receiving of them. The conclusion of what hath been managed by my colleague and me, must be left unto such persons as the king shall please to employ in it. God be thanked he will find little difficulty; if he can but write his name, he will be able enough for any thing that remains to be done. I have been received here, as I desired; if I would have had more ceremony, the state would have allowed it to me, but esteeming my powers extinct, by the king's restitution, I did avoid all things of that kind, that could be decently omitted. I find this crown exceedingly well satisfied with the peace that is made, and resolved to perform exactly and handsomely all that was agreed. *England* is looked upon as the state, whose friendship they desire more than any in the world, and his majesty will find by their respects unto him, how much they value it. The ministers employed from hence into *England* are recalled, and a man of quality will very suddenly be sent ambassador thither. *My business here hath gone well enough, if the peace had been concluded a little sooner, I could not have desired better. I am uncertain how my actions or person will be looked upon at home. I hope I shall be able to give a good account of all that I have done here, and for other things I must take my fortune, with the rest of my companions.* The council in their last letter to my colleague and me said, that for the future we must expect orders from the king, unless we did resolve to return home, according to the liberty formerly granted unto us. We embrace that concession, and the peace being made for which we were sent, resolve to return, except we have some command from his majesty; if we receive any such, they shall be obeyed; nothing else shall by our consents retard our return. I am

Your Lordship's, etc.

Stockholme, June 23, 1660.

Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I have this day received the news of the king's entry into *London*, and of your lordship's being chosen one of his majesty's council. I do not know how much this first step may conduce to restore your lordship to the honours you have formerly held, nor how far you desire to make use of so favourable an occasion; I only wish, all may succeed according unto your own choice and desire. As soon as the peace was here concluded, my colleague, and I, sent an express with the news of it, and a letter to the king, inclosed in one unto my lord of *Northumberland*, not knowing that your lordship was then in town. I appointed him to make all the haste he could, and he thinking to do so, chose the way by sea from

Hamburgb, and was by contrary winds detained in the *Elbe*, much longer than was for our convenience that sent him. I hear two other packets of mine were also kept at *Hamburgb*, until his coming; for they being directed to Mr. *Thurloe*, as I had been commanded to do, the merchant who receives my letters there, hearing of his disgrace, would not send them until my own servant came; by which means, I believe I shall be thought very negligent of writing, at the time that I was most diligent. I did hope, that by the time I could return from hence, our messenger might have met me with an answer unto my letters at *Copenhagen*. I now despair of that, and am absolutely uncertain what course I shall take, unless I find some other letters, at my return, that may instruct me. Your lordship may easily imagine, I would be unwilling to stay in a place, where I have been long under a character that rendered me not inconsiderable, now that my powers are extinguished, and I am left in a private condition: and that it is very unfuitable unto my fortune, to continue here with a numerous family, at a great charge, without knowing, whether the bills drawn for monies taken up here, according to our allowance, will be paid or not. On the other side, I know the advantage it would be to me, to have new orders from the king, and am unwilling to put myself out of a condition of receiving them, unless I am thereunto necessitated, or know that none will be sent. *The news I hear from England, of public things, is punctual and certain enough, but my friends are so short in what particularly relates unto myself, that I can make no judgment at all upon what they say. Perhaps the truth is, they can say nothing to my advantage, and leave me to guess at the rest by public things.* If those letters I sent by our express, and the others that came into his hands at *Hamburgb*, should be long upon the way, those friends, who may have it in their intentions to assist me, will not know what it is that I desire, nor how to oblige me, though they should have power to do it. It is very hard for me to know so much as what to ask of them, when I know not what is proportionable unto that which may be obtained, nor whether I can stay in these parts, for an answer unto my letters, or not. I shall therefore conclude what I have to say relating to my own concerns, in desiring your lordship, and my lord of *Northumberland*, to do that which you think best, according to the present state of things, and to send me directions how to dispose of myself, which I shall exactly follow. Whatever is sent to me, will be best directed to Mr. *Samuel Missenden*, secretary to the *English* company at *Hamburgb*, where I may find them, if I cannot stay at *Copenhagen* until they arrive. Your lordship may better know my motions than myself, for I shall take my measures, for staying or returning, just according to what I shall hear from *England*. My recreditives are now ready, I think I shall receive them this day, and may take my leave of this court to morrow. I saw a letter lately from Mr. *Sommerdike*, of a fresh date, from the *Hague*, wherein he says, your lordship is to be sent governor into *Ireland*; I do not know how much credit to give unto that report, hearing nothing of it from *England*;

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but if that were true, I should not be content to stay here, believing, that if I am capable of doing service in any place in the world, it is there, where I have some knowledge of persons, places, and business; but how likely my service is to be accepted, I cannot at all judge. I am

Your Lordship's, etc.

Stockholme, June 27, 1660.

Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

At my return from *Stockholme*, the 8th of *July*, I found some letters that gave me more knowledge of business in *England*, relating unto us who are employed here, than I had formerly received; and in one of them, from sir *John Temple*, I find your lordship is of opinion I should return immediately home, which I did presently resolve to do with all the speed I can, waving that consideration, which for some time had detained me, of expecting the return of the messenger sent with the news of the peace, and answers to the letters sent by him. It would perhaps have been better for us to have returned immediately after the conclusion of our treaty; but the business was so imperfect, by reason of the dispute about our signature, and granting the guaranty, that we could not think it fit for us to withdraw ourselves without order, or at least staying so long as that orders might possibly be sent, after the account we had given of the state of affairs here, which we, judging according to what we heard from *England*, had little reason to think would be refused: and I think it was a far greater respect unto the king, to cease from acting any thing by powers not derived from him, and to stay here, as private men, attending his pleasure, than on a sudden, to throw off the business, and to be gone as in a chase. I confess, I was not averse to have returned immediately, but I did more apprehend the being accused, as I often am, of precipitation, than the evils that could befall me by my stay. The last letters we received from the Council, referred us to such further orders as we should receive from the king, and no private letter made any doubt, but that such as were necessary would be sent, if we were not already come away; and knowing what part that Council had in the king's restitution, I thought they very well knew his majesty's mind, and were not likely to differ from him. Besides, the council gave us order to signify unto both crowns, his majesty's being proclaimed, and invited home to execute the kingly office; which could not be done decently, but by going to *Stockholme*. I confess, I did not think myself at all assured of being owned, or that new orders would be sent unto me; but that was rather what I guessed upon the general state of things, than grounded upon what I heard from any person that I trusted until my return thither. I had written to your lordship the 9th of this month, from *Elfinore*, but the post

post went so suddenly from hence, that all my letters of that date came too late. The same day I received a letter from *Powell*, and an answer unto some sent by him. I shall, with all possible speed, obey your lordship's command sent by him, in removing to *Hamburgb*, and from thence into *Holland* or some place in *Germany*, where I may lie still a while, and see what is to be expected for me. The *Swedish* commissioners here, are busy in transporting their troops; the 8th of this month was the day in which the evacuation ought to have been perfected, and the castle of *Cronymburgb* delivered, neither of which is yet done; they still retain that place, and the one half of their army is not yet transported. They lay the fault upon the *Danes*, in not providing vessels for them; there is some colour for this, but the truth is, they are glad, upon any pretence whatsoever, to stay here as long as they can, to eat up that little which remains in this desolated country, and to spare their own quarters; so that whereas they were obliged to furnish a good number of barks for their own transportation, they have not brought one, but leave the burthen wholly upon the *Danes*; fill many of the barks, provided for the troops, with the goods plundered in the country, and have, yesterday, made them pay 1500 ducats in money, for the transporting two *Finland* regiments, alleging no other reason, than that if they had it not, they would not remove from hence. The *Swedes* have strained themselves to the uttermost, to satisfy and retain their *German* troops, in giving good considerable sums of money to the officers, and to every horseman four rix-dollars in money, and twelve *Dutch* ells of cloth; this, in another country, would be a small matter, but here it is thought a profuse liberality, yet that doth not serve; there is near two thousand of them who have left their colours, and lie about in the woods, and fast places of this country, robbing and killing all that come into their hands, professing they will rather suffer all things, than go into *Sweden*, from whence they can never hope to return; the best thing that can be expected for them, is the war with *Muscovy*, which they abhor, more of their number being likely to perish by famine, before they can pass the vast deserts that lie between the *Swedish* territories and *Muscovy*, than by the sword, when they are entered into it. These *German* troops were fourteen regiments of horse, of eight companies in each, which are now reduced to eight regiments, consisting each of four companies, and they about four score soldiers besides officers. Pensions are given to all the reduced officers; a thousand crowns the year to a colonel, 500 to a lieutenant-colonel, 250 to a major, little consideration is had of the inferiors. Those retained are for the most part transported, and quartered in the provinces ceded by *Denmark* in the *Roskyld* treaty and this lately concluded, which is a direct violation of it; for the Gentlemen and others are to enjoy all the privileges which they had formerly under *Denmark*, and none is more certainly known to belong to the gentlemen of *Schonen*, and those other provinces, than that no soldiers should be quartered upon them, or their boors, which comprehend all the

the country, except the lands belonging to the crown, and they being now annexed to the crown of *Sweden*, one may be sure will be well enough preserved, and the whole burthen lie upon others. The *Swedish* commissaries reserve the troops of their own nation, and the *Finnlanders*, to be the last transported, and then sent into their quarters in the several provinces, which by the ancient constitution of that kingdom, are so well distributed, that in time of peace there are twenty-three regiments of foot, and eight regiments of horse, the one of twelve hundred, and the others fifteen hundred men in each, with no more charge to the crown than six dollars a year to a horseman, and one to a foot soldier; to be ready at all times to be employed wheresoever there is occasion; and when any man or horse dies, or is otherwise disabled, another is immediately supplied, by which means these regiments, which they call the immortal, are perpetually kept up in times of peace or war, and this constitution is the very nerves and strength of that crown. When I was at *Stockholme*, the senate did one thing which hath much discontented my fellow mediators and me. The count *d'Vfeild*, formerly ambassador in *England*, had, upon a discontent taken at the king of *Denmark*, about the same time that *Hannibal Lested* fell into disgrace, taken the king of *Sweden's* party, and did him great service in the first war with *Denmark*, and in the conclusion of the *Roskyld* treaty; after that he fell into disfavour with the king of *Sweden*, and at the time of his second irruption into *Zealand*, or a little after, was imprisoned by him, and together with his lady, sister to this king of *Denmark*, still kept very strictly. In the time of our late treaty, having reconciled *Hannibal Lested* unto his master, the mediators were desirous to preserve *Vfeild* from ruin also, who they knew was intended for destruction, there being many frivolous things laid to his charge, and, as they were informed, witnesses suborned against him; and though he is most certainly comprehended in the general article of amnesty for all things done in relation unto this war, and the articles for provinces ceded by *Denmark*, giving a full enjoyment of all rights, privileges, *etc.* unto all *nobiles sive ignobiles, ecclesiastici sive seculares*, it cannot be denied but that he is under some of those characters; nevertheless, to avoid all disputes, we were desirous to have him put in by name, and did not desist, but upon the desires of the *Swedish* commissioners, that we would for the honour of *Sweden* rather intercede for him when we went to *Stockholme*, than particularly to nominate him; and a letter was sent from the queen and senate, promising that he should absolutely be restored to his liberty, and enjoyment of all he had, upon our request when we should come thither. My colleagues not going, I took the soliciting of that business upon me, being fully furnished with powers to speak from them as from myself; I desired the performance of the treaty, in relation unto him, and the promise made to us. Many excuses were found, as that it was a dishonour to their dead king, to release a man whom he had thought deserved to be punished and imprisoned,

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and that a man of such eminence, might be a dangerous enemy unto their crown, if he were let at liberty, after having been exasperated by long hard usage. We thought the alleging of such reasons, something unseasonable after the treaty concluded, wherein he was comprehended, and the promise given for his release; and besides, that the dead king could not be dishonoured, by releasing a man in time of peace, whom he had thought fit to imprison in time of war; nor could any thing be more for their reputation, as themselves had confessed, before the peace was made, than that we should make that our request, which by virtue of the treaty could be enforced; unto which was added, that he who hath been confined to his bed, by a long and as is thought incurable sickness, contracted by this his imprisonment, could in no way be apprehended by *Sweden*; neither was any thing more contrary to reason, and justice, than to make the injuries hitherto offered unto him, the grounds of continuing them. When I found all this failed, I added, that though I could not say, I had any instructions from the King, to speak of this, or any other business, I could as a private man (I pretending then to no public character) inform them, that as I had heard this *Count* had ever, with great earnestness, served his majesty of *England*, adhered closely to his, and the late king his father's party, and was, as I heard, much considered by him; that I did doubt, the detaining him contrary to the treaty, and promise given, would be disliked and resented by his majesty; and on the other side, if his liberty were granted upon this consideration, I would wave all others, and endeavour to represent it, so as his majesty might receive it, as a kindness and civility shewed unto himself: *but all is in vain, he is very rich, they have a mind to feed some hungry soldiers and courtiers with his estate*; and I am afraid that if his majesty doth not interpose his authority, they will make a prey of him, which I do desire your lordship to represent unto his majesty. I confess, the alleging of the last argument, might look something strangely from me; but I did not care, if I could have done the business by it. I believe your lordship, and many other lords of the council, may very well remember this person, who is certainly of eminence, to deserve protection in his misfortune; his sufferings have been a full propitiation for his errors; his own master, who was most offended by him, pardons him, desires his liberty, and I do not think, there is one person in all these parts, that doth not pity him, unless it be those that gape for his confiscation. The *French* ambassador hath the same sense of this, that I have, and doth promise to represent it, in the same manner, to the court of *France*. His discourses are much more hard of it than mine, though, perhaps, in tenderness of the *Swedes*, his relations will be more gentle. I think myself obliged to add a few words of a thing, concerning myself, which I hear is much spoken of at *Whitehall*; which is, that in this treaty, I have ever leaned too much to the party of *Sweden*, and been too hard against *Denmark*, of which, perhaps some part may be true; but this is true also, that my constant

orders were, to uphold the king of *Sweden's* interest, as much as I could; and by the last orders, that I received from the council in *April*, were to endeavour to procure for the duke of *Holsteine*, the full benefit of the *Roskyld* treaty; which is the point that pincheth the most of any upon the king of *Denmark*, as he himself hath told me, with some kind of complaint. Besides, my business here was, to procure the peace, and to be against whosoever refused it, upon the terms agreed at the *Hague*. The last summer, the stop was plainly upon the *Swedish* side, and I did so press then upon them, that I had hot disputes with general *Montague* about it, which made us part upon unfriendly terms; but it is certain, that the king of *Sweden*, a little before his death, did incline to peace upon those terms; since his death, the senate have wholly assented unto them, the stop hath been only on the *Danish* side; and at the last, though I did oppose the *Hollanders*, who would have imposed Mr. *de Wit's* orders upon *England*, *France* and *Sweden*, I did obtain the absolute release of the 400000 dollars for *Denmark*, and several other conditions more gentle for that king, than those contained in the agreements of the *Hague*, or in the project, which was presented and pressed by the *Hollanders*; which will appear, by a note I have, of the particular points, as they were all accorded by the *Swedish* commissioners, before the ambassador of *France*, my colleague, or any of the *Hollanders* knew one word of them; which I did to make short work with the treaty, and made use of the *Hollanders* stop of the *Swedish* ships, to gain their consent; which I desire your lordship to make known, as you shall have occasion, or find it necessary, there not being one tittle, that I will not make appear to be exactly true. I must also confess, the king of *Sweden* had such qualities, as I did love and admire, though I knew his errors also. I had inclinations to serve him, as far as my orders gave me leave, and did think it would be a great honour to me, to do a thing, which such a prince should acknowledge to be an obligation; he did express a sense of it, with kindness, four hours before his death, which I thought did the more oblige me to continue the same good offices unto his son; which I hope neither his majesty, nor any other well deserving person will think an error in me, though the *Hollanders* do represent it, with all the bitterness they can. They pretend favour to *Denmark*; but the true reason of their choler against me, is, that I did oppose them in the business of *Drontheime*, and *Gluckstad*, which they would have extorted from *Denmark*, upon pretence of their charges in this war; as well as their other designs against *Sweden*, which are so prejudicial unto *England*, that I should have been a very ill servant to my country, if upon friendship and familiarity, that I had had with their persons, I had not thwarted them. I have troubled your lordship with a long letter; but the nature of the things I mention is such, as I hope will persuade you to pardon me for giving you this trouble. I am

Copenhagen, July 14, 1660.

Your Lordship's, etc.
Alg. Sydney.

I shall yet add this, that if his majesty is not yet satisfied with what hath been done for *Denmark* by us here, there is a present occasion of obliging extremely that crown. By the agreements of the *Hague*, *Sweden* was to retain all the places and provinces, granted by the *Roskyld* treaty, except *Drontheime*. Amongst others, there was the island of *Bornebolme*, which had revolted from the *Swedes*, and killed their governor of that nation, upon the engagement of the king of *Denmark*, never to desert them, nor to suffer them to return unto the dominion of *Sweden*: nevertheless, according to the said agreement, the *Swedes* were to have it delivered to them; and the king of *Denmark*, to gain the assistance of *England* and *Holland*, had obliged himself thereunto; which went so much against his heart, that I believe, he would have suffered much, rather than to have performed. To ease him of that trouble, we proposed an exchange of gentlemens lands in *Schonen*, to be given to the crown of *Sweden* for *Bornebolme*, and the king of *Denmark* to satisfy the proprietors; the time reserved, for making the agreement, was until *Midsummer* come twelvemonth, but it is made already; the king of *Denmark* is to give as much land as comes unto about one hundred and thirty thousand pounds sterling. Now if the king desires to uphold the interest of *Denmark*, I am very well assured, he may cause this land to be remitted, and the way is this; both parties will sue to his Majesty, for the ratification of the treaty here, and the guaranty; which he is in no kind obliged to give, and may refuse unto *Sweden*, unless the land to be given for *Bornebolme*, be remitted, as a thing extorted from *Denmark* in its weakness. If that is not enough, his majesty may make a defensive alliance with *Denmark*, to assist that crown, if it be invaded by *Sweden*, or any other; and because there may be many breaches of the treaty, which do not amount unto an invasion; there may be a clause particularly inserted, which may have the force of a guaranty of this treaty unto *Denmark*, which will be a very uneasy posture to *Sweden*, to find *Denmark* secured by the guaranty, and itself excluded. Besides, as this treaty doth not give much satisfaction in *Holland*, they will be glad of a pretence, not to ratify the guaranty given by their ministers (there cannot be a better, than to follow the example of *England*) and would be glad of any occasion to press hard upon *Sweden*; besides, that as things now stand, they will do any thing, that his majesty shall desire, and both together will obtain from *Sweden* whatsoever they please; the senate knowing very well, that if *England* or *Holland* be against them, and the other not for them, they will be in great danger of losing whatsoever they hold, on this side the sea. I do not only propose this, but will pawn my life and reputation upon it, that if his majesty will give me the powers that are requisite, I will effect it; and if his majesty is not contented with this, I have discovered so much of the affairs of these parts, that if your lordship do command me, I will shew the way, how to drive the nail a good deal farther, and not stop, until you shall say it is enough; and that which will help us in this business, is the opinion *Sweden* will have that there is an intention of quarrelling with them, for which they know, they
have

have given occasion enough, since the peace was concluded; and upon any terms, they must avoid that. I will either stay for an answer unto the letters I write at this time, or not, according to what I shall hear from your lordship, and my other friends, when I come to *Hamburgb*.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

My colleague and I did take our leaves yesterday, of the king of *Denmark*. He is now ready to embark for *England*. According to the directions, I have received from your lordship, I am taking my way by *Hamburgb* and *Holland*. I do not yet very well know, in what place I shall stay, until I hear farther from *England*. I did hope that upon such occasions as those, that have lately befallen me, your lordship would have been pleased to send me some commands and advices, how to dispose of myself, more particularly than by such a one, as I had sent over with letters. My colleague will inform your lordship of as many particulars as you will be contented to know. I shall from *Hamburgb* give notice where I will be, until I hear farther from *England*. I am

Your Lordship's, etc.

Copenhagen, July 22, 1660.

Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I did the last week write unto your lordship from *Hamburgb*. I am now advanced four degrees southward to *Frankfort*. Whilst my employment in *Denmark* and *Sweden* did continue, I could sometimes give your lordship account of business; I can now say little more than of places. Whilst I pass unknown, all things are unknown unto me; besides the want of language hinders me from conversing with those ordinary people I travel with. This want hath ever since I left *England*, forced me to make use of *French* and *Latin*, whereby I have recovered something of what I had forgotten of the one, and learnt a little more than I knew of the other; the first serves me amongst persons of quality; the other helps me to the conversation of priests, who, in all the countries that I have passed through, are the most ignorant people that ever I met with of that profession, excepting that most of them speak a little *Latin*. The most eminent men amongst them learn to understand *English*; their libraries are full of *Baxter*, *Burroughs*, and other *English* puritan sermon books, and out of them they preach. I was acquainted with one *Brokman*, in *Denmark*, who had been in *England*; he hath all the books of that kind, that I think have come out these twenty years; knows nothing but what he learns by rote out of them, and by their help is grown so eminent, that about two months since, he was promoted to

the best bishoprick in *Denmark*, next to that of *Roskyld*. The town of *Hamburg* is exceedingly encreased since your lordship saw it, and the fortifications upon which they were at work then, and five and twenty years after it, are now perfected, and as is said are now as good as any in the world. I never saw any thing like it. The best that are in *Italy*, which are so highly commended, look like lines cast up in a night, to defend a camp, in comparison of these. It consists of one and twenty bulwarks, all alike, except four towards a marsh, encompassed by the *Elbe*, where an enemy can neither land, lie, nor make any approach. They are less, the others of the full proportion of *Le Grand Royal*. Two of them have casemates of earth, which though of fascines, are thought to be the best. Between every pair of bastions, and before each port, are very good ravelins. In the most suspected places are two horn-works, the one single, the other double. They have a vast proportion of artillery, ammunition, victuals, and all things necessary for a long siege. That they abhor war, their motto is, *Da pacem domine in diebus nostris*. Whensoever they are frightened, they will buy their peace. The king of *Denmark* knows it, and if I am not mistaken, prepares to get a good sum of money from them. *Lubek* decays daily, which is by all men attributed to their stiffness in matters of religion, in admitting none to live amongst them but *Lutherans*. That town is strong, but not like *Hamburg*. I left the queen *Christina*, at *Hamburg*, with a design of going into *Sweden*, before the time of the diet, which is to begin the 22 of this month, at *Stockholme*. She is thought to have great designs, of which every one judges according to his humour. Some think she will pretend to the crown, others that she would be contented with the regency; and there doth not want those that say she is employed from *Rome*, to sow divisions in *Sweden*, and to make use of the prince *Adolph's* discontent, others to marry him. I have conversed a good deal with her, and do not believe a word of all this. She hath a great aversion to the prince *Adolph*, thinks him not to be trusted with any thing, nor capable of any great business. When she resigned the crown, she did publicly advise the senate not to admit that prince unto the crown, in case his brother should die without sons, he being unfit for government, of an evil nature, and of understanding no ways able to bear such a weight; upon which, by an act of the senate, confirmed by the succeeding diet, it was declared that the crown should descend only to the heirs male of the king's body, and those failing, the power of election to revert unto the senate and diet. This is the obstruction unto prince *Adolph's* pretension to be constable, lest, that he having the power of the militia in his hands, might either attempt something to the prejudice of the young king, or if he died, strengthen his own pretensions. Notwithstanding this, he did write to the queen *Christina*, earnestly endeavouring to engage her, and offering great services, if she would favour him. The contents of this letter were reported to me, and I saw the answer, which if he is not absolutely out of his wits, will take from him all hope of advantage from her. A
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day or two before I came from *Hamburg*, talking with her of the opinions people had of her pretensions to the crown or regency, she told me plainly, *there was but one place for her in Sweden, and having resigned that, she could neither pretend again unto it, nor content herself with any other.* I do not believe this barely because she said it (*for I am in this year's employment grown much less credulous than I was*) but because the impossibility of effecting any thing is so plain, that she who hath a great deal of wit, and as good counsel as any is perhaps in *Europe*, cannot but see it. For besides the aversion that is to her religion, and the little appearance that the jealous *Swedes* would give credit to her change, if she left it, the senate and nobility like no government so well, as while the kings are in minority; for now they have the power in their own hands, whereas before they depended on the will of a king, and will more hardly be brought to innovate any thing perhaps, than when their last king was living. These and many other reasons, do convince me, that her only business is to procure of the diet, the settlement of her yearly revenue of two hundred thousand dollars, reserved at her resignation, of which for these last four years she received but the tenth part; and this being done, to return to *Rome*, where she had great designs, of which I may speak more hereafter; and there she intends to live and die. The *French* ambassador hath orders to serve her as much as he can, and she hath been persuaded to stay at *Hamburg*, until he could have an answer to the letters he wrote to *Stockholme*, concerning her reception; which caution was very necessary; for though all the principal persons of the senate, owe their fortunes to her; no man can undertake, that if she should go thither, without some engagement for her security, she may not pass the rest of her life in some castle of *Sweden*, instead of her palace at *Rome*. The first country that I entered in my passage from *Hamburg*, was the duke of *Lunenburgh's*. It extends itself above twenty *Dutch* miles in length, that way which we came, but is extremely barren in all respects, as bad as the worst part of *Sweden*; nothing is there to be seen, but heath, sand, and bogs, little grass, and less corn. He hath several fortified places, but none good; and *Zell*, the place of his residence, is no whit better than the rest. There are of that family, four brothers, two by one wife, and two by another. The eldest of each bed, are governing princes. Each of them pay pensions to their cadets. One of the latter sort, I have known in *Denmark*; he is a papist, and pretends to a red hat. The other married the princess *Sophia*, and being a man of better parts than the others, doth govern them much for the present, and is likely to inherit all their states, they having no children. From thence we came into the territory of *Brunswick*, which is a very good country, very like the best parts of *Huntingtonshire*, but the people are poor and miserable; the devastations caused by the long war not being yet recovered, of which, I think, the principal cause, is the princes continuing in time of peace, the same burthens that were laid upon them by the soldiery. The buildings in each of those countries, are poor, beggarly, and turn black
and

and foul with smoak, which hath no passage to go out, but what it finds through chinks and crannies. *Mondagh* and *Northolme*, principal towns of this territory, destroyed by *Tilly*, in the war in the year 1622, when the duke of *Brunswicke* sided with the king of *Denmark*, have not yet recovered themselves. The old duke is still living, being now fourscore and three years old. Our next remove was to *Cassel*, the residence of the *Calvinist* line of the landgraves of *Hesse*. The castle doth overlook a river like unto the *Trent* at *Nottingham*, and a plain towards the south, like unto that which lies between *Nottingham* and *Leicester*. On the north is a gentle rising ground, of a very good soil, for about a mile; the sight that way is terminated by steeper hills, and woods, which extend three or four *Dutch* miles. The town is distinguished into two parts both very strong, especially that which they call the *new*. The greatest fault I find in the works is, that the false braye, which should overlook the counter-scarp, and defend that and the country beyond it, is so low, as to be of no use but to clear the ditch. There are also old fashioned casemates of stone, as low as the false braye, which, as I think, are of no use at all. From thence we entered the other part of *Hesse*, governed by the *Lutheran* line of the landgraves, under the name of *landgrave of Armeſtat*, of the same family as the others. I saw nothing there that was remarkable. The towns are poor and ill fortified; the land generally is not very fertile; but clean, pleasant, and very well furnished with springs, rivers, and woods. In passing through all these countries, I do not see many gentlemen's houses. Most of them are seated upon extreme steep bleak rocks, which, they say, are exceeding strong, but of little use, more than being safe in them, they not being of extent to keep any considerable garrisons, and that only of foot. Many of them are hardly accessible for one horse, and incapable of receiving or maintaining many, though they were. I did not see any thing of neatness or handsomeness about, or in any house in all those countries. The people seem generally fierce, harsh, and rude, much more than the *Swedes*. Whether that temper is natural unto them, or grown by the custom of doing and suffering mischiefs in the time of the war, I am not able to judge. The women have generally tanned smoky faces; motions and actions more suitable unto our sex, than theirs, which may be caused by their ugly dwellings, poverty, and perpetual labour. All things belonging unto husbandry are performed by them. Our next stage was to *Friburgh*, an imperial city, that retains some marks of having been considerable, but never recovered the destruction brought upon it by the *Imperialists* and *Spaniards*, who, without any provocation, thought fit to make that town a companion in misery and desolation with their neighbours of the *Palatinate*, when it was ruined. About three *Dutch* miles from this town, begins the territory belonging unto it, rich and pleasant, beyond any I have seen in *Germany*. Here are the first vineyards that we have met with, except two or three little straggling ones in the *Landgrave of Hesse d'Armeſtat's* country. The air and climate is here much more sweet and gentle than

the others that we have passed through, which is seen by the fruits that are in great abundance, and good, but of no kind that is not ordinary. The wine made here to me seems good; but it is small and despised by the good drinkers, who content themselves with none but that of the *Rhine*. This town is great and fine, and when the works are perfected, will be very strong. They work very hard upon them, and, it is thought, this year and part of the next summer will complete them. I was yesterday informed by some persons of quality, that sir *Kenelm Digby* had been here for many months, and went from hence about a year since. He went under the name of earl *Digby*, admiral of the *British* seas, and chancellor to the queen of *England*, beaten out of his country, with the rest of the king's party, of which he had been. He caused his book *De corporibus*, or *De immortalitate animi*, and some others, to be here printed; and pretended to be the first inventor of the sympathetic powder, and magnetic cures of wounds and diseases. When he went from that town, he took upon him another personage, and passing through places in alliance with *Sweden*, pretended to be an ambassador of that crown into *England*, and was believed, until one of the counts of *Lionbead*, a man of one of the principal families in *Sweden*, who lies now in this house, and told me the story, did rectify the mistake; informing them, that the king of *Sweden* did use *neither to employ strangers, nor papists in embassies*. I do not know whether your lordship will be patient of the trouble of these letters; but I know nothing but such stuff as this, and nothing better can be expected from me, in the condition in which I now am. I shall stay here as long as I can without losing the season of passing the *Alps*, and ever be,

Franckfort upon Main,
Sept. 8, 1660.

Your Lordship's, etc.
Alg. Sydney.

When I was in *Denmark*, I received many certifies from Mr. *Myssenden*, secretary to the *English* company at *Hamburg*; and when I came to that city, I lay in his house. He is desirous to be employed by the secretaries of state, to give intelligence of what he can learn of the affairs of *Germany*, *Denmark*, or *Sweden*. Mr. *Avery* had the same office, and before he was resident for the king, was employed in the same work. He is a discreet man, of good parts, studied well, bred a lawyer, hath good credit both with his countrymen and others where he lives. *I had promised this employment for him, under those that formerly governed, but that he was too monarchical for me and my brethren*. If your lordship, by means of the secretaries, or otherwise, as you shall think fit, would prefer him, you shall do me a very great favour. I am obliged to him, and know not how to recompence him. I dare engage my credit to your lordship, he is fit for the work, and will be contented with any salary that shall be given. If any friend of his waits upon your lordship, I desire you will be pleased to favour them, and let them know what I have written for him.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I think the counsel given me by all my friends to keep out of England for a while, doth too clearly appear to have been good, by the usage my companions have already received, and perhaps will be yet further verified by what they will find. Nothing doth seem more certain to me, than that I must either have procured my safety, by such means as sir Arthur Heselrig is said to have used; or run the fortune of some others, who have shewn themselves more resolute. I hope my being here will in a short time shew, that the place was not ill chosen, and that, besides the liberty, and quiet, which is generally granted to all persons here, I may be admitted into that company, the knowledge of which will very well recompence my journey. I was extremely unwilling to stay in *Hamburg*, or any place in *Germany*, finding myself too apt to fall too deep into melancholy, if I have neither business, nor company, to divert me; and I have such an aversion to the conversation, and entertainments of that country, that if I had staid in it, I must have lived as a hermit, though in a populous city. I am here well enough at ease, and believe I may continue so. Unless somebody from the court of *England* doth think it worth their pains to disturb me, I see nothing likely to arise here to trouble me. I have already visited several cardinals. To-morrow I intend to pay the same respect to the cardinal *Cibigi*, nephew to the pope. He hath already granted me the liberty of waiting upon him, which was signified unto me by another eminent person of the same robe and degree. They are all generally civil, and I ask no more. About ten days since, young sir *Thomas Gage* came to this town, and died of a fever a few days after. He is this day to be buried, by the care of his younger brother, in the *English* jesuit's chapel. I do not here see those signs of ease, satisfaction, and plenty, that were in pope *Urban's* time. But that little concerns strangers; *the company of persons excellent in all sciences, which is the best thing strangers can seek, is never wanting.* Nevertheless, there is not perhaps so many of those, as formerly; for the hopes of preferment, which usually drew them hither, is something shortened, by drawing all principal benefices into a few hands, and charging the others with too heavy pensions, so that now bishops are often sought, more than bishoprics. The most eminent persons, that I have yet seen, are the cardinals *Pallavicini*, (who wrote the story of the council of *Trent*, in answer to that formerly written by *Padre Paolo*) *Azzolini*, and a *Carmelitano scalzo*. I have found few persons that I can think equal to them. I find none of the *English*, whom I knew when I was last here, now alive, except father *Courtney*, then rector of the jesuit's college, now *Penitentiero di San Pietro*, and he is sick, old, and decrepit. Mr. *Somerset* is still here, a canon of *San Pietro*, but little esteemed. Cardinal

Francesco

Francesco Barbarini is very little changed since I formerly saw him. Though he is old, he is so fresh and strong, as to be likely to live many years. As many as I live, I shall be

Your Lordship's, etc.
Alg. Sydney.

Roma, Nov. $\frac{19}{29}$, 1660.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

Though it is long since I heard from your lordship, and the contents of the last letter I received were such, as gave me little expectation of having others, or reason to think mine would be acceptable unto you, I esteem it my duty to continue writing, until I do by some more indubitable testimony find your lordship hath so far rejected me, as to be unwilling to hear of me, or my concerns. I have at this time very little to say of either. I chose this place, as that wherein I might most certainly disentangle myself from all business. I sought nothing here but rest, and good company. I find reason to hope, I may enjoy the one without molestation, and *I do not know, whether any place in the world doth afford the other in greater perfection, than that which I here meet with.* I desire to know whether your lordship hath the history of the council of *Trent*, written by *Padre Sforza Pallavicini*, in answer to that which goes under the name of *Pietro Soave*. If you have it not I will send it, and, if your lordship please, will make a collection of such other books, as are most esteemed here, and I can guess will be most agreeable unto you. No work that hath come to light, since that of the cardinal *Baronius*, is thought fit to be preferred before this of *Pallavicini*. It will be an ornament to your library, as the author of it is to the consistory. Others of the same order receive an addition of honour from the purple conferred upon them, he confers honour upon the purple by receiving it. His personal merit adds lustre unto his dignity, and every one doth confess he deserves to advance one step further, unto that only seat which now is above him; but the name of a *Jesuit* doth for ever exclude him. The extraordinary ambassador of *Spain*, doth still eagerly solicit the deciding of that question, which hath been so long disputed between the *Scotists* and *Thomists*, whether the *Virgin Mary* was exempted from the spot of original sin. This is his only business, he is only her solicitor, and meddles not with any business of state. About a fortnight since he preached publicly upon this subject, at the church belonging to the *Padri dell'Oratorio*. All that order, the *Franciscans*, and most of the *Jesuits*, join with him, in favour of the *Virgin*. The *Dominicans*, and other *Thomists*, oppose the decision of this point, despairing of having any in favour of their school, and think it advantage enough for them to hinder the victory of their adversaries. That party is thought will prevail, the

pope, and consistory, not undertaking to determine a controversy, that, after long dispute, was thought too difficult for the council of *Trent*. The king's piety, and ministers zeal, are both commended, and so the business is like to rest.

I do not hear that Mr. *Colbert* *, sent hither by the king of *France*, to support the interests of the dukes of *Parma* and *Modena*, is likely to have any great success; nor is his person very acceptable, that hath no other business here, but to solicit businesses very prejudicial to the church. The first is upon a dispute concerning the dutchies of *Ronciglione*, and *Castro*, in which case there is already a decree passed in *Ruota*, whereby they both devolve unto the *Camera Apostolica*, if not redeemed within a certain time, now within three or four days of expiring. The other is, concerning the *Lago di Como*, in *Lombardy*, ceded unto the church by *Ferrante d'Este*, with the dutchy of *Ferrara*, as the duke of *Modena* pretends, for a certain sum of money spent in the war, which, by the revenue of it, is long since paid: But it is here said, that the session was absolute, *nomine poenae et in partem mulctae*, for the unjust usurping, and detaining of the said dutchy, which, as a feud of the church, did devolve unto it, by the extinction of the masculine and legitimate line of the dukes that held it. Many arguments are used on both sides in these two controversies; and to all those that are alleged in favour of the two dukes, the pope doth usually answer coldly, that he must keep all, of which he finds

* At *Rome*, he acquired his taste in the polite arts, in *Holland* his skill in manufactures and commerce, to the amazing benefit of his country, and the genuine honour of his master; nor were the persecutions, dragonings, massacres, practised in *France* till after his death.

——Fino da i tempi del *Boccaccio* usarono i *Fiorentini* avere ai loro stipendj uomini dotti, e artefici eccellenti; sia per compagni nella *amenità* de i loro studj, come per l'educazione delle loro famiglie.

Cosimo dei Medici, detto Padre della Patria, ebbe l'Arcipolo e Marfilio Ficino, uomini dottissimi, e specialmente nelle lettere greche.

Piero ebbe Leonardo Aretino, il Poliziano e il Poggio. Lorenzo ebbe il Lascari, il Tarcagnotta, il Gaza, Giorgio di Trabizonda, Francesco Filelfo, e finalmente Michelangelo, il quale condusse la Pittura, la Scultura, e l'Architettura a quella perfezione, a cui Giotto, Donatello, e Brunellesco le avevano incaminate.

E Leon X, figliolo di Lorenzo, fu, quanto al favorire i Letterati e Professori di qualunque arte liberale, l'Augusto de i tempi suoi.

Questo *ingenuo lusso* di mantenere nelle famiglie dei Grandi, come dei privati Cittadini, soggetti cospicui, *si è sempre costumato dal primo risorgere delle belle discipline, ed ancor si costuma per tutta Italia*. E quello che è più mirabile, lo costumarono anco Donne d'alto affare, come la famosa Marchesa di Pescara, la Marchesa del Vasto, la Contessa Gambara, la Duchessa di Urbino, prima Protettrice di Raffaele, e molte più, (celebrate dall'Ariosto, e da altri Autori Italiani) forse perchè mancava loro quella occupazione, che si è introdotta dopo dei *Cicisbei*.

Uso sì nobile ed elegante fu di poi adottato gradualmente da altre Nazioni a misura che il sapere s'andò propagando tra loro; ma da niuno con maggior fervore quanto dal *Magnanimo Francesco I*, Re di Francia: e *Colbert*, ministro della maggior capacità, ammaestrato dai viaggi, ch'ei, contro il solito dei suoi compatriotti, fece per l'Europa, persuase anco Luigi XIII d'adottarlo.

Decamerone di Gioanne Boccaccio. In Londra, presso Gioanne Nourse, 1762, in quarto.—In the notes, by the learned editor Vincenzio Martinelli.

finds the church possessed, and will by no means be persuaded to diminish St. *Peter's* patrimony. He might use much better reasons, drawn from the merits of his cause; but to avoid the trouble of many words he useth these, and leaves the intricate disputes unto his ministers. The cardinal *Chigi* received *Colbert* without any demonstration of kindness, or respect, hardly performing those ordinary civilities, which he useth to private gentlemen that visit him without any public character. Those of the *French* faction dislike this, but that is not very much considered. I am,

Your Lordship's, etc.

Roma, December $\frac{1}{2}$, 1660.

Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I write to your lordship sometimes because I am not forbidden; not often, because I am neither commanded, nor have reason to think that diligence would be acceptable unto you. Here is news enough for those that seek much, very little for me that seek none. The business of *Parma* is now decided; the pope hath declared it to be escheated to the *Camera Apostolica*. Many here thought some way would have been found to invest one of the nephews with those dutchies. The generosity of that omission is much applauded. His holiness hath not appeared publicly at any of the ceremonies this *Christmas*. Some say he is really sick to such a degree, that within a short time another successor must be provided for St. *Peter*. Others think it is only unwillingness to be solicited in the businesses of *Parma* and *Modena*, in which he is resolved to do nothing. I believe the latter opinion is the truest, unto which may perhaps be added a good measure of melancholy, from which evil the triple crown doth not defend him. I went yesterday with a cardinal to the palace, and with some of my acquaintance to the cardinal *Nipote* his *Anticamera*, where I saw Mr. *Colbert* received with little more ceremony than a private gentleman. At the same place I was told by a person of great credit, that about four years since, father *John Hilford*, a *Benedictine*, did shew him an old prophecy, that the king of *England* should be restored by a *Monk*, by which I think he understood one of his own order, and not the surname of a family. The last *Sunday* in the *Minerva* was a solemn abjuration of the heresy of one who said he was Christ, and had accordingly chosen his apostles. After having propagated such doctrine, he had so much wit as to retire himself into *Germany*, and is now at *Trezen*. His statue was the next day publicly burnt nel *Campo di Fiore*. The same day the count *di Mola*, a *Neapolitan*, was produced by the congregation del *Sant' Uffizio*, who being brought up a *Christian*, had turned *Jew*, and induced a nephew and two others of his kindred to do the like. Upon his repentance and abjuration of that religion, he was condemned only to a *prigione formale* (as they call it) for his life; which is a close place

between four walls of about eight feet square, with a little hole open to receive meat; and the changing the sentence of death unto this, upon his penitence, is termed mercy. His disciples suffer the same punishment. The discovery was made by his own daughter, with whom he denied to give any portion, she having chosen a husband for herself. This *Christmas* here hath been passed in various ceremonies, in few of which I have been present, finding the curiosity usual in strangers, to be very little suitable to my age or humour. Nevertheless I have not omitted them all; particularly I thought the funeral obsequies of *Innocent the tenth*, which are annually celebrated, worth seeing, and yesterday was present at them in the pope's chapel, seven and thirty cardinals being present. I have visited nine or ten of that order, some of them the most extraordinary persons that ever I met with, others equal with the rest of the world. With some I pretend only the performance of a civility, and desire only a little knowledge of them; with others I seek a stricter conversation, and by frequent visits endeavour to gain it. The two cardinals, *Francesco* and *Antonio Barbarini*, are very much changed in fortune, little in person, since I was here last. The cardinal *Cbigi* is a young man of good countenance, well behaved, pleasant humour, good wit, but more a friend to pleasure than business. *Sacchetti* and *Spada* are the most esteemed for civil prudence, and best deserving to be pope; but the first hath been twice repulsed, and the other hath such a multitude of nephews, that though the seat were vacant, it is not thought that either of them would be chosen. The most learned are said to be *Pallavicini* and *Albizzi*. *Azzolini*, at the age of thirty six years hath already gained the reputation of as good a head as any is in *Italy*. He is the chief of the *Squadron volante*, the principal instrument of setting the crown upon this pope's head: and according to the phrase here, his vote is one of the best in the college. I do most frequently visit him of any, and have received great civilities from him. I hear from some of my friends, that your lordship had been desired to do that business for me which hath been often mentioned, and that may be easily settled, upon the composition of that with the lord *Strangeways*; and your lordship's answer was, I had made a provision for myself, and discharged you of that care. If there be no difference in living, but he that hath bread hath enough, I have some hopes of finding a provision for a longer time than I mentioned. If there be no reason for allowing me any assistance out of the family, as long as there is a possibility for me to live without it, I have discharged you. If those helps are only to be given to those that have neither spirit nor industry in any thing to help themselves, I pretend to deserve none. Or if supplies are only the rewards of importunity, or given to avoid the trouble of being solicited, I think I shall for ever free you from that reason. And as I have for some years run through greater straits, than I believe any man of my condition hath done in *England*, since I was born, without ever complaining, I shall with silence suffer what fortune soever doth remain unto me. I confess I thought another conclusion might

might reasonably have been made upon what I had said, but I leave that to your lordship's judgement and conscience. If you are satisfied in yourself, you shall not receive any trouble from

Your Lordship's, etc.

Roma, Dec. 29, Jan. 8, 1660.

Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

According to my custom, I give your lordship this testimony of my being alive; which I think necessary, since your lordship gives me no sign of remembering I am so. Letters from hence can be of little other use, either to your lordship, or me, though I have some advantages in conversation, which are not usually allowed unto strangers. I cannot attain to the knowledge of great businesses, and the little common things are hardly worth relating. I must send such as I have. The last *Sunday* was sevennight, the pope came to the *Polish* church, to assist at the singing of the *Te Deum*, for their great victory obtained against the *Muscovites*. He was accompanied only with guards, and domestics. No cardinal was present. As I formerly told your lordship, there was a belief in town, that he was sick; but at this time of his first appearance, he seemed to be so well in health, that his former retirement is attributed either to his unwillingness to be solicited, or his natural melancholy. There are many characters given of him. That which appears to me most probable is, that he is a good man, of a gentle nature, free from all vice, even from his youth, little ambitious, or covetous, something too indulgent to his nephews, of a fine wit rather than a great judgment, a great delighter in poetry, history, and that learning which is here called *belle lettere*; he is much better versed in these, than in deeper studies. From hence was his first preferment, upon occasion of a copy of verses made by him, in praise of *Urban VIII*, given to *Padre Sforza Pallavicini*, (then jesuit, now cardinal) and by him shewed to the pope, who pleased with them, would know the man, then a private gentleman of *Sienna*, and he being brought to him by *Pallavicini*, through a similitude of nature and studies, grew kind to him, persuaded him to turn prelate, promising preferment, and performed it. Now he is attained to the highest, he shews kindness to the family of his benefactor, made *Pallavicini* a cardinal, and is thought more his friend, than to any one of the college. His government is gentle and easy, neither troubling his neighbours with great undertakings, nor his subjects with too heavy impositions. To say the truth, they are hardly able to bear those that were laid by his two last predecessors. The prices of all things necessary to life are much increased, since I was here the first time; but temperance is in fashion; every body lives upon little, so that the burden is not so great to strangers. Five shillings a day serves me and two men very well, in meat, drink and firing.

firing. At the time the pope was said to be sick, *Rome* was full of discourses, who was most probable to succeed. Many thought *Mazarini*, though there are those reasons against him, that never any other did know how to surmount; but his reputation and treasure are thought to break through all difficulties. The other day, the cardinal *Sacchetti*, who bred him, told me, he did believe him the most eminent man for wit and parts, that the world had produced in many ages. The others, who could make the fairest pretences, are *Sacchetti*, *Spada*, and *Pallavicini*. The first two, have been already repulsed in two conclaves, when they were very near being elected; and *Paul III* is the only man that ever found a way of gaining by a third attempt, that which he failed of in the two first. *Pallavicini* is for ever excluded, by being a Jesuit. Discourses of the others pass into infinite variety and uncertainty, it being impossible to propose any one, against whom as good reasons may not be alleged, as against five or six others. There are two most eminent in wit and virtue, *Azzolini* and *Pio*; but the eldest of them is not forty years old, which youth cuts off their pretences, for the present. I have much more acquaintance amongst the prelates, than the nobility of this place. The *Ursini*, *Colonna*, *Savelli*, and others of the most antient *Roman* families, have lost all the vigour and virtue of their ancestors. Their most remarkable qualities are now pride, laziness, and sensuality. I do not find, that those of the other robe want any quality, that makes men estimable; and they are so far from that looseness of life, of which they have been formerly, and ordinarily accused, that I have not yet seen any of that order do an indecent thing, nor speak a loose word; and yet I mark them as narrowly as I can. There is a great alteration in that kind for the better, since I was here last. Prince *Pamphili* is employing a great part of the treasure, gained in the time of his uncle's reign, in building three churches; of which one is for the Jesuits at *Monte Cavallo*. Cardinal *Barbarini* gives a vast proportion of what he gained by the like means to the poor, and other charitable uses. *Borghesi* is the richest of them all, and keeps all for himself. The family of *Peretti* is extinct, by the death of the cardinal *Montalto* the last year. The estate is inherited by *Savelli*. Before I came hither, I did much desire a recommendation from abbot *Montague*; but things have fallen out better than I could expect, so that now I do not need it. If one should be sent, that is not very different from such as are ordinarily used in the like cases, it would do me much more hurt than good; and if any come to my hands, I will not deliver it. I wish, and pray that your lordship may obtain all that may conduce to your felicity and peace; and will fail of nothing, wherein I can hope to be serviceable unto you, which is no more than the duty of

Your Lordship's, etc.

Roma, Jan. 29, Feb. 8, 1660-1.

Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

About a fortnight since, I wrote to your lordship; since that time, and some weeks before, I have been ignorant of all your concernments, those few letters that I receive making no mention of them. This town hath for some days been as full of madness, as any can be, that ends in things ridiculous and foolish, without extending itself to mischievous extravagance. All the streets are full of masquerades there, every day public comedies, and many in private houses; but all of them as ill as ever were seen. There hath been two moral representations in music, the one at the charge of the constable *Colonna*; the other, of Don *Agostino Chigi*, the pope's nephew, which were very fine, and not to be equalled by any person out of *Rome*. The Jesuits have made many plays in their seminary; but they are exceeding cold and dull. The *Quarant'ore*, in which the sacrament is exposed, is now at the jesuits church. They have made the finest scene that ever I saw, to represent *Execheiel's* vision of the wheels. Yesterday, four or five and twenty cardinals were there; the *Padre Ursini*, of that order, preached unto them, pretended to explain the vision; but so faintly, that every body came away unsatisfied. I think, at this instant that I am writing, the pope is gone to that church, accompanied with all the cardinals, and doth himself say mass; his weakness makes him choose a private altar, the grand mass sung at the high altar, being much longer than his feeble legs are able to bear him. This is the sixty third year of his age, and there is a strong and general opinion, that he will not outlive it. This is grown from reasons of very different natures: some say, that age is the utmost period, that is given to the life of extreme melancholy complexions, in which none can exceed him: others guess by observations drawn particularly from several accidents of his life, and the present state of his health; and there do not want others, who ground their belief upon astrological predictions, which sort of vanities are more credited here, than would be easily imagined from a wise people. If this prove true I believe he will be little lamented; and much less, than if he had died before the *consistory*, on *Monday* last, in which there was a tax of six in the hundred imposed upon the annual revenue of all lands, belonging to the church in *Italy*, to last ten years, upon pretence of helping the emperor against the *Turks*: but people here, are so used to such fables, that little credit is given to them. Many think, that a bank will be suddenly erected upon this credit, and the *Genoese*, who are the publicans of *Italy*, will furnish great sums of money upon it, and take unto themselves the levying of the money, for their reimbursement, as the partisans do in *France*; and being armed with that authority, will according to their custom use all the asperity and fraud, that hath made them deserve the name, which antiently had a signification equal unto *sinner*,
with

with which it was usually coupled. It may easily be imagined, how this money will be disposed of; if the pope lives, the receivers will easily obtain a discharge, if he dies, it will be hard to know, who is to be charged with the receipts. Your lordship may a little judge what thoughts are usual here, and with what liberty they are expressed, by a little accident. One evening, a company of gentlemen were met together, and to pass the time, amongst other things, they chose to play at questions and commands, and these two were proposed: whether the cardinal *Mazzarini*, or Don *Luys di Haro*, had done most mischief to *Spain*: the other, whether *Henry VIII* of *England*, *Luther* and *Calvin*, or the popes nephews, since their time, had most prejudiced the church. The last week, the anniversary *obsequies* of *Leo the tenth* were celebrated at the *Sapienza*, a college erected and endowed by him; and one Dr. *Gibbs*, an *Englishman*, their professor of rhetoric, made an oration in praise of him, that was much commended. Here is not one churchman of that nation that is of any eminence, except old father *Courtney*, who hath kept his bed all the winter. Don *Innocenzo Conti*, the principal person of all the *Roman* nobility, for wit, valour, and birth, is lately dead; he was lieutenant general of the church, under Don *Mario*, brother to the pope. Some say that the cavalier *Mattei*, sent hither by the emperor, to solicit for assistance against the *Turk*, shall succeed him. A marriage is said to be concluded between the constable *Colonna* his beautiful sister, and the *Principe Carboniano*, who is also of the same name and family. This is the act of the old Cardinal *Colonna*, who, by this means, thinks to unite the two principal branches of his own family, who have not been very friendly to one another; but it gives great distaste to the young abbot *Colonna* her brother, who hoped for a red cap, by marrying her into the pope's family; and gives little satisfaction to the young lady, who finds nothing in her gallant, that pleaseth her, except his name and quality. There are several preparations at *Florence*, to receive the princess, that is to marry the young duke. I hope your lordship will pardon me, for troubling you with such stuff, as this letter is full of; I have no better, and think it less ill to fill my paper with the trumpery I find in the streets, than with the fruits of my own imagination: I know too well what opinion your lordship hath of them, to entertain you with them; if any thing better than what I have mentioned, came to my knowledge, it should be imparted unto your lordship, by

Your Lordship's, etc.

Alg. Sydney.

Roma, Feb. $\frac{1}{2}$ ⁸, 1660-1,

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I wrote to your lordship the last week; since that time, I have not been negligent in making the best enquiry I can after such books, as I do hope will

will please your lordship. I have not yet a complete list of them, but by the next post, I hope to send it. On the $\frac{8}{18}$ of this month, came an express to the cardinal *d'Este*, with the news of the cardinal *Mazarini's* death. This town is full of discourse of it, every body philosophizing upon the consequences, according to their affections and understandings. Some good judges, considering the disposition of the *French* king and nation, think a governing minister necessary to the one, and that the other will hardly submit to any, unless it be a prince of the blood or a cardinal. The interest of court goes directly against the persons and quality of the first; and of the second order it is hard to find a fit person. The cardinal *de Retz* is thought to merit that honour; but to leap immediately from banishment, confiscation, and proscription, to government, is a change not to be expected, even from the extravagance of fortune. Besides, none doubt but that the friends of his dead enemy will persecute him with all possible asperity. And though they will not, perhaps, have power to choose his successor, they will have enough to exclude him that he so mortally hated. The three principal persons of the *French* faction here, are the cardinals *d'Este*, *Antonio Barbarini*, and *Grimaldi*; they are also named; but there are such strong exceptions against each of them, that few persons think any of them will be chosen. Some speak of cardinal *Mancini*; but his natural incapacity doth so certainly exclude him, that I do not believe he hath the least pretension. If the king would take one of the *Squadron volante*, it were easy to find a man that would be without exceptions in his person, and perfectly free from any interest prejudicial to that of *France*. But nothing is more improbable, than that a man known only by reputation, should be chosen for so great a work. I speak in this the fancies of others. I have no other opinion of my own, than that he will be chosen that can find most favour with the ladies, and that can with most dexterity reconcile their interests, and satisfy their passions. I look upon their thoughts as more important than those of the king and all his council, and their humour as of more weight than the most considerable interest of *France*, and those reasons which here appear to be of most force will not be at all regarded. Two days before the cardinal's death was known, the constable *Colonna* went from hence towards *Milan*, to make the preparations necessary for the reception of his fair bride. The errors of that alliance do now begin to appear, when they are too late to be repented. The archbishop of *Colonna* was in the *Spanish* ambassador's coach a few days before he took his journey towards *France*. The ambassador asked him, how it came to pass his nephew had resolved so suddenly upon that marriage. Whether he thought that in all the dominions of the king his master, he could not find a person worthy of his alliance, or whether a little advantage of portion was more considerable than his majesty's favour? The bishop, surprised with those harsh questions, answered, That a poor youth ought to be pardoned, if he had such an aversion to the red painting, that no consideration could prevail with him to marry one that used it. To this foolish answer, the ambaf-

Mador gave so severe a reply, accompanied with a bitter, scornful smile, that a sharp-sighted cardinal, to whom it was reported in my hearing, said, it was enough to shew how that action was repented; and if he did not much mistake the humour of the *Spaniards*, they would remember it, and give him such lashes for it as one would not give a dog. The cardinal *Mancini* hath the greatest advantage by his alliance, but much more by thirty thousand crowns a year, in church livings, gained by *Mazarini's* death. I saw, the other day, a copy of *Mazarini's* letter to the cardinal *Colonna*, upon the conclusion of the articles of marriage; it was full of such a civility, as is ordinarily used by superiors to an inferior. Amongst other expressions of kindness, there was this, that as a testimony of a continuance of his antient affection unto the family of *Colonna*, he had preferred an alliance with it before any other, though several of great honour and advantage were offered unto him, and he was perpetually solicited to accept of them. Sensible men do in this find two points of vanity, which they please themselves with laughing at; the one, that *Mazarini* would have it believed that he did confer, not receive honour by that alliance, as refusing those of more advantage, in favour of the *Colonna*; the other, that he speaks of his affection to their family, in those terms that are used amongst equals; whereas, there are those in *Rome*, not above forty years old, who remember his father an *Ajuttante di Camera* (which is the next degree above a footman) in the house of *Colonna*, and himself a page to this cardinal to whom he writes the letter. The cardinal *Sacchetti* doth very nobly express sorrow for his death, and great respect to his memory, as he hath ever professed great affection unto, and esteem of his person, whilst he lived. The two hundred thousand crowns given to the pope to employ in the war against the Turks, is taken for a piece of policy, to preserve his heirs from being called to account for three hundred thousand received by him, upon occasion of the business in the *Valtellina*, it not yet appearing how they were employed. I hear of an *Irish* priest, one *Plunket*, nephew to *Nicholas Plunket*, who is very busy in prating and scribbling. I know not the man, nor what exceptions he can have unto me, unless it be for being an *Englishman* sometimes employed in *Ireland*. But I apprehend nothing but orders from *England* to my prejudice. He says, such will come as shall force me to change my station.

Your Lordship's, etc.
Alg. Sydney.

Roma, March $\frac{1}{2}$, 1660-1.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I wrote to your lordship the last week, and I have not now much to add. This week hath been spent altogether in devotion by every body here that is of this church, and those that are not are spectators. I have not employed

employed much of my time in either; nevertheless, have not been able to advance my perfecting the list of books, not finding any body idle but myself. A few days since I was with the old cardinal *Spada*, and speaking of the government of the two cardinals, *Richlieu* and *Mazarini*, whereof the one was much more violent, the other more artificioſus; he did a few days after make theſe two verſes upon a medal that had the picture of them both, alluding unto the *Gordian* knots,

Magnus uterque fuit; dignos ſed vindice nodos
Richelius ſecuit, Julius explicuit.

The pope commended them extremely, but another cardinal, friend to neither him nor *Mazarini*, ſaid it would have been better if he had ſaid *Julius implicuit*. This pope doth punctually perform all the ceremonies in perſon, moſt part of which his predeceſſors have uſually done by deputy. On *Thursday* laſt I ſaw him waſh the pilgrim's feet. The ſame day was the ſolemn excommunication and anathematization of the king of *Spain*, the houſe of *Colonna* (a cardinal of the ſame being preſent) and all heretics, ſchiſmatics, *etc.* The cardinal *Mancini* read the bull, but though I was within a yard of him, I could not diſtinctly hear it for the noiſe of the people. The king and the *Colonna* were immediately abſolved; that grace was extended only to ſo many of the others as did repent. The ſame night there was a proceſſion, which uſed to be made very ſolemn, by the preſence of all the cardinals, princes, prelates, and nobility of *Rome*; but ſome that were preſent tell me, there were only two red hats, and very few of the nobility. The moſt remarkable part was of about two hundred perſons, many of them *Spaniards*, the moſt of the reſt *Germans*, *French*, and *Polanders*, who with their faces covered, did, in all the ſpace from *St. Marcello* to *San Pietro*, whip themſelves moſt cruelly, ſo that ſome of them, through the extreme loſs of blood, fainted. At the hoſpital of the *Trinity*, all pilgrims are for theſe days entertained; the cardinal *Antonio Barbarini*, who is the protector of it, accompanied with the cardinal *Carlo* and the prince of *Paleſtrina*, his nephews, ſerving them at one time. There was above a thouſand. The laſt week, at a time when all the cardinals were at ſeveral churches, it was ſo ordered, that a gentleman put into every one of their hands a printed memorial, and retired immediately, before they could read it; and being examined, *it was found to be a moſt bitter inveſtive* * *againſt the*

* Archbishop *Browne* preached a ſermon at *Eaſter*, 1551, in *Chriſt-Church, Dublin*, upon the following text. *Open mine eyes, that I may ſee the wonders of thy law.* *Pſalm cxix. ver. 18.* in which he inveighed againſt the church of *Rome*; and particularly againſt the *Jefuits*, of whom he ſaid, “ Theſe ſhall ſpread over the whole world; ſhall be admitted into the councils of princes, and they never the wiſer; charming of them, yea, making your princes reveal their hearts, and the ſecrets therein unto them, and yet they not perceive it.—But, in the end, God, to juſtify his law, ſhall ſuddenly cut off this ſociety, even by the hands of thoſe who have moſt ſuccoured them, and made uſe of them; ſo that they ſhall become odious to all nations, and be worſe than *Jews*.” We entertain ſome hopes, that the above may be prophetic, from the treatment their order has lately met with, very juſtly, in *Portugal*, and in *France*.

The Hiſtory of Popiſh Perſecutions, by *John Lockman*.

Jesuits, as persons that set up a commonwealth among themselves, independent of, and destructive unto the pope's supremacy; representing them little better than as politic heretics, and with such sharpness, full of such truths, as they cannot deny in particular, though they protest against any such end. The cardinal *Franciotti* was the first that sent this paper unto the general of the order, concerned in it; some others did afterwards follow his example. It is thought to be written by some of the same order, as containing secrets that could hardly come to the knowledge of others. Some think that the cardinal *Pallavicini* doth not dislike this, that brings his brethren into some trouble, for there are some things in practice amongst them which he is said not to approve of; and the sharp visitation which displeased them so much the last year is looked upon as his work. *I have written to my correspondent at Frankfort, for sir Philip Sydney's picture. I could not send your lordship a thing of less value than my own †, but since sir J. Temple says your lordship would have it, I will send it.* If you please to have any thing else provided here, that will be an ornament to your new buildings, as pictures, statues, marble tables, or mosaic work, I shall most diligently provide such as your lordship shall please to command me. I hear your lordship hath some suspicions concerning me; if I might know in what, I do upon my word promise your lordship, to let you know my thoughts punctually, without either dissimulation or reservation. Sir *John* speaks something of your lordship's laying down the money for the two mortgages upon *Swingfield*. I confess that is more than I could have desired of your lordship, but if you will please to favour me so much in the ruin of my fortune, as to take off that burden, so that I may have that land free for my subsistence, I shall as long as I live endeavour to deserve it, and that is all the argument I can give to persuade you, unless I should add, that at my age, growing very near forty, and giving marks of declining by the colour of my hair, it is time that I had something which I may call my own, out of which I may in rest have bread, when fortune hath taken from me all means of gaining it by my industry. Here is one *Plunket*, a young *Irish* priest, that gives me some trouble by foolish discourses. Amongst others, he says I am an atheist, and bred up in your lordship's house, under a master from whom I learned those opinions. He was answered, that was very improbable, and that my life and conversation gave testimony of the contrary; but though that were, it concerned no body here. This answer was made by the abbot *Hillarione*, with some addition to my advantage, upon which he remained so mortified, that he confessed himself misinformed, and came hither two or three days since, to make me an apology. I was glad of it, for though he could do me no prejudice, I

† The picture was sent, is an excellent one, and now at *Penhurst*. It was painted at *Brussels* in the year 1663, by *Justus van Egmond*.

There is likewise extant a proof impression of a seal of the head of *A. Sydney*, now in the possession of *Thomas Hollis*, F. R. and A. S. which seal was engraved during the civil wars, by that celebrated *English* artist *Thomas Simon*.

would most unwillingly have any dispute with him, for he is esteemed one of the best wits in *Rome*. The other day I was informed, that orders had been sent from the court here to the internuntio in *Flanders*, to make the best enquiry he could of me, my birth, person, and quality. To whom information was given by one *White*, an *Irishman* (that had sometimes been secretary to Don *Alonso di Cardenas*, and his interpreter at some audiences which he had had of me, as one of his commissaries) that I was ever found to be violent against monarchy, a friend unto *Roman* catholics, one that in our last troubles meddled little with private business, and that had made my fortune by the war, with some other things like unto this, part true and part false, but none that I can learn which doth me any prejudice. They were put upon this enquiry by the foolish prating of some priests, who spoke of me as the only enemy the king had left, and that I being taken away, his majesty might reign in quiet. *These are but very slight vapours, and if nothing comes from England to my prejudice, I will easily blow them away.* The last week Mr. *Thomas Somerset* did resign his canonicate of *San Pietro* into the hands of the pope, and as is said, will put himself among the *Padri del Oratorio*. He is discontented, and thought to gain satisfaction by shewing that he was so; but he hath no reputation at all, nor is considered by any body, so that his resignation is accepted, and I believe may wait until he be weary, before he gains any thing better. The strangers now begin to hasten out of town, which is a great consolation to me, who never found any inconvenience here, but by their company and neighbourhood. I do ever write a great many trifles, having nothing to say that is worth hearing, unless it be of business, which is so far from your lordship, that I believe it would be tedious. I am

Your Lordship's, etc.
Alg. Sydney.

April 1st, 1661.

I wrote all that is above on *Saturday* last, and thinking it not unlikely that your lordship will be contented to hear what passed here on *Easter day*, being the most solemn function of the whole year, I will relate something of what I saw that day. The cardinal *Azzolini* had invited me to see his function, as he called it, wherein he was to assist as deacon cardinal. I went, and upon the stairs going up to the *Vatican*, found him and cardinal *Pallavicini*, who brought me into the chamber where the cardinals were all assembled, sitting without order, as in the consistory. The pope soon came in, and laying aside his ordinary habit, was clothed in that of a deacon. The cardinals had all very rich copes, the ground of which were white, embroidered as they pleased, with white mitres. In that equipage they went down into *St. Peter's* church, two and two together, the youngest going first; last of all came the pope, carried in an open chair, upon the shoulders of twelve men. At the entry, he was met by the cardinal *Barbarini*, as arch-priest of that church, and conducted unto a chair, placed on the right hand of the high altar; there he

was adored by all the cardinals, according to the manner introduced in the time of schism. After that he laid aside the deacon's habit, and cardinal *Azzolini* clothed him with those belonging to a priest, archbishop, and patriarch, one upon another, but all so light, that I believe they did little trouble him. Then he began to sing mass, attended by cardinal *Barbarini* in the forementioned quality, and the cardinals *d'Este* and *Ursini* as the antientest of the deacons; but more particularly served by *Azzolini*, as deacon, and *Monsignore Bevi l'acqua Vditore di Ruota* as subdeacon. The other cardinals were upon two benches on each side of the altar. At the end of one of them, next unto cardinal *Albizzi*, I placed myself, and he explained unto me those parts of the ceremony that I understood not. In this order the pope began to sing mass, performing that part which belongs to the patriarch, while the rest was sung by the musicians. He retired to a throne under a canopy, over against the altar, about twenty paces distant from it, the cardinals benches making two sides of the quadrangle. When the time of the elevation came, I retired behind the cardinal's bench, that I might neither give scandal, nor do any thing that I did dislike. The pope, having consecrated both the elements, retired to his throne, the cardinals *Ursini* and *d'Este* fitting upon little stools on each side; the ambassadors of *Venice*, *Florence*, *Don Mario*, *Don Agostino*, and the duke of *Bracciano*, standing upon the steps. Cardinal *Azzolini* read the epistle and gospel in *Latin*; two *Grecians* the same in *Greek*. *Bracciano* brought the pope water to wash his hands, *Azzolini* brought the consecrated *ostia*, with which he did communicate. The sacramental wine was brought by *Bevi l'acqua*; the wine to wash his mouth, by other prelates. The water for his hands, after having touched the sacrament, was given by *Don Agostino*. One thing was remarkable, he did not drink the wine, as is ordinary, but sucked it through a quill of gold. Then *Bevi l'acqua* brought other little consecrated *ostias*, which the pope with his own hands gave to all the deacon cardinals, the five that stood upon the steps of his throne, and the four *Roman* magistrates. In the remaining part of the mass there was nothing extraordinary. That being finished, all returned in the same order as they came. Cardinal *Barbarini* meeting his holiness at the door of the church, gave him a little purse with fifteen *julioes* in it (which is worth about seven shillings and six-pence) with these words, *Per aver ben cantato messa*. From thence, the cardinals going before in couples, he went up to a gallery that makes part of the frontispiece of the church, and from a balcony in it he blessed all the people of *Rome*, assembled in the piazza di *San Pietro*, in nomine *Patris, Filii, et Spiritus Sancti*; and did moreover beg a blessing upon them, *pro meritis beatae Mariae semper Virginis, beati Michaelis Archangeli, beati Johannis Baptistae, beatorum apostolorum Petri et Pauli*; adding an absolution of all sins unto those that were truly penitent, and praying God of his grace to give them amendment of life. The noise was so great I could not hear this distinctly, but was placed by cardinal *Chigi* so near the pope, that I saw the book as well as himself,

and

and read it all as he spoke it. This being done, the people gave a great shout of joy, the cannon of the castle *Sant' Angelo* were fired, the pope was conducted back to the chamber where he was first clothed, there laid aside his pontifical garments, and took those that he wears ordinarily. The cardinals put off their copes and mitres, assumed their usual scarlet, and every one returned to his own home. I should have told you, that in the time of the mass, the pope had a mitre of cloth of gold; that being finished, he put on a light triple crown, made of cloth of silver, embroidered with gold, in resemblance of the true crown, which was too heavy for him to wear. This function lasted four hours, and he performed it all with a very decent gravity. I begin to think they will be much disappointed, who hope soon to be choosing him a successor. His face is pale, fallow, and shrivelled, but his eyes, hands, and voice, do not shew him to be fifty years old. In one of my next letters, I will send your lordship short characters of all the principal cardinals, according to what I have observed, or can learn from the most knowing persons. And though I have much good to say of them, and little ill, it is not possible to speak truth of so many persons without adding some things that would displease, if they were known. Therefore, instead of marking them, I shall only mention them as first, second, third, *etc.* in the same order that is here set down. First, *Albizzi*. 2. *Sacchetti*. 3. *Pallavicini*. 4. *Spada*. 5. *Barbarini*. 6. *Azzolini*. 7. *Imperiali*, governor of Rome. 8. *Rospigliozzi*, secretary of state. 9. *Pallotta*. 10. *Borromeo*. 11. *Chigi*. 12. *Pio*. Retaining this, their names will be easily known.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

In my last, I sent your lordship the names of some persons, of whom I should now have occasion to speak. I will make that order my rule, in mentioning them. For though I know that a picture well drawn to the life, will be easily known, though the name of the person be not written upon it; and those characters of persons, which do not at first sight discover for whom they are made, do sufficiently discover the ignorance of the writer, or his malicious deviation from truth; nevertheless, the offence is much more sharp, when a person finds himself directly taxed, for some defect in nature or manners, than if he sees a paper, wherein nobody is named, that leaves him a liberty of saying, whatever displeaseth him is not said unto him, and yet may acknowledge his own likeness in any thing that is said to his praise. I shall at this time say little of their families, offices, friendships, or enmities, or the particular actions of their lives; it being the same thing to name the cardinals *Barbarini*, or *Chigi*; or to say the nephew of *Vrbar VIII*, or *Alex. VII*: he doth as well denote *Pallavicini*, who mentions him that was displeas'd with *Albizzi*, for some exceptions taken to his history of the council of *Trent*, at the
 congregation

LETTERS OF ALGERNON SYDNEY,

congregation of the *Sant' Uffizio*, as he that writes the name at length : no man here is so ignorant as not to know, that if I mentioned him, who, by *Innocent the tenth*, was taken into the place of his nephew, and afterwards disgraced, and put out of town, upon the discovery made by *Albizzi*, and *Azzolini*, of his being gained by the *Spaniards*, and revealing to them all the counsels and affairs of his uncle, I mean, *Astalli*: but leaving that work, of speaking more particularly of their actions, relations, and interest, to another time, I will now speak only of their dispositions, humours, and qualities.

