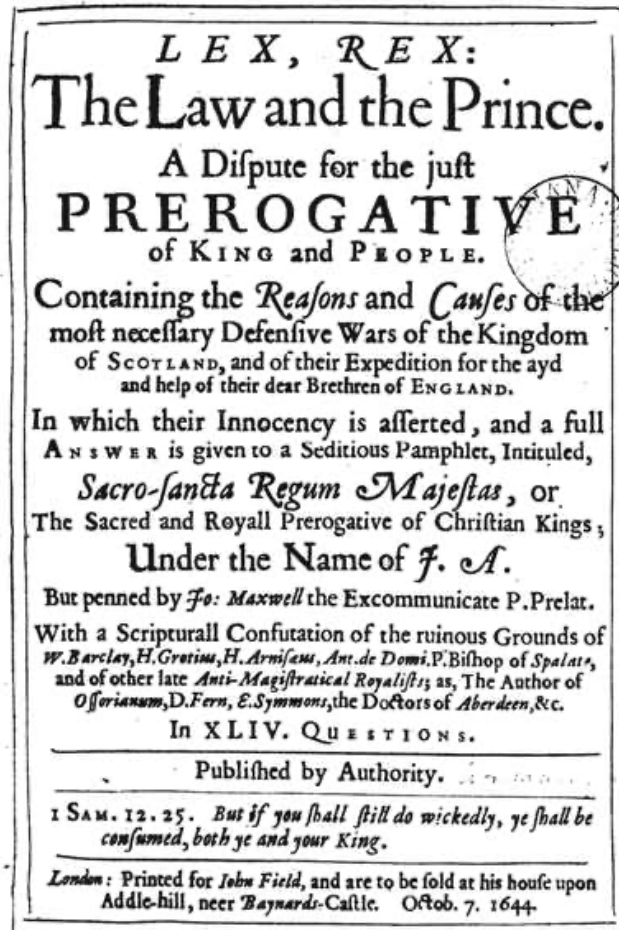


SAMUEL RUTHERFORD,
Lex, Rex: The Law and the Prince.
*A Dispute for the just Prerogative of King
and People (1644)*



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Samuel Rutherford, *Lex, Rex: The Law and the Prince. A Dispute for the just Prerogative of King and People : containing the reasons and causes of the most necessary defensive wars of the kingdom of Scotland and of their expedition for the ayd and help of their dear brethren of England*. (London: Printed for Iohn Field, Octob. 7, 1644). 10/30/2024. <http://davidmhart.com/liberty/Books/1644-Rutherford_LexRex/Rutherford_LexRex1644-ebook.html>

Samuel Rutherford, *Lex, Rex: The Law and the Prince. A Dispute for the just Prerogative of King and People : containing the reasons and causes of the most necessary defensive wars of the kingdom of Scotland and of their expedition for the ayd and help of their dear brethren of England : in which their innocency is asserted and a full answer is given to a seditious pamphlet intituled Sacro-sancta regum majestas, or, The sacred and royall prerogative of Christian kings, under the name of J. A. but penned by Jo. Maxwell the excommunicate P. Prelat. : with a scripturall confutation of the ruinous grounds of W. Barclay, H. Grotius, H. Arnisæus, Ant. de Domi P. Bishop of Spalata, and of other late anti-magistratical royalists, as the author of Ossorianum, D. Fern, E. Symmons, the doctors of Aberdeen, &c. : in XLIV questions*. (London: Printed for Iohn Field, Octob. 7, 1644).

I SAM. 12.25. But if you shall still do wickedly, ye shall be consumed, both ye and your King.

Editor's Note: Because of the poor quality of the PDF of the original text there are many errors such as unreadable letters and words. The original editors also made no effort to transcribe or code the Greek and Hebrew words. The text did, however, include the page numbers. They also did not distinguish between marginal notes and footnotes, coding everything as endnotes. We have continued this practice.

Editor's Introduction

To make this edition useful to scholars and to make it more readable, I have done the following:

1. inserted and highlighted the page numbers of the original edition
2. not split a word if it has been hyphenated across a new line or page (this will assist in making word searches)
3. added unique paragraph IDs (which are used in the "citation tool" which is part of the "enhanced HTML" version of this text)
4. retained the spaces which separate sections of the text
5. created a "blocktext" for large quotations
6. moved the Table of Contents to the beginning of the text
7. placed the footnotes at the end of the book
8. reformatted margin notes to float within the paragraph
9. inserted Greek and Hebrew words as images

The Table of the Contents of the Book.

[L. An. Senecae Octavia. Nero, Seneca](#)

[The PREFACE](#)

[QUEST. I. Whether Government be by a divine Law?](#)

- Affirmed, *Pag. 1.*
- How Government is from God, *Ibid.*
- Civill Power in the Root, immediately from God, *Pag. 2,*

[QUEST. II. Whether or no Government be warranted by the Law of nature?](#)

- Affirmed, *Ibid.*
- Civil societie naturall *in radice*, in the root, voluntary, *in modo*, in the manner, *Ibid.*
- Power of Government, and Power of Government, by such and such Magistrates, different, *Pag. 2, 3.*
- Civil subjection not formally from natures Law, *Pag. 3.*
- Our consent to Laws penal, not antecedently naturall, *Ibid.*
- Government by such Rulers, a secondary Law of nature, *Ibid.*
- Family Government and politike, different, *Ibid.*
- Government by Rulers, a secondary Law of nature; Family Government, and Civil, different, *Pag. 4.*
- Civil Government by consequent, naturall, *Pag. 5.*

[QUEST. III. Whether Royall Power, and definite Forms of Government be from God?](#)

- Affirmed, *Ibid.*
- That Kings are from God, understood in a fourfold sense, *Pag. 5, 6.*
- The Royall Power hath warrant from divine institution, *Pag. 6.*
- The three forms of Government, not different in spece and nature, *P. 8.*
- How every form is from God, *Ibid.*
- How Government is an ordinance of man, *1 Pet. 2.13. Pag. 8, 9.*

[QUEST. IV. Whether or no, the King be onely and immediately from God, and not from the people? *Prius distinguitur, posterius prorsus Negatur*, pag. 5.](#)

- How the King is from God, how from the people, *Ibid.*
- Royall Power three wayes in the people, *P. 6, 10.*
- How Royall Power is radically in the people, *P. 7.*
- The people maketh the King, *Ibid.*
- How any form of Government is from God, *P. 8.*
- How Government is a humane ordinance, *1 Pet. 2.3. P. 8, 9.*
- The people creat the King, *P. 10, 11.*
- Making a King, and choosing a King, not to be distinguished, *P. 12 ■ 13.*
- *David* not a King formally, because anointed by God, *P. 14, 15.*

[QUEST. V. Whether or no, the P. P. proveth, that Sovereignty is immediately from God, not from the people? p. 16.](#)

- Kings made by the people, though the Office, *in abstracto*, were immediately from God, *P. 16.*
- The people have a reall action, more then approbation in making a King, *P. 19,*
- Kinging of a person ascribed to the people, *P. 20.*

- Kings in a special manner, are from God, but it followeth not: *Ergo*, not from the people, *P. 21*.
- The place, *Prov. 8.15*. proveth not, but Kings are made by the people. *P. 22, 23*.
- *Nebuchadnezzar* and other heathen Kings, had no just Title before God, to the Kingdom of *Judah*, and divers other subdued Kingdoms, *P. 26, 27*.

QUEST. VI. Whether or no, the King be so allanerly from both in regard of Sovereignty and Designation of his person, as he is no wayes from the people, but onely by meer approbation? *Negatur*, pag. 28, 29.

- The Forms of Government, not from God by an act of naked Providence, but by his approving will, *Ibid*.
- Sovereignty not from the people by sole approbation, *P. 29, 30*.
- Though God have peculiar acts of providence in creating Kings, it followeth not hence, that the people maketh not Kings, *P. 31*.
- The *P. Prelate*, exponeth prophecies true onely of *David*, *Solomon*, and *Iesus Christ*, as true of prophane heathen Kings, *P. 34, 35*.
- The *P. P.* maketh all the heathen Kings to be Princes, anointed with the holy Oyl of saving grace, *Ibid*.

QUEST. VII. Whether the P. Prelate conclude, that neither constitution, nor designation of Kings is from the people? *Negatur*, P. 38, 39.

- The excellency of Kings, maketh them not of Gods onely Constitution and Designation, *Ibid*.
- How Sovereignty is in the people, how not, *P. 43*.
- A Communitie doth not surrender their right and libertie to their Rulers; so much as their power active, to do, and passive, to suffer violence, *P. 44, 45*.
- Gods loosing of the bonds of Kings, by the mediation of the peoples despising him, proveth against the *P. P.* That the Lord taketh away, and giveth Royall Majestie mediately, not immediately, *P. 45, 46*.
- The subordination of people to Kings and Rulers, both naturall and voluntary; the subordination of beasts and creatures to man meerly naturall, *P. 46, 47*.
- The place, *Gen. 9.5*. *He that shedeth man's blood*, &c. discussed, *P. 47, 48*.

QUEST. VIII. Whether or no, the P. Prelate proveth, by force of reason, That the people cannot be capable of any power of Government? *Negatur*, pag. 49, 50.

- In any communitie there is an active and passive power to Government, *P. 50*.
- Popular Government is not that wherein all the whole people are Governours, *P. 53, 54*.
- People by nature are equally indifferent to all the three Governments, and are under not any one by nature, *P. 53*.
- The *P. Prelate*, denyeth the Pope his father to be the *Antichrist*, *Ibid*.
- The bad successe of Kings chosen by people, proveth nothing against us, because Kings chosen by God, had bad successe through their own wickednesse, *P. 54, 55*.
- The *P. Prelate* condemneth King *Charls* his ratifying, *Parl. 2. An. 1641*. The whole proceedings of *Scotland* in this present Reformation, *P. 56*.
- That there be any supreme Judges, is an eminent act of divine providence, which hindereth not, but that the King is made by the people, *P. 57*.
- The people not patients in making a King, as is water in the Sacrament of Baptisme, in the Act of production of grace, *P. 58*.

QUEST. IX. Whether or no, Sovereignty is so in and from the people, that they may resume their power in time of extreme necessity? *Negatur*. pag. 58.

- How the people is the subject of Sovereignty, *Ibid.*
- No Tyrannicall power is from God, *P. 59.*
- People cannot alienate the naturall power of self-defence, *Ibid.*
- The power of Parliaments, *P. 60.*
- The Parliament hath more power then the King, *Ibid.*
- Judges and Kings differ, *P. 61.*
- People may resume their power, not because they are infallible, but because they cannot so readily destroy themselves, as one man may do, *P. 63.*
- That the San••drim punished not *David, Bathsheba, Joab*, is but a fact, not a law, *P. 63, 64.*
- There is a subordination of Creatures naturall, Government must be naturall; and yet this, or that form, is voluntary, *P. 65, 66, 67.*

[QUEST. X. Whether or not Royall birth be equivalent to Divine Unction?](#) *Negatur. pag. 68.*

- Impugned by eight Arguments. *Ibid.*
- Royalty not transmitted from father to sonne. *ibid.*
- A family may be chosen to a Crown as a single person is chosen, but the tye is conditionall in both. *pag. 68.69.*
- The Throne by speciall promise made to *David* and his seed, by God,
- *Psal. 89.* no ground to make birth, *In foro Dei*, a just title to the crowne. *pag. 69 70.*
- A Title by conquest to a Throne must be unlawfull, if birth be Gods lawfull title. *pag. 70.*
- *Royalists* who held conqu••st to be a just title to the Crown, teach manifest treason against *King Charles*, and his Royall Heires. *ibid.*
- Only, *Bona fortunae*, not honour or Royalty properly transmittable from father to sonne. *pag. 71.*
- Violent conquest cannot regulate the consciences of people, to submit to a conquerour as their lawfull King. *pag. 72.*
- Naked birth is inferiour to that very divine unction, that made no man a *King without* the peoples election. *pag. 73.*
- If a *Kingdome* were by birth the *King* might sell it. *pag. 74.*
- The Crown is the Patrimony of the Kingdome, not of him who is *King*, or of his father *pag. 72, 73, 76.*
- Birth a typicall designement to the Crowne in Israel. *pag. 74.*
- The choise of a family to the Crowne resolveth upon the free election of the people, as on the fountaine-cause. *pag. 76.*
- Election of a family to the Crown lawfull. *pag. 77.*

[QUEST. XI. Whether or no, he be more principally a King, who is a King by birth, or he who is a King by the free election of the people?](#) *Affir. posterius, pag. 79.*

- The Elective King commeth nearer to the first King. *Deut. 17. pag. 80.*
- If the people may limit the King, they give him the power. *ibid.*
- A Community have not power formally to punish themselves. *pag. 81.*
- The Hereditary and the elective Prince in divers considerations better, or worse, each one then another. *pag. 82.*

[QUEST. XII. Whether or no a Kingdome may lawfully be purchased by the sole Title of Conquest.](#) *Negatur. pag. 82.*

- 7. Argu. for the nega••• a twofold right of conquest. *ibid.*
- Conquest turned in an after-consent of the people, becommeth a just title. *pag. 83.*

- Conquest not a signification to us of Gods approving will. *pag. 84.*
- Meere violent domineering contrary to the acts of governing. *ibid.*
- Violence hath nothing in it of a King. *ibid.*
- A bloody Conquerour not a blessing, *per se*, as a King is, *pag. 85.*
- Strength as prevailing is not Law or reason. *pag. 86*
- Fathers cannot dispoſe of the liberty of poſterity not borne. *ibid.*
- A father as a father hath not power of life and death. *pag. 87.*
- *Israels* and *Dauids* Conquests of the *Canaanites*, *Edomites*, *Ammonites* not lawfull, because conquest, but upon a Divine title of Gods promise. *pag. 88.89.*

QUEST. XIII. Whether or no Royall Dignity have its spring from Nature, and how that is true (every man is borne free) and how servitude is contrary to nature; Affir. 89.

- Seven sorts of superiority and inferiority. *pag. 89, 90.*
- Power of life and death from a positive Law. *ibid.*
- A Dominion antecedent and consequent. *90.*
- Kings and subjects no naturall order. *ibid.*
- A man is borne, *consequenter*, in politick relation. *pag. 91.*
- Slavery not naturall from four reasons. *ibid.*
- Every man borne free in regard of civill subjection (not in regard of naturall, such as of children, and wife to Parents and Husband) proved by seven Arguments. *pag. 91, 92, 93.*
- Politique Government how necessary, how naturall. *pag. 94.*
- That Parents should inslave their children, not naturall. *pag. 95.*

QUEST. XIV. Whether or no the people make a Person their King conditionally, or absolutely; and whether the King be tyed by any such covenant? pag. 96.

- The King under a naturall, but no civill obligation to the people, as Royalists teach. *ibid.*
- The Covenant civilly tyeth the King, proved by Scriptures and reasons, by 8. Argu. *ibid. & sequent.*
- If the condition without which one of the parties would never have entered in Covenant, be not performed, that party is loosed from the Covenant. *pag. 97.*
- The people and Princes are obliged in their places for Iustice and Religion, no lesse then the King. *pag. 98.*
- In so farre as the King presseth a false Religion on the people, *eatenus*, in so farre they are understood not to have a King. *pag. 99.*
- The Covenant giveth a mutuall coactive power to King and people, to compell each other, though there be not one in earth higher then both to compell each of them. *pag. 100.*
- The Covenant bindeth the King as King, not as he is a man onely. *pag. 101.*
- One or two Tyrannous acts deprive not the King of his Royall right. *pag. 104.*
- Though there were no positive written Covenant (which yet we grant not) yet there is a naturall, tacit, implicit Covenant tying the King, by the nature of his Office. *pag. 106*
- If the King be made King absolutely, it is contrary to Scripture, and the nature of his Office. *pag. 107.*
- The people given to the King as a pledge, not as if they became his owne to dispose of at his absolute will. *pag. 108.*
- The King could not buy, sell, borrow, if no Covenant should tye him to men. *ibid.*
- The Covenant sworne by *Iudah*, 2 Chro. 15. tyed the King. *pag. 109.*

QUEST. XV. Whether the King be univocally or only Analogically and by proportion a father, pag. 111

- *Adam* not King of the whole earth, because a father. *ibid.*
- The King a Father *Metaphorically and improperly*, proved by eight Arguments. *ibid.* & sequent.

[QUEST XVI. Whether or no a despotically or masterly dominion agree to the King, because he is King.](#) *Negatur. pag. 116*

- The King hath no masterly dominion over the Subjects, as if they were his servants. Proved by 4. Arguments. *pag. 116.*
- The King not over men as reasonable creatures to domineere. *pag. 117.*
- The King cannot give away his Kingdome or his people, as if they were his proper goods. *ibid.*
- A violent surrender of liberty tyeth not. *pag. 119*
- A surrender of ignorance is in so farre, unvoluntary, as it oblige not. *ibid.*
- The goods of the subjects not the Kings, proved by 8. Argu. *pag. 120.*
- All the goods of the subjects are the Kings in a four-fold sence. *pag. 121.*

[QUEST. XVII. Whether or no, the Prince have properly the fiduciary or ministeriall power of a Tutor, Husband, Patron, Minister, Head, Master of a Family, not of a lord or dominator.](#)

- Affirmed, *p. 124.*
- The King a Tutor rather then a Father, as these are distinguished, *ibid.*
- A free Communitie not properly, and in all respects, a minor and pupill, *p. 125.*
- The Kings power not properly maritall and husbandly. *ibid.*
- The King a Patron, and Servant. *pag. 126.*
- The Royall power only from God, *Immediatione simplicis constitutionis, & solum solitudine causae primae*, but not *Immediatione applicationis dignitatis ad personam.* *pag. 126.*
- The King the Servant of the people both *objectively*, and *subjectively.* *pag. 127.*
- The Lord and the people by one and the same act according to the Physicall relation maketh the King. *ibid.*
- The King head of the people *Metaphorically* only, not essentially, not univocally by 6. Argu. *pag. 128.*
- His power fiduciary only. *pag. 129.*

[QUEST. XVIII. What is the Law or manner of the King, 1 Sam. 8, 9, 11. the place discussed fully.](#) *pag. 130.*

- The Power and the Office badly differenced by *Barclay. pag. 130.*
- What is \langle in non-Latin alphabet \rangle in non-Latin alphabet \rangle *the manner of the King*, by the harmony of Interpreters ancient and moderne, Protestants and Papists. *pag. 131, 132, 133.*
- *Crying out, 1 Sam. 8.* not necessarily a remedy of tyranny, nor a praying with faith and patience, *pag. 135, 136.*
- Resisting of Kings that are tyrannous and patience not inconsistent. *ibid.*
- The Law of the King not a permissive Law, as was the Law of Devorcement. *pag. 136, 137.*
- The Law of the King, *1 Sam. 12.23, 24.* not a Law of tyranny, *pag. 138, 139.*

[QUEST. XIX. Whether or no the King be in Dignity and Power above the people? Neg. Impugned by 10.](#) *Argu. p. 139.*

- In what consideration the *King* is above the people, and the people above the *King.* *pag. 139, 140.*

- A meane as a meane inferiour to the end, how its true. *ibid.*
- The King inferiour to the people. *ibid.*
- The Church because the Church is of more excellency then the *King*, because *King*. *pag. 140, 141.*
- The people being those to whom the *King* is given, worthier then the gift. *pag. 141.*
- And the people immortall, the King mortall. *pag. 142.*
- The King a meane only, not both the efficient or Author of the Kingdome and a meane. Two necessary distinctions of a meane. *pag. 143,*
- If sin had never been there should have been no King. *pag. 142.*
- The *King* is to give his life for his people. *ibid.*
- The consistent cause more excellent then the effect. *pag. 143, 144, 145.*
- The people then the *King*. *pag. 144, 145.*
- Vnpossible people can limit Royall Power, but they must give Royall Power also. *ibid.*
- The people have an action in making a *King*, proved by foure Arguments. *ibid.*
- Though it were granted that *God* immediately made *Kings*, yet it is no consequent *God only*, and not the people, can unmake him. *pag. 146.*
- The people appointing a *King* over themselves, retaine the Fountaine-power of making a *King*. *pag. 147, 148, 149.*
- The meane inferiour to the end, and the *King* as *King* is a meane. *pag. 149, 150, 153.*
- The *King* as a meane, and also as a man inferiour to the people, *pag. 150.*
- To swaere non-selfe-preservation, and to swaere selfe-murther, all one. *pag. 151.*
- The people cannot make away their power. 1. *Their* whole power, nor 2. irrevocably to the *King*. *pag. 152.*
- The people may resume the power they give to the Commissioners of *Parliament*, when it is abused, *p. 152,*
- The Tables in *Scotland* lawfull, when the ordinary judicatories are corrupt, *p. 153.*
- *Quod efficit tale id ipsum magis tale*, discussed, the fountain-power in the people, the derived onely in the *King*, *p. 153, 154, 155.*
- The *King* is a fiduciary, a life-renter, not a lord or heritor, *p. 155, 156.*
- How soveraigntie is in the people, *p. 156, 157.*
- Power of life and death, how in a Community, *ibid.*
- A Communitie void of Rulers, is yet, and may be a politike body, *p. 157.*
- Iudges gods Analogically, *p. 158.*

QUEST. XX. Whether Inferiour Iudges be essentially the immediate Vicegerents of God, as Kings, not differing in essence and nature from Kings. Affirmatur, Proved by twelve Arguments. *pag. 159.*

- Inferiour Iudges the immediate Vicars of God, no lesse then the King, *ibid.*
- The consciences of inferiour Iudges, immediately subordinate to God, not to the King, either mediately or immediately, *p. 160.*
- How the inferiour Iudge is the deputy of the King? *p. 161, 162.*
- He may put to death murderers, as having Gods sword committed to him, no lesse then the King, even though the King command the contrary; for he is not to execute judgement, and to relieve the oppressed, conditionally, if a mortall King give him leave; but whether the King will or no, he is to obey the *King of Kings*, *p. 160, 161.*
- Inferiour Iudges are *ministri regni, non ministri regis*, *p. 162, 163.*
- The King doth not make Iudges as he is a man, by an act of private good will; but as he is a King, by an act of Royall Iustice, and by a power that he hath from the people, who made himself supreme Iudge, *p. 163, 164, 165.*
- The Kings making of inferiour Iudges hindereth not, but they are as essentially Iudges as the King, who maketh them, not by fountain-power, but by power borrowed from the people, *p. 165, 166.*

- The Iudges in *Israel*, and the *Kings*, differ not essentially, *p. 167.*
- *Aristocracy* as naturall as *Monarchie*, and as warrantable, *p. 168, 169.*
- Inferiour Iudges depend some way on the King, *in fieri*, but not, *in facto esse*, *p. 169, 170.*
- The *Parliament* not Iudges by derivation from the King, *p. 170.*
- The King cannot make, nor unmake Iudges, *ibid.*
- No heritable Iudges, *ibid.*
- Inferiour Iudges more necessary then a *King*, *p. 171, 172.*

QUEST. XXI. What power the People, and States of Parliament, hath over the King, and in the State? *p. 172.*

- The *Elders* appointed by God, to be Iudges, *p. 173.*
- *Parliaments* may conveen, and judge without the King, *p. 173, 174.*
- *Parliaments* are essentially Iudges, and so their consciences neither dependeth on the King, *quoad specificationem*, that is, That they should give out this sentence, not this, *nec quoad exercitium*, That they should not in the morning execute judgement, *p. 174, 175.*
- Vnjust judging, and no judging at all, are sins in the States, *p. 175.*
- The *Parliament* coordinate Iudges with the *King*, not advisers onely, By eleven Arguments. *p. 176, 177,*
- Inferior Iudges not the *Kings* Messengers or Legates, but publike Governours, *p. 176.*
- The *Jews Monarchie* mixt, *p. 178.*
- A *Power executive* of Laws more in the *King*, a *Power legislative* more in the *Parliament*, *p. 178, 179.*

QUEST. XXII. Whether the power of the King as King, be absolute, or dependent, and limited by Gods first mould and patern of a King? *Negatur, Prius, Affirmatur, Posterius, p. 179.*

- The *Royalists* make the *King* as absolute as the Great *Turk*, *p. 180.*
- The *King* not absolute in his power, proved by nine Arguments, *p. 181.182, 183, seq.*
- Why the King is a living Law, *p. 184.*
- Power to do ill, not from God, *ibid.*
- *Royalists* say, power to do ill is not from God, but power to do ill as punishable by man, is from God, *p. 186.*
- A King, *actu primo*, is a plague, and the people slaves, if the *King* by Gods institution be absolute, *p. 187.*
- Absolutenesse of Royaltie against Iustice, Peace, Reason, Law, *p. 189.*
- Against the *Kings* relation of a brother, *p. 190.*
- A Damsel forced, may resist the *King*, *ibid.*
- The goodnesse of an absolute Prince hindereth not, but he is, *actu primo*, a Tyrant, *p. 189.*

QUEST. XXIII. Whether the King hath a Prerogative Royall above Laws? *Negatur, p. 192.*

- Prerogative taken two wayes, *ibid.*
- Prerogative above Laws, a Garland proper to infinite Majestie, *ibid.*
- A threefold dispensation, 1. Of power, 2. Of justice, 3. Of Grace, *p. 194.*
- Acts of meer grace, may be acts of blood, *p. 195.*
- An oath to the King of *Babylon*, tyed not the people of *Judah* to all that absolute power could command, *ibid.*
- The absolute Prince, is as absolute in acts of crueltie, as in acts of grace, *p. 196.*

- Servants are not, *1 Pet. 2.18, 19.* interdicted of self-defence, *p. 199, 200.*
- The Parliament materially onely, not formally, hath the King for their Lord, *p. 202.*
- Reason not a sufficient restraint to keep a Prince from Acts of tyranny, *ibid.*
- Princes have sufficient power to do good, though they have not absolute to do evil. *p. 203.*
- A power to shed innocent blood, can be no part of any Royall power given of God, *p. 204.*
- The King, because he is a publike person, wanteth many priviledges that subjects have, *p. 205, 206.*

QUEST. XXIV. What relation the King hath to the Law? *p. 207.*

- Humane Laws considered as reasonable, or as penal, *ibid.*
- The *King* alone hath not a Nemothetick power, *p. 208.*
- Whether the *King* be above *Parliaments*, as their Iudge? *p. 208, p. 209, 210, 211.*
- Subordination of the *King* to the *Parliament*, and coordination both consistent, *p. 210, 211.*
- Each one of the three Governments hath somewhat from each other, and they cannot any one of them, be in its prevalency, conveniently without the mixture of the other two, *p. 211, 212.*
- The *King* as a *King* cannot erre, as he erreth in so far, he is not the remedie of oppression and Anarchie, intended by *God* and nature, *p. 212.*
- In the court of necessitie, the people may judge the *King*, *p. 213.*
- Humane Laws not so obscure as tyranny is visible and discernable, *p. 213, 214.*
- Its more requisite, that the whole people, Church, and Religion, be secured, then one man, *p. 215.*
- If there be any restraint by Law on the *King*, it must be physicall; for a morall restraint is upon all men, *p. 214, 215.*
- To swear to an absolute Prince as absolute, is an oath *eatenus*, in so far unlawfull, and not obligatory, *p. 215.*

QUEST. XXV. Whether the supreme Law, the safetie of the people, be above the King?

Affirmed, p. 218.

- The safetie of the people to be preferred to the *King*, for the *King* is no•• to seek himself, but the good of the people, *p. 218, 219.*
- Royalists make no *Kings*, but *Tyrants*, *p. 222.*
- How the safetie of the *King* is the safetie of the people, *p. 223.*
- A *King* for the safetie of the people, may break through the Letter and paper of a Law, *p. 227.*
- The *Kings* prerogative above Law and Reason, not comparable to the blood that has been shed in *Ireland* and *England*, *p. 225, 226, 228.*
- The power of *Dictators* prove not a Prerogative above Law, *p. 229, 230.*

QUEST. XXVI. Whether the King be above the Law? *p. 230, 231.*

- The Law above the *King* in four things, *1.* In constitution, *2.* Direction, *3.* Limitation, *4.* Coaction, *p. 231.*
- In what sense the *King* may do all things, *p. 231, 232.*
- The *King* under the moralitie of Laws. *2.* Vnder Fundamentall Laws, not under punishment to be inflicted by himself, nor because of the eminency of his place, but for the physicall incongruity thereof, *p. 232, 233.*
- If, and how the *King* may punish himself? *p. 233.*
- That the *King* transgressing in a hainous manner, is under the Coaction of Law, proved

by seven Arguments, *p. 234, 235, seq.*

- The Coronation of a *King*, who is supposed to be a just Prince, yet proveth after a Tyrant, is conditionall, and from ignorance, and so unvoluntary; and in so far, not obligatory in Law, *p. 234, 235.*
- Royalists confesse, a Tyrant in exercise may be dethroned, *p. 235, 236.*
- How the people is the seat of the power of Soveraigntie, *p. 239, 240.*
- The place, *Psal. 51. Against thee onely have I sinned, &c.* discussed, *p. 241, 242.*
- *Israels* not rising in arms against *Pharaoh*, examined, *p. 245, 246, 247, 248, 249.*
- And *Judahs* not working their own deliverance under *Cyrus*, *p. 248, 249.*
- A Covenant without the Kings concurrence lawfull, *p. 249, 250, 251.*

QUEST. XXVII. Whether or no, the King be the sole, supreme and finall Interpreter of the Law? Negatur, p. 252.