The *first* is [*Albizzi*] of a free, open nature, little favoured at court for the plainness of his language, expressing his dislike to all things that deserve it. Excellently versed in the affairs of this court. Never employed abroad. Virtuous in his life, zealous in his religion, honest in his dealings. His disposition is not ill represented by his countenance, which though something hard, and severe, hath so much of vigour, vivacity, and constancy, as renders him not unlovely, and very esteemable. He is industrious, studious, and learned, especially in divinity; and hath been an excellent preacher. Not much a friend to the *third*. He deserves the triple crown, but is not likely to wear it. The opinion of his severe and resolute nature, will probably exclude him, as too strict and dangerous, both to cardinals and prelates.

The *second* is [*Sacchetti*] gentle, and affable in behaviour. Sincere and incorrupt in the charges that he hath exercised. Much versed in business, not much acquainted with books. Very constant in the repulses he hath received, which were so sharp, and direct, as to deserve the name of affronts. More a lover of honour, than of profit. Careful of his health, perhaps in hopes of repairing, by living long, his formerly well grounded, but failing pretences. I have found him a little troubled with the disease incident to old men, that have been eminent in the world. He loves to talk a little too much, and often makes his own actions the subject of his discourse. Those please him best, wherein he hath shewed integrity and constancy, rather than great subtilty of wit. He glories most, in having been advanced to all the principal charges of this court, without ever having sought any, and refusing some, that were very considerable. *I confess, these things might sound better from others, than from himself: but he that hath so much good to say of his own life, and all true, deserves to be excused, if he employ a few more words in it than ought to be allowed another of less merit. He seemed to be pleased once, when I told him, That he had found a way of attaining that dignity which is equal to kings, by meriting it; and had ascended unto that which is above them all, to the completing of his glory and fortune, if he had not merited it too well. Which, though a compliment, is exactly true.*

Italy hath not a finer wit than the *third* [*Pallavicini*] nor hath any convent a monk of a stricter life. It is said, that six-pence a day serves him in meat; his bread and wine is furnished from the palace. Women never trouble his thoughts. The use of them is unknown to him. He hath

hath constantly refused great church livings; and being lately pressed by the pope, who favours him very much, to receive one of great value, he answered, Your holiness can add nothing to the favour of giving me this hat, but by employing me in such things, as may be for your service, and bear testimony of my gratitude: I want nothing else. He makes good his words, receiving not above three or four thousand crowns a year, to keep up the state of a cardinal, having had nothing before he came to it. He labours incessantly in those knotty businesses, *that require much pains, and yield no profit.* This humour defends him from having rivals in his pretences. He hath shewed it is possible for the same man, to be excellent in the *Belle Lettere*, and the most deep and abstruse sciences. I do not think he hath so well joined the theory and practice of business. The extreme acuteness of his wit renders him admirable in the one, and fills his head with notions too nice and high for the other. Besides this, he hath lived more among books and papers, than men. *He ever aims at perfection, and frames ideas in his fancy, not always proportionable to worldly businesses: sometimes forgetting that the counsels, as well the persons of men, are ever defective; and that in human affairs, governors and ministers are not so much to seek what is exactly good, as what is least evil, or least evil of those things, that he hath power to accomplish.* He is most meek and humble in his behaviour; easy and gentle in treating of his own concerns; but in spiritual and ecclesiastic affairs, his zeal renders him sharp and violent. These qualities shew him to be an excellent cardinal, but would render him an ill pope; at least, in the opinion of the courtiers, who will not endure to be overlooked by so sharp sighted a master, nor reformed by such a bitter enemy to corruption and looseness. His severity beginning with himself, it is not hoped that he will spare others.

The *fourth* [*Spada*] is subtle, and loves to be thought so. He is pleased both with honour and profit: glories in what he gets by his wit and industry. He allows not above four hours in a night, and half an hour after dinner, for sleep. He is not at all ashamed to appear solicitous for his family: it is numerous, and finds good fruit of his dexterity. When he went into the last conclave, a friend told him, he hoped to see him come out pope: he answered, No, my nephews destroy me. Age hath not taught him to be idle. When he goes to take the air for a few days, his principal entertainment is with books, and some learned persons that he takes with him. When he is at home, his time is divided between business and study. Though he hath many qualities that are highly estimable, he is more pleased with the praise given to one of his epigrams, than some think is suitable to his age, dignity, and person. No man is thought to excel him in fitness to manage great business, nor in human learning. He is a great patron of those that have qualities like unto his own. He is a living history; and his memory is a magazine, where the records of all affairs of the world are kept in so good order, that he knows when, and how, to bring forth every piece

to the best advantage of business, or conversation. If any particular hath escaped his knowledge, he gives very sharp and adequate judgments, upon the hearing of it. He doth not much love dissimulation, but knows how to do it, when it is necessary.

The *fifth* [*Barbarini*] hath great sharpness of wit and invention: some think him defective in point of judgment. He loves subtle and intricate ways, better than straight paths. Age hath not abated his vivacity. His industry is indefatigable. In times of greatest trouble and danger he is best; and of no use, when business runs softly and quietly in its usual channel. No man ever saw him frightened, or despairing, though he hath had reason enough for both. Some say he is a great dissembler; I hope not, for he shews much kindness to me, and I should be sorry to find it not real. A great man told me, there was no commerce between his tongue and his heart. He is kind to his friends and family; a great despiser of sensual pleasures; simple in the manner of his life; intent upon business. The nation that is under his protection speaks ill of him; but truly, I think, their discontent proceeds rather from the repulses which they draw upon themselves by their impudent importunity in asking, and ravenous and insatiable thirst of gaining more than is reasonable to desire, or possible to obtain for them, than that he fails of helping them as far as he can. If this pope dies, he is likely to have a great part in the choice of his successor; but his own pretences are weak.

The *sixth* [*Azzolini*] owes his advancement to his wit and virtue. The last pope was pleased with his excellent qualities, and gave him such a part, in the management of affairs, as was thought unproportionable to his age. But he was known to be so good a judge of men, that the wisest durst not blame his choice. This soon ripe young man, by his behaviour, shewed his own merit, and that his master's judgment was well grounded. He received the purple, when he was 29 years old, as a testimony and reward of his fidelity. That pope who had many qualities, and great actions to glory in, thought the choice of this minister deserved to be bragged of. He is of a cheerful nature; not a despiser of innocent pleasure; delights in things of splendor; gives good testimonies of inclinations to liberality, if his fortune gave him the power of exercising it. He could never in the least degree be accused of covetousness, but the narrowness of his fortune obligeth him to avoid unnecessary expences, and by that means he lives so handsomely, that he who sees his palace, would think he spends twice as much as he doth. His conversation is sweet and affable, wit sharp, subtle, and dexterous. Inferior to the third in learning, but much above him in practice, and knowledge of worldly business, as well as ability to manage great ones. The one is more speculative, the other hath an understanding far better suited to government. He would never be engaged to be of the *French* or *Spanish* faction, by which means he hath less money, and better reputation, than those that too closely join themselves to either. He is esteemed, *Capo dello Squadrone volante*; though he hath no prerogative above his companions, but their
voluntary

voluntary yielding unto him, for his merit. His youth for the present, cuts off his pretences to the papacy. If he lives, he is likely to meet with no greater obstacle, than that which accompanies those that come young to be eminent. It is observed they seldom rise above the degree of cardinals; for no person is so perfect, as not to have some defect, nor so innocent, as not to offend somebody. The one cannot be long concealed, and the other must certainly make enemies, who will use all means to cross his pretences, being incited by those two sharp spurs, desire of revenge, and fear of resentment, if he whom they hate, and think themselves hated by, should come to be their master. Upon this occasion I will a little wander from my purpose, and relate an accident of great importance, known to few. The cardinal *Pancirolli* did use to say nothing was more destructive to a cardinal's pretences to the papacy, than to be thought revengeful. To take away that opinion of himself (which was too common at court) he did by all means imaginable advance the interest of the cardinal *Chigi*, now pope, with whom he was known to have ancient disputes. He commended his person, as the true model of a perfect prelate, equal in modesty and integrity to the ancient fathers; which coming from the mouth of one known to be a very good judge of men, and his enemy, was looked upon as a confession, extorted by the certainty and evidence of truth, but had an effect very different from the intention of the author; who instead of gaining the opinion of meekness, which he sought, gave such a reputation to his enemy, as raised him to the throne, and was no advantage to himself.

The *seventh* [*Imperiali*] shews his disposition by his face, full of that sharp fierceness, which suits better with a soldier, than a cardinal; but his wit, diligence, and dexterity in business make amends for much greater faults. The second person that I mention in my list was the first that took notice of him, as an extraordinary man; and according to his custom, and nature, ever inclined to favour virtue, fought by all means to advance him. His choice and judgment is justified by his behaviour in all the charges that he hath borne; especially in that which he now executes, which is full of thorns. He shews himself as incorrupt as any of his predecessors, and of better dispatch than any: He is generally called, *a man of execution*. I believe that is a true character; his ready wit, and great boldness, are good ingredients for such a composition.

The *eighth* [*Rospigliosi*] is thought a good man, rather regular and methodical, in the management of affairs, than of extraordinary acuteness. His abilities are rather acquired by practice, than the gifts of nature. Others of this place, and age, apply their thoughts to business, and perhaps use a little poetry, for entertainment. Poetry is his principle business, other affairs come in by chance, and are performed, *par maniere d'acquit*. I do not hear of any great exception to him, but that he may be as likely to be chosen pope, as any other; and being known not to

have an active, dangerous head, may perhaps be advanced before those that are more eminent.

The *ninth* [*Pallotta*] hath, by long experience, gained great knowledge of business, and hath very good natural understanding, acute and comprehensive, but confused; and he is thought capricious, and fantastical. He speaks well of all things, and delights in nothing more than the sound of his own tongue. He doth as little want good intentions, as knowledge; but the length of his discourses renders him unfit for any business. Some think that proceeds from his earnest desire to be exact in all his actions, that makes him search so nicely into every thing, that comes before him. Others take it to be ostentation of wit and eloquence, and those are not wanting, who attribute all, to the greatness of his fancy and memory, which upon all occasions represent unto him such a multitude of species, that they perplex and confound his judgment, which naturally is not very distinct; so that every slight matter proves to him a most intricate labyrinth. Whatever the reason is, it is certain, he that I named last, save one, will dispatch twenty businesses, while he sticks upon one. This quality will keep him from being pope; in other respects, he might have good pretences.

The *tenth* [*Borromeo*] is a principal ornament to the college; few excel him, either in natural parts, learning, or innocence, and strictness of life; none in all those qualities. The faculty in which he most excels is the law. He drinks but eight ounces at a meal. His life in all things is proportionable unto this. In countenance and disposition, he resembles his great uncle, whose memory is so highly revered. His delight is in study, and conversation with learned persons. He yields to some of the college, in experience of state business, perhaps to none in qualities fit to make a great minister, unless a pure and strict conscience, be an obstacle and imperfection. If God gives him life, no head is more likely to wear the triple crown, since none deserves it better.

The *eleventh* [*Chigi*] is rather innocent than good, or good than wise. He could never have attained to that degree, by merit or industry, to which he is advanced by fortune. But he is to be commended, that he doth behave himself modestly in it. He thinks the use of pleasures is an advantage justly belonging to greatness, since he useth no ill means to procure them.

The *twelfth* [*Pio*] is more a gentleman, than a prelate, and would have been a gallant man in a secular court, or perhaps better in an army. Nevertheless he doth accommodate himself well enough to the life of an ecclesiastic. He doth not pretend to be very zealous, but lives very free from scandal. He is magnificent in his nature, and his riches give him good opportunity of shewing it. He is more courted by cavaliers than priests; and if he ever ascends into St. *Peter's* chair, he must be chosen for being of a frank, ingenuous, and good nature, as free from severity to others, as corruption in himself.

I here

I here fend your lordship what I promised in my last, thinking you would not be unwilling to know something of those persons, that have so great a part in the government of the world, *and of whom truth is seldom spoken.* Few strangers that come hither return any better informed than they came, *except priests;* and of them I have known none of our nation, but father *Courtney*, that knows any thing worth a straw. *And their reports are to be suspected, as from persons ordinarily partial, and governed more by the interest of the church, than by truth*:* often their judgments are perverted by malice, to particular persons, from whom they have received distaste. I am free from all biases. That which I say may be relied upon as truth, at least so far as the persons I mention have discovered themselves: *but I confess they may have secret qualities, very different from what I have mentioned.* I think the pictures of these eminent persons, would be good ornaments to your new building. I will send some of them with the books; more shall follow, if your lordship command me. The cardinal *Mazarini* doth still exercise the *Roman* wits. I send this satirical epitaph, written by a *Franciscan* friar, who being formerly a jesuit, residing at *Madrid*, was the first contriver of the revolt of *Portugal*, with the cardinal *Richlieu*. He is a native of that kingdom, and was with the ambassadors, when your lordship did visit them in the *Rue de Tournon*. He is much esteemed here, and I shall give your lordship some of his works. Your lordship will not wonder to hear I am weary, when you see what I have written, without ever rising from my chair. I desire your pardon for the errors, and if there be any thing of this kind, or any other, wherein I may serve your lordship, my diligence and obedience shall be testimonies, that I am

Your Lordship's, etc.
Alg. Sydney.

April $\frac{15}{25}$, 1661.

The lord of *Bristow* is at *Milan*, lodged in the palace, and treated liker to a king, than a person sent privately by a king. The princess he went to see is young and handsome, but as much inferior to her of *Modena* in beauty, as in birth. If the first be too nearly depending upon *Spain*, the other is without that exception, having some relation to *France*. I leave it to men that are at present in business to judge, whether such ties are reasons for or against taking either of them. This court would be more pleased to see one of these two princesses crowned in *England*, than any other.

* — Why seek we truths from priests?

The smiles of courtiers and the harlots tears;

The tradesman's oath, and mourning of an heir,

Are truths to what priests tell——

Lee.

The *Roman* clergy are a confederacy of deceivers, that to obtain dominion over other men, endeavour by mystery and nonsense to extinguish in them *both the light of nature and the gospel.*

Memorable Sayings of *Thomas Hobbes* of *Malmesbury*.

They neither plough nor sow; and yet they reap

The fat of all the land, and suck the poor.

Shakespeare.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I wrote so much to your lordship the last week, that I might have a very just excuse for being silent now; but some of my friends telling me, you are not displeas'd with the relation of such little things here, as come to my knowledge, I will send them very constantly, desiring your lordship to believe, that when you do not receive them, I am either sick, out of town, or hindered by some inevitable accident, or that my letters miscarry, for as long as I am able to write, and in town, I will not omit it; unless I find, that, instead of service, your lordship looks upon my letters as a trouble.

On *Thursday* last the pope went to *Castle Gandolpho*, a pleasant place, seated in the hills, twelve miles from hence. There are fine walks, which he useth much, both for delight, and preservation of health. I am sorry to hear your lordship hath neglected that help, which being one of the best that hath been found out amongst men, I fear you will find the want of it. The skill of preserving health is in great perfection in this place, exercised most upon old men. Little purging physic is used; things that are cooling, and desiccative, are most chosen. Their rules are reduced to these two principal heads; a slender diet, and much exercise. An old cardinal the other day told me, that in other places exercise was good, *citra sudorem*, but in *Rome*, by reason of the grossness of the air, it must be used *usque ad sudorem*. Besides the natural desire of living long and well, they are invited unto a more than ordinary care, by hopes of advancing their fortune; few attaining unto any great matter here, until they come to be old. Cardinal *Sacchetti* is now in his seventy fifth year, and doth ordinarily walk three or four miles, without resting; by which means, he enjoys a prosperous health, and preserves his wits fresh, and clear, as in his youth. The cardinal *Mazarini's* obsequies, were the last week celebrated with great solemnity, in a little church which he had built. The funeral oration was made by *Pere Leon*, a *French Carmelite* friar, of great fame for learning, and prudence in affairs of state, in which he had been much employed. There were present the cardinals *Antonio Barbarini*, *Sforza*, *Grimaldi*, *Astalli*, *Este*, *Ursini*, *Mancini*, *Albizzi*, and *Colonna*; the seven first, as declared of the *French* faction, *Albizzi* something inclined to it, and a friend to his person; *Colonna*, by reason of the new alliance contracted between their families; and the first step the dead person had made towards being known in the world, was by being a servant unto him when he was nuncio in *Spain*. It is said, young *Julio* at that time fell in love with a common whore at *Madrid*, who having gained some money by her trade, he did intend to marry her, and propos'd unto his master that design, as a thing which he thought of great advantage; but *Colonna* knowing that after he had made that step, he could never hope for any higher preferment, than to be a bawd to his wife; having no other way of diverting him, under pretence of honouring him with a
packet,

packet, sent him into *Italy* with one, that contained little more than the discovery of his design, and advice unto his father, not to suffer him to return into *Spain*. The last week the cardinal *Guidone* came into town, and was to have received the hat from the pope's hand at a public consistory; but his health is so ill, that it is thought more likely, that he will rather soon leave unto his holiness the disposal of his cap, than receive the hat from him. I did receive draughts of these two enclosed writings from sir *J. Temple*, with direction to have them written out, and sent unto your lordship, signed and sealed, which I herewith have accordingly performed. I confess the intention of them is unknown to me, and not at all explained by him. Thus much only I do understand, that the lands are worth more than double the sum for which they were mortgaged, and that I can either sell them outright to the persons, or redeem them, by paying the money hereafter, and have the overplus unto myself, which is the best part of that poor fortune which I have left in the world; but I know my interest is never so safe, as in your lordship's hands; and not doubting, but that your lordship's intention is to favour me, and not to make use of such a power to my prejudice, I here inclosed, as the utmost act of resigning myself into your power, send them unto you. I have at this time little to say, and am troubled with one of my ordinary fits of the headache, which persuades me to conclude, desiring your lordship ever to look upon me, as

Your Lordship's, etc.

Alg. Sydney.

Apr. 22,
May 2. 1661.

I did intend to have said no more; but it is a folly to conceal the evils that oppress me. I have with difficulty wrote this; and the troubled thoughts into which the letters received by the last post have cast me, give me not easily the liberty of saying more. *The misfortunes into which I was fallen, by the destruction of our party, did not shake me.* The cheats and thefts of servants, were too ordinary to trouble me. I suffered my mother's legacy to be drawn from me, upon which I might have subsisted a good while. I was not very much surprized to find myself betrayed, and robbed of all that with which I had trusted lady *Strangford*, but I confess, that I am sorely troubled to find, that sir *J. Temple* is going into *Ireland*; the agreement which he had so often said should be made with *Strangford* broken; from which I might expect some part of what is due unto me, to live upon; the mortgage to the earl of *Thanet* to continue upon *Andrews's* land, which is the forest mischief that ever fell upon me since I was born, and that I was so often promised should be taken off, and put upon *Portling* lands, as it ought to be: and by all these means together, I find myself destitute of all help at home, and exposed to all those troubles, inconveniences, and mischiefs unto which they are exposed, who have nothing to subsist upon, in a place far from home, where no assistance can possibly be expected, and where I am known to be of a quality, which makes all low and mean ways of living

shameful and detestable. These are part of the evils with which I find myself encompassed, and out of which I see no issue; nor can I make one step, that is not as likely to prove my destruction as preservation. It will not, I think, be thought strange, that I am sensible of them, since he that is not must be an angel, or a beast: my only hope is, that God will some way or other put an end to my troubles, or my life. No bookseller in *Rome* hath the life of cardinal *Vincentius Laureus*; but I found it in cardinal *Barbarini*'s library, and borrowed it to read, which I did yesterday in two hours, walking in the garden of *Montalto*. It appears to me a slight thing, written by the abbot of *Pinarol*, rather to shew his gratitude to his master, than to do any great good in the world. When he came first to *Rome*, he put himself into the service of cardinal *Cozentinus*, who, at that time also, had *Ugo Buoncompagnus*, who was afterwards pope *Gregory XIII.* *Cozentinus* dying, he was entertained by cardinal *Gaddius*; after his death by the cardinal *de Tournon*; by him, and the princes of the house of *Guise*, employed unto *Lanex*, general of the jesuits, in their design of giving the crown of *France* to the king of *Spain*. That design soon vanished, as a vain thing, and was peremptorily refused by *Pere-nottus*, ambassador of *Spain*. *Tournon* dying, he came to the service of *Anthony* king of *Navarre*. After a few months, his death left him free to seek a new master, who proved to be *Hippolitus d'Este*, cardinal of *Ferrara*; with him he returned to *Rome*, after the death of *Pius Quartus*, pope, to be at the conclave, where *Pius Quintus* was chosen. *Vincentius* was by this pope made bishop of *Mons Regalis*; designed nuncio into *Scotland*; advanced as far as *Paris*; detained there by letters from queen *Mary*, whose troubles then began, and never ended. Some relation is made of her actions, with less asperity than is used by *Buchanan*; but the main matters of which he accuseth her, confesseth, mitigated only as effects of human frailty; and all salved at last, with dying a catholic. After this, he was sent by the same pope nuncio unto *Emanuel Philibert*, duke of *Savoy*. And, upon *Henry* duke of *Anjou* being chosen king of *Poland*, sent to congratulate his election, and to reside as nuncio with him, when he came into his kingdom. *Henry* not remaining there long, the *Polanders* came to a new election, *Vincentius* did industriously favour the pretences of *Maximilian* the emperor, by whose slackness the design failed, when it was brought almost to maturity. *Stephanus* being chosen, and *Maximilian* dying, he remained some time nuncio in *Poland*: from thence was sent the second time into *Savoy*, while the dispute was about the marquifate of *Salusses*. At this time he was made cardinal by *Gregorius XIII.*, his ancient companion; who dying soon after, *Vincentius* went to *Rome*, and received the hat from the hand of *Sixtus Quintus*, and was then made protector of the queen, and nation of *Scotland*. A few days after, he received the queen's will, made the day before her death; wherein she gave the crown of *England* to the king of *Spain*, if her son would not turn catholic. After this, nothing is reported that is memorable, but his pretension to be pope in the conclaves, wherein *Vrban VII.* and *Greg. XIV.* were chosen: both disappointed

disappointed by the *Spaniards*, from whom he expected the greatest assistance. I have here sent your lordship an epitome of this book: if yet you care to have it, I will cause it to be written out.

In one of these writings sent me by sir *J. Temple*, the lands lying within *Ripton Park*, called *the Hoods*, were mentioned as mortgaged, with *Boineton*, to the earl, which is not true; but were long since sold outright, which made me leave that out of the writing I sealed, which in all other respects is according to the draught that was sent me.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

The last week I did not write into *England*, being employed at the time the post went away, in settling my small affairs upon my remove hither. By the civility of a stranger, I find myself at present as well as I can be, until the time come that I may conveniently return to my own country. The prince *Pampili*, nephew to the last pope, hath given me very convenient lodgings in his *Villa di Belvedere*, which is one of the finest of *Italy*. Whilst every body at *Rome* is panting and gasping for life in the heat, which they say this year is much greater than ordinary, I enjoy so fresh an air, as to have no reason at all to complain of the sun. Here are walks and fountains in the greatest perfection, and though my natural delight in solitude is very much increased this last year, I cannot desire to be more alone than I am, and hope to continue. My conversation is with birds, trees, and books: in these last months that I have had no business at all, I have applied myself to study a little more than I have done formerly; and though one who begins at my age cannot hope to make any considerable progress that way, I find so much satisfaction in it, that for the future I shall very unwillingly (though I had the opportunity) put myself into any way of living that shall deprive me of that entertainment. Whatever hath been formerly the objects of my thoughts and desires, I have now intention of seeking very little more than quietness and retirement. This place is about half a mile from *Franscati*, where there hath been store of company this spring, but they are almost all returned to *Rome*, and the rest within a few days will follow; there being an opinion, that after the latter end of *June* it is extremely unwholesome to go from hence to *Rome*, until the air be purged by the rain, which ordinarily comes in *October*, which is enough to persuade every one to return, *it being hard to find a man here that doth not make rules of health the principal care of his life*. The cardinal *Sacchetti* went from hence on *Thursday* last, having first with great civility offered me his *Villa*, with many conveniences in it, for this summer; but I being settled here, excused my remove. The constable *Colonna* was expected at *Rome* on *Friday* last, but he is detained at *Macerata* by the sickness of his wife. *Rome* is ever full of bitter tongues, and most of them are at present exercised against that young couple. They say, that at *Milan* he shewed no virtue that hath been eminent in his

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family,

LETTERS OF ALGERNON SYDNEY,

family, but good husbandry, and keeping himself *incognito*; was known only in shops by his exactness in examining prizes: and though his lady at first meeting passed twenty hours in bed with him, it is said she rose as pure a maid as when she laid down: to these are added a hundred ugly things of her, if it be possible, worse than are written from *Paris* of Mr. *de la Meillieray* and his sister. The duke de *Nevers* is returned into *France* without seeing her. His short stay and little business make people say his journey was only to visit *Diana Velitrona*, a courtesan, with whom he spent the most part of his time. He came hither with little reputation, and returned with less. The *Padre Oliva* (whom I have formerly mentioned to your lordship) is, by the general chapter of the Jesuits, chosen *Vicario Generale* of their order, with power to act without dependance upon the general, and assurance of succession if he outlives him. This election gives general satisfaction, certainly with reason, for he is a wise and worthy man. It is true, the chapter had no precedent for constituting an officer with such power; but it is confessed by all, that they have supreme authority in what belongs unto themselves; and the incapacity of the present general, not perfectly exempted from the gross *German* vices, did oblige them to use it. It is strange that man could ever come to be their chief, who never had one before that was not a very eminent person. Perhaps he was one that did appear *dignus imperio nisi imperasset*. The cardinal *d' Aragona* made his entry into *Rome* the last week, and is, as I hear, to receive the red hat to-morrow. It was said that he had lost great treasures in his passage by sea from *Spain*; but people begin to think that report was spread only for an excuse not to live in that splendor which is more suitable to his birth, dignity, and humour, than to his fortune. Others say he is rich enough, but that covetousness is more prevalent with him than his delight in ostentation; but all agree his greatest loss was some boxes of chocolate. The cardinal *d'Este* remains still at *Modena*, expecting the effect of his design formerly mentioned to your lordship. The prince *Mattia de' Medici* is expected every day at *Livorno*, with the young princess from *Marseilles*. The *Gran Duca* doth certainly intend to receive her with the greatest magnificence that in many ages hath been seen in *Italy*. I am

Your Lordship's, etc.

Francati, June $\frac{5}{13}$, 1661.

Alg. Sydney.

I did long since hear from my colleague sir *Robert Honeywood*, that all the bills charged by us upon the council from the north were ordered to be paid, and the same allowance until the time the goods were delivered; by which means the last bill which was for 600*l.* being money laid out equally between him and me, ought to be divided between us, and likewise the rest, which is near as much more. I wrote to him and sir *J. Temple* about this business, but could have no answer; so that I doubt he intends, as many others have done, to take advantage of my absence, and deal ill with me. I do not know how the order was granted, and therefore can do nothing in it. I beseech your lordship when you come to *London* to take a little care of it; he will be afraid to deceive me, if your lordship appear in it.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I have already once or twice written unto your lordship, since I came to this place; but I did not think it necessary to perform that duty so constantly, as whilst I was at *Rome* having nothing at all to say. I know nothing of what is done in the world, and have retired hither that I might know nothing, unless it be that which relates unto *England*; my friends there do, as it seems, think the knowledge of that would disturb my solitude, by making me as much a stranger unto all that is done there, as to the affairs of *China*. I left *Rome*, where I had made a great deal of acquaintance, to avoid the necessity of making and receiving visits, and live now as a hermit in a palace. Nature, art; and treasure can hardly make a place more pleasant than this. The description of it would look more like poetry than truth. A *Spanish* lady coming not long since to see this house, seated in a large plain, out of the middle of a rock, and a river brought to the top of the mountain, with the walks and fountains; ingeniously desired those that were present not to pronounce the name of our Saviour; lest it should dissolve this beautiful enchantment. We have past the solstice, and I have not yet had occasion to complain of heat, which in *Rome* is very excessive, and hath filled the town with sickness, especially that part of it where I lived. *Here is what I looked for, health, quiet, and solitude. I am with some eagerness fallen to reading, and find so much satisfaction in it, that though I every morning see the sun rise, I never go abroad until six or seven of the clock at night; yet cannot I be so sure of my temper, as to know certainly how long this manner of life will please me. I cannot but rejoice a little to find, that when I wander as a vagabond through the world, forsaken of my friends, poor, and known only to be a broken limb of a ship-wrecked faction; I yet find humanity and civility from those who are in the height of fortune and reputation. But I do also well know, I am in a strange land, how far those civilities do extend, and that they are too airy to feed or clothe a man. I cannot so unite my thoughts unto one object, as absolutely to forbid the memory of such things as these are to enter into them; but I go as far as I can; and since I cannot forget what is passed, nor be absolutely insensible of what is present, I defend myself reasonably well from encreasing or anticipating evils by foresight. The power of foreseeing is a happy quality unto those who prosper, and can ever propose to themselves something of greater felicity than they enjoy; but a most desperate mischief unto them, who by foreseeing can discover nothing that is not worse than the evils they do already feel. He that is naked, alone, and without help in the open sea, is less unhappy in the night, when he may hope the land is near, than in the day, when he sees it is not, and that there is no possibility of safety. Perhaps, sharp-sighted people might, in a condition like unto mine, find more occasion of trouble than I do. I find stupidity an advantage; nature hath given me a large proportion of it, and I did artificially encrease it to that degree, that if I were not awakened with the bitter*

LETTERS OF ALGERNON SYDNEY,

sense of some mischiefs that the Lady *Strangford* hath brought upon me (which sir *John Temple* ever made me hope he would remove) I should rest well enough at ease, in a dull indolence, and never trouble myself with the thought of examining where I should have bread for three months. This may shew your lordship into what state nature and fortune have brought one that received life from you. I have not much to complain of (unless in that one point I mentioned) less to desire, and least of all to be pleased with. Whilst I was in *Rome* I wrote letters without much pain, since I had not so divided my time as to be very sensible of losing an hour or two; now I am alone time grows much more precious unto me, and I am very unwilling to lose any part of it. I think this a lawful excuse for writing seldom to your lordship, only when I have nothing to say that you can care to hear; if it were otherwise, I would wave all respects to entertain you. I need make small apologies to my other friends; their silence commands mine. I am

Your Lordship's, etc.

Alg. Sydney.

Francisci, $\frac{\text{June } 23}{\text{July } 3}$ 1661.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I write constantly to your lordship, at the least once a fortnight; though I have not so much as the encouragement of knowing you do receive my letters or would have me write. Whilst I was at *Rome* I thought it more probable your lordship would have me write than not, because I had sometimes something to say, that perhaps you would not be unwilling to hear; but that now failing, I am inclined to think my silence would please you best, and therefore am persuaded to make my packets fewer and lighter than formerly. I have extreme little to say, because I neither do any thing, nor know what is done by others. I intend this half burial, as a preparative, be an entire one; and shall not be much troubled though I find, if upon the knowledge of my manner of life, they who the last year at *Whitehall* did exercise their tongues upon me, as a very unruly headed man, do so far change their opinion of me, on the sudden, as to believe me so dull and lazy as to be fit for nothing. When that opinion is well settled, I may hope to live quietly in *England*, and then shall think it a seasonable time to return. I have some inclinations this autumn to go to *Naples*, and from thence to *Sicily* and *Malta*, and to pass the winter in some of those places, and return to *Rome* in the spring. It is not usual for me to look so many months before hand, nor possible to extend my sight any further. I must then know from my friends at home, whether it be yet time to return thither; I have ever had it in my thoughts to choose that before any thing; but if it be still inconvenient for me to take that resolution, I must then think of making another pause at *Rome*, or some other place, that may prove convenient. I wrote two or three letters to your lordship; which deserve at least so much of an answer, as to know what your
lordship

lordship will do in the subject of the one, and what directions you will be pleased to give me in those things I mentioned in the other. The first was accompanied with two deeds, of which I received draughts from sir *John Temple*, wherein I did make over unto some of your servants my right of redemption in two farms at *Swingfield*, hoping that your lordship will be pleased to redeem them. In the other, I sent a list of books, desiring your lordship's commands for providing so many of them as should please you. I should also be glad to know whether you received that wherein I mentioned the 12 cardinals. I give your lordship many thanks for the money sent me by Mr. *Hoskins*. I have received his bill, directed to the son of the old parson, who hath dealt so ill with me concerning that, and a little more money which was sent to me, that I think I shall be forced to protest the bills. I am glad your lordship hath the black gelding, I think he may be fit for your service, for which he was first intended; if I have any other young horses, or breeding mares, that may yet be useful, I beseech your lordship to send some body down to the place where they are, and take as many as he likes. I know this is not now so much as a compliment, for they will be worth nothing to me; they that have robbed me of almost all I had will not leave me any thing that is worth taking: before all be gone, I wish your lordship would take so many as you shall care to have. I am sure there were good store of mares and colts, and I believe the best in *England* of that kind; but I do not know what remains. I did also many months since, send to Mr. *Hoskins* to present your lordship with my fables; but I hear nothing of the receipt of my letter; if it miscarried, I do by this desire your lordship to command him to deliver them to you. If I knew in what I might be serviceable to your lordship, I would be very industrious in improving any opportunity. I am

Your Lordship's, etc.
Alg. Sydney.

July $\frac{14}{24}$, 1661.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I have written an extreme long letter unto your lordship, concerning a business of yours, I now begin another relating unto myself. I received the last week a letter from Mr. *Hoskins*, who said, that young *Culpepper* had a regiment of those men reported to be raised for the service of the emperor, who bid him tell me, that if I would engage myself in that business, I might have a good employment. I am not much inclined to believe those men are intended for that service, nor that those who dispose of the commands *will be willing to employ me*; nor if they were, should I rely much upon the judgment of him that sent the message, nor enter far upon the treaty of a business of such importance with him that conveyed it. I did therefore return no other answer unto him, than that I was not in a condition to refuse a good employment; and if I might know in what company, and upon what terms I might have it, I would return a

speedy

speedy answer. I have reflected upon this business since I wrote that letter, and joining it with some other circumstances that have come to my knowledge, I incline to believe the proposer did follow the directions of some person more important than himself, rather than his own opinion, which persuades me to send a better answer. If there be any thing of reality in the proposition, I can ascribe it only to the desire that those in power may have, to send away those that are suspected by them. They shall have their end; I will serve them in it, if they please, and upon more easy terms than will be expected by others. I will undertake to transport a good strong body of the best officers and soldiers of our old army, both horse and foot. Though the obtaining of this would be a very considerable advantage unto me, and some of my friends, I do not ask it as a favour; *I know neither they nor I shall receive any thing upon that account.* The first that I ever did ask, and the least that I ever can ask, (I mean assurance of being permitted to live quietly for a few months at *Penshurst*) not having been granted, I am like to make few requests for the future. But as I think that the advantage which the king expects by ridding the land of those persons, is the motive upon which the offer was made, I believe it to be a very considerable one, for they who find themselves suspected may possibly grow unquiet; the destroying of them will be a work of time, and not without difficulty and danger, and it cannot be expected, that they will of their own accord leave their country, unless it be with some man, of whom they have a good opinion, and all those are as little favoured as I am. I desire your lordship to send for *Culpepper*, and know of him upon what ground he made the proposition, and then to proceed as you shall think fit. If it be granted, it is well, and I hope to carry those who will gain honour unto the nation, wheresoever they go, and either find fortunes for themselves, or graces, which is as good, and it will be very suitable unto my intention, who as I told you in a letter about three weeks since, have thoughts of passing the next summer as a volunteer in *Hungary*. I doubt your lordship will be unwilling to propose this, lest it should make the king or his ministers believe that I am upon better terms with my old companions than you would have them think me. I desire your lordship to wave that scruple; *I have credit enough with them for such a business as this is; and if I were not thought at court to have far more than I have, they would not trouble themselves with me so much as they do.* Whatever it is, I desire to make use of it, to carry me, and a good number of those in the same condition, so far from *England*, that those who hate us, may give over suspecting us. I am

Your Lordship's, etc.
Alg. Sydney.

Brussels, $\frac{1}{11}$ Dec. 1663.

I desire your lordship will be pleased to send me an answer of this business as soon as you can, and to communicate this unto lord *Sunderland*.

LETTERS OF A. SYDNEY
TO HENRY SAVILE
AMBASSADOR IN FRANCE.

LETTERS OF ALGERNON SYDNEY

TO HENRY SAVILE AMBASSADOR IN FRANCE*.

Sir, London, Feb. $\frac{3}{13}$, 1678-9.

I hope you will be so just unto me, as not to think I gave over writing unto you during the sitting of the parliament, because I did not in a good while receive an answer unto my first letter. *I seldom stand upon such ceremonies, and never with those who have obliged me, as you have done.* The truth is, some of your friends, and mine, were so entangled in business then upon the stage, that I could say nothing to the purpose, without mentioning them; and the parts they had taken upon themselves were such as I was unwilling to relate. The result of all this is, that the lord Sunderland is out of his place and the council: the lord Conway succeeds him, and hath the seals. Essex is also put out of the council and lieutenancy of Hertfordshire, upon presenting a petition from the lords. Godolphin hoped to have had the honour of accompanying them in their disgrace; but Temple only hath it. The council being hereby weakened is reinforced by the admission of the earls of Oxford, Chesterfield and Aylesbury; and it is hoped that, to render it complete, the lords Berkeley, Craven and Arundel of Trerice, shall be called. The lord Halifax is gone to ruminate upon these matters at Rufford, and says he will not return southward, until the parliament meet at Oxford. The fruits expected from the last parliament having been lost by little underhand bargains, and, as some say, the king and parliament equally betrayed by those that were trusted by them, mens minds seem to be filled with various conceits, and many jealousies. Some think, the writs for calling the parliament are in themselves void, as being without advice of council; and that the law takes notice of nothing done by the king, *sine sapientum et magnatum consilio*: or that if it should meet at Oxford, its acts would be void, or subject to be vacated for want of the freedom of voting, which is essential unto it. Others say, the validity of the writs depends solely upon the *person* of the king, and that others ought to think themselves safe, where he is safe, though their danger be from him. I know not what this will produce, but I never saw mens minds more heated than at present; and cannot think that portends less evil than the *comet*. People are every where busy in choosing parliament men of their own principles, and they will probably be like unto the last; but it is thought, many officers will be prevailed with to make *false returns*. I hear of no election passed, but that of *Amersham*. Of those who by the last parliament were there judged capable of giving their voices, Sir Robert Hill had forty; Mr. Sydney seven and thirty; Sir Joseph Drake twenty eight; Mr.

* Henry Savile was younger brother to George Lord Halifax, created afterwards earl, and marquis of Halifax.

Cheyney twenty nine; but the constables have been pleased to return the two latter. To-morrow is appointed for the election of the *city-members*, who, people believe, will be the same as formerly. Some think his royal highness * hath business enough to employ his thoughts: others say, he is at such perfect leisure, that the maid of honour, who accompanied him, cannot employ all his spare time; and for that reason, or to give her time to lay aside something that troubled her, he applies himself to a young gentlewoman, who with much respect and gratitude, receives the honour he is pleased to do her; but she hath an old crabbed husband, who doth not take that for a just recompence of the great respect he hath shewed unto his royal highness, and is not likely to learn better manners from his Presbyterian brethren.

Notwithstanding what is said, we good subjects hope all will go perfectly well. His majesty, as is said, resolves to reform his court, that all shall be of one mind. Mr. Seymour, being now looked upon as the greatest man, brings his two friends Conway and Ranelagh into the management of business; and the first of these being as eminent for fineness of wit, quickness and easiness in state affairs, as the other in the excellency of all moral virtues, things cannot but go well; and we particularly hope that England will keep up its reputation of being, as the cardinal Pallavicini says, the *mother and nurse of the best wits in the world*, when all foreign ministers shall come to treat with Jenkins and Conway, who will be taken for patterns of the genius of the nation, and not thought the only men it produceth, that deserve the highest praises; and lest any thing should be wanting, Mr. Hide is joined unto these. It is true that we have not of our nation, a man to put at the head of the soldiers, as admirable in military skill and virtues, as those above-mentioned are in civils and morals: but the knowledge of our own defects, the sagacity of discovering in the earl of Feversham the qualities which we have not, and the prudent humility of submitting unto him that is blessed with them, though a stranger, deserves some commendations: and I am confident, *that when things shall be brought unto such order, that a Papist may appear open-faced*, we shall shew as great respect unto the lord Dunbarton. France and Germany, that are full of their trophies, cannot but admire this, whilst we rest secure under their shadow. Fit men may more easily be found for less eminent places; and the earl of Thanet, as is said, shall succeed Mr. Russel in the command of the foot guards. Civil and military affairs being thus settled, treasures flowing in unto us on all sides, and all foreign princes, concerned in our affairs, being sure unto us, we need not fear a few *discontented lords*, a *mutinous city*, or *murmuring counties*; and presuming that the vast ma-

* See where the duke in divan damn'd does sit,
To's vast designs racking his pigmy wit;
Whilst a choice senate of th' Ignatian crew
The ways to murder, treason, conquest shew.

State Poems by A. Marvell.

TO HENRY SAVILE AMBASSADOR IN FRANCE

5

gazines of arms made at Brest, and some that with a good quantity of ammunition were lately sent into *Ireland*, are in pursuance of agreements made with you, we cannot but think all will tend to our good. I am

Your most humble and faithful servant.

Sir,

London, Feb. 10, 1678-9.

I hope you will excuse the trouble I give you, in enclosing this, and desire you to send it forward into Gascony. It is a climate where I cannot be suspected of sending any thing of a dangerous nature; but we have so many at the post-house infected with the most impertinent folly, that a packet though directed thither can hardly pass unvisited, unless the person to whom it is directed do protect it.

The last resolutions of the city, have been as pleasing to the county as distasteful to the court. Yesterday the company of artillery intended to have chosen prince Rupert to be their captain, and Sir Thomas Player their leader; but a letter was produced from the king, rather desiring than commanding that no new officers should be chosen; and they, *having no constitution beyond an act of king and council, depending upon his majesty's will, did unwillingly obey.*

Parliament-men are for the most part chosen by the parties most contrary to the court, and many believe this next house of commons will not be at all more pliable than the last. Sir William Waller and Poultney were this day chosen at Westminster without any opposition. Col. Titus and Sir Thomas Proby were with the same facility chosen knights of Huntingdonshire; Hambden the elder, and Wharton, of Buckinghamshire; with a multitude of others.

The lady Portsmouth is said to have entirely recovered her lost favour. The earl of Sunderland is at his house in Queen-street. The lady Halifax, on Tuesday, followed her lord to Rufford. I am,

Your most humble and faithful servant.

Sir,

London, April ⁷/₁₇, 1679.

Being conscious unto myself, that what I could say of business now upon the stage would be of little use unto you, I thought it fitter for me to be one of the last in writing to you, than to take place according to my desire of serving you, which would suffer me to yield to none; but lest this acknowledgment should be taken for a pretence to cover laziness, I will here give you such a sight of things as I have; and intend to continue to do the like as often as I can without troubling you. You will have heard from all hands, what temper the house of commons appears to be of, and that the earl of Danby hath accomplished his promise of bringing it into an entire subjection unto the king's will, as well as the other two points,

of paying his majesty's debts, encreasing his treasure, and rendering him considerable among his neighbouring princes; which are verified in leaving twenty two shillings and ten pence in the exchequer, two and forty hundred thousand pounds of passive debts, and the revenue anticipated for almost a year and half, and the account his lordship was pleased to give in his speech to the peers, of the esteem the king of France had for his person and government. Notwithstanding all this, he is so far considered at court, that his concernments are a general obstruction to all businesses. The lord Berkeley, Frécheville, and others of the learned, think he hath behaved himself so well, as to deserve no punishment, and therefore opposed the commitment of the bill of attainder, that it might be cast out: Shaftsbury, Essex and Halifax differing something in opinion from them, in compliance unto the king's desires, did, as an amendment, wipe out the word *attainder*, and made it almost the same with that which their lordships had formerly sent up to banish him, and declaring him attainted only if he came into England after the first of May next: the consideration of which business is likely this day to possess the house of commons, and if their mind be known before this letter be sealed, it shall be inserted.

The next important point likely to be pursued is, to prosecute the last week's vote, *that all the forces now in England, * except the trained bands,*

[* *Except the trained bands, were kept up contrary to law.*]

Sir Robert Atkins, in his remarks on Lord Ruffel's indictment, wherein *the attempting to seize and destroy the king's guards was laid as an overt act of treason*, asks, "The guards, what guards? what or whom does the law understand or allow to be the king's guards, for the preservation of his person? Whom shall the court that tried this NOBLE lord, whom shall the judges of the law that were then present and upon their oaths, whom shall they judge, or legally understand by these guards? They never read of them in all their law books. There is not any statute law that makes the least mention of any such guards; and therefore the indictment is uncertain and void.

The king is guarded by the special protection of Almighty God, by whom he reigns, and whose Vicegerent he is. He has an invisible guard, a guard of glorious angels.

Non eget Mauri jaculis, neque arcu,

Nec venenatis gravidâ fagittis,

Crede, pharetrâ.

The king is guarded by the love of his subjects, the next under God, *and the surest guard*. He is guarded by the Law and the Courts of Justice. The Militia and the *Trained Bands* are his legal guard, and the whole kingdom's guard. The very Judges that tried this noble Lord were the King's guards and the Kingdom's guards; and this Lord Ruffel's guard against all erroneous and imperfect indictments, from all false evidence and proof, from all strains of wit and oratory misapplied and abused by Council.

What other guards are there? We know of no law for more. King Henry VII. of this Kingdom, as history tells us, was *the first* that set up the Band of Pensioners. Since this, the Yeomen of the Guard; since them, certain armed bands, commonly now a days, *after the French mode*, called the King's life guard, rid about, and appearing with naked swords to the terror of the Nation: but where is the law? where is the authority for them?

See "Parliamentary and political tracts" by Sir Robert Atkins, [*the upright*] Lord chief Baron of the Exchequer, in that tract intitled "A Defence of the late Lord Ruffel's innocency." p. 359.

Our *trained bands* are the trustiest and most proper strength of a free Nation not at war within itself. Eikonoklastes of John Milton.

bands, were kept up contrary to law; and though it was objected that the king's guards and the garrisons of Portsmouth and other places would be included, it was answered, *that kings governing justly according to law had no need of custodia corporis*; and that it was better to have no garrisons at all, than such as were commanded by Legg, Holmes, and their peers.

The controversy concerning the election at Grinstead, was determined at the committee in favour of Mr. Powell, chosen by the commons, and Thomas Pelham, by the major part of the corporation, no complaint being made against him. Powell choosing to stand as he is chosen for Cirencester, the dispute upon the new election is like to be between Scroggs and Sir Thomas Littleton, who is like to have the assistance of the Dorset family, the Pelhams, and some others. On Friday last, the same committee voted the right of election at Windsor to be in the commons; and that Ernely and his companion having been unduly chosen by the corporation, a new election should be made; but the house approving of the first part only, annulled the election of Ernely and the other, and approved that of Windhood and Storkey.

All foreign affairs are at a stand, only Van Beuninghen takes great pains to make people believe the king of France intends to add England unto his other conquests, and disabuse such as were so foolish as to believe there was any thing of truth in the reports of those that had spoken of the popish plot; and finding me infected with the same opinion, with some of my friends, he was pleased to spend two hours the other day in the park, to convince me of my error, in which he did succeed as well as he used to do in his great designs.

The king certainly inclines not to be so stiff as formerly *in advancing only those that exalt prerogative**; but the earl of Essex, and some others
that

[* *In advancing only those that exalt prerogative.*]

Noble Venetian. Now, Sir, I think we are at an end of our Questions, and I, for my part, am convinced, that as the King cannot better himself any way by falling out with his people at this time, so that his goodness and wisdom is such, that he will rather choose to imitate the most glorious and generous of his predecessors, as Edward the first and Edward the third [who, it had been before observed, had very great demands made them by Parliaments *and granted them all*] than those that were of less worth and more unfortunate, as Edward the Second, and Richard the Second. And therefore we are now ready to hear what you will think fit to ask of so excellent a prince.

English Gentleman. I never undertook to be so presumptuous. There is a parliament to sit speedily, and certainly they are the fittest every way to search into such matters; and to anticipate their wisdom would be unreasonable, and give them just offence. But because all this tittle tattle may not go for nothing, I shall presume to give you my thoughts how the cure must be wrought, without descending to particulars. *The cause immediate, as we have said, of our disease, is the inexecution of our laws; and it is most true, that when that is altered for the better, and all our laws are duly executed, we are in health.* For as we never can have the entire benefit of them till our government is upon a right basis; so whenever we enjoy this happiness to have the full benefit of those constitutions which were made by our ancestors for our safe and orderly living, our government is upon a right basis; therefore we must enquire into the cause why our laws are not executed, and when you have found and taken away that cause, all is well. The cause can be no other than this, that the king is told and does believe, that most of these

that are coming into play thereupon, cannot avoid being suspected of having intentions different from what they have hitherto professed.

The earl of Ormond's miscarriages are so extreme, and his favour to the Irish so apparent, that few believe he can continue in the government of Ireland. Some speak of three justices and a good commander of the army, wholly fixed upon an English interest; but if a lieutenant be sent, I believe it will be Essex or Halifax.

That you may see the good humour we are in, I here inclosed send you a piece of poetry given unto me by a friend of yours; and if you have not seen another, which is the speech of Hodge the clown from the
top

these great charters or rights of the people, of which we now chiefly treat, are against his Majesty's interest; *though this be very false*, as has been said, yet we will not dispute it at this time, but take it for granted, so that the King having the supreme execution of the laws in his hand, cannot be reasonably supposed to be willing to execute them whenever he can choose whether he will do it or no, it being natural for every man not to do any thing against his own interest when he can help it. Now when you have thought well what it should be *that gives the King a liberty to choose whether any part of the law shall be current or no*, you will find, that it is the great power the king enjoys in the government. When the Parliament has discovered this, *they will no doubt demand of his Majesty, an abatement of his royal prerogative in those matters only which concern our enjoyment of our all, that is our lives, liberties and estates; and leave his royal power entire and untouched in all the other branches of it*. When this is done, we shall be as if some great hero had performed the adventure of dissolving the enchantment we have been under for so many years; and all our statutes, from the highest to the lowest, from *Magna Charta* to that for burying in woollen, *will be current; and we shall neither fear the bringing in of Popery; nor arbitrary power in the intervals of parliament; neither will there be any dissensions in them; all causes of factions between the Country and Court party being entirely abolished, so that the people shall have no reason to distrust their prince, nor be them*.

Doctor. You make us a fine golden age; but after all this, will you not be pleased to shew us a small prospect of this Canaan or country of rest; will you not vouchsafe to particularize a little what powers there are in the King which you would have discontinued? Would you have such prerogatives abolished or placed elsewhere?

English Gentleman. There can be no government if they be abolished. But I will not be like a man who refuses to sing among his friends, at their entreaty, because he has an ill voice; I will rather suffer myself to be laughed at by you in delivering my small judgment in this matter, but still with this protestation, that I do believe, that an infinity of men better qualified than myself for such sublime matters, and much more the House of Commons, who represent the wisdom as well as the power of this Kingdom, may find out a far better way, than my poor parts and capacity can suggest. The powers then, which, now being in the Crown, do hinder the execution of our laws and prevent by consequence our happiness and settlement, are four. The absolute power of making war and peace; treaties and alliances with all nations in the world; by which means, by ignorant Counsellors or wicked Ministers, many of our former Kings have made confederations and wars, very contrary and destructive to the interest of England, and by the unfortunate management of them have often put the Kingdom in great hazard of invasion. Besides that, as long as there is a distinction made between the Court party and that of the Country, there will ever be a jealousy in the People, that these wicked Counsellors, who may think they can be safe no other way, will make alliances with powerful princes, in which there may be a secret article by which those Princes shall stipulate to assist them with forces upon a short warning to curb the Parliament, and possibly, to change the government. And this apprehension in the People will be the less unreasonable, because Oliver Cromwell, the great pattern of some of our Courtiers, is notoriously known to have inserted an article in his treaty with Cardinal Mazarin, during this King of France's minority, that he should be assisted with ten thousand

top of the pyramid, [*by A. Marvell*] I will endeavour to send it unto you.

The house of commons have this day presented unto the lords, the articles drawn against the five lords in the Tower. I also hear just now, that they do adhere to the bill of attainder of the earl of Danby, and will no ways admit of the lords amendments of it. One Reading, a lawyer, not long since offered four thousand pounds, and three hundred pounds a year in land to Bedloe, if he would disavow the testimony he had given against the lords of Powis, Bellasis and Peters; which being communicated unto prince Robert and the earl of Essex, he

men from France, upon occasion, to preserve and defend him in his usurped government, against his Majesty that now is, or the People of England, or in fine his own army, whose revolt he often feared. The second great prerogative the King enjoys, is the sole disposal and ordering of the Militia by sea and land, raising forces, garrisoning and fortifying places, setting out ships of war, so far as he can do all this without putting taxations upon the people; and this not only in the intervals of Parliament, but even during their session, so that they cannot raise the trained bands of the Country or City to guard themselves, or secure the peace of the Kingdom. The third point is, that it is in his Majesty's power to nominate and appoint, as he pleases and for what time he thinks fit, all the officers of the kingdom that are of trust or profit, both civil, military and ecclesiastical, as they will be called, except where there is Jus Patronatus. These two last powers may furnish a Prince who will hearken to ill designing Counsellors, with the means of either invading the government by force, or by his judges and other creatures undermining it by fraud; especially by enjoying the fourth advantage, which is the laying out and employing, as he pleases, all the public Revenues of the Crown and Kingdom, and that without having any regard, except he thinks fit, to the necessity of the navy or any other thing that concerns the safety of the public. *So that all these four great powers, as things now stand, may be adoperated at any time, as well to destroy and ruin the good order and government of the State, as to preserve and support it, as they ought to do.*

Noble Venetian. But if you divest the King of these powers, will you have the Parliament fit always to govern these matters.

English Gentleman. Sir, I would not divest the King of them, much less would I have the Parliament assume them or perpetuate their sitting. They are a body more fitted to make laws, and punish the breakers of them, than to execute them. I would have them therefore petition his Majesty, by way of bill, that he will please to exercise these four great *Magnalia* of Government, with the consent of four several Councils to be appointed for that end, and not otherwise; that is, with the consent of the major part of them, if any of them dissent. In all which councils, his Majesty, or who he pleases to appoint, shall preside; the Councils to be named in Parliament, first all the number, and every year afterwards a third part; so that each year a third part shall go out, and a recruit of an equal number come in; and in three years they shall be all new: and no person to come into that Council, or any other of the four, till he have kept out of any of them full three years, being as long as he was in. And this I learnt from your Quarantia's at Venice; and the use is excellent; for being in such a circulation, and sure to have their intervals of power, they will neither grow so insolent as to brave their King, nor will the Prince have any occasion to corrupt them, although he had the means to do it, which in this new model he cannot have. These men in their several Councils should have no other instructions, but to dispose of all things and act in their several charges, *for the interest and glory of England*; and shall be answerable to Parliament, from time to time, for any malicious or advised misdemeanour. Only that Council which manages the public revenue, shall (besides a very copious and honorable revenue which shall be left to his Majesty's disposal for his own entertainment, as belongs to the splendor and majesty of the government) have instructions to serve his Majesty (if

he

LETTERS OF ALGERNON SYDNEY

he brought Reading by their advice into a place, where two witnesses heard him; whereupon Reading was apprehended, and he having found means whilst he was in the serjeant's hands to send a letter to his wife, to be delivered to Mr. Chyvins (desiring to be admitted to the king's presence, promising to tell great matters) his majesty refers him wholly to the house of commons, and offers to issue out a commission of oyer and terminer for his trial, which will be very speedy, if he save not himself by discoveries: this morning a letter was intercepted written to him by his wife, wherein she tells him, that every body says he is a rogue, and if he doth not confess all, he will be hanged, and she together with her children ruined. I am,

Your most humble servant.

he pleases to command them and not otherwise) in the regulating and ordering his Oeconomy and Household; and, if they shall see it necessary, for extraordinary occasions of treating foreign Princes and Ambassadors, or presenting them, and the like ostentation of greatness, to consent with his Majesty moderately to charge the Revenue to that end. I verily believe, that this expedient is much more effectual than either the Justitia of Aragon was, or the Ephori of Sparta; who being to check the King almost in every thing, without having any share in his Councils or understanding them, could not choose but make a fullen posture of affairs: whereas these both seem and really are the King's ministers, only obliged by Parliament to act faithfully and honestly, to which, even without that, all other Counsellors are bound by oath. As for the other Council, now called the Privy Council, the King may still continue to nominate them at his pleasure; so they act nothing in any of the matters properly within the jurisdiction of these four councils, but meddle with the affairs of merchants, plantations, charters, and other matters, to which the regal power extendeth. And, provided, that his Majesty call none of the persons employed in these other four councils during their being so; nor that this Council do any way intermeddle with any affairs, criminal or civil, which are to be decided by law, and do belong to the jurisdiction of other Courts or Magistrates; they being no established judicatory or congregation, which either our government or laws do take notice of, as was said before, but persons congregated by the King, as his friends and faithful subjects, to give him their opinion in the execution of his regal office. As for example, the King does exercise, at this time, a negative voice as to bills presented him by Parliament, which he claims by right; no man ever said that the privy council had a negative voice; yet former Kings did not only ask their advice as to the passing or not passing of such bills, but often decided the matter by their votes; which, although it be a high presumption in them, when they venture to give him counsel contrary to what is given him by his great council, yet never any of them have been questioned for it, being looked upon as private men, who speak according to the best of their cunning, and such as have no public capacity at all. But if this be not so, and that this council have some foundation in law, and some public capacity, I wish in this new settlement it may be made otherwise, and that his Majesty please to take their counsel in private, but summon no persons to appear before them; much less give them authority to send for in custody or imprison any subject, which may as well be done by the judges and magistrates, who, if secrecy be required, may as well be sworn to secrecy as these Gentlemen, and I believe can keep counsel as well and give it too.

Noble Venetian. But would you have none to manage state affairs, none imprisoned for secret conspiracies, and kept till they can be fully discovered? You have made an act here lately about Imprisonments, that every person shall have his *Habeas Corpus*, I think you call it; so that no man, for what occasion soever, can lie in prison above a night, but the cause must be revealed, though there be great cause for the concealing it.

English Gentleman. This act you mention and a great many more which we have to the same purpose, that is, against illegal imprisonments, shews, that for a long time the

power

Sir,

London, April $\frac{21}{31}$.

You are so much afore-hand in obliging me when I most wanted a friend, that I cannot hope in a long time to pay my debt, though I were in a place that gave me more advantages, than any I can ever reasonably expect; but you may ever be sure of all that is within my reach. I write now in some haste, but am unwilling this post should go without a letter from me. I presume you know that the earl of Danby rendered himself to the black rod on Wednesday last; and that desiring of the lords at the bar, that for his health he might be suffered to continue under his custody; that he might have recourse, as often as occasion should require, to all
state

power over men's persons has been exercised, under his Majesty, by such as were very likely rather to employ it ill than well; that is, would rather imprison ten men for honourable actions, such as standing for the people's rights in Parliament, refusing to pay illegal taxes and the like, than one for projecting and inventing illegal monopolies, or any other kind of oppressing of the People. This made first *Magna Charta*, then the *Petition of Right*, and divers acts besides this last, take that Power quite away, and make the law and the judges the only disposers of the liberties of our persons. And it may be, when the Parliament shall see the fruit of this alteration we are now discoursing of, and that state affairs are in better hands, they may think fit to provide, that a return or warrant of imprisonment from one of these four Councils (which I suppose will have a power of commitment given them as to persons appearing delinquents before them) wherein it shall be expressed that the Public is like to suffer or be defrauded if the matter be immediately divulged, I say in this case, the Parliament may please to make it lawful for the Judge to delay the bailing of him for some small time; because it is not to be judged, that these counsellors so chosen and so intrusted, and to continue so small a time, will use their power ill, especially being accountable for any abusing of it to the next Parliament. And I suppose the Parliament, amongst other provisions in this behalf, will require that there shall be a register kept of all the votes of these several Councils, with the names of those who consented, as of such who dissented. As to the former part of your question, whether I would have none to manage State affairs? I think there are very few State affairs that do not concern either peace and war, and treaties abroad; the management of the arms, militia and posse comitatus at home; the management of all the public monies, and the election of all officers whatsoever. The other parts of State affairs, which are making and repealing of laws, punishing high crimes against the State, with levying and proportioning all manner of impositions upon the People, this is reserved to the Parliament itself; and the execution of all laws to the judges and magistrates: and I can think of no other affairs of State than these.

Doctor. Do you intend that the Council for choosing officers shall elect them of the king's household, that is his menial servants?

English Gentleman. No, that were unreasonable, except any of them have any jurisdiction in the Kingdom or any place or pre-eminence in Parliament annexed to such office. But in these things which concern the powers and jurisdictions of these several Councils, wherein LA GUARDIA DELLA LIBERTÀ, as Machiavel calls it, is now to be placed, I shall not presume to say any thing; but assure yourself, if ever it come to that, it will be very well digested in Parliament, they being very good at contriving such matters and making them practicable, as well as at performing all other matters that concern the interest and greatness of the kingdom.

Doctor. I have thought that the Ephores of Sparta were an admirable magistracy, not only for the interest of the people, but likewise for the preservation of the authority of the Kings and of their lives too. For Plutarch observes, that the cities of Messene and Argos had the same government with Lacedemon; and yet for want of erecting such an authority as was in the Ephores, they were not only perpetually in broils amongst themselves, and for that reason ever beaten by their enemies, whereas the Spartans were always victorious, but even their Kings were the most miserable of men, being often called in question judicially and so lost their lives, and many of them murdered by insurrections of the People: And at last in

state papers that were necessary to him in making his defence; that he might at once have a copy of all his charge, and be obliged not to answer to any part, until the whole were before him; and that he might have serjeant Weston, serjeant Raymond, Mr. Saunders and Mr. Holt assigned unto him for counsel: he received no other answer, than that if he told what papers he desired, the house would do as was usual in those cases; that the house of commons could not be abridged of the liberty retained to itself, of bringing in additional charges, if it were thought fit; that he might have for his counsel, such of those he had named as were not of the king's; and that he must be committed to the Tower, where Cheeke received

both these cities, the Kings were driven out, their families extirpated, the territory new divided, and the government turned into a Democracy. *And I ever thought that this expedient you propose, for I have heard you discourse of it often before now, would prove a more safe and a more noble reformation than the institution of Epbores was, and that a Prince who is a lover of his country, who is gracious, wise and just, such a one as it has pleased God to send us at this time, shall be ten times more absolute when this regulation is made, than ever he was or could be before; and that whatsoever he proposes in any of these Councils will be received as a law, nay as an oracle: And on the other side, ill and weak Princes shall have no possibility of corrupting men, or doing either themselves or their People any kind of harm or mischief. But have you done now?*

English Gentleman. No, Sir, when this provision is made for the execution of the laws, which I think very effectual not to say infallible, although it is not to be doubted, but that there will be from time to time many excellent laws enacted, yet two I would have passed immediately. The one concerning the whole regulation of the elections to Parliament, which we need very much, and no doubt but it will be well done. That part which is necessary to go hand in hand with our settlement and which indeed must be part of it, is, that a Parliament be elected every year at a certain day, and that without any writ or summons, the People meeting of course at the time appointed in the usual place, as they do in parishes at the Church-house to choose officers, and that the sheriffs be there ready to preside and to certify the election. And that the Parliament so chosen shall meet at the time appointed, and sit and adjourn as their business is more or less urgent; but still setting yet a time for their coming together again: but if there shall be a necessity, by reason of invasion or some other cause, for their assembling sooner, then the King to call the Counsellors of these four Councils all together, and with the consent of the major part of them, intimate their meeting sooner; but when the day comes for the annual meeting of another Parliament, they must be understood to be dissolved in law, without any other ceremony, and the new one to take their place.

Doctor. I would have this considered too and provided for, that no election should be made of any person who had not the majority of the Electors present to vote for him; so the writ orders it and so reason dictates; for else how can he be said to represent the County, if not a fifth part have consented to his choice, as happens sometimes and may do oftener? for where seven or eight stand for one vacant place, as I have known in our last Long Parliament, where the votes being set in columns, he who has held most votes, has not exceeded four hundred of above two thousand who were present.

Noble Venetian. This is a strange way. I thought you had put every man by himself, as we do in our government, and as I understood they do in the House of Commons, when there is any nomination, and then, if he has not the major part, he is rejected.

English Gentleman. This is very material and indeed essential; but I make no doubt, but if this project should come in play in Parliament, this and all other particulars which would be both needless and tedious to discourse of here, will be well and effectually provided for. The next act I would have passed, should be concerning the House of Peers, that, as I take it for granted, there will be a clause in the Bill concerning elections, that no new Boroughs shall be enabled to send Members to Parliament except they shall be capacitated thereunto by an act; so, it being of the same necessity, as to the Liberty of Parliament,

received him. Subtle men find great mysteries in his rendering himself, and make the king to be of the plot; but those that see no farther than I, believe he hath had in this, and all his businesses of late, no other counsel than his lady.

You will perhaps be surprized to hear, that yesterday the king did entirely dissolve his old privy council, and chose a new one, consisting of fifteen officers of the crown, ten lords, and five commoners; his majesty retaining unto himself the liberty of naming a president, calling such princes of the blood, as should be from time to time; and the secretary of Scotland for the time being, if he thought fit; declaring moreover, that

Parliament, that the Peers (who do and must enjoy both a negative and a deliberative voice in all Parliamentary transactions except what concern levying of money originally) be exempted from depending absolutely upon the Prince, and that therefore it be declared by act, for the future, that no Peer shall be made but by act of Parliament, and then that it be hereditary in his male line.

Noble Venetian. I am not yet fully satisfied how you can order your matters concerning this House of Peers; nor do I see how the contests between the House of Commons and them, can be so laid asleep but that they will rise again. Besides, the House of Commons must necessarily be extremely concerned to find the House of Peers, which consists of private persons though very great and honourable ones, in an instant dash all that they have been so long hammering for the good of all the People of England whom they represent. Were it not better, now you are upon so great alterations, to make an annual elective Senate, or at least one wherein the Members should be but for life and not hereditary.

English Gentleman. By no means, Sir, the less change the better, and in this case the metaphysical maxim is more true than in any, viz. *Entia non sunt multiplicanda sine necessitate*; for great alterations fright men and puzzle them, and there is no need of it at all in this case. I have told you before, that there is a necessity of a Senate, and how short this government would be without it, and how confused in the mean time. The Roman Senate was hereditary amongst the Patricii, except the Censor left any of them out of the roll during his Magistracy for some very great and scandalous offence; and in that case too there was an appeal to the People, as in all other causes, witness the case of Lucius Quintius and many others. To shew that there can be no need of such a change here as you speak of, you may please to consider, that all differences between the several parts of any government come upon the account of interest; now when this settlement is made, the House of Peers and the House of Commons, can have no interest to dissent: for as to all things of private interest, that is, the rights of Peers, both during the sitting of Parliaments and in the intervals, is left to their own House to judge of, as it is to the House of Commons to judge of their own privileges. And as for the contest of the Peers jurisdiction as to appeals from Courts of equity, besides that I would have that settled in the act which should pass concerning the Lords' house, I believe it will never happen more when the government is upon a right foundation; it having been hitherto fomented by two different Parties, the Court-party sometimes blowing up that difference to break the Session, left some good bills for the People should pass, or that the King by rejecting them might discontent his people, to avoid which *dilemma*, there needed no more but to procure some person to prosecute his appeal before the Lords: some honest Patriots afterwards possibly might use the same policy which they learnt from the Courtiers, to quash some very destructive bill in which they were out-voted in the Commons House. Otherwise it is so far from the interest of the Commons to hinder appeals from Courts of equity, that there is none amongst them, but know we are almost destroyed for want of it; and when they have considered well, and that some such reformation as this shall take place, they will find, that it can never be placed in a more honourable and unbiassed judicatory than this. And I could wish, that even in the intermission of Parliamentary sessions, the whole Peerage of England, as many of them as can conveniently be in town, may sit in their judicial capacities, and hear appeals in equity as well as judge upon writs of error. Now, as to your

that whenever any place should be vacant, he would name none without the advice of the council; and that the person named should be called by a letter subscribed by them all. To which he was pleased to add, That he would have no *first* or *principal minister*, no committee of foreign affairs, or cabinet council; but that in all things he would follow and rely upon their advice, next unto that of his great council, the parliaments, which was also specified in the letter sent by his majesty for the calling of every one of them, who are now to serve in council. The officers, who by their places are to be of the council (as I remember) are the chancellor, chief justice, privy seal, Ormond steward, Arlington chamberlain,

other objection, which is indeed of great weight, that the House of Commons must needs take it ill, that the Lords should frustrate their endeavours for the People's good by their negatives; if you consider one thing, the force of this objection will vanish, which is, that when this new constitution shall be admitted, the Lords cannot have any interest or temptation to differ with the Commons in any thing wherein the public good is concerned, but are obliged by all the ties of the world, to run the same course and fortune with the Commons, their interest being exactly the same: so that if there be any dissenting upon bills between the two houses when each of them shall think their own expedient conduces most to the advantage of the publick; this difference will ever be decided by right reason at conferences, and the Lords may as well convince the Commons as be convinced by them. And these contests are and ever will be of admirable use and benefit to the Commonwealth. The reason why it is otherwise now, and that the House of Peers is made use of to hinder many bills from passing that are supposed to be for the ease of the People, is, that the great Counsellors and Officers which sit in that House, do suggest, whether true or false, that it is against his Majesty's will and interest that such an act should pass, whereupon it has found obstruction; but hereafter, if our expedient take place, it cannot be so. First, because our King himself cannot have any designs going, as was proved before, which shall make it his advantage to hinder any good intended his people, whose prosperity then will be his own. And then, because in a short time the Peers being made by act of Parliament, will consist of the best men in England both for parts and estates; and those who are already made, if any of them have small estates, the King, if he had the interest, would not have the means to corrupt them, the publick monies and the great offices being to be dispensed in another manner than formerly: so their Lordships will have no motive in the world to steer their votes and councils, but their own honour and conscience and the preservation and prosperity of their Country. So that it would be both needless and unjust to pretend any change of this kind. Besides, this alteration in the administration of our government being proposed to be done by the unanimous consent of King, Lords and Commons, and not otherwise, it would be very preposterous to believe, that the Peers would depose themselves of their hereditary rights and betake themselves to the hopes of being elected. It is true, they have lost the power they had over the Commons, but that has not been taken from them by any law no more than it was given them by any, but is fallen by the course of nature, as has been shewn at large. But though they cannot lead the Commons by their tenures, as formerly, yet there is no reason or colour that they should lose their Co-ordination, which I am sure they have by law and by the fundamental constitution of the government; and which is so far from being prejudicial to a lasting settlement, as was said, that it infinitely contributes to it, and prevents the confusion which would destroy it. If I should have proposed any thing in this discourse which should have intrenched upon the King's hereditary right, or that should have hindered the Majesty and greatness of these kingdoms from being represented by his royal person, I should have made your story of the Capuchine fryar very applicable to me.