- He is not the supreme and peremptor Interpreter, *p. 254.*
- Nor is his will the sense of the Law, *p. 252, 253.*
- Nor is he the sole, and onely judiciall Interpreter of the Law, *p. 253, 254, 255, seq.*

QUEST. XXVIII. Whether or no Wars raised by the Estates and Subjects for their owne just defence against the Kings bloody Emissaries be lawfull? Affir. p. 257.

- The state of the question. *P. 257, 258,*
- If Kings be absolute, a superiour Iudge may punish an inferiour Iudge, not as a Iudge, but an erring man. *ibid.*
- By Divine institution, all Covenants to restraine their power must be unlawfull. *p. 258, 259.*
- Resistance in some cases lawfull, *p. 260, 261, 262.*
- Six Arguments for the lawfulness of defensive Wars, in this *Quest. 260. seq.*
- Many others follow, *Quest. 29. and 30. seq.*

QUEST. XXIX. Whether in the case of defensive War, the distinction of the Person of the King as a man, who may, and can commit hostile acts of tyranny against his subjects, and of the Office and Royall Power that he hath from God and the people, can have place? Affirmatur. p. 265.

- The Kings Person in *concreto*, and his Office in *abstracto*, or which is all one, the King using his Power lawfully, to be distinguished, *Rom. 13▪ p. 265.*
- To command unjustly maketh not a higher power. *p. 265.266.*
- The person may be resisted, and yet the Office cannot be resisted, proved by fourteene Arguments. *p. 265, 266. seq.*
- Contrary Objections of Royalists, and of the *P. Prelate* answered, *p. 270, 271. seq.*
- What we meane by the person and Office in *abstracto* in this dispute, we doe not exclude the person in *concreto* altogether, but only the person as abusing his power, we may kill a person as a man, and love him as a sonne, father, wife, according to Scripture, *p. 272, 273, 274.*
- We obey the King for the Law, and not the Law for the King, *p. 275, 276.*
- The loosing of habituall and actuall Royalty different, *p. 276.*
- *Ioh. 19.10. Pilates* power of crucifying Christ, no Law-power given to him of God, its proved against Royalists by six Arguments, *p. 280.*

QUEST. XXX. Whether or no passive obedience be a meane to which we are subjected in conscience by vertue of a Divine Commandement? Neg. What a meane resistance is? that flying is resistance? p. 313.

- The place *1 Pet. 2.18.* discussed, *ibid.*

- Patient bearing of injuries, and resistance of injuries compatible in one and the same subject, *ibid.*
- Christs non-resistance hath many things rare and extraordinary, and so is no leading rule to us, *p. 315.*
- Suffering is either commanded to us comparatively only, that we rather choose to suffer then deny the truth: or the manner only is commanded, that we suffer with patience, *p. 317, 318. & sequent.*
- The Physicall act of taking avway the life, or of offending, vvhen commanded by the Lavv of self defence, is no murther, *p. 321.*
- We have a greater dominion over our goods and members, (except in case of mutilation, vvhich is a little death) then over our life, *p. 321.*
- To kill is not of the nature of self defence, but accidentall thereunto, *ibid.*
- Defensive vvar cannot be vvithout offending, *p. 323.*
- The nature of defensive and offensive Warr^{re}. *p. 324, 325.*
- Flying is resistance, *p. 325, 326.*

QUEST. XXXI. Whether self-defence by opposing violence to unjust violence be lawfull, by the Law of God, and Nature? *Affirm. p. 326, 327.*

- Self-defence in man naturall, but *Modus*, the way must be rationall and just. *p. 327.*
- The method of self-defence. *ibid.*
- Violent re-offending in self-defence the last remedy. *p. 328.*
- Its Physically impossible for a Nation to fly in the case of persecution for Religion, and so they may resist in their owne self-defence. *p. 328.*
- *Tutela vitae proxima*, and *remota*. *p. 329.*
- In a remote posture of self-defence, we are not to take us to re-offending, as *David* was not to kill *Saul* when he was sleeping, or in the Cave, for the same cause, *ibid.*
- *David* would not kill *Saul*, because he was the Lords Anoynted, *p. 330.*
- The King not Lord of chastity, name, conscience, and so may be resisted, *p. 331.*
- By universall and particular nature, self-defence lawfull, proved by divers Arguments, *p. 330.*
- And made good by the testimony of Iurists, *p. 331.*
- The love of our selves the measure of the love of our neighbour, and inforceth self-defence, *p. 332.*
- Nature maketh a private man his owne Iudge and Magistrate when the Magistrate is absent, and violence is offered to his life, as the Law saith, *p. 334, 335.*
- Self-defence how lawfull it is, *p. 333, 334, 335.*
- What presumption is from the Kings carriage to the two Kingdomes, are in Law sufficient grounds of defensive warrs, *p. 336, 337.*
- Offensive and defensive warrs differ in the event and intentions of men, but not in nature and spece, nor Physically. *p. 336, 337, 338.*
- *Davids* case in not killing *Saul*, nor his men, no rule to us, not in our
- lawfull defence, to kill the Kings Emissaries, the cases farre different, *p. 338, 339.*

QUEST. XXXII. Whether or no the lawfulness of defensive warrs can be proved from the Scripture, from the examples of *David*, the peoples rescuing *Jonathan*, *Elisha*, and the 80. valiant Priests who resisted *Vzziah*? *Affirm. p. 340.*

- *David* warrantably raised an Army of men to defend himselfe against the unjust violence of his Prince *Saul*, *p. 340, 341, 342.*
- *Davids* not invading *Saul*, and his men, who did not aime at Arbitrary Government, at subversion of Lawes, Religion, and extirpation of those that worshipped the *God of Israel* and opposed Idolatry, but only pursuing one single person, farre unlike to our case in *Scotland and England* now, *p. 342.343.*

- *Davids example not extraordinary, p. 343, 344.*
- *Elisha's resistance proveth defensive warrs to be warrantable, p. 344, 345*
- *Resistance made to King *Vzziah* by eighty valiant Priests proveth the same, p. 346, 347, 348.*
- *The peoples rescuing *Jonathan* proveth the same, p. 348, 349.*
- *Libnah's revolt proveth this, p. 349.*
- *The City of *Abel* defended themselves against *Ioab* King *Davids* Generall, when he came to destroy a City for one wicked conspirator, *Sheba* his sake, p. 349, 350.*

QUEST. XXXIII. Whether or no *Rom. 13.1.* make any thing against the lawfulness of defensive warrs? *Neg.* p. 350.

- *The King not only understood, *Rom. 13.* p. 351.352.*
- *And the place *Rom. 13.* discussed. p. 352, 353, 354.*

QUEST. XXXIV. Whether Royalists prove by cogent reasons, the unlawfulness of defensive warrs. p. 355.

- *Objections of *Royalists* answered, p. 355, 356, 357. seq.*
- *The place *Exod. 22.28. Thou shalt not revile the Gods, &c.* answered, p. 357.*
- *And *Eccles. 10.20.* p. 358.*
- *The place *Eccles. 8.3, 4. Where the word of a King is, &c.* answered. p. 357, 358.*
- *The place *Iob 34.18.* answered, p. 359.*
- *And, *Act. 23.3. God shall smite thee thou whited wall, &c.* p. 359, 360, 361.*
- *The Emperours in *Pauls* time not absolute by their Law, p. 361.*
- *That objection that we have no practise for defensive resistance, and that the Prophets never complaine of the omission of the duty of resistance of Princes answered, p. 163, 164, 165.*
- *The Prophets cry against the sin of non-resistance, when they cry against the Iudges, because they execute not judgements for the oppressed. p. 365, 366. seq.*
- **Iudahs* subjection to *Nebuchadnezar* a conquering Tyrant, no warrant for us to subject our selves to tyrannous acts. p. 363, 364, 365.*
- *Christs subjection to Caesar nothing against defensive warrs, p. 365, 366.*

QUEST. XXXV. Whether the sufferings of the Martyrs in the Primitive Church Militant be against the lawfulness of defensive warrs. p. 369, 370.

- *Tertullian neither ours nor theirs in the question of defensive warrs, p. 370, 371, 372.*

QUEST. XXXVI. Whether the King have the power of warre only? *Negatur.* p. 372, 373.

- *Inferiour Iudges have the power of the sword no lesse then the King. p. 372, 373.*
- *The people tyed to acts of charity, and to defend themselves, the Church, and their posterity against a forraigne enemy, though the King forbid. p. 373, 374.*
- *Flying unlawfull to the States of *Scotland* and *England* now, Gods Law tying them to defend their Country. p. 374.*
- *Parliamentary Power a fountain-power above the King, p. 376, 377.*

QUEST. XXXVII. Whether the Estates of *Scotland* are to help their Brethren the protestants in *England* against Cavaliers? *Affirmatur,* proved by 13. Arg. p. 378. seq.

- *Helping of neighbour Nations lawfull, divers opinions concerning the point. p. 378, 379.*
- *The Law of *Aegypt* against those that helped not the oppressed, p. 380.*

QUEST. XXXVIII. Whether Monarchy be the best of Governments. *Affir.* p. 384.

- Whether Monarchy be the best of Governments hath divers considerations, in which each one may be lesse or more convenient. *p. 384, 385.*
- Absolute Monarchy is the worst of Governments. *p. 385.*
- Better want power to doe ill as have it, *ibid.*
- A mixture sweetest of all Governments, *p. 387.*
- Neither King nor Parliament have a voyce against Law and reason, *ibid.*

QUEST. XXXIX. Whether or no, any Prerogative at all above the Law be due to the King? Or if *jura majestatis* be any such Prerogative? *Negatur, p. 389.*

- A threefold supreme power, *ibid.*
- What be *jura regalia*, *p. 390, 391.*
- *Kings* confer not honours from their plenitude of absolute power, but according to the strait line and rule of Law, justice, and good deserving, *ibid.*
- The Law of the King, *1 Sam. 8.9, 11. p. 392, 393.*
- Difference of Kings and Judges, *ibid.*
- The Law of the King, *1 Sam. 8.9, 11.* No permissive Law such as the Law of divorce, *p. 394.*
- What dominion the *King* hath over the goods of the subjects, *p. 395, 396, 397.*

QUEST. XL. Whether or no, the people have any power over the King, either by his Oath, Covenant, or any other way? *Affirmed, p. 398, 399.*

- The people have power over the *King*, by reason of his Covenant and Promise, *ibid.*
- Covenants and promises violated, infer Coaction, *de jure*, by Law, though not *de facto*, *p. 399, 400.*
- Mutuall punishments may be, where there is no relation of superioritie and inferioritie, *p. 399, 400, 401.*
- Three Covenants made by *Arnisaeus*, *ibid.*
- The *King* not *King* while he swear the oath, and be accepted as *King* by the people. *ibid.*
- The oath of the Kings of *France*, *ibid.*
- *Hu. Grotius*, setteth down seven cases, in which the people may accuse, punish, or dethrone the King, *p. 403, 404.*
- The Prince a noble Vassal of the Kingdom, upon four grounds, *p. 405.*
- The covenant had an oath annexed to it, *ibid.*
- The Prince is but as a private man in a contract. *p. 406.*
- How the Royall power is immediately from God, and yet conferred upon the King by the people, *p. 407, 408, 409.*

QUEST. XLI. Whether doth the *P. P.* with reason ascribe to us the doctrine of Jesuites, in the Question of lawfull defence? *Negatur, p. 410, 411, 412.*

- That Sovereignty is originally and radically in the people, as in the Fountain, was taught by Fathers, ancient Doctors, sound Divines, Lawyers, before there was a Jesuite, or a Prelate whelped, *in rerum natura, p. 413.*
- The *P. P.* holdeth the Pope to be the Vicar of Christ, *p. 414, 415.*
- Jesuites tenets concerning Kings, *p. 415, 416, 417.*
- The *King* not the peoples Deputie by our doctrine; it is onely the calumnie of the *P. Prelate*, *p. 417, 418.*
- The *P. P.* will have power to act the bloodiest tyrannies on earth, upon the Church of Christ, the essentiall power of a *King*, *ibid.*

QUEST. XLII. Whether all Christian Kings are dependent from Christ, and may be called his Vicegerents, *Negatur, p. 422.*

- Why God as God, hath a man a Vicegerent under him, but not as Mediator, *p. 422, 423.*
- The *King* not head of the Church, *ibid.*
- The *King* a sub-mediator, and an under redeemer, and a sub-priest to offer sacrifices to God for us, if he be a Vicegerent, *p. 423.*
- The *King* no mixt person, *ibid.*
- Prelates deny *Kings* to be subject to the Gospel, *p. 426, 427.*
- By no Prerogative Royall, may the King prescribe religious observances, and humane ceremonies in Gods worship, *p. 424, 425.*
- The *P. P.* giveth to the King a power Arbitrary, supreme and independent to govern the Church, *p. 429, 430.*
- Reciprocation of subjections of the *King*, to the Church, & of the Church to the King, in divers kindes, to wit of Ecclesiasticall and civill subjection, are no more absurd, then for *Aarons* Priest to teach, instruct and rebuke *Moses*, if he turne a tyrannous *Achab*, and *Moses* to punish *Aaron*, if he turn an obstinate Idolator, *p. 430, 4••3*

QUEST. XLIII. Whether the King of Scotland be an absolute Prince, having prerogatives above Laws and Parliaments? *Negatur. p. 433, 434.*

- *The King of Scotland* subject to *Parliaments* by the fundamentall Lawes, Acts, and constant practises of *Parliaments*, ancient and late in *Scotland*, *p. 433, 434, 435, 436. seq.*
- The *King of Scotlands* Oath at his Coronation, *p. 434.*
- A pretended absolute povver given to K. *James 6.* upon respect of personall indowments, no ground of absolutenesse to the *King of Scotland*, *p. 435, 436.*
- By Lawes and constant practises the *Kings of Scotland* subject to *Lawes* and *Parliaments*, proved by the fundamentall *Law* of elective Princes, and out of the most partiall Historicians, and our Acts of Parliament of *Scotland*, *p. 439, 440.*
- Coronation oath, *ibid.*
- And again at the Coronation of K. *James the 6.* that oath sworn; and again, *1 Par. K. Jam. 6. ibid. & seq. p. 452, 453.*
- How the *King* is supreme Iudge in all causes, *p. 437.*
- The power of the *Parliaments of Scotland*, *ibid.*
- The confession of the faith of the Church of *Scotland*, authorized by divers Acts of *Parliament*, doth evidently hold forth to all the reformed *Churches*, the lawfulnessse of defensive Wars, when the supreme Magistrate is misled by wicked Counsell, *p. 440, 441, 442.*
- The same proved from the Confessions of Faith in other reformed *Churches*, *ibid.*
- The place, *Rom. 13.* exponed in our Confession of Faith, *p. 441, 442, 443.*
- The Confession not onely Saxonick, exhibited to the Councell of *Trent*, but also of *Helvetia, France, England, Bohemia*, prove the same, *p. 444, 445.*
- *William Laud*, and other Prelates, enemies to *Parliaments*, to States, and to the Fundamentall Lawes of the three Kingdoms of *England, Scotland, and Ireland*, *p. 446, 447, 448.*
- The Parliament of *Scotland* doth regulate, limit, and set bounds to the Kings power, *p. 448, 449,*
- *Fergus* the first King, not a Conquerour, *p. 449.*
- The King of *Scotland* below *Parliaments*, considerable by them, hath no negative voice, *p. 450, 451, seq.*

QUEST. XLIV. Generall results of the former doctrine in some few Corrolaries, in 22 Questions. *p. 454, 455.*

- Concerning *Monarchy*, compared with other forms, *p. 454.*
- How *Royaltie* is an issue of nature, *p. 454, 455.*

- And how *Magistrates* as *Magistrates* be naturall, *p. 455*.
 - How absolutenesse is not a Ray of Gods Majestie, *ibid*.
 - And resistance not unlawfull, because *Christ* and his Apostles used it not in some cases, *p. 456, 457*.
 - Coronation is no ceremony, *p. 457*.
 - Men may limit the power that they gave not, *p. 457, 458*.
 - The Common-wealth, not a pupill or minor properly, *p. 459*.
 - Subjects not more obnoxious to a King, then Clients, Vassals, Children, to their Superiours, *p. 459, 460*.
 - If subjection passive be naturall, *p. 461*.
 - Whether King *Uzziah* was dethroned, *p. 461, 462*.
 - Idiots and children not compleat Kings, children are Kings in destination onely, *p. 462*.
 - Deniall of passive subjection in things unlawfull, not dishonourable to the King, more then deniall of active obedience in the same things, *p. 463*.
 - The King may not make away, or sell any part of his Dominions, *p. 463, 464*.
 - People may in some cases convene without the King, *p. 464*.
 - How, and in what meaning, subjects are to pay the Kings debts, *p. 465*.
 - Subsidies the Kingdoms due, rather then the *Kings*, *p. 465, 466*.
 - How the Seas, Ports, Forts, Castles, Militia, Magazeen, are the *Kings*, and how they are the *Kingdoms*, *p. 466*.
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L. An. Senecæ Octavia. Nero, Seneca.

Sen. Nihil in propinquos temerè constitui decet.
Ner. Iustum esse facile est, cui vacat pectus metu.
Sen. Magnum timoris remedium clementia est.
Ner. Extinguere hostem, maxima est virtus ducis.
Sen. Servare cives major est patriæ patri.
Ner. Præcipere mitem convenit pueris senem.
Sen. Regenda magis est servida adolescentia.
Ner. Aetate in hac satis esse consilii reor.
Sen. Vt facta superi comprobent semper tua.
Ner. Stultè verebor, esse cum faciam, Deos.
Sen. Hoc plus verere, quod licet tantum tibi.
Ner. Fortuna nostra cuncta permittit mihi.
Sen. Crede obsequenti parcius : levis est Dea .
Ner. Inertis est nescire quod liceat sibi.
Sen. Id facere laus est, quod decet, non quod licet.
Ner. Calcat jacentum vulgus.
Se. Invifum opprimit.
Ner. Ferrum tuetur principem.
Sen. Meliùs fides.
Ner. Decet timeri Caesarem.
Sen. At plus diligi.
Ner. Metuant necesse est.
Sen. Quicquid exprimitur grave est.
Ner. Iussisque nostris pareant.
Sen. Iusta impera.
Ner. Statuam ipse.
Sen. Que consensus efficiat rata.
Ner. Despectus ensis faciet.
Sen. Hoc absit nefas.

The PREFACE.↵

Who doubteth (Christian Reader) but innocencie must be under the courtesie and mercy of malice, and that it is a reall martyrdome, to be brought under the lawlesse Inquisition of the bloody tongue? Christ, the Prophets and Apostles of our Lord, went to Heaven with the note of Traytors, Seditious men, and such *as turned the world upside down*: calumnies of treason to *Caesar*, were an ingredient in Christs cup, and therefore the author is the more willing to drink of that cup that touched his lip, who is our glorious forerunner: what if conscience toward *God*, and credit with men, cannot both go to heaven with the Saints, the author is satisfied with the former companion, and is willing to dismisse the other. Truth to Christ, cannot be treason to *Caesar*, and for his choise he judgeth truth to have a nearer relation to Christ Jesus, then the transcendent and boundlesse power of a mortall Prince.

He considered that Popery and defection had made a large step in *Britain*, and that Arbitrary Government had over-swelled all banks of Law, that it was now at the highest float, and that this sea approaching the farthest border of fancied absolutenes, was at the score of ebbing: and the naked truth is, Prelats, a wild and pushing cattle to the lambs and flock of *Christ*, had made a hideous noyse, the wheeles of their chariot did run an equall pace with the blood-thirsty mind of the *Daughter of Babell*. Prelacie, *the daughter planted in her mothers blood*, must verifie that word, *As is the mother, so is the daughter*: why, but [unnumbered] do not the Prelates now suffer? True, but their sufferings are not of blood, or kindred, to the calamities of these of whom *Lactantius* saith, *l. 5. c. 19. O quam honesta volunt ate misererant*. The causes of their suffering are, 1. Hope of gain and glory, stirring their Helme to a shoare they much affect; even to a Church of Gold, of Purple, yet really of clay and earth. 2. The lye is more active upon the spirits of men, not because of its own weaknesse, but because men are more passive in receiving the impressions of error, then truth; and opinions lying in the worlds fat wombe, are of a conquering nature, what ever notions side with the world, to Prelates and men of their make are very efficacious.

There is another cause of the sicknesse of our time; *God* plagued Heresie, to beget Atheisme and security, as Atheisme and security had begotten Heresie, even as clouds through reciprocation of causes engender rain, rain begate vapours, vapours clouds, and clouds rain, so do sins overspread our sad times in a circular generation.

And now judgement presseth the kingdoms, and of all the heaviest judgements the sword, and of swords the civill sword, threatneth vastation, yet not, I hope, like the Roman civill sword, of which it was said,

Bella geri placuit nullos habitura triumphos.

I hope this war shalbe Christs Triumph, Babylons ruine.

That which moved the author, was not as my excommunicate adversary, [1] like a *Thraso*, saith, the escapes of some pens, which necessitated him to write, for many before me hath learnedly trodden in this path; but that I might adde a new testimony to the times.

I have not time to examine the P. Prelates Preface, only, I give a tast of his gall in this preface, and of a virulent peece, of his (*agnosco stylum et genium Thrasonis*) In [unnumbered] which he laboureth to prove how inconsistent presbyteriall government is with Monarchy, or any other government.

1 He denyeth that the Crown and Scepter is under any coactive power of Pope, or Presbiterie, or censurable, or dethroneable: to which we say, Presbyteries professe that *Kings* are under the coactive power of *Christs* keyes of discipline, and that *Prophets* and *Pastors*, as Ambassadors of *Christ*, have the *keyes of the kingdom of God*, to open and let in beleeving Princes, and also to shut them out, if they rebel against *Christ*; the law of *Christ* excepteth none, *Mat.* 16.19. *Mat.* 18.15, 16. *2 Cor.* 10.6. *Jer.* 1.9.18. if the *Kings* sins may be remitted in a ministeriall way, as *Joh.* 20.23, 24. as Prelates and their Priests absolve *Kings*; we think they may be bound by the hand that loosed, Presbyteries never dethroned *Kings*, never usurped that power; Your father P. Prelate, hath dethroned many *Kings*; I mean the *Pope*, whose power, [2] by your own confession *cap.* 5. *pag.* 58. differeth from yours by divine right, only in extent.

2 When sacred Hierarchy, the order instituted by Christ, is overthrown, what is the condition of Sovereignty? Ans. Surer then before, when Prelates deposed Kings. 2. I fear Christ shall never own this order.

3 The Mitre cannot suffer, and the Diadem be secured. Ans. Have Kings no pillars to their thrones, but Antichristian Prelates. Prelates have trampled Diadem and Scepter under their feet, as histories teach us.

4 Doe they not (Puritans) magisterially determine, that Kings are not of Gods creation by Authoritative Commission; but only by permission, extorted by importunity, and way given, that they may be a scourge to a sinfull people? Ans. Any unclean spirit from Hell, could not speak a blacker lye, we hold that the King, by office, is the Churches nurse father, [unnumbered] a sacred Ordinance, the deputed power of God; but by P. P. his way, all inferior Judges, and Gods Deputies on earth, who are also our fathers in the fifth Commandments stile, are to be obeyed by no Divine law; the King misled by P. Prelates, shall forbid to obey them, who is, in right-down truth, a mortall civill Pope, may loose and liberate subjects from the tye of a Divine law.

5 His inveying against ruling Elders, and the rooting out of Antichristian Prelacie, without any word of Scripture on the contrary, I passe as the extravagancy of a male-content, because he is deservedly excommunicated for Perjury, Popery, Socinianisme, Tyranny over mens conscience, and invading places of civill dignity, and deserting his calling, and the camp of Christ, &c.

6 None were of old anoynted, but Kings, Priests and Prophets, who then more obliged, to maintain the Lords Anoynted, then Priests and Prophets? The Church hath never more beauty and plenty under any government, then Monarchy, which is most countenanced by God, and magnified by Scripture. Ans. Pastors are to maintain the rights of people, and a true Church, no lesse then the right of Kings; but Prelates the Court Parasites, and creatures of the King, that are born for the Glory of their King, can do no lesse then professe this in words, yet it is true, that Tacitus writeth of such, *Hist.* l. 1. *Libentius cum fortuna principis, quam cum principe loquuntur*: and it is true, that the Church hath had plenty under Kings, not so much, because they were Kings, as because they were godly and zealous: except the P. P. say, That the oppressing Kings of Israell and Judah, and the bloody horns that made war with the Lamb, are not Kings. In the rest of the Epistle, he extols the Marques of Ormond with base flattery, from his Loyalty to the King, and his more then Admirable prudence in the Treaty of Cessation with the Rebels; a woe is due to this false prophet, [unnumbered] who calleth Darknesse Light, for the former was abominable, and perfidious Apostacy from the Lords cause, and people of God, whom he once defended, and the Cessation was a selling of the blood of many hundred thousand protestants, Men, Women, and sucking Children.

This cursed P. hath written of late a Treatise against the Presbyteriall government of *Scotland*, [3] in which there is a bundle of lyes, hellish calumnies, and grosse errors.

The first lye is, that we have Lay-Elders, whereas, they are such as rule, *But labour not in the word and doctrine*, 1 *Tim.* 5.7. pag. 3.

2. The second lye, that *Deacons* who only attend Tables, are joynt Rulers with Pastors, pag. 3.

3. That we never, or little use the lesser excommunication, that is, debarring from the Lords Supper. Pag. 4.

4. That any Church judicature in *Scotland*, [4] exacteth pecuniary mulcts, and threaten excommunication to the non-payers, and refuseth to accept the repentance of any who are not able to pay: the civill magistrate only fineth for Drunkenesse, and Adultery, Blaspheming of *God*, which are frequent sins in Prelates.

5 A calumnie it is to say, That ruling Elders are of equall authority to Preach the Word, as Pastors, Pag. 7.

6. That Lay-men are members of Presbyteries or generall Assemblies; *Buchanan*, and M^r *Melvin*, [5] were Doctors of Divinity: and could have taught such an Asse as *Jo. Maxwell*. [6]

7. That exspectants are intruders upon the sacred function, because as sons of the Prophets, [7] they exercise their gifts for tryall in Preaching.

8. That the *Presbytery of Edinbrough* hath a superintending power, [8] because they communicate the affaires of [unnumbered] the *Church*, and writ to the *Churches*, what they hear Prelates and Hell devise against *Christ* and his Church.

9. *That the King must submit his Scepter to the Presbytery*; the Kings Scepter is his Royal office, which is not subject to any judicature, [9] no more then any lawfull ordinance of *Christ*; but if the King as a man, blaspheme *God*, murther the innocent, advance Belly-gods, (such as our Prelates for the most part were) above the Lords inheritance, the Ministers of *Christ* are to say, *The King troubleth Jsraell*, and they have the keyes to open and shut heaven to, and upon the King, if he can offend.

[10]10. *That King James said, a Scottish Presbytery, and a Monarchy, agreeth as well as God and the Devill*, is true, but *King James* meant of a wicked King; else he spake as a man.

[11]11. *That the presbytery out of pride refused to answer King James his Honourable messengers*, is a lye, they could not in businesse of high concernment, return a present answer to a Prince, seeking still to abolish Presbyteries.

12. Its a lye, *that all sins, even all civil businesse, come under the cognizance of the Church*, for only sins, as publikely scandalous, fall under their power, *Mat.* 18.15, 16, 17. &c. *2 Thess.* 3.11. *1 Tim.* 5.20. It is a calumnie that they search out secret crimes, or that ever they disgraced the innocent, or devided families, where there be flagrant scandals, and pregnant suspitions; of scandalous crimes, they search out these, as the incest of *Spotswood, P. P. of Saint Andrewes*, with his own daughter; the adulteries of *Whiteford, P. P. of Brichen*, whose Bastard came weeping to the *Assembly of Glasgow* in the armes of the whore: [12] these they searched out, but not with the damnable oath *ex officio*, that the High Commission put upon innocents, to cause them accuse themselves, against the Law of nature.

[unnumbered]

13. The Presbytery hinder not lawfull merchandize; [13] *scandalous exhortation*, unjust suits of Law, they may forbid: and so doth the Scripture, as *scandalous* to Christians, 2 *Cor.* 6.

14. They repeal no civill Lawes, [14] they Preach against unjust and grievous lawes, as, *Esa. cap.* 10.1. doth, and censure the violation of Gods Holyday, which *Prelates* prophaned.

15. We know no *Parochiall Popes*, we turn out no holy Ministers, but only dumbe dogs, non-residents, scandalous, wretched, and Apostate Prelates.

16. Our Moderator hath no dominion, [15] the *P. P.* absolveth him, while he saith, *All is done in our Church by common consent*, p. 7.

17. It is true, we have no Popish consecration, such as *P. P.* contendeth for in the *Masse*, [16] but we have such as *Christ* and his Apostles used, in Consecrating the Elements.

18. If any sell the Patrimony of the *Church*, the Presbytery censures him; if any take buds of *Malt, Meale*, [17] *Beeffe*, it is no law with us, no more then the Bishops five hundred markes, or a yeares stipend that the intrant gave to the *Lord Bishop* for a church. And who ever took buds in these dayes, (as *King James* by the *Earl of Dumbar*, did buy *Episcopacie* at a pretended Assembly, by foule budding) they were either men for the Episcopall way, or perfidiously against their oath became Bishops, all personall faults of this kind, imputed to Presbyters, agree to them, under the reduplication of Episcopall men.

19. The leading men, that covered the sins of the dying man and so losed his soul, were Episcopall men: and though some of them were *presbyterians*, the faults of men cannot prejudice the truth of *God*; [18] but the Prelates alwayes cry out against the rigor of Presbyteries, in censuring [unnumbered] scandals, because they themselves do ill, they hate the light; now here the Prelate condemneth them of remissenesse in Discipline.