Noble Venetian. I see you have not forgiven me that novel yet. But pray let me ask you one question, Why do you make the election of great officers to be by a small secret Council that had been more proper for a numerous assembly, as it is in most Commonwealths?

English

chamberlain, Suffex, as first commissioner of the treasury, fir Henry Capell as first commissioner of the Admiralty, the chancellor of the exchequer, the archbishop of Canterbury and bishop of London, the two secretaries, and some others that I have forgot; but Newport and Maynard are none. The lords are, the dukes of Newcastle and Albemarle, the marquisses of Wincheſter and Worceſter, earls of Bridgewater and Salisbury, viſcounts Fauconberg and Halifax, barons Roberts and Hollys. Commoners are, the lords Ruffel and Cavendiſh, Mr. Powell, Mr. Seymour, and (as I hear) fir William Temple. I hear alſo ſeven commissioners named for the admiralty, fir Henry Capell, Merres, Littleton,

English Gentleman. It is ſo in Democracies, and was ſo in Sparta, and is done by your great Council in Venice; but we are not making ſuch a kind of government, *but reſtituting an ancient monarchy*, and giving the Prince ſome help in the adminiſtration of that great branch of his regality. Beſides, it is ſufficient, that our Parliament chooſes theſe Councils, that is always underſtood the Lords and Commons, with the King's conſent. Beſides, it is poſſible, that if ſuch a regulation as this come in debate amongſt them, the Parliament will reſerve to itſelf the approbation of the great officers, as Chancellor, Judges, General Officers of an army and the like; and that ſuch ſhall not have a ſettlement in thoſe charges, till they are accordingly allowed of, but many in the mean time exerciſe them. As to particulars, I ſhall always refer you to what the Parliament will judge fit to order in the caſe; but if you have any thing to object, or to ſhew in general that ſome ſuch regulation as this cannot be effectual towards the putting our diſtracted Country into better order, I ſhall think myſelf obliged to anſwer you if you can have patience to hear me and are not weary already as you may very well be.

Noble Venetian. I ſhall certainly never be weary of ſuch diſcourſe; however I ſhall give you no further trouble in this matter, for I am fully ſatiſfied, that ſuch Reformation, if it could be compaſſed, would not only unite all parties but make you flouriſhing at home and very great abroad. But have you any hopes that ſuch a thing will ever come into debate? What do the Parliament-men ſay to it?

English Gentleman. I never had any diſcourſe to this purpoſe either with any Lord or Member of the Commons Houſe, otherwiſe than as poſſibly ſome of theſe notions might fall in at ordinary converſation; for I do not intend to intrench upon the office of God, to teach our Senators wiſdom. I have known ſome men ſo full of their own notions that they went up and down, etc.——But yet to anſwer your queſtion and give you my conjecture. I believe we are not ripe yet for any great reform, not only becauſe we are a very debauch'd People; I do not only mean that we are given to whoring, drinking, gaming and idleneſs, but chiefly that we have a politique debauch, which is a neglect of all things that concern the publick welfare and a ſetting up our own private intereſt againſt it; I ſay, this is not all, for then the polity of no Country could be redreſt, for every Commonwealth that is out of order has ever all theſe debauches that we ſpeak of, as conſequences of their looſe ſtate. But there are two other conſiderations which induce me to fear that our cure is not yet near. The firſt is, becauſe moſt of the wiſe and grave men of the kingdom are very ſilent and will not open their budget upon any terms; and although they diſlike the preſent condition we are in as much as any men, *and ſee the precipice it leads to*, yet will never open their mouths to preſcribe a cure, but being aſked what they would adviſe give a ſhrug like your Countrymen, etc.——The next reaſon I have to make me fear that ſuch an expedient as we have been talking of will not be propoſed ſuddenly, is the great diſtruſt the Parliament has of men, which will make moſt Members ſhy of venturing at ſuch matters, which being very new, at the firſt motion are not perfectly underſtood, at leaſt to ſuch as have not been verſed in authors who have written of politicks; and therefore the mover may be ſuſpected of having been ſet on by the Court-party to puzzle them, and ſo to divert, by offering new expedients, ſome ſmart mettlesome debates they may be upon concerning the ſucceſſion to the Crown, or other high matters: for it is the nature of all popular councils (even the wiſeſt that ever were, witneſs the People of Rome and

ton, Vaughan, Mr. Daniel Finch, and two others, that I have forgotten. The lord Shaftesbury is declared president of the council. These were sworn this morning; and that ceremony being performed, the king went to the house of lords, and sent for the house of commons, to whom he did impart all that had passed; and all that I have yet spoken with seem much pleased; though it might have been wished, that some of those that are chosen had been left out. A friend * of yours and mine is, as far as I understand, the author of all this; and if he and two more can well agree amongst themselves, I believe they will have the management of almost all businesses, and may bring much honour to themselves, and good to our nation.

I find

and Athens, which Machiavel so much extols) in turbulent times, to like discourses that heighten their passions and blow up their indignation, better than those that endeavour to rectify their judgments and tend to provide for their safety. And the truth is, our Parliament is very much to be excused or rather justified in this distrait they have of persons, since there hath been of late so many and so successful attempts used by the late great Ministers to debauch the most eminent Members of the Commons house by pensions and offices; and therefore it would wonderfully conduce to the good of the Commonwealth and to the composing our disordered State, if there were men of so high and unquestionable a reputation, that they were above all suspicion and distrust, and so might adventure upon bold, that is, in this case, moderate councils, for the saving of their country. Such men there were in the Parliament of 1640, at least twenty or thirty, who having stood their ground in seven Parliaments before, which in the two last Kings reign had been dissolved abruptly and in wrath, and having resisted the fear of imprisonment and great fines FOR THEIR LOVE TO ENGLAND, as well as the temptation of money and offices to betray it, both offered by the wicked Counsellors of that age, tending both to the ruin of our just rights and the detriment of their masters affairs; I say, having constantly and with great magnanimity and honour made proof of their integrity, they had acquired so great a reputation, that not only the Parliament but even almost the whole People stuck to them, and were swayed by them in actions of a much higher nature than any are now discoursed of, without fear of being deserted, or as we say, left in the lurch, as the People of France often are by their Grandees, when they raise little civil wars to get great places, which as soon as they are offered, they lay down arms and leave their followers to be hanged. But although these two reasons of the silence of some wise men, and the want of reputation in others, does give us but a sad prospect of our land of promise, yet we have one consideration which does encourage us to hope better things ere long. And that is the infallible certainty that we cannot long continue as we are, and that we can never meliorate, but by some such principles as we have been here all this while discoursing of, and that without such helps and succours as may be drawn from thence, we must go from one distraction to another, till we come into a civil war, and in the close of it be certainly a prey to the King of France, who (on which side it matters not) will be a gamester and sweep stakes at last; the world not being now equally ballanced between two Princes alike powerful, as it was during our last civil war; and if as well this danger, as the only means to prevent it, be understood in time (as no doubt it will) we shall be the happiest and the greatest Nation in the world in a little time; and in the mean time, may enjoy the best and most just easy government of any People upon earth. If you ask me whether I could have offered any thing that I thought better than this, I answer you as Solon did a Philosopher, who asked him whether he could not have made a better government for Athens? Yes, but that his was the best, that the People would or could receive. And now I believe you will bear me witness, that I have not treated you as a wise man would have done in silence; but it is time to put an end to this tittle tattle which has naufeated you for three days together.

Plato redivivus. Or Dialogues concerning Government. Edit. 3. [By H. Neville]

* The earl of Halifax, and the earls of Sunderland and Essex. See letter of May 12.

I find men's hearts much set upon taking the government of Ireland out of the earl of Ormond's hands. If a lieutenant be named, I believe it will be Essex or Halifax; and, if neither of them, three justices.

Others design Halifax successor to his uncle Coventry. You will perhaps wonder, not to hear his brother William mentioned; but as yet there is no occasion for it.

We have every day foolish alarms from the French fleet, and I find no body but the lord Sunderland and myself that believe not one word of it. Morgan, governor of Jersey, is dead, and Laheer appointed to succeed him. That our affairs may be managed by as able a man abroad as that island is defended by, sir H. Goodrike expects in a few days to be dispatched for Spain. We do not yet see what effect the death of the king of Sweden will have as to the peace of Europe. I received the good piece of poetry, that I sent you, from the lord Halifax. You should have *Hodge's Speech* by this post, but it is very long; and I must write it in my own hand, which obligeth me to stay until the next week. The house of commons hath been all this day upon sir John Hobert's petition concerning the election of knights of the shire for Norfolk, but I know not the success. I am,

Your most humble and faithful servant.

Sir,

London, April 28.

On this day was a fortnight, I writ unto you what I had heard of the passages of the foregoing week; and though I make no doubt, you have many that give you far better accounts of what is done than I am able to do, I will not make that an excuse for silence, lest others should allege the same, and covering true laziness with feigned modesty, leave you in the dark, as my friends did me when I was abroad.

The five popish lords in the tower, had at the first given in cavilling uncertain answers; but Bellasyfe and Peters on Thursday, and Powis, Stafford and Arundel on Saturday, without any ambiguity, pleaded *not guilty*, and declared they put themselves upon the lords justice.

The earl of Danby hath not thought fit, as yet, to deal so clearly, but hath put in a huge long answer, containing great protestations of his own innocence, as to every part of his charge; and then pleads his pardon, which enumerates and acquits him of all the crimes, that it is almost possible for a man to commit. This is by some thought very strange; his innocence that he protests declaring that he had no need of pardon, and the pardon pleaded in effect acknowledging the truth of his charge; it being useless if he be not guilty. Hereupon other questions do arise, as whether the king can pardon? Whether if he have this power, he hath rightly executed it, the formalities not having been observed? And lastly, whether he will insist upon this answer, which will not leave him any plea at all, if the pardon be judged defective? I dare give no opinion upon these points, but I hear the learned say,

say, *the king cannot pardon a man impeached by parliament upon a public account*: that though he could, this would be of no value, being defective in all the formalities: and though perhaps the court may be prevalent enough in the house of lords, to have it admitted; that would be of evil consequence, no man doubting but the house of commons will extremely dislike such a judgment, and grow very refractory thereupon; and the whole nation would follow them in it, so that all business would be thereby obstructed; by which means the king, upon the personal account of the earl of Danby, would lose the advantage of all that hath been done of late to please the nation; which I leave to your judgment, that know the court much better than I do. This point I only find to be clear, that if the pardon can be found good, though the formalities are wanting, it will be made good; and the burthen left upon the chancellor, that put the great seal unto it, without taking care of seeing them observed.

Some judges were yesterday put out; Wild for inability of body, and Barton and Thurland of mind, with some others; to whom old Eilys, Raymond and Pemmerton, Leake and Atkins the younger are to succeed. The house of lords is busy upon one bill concerning popery, and the house of commons upon another, both inclining to find a way of distinguishing protestants only from papists, but cannot yet resolve upon it, so as to include the several dissenting sects; that papists may not be sheltered, and receive the indulgence (which is not intended them) under other names; and this difficulty is chiefly occasioned by the quakers, who, for more than one reason, are thought least to deserve much to be cared for. *Shaftesbury and Halifax are eminent in pleading * for indulgence*

[* *For indulgence to tender-conscienced Protestants*]

Laws are either ecclesiastical or civil, such as concern religion or government. Laws ecclesiastical or such as concern religion, according unto the universal course of ancient prudence, are in the power of the magistrate; according unto the common practice of modern prudence, since the papacy, torn out of his hands.

But, as a government pretending unto liberty, and suppressing the liberty of conscience, which (because religion not according to a man's conscience, can as to him be none at all) is the main, must be a contradiction; so a man that pleading for the liberty of private conscience refuseth liberty unto the national conscience, must be absurd. A commonwealth is nothing else but the national conscience. And if the conviction of a man's private conscience, produce his private religion; the conviction of the national conscience, must produce a national religion. Whether this be well reasoned, as also whether these two may stand together, will best be shewn by the examples of the ancient Commonwealths taken in their order.

In that of *Israel* the government of the national religion appertained not unto the priests and levites, otherwise than as they happened to be of the *Sanhedrim* or Senate, to which they had no right at all but by election. It is in this capacity therefore, that the people are commanded, under pain of death, to hearken unto them, and do according to the sentence of the law which they should teach; (Deut. 17.) but in *Israel*, the law ecclesiastical and civil was the same, therefore the *Sanhedrim* having the power of one, had the power of both. But as the national religion appertained unto the jurisdiction of the *Sanhedrim*, so the liberty of conscience appertained, from the same date and by the same right, unto the prophets and their disciples; as where it is said, *I will raise up a prophet—and whosoever will not hearken unto my words which he shall speak in my name, I will require*

it of him. Deut. 18. The words relate unto prophetic right, which was above all the orders of this commonwealth; whence *Elijah* not only refused to obey the king, but destroyed his messengers with fire: and whereas it was not lawful by the national religion to sacrifice in any other place than the *Temple*, a prophet was his own temple, and might sacrifice where he would, as *Elijah* did in *Mount Carmel*. By this right *John* the Baptist and our *Saviour*, unto whom it more particularly related, had their disciples, and taught the people; whence is derived our present right of *gathered congregations*: wherefore the Christian religion grew up according unto the orders of the commonwealth of *Israel*, and not against them. *Nor was liberty of conscience infringed by this government, till the civil liberty of the same was lost*, as under *Herod*, *Pilate*, and *Tiberius*, a three pil'd tyranny.

To proceed, *Athens* preserved her religion, by the testimony of *Paul*, with great superstition. If *Alcibiades*, that atheistical fellow, had not shewed them a pair of heels, they had shaven off his head for shaving their *Mercuries*, and making their *Gods* look ridiculously upon them without beards. Nevertheless, if *Paul* reasoned with them, they loved news, for which he was the more welcome; and if he converted *Dionysius* the *Areopagite*, that is, one of the *Senators*, there followed neither any hurt to him, nor loss of honour to *Dionysius*. And for *Rome*, if *Cicero* in his most excellent book *De natura deorum*, overthrew the national religion of that Commonwealth, he was never the farther from being consul. *But there is a MEANNESS and poorness in MODERN PRUDENCE, not only unto the damage of civil government, but of religion itself*: for to make a man in matter of religion, which admitteth not of sensible demonstration, jurare in verba magistris, engage to believe no otherwise than is believed by my Lord Bishop, or Goodman Presbyter, is a *Pedantism*, that hath made the sword to be a rod in the hands of *SCHOOLMASTERS*: by which means, whereas the Christian religion is the farthest of any from countenancing war, *there never was a war of religion but since Christianity*. For which we are beholden to the *Pope*; for the *pope* not giving liberty of conscience unto *Princes* and *Commonwealths*, they cannot give that unto their subjects which they have not: whence both princes and subjects, either through his instigation, or disputes among themselves, have introduced that *EXECRABLE CUSTOM, never known in the world before, OF FIGHTING FOR RELIGION, and denying the magistrate to have any jurisdiction of it; whereas the magistrate's losing the power of religion, loseth the liberty of conscience, which in that case hath nothing to protect it*. But if the people be otherwise taught, it concerns *THEM* to look about, and distinguish between the shrieking of the lapwing, and the voice of the turtle.

The Commonwealth of Oceana. By *James Harrington*.

London, printed 1656, in folio, p. 27, 28, 29.

Yet if all cannot be of one mind, *as who looks they should be?* this doubtles is more wholesome, more prudent, and more christian, *that many be tolerated, rather than all compelled*. I mean not tolerated popery, and open superstition, which as it extirpats all religions and civill supremacies, so itself should be extirpat, provided first, that all charitable and compassionate means be used to win and regain the weak and the misled.

Areopagitica of *John Milton*. London, printed 1644 in quarto. It is no great adventure to say, that the world was better ordered under the ancient Monarchies and Commonwealths, that the number of virtuous men was then greater, *and that the Christians found fairer quarter under those than among themselves*; nor hath there any advantage accrued unto mankind from that most perfect and practical model of human society, except the speculation of a better way to future happiness, concerning which the very guides disagree, and of those few that follow, no man is suffered to pass without paying at their turnpikes. All which had proceeded from no other reason, but that men instead of squaring their governments by the rule of Christianity, have shap'd Christianity by the measures of their governments, have reduced that straight line by the crooked, and bungling divine and human things together, *have been always hacking and hewing one another, to frame an irregular figure of political incongruity*.

An account of the growth of Popery, and arbitrary power in England.
By *Andrew Marvell*.

For all agree in teaching and commanding, in planting and improving, not only those moral virtues, which conduce to the felicity and tranquillity of every private man's life; but also to the peace, order and safety of all civil societies and governments amongst men. *Nor could I ever understand how those, who call themselves, and the world usually calls, religious men, came to put so great weight upon those points of belief which men never have agreed in, and so little upon those of virtue and morality, in which they have hardly ever disagreed. Nor why a state*

indulgence to tender-conscienced protestants, and severity against papists.*

The

should venture the subversion of their peace and order, which are certain goods and so universally esteemed, for the propagation of uncertain or contested opinions.

Sir *W. Temple's* works.

Now I appeal to the consciences of those that persecute, torment, destroy, and kill other men upon pretence of religion, whether they do it out of friendship and kindness towards them or no: and I shall then indeed, and not till then, believe they do so, when I shall see those fiery zealots correcting, in the same manner, their friends and familiar acquaintance, for the manifest sins they commit against the precepts of the gospel; when I shall see them prosecute with fire and sword the members of their own communion that are tainted with enormous vices, and without amendment are in danger of eternal perdition; and when I shall see them thus express their love and desire of the salvation of their souls, by the infliction of torments, and exercise of all manner of cruelties. For if it be out of a principle of charity, as they pretend, and love to mens souls, that they deprive them of their estates, maim them with corporal punishments, starve and torment them in noisome prisons, and in the end even take away their lives; I say if all this be done merely to make men Christians, and procure their salvation, why then do they suffer *whoredom, fraud, malice, and such like enormities*; which (according to the apostle, Rom. 1,) manifestly relish of heathenish corruption, to abound amongst their flocks and people? *These, and such like things, are certainly more contrary to the glory of God, to the purity of the Church, and to the salvation of souls, than any conscientious dissent from ecclesiastical decisions, or separation from public worship, whilst accompanied with innocency of life, etc. etc. etc.*

A letter concerning toleration. Licens'd, Oct. 3, 1689. The second edition corrected. [By *John Locke.*]

The great lord *Bacon*, in his excellent treatise on *the advancement of learning*; a work that cannot sufficiently be praised, and to which Mr. *Boyle*, Mr. *Locke*, and the great Sir *Isaac Newton*, owe the first rudiments of the several systems which they have since carried to so great perfection: in this wonderful treatise, wherein lord *Bacon* is shewing the deficiency of each species of learning, and is pointing out the errors which have prevented the progress and advancement of it; the science of theology comes, among others, under his consideration, upon which he has this remark, which for fear of being mistaken in the quotation, I have written down, and shall beg leave to read to your lordships. "Here, therefore, I note this deficiency, that there hath not been, to my understanding, sufficiently enquired and handled, the true limits and use of reason in spiritual things, as a kind of divine dialectic; which for that it is not done, it seemeth to me a thing usual, by pretext of true conceiving that which is revealed, to search and mine into that, which is not revealed."

You have now heard, my lords, the sentiment of this great man, which is, that the searching and mining into things not revealed, under pretence of their being contained in that which is revealed, is the error which he notes in *the advancement of Theology*. Accordingly, if we enquire into the event and consequence of the afore-mentioned determination in the council of *Nice*, we shall find, that the course of religion was thereby diverted into a wrong channel; and that Christianity from thence forward, instead of being considered as a practical obligation, was changed into a speculative science; men's minds were irritated against one another, on account of niceties that were of no consequence to religion; and the doctrine of faith, or of belief in *punctilios* of this kind, was so magnified and extolled, as being necessary to salvation, that the righteousness of works was intirely neglected. Polemical divinity was introduced into religion, whereby the church was rendered, if I may be allowed the expression, literally militant; and the divine precept of *universal love*, which our Saviour recommended to his disciples, as his command, was changed into that of *hatred to all who would not subscribe*.

The bishop of Clogher's [Dr. Robert Clayton's] speech, made in the house of lords in Ireland, Feb. 2, 1756; for omitting the Nicene and Athanasian creeds out of the liturgy, etc. Taken in short hand, at the time when it was spoken, by D. S. London printed 1757, in octavo.

[* *And severity against Papists.*]

Entre les pieces originales, qu'on a jugé à propos de mettre à la fin de cet ouvrage, on en avoit oublié deux considerables que l'on ne fera pas fâché de trouver ici en latin, parce qu'on

The first of these said the other day, " he neither could live *with* or *under* " a *papist*." On Saturday it was reported to the house of commons, that the lord Cottington, who died many years ago in Spain, had appointed an epitaph to be written upon his tomb, expressing his desire, that his body might rest there until England were restored to the church, and then carried over; this it was the last year, and a warrant was produced from the earl of Danby to the commissioners of the customs to let it pass.

Yesterday

n'a pu les donner qu'en françois dans le cours de la narration. Ce sont deux decret du Concile de Constance; l'un touchant les faufconduits donnez par les Princes seculiers à des gens suspects d'herésie, l'autre touchant le faufconduit de *Jean Hus* en particulier.

Quod non obstantibus falvis conductibus Imperatorum, Regum, etc. possit per Judicem competentem de haeretica pravitate inquiri. Von der Hardt. t. IV. p. 521.

Praefens sancta Synodus ex quovis salvo conductu per Imperatorem, Reges, et alios seculi Principes haeticis, vel de haeresi diffamatis, putantes eosdem sic a suis erroribus revocare, quocunqve vinculo se adstrinxerint, concessio, nullum fidei catholicae vel jurisdictioni ecclesiasticae praedictum generari, vel impedimentum praestari posse seu debere, declarat, *quo minus salvo dicto conductu non obstante, liceat judici competenti ecclesiastico de ejusmodi personarum erroribus inquirere, et aliis contra eos debite procedere, easdemque punire, quantum justitia suadebit, si suos pertinaciter recusaverint revocare errores, etiamsi de salvo conductu confisi ad locum venerint judicii, aliis non venturi* (in Lips. et Goth. additum; *nec sic promittentem, cum aliis fecerit, quod in ipso est, ex hoc in aliquo remansisse obligatum.*)

Quo statuto, five ordinatione lectis, idem statutum fuit approbatum per dictos Dominos Episcopos nomine quatuor Nationum ac reverendissimum patrem Dominum Cardinalem Vivariensem nomine Collegii Cardinalium, per verbum *Placet*.

De salvo conductu *Huffonis*. Ibid. ex MS. Vindob. Dorr.

Sacrofancta etc. Quia nonnulli nimis intelligentis, aut sinistrae intentionis, vel forsitan solentes sapere plus quam oportet, nedum regiae majestati, sed etiam sacro, ut fertur, concilio linguis maledictis detrahunt, publice et occulte dicentes, vel innuentes, quod salvus conductus perinvictissimum principem Dominum *Sigismundum* Romanorum ut Hungariae etc. Regem, quondam *Johanni Hus*, haeresiarum damnatae memoriae datus, fuit contra justitiam aut honestatem indebite violatus: *cum tamen dictus Johannes Hus fidem orthodoxam pertinaciter impugnans se ab omni conductu et privilegio reddiderit alienum, nec aliqua sibi fides aut promissio de jure naturali, divino, vel humano fuerit in praedictum catholicam fidei observanda*: Idcirco dicta sancta Synodus praesentium tenore declarat, *dictum invictissimum Principem circa praedictum quondam Johannem Hus, non obstante memorato salvo conductu, ex juris debito fecisse quod licuit, et quod decuit regiam majestatem; statuens et ordinans omnibus et singulis Christi fidelibus, cujuscunqve dignitatis, gradus, preminentiae, conditionis, status, aut sexus existant, quod nullus deinceps sacro concilio aut regiae majestati de gestis circa praedictum quondam Johannem Hus detrahat, five quomodolibet obloquatur. Qui vero contrarium fecerit, tanquam fautor haereticae pravitatis et reus criminis laesae majestatis irremissibiliter puniatur.*

Histoire du Concile de Constance, tirée principalement d'auteurs qui ont assisté au Concile. Par Jaques L'Enfant. Tome I. p. 47, 48.

Argumentum,

Gravissimis explicatis detrimentis, quae per Paetiones Altranstadiensis inter Plenipotentiariorum, seu Commissarios cla. mem. Imperatoris Josephi, et Plenipotentiariorum, seu Commissarios Regis Svecorum anno 1707 initas catholicae fidei, et ecclesiasticae jurisdictioni illata fuerunt: *easdem Paetiones damnat, improbat, ac irritas, nulliusque roboris esse declarat. Deinde Imperatorem Carolum, ut illas effectu prorsus carere studeat, enixe hortatur.*

Charissimo in Christo Filio nostro, Carolo Hispaniarum Catholico, nec non Hungariae et Bohemia Regi illustri, in Romanorum Imperatorem electo, Clemens P. P. XI.

Charissime in Christo Fili noster, salutem et apostolicam Benedictionem. Plurima, et sane fervida studia, quae ab eterodoxis principibus indefinenter adhiberi novimus in tractationibus Ultrajecti institutis, ut quidquid prope finem quarti articuli pacificationis Riscvicensis favore

Yesterday was appointed extraordinary by the house of commons, to consider of the succession of the crown in relation to popery, upon the debate of which secretary Coventry, amongst other things, is said to have reproached Birch, that his discourses favoured of the years 1640 and 41, but that himself continued in the same mind he had ever been; and having taken the oaths of allegiance and supremacy to the king and his successors, could not without perjury fail of performing

favore catholicorum, et orthodoxae fidei adjectum fuit, penitus abrogetur: e contra vero Westphalicae pacis capita ad religionis negotium pertinentia, nedum olim ab hac sancta sede reprobata, sed et per ipsum articulum quartum Rivvicensem correctae instaurentur, et executioni demandentur, qua de re non ita pridem Majestati tuae fufe perscripsimus, nobis in memoriam revocant infelices illas, et nunquam satis deplorandas pactiones, quas dudum eodem plane consilio inferendi abominationem in loco sancto Sveci Plenipotentiarum, seu Commissarii non minus violenter quam injuste expresserunt a Plenipotentiarum, seu Commissariis cla. mem. Josephi, dum viveret, in Romanorum Imperatorem electi germani fratris tui, quaeque anno 1707, in castris Altranstadenfibus inter eisdem utriusque partis Commissarios initae fuerunt. Summus profecto dolor, quo tunc affecti fuimus, cum animo reputaremus, praeter alia gravissima catholicae religioni, ac jurisdictioni ecclesiasticae per eas pactiones illata detrimenta, insignem aded ecclesiarum numerum tum in tribus Ducatibus Lignienfi, Bregenfi, ac Munsterbergensi, tum in ipsa Uratislaviensi civitate, ac in reliquis etiam Silesiae principatibus vero Dei cultui eripi et auferri, ac execrandae sectae impietati tradi, et assignari, nunc maxime non tantum renovatur, sed majorem etiam in modum intenditur ac augetur, dum cogitatione complectimur, atque prospicimus quantam inde spem sumpturi sint acatholici reliquas etiam nefarias eorum machinationes, atque consilia perficiendi. Porro tamen compertum habemus Majestatem tuam minime latere quam alieno a memoratis pactionibus animo idem frater tuus fuerit: quantopere doluerit, quod ob res suas tunc in arcto positas ejusmodi duras, ac plane impias condiciones accipere coactus fuerit: et quo tandem aestuaverit desiderio congruis remediis, quae perperam acta fuerant, sarcindi ac reparandi: quae omnia ipse literis sua manu exaratis discrete nobis significavit, et luculentius etiam ac uberius dilecto filio nostro Annibali sanctae Romanae ecclesiae Cardinali Albano nostro secundum carnem ex fratre nepoti per idem tempus apud eum agenti non semel explicavit: et quamvis itidem ambigere nequaquam possimus, quin Majestas tua pro eximia pietate ac studio, quo incensa est, causae Dei, veraeque religionis, probe intelligat, et agnoscat ejusmodi pactiones prorsus inanes, et suapte natura irritas, ac nullius roboris, vel momenti extitisse, et existere, quemadmodum eas germanus frater tuus a nobis admonitus palam agnovit, et professus fuit: et propterea optime etiam perspiciat nullam prorsus earum habendam esse rationem, nec illas a quoquam allegari, aut observari ullo modo posse, nec debere; nihilominus tum ut quae semper fuerit, et adhuc sit nostra ea de re sententia, Majestati tuae clarius et apertius innotescat, tum etiam ut apostolico nostro judicio innixa solidius et alacrius praedictas conventiones prorsus contemnere, ac ita illas habere possit, tamquam si numquam factae fuissent: *Majestati tuae per praesentes denunciamus, ac insimul tradita nobis ab Omnipotenti Deo autoritate declaramus, praenarratas dicti tractatus Altranstadenfis pactiones, ceteraque in eo contenta, quae catholicae fidei, divino cultui, animarum saluti, ecclesiaeque autoritati, jurisdictioni, libertati, ac juribus quibuscumque quomodolibet efficiunt, sive praesudicium etiam minimum afferunt, aut inferre, seu intulisse, vel alias nocere, seu nocuisse quomodocumque dici, censeri, praetendi, vel intelligi possint, cum omnibus et singulis inde secutis, et quodcumque secuturis, ipso jure nulla, irrita, invalida, injusta, reprobata, inania, viribusque, et effectu penitus, ac omnino vacua ab ipso initio fuisse, et esse, ac perpetuo fore, neminemque ad illorum, seu cujuslibet eorum, etiamsi pluries ratificata, ac juramento vallata sint, observantiam teneri, imò nec illa ullatenus a quoquam observari potuisse, ac debuisse, aut posse, et debere, neque ex illis cuiquam aliquid jus, vel actionem, aut titulum, etiam coloratum, vel possidendi, ac praescribendi causam, acquisitum; vel acquisitam fuisse, nec esse, minusque ullo tempore acquiri, et competere posse, neque illa illum statum facere, vel fecisse, sed perinde ac si numquam emanassent, nec facta fuissent, pro non extantibus, et non factis perpetuo haberi debere. Et nihilominus ad uberiores cautelam, et quatenus opus sit, pactiones praedictas, aliaque praemissa, ut praefertur, praesudicialia*

harum

forming the contents of them to his successor, what religion soever he should happen to be of. Unto which Birch replied, asserting his own services to the king; taxing Coventry of having broken his word to the parliament twice the last year, in relation to a war promised to be declared and actually made upon France; diserved the king and nation, in having been a principal cause of breaking the triple league; and concluded, he was as fit to be turned out of the council as any one

harum serie improbamus, rescindimus, cassamus, irritamus, et annullamus, viribusque et effectu penitus, ac omnino vacuumus. Age igitur, Charissime in Christo Fili noster, ac pactionibus hujusmodi penitus rejectis, iisque omnibus, quae in earum executionem quovis modo gesta fuerunt, rescissis, ecclesiae, religionis, ac Dei causam fortiter tuere, et ab ejus patrocinio suscepti tui regiminis felicia auspicare primordia. Ostende fatis tibi persuasum esse praecipuas tuas partes pro ea, quam obtines, imperii Majestate non aliàs esse debere, quam in propugnandis fidei et ecclesiae juribus, quae religiosissimi, inclytique Imperatores majores tui asserere semper, atque amplificare pro viribus studuerunt. Ita plane perennem tuo nomini laudem et gloriam, coelestesque tibi, ac tuae augustae domui benedictiones magis, magisque conciliabis; quarum in auspiciis cum perpetuo felicitatis tuae voto conjunctam apostolicam benedictionem Majestati tuae amantissime impertimur. Datum Romae apud sanctum Petrum sub annulo piscatoris die 4 Junii 1712, Pontificatus nostri anno duodecimo.

Clementis XI. Pont. max. epistolae et brevia selectiora. (Tom. II, pag. 173.)
Romae 1724, ex typographia reverendae camerae apostolicae. Superiorum permisso, et privilegio.

The reader may see this important subject amply discussed in the following tract, which was first printed 1682 in quarto, and again 1723 in octavo, and was written by Dr. Daniel Whitby. "A Discourse concerning the laws, ecclesiastical and civil, made against heretics, by Popes, Emperors, and Kings, provincial and general Councils, approved by the Church of Rome: shewing, I. What Protestant subjects may expect to suffer under a popish prince acting according to those laws. II. That no oath or promise of such a prince can give them any just security that he will not execute these laws upon them. With a preface against persecuting and destroying Heretics."—There are other valuable tracts against the Romish religion, written by this learned, able, active, faithful, protestant Divine.

Puis-que nous sommes sur l'article de la peinture, il faut que je vous dise quelque chose du *Massacre de l'Amiral Coligni*, d'ont l'histoire se voit en trois grands tableaux, dans la salle [YET THERE] où le Pape donne audience aux *Ambassadeurs*. Dans le premier tableau, l'assassin *Morevel* ayant blessé *Coligni* d'un coup d'arquebuse, on le porte dans sa maison; et au bas du tableau est écrit "*Gaspar Colignius Amirallius accepto vulnere domum refertur. Greg. XIII. Pont. max. 1572.*" Dans le second, l'Amiral est massacré dans sa même maison, avec *Teligni* son gendre, et quelques autres. Ces paroles sont sur le tableau. "*Caedes Colignii et sociorum ejus.*" Dans le troisième, la nouvelle de cette execution est rapportée au Roi, lequel témoigne en être satisfait. "*Rex Colignii necem probat.*"

Le Pape ne contenta pas de faire peindre l'histoire de ce *Massacre*, comme un trophée dans son Palais. Pour mieux éterniser un fait si memorable, il fit encore frapper des médailles, où l'on voit son image "*Gregorius XIII. Pont. max. an. 1.*" Et sur le revers un Ange exterminateur, qui d'une main tient une croix, et de l'autre une épée dont il perce a bras racourci, avec ces paroles "*Ugonottorum strages 1572.*" Ces médailles sont devenues fort rares, [THE DYES HAVE BEEN LATELY RENEWED] cependant mes amis m'en ont fait avoir quelques unes.

Le Cardinal de Lorraine, qui étoit a Rome, fit présent de mille écus à celui qui apporta la bonne nouvelle du *Massacre*. Il y eut feux de joye, jubilé, actions de graces, processions solennelles, etc. etc. etc.

Nouveau voyage d'Italie. Par *Maximilien Misson*. Quatrième édition.

On peut dire que le Collège Romain, qui est le grand College et la principale maison des *Jesuites* de Rome, est un des plus beaux palais de la ville. La Bibliothèque est bonne et nombreuse, mais elle n'a ni manuscrits anciens, ni autre chose fort rare. Dans une grande salle, où sont, les portraits des *Jesuites* Martyrs, nous avons remarqué celui du fameux

one that had been so. Bennet not long before had said, that though this council seemed in some degree to be reformed, no good could reasonably be expected, as long as one continued in it, who did by such violences and other undue ways advance arbitrary power in Scotland, and one that had masses daily said for him in Ireland: for the first of these he named Latherdale, and left the house in an opinion, that for the other he meant Anglesey. At the last it was concluded, that

sameux Garnet, ce hardi serviteur de la Société, qui fut pendu et écartelé pour la trahison des Poudres. Un Ange l'encourage, et lui montre le ciel ouvert. The same author, honest *Misson*.

The College of *Jesuits* at *Fribourg* is, they say, the finest in *Switzerland*. There is a great deal of room in it, and several beautiful views from the different parts of it. They have a collection of pictures, representing most of the fathers of their order, who have been eminent for their piety and learning. Among the rest many *Englishmen*, [STILL THERE] whom we name rebels, and they martyres. *Addison's Travels.*

View the SANGUINARY medals in the "*Numismata elegantiora of Luckius*;" in the "*Medailles de Louis le grand*;" in the "*Histoire metallique des XVII. Provinces des Pays bas of Van Loon*;" in the "*Numismata Romanorum Pontificum praestantiora of Venuti*;" in the "*Numismata of the earl of Pembroke*;" and in the cabinets of the curious.

And yet also by some other means, to further these intentions, because they could not readily prevail by force, finding forreine princes of better consideration and not readily inclined to their wicked purposes, it was devised to erect up certaine schooles, which they called *Seminaries*, to nourish and bring up persons disposed naturally to sedition, to continue their race and trade, and to become seedmen in their tillage of sedition, and them to send secretly into these the *Queene's* Majestyes realmes of *England* and *Ireland* under secret masks, some of priesthood, some of other inferior orders, with titles of *Seminarists* for some of the meaner sort, and of *Jesuites* for the stagers and ranker sort and such like; but yet so waresly they crept into the land, as none brought the marks of their priesthoode with them, but in divers corners of her Majestyes dominions these *Seminarists* or seedmen and *Jesuites*, bringing with them certeine *romish trash*, as of their hallowed ware, their *agnus dei*, and such like, have as tillage men laboured secretly to perswade the people to allowe of the *Pope's* foresaide bulles and warrantes, and of his absolute authoritie over all Princes and Countries, and striking many with prickes of conscience to obey the same, whereby in proces of small time, if this wicked and dangerous, traitorous and craftie course had not bene by God's goodnes spied and staied, there had followed imminent danger of horrible uprores in the realmes, and a manifest bloody destruction of great multitudes of christians. For it cannot be denied, but that so many as should have bene induced, and throughly perswaded to have obeyed the wicked warrant of the *Popes*, and the contents thereof, should haue been forthwith in their hearts and consciences secret traitors, and for to be indecde errant and open traitors, there should have wanted nothing but opportunitie to feel their strength and to assemble themselves in such numbers with armour and weapons, as they might have presumed to have bene the greater part, and so by open civill warre to have come to their wicked purposes. But God's goodnesse by whome Kinges doe rule, and by whose blast traitors are commonly wasted and confounded, hath otherwise given to her Majesty as to his handmayde and deare servant, ruling under him, the spirit of wisdom and power, whereby she hath caused some of these sedicious seedmen and fowers of rebellion, to be discovered for all their secret lurkings, and to be taken and charged with these former poyntes of high treason, NOT BEING DELT WITHALL UPON QUESTIONS OF RELIGION, BUT IUSTLY BY ORDER OF LAWS, OPENLY CONDEMNED AS TRAITORS, etc. etc. etc.

The execution of justice in *England*, for maintenance of publique and christian peace, against certeine stirrers of sedition, and adherents to the traytors and enemies of the realme, without any persecution of them for questions of religion, as is falsely reported and published by the fautors and fosterers of their treasons. Secondly imprinted, at London, mense Jan. 1583, with some small alterations of thinges mistaken or omitted in the transcript of the first originall.—A master tract, by the lord treasurer *Burleigh*. The running title of it is, "*Execution for treason and not for religion.*"

that the king should be desired to give order for the execution of Pickering and another condemned priest; that a proclamation should be issued to banish all papists without any other exceptions than public ministers, and their followers, twenty miles out of London: the lady Portsmouth was named, but not pursued: that the duke of York being a papist, the hopes of his succeeding unto the crown had been the principal ground and foundation of the plot against the king's life

—And in the booke of *thanksgiving* appointed for the *ffth of November*, set forth by King *James* and the *Parliaments* speciall direction, this observable prayer, (somewhat altered by the now *Arch-bishop* of *Canterbury* [In the margin is added, “who confesseth and justifieth it in his speech in the Star-chamber, June 14, 1637”] in the latter editions to pleasure his friends the Papists) *whose religion is rebellion, whose faith is faction, whose practice is murdering of souls and bodies, and to roote them out of the confines of this Kingdome, etc. etc. etc.*

The treachery and disloyalty of Papists to their Sovereignes, in doctrine and practice, etc. The second edition enlarged. By William Prynne, Utter-barrester of Lincolnes Inne. London, 1643, in quarto, p. 2. In the Title appears also “It is this second of May, 1643, ordered by the Committee of the house of Commons in Parliament for printing, that this book intituled, *The Treachery and disloyalty of Papists to their Sovereignes, etc.* with the additions, be re-printed by *Michael Sparke, senior. John White.*”

Legato Hispanico.

Parlamentum Reipublicae Angliae cum intelligat, plurimos ex populo in hac urbe tam *Excellentiae vestrae*, quam aliorum *Legatorum* et *Ministrorum* ab exteris regionibus publicorum hic versantium domos *Missae* audiendae causâ frequentare, *Concilio Status* mandavit, ut *Excellentiae vestrae* significaret, cum hoc gentis hujus legibus damnatum, ac in hac nostrâ Republica mali admodum exempli sit, *offensionisque plenum, censere se, sui plane officii esse, ne quid tale dehinc fiat providere; coetusque ejusmodi in futurum prorsus interdecere.* Quâ de re *Excellentiam vestram* admonitam nunc esse cupimus, ut ne quem ex populo hujus *Reipublicae Missae* audiendae causâ suam in domum posthâc velit admittere. Et quemadmodum *Parlamentum* diligenter curabit, ut *Legati* jus et privilegia quaeque *vestrae Excellentiae* inviolata serventur; ita hoc sibi persuasissimum habet, *Excellentiam vestram*, quamdiu hic commoratur, leges hujus *Reipublicae* per se suove nolle ullo modo violatas.

Literae Senatûs Anglicani, nomine ac jussu conscriptae a Joanne Miltono.

Who doubts less of the dangerousness of your principles and practices, than they that have read most, and had most experience of them? We can give you no greater instance than in King *James*, who was no stranger to You *either way*, and this is his judgment of you. “That as on the one part, many honest men, seduced by some of the errors of Popery, may yet remain good and faithful subjects; so on the other part, none of those, that truly know and believe the whole grounds and school conclusions of their doctrines, can ever prove either good Christians or good subjects.”

The late Apology in behalf of the Papists, [supposed to have been written by Roger Palmer, Earl of Castlemayne, assisted by Robert Pugh, a secular priest] reprinted, and answered. London 1667 in quarto—by William Lloyd, D. D. afterwards Bishop of St. Asaph, and of Lichfield.

Another more secret evil, but more dangerous to the Commonwealth, is, when men arrogate to themselves, and to those of their own sect, some peculiar prerogative, covered over with a specious shew of deceitful words, but in effect opposite to the civil right of the Community. For example. We cannot find any sect that teaches expressly, and openly, that men are not obliged to keep their promise; that Princes may be dethroned by those that differ from them in religion; or that the Dominion of all things belongs only to themselves. For these things proposed thus nakedly and plainly, would soon draw on them the eye and hand of the Magistrate, and awaken all the care of the Commonwealth to a watchfulness against the spreading of so dangerous an evil. But nevertheless, we find those that say the same things in other words. What else do they mean, who teach, that Faith is not to be kept with

life and the protestant religion: that the secret committee should, on Wednesday next, bring into the house such letters and papers as they had in their hands relating unto the said duke. The concurrence of the lords is desired, as to the proclamation, and the first vote concerning the duke; and the lord Russell, notwithstanding his being a privy counsellor, appointed to carry up the message. They also voted an address to be made to the king, that all sea-ports, places of strength, and

with Heretics? Their meaning, forsooth, is that the privilege of breaking faith belongs unto themselves: for they declare all that are not of their communion to be Heretics, or at least may declare them so whensoever they think fit. What can be the meaning of their asserting, *that Kings excommunicated forfeit their Crowns and Kingdoms?* It is evident that they thereby arrogate unto themselves the power of deposing Kings: because they challenge the power of excommunication, as the peculiar right of their Hierarchy. *That Dominion is founded in grace*, is also an assertion by which those that maintain it do plainly lay claim to the possession of all things: for they are not so wanting to themselves as not to believe, or at least as not to profess, themselves to be the only pious and faithful. *These therefore, and the like, who attribute unto the faithful, religious and orthodox, that is, in plain terms, unto themselves; any peculiar privilege or power above other mortals in civil concerns; or who, upon pretence of Religion, do challenge any manner of authority over such as are not associated with them in their Ecclesiastical communion, I say these have no right to be tolerated by the Magistrate; as neither those that will not own and teach the duty of tolerating all men in matters of MERE religion: for what do all these and the like doctrines signifie, but that those men may, and are ready upon any occasion to seize the government, and possess themselves of the estates and fortunes of their fellow-subjects; and that they only ask leave to be tolerated by the magistrate so long, until they find themselves strong enough to effect it.*

A letter concerning toleration. Edit. 2.—The first edition of this incomparable letter was printed in latin. The title of it is, “*Epistola de Tolerantia; ad clarissimum virum T. A. R. P. T. O. L. A. [theologiae apud remonstrantes professorem, tyrannidis osorem, Limburgium, Amstelodamensem] scripta à P. A. P. O. I. L. A. [pacis amico, persecutionis osore, Joanne Lockio, Anglo,] Goudae, 1689.*”

My aversion to *Popery* is grounded, not only on its *paganism* and *idolatry*, but on its being calculated for the support of despotic power, and inconsistent with the genius of a free government. *This I take to be its REAL character; which I do not however extend to the particular professors of it; many of whom I know to be men of great probity, politeness, and humanity; who through the prejudice of education, do not either see the consequences of what they are trained to profess; or through a mistaken point of honor, think it a duty to adhere to the religion of their ancestors. With these I can live, not only in charity, but in friendship; without the least inclination to offend them, any farther, than by obstructing all endeavours to introduce a religion amongst us, which wou'd necessarily be ruinous to the liberty of our Country. Thus much I thought myself obliged to say upon the occasion of the foregoing letter; that while the Papists look upon me as an Enemy, they may consider me at least as A FAIR ONE; an enemy to the idolatrous and slavish principles of their church; but free from all prejudice or enmity to their persons.*

A letter from Rome, shewing the exact conformity between *Popery* and *Paganism*: or the religion of the present Romans, derived from that of their heathen Ancestors. The fourth edition. To which are added, I. A preface, containing an answer to all the objections of the writer of a popish book, intituled, “*The catholic christian instructed,*” etc. with many new facts and testimonies, in farther confirmation of the general argument of the letter. And II. A postscript, in which Mr. Warburton’s opinion concerning the *Paganism* of Rome is particularly considered. By Conyers Middleton D. D. principal librarian of the University of Cambridge—in the preface.

The histories of *Christendom* for these last two hundred years, are FULL of the hardships and sufferings of *Protestants*, from the hands of *Papists*, when they have had them in their power. In Queen *Mary’s* short reign of five years, some hundred of fires were lighted up

and command of ships may be put into trusty hands, and concluded to refer the farther consideration of this business to Wednesday next, and I believe it will be then debated, whether such an association shall be entered into as was appointed in queen Elizabeth's time; or an act made,

in *Smithfield* and other parts of this Kingdom, to destroy those that would not swallow down *transubstantiation*, and other errors of *Popery*.—In the *Massacre* which begun at *Paris* on *St. Bartholomew's* day, and thence spread all over *France*, *Thuanus*, an author of undoubted veracity, assures us, there were murdered little less than *thirty thousand* persons, some of them the most considerable of all the reformed in that Kingdom. In the *Irish Massacre*, there were a great many more. By a book printed at *Lisbon* soon after, done by a priest, who called himself *Constantius Marullus*, above a *hundred thousand* protestants are said to have been killed; [Milton, in his *Eikonoklastes*, says “the number was 154000 in the province of *Ulster* only, by their own computation, which added to the other three, makes up the total sum of that slaughter, in all likelihood, *four times as great*”] and some of them with most exquisite and before unheard of torments. And the same author, to shew his catholic charity, adds, *UTINAM OMNES!*—To come nearer to our own times. In the reign of *Leuis XIV*, upon the revocation of the edict of *Nantes*, how many thousand protestant families, after *dragooning*, imprisonment, and every other hardship, were driven out of their own country, and took refuge among us? [On the reverse of a medal struck by him on that occasion, where he is represented trampling upon *Heresy* and crowned by *Religion*, is this inscription, “*Ob vicies centena millia Calvinianorum ad ecclesiam REVOCATA*”—] Then the Executions at *Thorn*, and the persecutions in the Archbishoprick of *Saltzburg*, whereby between *twenty* and *thirty thousand* innocent people, were forced at a short day to leave their native country, and all their effects behind them, only for their steady adherence to the reformed Religion, are recent almost in every one's memory.—Nay, the very last year furnishes us with a fresh instance of the same persecuting spirit of *Popery*, by two edicts published in *France*, one bearing date Feb. 1, the other Feb. 16; whereby the *Protestants* in and about *Montauban*, who either had, or should assist at the assemblies for divine worship after the reformed way, were instantly, without so much as the form or appearance of a trial, to be sent to the *French King's galleys* for life, there to serve as slaves; and the *Women and Girls* to be shut up for ever in places which should be appointed for them; and more than this, if any assembly was held in any one community of a division, the whole division was to be responsible for it, subject to a fine arbitrary, to be levied by a military force; which edicts were procured by the *Papish* clergy, at the price of their advancing *twenty four* millions of *livres* for a free gift to their *Sovereign* instead of *sixteen*; and have been most rigorously executed.

Curfing no argument of sincerity: or, an answer to a tract, entitled, “*A Vindication of the Roman catholics*.” By *William Primatt*, M. A. Rector of a *MEDIETY* of *West Walton* in *Norfolk*. *Norwich*, printed 1746, in quarto.

In the beginning of the *Rebellion 1745*, the number of *Papists* in *London* and *Westminster* was computed *one hundred thousand*.—In such open defiance of our laws has *popery* been long making great progress. And whether the threatening consequences are not formidable, may well deserve the consideration of such, who are able to discern the inestimable value of our civil and religious liberties.—It would be far from us, after all, to desire any pains or penalties should be inflicted on men, because they have an extravagant ritual, and are fond of worshipping a troop of deities or demons; or for saying prayers by tale or number, either to real or imaginary saints; for venerating a wafer or a crucifix: since he who can feast his soul, either on gold, silver, or precious stones, or who can best relish wood, hay, or stubble, should only have our pity, and we ought to wish a less depraved appetite. *But so long as the Papist holds opinions subversive of morality, destructive of society, dangerous to the civil and religious rites of mankind; that is, so long as the hand of popery is against every man; so long every man's hand should be against popery.*

Three questions resolved. *London*, 1757, in octavo.

It is much to be lamented, that the laws relating to *Papists* were not reduced into one act of Parliament, and altered, amended, strengthened as should be found necessary; not to their destruction, but our SAFETY.

made, that this parliament should not determine in such a time as should be limited, though the king should die, or in so many months after, or something to that purpose, which may tend to the king's security. I do not well know what the houses have done this morning, but hear the message from the house of commons is carried up to the lords, and that they have appointed the earl of Danby to be at their bar to-morrow morning. The commons have also perfected their bill for disbanding of the army, by a land-tax of twenty thousand pounds the month, subsequent to that which will expire in February next. Several priests were taken the last night, of which two confess they were sent over by all means to endeavour to invalidate Oates and Bedloe's testimony. Reading was this morning in the pillory, and is condemned to a year's imprisonment and 1000 pounds fine, for having endeavoured to corrupt Bedloe. Stubbs, the countess of Shrewsbury's butler, *confesseth he had been induced by three priests, to gain as many servants as he could, to set fire to their masters houses; of which a wench was apprehended for firing her master's in Fetter-lane.* I am,

Your most humble servant.

Sir,

London, May $\frac{5}{13}$.

Though the last week was spent rather in wrangling than the dispatch of any business of importance, I continue to give you an account of what I hear, because these irregular motions are often the forerunners of great matters; and as they denote the temper of a nation, they give good grounds of guessing what they will end in. I do not send you the king and chancellor's speeches, because I presume care was taken to send them to you by the last post; but perhaps others have not been so free in telling you the effect of it as I shall be. The courtiers did believe, that the king's yielding that the parliament should not end with his life, or be revived by his death, if it chanced to be dissolved in his life-time, and have the nomination of all officers, both civil and military, if his successor proved to be a papist, would have given entire satisfaction unto the house of commons. But to the contrary it is certain, that the supposition that the next in blood must be king, though a papist, is so distasteful to them, that nothing will please upon that odious condition; and as to this particular, it is looked upon as a trick to bring the parliament to confess and confirm the duke's title, that is, a little gilding to cover a poisonous pill. This puts them upon various counsels: some would impeach him, upon what is discovered of his part in the plot: others incline more to bring in an act, to exclude him from the succession of the crown, as being a papist, and thereby a friend unto, and dependent upon, a foreign and enemy power. Some of those that are of this mind look "who is fittest to succeed, if this should be; and they are for the most part divided

“ divided between the prince of Orange and duke of Monmouth. The
 “ first hath plainly the most plausible title, by his mother and his
 “ wife; but, besides the opinion of the influence it is believed the
 “ duke of York would have over him, it is feared that the common-
 “ wealth-party in Holland, would be so frightened with that, as to cast
 “ itself absolutely into the hands of the king of France, who might
 “ thereby have a fair occasion of ruining both England and Holland.”
 I need not tell you the reasons against Monmouth; but the strongest
 I hear alleged for him are, that whosoever is opposed to York, will
 have a good party, and all Scotland, which is every day like to be
 in arms, doth certainly favour him, “ and may probably be of as
 “ much importance in the troubles that are now likely to fall upon
 “ us, as they were in the beginning of the last.” Others are only
 upon negatives. But when I have said what I can upon this business,
 I must confess I do not know three men of a mind, and that a spirit
 of giddiness reigns amongst us, far beyond any I have ever observed in
 my life.

Nothing was done the last week concerning the popish lords in
 the tower. The earl of Danby on Saturday last did insist upon his
 former plea and answer, how little sense soever there be in it. Some
 say it is, *ex industria perplexa*; and that having the court and house
 of lords to favour him, he cares not for the inconsistency of protesting
 his innocence, which renders his pardon useless, and pleading his par-
 don, which is a confession of guilt; hoping that if the commons do
 demur in law upon the two points, (first, that the king cannot par-
 don a delinquent impeached by one commoner, much less by all the
 commons in England; secondly, that though it were granted he might
 pardon, this pardon could not hold, because it wants all the formalities)
 the lords would over-rule it, and then he is acquitted.

The bill for the *Habeas Corpus* was passed by the lords on Friday
 last, and sent down to the commons. The same day they also passed
 an act for the banishing of the papists out of London, and penned
*it so well by the industry of the bishops, that if the commons should pass
 it without amendment, all the non-conformists of London would be driven
 out of town, and half the shops shut up.* The bill for disbanding the
 army is passed the two houses, and I presume will not stay long for
 the royal assent. The lords did assent to the vote of the commons,
 that the duke being a papist, had been the occasion of the plot, but
 added the word *unwillingly*. The whole business formerly mentioned
 of the earl of Danby's endeavour to suborn Bedloe to renounce his
 testimony, was the last week verified before a committee of lords, and
 Dumblain his man confessed he had been employed to do it; so that
 his lordship is found to have done just the same thing, for which
 Reading stood the last week in the pillory. Some scholars sent from
 St. Omers were lately apprehended by Sir William Waller, and con-
 fess they are sent hither by the jesuits, by any means to invalidate

Oates and Bedloe's testimonies, but they rather confirm them. The lord Rofs having been put out of the house of commons, is by writ called to the house of lords. Sir John Hartop, who petitioned against him, is, upon the invalidating of his election, chosen by the freeholders of the county, and took his place in the house on Friday. This day is appointed for the new election in Norfolk, and it is thought Sir John Hobbert will have the same success.

Sir, I desire you to tell Monsieur de Ruvygnny the younger, that upon his recommendation I did address the duke de Gramont's esquire, to the places where all the best horses in England are to be had; but he has rid four hundred miles, and is returned without liking any. To say the truth, he is such a proud ass, that he neither knows what is good, nor will believe any body else. I had directed him to see two, that are said to be as fine young horses of five years old as any are in England, which having never been trained were fat, and as he said, *trop relevé*. Near Lincoln he saw two of the lord Castletown's, which had the same faults. At the lord Burlington's in Yorkshire he saw one, that is thought to be worth as much as any one in England, bred of an Arabian, six years old passed, never run but once at Kipling, and then won the plate; and being now thin, and drawn for another course, he is to run within this week, this wise gentleman took him for a mazette: he did the like with some others in the same place and at the marquis of Winchester's; upon all which I have no more to say to Monf. Ruvygnny, than that he should find a way to revive Bucephalus, or send a man that hath more wit than this, to take such as the world affords.

The horrible reports made from France of poisoning, affright reasonable persons here, as much as the discourses of the fleet at Brest do fools.

The house of commons have voted that the pardon pretended by the earl of Danby was of no value, and went up to desire justice upon him of the house of lords. *We live in a time that no man, by what is passed, can well judge what is to be expected for the future*; but I am much inclined to believe, that Danby having in this last act followed his own disposition, that ever delighted in juggling and indirectness, will, by the tricks he hath played, have found a way to hang himself. It is said, that the king will be at the house to-morrow, in his robes, to pass the act for disbanding the army. This morning, secretary Coventry not being well, the lord Ruffel from the king declared unto the house of commons, he expected no supply from them this session, but desired care might be taken of the navy. I am,

Your most humble and faithful servant.

Sir,

London, May 12.

I have received your letter of May 13, and continue my custom of giving you once a week an account of what comes to my knowledge, though to discourage me *I can only make the unpleasant relations of such disorders here, as in my opinion threaten us with the greatest mischiefs that can befall a nation.* The three that I meant in my letter, that you would have me explain, were the earls of Sunderland, Effex, and Halifax, and I am still of the same mind, so far as the power of the court goes.

The last week was spent for the most part in janglings between the two houses, upon points of privilege relating unto the rights the lords pretend unto in points of judicatories; which the lords Frecheville, Berkeley, Ferrers, Aylebury, Northampton, and some others equal unto them in understanding, eloquence and reputation, do with the help of the bishops very magnanimously defend. Several proposals have been made by the commons of conferring with them upon all the points in question, or appointing a committee of both houses, which, meeting together, might adjust all those that might be occasion of difference; but their lordships disdain to confer upon points that as they did suppose depended wholly upon their will, on Friday last did vote that they would have no such committee, which vote was carried only by two voices, the one side having 54, the other 52. Of eighteen bishops that were present, sixteen were on the victorious side, and only Durham and Carlisle were so humble as to join with the vanquished. Of those 52, one and fifty the next day protested, and I think only laziness hindered the earl of Leicester, who was the other, not to protest, as well as the others with whom he had voted. On Saturday there was a conference between the two houses upon this business, and it appearing that all proceedings would stop thereupon, it being impossible for two to agree upon any thing, unless their thoughts and reasons are communicated, they were pleased yesterday to recede from that vote, and appointed a committee of twelve lords to confer with a double number of commons thereupon.

The house of commons have made an address unto his majesty, desiring him to remove the duke of Latherdale* out of all employments in England and Ireland, and from his presence for ever; to which they received a dilatory answer.

The archbishop of St. Andrew's hath been lately murder'd in his coach three miles from St. Andrew's, by ten men, that there set upon him, of which two were taken by some horse that came suddenly to the place. It is not known who they are, nor who employed them; but Latherdale is graciously pleased to lay it upon the non-conformists, and hath thereupon caused a very severe proclamation to be issued out against them: but others believe it was upon a private quarrel with some gentlemen, that by fraud and power the prelate had thrown out

* Lauderdale.

of their estates, *be having been most remarkable for outrageous covetousness, besides other episcopal qualities.*

The house of commons have forbidden all commoners of England to be of counsel to the earl of Danby, under the pain of being esteemed betrayers of the rights of all the commons, by whom he is accused, unless leave be asked and given by them. The bill for disbanding the army is passed. On Saturday the king having appointed sixteen small pieces of ordnance to be sent to Portsmouth, notice was taken thereof in the house of commons, and a great suspicion, that they being sent with field-carriages, harnesses for horses, and all necessaries belonging to the train of a marching army, they might be intended rather for such an use, than to furnish a garrison as is pretended. At the same time reports were spread, that the duke of York was returned into England, or hourly expected, and some believe his business is to hinder the disbanding of the army, with such others as the knowledge of his nature, together with the persons that command in Portsmouth, the Isle of Wight, and in other places may suggest, in the most jealous time that I have ever lived in.

The house of commons sat yesterday, being Sunday, to hear such papers read, as the secret committee thought fit to produce relating to the duke of York, which had been found amongst the cardinal of Norfolk's papers, and other places. They are many in number, which speak of his assenting unto and approving of the plot in all points, but none directed to him, or written by him. Many various motions were made, but in the end it was ordered, that a bill should be drawn up, to debar him from the succession of the crown. Sir Francis Winnington and Mr. Vaughan would have put off the debate, until the trial of Danby and the popish lords was over. Sir William Coventry, sir Thomas Littleton, and others, spoke directly against the thing, but the major part by much was of the other opinion, so that on the division appointed upon the question, whether there should be candles, the inequality was so great, that the pains of telling was spared, and when the main question was put, there was no division at all. Not to trouble you with many particulars, I will only recite one, which is, that a gentleman moving the words should be put in, "Or ever have been a papist," they were laid aside, as some believe, in respect unto him, who by the direction of the late lord Crofts, was brought up under the discipline of the *Peres de l'Oratoire*. The next work was to make an address to his majesty, full of humility and loyalty, expressing their utmost resolution to serve him with their lives and fortunes in the preservation of the protestant religion.

I hope the new method resolved upon here, in relation unto public ministers, will be of as little prejudice unto you where you are, as the report of the occasion which began with you will do you here. I am,

Your most humble and faithful servant.

Sir,

London, May 19.

I have been abroad all this day, and come with a head so disordered with the east-wind and dust, that I can say very little this night. The lords and commons have not yet found the way of agreeing upon the method of trying the earl of Danby and the other lords. The bishops are the principal causes of the dispute, affecting a right to sit as judges, and content themselves to leave the exercise of it to the papists, but with a protestation that the precedent be not alleged against them for the future, but insist upon sitting in the earl of Danby's case, until they come to vote upon life or death; and to shew how ingenious they are in that point, they profess they do no prejudice to their calling, in being his judges, resolving not to condemn him. The truth is, that business is full of a multitude of difficulties, that are very hard to decide; the chief of which are, first, whether the king hath power to pardon one impeached by the commons; secondly, whether that judgement belonging to the declaratory part of the law, is to be given by one or both houses. Thirdly, in case the king can pardon, whether this hath the formalities required. Fourthly, if this pardon be not good, whether he may be admitted to plead any thing else. Fifthly, if he may plead, whether the points he is accused of amount to treason, which may probably exercise the house until it be dissolved or prorogued. The two houses differ also, in that the lords would first try the popish lords, and the commons would give the preference to Danby.

The duke Hamilton arrived the last week from Scotland with a great train, and was received here in triumph: all that come with him say, the archbishop of St. Andrew's was killed by one that had been his own steward, and others that were not conventicle-men.

The *severe bill* against the *duke of York* was read on Thursday last, and is appointed to be read again to-morrow. It recites the pope's pretensions to power over kings, particularly in England, the immorality of the Roman religion, incompatibility of those that profess it with English protestants, their perpetual plots against the government, sedulity in seducing the duke, and a multitude of other things of the like nature in the preamble; asserts the power of parliament to dispose of the succession, as best conduced to the good of the kingdom, which had been often exercised in debarring those that were nearest in blood, but never with so much reason as now: wherefore it doth enact, "that the duke should be, and was thereby excluded; declares him attainted of high treason, if he landed in England before or after the king's death; forbids commerce or correspondency with him, under the same penalty of treason." This pleaseth the city so well, that a petition is framing there, which will be presented in two days, *signed by one hundred thousand men*, to give thanks unto the parliament for their vigorous proceeding in discovering the plot, and opposing of popery, and promising to assist them in so doing with their lives and fortunes.

The

The committee of lords being informed that some important papers were hid in a wall at Tart-hall, they went to break it, and in a copper box found those which the attorney general says give more light into the plot, than all they had formerly seen; but particularly against the lord Stafford. I am almost asleep, and can only assure you, I am,
Your most humble and faithful servant.

Sir,

London, June ²/₁₇₂₂.

Your nephew arrived here last night, and I going to welcome him received your letter from him. His friends find he bears in his face too fair marks of a Spanish journey, but in all things else, I believe he will give them as entire satisfaction as unto me, who ever had an extraordinary good opinion of him.

This day was fe'nnight the prorogation of the parliament was spoken of, but being then uncertain, and (as I thought) not like to be, I was not willing to mention it; but it fell out the next day, and all men's wits have been screwed ever since that day to find out the consequences. Every body hath had his conjecture, and the most ignorant shewed themselves the most bold in asserting their opinions. Many find that the king would not have done it, if he had not resolved to send for the duke, keep up the army, desire assistances from abroad, sell Jersey and Tangier to the French, (for which Mr. Savile is to make the bargain) set the earl of Danby at liberty, and with the help of the papists and bishops set up for himself. But instead of this we see little reason to believe the duke will think himself well here. The army is in part disbanded, and had been entirely before this day, if it had pleased colonel Birch. The place from whence the foreign assistances should come is not known: Mr. Savile is not thought very good at such treaties: The earl of Danby is like to lie where he is, and the utmost help his majesty can (for ought I hear) expect, until the parliament do meet, is, by Fox, Kent, and Duncomb's credit, which perhaps will not be found to be very steady foundation. No man will avow having been the king's counsellor in this business; and some wonder, that his majesty in constituting the privy council, having promised that he would have no cabinet council, but that he would in all things follow their advices, next unto those of his great council the parliament; should so suddenly prorogue that great council, without so much as asking the other. This fills men with many ill humours; the parliament-men go down discontented, and are like by their reports to add unto the discontents of the countries, which are already very great; and the fears from the papists at home, and their friends abroad, being added thereunto, they begin to look more than formerly unto the means of preserving themselves.

There hath been a suit at law in Scotland, between the earl of Argyll, and one Maclaine, a great man in the Highlands, and the earl
(as

(as is said) by the favour of duke Latherdale, hath obtained a decree for the lands in question; which by order from hence, is to be put into execution, by the strength of all the king's forces in Scotland, and fire and sword to be used in case they find resistance; as probably they will, Mac-laine resolving he will not be turned out of his ancient inheritance by a trick in law, and a decree from corrupt judges. This man being head of a numerous and stout people, helped by the fastness and poverty of their country, may perhaps make good what he proposeth unto himself; and to shew he is not to be surpris'd, he hath already entered into Argyle's country with 800 or 1000 men. The earl of Athol is his neighbour, friend, and enemy to Argyle, so as it is believed, he may give him secret assistance at the first, and afterwards more openly. About the same time a proclamation was there published, making it treason to be present at any of the field-conventicles that are armed; and every man knowing the pressures they are exposed unto if they go disarmed, they must incur the penalties, or abstain wholly from going, which they will hardly be persuaded unto. Things being thus brought unto extremities, the king hath been persuaded to give a hearing unto what the duke Hamilton, and other Scotch lords, have to say against Latherdale, as is appointed before the council.

Two associates were offered unto Sir Thomas Chichely, for the better executing of his office of master of the ordnance; but he thinking that an affront to a man of so eminent abilities as himself, refused them, which hath obliged the king to dismiss him from the place, and put it into commission, as some others have been; sir Thomas Littleton, sir William Hickman, and sir Joseph Lowther are said to be the men. If what is said be true, the ill management of the treasury was not more extreme, than this of the ordnance; for besides the extravagancies of *furnishing the French armies, with arms and ammunition*, (whereas the stores were fuller two years ago than ever they were known to have been) there are now but six hundred muskets left in the tower, and other things in proportion.

Some think these ways of *employing many parliament-men*, may strengthen the king's party in the house. Others think, *that a king is ever a loser when he enters into a faction, and * bandys against his subjects;*

[* *Bandys against his subjects;*]

That I never knew *but one foreigner* that understood *England well*, which was *Gourville*, whom I knew the King [Charles II.] esteemed the soundest head of any Frenchman he had ever seen. That when I was at Brussels in the first Dutch war, and he had heard the People grew weary of it, he said, "The King had nothing to do but to make the peace. That he had been long enough in *England*, seen enough of our Court and People, and Parliament to conclude, *Qu'un Roi d'Angleterre qui veut être l'homme de son peuple, est le plus grand roi du monde; mais s'il veut être quelque chose d'avantage, par Dieu il n'est plus rien.*" The King [C. II.] heard me very attentively, but seemed a little impatient at first. Yet at last he said, "I had reason in all, and so had *Gourville*;" and laying his hand upon mine, added, "*Et je veux être l'homme de mon peuple.*"

Sir *W. Temple's* works.

There

jects; beside that these men will lose their credit, and, having only single votes, will be overpowered by number. I do not find the new privy counsellors well at ease, and am not free from fear, that whilst they endeavour to keep fair with both parties, they may give distaste unto both. Harry Sydney is to go envoy extraordinary into Holland, and yesterday the king declared unto him his intention to that purpose.

Vanlieu the Holland ambassador is arrived, and Van Beuninghen going away. He made the last week a great noise about a message sent by the king of France unto his masters, concerning the contribution-money due from the country about Breda; denouncing in a very terrible manner, his intention of levying it by force, if it were not paid; and that in an *Ottoman* stile, which unto some silly people gave as silly a hope, that the peace would break, and the league be renewed against the French; but the French ambassador says, it is a thing of no moment at all, and already composed. However I see no inclinations in discreet men here, to desire such a discomposure of things abroad, as should engage us to take any part in them, until our affairs are better settled at home than they are yet like to be.

Ireland is in extreme disorder, by the duke of Ormond's negligence, ignorance, and favour to the Irish. Douglas's regiment thinking to use the same licentiousness at Kinsale, as it had been accustomed to in France, gives great distaste, and apprehensions of such works as began almost by the same ways in 1641. Old Roberts, in appearing of late for the king and bishops, thinks himself of merit to succeed him; but he is as singular in that opinion as in many others.

Some that know matters better than I do, must tell you, whether we shall have the same parliament, at the end of the prorogation, or a new one, or none at all. But I think, this, or another will be found necessary; and if this be dissolved, another will be chosen of less inclinations to favour the court. The four priests are sent down to be hanged, where they were condemned. The council gave order to the lord mayor, to be very diligent in putting the proclamations against the papists in execution, and careful under that name not to trouble protestant dissenters. It is said that Langhorne, Wakeman, sir Joseph Gage, sir William Goring, and other popish commoners, shall be soon brought to their trial. Now the parliament doth not sit, little news will be stirring, but you shall constantly have such as I know, or any other service that lies in the power of

Your most humble servant.

There is no civil government that hath been known, no not the *Spartan* nor the *Roman*, though both for this respect so much prais'd by the wise *Polybius*, more divinely and harmoniously tun'd, more equally balanc'd as it were by the hand and scale of Justice, than is the Commonwealth of *England*: where under a free and untutor'd *Monarch*, the noblest, worthiest, and most prudent men, with full approbation and suffrage of the people, have in their power the supreme and final determination of highest affairs.

Of Reformation touching church-discipline in *England*: And the causes that hitherto have hindered it. Two books, written to a friend [by John Milton] London printed 1641, in quarto, p. 72.

Sir,

London, June $\frac{9}{19}$.

The best news I can now fend you, is, that your nephew and mine is looked upon as we wish, and I believe he will perform all that you and I expect from him.

There hath been a suit at law depending this good while in Scotland, between the earl of Argyle, and one Maclaime, the head of a great and numerous family in the highlands. The earl (as is said) by the help of the duke of Latherdale, obtained of late a decree for the possession of the lands in question, and an order was sent from hence unto the king's officers, to assist the earl in executing the decree, and use fire and sword against such as should oppose it; which was so far prosecuted, that he with 300 of the king's men and 500 of his own, raised upon an island of Maclaime's, which he was not able to defend, or perhaps thought it his best course by way of diversion to draw Argyle from thence; but what reason soever persuaded him, he said he would not be put out of the inheritance of his ancestors by a trick in law, and the corruption of the judges; and joining the Macdonnalds unto himself, fell into Argyle's country with near 3000 men, where he found no resistance; the lady of Argyle was obliged to leave her house, and in some haste retired to Edinburgh to get relief, which could not easily be granted, lest the fanaticks should take advantage of the king's forces being so employed. Some say this is only a family feud, others believe it hath a deeper root; but whatsoever this is, no man doubts of the truth of the news brought hither by an express on Saturday morning; which is, that the conventicle-men in the county of Glasgow are in arms; that one captain Grimes coming something too near them, with his troop and other forces, was beaten back, with the loss of his cornet and fourteen troopers; which according to the posture he found them in, he was persuaded to content himself with, rather than to press farther. The council was called upon this occasion on Saturday last, but nothing (as I hear) resolved until they hear more, some doubting whether it be a laid business, or a sudden tumult raised by accident. I know not the truth of this, *but the discourses I have heard very often of late, of those who every day expected some such thing*, persuades me to believe it is not fallen out by chance. Though no resolution was taken at council upon this matter, it is said, that private orders are given out to several officers of the late disbanded troops, to get their men again together; and to others, upon the most plausible pretences that they can invent, to delay their disbanding as much as may be. These suspicions go too far, and already reach some of your friends and mine, to such a degree, *that counsellors are rather said to be changed than councils*; and if they do not find a way to cure that fore, at the next meeting of the parliament, they will be looked on as their predecessors. If nothing from Scotland hinders, the court will go to Windsor to-morrow. I presume you know that H. Sydney hath bought Mr. Godolphin's place of master of the robes, gives 6000 pounds, and is to go envoy extraordi-

nary into Holland. The lord Ranelagh for the said sum paid to the lord Sunderland is made gentleman of the bed-chamber in his place, and the great business concerning his account is referred to the council in Ireland.

Many things may pass in the town, that you may be willing to hear, but they come not into the cell that covers

Your most humble servant.

Sir,

London, June $\frac{1}{2}$ $\frac{6}{6}$.

The Scotch news that I mentioned to you last week, doth still possess the minds of all men here; but all relations that come from Scotland are so imperfect, that no man knows what to make of them; and those that come to court being more particularly so than others, no men are thought to understand less of the business than privy counsellors. This is attributed to Latherdale; and though it be concluded, that what he says is not true, some think the business worse, others better, than it is represented. The fact, as far as I hear, is, that the earl of Lithco with above five and twenty hundred horse and foot did come within a few miles of the conventicle-men, and finding them in such a posture, as he did not think it prudent to charge them, he concluded the best was to let them take Glasgow, where they are said to have found good store of arms, ammunition and some cannon, and having left so many men in the town as are thought sufficient to guard it, they march with four pieces. They are said to increase in number every day, but we know nothing of them certainly, unless it be that they have no landed men amongst them, nor any gentlemen, but a younger brother to a knight of the Hamilton family. The last week we heard of nothing but raising of great forces to subdue these rebels. The dukes of Monmouth, Albemarle, and lord Garret were to have regiments of horse, Feversham one of dragoons and grenadiers, the lord Cavendish, Grey of Werk, Mr. T. Thynne, and some others, regiments of foot; but that heat seems to be something abated. The lord Grey gave up his commission, Mr. Thynne refused to take any; Cavendish doth not raise any men upon his, and Garret swears he will not be at a penny charge to raise a man, but if the commissioners for the treasury will raise him a regiment, and provide money to pay it, he will command it. Whilst ways were sought to remove these difficulties, the Scotch lords that are here endeavoured to persuade them that the business may be ended by far more certain and less chargeable ways, in as much as these men having been driven into a necessity of taking arms, by the extreme pressure suffered from those that did abuse the authority his majesty had trusted them with, the people being eased of those burthens, the persons removed that had caused them, and such men placed in the government, as were acceptable to the nation, they durst undertake that all may be composed without blood. This was not

(as I hear) disliked, but another point was started, that doth yet more incline the court to mild courses; which is in the year 1641 acts of parliament were made in both kingdoms, making it treason for any person belonging unto either to make war upon or invade the other, without the consent of parliament. And though one or two of the judges say, that the acts being reciprocal, the Scots having rescinded theirs, ours falls of itself; or though it did not, the act forbidding an invasion, no ways toucheth such as by the king's command should go to subdue rebels; others say, that what the Scots did might indeed give unto the parliament of England a just ground of annulling their act also, but not having done it, no man can doubt but it remains in force; and whosoever marcheth against Scotland incurs the penalties of treason denounced by it. And some that were present at the making of it, are so far from approving the distinction between *invading* and *subduing* rebels as to say, that the parliament then finding they had been upon the like pretence engaged against Scotland in 1638 and 39, made this act expressly to hinder any such business as that which is now depending; and to take care* that England should never be again engaged against Scotland, without the consent of the parliament; which was also the reason why the act was continued in force on our side, though it was dissolved on theirs. This renders men of estates unwilling to engage; and hereupon the duke of Monmouth was sent away yesterday in such haste, as to carry no more company with him, than could go in one day to your good town of Newark, where he was to lodge the last night. He is furnished with powers of indulgence to compose rather than destroy; and the lord Melvin (who is thought well enough inclined to non-conformists, and well liked by them) is sent with him, as being thought a fit minister of a good agreement. The foot that was embarked in the Thames is gone for Berwick, where it is to stay to secure the town; and the other forces, that are newly entertained, are to continue only for a month. This looks as if your friend Latherdale may within a while be left as naked as the earl of Danby. The army is almost every where disbanded, unless it be these that upon this occasion are again taken into pay, and the countries almost every where express the utmost hatred unto them, as soon as they have laid down their arms. Douglas's regiment now in Ireland, as is

[* *That England should never again be engaged against Scotland*]

Go on both hand in hand *O nations never to be disunited*, be the praise and heroic song of all posterity; *merit this, but seek only virtue, not to extend your limits*; for what needs? To win a fading triumphant laurel out of the tears of wretched men, *but to settle the pure worship of God in his church, and justice in the state*. Then shall the hardest difficulties smooth out themselves before you; envy shall sink to hell, craft and malice be confounded, whether it be home-bred mischief, or outlandish cunning: yea all other nations will then covet to serve you, *for Lordship and Victory are but the pages of Justice and Virtue*. Commit securely to true Wisdom the vanquishing and uncausing of craft and subtlety, which are but her two runnagates: *join your invincible might to do worthy, and godlike deeds, and then he that seeks to break your union, a cleaving curse be his inheritance to all generations*.

Of Reformation by *John Milton*.

said,

said, hath orders to march into Scotland, which giving people occasion to talk of that country, they say that the king having lately placed the greatest powers of the three kingdoms in the hands of the three worst men that could be found in them, can never be at ease until they are all sacrificed, to expiate the faults of the government, and appease the discontents of the nation.

Harry Sydney hath his instructions for Holland. Sir Henry Goodrike is going into Spain, as a pattern by which that court may judge of the wit and good sense of our nation. On Friday last Harcourt, Whitebread, and three other priests were, at the Old Baily, found guilty of the plot, and condemned as traitors. On Saturday the like sentence passed upon Langhorne. The trials were in all respects fair, even by the confession of the adversaries. The arraigned persons placed all the hopes of their defence upon the invalidating of Oates's testimony, to which end they had about 16 witnesses sent from St. Omers, to assert that they had seen him every day in May and June was a twelvemonth at St. Omers, and consequently he could not be here as he doth assert; but as three of them, having been apprehended by sir William Waller, at their first coming, told him they were come to be witnesses, and being asked what they were to witness, *they said they must know that from their superiors*; it did plainly appear at the trial, that they were ready to say whatever they were bid; and Oates did plainly prove by a knight and two of his servants, two protestant parsons, a popish priest, and some others, that he was here at that time; so as his testimony was taken without dispute. This is a dangerous leading case for the lords in the tower, whose principal hopes were to invalidate the testimony of Oates, Bedloe, and Dugdale; all which being confirmed by the judgment of a jury in the face of all London, cannot be questioned. Wakeman was to have been tried the same day, but being arraigned the trial was put off for a month, as is said, at the solicitation of the Portugal ambassador, and in a way that to many seemed scandalous. If the Scotch business be settled, the king will go to Windsor as he intended. You may remember that the last year four Irishmen were spoken of, for having been sent down thither to attempt upon the king's life; it is now said that one Antonio, a servant to the queen, told one belonging to the duke of Monmouth at that time, that four Irishmen were expected there about a business of great importance; and the king's harbinger says, four such were then recommended to him, as men he must take a care of, and see well lodged. How little soever I have to say, I fill my paper like a Gazette, and have room only to add that I am,

Your humble and faithful servant,

Sir,

London, June 23. July 2.

I told you in my last, that the duke of Monmouth was gone towards Scotland, since which time reports have been so various, that no man well knows what to make of that business; and the cause of this uncertainty is imputed to the diligence of the king's officers, who intercept and keep all letters directed unto persons any ways suspected, so that no more is known, than they think fit to divulge. An express arrived here on Saturday-night from Edinburgh, and brought news that the duke of Monmouth arrived there on Wednesday: that he had been received with great joy, and as much honour, as those that were there could shew unto him; that the council having been immediately called, he exposed unto them his commission, which was very well liked; that the chancellor invited him to supper that night, and that he was the next morning to go to the army, having first sent an express to the lord Lithco*, that commands it, no ways to engage in any action before he comes. Some think that he hath the conventicle-men at an advantage, and will pursue it to their destruction. Others say, that upon the extreme aversion that is shewn all over England to a war in Scotland, and the little probability yet appearing of the parliament's being any ways engageable in it, he hath received much more gentle instructions, and intends by the help of the lord Melvin, to compose those businesses if he can; and if he can accomplish it, will certainly render himself very popular in England and Scotland.

The duke Hamilton and some other Scotch lords, having let his majesty know, that the disorders in Scotland proceeded only from the extreme pressures the people were brought under, by those who contrary to law abused the power his majesty had trusted them with, did undertake to finish all without blood, if he would be pleased to ease them of those pressures, and, removing those who had caused them, put the government of the kingdom into the hands of such persons as were well-pleasing unto the nation. This having been taken into consideration for some days, the duke Hamilton with the rest, and one Lockhart, were sent for by the king, who told them, the points formerly spoken of did relate unto his *prerogative*, which in *three points* he would not suffer to be touched: 1st, That he having a right of disposing of all *places*, might incapacitate such persons as he should think fit: 2dly, That it belonging to him to prevent *conspiracies*, he might secure and imprison suspected persons; and that there was no such thing as a Habeas Corpus in Scotland, nor should be as long as he liv'd: 3dly, That it being his part to prevent or to quell rebellions, he might raise such forces as he pleased, quarter them where he thought fit, and employ them as occasion should require. To which Lockhart replied, that the *places* in question were those belonging to counties and corporations, which had ever been chosen by the *people* respectively according to their charters. And as to what concerns conspiracies and *rebellions*, he thought he could prove, that what

* Linlithgow.

his majesty did assert did neither agree with the laws of Scotland, nor any other law, nor the ends for which that, or any other government was constituted.

The next point in discourse was concerning some articles exhibited against Latherdale; in which it is said, that "his Majesty for several years passed had been utterly misinformed, and never known the truth of any thing relating unto Scotland, but been guided by such reports as best suited with Latherdale's interests." That he had been thereby induced to bring down the last year that army of barbarous Highlanders, upon pretence of mutinous and seditious field-conventicles; whereas such meetings as had been, were modest and quiet; and quartered them in those countries where there never had been any at all. Several other misdemeanors are said to be mentioned, and amongst others, that of Michell, who had been put to death after having had a promise of life and limb, by false oaths made by Latherdale and some others of the privy council. The conclusion was, *the king commanded the Duke, that these articles should not be made publick.* In which he excused himself, forasmuch as having done nothing in the dark, several copies had been taken, which were not in his power. Some say, we shall this day see them in print, with the declaration of the conventicle-men, printed at Glasgow, which is very well worth seeing. The forces of these conventicle-men, or, as they call themselves, the Western army, are variously reported. Some say, they have 14000 or 15000 men; others, that this day was a se'nnight they had, not far from Stirling, between two and three thousand horse, well armed and mounted, with about the like number of foot; that a brother of the earl of Galloway was coming to them, and within three hours march, with above four hundred horse and foot, and that they had parties of good strength in several other places.

The five priests formerly condemned, were executed on Saturday, confessing nothing. Langhorne is reprieved for some time, upon his offer to confess that which shall deserve his life. The earl of Shaftesbury hath been twice with him, but, as is said, hath as yet gained nothing from him, but the discovery of some lands belonging to the Jesuits, Franciscans, and Benedictines, not exceeding two thousand pounds a year, which will not save his life. Wakeman is to be tried this week at the king's bench bar. His relations desire he should confess, and think he will. It is said that about this time was a twelvemonth, some women visiting his wife, saw a daughter of his, growing up to be marriageable, which gave occasion to the gossips to ask the mother, what portion she should have? To which she answered, that if one thing hit right, sir George would give her ten thousand pounds; which people now reflecting upon, together with the life and estate of the person, believe that one thing which was to enable him to give so large a portion, was the 15000 pounds, which was promised him to poison the king.

There

There is a certain petition preparing in London to be presented unto the king, which, as is said, will be signed by many lords, gentlemen, and all the principal householders of the city of London, taking notice of the army having been raised upon pretence of the French war, kept up by Danby's means contrary to an act of parliament, as a standing army. In the next place it mentions the acts of parliament made in England and Scotland, making it treason for the subjects of either kingdom to invade the other, or the subjects thereof, giving power and enjoining all other subjects of either to fall upon and destroy such as should in any time attempt to do it, as rebels and traitors; and shewing the dangerous consequences of forcing the protestants of his kingdom to imbrue their hands in each others blood, if according to the rumour spread of a war in Scotland, any men should contrary to the act march against them; desiring his majesty to put an end to their fears in that point, compose things there, suffer the parliament to meet the 14th of August, bring Danby and others to their trials, perfect the disbanding of the army, and other new-raised forces. If this petition do take, as some believe, it will be sent to the grand juries in the several counties, and come up signed by so many as shall approve of it. Some say, the Highlanders have laid down their arms, and submit the determination of their differences with Argyle to the king.

The speaker Jeffryes is made a baron of the exchequer in the place of Leake, who resigned it. Whilst I write this, news is come by an express, that the duke of Monmouth is within a mile of the Scotch conventicle-men, who lodged them in duke Hamilton's little park, with so little skill and so much disorder, that all men give them for lost. I am sure our friends will be as cautious as you wish concerning ticklish places. H. Sydney is to be here again in October, but to return after the dispatch of some private businesses. I am,

Your most humble servant,

P. S. This long letter was to have been sent by the last post, and left by accident till it is in danger of appearing unseasonable. A courier arrived the last night from Scotland, who brings word, that the duke of Monmouth had attacked the conventicle-men, and easily forcing a little barricado they had made to defend a bridge, had utterly defeated them. Some letters say, two thousand are killed upon the place; but my lord Sunderland tells me there is only some hundreds slain, many taken, and the whole party dissipated and destroyed; by which means it is said, that the duke of Monmouth will have made himself as popular in England and Scotland as the duke of York. Men here will be startled at present, but that will not hold. The Scotch lords here have been so wise as to leave their countrymen to be cut in pieces, but (as some believe) not enough to keep themselves so free from corresponding with them, as not to leave that, which being well followed may bring their heads to the block. I am,

Your most humble and faithful servant.

LETTERS OF ALGERNON SYDNEY

I shall not be in town on Monday to write unto you according to my custom. The peace of Brandenburgh could not be otherwise than as it is.

The gentleman, to whom the inclosed is address'd, hath received one letter that pass'd through your hands, and will wait upon you for this.

Sir,

London, June 30. July 9.

I write to you now rather to keep my day, than from an opinion that these last days have produced any thing that deserves to be communicated unto you. The news concerning the Scots, mentioned in my last, is confirmed by several expresses, and all shew their defeat to have been entire, the party dissipated, and those who escaped the fury of the sword remain expos'd to the discretion of their conquerors. I find men's judgments as various, as to the use which will be made of this advantage, as of the duke of Monmouth's action in what is pass'd. Some did think that they being a poor people, brought into despair by the most violent persecution, pitied by all both in England and Scotland, helped by none, without head or conduct, were to be spared; and that in doing so, he might have made himself very popular in both kingdoms, (which he is thought with reason much to desire) and best to have provided for the king's interest. Others, who look upon it as a fine thing to kill a great many men, and believe monarchies are best kept up by terror, extol the action, and say there is no other way of suppressing old rebellions, or preventing new ones, than by force and rigour; looking upon Caligula as a great statesman, and *oderint dum metuant* as a good maxim. Some think that the duke of Monmouth's first instructions were according to the first of these ways, but that he was followed by others, which favoured much of the second; those that were of the first opinion, do now think the best way were to compose things there, and by shewing indulgence not only in sparing those that are obnoxious, but in giving them such indulgence in matters of conscience, as may satisfy them, prevent the like, and please the body of the English nation, which hath given many tokens of being much concerned for them. On the other side, those are not wanting who think the best way to bring that stubborn people into subjection, and keep them, as they call it, in peace, free from rebellions, is to use the utmost rigour upon those that are in their power, and to discover who did in any measure assist or abet them; and in order thereunto the prisoners are used most cruelly, and it is said, that at the least forty of the most noted men amongst them shall be put into the *boots* my lord of Latherdale hath brought into fashion, to make them discover what correspondence the great men held with them. I know not how far this may concern some that are, or lately have been here, but it is probable enough they may have the fortune that ordinarily accompanies them that pretending to be very subtle and keep well with
both

both sides, ever do too much or too little; and that whereas they might have prevented all tumults, if they had endeavoured it, by denying all manner of favour to the discontented people; or reformed the state of that kingdom, if they would have taken the conduct of them, and very well provided for their own interest by either way, may have ruined these poor people by stirring them up, and leaving them to themselves; brought the whole nation under the power of their enemy, and given such advantages against themselves, as may be their ruin, if they are pursued; that is, to perish or be saved by the mercy of him they profess to abhor. Duke Hamilton complains he is ruined by this business, and that not only all the provisions of victuals and corn and grass upon the ground is destroyed, but that there is not a cow, one horse or sheep left upon his whole estate; and his own house had been plundered, if the Duke of Monmouth had not sent an officer to preserve it. But Latherdale says, he cannot believe that Hamilton's friends, tenants, and servants, would so far forget their dependence, obligations and good manners, as to deal uncivilly with him. Such as are near unto those who manage businesses may speak positively of them, but I must as you see suspend my judgment, until the duke of Monmouth comes back, which is expected in a few days.

The petition I mentioned in my last did meet with some interruption, but the defeat of the Scots put an end to it. Those who use to extol all that relates to Rome, admire the constancy of the five priests executed the last week, *but we simple people find no more in it, than that the papists, by arts formerly unknown to mankind, have found ways of reconciling falsehood in the utmost degree with the hopes of salvation, and at the best have no more to brag of, than that they have made men die with lies in their mouths.* Langhorne's discoveries being trivial, relating only to lands of a small value belonging to convents, I think he will be hanged this day or to-morrow. Wakeman's trial is put off, as is believed, to avoid the indecency of the discourses that would have been made. This day and to-morrow will bring all the court to Windsor. The king is to meet the council every Thursday at Hampton court, and we of the vulgar expect after their first meeting to hear, whether the parliament shall meet or no, at the time appointed. Some speak as if our small queen, upon pretence of going to Burton, would be so cruel as to leave us. I am,
Your humble and faithful servant.

Sir,

London, July $\frac{1}{2}$ 16.

If I had a mind to play the politic, like a house of commons man newly preferred to be a privy counsellor, I should very gravely excuse myself for not writing to you by the last post, and lay the fault upon my want of leisure, putting as much weight upon a law-suit, as they do upon affairs of state; but having at their costs learnt, that those who make such discourses, cheat none but themselves, I ingenuously confess I had

nothing to say; and that now the parliament is prorogued and the court at Windsor, I hear little more than I shall do when I am dead. The truth is, some of our friends being newly grown men of business, are so politic and secret, that a man who sees it can hardly forbear laughing; but none is so ingenuous as to be content men should do it, except the lord Halifax, who is sometimes free enough with his companions to begin. I long since found that the design of sending H. Sydney into Holland, was like the rest of Sir William Temple's projects, a matter of great depth, and kept so close, that not one of them would speak to me of it; but this day was a fortnight a gentleman that came to see me, took a letter out of his pocket, newly come from Holland, wherein the whole end of his negotiation is set out very plainly; which in short is understood to be no more, than under the pretence of a guaranty to draw Holland and Spain into a league with England, which may help the prince of Orange with an occasion of breaking the peace lately made; which I believe will take effect, if the French can be persuaded to sleep three months, and take no notice of it; if the Louvesteine party in Holland, and their associates can be brought to believe the prince of Orange thinks of advancing no interest but the public good of the country; and if our house of commons can be so well satisfied with the management of the last business in Flanders, as to be willing to raise a new army under the same conduct, and to believe one that is so raised, will conduce to the defence of Flanders, as much as the last.

The last post brought me yours of July the 12th, and if you confess you did not know what to make of the Scotch business before you had my letters, I may conclude you were as much in the dark afterwards, for I could not make you understand that which I am ignorant of; and to say the truth, I am so; a great part of our modern prudence being to suppress informations of the truth, which I take to be as great a point of subtilty as that of one of our friends, who concealed a misfortune befallen him in the first acquaintance he had with a woman, until he was like to fall into pieces. Some think the great lords will be found to have incited the poor people, and then endeavoured to value themselves at court upon the power they had of appeasing them; and if that prove true, they may have the fortune that ordinarily accompanies those that do too much or too little, and my lord Latherdale's boots will be a powerful means of discovering whether this be so or no.

Monsieur de Flamarin hath been received at Windsor as seriously, as if it had been believed the queen of Spain's marriage should not hold, unless it were here approved, and the formalities that are usual with men of business, having been observed to him, he is grown to think he is so. You know Monsieur de Barillon governs us (if he be not mistaken) but he seems not to be so much pleased with that, as to find his embonpoint increased by the moistness of our air, by frequently clapping his hands upon his thighs, shewing the delight he hath in the sharpness of the sound that testifies the plumpness and hardness of his flesh; and certainly if this
climate

climate did not nourish him better than any other, the hairs in his nose, and nails of his fingers could not grow so fast as to furnish enough of the one to pull out, and of the other to cut off in all companies, which being done, he picks his ears with as good a grace as my lord La. The dissolution of the tables at Windsor hath caused a great solitude there, which leaves the king few better entertainments than fishing, and unto some of our friends a good opportunity of making their court, which they improve. A man is come out of the North, who says, that Sir Thomas Gascoigne did treat with him to undertake to kill the king, sent him to London to receive farther instructions, and tells his story so discreetly, that every body believes him. He seems to involve Sir George Radcliffe of Northumberland, who had been formerly taxed by Oates. One Carril, a Suffex gentleman, was last week seized and brought before Oates; he says he is a jesuit, and the same man that by those of the society was called Blundell, of whom much hath been said.

I dare not assure you that the gentleman, to whom the letters were addressed that I sent to you, is as honest as he is understanding in business, because I doubt men that are necessitous and live by their wits, may be apt to swerve from the best way, and I know some of his near relations to be very naught; but I can truly say, that in many years acquaintance I have not found him guilty of any ill thing, and I am sure that a brother of his, having undertaken one that was abominable, he was so far from joining with him, that he discovered it to the person concerned in it, and as I believe thereby saved his life; and since that time so broke with his brother, as never to have looked upon him for this 13 or 14 years. I hear the duke of Monmouth is expected here this day. We poor people know nothing of the sitting of the parliament, but are confident it will not be in August. I am, sir,

Your most humble and faithful servant.

Sir,

London, July 16.

You may with reason believe, I am little informed of what passeth in the world, that in my last letter I said nothing of the parliament, which I make no doubt but others, that wrote to you the same day, said was dissolved. The truth is, the business being done at Hampton-Court, the news came not hither until the afternoon, and I having it two or three hours later than others, had already sent my letter to the post, and could not recover it to make an addition, though of so great importance. This business is wholly imputed unto your two friends, and the other that ever joins with them; but the king finding it would not pass at council, takes it wholly upon himself; tho' that, as well as some other things of the like nature, is thought not well to agree with what his majesty was pleased to declare when he made the new council, to have no cabinet council, but next unto the advices of the parliament to follow their's in
all

all things; and the world looking upon this as the work of the three above mentioned, they begin to be spoken of all over England in the same manner as Danby, and I fear may be impeached the next parliament upon this point, and the war in Scotland, as is said, contrary to an act of parliament in the year 1641. The new parliament is to meet on the 7th of October: there will be as great canvassing for places as ever, people believing this parliament was dissolved only in hopes of having one that would be less careful of the public interest. All men that wish well unto it, think it necessary to employ all their industry in endeavouring to make it better in that sense; and many believe they will effect it, though some probably will grow weary of the expences of elections, and the ways of preventing them as yet are not settled. The lord Halifax is made an Earl, under the same title. The lord Sunderland hath orders to prepare warrants to confer the same honour upon the lords Garret and Roberts.

The lord of Wiltshire's marriage with Mrs. Coventry was the last week celebrated with great solemnity; and yesterday the young couple came to the Marquis of Winchester's house, where there was a mighty feast, and much dancing and rejoicing. Langhorne was yesterday hanged, professing the same innocence that the jesuits did, *and had the fortune as well as they, to be believed only by those that are in the same crimes, or are concerned in having them concealed.* This day the council was extraordinarily assembled at Hampton-Court, to consider of Wakeman's business, with its consequences, notwithstanding which he is to be tried to-morrow at the Old Baily.

The last week the king gave the Scotch lords a hearing against Latherdale; they had council on both sides; Lockhart and Cunningham did undertake to prove a multitude of things done by Latherdale to have been against law; and Mackenzie, the king's advocate, being of counsel for him, could no ways disprove them, but had recourse unto the royal authority. The lords of Essex and Halifax were present, and both of them, but especially the latter, did very much uphold the complainants, and, amongst other things, told the king he saw the Scottish nation was more free than the English. Nevertheless answer was returned to them, that Latherdale had done nothing but what his majesty had commanded, and which he would uphold by virtue of *his prerogative, which was above the law.* This, as is thought, will preserve him from punishment, but his place of secretary will be given to the lord Magennis.

The duke of Monmouth, before he came from Scotland, had taken care that the Scotch prisoners should be used with more humanity than they found amongst their countrymen, and since his arrival here, orders are sent to enlarge the indulgence granted unto the non-conformists in their meetings. The result of that business, as far as I understand it, is, a great many fools have been killed; their blood lies upon Latherdale; their folly and the cruelty shewed unto them hath gained a great deal of compassion for those that remain of their party, which probably will persuade those in authority here to proceed more gently; and that which

is reasonable in itself, will be rendered absolutely necessary, if the parliament be suffered to sit; for unless they prove to be of a temper very different from what is expected, they will suffer nothing like unto that which hath been. A business happened lately, which makes a great deal of noise. A certain captain under the shelter of the African company, committed several piracies upon the English company trading in Turkey, and lately coming to town, five or six principal merchants that had received the damage, arrested him, whereupon he complained to the commissioners of the Admiralty, who sent for the merchants, and upon their refusal to release the captain, committed them. They addressed themselves to one of the judges for a Habeas Corpus, who before he granted it, gave notice unto the commissioners, that the commitment of the merchants was against law, advised their release before the Habeas Corpus was granted, which could not be denied, which the commissioners refused to do; but advising farther with lawyers, found not only that what they had done was unwarrantable, but that they were subject to actions for false imprisonment, upon which the injured persons would obtain great damages; so that they found no better way than to release the men, with a great many fair words: but they not being therewith satisfied, resolved to sue them at law, or bring the business into parliament. I write this two days before the going of the post, because I am obliged to make a little journey this day, and shall not be back until he be gone. I am,

Your humble and faithful servant.

Sir,

London, September $\frac{8}{18}$.

I have been out of town almost this month, so that my last letter to you was dated about that time. At my return I found men's minds more disturbed than ever I remember them to have been, so that there is no extremity of disorder to be imagined, which we might not probably have fallen into if the king had died, or which may not yet reasonably be feared if he should relapse. All that is now to be told of news, is from the court, and must be known from those that are more conversant there than I am. Though the parliament is like to signify little, people are busy in bringing those in, who are of their own mind; and the party that is most averse to the court seems to prevail in the counties and great corporations, as the other doth in many of the small boroughs; and upon the whole matter, many believe the house will be composed as the last was, or as some think, of a more harsh humour, the same men being something sharpened.

Your friend the lord Latherdale is more powerful than ever in Scotland, openly opposeth the duke of Monmouth, and hath so far prevailed, as to render the indulgences obtained by him utterly ineffectual: but lest his power there should not be sufficient to protect him here,

if

LETTERS OF ALGERNON SYDNEY

if the parliament meets, he doth not disdain a pardon, and as I hear; one is preparing for him. I know not how much your friends and mine do grow at court, nor whether the gains they can expect to make there, will countervail what they lose in the nation; but I do think myself assured, that two of them †, who were generally as well esteemed as any men I know, are now as ill spoken of as any; and the asperity one of them shewed against the papists, is most bitterly retorted upon him. If the parliament sits, I shall not be so ignorant as I am of what passeth, and I will with the same care that I did the last time, let you know what I hear, and, as far as I dare trust letters sent by the post, what I think. I am,

Your most humble and faithful servant.

Sir,

London, October 29.

It is indeed a good while since I heard from you, and I have been less diligent in writing to you than formerly, partly because I doubted, whether my letters were any ways acceptable unto you, and partly because one that is far from court knows nothing worth relating, unless it be in parliament-time, when all that is done is made public, or at the least comes to the knowledge of those that have any acquaintance. I am not able to give so much as a guess, whether the parliament will sit the 26th of January or not, and though I think myself in all respects well chosen, am uncertain whether I shall be of it, or not, there being a double return; and nothing can be assured, until the question arising thereupon be determined, unless it be that as I and my principles are out of fashion, my inclinations going one way, my friendship and alliance with those that are like to give occasion for the greatest contests drawing another, I shall be equally disliked and suspected by both parties, and thereby become the most inconsiderable member of the house. But however matters go, if the house doth sit, and you care to know what I either hear or think, I so far abhor the excuse that is worn out by having been so often alleged by liars and fools, as never to pretend to much business as a reason for my omission; and I think I shall make none.

I have often heard of monsieur D'Avaux's behaviour in Holland, but did not need any information as to matter of fact, to be assured he would oppose it; to believe he would succeed, and indeed with some confidence to conclude, that our disappointment in that case is much more for our advantage than what we sought. And as it is said in religion, that nothing is more terrible than the return of ill-conceived prayers, nothing is more to be feared in politicks than the success of unreasonable and ill-grounded counsels. And though the "proposition

† The earls of Halifax and Essex.

“ that was made being rejected, will certainly raise the party in Holland that is least for the prince of Orange, and cast it into a dependence upon France; that is less mortal unto us than a league, that would certainly have produced a rupture of the peace, renewed the war all over Europe, exposed Flanders to be lost the first year (which this must have done;” it being as certain, the assistances expected from hence would have failed, as that it hath not in itself that which is necessary for its defence.) This, and a great deal more upon the like subject was told the lord Sunderland, and Mr. H. Sydney before he went; but sir William, who was taken for the oracle of those parts, assured them, there was no such thing as a party in Holland inclined to oppose the prince of Orange; that all was submitted unto his authority, and united in desiring such an alliance with us; that it would certainly be accepted as soon as offered, and that the French which had made the peace for fear of us, would by the same reason more exactly keep it, when it was seen that we were joined with them. I should think him bewitched, that doth not see there is as many falsties, as to matter of fact, and mistakes in judgment in this matter, as there are words; but I see no intention of receding from such counsels, nor remedy for the mischiefs they bring upon us. It was also believed this business would have been liked by the parliament, but I am as confident, as of this that is passed, that if the parliament had met, neither this nor any thing that is like to engage us in any war would have been endured by them, nor that they would have given a penny towards it.

You will certainly have heard of a precious *plot*, carried on by a man of four names (who had been almost as many times in the pillory for perjury, and such other pieces of wit) whereby the presbyterians should be brought under the suspicion of having one now on foot, which should have given occasion of bailing the lords in the Tower; but he having had the ill luck to mistake Mansfell for Mansfield, carried a bundle of letters, he had forged, to a wrong place; and bringing some officers of the customs to search Mansfell’s lodgings for Flanders lace, and other prohibited commodities, was feign to find them himself; but the mistake of the superscription, which was to Mansfield, the seals not opened, and other circumstances making the fraud to appear, the whole matter vanished. About the same time another design of equal prudence and integrity was carried on to suborn Dugdale to renounce his testimony concerning the popish plot; but he consulted with some friends, placed two good witnesses under the hanging to testify what the woman said, who treated with him; and when he saw a fit time, discovered all to the council, so that that plot also is enervated. We hear of several other persons that would more fully discover the popish plot; but as things stand, none dares appear. Serjeant, long spoken of, hath deposed what he knows, and, as I hear, delivered it into safe hands signed and sealed. H. Sydney is said to

have made a very ill discourse to him at the Hague, and if it come before the parliament, will probably have evil effects. The duke went towards Scotland on Monday, full of various imaginations, as is said, but some understanding men think he hath nothing, that ought more to please him in his journey than good weather. There is a paper cast about the town of the earl of Danby's case, which makes a very ill one of it; and amongst other things to prove he was not of the French faction, he says, he needs allege only the French ambassador's discourses of him at Madame Mazarin's; this new logic of proving a thing by a proposition, either false, or as uncertain as itself, being looked upon as the invention of that excellent wit.

I am glad to hear of the dulness you observe in your neighbourhood, and wish you could find means to increase it, believing that nothing else can keep them from taking advantage of our follies, as I am sure the league would have done, if it had been accepted in Holland. H. Sydney arrived here yesterday. The duke's first lodging was at Hatfield; the earl of Salisbury being at Quickshot, six miles off, sent his son to excuse his not coming to wait upon his royal highness, for that he had been let blood five days before. No provisions for his entertainment appeared in the house, but two does upon the table, one barrel of small beer in the cellar, and a pile of faggots. The duke's servants sent into the town to buy all things necessary, even to candles, and to borrow candlesticks. The gentlemen of the neighbourhood were so charitable as to take the lord of Offory and many others to their houses, where they were well entertained. The duke being unwilling to be burthensome to a poor lord, appointed sir J. Worden to pay for what he had, and the steward took money for the faggots, and eight shillings for the barrel of beer. The earl of Orrery is dead, and the lord of Ormond hath made his son Arran, major-general in his stead; that if the French invade that kingdom, the army commanded by himself and his two sons may be fit to oppose them. I am,

Your most humble and faithful servant.

Sir,

London, October 31.

We are in a busy time, and how empty soever any man's head hath formerly been, the variety of reports concerning things in agitation do so fill it, at least with an imagination of contributing something to other men's inventions, that they have little leisure to do any thing else. This obligeth me to write in haste, and without any other consideration than of the agreement made between you and me, to set down nothing but truth; to tell you in short, that the first day of the parliament the lord Ruffel named Mr. Williams to be speaker, who being approved of without contradiction, was with little ceremony, and no excuse made for himself, assented unto by the king. The two next days were spent in

swearing the members of the house of commons, and putting them to the test. On Monday the five and twentieth, the committees were named, and a multitude of petitions concerning elections presented, and referred to that of privileges and elections.

On Tuesday the 26th, Dangerfield was brought to the bar of the house of commons, where he did declare himself positively, that the duke had offered him a great sum of money to kill the king. He also said, that the lord privy seal, Peterborough and sir Robert Payton, were privy unto and contrivers of the *Meal-Tub-Plot*. The same day the lord Ruffel, representing the mischiefs and dangers that threaten our nation, shewed the duke to be the centre of all. Sir H. Capell seconded him. Sir Francis Winnington made a recapitulation of all that had been done since the last parliament to the prejudice of the nation, in favour of popery, and imputed the greatest part thereof unto the same cause; whereupon a vote was passed by the house *nemine contradicente*, that the house should proceed incessantly upon the further discovery of the plot, and the means of preventing a popish successor.

Wednesday the 27th, Dangerfield was brought into the speaker's chamber, and being put to his oath by a justice of the peace, did depose what he had formerly said. Mr. Hyde only and sir Lionel Jenkins did speak in favour of the duke; and the latter having the ill luck to say, he did in his heart believe his royal highness was as good a subject as any is in England, one, that was not far off, whisper'd, "*and as good a protestant.*"

The same day complaint being made in the house of commons of those who had obstructed petitions, and some members severely answering such as had been guilty thereof, sir Robert Howard desired the house to proceed cautiously therein, his majesty having by proclamation declared such petitions to be contrary to law. Notwithstanding which admonition, the house did vote *nemine contradicente*, That it was, and had ever been the right of the subjects of England to petition his majesty for the meeting and sitting of parliaments, until all petitions were heard and grievances redressed. In the second place they appointed a committee to examine who had been guilty of obstructing such petitions, and therein betraying their country. There are six or seven members of the house of commons said to have declared themselves detesters and abhorers of such petitions, who, as is thought, will be turned out of the house without other ceremony.

The same day sir Robert Payton was suspended the house.

An American jew, lately interpreter to the last Portugal ambassador that was here, did testify before a committee of the house of lords, that he had been suborned by the said ambassador to kill the earl of Shaftesbury, by casting hand-granadoes into his coach as he should be going to, or coming from Chelsea; and to find others to kill Arnold, Oates and Bedloe. He mention'd this at first in the phrensy of a fever, and finding that he had so discover'd himself, found no better way of security than to declare

the whole to the earl of Clarendon the first day of May last, and delivered unto him the whole matter in writing. The earl doth neither deny the receipt of the papers, nor give any reason why he concealed it.

Many terrible accusations come in against Anglesey.

The lord Halifax brought in a bill for the speedy discovery and conviction of papists, and ease of nonconformists, but so contrived, *that both parties are almost equally incensed against him for it.* The house of lords was on Thursday turned into a committee, and, as I hear, will be so every day, to consider of it, and try whether it can be so mended, as to be useful unto the ends intended. I know not whether that can be done or no; *but I could have wished, that intending to oblige above a million of men, that go under a name of nonconformists, he had been pleased to consult with one of that number, concerning the ways of doing it.*

On Friday twenty-nine lords and commoners were invited by the lord mayor to his feast, and after dinner the duke of Monmouth came to them. In his return he was accompanied by a great number of people, that ran to see him and esquire Thynne. It was observed that having formerly had a bar in his arms upon his coach, it was then wiped out.

October 30, Dugdale did declare unto the house of commons, that Ewers the jesuit told him, there had been a contest between the duke of York and Coleman; he complaining that the duke put him upon businesses that would bring him to be hanged, the duke told him, he would secure his life, if he would hold his peace: Coleman answered, he could do so for the future; but he had already confessed so much unto his friend sir Edmond Godfrey, that it was in his power to discover him and all his business; whereupon the duke replied, that ought not to trouble him, for orders should be taken to keep Godfrey from doing any hurt, *which in a few days was performed by his death.* Cann of Bristol, and Withins Steward of Westminster, are put out of the house of commons for discountenancing and opposing petitioning.

I believe to-morrow will be a great day in the house of commons, in as much as it relates to the duke; he is said to be arrived in Scotland, but no certain news is come of him, since he was seen off from Newcastle on Monday last. If the orders sent into Flanders from Spain concerning reprisals upon the duke of Brandenburg by sea or land be executed (as is said) by sending two or three thousand horse into the Pais de Cleves & de Juliers, I look upon the peace as broken; for the French will certainly defend it, or do the like in Flanders. I am,

Your most humble and faithful servant.

The lord Ogle is dead.

The length of this letter will persuade you I am not in the haste I mentioned; but abundance of matter hath made a letter of six pages, when I intended but one.

Sir,

London, July 26, 1682.

I had not failed of seeing you, when you were here, if it could have been compassed by industry, for I was more than once at your old lodging in King-street, and the new one which I then heard you had taken near St. James's; but courtiers are always in motion, so that to meet with them is as hard as to shoot flying, and though my intention was to have done it, I found that skill was wanting. I was in that enquiry guided by my own inclinations unto you, and the knowledge of obligations received from you, both of which join in persuading me to wish you in a way more suitable unto your humour, than that which engageth you in troublesome removes to follow a prince, [Lewis XIV.] who perhaps doth not always know his own mind, or that thinks it a part of his greatness to vex as many as he can. Those that he sent lately hither, spake of nothing so much as * *la gloire de leur Maitre*; though perhaps there were more

[* *La gloire de leur maitre*]

Pour moi, qui sur ton nom déjà brulant d'écrire,
Sens au bout de ma plume expirer la satire,
Je n'ose de mes vers vanter ici le prix.
Toutefois, si quelcun de mes foibles écrits
Des ans injurieux peut éviter l'outrage,
Peut être pour *ta gloire* aura-t-il son usage.
Et comme tes exploits, étonnant les lecteurs,
Seront à peine crûs sur la foi des auteurs;
Si quelque esprit malin les veut traiter de fables,
On dira quelque jour pour les rendre croïables;
Boileau, qui dans ses vers pleins de sincérité,
Jadis à tout son siècle a dit *la vérité*;
Qui mit à tout blâmer son étude et sa gloire
A pourtant de ce Roi parlé comme l'*histoire*.

Epitre 1, au Roy.

The writer of the long though curious note on this passage, among other things observes, "Notre Poëte revint de la cour comblé d'honneurs et de biens. Cependant il a dit plusieurs fois, que la première réflexion que lui inspira sa nouvelle fortune, fut un sentiment de tristesse, envisageant la perte de sa liberté, comme une suite inévitable des bien faits dont il venoit d'être honoré." But away, Reader, from the time-serving, pensioned, yet ingenious *Boileau*, to honest *Andrew Marvell*, and the matchless *John Milton*.

Whilst in truth's mirror this good scene he spy'd
Enter'd a Dame bedeck'd with spotted pride,
Fair *Flower-de-luce*; within an azure field,
Her left hand bears the ancient gallic shield,
By her usurp'd; her right a bloody sword,
Inscrib'd *Leviathan*, our sovereign lord;
Her tow'ry front a fiery meteor bears,
An exhalation bred of blood and tears.
Around her *Jove's* leud rav'nous curs complain,
Pale death, lust, tortures, fill her pompous train.

State poems by *Andrew Marvell*.

He ask'd thee, hast thou seen my servant *Job*?
Famous he was in heaven, on earth less known;
Where glory is false glory, attributed
To things not glorious, men not worthy of fame.
They err who count it glorious to subdue

By

more of true glory in the steadiness of a little good common sense, than in all the vanities and whimsies their heads are filled with. But if you find some inconvenience in being obliged in a degree to comply with them where you are, I doubt whether you would have been exempted from the like here, *for even we that are afar off from that fire, are so much scorched by it, that we expect not trouble but ruin from it.* I am, sir,

Your most humble and faithful servant.

Sir,

Paris, November $\frac{1}{24}$, 1682*.

The time that I have remained here beyond my expectation, might have given you leisure to let me know what success you had in the business you were pleased to speak to me of, but the sickness, which as I hear you fell into soon after your arrival, may have detained you, till you had reason to believe I was removed into a country far from this; but if your recovery give you opportunity of making an essay, I desire you either to give your letter, by which I may know it, to my lady Sunderland, to be sent unto me, or direct it to monsieur du Moulins, who is with your nephew here, to be sent after me. I have bought a horse of Mr. Porter, in which I think he hath dealt civilly with me, as he says, upon your consideration, which I have reason to believe, and am very willing to acknowledge, as from a person from whom I receive much greater obligations, and to whom I shall be ever ready to render all that agrees with the title of

Your most humble and obedient servant.

By conquest far and wide, to over-run
 Large countries, and in fields great battles win,
 Great cities by assault: What do these worthies,
 But rob and spoil, burn, slaughter, and enslave
 Peaceable nations, neighbouring, or remote,
 Made captive, yet deserving freedom more
 Than those their conquerors, *who leave behind*
Nothing but ruin where soe'er they rove,
And all the flourishing works of peace destroy.
 Then swell with pride, and must be titl'd Gods,
 Great benefactors of mankind, deliverers,
 Worship't with temple, priest and sacrifice;
 One is the son of *Jove*, of *Mars* the other,
 Till conquerour death discover them scarce men,
 Rowling in brutish vices, and deform'd,
Violent or shameful death their due reward.
 But if there be in glory aught of good,
It may by means far different be attain'd,
 Without ambition, war, or violence;
 BY DEEDS OF PEACE, *by wisdom eminent*
By patience, temperance.——

Paradise R

* It is probable, that this and the following letter were written in the year 1676.

Sir,

Nerac, December $\frac{1}{2}$ ⁸, 1682.

I received yesterday in one and the same packet three letters from you, of which one had passed through Paris whilst I was there, and that would have spared me a journey of four hundred leagues, if I had then received it. This would have been a convenience unto me; but my obligation unto you is the same, and I so far acknowledge it to be the greatest that I have in a long time received from any man, as not to value the leave you have obtained for me to return into my country after so long an absence, at a lower rate *than the saving of my life*. You having proceeded thus far, I will, without any scruple, put myself entirely upon *the king's word*; and desire you only to obtain a *pass* to signify it, and that his majesty is pleased to send for me; so that the officers of the ports or other places may not stop me, as they will be apt to do as soon as they know my name, if I have not that for my protection. You took that which had passed between you and me so rightly, that I have nothing to add unto it. I have no other business than what solely concerns my person and family. I desire not to be a day in England unknown to the king, or his ministers; and will lose no time in waiting upon the secretary, as soon as I can after my arrival †. I think it no ways reasonable that I should stay in England, if the king do not see I may do it without any shadow or possibility of prejudice unto him; and unless I can satisfy him in that point, I desire no more than to return on this side the seas after the three months, where I intend to finish my days, without thinking any more of living in England. You see my thoughts simply exposed; I beseech you to accomplish the work you have so well begun. Send your answer to monsieur du Moulins, and believe no man in the world can be more obliged unto you, than

Your most humble and obedient servant.

† He arrived about August or September 1676. See "The apology in the day of his death."

THE TRIAL OF A. SYDNEY

THE ARRAIGNMENT, TRIAL, AND CONDEMNATION
OF ALGERNON SYDNEY, FOR HIGH TREASON FOR
CONSPIRING THE DEATH OF THE KING, AND IN-
TENDING TO RAISE A REBELLION IN THIS
KINGDOM.

BEFORE THE RIGHT HON. SIR GEORGE JEFFREYS,
KNIGHT AND BARONET, LORD CHIEF JUSTICE OF
ENGLAND; AT HIS MAJESTY'S COURT OF KING'S
BENCH AT WESTMINSTER, ON THE SEVENTH,
TWENTY FIRST, AND TWENTY SEVENTH OF
NOVEMBER, MDCLXXXIII

THE ARRAIGNMENT, NOV. VII

Algernon Sydney Esquire by Habeas Corpus brought up to the bar of the court of king's-bench; and the clerk of the crown having read the return, Mr. Attorney-General informed the court, there was an indictment against the prisoner, and prayed he might be charged with it.

Clerk of the Crown. Algernon Sydney, hold up thy hand [which he did.]

Midd. ff. The jurors for our lord the king upon their oath do present, that *Algernon Sydney*, late of the parish of *St. Martin in the Fields*, in the county of *Middlesex*, Esquire, as a false traitor against the most illustrious, most excellent prince, our lord *Charles* the Second, by the grace of God king of *England, Scotland, France, and Ireland*, and his natural lord; not having the fear of God in his heart, nor weighing the duty of his allegiance, but moved and seduced by the instigation of the devil, utterly withdrawing the cordial love, and true, due, and natural obedience which a true and faithful subject of our said lord the king should bear towards him the said lord the king, and of right is bound to bear; contriving, and with all his strength intending, to disturb the peace and common tranquillity of this kingdom of *England*, and to stir up and move war and rebellion against the said lord the king, and to subvert the government of the said lord the king, in this kingdom of *England*, and to depose and deprive the said lord the king, and to subvert the government of the said lord the king from the title, honour, and regal name, of the imperial crown of his kingdom of *England*, and to bring and put the said lord the king to death and final destruction, the thirtieth day of June, in the five and thirtieth year of the reign of our lord king *Charles* the Second, now king of *England*, etc. and divers other days and times, as well before, as after, at the parish of *St. Giles in the Fields*, in the county of *Middlesex*, maliciously and traitorously,

with divers other traitors to the jurors aforefaid unknown, did confpire, compafs, imagine, and intend to deprive and caft down the faid lord the king, his fupreme natural lord; not only from the regal ftate, title, power, and rule of his kingdom of *England*, but alfo to kill, and bring and put to death, the fame lord the king, and to change, alter, and utterly fubvert, the ancient government of this his kingdom of *England*, and to caufe and procure a miserable flaughter among the fubjects of the faid lord the king through his whole kingdom of *England*, and to move and ftir up an infurrection and rebellion againft the faid lord the king, within this kingdom of *England*. And to fulfil and perfect thofe his moft horrid, wicked, and diabolical treafons, and traitorous compaffings, imaginations, and purpofes, the fame *Algernon Sydney*, as a falfe traitor, then and there, and divers other days and times as well before as after, maliciously, traiteroufly, and advifedly, did affemble himfelf, meet and confult with the aforefaid other traitors to the jurors aforefaid unknown, and with the fame traitors did treat of, and for, thofe his treafons and traitorous compaffings, imaginations, and purpofes, to be executed and fulfilled. And that the aforefaid *Algernon Sydney*, as a falfe traitor, maliciously, traiteroufly, and advifedly, then and there, and divers other days and times as well before as after, upon himfelf did affume, and to the aforefaid other traitors did promife, that he would be aiding and affifting in the execution of their treafons and traitorous compaffings, imaginations, and purpofes aforefaid. And to fulfil, perfect, and reduce to effect, thofe their moft horrid treafons and traitorous compaffings, imaginations, and purpofes aforefaid, the fame *Algernon Sydney*, as a falfe traitor, then and there, falfe, maliciously, advifedly, and traiteroufly did fend one *Aaron Smith* into *Scotland*, to invite, procure, and incite divers evil-difpofed fubjects of our faid lord the king, of his kingdom of *Scotland*, to come into this kingdom of *England*, to advife and confult with the aforefaid *Algernon Sydney*, and the aforefaid other unknown traitors in this kingdom of *England*, of aid and affiftance to be expected and fupplied from the kingdom of *Scotland* to fulfil, perfect, and reduce to effect, thofe their moft wicked, horrid, and traitorous treafons aforefaid. And that the aforefaid *Algernon Sydney*, to fulfil and perfect thofe moft wicked, horrid, and devilifh treafons, and traitorous compaffings, imaginations, and purpofes aforefaid, and to perfuade the fubjects of the faid lord the king of this kingdom of *England*, that it is lawful to make and ftir up an infurrection and rebellion againft the faid lord the king that now is, the faid thirtieth day of June, in the five and thirtieth year of the reign of the faid lord the king that now is, at the parifh of *St. Giles in the Fields* in the county of *Middlefex*, falfe, unlawfully, wickedly, feditioufly, and traiteroufly, did make, compofe, and write, and caufed to be made, compofed, and written, a certain falfe, feditious and traitorous libel, in which faid falfe, feditious and traitorous libel among other things is contained as followeth in thefe Englifh words, viz. “ The power originally in the people of *England* is delegated unto the parliament. He “ [the moft ferene lord, *Charles* the Second now king of *England*, “ meaning] is fubject unto the law of God, as he is a man; to the “ people

“ people that makes him a king, inasmuch as he is a king: the law sets a measure unto that subjection, and the parliament judges of the particular cases thereupon arising. He must be content to submit his interest unto theirs, since he is no more than any one of them in any other respect than that he is, by the consent of all, raised above any other. If he doth not like this condition, he may renounce the crown; but if he receive it upon that condition (as all magistrates do the power they receive) and swear to perform it, he must expect that the performance will be exacted, or revenge taken by those that he hath betrayed.” And that in another place in the said false, seditious, and traitorous libel, among other things, these false, seditious, and traitorous English sentences are contained (that is to say) “ We may therefore change or take away kings, without breaking any yoke; or that is made a yoke which ought not to be one: the injury is therefore in making or imposing, and there can be none in breaking it,” Against the duty of his allegiance, against the peace of the said now lord the king, his crown and dignity, etc. And against the form of the statutes in this case made and provided, etc.

How sayest thou, art thou guilty of this high treason whereof thou standest indicted, or not guilty?

Col. Sydney. My lord, I find here an heap of crimes put together, distinct in nature one from another, and distinguished by law; and I do conceive, my lord, that the indictment itself is thereupon void, and I cannot be impeached upon it.

Lord Chief Justice. We are not to admit any discourses till you answer the question, whether you be guilty, or not guilty.

Mr. Att. Gen. [Sir Robert Sawyer, Knt.] If he will demur, my lord, we will give him leave.

Col. Sydney. I presume your lordship will direct me, for I am an ignorant man in matters of this kind, I may easily be surpris'd in it, I never was at a trial in my life of any body, and never read a law-book.

L. C. J. Because no prisoner under your circumstances is to have counsel, but in special cases to be assigned in matters of law, the court is bound by their oaths and duty of their places, that they shall not see any wrong done to you: but the business we are to tell you now is, You are to plead guilty, or not guilty, or demur, which is a confession in point of law.

Col. Syd. Under favour, my lord, there may be indictments that are erroneous; and if they are erroneous and vicious, they are null, and ought not to be answered to.

Mr. Just. Wythins. If you please to demur to it, you shall have liberty to make any exceptions.

Col. Sydney. I do not demur, it is only exceptions. I think in matters of life, a man may give in his exceptions to the bill, and plead not guilty afterwards. I am sure, in sir Henry Vane's case the court said it, and offered him to do it; that which, under favour, I hope to do.

THE TRIAL OF A. SYDNEY

L. C. J. You must plead or demur.

Col. Sydney. My lord, if I put in exceptions to the bill, I do not plead till those exceptions are over-ruled. This was in the case of sir Henry Vane.

L. C. J. Sir, I must tell you, you must either plead, or demur.

Col. Sydney. My lord, There are in this indictment some treasons, or reputed treasons, that may come within the statute of the 13th of this king, which is limited by time; the prosecution must be in six months, and the indictment within three. Now, my lord, if this business that is mentioned be above six months before my commitment, or above three before the indictment, I think, under favour, I ought not to answer to these matters.

L. C. J. You are mistaken in the law. That will be saved when the fact comes to appear. If they allege the thing to be at a time, which according to that allegation would maintain the indictment; if upon the trial it appear otherwise, the court is bound to take notice of it when you come to your trial: but we are not bound to examine that before you have pleaded.

Col. Sydney. My lord, every body will acknowledge, that there have been, or may be, vicious indictments. Now if I plead to an erroneous indictment, and am acquitted, I may be indicted again. Bills of attainder have been upon errors in original indictments, as that of the duke of Somerset. Now if there be here several things distinct in nature, and distinguished by law, that are put together, it is impossible to make a positive answer to any one. If any one should tell me, that I by myself, or by others, by sword or by pistol, conspired to kill the king, I can say, I did it, or I did it not. If any one say, I have levied war, and by several acts undertake to prove I have done it, I can say I have done it, or I have not. But here I do not find any thing specified, nor can tell upon what statute I am indicted. I pray, I may see the record.

L. C. J. That we cannot do. You shall hear it read again if you will. If you think it to be a void indictment, demur to it if you will.

Col. Sydney. My lord, I desire you to accept of this [shewing a parchment.]

L. C. J. What is it? Put in what plea you shall be advised; but if you put in a special plea, and Mr. Attorney demurs, you may have judgment of death, and by that you wave the fact.

Col. Sydney. I cannot make any objection to the bill after I have pleaded not guilty; for I accept the bill thereby to be good.

L. C. J. If you can assign any matter of law, do. But otherwise, what a kind of thing would it be? All criminals would say in all cases, I doubt whether the bill be good or bad, and after I have thus considered of it, I will plead. You are mis-informed; and this the court tells you, as a duty incumbent on them.

Mr. Just. Wythbins. If you demur, and shew what your causes are, we will assign you counsel.

Col. Sydney. I desire you would not try me, and make me to run on dark and slippery places. I do not see my way.

L. C. J. Do not apprehend yourself to be so, as if the court would run you on any inconvenience. But they are bound to see the methods of justice preserved; they are those that you, and all the king's subjects, are bound to conform to. If any one of us were in the same condition, we must observe the same methods of law.

Clerk of the Crown. Art thou guilty, or not guilty?

Col. Sydney. Then pray, my lord, will you tell me this, Is it true, that a man, how vicious soever an indictment is, must answer or demur to it?

L. C. J. He must either answer or demur.

Col. Sydney. Are there no exceptions to be admitted?

L. C. J. None. And if you do not do the one, or the other, judgment passes as if you had pleaded.

Col. Sydney. This is a plea.

Mr. Just. Wytbins. Will you stand by it? Consider yourself, and your life. If you put in that plea, and Mr. Attorney demurs, if your plea be not good, your life is gone.

Col. Sydney. Pray, my lord, give me a day to consider of it.

L. C. J. No. We must not introduce new methods or forms for anybody. The same case that is with you, may be with other people.

Col. Sydney. My lord, I do not pretend to any thing but what is law, and due to every man upon English ground. I would be very sorry to do that which may be hurtful.

L. C. J. You have the rule of the court. You must do one or the other. Call him to it.

Col. Sydney. I desire this may be read [shewing the same parchment.]

L. C. J. It shall not be read, unless you put it in as a plea.

Mr. Att. Gen. I must do my duty: Mr. Williams exceeds his liberty, he informs the prisoner of several things.

Mr. Williams. I only said, if it was a plea, put it in. Mr. Attorney can hear all I say. [Whereupon Mr. Williams was reproved by the Lord Chief Justice.]

Col. Sydney. I only give it as exceptions to the bill.

Clerk of the Crown. Art thou guilty, or not guilty?

Col. Sydney. If any one should ask me any particular thing, I could tell how to answer.

L. C. J. He asks you a particular thing. It is the duty of the court to pronounce judgment, if you do not plead.

Col. Sydney. Why then, if you drive me upon it, I must plead.

L. C. J. I am sure there is no gentleman of the long robe would put any such thing into your head. There was never any such thing done in capital matters.

Col. Sydney. My lord, I am there indicted for conspiring the death of the king; I have not conspired the death of the king. I am there indicted

for levying of war, I have not done that. I am indicted for having invited in others, of another nation, I have not done that neither. I am there indicted to have written a seditious libel to stir up the spirits of the people against the king, I have not written any thing to stir up the people against the king—

L. C. J. We are not to hear all this. You must plead as other people; or else, in plain English, we will pronounce sentence. We ought to give all men satisfaction that will be satisfied; but if they will not be directed, we cannot help that.

Col. Sydney. My lord, if you put me upon this inevitable necessity, it lies upon you; I must plead then.

Clerk of the Crown. Art thou guilty, or not guilty?

Col. Sydney. Not guilty.

Clerk of the Crown. Culprit, how wilt thou be tried?

Col. Sydney. By God and my country.

Clerk of the Crown. God send thee a good deliverance.

L. C. J. If you be not guilty, I pray God you may escape.

Mr. Att. Gen. My lord, will you please to appoint a day for his trial, that he may take notice of it now?

L. C. J. What time would you have?

Mr. Att. Gen. A week's time, do you think that will be enough?

Col. Sydney. No: pray, my lord, give me a fortnight's time.

Mr. Att. Gen. I will not oppose it.

Col. Sydney. In the next place I desire a copy of the indictment.

L. C. J. We cannot grant it by law.

Col. Sydney. I desire you would please to give me counsel.

L. C. J. We cannot do it. If you assign us any particular point of law, if the court think it such a point as may be worth the debating, you shall have counsel; but if you ask for counsel for no other reason than because you ask it, we must not grant it. The court is bound to see that nothing be done against you, but what is according to the rules of law. I would be very loth to draw the guilt of any man's blood upon me.

Col. Sydney. Has not every body counsel?

L. C. J. No.

Col. Sydney. I have several points of law.

L. C. J. Tell us them.

Col. Sydney. My lord, will you oblige me, that am an ignorant man, and confess myself so, upon hearing my indictments for things I know not of, a long thing, presently to raise a point of law?

L. C. J. It is not we oblige you, Mr. Sydney; it is the law obliges you. We are the ministers of the law. It is the law says, we are not to allow you counsel without making your objections, that the court may understand whether it be fit; it is the law says we may not allow you a copy of the indictment: Therefore do not go away and say that we as men sitting here impose upon you: we sit here only to administer the justice of the nation.

Mr. Just. Wythins. Sir, you will have a fortnight's time to consider of objections in law.

L. C. J. If you will have it read, you shall. Those things that you may have by law, God forbid but you should have the benefit of them.

Col. Sydney. I desire, my lord, to hear it read again.

Mr. Att. Gen. Would you have it read in latin?

Col. Sydney. Yes, if you please, I do understand a little latin.

[Then the indictment was read in latin.]

Col. Sydney. What is that statute?

L. C. J. When you come to your trial, Mr. Attorney will tell you what statute he goes upon. And he may give in evidence any act of parliament that comprehends treason.

Col. Sydney. Methinks he should say what statute he goes upon.

Mr. Just. Wythins. Sir, would you have a new indictment for you?

L. C. J. He must take notice of his trial this day fortnight. Lieutenant of the Tower, you may take the prisoner back again.

Then the lieutenant of the Tower took away his prisoner.

THE TRIAL NOV. XXI.

Algernon Sydney, Esquire, was brought to the bar of the court of King's Bench by Habeas corpus, and proclamation for information being made, he desired pen, ink and paper, which were granted him. And he also desired, that two persons, viz. Mr. Wynn and Mr. Gibbs, might write for him; which was also allowed by the court.

Col. Sydney. My lord, when I was last here before your lordship, I did desire a copy of my indictment, and I thought the law did allow it me. But being in an hurry, carried first to a tavern, then led through soldiers, and surpris'd absolutely, I could not give that reason why I thought the law allowed me a copy. My lord, I was denied a copy, and thereby I was deprived of the benefit of a special plea I designed to have put in. This would have been a great help to your lordship, and to me; the denial of which hath been a great prejudice. Now, my lord, that which I thought was law then, I think I can give a better testimony that it is so now, upon the statute of 46 E. 3. wherein it is expressed, that *tout partes & tout gents*, that is, all people, shall have a copy of every record; and it enumerates several matters, as well that against the king as other people. This is a general law still in force. My lord Stafford had a copy, and my lord Stafford, and the lords in the Tower had copies of their indictments: And, under favour, I think it was never more necessary than to me, there never having been, perhaps, a charge so long, and so confused. Now, my lord, I have a copy transcribed of this statute.

[*Shewing a paper.*]

THE TRIAL OF A. SYDNEY

L. C. J. We remember the law very well. Mr. Sydney did move for a copy of the indictment, and the court denied him then, and so shall now. And yet all this while we shall deny you nothing that is law. You shall have the right that becomes a subject in your condition. And we must tell you, that notwithstanding all that case, we ought not to have given you so much favour (perhaps in strictness) as we did. And because you did particularly take notice of the case of sir Henry Vane last time, I will shew you the court did indulge more to you, than was done to that person. In sir Henry Vane's case, by the opinion of all the judges it was declared, that no copy ought to be given, neither of the whole, nor any part of the indictment, except they shew matter of law. But your counsel, since you went away, moved for the copy of the indictment; and, to satisfy them, I directed the case that you took notice of to be read in the court. And I thought they had been sufficiently satisfied. You had the indictment read to you in latin; which was denied in the case of sir Henry Vane. And there is a later case known to most persons here. By the opinion of all the judges of England, a copy of the indictment was denied to my lord Ruffel. Therefore arraign him upon the indictment; we must not spend our time in discourses to captivate the people.

Col. Sydney. Is not this a good law, my lord? [*Holding out a paper.*]

L. C. J. You have the rule of the court.

Mr. Just. Wythins. Any thing the law will allow you, you shall have: but, I am sure, if you did advise with your counsel, they must tell you the same thing.

So the clerk of the crown called the jury; and, after several challenges, the names of the jury were as follow.

| THE JURY. | |
|----------------|------------------|
| John Amger. | Josias Clerke. |
| Richard White. | George Glisby. |
| William Linn. | Nicholas Baxter. |
| Lawrence Wood. | William Reeves. |
| Adam Andrews. | William Grove. |
| Emery Arguife. | John Burt. |

L. C. J. Look you, gentlemen of the jury: there are some gentlemen at the bar, as we are informed, are apt to whisper the jury; it is no part of their duty, nay, it is against their duty: and therefore, gentlemen, if you hear any of them by you, that offer to whisper, or make comments in this cause, as you are upon your oaths, and I doubt not but will do your duty between the king and the prisoner; so I expect, if you hear the counsel say any thing, you will inform the court. Let us have no remarks, but a fair trial, in God's name.

Clerk of the Crown. You that are sworn, look upon the prisoner, and hearken to his cause. He stands indicted by the name of Algernon Sydney of etc. as in the indictment. Your charge is to enquire etc.

Then proclamation for evidence was made.

Mr. Dolben. May it please your lordship, and you gentlemen that are sworn. This is an indictment of high treason preferred against Algernon Sydney, the prisoner at the bar. The indictment sets forth, That he, as a false traitor against our most illustrious prince Charles the Second his natural lord, not having the fear of God in his heart, etc. on the thirtieth of June in the thirty fifth year of the king, and divers other days and times, as well before as after, in the parish of St. Giles in the Fields, in the county of Middlesex, traiterously, with divers traitors unknown, did conspire the death of the king, and to levy war within this kingdom. And to complete these traiterous purposes did then and there maliciously, advisedly, and traiterously, send one Aaron Smith into Scotland, to excite some ill-disposed persons of that kingdom to come into this, and to consult with the said Algernon Sydney, and other traitors, of and upon assistance from the kingdom of Scotland, to carry on those designs. And the indictment sets forth further, that to persuade the people of England it was lawful to raise rebellion, the said Algernon Sydney did cause to be written a false seditious libel, in which is contained these English words, "The power originally in the people of England" "is delegated unto the parliament. The king is subject to the law of" "God as he is a man; to the people that makes him a king, in as much" "as he is a king: the law sets a measure unto that subjection," etc. [as in the indictment.] This is laid to be against the duty of his allegiance, against the peace of the king, his crown and dignity, and against the form of the statute in that case made and provided. If we prove him guilty, we doubt not but you will find it.

Mr. Att. Gen. My lord, and you gentlemen of the jury, the prisoner at the bar stands indicted of the highest crimes, the conspiring the death of the king, and the overthrow of the English monarchy. Gentlemen, we shall use this method in our evidence. We shall shew by many witnesses, that there was a design of raising and making a rebellion within this kingdom. For, gentlemen, you must take notice, and I think there is no Englishman but does believe, that for several years last past a design was laid, and for that purpose several insinuations were made use of, and public libels spread abroad, to persuade the people that the king was introducing arbitrary power, that he subverted all their rights, liberties, properties, and whatever was dear to them. They endeavoured to make the world believe the king was a papist. And when, gentlemen, by such stratagems they had worked upon many incautelous persons, when they thought they had gotten a sufficient party, then there was a design of an open rising, for they thought all things were ripened, and that was to be in several parts of the kingdom. Some persons, to effect this design, were for a present assassination of the king. Others would do it in a more fair and genteel way; they thought it below persons of that great quality as the prisoner is, and therefore were for doing it by open force.

When we have given that general evidence, we shall then come to shew you what share and part the prisoner had in this design. For certainly he was looked upon as a very eminent person, whose education abroad, and former practices at home, had rendered him fit to advise and proceed in such affairs. We shall prove, when these matters were ripe this gentleman was of the council of state, of the six that were to manage this matter of the rising. We shall shew the several consultations they held; one at Mr. Hambden's house, another at the house of my lord Ruffel. There we shall acquaint you what debates they had, for they acted like very subtle men, and there they debated, whether the rising should be first in the country, or city, or both together. They came to a resolution it should be in both places at once. Then when they had asserted that point, they come to consider the time of rising; and upon that they thought fit to call in aid of Scotland first; and that was this gentleman's particular province: for he, being a man of great secrecy, was to send an emissary into that kingdom, and invite some persons over to treat with them about it. We shall prove that an emissary was sent, and this gentleman gave him a considerable sum to bear his charges. We shall prove that several Scotch gentlemen, in pursuance of this resolve, came here to treat with this great council of state, about this affair: and shall make it appear to you, that as soon as ever the least discovery of this plot was, these persons concealed themselves and withdrew, as the rest of the plotters that have fled from justice.

Gentlemen, this was not enough for this gentleman, to consult on these several passages; but, to demonstrate to the world that his head and heart was entire in this service, and that he might carry it on the more effectually, he was at this very time, when this emissary was gone into Scotland, preparing a most seditious and traitorous libel: we instance in some particular words of it; but we shall shew you, that the whole design of this treatise is to persuade the people of England, that it is lawful, nay, that they have a right, to set aside their prince, in case it appear to them that he hath broken the trust laid upon him by the people. Gentlemen, he does use in that treatise several arguments drawn from the most rebellious times that ever were in England, from the late rebellion (I must needs use that word notwithstanding the act of oblivion, when a gentleman shall now attempt to do those things for which he was pardoned then) and from other kingdoms where rebellion hath been prosperous against princes. Then he falls to reasoning, and uses great reason in the case, that all the power of the prince is originally in the people; and applies that discourse, that the power of the king was derived from the people upon trust; and they had already declared the king had invaded their rights: and therefore he comes to argue, they might resume that original power they had conferred. And he tells the king, that is no hard condition; if he thinks it so, he should lay down his crown; if not, he threatens the condition would be exacted, or otherwise should be revenged by those he had betrayed: and who but this gentleman and his confederates,

confederates, that thought himself not only able to govern this nation, but many monarchies, should call him to account for it? For he lays down this principle, That though all the people do rise against their prince, it is no rebellion. The whole book is an argument for the people to rise in arms, and vindicate their wrongs. He lays it down, "That the king has no authority to dissolve the parliament; but it is apparent the king hath dissolved many; therefore he hath broken his trust, and invaded our rights." And at last concludes with that passage laid in the indictment, "We may therefore shake off our yoke; for it is not a yoke we submitted to, but a yoke by tyranny, that must be the meaning of it, they have imposed on us."