[19]20. Satan, a liar from the beginning, saith, The *Presbyterie was a seminary and nursery of fiends, and contentions, & bloods*: because they excommunicated murtherers against *King James* his will: which is all one as to say, *Prophecying is a nurse of bloods*, because the Prophets cryed out against *King Achab*, and the murtherers of innocent *Naboth*: the men of *God* must be either on the one side, or the other, or then preach against reciprocation of injuries.

21. It is false, that *Presbyteries usurp both swords*: because they censure sins, which the civill Magistrate should censure and punish. *Elias* might be said then to mix himselfe with the civill businesse of the *Kingdom*, because he prophecied against Idolators killing of the Lords Prophets, which crime the civill Magistrate was to punish. But the truth is, the Assembly of *Glasgow*, 1637. condemned the Prelates, because they being Pastors, would be also Lords of *Parliament, of Session, of Secret Counsell, of Exchequer*, Judges, Barons, and in their lawlesse High Commission, would Fine, Imprison, and use the sword.

[20]22. It is his ignorance, that he saith, A provinciall synod is an *associate body chosen out of all judiciall Presbyteries*, for all Pastors, and Doctors, without delegation, by vertue of their place and office, repaire to the Provinciall Synods, and without any choice at all, consult and voice there.

[21]23. It is a lye, *That some Leading men rule all here*; indeed Episcopall men made factions to rent the Synods: and though men abuse their power to factions, this cannot prove that Presbyteries are inconsistent with *Monarchie*; for then the Prelate, the *Monarch* of his Diocesian [unnumbered] rout, should be *Anti-Monarchiall* in a higher manner, for he ruleth all at his will.

24. The prime men, as *Mr. R. Bruce* the faithfull servant of *Christ*, was honoured and attended by all, because of his Suffering, Zeal, Holinesse, his fruitfull Ministry in gaining many thousand souls to *Christ*: So, though *King James* cast him off, and did swear, By *Gods* name he intended to be *King*, (the Prelate maketh Blasphemy a vertue in the *King*) yet *King James* sware he could not find an honest Minister in *Scotland* to be a *Bishop*, and therefore he was necessitated to promote false knaves; but he said sometimes, and wrote it under his hand, that *Mr. R. Bruce* was worthy of the half of his kingdom: but will this prove Presbyteries inconsistent with Monarchies? I should rather think, that Knave *Bishops*, by *King James* his judgement, were inconsistent with *Monarchies*.

25. His lyes of *Mr. R. Bruce*, excerpted out of the lying Manuscript of Apostat *Spotswood*, in that he would not but preach against the Kings recalling from exile some Bloody Popish Lords, to undo all, are nothing comparable to the Incests, Adulteries, Blasphemies, Perjuries, Sabbath-breaches, Drunkenesse, [22] Prophanity, &c. committed by Prelates before the Sun.

26. Our Generall Assembly is no other then *Christs* Court, *Act. 15.* made up of Pastors, Doctors, and Brethren or Elders.

27. They ought to have no negative vote, to impede the conclusions of *Christ* in his servants.

28. It is a lye, that the *King* hath no power to appoint time an•• place for the Generall Assembly; but his power is not privative to destroy the free Courts of *Christ*, but accumulative to ayd and assist them.

29. It is a lye, *That our generall Assembly may repeal*

[unnumbered]

Laws, command and expect performance of the King, or then excommunicate, subject to them, force & compell King, Judges, and all, to submit to them. They may not force the conscience of the poorest begger, nor is any Assembly infallible, nor can it lay bounds upon souls of Iudges, which they are to obey with blind obedience, their power is ministeriall, subordinate to *Christs* Law; and what civill Laws Parliaments make against Gods word, they may Authoritatively declare them to be unlawfull; as though the Emperour, *Act. 15.* had commanded *Fornication and eating of blood*, might not the Assembly forbid these in the Synod? I conceive the Prelates, if they had power, would repeal the Act of Parliament made, *An. 1641.* in *Scotland*, by his Majestie personally present, and the three Estates concerning the annulling of these Acts of Parliament, and Laws, which established *Bishops in Scotland.* E••g. Bishops set themselves as independent *Monarchs*, above Kings and Laws: and what they damne in Presbyteries and Assemblies, that they practise themselves.

[23]30. Commissioners from Burroughs, and *Two* from *Edinbrough*, because of the largenesse of that *Church*, not for Cathedrall supereminence, sit in Assemblies, not as sent from Burroughs, but as sent and Authorized by the Church Session, of the Burrough, and so they sit there in a Church capacity.

[24]31. Doctors both in Accademies, and in Parishes, we desire, and our Book of Discipline holdeth forth such.

32. They hold (I beleeve with warrant of Gods word) if the King refuse to reform Religion, the inferior Iudges and Assembly of Godly Pastors, and other Church Officers may reform; if the *King* will not kisse the Sun, and do his duty in purging the House of the Lord, [25] may not *Elijah* and the people do their duty, and cast out *Baals* Priests? Reformation of Religion is a personall act that [unnumbered] belongeth to all, even to any one private

person according to his place.

33. They may swear a Covenant without the *King*, if he refuse; and Build the Lords House, 2 *Chron.* 15.9. themselves: and relieve and defend one another, when they are oppressed. For my acts and duties of defending my self and the oppressed, do not tye my conscience conditionally, so the King consent, but absolutely, as all duties of the Law of nature doe, *Jer.* 22.3. *Prov.* 24.11. *Esa.* 58.6. *Esa.* 1.17.

34. The P. P. condemneth our Reformation, because it was done against the will of our Popish *Queen*. This sheweth what estimation he hath of Popery, and how he abhorreth Protestant Religion.

35. They deposed the Queen for Her Tyranny, but Crowned her Son; all this is vindicated in the following Treatise.

36. The killing of the monstrous and prodigious wicked *Cardinall* in the *Castle of St. Andrews*, and the violence done to the Prelates, who against all Law of *God* and man obtruded a Masse service upon their own private motion, in *Edinbrough An.* 1637. can conclude nothing against Presbyteriall Government, except our Doctrine commend these acts as lawfull.

37. What was preached by the servant of *Christ*, whom *p.* 46. he calleth the *Scottish Pope*, is *Printed*, and the P. P. durst not, could not, cite any thing thereof as Popish or unsound, he knoweth that the man whom he so slandereth, knocked down the Pope and the Prelates.

38. The making away the fat *Abbacies and Bishopricks*, is a bloody Heresie to the earthly minded Prelate: the Confession of Faith commended, by all the Protestant *Churches*, as a strong bar against Popery, and the book of Discipline, in which the servants of God laboured [unnumbered] twenty yeares, with fasting and praying, and frequent advice and counsell, from the whole Reformed Churches, are to the P. P. a negative faith, and devote imaginations; its a lye, that Episcopacie by both sides was ever agreed on by Law in Scotland.

39. And was it a heresie that *M. Melvin* taught, that Presbyter and Bishop are one function in Scripture? and that Abbots and Priors were not in Gods book? *dic ubi legis*: and is this a proof of inconsistency of *Presbyteries* with a *Monarchie*?

40 It is a heresie to the P. P. that the *Church* appoynt a Fast, when *King James* appoynted an unseasonable Feast, when Gods wrath was upon the Land, contrary to Gods word, *Esa.* 22.12, 13, 14. and what, will this prove *Presbyteries* to be inconsistent with *Monarchies*?

[26]41. This Assembly is to judge, what Doctrine is treasonable; what then? Surely the secret Counsell and *King*, in a constitute Church is not Synodically to determine what is true or false Doctrine, more then the Roman Emperor could make the Church Canon, *Act.* 15.

42. *M. Gibson*, *M. Black*, preached against *King James* his maintaining the *Tyranny of Bishops*, his sympathizing with Papists and other crying sins, and were absolved in a generall Assembly, shal this make *Presbyteries* inconsistent with *Monarchie*? Nay, but it proveth only, that they are inconsistent with the wickednesse of some *Monarchies*; and that Prelates have been like the four hundred false prophets that flattered *King Achab*; and these men that preached against the sins of the King, and Court, by Prelates in both Kingdomes, have been imprisoned, Banished, their Noses ript, their cheeks burnt, their eares cut.

43. The Godly men that kept the Assembly of *Aberdeen*, [unnumbered] An. 1603. did stand for Christs Prerogative when *K. James* took away all generall Assemblies, as the event proved; and the *King* may with as good warrant inhibit all Assemblies for Word and Sacraments, as for Church Discipline.

44. They excommunicate not for light faults and trifles as the *Lyar* saith: our Discipline saith the contrary.

45. This Assembly never took on them to chose the *Kings* Counsellours, but these who were in authority took *K. James*, when he was a child, out of the Company of a corrupt and seducing Papist, *Esme Duke of Lennox*, whom the P. P. nameth, *Noble, Worthy, of eminent indowments*.

46. It is true, *Glasgow* Assembly 1637. voted down the High Commission, because it was not consented unto by the Church, and yet was a *Church Judicature* which took upon them to judge of the Doctrine of Ministers, and deprive them, and did inroach upon the Liberties of the established lawfull Church judicatures.

47. This Assembly might well forbid M. *John Graham* Minister, to make use of an unjust decree, it being scandalous in a Minister to oppresse.

48. Though Nobles, Barons, and Burgesses, that professe the truth, be Elders, and so Members of the generall Assembly, this is not to make the *Church* the House, and the Common-wealth the Hangings; for the constistent Members, we are content to be examined by the patern of Synods, *Act. 15. v. 22, 23*. Is this inconsistent with Monarchie?

49. The Commissioners of the generall Assembly, are 1. A meer occasionall judicature. 2. Appointed by, and subordinate to the Generall Assembly. 3. They have the same warrant of Gods Word, that Messengers of the Synod, *Act. 15. v. 22.27*. hath.

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50. The historicall calummie of the 17. day of December, is known to all; 1. That the Ministers had any purpose to dethrone *King James*, and that they wrote to *John L. Marquesse of Hamilton* to be King, because *K. James* had made defection from the true Religion: *Satan* devised, *Spotswood* and this P. P. vented this, I hope the true history of this is known to all. The holiest Pastors, and professors in the Kingdom, asserted this Government, suffered for it, contended with authority only for sin, never for the power and Office; These on the contrary side were men of another stamp, who minded earthly things, whose God was the world. 2. All the forged inconsistency betwixt *Presbyteries* and *Monarchies*, is an opposition with absolute *Monarchie*; and concludeth with alike strength, against Parliaments, and all Synods of either side, against the Law, and Gospell, preached, to which Kings and Kingdoms are subordinate. Lord establish Peace and Truth.
Farewell.

[1]

LEX, REX.

QUEST. I. In what sense Government is from God? ↩

I Reduce all that I am to speak of the power of Kings, to the Author or efficient. 2. The matter or subject. 3. The form or power. 4. The end and fruit of their Government; And 5. to some cases of resistance. Hence,

Quest. I. *Whether Government be warranted by a divine Law?*

The question is, either of *Government* in generall, or of the particular species of *Government*; such as are *Government* by one only, called *Monarchy*; the *Government* by some chief leading men, named *Aristocracie*; the *Government* by the people, going under the name of *Democracie*. 2. We cannot but put difference betwixt the institution of the Office, to wit, *Government*, and the designation of person, or persons to the Office. 3. What is warranted by the direction of natures light, is warranted by the Law of nature, and consequently by a divine Law; for who can deny the Law of nature to be a divine Law?

That power of *Government* in generall must be from God: [27] I make good, 1. Because, *Rom. 13.*—1. there is no power but of God; the powers that be, are ordained of God. 2. God commandeth obedience, and so subjection of conscience to powers, *Rom. 13.5.* *Wherefore we must be subject not onely for wrath* (or civill punishment) *but for conscience sake*, 1 *Pet. 2.13.* *Submit your selves to every ordinance of man for the Lords sake ■ whether it be to the King as Supreme, &c.* Now God onely by a divine Law can lay a band [2] of subjection on the conscience, tying men to guilt, and punishment, if they transgresse.

[28]2. *Conclus.* All civill power is immediately from God in its root. In that, 1. God hath made man a sociall creature, and one who inclineth to be governed by man; then certainly, he must have put this power in mans nature: so are we by good reason taught by [29] *Aristotle*.

2. God and nature intendeth the policie and peace of mankinde, then must God and nature have given to mankinde, a power to compasse this end; and this must be a power of *Government*. I see not then why *John Prelate*, *Master Maxwel* the excommunicate *P. of Rosse*, who speaketh in the name [30] of *I. Armagh*, had reason to say, *That he feared that we fancied, that the Government of Superiours was onely for the more perfit ■ but have no Authoritie over or above the perfit, Nec Rex, nec Lex, justo posita.* He might have imputed this to the *Brasilians*, who teach, That every single man hath the power of the sword to revenge his own injuries, as [31] *Molina* saith.

QUEST. II. Whether or not, Government be warranted by the Law of nature. ↩

AS domestick societie is by natures instinct, so is civill societie naturall, *in radice*, in the root, and voluntary, *in modo*, in the manner of coalescing. Politick power of *Government*, agreeth not to man, singly, as one man, except in that root of reasonable nature; but supposing that men be combined in societies, or that one family cannot contain a societie, it is naturall, that they joyn in a civill societie, though the manner of Union in a politick body; as [32] *Bodine* saith, be voluntary, *Gen. 10.10. Gen. 15.7.* and [33] *Suarez* saith, That a power of making Laws, is given by God as a property flowing from nature, *Qui dat formam, dat consequentia ad formam*, Not by any speciall action or grant, different from creation, nor will he have it to result from nature, while men be united into one politick body: which

Union being made, that power followeth without any new action of the will,

[34] We are to distinguish betwixt a power of Government, and a power of Government by Magistracy. That we defend our selves from violence by violence, is a consequent of unbroken and sin-lesse nature; but that we defend our selves by devolving our power over in the hands of one, or more Rulers, seemeth rather positively morall, then naturall, except that it is naturall for the childe to expect [3] help against violence, from his father: For which cause I judge that learned Senator [35] *Ferdinandus Vasquius* said well, [36] That Princedom, Empire, Kingdom, or Iurisdiction hath its *rise from a positive and secondary law of Nations, and not from the law of pure Nature*. [37] The Law saith, there is no law of Nature agreeing to all living creatures for superiority; for by no reason in Nature, hath a Boar dominion over a Boar, a Lyon over a Lyon, a Dragon over a Dragon, a Bull over a Bull; And if all Men be born equally free (as I hope to prove) there is no reason in Nature, why one Man should be King and Lord over another; therefore while I be otherwise taught by the forecasten Prelate *Maxwell*, I conceive all jurisdiction of Man over Man, to be as it were Artificiall and Positive, and that it inferreth some servitude, whereof Nature from the womb hath freed us, if you except that subjection of children to parents, and the wife to the husband; and the [38] Law saith, *De jure gentium secundarius est omnis principatus*. 2. This also the Scripture proveth, while as the exalting of *Saul* or *David* above their Brethren to be Kings, and Captains of the Lords people, is ascribed, not to Nature, (for King and Beggar spring of one clay-mettall) but to an act of Divine bounty and grace, above Nature, so *Psal. 78.70, 71. He took David from following the Ewes, and made him King and feeder of his people*, 1 Sam. 13.13.

There is no cause why Royallists should deny Government to be naturall, but to be altogether from God, and that the Kingly power is immediatly and only from God; because it is not naturall to us to subject to Government, but against Nature, and against the hair for us to resign our liberty to a King, or any Ruler or Rulers; for this is much for us, and proveth not but Government is naturall; it concludeth that a power of Government *tali modo*, by Magistracy, is not naturall, but this is but a Sophisme; a \langle in non-Latin alphabet \rangle \langle in non-Latin alphabet \rangle , *ad illud quod est dictum* \langle in non-Latin alphabet \rangle \langle in non-Latin alphabet \rangle this speciall of Government, by resignation of our liberty, is not naturall; *Ergo*, power of Government is not naturall; it followeth not, *a negatione sp•ciei non sequitur negatio generis, non est homo, ergo non est animal*. [39] And by the same reason I may by an antecedent will, agree to a Magistrate and a Law, that I may be ruled in a politick Society, and by a consequent will onely, yea and conditionally onely agree to the penalty and punishment of the Law; and it is most true, no man by the instinct of Nature giveth consent to Penall Laws as Penall, for Nature doth not teach a man, nor incline his spirit to yeeld that his life shall be taken away by the sword, and his [4] blood shed, except in this remote ground, a man hath a disposition, that a veine be cutt by the Physitian, or a Member of his body cut off, rather then the whole body and life perish by some contagious disease; but here reason in cold blood, not a naturall disposition is the neerest prevalent cause, and disposer of the businesse. When therefore a communitie by natures instinct and guidance, incline to *Government*, and to defend themselves from violence; they do not by that instinct formally agree to *Government* by *Magistrates*; and when a naturall conscience giveth a deliberate consent to good Laws, as to this, *He that doth violence to the life of a man, by man shall his blood be shed, Gen. 9.6*. He doth tacitely consent that his own blood shall be shed; but this he consenteth unto *consequently, tacitely, and conditionally. If he shall do violence to the life of his brother*: Yet so as this consent proceedeth not from a disposition every way purely naturall. I grant, reason may be necessitated to assent to the conclusion, being as it were forced by the prevalent power of the evidence of an insuperable and invincible light in the premises, yet from naturall affections there resulteth an act of self-love, for self-preservation. So *David* shall condemn another rich man who hath many Lambs, and robbeth his poor

brother of his one Lamb, and yet not condemn himself, though he be most deep in that fault, [40] 1 Sam. 12.5, 6. yet all this doth not hinder, but Government even by Rulers hath its ground in a secondary Law of nature, which *Lawyers* call, *secundariò jus naturale*, or *jus gentium secundarium*; a secondary Law of nature, which is granted by *Plato*, and denied by none of sound judgement in a sound sense, and that is this, *Licet vim virepellere*, *It is lawfull to repeal violence by violence*, and this is a speciall act of the Magistrate.

2. But there is no reason, why we may not defend by good reasons, that politick Societies, Rulers, Cities, and Incorporations, have their rise and spring from the secondary Law of nature: 1. Because by Natures Law, Family-Government hath its warrant; and *Adam* though there had never been any positive Law, had a power of governing his own family, and punishing malefactors; but as [41] *Tannerus* saith well, and as I shall prove God willing, this was not properly a Royall or Monarchicall power; and I judge by the reasoning of [42] *Sotus*, [43] *Molina*, and [44] *Victoria*. By what reason a Family hath a power of Government, and of punishing Malefactors, [45] that same power must be in a societie of men, Suppose that societie were not made up of Families, but of single persons; [5] for the power of punishing ill-doers doth not reside in one single man of a familie, or in them all, as they are single private persons, but as they are in a familie. But this argument holdeth not but by proportion; for paternall government, or a fatherly power of parents over their families, and a politick power of a Magistrate over many families, are powers different in nature, the one being warranted by natures law even in its species, the other being in its spece and kind warranted by a positive law, and in the generall only warranted by a law of nature.

2. If we once lay the supposition, [46] that *God* hath *immediately* by the law of nature appointed there should be a Government; and mediately defined by the dictate of naturall light in a communitie, that there shall be one, or many Rulers to governe the Communitie; then the Scriptures arguments may well be drawn out of the school of nature: as, 1. The powers that are, be of *God*; [47] therefore natures light teacheth, that we should be subject to these powers. 2. It is against natures light to resist the ordinance of *God*. 3. Not to feare him to whom *God* hath committed the sword, for the terror of evill doers. 4. Not to honour the publike rewarder of well-doing. 5. Not to pay tribute to him for his worke. Therefore I see not but [48] *Govarruvias*, [49] *Soto*, [50] *Suarez*, have rightly said, that power of Government is *immediately* from *God*, and this or this definite power is *mediately* from *God*, proceeding from *God* by the mediation of the consent of a Communitie, which resigneth their power to one or moe Rulers: and to me [51] *Barclaius* saith the same: *quamvis populus potentiae largitor videatur, &c.*

QUEST. III. Whether Royall Power and definite forms of Government be from God? ↩

The *King* may be said to be from *God* and his word in these seveall notions. 1. *By way of permission*, Ier. 43.10. *Say to them, thus saith the Lord of hoasts the God of Israel*, [52] *Behold I will send and take Nebuchadnezzar the King of Babylon, my servant, and will set his throne upon these stones that I have hid, and he shall spread his royall pavilion over them.* And thus *God* made him a *Catholick King*, and gave him all Nations to serve him, *Jer.* 27.6, 7▪ 8. though he was but an unjust *Tyrant*, and his sword the best title to those crownes.

2. The *King* is said to be from *God*, by way of naked approbation. *God* giving to a people power to appoint what Government they shall thinke good, but instituting none in speciall, in his Word. This way some make Kingly power to be from *God* in the generall, [6] but in the particular to be an invention of men, negatively lawfull, and not repugnant to the Word, as the wretched Popish ceremonies are from *God*. But we teach no such thing: let [53] *Maxwell* free his Master [54] *Bellarmino* and other *Iesuites*, with whom he sideth in *Romish Doctrine*: we are free of this. *Bellarmino* saith that *politick power in generall is warranted by a Divine*

law; but the particular formes of politick power, he meaneth Monarchie, with the first, is not by Divine right, but de jure gentium, by the law of nations, and sloweth immediately from humane election, as all things, saith he, that appertain to the law of Nations. So Monarchie to Bellarmine is but an humane invention, as Mr. Maxwell his Surplice is: and D. Ferne, sect. 3. p. 13. saith with Bellarmine.

3. A King is said to be from God, by *particular designation*, as he appointed *Saul* by name for the crown of *Israel*. Of this hereafter.

[55]4. The Kingly or Royall office is from God by *divine institution* and not by naked approbation: for first, we may well prove *Aarons Priesthood* to be of divine institution, because God doth appoint the Priests qualification from his familie, bodily perfections, and his charge. And we take the Pastor to be by divine law and *Gods institution*, because the Holy Ghost, 1 *Tim.* 3.1, 2, 3, 4. describeth his qualification, so may we say that the Royall power is by divine institution, because *God* mouldeth him, *Deut.* 17.15. *Thou shalt in any wise set him King over thee, whom the Lord thy God shall choose, one from amongst thy brethren, &c.* Rom. 2 13. *There is no power but of God, the powers that be, are ordained of God.* 3. That power must be ordained of God as his own ordinance, to which we owe subjection, for conscience, and not only for feare of punishment: but every power is such, *Rom.* 13.4. To resist the *Kingly power*, is to resist *God*. 5. He is the Minister of God for our good. 6. He beareth the sword of God to take vengeance upon ill-doers. 7. The *Lord* expresly saith, 1 *Pet.* 2.17. *Feare God, honour the King, v. 13. Submit your selves to every ordinance of man for the Lords sake, whether it be to the King as supreme, 14. or unto governours, as unto those that are sent by him, &c.* Tit. 3. *Put them in mind to be subject to principalities and powers:* and so the fift Commandement layeth obedience to the *King* on us, no lesse then to our *parents*. Whence I conceive that *power to be of God*, to which by the morall law of God, we owe perpetuall subjection and obedience. 8. *Kings* and all *Magistrates* are *Gods*, and *Gods deputies* and *lieutenants* upon earth, *Ps.* 82.1.6, 7. [7] *Exod.* 22.8. *Exod.* 4.16. and therefore their Office must be a lawfull ordinance of God. 9. By their Office they are feeders of the Lords people, *Ps.* 78.70.71.72. the *shields* of the earth, *Ps.* 47.9. nursing fathers of the Church, *Ps.* 49.23. Captaines over the Lords people 1 *Sam.* 9.19.10. It is a great Judgement of God, when a land wanteth the benefit of such ordinances of God, *Esay* 3 1, 2.3.6, 7.11. The execution of their office is an act of the just Lord of heaven and earth, not onely by permission, but according to Gods revealed Will in his Word; their judgement is not the judgement of men, but of the *Lord*, 2 *Chron.* 19.6. and their Throne is the Throne of God, 1 *Chron.* 19.21.12. [56] *Hierom* saith, to punish murtherers and sacrilegious persons is not blood-shed, but the ministry and service of good Lawes. So if the King be a living law by Office, and the law put in execution which God hath commanded, then as the Morall Law is by divine institution, so must the Officer of God be, who is *Custos & vindex legis divinae*, the keeper, preserver, and avenger of Gods Law, and [57] *Basilus*, this is the Princes Office, *Vt opem serat virtuti, malitiam vero impugnet*, when *Paulinus Treverensis*, *Lucifer Metropolitane of Sardinia*, *Dionysius Mediolanensis*, and other Bishops, were commanded by *Constantine* to write against *Athanasius*, they answered, *Regnum non ipsius esse, sed dei, aquo acceperit, the Kingdom was Gods, not his;* as [58] *Athanasius* saith: [59] *Optatus Milevitanus* helpeth us in the cause where he saith with *Paul*, *Ve are to pray for heathen Kings*. The genuine end of the Magistrate saith [60] *Epiphanius*, is *ut ad bonum ordinem universitatis mundi omnia ex deo bene disponantur atque administrantur*. But some object, if the Kingly Power be of divine institution, then shall any other government be unlawfull and contrary to a divine institution, and so we condemne *Aristocracy*, and *Democracy* as unlawfull. *Ans.* This consequence were good, if *Aristocracy* and *Democracy* were not also of divine institution, as all my arguments prove; for I judge they are not *Governments* different in nature, if we speake Morally and Theologically, onely they differ politically and positivelly; nor is *Aristocracy* any thing but diffused and enlarged Monarchy, and Monarchy

is nothing but contracted *Aristocracy*, even as it is the same hand, when the thumb and the four fingers are folded together, and when all the five fingers are dilated, and stretched out, and where ever God appointed a King, he never appointed him absolute, and a sole independent Angell, but joynd alwaies with him Iudges, who were no lesse to judge according to [8] the Law of God, 2 Chron. 19.6. then the King, Deut. 17. v. 15. And in an obligation morall of judging righteously, the conscience of the Monarch, and the conscience of the *inferiour Iudges* are equally, with an immediate subjection under the King of Kings, for there is here a co-ordination of consciences, and no subordination, for it is not in the power of the inferiour Iudge to judge, *Quoad specificationem*, as the King commandeth him, because the judgement is neither the Kings, nor any mortall mans, but the Lords, 2 Chronicles 19.6, 7.

Hence all the three formes are from God, but let no man say, if they be all indifferent and equally of God, societies and Kingdomes are left in the dark, and know not which of the three they shall pitch upon, because God hath given to them no speciall direction, for one rather than for another. But this is easily answered, that a republick appoint Rulers to governe them, is not an action indifferent, but a Morall action, [61] because to set no Rulers over themselves I conceive were a breach of the fift Commandement, which commandeth government to be one or other. 2. It is not in mens free will that they have government or no government, because it is not in their free will to obey, or not to obey the acts of the Court of nature, which is Gods Court, and this Court enacteth that societies suffer not mankind to perish, which must necessarily follow, if they appoint no government; also it is proved else where, that no Morall acts in their exercises and use are left indifferent to us; so then, the aptitude and temper of every Common-wealth to *Monarchy*, rather then to *Democracy*, or *Aristocracy* is Gods Warrant, and nearest call to determine the wills and liberty of people to pitch upon a Monarchy, *Hic & nunc*, rather then any other forme of Government, though all the three be from God, even as single life and Marriage are both the lawfull Ordinances of God, and the constitution and temper of the body is a calling to either of the two; not are we to think that *Aristocracy* and *Democracy* are either unlawfull Ordinances, or mens inventions, or that those societies which want Monarchy doe therefore live in sins.

But some say, that *Peter* calleth any form of Government, an humane Ordinance, [62] 1 *Pet.* 2.13. < in non-Latin alphabet > < in non-Latin alphabet >. Therefore Monarchy can be no Ordinance of God. *Answ.* [63] *Rivetius*, *It is called an Ordinance of man, not because it is an invention of man, and not an Ordinance of God, but respectu subjecti*; [64] *Piscator*, *Not because man is the efficient cause of Magistracie, but because they are men* [9] *who are Magistrates.* [65] *Diodatus*, *Obey Princes and Magistrates, or Governours made by men, or amongst men.* [66] *Oecumenius*, an humane constitution, because it is made *by an humane disposition, and created by humane suffrages.* [67] *Dydimus*, *presides presidents made by men.* [68] *Cajetanus*, [69] *Estius*, *Every creature of God (as Preach the Gospel to every creature) in authority.* But I take the word *every creature of man*, to be put 1. Emphatically, to commend the worth of obedience to *Magistrates*, though <◇><◇> men, when we do it for the Lords sake: Therefore [70] *Bertrandus*•• *Cardinalis Ednensis* saith, he speaketh so for the more necessi••y of merit; and [71] *Glossa Ordinaria* saith, Be subject to all powers, *Etiam ex infidelibus & incredulis*, Even of infidels and unbelievers. [72] *Lyranus*, *For though they be men ■ the image of God shineth in them; and the Syriack*, as [73] *Lorinus* saith, leadeth us thereunto, [74] < in non-Latin alphabet > < in non-Latin alphabet > *Lechullechum benai anasa.* Obey all the children of men that are in authority. 2. It is an Ordinance of men, not *effectively*; as if it were an invention, and a dream of men: But 2. *subjectively*, because exercised by man. 3. *Objectively*, and < in non-Latin alphabet > < in non-Latin alphabet > for the good of men, and for the externall mans peace and safety especially; Whereas Church-Officers are for the spirituall good of mens souls. And [75] *Durandus* saith well, *Civill power according to its institution is of God, and according to its acquisition, and way of use, its of*

man. And we may thus farre call the forms of Magistrates, an humane Ordinance, That some Magistrates are ordained to care for mens lives, and matters criminall, of life and death, and some for mens Lands and estates; some for commodities by Sea, and some by Land; and Magistrates according to these Determinations or humane Ordinances.