Gentlemen, if we prove all these matters to you, I doubt not you will do right to the king and kingdom, and shew your abhorrence of those republican principles; which, if put in practice, will not only destroy the king, but the best monarchy in the world.

Mr. Sol. Gen. [*Heneage Finch, Esq;*] Pray call Mr. West. [*Who appeared.*]

Col. Sydney. I pray one word, my lord, before Mr. West be sworn. I have heard, my lord, Mr. West hath confessed many treasons, and I desire to know whether he is pardoned, or no.

L. C. J. I do not know that.

Col. Sydney. My lord, how can he be a witness then?

L. C. J. Swear him, for I know no legal objection against him. He was a good witness in my lord Ruffel's trial.

Col. Sydney. My lord, if another did not except against him, it is nothing to me.

Mr. North. Pray give an account to the court of what you know of a general insurrection intended in England.

Col. Sydney. What he knows concerning me.

L. C. J. We will take care of that, that no evidence be given but what ought to be.

Col. Sydney. Is it ordinary that he should say any thing, unless it be to me and my indictment?

L. C. J. Mr. Sydney, you remember in all the trials about the late popish plot, how there was first a general account given of the plot in Coleman's trial, and so in Plunket's, and others; I do not doubt but you remember it. And Sir William Jones, against whose judgment, I believe, you will not object, was attorney at that time.

Mr. North. Mr. West, what do you know of the general insurrection lately designed?

Mr. West. My lord, I have had the honour to know Colonel Sydney several years; but I don't remember that I ever saw him from the time I came acquainted with any part of the conspiracy, till the discovery that was at the council.

Mr. North. Pray give an account of what you know of the plot in general.

Mr. West. My lord, in October last captain Walcot came to me, and told me that my lord Shaftesbury had designed an insurrection in November.

I used

I used some arguments to dissuade him from it. But a little afterwards he came and told me the thing was wholly disappointed, and then it went off, and my lord Shaftesbury went for Holland. Colonel Rumsey afterwards, about Christmas, said there were some lords and gentlemen intended to make an insurrection: the persons were the duke of Monmouth, my lord of Essex, my lord Howard, my lord Ruffel, the prisoner at the bar, and Mr. Hambden junior. After some time, he told me they had altered their measures, and were resolved not to venture upon an insurrection in England, till they had a concurrency in Scotland. Afterwards, I was not privy to any thing else, but what I had the report of from Mr. Nelthorp and Mr. Ferguson. Mr. Nelthorp told me the prisoner had said——

Col. Sydney. My lord, I am very unwilling to interrupt the gentleman——

L. C. J. You must not interrupt the witness. Go on, sir.

Mr. West. Mr. Nelthorp told me, the prisoner at the bar had sent Aaron Smith into Scotland, and given him a sum of money to bear his charges, and sent letters to some Scotch gentlemen to invite them to town. The letter bore a cant of settling some business in Carolina; but the business was coming up about the insurrection. After this Mr. Smith returned, and some Scotch gentlemen with him; and soon after Mr. Ferguson gave an account of that affair, and said, the Scots proposed, if they might have thirty thousand pounds in ready money, they would undertake to make an insurrection in Scotland without the concurrence of England. He said this proposal was agreed to, and money would be soon ready; and he said, that Sheppard would return the money; that the arms were ready bought, and my lord of Argyll would go into Scotland, and head the Scots. He told me when things were thus settled, some difference arose about raising the money; and at last he told me, my lord Grey did offer to raise ten thousand pounds out of his own estate, if the rest would pay their proportion. Then the Scots came down to less; but that would not be complied with. The places for the rising were Bristol, Taunton, York, Chester, Exeter, London. That there had been some debates whether they should begin at London, or the other places; and at last it was resolved, they should begin at London, with the rest of the places.

My lord, this was the account I had of the matter in general, of Mr. Ferguson; but he said they were disappointed. Afterwards he told me, the prisoner at the bar and major Wildman were very instrumental in working of it off, because they could not agree upon the declaration to be made upon the insurrection. The English were for a commonwealth; but the Scotch gentlemen answered fairly, it might come to it in time, but the noblemen there would not agree to it at present. As to the prisoner in particular, I know nothing, and did never speak with him till since the discovery.

Mr. Att. Gen. Colonel Rumsey.

I

[*sworn.*]

Mr. North. Pray, fir, will you give the court an account of what you know of any infurrection intended, and how they defigned to carry it on.

Col. Rumsfy. My lord, the latter end of October, or beginning of November, I was defired by my lord Shaftesbury to go to Mr. Sheppard's, to know of the gentlemen that were met there, what was done about the rifing intended at Taunton: and I had their answer, that Mr. Trenchard had failed them, and that it muft ceafe for that time. That was all at that time.

Mr. Sol. Gen. What elfe do you know of any infurrection afterwards?

Col. Rumsfy. After that, we had feveral meetings at Mr. Weft's chamber, where he had divided the city into twenty parts, and feven parts Mr. Goodenough had brought an account of; the other thirteen he faid nothing of; for he had not fpoke with thofe that were to tell him how many men they would afford. There was there captain Walcot, Mr. Weft, the two Goodenoughs, Mr. Borne, Mr. Wade, and myfelf.

L. C. J. What was the refult of thofe debates?

Col. Rumsfy. To fee what number of men they could produce in the city for the infurrection.

L. C. J. Was there a rifing defigned?

Col. Rumsfy. Yes.

L. C. J. And did thefe people meet?

Col. Rumsfy. There was no time fet.

Mr. Sol. Gen. When was the meeting?

Col. Rumsfy. There were feveral meetings in March, and April, and May.

Mr. Sol. Gen. After the meeting at Sheppard's?

Col. Rumsfy. Yes, a great while. It ceafed, I think, fix weeks or three months.

L. C. J. Who did you meet with at Mr. Sheppard's?

Col. Rumsfy. There was the duke of Monmouth, my lord Grey, my lord Ruffel, fir Thomas Armftrong, Mr. Fergufon, and Mr. Sheppard.

Mr. Sol. Gen. Who did you expect fhould head this army?

Col. Rumsfy. That was never faid any thing of.

Mr. Att. Gen. Who were to manage the rifing?

Col. Rumsfy. We that met there.

Mr. Att. Gen. Had you no expectation of great men?

Col. Rumsfy. Mr. Weft * told me, and Mr. Goodenough, that there was a council, which were the duke of Monmouth, my lord Effex,
my

* The witneffes of the other parts of the plot were now brought out again to make a fhew; for they knew nothing of *Sydney*. Only they faid, that they had heard of a council of fix, and that he was one of them. Yet even in that they contradicted one another; *Rumsfy* fwearing that he had it from *Weft*, and *Weft* fwearing that he had it from him; which was not obferved till the trial came out. If it had been obferved fooner, perhaps *Jefferies* would have ordered it to be ftruck out; as he did all that *Sydney* had objected upon the point of the *Jury*, becaufe they were not freeholders.

my lord Howard, colonel Sydney, Mr. Hambden, and my lord Ruffel: there was fix.

L. C. J. What did he tell you of them fix?

Col. Rumsfy. He told me they were managing a bufiness with Scotland.

L. C. J. A bufiness, pray speak plain, tell all you know.

Col. Rumsfy. For the infurrection.

L. C. J. Say so then, we know nothing of the bufiness you were about.

Col. Rumsfy. My lord, Mr. West had that discourse with my lord Howard I never had; he is more fit to speak to that than me.

L. C. J. Speak your own knowledge, and no more.

Mr. Jones. After the death of my lord Shaftesbury, who were the managers, and were to carry it on?

Col. Rumsfy. I told you Mr. West and Mr. Goodenough did tell me the duke of Monmouth, my lord Effex——

Mr. Att. Gen. He told you so before. Do you know there was an infurrection then intended?

Col. Rumsfy. Yes, because we met towards the management of it, the company that met at Mr. West's chamber, and other places.

Mr. Att. Gen. What discourse had you with Mr. Ferguson about it?

Col. Rumsfy. None about those gentlemen.

Mr. North. The next thing we shew shall be, that the Scotchmen came to town.

Col. Sydney. My lord, I must ever put you in mind, whether it be ordinary to examine men upon indictments of treason concerning me that I never saw, nor heard of in my life.

L. C. J. I tell you, all this evidence does not affect you, and I tell the jury so.

Col. Sydney. But it prepossesses the jury.

Mr. Keiling called and sworn.

Mr. Att. Gen. I ask you in general, what you know of the rising to have been last spring?

Mr. Keiling. My lord, it was some time last summer Mr. Goodenough came to me, and brought me three papers numbered on the back-side. I asked him to what end he delivered them me? He told me, one was for myself, and I was to deliver the other two to whom I could trust in the two divisions. I asked him, what was the design? he said, To raise men: says I, Do you design a general infurrection? he said, If he did not, if the king was taken off this would do well; for then the people would know how to have recourse to a formidable body. And I have heard him say, that colonel Sydney, whom I do not know, had a considerable part in the management of that affair.

Mr. Att. Gen. We charge him with conspiring, and there must be confederates in the case. Now then we come to the prisoner, we will call my lord Howard, that was one of the persons that did consult.

The lord Howard sworn.

Mr. Att. Gen. Pray acquaint my lord and the jury of your knowledge of what transactions there have been with the prisoner about this affair of the general rising.

Lord Howard. Truly, my lord, in the entering of the evidence I am about to give, I cannot but observe what a natural uniformity there is in truth. For the gentlemen that have been before, have so exactly instanced in every particular with what I have to say, that two tallies could not more exactly fall into one another, though, I confess, I had not seen their faces, till the plot brake out, for some months before.

My lord, and gentlemen of the jury, about the middle of January last, it was considered by some of us that met together, that it was very necessary and expedient to an enterprize that had been long in hand, and fallen flat then, that it should be revived by some consult or cabal that should be set up to give life to it, and governance to the motions of it. The first (for ought I know) movers of this, were the duke of Monmouth, the gentleman at the bar, and myself: and there we did agree, that we should bethink ourselves of some few, we were willing it should not exceed five, at the most seven. This agreement being at first between us three; I remember the duke of Monmouth undertook to engage my lord Ruffel and my lord Salisbury; and this gentleman, colonel Sydney, for my lord of Essex and Mr. Hambden; and these being put together, did presently constitute a little cabal of as great a number as was intended. This being settled among them, it was within a few days after, I cannot certainly tell when, but between the middle and latter end of January, that I was told, that the persons had agreed to enter into this conjunction of counsels; and, in order to that, they had appointed a meeting at Mr. Hambden's house, to which I was invited. This in time was between the middle and latter end of January, but I cannot tell exactly. When we came there, there was all those gentlemen I before named, the duke of Monmouth, my lord Essex, my lord Ruffel, colonel Sydney, Mr. Hambden, and myself. It was at Mr. Hambden's house, which ranges on the same row with Southampton house: and being met, Mr. Hambden, I suppose, did think it most properly belonged to him, to take upon him the part, as it were, to open the sessions; that was, to give us a little account of the reason, end, and intention of that meeting: in which discourse, he took occasion to recapitulate some design, that had been before chiefly carried on by my lord Shaftesbury, before this time dead; and also took notice of the ready disposition and inclination of the minds of men to go on with it; and did give one instance of his judgment of it, that it being a design communicated to so many, it had not been so much as revealed, or a murmur or whisper gone about it: from whence he took occasion to tell us, that it was absolutely necessary for the future there should be some council, that should be as a spring a little to guide and govern the motions of the rest; for that there were divers things to be taken care of, which, if not taken care of by particular

persons, would all miscarry. This was the substance of the prologue and introduction he made. From hence he made a transition to some particular things that he thought were most principally to be taken care of. And though it is impossible for me to remember the order and method in which we discoursed, or who said this or that; but that which the sense of all resulted to was this, That since we did not come prepared for it, we should consider what were the things that would hereafter challenge our particular care; that was, the time when, the places where, and persons by whom, these things should be carried on. This led into some particular discourse concerning some of these heads: for the time, that it should be shortly, lest the minds of men should chill: and then as to the place where, whether in the city or country, or both jointly; in all these, some opinions were given, but not settled to any resolution, but they were committed to our thoughts to be digested afterwards. But these being the things that every one was to take upon his thoughts, there was this pre-requisite to the undertaking, and that was, to consider what magazines were to be got: and that led to another particular, which was, with what they should be gotten, and that was money; and thereupon was propounded a considerable sum to be raised; and, as I remember, the sum propounded by the duke of Monmouth was twenty-five thousand pounds, or thirty thousand pounds. And then it was considered, how it should be raised without drawing observation or jealousy. These are only the heads that were then agreed on, hereafter to be better considered. But the present resolution that was taken, was, that before any procedure was made in any of these things, or any advance towards the undertaking, the first thing to be considered was, how to make a coalition of councils between Scotland and what we were doing here; and for that purpose we should bethink ourselves of some fit person to be sent thither to unite us into one sense and care. This is as much as occurs to my memory upon that meeting. About a fortnight or three weeks after, which I suppose carried it to the middle of February next, we had another meeting, and that was at Southampton house at my lord Russel's, and there was every one of the same persons; and when we came there, there happened to fall in a discourse which I know not how it came in, but it was a little warmly urged, and thought to be untimely, and unseasonable; and that I remember was by Mr. Hambden, who did tell us, that having now united ourselves into such an undertaking as this was, it could not but be expected that it would be a question put to many of us, To what end all this was? Where it was we intended to terminate? Into what we intended to resolve? that these were questions he met with; and, it was probable, every one had or would meet with, from those persons whose assistance we expected; and that if there was any thing of a personal interest designed or intended, that there were but very few of those, whose hearts were now with us, but would fall off: and therefore, since we were upon such an undertaking, we should resolve ourselves into such principles, as should put the properties and liberties of the people into such

such hands, as they should not be easily invaded by any that were trusted with the supreme authority of the land: and it was mentioned, to resolve all into the authority of the parliament. This was moved by him, and had a little harshness to some that were there; but yet upon the whole matter we generally consented to it, that it was nothing but a public good that we all intended. But then, after that, we fell to that which we charged ourselves with at the first meeting, and that was concerning sending into Scotland, and of settling an understanding with my lord of Argyll: And, in order to this, it was necessary to send a messenger thither to some persons whom we thought were the most leading men of the interest in Scotland. This led us to the insisting on some particular persons; the gentlemen named were my lord Melvin, sir John Cockram, and the Campbells; I am sure it was some of the alliance of my lord of Argyll, and I think of the name. As soon as this was propounded, it was offered by this gentleman, colonel Sydney, that he would take the care of the person; and he had a person in his thoughts, that he thought a very fit man to be intrusted; one or two, but one in special, and he named Aaron Smith to be the man, who was known to some of us, to others not; I was one that did know him, and as many as knew him, thought him a proper person. This is all that occurs to me that was at the second meeting, and they are the only consults that I was at.

Mr. Att. Gen. What was he to do?

Lord Howard. There was no particular deed for him, more than to carry a letter. The duke of Monmouth undertook to bring my lord Melvin hither, because he had a particular dependance upon him, and I think some relation to his lady: but to sir John Cockram there was a letter to be sent under the disguise of carrying on some business of the plantation in Carolina. This letter, I suppose, was writ by my lord Ruffel (though I know it not) for he was personally known to my lord Ruffel, and I do not know that he was known to any of us. About three weeks after this, then he was dispatched, I suppose.

Mr. Att. Gen. To what purpose were these gentlemen to come up?

Lord Howard. These were to acquaint us how they found Scotland tempered, and what opportunities or advantages there were or might be of putting them into a commotion, and how men might be raised, and how they would fall under Argyll, and also to keep time and place with us. After this, I was with colonel Sydney when he was going into London, and he did take out several guineas, I cannot tell how much it was, I suppose they might be about sixty, and put them into his pocket (and set me down at my lodging) which he said were to give Aaron Smith; whether he gave it or no, I do not know; and after that he was sent.

Mr. Att. Gen. Who told you so?

Lord Howard. Colonel Sydney, for I was inquiring of him; and he said, he had not heard of him in three weeks, or but once when he was about Newcastle. After this, I had occasions that called me into the country, and there I was. Some time after that, I went to the Bath: And this is all the account I can give.

THE TRIAL OF A. SYDNEY

Mr. Sol. Gen. Do you know that Aaron Smith did go?

Lord Howard. I know nothing but by hear-say. Colonel Sydney told me, he was gone, and was upon the road, and he heard from him about Newcastle.

L. C. J. Did you understand by the discourse after he was gone, that he went in pursuance of that debate?

Lord Howard. Yes, my lord, that was the whole end of his going.

Mr. Just. Wytbins. I think you say, that gentleman (speaking of col. Sydney) undertook to send him?

Lord Howard. Yes, he did.

L. C. J. Will you ask him any questions?

Col. Sydney. I have no questions to ask him.

Mr. Att. Gen. Silence——You know the proverb. The next step is to shew you, my lord, that these persons came up immediately after Aaron Smith went down thither; and, according to that which was said to be the shadow and pretence of their coming hither, they pretended they came about Carolina business. Sir Andrew Foster and Mr. Blathwaite.

Sir Andrew Foster sworn.

Mr. Att. Gen. Pray, sir, give an account what Scotch gentlemen came up lately.

Sir A. Foster. My lord, about the end of the spring, or beginning of summer, as I remember, these gentlemen, sir John Cockram, and commissary Monro, and the two Campbells, father and son, came up hither. I did not see the father at all, but I saw the son the day of the lord Ruffel's trial; but the other two, I think, I saw a little before the discovery of the plot.

Mr. Att. Gen. What did they pretend they came about?

Sir A. Foster. They pretended they came to make a purchase in Carolina, and I saw their commission from the persons said to be concerned in that design.

L. C. J. Who do you speak of?

Sir A. Foster. Sir John Cockram and commissary Monro.

Mr. Att. Gen. As soon as the rumour came of the plot, what became of those gentlemen?

Sir A. Foster. Sir John Cockram absconded, but commissary Monro never absconded, and the Campbells, I heard, were seized changing their lodging from place to place.

Mr. Atterbury sworn.

Mr. Att. Gen. Mr. Atterbury, will you give my lord and the jury an account what you know of these Scotchmen their absconding and lying hid?

Mr. Atterbury. My lord, upon the latter end of June, or the beginning of July, the beginning of July it was, I was sent for into London upon a discovery of some Scotch gentlemen that lay about Black-Friars; and when I came down there, there was the common serjeant, and some others, had been before me, and found them making an escape into a boat.

Mr. Att. Gen. Who were they?

Mr. Atterbury. Sir Hugh Campbell, and fir John Cockram, and one that was committed to the Gate-house by the council as soon as brought thither.

Mr. Att. Gen. We shall end here, my lord. How long had they been in town?

Mr. Atterbury. They had been in town some little time.

Mr. Att. Gen. We have done with this piece of our evidence. Now to shew that while this emissary was in Scotland, at the same time the colonel (which will be another overt act of the treason) was writing a treasonable pamphlet, I will call you the witnesses. It is all of his own writing.

Sir Philip Lloyd sworn.

Mr. Att. Gen. Sir Philip Lloyd, pray, will you look upon those papers, and give my lord and the jury an account where you found them?

Sir Philip Lloyd. I had a warrant, my lord, from the Secretary by the king and council, to seize Mr. Algernon Sydney's papers; and, pursuant to it, I did go to his house, and such as I found there I put up. I found a great many upon the table, among which were these, I suppose it is where he usually writes. I put them in a pillowbear I borrowed in the house, and that in a trunk. I desired Col. Sydney would put his seal upon them, that there should be no mistake. He refused: so I took my seal, and sealed up the trunk, and it was carried before me to Mr. Secretary Jenkins's office. When the committee sat, I was commanded to undo the trunk, and I did so, and found my own seal upon it. And I took the papers out of the bag I put them into before.

L. C. J. Was colonel Sydney present when you seized these papers?

Sir P. Lloyd. Yes.

Mr. Att. Gen. Are these some of those papers?

Sir P. Lloyd. Yes, I verily believe it.

Mr. Att. Gen. In the next place, I think we have some papers of his particular affairs which will prove his hand. Call Mr. Sheppard, Mr. Cooke, and Mr. Cary.

Mr. North. Sir Philip Lloyd, when were they seized?

Sir P. Lloyd. Towards the latter end of June, my lord.

Jury-Man. Which June?

Sir P. Lloyd. Last June.

Mr. Sheppard sworn.

Mr. Att. Gen. Pray will you look upon those writings? [*shewing the libel.*] Are you acquainted with colonel Sydney's hand?

Mr. Sheppard. Yes, my lord.

Mr. Att. Gen. Is that his hand-writing?

Mr. Sheppard. Yes, Sir, I believe so. I believe all these sheets to be his hand.

Mr. Att. Gen. How come you to be acquainted with his hand?

Mr. Sheppard. I have seen him write the indorsement upon several bills of exchange.

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Mr. Cary sworn.

Col. Sydney. My lord, I desire you would please to consider this, that similitude of hands can be no evidence.

L. C. J. Reserve yourself till anon, and make all the advantageous remarks you can.

Mr. Att. Gen. Have you had any dealing with him?

Mr. Cary. I never saw him write to my knowledge more than once in my life, but I have seen his indorsement upon bills, and it is very like that.

L. C. J. Do you believe it is his hand as far as you can guess?

Mr. Cary. My lord, it is like what came to me for his hand writing.

L. C. J. And you believe it to be his hand?

Mr. Cary. Yes.

Mr. Cooke sworn, and the papers shewn him.

L. C. J. What say you, Mr. Cooke?

Mr. Cooke. My lord, I did never see Col. Sydney write, but I have seen several notes that have come to me with indorsement of his name, and we have paid them, and it is like to this.

L. C. J. And you were never called to account for mispayment?

Mr. Cooke. No, my lord.

Mr. Att. Gen. I pray it may be read. We will read as much as is necessary to prove the indictment.

Col. Sydney. I pray it may be all read.

L. C. J. Mr. Attorney must have what part he desires read, and you shall have what part you will have read afterwards.

Col. Sydney. I desire all may be read.

Mr. Att. Gen. Begin there. "Secondly, There was no absurdity in this, because it was their own case.

Clerk reads.

" 2dly, There was no absurdity in this, though it was their own case; but to the contrary, because it was their own case, that is, concerning themselves only, and they had no superior. They only were the competent judges, they decided their controversies, as every man in his own family doth such as arise between him and his children, and his servants. This power hath no other restriction, than what is put upon it by the municipal law of the country where any man lives; and that hath no other force, than as he is understood to have consented unto it. Thus in England every man, in a degree, hath a right of chastising them; and in many places, even by the law of God, the master hath a power of life and death over his servant. It were a most absurd folly to say that a man might not put away, or in some cases kill, an adulterous wife, a disobedient son, or an unfaithful servant, because he is party and judge; for the case doth admit of no other, unless he had abridged his own right by entering into a society where other rules are agreed upon, and a superior judge constituted: there being none such between king and people, the people must needs be the judge of things happening between them and him, whom they did

" not

“ not constitute that he might be great, glorious, and rich; but that he
 “ might judge them, and fight their battles; or otherwise do good unto
 “ them as they should direct. In this sense, he that is *singulis major*, and
 “ ought to be obeyed by every man in his just and lawful commands
 “ tending to the public good, must be suffered to do nothing against it,
 “ nor in any respect more than the law doth allow.

“ For this reason Bracton saith, that the king hath three superiors, to
 “ wit, *Deum, legem, et parliament*; that is, the power originally in the
 “ people of England is delegated unto the parliament. He is subject
 “ unto the law of God as he is a man; to the people that makes him
 “ a king, in as much as he is a king: the law sets a measure unto
 “ that subjection, and the parliament judges of the particular cases
 “ thereupon arising: he must be content to submit his interest unto
 “ theirs, since he is no more than any one of them, in any other respect
 “ than that he is, by the consent of all, raised above any other.

“ If he doth not like this condition, he may renounce the crown; but
 “ if he receive it upon that condition, as all magistrates do the power
 “ they receive, and swear to perform it, he must expect that the perfor-
 “ mance will be exacted, or revenge taken by those that he hath betrayed.

“ If this be not so, I desire to know of our author, how one or more
 “ men can come to be guilty of treason against the king, as *lex facit ut*
 “ *fit rex*. No man can owe more unto him than unto any other, or he
 “ unto every other man, by any rule but the law; and if he must not
 “ be judge in his own case, neither he, nor any other by power received
 “ from him, would ever try any man for an offence against him, or the
 “ law.

“ If the king, or such as he appoints, cannot judge him, he cannot
 “ be judged by the ways ordinarily known among us. If he, or other
 “ by authority from him, may judge, he is judge in his own case, and
 “ we fall under that which he accounts the utmost of all absurdities: if
 “ a remedy be found for this, he must say that the king in his own case
 “ may judge the people, but the people must not judge the king, because
 “ it is theirs: that is to say, the servants entertained by the master may
 “ judge him, but the master must not judge the servant whom he took
 “ only for his own use; the magistrate is bound by no oath or contract
 “ to the people that created him, but the people is bound to its own
 “ creature, the magistrate.

“ This seems to be the ground of all our author’s follies: he cannot
 “ comprehend that magistrates are for or by the people; but makes this
 “ conclusion, as if nations were created by or for the glory or pleasure of
 “ magistrates: and, after such a piece of nonsense, it ought not to be
 “ thought strange if he represent, as an absurd thing, that the headless
 “ multitude may shake off the yoke when they please. But I would know
 “ how the multitude comes under the yoke; it is a badge of slavery. He
 “ says that the power of kings is for the preservation of liberty and
 “ property. We may therefore change or take away kings without
 “ breaking.

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“ breaking any yoke, or that is made a yoke which ought not to be one ;
 “ the injury is therefore in making or imposing, and there can be none
 “ in breaking it.

“ That if there be not an injury, there may perhaps be an inconve-
 “ nience if the headless multitude may shake off the yoke. I know not
 “ why the multitude should be concluded to be headless ; it is not always
 “ so. Moses was head of the multitude that went out of Egypt. Othniel
 “ led them against the king of Mesopotamia. Under the conduct of
 “ Phineas they obtained a victory against the Midianites : they had the
 “ like success under Shamgar, Barak, Gideon, Jephthah, Samuel, Samson,
 “ and others, against Canaanites, Moabites, Philistines, and others.
 “ The multitude that opposed Saul and Ishboeth had David for its head ;
 “ and the ten tribes that rejected Rehoboam chose unto themselves
 “ Jeroboam. The Athenians rising against the thirty tyrants had Thra-
 “ sybulus ; those that drove from Thebes were conducted by
 “ Pelopidas. When the Romans drove out the Tarquins, they chose
 “ Brutus and Publicola ; and they destroyed the Decemviri under
 “ Horatius and Valerius. All the multitudes that afterwards revolted
 “ from them under Mauritius, Telerius, Spartanus, and others, were
 “ not headless ; and we know of none that were, but all either found
 “ heads, or made them. The Germans set up Arminius ; the Britains,
 “ and others ; in latter times, the Castilians, that rose against Peter the
 “ Cruel, had the lord de Trastamare.

“ The French, when they grew weary of the corrupted races of Phara-
 “ mond and Pepin, had the same Pepin and Hugh Capet : the Scots,
 “ when they slew James the third, had his son to be their head : and
 “ when they deposed and imprisoned Queen Mary, the earl of Murray
 “ and others supplied the want of age that was in her son : and in all
 “ the revolutions we have had in England, the people have been headed
 “ by the Parliament, or the nobility and gentry that composed it ; and,
 “ when the kings failed of their duties, by their own authority called it.
 “ The multitude therefore is not ever headless, but doth ever find or create
 “ heads unto itself, as occasion doth require ; and whether it be one man,
 “ or a few, or more, for a short or a longer time, we see nothing more
 “ regular than its motions. But they may, saith our author, shake off
 “ the yoke. And why may they not, if it prove uneasy or hurtful unto
 “ them ? Why should not the Israelites shake off the yoke of Pharaoh,
 “ Jabin, Sifera, and others that oppressed them ?

“ When pride had changed Nebuchadnezzar into a beast, what should
 “ persuade the Assyrians not to drive him out among beasts, until God
 “ had restored unto him the heart of a man ? When Tarquin had turned
 “ the legal monarchy of Rome into a most abominable tyranny, why
 “ should they not abolish it ? And when the Protestants of the Low-
 “ Countries were so grievously oppressed by the power of Spain, under
 “ the proud, cruel, and savage conduct of the duke of Alva, why should
 “ they not make use of all the means that God had put into their hands

“ for their deliverance? Let any man, who sees the present state of the
 “ provinces that then united themselves, judge whether it is better for
 “ them to be as they are, or in the condition unto which his fury would
 “ have reduced them, unless they had, to please him, renounced God and
 “ their religion. Our author may say, they ought to have suffered; the
 “ king of Spain, by their resistance, lost those countries; and that they
 “ ought not to have been judges in their own case. To which I answer,
 “ That by resisting they laid the foundation of many churches that have
 “ produced multitudes of men eminent in gifts and graces; and established
 “ a most glorious and happy commonwealth, that hath been, since its
 “ first beginning, the strongest pillar of the Protestant cause now in the
 “ world, and a place of refuge unto those who in all parts of Europe have
 “ been oppressed for the name of Christ: whereas they had slavishly,
 “ and, I think I may say, wickedly as well as foolishly, suffered them-
 “ selves to be butchered, if they had left those empty provinces under
 “ the power of Antichrist, where the name of God is no otherwise
 “ known, than to be blasphemed.

“ If the king of Spain desired to keep his subjects, he should have
 “ governed them with more justice and mercy. When, contrary unto
 “ all laws, both human and divine, he seeks to destroy those he ought
 “ to have preserved, he can blame none but himself, if they deliver
 “ themselves from his tyranny: and when the matter is brought to that,
 “ that he must not reign, or they over whom he would reign must
 “ perish, the matter is easily decided: as if the question had been
 “ asked in the time of Nero and Domitian, Whether they should be left
 “ at liberty to destroy the best part of the world, as they endeavoured
 “ to do, or it should be rescued by their destruction? And as for the
 “ people’s being judges in their own case, it is plain, they ought to be
 “ the only judges, because it is their own, and only concerns themselves.”

Mr. Att. Gen. The latter end, the last sheet of all, § 35.

L. C. J. The argument runs through the book, fixing the power in
 the people.

Clerk of the Crown. “ The general revolt of a nation from its own
 “ magistrates, can never be called rebellion.”

Mr. Att. Gen. § 37.

Clerk of the Crown. “ The power of calling and dissolving parliaments
 “ is not in the king.”

Mr. Att. Gen. So much we shall make use of; if the Colonel please
 to have any other part read to explain it, he may.

Then the sheets were shewn to Col. Sydney.

Col. Sydney. I do not know what to make of it, I can read it.

L. C. J. Ay, no doubt of it, better than any man here. Fix on any
 part you have a mind to have read.

Col. Sydney. I do not know what to say to it, to read it in pieces thus.

L. C. J. I perceive you have disposed of them under certain heads:
 to what heads will you have read?

Col. Sydney. My lord, let him give an account of it that did it.

Mr. Att. Gen. My lord, we will not delay colonel Sydney from entering on his defence; only we have this piece of evidence to give further. One of his complices was my lord Russel, we will give in evidence his conviction. We will only ask my lord Howard, was your Lordship sworn as a witness at the trial of my lord Russel?

Lord Howard. Yes.

Mr. Att. Gen. Whether or no, when you met, were there in those debates any reflections upon the king, that he had broken his duty?

Lord Howard. Not that I remember.

Mr. Att. Gen. Why would you rise?

Lord Howard. If you mean upon the misgovernment, not personally upon the king?

Mr. Att. Gen. Ay.

Lord Howard. Yes, and principally and chiefly that, which we thought was the general disgust of the nation, the imposing upon the city at that time.

Mr. Just. Wythins. That was complained of at that time?

Lord Howard. Yes, my lord: we took it all along to be the chief grievance.

L. C. J. Have you any more witnesses?

Mr. Att. Gen. Only the record.

Mr. Sol. Gen. I know there is no time mispent to make things clear. If the jury have a mind to have the words read again——

L. C. J. If they have a mind, let it.

Then Mr. Trinder was sworn, and testified it to be a true copy of the record, and said he examined it at Fishmonger's-Hall with Mr. Tanner.

Then the record of the conviction of the lord Russel was read.

L. C. J. What will you go to next, Mr. Attorney?

Mr. Sol. Gen. We have done, unless the jury desire to have the words of the libel read again. [*But they did not.*]

Col. Sydney. My lord, I desire to know upon what statute I am indicted?

Mr. Att. Gen. My lord, I will give as plain an answer: you are indicted upon the old statute of 25 E. 3.

Col. Sydney. Then I desire to know upon what branch of that statute?

Mr. Att. Gen. Why, I will acquaint you: it is upon the first branch of that statute, for conspiring and compassing the death of the king.

Col. Sydney. Then I conceive, what does not come within that, does not touch me.

Mr. Att. Gen. Make what inferences you please, Colonel, we will answer you.

Colonel Sydney. I desire to know what the witnesses have sworn against me upon that point?

Mr. Att. Gen. Go on, you have heard the witnesses as well as we.

L. C. J. He says, you are indicted upon the statute of 25 E. 3. which statute makes it high treason to conspire the death of the king; and the

overt-act is sufficiently set forth in the indictment; now the question is, whether it is proved?

Col. Sydney. They have proved a paper found in my study of Caligula and Nero, that is compassing the death of the king, is it?

L. C. J. That I shall tell the jury. The point in law you are to take from the court, gentlemen: whether there be fact sufficient, that is your duty to consider.

Col. Sydney. I say, my lord, that since I am indicted upon that statute, I am not to take notice of any other. I am indicted for conspiring the death of the king, because such a paper is found in my house. Under favour, I think that can be nothing at all to me: for though sir Philip Lloyd did ask me, whether I would put my seal to it, he did not ask me till he had been in my closet, and I knew not what he had put in; and so I told him I would not do it. Then come these gentlemen upon similitude of hands. My lord, we know what similitude of hands is in this age. One told me within these two days, that one came to him, and offered him to counterfeit any hand he should shew him in half an hour. So then, my lord, I have nothing to say to these papers. Then for point of witness, I cannot be indicted, much less tried or condemned, on 25 E. 3. for by that act there must be two witnesses to that very branch unto which the treason does relate, which must be distinguished. For the levying of war, and conspiring the death of the king, are two distinct things, distinct in nature and reason, and so distinguished in the statute. And therefore the conspiring the death of the king is treason, and the other not. 1 E. 6. 12. 5 E. 6. 11. does expressly say, there must be two witnesses to either of these acts. Now here is my lord Howard (I have enough to say of him by and by) it is he only who speaks of six men, whom he calls a select council, and yet selected by no man in the world. I desire to know who selected my lord Howard? Who selected me? If they were selected by no body, it is a bull to say they were a select council. If they were not selected, but erected themselves into a cabal, then they have either confidence in one another, or find they are near equally able to assist in the design. Here is nothing of all this: these six men were strangers to one another. For my own part, I never spake with the duke of Monmouth above three times in my life, and one time was when my lord Howard brought him to my house and cozened us both. He told the duke I invited him, and he told me the duke invited himself; and neither of them was true. Now, that such men as these are, not hardly knowing one another, should presently fall into a great and intimate friendship, and trust and management of such businesses as these are, is a thing utterly improbable, unless they were mad. Now I do find in my lord Howard's deposition against my lord Russel, that they were in prosecution of my lord Shaftesbury's design; and yet he acknowledges the duke of Monmouth said he was mad, and he himself said so too. Now that they should join with four more in the prosecution of the design of a madman, they must be mad too. Now whether my lord Howard would have you think he was mad because a madman cannot be guilty of treason,

I cannot tell. My lord Howard in his last deposition at my lord Ruffel's trial, fixes the two meetings, one about the middle of January, the other ten days after: now he fixes one to be the latter end of January, the other the middle of February. Then he makes it to be the prosecution of my lord Shaftesbury's design. I do not find that any one there had any thing to do with my lord Shaftesbury: for my part I had not; I had not seen his face in two years. Then, my lord, that I go upon is, whatever my lord Howard is, here is but one witness. The law of God and the law of man, understood and taken by all men, does require two witnesses*: Moses says so; so the Apostles the same after him; and Christ says the same, that *every matter is to be established by two witnesses*. There ought to be two witnesses to the same thing. Now for one to come and tell a tale of a tub, of an imaginary council, and another of a libel, a paper written no body knows when, is such a thing, you can never go over it. But if the law of God be, that there must be two witnesses to the same fact, there is an end of this matter. And under the judicial law, the penalty would be in this case, to put a man to death. Now here there are but two things, which if allowed of, no body will be safe for perjury. The one is, to suffer men to give their testimony, one to one thing, and another to another, that the fraud cannot be discovered; and the other is, to take away the punishment. Now the punishment is taken away in some measure: and do but take away the other point whereby the fraud cannot be discovered, and then there is no defence can be made. That both witnesses should be to the same point, see the story of Susanna. Two elders testified they saw her in the act of adultery: they were carrying of her to her death: both of them said the same thing: until they were taken asunder and examined, the fraud was not discovered; and then one said, she was under a tree of the right hand, and the other, under the tree on the left; and she escaped, and they were punished. But now if you apply it to several facts, my lord Howard may say what he pleases, and if another shall come with a supplemental proof, no justice can be had. But, my lord, I desire this, If there be two witnesses to prove the conspiracy, and in that there were those matters done that are treason, I must answer to it; but if there be not, I presume, I need say nothing to it. If you do not allow it me, I desire counsel to argue it.

L. C. J. That is a point of fact, whether there be two witnesses? I tell you beforehand, one witness is not sufficient.

* " Mr. Pelham. I did presume yesterday to tell you, that Mr. Algernon Sydney did stand upon it as his natural right, that they could not proceed against him, there being but one witness. I did not bring his case as parallel to this, nor think that his authority should influence you. *But he was a man, that had that love for Liberty and the good of his Country, that he would not have said so, even to save his own life, if he had thought it inconsistent with either of them.* But I have looked upon his trial since, and there he does declare, That the being condemned by two witnesses is the law of God and the law of man, the just law that is observed by all men and in all places. It is certain he reached even by these words the power of Parliament: when I do say power, I do not mean, but that when such a law is passed, all are bound to obey it; *but in some sense, we may say, You cannot do what is not just for you to do: You can do but what is just and suitable to the trust reposed in you.*"

Col. Sydney. Why then there is my lord Howard, and never another.

L. C. J. Nay, do not make those inferences. I will tell the jury, if there be not two witnesses as the law requires in this case, they ought to acquit you.

Col. Sydney. You confound me, I cannot stir. You talk of a conspiracy; what is a conspiracy to kill the king? Is there any more witnesses than one for levying of war?

L. C. J. Pray do not deceive yourself. You must not think the court and you intend to enter into a dialogue. Answer to the fact: if there be not sufficient fact, the jury will acquit you. Make what answer you can to it.

Col. Sydney. Then I say, There being but one witness, I am not to answer to it at all.

L. C. J. If you rely upon that, we will direct the jury presently.

Col. Sydney. Then for levying war, what does any one say? My lord Howard, let him, if he please, reconcile what he hath said now, with what he said at my lord Ruffel's trial. There he said, he said all he could; and now he has got I do not know how many things that were never spoken of there. I appeal to the court, whether he did then speak one word of that, that he now says of Mr. Hambden. He sets forth his evidence very rhetorically; but it does not become a witness, for he is only to tell what is done and said: but he does not tell what was done and said. He says they took upon them to consider, but does not say what one man said, or what one man resolved, much less what I did. My lord, if these things are not to be distinguished, but shall be jumbled all up together, I confess I do not know what to say.

L. C. J. Take what liberty you please. If you will make no defence, then we will direct the jury presently. We will direct them in the law, and recollect matter of facts as well as we can.

Col. Sydney. Why then, my lord, I desire the law may be reserved to me; I desire I may have counsel to that point of there being but one witness.

L. C. J. That is a point of fact. If you can give any testimony to disparage the witnesses, do it.

Col. Sydney. I have a great deal to that.

L. C. J. Go on to it then.

Col. Sydney. Then, my lord, was there a war levied? Or was it prevented? Why then, if it be prevented, it is not levied; if it be not levied, it is not within the statute; so this is nothing to me.

L. C. J. The court will have patience to hear you; but at the same time I think it is my duty to advertise you, that this is but mispending of your time. If you can answer the fact, or if you have any mind to put any disparagement upon the witnesses, that they are not persons to be believed, do it, but do not ask us questions this way or the other.

Col. Sydney. I have this to say concerning my lord Howard: he hath accused himself of divers treasons, and I do not hear that he has his pardon

pardon of any : he is under the terror of those treasons, and the punishment for them : he hath shewn himself to be under that terror : he hath said, that he could not get his pardon until he had done some other jobbs, till he was past this drudgery of swearing : that is, my lord, that he having incurred the penalty of high-treason, he would get his own indemnity by destroying others. This by the law of God and man, I think, destroys a man's testimony. Besides, my lord, he is my debtor, he owes me a considerable sum of money I lent him in time of his great necessity : he made some covenants with me for the payment of that money, which he hath broken ; and when his mortgage was forfeited, and I should take the advantage the law gives me, he finds out a way to have me laid up in the Tower. He is a very subtle man. At my lord Ruffel's trial, he carried his knife, he said, between the paring and the apple ; and so this is a point of great nicety and cunning, at one time to get his own pardon, and at the same time to save his money. Another thing, my lord, is, when I was prisoner, he comes to my house, and speaks with my servant, and says, how sorry he was that I should be brought in danger upon this account of the plot ; and there he did, in the presence of God, with hands and eyes lifted up to Heaven, swear, he did not believe any plot, and that it was but a sham ; and that he was confident if I had known any thing, I would have told it him. He hath said somewhat of this before, I have several witnesses to prove both. He was desirous to go further ; and he would not only pay my debt by his testimony against me, but he would have got my plate and other goods in my hands into his hands ; and he desired my men, as a place of trust, to put them into his hands. And the next news was, that there was a warrant against my lord Ruffel and me. But then, my lord, he made other affirmations in the same presence of God, that I was innocent in his opinion ; and he was confident of it, for if he had known any thing of it, he would have told it. Now I know, in my lord Ruffel's case, there was Dr. Burnet said something like it. And when he came to answer it, he said he was to face it out, and make the best of it he could. Now he did face it out bravely against God, but he was timorous of man. So that, my lord, he does say at the same time, at my lord Ruffel's trial, upon his oath, that he did believe that the religious obligation of an oath did not consist in the formality of applying it to the place, etc. but in calling God to witness. So that when he did call God to witness before Dr. Burnet and my servant, and others, this is not consistent with the oath he has taken here, as the gentleman said at my lord Ruffel's trial, unless he has one soul in court, and had another at my house : these things are inconsistent, and cannot be true ; and if he swear both under the religion of an oath, he swears himself perjured. Then, my lord, he talks of Aaron Smith : what have I to do with Aaron Smith ? He says I sent him. My lord, there is no body else speaks a word of it. Then, by a strange kind of construction and imagination, they will have it, that some papers here, which are said to be found in my study, have relation to this plot, as they

they call it; I know of none nor am in none. Now, my lord, I am not to give an account of these papers, I do not think they are before you, for there is nothing but the similitude of hands offered for proof. There is the like case of my lady Carr some few years ago: she was indicted of perjury, and, as evidence against her, some letters of hers were produced, that were contrary to what she swore in Chancery, and her hand was proved; that is to say, it was like it: but my lord chief justice Keiling directs the jury, that though in civil causes it is a proof, yet it is the smallest and least of proofs; but in criminal cases it was none at all. So that my lord Howard's testimony is single; and what he talks of those two businesses, that he calls a consult, and Aaron Smith, is destroyed by want of proof. What could six men do? Can my lord Howard raise five men by his credit? by his purse? Let him say as much for me, with all my heart; for my part I do not know where to raise five men. That such men as we are, that have no followers, should undertake so vast a design, is very unlikely: and this great design that was carried on thus, it had neither officers nor soldiers, no place, no time, no money for it. That which he said last time, which he forgot now: he talked of twenty five or thirty thousand pound; but no man knew where it was to be had: but last time he said, it was spoken in jest. Now this is a pretty cabal, that six men should meet about a business, and they neglect every one of the points relating to the thing they met about, make no step about the business, and if any one did speak of it, it was but in jest. This is a very deep maintaining of the plot. Then, my lord, as to these papers, I do not think, I am to give any account of them: I would say nothing to the disparagement of sir Philip Lloyd, I never saw him till he came to my house: but yet I say, he is the king's officer, and when I am prosecuted at the king's suit, I think he ought to be no witness. The government of France is violent and absolute; but yet, a few years ago, a minister of state had his papers taken from him, and abundance of them had dangerous plots against the king in them; but because they were inventoried in his officer's presence, or those deputed by him, there was no use could be made of them; it was an irreparable fault in the process, and that saved him. The similitude of hands is nothing: we know that hands will be counterfeited, so that no man shall know his own hand. A gentleman that is now dead told me, that my lord Arlington, about five years ago, desired him to write a letter, and seal it as well as he could. He wrote it with care, and sealed it with a wafer and wax upon it; and within a few days my lord Arlington brought him five letters, and he did not know which was his own. The attorney shews these papers to me, I do not know whether they are my own, or no; but these very papers, such as they are, do abhor as much, as any one can, such a design. Look upon them, you see they are all old ink. These papers may be writ perhaps these twenty years, the ink is so old. But, my lord, it is a polemical discourse, it seems to be an answer to Filmer, which is not calculated for any particular government in the world, it goes only
upon

upon these general principles, That according to the universal law of God and nature there is but one government in the world, and that is entire and absolute; and that the king can be bound by no law, by no oath, but he may make all laws, and abolish them as he pleases: and this whether of age or no, a man, or a child, of sense, or out of his sense. Now, my lord, what if any man in his cabinet should have written this book? Then he has another principle, he says, it is the same thing whether a king come in by election, by donation, by inheritance or usurpation, or any other way; than which, I think, never was a thing more desperately said. Cromwell, when one White a priest wrote a book *, wherein he undertook to prove, *That possession was the only right to power*, though he was a tyrant, and a violent one †, (you need not wonder I call him tyrant, I did so every day in his life, and acted against him too) it would be so odious a principle, he could not endure it, and used him very slightly for it. Now this Filmer, that no man must write against, is the man that does assert it, That it is no matter how they come by their power; and gives the same power to the worst usurpers, as they that most rightly come to the crown. By the same argument, if the arrantest rascal of Israel had killed Moses, David, etc. and seized upon the power, he had been possessed of that power, and been father of the people. If this be doctrine, my lord, that is just and good, then I confess it may be dangerous for any thing that may be found in a man's house contrary to it; but if a commoner of England write his present thoughts, and another man upon looking on his book, write his present thoughts of

* The title of the book (a curious one too, the above notwithstanding) is, *The Grounds of obedience and government*. By Thomas White, Gentleman. [A secular Romish priest.]

There are two editions of it. The second edition was printed, London, 1655, in 16to. The Motto to the title is, *Salus populi suprema lex*. See many circumstances relating to this learned able writer, and his works, in A. Wood's *Athenae Oxonienses*, and Bishop Kennet's *Hist. register*.

[† Milton had held out the BEACON to him in his Sonnet. "To the Lord General Cromwell," May, 1651; before he destroyed the Parliament, and, by Authority of the Army, set up Tyrant, for himself.

Cromwell, our chief of men, that through a croud,
Not of war only, but detractions rude,
Guided by faith and matchless fortitude,
To peace and truth thy glorious way hast plough'd,
And fought God's battles, and his work pursu'd;
While *Darwent* streams with blood of *Scots* imbru'd,
And *Dunbar* field resound thy praises loud,
And *Worcester's* laureat wreath. Yet much remains
To conquer still; peace hath her victories
No less than those of war. New foes arise
Threat'ning to bind our souls in secular chains:
Help us to save free conscience from the paw
Of hireling wolves, whose gospel is their maw.

And in his *Defensio secunda*, he threw it out, nobly, a second time, in the following beautiful address to *Cromwell*, then self-made protector. "Tu igitur, *Cromuelle*, magnitudine illâ animi macte esto; te enim decet; tu patriae liberator, libertatis auctor, custosque idem

of it, what great hurt is there in it? And I ask Mr. Attorney, how many years ago that was written?

L. C. J. I do not know what the book was in answer to. We are not to speak of any book that Sir Robert Filmer wrote; but you are to make your defence touching a book that was found in your study, and spend not your time, and the court's time, in that which serves to no other purpose, than to gratify a luxuriant way of talking that you have. We have nothing to do with his book; you had as good tell me again, that there was a parcel of people rambling about, pretending to my lord Ruffel's ghost, and so we may answer all the comedies in England. Answer to the matter you are indicted for. Do you own that paper?

Col. Sydney. No, my lord.

L. C. J. Go on then. It does not become us to be impatient to hear you, but we ought to advertise you, that you spend not your time to no purpose, and do yourself an injury.

Col. Sydney. I say, first, it is not proved upon me: and secondly, it is not a crime if it be proved——

L. C. J. You began very materially in one thing: it is material for you to apply yourself to take off the credibility of my lord Howard that is a witness; call your witnesses to that purpose, or if you have any other point to take away the credibility of any other witness.

Col. Sydney. My lord, I have seven or eight points of law.

L. C. J. I hear not one yet.

et conservator, neque graviorem personam, neque augustiorem, suscipere potes aliam; qui non modò regum res gestas, sed Heroum quoque nostrorum fabulas factis exuperasti. Cogita sapiùs quàm caram rem, ab quàm cara parente tua, libertatem à patriâ tibi commendatam atque concreditam, apud te depositam habes: quod ab electissimis gentis universae viris, illa modò expectabat, id nunc à te uno expectat, per te unum consequi sperat: *Reverere tantam de te expectationem, spem patriae de te unicam; reverere vultus et vulnera tot fortium virorum, quotquot, te duce, pro libertate, tam strenuè decertârunt; manes etiam eorum, qui in ipso certamine occubuerunt: reverere exterarum quoque civitatum existimationem de nobis atque sermones; quantas res de libertate nostrâ, tam fortiter partâ, de nostrâ Republicâ, tam gloriosè exortâ sibi polliceantur: quae si tam citò quasi aborta evanuerit, profectò nihil aequè dedecorosum huic genti, atque pudendum fuerit: teipsum denique reverere, ut pro quâ adipiscendâ libertate, tot aerumnas pertulisti, tot pericula adiisti, eam adeptus, violatam per te, aut ullâ in parte imminutam aliis, ne finas esse. Profectò tu ipse liber sine nobis esse non potes; sic enim naturâ comparatum est, ut qui aliorum libertatem occupat, suam ipse primus omnium amittat; seque primum omnium intelligat servire: atque id quidem non injuriâ. At verò, si patronus ipse libertatis, et quasi tutelaris deus, si is, quo nemo justior, nemo sanctior est habitus, nemo vir melior, quam vindicavit ipse, eam postmodum invaserit, id non ipsi tantùm, sed universae virtutis ac pietatis rationi perniciosum ac lethale propemodum sit necesse est: ipsa honestas, ipsa virtus decuisse videbitur, religionis augusta fides, existimatio perexigua in posterum erit, quo gravius generi humano vulnus, post illud primum, insigi nullum poterit.*

The same afterwards did *Harrington* in his *Oceana*; and though more covertly, according to his plan, yet like an *Englishman* and a *Gentleman*. The title of his book is, "The Commonwealth of Oceana. Dedicated to his Highness the Lord Protector of the Commonwealth of England, Scotland, and Ireland. [Which makes the whole Dedication.] By James Harrington. London printed 1656"—in folio. *Cromwell*, after the perusal of the book said, "The Gentleman had like to trepan him out of his power; but that what he got by the sword, he would not quit for a little paper shot" etc. As see in the life of *Harrington*, with divers singular observations on that speech.

THE TRIAL OF A. SYDNEY

Col. Sydney. Why, my lord, conspiring to levy war is not treason, and I desire to have counsel upon that.

L. C. J. It is not a question. You had as good ask me, whether the first chapter in Littleton be law?

Col. Sydney. My lord, I have neither made war, nor conspired to levy war.

L. C. J. You are still in a mistake: you shall not think that we intend to dialogue with you, to let you know how far the proof hath been given or not given; but when we come to direct the Jury, then we shall observe how far the law requires there should be two witnesses. But whether there be such a proof, that must be left to the jury.

Mr. J. Wytchins. If you agree to the conspiracy, I will tell you my mind of it: I cannot give you my opinion in law, till the fact be stated.

L. C. J. The law always arises upon a point of fact; there can be no doubt in point of law, till there be a settlement in point of fact.

Mr. J. Holloway. My lord has put you in a right way: the conspiracy is proved but by one witness, if you have any thing to take off his credibility, it is to the purpose.

Col. Sydney. Truly, my lord, I do as little intend to mispend my own spirit, and your time, as ever any man that came before you. Now, my lord, if you will make a concatenation of one thing, a supposition upon supposition, I would take all this asunder, and shew, if none of these things are any thing in themselves, there can be nothing joined together.

L. C. J. Take your own method, *Mr. Sydney*; but I say, if you are a man of low spirits and weak body, it is a duty incumbent upon the court, to exhort you not to spend your time upon things that are not material.

Col. Sydney. My lord, I think it is very material that a whimsical imagination of a conspiracy should not pass for a real conspiracy of the death of the king: besides, if these papers were found in my house, it is a crime created since my imprisonment, and that cannot come in, for they were found since. My lord, if these papers are right, it mentions two hundred and odd sheets, and these shew neither beginning nor ending; and will you, my lord, indict a man for treason for scraps of paper, found in his house relating to an ancient paper, intended as innocently as any thing in the world, and piece and patch this to my lord *Howard's* discourse, to make this a contrivance to kill the king. Then, my lord, I think it is a right of mankind, and it is exercised by all studious men, that they write in their own closets what they please for their own memory, and no man can be answerable for it, unless they publish it.

L. C. J. Pray do not go away with that right of mankind, that it is lawful for me to write what I will in my own closet, unless I publish it. I have been told, Curse not the king, not in thy thoughts, not in thy bed-chamber, the birds of the air will carry it. I took it to be the duty of mankind, to observe that.

Col. Sydney. I have lived under the inquisition——

L. C. J. God be thanked, we are governed by law.

Col. Sydney. I have lived under the inquisition, and there is no man in Spain can be tried for herefy——

Mr. J. Wytbins. Draw no precedents from the inquisition, here, I beseech you, Sir.

L. C. J. We must not endure men to talk, that by the right of nature every one may contrive mischief in his own chamber, and he is not to be punished till he thinks fit to be called to it.

Col. Sydney. My Lord, if you will take Scripture by pieces, you will make all the penmen of the Scripture blasphemous; you may accuse David, of saying, There is no God; and accuse the Evangelists of saying, Christ was a blasphemer and a seducer; and the apostles, that they were drunk.

L. C. J. Look you, Mr. Sydney, if there be any part of it that explains the sense of it, you shall have it read; indeed we are trifled with a little. It is true, in scripture, it is said, "There is no God," and you must not take that alone, but you must say, "The fool hath said in his heart, There is no God." Now here is a thing imputed to you in the libel; if you can say, there is any part that is in excuse of it, call for it. As for the purpose, whosoever does publish, that the king may be put in chains or deposed, is a traitor; but whosoever says, that none but traitors would put the king in chains or depose him, is an honest man; therefore apply *ad idem*, but do not let us make excursions.

Col. Sydney. If they will produce the whole, my lord, then I can see whether one part contradicts another.

L. C. J. Well, if you have any witnesses call them.

Col. Sydney. The earl of Anglesey.

L. C. J. Ay, in God's name, stay till to morrow in things that are pertinent.

Col. Sydney. I desire to know of my lord Anglesey, what my lord Howard said to him concerning the plot that was broken out.

Lord Anglesey. Concerning this plot you are now questioned for?

Col. Sydney. The plot for which my lord Ruffel and I was in prison.

Lord Anglesey. The question I am asked, is, what my lord Howard said before the trial of my lord Ruffel, concerning the plot; I suppose, this goes as a branch of that he was accused for. I was then in the country, when the business was on foot, and used to come to town a day or two in the week, living near in Hertfordshire; and I understanding the affliction my lord of Bedford was in, I went to give my lord a visit, we having been acquaintance of above fifty years standing, and bred together in Maudlin College in Oxford. When I came to my lord of Bedford, and had administered that comfort that was fit for one Christian to give another in that distress, I was ready to leave him, and my lord Howard came in. It was upon the Friday before my lord Howard was taken, he was taken (as I take it) upon Sunday or Monday. My lord

Howard fell into the same christian office that I had been just discharging, to compassionate my lord's affliction, to use arguments to comfort and support him under it, and told him, he was not to be troubled, for he had a discreet, a wife, and a virtuous son, and he could not be in any such plot, (I think that was the word he used at first, though he gave another name to it afterward) and his lordship might therefore well expect a good issue of that business, and he might believe his son secure, for he believed he was neither guilty, nor so much as to be suspected. My lord proceeded further, and did say, that he knew of no such barbarous design (I think he called it so in the second place) and could not charge my lord Ruffel with it, nor any body else. This was the effect of what my lord Howard said at that time, and I have nothing to say of my own knowledge more than this; but to observe that I was present when the jury did put my lord Howard particularly to it; "What have you to say to what my lord Anglesey testifies against you?" My lord, I think, did in three several places give a short account of himself, and said it was very true; and gave them some further account why he said it, and said, he should be very glad it might have been advantageous to my lord Ruffel.

Col. Sydney. My Lord of Clare. I desire to know of my lord of Clare, what my lord Howard said concerning this plot and me.

Lord Clare. My lord, a little after Colonel Sydney was taken, speaking of the times, he said, that if ever he was questioned again, he would never plead; the quickest dispatch was the best; he was sure they would have his life, though he was never so innocent: and discoursing of the late primate of Armagh's prophecy, For my part, says he, I think the persecution is begun, and I believe it will be very sharp; but I hope it will be short: and I said, I hoped so too.

Mr. Att. Gen. What answer did your lordship give to it?

Lord Clare. I have told you what I know: my lord is too full of discourse for me to answer all he says; but for Colonel Sydney, he did with great asseverations assert, that he was as innocent as any man breathing, and used great encomiums in his praise, and then he seemed to bemoan his misfortune; which I thought real, for never was any man more engaged to another, than he was to Colonel Sydney, I believe. Then I told, they talked of papers that were found, I am sure, says he; they can make nothing of any papers of his.

Mr. Att. Gen. When was this?

Lord Clare. This was at my house the beginning of July.

Mr. Att. Gen. How long before my lord Howard was taken?

Lord Clare. About a week before.

Mr. Att. Gen. I would ask you, my lord, upon your honour, would not any man have said as much, that had been in the plot?

Lord Clare. I cannot tell, I know of no plot.

Col. Sydney. Mr. Philip Howard.

Mr. Just. Wythbins. What do you ask him?

Col. Sydney. What you heard my lord Howard say concerning this pretended plot, or my being in it?

Mr. Phil. Howard. My lord, when the plot first brake out, I used to meet my lord Howard very often at my brother's house, and coming one day from Whitehall, he asked me, What news? I told him, My lord, says I, there are abundance of people that have confessed the horrid design of murdering the king, and the duke. How, says he, is such a thing possible? Says I, It is so, they have all confessed it. Says he, Do you know any of their names? Yes, says I, I have heard their names. What are their names? says he. Why, says I, Colonel Romfey, and Mr. West, and one Walcott and others, that are in the proclamation (I cannot tell whether Walcott was in hold.) Says he, It is impossible such a thing can be, says he: there are in all countries people that wish ill to the government, and, says he, I believe there are some here; but, says he, for any man of honour, interest, or estate, to go about it, is wholly impossible. Says I, My lord, so it is, and I believe it. Says I, My lord, do you know any of these people? No, says he, none of them, only one day, says he, passing through the Exchange, a man saluted me, with a blemish upon his eye, and he embraced me, and wished me all happiness: says he; I could not call to mind who this man was: but afterwards, I recollected myself, that I met him at my lord Shaftesbury's, and heard afterwards, and concluded his name to be——his at whose house the king was to be assassinated——

Mr. Att. Gen. Rombald.

Mr. Howard. Ay, Rombald: My Lord, may I ask, if my lord Howard be here?

L. C. J. He is there behind you.

Mr. Howard. Then he will hear me. My lord, says I, what does your lordship think of this business? Says he, I am in a maze. Says I, If you will be ruled by me; you have a good opportunity to address to the king, and all the discontented lords, as they are called; and to shew your detestation and abhorrence of this thing; for, says I, this will be a good means to reconcile all things. Says he, You have put one of the best notions in my head that ever was put. Says I, You are a very good penman, draw up the first address (and I believe, I was the first that mentioned an address, you have had many an one since, God send them good success.) Says he, I am sorry my Lord of Essex is out of town, he should present it. But, says I, here is my lord Russel, my lord of Bedford, my lord of Clare, all of you that are disaffected, and so accounted, go about this business, and make the nation happy, and king happy. Says he, Will you stay till I come back? Ay, says I, if you will come in any time; but he never came back while I was there. The next day, I think, my lord Russel was taken, and I came and found him at my brother's house again (for there he was day and night.) Says he, Cousin, what news? Says I, My lord Russel is sent to the Tower. We are all undone then, says he. Pray, says he, go to my lord Privy-seal, and see if you can

can find I am to be taken up: says he, I doubt it is a sham-plot; if it was a true plot, I should fear nothing. Says I, What do you put me to go to lord Privy-seal for? He is one of the king's cabinet council; do you think he will tell me? I will not go; but, says I, if you are not guilty, why would you have me go to inquire? Why, says he, because I fear it is not a true plot, but a plot made upon us, and therefore, says he, there is no man free. My lord, I can say no more as to that time, (and there is no man that fits here, that wishes the king better than I do.) The next thing I come to, is this, I came the third day, and he was mighty sad and melancholy, that was when colonel Sydney was taken: says I, Why are you melancholy, because colonel Sydney is taken? Says I, Colonel Sydney was a man talked of before; why, you were not troubled for my lord Ruffel that is of your blood. Says he, I have that particular obligation from colonel Sydney, that no one man had from another. I have one thing to say farther, I pray I may be rightly understood in what I have said.

L. C. J. What, you would have us undertake for all the people that hear you? I think you have spoken very materially, and I will observe it by and by to the jury.

Col. Sydney. Pray call doctor Burnet.

Mr. Just. Walcott. What do you ask doctor Burnet?

Col. Sydney. I have only to ask doctor Burnet, whether, after the news of this pretended plot, my lord Howard came to him? And what he said to him?

Dr. Burnet. My lord, the day after this plot brake out, my lord Howard came to see me, and upon some discourse of the plot, with hands and eyes lifted up to heaven he protested he knew nothing of any plot, and believed nothing of it, and said, that he looked upon it as a ridiculous thing.

[*My Lord Pagett was sent for at the prisoner's request, being in the Hall.*]

Col. Sydney. My lord, I desire Joseph Ducas may be called, [*who appeared, being a Frenchman.*]

Col. Sydney. I desire to know, whether he was not in my house when my lord Howard came thither, a little after I was made a prisoner, and what he said upon it?

Ducas. Yes. My lord, my lord Howard came the day after the colonel Sydney was taken, and he asked me, where was the colonel Sydney? and I said, he was taken, by an order of the king. And he said, Oh Lord! what is that for? I said, They have taken papers. He said, Are some papers left? Yes. Have they taken something more? No. Well, you must take all the things out of the house, and carry them to some you can trust. I dare trust no body. Says he, I will lend my coach and coach-man. I said, if the colonel Sydney will save his goods, he save them; if not, it is no matter. A little after the lord Howard came in the house of colonel Sydney about eleven a clock at night. When he was in, I told him, What is this? They talk of a plot to kill the king and the duke; and I told him, they spoke of one general insurrection;

and I told him more, that I understood that colonel Sydney was sent into Scotland. When my lord Howard understood that, he said, God knows, I know nothing of this, and I am sure if the colonel Sydney was concerned in the matter, he would tell me something, but I know nothing. Well, my lord, I told him, I believe you are not safe in this house, there is more danger here than in another place. Says he, I have been a prisoner, and I had rather do any thing in the world than be a prisoner again.

[Then my lord Pagett came into the court.]

Col. Sydney. Pray, my lord, be pleased to tell the court, if my lord Howard has said any thing to you concerning this late pretended plot, or my being any party in it.

Lord Pagett. My lord, I was subpoena'd to come hither, and did not know upon what account. I am obliged to say, my lord Howard was with me presently after the breaking out of this plot, and before his appearing in that part which he now acts, he came to me; and I told him, that I was glad to see him abroad, and that he was not concerned in this disorder. He said, he had joy from several concerning it, and he took it as an injury to him, for that it looked as if he were guilty. He said, he knew nothing of himself, nor any body else. And though he was free in discourse, and free to go into any company indifferently; yet he said, he had not seen any body that could say any thing of him, or give him occasion to say any thing of any body else.

Col. Sydney. Mr. Edward Howard.

Mr. Ed. Howard. Mr. Sydney, what have you to say to me?

Col. Sydney. My lord, I desire you would ask Mr. Edward Howard the same thing, what discourse he had with my lord Howard about this plot?

L. C. J. Mr. Howard, Mr. Sydney desires you to tell what discourse you had with my lord Howard about this plot.

Mr. Howard. My lord, I have been for some time very intimate with my lord, not only upon the account of our alliance, but upon a strict intimacy and correspondence of friendship, and, I think, I was as much his as he could expect from that alliance. I did move him during this time, to serve the king upon the most honourable account I could, but that proved ineffectual: I pass that, and come to the business here. As soon as the plot brake out, my lord having a great intimacy with me, expressed a great detestation and surprizing in himself to hear of it, wherein my lord Howard assured me, under very great asseverations, that he could neither accuse himself, nor no man living. He told me moreover, that there were certain persons of quality whom he was very much concerned for, that they should be so much reflected upon or troubled, and he condoled very much their condition both before and after they were taken. My lord, I believe in my conscience, he did this without any mental reservation, or equivocation, for he had no reason to do it with me. I add moreover, if I have any sense of my lord's disposition, I think if he had known any such thing, he would not have stood his being taken, or
made

made his application to the king in this manner, I am afraid not so suitable to his quality.

L. C. J. No reflections upon any body.

Mr. Howard. My lord, I reflect upon no body, I understand where I am, and have a respect for the place; but since your lordship has given me this occasion, I must needs say, that that reproof that was accidentally given me, at the trial of my lord Ruffel, by reason of a weak memory, made me omit some particulars I will speak now, which are these, and I think they are material: my lord upon the discourse of this plot did further assure me, that it was certainly a sham, even to his knowledge. How, my lord, says I, do you mean a sham? Why, says he, such an one, coulin, as is too black for any minister of public employment to have devised: but, says he, it was forged by people in the dark, such as *jesuits* and *papists*; and, says he, this is my conscience. Says I, My lord, if you are sure of this thing, then pray, my lord, do that honourable thing that becomes your quality, that is, give the king satisfaction as becomes you; pray make an address under your hand to the king, whereby you express your detestation and abhorrence of this thing. Says he, I thank you for your council: to what minister, says he, shall I apply myself? I pitched upon my lord Halifax, and I told him of my lord's desire, and I remember my lord Howard named the duke of Monmouth, my lord of Bedford, the earl of Clare, and he said he was sure they would do it; that he was sure of their innocence, and would be glad of the occasion: and I went to my lord Halifax, and told him that my lord was willing to set it under his hand, his detestation of this plot, and that there was no such thing to his knowledge. My lord Halifax very worthily received me; says he, I will introduce it. But my lord Ruffel being taken, this was laid aside, and my lord gave this reason. For, says he, there will be so many people taken, they will be hindered. I must needs add from my conscience, and from my heart before God and man, that if my lord had spoken before the king, sitting upon his throne, abating for the solemnity of the presence I could not have more believed him, from that assurance he had in me. And I am sure from what I have said, if I had the honour to be of this gentleman's jury, I would not believe him.

L. C. J. That must not be suffered.

Mr. Att. Gen. You ought to be bound to your good behaviour for that.

L. C. J. The jury are bound by their oaths to go according to their evidence, they are not to go by men's conjectures.

Mr. Howard. May I go, my lord?

Mr. Att. Gen. My lord Howard desires he may stay: we shall make use of him.

Col. Sydney. My lord, I spake of a mortgage that I had of my lord Howard; I do not know whether it is needful to be proved; but it is so.

Lord Howard. I confess it.

Col. Sydney. Then, my lord, here is the other point; he is under the fear, that he dare not but say what he thinks will conduce towards the gaining his pardon; and that he hath expressed, that he could not have his pardon, but he must first do this drudgery of swearing. I need not say, that his son should say, that he was sorry his father could not get his pardon unless he did swear against some others.

Col. Sydney. Call Mr. Blake [*who appeared.*] My lord, I desire he may be asked, whether my lord Howard did not tell him that he could not get his pardon yet, and he could ascribe it to nothing, but that the drudgery of swearing must be over first.

Then my Lord Chief Justice asked the question.

Mr. Blake. My lord, I am very sorry I should be called to give a public account of a private conversation. How it comes about I do not know. My lord sent for me about six weeks ago, to come and see him. I went, and we talked of news. I told him I heard no body had their pardon but he that first discovered the plot. He told me no, but he had his warrant for it: and, says he, I have their word and honour for it, but, says he, I will do nothing in it till I have further order; and, says he, I hear nothing of it, and I can ascribe it to no other reason, but I must not have my pardon till the drudgery of swearing is over. These words my lord said, I believe my lord will not deny it.

Then Mr. Sydney called Mr. Hunt and Burroughs, but they did not appear.

Col. Sydney. It is a hard case they do not appear: one of them was to prove that my lord Howard said he could not have his pardon till he had done some other jobs.

L. C. J. I cannot help it; if you had come for assistance from the court I would willingly have done what I could.

Then Col. Sydney mentioned the duke of Buckingham, but he was informed he was not subpoena'd.

Col. Sydney. Call Grace Tracy and Elizabeth Penwick [*who appeared.*] I ask you only, what my lord Howard said to you at my house concerning the plot, and my being in it?

Tracy. Sir, he said that he knew nothing of a plot, he protested, and he was sure Colonel Sydney knew nothing of it. And he said, if you knew any thing of it, he must needs know of it, for he knew as much of your concerns as any one in the world.

Col. Sydney. Did he take God to witness upon it?

Tracy. Yes.

Col. Sydney. Did he desire my plate at my house?

Tracy. I cannot tell that: he said the goods might be sent to his house.

Col. Sydney. Penwick, what did my lord Howard say in your hearing concerning the pretended plot, or my plate carrying away?

Penwick. When he came he asked for your honour; and they said your honour was taken away by a man to the Tower for the plot; and then he took God to witness he knew nothing of it, and believed your

honour did not neither. He said he was in the Tower two years ago; and your honour, he believed, saved his life.

Col. Sydney. Did he desire the plate?

Penwick. Yes, and said it should be sent to his house to be secured. He said it was only malice.

Mr. Wharton stood up.

Mr. Wharton. It is only this I have to say, that if your lordship pleases to shew me any of these sheets of paper, I will undertake to imitate them in a little time that you shall not know which is which. It is the easiest hand that ever I saw in my life.

Mr. Att. Gen. You did not write these, Mr. Wharton?

Mr. Wharton. No, but I will do this in a very little time if you please.

L. C. J. Have you any more witnesses?

Col. Sydney. No, my lord.

L. C. J. Then apply yourself to the jury.

Col. Sydney. Then this is that I have to say. Here is a huge complication of crimes laid to my charge. I did not know at first under what statute they were, now I find it is the statute of 25 Ed. 3. This statute hath two branches; one relating to war, the other to the person of the king. That relating to the person of the king, makes the conspiring, imagining, and compassing his death, criminal. That concerning war, is not unless it be levied: now, my lord, I cannot imagine to which of these they refer my crime; and I did desire your lordship to explain it. For to say that a man did meet to conspire the king's death, and he that gives you the account of the business does not speak one word of it, seems extravagant; for conspiracies have ever their denomination from that point to which they tend; as a conspiracy to make false coin infers instruments and the like. A conspiracy to take away a woman, to kill, or rob, are all directed to that end. So conspiring to kill the king, must immediately aim at killing the king. The king hath two capacities, natural and politic: that which is the politic cannot be within the statute; in that sense he never dies; and it is absurd to say it should be a fault to kill the king that cannot die. So then it must be the natural sense it must be understood in, which must be done by sword, by pistol, or any other way. Now if there be not one word of this, then that is utterly at an end, though the witness had been good.

The next point is concerning levying of war. Levying of war is made treason there, so it be proved by overt-act: but an overt-act of that never was, or can be, pretended here. If the war be not levied, it is not within the act; for conspiring to levy war is not in the act. My lord, there is no man that thinks that I would kill the king, that knows me; I am not a man to have such a design; perhaps I may say I have saved his life once. So that it must be by implication, that is, it is first imagined that I intended to raise a war, and then it is imagined that war should tend to the destruction of the king. Now I know that may
follow.

follow; but that is not natural or necessary: and being not natural or necessary, it cannot be so understood by the law. That it is not, is plain; for many wars have been made, and the death of the king has not followed. David made war upon Saul, yet no body will say he fought his death: he had him under his power and did not kill him. David made war upon Ishbosheth, yet did not design his death: and so, in England and France, kings have been taken prisoners, but they did not kill them. King Stephen was taken prisoner, but they did not kill him. So that it is two distinct things, to make war, and to endeavour to kill the king. Now as there is no manner of pretence that I should endeavour to kill the king directly, so it cannot be by inference, because it is treason under another species. I confess I am not fit to argue these points; I think I ought to have counsel: but if you will not allow it me, I cannot help it: but these things are impossible to be jumbled up together. Now I say this, if I am not under the first branch, if not directly I cannot be by implication; though I did make war, I cannot be said to conspire the death of the king, because it is a distinct species of treason; and my lord Coke says, it is the overthrow of all justice to confound *membra dividenda*. Now if the making of war cannot be understood to be a conspiring the death of the king, then I am not guilty of this indictment: but here, my lord, is neither conspiring the death of the king, nor making war, nor conspiring to make war. Besides, I say, it is not the best man's evidence here would be good in this case, because the law requires two.

The next thing is the business of Aaron Smith, which, my lord, tells so imperfectly, and so merely conjectural, that there is nothing in it, but his rhetorick in setting it out. He tells you of a letter sent with him; but he does not tell you by whom writ, what was in it, or whether it was delivered or no: so that I think we may lay that aside as the other, as things nothing in them at all. Then says Mr. Attorney, these Scotch gentlemen are come to town. I profess I never heard the names of one of them till he named them to me in the Tower. I have not sent myself, nor writ, a letter into Scotland never since the year 59; nor do I know one man in Scotland to whom I can write, or from whom I ever received one. I returned into England in the year 77, and since that time have not writ nor received a letter from Scotland. Then, some gentlemen came hither. What is that to me? I never saw one of the Campbells in my life, nor Monro. If any one can prove I have had communication with them, I will be glad to suffer.

Then here are papers: if any thing is to be made of them, you must produce the whole, for it is impossible to make any thing of a part of them. You ask me, what other passage I would have read? I do not know a passage in them, I cannot tell whether it be good or bad. But if there are any papers found (it is a great doubt whether they were found in my study or no, or whether they be not counterfeit; but though that be admitted that they were found in my house) the hand is such that it shews they have been writ very many years. Then that which seems to

be an account of the sections and chapters, that is but a scrap; and what if any body had, my lord, either in my own hand or another's found papers that are not well justifiable, is this treason? Does this imagine the death of the king? If any man can say I ever printed a sheet in my life, I will submit to any punishment. Many others, my lord, they write, and they write what comes into their heads. I believe there is a brother of mine here has forty quire of paper written by my father, and never one sheet of them was published; but he writ his own mind to see what he could think of it another time, and blot it out again, may be. And I myself, I believe, have burned more papers of my own writing, than a horse can carry. So that for these papers I cannot answer for them. There is nothing in it, and what concatenation can this have with the other design that is in itself nothing, with my lord's select council selected by no body to pursue the design of my lord Shaftesbury? And this council, that he pretends to be set up for so great a business, was to be adjusted with so much fineness, so as to bring things together. What was this fineness to do, taking it for granted, which I do not. This was nothing, if he was a credible witness, but a few men talking at large of what might be or not be, what was like to fall out without any manner of intention or doing any thing. They did not so much as enquire whether there was men in the country, arms, or ammunition. A war to be made by five or six men, not knowing one another; not trusting one another! What said Dr. Coxe in his evidence at my lord Ruffel's trial, of my lord Ruffel's trusting my lord Howard? He might say the same of some others. So that, my lord, I say, these papers have no manner of coherence, no dependance upon any such design. You must go upon conjecture; and, after all, you find nothing but only papers, never perfect, only scraps, written many years ago, and that could not be calculated for the raising of the people. Now, pray, what imagination can be more vain than that? and what man can be safe if the king's counsel may make such (whimsical I will not say, but) groundless constructions? Mr. Attorney says the plot was broken to the Scots (God knows we were neither broken nor joined) and that the Campbells came to town about that time I was taken, and in the mean time my lord Howard, the great contriver of all this plot, who was most active, and advised the business that consisted of so much fineness; he goes there and agrees of nothing: and then goes into Essex upon great important business, greater than the war of England and Scotland, to what purpose? to look after a little pimping manor: and what then? Why, then, it must be laid aside, and he must be idle five weeks at the Bath, and there is no enquiring after it. Now I desire your lordship to consider, whether there be a possibility for any men, that have the sense of porters and grooms, to do such things as he would put upon us. I would only say this, if Mr. Attorney be in the right, there was a combination with the Scots, and then this paper was writ: for those that say, I did it, say, I was doing of it then, and by the notes, there is work enough for four or five years,

years, to make out what is mentioned in those scraps of paper; and this must be to kill the king. And I say this, my lord, that, under favour, for all constructive treasons you are to make none, but to go according to plain proof; and that these constructive treasons belong only to parliament, and by the immediate proviso in that act. Now, my lord, I leave it to your lordship, to see whether there is in this any thing that you can say is an overt-act of treason mentioned in 25 E. 3. If it be not plainly under one of the two branches, that I have endeavoured to kill the king, or levied war, then it is matter of construction, and that belongs to no court, but the parliament. Then, my lord, this hath been adjudged already in Throgmorton's case. There are twenty judgments of parliament, the act of 13 Eliz. that say—I should have some body to speak for me, my lord.

L. C. J. We are of another opinion.

Mr. Just. Wytbins. If you acknowledge the matter of fact, you say well.

Col. Sydney. I say there are several judgments of parliament, that do shew whatever is constructive-treason does not belong to any private court: that of 1 Mary. 1 Ed. 6. 1 Eliz. 5 Eliz. 18. another 13 Car. shew this. Now, my lord, I say that the business concerning the papers, it is only a similitude of hands, which is just nothing. In my lady Carr's case, it was resolved to extend to no criminal cause; if not to any, then not to the greatest, the most capital. So that I have only this to say, that I think it is impossible for the jury to find this matter; for the first point you proved by my lord Howard, that, I think, is no body; and the last concerning the papers, is only imagination from the similitude of hands. If I had published it, I must have answered for it; or if the thing had been whole and mine, I must have answered for it; but for these scraps never shewed any body, that, I think, does not at all concern me. And I say, if the jury should find it (which is impossible they can) I desire to have the law reserved unto me.

Mr. Sol. Gen. My lord, and you gentlemen of the jury. The evidence hath been long; but I will endeavour to repeat it, as faithfully as I can. The crime the prisoner stands accused for, is compassing and imagining the death of the king. That, which we go about to prove that compassing and imagining by, is by his meeting and consulting how to raise arms against the king, and by plain matter in writing under his own hand, where he does affirm, it is lawful to take away and destroy the king. Gentlemen, I will begin with the first part of it, the meeting and consultation to raise arms against the king.

The prisoner, gentlemen, hath endeavoured to avoid the whole force of this evidence by saying, that this in point of law cannot affect him, if it were all proved; for this does not amount to a proof of his compassing and imagining the death of the king: and he is very long in interpreting the act of parliament to you of 25 E. 3. and dividing of it into

into several members or branches of treason; and does insist upon it, that though this should be an offence within one branch of that statute, yet that is not a proof of the other, which is the branch he is proceeded upon, that is, the first clause against the compassing and imagining the death of the king. And, says he, conspiring to levy war is not so much as one branch of that statute, but it must be war actually levied. This is a matter he is wholly mistaken in, in point of law. It hath been adjudged over and over again, that an act which is in one branch of that statute, may be an overt-act to prove a man guilty of another branch of it. As levying war is an overt-act to prove a man guilty of conspiring the death of the king; and this was adjudged in the case of sir Henry Vane: so is meeting and consulting to raise to arms. And reason does plainly speak it to be so; for they that conspire to raise war against the king, cannot be presumed to stop any where till they have dethroned or murdered the king. Gentlemen, I will not be long in citing authorities: it hath been settled lately by all the judges of England, in the case of my lord Russel, who hath suffered for this conspiracy. Therefore that point of law will be very plain against the prisoner.

He hath mentioned some other things; as, that there must be two witnesses to every particular fact; and one witness to one fact, and another to another, is not sufficient. It hath been very often objected, and as often over-ruled: it was over-ruled solemnly in the case of my lord Stafford. Therefore if we have one witness to one overt-act, and another to another, they will be two witnesses in law to convict this prisoner.

In the first part of our evidence, we give you an account of the general design of an insurrection that was to have been; that this was contrived first when my lord Shaftesbury was in England; that after my lord Shaftesbury was gone, the business did not fall, but they thought fit to revive it again, and, that they might carry it on the more steadily, they did contrive a council among themselves of six, whereof the prisoner at the bar was one. They were the duke of Monmouth, my lord of Effex, my lord Howard, my lord Russel, the prisoner at the bar, and Mr. Hambden. This council they contrived to manage this affair, and to carry on that design that seemed to fall by the death of my lord of Shaftesbury; and they met. This we give you an account of, first by witnesses that gave you an account in general of it: and though they were not privy to it, yet they heard of this council, and that colonel Sydney was to be one of this council. This, gentlemen, if it had stood alone by itself, had been nothing to affect the prisoner at all. But this will shew you, that this was discoursed among them that were in this conspiracy. Then my lord Howard gives you an account, that first the duke of Monmouth, and he, and colonel Sydney met, and it was agreed to be necessary to have a council that should consist of six or seven, and they were to carry it on: that the duke of Monmouth undertook to dispose my lord Russel to it, and colonel Sydney to dispose the earl of Effex, and Mr. Hambden: that these gentlemen did meet accordingly,
and

and the substance of their discourse was, taking notice how the design had fallen upon the death of my lord Shaftesbury; that it was fit to carry it on before men's inclinations were cool, for they found they were ready to it, and had great reason to believe it, because this being a business communicated to so many, yet for all that it was kept very secret, and nobody had made any mention of it, which they looked upon as a certain argument that men were ready to engage in it. This encouraged them to go on in this conspiracy. Then when the six met at Mr. Hambden's house, they debated concerning the place of rising, and the time: the time they conceived must be suddenly before men's minds were cool, for now they thought they were ready and very much disposed to it: and for place, they had in debate whether they should rise first in the town, or in the country, or both together: and for the persons, they thought it absolutely necessary for them to have the united counsels of Scotland to join with them, and therefore they did refer this matter to be better considered of another time; and they met afterwards at my lord Ruffel's house in February, and there they had discourse to the same purpose. But there they began to consider with themselves, being they were to destroy this government, what they should set up in the room of it; to what purpose they engaged. For they did very wisely consider, if this be only to serve a turn, and to make one man great, this will be a great hindrance in their affair: therefore they thought it was necessary to engage upon a public account, and to resolve all into the authority of a parliament, which surely they either thought to force the king to call, or otherwise, that the people might call a parliament, if the king refused; and so they choose their own heads.

But still they were upon this point, that it was necessary for their friends in Scotland to have their counsels united with them; and in order to that, it was necessary to contrive some way to send a messenger into Scotland, to bring some men here to treat and consult about it; and colonel Sydney is the man that does engage to send this messenger: and he had a man very fit for his turn, that is, Aaron Smith, whom he could confide in, and him he undertook to send into Scotland. This messenger was to fetch my lord Melvin, the two Campbells, and sir John Cockram. Colonel Sydney as he engaged to do this, so afterwards he did shew to my lord Howard money, which he affirmed was for that business: he says it was a sum of about sixty guineas, and he believes he gave it him, for that colonel Sydney told him, that Aaron Smith was gone into Scotland, that the pretence was not bare-faced, to invite them over to consult of a rebellion, but to consult about the business of Carolina, being a plantation for the persecuted brethren, as they pretended, in Scotland. Gentlemen, these Scotchmen that were thus sent for over, they came accordingly, that is, the two Campbells, and sir John Cockram: and the discourse with sir Andrew Foster was according to this cant that was agreed on beforehand, concerning a plantation in Carolina. This was that that was pretended for their coming hither; but the true errand was, the business

business of the insurrection intended. Gentlemen, that they came upon such a design, is evident from the circumstances: they came about the time the business brake out, and in that time suspiciously changing their lodging, they were taken making their escape, and this at a time before it was probable to be known abroad that these men were named as part of the conspirators. These things do very much verify the evidence my lord Howard hath given, and there is nothing has been said does at all invalidate it. The sending of Aaron Smith into Scotland, and his going, and the coming of these men, and their endeavouring to make their escape, are mighty concurrent evidences with the whole evidence my lord Howard has given. Now, what objections are made against this evidence? Truly none at all. Here are persons of great quality have given their testimony, and they do not impeach my lord Howard in the least; but some do extremely confirm the truth of my lord Howard. My lord Anglesey gives you an account of a discourse at my lord of Bedford's; that my lord Howard came in, and that my lord Howard should there comfort my lord of Bedford, and enlarge in the commendations of his son, and say he was confident he knew nothing of the design, and he must be innocent. Gentlemen, this is the nature of the most part of the evidence. My lord of Clare his evidence is much the like, that is, his denying that he knew of any plot. Now here is my lord Howard under a guilt of high-treason; for he was one of those conspirators not yet discovered, nor no evidence of any discourse leading to any thing that should give occasion to him to protest his innocency: and, says he, I know nothing of the plot. You would have wondered if he should have been talking in all places his knowledge, and declaring himself: his denying of it under the guilt, when he was not accused, is nothing to his confession when he comes to be apprehended and taken for it. Here Mr. Philip Howard says, he had several discourses with him about this business upon the breaking out of the plot, and that he advised him to make an address, and that this was a thing that would be very acceptable, and very much for their vindication; and my lord Howard (he says) thanked him for his very good advice, and said, he would follow it: and presently after when my lord Ruffel was apprehended, Mr. Howard tells him the news that my lord Ruffel was apprehended; this was sudden to him. And what says he? "We are all undone." When my lord Ruffel, that was one of this council that was a secret council, and could not be traced but by some of themselves, when he is apprehended, then he falls out into this expression: "We are all undone." This is an argument my lord Howard had a guilt upon him. For, why were they all undone, that my lord Ruffel was apprehended, any more than upon the apprehending the rest? Yes, because my lord was one of the six, and now it was come to the knowing of that part of the conspiracy. It was traced to the council of six, which in all likelihood would break the neck of the design. Now though he put it off afterwards, saying, "I believe it is a sham plot," yet this was but a trivial put-off. And then,

then, when colonel Sydney is taken, the same witness Mr. Howard tells you, my lord was very sad and melancholy; for then he had greater reason to lie under an apprehension of being detected. Therefore, gentlemen, this will rather confirm the truth of the evidence, than any way impeach it. Then (for I would repeat it all, though I think it hath no great weight in it) Dr. Burnet says, that after the plot, my lord Howard pretended he knew of no plot. This is no more than was testified by the other lords before; and all it imports, is, that my lord did not discover himself to Dr. Burnet. But I would fain know if my lord had told Dr. Burnet, had it not argued that he had great confidence in him, that he thought him a man fit to be trusted with such a secret: and unless the doctor desires to be thought such a man, himself must own, it is no objection, that my lord Howard did not tell him. Ducas's testimony is no more neither, that he protested he was innocent, and believed colonel Sydney was innocent; and this was before my lord Howard discovered any thing of this plot. Then colonel Sydney objects, this is by malice, my lord Howard owes him money, and seeks to pay his debts by taking away his life; and, in further prosecution of this malice, would have seized upon his goods. But the evidence does not receive such construction; for my lord Howard only offered colonel Sydney the civility of his house to protect his plate and goods. Now, gentlemen, there were two other witnesses, my lord Paget, and Mr. Edward Howard; but they say no more than the rest of them, that he did protest his innocency, and Mr. Howard says, he advised him to make an address to the king. This, gentlemen, I repeat, not that it is material, but for no other reason, than because colonel Sydney had produced it; and so we are to think, he intended to make some use of it: but I cannot see any inference to be drawn from it. There is one witness more, and that is Mr. Blake, to the credit of my lord Howard, who comes here, and says, that when he discoursed about a pardon, my lord should say, that he had a warrant for his pardon, but that he had not yet passed it, and could not yet; and he apprehended the reason was, because the drudgery of swearing was not over. But this is but what my lord Howard had conjectured: first, it does not appear, that there is any promise of pardon at all to my lord Howard, or any terms imposed on him. In the next place, whatever expectation he has of a pardon, he cannot reasonably hope for it without making a clear discovery of all he knows: for to stifle his evidence he has given, is not a way to deserve a pardon of his prince. Therefore, gentlemen, whatever expressions were used, though he called it the drudgery of swearing, however unwilling he is to come to it, and though he gives it very many hard names, and might think it very harsh to come and own himself to be one of the conspirators, it might be irksome, and very irksome, yet none of them tell you, that my lord Howard should say, that what he said was not true. Now he has come and given his evidence, and you have heard all these objections against it, and not one of them touch it in the least.

I come in the next place to the other part of the evidence, the papers found in colonel Sydney's house. And in the first place he objects, they cannot affect him; for, says he, there is no proof they were found in my house, no proof they were written by me; for comparison of hands, that is nothing; and if they were proved to be mine, it is nothing at all to the purpose: they are an answer to a polemical discourse, wherewith he entertained himself privately in his study. Why, you have observed, I know, that sir Philip Lloyd in the first place swears, that by warrant from the secretary he searched his house, and he found the papers lying upon colonel Sydney's table in his study, when he came in there; and there is no ground nor colour for you to suspect otherwise than that they were there, and he found them there. For the surmise of the prisoner at the bar, that they might be laid there, it is so foreign and without ground, that by and by you will think there is nothing at all in it. In the next place, we prove colonel Sydney's hand, and that by as much proof as the thing is capable of; such a proof as in all cases hath been allowed; and that is, for men to come that know and are acquainted with the hand-writing, and swear they know his hand-writing, and they believe this to be his hand. You have heard from Mr. Sheppard, a man that used to transact business for him, pay money for him; and Mr. Cooke, and Mr. Cary, men of known credit in the city of London, that have had the like dealings with colonel Sydney, and they swear, this is his hand-writing, as they verily believe. So that, gentlemen, this proof to you of colonel Sydney's hand-writing, does verify sir Philip Lloyd, that these papers must be found there, if colonel Sydney writ them: and then this being found that they were writ by him, the next thing will be, how far this will be an evidence to prove his compassing and imagining the death of the king. Compassing and imagining the death of the king, is the act of the mind, and is treason whilst it remains secret in the heart, though no such treason can be punished, because there is no way to prove it: but when once there is any overt-act, that is, any thing that does manifest and declare such intention, then the law takes hold of it, and punishes it as high-treason.

Now after this evidence, I think no man will doubt, whether it was in the heart of the prisoner at the bar to destroy the king. But first he objects, that this is a part of a book, and unless you take the whole, nothing can be made of it; as it is in wresting of texts of scripture, says he, you may as well say, that David says there is no God, because David hath said, *The fool hath said in his heart there is no God.* But, gentlemen, the application will not hold; for you see a long discourse hath been read to you, a continued thread of argument; it is not one proposition, but a whole series of argument: these are the positions, "that the king
 " derives all his power from the People; that it is originally in the
 " People, and that the measure of subjection must be adjudged by the
 " Parliament; and if the king does fall from doing his duty, he must
 " expect the People will exact it." And this he has laid down as no
 way

way prejudicial to him; for, says he, the king may refuse the crown, if he does not like it upon these terms. But, says he, if he does accept it, he must expect the performance will be exacted, or revenge taken by those he hath betrayed. Then next he sets up an objection, and then argues against it: Ay, but shall the people be judge in their own cause? And thus he answers, It must be so; for is not the king a judge in his own cause? How can any man else be tried, or convicted of any offence, if the king may not be judge in his own cause; for to judge by a man's self, or by his deputy, is the same thing; and so a crime against the king cannot be punished. And then he takes notice of it as a very absurd position, that the King shall judge in his own cause; and not the People. That would be to say, "The servant entertained by the master, shall judge the master, but the master shall not judge the servant." Gentlemen, after this sort of argument he comes to this settled position, "We may therefore, says he, change, or take away kings (without breaking any yoke, or that is made a yoke which ought not to be one;) the injury is therefore in imposing the yoke, and there can be none at all in breaking of it." But he goes on in his book, and that is by way of answer to an objection, That if there be no injury, yet there may be inconvenience, if the headless multitude should shake off the yoke. But, says he, I would fain know how the multitude comes to be headless: and there he gives many instances in story; and from foreign nations he comes home to the English, and tells you how all rebellions in latter ages have been headed; and tells you the parliament is the head, or the nobility and gentry that compose it; and when the king fails in his duty, the People may call it. The multitude therefore is never headless, but they either find or create an head. So that here is a plain and an avowed principle of rebellion established upon the strongest reason he has to back it. Gentlemen, this with the other evidence that has been given, will be sufficient to prove his compassing the death of the king. You see the affirmations he makes: when Kings do break their trust they may be called to account by the People. This is the doctrine he broaches and argues for: he says in his book in another part, that the calling and dissolving of parliaments is not in the king's power. Gentlemen, you all know how many parliaments the king hath called and dissolved; if it be not in his power, he hath done that that was not in his power, and so contrary to his trust. Gentlemen, at the entrance into this conspiracy they were under an apprehension that their liberties were invaded, as you hear in the evidence from my lord Howard, that they were just making the insurrection upon that tumultuous opposition of electing of sheriffs in London. They enter into a consultation to raise arms against the king; and it is proved by my lord Howard, that the prisoner at the bar was one. Gentlemen, words spoken upon a supposition will be high treason, as was held in king James's time, in the case of Collins in Roll's Reports, "the king being excommunicate may be deposed and murdered," without affirming he was excommunicated: and this was

enough to convict him of high treason. Now, according to that case, to say, the king having broken his trust may be deposed by his people, would be high treason; but here he does as good as affirm the king had broke his trust, when every one sees the king hath dissolved parliaments: this reduces it to an affirmation. And though this book be not brought to that council to be perused, and there debated; yet it will be another, and more than two witnesses, against the prisoner: for I would ask any man, suppose a man was in a room, and there were two men, and he talks with both apart, and he comes to one and endeavours to persuade him that it is lawful to rise in arms against the king, if so be he break his trust; and he should go to another man, and tell him the king hath broken his trust, and we must seek some way to redress ourselves, and persuade the people to rise; these two witnesses do so tack this treason together, that they will be two witnesses to prove him guilty of high treason. And you have heard one witness prove it positively to you, that he consulted to rise in arms against the king, and here is his own book says, it is lawful for a man to rise in arms against the king, if he break his trust, and in effect he hath said, the king hath broken his trust: therefore this will be a sufficient demonstration what the imagination of the heart of this man was, that it was nothing but the destruction of the king and the government, and indeed of all governments. There can be no such thing as government if the people shall be judge in the case: for what so uncertain as the heady and giddy multitude? Gentlemen, I think this will be a sufficient evidence of his consulting the death of the king. You have here the prisoner at the bar that is very deep in it. Indeed some men may by passion be transported into such an offence, and though the offence be never the less, whatever the motives are; yet in some it is less dangerous: for those that venture, upon passion, to raise commotions and rebellion, are not always so much upon their guard, but that they may make some false steps to intrap themselves: but this gentleman proceeds upon a surer foundation, it is his reason, it is his principle, it is the guide of all his actions, it is that by which he leads and directs the steady course of his life. A man convinced of these principles, and that walks accordingly, what will not he do to accomplish his designs? How wary will he be in all his actions, still reasoning with himself which way to bring it most securely about. Gentlemen, this is the more dangerous conspiracy in this man, by how much the more it is rooted in him: and how deep it is, you hear, when a man shall write as his principle, that it is lawful for to depose kings, they breaking their trust, and that the revolt of the whole nation cannot be called rebellion. It will be a very sad case when people act thus according to their consciences, and do all this for the good of the people, as they would have it thought; but this is the principle of this man. Gentlemen, we think we have plainly made it out to you, and proved it sufficiently, that it was the imagination of his heart to destroy the king, and made sufficient proof of high treason.

Col. Sydney. Give me leave, my lord, to say a very few words. I desire Mr. Solicitor would not think it his duty to take away men's lives any how : first, we have had a long story——

L. C. J. Nay, Mr. Sydney, we must not have vying and revying. I asked you before, what you had to say : the course of evidence is, after the king's counsel have concluded, we never admit the prisoner to say any thing.

Col. Sydney. My lord, it was a wise man said, there never could be too much delay in the life of a man : I know the king's counsel may conclude if they please. Mr. Solicitor, I would not have him think that it is enough, by one way or another, to bring a man to death : my lord, this matter of sir Henry Vane is utterly misrepresented——

L. C. J. I must tell you, gentlemen of the jury, that what the prisoner says that is not proved, and what the king's counsel have said, of which there is no proof to make it out, must not be taken into any consideration.

Col. Sydney. Then, my lord, here is a place or two in old Hale's [turning over my lord Hale's book] for the overt act of one treason, not being an overt act of another. Your lordship knows Coke and Hales were both against it [he reads] "Compassing by bare words is not an overt act ; conspiring to levy war is no overt act."

Mr. Sol. Gen. I desire but one word more for my own sake, as well as the prisoner's, and that is, that if I have said any thing that is not law, or misrepeated or misapplied the evidence which hath been given, I do make it my humble request to your lordship to rectify those mistakes, as well in point of fact, as point of law ; for God forbid the prisoner should suffer by any mistake !

L. C. J. Gentlemen, the evidence has been long, and it is a cause of great concernment, and it is far from the thoughts of the king, or from the thoughts or desire of any of his judges here, to be instrumental to take away the life of any man that by law his life ought not to be taken away. For I had rather many guilty men should escape, than one innocent man suffer. The question is, Whether upon all the evidence you have heard against the prisoner, and the evidence on his behalf, there is evidence sufficient to convict the prisoner of the high treason he stands charged with. And as you must not be moved by the denial of the prisoner further than as it is backed with proof, so you are not to be inveigled by any insinuations made against the prisoner at the bar, further or otherwise than as the proof is made out to you. But it is usual ; and it is a duty incumbent on the king's counsel, to urge, against all such criminals, whatsoever they observe in the evidence against them, and likewise to endeavour to give answers to the objections that are made on their behalf. And therefore, since we have been kept so long in this cause, it will not be amiss for me and my brothers, as they shall think fit, to help your memory in the fact, and discharge that duty that is incumbent upon the court as to the points of Law.

This

This indictment is for high treason, and is grounded upon the statute of 25 E. 3. by which statute the compassing and imagining the death of the king, and declaring the same by an overt act, is made high treason. The reason of that law was, because at Common Law there was great doubt what was treason; wherefore, to reduce that high crime to a certainty, was that law made, that those that were guilty might know what to expect. And there are several acts of parliament made between the time of Edward the third, and that of 1 M. but by that statute all treasons, that are not enumerated by after-acts of parliament, remain as they were declared by that statute of 25 E. 3. And so are challenges, and other matters insisted upon by the prisoner, left as they were at the time of that act. I am also to tell you, that, in point of law, it is not only the opinion of us here, but the opinion of them that sat before us, and the opinion of all the Judges of England, and within the memory of many of you, that though there be two witnesses required to prove a man guilty of high-treason; yet it is not necessary there should be two witnesses to the same thing at one time. But, if two witnesses prove two several facts that have a tendency to the same treason, they are two witnesses sufficient to convict any man of high treason. In the case of my lord Stafford in parliament, all the judges assisting, it is notoriously known, that one witness to a conspiracy in England, and another to a conspiracy in France, were held two witnesses sufficient to convict him of high treason. In the next place, I am to tell you, that though some judges have been of opinion, that words of themselves were not an overt act; but my lord Hales, nor my lord Coke, nor any other of the sages of the law, ever questioned but that a letter would be an overt act, sufficient to prove a man guilty of high treason; for, *scribere est agere*. Mr. Sydney says, The king is a politic person; but you must destroy him in his natural capacity, or it is not treason. But I must tell you, if any man compass to imprison the king, it is high treason: so was the case of my lord Cobham. And my lord Coke, when he says, If a man do attempt to make the king do any thing by force and compulsion, otherwise than he ought to do, that it is high treason within that act of 25 E. 3. but if it were an indictment only for the levying of war, there must be an actual war levied. But this is an indictment for compassing the death of the king; and the other treason mentioned in that act of parliament, for the levying of war, may be given in evidence to prove the conspiring the king's death: for it is rightly told you by the king's counsel, that the imagination of a man's heart is not to be discerned; but if I declare such my imagination by an overt act, which overt act does naturally evince that the king must be deposed, destroyed, imprisoned, or the like, it will be sufficient evidence of treason within that act.

In the next place, having told you what the law is, for, gentlemen, it is our duty upon our oaths, to declare the law to you, and you are bound to receive our declaration of the law; and upon this declaration, to enquire whether there be a fact sufficiently proved, to find the prisoner guilty of the high treason of which he stands indicted: and for that, I

must tell you, whatever happens to be hearfay from others, it is not to be applied immediately to the prisoner; but, however, those matters that are remote at first, may serve for this purpose, to prove there was generally a conspiracy to destroy the king and government: and for that matter, you all remember it was the constant rule and method observed about the popish plot, first to produce the evidence of the plot in general: this was done in that famous case of my lord Stafford in parliament. Gentlemen, I am also to tell you, this alone does not at all affect the prisoner at the bar, but is made use of as a circumstance to support the credibility of the witnesses: and is thus far applicable to the business before you, that it is plain by persons that do not touch the prisoner at the bar (and I am sorry any man makes a doubt of it at this time of day) that there was a conspiracy to kill the king; for after so full a proof in this place, and in others, and the execution and confession of several of the offenders, I am surpris'd to observe that the prisoner at the bar, and some others present, seem not to believe it.

But, gentlemen, you hear the first witness, I speak of West: he tells you, he had the honour to be acquainted with Mr. Sydney, and that he had discourse with Mr. Walcot, a person convicted and executed for this horrid conspiracy. Why, says he, he told me at my chamber, that they were not only the persons concerned, but that there were other persons of great quality that had their meetings for the carrying on the business in other places. And Ferguson, that was the ringleader in this conspiracy, told him there was a design of a general insurrection; it was once laid down, but it is now taken up again. There are other counsellors of great importance; and he names, among the rest, the prisoner at the bar. Mr. West goes a little further, and he tells you this: says he, He did not only tell me so, but that there was a design to conciliate a correspondence with some persons in Scotland, and they were to do it under the cant of having business in Carolina. There is Mr. Keeling, he tells you too, there was a design for a general and public insurrection; that he was present with the Goodenoughs, one and the other; and that they had taken upon them to divide, and did divide, the city into such and such districts. And what was the business? It was, that there might be a general insurrection; might be an insurrection, not only to destroy the king and the duke, but to destroy all the king's loyal subjects; and, in taking away their lives, to take away the life of monarchy itself, and to subvert the religion established by law. Then comes in colonel Rumsey, and he gives you an account that he had heard of such things in Mr. West's chamber; and tells you he had received such intelligence. And all these give you an account that there was such a design to kill the king: and this is the substance of the general evidence produced to prove the conspiracy.

Then to make this matter come home to the prisoner at the bar, first my lord Howard gives you an account, and does directly swear, that about the middle or latter end of January last, he happened to meet with
colonel

colonel Sydney, the prisoner at the bar, and the duke of Monmouth (they were the persons first began to have discourse about this matter) and how they met with a disappointment; the thing had slept a great while, and that it was fit it should be revived again; and that persons of quality were mentioned, who were to have an immediate care in the carrying on of the business, and that it should not be divulged to too many: accordingly there was my lord Russel, my lord of Essex, my lord of Salisbury, and Mr. Hambden named. He tells you, the prisoner at the bar undertook for my lord of Essex, and Mr. Hambden; and he tells you, the duke of Monmouth undertook for my lord Russel, and the rest; and that this was the result of one meeting. He goes yet further: that, pursuant to this, it was communicated to those persons so to be engaged, and the place and time was appointed; the place, Mr. Hambden's house; but is not so positive to the time, but only to the place, and persons. He says, all these persons met, and he gives you an account that Mr. Hambden, because it was necessary for some persons to break silence, gave some short account of the design of their meeting, and made some reflections upon the mischiefs that attended the government, and what apprehensions many people had upon the late choice of Sheriffs, and that there had been a maleadministration of public justice; that it was fit some means should be used to redress these grievances. He cannot tell you positively, what this man, or that man said there; but says, that all did unanimously consent to what was then debated about an insurrection; and, in order to it, they discoursed about the time when it should be; and that they thought fit it should be done suddenly, when men's minds were wound up to that height, as they then were; and, as the first witness tells you, there was a consideration, whether it should be at one place, or at several places together. He says, then it was taken into consideration, that this could not be carried on but there must be arms and ammunition provided. The next step is about a necessary concern, the concern of money, and therefore our law calls money *the sinews of war*. My lord Howard tells you, that the duke of Monmouth proposed 25 or 30,000*l.* that my lord Grey was to advance 10,000*l.* out of his own estate: but then they thought to make their party more strong, by the assistance of a discontented people in Scotland, my lord of Argyll and sir John Cockram, and several other people there, to join with them; that, pursuant to this, they all after met at my lord Russel's; and the same debate is re-assumed, and among the rest, this particular thing of conciliating a friendship with the Scots; the Campbells, my lord of Argyll, and my lord Melvin were particularly mentioned: that colonel Sydney took upon himself to find out a messenger, but it was my lord Russel's part to write the letter. One of the messengers named to convey the same was Aaron Smith, he was known, says my lord Howard, to some of us; and then we all agreed that Aaron Smith was the most proper man. Upon this they brake up that very time. Afterwards comes my lord Howard to colonel Sydney at some distance of time, and he comes to him, and shews him

him threescore guineas, and told him, he was going into the city, and that they were to be given to Aaron Smith. He tells you after this, that he had some other discourse, about a fortnight or three weeks after, with colonel Sydney; and that colonel Sydney did take notice that he had sent him, and that he had an account of him, as far as Newcastle. So that it is very plain, that it was not sudden and rash thoughts, it is a little more than according to the language we meet with in some pamphlets of late, more than heats and firs. Gentlemen, then I must tell you, here are circumstances proved in pursuance of this design, for sir Andrew Foster informs you, how that sir John Cockram and the Campbells, and one Monro, as I take it, came to town, and that he had discourse with some of them about their business of coming out of Scotland; and he says, they pretended it was about business of some trade to Carolina; which does still corroborate the evidence. He tells you likewise, that there being a noise of discovering the plot, they began to hide; sir John Cockram began to hide, and sculk from place to place: they came first with that cant in their mouths, about Carolina. The messenger Atterbury tells you, when they came to take these men, how they shuffled from place to place.

So, gentlemen, I must tell you, that in case there be but one witness to prove a direct treason, and another witness to a circumstance that contributes to that treason, that will make two witnesses to prove the treason. Because I would explain my mind: not long ago all the judges of England were commanded to meet together, and one that is the senior of the king's counsel was pleased to put this case: If I buy a knife of J. S. to kill the king, and it be proved by one witness I bought a knife for this purpose, and another comes and proves, I bought such a knife of J. S. they are two witnesses sufficient to prove a man guilty of high-treason: and so it was held by all the judges of England then present, in the presence of all the king's counsel. And therefore Mr. Sydney is mightily mistaken in the law: for in case of any treason (except the treason at the bar) or in treason for clipping and coining, one witness is sufficient at this day.

Now, gentlemen, supposing all this should not be sufficient, here is a libel, and it is a most traiterous and seditious libel. If you believe that that was colonel Sydney's book, writ by him, no man can doubt but it is a sufficient evidence that he is guilty of compassing and imagining the death of the king; and let us consider what proof can be greater than what has been given of it. Mr. Sheppard, an intimate acquaintance of his, that has seen him write, he looks upon the hand, and says, he is extremely acquainted with the hand, and says he, I believe in my conscience this book is colonel Sydney's hand. Gentlemen, do you expect Mr. Sydney would call a witness to be by to see him write that book? In the next place, you have two tradesmen, Coke and Cary, and they tell you, one had seen him write once, the other had seen his hand-writing; and they have good reason, for they have paid several sums of money, upon notes which they took, as well as this, to

be his hand-writing. Gentlemen, besides that, give me leave to tell you, here is another thing that makes it more plain. This very book is found in colonel Sydney's house, on the table in his study, where he used to write, by a gentleman against whom colonel Sydney cannot make the least objection; and that there was that fairness offered by the gentleman, "Pray, colonel, put your seal upon it, that you may see that no injury be done you." But Mr. Sydney would not do it. Therefore he seals them with his own seal, and carries them to Whitehall, where they were broken open: and swears that those papers were found in his closet, whereof this was one. Another thing which I must take notice of to you in this case, is, to mind you, how this book contains all the malice, and revenge and treason, that mankind can be guilty of: it fixes the sole power in the parliament and the people; so that he carries on the design still, for their debates at their meetings were to that purpose. And such doctrines as these suit with their debates; for there a general insurrection was designed, and that was discoursed of in this book and encouraged. They must not give it an ill name: it must not be called a rebellion, it being the general act of the people. The king, it says, is responsible to them, the king is but their trustee; that he had betrayed his trust, he had misgoverned, and now he is to give it up, that they may be all kings themselves. Gentlemen, I must tell you, I think I ought more than ordinarily to press this upon you, because, I know, the misfortune of the late unhappy rebellion, and the bringing the late blessed king to the scaffold, was first begun by such kind of principles: they cried, he had betrayed the trust that was delegated to him from the people. Gentlemen, in the next place, because he is afraid their power alone will not do it, he endeavours to poison men's judgments; and the way he makes use of, he colours it with religion, and quotes scripture for it too; and you know, how far that went in the late times; how we were for "binding our king in chains, and our nobles in fetters of iron." Gentlemen, this is likewise made use of by him to stir up the people to rebellion. Gentlemen, if in case the prisoner did design the deposing the king, the removing the king, and if, in order thereunto, he be guilty of conspiring to levy war, or, as to the letter writ by my lord Russel, if he was privy to it, these will be evidences against him. So that it is not upon two, but it is upon greater evidences than twenty-two, if you believe this book was writ by him. Next I must tell you, Gentlemen, upon, I think, a less testimony, an indictment was preferred against the lord Russel, and he was thereupon convicted and executed; of which they have brought the record. These are the evidences for the king.

For the prisoner, he hath made several objections; as, that there was no levied war; for that, gentlemen, at the beginning of the cause, I told you what I took the law to be, and I take it to be so very plainly. But, gentlemen, as to the credibility of my lord Howard, he offers you several circumstances. First, he offers you a noble lord, my lord Anglesey, who says, that he, attending my lord of Bedford, upon the misfortune of the imprisonment

imprisonment of his son; after he had done, my lord Howard came to second that part of a Christian's office which he had performed: and told him, he had a very good son, and he knew no harm of him; and as to the plot, he knew nothing of it. Another noble lord, my lord Clare, tells you that he had some discourse with my lord Howard, and he said, that if he were accused, he thought they would but tell noses, and his business was done. Then Mr. Philip Howard, he tells you, how he was not so intimate with him as others, but he often came to his brother's; and that he should say he knew nothing of a plot, nor did he believe any; but at the same time he said, he believed there was a sham plot: and then he pressed him about the business of the address; but that now my lord of Essex was out of town, and so it went off. Another thing Mr. Sydney took notice of, says he, It is an act of revenge in my lord Howard, for he owes him a debt; that he does, besides by his allegation does not appear.

Col. Sydney. My lord, he hath confessed it.

L. C. J. Admit it; yet in case colonel Sydney should be convicted of this treason, the debt accrues to the king, and he cannot be a farthing the better for it. But how does it look like revenge? I find my lord Howard, when he speaks of colonel Sydney, says, he was more beholden to him than any body, and was more sorry for him; so says my lord Clare. Gentlemen, you have it likewise offered, that he came to colonel Sydney's house, and there he was desirous to have the plate and goods removed to his house, and that he would assist them with his coach and coachman to carry them thither; and did affirm, that he knew nothing of the plot; and did not believe colonel Sydney knew any thing: and this is likewise proved by a couple of maid-servants, as well as the Frenchman. You have likewise something to the same purpose said by my lord Paget: and this is offered to take off the credibility of my lord Howard. Do you believe, because my lord Howard did not tell them, I am in a conspiracy to kill the king; therefore he knew nothing of it? He knew these persons were men of honour, and would not be concerned in any such thing. But do you think, because a man goes about and denies his being in a plot, therefore he was not in it? Nay, it seems so far from being an evidence of his innocence, that it is an evidence of his guilt. What should provoke a man to discourse after this manner, if he had not apprehensions of guilt within himself? This is the testimony offered against my lord Howard, in disparagement of his evidence. Ay, but further it is objected, he is in expectation of a pardon: and he did say, he thought he should not have the king's pardon, till such time as the drudgery of swearing was over. Why, gentlemen, I take notice, before this discourse happened, he swore the same thing at my lord Russel's trial. And I must tell you, though it is the duty of every man to discover all treasons; yet, I tell you, for a man to come and swear himself over and over guilty, in the face of a court of justice, may seem irksome, and provoke a man to give it such an epithet. It is therefore for his credit that he is an unwilling witness: but, gentlemen, consider, if these things should have been allowed to

take away the credibility of a witness, what would have become of the testimonies that have been given of late days? What would become of the evidence of all those that have been so profligate in their lives? Would you have the king's counsel to call none but men that were not concerned in this plot, to prove that they were plotting? Ay, but, gentlemen, it is further objected, this hand looks like an old hand, and it may not be the prisoner's hand, but be counterfeited; and for that there is a gentleman who tells you what a dexterous man he is. He says, he believes he could counterfeit any hand in half an hour: it is an ugly temptation, but I hope he hath more honour than to make use of that art he so much glories in. But what time could there be for counterfeiting this book? Can you imagine that sir Philip Lloyd, through the bag sealed up, did it? Or, who else, can you imagine, should, or does the prisoner pretend, did, write this book? So that on one side, God forbid but we should be careful of mens lives! so, on the other side, God forbid that flourish and varnish should come to indanger the life of the king, and the destruction of the government! But, gentlemen, we are not to anticipate you in point of fact; I have according to my memory recapitulated the matters given in evidence: it remains purely in you now, whether you do believe upon the whole matter, that the prisoner is guilty of the high-treason whereof he is indicted.

Mr. Just. Wythins. Gentlemen, it is fit you should have our opinions: In all the points of law we concur with my Lord Chief Justice.—Says colonel Sydney, here is a mighty conspiracy, but there is nothing comes of it. Who must we thank for that? None but the almighty Providence.—One of themselves was troubled in conscience, and comes and discovers it. Had not Keeling discovered, God knows whether we might have been alive at this day.

Then the jury withdrew, and in about half an hour's time returned, and brought the prisoner in guilty.

And the lieutenant of the Tower took away his prisoner.

MONDAY NOV. XXVI, MDCLXXXIII, ALGERNON SYDNEY WAS BROUGHT UP TO THE BAR OF THE COURT OF KING'S-BENCH TO RECEIVE HIS SENTENCE.

L. C. J. Mr. Attorney, will you move any thing?

Mr. Att. Gen. My lord, the prisoner at the bar is convicted of high-treason, I demand judgment against him.

Clerk of the Crown. Algernon Sydney, hold up thy hand [*which he did.*] Thou hast been indicted of high treason, and thereupon arraigned, and thereunto pleaded Not guilty; and, for thy trial, put thyself upon God and the country, which country has found thee guilty; what can'st thou say

say for thyself, why judgment of death should not be given against thee, and execution awarded according to law?

Col. Sydney. My lord, I humbly conceive, I have had no trial. I was to be tried by my country, I do not find my country in the jury that did try me. There were some of them that were not freeholders. I think, my lord, there is neither law nor precedent of any man that has been tried by a jury upon an indictment laid in a country, that were not freeholders. So I do humbly conceive that I have had no trial at all; and if I have had no trial, there can be no judgment.

L. C. J. Mr. Sydney, you had the opinion of the court in that matter before: we were unanimous in it, for it was the opinion of all the judges of England in the case next preceding yours, though that was a case relating to corporations; but they were of opinion, that by the statute of queen Mary, the trial of treason was put as it was at common-law, and that there was no such challenge at common-law.

Col. Sydney. Under favour, my lord, I presume in such a case as this, of life, and for what I know concerns every man in England, you will give me a day and counsel to argue it.

L. C. J. It is not in the power of the court to do it.

Col. Sydney. My lord, I desire the indictment against me may be read.

L. C. J. To what purpose?

Col. Sydney. I have something to say to it.

L. C. J. Well, read the indictment.

Then the clerk of the crown read the indictment.

Col. Sydney. Pray, sir, will you give me leave to see it, if it please you.

L. C. J. No, that we cannot do.

Col. Sydney. My lord, there is one thing then that makes this absolutely void: it deprives the king of his title, which is treason by law: *defensor fidei*, there is no such thing there, if I heard it right.

L. C. J. In that you would deprive the king of his life, that is in very full, I think.

Col. Sydney. If no body would deprive the king, no more than I, he would be in no danger. Under favour, these are things not to be over-ruled, in point of life, so easily.

L. C. J. Mr. Sydney, we very well understand our duty, we do not need to be told by you what our duty is: we tell you nothing, but what is law: and if you make objections that are immaterial, we must over-rule them. Do not think that we over-rule in your case that we would not over-rule in all men's cases in your condition. The treason is sufficiently laid.

Col. Sydney. My lord, I conceive this too, that those words, that are said to be written in the paper, that there is nothing of treason in them; besides that there was nothing at all proved of them, only by similitude of hands, which, upon the case I alleged to your lordship, was not to be admitted in a criminal case. Now it is easy to call a thing proditory;

but

but yet let the nature of the thing be examined, I put myself upon it, that there is no treason in it.

L. C. J. There is not a line in the book scarce, but what is treason.

Mr. Just. Wytbins. I believe you do not believe it treason.

L. C. J. That is the worst part of your case: when men are riveted in opinion that kings may be deposed, that they are accountable to their people, that a general insurrection is no rebellion, and justify it, it is high time, upon my word, to call them to account.

Col. Sydney. My lord, the other day I had a book, wherein I had king James's speech, upon which all that is there is grounded in his own speech to the parliament in 1603; and there is nothing in these papers, which is called a book though it never appeared; for if it were true, it was only papers found in a private man's study never shewed to any body; and Mr. Attorney takes this to bring it to a crime, in order to some other counsel; and this was to come out such a time when the insurrection brake out. My lord, there is one person I did not know where to find then, but every body knows where to find now, that is the duke of Monmouth; if there had been any thing in consultation, by this means to bring any thing about, he must have known of it, for it must be taken to be in prosecution of those designs of his: and if he will say there ever was any such thing, or knew any thing of it, I will acknowledge whatever you please.

L. C. J. That is over; you were tried for this fact: we must not send for the duke of Monmouth.

Col. Sydney. I humbly think I ought, and desire to be heard upon it.

L. C. J. Upon what?

Col. Sydney. If you will call it a trial——

L. C. J. I do. The law calls it so.

Mr. Just. Wytbins. We must not hear such discourses, after you have been tried here, and the jury have given their verdict; as if you had not justice done you.

Mr. Just. Holloway. I think it was a very fair trial.

Col. Sydney. My lord, I desire that you would hear my reasons why I should be brought to a new trial.

L. C. J. That cannot be.

Col. Sydney. Be the trial what it will?

Clerk of the Crown. Cryer, make an Oyes.

Col. Sydney. Cannot I be heard, my lord?

L. C. J. Yes, if you will speak that which is proper. It is a strange thing, you seem to appeal, as if you had some great hardship put upon you. I am sure, I can as well appeal as you. I am sure you had all the favour shewed you, that ever any prisoner had. The court heard you with patience when you spake what was proper; but if you begin to arraign the justice of the nation, it concerns the justice of the nation to prevent you: we are bound by our consciences and our oaths to see right done to you; and though we are judges upon earth, we are accountable

to the judge of heaven and earth ; and we act according to our consciences, though we do not act according to your opinion.

Col. Sydney. My lord, I say, in the first place, I was brought to Westminster by Habeas corpus, the 7th of this month, granted the day before, to be arraigned, when yet no bill was exhibited against me ; and my prosecutors could not know it would be found, unless they had a correspondence with the grand jury ; which, under favour, ought not to have been had.

L. C. J. We know nothing of it : you had as good tell us of somebody's ghost, as you did at the trial.

Col. Sydney. I told you of two infamous persons that acted my lord Ruffel's ghost.

L. C. J. Go on, if you have any thing else.

Col. Sydney. I prayed a copy of the indictment, making my objections against it, and putting in a special plea, which the law, I humbly conceive, allowed me : the help of counsel to frame it was denied.

L. C. J. For the copy of the indictment, it was denied in the case you cited. This favour shewed you to day, was denied at any time to sir Henry Vane, that is, to have the indictment read in latin. Do not say on the other side, we refused your plea. I told you, have a care of putting it in. If the plea was such as Mr. Attorney did demur to it, I told you, you were answerable for the consequences of it.

Mr. Just. Wythins. We told you, you might put it in ; but you must put it in at your peril.

Col. Sydney. My lord, I would have put it in.

L. C. J. I did advertise you, if you put in a plea, upon your peril be it. I told you, we are bound by law to give you that fair advertisement of the great danger you would fall under, if it were not a good plea.

Col. Sydney. My lord, my plea was that could never hurt me.

E. C. J. We do not know that.

Col. Sydney. I desire, my lord ; this, that it may be considered, that, being brought here to my trial, I did desire a copy of the indictment, upon the statute of 46 E. 3. which does allow it to all men in all cases.

L. C. J. I tell you, the law is otherwise, and told you so then, and tell you so now.

Col. Sydney. Your lordship did not tell me, that was not a law.

E. C. J. Unless there be a law particular for colonel Sydney. If you have any more to say——

Col. Sydney. I am probably informed, and, if your lordship will give me time, shall be able to prove it, that the jury was not summoned as it ought to be : my lord, if this jury was not summoned by the bailiff, according to the ordinary way, but they were agreed upon by the under-sheriffs, Graham and Burton, I desire to know, whether that be a good jury ?

L. C. J. We can take notice of nothing, but what is upon the record. Here is a return by the sheriff ; if there had been any indirect means used

used with the sheriff, or any else, you should have mentioned it before they were sworn.

Col. Sydney. Is there any thing in the world more irregular than that?

L. C. J. I know nothing of it. That time is past.

Col. Sydney. Now, my lord, all men are admitted on the jury.

L. C. J. Why, you did not like gentlemen, and now you do not like those that you had. In plain English, if any jury had found you guilty it had been the same thing. It had been a good summons, if they had acquitted you.

Col. Sydney. When the jury, thus composed, was sworn, four witnesses, of whom three were under the terror of death for treasons, were produced against me; and they confessed themselves guilty of crimes of which I had no knowledge, and told stories by hearsay. And your lordship did promise, in summing up the evidence, that the jury should be informed what did reach me, and what not; and I do not remember that was done.

L. C. J. I did it particularly: I think I was as careful of it as possibly I could be.

Col. Sydney. My lord Howard being the only witness that said any thing against me; papers, which were said to be found in my house, were produced as another witness, and no other testimony given concerning them, but that the hand was like unto mine. No man can say, I read them or shewed them to any man. None knew when they were written: the ink shewed, they had been done many, and perhaps, twenty or thirty years; yea, some passages were read out of them, without examining what went before and after. When I desired the whole might be read, it was refused, unless I specified the passage, which I could not do, knowing not one word in them. When I alleged, that in criminal cases similitude of hands could not be taken for evidence, proposed my points of law concerning constructive treason, etc. and I did conceive, that no court under the parliament could be judges of it, and did desire the statute, which did so enact it, might be read, it could not be obtained: and I cited many judgments in parliament.

L. C. J. Mr. Sydney, if you arraign the justice of the nation so, as though we had denied you the methods of justice, I must tell you, you do what does not become you, for we denied you nothing that ought to have been granted. If we had granted you less, I think we had done more our duty. What points of law do you mean?

Col. Sydney. That of constructive treason, my lord.

L. C. J. We do not go upon constructive treason, it is plain treason within 25 E. 3.

Col. Sydney. Is writing an act?

L. C. J. Yes, it is *agere*.

(Proclamation made for silence.)

Mr. Bamfield. Sir, I pray you to hear me one word as *amicus curiæ*. I humbly suppose that your lordship will not give judgment, if there be a material defect in the indictment: as the clerk did read it, he left out *Defensor fidei*, which is part of the style of his majesty.

L. C. J. We have heard of it already; we thank you for your friendship, and are satisfied. Mr. Sydney, there remains nothing for the court, but to discharge their duty, in pronouncing that judgment the law requires to be pronounced against all persons convicted of high-treason; and I must tell you, that though you seem to arraign the justice of the court, and the proceeding—

Col. Sydney. I must appeal to God and the world. I am not heard.

L. C. J. Appeal to whom you will. I could wish with all my heart, instead of appealing to the world, as though you had received something extreme hard in your case, that you would appeal to the great God of Heaven, and consider the guilt you have contracted by the great offence you have committed. I wish with all my heart, you would consider your condition; but if your own ingenuity will not provoke you, nothing I can say will prevail with you, to do it: if the king's general pardon, in which you had so great a share of the king's mercy, will not, I could wish that as a gentleman and as a christian you would consider under what particular obligations you lie to that gracious king that hath done much more for you. I should have thought it would have wrought in you such a temper of mind, as to have turned the rest of your life into a generous acknowledgement of his bounty and mercy, and not into a state of constant combining and writing, not only to destroy him, but to subvert the government; and I am sorry to see you so earnest in the justification of the book, in which there is scarce a line, but what contains the rankest treason, such as deposing the king: it not only encourages, but justifies, all rebellion. Mr. Sydney, you are a gentleman of quality, and need no counsel from me: if I could give you any, my charity to your immortal soul would provoke me to it. I pray, God season this affliction to you! There remains nothing with the court, but to pronounce that judgment that is expected, and the law requires, and therefore the judgement of the court is,

That you be carried hence to the place from whence you came, and from thence you shall be drawn upon an hurdle to the place of execution, where you shall be hanged by the neck, and, being alive, cut down; your privy members shall be cut off, and burned before your face; your head severed from your body, and your body divided into four quarters; and they to be disposed at the pleasure of the king. And the God of infinite mercy have mercy upon your soul!

Col. Sydney. Then, O God, O God, I beseech thee to sanctify these sufferings unto me, and impute not my blood to the country, nor the city through which I am to be drawn; let no inquisition be made for it, but if any, and the shedding of blood that is innocent must be revenged, let the weight of it fall upon those that maliciously persecute me for righteousness sake.

L. C. J. I pray God work in you a temper fit to go unto the other world, for I see you are not fit for this.

Col. Sydney. My lord, feel my pulse [*holding out his hand*] and see if I am disordered. I bless God, I never was in better temper, than I am now.

Then the lieutenant of the Tower carried back his prisoner.

THE APOLOGY OF A. SYDNEY
IN THE DAY OF HIS DEATH.



THE APOLOGY OF A. SYDNEY
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Being ready to dye under an accusation of many crimes, I thought fit to leaue this as a testimony unto the world, that, as I had from my youth endeavoured to uphold the common rights of mankind, the lawes of this land, and the true Protestant religion, against corrupt principles, arbitrary power, and Popery, I doe now willingly lay downe my life for the same; and hauing a sure witnesse within me, that God doth absolue me, and uphold me, in the utmost extremities, am uery littell sollicitous, though man doth condemne me.

I am noe wayes ashamed to anote, that, from the yeare 1642, untill the comming in of the king, I did prosecute the above-mentioned principles; and hauing then finished to the aduantage of all Europe, and the honour of this nation, a negotiation, upon which I had been employed in the north, chose rather to remaine beyond the seas, then to returne into my owne country, though general Monk, upon the acount of many obligations receaued from me, did desire me to returne, with large offers of all the aduantages he could procure for me.

I well knew his power, and did not doubt of his intentions; but though I thought it my duty to submit unto the prouidence of God, in the strange reuolutions brought amongst us, through the unsearchable counsels of his will, durst not reced from the wayes of righteoufnesse; and through his grace was able to reject the rewards of iniquity.

It being acknowledged, that though I had euer opposed the then triumphing party, noe man had ever shewed himself to be a fairer enemy, and that I had done many personall and most important seruices, as well to the royall family, as unto such as depended upon it, I hoped that noe man would search into my present thoughts, nor so far to remember my former actions, as to disturbe me in a most innocent exile; and that the most malicious of my enemyes should not pretend that I practiced any thing against the gouernement, I made Rome the place of my retreat, which was certainly an ill scene to act any thing, that was displeasing unto it.

But I soone found, that nae inoffensiuenesse of behauiour could preserue me against the malice of thoes, whoe sought to destroy me; and was defended from such as there designed to assassinate me, only by the charity of strangers.

When the care of my priuate affaires brought me into Flanders and Holland, anno 1663, the same dangers accompanied me; and, that noe place might be safe unto me, Andrew White, with some others, were sent into the most remote parts of Germany, to murther me.

* The reader will find a difficulty in understanding some words and passages in this Apology, which, it is not improbable, was dictated to a Frenchman, Joseph Ducas, the same who gave evidence on the trial.

The asperity of this persecution obliged me to seek the protection of some foraine princes; and, being then in the strength of my age, had reputation enough to have gained honourable employments; but all my designs were broken by letters and messages from this court, so as none durst entertain me; and when I could not comprehend the grounds of dealing with me in such a way, when I knew that many others, whoe had been my companions, and giuen (*as I thought*) more just causes of hatred against them, then I had done, were receaued into fauour, or suffer'd to live quietly. A man of quality, whoe well knew the temper of the court, explained the mystery unto me, by letting me know, *that I was distinguished from the rest, because it was knowne, that I could not be corrupted.*

Noe man could have thought it strange, if this has cast me into the utmost extremities; and perhaps occasions of being reuenged would not have been wanting, if I had sought them; but, instead of that, I cast myself into unsuspected retirement in the most remote part of France, where I passed about eleuen yeares, and was drawne out of it only by a desire of seeing my aged father before he died, and obtained the king's passeport for my security.

My father dyed within a few weeks after my coming ouer; and, when I prepared myself to returne into Guascony, there to passe the remaining part of my life, I was hindered by the earl of Lincester my brother, who questioned all that my father had giuen me for my subsistence; and by a long and tedious suite in shancery, detained me in England, untill I was made a prisoner.

When a fauourable decree, obtained in shancery, gave me hopes of being freed from such vexatious businesse, I reassumed my former designe of returning into France; and to that end bought a small parcell of ground, in a friend's name, with an intention of going immediately unto it. *This proceeded from the uneasinesse of my life, when I found, that not only the reall dissentiments, that grew to be too common, were ascribed unto me, but sham plots fastened upon me, soe as I could never think my life a day in safety.*

Not long after the discovery of the popish plot, his majesty was informed of a great plot of the nonconformists, and that I was at the head of it; and though (being admitted unto his majesty's presence) I did truly shew unto him, that there neither was nor could be any thing of that nature, as things then stood; because it would cast his majesty into conjunction with the Popish, which they did most abhorre; the sham was continued, as appears by the mealetub businesse. Though my name was not there found, I am well informed, that, if it had succeeded, I should have been inuolued in it.

Other wayes were inuented to vex and ruine me. When I only looked over a balcony to see what passed at the election of the sheriffs of London, I was indicted for a riot.

In April last I was told by a person of eminent quality, uirtue, and understanding, that I should infailibly be made a prisoner. I asked upon
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what pretence. He alleagued somme things that were entirely friuolous; relating unto vile persons, whoes faces and names I did not know, but concluded somme or other would be found; and that if I was once taken, it mattered not for what cause; *it being impossible to auoide condemnation, before such judges and juryes as I should be tryed by.*

About the middell of June the towne was full of rumours of a plot sayd to be discouered by Keeling, and not long after by West. Some persons fled, and a proclamation issued to haue them apprehended. My name was in every coffee-houfe, and feuerall informations were given me, that I should certainly be seased. I mentioned this to feuerall persons; but knowing no raison why I should absent myself, resolued not to do it; and continued in that minde, though I was told, earely in the morning on the 26th of June, that the duke of Monmouth was retired, and colonel Rumsey had rendered himself.

This concerned me foe littell, that I spent that morning upon my usuall studyes, or entertaining such friends as came to see me; and, whilest I was at diner, a messenger came and arrested me in the king's name, by an order from four lords of the privy councill. Immediately after sir Philip Lloyd came, with another order from the same lords, to sease my papers. He searched many secret places, but did not find one that he thought fit to take, exept such as lay openly upon my table, or in a trunck that had not been shut in somme yeares. When he had ransaked all, and put what he pleased into a trunck and pillowbear, he would haue persuaded me to put my seale unto them; but I, remembring what had passed at collonell Mansfell's lodging, and somme other occasions of the like nature, refused to doe it; wheareupon he put his own seale, but promised, that they should not be opened, unlesse it were in my presence; which was observed as other promises of that nature have been; for I never saw the said trunk or pillowbeare to this day. From my owne houfe I was carried to the messengers, and from thence to Whitehall, before the four lords, by whoes order I had bin apprehended.

The lord keeper [North] asked me some questions concerning sir John Cockram, and Aaron Smith, unto which I returned answeares with all the respect I could, without preiudice unto the truth; and, when I thought that I had giuen full satisfaction, was taken into the custody of a serieant at armes, and, by a warrant from sir Leolin Jenkins *, [secretary of state].

* *Hithe.* Sir Leolin Jenkins, son of a taylour, judge of the Admiralty, was in hopes to be Archbishop of *Canterbury*; employed in four embassies, and whose indefatigable industry in promoting a peace for *France*, has been our - - - - -; [curse or ruin.] He affirmed in the House of Commons, *That upon necessity, the King might raise monies without act of Parliament.* A seasonable argument to persuade all the *Grand Juries* in *England*, to petition for a new Parliament. Or a list of the *principal labourers* in the *great design* of *Popery* and *arbitrary power*; who have betrayed their country to the *Conspirators*, and bargained with them to maintain a *standing army* in *England*, under the command of the *bigotted popish Duke*, who by the assistance of the *L. L's* [Lord Lieutenant's] *Scotch army*, the forces in *Ireland*, and those in *France*, hope to bring all back to *Rome*. Amsterdam, printed in the year 1677, in quarto. [By Andrew Marvell.]

state] committed to the Tower for high-treason, and there detained a close prisoner. Within a few days after, my house, mony, horses, goods, and chattels, were seased both in the towne and country, which I take to be contrary to the lawes of the land, in thees three points: first, it is expreffely sayd in magna charta, confirmed by above thirty parliaments, and many other statutes now in force, that noe man shall be imprisoned, unlesse it be by the judgment of his peeres, upon the testimony of tow credible witnesses, or his own free confession, without force or violence; whereas here was no indictment or witness produced untill the 7 of November, and, though extreame violence was used to me, I confessed noe crime at all. 2dly, The law of England appoints imprisonment "in custodiam, not in pœnam," acknowledges no close imprisonment; whereas I was kept with the most extreame rigour, to the great preiudice of my health, and almost destruction of my life, without any consolation from my friends, untill a few dayes before my tryall. 3dly, The law of England admits of noe seifure of goods till after conviction; whereas diuers lewd fellowes were put into my house, whoe, besides many infolencies committed, did (as I am informed) feloniously take away my coaches, severall parcells of goods, and somme mony, long before any indictment was exhibited against me, and, though I made severall adresses unto the king and councell, for the remouall of thoes violences, could obtaine noe reliefe.

November 6, I receaved notice from the lieutenant of the Tower, that an habeas corpus was brought unto him, and a command to bring me the next day before the king's bench; and I was accordingly brought into the pällace-yard of Westminster, between ten and eleven the clock in the morning, before the grand jury assembled, or the king's councell could know the bill would be found, unlesse they had the faculty of divining, or held such an intelligence with the grand jury, as utterly ouerthrowes all justice.

The bill being found, I was immediately hurried to the bar, through a strong guard of soldiers, to be arraigned. The bill was read in English and in Latin. I found it to be uery long; perplexed, confused, and containing a heap of crimes, distinct in nature, distinguished from each other by lawes relating unto feuerall statutes, which required feuerall considerations; noe ouert act was precisely fet forth, with its due circumstances; noe man named, with whome I was sayd to haue conspired; the meetings to conspire were sayd to be on the 30th of June, and many other dayes both before and since; *whereas I was then, and had bin somme dayes before, and ever since, a close prisoner*: hereupon I desired the advice of councell, to frame exeptions against the bill, professing that to me it seemed to be voide, as many had bin declared to be foe, and particularly that of the duke of Somersset. I instanced, that the court had allowed unto sir H. Vane the liberty of making his exeptions, and pleading over, which the lawes allowe in matters of life; but all was refused, without any other reason then the will of the judges. I then desired councell to frame a speciall plea, opening, as well as I could, the scope of it; but could obtaine nothing; and lastly, when I offered a
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speciall plea, ready engrossed, the court would not receave it, unlesse it might be peremptory, declaring, that if it were ouer-ruled, I should be noe further heard; which condition I was not willing to accept of, inas-much as, though I believed my plea to be good, I was more confident of the merits of my cause; and, leaft I should be deprived of the benefit of pleading, was forced to comme to the general issue.

This proceeded meerely from my owne ignorance in the lawe, and want of councell, which if I had had, the court could not have imposed so notorious a fraud upon me, as to make me believe, that I could not be admitted to plead not guilty, if that speciall plea came to be ouer-ruled; euery one that is any-ways versed in the lawe knowing, that I might doe it without danger. If it had bin receaved, the court would have bin obliged to cut off thoes intricacyes, ambiguities, by which I was entangled, and the jury brought to bring in a verediſt which they did not understand; or impudently, in the face of the world, to have showne, that they had noe consideration of lawe or common sense: and whatsoeuer they did, might then haue comme to the generall issue. Being driven upon theis extremities, *by the violence and fraud of the chief justice*, whoe threatened, that judgement of treason should be immediately entered, if I did not comme to the generall issue, I was forced to plead not guilty, and theareby lost the aduantage, which was neuer to be recouered, unlesse the judges could haue bin changed: they, whoe knew I could neuer be condemned upon such evidence, as, by consulting with the king's councell, they knew would be produced, unlesse the matter could be rendered unintelligible by a common jury, resolved against any thing that should explaine it, or make the truth to appeare, and would never suffer me to get out of the snare in which they had caught me.

The court, for fashion's sake, allowed me a fortnight to prepare for my tryall; but, lest the fraud or errors of the indictment should be discovered, as that time might be of any benefite unto me; the copy of it, and the help of councell, were again denyed, unlesse I could tell upon what points in lawe I would desire theyr aduice. This was noe lesse then to inioine impossibilityes. Having neuer studdied the lawe, I was utterly ignorant of it; the indictment was soe long, perplexed, and intricate, that the ablest lawyers could give me but a very imperfect account of it upon hearing, though the wholle contexture of it seemed to be such as was not to be upheld by lawe; it was hard for them justly to fixe upon the wayes of overthrowing it, when the exeptions, and the speciall plea that I offered, had bin rejected, unlesse they had had it before them, and nicely examined it; much lesse could it be done by me, whoe am utterly unexperienced in thoes matters. * Mr. Attorney [sir Robert Sawyer,

* *Chipping Wicham*. Sir Robert Sawyer, a lawyer of as ill reputation as his father. Has had for his attendance this session 1000l. and is promised, as he insinuates, to be *Attorney General* and Speaker of the House of Commons.

A seasonable argument, etc.

Sawyer, Knt.] had then so much confidence, and soe littell charity, as openly to avow, that I should not have counsell, lest they should furnish or teach me the points of lawe that I might insist upon. This appeared strange unto all thoes whoe have any knowledge of the lawes of God or man, and that are not equally deprived of charity and humanity. *The obtaining of justice is the end of the lawe, and truth the rule of it: hereupon it is agreed by mankinde, that every man ought to know his accusation, that he may know to direct his defence, or receave advice, if he be ignorant in it.* It is an absurd peruerfion of all lawe, to say, that I heard it read; when it was rendered soe long and intricate, that neither I, nor any other man, was, upon reading, able to comprehend it. One of the worst acts that were imputed unto Caligula, the worst and basest of men, was, that he caused edicts to be written in a hand, and set up in a place where no man could read them: hereby he turned the lawe into a snare, and destroyed thoes who did not conforme themselves unto the rule they neuer knew. They fall under the same condemnation whoe make accusations obscure, and suffer them not to be examined, lest they should be understood. To euade this, my prosecutors falsely pretend, that noe such priuilege is allowed to prisoners in England. But, besides that naturall and universal rule of justice, which can be ouer-ruled by noe municipall law, I did produce the stat. of 46 Ed. III. which doth plainly enact, that all men, in all cases, wheather they be such as fall out against the king, or any others, shall haue copy of such records as are against them; and shewed, that the parliament, whoes example all other courts ought to followe, had allowed unto the earl of Strafford, the earl of Danby, the lord Stafford, and the popisch lords now in the Tower, coppies of their indictment: and, if it had bin pretended, that such a priuilege was allowed only unto peeres, I was ready to say, *that though I am not a peere, I am of the wood of which they are made, and doe not find, that our ancestors were lesse carefull of the liues of commoners, then of peeres, or that one lawe is made for them, and another for us; but are all entirely under the same lawe, and the same rules.*

I confesse that, at the time of my arraignment, I was not fully prouided with arguments and proofes of these matters; but when I came to my tryall, had thoes that were abundantly sufficient: neuerthelesse the chief justice (whoe, by his oath, and the king's, ought to have informed me of that lawe, if I did not know it) would not suffer the statute to be read, when I produced an authentike copy of it, nor allowe me the copy of my indictment, which, according unto the true meaning and expresse words thereof, I demanded.