QUEST. III. Whether the king be only and imediatly from God, & not from the people.

THat this question may be the clearer, we are to set down these Considerations.

1. The question is, Whether the Kingly Office it self come from God; I conceive it is, and floweth from the people, [76] not by formall institution; as if the people had by an act of reason, devised and excogitated such a power: God ordained the power; it is from the people onely by a virtuall emanation, in respect that a community having no Government at all, may ordain a King, or appoint an *Aristocracie*. But the question is, concerning the designation of the person? Whence is it that this man, rather than this man, is crowned [10] King? and whence is it, from God immediatly, and onely, that this man rather than this man, and this race or family rather than that race and family is chosen for the Crowne? or is it from the people also, and their free choise? for the Pastor and the Doctors Offi••e is from Christ onely; but that *Iohn* rather than *Thomas* be the Doctor or the Pastor, is from the will; and choice of men, the Presbyters and people.

[77]2. The Royall power is three wayes in the people; 1. Radically and virtually, as in the first subject. 2. *Collativè vel communicativè*, by way of free donation, they giving it to this man, not to this man that he may rule over them. 3. *Limitatè*; They giving it so, as these three acts remaine with the people; 1. That they may measure out, by ounce weights, so much Royall power, and no more, and no lesse. 2. So as they may limit, moderate, and set banks, and marches to the exercise. 3. That they give it out, *conditionatè*, upon this, and this condition, that they may take again to themselves what they gave out, upon condition, if the condition be violated: The first I conceive is cleere, 1. because if every living creature have radically in them a power of *selfe-preservation* to defend themselves from violence, as we see Lyons have pawes, some beasts have hornes, [78] some clawes; men being reasonable creatures, united in societie, must have power in a more reasonable and honorable way to put this power of warding off violence, in the hands of one or moe Rulers, to defend themselves by Magistrates. 2. If all men be borne, as concerning civill power, alike; (for no man commeth out of the wombe with a Diadem on his head, or a Scepter in his hand) and yet men united in a societie may give crown and scepter to this man, and not to this man; then this power was in this united societie, but it was not in them formally, for they should then all have been *one King*, and so both above and superiour, and below and inferiour to themselves, which we cannot say: therefore this power must have been virtually in them, because neither man, nor communitie of men can give that which they neither have formally, nor virtually in them. 3. *Royalists* cannot deny, but Cities have power to choose and create inferiour Magistrates, *ergo*, many Cities united have power to create an higher Ruler; for Royall power is but the united and superlative power of inferiour Judges, in one greater Judge, whom they call a *King*.

[79]2 *Conclus*. The power of creating a man a King, is from the people, 1. Because those who may create this man a King, rather than [11] thi•• man, they have power to appoint a King. For a comparative act on doth positively inferre an action if a man have a power to marry this woman, not that woman; we may strongly conclude, *ergo* he hath power to marry, now, 1 King. 16. *The people made Omri King*, and not *Zimri*; and his sonne *Achab*, rather than *Tibni* the sonne of *Sinath*. Nor can it be replied this was no lawfull power that the people used, for that cannot elude the argument, for, 1 King. 1. the people made *Salomon* King, and not *Adonijah*, though *Adonijah* was the elder brother; they say, *God did*

extraordinarily both make the Office, and designe Salomon to be King, the people had no hand in it, but approved Gods fact. Answer. This is that we say, God by the people, by *Nathan the Prophet*, and the servants of *David*, and the States crying, (*God save King Salomon*) made *Salomon King*; and here is a reall action of the people. God is the first Agent in all acts of the Creature, where a people maketh choise of a man to be their *King*, the States doe no other thing under God but create this man, rather than another; and we cannot here find two actions, one of God, another of the people; but in one, and the same action; God by the peoples free suffrages & voices createth such a man *King*, passing by many thousands, and the people are not *patientes* in the action, because by the *authoritative* choise of the States, the man is made of a private man, and no *King*, a publick person, and a crowned *King*, 2 Sam. 16.18. *Hushai said to Absolom, nay but whom the Lord and this people, and all the men of Israel choose, his will I be, and with him will I abide*, Iudg. 8.22. *The men of Israel said to Gideon, Rule thou over us*, Iudg. 9.6. *The men of Sechem made Abimelech King*, Iudg. 11.8.11. 2 King. 14.21. *The people made Azariah King*, 1 Sam. 12.1. 2 Chron. 23.3.

2. If *God* doth regulate his people in making such a man *King*, [80] not such a man, then he thereby insinuateth that the people have a power to make such a man *King*, and not such a man. But *God* doth regulate his people in making a *King*. *Ergo* the people have a power to make such a man *King*, not such a man *King*. The Proposition is cleare, because *Gods* Law doth not regulate a *non-e••s*, a meere nothing, or an unlawfull power; nor can *Gods* holy Law regulate an unlawfull power, or an unlawfull action, but quite abolish it, and interdict it; the Lord setteth not downe rules and waies how men should not commit Treason, but the Lord commandeth loyalty, and simply interdicteth men of treason. 2. If people have then more power to create a *King* over themselves, then they had to make *Prophets*, [12] then *God* forbidding them to choose such a man for their *King*, should say as much to his people; as if he would say, *I command you to make* *Esaiah* & *Ieremiah Prophets over you, but not these and these men*. This certainly should prove that not *God* onely, but the people also with *God* made *Prophets*; I leave this to the consideration of the godly. The *Prophets* were immediatly called of *God*, to be *Prophets*, whether the people consented that they should be *Prophets*, or not. Therefore *God* immediatly, and onely sent the *Prophets*, not the people; but though *God* extraordinarily designed some men to be *Kings*, and annoynted them by his *Prophets*, yet were they never actually installed *Kings*, till the people made them *Kings*. I prove the assumption, Deut. 17.—14. *When thou shalt say, I will set a King over me, like all the nations round about me.* 15. *Thou shalt in any wise set him King over thee, whom the Lord thy God shall choose, one from amongst thy brethren shalt thou set King over thee, thou maist not set a stranger over thee, which is not thy brother.* Should not this be an unjust charge to the people, if *God* onely; without any action of the people, should immediatly set a *King over them*? Might not the people reply, *We have no power at all to set a King over our selves, no more then we have power to make* *Esaiah* a *Prophet*, *who* saw the visions of *God*, to what end then should *God* *mocke us, and say, make a brother, and not a stranger King over you*?

3. Expresly Scripture saith, *that the people made the King, though under God*, Iudg. 9.6. *The men of Sechem made Abimelech King*, 1 Sam. 11.15. *And all the people went to Gilgall, and there they made Saul King before the Lord*, 2 King. 10.5. *We will not make any King*. This had been an irrationall speech to *Iehu*, if both *Iehu* and the people held the *Royalists* Tenet, that the people had no power to make a *King*, nor any active or causative influence therein; but that *God* immediatly made the *King*, 1 Chron. 12.38. *All these came with a perfect heart to make David King in Hebron*; and all the rest were of one heart to make *David King*; on the words [81] *Lavater* saith, the same way are *Magistrates* now to be chosen; now this day *God* by an immediate Oracle from Heaven appointeth the Office of a *King*; but I am sure he doth not immediatly designe the man, but doth onely mark him out to the people, as

one who hath the most royall indowments, and the due qualifications required in a lawfull Magistrate, by the Word of God, Exod. 18.21. *Men of truth, hating covetousnesse, &c.* Deut. 1.16, 17. men who will judge causes betwixt their brethren righteously, without respect of persons, [13] 1 Sam. 10.21. *Saul* was chosen out of the Tribes according to the Law of God, Deut. 17. they might not choose a stranger, and *Abulensis, Serrarius, C••rnelius a lapide, Sancheziz,* and other Popish Writers think that *Saul* was not onely annoynted with Oyle, first privately by *Samuel*, 1 Sam. 10.1, 2. but also at two other times before the people, once at *Mizpeh*, and another time at *Gilgal* by a Parliament, and a Convention of the States, and *Samuel* judged the voices of the people so essentiall to make a *King*, that *Samuel* doth not acknowledge him as formall *King*, 1 Sam. 10.7, 8, 17, 18, 19. though he honoured him, because he was to be *King*, 1. Sam. 9 23, 24. while the Tribes of Israel and Parliament were gathered together to make him *King* according to *Gods* Law, Deut, 17. as is evident. For *Samuel*, v. 20. caused all the *Tribes of Israel to stand before the Lord, and the Tribe of Benjamin was taken*; the Law provided one of their owne, not a stranger to raigne over them; and because some of the States of *Parliament* did not choose him, but being *children of Belial, despised him in their heart*, v. 27. therefore after *King Saul*, by that victory over the *Ammonites*, had conquered the affections of all the people fully, v. 10, 11. *Samuel* would have his coronation & election by the Estates of Parliament renewed, at *Gilgall, by all the people*, v. 14, 15. to establish him *King*. 2. The *Lord* by Lots found out the *Tribe of Benjamin*. 3. The *Lord* found out the man, by name, *Saul the sonne of Kish*, when he did hide himselfe amongst the staffe, that the people might doe their part in creating of the *King*, whereas *Samuel* had annoynted him before; but the Text saith expresly that the people made *Saul King*, and *Calvin, Martyr, Lavater,* and Popish Writers, as *Serrarius, Mendoza, Sancheziz, Cornelius a Lapide, Ly••anus, Hugo ■ Cardinalis, Carthusius, Sanctius,* doe all hence conclude that the people under God, make the *King*.

I see no reason why [82] *Barclaius* should here distinguish a *power of choosing a King*, which he granteth the people hath, and a *power of making a King*, which he saith is only proper to God. *Answ.* Choosing of a *King* is either a comparative crowning of this man, [83] not this man; and if the people have this, its a creating of a *King* under *God*▪ who principally disposeth of *Kings* and *Kingdomes*: and this is enough for us. The want of this, made *Zimri* no *King*: and those whom the Rulers of *Iezreel* at *Samaria*, 2 *King*. 10. refused to make *Kings*, no *Kings*. This election of the people made *Athaliah* a *Princesse*: the removall of it, and translation of the crown by the people [14] to *Ioash*, made her no *Princesse*: for I beseech you, what other calling of *God* hath a race of a familie, and a person to the crowne, but only the election of the States? There is now no voice from heaven, no immediately inspired *Prophets*, such as *Samuel* and *Elisha*, to annoynt *David*, not *Eliab*; *Solomon*, not *Adoniah*. The (in non-Latin alphabet) or the heroick spirit of a Royall facultie of governing, is, I grant, from *God* only, not from the people: but I suppose that maketh not a *King*; for then many sitting on the throne this day, should be no *Kings*; and many private persons should be *Kings*. If he meane by the *peoples choosing*, nothing but the peoples approbative consent, posterior to *Gods* act of creating a *King*; let them shew us an act of *God* making *Kings*, and establishing royall power in such a familie, rather then in such a familie; which is prior to the peoples consent, distinct from the peoples consent, I believe there is none at all.

4. *Arg.* Hence I argue: If there be no calling or title on earth to tie the Crown to such a Familie and Person, but the suffrages of the people; then have the line of such a familie, and the persons now, no calling of *God*, no right to the crown, but only by the suffrages of the people, except we say that there be no lawfull *Kings* on earth now, when Propheticall unction and designation to Crowns are ceased, contrary to expresse Scripture, *Rom.* 13.1, 2, 3. 1 *Pet.* 2.13, 14, 15, 16, 17.

But there is no title on earth now to tie crownes to families, to persons, but onely the suffrages of the people: for, 1. Conquest without the consent of the people, is but royall latrocinie, as we shall see. 2. There is no propheticall and immediate calling to Kingdomes now. 3. The Lords giving of Regall parts is somewhat; but I hope *Royallists* will not deny but a child young in yeares and judgment, may be a lawfull King. 3. Mr. *Maxwell* his appointing of the Kingly office, doth no more make one man a lawfull *King*, then another: for this were a wide consequence. God hath appointed that *Kings* should be; *ergo*, *Iohn a Stiles* is a King; yea, *ergo*, *David* is a *King*: It followeth not. Therefore it remaineth only, that the suffrages of the people of God is that just title and divine calling that *Kings* have now to their crownes. I presuppose they have gifts to governe from *God*.

[84]5. If the Lords immediate designation of *David*, and his anointing by the divine authoritie of *Samuel*, had been that which is alone without the election of the people, made *David* formally King of Israel, then there were two Kings in Israel at one time; for *Samuel* [15] annointed *David*, and so he was formally King, upon the ground layed by *Royallists*, that the King hath no royall power from the people: and *David* after he himselfe was annointed by *Samuel*, divers times, calleth *Saul* the Lords anointed, and that by the inspiration of Gods spirit, as we and *Royallists* doe both agree. Now two lawfull supreme Monarchs in one Kingdome, I conceive to be most repugnant to Gods truth, and sound reason; for they are as repugnant as two most Highs, or as two Infinites. 2. It shall follow, that *David* all the while betwixt his anointing by *Samuel*, and his coronation by the suffrages of all Israel at *Hebron*. 1. Was in-lacking, in discharging and acquiting himselfe of his royall duty, God having made him formally a *King*, and so laying upon him a charge to execute justice and judgement, and defend Religion, which he did not discharge. 2. All *Davids* suffering upon *Davids* part must be unjust, for, as *King*, he should have cut off the murtherer *Saul*, who killed the Priests of the Lord; especially seeing *Saul* by this ground must be a private murtherer, and *David* the only lawfull *King*. 3. *David*, if he was formally King, deserted his calling in flying to the *Philistims*; for a *King* should not forsake his *Kingdome* upon no hazards, even of his life, no more then a *Pilot* should give over the helme in an extreme storme: [85] but certainly Gods dispensation in this warranteth us to say no man can be formally a lawfull *King*, without the suffrages of the people for *Saul*, after *Samuel* from the *Lord* anointed him, remained a private man, and no *King*, till the people made him King, and elected him. And *David*, anointed by that same divine authoritie, remained formally a Subject, and not a King, till all *Israel* made him *King at Hebron*. And *Salomon*, though by *God* designed and ordained to be *King*, yet was never *King*, till the people made him *King*, 1 King. 1. *ergo*, there floweth something from the power of the people, by which he who is no *King*, now becommeth a *King*, formally, and by *Gods* lawfull call; whereas before the man was no *King*, but as touching all royall power a meere private man. And I am sure birth must be lesse then Gods designation to a crowne, as is cleere. *Adoniah* was elder then *Salomon*, yet God will have *Salomon*, the younger by birth, to be King, and not *Adoniah*. And so Mr. *Symons* and other Court-Prophets must prevaricate, who will have birth without the peoples election to make a *king*, and the peoples voyces but a ceremonie.

6. I thinke Royalists cannot deny but a people ruled by *Aristocraticall* Magistrates, may elect a *King*, and a King so elected is formally [16] made a lawfull *King* by the peoples election, for of six apt and gifted to reigne, what maketh one a *King*, and not the other five? Certainly *God* disposing the people to choose this man, and not another man, it cannot be said but *God* giveth the Kingly power immediately, and by *him Kings* raigne, that is true. The Office is immediately from *God*, but now the question is, what is that which formally applyeth the Office and Royall Power to this Person, rather then to the other five as meet. Nothing can here be dreamed of, but *God* inclining the hearts of the States to choose this man, and not this men.

QUEST. V. Whether or no *P. P.* the Author of *Sac. San. Regum Majestas*, called the sacred and Royall Prerogative of Kings, proveth that God is the immediate Author of Sovereignty, and that the King is no creature of the peoples making? [↪](#)

Consider first that the excommunicated Prelate saith, cap. 2. p. 19. *Kings are not immediatly from God, as by any speciall Ordinance sent from Heaven by the ministry of Angels and Prophets, there were but some few such; as Moses, Saul, David, &c. yet something may immediatly proceed from God, and be his speciall worke without a revelation or manifestation extraordinary from Heaven, so the designation to a sacred function is from the Church, and from man; yet the power of Word, Sacraments binding and loosing, is immediatly from Jesus Christ. The Apostle Matthias was from Christs immediate constitution, and yet he was designed by men, Act. 1. The soule is by creation and infusion, without any speciall ordinance from Heaven, though nature begeth the body, and disposeth the matter, and prepareth it as fit to be conjoynd with the soule, so as the father is said to beget the sonne.* Ans. 1. The unchurched Prelate striveth to make us hatefull by the title of the Chapter, That God is (by his title) *the immediate Author of Sovereignty*; and who denyeth that? Not those, who teach that the person who is *King*, is created *King* by the people, no more then those who deny that men are now called to be Pastors, and Deacons immediatly, [\[86\]](#) and by a voice from Heaven, or by the ministry of Angells and Prophets, because the Office of Pastors and Deacons is immediatly from God. 2. When he hath proved that *God is the immediate Author of Sovereignty*. What then? shall it follow that the soveraigne *in concreto* may not be resisted? and that he is above all Law; and that there *is no armour against his violence but prayers and [17] teares*. So *God* is the immediate Author of the Pastors, of the Apostles Office, *ergo*, it is unlawfull to resist a Pastor, though he turne robber? *ergo*, the Pastor is above all the Kings Lawes? this is the *Iesuite* and all made, *ergo*, there is no Armour against the robbing Prelate but prayer and teares. 2. He saith in his Title, that *the King is no Creature of the peoples making*. If he meane the King in *abstracto*, that is, *the royall dignity*, whom speaketh he against? Not against us, but against his owne father *Bellarmino*, who saith [\[87\]](#) that *Sovereignty hath no warrant by any divine Law*. If he meane that the man who is *King* is not created and elected *King* by the people, he contradicteth himself and all the Court Doctors. 3. It is false that *Saul* and *David*, their originall of Royalty was onely from *God* by a speciall Ordinance sent from Heaven; for their office is, Deut. 17.14. from the written Word of God, as the killing of Idolaters, v. 3, 7. as the Office of the *Priests and Levites*, 8, 9, 10. and this is *no extraordinary Ordinance from Heaven*, more than that is from Heaven which is warranted by the Word of God. If he meane that these men, *Saul*, and *David*, were created Kings by the onely extraordinary revelation of *God* from Heaven, it is a lye; for beside the Propheticall anoynting of them, they were made *Kings* by the people, as the word saith expresly; except we say that *David* sinned in not setting himselfe downe on the Throne, when *Samuel* anoynted him first *King*; and so he should have made away his Master *King Saul* out of the world; and there were not a few called to the Throne, by the people; but many, yea all the Kings of *Israel* and *Iudah*. 4. The *Prelate* contendeth that a King is designed to his royall dignity, *immediatly from God, without an extraordinary revelation from Heaven*, as the man is *designed to be a Pastor by men; and yet the power of Preaching is immediatly from God, &c.* but he proveth nothing, except he prove that all Pastors are called to be Pastors *immediatly*; and that God calleth and designeth to the Throne such a person immediatly, as he hath immediatly instituted by the power of Preaching, and the Apostleship, and hath immediatly infused the soule in the body, by an act of Creation; and we cannot conceive how *God* in our daies, when there are no extraordinary revelations, doth *immediatly* create this man a King, and immediatly tie the crown to this family rather then to this; this he doth by the people now, without any *Propheticall Vnction*; and by this *medium*, to wit, by the free choice of the people. He needeth not bring the example of *Matthias* more than of any ordinary Pastor, and yet an ordinary Pastor is not [\[18\]](#) immediatly called of God, because the

Office of an ordinary Pastor is from God *immediatly*, and also the man is made Pastor by the Church.

[88] *The P. Prelate saith, a thing is immediatly from God three waies. 1. When it is solely from God, and presupposeth nothing ordinary or humane, antecedent to the obteyning of it. Such was the power of Moses, Saul, David. Such were the Apostles. 2. When the collation of the power to such a person is immediatly from God, though some act of man be antecedent; as Matthias was an Apostle. A baptized man obtaineth remission and regeneration, yet aspersion of water cannot produce these excellent effects. A King giveth power to a favourite to make a Lord or a Baron, yet who is so stupid as to averre the honour of a Lord commeth immediatly from the favourite, and not from the King. 3. When a man hath by some ordinary humane right, a full and just right, and the approbation and confirmation of this right is immediatly from God.*

The first way, Sovereignty is not from God. The second way, Sovereignty is conferred on Kings immediatly, though some created act of Election, succession, conquests intervene, the interposed act containeth not in it power to conferre Sovereignty; as in Baptisme, Regeneration, if there be nothing repugnant in the suscipient, is conferred, not by water, but immediatly by God. In sacred Orders designation is from men, power to supernaturall acts from God: election, succession, conquests remotely and improperly constitute a King. To say in the third sence that sovereignty is immediatly from God, by approbation or confirmation onely, is against Scripture, Prov. 8.15. Psa. 82.8. Ioh. 19. then the people say; you are Gods, your power is from below. And Pauls, (ordained of God) is (approved and confirmed onely of God) the power of designation, or application of the person to royallty is from man; the power of conferring royall power, or of applying the person to royall power is from God. A mans hand may apply a faggot to the fire, the fire onely maketh the faggot to burne.

*Ans. 1. Apostles both according to their Office, and the designation of their person to the Office were immediatly and onely from God, without any act of the people, and therefore are badly coupled with the royall power of David and King Saul, who were not formally made Kings, but by the people at Mizpeh and Hebron, 2. The second way God giveth Royall Power by moving the peoples hearts to confer royall power, and this is virtually in the people, formally from God. Water hath no influence to produce grace, Gods institution and promise doth it; except you dream with your [19] *Iesuites*, of *opus operatum*, that water sprinkled, by the doing of the deed conferreth grace, *nisi ponatur obex*, what can the child doe, or one child more then another baptized child, to hinder the flux of remission of sins, if you meane not that Baptisme worketh as Physick on a sick man, except strength of humours hinder? and therefore this comparison is not alike. The people cannot produce so noble an effect as royallty, a beame of God. True, formally they cannot, but *virtually* it is in a society of reasonable men, in whom are left beames of authoritative Majesty, which by a divine institution they can give, Deut. 17.14. to this man, to *David*, not to *Eliab*; and I could well say the Favorite made the Lord, and placed honour in the man whom he made Lord, by a borrowed power from his Prince; and yet the honour of a Lord is principally from the King. 3. It is true, the election of the people conteineth not formally Royall dignitie, but the Word saith, *they made Saul, they made David King*: so virtually election must conteine it. *Samuels* oyle maketh not *David* King, he is a subject after he is anointed; the peoples election at *Hebron* maketh him *King*; 2. differenceth him from his brethren; 3. putteth him in Royall state; yet *God* is the principall agent. What immediate action God hath here, is said and dreamed of, no man can divine, except *Prophet P. Prelate*. The ⟨ in non-Latin alphabet ⟩ in non-Latin alphabet) Royall authoritie is given organically by that act by which he is made *King*: another act is a night-dream, but by the act of election *David* is made of no King, a King. The collation of ⟨ in non-Latin alphabet ⟩ in non-Latin alphabet) Royall gifts, is immediatly from *God*: but that formally maketh not a *King*, if *Solomon* saw right, *servants**

riding on horses, Princes going on foot. 4. Judge of the Prelates subtiltie, I dare say, not his own, [89] he stealeth from *Spalato*, but telleth not, *The applying of the person to Royall authoritie, is from the people; but the applying of Royall authoritie to the person of the King, is immediately and only from God: as the hand putteth the faggot to the fire, but the fire maketh it burne.* To apply the subject to the accident, is it any thing else but to apply the accident to the subject? *Royall authoritie* is an accident, the person of the King the subject: the applying of the faggot to the fire, and the applying of the fire to the faggot, are all one, to any not forsaken of common sense. When the people applyeth the person to the *royall authoritie*, they but put the person in the state of *royall authoritie*; and this is to make an union betwixt the Man and *royall authoritie*; and this is to apply *royall authoritie* to the person. 5. The third sense is the Prelates dreame, not a *Tene* of ours; we never said [20] that soveraigntie in the King is *immediately* from *God* by approbation or *confirmation* only, as if the people first made the King, and *God* did only by a posterior and latter act say *Amen* to the deed done, and subscribe, as Recorder, to what the people doth: so the people should deale kingdomes and crownes at their pleasure, and *God* behoved to ratifie and make good their fact. When *God* doth apply the person to royall power, what? is this a different action from the peoples applying the person to royall dignitie? It is not imaginable: but the people by creating a *king*, applyeth the person to *royall dignitie*; and *God* by the peoples act of constituting the man *king*, doth by the mediation of this act convey royall authoritie to the man, as the *Church* by sending a man, and ordaining him to bee a Pastor, doth not by that, as Gods instruments, infuse supernaturall powers of preaching: these powers supernaturall may be, and often are in him before he be in orders; and sometimes *God* infuseth a supernaturall power of government in a man, when he is not yet a *king*, as the *Lord* turned *Saul* into another man, 1 Sam. 10.5.6. neither at that point of time when *Samuel* anointed him, but after that, v. 5. *After that thou shalt come to the hill of God, 6. the spirit of the Lord shall come upon thee, and thou shalt prophesie with them, and shalt be turned into another man.* Nor yet at that time when he is formally made *King* by the people; for *Saul* was not *King* formally, because of *Samuels* anointing, nor yet was he *King* because another spirit was infused into him, v. 5, 6. for he was yet a privat man, till the States of *Israel* chose him *King* at *Mizpeh*. And the word of *God* useth words of action to expresse the peoples power, *Judg.* 9.6. And all the men of *Sechem* gathered together, and all the men of *Millo*, *< in non-Latin alphabet > < in non-Latin alphabet > regnare fecerunt*, [90] *they caused him to be King.* The same is said, 1 Sam. 10.15. *they caused Saul to reigne*, 2 K. 10.5. *< in non-Latin alphabet > < in non-Latin alphabet > We shall not King any man*, 1 Chron. 12.38. *They came to Hebron < in non-Latin alphabet > < in non-Latin alphabet > to King David over all Israel*, Deut. 17. three times the making of a *King* is given to the people. 7. When thou shalt say, *< in non-Latin alphabet > < in non-Latin alphabet > I shall set a King over me*: if it were not their power to make a *King*, no law could be imposed on them not to make a stranger their *King*, 1 King. 12.20. *all the congregation Kinged Jeroboam*, [91] or *made him King over all Israel*, 2 King. 11.12. *They Kinged Joash*, or *made Ioash to reigne*. 6. *The people are to say, You are Gods, and your power is below*, saith the *Prelate*: what then? *ergo*, their power is not from *God* also: It followeth not, *subordinata non pugnans*. The Scripture saith both, the *Lord* [21] exalted *David* to be *King*, and, All power is from *God*: and so the power of a *L. Major* of a Citie: [92] and the people made *David* *King* also, and the Citie maketh such a man *L. Major*. It is the *Anabaptists* argument; *God* writeth his law in our heart, and teacheth his own children, *ergo*, bookes, and the ministerie of men are needlesse: So all Sciences and lawfull arts are from *God*: *ergo*, Sciences applied to men, are not from mens free will, industrie and studies. The *Prelate* extolleth the *King*, when he will have his Royaltie from *God*, the way that *John Stiles* is the husband of such a woman.

P. Prelate. *Kings are of God, they are Gods*, [93] *children of the most High, his servants ■ publike Ministers, their sword and judgement Gods. This he hath said of their royaltie in abstracto, and in concreto; their power, person, charge, are all of divine extract, and so their*

authoritie and person are both sacred and inviolable. Answ. So are all the congregation of the Iudges, *Psal.* 82. v. 1.6. all of them Gods: for he speaketh not there of a congregation of *Kings*. So are Apostles, their office and persons of *God*; [94] and so the Prelates (they thinke) the successors of the Apostles, are Gods servants, their ministerie, word, rod of discipline not theirs, but of *God*: the judgement of Iudges, inferiour to the King, is the Lords judgement, not mens, *Deut.* 1.17. 2. *Chro.* 19.6. Hence by the Prelates Logick, the persons of *Prelates, Majors, Bailiffes, Constables, Pastors*, are sacred and inviolable above all lawes, as are *Kings*. Is this an extolling of *Kings*? 2. But where are *Kings* persons, as men, said to be of *God*, as the *Royaltie in abstracto* i••? The Prelate seeth beside his booke, *Psal.* ••2.7. *But ye shall die as men.*

P. Prelate. *We begin with the Law, in which as God by himself prescribed the essentialls, substantialls, & ceremonies of his pietie & worship, gave order for justice & pietie, Deut.* 17.14.15. *the King is here originally & immediately from God, and independent from all others, (set over them) Them, is collective, that is, all & every one. Scripture knoweth not this State principle; Rex est singulis major, universis minor. The person is expressed in concreto, Whom the Lord thy God shall choose. This peremptorie precept dischargeth the people, all, and every one, diffusively, representatively, or in any imaginable capacity to attempt the appointing of a King, but to leave it entirely and totally to God Almighty.*

Answ. Begin with the Law, but end not with Traditions. If God by himselfe prescribed the essentialls of pietie and worship, the other [22] part of your distinction is, that *God* not by himself, but by his Prelates, appointed the whole Romish Rites, as accidentalls of pietie. This is the Iesuites doctrine. 2. This place is so far from proving the King to be independent, and that it totally is Gods to appoint a King, that it expresly giveth the people power to appoint a King: for the setting of a King over themselves, such a one, and not such a one, makes the people to appoint the *King*, and the *King* to be lesse and dependent on the people, seeing God intendeth the King for the peoples good, and not the people for the *Kings* good. This text shameth the Prelate, who also confessed, *P.* 22. That remotely and improperly succession, election, and conquest maketh the King, and so its lawfull for men remotely and improperly to invade *Gods* chaire.