Though I was thus irregularly hurried unto tryall, I thought that my birth, education, and life, might haue deserued a jury of the principal knights and gentlemen that were freeholders in Middlesex; or, if that rule were broken, the most eminent men for quality and understanding, reputation and uirtue, whoe liued in the county, though they had not freeholds, might have bin taken to fill up the pannell. The importance
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and difficulty of the matter in question seemed farther to enforce it; but, when a copy of the pannel was sent unto me, *I found that all rules of decency, discretion, and humanity, had bin neglected, as well as thoes of lawe*; the bailifes had not bin suffered to summon such of the freeholders, in their severall hundreds, as seemed most fit for such a service; but received orders to summon by name such as *Graham* and *Burton* had, with the *under-sheriff*, agreed upon: the copy of the pannel was sent unto me before one of them was summoned; and, if I am rightly informed, somme of the best being put in only for fashion-sake, did neuer receive any summons; but sure I am they did not appeare.

The life I haue led might haue giuen me somme kinde of knowledge of such as reasonably might be thought fit to be my judges; but I did not know the face of one, nor the names of more than three of the wholle pannel, and they last, as did not appeare. Upon examination I found, that they had not only put in uery many that were not freeholders, but picked up a rabble of men of the meanest callings, ruined fortunes, lost reputation, and hardly endowed with such understanding, as is required for a jury in a nisi prius court for a businesse of five pounds.

This might have bin a littell mended by sifting, if the reasons alleaged against such as were the king's seruants in pay, wanted freehold, or, for somme act specified, were notoriously infamous, had bin accepted; but the lord chief justice being pleased, without pretence of lawe, reason, or precedent, or suffering the point of lawe concerning freehold to be argued, to reiect my exeptions, I was forced to challenge them peremptorily, whom I knew to have bin chosen to destroy me; and was thereby deprived of the benefite allowed by the lawe, and forced to admit of others most like unto them (whereas it is sayed, that I reiected men of quality, and took such as were mean, I doe professe, that I doe not know of a man, family, name, or fortune, upon the pannel, but Mr. Burt, sir Charles Gerard, and Mr. Hawtry, whome I resolved to have accepted; and, if I did challenge any other like unto them, it was meere by mistake;) and, to embroile the minds of a jury thus constituted, the king's councill produced Mr. West, colonel Rumsley, Keeling, and sir Andrew Foster, *to tell storyes upon bearesay*. The three first spake of a plot betweene themselves and others, in which I was no more concerned, then that they, whoe had not reputation to carry on such a work, were willing to make people believe, that I, and somme that had more, were engaged in it. This, in truth, did uery much tend to my justification; for it is not to be imagined, that, if I had bin engaged in their designes, I should not rather have communicated with West and Rumsley, then such meane persons, as were hardly in a distance of being knowne by me: and Foster's deposition went noe farther, then that, as the lord Howard sayd somme Scotch gentellmen were desired to comme up upon a pretence of treating concerning Carolina, somme did comme to treat of the same; but of me, or any correspondence between me and them, he says not a word. The lord Howard's deposition was uery rhetoricall, but nothing

THE APOLOGY OF A. SYDNEY

at all to the present purpose. The indictment set forth a conspiracy on the 30th of June, wherein I, and diuers others to the jury unknowne, did then, and many other days both before and after, in the parish of St. Giles, not hauing the feare of God before our eyes, at the instigation of the diuell, had traiterously conspired the king to depose and kill; the gouernment to subuert; to leauy war, and a cruell slaughter of his subiects to make; and, in order heareunto, had written a false and seditious libell or book to stirre up the people.

The witnesses produced by me were three eminent peeres, tow gentlemen of great quality, cousin germaines of the lord Howard, a doctor of diuinity, a French gentleman, tow of my seruants, and a very considerable citizen. Six of these did depose, that the lord Howard, with hands and eyes lifted up to heauen, and calling God to witnesse, had most sollemly declared he knew of noe plot; believed there was none; took that which is mentioned, to be a sham inuented by the priests and jesuits, and the more dangerous for being a sham, because noe man knew wheare it would end. Four of them sayd expressely, he had, with the same asseuerations, declared his confidence, that I knew of none; for that I was so much his friend, that, if I had knowne of any, I would have communicated it unto him.

Before I was brought to my tryall, I had set downe a certaine methode to be kept in making my deffence, and twelve points of lawe to be argued by councell, or saued to be found specially, if the jury did finde any fact against me. But all was inuerted by the uiolence of the chief justice, who perpetually interrupted me; and was obserued soe well to choose his time of breaking of my discourse, as never to suffer me to finish any point that pinshed too hard upon the undue practices of my profecutors, or most conduced to my defence. Whensoever I cited a lawe, or a judged case, that made for me, or proposed a point of lawe to be argued or referued, he would tell me it was nothing to the purpose, they had already determined it, and obliged me to be silent. Then I thereupon sayd *it was to noe purpose to speak, if law, reason, and truth, were not regarded.* He told me, *that if I would not speak, they knew how to proceed.*

When, by the impudence of his extrauagance, I was driuen into theis streights, I saw noe better way then to shewe, that the only witnesse against me was the lord Howard; and he could deserue noe credite; that hauing, at the lord Ruffel's triall, acknowledged, that the religious obligation of an oath did not consist in the outward administring of it, but the calling of God to be a witnesse unto it; that he had there, as in the presence of God, asserted things inconsistent with what he had then sworne (soe as Mr. Howard sayd it was impossible that what he sayd unto him, and what he had then sworne in the court, could be true, unlesse his lordship had one soul on Sunday, and another on Munday;) that he had thereby sworne himself periured, which was beyond any legall con-
uiction,

uiction, and ought to destroy his testimony, as well as if he had been legally convicted.

That he had now added new periuries unto the former, in swearing things different from, and inconsistent with, what he had sworn against the lord Ruffel; and then concluded, that he knew noe more.

That, being under the guilt of many confessed crimes, the terrors of death, the despair of obtaining a pardon, unless it were by the drudgery of swearing, as was testified by Mr. Blake, or doing other jobs, as had bin sayd by Hunt and Burroughs, whoe durst not appeare, though suppœnas had been sent them; he did in effect confesse his former crimes were to be redeemed only by committing more; he ought not to be credited; that he was my debtor; and, hauing defrauded me in the matter, and for the mony, with which I had trusted him, comming to my house under the name of a friend, he had endeoured to get my plate, and other things of value into his hands.

That the matter of his deposition was as absurd and impossible as false; that the six, which were sayd to be a select councell, were selected by noe man; that they, not being chosen by any, could not erect themselves into a cabal, to manage such business as were by noe man committed unto their charge: that they did not knowe, and could haue noe confidence in one another; that I had neuer spoken unto the duke of Monmouth untill he brought the said duke to dine with me by a cheat put upon us both a few days before the pretended meetings; that, upon such occasions, when men did inuite themselves to conspire, they did euer choose such as they trusted, and could help forwards the designs for which they did conspire; that the lord Howard was trusted by none of them, and was soe far from being able to doe any thing towards such an end, that he durst not say he could bring five men into the field, furnish five pounds by his purse or credite, or knew how to command them if they were brought together by any other; that, if he said the same thing of me, I might confesse it; and did confesse, I did not knowe five men in England that would followe me; and could haue sayd uery much more, if I had not bin hindered by the chief justice his frequent interruptions.

That, his deposition being destroyed, nothing remained; or though contrary to lawe and reason it were receaued, it could be of noe ualue, *being single.*

That no use could be made of the papers sayd to be found in my house. That, though the government of France is sayd to be uiolent, noe use could be made of many papers of most dangerous consequence, sayd to be taken in M. de Fouquet's house, by the king of France his officers; and the error of not inventorying them, in the presence of some persons trusted by him, was neuer to be repaired, and he had bin saued by it. That noe man said I writ them, and similitude of writing, in criminal cases, could be noe euidence, as appeared by the judgement of the chief justice Keeling, and the wholle court, in the lady Car's case.

That, whosoever writ them, they appeared to be only some scraps of a large treatise, in answer to Filmer's book, which, *being full of abominable maxims*, might be opposed by any man: the like having been written by one White a priest, in favour of Cromwell, when he was in possession of the power; he, though a tyrant, abominated it, and a gentleman who presented it: that, if I had written and published a book, I must be answerable for the contents of it, the whole being considered; but, when a few sheets, relating unto some hundreds mentioned in them, were produced, not only the scope of the whole remained unknown, but the antecedents and the consequents of the words they had read, being kept secrets, no man could say whether this work were good or evil, true or false: that, when I desired those papers brought into the court should be all read, it was absurdly proposed, that I should name the passage, I, not knowing any word that was in them: that the ink and paper did evidently shew they were very old, and it was impossible they should have any dependence upon business pretended to be now in agitation; such as had been written many, perhaps twenty or thirty years ago, could not relate unto the pretended consultations within ten months.

That no tribunal did ever take notice of a man's private, crude, and undigested thoughts: that, though the inquisition is the worst and most bloody tribunal that hath been known in the world, I never feared to write what I pleased against the religion there professed, when I lived under it; and, though it raged in Spain more than any other place, no monk could be questioned for any such writings, though they contained the most dangerous heresies, if not published; and it were enough for him that had written them, to say, that he was perhaps mistaken. This being so, there is neither matter nor evidence; the lord Howard's testimony is nothing in itself, and cannot be supplied by that which is also nothing, or, if it were to be received by itself, could have no relation to the consultations of which he accuseth me. I must ever insist upon the law of God given by the hand of Moses, confirmed by Christ and his Apostles, whereby two witnesses are necessarily required to every word, and every matter. This is received by all that profess the name of Christ, and so understood by all, that no man in any place can be put to death, unless two or more testify the same word or thing. The reason of this is not because two or more evil men may not be found, as appears by the story of Susanna; but because it is hard for two or more soe to agree upon all circumstances relating unto a lye, as not to thwart one another: and whosoever admits of two testifying several things done or said at several times or places, conducing, as is said of late, unto the same ends, destroys the reason of that law, takes away all the defence that the most innocent men can have for their lives, and opens a wide gate for perjury, by taking away all possibility of discovering it. This would be far more mischievous in England, where there is no law of retaliation, than other countries, where a false witness undergoes the same punishment as should have been inflicted upon the accused person, if his words had been found true;

true; but the lawe of England doth require tow witnesses unto the same thing, in the statut. Ed. VI. whereby compassing, by expresse word, to depose the king is made penall by forfeiture of goods; etc. and the stat. 3 Eli. 2. & 13 Car. 22. enacting, that conspiring to leuy war should be treason, necessarily required tow witnesses for the proove of it. The admission of tow testifying things passing at severall times and places, is but a new inuention. The lords were brought to swallow it at the lord Stafford's tryall, by the perfect concurrence of the testimonyes of Turuile and Bugdale, in the same thing, vid. murdering the king, though the one was in France, the other in Staffordshire; but if that, which was then perhaps too farre strained, be carried soe much farther, as to extend to any thing that these gentlemen shall fancy may conduce unto the same end, there is noe safetye in the lawe, and noe man can be found innocent, unlesse he please, as was sayd by one of the worst magistrates that euer was in Rome in the worst time, "scituros neminem se inuito reperiri posse infontem." Sig. de imp. occ. That though there were such a number of witnesses as the lawes of God and man require, and they of credite, noe crime is fixed upon me that is or hath euer bin declared to be treason by the lawe. It is sayd in the indictment, that I conspired the death of the king: *but noe man sayed, that any mention was ever made of it in my presence; euen the king knowes I am not a man to haue any such designe; and I am noe more capable of it then of eating him, if he were death [dead.] I think I may say, I did once save his life, but I am sure I neuer endeauoured to take it away.* If the meetings mentioned were to be taken for conspiracyes against his majestyes life, something must haue bin there proposed and resolued concerning the wayes, manner, time, place, or persons, by whome it should be effected; of which not one word is pretended, nor that he was soe much as named.

That conspiracyes take their denomination from the thing that the conspirators endeauour to compass; and noe men were euer sayd to conspire to do that which was neuer spoken of amongst them.

That the compassing of the king's death, declared to be treason in the first branch of the stat. 25 Ed. III. was meant his corporall death, inasmuch as, in his politike capacity, he can neuer dye; and cannot be implied by the branch relating unto the leuying of war, which is an act distinct in nature, and distinguished by lawe from it: the authorityes of Cooke and Hales, were alleaged to proue this distinction, that to leuy war was not to compass the death of the king; and, being treason of different species, the ouert act of the one could not be the ouert act of the other: that conspiring to leuy war, was not treason of itself, nor by implication, as appeared by severall temporary acts of the 1 of Mar. 13 Eli. 13 Car. 26. and others, whereby, after a certaine time during their liues, to conspire to leuy war is made treason, which had bin impertinent, if it had bin euer soe by the antient stat. of 25 Ed. III.

The case of sir H. Vane was alleaged, whoe, though he had bin an eminent man in all the councells relating unto the first war, by which the

late.

late king was brought to death, it was neuer imputed unto him, because euery man knew he had noe hand in it; and, though he did not deny but he had the like part in the war continued against his magesty now raigning, he could not be conuicted without prooffe of his appearing with a regiment in Southwark: but, as to the present case, here is neither king brought to death, nor war leuyed, nor any thing done in relation to either. Here is nothing but a meeting acted—a conspiracy wherein it is not soe much as pretended, that the matter which they are sayd to have conspired, was euer mentioned; and shew war my accusers dreame of, was to be made without men, money, armes, ammunition, officers, soldiers, places, or any thing done towards the prouiding any of them. Much might have bin hereupon sayd concerning the incongruity, uanity, falsity, and absurdity, of the lord Howard storyes: at the lord Russell's tryall he made the foundation of the councill of six to haue bin in prosecution of the earl of Shaftesburyes designes; and there apprehensions, that a businesse knowne to soe many, could not continue secret; and pretended their end to have bin, to adiust, with much finenesse, a businesse consisting of many pieces; whereas it doth [not] appeare, that any of the six (except himself) knew any thing of what that earl had designed; but certaine it is, that none of them had in a long time had any communication with him. The duke of Monmouth and himself thought him to be mad. I could say much of the earl of Essex his thoughts of the same kind; and, besides the knowne dislikes which he had unto me, and I unto him and his wayes, I did not see his face in almost a yeare before he went out of England, and had no communication with him afterwards. Noe man but the lord Howard had to this day explained the vast designes that were then knowne to soe many, that they could not be concealed; and he had not told the name of one of the ten thousand brisk boys, that were to doe such wonders. If he say true, nothing was done to adiust with such finenesse the businesse of many pieces, beyond the most common discourfes; and noe word fixed upon any man except the duke of Monmouth, who was of opinion, that a rabble could not resist a well metodized army. A scoller, that knoweth not the difference betweene metode and discipline, might give such a terme unto the right soldiers of an army; but he that attributes it unto a soldier, shewes, that the wholle is an inuention of his owne.

The mennagement of this affaire by the councill, or cabal, was equall unto the reasons of forming it; not one of thoes pieces were taken into a consideration: noe care taken of prouiding men, armies, amunition, or places; noe mention made of any correspondance in citty or country, and mony, which was the principall point, was spoken of only jocosely, or by the waye of mirth.

This is a new way of carrying on the greatest businesse in the world, and, if it were true, could only shew, that the six were as mad as somme of them thought the earl of Shaftesburye; but, if the reputation that somme of them have or had in the world, be compared unto that of the
lord

lord Howard, it will be thought more probable that he is a liar, then that they were fooles.

The rest of the romance is fuitable unto this. He saith, that a correspondance was resolued with the earl of Argile; but doth not say how, by whome, when or why. The matter relating unto the other Scotchmen is not lesse crude: such as best understood matters of Scotland should be sent for; a canting letter written, and sent by Aaron Smith; but he neither tells certainly whoe writ the letter, or to whome it was directed, what were the expresse words or contents of it, nor wheather it was euer deliuered, or not: and he was so carelesse of this important affaire, as not to remember the names of men; and he, that ought to be satisfied they were fit for such a work, was forced to learn the name of sir — Cambell, by description, which is impossible: noe man can know the likeness of a picture, unlesse he knew the man for whom it was drawne; nor by description him that he doth otherwise knowe. The last part of that story agrees well enough with the rest. Having embarqued himself and his friends in this vast businesse, and aduanced it soe far as you haue heard, he thought that all was well, and it did not deserue his farther care: he lay idle at the least ten weeks in London, or at Knightbridge, contenting himself only in asking me, wheather Aaron Smith was gone; and then thought himself more concerned in uisiting a mannor of about tow hundred pounds a yeare in Essex, then aduancing the businesse of war and state that he had undertaken: after hauing for a while loitered there, with the same indifference and serenity of minde, he made another iourney to the Bath: this is the parenthesis he mentions, that lasted allmost six moneths: somme may impute it to the sedate constancy of a philosopher, others to the stupidity of a beast; but whosoever considers the nature of the thing, and the temper of the person, can neuer belieue, that a wise or virtuous man could soe shamefully neglect the most important interest of his friends or country; and such as know how much his lordship, through a most tender loue unto himself, is concerned in the most triuiall affaires that relate unto his person or interest, will as littell think he could be so well at leisure, as not to look after thoes that came soe neare unto his life and fortune, if any such had bin then in agitation. “Oportet mendacem esse memorem.” If the prouerbe be true, that liers ought to have good memoryes, his lordship, at my tryall, ought to haue thought of what he had sayd at the lord Ruffell’s; and, if the story had bin too long to be exactly related, he might have had recourse unto that which is in print. Sir H. Vane the elder, and others being examined at the earl of Strafford’s tryall, desired to see their first examinations taken in writing, least they might faile in any word; and the profecutors, as well as judges, seeking nothing but truth and justice, allowed it. If the same ends had bin now fought, he might have read out of the book what he had said at his first tryall, and suffered to say noe more: but the drudgery of swearing was not ouer; somme other jobbs must be done, before he could haue his pardon; that which he had sayd was not enough; and, notwithstanding his

oath, that he knew noe more, he must sweare more, wheather he knew it, or not. A fruitful fancy, spurred on by feare, and restrained neither by conscience nor shame, furnished matter abundantly; and all was receaved, though directly contrary to his former deposition upon the same thing: he frames a formall speech for Mr. Hamden, as an ouerture of the sessions; reduced the jocular discourse of mony to a more serious consideration of raising thirty or twenty-five thousand pounds; supposes the lord Russell to have bin the writer of the letter sent by Aaron Smith; makes another speech for Mr. Hamden, which he calls inuidious, as tending to an intention of referring all to the will of the parliament; but neither fineth upon any thing done, or to be done, nor relates a word sayd by me, unlesse it were in priuate unto himself, concerning A. Smith.

Such stufte would not (as I suppose) haue bin receaved in any court of justice in Europe, nor in Westminster-hall, *till it was furnished with theis judges*; but they, resolving to receave all that was against me, though evidently false, would neither suffer me to say the tenth part of what I had to alleage in my defence, nor to explaine or proue that which I proposed. When the chief justice did cut me off, I did as justly as I could, desire him to proceed softly and fairely: that a wise heathen had sayd, noe delay ought to be esteemed long, when the life of a man was in question; and that the scripture put an euill character upon thoes whoes feet were swift to shed blood; but all was in uaine; the points of lawe concerning the different sorts of treasons could not be heard; noe councill allowed to argue them; noe point of lawe saued, when I shewed, that here was in my case neither conspiracy against the life of the king, nor war leuyed; and that if, by long series of far-fetched incoherent suppositions, any man fancied me to be guilty of treason, it must be by constructions which none but the parliament could make: to proue this I cited the stat. 25 Ed. III. and desired it might be read, with the prouiso that noe other court should take cognifance thereof; but I was ouerborne by the unreasonable uiolence of the chief justice, and denyed the reading of the statute, the assistance of councill to argue the points of lawe, or that any of thoes proposed by me should be saued unto me.

The first was, that, by the lawe, no man could be tryed upon an indictment layd in a county, unlesse it were composed of freeholders. 2dly, The court hauing declared, that I was tryed upon the stat. 21 Ed. III. it ought to be declared upon what branch of that statute. 3dly, That, though a conspiracy to leuy war were sworn by one witnesse, and that a credible one, I ought not to be thereupon indicted by the stat. 1 Ed. VI. 12. the 5 of Ed. VI. 11. and the 13 Car. II. 4thly, That conspiracy to leuy war is not treason, by the stat. 21 Ed. III. 5thly, That, by the same, conspiring to leuy war, is not an overt-act of compassing the king's death; and, though ouert-acts were pretended, they are not to be inquired into, without the testimony of tow credible witnesses by the 1 Ed. VI. 12. and 5 Ed. VI. 11. and I ought not to be obliged to confesse such a conspiracy, if it be not proued. 6thly, Without admitting the fact, I ought to haue
councill

councill to argue the points of lawe arising upon the evidence; inasmuch as I may have cause to demurre unto the evidence, and want their advice thereupon. 7thly, That, supposing the lord Howard to be a credible witnesse, he is but one: noe man can be thereupon found guilty, as appears by Whitebread's case; the papers cannot be taken for another witnesse, similitude of hands is noe evidence, whosoever writ them; they can have noe concurrence with what is sayd, being unknowne to him, written many yeares since, as appears by the ink and paper, and noe way relating unto the matter in question, nor applyed unto any particular time or case whatsoever. 8thly, That, though the meetings mentioned by the lord Howard were supposed to be to consult to levy war, such assemblies could not be taken for overt-acts of conspiring the death of the king, noe word or ouert-act tending thereunto in giuing in evidence; nothing arising from suppositions, arguments, presumptions, or constructions, can make a man a traitor: the end of the stat. 25 Ed. III. was to take awaye ambiguities, and uariety of opinions, and the decisions of all such cases as are thereby referred to the parliament.

If these points were not allowed, councill might haue bin admitted to argue them, or faued to be found specially, as was desired; *but all in uaine.*

I well knew the disorder that had bin brought upon the nation in the time of Ri. the II. whenas it is sayd in the stat. 1 H. IV. noe man knew what to speak, or what to doe, for feare of treason; that the like was declared, stat. 1 Ma. and by the—Ed. VI. expresse words, and open preaching, to compasse the deposing of the king, setting up another title, etc. though proued expressely by tow credible witnesse, were not made treason; and could haue easily inferred a fortiori, that a polemike discourse, left imperfect, neuer examined, neuer shewed to any man, writ long since, relating in generall unto such cases as thoes of Tarquin, Caligula, Nero, Vitellius, Peter the cruell of Castile, the degenerated races of Meroueus, or Charles the Great, or the like, could haue no relation unto any statute of treason in England; but the chief justice would not suffer me to speak.

This explained a mystery which noe man could before understand: they, whoe saw I was not brought to a tryall with the lord Ruffel, believed, that, if the iayles did not furnish somme other evidence against me *, I should

* Mr. Aaron Smith deposed, that he was a Prisoner in the Tower when Lord Ruffel and Colonel Sydney were tryed; and was kept close Prisoner above nineteen weeks at five pounds a week charge, and two Warders watched him, or lay in the room. That one of his Warders told him that Mr. Ambrose Philips was come to speak with him, and had an order from one of the Secretaries to come as often as he would, and bring whom he would with him; but then he was alone. When Mr. Philips came in, after some other discourse, he told him, *it was in his power to make himself what he would; for, said he, You know this rogue Sydney is a traitor, and you may make yourself what you will, if you will discover what you know of his designs against the government.* That he replied, *He could not say any thing that could touch a hair of Colonel Sydney's head;* and that then Mr. Philips said, *If he might advise the King, he would have all the damn'd WHIG rogues hanged,* etc. etc. etc.

be releas'd without a tryall; but when theis, and many other points of lawe, were ouer-ruled without hearing, *it plainely appeared, that my tryall was deffered † untill an undersheriffe could be made, that would pack a jury with Burton and Graham, and the bench could be filled with such judges, as had noe understanding of the lawe, nor regard unto reason, justice, truth, or common sense*; for words, though sworne by tow credible witnesse, could not be brought within the 25 Ed. III. only by any but such as theis, according to the authority of Cook and Hales, and Pine's case, nor taken for

[† *Untill an undersheriffe could be made, that would pack a jury with Burton and Graham, and the bench could be filled with such judges, as had noe understanding of the law, nor regard unto reason, justice, truth, or common sense.*]

The Sheriffs were, *Peter Daniel, Esq;* and *Samuel Dabwood, Esq;* who, together with *fir Henry Tulse, Knt.* Mayor, were appointed by a commission under the great seal. The Under Sheriffs were, *Thomas Rowse, Gent.* and *Charles Hargrave, Gent.*

There was all this summer [1681] strange practising with witnesse to find more matter against him [the Earl of Shaftesbury]: Wilkinon a prisoner for debt that had been often with him was dealt with to accuse him. The Court had found out *two solicitors* to manage such matters, *Burton and Graham; who were, indeed, fitter men to have served in a Court of Inquisition, than in a legal government.*

Burnet's Hist. of his own times.

Mr. Graham, the Solicitor of all the late sham plots upon Protestants, and pay-master of corrupt juries and perjured witnesse, solicited this prosecution [against the Earl of Shaftesbury] and hence took his first step to such preferment as enabled him to give eight or ten thousand pounds with a daughter.

A Display of Tyranny. Or remarks upon the illegal and arbitrary proceedings in the Courts of Westminster and Guild-hall; from the year 1678, to the abdication of the late King James: in which time the rule was "*Quod principi placuit lex esto.*" London, printed anno *Angliae salutis primo, 1689, part I. p. 66, in duod.*

Then the Jury immediately gave in their verdict, that the Defendant [Sir Samuel Barnardiston, Bart.] was guilty of the offence and misdemeanor charged in the indictment; *as no doubt they resolved to do, before they heard one word of the matter.* The judgment upon this verdict was, "*That the Defendant should pay ten thousand pounds fine, and be imprisoned till † paid, and to find sureties for his good behaviour for life.*" Accordingly he was committed for the fine, to the King's-bench, and continued a Prisoner four or five years, which satisfied not; but *Graham and Burton*, those instruments of rapin and oppression, broke in upon his estate, and besides the waste and destruction made, levied to *their own use* and the King's about six thousand pounds.

The same, p. 214.

Upon this occasion of *Health drinking*, I cannot hinder myself from remembering the case of *Mr. Elias Best*, a substantial citizen, *but one who had been an ignoramus Jurymen*, a great reproach and an unpardonable crime in that day, as, *fir, you very feelingly know.* He was indicted for the frolic of drinking *to the pious memory of honest Stephen Colledge*, and condemned to a fine of a thousand pounds; to stand three times in the Pillory; and to give sureties for his good behaviour for life. On this judgment, he was imprisoned three years; to the loss of a good trade, and to the ruin of his health and estate; and when almost ready to expire, he was *graciously* pardoned, upon payment of £200 to the *Empson and Dudley* of the late reign, *Graham and Burton.*

The same, part II. in the epistle dedicatory, to *fir Samuel Barnardiston, Bart.*

Mr. Normansel and Mr. Trotman, the Secondaries, deposed, that Graham and Burton were the Prosecutors of Lord Russell; that Sir Dudley North had the books from them, and returned Lord Russell's Jury; that Juries had usually been returned by the Secondaries, and taken out of two, three or four wards; but this Jury was taken out of above nineteen wards.—Mr. Trotman added, that Graham and Burton were also the Prosecutors of Alderman Cornish.—Sir Dudley North

for an ouert-act of compassing the king's death. But they could bring the most confused improbable and contradictory relations of one man of noe credite a prooffe of a conspiracy; and as an ouert-act hath [hatch] up his credite with papers as ill proued, and containing matters unknowne unto him, and hauing noe cohearence with what he sayd. Such as they only could suffer a witnesse to guesse a man into treason, or make the most extrauagent guesings or supposition to passe for euidence.

Such

North went on saying, *that he impannelled the Juries for the Sessions when the Lord Russell was tryed; that he returned the best Jury he could, without observing any ward; and drew this out of several wards, because they might be the more substantial men;—that the Juries before, were returned by the Secundaries, but this being a very extraordinary business, he thought it requisite to take care of it himself.*

The same, part II. p. 285, 6, 7.

After this he [John Hambden, Esq;] was brought to a trial for *misdemeanour*, and was convicted on the Lord Howard's evidence. He pleaded *Magna charta*, that a *Salvo contentemento*; but the Court fined him *forty thousand pounds*, and to imprisonment till the fine was paid, and security for his good behaviour. The king made his choice of putting him in prison, and he was committed to the Marshal's house in the King's-bench, where he was ten months. He offered several sums of money, and they answered, "*They had rather have him rot in prison than pay the fine.*" After this, they put him in the *Common prison*, where he was kept ten or eleven months very close. Then, they contrived a writ, called a *long writ*, to reach his *real and personal estate*, whilst he was thus a prisoner. After this, he heard a *new witness appeared*, which was after the defeat of the *Duke of Monmouth*. He was [then] sent *close prisoner* to the Tower, by the Lord Sunderland's warrant; and put into such a room where he had no conveniency, and with two of the rudest warders in the Tower, to lie in the room with him. After seven or eight weeks, he was removed to *Newgate*, where he was kept close eleven weeks. His *Friends* offered money for his pardon to some in power, who were the Lord Jefferyes and Mr. Petre; the sum was six thousand pounds, and that was *effectual*. It is not possible for a man to suffer more than he did. *By the help of the money, on condition he would plead guilty to his Indictment, he was to come off.* His friends advised him to it, *because it could hurt none*; there being none living of those called the *Council of six*, but the Lord Howard. Whereupon, pleading guilty, he was discharged; *paying three or four hundred pounds to Burton and Graham for the charge of his Pardon.*

The same, part II. p. 301.

Monday, jan. 20, 1689.

Mr. Christy reported from the *Committee*, to whom the bill for annulling the *attainder* of Sir Thomas Armstrong was recommitted; some amendments to the bill; as also who were his prosecutors; and also what losses sir Thomas Armstrong's family had sustained by reason of the *attainder*; and thereupon it was resolved, "*That Sir Richard Holloway, [late Recorder of Oxford, whose part in the dispatching of Stephen Colledge advanced him to this station, as this author elsewhere observes] Sir Francis Wythens, the Executors of the late Lord Jeffryes and of the late justice Walcot, Mr. Graham and Mr. Burton do attend the House [of Commons] on Saturday morning next, to answer to such matters as are charged against them touching Sir Thomas Armstrong.*" Then Mrs. Matthews, Sir Thomas Armstrong's daughter, was called in, and examined what she knew of the prosecution against her father; and Sir Robert Sawyer, then *Attorney General*, being named by her, as one of the *Prosecutors*, after she was withdrawn, he was heard in his place to what was objected against him, and then he withdrew, and upon debate of the matter it was resolved, "*That Sir Robert Sawyer's name be put into the bill as one of the prosecutors of Sir Thomas Armstrong.*" Resolved, "*That Sir Robert Sawyer be expelled the house for the same.*"

Saturday, jan. 25, 1689.

The House being acquainted, that according to their order, Sir Francis Wythens, Sir Richard Holloway, Mr. Graham and Mr. Burton attended at the door, they were severally called in and examined, touching the Prosecution and Proceedings against sir Thomas Armstrong.

THE APOLOGY OF A. SYDNEY

Such as they only could fancy, that a few scraps of old paper, refuting the doctrines of one of the most *wicked* and FOOLISH books that ever was written in the world, tended to the subversion of our government; and that his approbation of the slaughter of Caligula, or the insurrections against Nero, were overt-acts of conspiring the death of the king now reigning

strong. And also the *Executors* of the late Lord *Jeffryes*, that were attending at the door were likewise called in, and asked what they had to say why reparation should not be made out of the Lord *Jeffryes* estate to the said Sir *Thomas Armstrong's* family. No persons appearing as *Executors* to the late *Justice Walcot*; the *House* was acquainted, *that he dyed intestate, and had not left an estate sufficient to pay his debts.* After the persons beforementioned were heard and withdrawn, Mr. *Blaney* was called in, who gave the *House* an account of the *Proceedings* in the *Court of King's-bench*, upon the awarding execution against Sir *Thomas Armstrong.* And then the *House* proceeded upon the amendments made by the *Committee* to the bill, for annulling the *attainder* of Sir *Thomas Armstrong*: and after having inserted the name of Sir *Robert Sawyer*, as a *Prosecutor*, and resolved, "*That the sum of five thousand pounds should be paid by the Judges and Prosecutors to Sir Thomas Armstrong's Lady and Children, as a recompence of the losses they had sustained by reason of his Attainder*; (the bill was recommitted, etc. etc.)

The same, part I. p. 225.

The *Commons* [1680] did also assert the right of the People to petition for a Parliament. And because some in their counter-petitions had expressed their abhorrence of this practice, they voted these abhorers to be betrayers of the liberties of the Nation. They expelled one *Wythens* out of their House for signing one of these, though he with great humility confessed his fault, and begged pardon for it. *The merit of this soon raised him to be a judge; for indeed he had no other merit.* They fell also on Sir *George Jefferyes*, a furious declaimer at the bar: *but he was raised by that, as well as by this prosecution.*

Burnet's Hist. of his own times, Vol. I. p. 484.

The addresses had now [1683] gone round *England.* The *Grand Juries* made after that *high presentments* against all that were esteemed *Whigs* and *Nonconformists.* Great pains were taken to find out more witnesses. Pardons and rewards were offered very freely. But none came in; which made it evident, that nothing was so well laid, or brought so near execution as the witnesses had deposed: *otherwise people would have been crowding in for pardons.* All people were apprehensive of VERY BLACK DESIGNS, when they saw *Jefferyes* made Lord Chief Justice, who was scandalously vicious, and was drunk every day; besides a drunkenness of fury in his temper, that looked like Enthusiasm. He did not consider the decencies of his post: nor did he so much as affect to seem impartial as became a Judge, but run out upon all occasions into declamations, that did not become the Bar, much less the Bench. He was not learned in his profession; and his eloquence, though viciously copious, yet was neither correct nor agreeable. *Pemberton* was turned out of the Common pleas, and *Jones* was put in his place: and *Jefferyes* had three Judges joined with him in the *King's bench* fit to sit by him.

The same, Part I. p. 568.

When *Jefferyes* came to the King at *Windsor* soon after this trial [of Sir *Thomas Armstrong*, 1684.] the King [C. II.] took a ring of good value from his finger, and gave it him for these services. The ring upon that was called *his blood stone.* The King gave him one advice, which was somewhat extraordinary from a King to a Judge; but it was not the less necessary to him: the King said, it was a hot summer, and he was going the Circuit, *he therefore desired he would not drink too much.*

The same, p. 580.

Kirk, who had commanded long in *Tangier*, was become so savage by the neighbourhood of the *Moors* there, that after the battle [of *Sedgemore*, fought July 6, 1685,] he ordered several of the prisoners to be hanged at *Taunton*, without so much as the form of law, he and his company looking on from an entertainment they were at. At every new health another prisoner was hanged up. And they were so brutal, that observing the shaking of the legs of those whom they hanged, it was said among them, they were dancing; and upon that musick was called for. This was so illegal, and so inhuman, that it might have been expected that some notice would have been taken of it. But *Kirk* was only *chid* for

raigning in England. The thing was fit to be brought only before such as fought to deserue the preferrements unto which they were unworthily aduanced, by doing such jobs, as would have bin abhorred by any that had understood the principles or ends of governments; examined the history of the world, or seen *that if it were in no case lawfull for people to rise*

for it: and it was said, that he had a particular order for some military executions, so that he could only be chid for the manner of it.

But, *as if this had been nothing*, Jefferyes was sent the *Western* circuit to try the prisoners. His behaviour was beyond any thing that was ever heard of in a civilized Nation. He was perpetually either DRUNK, or in a rage, liker a fury than the zeal of a Judge. He required the prisoners to plead guilty, and in that case he gave them some hope of favour, if they gave him no trouble; otherwise he told them he would execute the letter of the law upon them in its utmost severity. This made many plead guilty, who had a great defence in law. But he shewed no mercy. He ordered a great many to be hanged up immediately, without allowing them a minute's time to say their prayers. He hanged, in several places, about SIX HUNDRED persons. The greatest part of these were of the meanest sort, and of no distinction. The impieties with which he treated them, and his behaviour towards some of the Nobility and Gentry that were well affected, but came and pleaded in favour of some prisoners, would have amazed one if done by a *Bashaw* in *Turky*. *England had never known any thing like it.* The instances are too many to be reckoned up.

But that which brought all his excesses to be imputed to the King himself, and to the orders given by him was, *that the King had a particular account of all his proceedings writ to him every day*; and he took pleasure to relate them in the drawing room to foreign Ministers and at his table, calling it *Jefferyes's campaign*: speaking of all he had done in a stile, *that neither became the majesty nor the mercifulness of a great Prince*, etc. etc. etc.

The same, p. 648.

As soon as it was known at London, that the King [James II.] was gone, the prentices and the rabble, who had been a little quieted when they saw a treaty on foot between the King and the Prince, [of Orange,] now broke out again upon all suspected houses, where they believed there were either Priests or Papists. They made great havock of many places, not sparing the houses of Ambassadors. *But none were killed, no houses burnt, nor were any robberies committed. Never was so much fury seen under so much management.* Jefferyes, finding the King was gone, saw what reason he had to look to himself: and, apprehending that he was now exposed to the rage of the people, *whom he had provoked with so particular a brutality*, he had disguised himself to make his escape. But he fell into the hands of some who knew him. He was insulted by them with as much scorn and rudeness as they could invent: and, after many hours tossing him about, he was carried to the Lord Mayor, [Sir John Chapman, Knt.] whom they charged to commit him to the Tower, which the Lord Lucas had then seized, and in it had declared for the Prince. The Lord Mayor was *so struck* with the terror of this rude Populace, and with the disgrace of a man who had made all People tremble before him, *that he fell into fits upon it, of which he died soon after.*

The same, p. 797.

During these irruptions of the mob, Chancellor Jefferyes, disguised in a seaman's habit, in order to escape in a vessel freighted for *Hamburg*, was discovered by a clerk in chancery, that accidentally passed by, as he was looking out of the window of the house where he had concealed himself. He was immediately seized by the mob, and, after many indignities put upon him, carried before the Lord Mayor, who declined meddling with him. But the Chancellor seeing himself in the hands of an enraged mob, which threatened to tear him in pieces, desired that he might be sent to the Tower, which at last was granted him, *not as a favour, but in hopes of seeing him shortly conducted from thence to the Gallows.* It is pretended, he offered to discover many secrets, and for that reason, was kept some time in prison, till the affairs of government should be settled. But he died in that interval, by the blows he had received, according to some; drinking spirituous liquors, according to others; and, as some pretend, of the stone. *Never man had better deserved a public punishment, as an atonement for all the mischiefs done to his Country, and for all the blood spilt by his means.*

Rapin's Hist. of England,

rise against a prince, there is not a prince in the world, that can have a lawfull title to the crowne he bears; the most part of our kings since William the Norman, were usurpers; or, which is worse, usurpation conferres a just title.

Theis only hauing admitted an indictement, grounded wholly upon suppositions innuendoes and intentionels, could hearken unto the lord Howard; whoe coniectures what I and others meant, whoe writ the letter into Scotland, to whome it was directed, what were the contents and effects of it, though he would not speak precisely to any of thoes points.

Theis only could think him a credible witness, when they had heard him sweare himself periured, and the contents of his deposition were, by his owne assertions, as in the presence of God, proued to be false by nine irreproacheable witnesses.

Theis only could suffer a jury to suppose, that an evidence can be grounded upon an opinion of a similitude in writing, when they know it is none; that a book was written with an intention to stirre up the people, when they hardly sawe the fiftyeth part of it, and would not suffer the tenth of that to be read; that papers, writtèn perhaps twenty or thirty yeares agoe, were intended in prosecution of designes layd within ten months.

Theis only could receaue an indictement, in which the king's title of deffender of the faith was omitted; refuse a copy, when it was demanded, and the stat. 46 Ed. III. produced, whereby it is enacted, that it should, in all cases, be allowed unto euery man, least the irreparable errors of it should be discouered. Theis only could give credite unto a grand jury, whoe, upon their oaths, presented a bill, whercin I am sayd to have traiterously, on the 30th of June, and many other days, both before and after, conspired with many other false traitors, to them unknowne; *whereas I was then, and have bin euer since, a close prisoner in the Tower,* and it is moraly impossible for any man to know I did conspire, unless they did knowe with whome.

They only could pach [patch] up an evidence, consisting of tow parts, as the lord Howard's deposition, and the papers upon the similitude of a hand, when they knew both of them to be voide in lawe; and tack them together, when it was apparent, they neither had nor could haue any relation unto each other.

It was a work for them only impudently and without hearing, to ouer-rule many most important points of lawe; by their word to deprive the wholle English nation of their right of being tryed by freeholders, which is a generall and antient, as any part of our lawes; to make discourfes at a priuate meeting, imperfectly uariouly and to their owne knowledge falsely reported, by a man of a most profligate life and reputation, to passe for a conspiracy; to oblige a prisoner falsely to acknowledge he had conspired to leuy war, or, contrary to the judgment of many parliaments, to make a conspiracy to leuy war to passe for treason;

by

by the 25th of Ed. III. to make such a conspiracy, which could not be treason in itself (though it had bin true) to be treason, as imagining the death of the king, though the lawes, and the most reuerenced expositors of them, declare that is not so.

They only could take upon them by uarious improbable absurd and false constructions, to make acts noe-wayes comprehended within the words or meaning of the stat. 25 Ed. III. to passe for treason, when they knew themselues, by the same, to be forbidden to make any construction at all; and neither to suffer the statute to be read, councill heard, nor the points of law to be saued unto me.

None but such as they would have suffered Mr. Sollicitor, by a long painted speech, to haue misrepeated the euidence on both-sides to mislead the jury; to haue represented the lord Howard's frequent attestations of God, that he knew of noe plot, believed that was none, and took that which was spoken of, to be an inuention of the priests, only as willingness to confesse it, and his many periuries, as a mark of the truth of what he had sworne: and by such constructions as were absurd impossible and false, to drive them headlong into a uerdict upon noe euidence, in matter of which they were utterly incapable of judging, if the law had referred unto them, and whoe were soe compacted and composed, as not to be capable of judging any matter relating unto the meanest thiefe.

If any others then theis had bin upon the bench, I might haue bin heard, when I offered to answer unto theis fallacyes, and haue unraualled all his frauds; though such a work could hardly be expected from a man of my education, and in an age, that had much abated his uigour and memory. If this was denyed, the points of lawe might haue bin left to be found specialy; *but I was in all things ouerborne by the fury of the chief justice.* He did probably feare he should not be taken for Cesar's freind, if he did let this man goe. He was to deserue his otherwise undeserued preferment. To this end, he made a speech of about a hower and a quarter, soe confused, that I can giue noe other account of it, then that, as he had bin long obserued to excell in the lawdable faculty of misleading juryes, he did exercise it with more confidence upon the bench, then euer he had done at the bar; declared treasons that had bin hetherto unknowne, and that the jury was obliged to take that to be law, which he judged to be soe; misrepresented the euidence more then the sollicitor had done; and as a rule which they were to followe, asserted, *that if one man swore, that such a one sayd, he would with his knife kill the king, and another, that he had of him bought that knife, it was sufficient euidence to convict any man.*

It may as easily be guesed, what uerdict I expected from an ignorant fordid and packed jury*, upon such a direction, as what security any man

* Mr. Richard Wynne declared, That he was Solicitor to Colonel Sydney; that the Colonel excepted against several of the *Jury*; to some as not being Freeholders, and others, as being in the King's service, and receiving wages from his Majesty. That presently after the Tryal, the

man in England can have for his life and estate, when such stuffe can be made to passe for law: but I was still ouerborne, and could not be heard, when I endeauoured to bring the chief justice to reflect upon his own extrauagancies.

Before the tryall, I was credibly informed, that his lordship had soe far humbled himself, as to aduise with the king's councill of the wayes of compassing my death; and, that a paper, containing the result of that consultation, had been seene upon Mr. Attorney's table. Since that time I haue bin told by persons of unblemished reputation, that, not satisfied with the directions given in publike, he had bin farther pleased, when he retired upon pretence of taking a glasse of sack, to followe the jury and give them more particular instructions.

Vpon the first part, I was aduised to coniure his lordship, in the presence of God, to declare, wheather he had not consulted as aforesayd; but the testimony his lordship gaue upon my tryall of the tenderesse of his conscience, and how far he uallued the religion of his owne, and the king's oath, persued me to be silent.

When the jury brought in their verdict, I desired to examine them "seriatim," wheather every one of them had found me guilty before it was recorded; and prepared to ask them particularly, wheather they had found me guilty of compassing the king's death? 2dly, Of leuying war against the king? 3dly, If they found me guilty of any treason, within the statute 25 of Ed. III? 4thly, If they found any treason proued against me by tow witnesses? And this I did, that I might not be deprived of the benefite of giuing my exeptions; as I have heard the lord Ruffel had lost it by not hauing moued it before the uerdict was recorded, but the chief justice would not heare me.

The irregularity of theis proceedings (that I may not use a harder word) obliged me, on the 25th of Nouember, to present a petition unto his majesty, shewing,

"That your petitioner, after a long and close imprisonment, was on the 17th of this month, brought with a guard of soldiers into the pallyard, upon a habeas corpus, directed to the lieutenant of the tower, before any indictment had been found against him; that whilest he was there detained,

Lord Chief Justice sent him Prisoner to the King's Bench, for saying, the Jury were a Loggerhead Jury; and that they had not evidence sufficient to find such a Verdict; or found a Verdict contrary to evidence.

Mr. Wynne said this to Angier, the Foreman of that murdering Jury, and to Glisby, another of the three Carpenters which were upon that Jury, and to another of their Brethren near the King's Bench court; whereupon they went to lay hold on Mr. Wynne; at which instant Mr. Forth the King's Joyner coming, interposed; upon which Angier said, Mr. Forth, will you assist this man? He says, Colonel Sydney's Jury was a loggerhead Jury: To which Mr. Forth answered, I have nothing to do with the Jury, but Glisby knows, that I know he is a loggerhead. Of this, they complained to Jeffryes, who committed Mr. Wynne and Mr. Forth to the King's Bench. It cost Mr. Forth about fifty pounds, whereof Burton had twenty-four; and he being a Protestant joiner, scaped well out of their hands, as times then went; especially with that Trade.

detained, a bill was exhibited and found; wheareupon he was immediately carried to the king's bench, and there arraigned; in this surprife, he desired a copy of the indictment, leave to make his exeptions, or to put in a speciall plea, ready engrossed, which was alsoe rejected without reading; and being thretned, that if he did not immediately plead guilty, or not guilty, a judgement of high treason should be entered, he was forced, contrary to law, as he supposed, to comme to a generall issue, in pleading non guilty.

Nouember 21. he was brought to his triall, and the inditement being perplexed and confused, soe as neither he, nor any one of his friends that heard it, could fully comprehend the scope of it, he was utterly unprouided of all the helps that the lawe alloweth unto every man for his defence; wheareupon he did againe desire a copy, and produced an authentike copy of the stat. 46 Ed. III, wheareby it is enacted, that euery man shall have a copy of any record that toucheth him in any manner, as well that which is against the king as any other persone; but could neither obtaine a cobby of his inditement, nor that statute should be read.

The jury by which he was to be tryed, was not, as he is informed, summoned by the bailifs of the feuerall hundreds in the usuall and legall manner, but names were agreed upon by Graham, Burton, and the undersherife, and direction given to the bailiffe to summon them; and being alsoe chosen, the cobby of the pannell was of noe use unto him.

When they came to be called, he exepted against somme for being your majesty's seruants, which he did hope should not have been returned, when he was profecuted by your majesty, with many others for not being freeholders, which exeptions he thinks are good in lawe: others were lewd and infamous persons, not besit to be of any jury, but was ouer-ruled by lord chief justice; and your petitioner forced to challenge them peremptorily, whome he found to be picked, as most suitable unto their intentions, whoe sought his ruine, wheareby he lost the benefite allowed by the lawe, of making his exeption, and was forced to admit of mekanike persons, utterly unable to judge of such matters as were to be brought before them.

The jury being sworne, noe witnesses was produced, whoe fixed any thing beyond *hearsay* upon your petitioner, except the lord Howard; and somme that swore the papers sayd to be found in his house and offered as a second witness, were written in a hand by your petitioner. Your petitioner produced ten witnesses, the most of them men of eminent quality, the others of unblemished fame, to shew the lord Howard's testimony was inconsistent with what he had, as in the presence of God, affirmed unto many of them, as he swore in the tryall of lord Russell, under the same religious obligation of an oath, as if it had been legally administered. Your petitioner did endeauour farther to shew the incongruity of his testimony, he being guilty of many crimes, which he did not pretend had any knowledge of; and having noe other hope of pardon, then by the drudgery of swearing against him, deserued not to be believed; and that

similitude of hands could not be evidence, as was declared by the lord chief justice Keeling, and the wholle court in the lady Car's cause, so as noe evidence at all remained against him: that whosoeuer writ thoes papers, they were but a small part of a polemike discourse, in answer to a book written about thirty yeares agoe, upon a generall proposition, applyed to noe time, or any particular case; that it was impossible to judge of any part of it, unlesse the wholle did appeare, which did not; that the sence of such as were produced, could not be comprehended, unlesse the wholle were read, which was denyed; that the ink and paper shewed them to be written many years agoe; and the lord Howard knowing nothing of them, they could have no concurrence with what your petitioner was sayd to haue designed with him and others.

That the confusion and errors in writing it, shewed that they had neuer soe much as bin reuiewed, and written in a hand that noe man could read; were neither fit for the presse, nor could be in somme yeares, though the writer of them did intend it, which did not appeare; that being only the present study and priuate thoughts of a man, for the exercisse of his owne understanding in his study, neuer shewed unto any, nor applyed unto a particular case, could not fall under the stat. 25 Ed. III. which takes cognisance of noe such matters, being referued thereby to the parliament, as declared in the prouiso which he did desire might be read, but was refused.

Eight or nine important points of lawe did hereupon emerge, upon which your petitioner, knowing his owne weaknesse, did desire his counsell might be heard, or referued to be found specially, but was oueruled by the uiolence of the lord chief justice; and your petitioner soe frequently interrupted, the wholle methode of his defence was broken, and he not suffered to say the tenth part of what he could haue alleaged in his defence, and the jury carried into a uerdict that they did not know nor understand.

For as much as no man that is oppressed in England can have any reliefe unlesse it be from your majesty, your petitioner humbly prays, the premises considered, your majesty will be pleased to admit him into your presence; and if he does not shew, that it is for your majesty's honour and interest to preferue him from the sayd oppression, he will not complaine, though he be left to be destroyed."

But he was pleased to referre me to the same judges of whome I complained.

Nouember 26, I was again brought to the bar, and asked by the chief justice, what reason I could alleage why judgment of death should not be pronounced against me? My first answer was, that I had had noe tryall, the jury not hauing been composed of freeholders, as the law required. The chief justice sayd the question had been decided at the lord Ruffell's tryall. I replied, the question had then bin concerning a corporation, this was upon an indictment layed in a county. He sayd, that was nothing, the decision had been generall. I desired to know, wheather any precedent could be alleaged, of an Englishman tryed by others then by freeholders; and

and that if this rule were broken, any man might be tryed by his owne groomes, or a jury made up of porters, carmen, or scauingers, and thereupon desired councell to argue it, which was denied.

I then desired the indictment might be againe read, which was granted, but was not suffered to peruse it: this I did alsoe desire, upon an information, that the bill had bin mended since it came into the court: and that by a statute of Henry the Sixth, every indictment was made void, whearein any word or fillable had bin added or changed; but not being suffered to see it, I could not tell what additions or alterations had bin made.

I then pleaded, that by the stat. 13 Car. II. it was treason to depriue the king of any of his titles; and that defensor fidei not being in the indictment it was void, and desired councell to argue it; but though the chief justice seemed to be surprisid at the objection, he oueruled it, and would not heare councell.

I then moued for a new tryall, by reason of the many miscarriages that had bin in this, which he was pleased to call a tryal, though I took it to be none. I then pleaded, that trialls being instituted for the execution of justice, through the discouery of truth, that ought to be taken for none, whearein abuses had bin committed to the ouerthrowe of justice; and that if I might be patiently heard, I thought I could make it appeare to haue bin soe in this my case: and went about to shew reasons for what I sayd. Amongst others I shewed, that on the 7th of Nouember, I had bin brought to Westminster, by an habeas corpus granted the day before, when as yet noe bill was exhibited against me, and my profecutors could not know it would be found, unlesse they had undewly corresponded with the grand jury. 2dly, That a copy of the indictment, the benefite of making my exeptions against it, or putting in a speciall plea, which the lawe doth allowe, and the help of councell to frame them, or either of them, had bin denied unto me. 3dly, The speciall plea which I presented, ready engrossed, to preuent the mischiefes that would followe upon my generall answer unto a long, confused, imperfect, unintelligible indictment, had bin reiected, and thereby forced to comme to a generall issue in pleading not guilty. Heareupon justice Withins, *being* (as seemed to me) *uery drunk*, told me, *it was false*; and the chief justice sayd, he had not reiected my plea, but told me the danger of putting it in, because the king's councell would demure unto it, and I could not be suffered to plead heareafter. Hereupon I replied, *that hauing liued about threescore yeares, I had neuer receaued or deserued such language, for that I had neuer asserted any thing that was false*; but as to this particular, all that were present could witness my sayd plea had bin reiected: and the condition afterwards imposed, that I should not be admitted to put in any other plea if that came to be oueruled, was not according unto lawe; but I being ignorant of it, and denied the help of a councell, had bin forced to submit, which I should not haue done, if I had bin then as well informed as I am now, that I finde myself circumvented by the fraud of thoes, who by their oathes ought to haue preserued me. 4thly, That being brought unto a tryall,

tryall, Nou. 21. I had againe desired a copy of the indictment, alleaged precedents, produced an authentike copy of the stat. 46 Ed. III. enacting, that all men, in all cafes, as well against the king as others, should haue copyes of any records in which they were concerned; but could neither obtain it, nor that the statute should be read. 5thly, I am probably informed, and if time be allowed doubt not but I shall proue it, that the bailifes of the hundreds of Middlefex, had not the liberty of summing the freeholders according unto lawe, but such only (whether freeholders or not) whoes names were agreed by Graham and Burton, with the undersherife; of whome many were not summoned, when the copy of the pannell was sent unto me, and somme of them not at all. 6thly, Many of the king's seruants now in pay, from whome impartiall justice could not be expected whilst I was prosecuted at the king's suite, were returned upon the pannell, and many whoe were not freeholders, and somme lewd and infamous persons, who deserue not to be of any jury; all my lawful exep-tions reiected; the councill prayed to argue the points of law arising upon the euidence refused: wheareby I had not only bin obliged to admit of thoes whome I knew to be chosen to destroy me, and forced to answer before a jury composed of mechanike persons, utterly incapable of judging such matters as came before them, but deprived of all lawfull defence.

I had many other things to offer, concerning the uncertainty and inu-
alidity of the lord Howard's testimony. The utter impossibility of bringing papers written many yeares agoe, into a concurrence with a new plot, of which the plotters knew nothing. I desired that the duke of Monmouth, *who now appeared*, might be asked, wheather he had euer heard of them, as he must haue done, if they had been designed to stirre up the people, in order unto counsell taken with him. The weakenesse of an euidence taken from a similitude of hands; the unreasonablenesse of judging of a few sheets of a treatise, without seeing the wholle; the impossibility of bringing the matters layd unto my charge, within the stat. of 25 Ed. III. though they had bin proued; the iniustice of breaking the methode set for my defence; the fraud of the sollicitour's representations; the irregularity and mistakes of his lordship's direction; the direct incapacity layd upon that court to judge of constructive treasons; the manyfold errors in construing this to be treason, there being nothing to lead them unto it, but seauen or eight suppositions, of which euery one was false; and resolution taken not to heare any point of lawe argued, lest they should be thereby led unto truth: but nothing could be heard.

I had alsoe reason to moue for an arrest of judgment, that though I had granted what had bin sayd by lord Howard to be true, consulting to leuy war can amount only unto words, and words only are not to be treason, according to Cook and Hales, and Pine's case 4 Car. pr. 1.

Consulting to leuy war is noe overt act of compassing the king's death, as is sayd expressly by Cook and Hales; assembling to consult, can amount unto no more than to consult, and, legally considered, can be no more then

then consulting, it being impossible in law or nature to consult without assembling, that is, comming together, soe as assembling to consult is noe more than bare consulting, that is, bare words.

That consulting, and sending into Scotland, if it had bin true, were noe more then to consult with thoes that were to comme; that all this being testified only by the lord Howard, had bin inualide, though their credite had bin good; as appears by Blake his law, and the popish lords now in the tower, who are thought to hold their liues only upon the weaknesse of one witnesse, though there were many concurrent circumstances. Whitebread's tryall was put off for the same reasons: and, beside that hath bin already sayd of the papers, I ought to haue added the absurdity of pretending, that such as had been written many yeares agoe, not perfected, nor to be perfected, in a long time, perhaps neuer, and neuer shewne to any man liuing, should be intended to stirre up the people; wheareupon a new tryall, an arrest of judgment, should be giuen; but I could not be heard: and though I did attest God and man, that I had not bin sufficiently heard, the chief justice with his usuall precipitation pronounced judgment of death against me as a traitor.

Somme that were present, affirm, that he acknowledged the late pretended plot did not affect me: but I confesse I did not obserue that, and think myself obliged unto him in nothing, *but that he seemed to lay uery much weight upon the Old Cause, and my engagement in it, with which I am so well satisfied as contentedly to dye for it.*

When I heard the judgement, to the best of my remembrance I sayd theis words.

Why then, oh Lord, sanctify, I beseech thee, theis my sufferings unto me; sanctify me through my sufferings; sanctify me through thy truth; thy word is truth; impute not my blood unto this nation; impute it not unto the great city through which I shall be led to the place of death; let not my foul cry though it lay under the altar; make no inquisition for it; or, if innocent blood must be expiated, *let thy uengeance fall only upon the head of thoes, whoe knowingly and maliciously persecute me for righteousnesse sake.*

The chief justice then speaking, as if I had been a distempered man, *I held out my arme, and desired any that were present to feele my pulse, and wheather any man could be more free from emotion; and I doe professe, that soe far as I doe knowe and did then feele myself, I was neuer in a more quiet temper; glory and thanks be unto God for euer, whoe had filled me with comforts, and soe upholds me, that hauing, as I hope, through Christ uanquished sin, he doth preferue me from the feares of death.*

The chief justice hauing performed this exploit, is sayd to haue bragged unto the king, *that noe man in his place had euer rendered unto any king of England such seruices as he had done, in making it to passe for lawe, that any man might be now tryed by a jury not consisting of freeholders; and that one witnesse, with any concurrent circumstance (as that of the buying the knife),*
was

Charondas for the Carthaginians, from Saturn; Lycurgus for the Lacedæmonians, from Apollo; Draco and Solon for the Athenians, from Minerva; Numa Pompilius for the Romans, from Egeria; Zamolxis for the Scythians, from Vesta; and all these as truly, as Mahomet had his Alcoran from the angel Gabriel. This sort of doctrine went current enough while monkery and ignorance sat in the chair; but now, in an age of history and human reason, the blind traditions go hardly down with us: so that *Jure Divino* at this day makes but a very litigious title.

Nor is it consistent with the brevity of a letter, to observe minutely how long the remains of the Roman domination continued amongst us; as, namely, that the Roman was the only authentic language for judicial matters in Germany, till the reign of Rodolph the first, about the year 1287, in England till Edward the third, in France till Francis the first. But in church-affairs, that old mark of slavery is not yet worn off: the spiritual emperor will remit nothing, he still holds his vassals to the Roman tongue even in divine service; only in England, and where the reformation has prevailed, this, with the other appurtenances of Roman bondage, are no longer necessary.

Nor is it proper in this general draught to reflect on all the several steps, and little dispositions to change, in each nation. As, how sometimes a practice has prevailed against the form and letter; sometimes the form of words has been necessary, but the practice obsolete. The use in commissions of the phrase, "*pour enjouer tant qu'il nous plaira,*" was not known in France till Lewis the eleventh tried its virtue; which occasioned their parliament, anno 1467, to ordain that notwithstanding the clause, "*tant qu'il nous plaira,*" offices should not be void, save only by death, resignation, or forfeiture, as Pasquier in his *Recherches* informs us.

SECTION VIII

OF THE THREE ESTATES; AND FINALLY OF KING-CRAFT, OR TRICKS OF STATE

But, peradventure, since it has been so much controverted of late among us who are the three states, and the word occurring so frequently in the German tongue, you may expect some account who they be, that have the name of states in Germany.

They express the word states in their own language, and call them *stände*, and *reichs-stände*, because, says Goldastus, the empire stands and rests upon them, as upon its basis and pillars. "*Status imperii dicantur, quod in illis, ceu membris, id est, basibus et columnis, ipsum imperium stet et subsistat.*" Those are said to be *stände*, who have the right to sit and vote in the common assembly of the empire. "*Hi quidem status, reichs-stände appellantur, ideo quod statum et locum votandi et sedendi*" in

“ in comitiis imperii habent; hâc quippe unicâ et propriâ quasi notâ, status ab aliis imperii subjectis secernuntur*.” So that all the question is, how many several ranks, or distinct orders there may be of these stände?

From Polybius, we have had a particular account of mixed governments, where he calls those that represent the monarchical, the aristocratical, and the popular state; Τρια μερη τα κρατευτα της πολιτειας †, “ the three governing parts of the commonwealth.” So the king, the senate, and the ephori at Sparta; the consuls, the senate, and the tribunes at Rome, were there the three states, and had each their particular shares in the government.

The like seems to have obtained in France, under the names of the king, the peers, and the third state: nor did the power of the clergy, how great soever otherwise, make any new distinct order, but they were mixed and included with the other states, as their learned archbishop Claude Seiffel in his treatise of the French monarchy shews us ‡.

In Germany, how the government has been shared, and who have had a right of voting in old times, we may learn from what has before been cited out of Tacitus; the “ rex,” the “ principes,” and the “ omnes,” denote the three states, who had their several shares, and right of voting in the government.

The same distinction continued still under the western empire. Hincmar, at the yearly assembly, or “ generale placitum” under Charlemagne, does comprehend all under the terms of seniores and minores ||; so that the emperor, the seniors, and the commons, seem to have then been the three states. Senior, which the Germans expressed in their ealdermen §, we may suppose, was a word which grew current in the provincial, or vulgar Roman about that time; and afterwards was diversified into sieur, and sire, and sir, and monseigneur, and monsieur, and was ordinarily applied to men in great office. “ Cùm seniori urbis nunciata fuissent, etc. ¶ Seniores loci illius, etc.** Nihil per me feci, nisi quae mihi à dominis nostris et senioribus imperata sunt ††. “ Tempore senioris nostri, etc. †† Ex parte senioris mei Caroli, etc. |||” These, and the like passages in Gregory Turonensis may shew the extent of the word; and that the seniores in Hincmar, were the same with the principes in Tacitus: nor did the signiories become hereditary till Otho the first’s reign.

But what most affected the government, and proved of greatest consequence in this affair, were the innovations that happened, in Frederic the third’s time; for, whereas, formerly, a proclamation was wont to be issued out for summoning the assembly, whereupon, “ delecti ex singulis civitatibus,” says Aimoinus, from every town and city were chosen

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the

* Arumæus Comm. de Comitibus Romano-Germanici imperii, c. 4.

† Polyb. Hist. l. 6. § 9

‡ La Grand Monarchie de France, par M. Claude de Seiffel.

|| Hincmari Epist. ad Proceres regni, § 29. Vide supra, p. 11

¶ Greg. Turon. l. 10. § 2

** Ibid. l. 8. § 31

§ Ealdermen, Sax.

†† Ibid. l. 6. § 24

‡† Consecratio Caroli Calvi, apud Hist. Franc. Script. à Du Chesne Edit. vol. ii. p. 449

||| Pactio Aquifgranensis, Ibid. p. 453

where the gospell hath of late flourished more than in any part of the world, to become a slave of the world; he will not suffer it to be made a land of grauen images: he will stirre up witneses of the truth, and, in his owne time, spirit his people to stand up for his cause, and deliver them. I liued in this belief, and am now about to dye in it. I know my Redeemer liues; and, as he hath in a great mesure upheld me in the day of my calamity, hope that he will still uphold me by his spirite in this last moment, and giuing me grace to glorify him in my death, receaue me into the glory prepared for thoes that feare him, when my body shall be dissolued. Amen.

A GENERAL VIEW OF
GOVERNMENT IN EUROPE

This GENERAL VIEW OF GOVERNMENT was printed in 1744, in a work intitled, the "Use and Abuse of Parliaments," said to have been written by the late Mr. Ralph, the historian. To this tract is prefixed the following advertisement :

" As an act of justice to the memory of a great man, it is necessary to acquaint the reader, that he stands indebted for this discourse to the celebrated Algernon Sydney."

Upon the authority of this advertisement, and at the request of a friend, the editor has annexed this treatise to A. Sydney's works ; though, by the style in which it is written, the author's manner of reasoning, and the books which are cited in it, he is convinced, that it is the production of a different hand.

A GENERAL VIEW OF GOVERNMENT IN EUROPE

INTRODUCTION

Sir,

See the effect of your commands. The want of time, of books, and assistance in this my retirement, make me very incapable of the undertaking: but my obedience and performance with a kid, will I hope be accepted, when I cannot sacrifice an hundred bulls.

Without farther ceremony or introduction, according to my apprehension, when we enquire into the authority and nature of parliaments, our thoughts should be raised above all prejudice and particularities; we should not conceive of them, as of some creature, formed and nourished under this or that constitution, but have a notion as large and general, as is that of government or civil society.

We must not be confined to the writers of this or that age, or country; but consult the universal reason and sense of human kind, where civil government has been exercised. Much less is any particular profession or faction of writers to be the only authors of credit with us, in this enquiry. Our knowledge must be something digested; and an impartial result from a consideration of all, as well times and countries, as writers and customs.

The civilians, with their Bartolus and Baldus*, are not to dictate to us on this occasion. These were bred out of the corruption of the Roman liberty; and were instruments of servitude from the beginning. Their work was, by hook and crook, to rap and bring all under the emperor's power; that was their study, that their province. But they were always ignorant of the practices of better times, and utter strangers to the just rights of a free people; their rules and their maxims were, in effect, no other, than so many stripes, so many marks, and items of slavery to the subjects.

Then, for the municipal lawyers of every nation, they also are educated under too narrow a dispensation to think justly in these matters. The letter is the sphere where they shew their activity, even sometimes, to the perverting and turning it against the reason and intentions of the legislator. Their small niceties, and their subtleties, and their inferences, are too fine drawn to bear or support a matter of this weight and circumference. Their deductions and argumentations must ever be taken with some grains of allowance; the cause here requires other forms and considerations. We are not to stick at the letter, but go to the foundation, to the inside and essence of things. By their acquaintance with the customs and laws, they may aid and direct, but not overrule; they may apply
their

*-Bartolus de Saxoferrato flourished about the year 1350. Baldus was his scholar. These works of the latter are very voluminous. Vide Hist. Literar. Hofmanni Lexicon.

their observations to strengthen the fundamental reason, but are not to perplex and subvert the form of government.

My lord Coke tells us, parliament is derived from *parler le ment*, i. e. from speaking the mind*. He might as honestly have taught us that firmament is *firma mentis*, a farm for the mind; or fundament, the bottom of the mind. My lord Coke, how sage soever otherwise, in parliament-house is no more authority than Thomas Aquinas. And take him from his ordinary element, his reasons are many times as ridiculous as his etymologies.

Then for the holy Scripture; the design of it is no more to teach us politics, than to make us philosophers. Ahaz's dial is no precedent for our time or measures; nor may the Theocracy of the Jews authorize us to fet up for king Jesus. Our blessed Saviour did not distinguish whether Caesar demanded tribute, as tribune and servant of the people; nor whether the Roman empire remained still democratical, as Caesar pretended, or was monarchical, as, in effect, it proved. The Holy Ghost neither altered the complexion, nor refined the education; but a shepherd, notwithstanding the oracles he delivered, continued the same in other circumstances, as if he never had been inspired. In like manner, wherever Christ is preached, the soul-saving doctrine in no wise operates upon the policy or civil constitutions; but leaves those affairs to be influenced by ordinary prudence and discretion.

Whether therefore it be some particular generosity in our nature, that renders us impatient of slavery; or whether the temperateness of the climate inclines us to a moderation in our government; or whether it may be some favourable aspect of the planets, as Ptolomy would persuade us, that disposes Europe to the love of liberty; so far as any record or history can inform us, that arbitrary and unlimited domination, so familiar in the eastern parts of the world, amongst us did always shew uncouth, and to be stared upon no less than their elephants: and indeed to us seem altogether inconsistent with a civil people. And it can be no more the business of the gospel to reconcile us to that yoke, than it is to emasculate our complexion and nature, to change the temper of our climate, or to turn our stars from their course.

SECTION I

OF THE ORIGIN, POWER AND ANTIQUITY OF PARLIAMENTS

All power is from God, and we are to be subject to the higher powers: this all consent to; this is doctrine alike true in Holland as in France, at Venice as at Constantinople. But where this high power and sovereignty rests, in whom it is lodged, this is a point not so obvious: nor can the Scriptures or holy fathers any way help us in the discovery. The
customs

* Coke's Institutes, p. 1. b. 2. § 164

customs and particular laws of every nation are only capable to direct us in that scrutiny.

Obedience is as much a duty, and rebellion as black a sin, where the people are king, as where a single person has the sovereign sway.

The title of king, monarch, or emperor, the scepter, the crown, the royal throne, with all the robes and pomps, and badges of sovereignty, and the precedency before other christian kings, have the shadow of majesty, but have none of the substance, as Bodin truly observes.

The Caesars were never so absolute, as when the senate had the shew, and the name of all. But afterwards when their power declined, then did their shadows lengthen, and their titles swell beyond all sobriety and proportion.

The French parliaments in their scarlet robes, know none of that sovereign power which their plain ancestors so long had exercised in their grey jackets.

The pontificalibus and formality derogates from the antiquity and independency; and our house of commons may seem in a manner, if I may so say, to have committed some kind of solecism, in taking a mace to be carried before them, but that their simplicity and plainness otherwise sufficiently demonstrates them the true, sincere, original, fundamental common-council, constituted and formed before forms and pageantries and fopperies obtained in our English world. For badge and ornament they had Jupiter's sceptre; which Plato interprets to be, not a tipt baton, or glittering engraven thing, but the laws and legislative power.

Homer has taught the world to call kings pastors of the people. We commit not the charge of our cattle to any one of the herd, nor for our sheep do we choose one out of the flock to be their shepherd; but set over them a more excellent sort of animal; some man is appointed for the neatherd, and for the shepherd, to govern and take the charge of them.

Now since for the conduct and sway over men, the world is not furnished with any species more noble than man, art supplies what is wanted in nature; an artificial man is framed a politic creature, a king that never dies, that can do no wrong, that cannot be deceived, whose councils and determinations are the result of the joint experience and wisdom of a whole nation.

Now whether this artificial creature, may be called a mixed sort of government, as the ancients imagined; or it is originally, essentially, and fundamentally a democracy, monarchical in the administration, as Bodin and our modern politicians seem to understand, this certainly is the government that always has obtained in Europe; and that which all, amidst their commotions, distractions, and convulsions, in some manner or other, with more or less success and perfection, have tended to, as their centre, and only place of rest.

If therefore the Jews had desired a king after the manner of the Europeans, their importunity peradventure might not have been so provoking to the Almighty; and we should have found another kind of catalogue of
their

their fair qualities, than that delivered us by the prophet: for, however their Asian or African neighbours might have domineered it, and blustered, a calmer gale was always wont to breathe amongst us in Europe; and, God be thanked, we are many degrees northern latitude from Og the king of Bashan, and the lands of those other giants, Amalekites and Philistines.

The first writers amongst us had their imaginations so over borne with the excellency of kingly government, that they fancied in heaven Jupiter to be the king of the gods: and yet they thought the common council so necessary and essential, that Homer represents even Jupiter, upon a great occasion, calling his *Θεων αγορην*, his parliament of the gods.

*Ζεὺς δὲ θεῶν ἀγορὴν ποιήσαστο τερπικεραυνῶ,
Ἀκροτάτῃ κορυφῇ πολυδείραδος Οὐλυμπόιο*.*

I have heard divines observe something of this kind, as figured of God Almighty from those words, "Let us make man." Those words in the plural number to them seemed to import, as if God summoned a parliament of the Trinity, to consult upon that arduous affair.

Our christian poets have taken the same liberty, and fancied this, as an image of greatness, where could be no accession to the wisdom and omnipotence.

But again, Homer (whom Plato in his book of laws mentions as a prophet, and one who reveals those things concerning government by inspiration, which are not by human knowledge to be attained) to shew the utmost inhumanity and barbarity of the Cyclopes, and their government, tells us, they neither held parliaments for council, nor had right.

Τοισιν δ' ἐτ' ἀγοραὶ βελλήφοροι, ἐτε θεμισεες †.

He joins parliament and right, as of late days Guicciardini does parliament and liberty; as if parliament, right, and liberty, were to stand and fall together.

And indeed amongst the Greeks, how many persons, excellent otherwise, have been branded for tyrants and monsters, and made odious to all posterity, because they affected a more singular and unbounded power than was consistent with the customs and constitutions of their country?

Nor was this policy less known or practised by the Latins. None of the ancient kings of Italy or Rome exercised other government than by parliament, till Tarquin the Proud with much stratagem and artifice attempted a new way: but how fatal did he find that innovation?

Afterwards when the Caesars usurped the empire, when their power was the highest, they affected to have all done in the name of the people and senate. "Neque tam parvum quidquam, neque tam magnam publici
"privatique negotii fuit, de quo non ad patres conscriptos referretur ‡." And, notwithstanding the ancient liberty and government was so run down, yet, on some occasions, the authority of the senate would be exerting itself.

* Jupiter verò deorum concilium habuit gaudens fulmine,
Summo in vertice multa-cacumina-habentis Olympi.

† Illis verò neque conciones consiliariae, neque leges.

‡ Sueton. in vitâ Tiberii, § 30

itself. They declared Nero an enemy of the state, and their sentence had its effect. Nor could the Delight of human kind, Titus, though so far engaged in love and honour, stem the authority of the senate, in favour of his dear Berenice; but was forced to dismiss her, because they forbade the bans. And in effect, the power of the senate once gone, that of the emperors signified little; the giddy soldiers broke all rules and measures. They mutinied, and made and unmade emperors, where, and when, and whom they had a mind to. So that the emperor was only tenant at will to the army.

SECTION II

OF THE ANCIENT CONSTITUTION OF ENGLAND, BOTH UNDER THE BRITONS AND SAXONS

Our botchers of history shew a jolly succession of monarchs on their file for Britain in those days; but Caesar's Commentaries are of much better credit, who represents the government of Gaul and Britain, as much the same in his time; he says of Britain, "summa imperii bellique ad-ministrandi, communi consilio, permixta est Cassivellauno, &c*." The chief command and conduct of the war, was by the common council committed to Cassivellaunus. Compare these words with what he writes of the Gauls: "Re in controversiam deductâ, totius Galliae concilium Bibraete indicitur. Eodem conveniunt undique frequentes: multitudinis suffragiis res permittitur: ad unum omnes Vercingetorigem probant imperatorem †." Here the council of all Gaul, by reason of the war, put it to the vote who should be their general; and it was carried with a nemine contradicente for Vercingetorix. And it is beyond dispute, that their government continued the same in the times of which Dion Cassius and Tacitus write. Nor is their uniformity so strange, considering the authority of the Druids, and their correspondence in both nations.

When the English and French came from Germany to people Britain and Gaul, the German liberty and moderate sway were transplanted with them; and still the common council had the main stroke in all weighty affairs; for to that policy had they also been educated. The scheme of the German government appears in these passages of Tacitus. "De minoribus rebus principes consultant, de majoribus omnes ‡." In lesser matters the principal men only, in the greatest affairs all consult. Elsewhere he says of them, "Ubi rex vel princeps audiuntur, autoritate suadendi magis quàm jubendi potestate §." Where the king or prince are heard for the reasons they bring to persuade, rather than for any authority

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* Caesar de Bello Gall. 1. 5. § 9

‡ Tacitus de morib. Germ. § 11

† Ib. 1. 7. § 57

§ Ibid.

to command. Hereby it is manifest, that in Germany also the people had their share in debating and directing all affairs of moment.

When therefore the French under Waramond, or Pharamond, came to settle and mix with the Gauls, whatever other differences might happen, in point of government they were agreed beforehand, both resting upon the same basis, the common council. Accordingly in those first days, we find them making their kings, and again, upon occasion, unmaking them by general consent. Hence come these phrases so frequent in Aimoinus, Sigebert, Eginhardus, and the other writers of those times. “*Consensu omnium Francorum rex constituitur**, *electione Francorum †*, “*secundum morem Francorum electus in regem ‡*.” On the other hand, “*Franci regno deturbant, à Francis repudiatur, depositus ac detonsus in “monasterium detrusus est, à Francis in monachum tonsoratur, &c. ||*.” Where we may note, that our authors intend by their “*per Francos*” as much as “*per consensum Francorum*,” or “*secundem morem Francorum*,” which is, by the common council, and not in any unusual, mutinous, and tumultuous way, as some might object.

Nor are we to imagine the government presently altered, as often as we find the historians varying their phrase. We must now and then be content with such words as the monks of those times were pleased to coin for us, and have new barbarous names for the same old civil constitution. Whether they speak of Germany, of the French, or of our nation, they indifferently diversify, and employ for the same common assembly amongst others, the appellations and circumlocutions following. Sometimes they call it *curia*, and *curia imperialis*, and *curia regalis*, *curia solennis*, *generalis curia*, *magna curia*.

“*Concelebranda patrum solenni curia coetu §*,

“*Curia Roncaliis jam pridem indicta coiret ¶*,”

say their poets: which is expressed in the German tongue, by “*hof*, “*königlicher hof*, *grosser hof*.” Elsewhere it is called “*congregationes*,” which the Germans render “*reichsversammlung*.” Sometimes it is called “*concilium principum, totius Germaniae concilium, concilium generale*.”^r Gunther says,

“*Concilium procerum toto de corpore regni*

“*Convocat***.”

And the monk of Paderborn, who lived about eight hundred years ago, in his annals of Charles the Great,

Et

* *Vita Karoli Magni per Eginhardum scripta*, § 2

† *Pipinus ex electione Francorum factus est rex*. Gotfridi Viterb. Chron. pars 17. c. 4. Sigeberti Chron. sub anno 750

‡ *Reginonis Chron. sub anno 750*

|| *Hildericum Franci regno deturbant*. Sigeberti Chron. sub anno 461.—*Carolus imperator, corpore et animo deficiens, ab optimatibus regni repudiatur*. Ibid. sub anno 890.—*Deposito ac detonso rege Hilderico*. Hermanni Contr. Chron. sub anno 750.—*Detonso Hilderico et in monasterium detruso*. Otto Frising. l. 5. c. 23.—*Hildericus rex Francorum in monachum tonsoratur*. Sigeberti Chron. sub anno 750

§ *Guntherus de Gest. Friderici I. l. 6*. Vide *Scriptores Rerum Germ. per Reuberum editos*, p. 371. Edit. Franc. 1584

¶ *Ibid. l. 9. p. 425*

** *Ibid. l. 1. p. 292*

Et rex Wormatiam Carolus collegit in urbem,
Francorum proceres ad concilium generale*.

“Postquam imperialia concilia cessavère, penè omnes deformitates sunt
“introducæ,” says cardinal de Cusa †. Elsewhere these were called
“conventus, conventus generalis, conventus publicus, convenire generaliter
“populum suum praecepit. Habuit populi sui generalem conventum ‡.
“Habitoque juxta morem generali conventu ||.” The monk of Paderborn
thus verifies.

“Ad Duriam vicum properant: nam rege jubente,

“Illic conventus populi generalis habetur §.

“Venit, et ad fontes fluvii, cui Lippia nomen,

“Conventum fieri procerum jussit generalem ¶.

“Publicus in Paderbrunno conventus habetur **.”

Most commonly it was called placitum.—Rex Pipinus tenuit placitum
suum in Compendio.—Habuit placitum generale Francorum ††. Rex
Pipinus habuit placitum suum in Nivernis. Regino, Anno 763 ‡‡.
—Anno 777, Placitum tenuit in loco, qui dicitur Paderbrunnâ.—
Abbas Stadenfis in Chr. Anno 811. “Imperator habito placito generali |||.”
And the aforefaid monk,

“——Conventum placiti generalis habere,

“Cum ducibus se velle suis denunciat illic §§.”

Regino calls it “synodus. Anno 770, Carolus habuit synodum in
“Wormatiâ.”—Anno 771, “synodum habuit ad Valentianas.”—Anno
772, “synodum habuit in Wormatiâ.”—Anno 775, “habuit synodum
“in villâ quae dicitur Duria.”—Anno 780, “venit ad locum ubi Lippa
“confurgit, et ibi synodum tenuit.—Convenerant multi episcopi, abbates,
“et principes ad imperialem synodum ¶¶.” Afterwards in Germany,
diet was the name that generally prevailed, as that of parliament in France
and England.

Now these quotations and authorities shew, not only that by all this
variety of names were understood the same common council, but that the
“principes, proceres, primores, duces, patres, etc.” imported no more
in truth, nor signified other manner of men, than the very same with
“populus.”

And

* Poetae Saxonici Annales de Gestis Caroli Magni, l. 1. sub anno 772. Vide Histor.
Franc. Script. à Du Chesne editos, vol. ii. p. 136

† De Concord. Cathol. l. 3. c. 33

‡ Eginhardi Annales sub anno 770

§ Ibid. sub anno 779

§ Poetae Saxonici Annales sub anno 775

¶ Ibid. l. 2. sub anno 782

** Ibid. l. 2. sub anno 785

†† Annales Metenses, sub annis 757 et 763. Vide Script. Rer. Francarum à Du
Chesne editos, vol. iii

‡‡ Chronica Reginonis. Vide Script. Rerum Germ. à Pistorio edit. vol. i

|| Alberti, Abbatis Stadenfis, Chronicon, sub anno 811

§§ Poetae Saxonici Annales, sub anno 777

¶¶ Trithemii Chronica Monast. Herfaugienfis, sub anno 838. p. 6

And the same assembly by one writer barely called "populus," or "conventus populi," is by another styled "conventus procerum, conventus principum, etc." which those terms "secundum morem, juxta morem, more solenni, ut solebat," more fully demonstrate; which seem to refer and send us back to Tacitus: "Consultant de majoribus omnes." This I the rather note, because I find Mr. Petty (amongst many other excellent memorials) observing the like in old records of parliament, where those somewhere called *populus*, and *vulgus*, and the commons, are otherwhiles dignified with the gay additions of Noble, Most Noble, Most Illustrious, Most Gracious, Seigniors, Monseigniors, and Sires the Commons; and likewise, for that some unwary and superficial readers, from this root, have propagated and improved many errors of pernicious consequence to our antient and fundamental policy and government.

The French, incorporating and growing one people with the former inhabitants, had a much easier province; they settled, and pursued their native customs and forms of government, nor met with that difficulty and opposition which in this nation attended the English and Saxons. These had a much harder game to play. These could in no wise fix, or find any sure footing, without first clearing their way, and driving the Britons up by themselves, into a corner of the land. And after much tumbling and bustle, we find them formed into a heptarchy. How regularly they moved as to civil affairs, how closely they followed their country-customs, or where they innovated and varied from their German forms and policy, in those dark times, is hard to be traced.

Some footsteps however appeared then, which remained to posterity: as the division of the country into hundreds, after the German manner described by Tacitus; besides the other royalties in the people: as that of appointing sheriffs, and choosing annual magistrates, the jurisdiction and power of life and death by our juries, etc. And, even before all came united under one monarch, we find the people interposing their authority, and, for the miscarriages of queen Eadburgâ*, providing that thereafter, "no queen should sit by the king, nor have the title of queen, but be called only the king's wife. *Gens namque occidentalium Saxonum reginam juxta regem sedere non patitur; nec etiam reginam appellari, sed regis conjugem permittit †.*" But I shall not repeat what Camden and Selden, and our other antiquaries have collected on this occasion; but Germany being the source both of our people and laws, I choose rather "petere fontes:" and thence it may be concluded how far we do "stare super vias antiquas," and continue firm upon the old bottom.

* Haec infamia ab Eadburgâ, Offae regis filiâ, ejusdem generis reginâ, exorta est, quae virum suum Brithricum veneno perdidit, et juxta regem sedens, omnes regni nobiles accusare solebat. Mat. Westni. sub anno 854

† Asserus de Aelfredi Rebus Gestis, sub anno 855.

SECTION III

OF THE GERMAN EMPIRE, THE ELECTORS, THE ENCROACHMENTS
OF CAESAR, AND THE GOLDEN BULL.

When the people and senate of Rome had transferred all their right upon Charles the Great, or Charlemagne, as the French call him, and Germany was made the seat of the western empire, one might think, if there could be an opportunity of introducing a new form of policy, this was the time. Yet Charles, so victorious, so august, so great, the like in no age before him or since ever known on this side the Alps, notwithstanding all that power and fortune, and the imperial crown that adorned him, his language was still the high German, and his government did still in the old parliamentary way go on and prosper. Therefore we find him every year with his parliament. Eginhardus, who was his son-in-law, and chancellor, says of him: "Rex sic ad publicum populi sui conventum, qui annuatim ob regni utilitatem celebrabatur, ire, sic domum redire, solebat *." And Aimoinus, "generalem conventum quotannis habuit †."

And to these parliaments, under God, so far as human reason may judge, does Hincmar, archbishop of Rheims, and chancellor in those times, ascribe his happy reign. "Secunda divisio, quâ totius regni status, anteposito, sicuti semper et ubicunque, omnipotentis Dei judicio, quantum ad humanam rationem pertinebat, conservari videbatur, haec est. Consuetudo autem tunc temporis talis erat, ut non saepius, sed bis in anno placita duo tenerentur. Unum, quando ordinabatur status totius regni ad anni vertentis spatium, quod ordinatum nullus eventus rerum, nisi summa necessitas, quae similiter toto regno incumberebat, mutabat. In quo placito generalitas universonum majorum, tam clericorum quam laicorum, conveniebat. Aliud cum senioribus tantum et praecipuis consiliariis ‡."

All this seems but a paraphrase upon the passage afore-cited out of Tacitus, as to the form of government. The princes and seniors are for the matters of less weight; the former here mentioned, was the "generale placitum," which the Germans more particularly call, "die jährliche versammlung," the yearly assembly; whose business (he tells us) was "to order the state of the kingdom."

He shews us likewise how binding these their ordinances were, and not to be contravened, unless upon the utmost necessity; not a suggested, invisible, court-necessity, but "quae toti regno incumberebat," a necessity that lay upon the whole kingdom. In effect, the parliament ordered, and he executed their orders; his office was the administration.

Amongst

* Vita Karoli Magni per Eginhardum scripta, § 1

† Annonius [Aimoinus] De Gestis Francorum, l. 4. c. 74. Edit. Paris. 1514. Eginhardi Annales sub anno 782

‡ Hincmarus ad Proceres regni, § 29. Vide Hincmari Opera, vol. ii. p. 211. Edit. Paris. 1645

A GENERAL VIEW OF

Amongst other particulars, we find him in parliament adjusting the matter of succession, as Eginhard and the abbot of Staden, anno 813, inform us; of which the monk of Paderborn:

“ Unde duces, ac primores solenniter omnes
 “ Atque magistratus, ad concilium generale
 “ Undique collegit, natoque suo Ludovico
 “ Cunctorum cum consilio jus omne regendi
 “ Tradidit imperii, successoremque paterni,
 “ Imposito designavit diademate, regni*.”

And accordingly his son Lodowic by general consent of parliament did succeed him. “ Post mortem patris, Aquifgrani summo omnium Francorum consensu administrationem accepit †.” The same author tells us that this Lodowic, “ Lotharium filium primogenitum consortem imperii constituere volens, Aquifgrani in conventu, more solito, instituto, eum coronavit ‡.”

In like manner we have the son of Arnulph chosen in parliament to succeed his father. “ Proceres et optimates ad Forachem congregati, Ludovicum filium praefati principis, quem ex legitimo matrimonio susceperat, regem super se creant, et coronatum, regniisque ornamentis indutum, in fastigio regni sublimant ||.”

Nor was this done only out of formality, and for the greater state and solemnity on those occasions; for we sometimes find them refusing to grant what the emperor laboured to obtain. Amongst other instances, we have this last named Arnolph attempting to get the parliament to make his son Zundibolch king of Lorrain. But they would not gratify him. “ WORMATIAM venit, ibique placitum tenuit volens Zundibolch filium suum regno Lotharii praeficere; sed, minimè optimates praedicti regni eâ vice assensum praebuerunt §.” But the next year he prevailed, says the same author: “ In conventu WORMATIAE, omnibus assentientibus atque colaudantibus, Zundibolch filium regno Lotharii praeficit ¶.”

Hitherto these appear to be the same Germans, “ ubi rex vel princeps audiuntur, autoritate suadendi magis quam jubendi potestate**.” And seeing that this of succession is one of those points that are of greatest importance, it is strange how the right of electing the emperors came afterwards to be left in so few hands, and to be settled in the seven only, who, in course of time got the name of princes electors. Neither the occasion, nor the time when this custom began, can be discovered. Some would deduce it from Charles the Great. Some from Otho the third, who reigned about the year 990. Others from Otho the fourth, an. 1200. Others again from Henry the second, who was emperor, an. 1001. From which uncertainty we may only gather, that the custom was very ancient: but it is not to be imagined that the other states by any public act transferred the right upon those seven.

Among

* Poetae Saxonici Annales, sub anno 813

† Eginhardi Annales, sub anno 814

‡ Ibid. sub anno 817

§ Ibid. l. 2. sub anno 894

** Tacitus de Morib. Germ. § 11

|| Chron. Reginonis, l. 2. sub anno 900

¶ Ibid. l. 2. sub anno 895

Among the fallacies and cheats of state, whereby the rich men may impose upon the poorer sort, and worm them out of all their share in the government, Aristotle reckons these: "That it be penal for the rich to be absent from the common councils, to refuse being in office, to want, or omit the exercise of arms, not to serve upon juries," etc. "But the poorer sort may use their discretion, it shall not be penal to them; they may choose whether or no they will be present in common council, bear office, be at the charge of arms and training, be empannelled upon juries," etc*. In these cases this specious liberty fools and bewitches them: for, so long as no restraint is upon them, and they are not excluded or slighted, or disrespected any way in the matter, they rather follow their private occasions at home, and the business of their family. And thus by degrees insensibly is the commonwealth and government changed; and that is effected by art and trick, which openly and fairly could never have been brought to pass.

We need not think that the Germans were over-reached by any the like sophistry and deceitful laws; but it is likely, that to many it was sufficient that it lay in their choice whether they would act or no; and in that security many sat down. Some could not conveniently spare time from their family; some were indifferent which way the world went; some could not part from their dear delights, their pots and their hounds; and some staid at home, because they could not make that shew, and appear in a pomp and equipage like their neighbours. By reason of these, and many the like weighty considerations, together with a general degenerateness, supineness, and neglect of the public, the affairs of state became abandoned, and shuffled into a very few hands; insomuch that few besides those few now called the seven electors, made any great figure, or much laboured in that sphere. But those seven were suffered from time to time by a silent usurpation to manage all, till insensibly it grew into a custom. So that (under Charles the fourth, when the privileges and rights of every body came to be stated, and reduced by general consent into a standing law) in the beginning of the Golden Bull, this ministry of the seven electors is said to be "an ancient and laudable custom."

Some will have these electors to be a committee of the whole empire, and that (there being one king, one duke, one marquis, one count, with the churchmen) all the several orders in the empire are represented by them; and consequently that their act is virtually the act of the empire. But it seems more reasonable, that this sort of aristocracy sprung up to overtop the ancient more popular government, by the negligence or inadvertency of the other orders; who were satisfied in seeing the emperor thereby effectually held within compass, and had no care or consideration farther. For all their fears and apprehensions had risen from the emperor, and provided they might be secured against his encroachments and oppression, they were content to set up those electors, to oppose the emperor, and stand as a bulwark betwixt him and them. And therefore:

by

* Ταῦτα μὲν εἰσι ὀλιγαρχικὰ σοφισμὰτα τῆς νομοθεσίας, &c. Vide Arist. de Repub. l. 4. c. 13.

by their free act in the Golden Bull, they settle and confirm to the electors that prerogative, which no prescription otherwise could have made just and authentic.

Above an hundred years before, in the church had the government changed face; an aristocracy obtained, and the election of the pope ceased to be any longer popular. About the same time, in England also, the old laws and policy ran a dangerous risk from an inundation of arbitrary power, that threatened to break down all the ancient banks and barriers. For the Normans, having come amongst us, partly by consent, partly by force, puffed up and wanton with their new acquisitions and swing of fortune, they could not well be kept within bounds. Now and then speeches of conquest and holding by the sword, and the like bug-titles, were bandied to and fro amongst the giddy courtiers, with now and then a sally and inroad upon the people, trampling property under foot. These insolences and invasions kept the nation awake, and put them upon their guard, to wait an opportunity whereby their ancient rights and customs might be reduced into form, and solemnly recognized by succeeding kings in the Great Charter. Thus was the cockatrice crushed in the egg; and an early stop put to arbitrary sway in England; and the government returned to its old centre of parliaments again.

Germany, in this juncture, lay most open and exposed: the emperor, lord of the world, and head of the nations, successor to those Caesars that had broken down all forms and fences, so that liberty and property lay waste every where before them. These owed all their power to the sword. The imperial crown, the *lex regia*, the whole bulk and body of the civil law, were wholly and entirely their own proper creatures; and what more might be devised to make a prince unlimited, uncontrollable, great and barbarous, and render him a Cyclops or a Leviathan?

But the result was, the customs and liberties of the Germans were far more ancient and more sacred to them, than any new song that the civilians could teach them. Therefore all this long rattle of imperial prerogative only armed them, and made them provide the better for their security. And as their danger was the most threatening, and armed with stronger titles and pretensions than in other nations, so have they with more care sought their preservation: and the golden bull with them was framed, and had the same effect as *Magna Charta* with us; which they strengthen and make supplements to, by new capitulations upon occasion, according as the emperors abuse their power, or tricks are devised, by colour of the letter, to elude the honest intention of that fundamental law and constitution.

Thus we see it true, in respect of sovereigns, as well as of subjects, that evil manners are the cause of good and wholesome laws.

SECTION IV

OF THE FRENCH GOVERNMENT AND PARLIAMENT

The French have no Golden Bull, nor Magna Charta; peradventure, because no king of theirs had those pretensions of conquest, as the Normans here; nor had that imperial title of the sword, and the civil laws, as the Caesars, to transport them beyond the bounds of moderation and reason: which put them upon other measures, and gave them opportunity, step by step, slyly, insensibly, and surely, to effect what more openly could never have succeeded. As in the fable, the storm and violence of the wind could not force away the traveller's cloke from him; but the sun coming silently upon him, dissolves him presently, makes him unbutton, and strips him of all. Noise and bluster make the people the more obstinate and tenacious. But things remote affect them not. They never see consequences, nor lay aught to heart that is not immediately present before their eyes. If any thing, now and then, in the course of their king's reign, happened that was shocking, all was looked upon as some personal and accidental slip only, without foundation for continuance, or without giving jealousy of being repeated to posterity.

About a hundred years after Magna Charta was established, was that project of the modern parliament in France set on foot, to render unnecessary the ancient assembly of the states, and consequently to alter the government. But the English arms gave a check to their wanton career, and for a long time diverted them from pursuing that design, or bringing it to any head. However, this new assembly or vice-parliament was cultivated and improved daily. They assumed all the power, they consulted and determined the weighty affairs: and, in case the king offered any violence to the laws, they encountered and opposed his exorbitant courses; they laid before him his coronation-oath, and plied him with remonstrance upon remonstrance, till they brought him to reason. Neither war nor alliance could be made, nor could his edict or command have effect, till ratified and approved by them. So that to the unwary multitude these served the turn as well; these were as effectual and sufficient, and more ready and expeditious than the great old parliament.

But afterwards came new-fashioned kings to reign, who would not be overcome by reasons or remonstrances. And yet then also, was a formal compliance of this parliament thought necessary; and, as an expedient, when not satisfied in conscience that an edict ought to be ratified, was introduced that clause, *mandato regis*; which imported, that they did not ratify such an edict upon their own judgment, but that they were overruled by the king's particular command. Afterwards again came the *expresso mandato*, and *expressissimo mandato regis*, according as they passed

it with a greater reluctance, and greater violence had been offered to their judgment.

But Henry the fourth, who had fought through all opposition into his kingdom, and had subdued to his will all that had faced him in the field, grew impatient, after so great contrasts, to find his resolutions crossed, and contested by tame gownsmen; therefore, to rid himself at once of all those verbal frays and formalities, made a law, that thereafter the king's edicts should be ratified and emologated * upon sight, without more formal trifling and dispute. Thus were those remains of sovereign power, that had survived in this diminutive parliament, baffled and extinguished, without much labour: but as they never possessed the vigour and spirit of the ancient assembly, the people were never so stupid to trust, or lay much stress on their valour and performance: and therefore did more early show their resentment; nor, without a general convulsion and civil war, could bear the apprehension of a court-design to lay aside the old parliament.

It was the boast of Lewis the eleventh on this occasion, that he had "mis la royauté hors de page†". He had so ordered matters, that the royal state should be no more a pupil; in him it came of age to dispose things, and act of its own head, and should not need to be tutored, or be under a guardian any longer. This was a prince of a particular humour, and of singular endowments. It was no wonder if he did not like the check of a parliament; he had before attempted by two or three rebellions to free himself from the authority of his king and father. The good old king Charles the seventh, weathered the open violence, but fear of poison overcame him; infomuch, that he durst neither eat nor drink any thing, but after five days fasting died. And now Lewis being king, his first work was to clear the court from all who served his father, and pack off all the princes of the blood, and ancient nobility, and to create a new set of nobles and courtiers for his purpose. The people took the alarm, and clamoured for a parliament to regulate disorders, and prevent the evils that threatened and hung over them. A parliament! a parliament! was the cry and expectation throughout the kingdom. The bishop of Paris and clergy, the courts of justice, and the city, the three bodies of greatest consideration and gravity, presented to him their several remonstrances. He, dissembling being his talent, took all kindly; and to break their discontents, or divert them, took six persons out of each of their companies, to be of his ordinary council, in shew only; for in effect he was still the same. And amongst the profligate rabble about the court, there wanted not in the mean time a sort of wretches who made an hubbub, and, as formerly, declared their detestation and abhorrence of their practices who had importuned the king with the remonstrances, and called it an unparalleled violation of their duty. Nay, Philip de Comines tells us, the courtiers went so far, that they called it rebellion to mention a parliament. Nor was it strange such cattle should then

* Emologare, i. e. confirmare. Vide Glossarium à Du Fresne.

† Mezeray, en la vie de Louis xi

then be sheltered about the court, when a mountebank was set up for lord chancellor, taylors and barbers, Jean Doyac, Olivier le Diable dit le Daim, &c. the prime ministers of state*.

This jarring and misunderstanding was followed by a civil war, which was called "the public good." This produced a parliament. And this parliament would no longer trust Lewis, single with the administration of affairs; but appointed him thirty six commissioners, curateurs, to be his assistants †. However, Lewis's excellency lay in playing an after-game. In the war, he had sent to his ally Alexander Sforza ‡ for aid; who returned him answer, that men he had none to spare, but would give advice which should be as effectual; so the Italian advised him, "always to agree with his enemies upon any conditions, and then find the opportunity to cut their throats." According to this, Bodin speaks of him, "pacem inire coactus est, sed eos omnes, paucis admodum exceptis, clam aut apertè necandos curavit; fratrem quoque Carolum veneno" §.

This is the dexterity which Comines so much labours to gloss over, and set a countenance upon; these the belles actions, and the finesse, which the modern French so much celebrate at this day; all is copied from this original. Perjuries and poisons were his ordinary arms, yet none so devout, none so superstitious, none made the like largesses to the church. But his masses and pilgrimages did always portend some strange horrid murder about to be executed. These were but personal vices; his cajoling the citizens, and affected gallantry to their wives, was politic enough. But what proved most effectual to his design of changing the government, and excluding parliaments, was his laying aside the franc-archers; who hitherto had been the train-bands, and ordinary militia of the country.

In the war, called "the public good," he found that those franc-archers, being men of a settled habitation and way of living, took part with their landlords and neighbours against him; therefore from thenceforward he slighted them, and by beat of drum from town to town, gathered and listed such as voluntarily offered themselves to his service. These were then called adventurers, because they fought their adventure by the fortune of war; as, afterward, when Charles the eighth carried them over the Alps, they got the name of foldiers, from the *fold* or pay they received upon that expedition. But as this Lewis could not trust the militia, so within a little time he began to think himself not safe amongst his adventurers. These yet were not remote enough from the interest of their country, and had some small sense of

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* Olivier le Diable, barbier du roi Louïs xi, avoit changé son surnom, fort convenable à ses moeurs, en celui de Daim. Doyac étoit homme de même trempe. Mezeray, en la vie de Charles viii

† Hotomanni Franco-Gallia, c. 18

‡ Francis, not Alexander, Sforza.—Phil. de Comines, de Serres, and other historians, tell us, that Sforza sent Lewis 3500 men under the command of his son. Comines, l. 1. c. 8. De Serres en la vie de Louïs xi

§ Bodinus de Rep. l. 5. p. 953. Edit. Urfel. 1601

its oppression. Thereupon for the more immediate guard of his person, he takes into pension four thousand Switzers; and by that establishment, seems to have completed his design, and altered the old parliamentary into a military government. And now it was not so hard a matter to borrow money of the citizens, and otherwise make those levies which no king before him ever attempted. Thus it was that he brought the royalty "hors de page"; or, rather (according to the paraphrase of their historian Mezeray) "hors du sens, & de la raison*."

Though in Germany the condition of their parliaments is not altogether so deplorable and desperate; yet of later times there have not wanted lusty endeavours by force and by artifice to destroy them. Right and wrong are ever the same, but times and manners vary faces very much. One while, instead of all other penalty for a crime, it was sufficient that the law censured it with an *improbè factum*. To say, he that does so, or so, is to blame, was more effectual and coercive in those saturnian days, than are racks and gibbets with us.

"Radamanthus's way of administering justice in all causes between party and party was by putting them both to their oaths, and determining their right accordingly. This, says Plato, was a proper and ready way in that age, when every body was possessed with the fear of God. But, says he, this would not do now in our times, when some make it a question, whether there be a God or no; others make a doubt whether God regards what we do on earth; most and the worst of men have a conceit, that though there be a God, yet they can pacify him with their vile adulations, their mummeries and their masses; so that they may still be as wicked as they please. Therefore, says he, when men's opinions are changed, the laws also must be changed; for, otherwise, if our judges now were to make Radamanthus their president, we should all be over head and ears in perjuries †."

The like may be observed in relation to sovereigns. In old times, at first there was only a simple confidence between them and their people; and never were kings so reserved, as then when they had no bounds. Afterwards, the misbehaviour of some princes introduced that check of a coronation-oath. And where that is the only check, it is an argument they had never yet been there tainted with the atheism and infidelity which Plato mentions; but had continually lived and ruled with that simplicity and religious fear, so memorable in those days, when Minos and Radamanthus were king and chief justice of Crete. Claude de Seiffel reckons several refrains, bridles, that curb the French kings; but now when the old parliament is obsolete, this would be remarked upon, as a graceless, unmannerly metaphor in their refined language ‡.

* Mezeray, en la vie de Louis xi

† Plato de Legibus, l. 12. p. 987. Edit. Ficini, 1602.

‡ La Grande Monarchie de France, par M. Claude de Seiffel.

SECTION V

A TRANSITION TO THE REPUBLIC OF VENICE; OF THE STATES OF THE EMPIRE, THEIR POWER AND PRIVILEGES, AND OF THE IMPERIAL PREROGATIVE

In the state of Venice, at first their prince was as absolute as any barbarian; till having strayed, and given some instances of human frailty, new curbs and new ties were devised for him; but the Italian proved still too witty to be held by any. The Venetians, however, would not be dallied withal; they would not suffer the transgressor to rejoice long in his extravagance, but pursued him with exemplary punishment. Sabellicus reckons to the number of twelve that lost their heads for slipping their bridles. At length, when the Venetians found that neither the simple trust was sacred, nor the coronation-oath inviolable, nor the exemplary punishment effectual, to restrain their prince within the bounds that were consistent with a free people, they concluded, that the public safety could not be sufficiently provided for, and secured against their prince, till they stript him of all the reality and substance; leaving him barely the formalities and trappings, and empty shadow of sovereignty.

Now to come back to the Germans. Whatever shifts other people have been put to, to maintain their liberty, they, it should seem, never trusted the sovereignty out of their own hands; so that, whether it be a mixed, or what other sort of government you call it, the great affairs were always reserved to be determined in parliament; there was the supreme power, there was the majesty. Yet no people have been forwarder in adorning their prince with all the titles and expressions of greatness, and an arbitrary, uncontrolable power than they. All the acts and laws run in his name, and are called Caesar's laws, and Caesar's constitutions. Where the emperor and the empire are named, he constantly has the precedence. In the public ordinances and recesses, every thing from him are stiled precepts and commands; from the states merely obedience and prayers, though he cannot wag a finger without their consent. They every where speak of, and own in him a fulness of power "vollkommenheit;" and this they give also to the king of the Romans at the same time, to shew the emptiness and vanity of it: as both are called heads of the empire, though the latter has no power at all, during the emperor's life. They and all the world salute him by the title of imperial majesty. And the German style will not allow majesty to any other kings; "die königliche würde," not "die königliche macht," the king's worship, not majesty. Yet after all, Æneas Sylvius says, "Quamvis imperatorem, et regem, et dominum vestrum esse fatemini, precario tamen ille imperare videtur, nulla ejus potestentia est*." The shadow and flourish only were

in

* Æneae Sylvii Germania, c. 43.

in the emperor; but the *jura majestatis*, the *vis imperii*, the essentials of majesty were always reserved and exercised by the common assembly, as by the particulars more plainly appear.

1. One of the rights of sovereignty is to be above the law, and to give laws to the people. Neither of these royalties belong to the emperor; he may be called to account for violating the laws. In the Golden Bull, the forms and proceedings against him are stated. It is there said to be the custom, and accordingly settled and agreed for law, that the electors may impeach the emperor, in the assembly of the states; and the count Palatine of the Rhine, as chief elector, is to be the president or judge. For the legislation, or making laws, the emperor proposes, the states are free which propositions they will proceed upon. When an act is to be passed, the electors have six votes, the princes six, the cities two, the emperor has but one, the last vote. Without a majority he can do nothing. They can decree without him if he is absent. The ordinances are to be confirmed by his seal and subscription; but if the states persist, he must of necessity comply. Even Charles the fifth in vain contested that point, as may be seen in Sleidan*. These sanctions are regularly subscribed by Caesar, and by some of the states for the empire; and are enrolled at Mentz, in the chancery of the empire. The several members of the states are sworn to be true to the emperor and to the empire; and are said to be subjects of the emperor, and of the sacred empire.

2. In matters of religion, in all times, the head of the state had the supreme direction, as it was said of Tiberius, "*Deum munere, summum pontificum, summum hominum esse* †." And the first christian princes, before the papal tyranny usurpt upon them, were always the chief pontiffs, and received the pontifical habit from that college. But upon the reformation in Germany, Anno 1555, both the emperor and Pope were excluded, and their pontifical supremacy abrogated. In the point of religion, the emperor was not considered as the chief and head of the empire, but as a party: for by joining himself to the Roman-catholics, he made their cause and concern his own. It was therefore agreed and concluded, that the states only should determine in matters of religion; and that with a tender hand, in an amicable way only.

3. War and peace are transacted in the name of the emperor; but in effect, all is reserved to the states. He must at the least have the consent of the electors. Yet any prince of the empire may levy soldiers, may make leagues and associations without any body's leave.

4. For jurisdiction and the last appeal, the civilians say the emperor is "*fons omnis jurisdictionis*;" but here it is far otherwise. The princes, in causes touching their life, their honour, or their fee, always claimed their privilege "*das fürsten-recht*" they call it, to be tried by their peers the princes of the empire. The common pleas were tried by the emperor, and attended his motion, till by the increase of suits, that judicature

was

* Comment. de Statu Relig. et Reip. Carolo V. Cesare, l. 4

† Tacit. Annal. l. 3. § 58

was no longer sufficient, the judges grew corrupt, and many other inconveniences appearing, the states in their assembly at Franckfort, Anno 1489, ordered a place certain for the decision of those ordinary causes; whereupon the imperial chamber at Spire was erected. All the process and decrees of the court ran in the emperor's name, and are under his seal; and it is called Caesar's court: but it is also called the court of the empire. The emperor only named the president; by the states were the rest of the judges appointed; and the other officers of the court by the elector of Mentz, arch-chancellor of the empire. The states likewise execute the sentence. They visit and reform the court by their commissioners; and to these visitors are the appeals, not to the emperor. Yet some voluntary references that were made to the emperor and his privy-council, and to their arbitration, gave them opportunity of late to usurp a jurisdiction.

5. Taxes are all levied in the emperor's name; but in truth, nothing of that nature can be done without the assembly of the states. Nor is the emperor trusted with the money in his exchequer; the states keep it till it be employed; they have their several treasuries. Sometimes the several circles keep their respective money; sometimes a public treasury is agreed upon, and one or more "pfenningmeisters," penny-masters appointed. Anno 1495, they ordered seven treasurers, one to be named by the emperor, and six by the states. These swear to the states. And if any be, by special oath or obligation, bound to the emperor or other particular state, he is incapable of that trust. These are accountable to the states only. If the occasion for which the tax was raised be taken away, the money cannot be diverted to other uses, but by the consent of the states.

6. The chief magistrates are, none of them, made by the emperor. The count elector Palatine is vicar or protector of the empire, and has the charge of it in the emperor's absence. The three ecclesiastical electors, who are chosen by their chapters, are of course the arch-chancellors of the empire. The states appoint the "reichs-schatzmeister, or "reichs-pfenningmeister," the treasurer of the empire. Sometimes they leave the general to be named by the emperor, and the ten circles appoint their several directors or council for him. For the other particulars, as the inspection and care of coining money, the hearing and sending ambassadors, etc. the emperor has no great matter of advantage above the other states. On a common account, where the concern is general, the states must be consulted; and nothing can be done without their consent and approbation. The electors are in possession, and exercise a particular sovereignty in some points of greatest moment. They are the trustees and representatives of the whole empire, in their election of the emperor. And hereupon they undertake likewise to loosen his power, or tie it up short, and make what capitulations they please with him: and thereby would assume to themselves more than the other states will ever be content to allow them. But the emperor singly, besides the name, and pomps,
and

and empty titles, has very little of the substantial sovereignty entrusted with him. The investiture of the great fiefs belongs to him. This is a prerogative, goodly in shew, and were of moment, could he lay any conditions or charge on the person invested; but nothing is left to his will; he cannot deny, nor delay the lawful heir. Nor does the fee for want of heirs escheat to the emperor, but to the public patrimony. He grants privileges, where a third person or the public is not injured. He founds universities, grants fairs, makes denizens, etc. He creates kings, princes, dukes, marquises, counts, poet-laureats, doctors, etc. He gives only the bare, titular honour of prince, but not the qualifications; he cannot make him capable to sit and vote amongst the other princes of the empire. So that here the states are not subject to that imposition which the Roman senate once suffered under Tarquinius Priscus, who created an hundred new senators, to the end he might be sure of a court-party, by his creatures, and have a majority of votes in the house. In short, the Germans seem to have observed the rule in politics, that he who is the most high in name and dignity, should in real power be the least considerable. Yet in the last age, the states gave way to several innovations, which proved of mischievous consequence afterwards.

SECTION VI

OF THE REGIMENT OR DIET OF THE EMPIRE, WITH A SHORT
RETROSPECT TO THE PARLIAMENT OF FRANCE, AND PANEGYRIC
UPON THAT OF ENGLAND

It had antiently been the custom for the assembly of the states, to send for the emperor to come to them upon occasion; so Hincmar tells us of Charles the Great, "Rogatu ipsorum in concilium veniebat, quotiescunque voluntas esset ut ad eos veniret; similiter quoque quanto spatio voluissent, cum iis confisteret, etc.)* " Upon their message to him, he came to the assembly, as often as they had a mind he should come to them; and "in like manner he stayed so long with them as they desired:" and this custom continued, as may be seen in Lehmannus, l. 7. c. 80. and c. 115. till under Maximilian, and then the states began to go to the emperor.

This Maximilian likewise, upon pretence of sudden occasions that admitted not delays, would, now and then, be acting singly, and usurping in several particulars the power that of right could only be exercised by the states. Therefore the states, an. 1500, to take off these pretences, and prevent all attempts of this kind, and partly, peradventure, for their own ease, substituted in their absence a committee, which they called the regiment, and the members regents. This regiment was an epitome of the whole empire, and was endued with all the powers and sovereignty accordingly.

* Hincmarus ad Proceres Regni, § 35

accordingly. It consisted of twenty persons, who were chosen out of the several orders of the states, and took an oath "to be true to the emperor, and to the sacred empire." The emperor, or his proxy, was their president; but, lest this might give too great advantage to the emperor, an elector was added, as a joint-president with the emperor, or his proxy. No person of dependance on, or particular obligation to the emperor, was capable of being a member. The emperor had no more vote than any one of the twenty regents; nor could determine aught, unless the majority were for him. These were not simply to consult, but had the execution also.

This constitution held for some years; and then the annual assembly returned, and resumed their power, and acted again; but in case of sudden necessity, left another expedient for the emperor. They constituted for him a counsel consisting of eight persons, four chosen by the electors, and four by the other states. These were sworn to be true to the emperor and to the empire, "schweren der keyserlichen majestät und dem heiligen reich getreu, &c." But Charles the fifth coming to reign, he went upon the new model immediately; he restored the regiment, but made the conditions altogether different. Now it consisted not of twenty, but twenty two persons. He as emperor would have two votes added, thereby in effect to be master of five votes; two as emperor, one as president; one for Austria, and one for Burgundy. The former regiment might, according to the old custom, send for the emperor to come to them. Now it was ordered that Caesar might call them to what place he had a mind. Formerly, if the emperor came not, they might proceed without him; now, Charles the fifth forbade them to make leagues and alliances, or do aught in his absence. The oath was altered, and the members were only sworn to the emperor, and said to be the counsel of the emperor; whereas the former was called the counsel of the empire. In the former constitution, the elector in the name of the empire subscribed their ordinances; here, with the elector's subscription, is joined that of the president, in the name of the emperor. In short, the former was constituted by the states, and entrusted with their power, to be a check upon the emperor; this was formed by Caesar, to quiet the people, and entertain them with a shew; whilst he the more insensibly made his advances to invade their ancient rights, and usurp all the power into his own hands.

The next project, in case of emergencies, was the assembly of the deputies. This consisted of the six electors, six other princes, and two cities; to which were afterwards added four princes more. This continued till the year 1606, with some effect. Afterwards it proved of little consequence, court-artifice prevailing; and the Ferdinands found a way to manage the deputies, and render them as unprofitable to the public, as Charles the fifth had made the regiment. The second Ferdinand called what deputies he knew would vote for him; the rest he excluded, and supplied their place with others, who he understood were entirely at his

devotion, as he told my lord Digby, ambaffador with him, an. 1621*. Amongft these projects, may be mentioned the counfel of the emperor's court, and the privy council. These alfo, that they might fhew as if the empire had their intereft in them, were at the firft fworn to the elector of Mentz, as arch-chancellor of the empire: which oath came, after fome time, to be omitted.

Thus we have feen that the custom of the empire was to have a yearly affembly; thefe, at the end of their feffion, always appointed the time and place for their next meeting. If there was neceffity for them fooner, then was the emperor to call an affembly extraordinary; which happening frequently, the ftates for their eafe appointed the regiment, and other expedients. This gave a precedent for the emperors to devife fomething of the like nature, which they might more eafily pervert to their own arbitrary intereft and advantage. If it have but the name or refemblance, the people look no farther; they fee not into the trick and fecrets of it; they are led by the appearance fo long, till they are paff recovery, and no way is left them for a retreat. And indeed the emperors of the laft age ceafed to deal bonâ fide; the old German honefty wore out of fafhion; and they no longer treated on the fquare with their people. Artifice and juggle came in place; and in the days of Charles the fifth, began to get a fpecious appellation, and be named, forfooth, "reafon of "ftate." But more efpecially, fince the Jefuits there, have refined upon the court-fophiftry, and minced away all the old remains of morality and confcience; for the Jefuits could the worft of all others endure thefe fame mixed governments. They would have the pyramid inverted, and the whole ftrefs of things reft upon one fingle leg, that their art might play the more freely, and they the more cleverly trip it down. This broad-bottomed monarchy and government, founded on the people, puts them to other meafures. A dofe of poifon, or confecrated dagger, will not do the work: they muft here go about and about, make flow approaches, ripen a plot of many years, and draw a long concatenation of intrigue, ere they can think to compafs their defign. When the commonwealth has but one neck, the Jefuit will have it under his girdle; if not, one blow does the feat, and his dexterity is admirable. Therefore in Germany the Jefuits have left no ftone unturned, for their part, to bring all the fovereign power from the ftates to the emperor. And to that end, of late times, the emperor (whether by their influence upon his councils or no, is not our enquiry) has employed all the undue praćices, and fet all engines at work, to render the public affembly ufelefs, burthenfome, and odious to the people. On this foot, care has been taken, that fome vexatious tax fhould be the only refult and conclufion of every feffion. "Aid "againft the Turk" was a conftant, perpetual pretence; money the head of all his propofals; money the effect and fubftance of all his fpeeches. This affair once adjusted, other debates were out of doors; grievances not then longer to be touched upon, but all adjourned to another feffion; besides

* Lundorp. Tom. 2. an. 1621

besides the mischievous devices to embroil the states amongst themselves, and turn all their heat upon fruitless disputes and altercations.

In the second place, the electoral college have not been too fair in their respects to the diet. These could be content, that betwixt Caesar and themselves, all the matters of state be transacted; and have sometimes, accordingly, stretched a text of the Golden Bull to serve a turn, and colloqued with him, that he again might be complacent to them; till, amongst them, the public patrimony and common right and prerogatives of the empire became engrossed in a few hands, and made a spoil to their unreasonable ambition. These electors must, every one, under his hand and seal, signify their consent to the emperor, before he can summon an assembly of the states. They got to themselves the making of the emperor; and now, in effect, the states cannot meet without their order. They were wont to be reckoned six electors; to some purposes seven; now they make eight; but before they fill up the number of the Roman Decemviri, they will do well to remember their fate. These ten, as Livy tells us, having got all the supreme authority, for a time, into their hands, that they might reign absolute, "took an oath together never to call the common council"*; yet their tyranny held not long; this cheat would not down with the old Romans; but with a general indignation they broke over the forms and captivity of the letter. For, according to that old law in Homer,

Ἐἰς οἰωνοῦς ἀριστοῦ, ἀμύνησθαι περὶ πατρίης †,

to free their country from slavery, they executed an unwarranted piece of justice upon these ten usurpers, or ten Tarquins, as somebody then called them.

Lastly, the states have not a little been wanting to themselves, in the affair of this their so ancient and fundamental prerogative: one principal cause of which, amongst many others, has been their differences about religion. For the protestants being sure to be outvoted in the diet, think they can barter with Caesar for better conditions, and are therefore well enough content that the yearly assembly be neglected. In a word, the German diet is still on foot, rather encumbered, and clogged, and puzzled, than destroyed.

The parliament of France seems quite antiquated and subdued; the ghost and shadow of the defunct has appeared three or four times since Lewis XI; but to revive that assembly in its full and perfect vigour, requires a miracle like the resurrection. So that in effect, we may date the demise of the parliamentary sovereignty in France, from Lewis XI; and the decay of that in Germany from Charles V.

It is in England only, that the ancient, generous, manly government of Europe survives, and continues in its original lustre and perfection. Were there not something in that saying of the emperor Maximilian,

* *Opinio sine auctore exierat, non in praesentis modò temporis eos injuriam conspirasse, sed foedus clandestinum inter ipsos jurejurando ictum, ne comitia haberent, &c. Liv. l. 3. § 36*

† *Unum augurium est praestantissimum, pugnare pro patriâ. Il. 12. v. 243*

“ that the French king is a king of asses ;” yet, however, that same legereté, on which the French so value themselves, is but, in plain English, a lightness of humour, by which they are easily piped into a new mode of government. But our English ancestors have always been of a more steady principle, more wise, and more weighed, than to dance after their politics. The reformation of religion leaves no room at our court for jesuitical infection, so fatal to the Germans. Nor, on the other hand, have we yet had any Swiss guards, or Lewises for our kings. Ours have still been true English originals, no copies of the French. Magna Charta, instead of being superannuated, renews and recovers its pristine strength, and athletic vigour, by the Petition of Right, with our many other explanatory or declaratory statutes. And the annual parliament is as well known to our laws, as ever it had been famous amongst the customs of France and Germany.

I have not formally answered many objections that might be started; nor much regarded the single instances of some historians, and perhaps may be judged lame in several particulars that I have slighted. Take all together, you may as easily find an answer, as raise a scruple. But the short of what I would have said, is, you are not to expect truth from an historiographer royal; it may drop from their pen by chance; but the general herd understand not their business; they fill us with story, accidental, incoherent, without end or side, and never know the government or policy where they write. Even the records themselves are not always accurately worded. The stile of the court, and a form of words, imposes upon many. Names are taken for things, ceremonies for essentials. The civilians are vassals to a foreign jurisdiction; Caesar, the sword, the military, imperial (or rather imperial) discipline, is to them for sceptre and civil policy: the Germans, anno 1441, were for excluding them from all offices, and places of trust*. Our common lawyers are for comparing and measuring by their rule, what is antecedent and above their rules and comparisons. Christ's kingdom is not of this world; nor ought the divines *πραγματευειν*, to meddle in this political province.

SECTION VII

OF THE NECESSITY OF PARLIAMENTS; WITH A TRANSITION
TO THE CONSTITUTION OF ENGLAND.

In the general notion, monarchy or kingly government is the most easy, and most excellent; but corruption coming into the world, neither the sons of Jupiter, nor the sons of Hercules, found perfection entailed upon them; nor were exempt from their share of human frailty. “ Many, “ says Taffo, are servants by fortune, who are naturally princes; some “ again, though descended from an hundred kings, are yet born to be “ slaves;

* *Limnaci Jus publicum Imp. Romano-Germanici*, l. 1

“ slaves; and (maugre all their high race of royal progenitors) will be
 “ commanded, and governed, and managed by a minion, or a mistress.
 “ These are, really and indeed slaves; but are not judged such, because
 “ the people, who only look on the outside, judge of men’s conditions,
 “ as in plays, where he is called a king, who, clad in purple, and
 “ glistering with gold and gems, does personate Agamemnon: if he
 “ does not represent him well, he has the name of king nevertheless;
 “ only it is said, the king was out in his part, or the king acted his
 “ part scurvily*.” And Flavius Vopiscus tells us, “ Aurelius Caesar
 “ dicebat, Colligunt se quatuor vel quinque, atque unum concilium ad
 “ decipiendum imperatorem capiunt: dicunt quid probandum sit. Im-
 “ perator, qui domi clausus est, vera non novit; cogitur hoc tantum
 “ scire, quod illi loquuntur; facit iudices quos fieri non oportet; amovet
 “ à republicâ, quos debebat obtinere. Quid multa? ut Diocletianus
 “ ipse dicebat, bonus, cautus, optimus venditur imperator †.” “ Aurelius
 “ Caesar was wont to say, four or five get together about the emperor,
 “ all their consult is, how to cheat him; what they say is to be law; the
 “ emperor, who is shut up from other counsel, never knows the true
 “ state of things, but is forced to understand just so much only as they
 “ tell him; he makes judges, who the least of all should be; turns out
 “ of commission those who ought to be the Quorum; in a word, accord-
 “ ing to Dioclesian’s saying, the emperor, so good, so wary, and so too
 “ good, is bought and sold before his face.”

If then it be true, that he who is of royal extraction, clad in purple, and called a king, is not always naturally such; it was wisdom, certainly most seasonable, to find the means that might correct, and, as it were, ensure nature against the impotence and tyranny of the minion or mistress which Tasso mentions. And if the observation of Aurelius Caesar be just, that cabals are so pernicious; and that four or five persons, who get the prince into their hands and possession, shall abuse, and cheat, and betray him to his face, in spite of all his goodness, his caution, and royal virtues; if, I say, these things be true, the necessity of parliaments cannot be disputed. Homer, as before observed, reckoned it barbarity in the degree remotest from all things of God and goodness, and a Cyclopean presumption, to rule without parliaments.

Old

* Questa differenza di servo e di signore è fondata suvra la natura: perciocchè alcuni ci nascono naturalmente a comandare, altri ad ubbidire; e colui, che per ubbidire è nato, sebben fosse di schiatta di re, veramente è servo, nondimeno tale non è giudicato, perciocchè il popolo, che guarda solamente alle cose esteriori, giudica delle condizioni degli uomini, non altramente che egli faccia nelle tragedie, nelle quali re è chiamato, chi è vestito di porpora, e resplendente di oro, e di gemme, sostiene la persona di Agamennone, o di Atreo, o di Eteocle: e se avviene, che egli ben non rappresenti la persona, della quale si è vestito; non perciò altro che re è chiamato, ma si dirà, che il re non ha fatto la parte sua, similmente chi non ben sostiene la persona di principe, o di gentiluomo, etc. Il Padre di famiglia, Dialogo. Opere di Tasso, Tom. iii. p. 194

† “ Aurelius Caesar dicebat” is a mistake. “ Colligunt se, etc.” are the words of Vopiscus. Vide Flav. Vopiscum in vitâ Divi Aureliani, § 43

Old Hesiod, in his homely way, gives an enigmatical reproof to those kings that would be grasping all, and be so absolute,

Νηπιοι, εδ' ισασιν ὅσω πλεον ἡμισυ παντος,

Οὐδ' ὅσον εν μαλαχῃ τε και ασφοδελω μεγ' ονειαρ*.

as if he had said, "These fools know not, how much more the half is than the whole; and that a shoulder of mutton, with the love of the people, is more worth than the ragoûts, and the hautgoûts, and all the French kickshaws whatsoever." Plato tells us, that even in Asia, they who performed any great achievements, or enlarged the empire, were those (as the grand Cyrus for example) who slackened the prerogative, and admitted the people to a share in the government. But such as Cambyses, who, against all sense and reason, stretched and strutted upon the *το δεσποτικον*, the lordly domination, brought all again into confusion and ruin †.

Amongst the Latins, even the founder of the Roman name, Romulus, because he took upon himself an arbitrary power, to rule without the senate, they (it is thought) tore him to pieces; inasmuch, that they left nothing of his body for a spectacle to the rabble; as afterwards their successors unluckily did, who killed Caesar. The imperial power that began with the Caesars, was only "magnum latrocinium," one huge, horrid oppression. Military government, martial law, barbarous nations, Goths and Vandals, overran, and made havock of the old civil Roman empire.

In Britain, Gaul, and Germany, all this while, liberty, and a participation in the government, was the common right and inheritance UNALIENABLE; the common-council was the basis and hinge, however the administration rolled. Afterwards, when Germany gave us people, it gave us a German and a free people.

About anno dom. 800, Charlemagne, or Charles the Great, united France and Germany under one head, and one empire. All histories are full of his reign and actions: he ruled "more solenni, secundum morem," in the old customary, parliamentary way, every where. The nations round about submitted and took laws from him; and he submitted all again to the "ordinatum," the ordinance of parliament. An annual parliament was then reckoned the custom, and inviolable right of the people. And thus the affairs of state proceeded; and this scheme of government continued in Germany, till the late unhappy divisions about religion, weakning and embroiling the states, gave way to the Austrian ambition, new projects, and jesuitical artifice; so that the assembly of the states at this day keeps on foot indeed, but sick, heavy, and unwieldy.

The French court had much sooner learned the terms "de proprio motu, et potestate absolutâ," by their neighbourhood and correspondence

* Stulti, neque sciunt quanto plus dimidium fit toto,

Neque quàm magnum in malvâ et asphodelo bonum.

Hes. Erg. και Ημερ. l. i. v. 40

† Plato de Legibus, l. 3. p. 815. Edit. Ficini, 1602

dence with the pope at Avignon. But so long as the English arms kept them in mind of their mortality, it was no time for them to think of ruling without a parliament. But when Charles the seventh had sent home the English, Lewis the eleventh, with Olivier le diable, his barbers, and his cut-throat devils, thought no attempt too wicked for them. He, forsooth, was hors de page; he wanted not to be led, he was past an infant; and a loud outcry he made against the unmannerly, clump-fisted, bumpkin parliament. But when the "bien public," or war for the public good, hindered him from bringing about his design openly and directly, he compassed it, in effect, by slighting the militia, and laying his project of a standing army.

In England we have also heard of minions, and mistresses, and cabals; and have had unhappy princes. But the laws and old customs of the land, the generosity of the people, and the genius of the nation, have still prevailed, and been too strong for all their practices and machinations.

When the Normans came to the crown, after some years of ease and prosperity, they began to forget on what conditions they had entered. Conquest was a short, a compendious title, and without intricacy. And now likewise the church-men were every where agog for changing the government both of church and state, into absolute monarchy. But the best of it was, the pretences were visible and notorious. Besides that the temporal and spiritual, the prince and the prelatial lord could not agree who should be supreme. Which differences gave breath to the people, and put into their hands an opportunity to assert their antient, just rights, and bottom all upon the parliament again.

And now, since the Great Charter, and Petition of Right, and the many other declarations, what can threaten us? neither the gun-powder treason, nor the late more sacred invention of a pensioned parliament, could take effect. NO ROOM IS LEFT AMONGST US FOR A STANDING ARMY, which enslaved the French. And our franc-archers, our militia, continues after the old model. Nor, with us, as in Germany, is the Papist like to bear up against, and balance our Protestant votes in parliament; thereby to render the constitution useless and impracticable. And it may be hoped, we shall never so far give way, and be gulled by jesuitical artifice, as to find another division in religion amongst us; that may favour their designs, and, under other names, do their work as completely.

You need not be cautioned to distinguish Plato the divine, from Plato the philosopher. Poets and divines, you know, have a particular way of expression, and give their thoughts a turn different from that of other people. They attribute every thing to God; though the whole operation and train of causes and proceedings be ever so natural and plain before their face: the images they make are often taken in the grossest sense, and worshipped by the vulgar; and many times the statesman is willing to contribute to their idolatry. Hence it comes, that for the Persians, Zoroaster was said to receive his laws from Horomazes; Trismegistus for the Aegyptians, from Mercury; Minos for the Cretans, from Jupiter;

Charondas

A GENERAL VIEW OF

Charondas for the Carthaginians, from Saturn; Lycurgus for the Lacedemonians, from Apollo; Draco and Solon for the Athenians, from Minerva; Numa Pompilius for the Romans, from Egeria; Zamolxis for the Scythians, from Vesta; and all these as truly, as Mahomet had his Alcoran from the angel Gabriel. This sort of doctrine went current enough while monkery and ignorance sat in the chair; but now, in an age of history and human reason, the blind traditions go hardly down with us: so that *Jure Divino* at this day makes but a very litigious title.

Nor is it consistent with the brevity of a letter, to observe minutely how long the remains of the Roman domination continued amongst us; as, namely, that the Roman was the only authentic language for judicial matters in Germany, till the reign of Rodolph the first, about the year 1287, in England till Edward the third, in France till Francis the first. But in church-affairs, that old mark of slavery is not yet worn off: the spiritual emperor will remit nothing, he still holds his vassals to the Roman tongue even in divine service; only in England, and where the reformation has prevailed, this, with the other appurtenances of Roman bondage, are no longer necessary.

Nor is it proper in this general draught to reflect on all the several steps, and little dispositions to change, in each nation. As, how sometimes a practice has prevailed against the form and letter; sometimes the form of words has been necessary, but the practice obsolete. The use in commissions of the phrase, "*pour enjouer tant qu'il nous plaira,*" was not known in France till Lewis the eleventh tried its virtue; which occasioned their parliament, anno 1467, to ordain that notwithstanding the clause, "*tant qu'il nous plaira,*" offices should not be void, save only by death, resignation, or forfeiture, as Pasquier in his *Recherches* informs us.

SECTION VIII

OF THE THREE ESTATES; AND FINALLY OF KING-CRAFT, OR TRICKS OF STATE

But, peradventure, since it has been so much controverted of late among us who are the three states, and the word occurring so frequently in the German tongue, you may expect some account who they be, that have the name of states in Germany.

They express the word states in their own language, and call them *stände*, and *reichs-stände*, because, says Goldastus, the empire stands and rests upon them, as upon its basis and pillars. "*Status imperii dicantur, quod in illis, ceu membris, id est, basibus et columnis, ipsum imperium stet et subsistat.*" Those are said to be *stände*, who have the right to sit and vote in the common assembly of the empire. "*Hi quidem status, reichs-stände appellantur, ideo quod statum et locum votandi et sedendi*"
" in

“ in comitiis imperii habent; hâc quippe unicâ et propriâ quasi notâ, “ status ab aliis imperii subjectis fecernuntur*.” So that all the question is, how many several ranks, or distinct orders there may be of these stände?

From Polybius, we have had a particular account of mixed governments, where he calls those that represent the monarchical, the aristocratical, and the popular state; *Τρια μερη τα κρατυντα της πολιτειας* †, “ the “ three governing parts of the commonwealth.” So the king, the senate, and the ephori at Sparta; the consuls, the senate, and the tribunes at Rome, were there the three states, and had each their particular shares in the government.

The like seems to have obtained in France, under the names of the king, the peers, and the third state: nor did the power of the clergy, how great soever otherwise, make any new distinct order, but they were mixed and included with the other states, as their learned archbishop Claude Seiffel in his treatise of the French monarchy shews us ‡.

In Germany, how the government has been shared, and who have had a right of voting in old times, we may learn from what has before been cited out of Tacitus; the “ rex,” the “ principes,” and the “ omnes,” denote the three states, who had their several shares, and right of voting in the government.

The same distinction continued still under the western empire. Hincmar, at the yearly assembly, or “ generale placitum” under Charlemagne, does comprehend all under the terms of seniores and minores ||; so that the emperor, the seniors, and the commons, seem to have then been the three states. Senior, which the Germans expressed in their ealdermen §, we may suppose, was a word which grew current in the provincial, or vulgar Roman about that time; and afterwards was diversified into sieur, and sire, and sir, and monseigneur, and monsieur, and was ordinarily applied to men in great office. “ Cùm seniori urbis “ nunciata fuissent, etc. ¶ Seniores loci illius, etc. ** Nihil per me feci, “ nisi quae mihi à dominis nostris et senioribus imperata sunt ††. “ Tempore senioris nostri, etc. ††. Ex parte senioris mei Caroli, etc. |||” These, and the like passages in Gregory Turonensis may shew the extent of the word; and that the seniores in Hincmar, were the same with the principes in Tacitus: nor did the signiories become hereditary till Otho the first’s reign.

But what most affected the government, and proved of greatest consequence in this affair, were the innovations that happened, in Frederic the third’s time; for, whereas, formerly, a proclamation was wont to be issued out for summoning the assembly, whereupon, “ delecti ex singulis “ civitatibus,” says Aimoinus, from every town and city were chosen

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* Arumaeus Comm. de Comitibus Romano-Germanici imperii, c. 4.

† Polyb. Hist. l. 6. § 9

‡ La Grand Monarchie de France, par M. Claude de Seiffel.

|| Hincmari Epist. ad Proceres regni, § 29. Vide supra, p. 11

¶ Greg. Turon. l. 10. § 2

** Ibid. l. 8. § 31

§. Ealdermen, Sax.

†† Ibid. l. 6. § 24

‡‡ Consecratio Caroli Calvi, apud Hist. Franc. Script. à Du Chesne Edit. vol. ii. p. 449

||| Pactio Aquisgranensis, Ibid. p. 453

the burgeses and citizens to go their representatives to the assembly, now, so many grieved at the charge, and neglected the proclamations, that oftentimes the assembly could not proceed for want of a competent number of members; wherefore Frederic let the proclamations alone, and, instead thereof, sent particular letters to the several towns; and, henceforward, none thought themselves obliged to attend, who had not letters directed to them. Many of the poorer towns were glad to be excused, and private gentlemen left off going; so that, within a little time, the government was brought into a few hands, and every day rendered less and less popular. Those cities that preserved their share in the government, and right of voting, by continuing to send their representatives to the assembly, are now therefore called imperial cities.

Although the electoral princes had a name much sooner, yet were they still one and the same state with the other princes, till under this Frederic, in the diet at Francfort, anno 1489, they parted, and became a particular assembly, and voted severally, and from that time got the name of a distinct state, and formed a new sort of an aristocracy by themselves. Yet all this while the clergy did never set up for a separate order in the commonwealth, but always made a mixed state with the laity; mixed they are in the electoral state, and mixed in that of the princes, where the "geistlicher" and "weltlicher," ghostly and wordly, as they call them, together with the counts, barons, and other gentlemen, make but one state. They have indeed a particular bench, "die geistliche bank," to sit upon by themselves; save that the arch-duke of Austria, and duke of Burgundy only sit upon it above them.

Now, whether we fix our notion of the three states upon the doctrine of the antients, as delivered by Polybius; or call them the states, who have a right of voting, the emperor is clearly one of the states: nor is it material, that the ordinary stile and form of words seem to imply the contrary; for if the saying, emperor and the states, argues the emperor himself to be none of the states, by the same reason the form so frequent in their recesses or public ordinances, "churfürsten, fürsten und stände," that is, electoral princes, princes and states, will exclude the electors and the other princes also, from being either of them states. The form emperor and states, does no more prove him to be none of the states, than with us the saying, king and parliament, does imply, that the king is no part of the parliament.

I shall not trouble you with the disputes, what were the boundaries of Austrasia and Neustria, or whether by the devolution of this western empire, Germany was added to France, or France to Germany; or, whether more properly, Charlemagne be to be reckoned amongst the French or the Germans: his having been born at Ingelheim, as most affirm, or at Carlsburg in the upper Bavaria, as many believe; and his speaking the German tongue, with this testimony of Eginhardus: "Mensibus juxta
 " patriam linguam nomina imposuit; cùm ante id tempus apud Francos,
 " partim latinis, partim barbaris nominibus appellarentur. Januarium
 " appellavit Wintermonat, Februarium Hornung, Martium Lentzmonat,

" etc.

“ etc.*” These, I say, are urged by the Germans, as no mean arguments. But these matters concern not our enquiry.

If you cannot reconcile the emperor's being somewhere said to be “*facri imperii minister*,” and elsewhere declared to have no superior, “*nisi Deum et enfem*,” but God and the sword, Bartolus tells you, “*de verbis non curat jureconsultus*,” the intention is to be regarded before the words: the intention of the states in that declaration, anno 1338, was none other than to exclude the wild pretensions of the pope; to deny a foreign jurisdiction, not to confess or introduce any new subjection in themselves: “*limitata ex certâ causâ confessio non nisi limitatum producat effectum*.”

But I cannot conclude without some reflection on these frauds à la mode, the ruse and finesse, which the French so loudly boast at this day. Lewis the eleventh would not have his son learn more latin than “*qui nescit diffimulare, nescit regnare*.” The old Romans had another sort of spirit: we are told in Livy, “*haec Romana esse, non versutiarum Punicarum, neque calliditatis Graecae, apud quos fallere hostem quàm vivi superare gloriosius fuerit, dolo quàm virtute †*.” It is like a Roman, to deal openly and roundly; not to practice the Carthaginian legerdemain tricks, or Graecian cunning, whose glory is to circumvent; and by fraud, not virtue, overcome an enemy.

The Venetians at this day are commended for the same style. “*Il procedere veramente regio negli affari publici, il negoziare saldo, e libero, e senza artificio o duplicita; non mascherato, non finto, ma sincero, e del tutto alieno da ogni diffimulazione e fallacia*.” Their proceedings in public affairs, says our author, is truly royal; they negotiate upon the square, frankly, and without artifice, or double-dealing, not disguised, or upon the sham; but sincere, and every way far from all dissembling and tricks. And indeed the bugie and inganni, and little Italian shifts, would better become duke Valentine and the petty princes, than any kingdom or commonwealth of true strength and solid reputation. The σοφισματα and the προφασεις, the sophistries and state-pretences of this kind, however furbished up, and glossed over of late by our politic brokers, were all stale cheats, and worn out even in Aristotle's time ‡.

Thus have I hinted matters to you, and only touched upon heads without anticipating your reflections and applications. I have not treated you like a stranger, but as one thoroughly informed, before-hand, and to whom all those difficulties are familiar, which I can only discover at a distance. And after all, I must fly from your judgment, to your good nature.

I am, etc.

* Vita Karoli Magni per Eginhardum scripta. Vide Script. Rerum Germ. per Reuberum editos.

† Liv. l. 42, § 47

‡ Εστι δ' ὅσα προφασεως χαριν εν ταις πολιτειαις σοφίζονται προς το δημον, πείτε του αριθμου, etc. Arist. de Repub. l. 4. c. 13.—Vide suprâ, sect. 3. p. 13