P. Prelate: *Jesuites and Puritans say, it was a priviledge of the Jews that God chose their King. So Suarez, Soto, Navarra.*

Answ. 1. The *Jesuites* are the *Prelates* brethren, they are under one Banner, we are in contrary Camps to *Jesuites*. 2. The *Prelate* said himself, *Pag.* 19. *Moses, Saul, and David, were by extraordinary revelation from God; sure I am, Kings are not so now. The Jews had this priviledge, that no nation had. 1. God named some Kings to them, as Saul, David, he doth not so now. 2. God did tie Royaltie to Davids house by a Covenant, till Christ should come, he doth not so now. Yet we stand to Deut.* 17.

[95]P. Prelate. *Prov.* 8.15. *By me Kings reign. If the people had right to constitute a King, it had not been King Solomon, but King Adonijah. Solomon saith not of himself, but indefinitely. (By me) as by the Author, efficient, and constituent, Kings reign. (Per) is by Christ, not by the people, not by the high Priest, State, or Presbytery, not Per me iratum, by me in my anger, as some Sectaries say. Pauls (in non-Latin alphabet) (in non-Latin alphabet), an Ordinance by high Authoritie not revocable: So Sinesius useth the word, Aristotle, Lucilius, Appian, Plutarch, (in non-Latin alphabet) (in non-Latin alphabet) in me, and by me, as Doctor Andrews. Kings indefinitely, all Kings: none may distinguish where the Law distinguisheth not, they reign in concreto: that same power that maketh Kings, must unmake them.*

Ans. 1. The Prelate cannot restrict this to Kings only, it extendeth to Parliaments also. *Solomon* addeth ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ and *Consules*, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ all the Sirs, and Princes ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ and Magnificents, and Nobles, and more ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ and all the Iudges of the earth, they reign, rule, and decree justice by Christ. Here then Majors, Sheriffs, Provosts, Constables, are by the Prelate extolled as persons, sacred, irresistible: Then, 1. the Iudges of *England* rule not by the King of [23] *Britain*, as their Author, efficient, constituent, but by Iesus Christ immediately, nor doth the Commissary rule by the Prelate. 2. All these, and their power, and persons, rule independently, and immediately by Iesus Christ. 3. All inferiour Iudges are ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, the Ordinances of God not revocable. Ergo, The King cannot deprive any Iudge under him; he cannot declare the Parliament no Parliament; once a Iudge and alwayes, and irrevocably a Iudge. *This Prelates poor pleading for Kings deserves no wages. Lavater intelligit superiores & inferiores Magistratus, non est potestas nisi a deo, Vatablus consiliarios.* 2. If the people had absolute right, to choose Kings by the Law of *Israel*, they might have chosen another, then either *Adonijah*, or *Solomon*, but the Lord expressly, *Deut.* 17.14. put an expresse Law on them, that they should make no King, but him whom the Lord should chuse: Now the Lord did either by his immediately inspired Prophet, anoint the man, as he anointed *David*, *Saul*, *Iehu*, &c. or then he restricted, by a revealed promise, the Royall power to a family, and to the eldest by birth: and therefore the Lord first chose the man, and then the people made him King: birth was not their rule, as is clear, in that they made *Solomon* their King, not *Adonijah* the elder; and this proveth, that God did both ordain Kingly Government to the Kingdom of *Israel*, and chose the man, either in his person, or tied it to the first born of the Line. Now we have no Scripture, nor Law of God, to tie Royall dignitie to one man, or to one family; produce a warrant for it in the Word, for that must be a priviledge of the *Iews*, for which we have no Word of God, but we have no immediately inspired *Samuels*, to say, *Make David, or this man King*; and no Word of God to say, *Let the first born of this family, rather then another family sit upon the throne*; Therefore the people must make such a man King, following the rule of Gods Word, *Deut.* 17.14. and other rules shewing what sort of men Iudges must be, as *Deut.* 1.16, 17, 18. 2 *Chro.* 19.6, 7. 3. It is true, Kings in a speciall manner reign by Christ. Ergo, Not by the peoples free election. The P. Prelate argueth like himself: By this Text, a Major of a Citie, by the Lord, decreeth justice: Ergo, He is not made a Major of the Citie, by the people of the Citie. It followeth not, 4. None of us teach that Kings reign by Gods anger. We judge a King a great mercy of God to Church, or State: But the Text saith not, *By the Lord, Kings and Iudges do not onely reign and decree justice, but also murther Protestants, by raising against them an Army* [24] *of Papists*. And the word, 5. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, *Powers*, doth in no Greek Author signifie, irrevocable powers; for *Vzziah* was a lawfull King, and yet 2 *Chron.* 26. lawfully put from the throne, and *cut off from the house of the Lord*: And Interpreters on this place, deny that the place is to be understood of Tyrants: so the Chaldee Paraphrase turns it well, *Potentis virga justitiae*: so *Lavater*, and *Di••datus*, [96] and *Thomas* saith, this place doth prove, *That all Kings, and Iudges, Laws, derivari a lege aeterna, are derived from the eternall Law*. The Prelate eating his tongue for anger, striveth to prove, That all power, and so Royall power, is of God: but what can he make of it? we beleeve it, though he say Sectaries prove, by ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, *That a man is justified by faith onely*: so there is no power but of God onely: [97] but feel the smell of a Iesuite; it is the Sectaries doctrine. That we are justified by faith onely; but the Prelates, and the Iesuites goe another way, not by faith onely, but by works also. And all power is from God onely, as the first Author, and from no man. What then? Therefore men and people interpose no humane act in making this man a King, and not this man: It followeth, And let us with the Prelate, *joyn Paul and Solomon together, and say, That Soveraigntie is from God, of God, by God, as Gods appointment irrevocable*. Then shall it

never follow: it is unseparable from the person, except you make the King a man immortall: as God onely can remove the Crown; it is true, but God onely can put an unworthy, and an excommunicated Prelate from Office and Benefice, but how? Doth that prove, that men and the Church may not also in their place, remove an unworthy Churchman, when the Church following Gods Word, delivereth to Satan? Christ onely as head of the Church, excommunicateth scandalous men: *Ergo*, The Church cannot do it, and yet the Argument is as good the one way, as the other; for all the Churches on earth cannot make a Minister properly, they but design him to the Ministry whom God hath gifted and called: But shall we conclude, *ergo*, no Church on earth; but God onely, by an immediate action from Heaven, can deprive a Minister? how then durst Prelates excommunicate, unmake, and imprison so many Ministers in the three Kingdoms: But the truth is, take this one Argument from the Prelate, and all that is in his Book, falleth to the ground, to wit, Soveraigntie is from God onely. A King is a creature of Gods making onely; and what then? *Ergo*, Soveraigntie cannot be taken from him: So God onely made *Aarons* house Priests. 2. *Solomon* had [25] no Law to depose *Abiathar* from the Priest-hood. Possibly the Prelate will grant all; the place, Rom. 13. which he saith hath tortured us, I refer to a fitter place, it will be found to torture Court Parasites.

I goe on with the Prelate, c. 3. *Sacred Soveraignty is to be preserved, and Kings are to be prayed for, that we may lead a godly life*, 1 Tim. 3. What then? 1. *All in authority are to be prayed for*, even Parliaments, by that text Pastors are to be prayed for, and without them sound religion cannot well subsist. 2. Is this questioned, but Kings should be prayed for; or are we wanting in this duty? but it followeth not that all dignities to be prayed for are immediatly from God, not from men. *Prelate*, Prov. 8. *Solomon speaketh first of the establishment of Government, before he speake of the workes of Creation, ergo better not be at all, as be without government. And God fixed government in the person of Adam before Evah, or any else came into the world; and how shall government be, and we enjoy the fruits of it, except we preserve the Kings sacred Authority inviolable?* Ans. *Moses*, Gen. 1. speaketh of Creation before he speaketh of Kings, and *Moses* speaketh, Gen. 3. of *Adams* sins before he speakes of redemption through the blessed seed; *ergo* better never be redeemed at all, as to be without sin. 2. If *God* made *Adam* a governour before he made *Evah*, and any of Mankind, he was made a father and a husband before he had either sonne or wife. Is this the Prelates Logick? he may prove that two eggs on his fathers Table are three this way. 3. There is no government where soveraignty is not kept inviolable. It is true, where there is a King, soveraignty must be inviolable, What then? Arbitrary government is not soveraignty. 4. He intimateth *Aristocracy*, and *Democracy*, and the power of Parliaments, which maketh Kings to be nothing but *Anarchie*; for he speaketh here of no government, but Monarchy, *P. Prelate*, *there is need of grace to obey the King*, Ps. 18.43. Ps. 144.2. *It is God who subdueth the people under David*. 2. *Rebellion against the King is rebellion against God*. Pet. 2.17. Prov. 24.12. *Ergo* Kings have a neare alliance with God.

Ans. 1. There is much grace in Papists and Prelates then, who use to write and Preach against grace. 2. *Lorinus* your brother Iesuite will with good warrant of the texts inferre, that the King may make a conquest of his own Kingdomes of *Scotland* and *England* by the sword, as *David* subdued the Heathen. 3. Arbitrary governing hath no alliance with God; a rebell to God, his Country and an Apostate hath no reason to terme lawfull defence against •ut-throat *Irish*, rebellion. 4. There is need of much grace to obey Pastors, inferiour Iudges, masters, Col. 3.22, 23. *ergo* their power [26] is from God immediatly, and no more from men then the King is created King by the people, according to the way of Royalists.

P. Prelate. *God saith of Pharaoh, Exo. 9.7. I have raised thee up. Elisha from God constituted the King of Syria, 2 King 8.13. Pharaoh, Abimelech, Hiram, Hazael, Hadad, are no lesse honoured with the compellation of Kings, then David, Saul, &c. Ier. 29.9.*

Nebuchadnezer is honoured to be called by way of excellency Gods servant, which God giveth to David, a King according to his owne heart; and Esay 45.1, 2. Thus saith the Lord to his anoynted Cyrus, and God nameth him neere a hundreth yeare before he was borne, Esay 44.28. He is my shepheard, Daniel 2.19, 20.17.24. God giveth Kingdomes to whom he will, Dan. 5.8. and p. 37. Empires, Kingdomes, Royalties are not disposed of by the composed contracts of men, but by the immediate hand and worke of God, Hos. 13.11. I gave them a King in my anger, I tooke him away in my wrath: Iob, He places Kings in the throne, &c.

Ans. Here is a whole Chapter of seven pages for one raw argument ten times before repeated, 1. to Exod. 9.7. *I have raised up Pharaoh*, Paul expoundeth it, Rom. 9▪ to prove that King *Pharaoh* was a *vessell of wrath fitted for destruction*, by Gods absolute Will; and the Prelate following *Arminius*, with treasonable charity, applyeth this to our *King*. Can this man pray for the *King*? 2. *Elisha* anoynted but constituted not *Hazael King*, and foretold he should be *King*; and if he be a *King* of Gods making, who slew his sicke Prince, and invaded the Throne by innocent blood, judge you. I would not take *Kings* of the *Prelates* making. 3. If *God* give to *Nebuchadnezer* the same still of the servant of God, given to *David*, Ps. 18.1. & 116.16. and to *Moses*, Ios. 1, 2. all *Kings*, because *Kings* are men according to Gods heart. Why is not royalty then founded on grace? *Nebuchadnezer* was not otherwise his servant, then he was the hammer of the earth, and a tyrannous conquerour of the Lords people, and all the Heathen Kings are called Kings. But how came they to their Thrones for the most part? as *David* and *Hezekiah*? but *God* anointed them not by his Prophets; they came to their Kingdomes by the peoples election, or by blood and rapine; the latter way is no ground to you to deny *Athaliah* to be a lawfull Princesse, she and *Abim•lech* were lawfull Princes, and their sovereignty as immediatly and independently from *God*, as the sovereignty of many heathen Kings. See then how justly *Athaliah* was killed as a bloody usurper of the throne; & this would licence your brethren the Iesuites to stab heathen Kings, whom you will have as well Kings <◇><◇> the Lords anointed, though *Nebuchadnezer* & many of them made [27] their way to the Throne, against all Law of *God* and man, through a bloody patent. 4. *Cyrus* is *Gods* anointed and his *Shepheard* too, ergo his Arbitrary government is a sovereignty immediatly depending on *God*, ••nd above all Law; it is a wicked consequence. 5. *God* named him neere a hundreth yeare ere he was borne, *God* named and designed *Judas* very individually, and named the Asse that *Christ* should ride on to *Ierusalem*, Zach. 9.9. some moe hundred yeares then one. What, will the Prelate make them independent *Kings* for that? 6. *God* giveth Kingdomes to whom he will. What then? this will prove Kingdomes to be as independent and immediatly from *God*, as Kings are; for as *God* giveth Kings to Kingdomes, so he giveth Kingdomes to Kings, and no doubt he giveth Kingdomes to whom he will; so he giveth *Prophets*, *Apostles*, *Pastors* to whom he will; and he giveth tyrannous conquests to whom he will: and it is *Nebuchadnezer*, to whom *Daniel* speaketh that, from the Lord, and he had no just title to many Kingdomes, especially to the Kingdome of *Iudah*, which yet *God the King of Kings* gave to him, because it was his good pleasure; and if *God* had not commanded them by the mouth of his Prophet *Jeremiah*, might they not have risen, and with the sword have vindicated themselves and their own liberty, no lesse then they lawfully by the sword vindicated themselves from under *Moab*, Iudges 3. from under *Iabin*, *laakin* King of *Canaan*, who twenty yeares mightily oppressed the children of *Israel*, Iudges. 4.? now this *P. Prelate* by all these instances making Heathen Kings to be Kings by as good a title as *David* and *Hezekiah*, condemneth the people of *God* as rebels, if being subdued and conquered by the *Turke*, and *Spanish King*, they should by the sword recover their owne liberty, and that *Israel*, and the saviours which *God* raised to them, had not warrant from the law of nature to vindicate themselves to liberty, which was taken from them violently and unjustly by the sword; but from all this it shall well follow that the tyranny of bloody conquerours is immediatly and only dependent from *God*, no lesse then lawfull sovereignty; for *Nebuchadnezers* sovereignty over the people of *God*, and many other Kingdomes also was revenged of *God* as tyranny, Ier. 50.6.7. and therefore *the vengeance of the Lord, and the*

vengeance of his Temple came upon him and his land, Ier. 50.16, 17.18.28, 29.30. It is true, the people of God were commanded of God to submit to the King of Babylon, to serve him, and to pray for him, and to doe on the contrary was rebellion; but this was not because the King of Babylon was their King, and because the King of Babylon had a command of [28] God, so to bring under his yoke the people of God. So Christ had a Commandement to suffer the death of the Crosse, Iohn. 10.18. but had Herod and Pilate any warrant to crucifie him? none at all. 7. He saith, Royalties even of Heathen Kings are not disposed of by the composed Contracts of men, but by the immediate hand and worke of God. But the Contracts of men to give a Kingdome to a person, which a Heathen community may lawfully doe, and so by contract dispose of a Kingdom, is not opposite to the immediate hand of God, appointing Royalty and Monarchy at his owne blessed liberty. Lastly he saith, God tooke away Saul in his wrath; but I pray you did God onely doe it? then had Saul because a King, a Patent Royall from God to kill himselfe, for so God tooke him away; and we are rebels by this, if we suffer not the King to kill himselfe. Well pleaded.

QUEST. VI. Whether the King be so from God onely both in regard of his Sovereignty, and of the designation of his person to the Crown, as that he is no waies from the people, but by meere approbation? [↪](#)

Dr. Ferne, a man much for Monarchy saith, Though Monarchy hath its excellency, [98] being first set up of God, in Moses, yet neither Monarchy, Aristocracy, nor any other forme, is *jure divino*, but we say (saith he) *the power it selfe, or that sufficiency of authority to governe, that is in a Monarchy, or Aristocracy, abstractly considered from the qualification of other formes, is a flux and constitution subordinate to that providence; an ordinance of that Dixi, or silent word by which the world was made, and shall be governed under God.* This is a great debasing of the Lords anynted, [99] for so sovereignty hath no warrant in Gods Word formally as it is such a government, but is in the world by providence, as sin is, and as the falling of a Sparrow to the ground; whereas Gods Word hath not onely commanded that government should be, but that fathers and mothers should be. 2. and not only that politick Rulers should be, but also Kings by name, and other Iudges Aristocraticall should be, Rom. 13.3. Deut. 17.14. 1 Pet. 2.17. Prov. 24.21. Prov. 15.16.3. If the power of Monarchy and Aristocracy abstracted from the formes be from God, then it is no more lawfull to resist Aristocraticall Government, and our Lords of Parliament, or Iudges, then it is lawfull to resist Kings.

But heare the Prelates reasons to prove that the King is from the people by approbation only.

[29]

P. Prelate. *The people, [100] Deut. 17. is said to set a King over them only, as 1 Cor. 6. The Saints are said to judge the world, that is, by consenting to Christs Iudgement. So the people doe not make a King by transferring on him sovereignty, but by accepting, acknowledging, reverencing him as King, whom God hath both constituted and designed King.* Answ. This is said, but not a word proved: for the Queen of Sheba, and Hiram acknowledged, reverenced and obeyed Solomon as King, and yet they made him not King, [101] as the Princes of Israell did. 2. Reverence and obedience of the people is relative to the Kings lawes, but the peoples making of a King is not relative to the laws of a King; for then he should be a King giving laws, and commanding the people, as King, before the people make him King. 3. If the peoples approving and consenting that an elected King be their King, presupposeth that he is a King designed, and constituted by God, before the people approve him as King; Let the P. Prelate give us an act of God now designing a man King; for there are no immediate voyces from heaven, saying to a people, *This is your King*, before the people elect one of sixe to be their King. And this infallibly proveth that God designeth one

of sixe to be a King, to a people who had no King before, by no other act but by determining the hearts of the States to elect and designe this man King, and passe any of the other five. 4. When God, *Deut. 17.* forbiddeth them to choose a stranger, he presupposeth they may choose a stranger: for Gods law now given to man in the state of sinne, presupposeth he hath corruption of nature to doe contrary to Gods law: Now if God did hold forth, that their *setting a King over them*, was but the peoples approving the man whom *God* shall both constitute and designe to be King, then he should presuppose that God was to designe a stranger to be the lawfull *King of Israel*; and the people should be interdicted to approve and consent, that the man should be King whom *God* should choose: for it was impossible that the people should make a stranger King, (God is the only immediate King-creator) the people should only approve and consent that a stranger should be King; yet upon supposall that *God* first constituted and designed the stranger King, it was not in the peoples power that the King should be a Brother rather then a stranger; for if the people have no power to make a King, but doe only approve him, or consent to him, when he is both made and designed of *God* to be King, it is not in their power that he be either brother or stranger ■ and so God commandeth what is simply impossible. 2. Consider the [30] sense of the command by the Prelates vaine Logick: *I Iehovah, as I only create the world of nothing, so I only constitute and designe a man, whether Iew, or Nebuchadnezzar a stranger to be your King; yet I inhibit you under the pain of my curse, that you set any King ••ver your selves, but only a brother.* What is this, but I inhibit you to be creators by omnipotent power? 5. To these adde the reasons I produced before, that the people by no shadow of reason can be commanded to make such a man King, not such a man, if they only consent to the man made King, but have no action in the making of the King.

P. Prelate. *All the acts reall and imaginable, which are necessary for the making of Kings, are ascribed to God: Take the first King as a ruling case, 1 Sam. 12.13. Behold the King whom you have chosen and desired, and behold the Lord hath set a King over you. This election of the people can be no other but their admittance or acceptance of the King whom God hath chosen and constituted, as the words, whom ye have chosen, imply, 1 Sam. 9.17. 1 Sam. 10.1. You have Sauls election and constitution, where Samuel as Priest and Prophet anointeth him, doing reverence and obeysance to him, and ascribing to God, that he did appoint him supream and Sovereigne over his inheritance. And the same expression is, 1 Sam. 12.13. The Lord hath set a King over you: which is Psal. 2.6. I have set my King upon my holy hill of Zion. Neither man nor Angel hath any share in any act of constituting Christ King, Deut. 17. The Lord vindicateth as proper and peculiar to himselfe, the designation of the person. It was not arbitrary to the people to admit or reject Saul so designed; it pleased God to consummate the worke by the acceptation, consent and approbation of the people, ut suaviore modo, that by a smoother way he might incourage Saul to undergoe the hard charge, and make his people the more heartily, without grumbling and scruple, reverence and obey him. The peoples admittance possibly added something to the solemnitie, to the pompe, but nothing to the essentiall and reall constitution or necessitie; it only puts the subjects in mala fide, if they should contraveen, as the intimation of a Law, the coronation of an hereditary King, the inthronization of a Bishop. And, 1 King. 3.7. Thou hast made thy servant King, 1 Sam. 16.1. I have provided me a King, Psal. 18.50. He is Gods King, Psal. 89.19. I have exalted one chosen out of the people, v. 20. He anointeth them, 27. adopteth them. I will make him my first borne, Psal. 82.6. the first borne is above every brother severally, and above all, though a thousand joyntly.*

Answ. 1. By this reason, inferiour Iudges are no lesse immediate [31] Deputies of God, and so irresistible, then the Kings, because God took off the spirit that was on *Moses*, and immediately powred it upon the seventy Elders, who were Iudges inferiour to *Moses*, Num. 11.14.15.16. Answ. 2. This *P. P.* cannot make a *Syllogisme*: I•• all the acts necessary to make a King, be given to *God*, none to the people; then *God* both constituteth and designeth the

King. But the former the *Scripture* saith, *ergo*, if all the acts be given to *God*, as to the prime *King-maker*, and disposer of *Kings* and *Kingdoms*, and none to the people in that notion, then *God* both constituteth and designeth a *King*. Both *major* and *minor* is false. The *major* is a•• false as the very *P. Prelate* himselfe. All the acts necessary for *war-making*, are in an eminent manner given to *God*, as 1. the Lord fighteth for his people. 2. The Lord scattered the enemies. 3. The Lord slew *Og King of Bashan*. 4. The battell is the Lords. 5. The victorie the Lords; *ergo*, *Israel* never fought a battell. So *Deut.* 32. The *Lord* alone led his people; the *Lord* led them in the wilderness; their bow and their sword gave them not the land: *God* wrought all their workes for them, *Esa* 26.12. *ergo*, *Moses* led them not; *ergo*, the people went not on their own leggs through the wilderness; *ergo*, the people never shot an arrow, never drew a sword. It followeth not. 1. *God* did all these as the first, eminent, principall and efficacious pre-determinator of the creature, (though this *Arminian* and *Popish Prelate* mind not so to honour *God*.) 2. The assumption is also false; for the people made *Saul* and *David* *Kings*; [102] and it were ridiculous, that *God* should command them to make a brother, not a stranger *King*, if it was not in their power whether he should be a *Jew*, a *Scythian*, an *Ethiopian*, who was their *King*, if *God* did only without them both choose, 2. constitute, 3. designe the person, and performe all acts essentiall to make a *King*, and the people had no more in them but only to admit and consent, and that for the solemnitie and pompe, not for the essentiall constitution of the *King*. 3. •• *Sam.* 9.17. 1 *Sam.* 10.1. we have not *Saul* elected and constituted *king*, and *Samuel* did obeysance to him and kissed him, for the honor Royall which *God* was to put upon him: for before this propheticall unction, 1 *Sam.* 9.22. he made him sit in the chiefe place, and honored him as *king*, when as yet *Samuel* was materially *King*, and the Lords Vicegerent in *Israel*. If then the *Prelate* conclude any thing from *Samuel* his doing reverence and obeysance to him as *King*, it shall follow that *Saul* was formally *King*, before *Samuel*, 1 *Sam.* 10.1. anointed him, and kissd him; and that must be before he [32] he was formally *King*, otherwise he was in *Gods* appointment *King*, before ever he saw *Samuels* face; and it is true, he ascribeth honour to him, as to one appointed by *God* to be supream Soveraigne, for that which he should be, not for that which he was, as c. 9.22. he set him in the chiefest place, and therefore it is false, that we have *Sauls election and constitution to be King*, 1 *Sam.* 10. for after that time the people are rebuked for seeking a *King*, and that with a purpose to disswade them from it, as a sinfull desire, and he is chosen by *Lots* after that, and made *King*, & after *Samuels* anoynting of him, he was a private, man, and did hide himselfe amongst the stuffe, v. 22.3. The *Prelate* if of ignorance, or wilfully I know not, saith, the expression and phrase is the same, 1 *Sam.* 12.13. and *Ps.* 2.6. which is false; for 1 *Sam.* 12.13. it is 〈 in non-Latin alphabet 〉〈 in non-Latin alphabet 〉 behold the Lord hath given you a *King*, such is the expression, *Hos.* 13.11. I gave them a *King* in my wrath; but that expression is not *Psal.* 2.6. but this 〈 in non-Latin alphabet 〉〈 in non-Latin alphabet 〉 but I have established him my *King*; and though it were the same expression, it followeth not that the people have not hand any other way in appointing *Christ* their head; (though that phrase also be in the word, *Hos.* 1. v. 11.) then by consenting, and beleeving in him as *King*; [103] but this proveth not that the people in appointing a *King*, hath no hand but naked approbation, for the same phrase doth not expresse the same action, nay the *Iudges* are to kisse *Christ*, *Ps.* 2.12. the same way, and by the same action that *Samuel* kissed *Saul*, 1 *Sam.* 10.1. and the *Idolaters* kissed the calves, *Hos.* 13.2. for the same *Hebrew* word is used in all the three places, and yet it is certaine the first kissing is spirituall, the second a kisse of honour, and the third an *Idolatrous* kissing. 4. The anoynting of *Saul* cannot be a leading rule to the making of all *Kings* to the worlds end; for the *P. Prelate* forgetting himselfe said, that onely some few, as *Moses*, *Saul*, and *David*, &c. by extraordinary manifestation from *Heaven* were made *Kings*, pa. 19.5. he saith it was not *Arbitrary* for the people to admit, or reject *Saul* so designed. What meaneth he? it was not morally arbitrary, because they were under a law, *Deut.* 17.14, 15. to make him *King*, whom the Lord should choose. That is true, but was it not arbitrary to them to breake a law Physically? I think he who is a professed *Arminian*

will not side with *Manicheans* and *Fatalists* so, but the *P. Prelate* must prove it was not Arbitrary, either *Morally* or *Physically* to them not to accept *Saul* as their *King*, because they had no action at all in the making of a *King*, *God* did it all, both by constituting and designing the [33] *King*, why then did *God*, Deut. 17. give a Law to them to make such a man *King*, not such a man, if it was not in their free wil to have any action or hand in the making of a *King* at all? but that some *sonnes of Belial* would not accept him as their *King*, is expresly said, 1 Sam. 10.27. and how did Israel conspire with *Absolom*, to unking and dethron•• *David*, whom the Lord had made *King*? If the Prelate meane it was not Arbitrary to them *physically* to reject *Saul*, he speaketh wonders, the *sonnes of Belial* did reject him; ergo they had *physicall power* to doe it: If he meane it was not arbitrary, that is, it was not lawfull to them to reject him, that is true; but doth it follow they had no hand nor action in making *Saul* *King*, because it was not lawfull for them to make a *King* in a sinfull way, and to refuse him whom *God* chose to be *King*? then see what I inferre. 1. Then they had no hand in obeying him as *King*, because they sinne in obeying unlawfull commandements against Gods Law; and so they had no hand in approving and consenting he should be *King*, the contrary whereof the *P. Prelate* saith. 2. So might the *P. Prelate* prove men are *patientes*, and have no action in violating all the Commandements of *God*, because it is not lawfull to them to violate any one Commandement. (6) The *Lord* Deut. 17. vindicates this as proper and peculiar to himselfe to choose the person, and to choose *Saul*. What then? ergo now the people choosing a *King* have no power to choose or name a man, because *God* *anoynted Saul* and *David* by immediate manifestation of his Will to *Samuel*; this consequence is nothing, & also it followeth in no wise, that therefore the people made not *Saul* *King*. 7. That the peoples approbation of a *King* is not necessary, is *Bellarmines* and *Papists* saying, and that the people chose their Ministers in the *Apostolick Church*, not by a necessity of a divine Commandement, but to conciliate love betwixt Pastor and people. *Papists* hold that if the Pope make a •••pish *King* the head and *King* of *Britaine* against the peoples will, yet is he their *King*. 8. *David* was then *King* all the time that *Saul* persecuted him; he sinned truely in not discharging the duty of a *King*, onely because he wanted a ceremony, the peoples approbation, which the *Prelate* saith is required to the solemnity and pompe, not to the necessity and truth, and essence of a formall *King*. So the Kings *Coronation* Oath, and the peoples Oath must be Ceremonies; and because the Prelate is perjured himselfe, therefore perjury is but a ceremony also. 9. The *enthronization of Bishops* is like the *Kinging* of the Pope; the Apostles must spare Thrones, while they come to Heaven, [34] Luk. 22.29, 30. the *P. Prelates* with their head the *Pope* must be enthroned. 10. The hereditary *King* he maketh a *King* before his *Coronation*, and his *Acts are as valid before as after his Coronation*; it might cost him his head to say that the *Prince of Wales* is now no lesse *King* of *Britaine*, and his *Acts*, *Acts of Kingly Royalty*, no lesse then our *Sovereigne* is *King* of *Britaine*, [104] if Lawes and Parliaments had their owne vigour from royall Authority. 11. I allow that *Kings* be as high as *God* hath placed them, but that *God* said of all *Kings*, *I will make him my first borne*, &c. Psalm 89.26, 27. which is true of *Solomon as the Type*, 2 Sam. 7. 1 Chro. 17.22. 2 Sam. 7.12. and fulfilled of *Christ*, and by the Holy *Ghost* spoken of him, Heb. 1.5.6. is blasphemous; for *God* said not to *Nero*, *Iulian*, *Dioclesian*, *Belshazer*, *Evilmerodach*, who were lawfull *Kings*. *I will make him my first borne*; and that any of these blasphemous Idolatrous Princes should cry to *God*, *he is my Father*, *my God*, &c. is Divinity well beseeing an excommunicated Prelate. Of the *Kings* dignity above the *Kingdome* I speake not now; the Prelate pulled it in by the haire, but hereafter we shall heare of it.

P. Prelate. *God* onely *anoynted David*, 1 Sam. 16.4. *the men of Bethleem*, yea *Samuel* knew it not before. *God* saith, with mine holy oyle have I *anoynted him*, Ps. 89.91. 1. *He is the Lords* *anoynted* 2. *The oyle is Gods*, [105] not from the *Apothecaries shop*, nor the *Priests Viall*; this oyle descended from the Holy *Ghost*, who is no lesse the true *Olive*, then *Christ* is the true *Vine*; yet not the oyle of saving grace, as some *Fantasticks* say, but holy, 1. From the Author *God*. 2. From influence in the person, it maketh the Person of the *King* sacred. 3.

From influence on his charge, his function and power is sacred. Ans. 1. The *Prelate* said before *Dauids* anoynting was extraordinary; here he draweth this anoynting to all *Kings*. 2. Let *David* be formally both constituted and designed King divers yeares before the States made *him King at Hebron*, [106] and then 1. *Saul* was not King, the *Prelate* will tearme that treason. 2. This was a dry oyle, *David* his person was not made sacred, nor his authority sacred by it; for he remained a private man, and called *Saul his King*, his Master, and himselfe a subject 3. This oyle was no doubt *Gods Oyle*, and the *Prelate* will have it the Holy Ghosts, yet he denieth that saving grace, yea (p. 2. c. 1) he denyeth that any supernaturall gift should be the foundation of Royall dignity, and that it is a pernicious *tenent*. So to me he would have the Oyle from Heaven, and not from Heaven. 4. *This holy oyle* [35] wherewith *David* was annoited, *Psalme* 89.20. to [107] *Augustine*, is the oyle of saving grace: His own deare brethren the *Papists* say so, and especially [108] *Lyranus*, [109] *Glossa ordinaria*, [110] *Hugo Cardinal*, [111] his beloved *Bellarmino*, [112] and *Lorinus*, *Calvin*, *Musculus*, *Marlorat*. If these be Fanaticks (as I think they are to the *Prelate*) yet the Text is evident, that this *oyle of God* was the oyle of saving grace, bestowed on *David*, as on a speciall type of *Christ*, who received the spirit above measure, and was the anointed of God, *Ps.* 45.7. whereby all his garments *smell of myrrhe, aloes, and cassia*, ver. 8. and *his name Messiah* is as an oymtment powred out, Cant. 1. 2. This anointed shall be head of his enemies. 3. *His dominion shall be from the sea to the rivers*, v. 25. 4. He is in the covenant of grace, v. 26. 5. He is *higher then the Kings of the earth*. 6. The grace of perseverance is promised to his seed, v. 28, 29, 30. 7. His kingdome is eternall, *as the dayes of Heaven*, vers. 35, 36. 8. If the *Prelate* will looke under himselfe to [113] *Diodatus*, and [114] *Ainsworth*, they say, this holy oyle was powred on *David* by *Samuel*, and on *Christ* was powred the Holy Ghost, and that by [115] warrant of Scripture, and [116] *Junius*, and [117] *Mollerus* saith with them. Now the *Prelate* taketh the Court way, to powre this oyle of grace on many drie Princes, who without all doubt are Kings essentially no lesse then *David*. He must see better then the man who finding *Pontius Pilate* in the Creed, said, he behoved to be a good man: so because he hath found *Nero the tyrant*, *Julian the apostate*, *Nebuchadnezzar*, *Evil-Merodach*, *Hazael*, *Hagag*, all the Kings of *Spaine*, and I doubt not, the Great *Turke*, in the 89 Psalm, v. 19, 20. so all these Kings are anointed with the *oyle of grace*, and all these must *make their enemies necks their footstool*; all these be *higher then the Kings of the Earth*, and are hard and fast in the covenant of grace, &c.

P. *Prelate*. *All the royall ensignes and acts of Kings are ascribed to God. The Crown is of God*, Esa. 62.3. *Psal.* 21.3. *in the Emperours coyne was an hand putting a crowne on their head: the Heathen said they were* < in non-Latin alphabet > < in non-Latin alphabet > *as holding their Crownes from God*. *Psal.* 18.39. *Thou hast girt me with strength (the sword is the embleme of strength) unto battell*. See *Iud.* 7.17. *their scepter, Gods scepter*. *Exod.* 4.20, 17, 9. *we read of two rods, Moses and Aarons; Aarons rod budded; God made both the rods; Their judgement is the Lords*. 2 *Chron.* 19.6. *their throne is Gods*, 1 *Chron.* 19.21. *The Fathers called them, sacra vestigia, sacra majestas; their commandements, Divalis jussio. The Law* [36] *saith, all their goods are res sacrae. Ergo, our new Statists disgrace Kings, if they blaspheme not God, in making them the derivatives of the people, the basest extract of the basest of irracionall creatures, the Multitude, the Communalitie* ■

Answ. This is all one Argument from the *Prelates* beginning of his booke to the end; [118] In a most speciall and eminent act of Gods providence, *Kings are from God*; but therefore they are not from men, and mens consent: It followeth not. From a most speciall and eminent act of Gods providence, *Christ* came into the world, and tooke on him our nature: *ergo*, he came not of *Dauids* loynes. It is a vaine consequence. There could not be a more eminent act then this, *Psal.* 40. *A body thou hast given me; Ergo*, he came not of *Dauids* house, and from *Adam* by naturall generation, and was not a man like us in all things except sinne. It is tyrannicall and domineering Logick. Many things are ascribed to *God* only, by reason of a

speciall and admirable act of providence: as the saving of the world by *Christ*, the giving of *Canaan* to *Israel*, the bringing h••s people out of *Egypt*, and from *Chaldea*, the sending of the Gospel to both Iew & Gentile, &c. But shall we say, that *God* did none of these things by the ministerie of men, and weake and fraile men? 2. How proveth the *Prelate* that *all royall ensignes are ascribed to God*, because Esa. 62. the *Church universall* shall be as a crown of glorie, and a royall diadem in the hand of the Lord; *ergo, baculus in angulo*, the *Church* shall be as a seale on the heart of *Christ*. what then? *Hieronymus, Procopius, Cyrillus*, with good reason render the meaning thus: Thou O Zion, and Church, shalt be to me a royall Priesthood, and a holy people. For that he speaketh of his owne Kingdome and *Church*, is most evident, v. 1.2. *For Zions sake I will not hold my peace*, &c. 3. God put a crown of pure gold on *Davids* head, *Psal.* 21.3. therefore *Julian, Nero, and no elective Kings*, are made and designed to be Kings by the people: He shall never prove this consequence. The [119] Chaldee paraphrase applyeth it to the reigne of King *Messiah*. [120] *Diodatus* he speaketh of the kingdome of *Christ*. [121] *Ainsworth* maketh this crowne a signe of *Christs* victorie. *Athanasius, Eusebius, Origen, Augustine, Dydimus*, expound it of *Christ* and his kingdome. The *Prelate* extendeth it to all Kings, as the blasphemous *Rabbines*, especially *Ra. Salomon*, deny that he speaketh of *Christ* here: but what more reason is there to expound this of the crownes of all Kings given by *God* (I deny not) to *Nero, Julian, &c.* then to expound the foregoing and following verses as applied to [37] all Kings? Did *Julian* rejoyce in *Gods* salvation? did *God* grant *Nero* his hearts desire? did *God* grant (as it is, v. 4.) life eternall to *Heathen Kings*, as *Kings*? which words all Interpreters expound of the eternitie of *Davids* throne, till *Christ* come, and of victorie and life eternall purchased by *Christ*, as [122] *Ainsworth* with good reason expounds it. And what though *God* give *David* a Crown; *ergo*, not by second causes, and by bowing all *Israels* heart to come in sinceritie to *Hebron* to make *David* King, 1 King. 12.38. *God gave corne and wine to Israel*, *Hos.* 2. shall the *Prelate* and the *Anabaptist* inferre, *Ergo*, he giveth it not by plowing, sowing, and the art of the husbandman? 3. The *Heathen* acknowledged a Divinitie in *Kings*; but he is blind who readeth them, and seeth not in their writings, that they teach that the people maketh *Kings*. 4. *God* girt *David* with strength, while he was a private man, and persecuted by *Saul*, and fought with *Goliah*, as the title of the same beareth; and he made him a valiant man of warre to breake bowes of steele; *ergo*, he giveth the sword to *Kings*, as *Kings*, and they receive no sword from the people. This is poore Logick. 5. The P. *Prelate* sendeth us *Judg.* 7.17. to the singular and extraordinarie power of *God* with *Gideon*: and I say, that same power behoved to be in *Oreb* and *Zeba*, v. 27. for they were ⟨ in non-Latin alphabet ⟩ ⟨ in non-Latin alphabet ⟩ *Princes*, and such as the *Prelate* from *Pro.* 8.15. saith, *have no royall power from the people*. 6. *Moses* and *Aaron* their two rods were miraculous. This will prove that *Priests* are also *Gods*, and their persons scred. I see not (except the *Prelate* would be at wo••sh••pping of Reliques) what more royall Divinitie is in *Moses* his rod, because he wrought miracles by his rod, then there is in *Elias* his staffe, in *Peters* napkin, in *Pauls* shadow. This is like the strong symbolically Theologie of his fathers the *Jesuites*, which is not argumentative, except he say that *Moses* as *King of Jesurum* wrought miracles; and why should not *Nero, Caligula, Pharoah*, and all *Kings* rods then dry up the red sea, and work miracles? 7. We give all the stiles to *Kings* that the *Fathers* gave, and yet we thinke not, when *David* commandeth to kill *Vriah*, and a *King* commandeth to murder his innocent subjects in *England* and *Scotland*, that that is *Divalis jussio*, the command of a *God*; and that this is a good consequence, What ever the *King* commandeth, though it were to kill his loyallest Subjects, is the commandement of *God*, *Ergo*, the *King* is not made *King* by the people. 8. *Ergo*, (saith he) *these new Statists disgrace the King*. If a most *New Statist* sprung out of a poore pursevant of *Kraill*, from the dunghill to the Court, [38] could have made himselfe an *old Statist*, and more expert in state affaires, then all the Nobles and soundest Lawyers in *Scotland* and *England*, this might have more weight. 9. Therefore the *King* (saith P. P.) is not *the extract of the basest of rationally creatures*. He meaneth, *fex populi*, his owne house and linage; but *God* calleth

them his owne *people, a royall Priesthood, a chosen generation*, and, ps. 78.71. will warrant us to say the people is much worthier before *God*, then one man, seeing *God* choose *David* for *Iacob* his people, and *Israel* his inheritance, that he might feede them, *Iohn P. P.* his fathers suffrage in making a *King* will never be sought. We make not the multitude, but the three Estates including the Nobles and Gentry to be as rationall creatures, as any Apostate Prelate in the three Kingdomes.

QUEST. VII. Whether or no the *P. Prelate* the aforesaid Author doth by force of reason evince, that neither constitution nor designation of the King is from the people? ↩

THE *P. Prelate* aymeth (but it is an empty ayme) to prove that the people are wholly excluded. I answer only Arguments not pitched on before, as the Prelate saith.

P. Prelate. 1. *To whom can it be more proper to give the rule over men, then to him who is the onely King truly and properly of the whole world?* 2. *God is the immediate Author of all rule and power that is amongst all his creatures, above or below.* 3. *Man before the fall received dominion, and empire over all the creatures below immediatly, as Gen. 1.28. Gen. 9.2. ergo we cannot deny that the most noble government (to wit Monarchy) must be immediatly from God, without any Contract or compact of men.* Ans. The first reason concludeth not what is in question; for *God* only giveth rule and power to one man over another; ergo he giveth it *immediatly*, it followeth not. 2. It shall as well prove that *God* doth *immediatly* constitute all Iudges, and therefore it shall be unlawfull for a city to appoint a Major, or a shire a Iustice of peace. 3. The second argument is inconsequent also, because *God* in creation is the immediat Author of all things, [123] and therefore without consent of the creatures, or any act of the creature, created an Angell a nobler creature then man, and a man then a woman, and men above beasts; because those that are not, can exercise no act at all. But it followeth not; ergo all the workes of providence, such as is the government of Kingdomes are done immediatly by *God*, for in the workes of providence, for the [39] most part in ordinary, *God* worketh by meanes; it is then as good a consequence as this. *God* immediatly created man, ergo he keepeth his life immediatly also without foode and sleepe. *God* *immediatly* created the Sunne, ergo *God* immediatly without the mediation of the Sunne giveth light to the world. The making of a King is an act of reason, and *God* hath given a man reason to rule himselfe; and therefore hath given to a society an instinct of reason, to appoint a governour over themselves, but no act of reason goeth before man be created; ergo it is not in his power whether he be created a creature of greater power then a beast or no. 4. *God* by creation gave power to a man over the creatures, and so immediatly; but I hope a man cannot say, *God* by creation hath made a man King over men. 5. The Excellency of *Monarchy* (if it be excellenter then any other government, of which hereafter) is no ground why it should be *immediatly* from *God*, as well as mans dominion over the creature; for then the worke of mans redemption being more excellent then the raising of *Lazarus*, should have been done *immediatly* without the incarnation, death and satisfaction of *Christ* (for no act of *God* without himselfe is comparable to the worke of redemption, 1 Pet. 1.11, 12. Col. 1.18, 19, 20, 21, 22.) and *Gods* lesse excellent workes, as his creating of beasts and wormes should have been done mediately, and his creating of man *immediatly*.

P. P. They who execute the judgement of *God*, must needs have the power to judge from *God*. But Kings are Deputies in the exercises of the Iudgements of *God*, ergo, the proposition is proved. How is it imaginable that *God* reconcileth the world by Ministers, and saveth man by them, 1 Cor. 5. 1 Tim. 4.16. except they receive a power so to doe from *God*? the assumption is, Deut. 1.17. 1 Chro. 19.6. Let none say *Moses* and *Iehosaphat* speake of inferiour Iudges, for that which the King doth to others, he doth by himselfe; also 5. The execution of the Kingly power is from *God*, for the King is the Servant, Angell, Legat, Minister of *God*, Rom. 13.6, 7. *God* properly and primarily is King, and King of Kings and

Lord of Lords, 1 Tim. 6.15. Rev. 1.5.21.27.29.20. *all Kings related to him, are Kings equivocally, and in resemblance, and he the only King.* Ans. That which is in question is never concluded; to wit, that *the King is both immediatly constituted and d•signed King, by God onely, and not by the mediation of the people*; for when God reconcileth and saveth men by Pastors, he saveth them by the intervening action of men, so he scourgeth his people by men, as by his sword, Psal. 17.14. *and hand, staffe, and rod, Esay 10.5. his hammer.* Doth it follow that God onely doth *immediatly* [40] scourge his people, and that wicked men have no more hand and action in scourging his people, then the Prelate saith the people h•ve an hand in making a *King*? and that is no hand at all, by the Prelates way.

2. We may borrow the Prelates argument: inferiour Iudges execute the judgement of the *Lord*, and not the judgement of the *King*; *ergo*, by the Prelates argument, God doth only by immediate power execute judgement in them, and the inferiour Iudges are not *Gods* ministers executing the judgement of the *Lord*. But the Conclusion is against all truth, and so must the Prelates argument be. And that inferiour Iudges are the immediate substitutes and deputies of God, is hence proved, and shall be hereafter made good, if God will. 3. God is properly *King of Kings*, so is God properly *causa causarum*, the cause of causes, *the life of lifes, the joy of joyes*. What, shall it then follow, that he worketh nothing in the creatures by their mediation, as causes? Because God is light of lights, doth he not enlighten the earth and aire by the mediation of the Sun? then God communicateth not life mediately by generation, he causeth not his Saints to rejoyce with joy unspeakable and glorious, by the intervening mediation of the Word. These are vaine consequences. *Soueraignty*, and all power and virtue is in God infinitely: And what vertue and power of action is in the creatures, as they are compared with God, are in the creatures equivocally and in resemblance, and < in non-Latin alphabet > in non-Latin alphabet > in opinion, rather then really. Hence it must follow, 1. that second causes worke none at all, no more then the people hath a hand or action in making the *King*, and that is no hand at all, as the Prelate saith, And God only and immediatly worketh all workes in the creatures, because both the power of working and actuall working commeth from God, and the creatures in all their working, are Gods instruments: and if the Prelate argue so frequently from power given of God, to prove that actuall reigning is from God immediatly, *Deut. 8.18. The Lord giveth the power, to get wealth:* will it follow that *Israel* getteth no riches at all, or that God doth not mediately by them and their industrie get them? I thinke not.

P. Prelate. 6 *To whom can it be due to give the Kingly office, but to him only who is able to give the indument and abilitie for the office? now God only and immediatly giveth abilitie to be a King, as the Sacramentall anointing proveth, Josh 3.10. Othniel is the first Judge after Joshua; and it is said, And the Spirit of the Lord came upon him, and [41] and he judged Israel; the like is said of Saul and David.* Ans. God gave royall indowments *immediatly*, *ergo* he immediatly now maketh the King. It followeth not, for the species of government is not that which formally constituteth a King, for then *Nero, Caligula, Iulian* should not have been Kings, and those who come to the Crowne by conquest and blood, are essentially Kings, as the *Prelate* saith; but be all these *Othniels*, upon whom the spirit of the Lord commeth? then they are not essentially *Kings* who are babes and children, and foolish and destitute of the royall endowments, but it is one thing to have a royall gift, and another thing to be formally called to the Kingdome, *David* had royall gifts after *Samuel* anyoynted him, but if you make him King, before *Sauls* death, *Saul* was both a traytor all the time that he persecuted *David*, and so no King, and also King and Gods anyoynted, as *David* acknowledgeth him; and therefore that spirit that came on *David*, and *Saul*, maketh nothing against the peoples election of a King, as the *Spirit of God* is given to Pastors under the new Testament, as *Christ* promised; but it will not follow that the designation of the man who is to be Pastor, should not be from the *Church* and from men, as the *Prelate* denyeth that either the constitution or designation of the King is from the people, but from *God* onely. 2. I beleeve the infusion of

the spirit of God upon the Iudges will not prove that Kings are now both constituted and designed of *God solely, onely, and immediatly*; for the Iudges were indeed immediatly and for the most part extraordinarily raised up of God, and God indeed in the time of the *Iewes* was the King of Israel in another manner then he was the *King* of all the nations, and is the *King* of Christian Realmes now, and therefore the peoples despising of *Samuel*, was a refusing that *God* should reigne over them, because God in the Iudges revealed himselfe even in matters of Policy, as what should be done to the man that gathered sticks on the Sabbath day, and the like, as he doth not now to Kings.

P. Prelate. *Soveraigntie is a ray of divine glory and majestie•• but this cannot be found in people, whether you consider them joyntly, or singly; if you consider them singly, it cannot be in every individuall man; for Sectaries say, That all are born equall with a like freedom: and if it be not in the people singly, it cannot be in them joyntly; for all the contribution in this compact and contract which they fancie to be humane composition, and voluntary constitution, is onely, by a surrender of the native right that every one had in himself; from whence [42] then can this majestie and authoritie be derived? Again, where the obligation amongst equals is by contract and compact, violation of the faith, plighted in the contract, cannot in proper termes, be called disobedience, or contempt of authoritie: it is no more but a receding from, and a violation of that which was promised, as it may be in States or Counties confederate. Nature, reason, conscience, scripture, teach, That disobedience to Soveraign power is not onely a violation of Truth, breach of Covenant, but also high disobedience and contempt, as is clear, 1 Sam. 10.26. So when Saul, Chap. 11. sent a yoke of Oxen, hewed in pieces, to all the Tribes, the fear of the Lord fell on the people, and they came out with one consent, 1 Sam. 11.17. so Job 11.18. He looseth the bonds of Kings, that is, he looseth their authoritie, and bringeth them in contempt; and he girdeth there loyns with a girdle, that is, he strengthneth their authoritie, and maketh the people to reverence them. Heathens observe, that there \langle in non-Latin alphabet \rangle some divine thing in Kings. Prophane Histories say, that this was so eminent in Alexander the great, that it was a terrour to his enemies, and a powerfull Loadstone to draw men to compose the most seditious Counsels, and cause his most experienced Commanders, embrace, and obey his counsel, and command. Some stories write, that upon some great exigence, there was some resplendent majesti•• in the eyes of Scipio. This kept Pharaoh from lifting his hand against Moses, who charged him so boldly with his sins. When Moses did speak with God, face to face in the Mount, this resplendent glory of Majestie so awed the people, that they durst not behold his glory, Exod. 34. This repressed the fury of the people enraged against Gideon from destroying their idol, Judg. 6. And the fear of man is naturally upon all living creatures below, Gen. 9. So what can this reverence, which is innate in the hearts of all subjects toward their Soveraigns be, but the Ordinance unrepealable of God, and the naturall effect of that majestie of Princes, with which they are endowed with from above?*

[124]Ans. 1. I never heard any shadow of reason while now, and yet (because the lie hath a latitude) here is but a shadow, which the *Prelate* stole from *M. Antonius de Dominis Archiepisc. Spalatensis*, and I may say confidently, this *Plagiarius* hath not one line in his booke which is not stollen; and for the present *Spalato* his argument is but spilt, and the nerves cut from it, while it is both bleeding and lamed. Let the Reader compare them, and I pawn my credit he hath ignorantly clipped *Spalato*: But I answer, 1. *Soveraigntie is a beam and ray* (as *Spalato* saith) *of divine majestie, and is not either [43] formally or virtually in the people*. So he. It is false, that it is not virtually in the people: for there be two things in the Iudge, either inferior or supream (for the argument holdeth in the majestie of a Parliament, as we shall hear) 1. The gift or grace of Governing (the *Arminian Prelate* will offend at this.) 2. The Authority of governing: 1. The gift is supernaturall, and is not in man naturally, and so not in the King; for he is *physically* but a mortall man, and this is a gift received; for *Salomon* asked it by prayer from *God*. There is a capacitie passive in all individuall men for it: as for

the officiall authoritie it self, it is virtually in all, in whom any of Gods image is remaining, since the fall, as is clear; as may be gathered from, *Gen.* 1.28. yea, the Father, the Master, the Judge, have it by Gods institution in some measure, over son, servant, and subject, though it be more in the supreme Ruler: and for our purpose, it is not requisite that authoritative majestie should be in all. (What is in the Father and Husband, I hope to clear) I mean, it needeth not to be formally in all, and so all are born alike and equall: But he who is a *Papist*, a *Socinian*, an *Arminian*, and therefore delivered to Satan by his mother Church, must be the *Sectarie*, for we are where this *Prelate* left us, maintainers of the Protestant Religion, continued in the Confession of Faith, and Nationall Covenant of *Scotland*, when this *Demas* forsook us, and embraced the World. 2. Though not on single man in *Israel* be a Judge, or King by nature, nor have in them formally any ray of Royaltie, or of Magistraticall Authoritie; yet it followeth not, that *Israel* Parliamentarily convened, hath no such authoritie, as to make *Saul* King in *Mizpah*, and *David* King in *Hebron*, 1 *Sam.* 10.24, 25. [125] 1 *Chro.* 11.1, 2. *Chap.* 12.38, 39. One man alone hath not the Keyes of the Kingdom of Heaven, (as the *Prelate* dreameth) But it followeth not, that many convened in a Church way, hath not this power, *Matth.* 18.17. 1 *Cor.* 5.1, 2, 3, 4. One man hath not strength to fight against an Army of ten thousand: doth it follow? *Ergo*, An Army of twenty thousand hath not strength to fight against these ten thousand: So one *Paul* cannot Synodically determine the question, *Acts* 15. It followeth not; *Ergo*, The *Apostles*, and *Elders*, and *Brethren*, convened from divers *Churches*, hath not power to determine it in a lawfull Synod: And therefore, from a disjoyned and scattered power, no man can argue to a united power: So not any one man is an inferiour Ruler, or hath the rayes and beams of a number of *Aristocraticall* Rulers: but it followeth not. *Ergo*, All [44] these men combined in a Citie, or Societie, have not power in a joynt Politicall body, to chose Inferiour or *Aristocraticall* Rulers. 3. The *P. Prelates* reason is nothing. *All the Contribution* (saith he) *in the compact body to make a King, is onely by a surrender of the native right of every single man, (the whole being onely a voluntary constitution.)* How then can there be any majestie derived from them? I answer. Very well. For the surrender is so voluntary, that it is also naturall, and founded on the Law of nature, That men must have Governours, either many, or one supreme Ruler: And it is voluntary, and dependeth on a positive institution of God, Whether the Government be by one supreme Ruler, as in a *Monarchie*, or in many, as in an *Aristocracie*, according as the necessitie and temper of the Common-wealth do most require. This Constitution is so voluntary, as it hath below it, the Law of nature for its generall foundation; and above it, the supervenient institution of God, ordaining, That there should be such Magistrates, both Kings, and other Iudges, because without such, all humane societies should be dissolved. [126] 4. Individuall persons in creating a Magistrate, doth not properly surrender their right, which can be called a right; for they do but surrender their power of doing violence to these of their fellows in that same Communitie; so as they shall not now have Morall power to do injuries without punishment; and this is not right or libertie properly, but servitude: for a power to do violence and injuries, is not libertie, but servitude and bondage. But the *Prelate* talketh of Royaltie, as of meer Tyranny, as if it were a proper Dominion, and servile Empire, that the Prince hath over his people, and not more paternall and fatherly, then lordly, or masterly. 5. He saith, *Violation of faith plighted in a contract amongst equals, cannot be called disobedience, but disobedience to the authoritie of the Sovereign is not onely breach of Covenant, but high disobedience and contempt.* But violation of faith amongst equals, as equals, is not properly disobedience; for disobedience is betwixt a superiour and an inferiour: but violation of faith amongst equals, when they make one of their equals their Iudge and Ruler, is not onely violation of truth, but also disobedience. All *Israel* and *Saul* while he is a private man seeking his fathers Asses, are equals by Covenant obliged one to another; and so any injury done by *Israel* to *Saul* in that case, is not disobedience, but onely violation of faith; but when all *Israel* maketh *Saul* their King, and sweareth to him obedience, he is not now their equall, and an injury done to [45] him now, is both a violation of their faith, and high disobedience

also. Suppose a Citie of Aldermen, all equall amongst themselves indignitie and place, take one of their number, and make him their Major and Provost; a wrong done to him now, is not onely against the rules of fraternitie, but disobedience to one placed by God in authoritie over them. 6. 1 *Sam.* 11.7. *The fear of the Lord fell on the people, and they came out with one consent to obey Saul.* Ergo, God hath placed authority in Kings, which is not in people: It is true, because God hath transferred the scattered authorities that are in all the people, in one Masse; and by vertue of his own Ordinance, hath placed them in one man who is King. What followeth? Ergo, God conferreth this authoritie immediately upon the King, without the mediation of any action of the people; yea, the contrary rather followeth. 7. *God looseth the bond of Kings*; that is, [127] when God is to cast off Kings, he causeth them to lose all authoritie, and maketh them come in contempt with the people. But what doth this prove? That God taketh away the majestie and authority of Kings *Immediately*; And therefore God gave to Kings this authoritie *Immediately*, without the peoples conveiance? Yea, I take the Prelates weapon from him. God doth not take the authority of the King from him *immediately*, but *mediately* by the people their hating and dispising him, when they see his wickednesse, as the people see *Nero* a Monster, a prodigious blood-sucker; upon this, all the people contemn him, and dispise him, and so the majesty is taken from *Nero*, and all his Mandates and Laws, when they see him trample upon all Laws divine and humane; and that *mediately* by the peoples heart, dispising of his majestie, and so they repeat and take again that aw-some authoritie, that they once gave him: And this proveth, that God gave him the authoritie *mediately*, by the consent of man. 8. Nor speaketh he of Kings onely, but *Vers.* 21. *He powreth contempt* \langle *in non-Latin alphabet* \rangle \langle *in non-Latin alphabet* \rangle *super munificos. Pineda. Aria. Mont. super Principes.* Upon Nobles and great men. And this place may prove, That no Iudges of the earth are made by men. 9. The *Heathen* say, That there is some divinity in Princes, as in *Alexander the great*, toward his enemies, and *Scipio*: But this will prove, That Princes and Kings have a Superiority over those who are not their native Subjects; for something of God is in them, in relation to all men, that are not their Subjects. If this be a ground, strong and good, because God onely, and independently from men, taketh away this majestie; as God onely, and independently giveth it, then [46] a King is sacred to all men, subjects, or not subjects; then it is unlawfull to make war against any forraign King and Prince, for in invading him, or resisting him, you resist that divine majestie of God, that is in him; then you may not lawfully flee from a tyrant, no more then you may lawfully flie from God. 10. *Scipio* was not a King. Ergo, This divine majestie is in all Iudges of the earth, in a more or lesse measure. Ergo, God onely and *immediately*, may take this spark of divine majestie from inferiour Iudges: It followeth not. And Kings certainly cannot infuse any sparkle of a divine majestie, on any inferiour Iudges; for God onely, *immediately* infuseth it in men. Ergo, It is unlawfull for Kings to take this divinitie from Iudges, for they resist God, who resist Parliaments, no lesse then those who resist Kings. *Scipio* hath divinity in him, as well as *Cesar*, and that immediately from God, and not from any King. 10. *Moses* was not a King when he went to *Pharaoh*, for he had not as yet a people; *Pharaoh* was the King, and because *Pharaoh* was a King, the Divines of *Oxford* must say, His Majestie must not, in words of rebuke, be resisted, more then by deeds. 11. *Moses* his face did shine as a Prophet receiving the Law from God, not as a King: and is this Sunshine of Heaven upon the face of *Nero*, and *Julian*? It must be, if it be a beam of Royall Majestie, if this pratler say right, but 2 *Cor.* 3.7. this was a majestie typicall, which did adumbrate the glory of the Law of God, and is far from being a royaltie due to all Heathen Kings. 12. I would our *King* would evidence such a Majestie in breaking the Images and Idols of his Queen, and of Papists about him. 13. The fear of *Noah*, and the regenerated, who are in Covenant with the Beasts of the field, *Job* 5.23. is upon the Beasts of the earth, not by any approbation only, as the people maketh Kings, by the Prelates way; nor yet by free consent, as the people freely transfer their power to him, who is King. The creatures inferiour to man, have by no act of freewill, chosen man to be their Ruler, and transferred their power to him, because they are by nature inferiour to

man, and God by nature hath subjected the creatures to man, [128] *Gen.* 1.28. and so this proveth not, that the King by nature is above the people, I mean the man who is King; and therefore though God had planted in the hearts of all subjects, a fear and reverence toward the King; upon supposall, that they have made him King: It followeth not, That this authoritie and majestie, is *immediately* given by God to the man who is King, without the interveening consent of the people; for there [47] is a native feare in the Scholler to stand in awe of his Teacher, and yet the Scholler may willingly give himselfe to be a disciple to his Teacher, and so give his Teacher power over him. Citizens naturally feare their supream Governour of the City, yet they give to the man who is their supream Governour, that power and Authority which is the ground of awe and reverence. A Servant naturally feareth his Master, yet often he giveth his liberty, and resigneth it up voluntarily to his Master, and this was not unordinary amongst the *Iewes*, where the servant did intirely love the Master, and is most ordinary now when servants doe for hyre, tye themselves to such a Master; and Souldiers naturally feare their Commanders, yet they may, and often doe, by voluntary consent make such men their Commanders; and therefore from this it followeth no way, that the Governour of a City, the Teacher, the Master, the Commander in War have not their power and authority *only* and *immediatly* from *God*, but from their inferiours, who by their free consent appointed them for such places.

P. Prelate. *This seemeth, or rather is an unanswerable Argument, No man hath power of life and death, [129] but the Sovereign Power of life and death; to wit God, Gen. 9.5. God saith thrice he will require the blood of man at the hands of man, and this power God hath committed to Gods Deputy, who so sheddeth mans blood < in non-Latin alphabet > < in non-Latin alphabet > by man shall die, by the King, for the world knew not any kind of government at this time, but Monarchiall; and this Monarch was Noah; and if this power be from God, why not all soveraigne power? seeing it is Homogeneous, and as Iurists say in indivisibili posita, a thing in its nature indivisible, and that cannot be distracted, or impaired, and if every man had the power of life and death, God should not be the God of Order.*

The P. Prelate taketh the paines to prove out of the text *that a Magistracy is established* in the text. *Ans.* 1. Let us consider this unanswerable Argument, 1. It is grounded upon a lye, and a conjecture never taught by any but himselfe; to wit, that < in non-Latin alphabet > < in non-Latin alphabet > by, or in, or through man, must signifie a Magistrate. 2. and a King onely. 3. This *King* was *Noah*, never interpreter; nay not common sence can say, that no Magistrate is here understood but a *King*; the consequence is vaine, *his blood shall be shed by man, ergo* by a Magistrate, it followeth not, *ergo* by a *King*, it followeth not: there was not a King in the world yet as; some make *Belus* the father of *Ninus* the first King, and the builder of Babylon, this *Ninus* is thought the first builder of the City, after called *Ninivie*, and [48] the first King of the *Assyrians*, so saith [130] *Quintus Curtius* ■ and others; but grave Authors beleeve that *Nimrod* was no other then *Belus* the father of *Ninus*, so saith [131] *Augustin*, [132] *Hierome*, [133] *Eusebius*, [134] *Hieronym*. And [135] *Eusebius* maketh him the first founder of *Babylon*: So saith [136] *Clemens*, [137] *Pirerius*; and *Iosephus* saith the same. 1. their times, 2. their cruell natures are the same. [138] *Calvin* saith, *Noah* yet lived while *Nimrod* lived: and the Scripture saith, *Nimrod began to reigne, and be powerfull on the Earth*. And *Babel* was < in non-Latin alphabet > < in non-Latin alphabet > *the beginning of his kingdome*. No writer, *Moses* nor any other can shew us a King before *Nimrod*. So [139] *Eusebius*, [140] *Paul. Orosius*, [141] *Hieronym*. [142] *Iosephus* say that he was the first King. And [143] *Tostatus Abulens*. and our own [144] [145] *Calvin*, [146] [147] *Luther*, [148] *Musculus* on the place, and [149] *Ainsworth*, make him the first King, and the founder of Babylon. How *Noah* was a King, or there was any Monarchicall government in the world then, the *Prelate* hath alone dreamed it: There was but *Familie-government* before this. 2. And if there bee a Magistracie heere established by *God*, there is no warrant to say it is onely a *Monarchie*: For if the *Holy Ghost* intendeth a policie: it is a policie to be established to the

worlds end, and not to bee limited (as the *P. Prelate* doth) to *Noahs* dayes: [150] all Interpreters upon good ground establish the same policie that our Saviour speaketh of, when he saith, *He shall perish by the sword, who taketh the sword*, Matth. 26.52. So the *Netherlands* have no lawfull Magistrate, who have power of life and death, because their Government is *Aristocraticall*, and they have no *King*. So all acts of taking away the lives of ill-doers, shall be acts of homicide in *Holland*: how absurd? 3. Nor doe I see how the place in the native scope doth establish a Magistracie. [151] *Calvin* saith not so: & Interpreters deduce by consequence the power of the Magistrate from this place. But the Text is generall: He who killeth man, shall be killed by man: either he shall fall into the Magistrates hand, or into the hand of some Murtherer: so *Calvin*, [152] *Marlorat*. And he speaketh (saith (*w*) *Pirerius*) not of the fact and event it selfe, but of the deserving of murtherers; and it's certaine, all murtherers fall not into the Magistrates hands; but he saith, by Gods and mans [49] laws. *Ergo*, They ought to dye, though sometime one murtherer killeth another. 4. The Sovereign power is given to the King, *ergo*, it is given to him *immediately* without the consent of the people. It followeth not. 5. Power of life and death is not given to the King only, but also to other Magistrates, yea, and to a single private man in the just defence of his own life. Other arguments are but what the *Prelate* hath said already.

QUEST. VIII. Whether the Prelate proveth by force of reason, that the people cannot be capable of any power of Government? ↪

P. Prelate. God and nature giveth no power in vain, and which may not be reduced into action; but an active power, or a power of actuall governing, was never acted by the Communitie; therefore this power cannot be seated in the Communitie as in the prime and proper subject; and it cannot be in every individuall person of a Communitie, because Government intrinsecally and essentially includeth a specified distinction of Governours, and some to be governed; and to speak properly, there can no other power be conceived in the Communitie naturally and properly, but only potestas passiva regiminis, a capacitie or susceptibilitie to be governed, by one or by moe, just as the first matter desireth a forme. This obligeth all, by the dictate of Natures law, to submit to actuall government: and as it is in every individuall person, it is not meerly and properly voluntary, because howsoever nature dictates, that government is necessary for the safety of the society, yet every singular person, by corruption and selfe-love, hath a naturall aversenesse and repugnancie to submit to any; every man would be a King himselve: This universall desire, appetitus universalis aut naturalis, or universall propension to Government, is like the act of the understanding assenting to the first undeniable principles of truth, and to the wills generall propension to happines in generall, which propension is not a free act, except our new Statists, as they have changed their faith, so they overturne true reason, it will puzzle them infinitely to make any thing in its kinde passive, really active and collative of positive acts and effects. All know, no man can give what he hath not: an old Philosopher would laugh at him who would say, that a matter perfected and actuated by union, with a forme, could at pleasure shake off its forme, and marrie it selfe to another: they may as well say, every wife hath power to resume her freedome, and marrie another, as that any such power active is in the Communitie, or any power to cast off Monarchie.

[50]

Ans. The *P. Prelate* might have thanked *Spalato* for this Argument, but he doth not so much as cite him, for feare his theft be deprehended, but *Spalato* hath it set downe with stronger nerves, then the Prelates head was able to copie out of him. But [153] *Iac. de Almain*, and [154] *Navarrus*, with the *Parision Doctors* said in the Concell of Paris, *that politick power is immediatly from God, but first from the community*; but so, that the community apply their power to this o•• that Government, not of liberty, but by naturall necessity, but *Spal••to* and the *Plagiarie Prelate* doe both looke beside the booke. The

question is not now concerning the *vis rectiva* the power of governing in the people, but concerning the power of government, for these two differ much, the former is a power of ruling and Monarchicall commanding of themselves, this power is not *formally* in the people, but only *virtually*; and no reason can say, that a vertuall power is idle, because it cannot be actuated by that same subject that it is in, for then it should not be a vertuall, but a formall power. Doe not Philosophers say such a Hearb virtually maketh hot, and can the sottish *Prelate* say, this vertuall power is idle, [155] and in vaine given of God, because it doth not formally heate your hand when you touch it. [156] 2. The *P. Prelate* who is excommunicated for *Popery*, *Socinianisme*, *Arminianisme*, and is now turned Apostate to Christ, and his Church must have changed his faith, [157] not we, and be reasonlesly ignorant to presse that axiome, *that the power is idle that cannot be reduced to acts*; for a generative power is given to living and sensitive creatures, this power is not idle though it be not reduced in act, by all and every individuall sensitive creature. A power of seeing is given to all who naturally doe, or ought to see, yet it is not an idle power, because divers are blind, seeing it is put forth in action in divers of the kind; so this power in the community is not idle, because it is not put forth in acts in the people, in which it is virtually, and is put forth in action in some of them, whom they choose to be their Governours; nor is it reasonable to say that it should be put forth in action by all the people, as if all should be *Kings* and *Governours*. But the question is not of the power of governing in the people, but of the power of *Government*, that is, of the power of making Governours and Kings, and the community doth put forth in act this power, as a free, voluntary, and active power, for 1. a Community transplanted to *India* or any place of the world, not before inhabited have a perfect liberty to choose either a *Monarchy*, or a [51] *Democracy*, or an *Aristocracy*; for though nature incline them to Government in generall, yet are they not naturally determinated to any one of those three, more than another. 2. *Israel* did of their free will choose the change of government, and would have a King, as the Nations had, *ergo* they had free will, and so an active power so to doe, and *not a passive inclination only to be governed*, such as *Spalato* saith *agreeth to the first matter*, 3, *Royalists* teach that a people under *Democracy*, or *Aristocracy* have liberty to choose a *King*, and the *Romanes* did this, *ergo* they had an active power to do it, *ergo* the Prelates simile crookes, *the matter at its pleasur cannot shake off its forme, nor the wife cast off her husband being once married*; but *Barclaius*, *Grotius*, *Arnisaeus*, *Blackwood*, and all the *Royalists* teach that the people under any of these two formes of *Democracy* or *Aristocracy*, may resume their power, and cast off these formes and choose a *Monarch*, and if *Monarchy* be the best government as *Royalists* say, they may chose the best, and is this but a passive capacity to be governed? 2. Of ten men fit for a Kingdome they may designe one, and put the Crowne on his head, and refuse the other nine, and *Israel* crowned *Solomon* and refused *Adoniah*. Is this not a voluntary action, proceeding from a free active, elective power? It will puzzle the *pretended Prelate* to deny this, that which the community doth freely, they doe not from such a passive capacity, as is *in the first matter, in regard of the forme*. 3. It is true that people through corruption of nature are averse to submit to Governours, *for conscience sake, and as to the Lord*, because the naturall man remaining in the state of nature can doe nothing that is truely good, but it is false that men have no active Morall power to submit to superiours, but only a passive capacity to be governed, he quite contradicteth himselfe, for he said before, c. 4. pag. 49. that there is an *innate feare and reverence in the hearts of all men naturally, even in Heathen toward their Severaign*; yea as we have a naturall morall active power to love our Parents and superiours (though it be not Evangelically, or legally in *Gods* Court, good) and so to obey their commandements, only we are averse to penall Lawes of superiours; but this proveth no way, that we have only by nature, a passive capacity to government; for Heathens have by instinct of nature both made Lawes morally good, submitted to them, set Kings and Iudges over them; which clearly proveth that men have an active power of Government by nature: [52] 4. yea, what difference maketh the Prelate betwixt men and beasts, for beasts have a capacity to be governed, even *Lyons* and *Tigers*;

but here is the matter, if men have any naturall power of Government, the *P. Prelate* would have it with his brethren *Iesuites* and *Arminians* to be not naturall, but done by the helpe of universall grace, for so doe they confound nature and grace. But it is certaine our power to submit to Rulers and Kings as to rector, and guides and fathers, is naturall, to submit to Tyrants in doing ill of sinne, is naturall, but in suffering ill of punishment its not naturall. 5. *No man can give that which he hath not*, is true, but that people have no power to make their Governours, is that which is in question, and denyed by us. 6. This argument doth prove that people hath no power to appoint *Aristocraticall* Rulers more then Kings, and sothe *Aristocraticall* and *Democraticall* Rulers are all inviolable and sacred, as the King. 2. by this the people may not resume their freedome if they turne tyrants and oppressors; this the Prelate shall deny, for he averreth, p. 96. out of *Augustine*, that the people may without sin change a corrupt *Democracy* into a *Monarchy*.

[158]P. Prelate. *If Sovereignty be originally inherent in the people, then Democracy, or Government by the people, were the best Government, because it commeth nearest to the fountaine and streame of the first and radical power in the people, yea and all other formes of government were unlawfull; and if Sovereignty be natively inherent in the multitude, it must be proper to every individuall of the community, which is against that false Maxime of theirs, Quisque nascitur liber, every one by nature is borne a free man, and the posterity of those who first contracted with their elected King, are not bound to that Couenant, but upon their native rest and liberty, may appoint another King without breach of covenant. The posterity of Ioshua, and the Elders in their time, who contracted with the Gibeonites to incorporate them, though in a serving condition, might have made their fathers government nothing.*

Ans. The *P. Prelate* might thanke *Spalato* for this Argument also, [159] for it is stollen, but he never once nameth his name, lest his theft should be deprehended; so are his other Arguments stollen from *Spalato*, but the Prelate weakeneth them, and it is seene, stollen goods are not blessed. *Spalato* saith then, by the law of nature every Common-wealth should be governed by the people, and by the law of nature, the people should be under the badest Government, but this consequence is nothing; for community of many families [53] is formally and of themselves under no government, but may choose any of the three, [160] for popular government is not that wherein all the people are Rulers, for this is confusion, no government, because all are Rulers, and none are governed and ruled; but in popular government many are chosen out of the people to rule, and that this is the worst government, is said *gratis*, without warrant, and if *Monarchy* be the best of it selfe, yet when men are in the state of sin, in some other respects, it hath many inconveniences. 2. I see not how *Democracie* is best, because neerest to the multitudes power of making a King; for if all the three depend upon the free will of the people, all are alike a far off, and alike neer hand, to the peoples free choice, according as they see most conducible for the safety and protection of the Common-wealth: And seeing the forms of Government are no more naturall, then politick Incorporations of Cities, yea, then of Shires: But from a positive institution of God who erecteth this form, rather then this, not *immediately* now, but *mediately* by the free will of men; not one cometh formally, and *ex naturâ rei*, neerer to the fountain then another, except that materially *Democracie* may come neerer to the peoples power, then *Monarchie*, but the excellencie of it above *Monarchie*, is not hence concluded; for by this reason, the number of *four* should be more excellent then the number of *five*, of *ten*, of an *hundreth*, of a *thousand*, or of *millions*, because *four* cometh neer to the number of *three*, which *Aristotle* calleth the *first* persit number, *cui additur* < in non-Latin alphabet > in non-Latin alphabet > of which yet formally all doe alike share in the nature and essence of number. 2. It is denied, that it followeth from this antecedent, The people have power to chose their own Governours. *Ergo*, All Governments, except *Democracie*, or Government by the people, must be sinfull and unlawfull. 1. Because Government by Kings is of Divine institution, and of other Iudges

also, as is evident by Gods Word, *Rom.* 13.1, 2, 3. *Deut.* 17.14. *Prov.* 8.15, 16. *1 Pet.* 2.13, 14. *Psal.* 2.10, 11, &c. 2. Power of chosing any form of Government, is in the people: *Ergo*, There is no Government lawfull, but popular Government; it followeth no wayes, but presupposeth that power to chose any form of Government, must be formally actuall Government, which is most false, yea, they be contrary, as the prevalency or power, and the act are contrary, so these two are contrary, or opposite; neither is Soveraigntie, nor any Government formally inherent in either the Communitie, by nature, [54] nor in any one particular man, by nature; and that every man is born free, so as no man, rather then his brother, is born a King and Ruler, [161] I hope, God willing to make good, so as the *Prelate* shall never answer on the contrary. 3. It followeth not, that the Posteritie living, when their Fathers made a Covenant with their first elected King, may without any breach of Covenant on the Kings part, *make voyd and null their Fathers election of a King, and chose another King*, because the lawfull Covenant of the Fathers in point of Government, if it be not broken, tieth the children; but it cannot deprive them of their lawfull libertie naturally inherent in them to chose the fittest man to be King: But of this hereafter more fully. 4. *Spalato* addeth, (the *Prelate* is not a faithfull theef) *If the Communitie by the Law of nature, have power of all forms of Government, and so should be, by nature, under popular Government, and yet should refuse a Monarchie, and an Aristocracie*; yet *Augustine* addeth, *If the people should preferre their own private gain to the publike good, and sell the Commonwealth, then some good man might take their libertie from them, and against their will erect a Monarchie, or an Aristocracie*: But 1. the *Prelate* and *Augustine*, supposeth the people to be under Popular Government; this is not our case, for *Spalato* and the *Prelate* presupposeth by our grounds, that the people by nature, must be under Popular Government; *Augustine* dreameth no such thing, and we deny that by nature, they are under any form of Government. 2. *Augustine* in a case most considerable, thinketh one good, and potent man, may take the corrupt peoples power of giving Honours, and making Rulers from them, and give it to some good men, few, or many, or to one; then *Augustine* layeth done as a ground, that which *Spalato* and the *Prelate* denieth, That the people hath power to appoint their own Rulers; otherwayes, how could one good man take that power from them? And the *Prelates* fifth Argument, is but a Branch of the fourth Argument, and is answered already.

P. Prelate, Chap. 11. He would prove, That Kings of the peoples making, are not blessed of God. *The first creature of the peoples making, was Abimelech, Iudg. 9.22. who reigned onely three yeers, well neer Anti-Christs time of endurance; he came to it by blood▪ and an evil spirit rose betwixt him, and the men of Sechem, and he made a miserable end. The ne•••• was Ieroboam, who had this Motto; He made Israel to sin, the people made him King, and he made the same [55] pretence of a glorious Reformation, that our Reformers now make, new Calves, new Altars, new Feasts are erected; they banish the Levites, and take in the scum and drosse of the vulgar, &c.* 3. *Every action of Christ, is our instruction; Christ was truly a born King, notwithstanding, when the people would make him a King, he disclaimed it, he would not be an arbiter betwixt two brethren differing.*

Answ. I am not to follow the Prelates order every way, though God willing, I shall reach him in the fore-going Chapters. Nor purpose I to answer his treasonable railing against his own Nation, and the Iudges of the Land, whom God hath set over this seditious excommunicated Apostate. He layeth to us frequently the Iesuites Tenets, when as he is known himself to be a Papist: [162] In this Argument he saith, *Abimelech did reigne onely three yeers, well neer Anti-Christs reign*: Is not this the basis, and the mother principle of Popery, *That the Pope is not the Antichrist?* for the Pope hath continued many ages. 1. He is not an individuall man, but a race of men, but the *Antichrist*, saith *Belarmine, Stapleton, Becanus*, and the nation of Iesuites, and Poplings, *shall be one inividuall man, a born Iew, and shall reign onely three yeers and a half.* But 1. The Argument from successe, proveth nothing, except the Prelate prove their bad successe to be from this, [163] because they were

chosen of the people. When as *Saul* chosen of God, and most of the Kings of *Israel* and *Judah*, who undeniably, had Gods calling to the Crown, were not blessed of God, and their Government was a ruine to $\langle \diamond \rangle \langle \diamond \rangle$ people and Religion, *as the people were removed to all the Kingdoms of the earth, for the sins of Manasseh, Iere. 15.4.* Was therefore *Manasseh* not lawfully called to the Crown? 2. For his instance of Kings unlawfully called to the Crown, he bringeth us, whole two, and telleth us, that he doubteth as many learned men do, *Whether Ieroboam was a King by permission onely, or by a commission from God.* 3. *Abimelech* was cursed, because he wanted Gods calling to the throne, for then *Israel* had no King, but Iudges extraordinarily raised up by God, and God did not raise him at all, only he came to the throne by blood, and carnall reasons moving the men of *Sechem* to advance him: The Argument presupposeth, that the whole lawfull calling of a King, is the voices of the people; This we never taught, though the Prelate make conquest a just title to a Crown, and it is but a title of blood and rapine. 4. *Abimelech* was not the first King, but onely a Iudge; all our Divines with the [56] Word of God maketh *Saul* the first King. 5. For *Ieroboam* he had Gods Word and Promise to be King, 1 *King. 11.34, 35, 37, 38.* But in my weak judgement he waited not Gods time, and way of coming to the Crown; but that his coming to the throne was unlawfull, because he came by the peoples election, is in question. 5. That the peoples Reformation, [164] and their making a new King, was like the Kingdom of *Scotlands* Reformation, and the Parliament of *Englands* way now, is a traitorous calumny. For 1. It condemneth the King, who hath in Parliament declared all their proceedings to be legall. *Rehoboam* never declared *Ieroboams* Coronation to be lawfull, but contrary to Gods Word made war against *Israel.* 2. It is false that *Israel* pretended Religion in that change, the cause was the rough answer given to the supplication of the Estates, complaining of their oppression, they were under in *Solomons* reign. 3. Religion is still subjected to policie by Prelates and Caveliers, not by us in *Scotland*, who sought nothing but Reformation of Religion, of Laws, so far as they serve Religion, as our Supplications, Declarations, and the event proveth. 4. We have no new Calves, new Altars, new Feasts, but professe, and really do hazard life and estate, to put away the *Prelates Calves, Images, Tree-worship, Altar-worship, Saints Feast-dayes, Idolatry, Masses;* and nothing is said here but *Jesuites, and Cananites, and Baalites,* might say, (though falsly) against the Reformation of *Iosiah:* Trueth and purity of worship this yeer, is new in relation to Idolatry the last yeer, but it is *simpliciter* older. 5. We have *not put away the Lords Priests, and Levites, and taken in the scum of the vulgar,* but have put away *Baals Priests,* such as *excommunicated Prelate Maxwel,* and other *Apostates,* and resumed the faithfull servants of God, who were deprived and banished, for standing to the Protestant Faith sworn too, by the Prelates themselves. 6. Every action of Christ, such as his walking on the Sea, is not our instruction in that sense, that Christs *refusing a Kingdom, is directly our instruction:* And did Christ refuse to be a King, because the people would have made him a King? that is, *non causa pro causa;* he refused it, because his Kingdom was not in this world, and he came to suffer for men, not to reign over man. 7. The Prelate and others who were Lords of Session, and would be Iudges of mens Inheritances, and would usurpe the sword by being Lords of Counsell, and Parliament, have refused to be instructed by *every Action of Christ,* who would *not judge betwixt brother and brother.*

[57]

P. Prelate. *Jephtah came to be a Iudge by Covenant, betwixt him and the Gileadites; here you have an interposed Act of man, yet the Lord himself in authorizing him as Iudge, vindicateth it no lesse to himself, then when extraordinarily he authorized Gideon and Samuel, 1 Sam. 12.11. Ergo, whatsoever act of man interveeneth, it contributeth nothing to Royall Authority, it cannot weaken or repeal it.*

Answ. It was as extraordinary that *Jephthah* a bastard, and the sonne of an harlot, should be Iudge, as that *Gideon* should be Iudge. *God* vindicateth to himselfe, that he giveth his people favour in the eyes of their enemies; but doth it follow, [165] that the enemies are not agents, and to be commended for their humanitie in favouring the people of God? So *Psal.* 65.9, 10. *God* maketh corne to grow; therefore clouds, and earth, and sun, and summer, and husbandry contributeth nothing to the growing of corne. But this is but that which he said before. We grant that this is an eminent and singular act of Gods speciall providence, that he moveth and boweth the wills of a great multitude to promote such a man who by nature commeth no more out of the wombe a crowned King, then the poorest shepherd in the land: and it is an act of grace to endue him with heroick and royall parts for the government. But what is all this? doth it exclude the peoples consent? in no wayes. So the works of supernaturall grace, as to *love Christ* above all things, to *beleeve in Christ* in a singular manner, are ascribed to the *rich grace of God*: but can the *Prelate* say, that the understanding and will in these acts are meere patients, and contribute no more then the people contributeth to Royall authority in the King, and that is just nothing, by the *Prelates* way? And we utterly deny, that as water in baptisme hath no action at all in the working of remission of sinnes, so the people hath no influence in making a *King*, for the people are worthier, [166] more excellent then the *King*, and they have an active power of ruling and directing themselves toward the intrinsecall end of humane policie, which is the externall safety and peace of a societie, in so far as there are morall principles of the Second Table for this effect written in their heart, and therefore that *royall authoritie*, which by *Gods* speciall providence, is united in one *King*, and as it were overgilded and lustered with Princely grace and royall endowments, is diffused in the people, for the people hath an after-approbative consent in making a King, as Royalists confesse, water hath no such action in producing grace.

[58]

QUEST. IX. Whether or no Sovereigntie is so from the people, that it remaineth in them in some part, so as they may in case of necessitie resume it? ↪

The Prelate will have it Babylonish confusion, that we are divided in opinion. Jesuites (saith he) place all Sovereigntie in the communitie. Of the Sectaries; some warrant any one subject to make away his King, and that such a worke is no lesse to be rewarded then when one killeth a wolfe: Some say, this power is in the whole Communitie: some will have it in the collective body, not conveened by warrant or writ of Sovereignty, but when necessitie (which is often fancied) of reforming State and Church, calleth them together. Some in the Nobles and Peeres, some in the three Estates assembled by the Kings writ, some in the inferour Iudges.

I answer: If the Prelate were not a *Iesuite* himselfe, he would not bid his brethren take the mote out of their eye: but there is nothing here said but which *Barclaius* said better before this *Plagarius*. [167] To which I answer, We teach that any private man may kill a Tyrant voyd of all title: and a great Royalist *Barclaius* saith so also. And if he have not the consent of the people, he is an usurper, for we know no externall lawfull calling that Kings have now, or their familie to the Crown, but only the call of the people; all other calls to us are now invisible and unknown, and God would not command us to obey Kings, and leave us in the darke, that we shall not know who is the King: the *Prelate* placeth his lawfull calling to the Crown in such an immediate, invisible, and subtile act of omnipotencie, as that whereby God conferreth remission of sinnes by sprinkling with water in baptisme, and that whereby God directed *Samuel* to annoint *Saul* and *David*, not *Eliab*, nor any other brother. It is the Devill in the P. P. not any of us, who teach that any private man may kill a lawfull King, though tyrannous in his government. For the subject of Royall power, [168] we affirme, the first, and ultimate, and native subject of all power is the Communitie, as reasonable men naturally

inclining to a societie: but the ethicall and politicall subject, or the legall and positive receptacle of this power is various, according to the various constitutions of the policie. In *Scotland* and *England*, it is the three Estates of Parliament, in other Nations some other Iudges or Peeres of the Land. The Prelate had no more common sense for him to object a confusion of opinions to us, [59] for this, then to all the Common-wealths on earth, because all have not Parliaments, as *Scotland* hath; all have not Constables, and Officials, and Churchmen, Barons, Lords of Councell, Parliaments, &c. as *England* had. But the truth is, the Communitie orderly conveened, as it includeth all the Estates civill, have hand, and are to act in choosing their Rulers: I see not what priviledge Nobles have above Commons in a Court of Parliament, by Gods law; but as they are Iudges, all are equally Iudges, and all make up one congregation of *Gods*. But the question now is, if all power of governing (the Prelate, to make all the people *Kings*, saith, if all *Soveraignty*) be so in the people, that they retaine power to guard themselves against Tyranny? And, if they reteine some of it, *habitu*, in habit, and in their power? I am not now unseasonably, according to the Prelates order, to dispute of the power of lawfull defence against tyranny; but I lay down this maxime of Divinitie; *Tyranny being a worke of Sathan, is not from God*, because sinne either habituall or actuall, is not from God; the *power that is, must be from God*; the *Magistrate* as *Magistrate*, is good, in nature of office, and the intrinsecall end of his office, Rom. 13.4. *for he is the Minister of God for thy good*; and therefore a power ethicall, politick, or morall, to oppresse, is not from *God*, and is not a power, but a licentious deviation of a power, and is no more from *God*, but from sinfull nature, and the old serpent, then a license to sinne: *God* in *Christ* giveth pardons of sinne; but the *Pope*, not *God*, giveth dispensations to sinne. 2. To this adde, If for nature to defend it selfe be lawfull, no Communitie, without sin, hath power to alienate and give away this power: for as no power given to man to murder his brother, is of *God*, so no power to suffer his brother to be murdered, is of *God*; and no power to suffer himselfe (*à fortiori*) far lesse can be from *God*. Here I speake not of physicall power, for if free will be the creature of *God*, a physicall power to acts which in relation to *Gods* law are sinfull, must be from *God*.

But I now follow the P. Prelate. *Some of the adversaries*, [169] as Buchanan, say that the Parliament hath no power to make a law, but only a *(in non-Latin alphabet) (in non-Latin alphabet)* without the approbation of the Communitie. Others, as the the *Observer*, say, that the right of the Gentry and Communalty is intirely in the Knights and Burgesses of the House of Commons, and will have their Orders irrevocable. If then the common people cannot resume their power, and oppose the Parliament, [170] how can Tables and Parliaments resume their power, and resist the King?

[60]

Answ. The ignorant man should have thanked *Barclaius* for this Argument, and yet *Barclaius* need not thanke him, for it hath not the nerves that *Barclaius* gave it. But I answer, 1. if the Parliament should have been corrupted by fair hopes (as in our age we have seene the like) the people did well to resist the Prelates obtruding the *Masse Booke*, when the Lords of the Counsell pressed it against all Law of *God* and man, upon the Kingdome of *Scotland*, and therefore it is denyed that the Acts of Parliament are irrevocable, the *observer* said they were irrevocable by the King, he being but one man, the P. Prelate wrongeth him, for he said onely, they have the power of a Law, [171] and the King is obliged to consent, by his *Royall Office* to all good Lawes, and neither King nor people may oppose them. *Buchanan* said Acts of Parliament are not Lawes obliging the people till they be promulgated, and the peoples silence when they are promulgated is their approbation, and maketh them obligatory Lawes to them; but if the people speak against unjust Lawes, they are not Lawes at all, and *Buchanan* knew the power of the *Scottish Parliament*, better then this ignorant Statist. 2. There is not like reason to grant so much to the King, as to *Parliaments*, because certainly Parliaments who make *Kings* under *God*, or above any one man, and they must have more

authority and wisdom then any one *King*, except *Solomon* (as base flatterers say) should returne to the thrones of the earth. [172] And as the power to make just Lawes is all in the Parliament, only the people have power to resist *tyrannicall Lawes*, the power of all the Parliament was never given to the *King*, by God, the Parliament are as essentially Iudges as the *King*, and therefore the *Kings* deed may well be revoked, because he acteth nothing as *King*; but united with his great or lesser Councill, no more then the eye can see, being separated from the body. The Peeres and Members of Parliament have more then the *King*, because they have both their owne power, being parts and speciall Members of the people, and also they have their high places in Parliament, either from the peoples expresse, or *tacite* consent. 3. We allow no Arbitrary power to the Parliament, because their just Lawes are irrevocable, for the irrevocable power of making just Lawes doth argue a legall, not an irrevocable Arbitrary power; nor is there any arbitrary power in the people, or in any mortall man, but of the Covenant betwixt King and people hereafter.

[61]

P. Prelate, *If Sovereigne power be habitually in the community so, [173] as they may resume it at their pleasure, then nothing is given to the King but an empty title, for at the same instant he receiveth Empire and Sovereignty, and layeth downe the power to rule or determine in matters which concerne either private or publick good, and so he is both a King and a Subject.* Ans. This naked consequence the Prelate sayeth, and proveth not, and we deny it, and give this reason, the *King* receiveth Royall power with the States to make good Lawes, and 2. power by his royalty to execute those Lawes, and this power the community hath devolved in the hands of the *King*, and *States of Parliament*, but the community keepeth to themselves a power to resist tyranny, and to coerce it, and ••atenus in so far is *Saul* subject, that *David* is not to compeare before him, nor to lay downe *Goliahes* sword, nor disband his Army of defence, though the *King* should command him so to doe.

P. Prelate. *By all Politicians, Kings, [174] and enferiour Magistrates are differenced by their different specifick entity, but by this they are not differenced; nay a Magistrate is in a better condition then a King, for the Magistrate is to judge by a knowne Statute and Law, and cannot be censured and punished but by Law. But the King is censurable, yea disabled by the multitude, yea the basest of subjects may cite, and convent the King, before the underived Majesty of the community, and he may be judged by the Arbitrary Law th••t is in the closet of their heart, not only for reall misdemeanour, but for fancied jealousies—It will be said, good Kings are in no danger—the contrary appeareth this day, and ordinarily the best are in greatest danger; no Government except Plato's Republick wanteth incommodities, subtle spirits may make them, apprehend them. The poore people bewitched, follow Absolom in his treason, they strike not at Royalty at first, but labour to make the Prince, naked of the good counsell of great Statesmen, &c.*

Ans. Whether the King and the under Magistrate differ essentially, we shall see. The P. Prelate saith all Politicians grant it, [175] but he saith untruth; he bringeth *Moses*, and the *Iudges*, their power to prove the power of Kings; and so either the Iudges of Israel and the Kings differ not essentially, or then the Prelate must correct the spirit of God tearing one booke of Scripture ⟨ in non-Latin alphabet ⟩ *Kings*, and another ⟨ in non-Latin alphabet ⟩ *Iudges*, and make the *booke of Kings* the *booke of Iudges*. 2. The *Magistrates* condition is not better then the *Kings*, because the *Magistrate* is to judge by an knowne Statute and [62] Law, and the *King* not so. God moulded the first *King*, Deut. 17.18. *when he sitteth judging on his Throne, to looke to a written Copsy of the Law of God*, as his rule. Now a power to follow *Gods Law* is better then a power to follow mans sinfull will: so the Prelate putteth the *King* in a worse condition then the *Magistrate*, not we, who will have the *King* to judge according to just statutes and lawes. 3. Whether the *King* be censurable and deposable by the multitude, he cannot determine out of our writings.

4. The communities law is the law of nature, not their arbitrary lust. 5. The Prelates treasonable raylings, I cannot follow; he first saith, that *we agree not ten of us to a positive faith*, and that our faith is negative, but his faith is *Privative, Popish, Socinian, Arminian, Pelagian* and worse, for he was once of that same faith that we are of. 2. Our Confession of Faith is positive, as the confession of all the reformed Churches, but I judge he thinketh the Protestant Faith of all the reformed Churches but negative. 3. The incommodities of Government before our reformation were not fancied, but printed by Authority, all the body of Popery was printed, and avowed as the Doctrine of the *Church of Scotland and England*, as the learned Author, and my much respected brother evidenceth in his *Ludensium*, *(in non-Latin alphabet)* *(in non-Latin alphabet)*, *The Canterburian selfe conviction*. 4. The Parliament of *England* was never yet found guilty of Treason. 5. The good Counsellors of great States-men, that Parliaments of both Kingdomes would take from the Kings Majesty, are a faction of perjured *Papists, Prelates, Jesuites, Irish cut-throates, Strafords*, and Apostate subverters of all Lawes divine, humane, of God, of Church, of State.

[176]P. Prelate. *In whom so ever this power of Government be, it is the onely remedy to supply all defects, and to set right what ever is disjoynted in Church and State, and the subject of this super-intending power must be free from all errour in Iudgement and Practice, and so we have a Pope in temporalibus; and if the Parliament erre, the people must take order with them, else God hath left Church and State remedlesse.* Ans. This is stollen from *Barclaius* also; 1. but the same *Barclaius* saith, [177] *Si Rex regnum suum alienae ditioni manciparit, regno cadit. If the King shall sell his Kingdome, or inslave it to a forraigne power, he falleth from all right to his Kingdome:* but who shall execute any such Law against him, not the people, not the Peeres, not the Parliament; for this *Mancipium ventris & aulae*, this slave [63] saith, p. 147. *I know no power in any to punish or curbe Sovereignty, but in Almighty God.* 2. We see no super-intending power on earth in King or people infallible, nor is the last power of taking order with a Prince who inslaveth his Kingdome to a forraigne power placed by us in the people, because they cannot erre; [178] Court flatterers, who teach that the will of the Prince is the measure of all right and wrong, of Law and no Law; and above all Law must hold that the King is a temporall Pope, both in Ecclesiasticall and Civill matters; but because they cannot so readily destroy themselves, (the law of Nature having given to them a contrary internall principle of selfe preservation) as a Tyrant who doth care for himselfe, and not for the people. 3. And because *Extremis morbis extrema remedia* in an extraordinary exigent, when *Achab* and *Iezabell* did undoe the *Church of God*, and Tyrannize over both the bodies and consciences of *Priest, Prophet, and people*, *Elias* procured the convention of the States, and *Elias* with the peoples helpe killed all *Baals Priests*, the King looking on, and no question, against his heart. In this case I thinke its more then evident that the people resumed their power. 4. We teach not that people should supply all defects in Government, nor that they should use their power when any thing is done amisse by the King, no more then the King is to cut off the whole people of *God*, when they refuse an Idolatrous service obruded upon them against all Law; the people is to suffer much before they resume their power, but this Court slave will have the people to doe what he did not himselfe, for when King and Parliament summoned him, was he not obliged to appeare? *Non-compearance* when lawfull, royall, and Parliamentary power summoneth, is no lesse resistance, then taking of Forts and Castles.

P. Prelate. *Then this super-intending power in people, may call a King to accompt, and punish him for any misdemeanour, or act of injustice. Why might not the people of Israels Peeres, or Sanedrin have convented David before them, judged and punished him for his Adultery with Bathsheba, and his murther of Uriah ■ but it is holden by all, that Tyranny should be an intended universall, totall, manifest destruction of the whole Common-wealth, which cannot fall in the thoughts of any but a mad man. What is recorded in the Story of Nero his wish in this kind, may be rather judged the expression of transported passion, then a*

fixed resolution.

Ans. The *P. Prelate* contrary to the scope of his booke, which is [64] all for the subject and seat of Sovereigne power, against all order hath plunged himselfe in the deep of Defensive armes, and yet hath no new thing. 1. Our law of *Scotland* will warrant any subject, if the King take from him his heritage, or invade his possession against Law, to resist the invaders, and to summon the Kings intrudors before the Lords of Session for that act of injustice: Is this against *Gods Word*, or Conscience? 2. The *Sanedrim* did not punish *David*; *Ergo*, it is not lawfull to challenge a *King* for any one act of injustice: from the practice of the *Sanedrim*, to conclude a thing lawfull or unlawfull, is logick; we may resist. 3. By the *P. Prelates* doctrine, the law might not put *Bathshebah* to death, nor yet *Joab* the nearest agent of the murthering of innocent *Vriah*, [179] because *Bathshebaes* adulterie was the Kings adulterie, she did it in obedience to King *David*: *Ioabs* murther was Royall murther, as the murther of all the *Cavaliers*; for he had the *Kings hand-writing* for it. Murther is Murther, and the murtherer is to dye, though the *King* by a secret *Let alone*, a private and illegall warrant command it. *Ergo*, the *Sanedrim* might have taken *Bathshebaes* life, and *Ioabs* head also: and consequently the Parliament of *England*, if they be Judges (as I conceive *God* and the Law of that ancient and renowned Kingdome maketh them) may take the head of many *Ioabs* and *Jermine*s, for murther; for the command of a *King* cannot legitimate murther. 4. *David* himselfe, as *King*, speaketh more for us then for the Prelate, 2 *Sam.* 12.7. And *David*s anger was greatly kindled against the man, (the man was himselfe, v. 7. *Thou art the man*) and he said to *Nathan*, as the Lord liveth, the man that hath done this, shall surely dye. 5. Every act of injustice doth not un-*King* a Prince before *God*, as every act of uncleannesse doth not make a wife no wife before *God*. 6. The Prelate excuseth *Nero*, and would not have him resisted, if all *Rome were one neck*, that he might cut it off with one stroke (I read it of *Caligula*; If the Prelate see more in Historie then I doe, I yield.) 7. He saith, the thoughts of totall eversion of a Kingdome, must only fall on a mad man. The *King of Britaine* was not mad, when he declared the *Scots* Traytors, because they resisted the service of the Masse; and raised an Army of Prelaticall cut-throats to destroy them, if all the Kingdome should resist Idolatry, (as all are obliged.) The *King* sleepeed upon this Prelaticall resolution many moneths: passions in fervor have not a dayes raigne upon a man. And this was not so [65] cleare as the sun, but it was as cleare as written printed Proclamations, and the pressing of Souldiers, and the visible marching of Cut-throats, and the blocking of *Scotland* up by sea and land could be visible to men having five senses.

Covarruv. a great Lawyer, saith, [180] 1. that all Civill power is *penes remp.* in the hands of the Common-wealth. 1. Because Nature hath given to man to be a sociall creature, and impossible he can preserve himselfe in a societie, except he being in communitie, transforme his power to an head. 2. He saith; *Hujus vero civilis societatis & resp. rector ab alio quam ab ipsamet repub. constitui non potest justè & abs{que} Tyrannide. Siquidem ab ipso Deo constitutus non est, nec electus cuilibet civili societati immediatè Rex aut Princeps. Arist. polit.* 3. c. 10. saith, It is better that Kings got by election then by birth; because Kingdomes by succession are *verè regia*, truly Kingly: these by birth are more Tyrannicall, masterly, and proper to Barbarous Nations. And *Covarruvias*, tom. 2. *pract. quest. de jurisd. Castellan. Reip.* c. 1. n. 4. saith, *Hereditary Kings are also made hereditary by the tacit consent of the people, and so by law and consuetude.*

Spalato. Let us grant (saith he) that a societie shall refuse to have a Governour over them, shall they be for that free? in no sort: [181] but there be many wayes by which a people may be compelled to admit a governour; for then no man might rule over a Communitie against their will. But nature hath otherwise disposed, ut quod singuli nollent, universi vellent, that which every one will not have, a Communitie naturally desireth. And the *P. Prelate* saith, *God is no lesse the author of Order, then he is the author of Being; for the Lord*

who createth all, [182] conserveth all; and without government all humane societies should be dissolved and goe to ruine: Then government must be naturall, and not depend upon a voluntary & arbitrary constitution of men. In nature, the liveles creatures inferior give a tacit consent & silent obedience to their superiour, and the superiour have a powerfull influence on the inferiour. In the subordination of creatures, we ascend from one superior to another, till at last we come to one supreme, which by the way pleadeth for the excellencie of Monarchie. Amongst Angels there is an order: how can it then be supposed that God hath left it to the simple consent of man to establish a heraldrie of sub & supra, of one above another, which neither nature nor the Gospel doth warrant? To leave it thus arbitrary▪ that upon this supposed principle, Mankind may be without government at all, is vain; which paradox cannot be maintained. In nature God hath [66] established a superiority inherent in superior creatures, which is no ways derived from the inferior by communication, in what proportion it will, and resumeable upon such exigents as the inferior listeth: therefore neither hath God left to the multitude, the communitie, the collective, the representative or virtuall body, to derive from it selfe, and communicate soveraigntie, whether in one or few, or more, in that measure and proportion pleaseth them, which they resume at pleasure.

Answ. 1. To answer *Spalato*: No societie hath liberty to be without all government, for God hath given to every societie (saith [183] *Covarruvias*) a faculty of preserving themselves, and warding off violence and injuries; and this they could not doe, except they gave their power to one or many Rulers. But all that the *Prelate* buildeth on this false supposition, which is his fiction and calummie, not our doctrine, to wit, that it is voluntary to man to be without all government, [184] because it is voluntarie to them to give away their power to one or moe Rulers, is a meere non-consequence. 1. We teach that Government is naturall, not voluntary; but the way and manner of Government is voluntarie: All societies should be quickly ruined, if there were no Government: but it followeth not therefore, God hath made some *Kings*, and that immediately, without the interveening consent of the people, and *ergo*, it is not arbitrary to the people to choose one supreme Ruler, and to erect a *Monarchie*, or to choose moe Rulers, and to erect an *Aristocracie*. It followeth no way. It is naturall to men to expresse their minde by humane voyces; Is not speaking of this or that language, *Greeke* rather then *Latine*, (as *Aristotle* saith) ⟨ in non-Latin alphabet ⟩ by humane institution? It is naturall for men to eat; *ergo*, election of this or that meat is not in their choise. What reason is in this consequence? and so its a poore consequence also; Power of Soveraigntie is in the people naturally; *ergo* it is not in their power to give it out in that measure that pleaseth them, and to resume it at pleasure. It followeth no way. Because the inherencie of Soveraigntie is naturall, and not arbitrary, *ergo*, the alienation and giving out of the power to one, not to three, thus much, not thus much, conditionally, not absolutely and irrevocably, must be also arbitrary. It is as if you should say, a father having six children, naturally loveth them all, *ergo*, he hath not freedome of will in expressing his affection to give so much of his goods to this sonne, and that conditionally, if he use these goods well; and not more or lesse of his goods, at his pleasure. 2. There is a naturall subordination [67] in nature, in creatures superior and inferior, without any freedome of election: [185] the earth made not the heavens more excellent then the earth, and the earth by no freedome of will made the heavens superior in excellencie to it selfe. Man gave no superioritie of excellencie to Angels above himselfe: the Creator of all Beings did both immediately without freedome of election in the creature, create the being of all creatures, and their essentiall degrees of superiority and inferiority, but God created not *Saul* by nature King over *Israel*; nor is *David* by the act of creation, by which he is made a man, created also a King over *Israel*; for then *David* should from the wombe and by nature be a King, and not by Gods free gift. Here both the free gift of God, and the free consent of the people interveene: indeed God made the office and royaltie of a King above the dignitie of the people; but God by the interveening consent of the people maketh *David* a King, not *Elijah*; and the people maketh a covenant at *Davids* inauguration, that *David* shall have so much power, to wit, power to be a Father, not

power to be a Tyrant; power to fight for the people, but no power to waste and destroy them. The inferior creatures in nature give no power to the superiour, and therefore they cannot give in such a proportion power. *The deniall of the positive degree, is a deniall of the comparative and superlative*, and so they cannot resume any power: But the designing of such a man, or such men to be Kings or Rulers, is a rationall voluntary action, not an action of nature, such as is Gods act of creating an Angell a nobler creature then a man, and the creating of man a more excellent creature then a beast: and for this cause the argument is vaine and foolish: for inferior creatures are inferior to the more noble and superior by nature, not by voluntary designation, or, as *Royalists* say, by naked approbation, which yet must be an arbitrary and voluntary action. 3. The *P. Prelate* commendeth order, while we come to the most supreme: hence he commendeth *Monarchie* above all governments, because it is Gods government. I am not against it, that *Monarchie* well tempered is the best government, though the question to me is most problematick; but because *God* is a Monarch, who cannot erre or deny himselfe, therefore that sinfull Man be a *Monarch*, is miserable logick: and he must argue solidly forsooth by this, because there is order (as he saith) *amongst Angels*, will he make a Monarch and a King-Angell? His argument, if it have any weight in it, driveth at that, [68] even that there be crowned *Kings* amongst the Angels.

QUEST. X. Whether or not Royall birth be equivalent to divine unction? [↗](#)

Symmons holdeth, that Birth is as good a title to the Crowne, as any given of *God*. [186] How this question can be cleered, I see not, except we dispute tha••, *Whether or not Kingdomes be proper patrimonies derived from the father to the sonne?* 2. I take, there is a large difference betwixt a thing transmittable by birth from the father to the sonne, and a thing not transmittable. 3. I conceive, as a person is chosen to be a King over a people, so a familie or house may be chosen, and a Kingdome at first choosing a person to be their *King*, may also tye themselves to choose the first borne of his body: but as they transferre their power to the father, 1. for their owne safetie and peace, (not if he use the power they give him, to their destruction) the same way they tye themselves to his first borne, as to their *King*. 2. As they chose the father not as a man, but a man gifted with Royall grace, and a Princely facultie for government; so they can but tye themselves to his first borne, as to one graced with a facultie of governing: and if his first borne shall be borne an idiot and a foole, they are not obliged to make him King; for the obligation to the sonne can be no greater then the obligation to the father, which first obligation is the ground, measure and cause of all posterior obligations. If Tutors be appointed to governe such an one, the Tutors have the Royall power, not the Idiot; nor can he governe others, who cannot governe himselfe. That *Kings* goe not as heritage from the father to the sonne, I prove; 1. *God*, Deut. 17. could not command them to choose such a one for the *King*, and such a one *who sitting on his throne* shall follow the direction of *God* speaking in his word, if birth were that which gave him Gods title and right to the Crowne; for that were as much as such a man should be heire to his fathers inheritance, and the sonne not heire to his fathers crown, except he were such a man: But *God* in all the Law morall or judiciall, never required that the heire should be thus and thus qualified, else he should not be heire: but he requireth that a man, and so that a familie should be thus and thus qualified, else they should not be *Kings*: and I confirme it thus: The first *King* of divine institution must be the rule, paterne and measure of all the rest of the Kings, as *Christ* maketh the first Mariage, [69] *Mat.* 19.8. a paterne to all others, and *Paul* reduceth the right administration of the Supper to *Christs* first institution, 1 *Cor.* 11.23. now the first King, *Deut.* 17.14, 15. is not a man qualified by naked birth, for then the Lord in describing the manner of the *King* and his due qualifications, should seeke no other but this; *You shall choose onely the first borne, or the lawfull sonne of the former King*. But seeing the *King* of Gods first moulding is a *King* by election, and what *God* did after by promises and free grace give to *David* and his seed, even a throne till the *Mesiah* should come, [187] and did promise to some *Kings*, if they would walke in his Commandements; that their sonnes,

and sonnes sonne should sit upon the Throne, in my judgement is not an obliging Law, that sole birth should be as just a title, *in foro Dei*, (for I now dispute the question in point of conscience) as royall unction. 2. If by divine institution *God* have impawned in the peoples hand a subordinate power to the most High, who giveth Kingdomes to whom he will, to make and create Kings, then is not sole birth a just title to the Crowne. But the former is true; both by precept, *Deut.* 17.1. and *God* expresly saith, *Thou shalt choose him King, whom the Lord shall choose*. And if it had not been the peoples power to create their own Kings, how doth *God* after he had designed *Saul* their King, yet expresly *1 Sam.* 10. inspire *Samuel* 17. to call the people before the Lord at Mizpeh, to make *Saul* King? and how doth the Lord v. 22. expresly shew to *Samuel*, and the people, the man that they might make him King? and because all consented not that *Saul* should be King, *God* will have his Coronation renewed, v. 14. *Then said Samuel to the people, Come, and let us goe to Gilgall, and renew the Kingdome there.* 15. *And all the people went to Gilgall, and there they made Saul King before the Lord in Gilgall.* And how is it that *David* anoynted by *God* is yet no King, but a private subject, while all *Israel* make him King at *Hebron*?

3. If royall birth be equivalent to royall unction, and the best title, [188] and if birth speake and declare to us the Lords appointment and Will, [189] that the first born of a King should be King, as *M. Symmons* and others say; then is all title by conquest, where the former King standeth, in title to the Crowne, and hath an Heire, unlawfull. But the latter is against all the nation of the Royalists, for *Arnisaeus*, *Barclay*, *Grotius*, *Io. Roffensis Episco.* the Bishop of *Spalato*, *Dr. Ferne*, *M. Symmons*, the excommunicate Prelat, if his poore learning may bring [70] him in the roll, teach that conquest is a lawfull title to a Crowne. I prove the Proposition, 1. because if birth speake Gods revealed Will, that the Heire of a King is the lawfull King, then conquest cannot speake the contradicent Will of *God*, [190] that he is no lawfull King, but the conquerour is the lawfull King. Gods revealed Will should be contradictory to himselfe, and birth should speake it is Gods Will, that the Heire of the former King be King, and the conquest being also Gods revealed Will, should also speake that that Heire should not be King. 2. If birth speake and reveale Gods Will that the Heire be King, it is unlawfull for a conquered people to give their consent that a conquerour be their King. For their consent being contrary to Gods revealed Will, (which is, that birth is the just title) must be an unlawfull consent. If Royalists say, *God the King of Kings who immediately maketh Kings, may, and doth transferre Kingdomes to whom he will, and when he putteth the sword in Nebuchadnezers hand, to conquer the King and Kingdome of Iudah, then Zedikiah or his sonne is not King of Iudah, but Nebuchadnezer is King, and God being above his Law, speaketh in that case his Will by conquests, as before he spake his Will by birth; this is all* can be said. *Ans.* They answer black treason in saying so, for if *Ieremiah* from the Lord had not commanded expresly, that both the King and Kingdome of *Judah* should submit to the King of *Babylon*, [191] and serve him, and pray for him, as their lawfull King, it had been as lawfull to them to rebell against that Tyrant, as it was for them to fight against the Philistines, and the King of *Ammon*; but if birth be the just and lawfull title, *in foro Dei*, in Gods Court, and the only thing that evidenceth Gods Will without any election of the people, that the first borne of such a King is their lawfull King, then conquests cannot now speake a contrardictory Will of *God*; for the question is not whether or not, *God* giveth power to Tyrants to conquer Kingdomes from the just Heires of Kings, which did raigne lawfully before their sword made an empty Throne; But whether conquest now, when *Jeremiahs* are not sent immediatly from *God* to command? for example; *Britaine* to submit to a violent intruder, who hath expelled the lawfull Heires of the royall Line of the King of *Britaine*, whether I say doth conquest in such a violent way, speake that it is Gods revealed Will, called *Voluntas signi*, the will that is to rule us, in all our Morall duties to cast off the just Heires of the blood Royall, and to sweare homage [71] to a conquerour, and so as that conquerour now hath as just right, as the King of *Britaine* had by birth. This cannot be taken off by the wit of any, who 1. maintaine that conquest is a lawfull title to a Crowne, and 2. that royall birth

without the peoples election speaketh Gods regulating Will in his Word, that the first borne of a King is a lawfull King by birth; for God now a daies doth not say the contrary of what he revealed in his Word. If birth be Gods regulating Will, that the Heire of the King is in Gods Court a King, no act of the conquerour can anull that Word of God to us, and the people may not lawfully, though they were ten times subdued, sweare homage and allegiance to a conquerour, against the due right of birth, which by Royalists Doctrine revealeth to us the plaine contradictory Will of God. It is, I grant, often Gods *Decree revealed by the event*, that a conquerour be on the Throne, but this Will is not our rule, and the people are to sweare no Oath of Allegiance contrary to Gods *Voluntas signi*, which is his revealed Will in his Word regulating us.

4. Things transferrable and communicable by birth from father to sonne, are onely, in Law, those which Heathen call *bona fortunae*, [192] [193] riches, as lands, houses, monies and heritages; and so saith the Law also. These things which essentially include gifts of the mind, and honour property so called, I meane honour founded on vertue, as *Aristotle* with good reason maketh honour *praeminum virtutis*, cannot be communicated by birth from the father to the sonne; for royall dignity includeth these three constituent parts essentially, of which none can be communicable by birth. 1. The royall faculty of governing, which is a speciall gift of God, above nature, is from God. *Solomon* asked it from God, and had it not by generation from his father *David*. 2. The royall honour▪ to be set above the people because of this royall vertue, is not from the wombe, for then Gods spirit would not have said, *Blessed are thou O Land, when thy King is the sonne of Nobles*, Eccles. 10.17. this honour springing from vertue, is not borne with any man, nor is any man borne with either the gift, or honour to be a Iudge; *God maketh high and low, not birth*. Nobles are borne to great estates, if judging be heritage to any, it is a municipall positive law. I now speake in point of conscience. 3. The externall lawfull title, before men come to a Crowne must be Gods Will, revealed by such an externall signe, as by Gods appointment and warrant is to regulate our will, but [72] according to Scripture nothing regulateth our will, and leadeth the people now that they cannot erre, following Gods rule in making a King, but the free suffrages of the States choosing a man whom they conceive God hath endued with these royall gifts required in the *King* whom *God* holdeth forth to them in his Word, Deut. 17. now there be but these to regulate the people, or to be a rule to any man to ascend lawfully (*in foro Dei*) in Gods Court to the Throne; 1. Gods immediate designation of a man by Propheticall and Divinely inspired *unction*, [194] as *Samuel* annoynted *Saul*, and *David*; this we are not to expect now, nor can Royalists say it. 2. Conquest, seeing it is an act of violence, and Gods revenging Justice for the sinnes of a people, cannot give in Gods Court such a just title to the Throne, as the people are to submit their consciences unto, except *God* reveale his regulating will by some immediate voice from Heaven, as he commanded *Judah* to submit to *Nebuchadnezer* as to their *King* by the *mouth of Ieremiah*; now this is not a rule to us, for then, if the *Spanish King* should invade this *Iland*, and as *Nebuchadnezer* did, deface the Temple, and instruments and meanes of Gods *Worship*, and abolish the true worship of *God*, it should be unlawfull to resist him, after he had once conquered the *Iland*, neither Gods Word, nor the Law of nature could permit this; I suppose even by grant of adversaries, now no act of violence done to a people, though in Gods Court they have deserved it, can be a testification to us of Gods *regulating Will*; except it have some warrant from the Law and testimony, it is no rule to our conscience to acknowledge him a lawfull *Magistrate*, whose sole law to the Throne is an act of the bloody instrument of divine wrath, I meane the sword. That therefore *Judah* was to submit, according to Gods Word, to *Nebuchadnezer*, whose conscience and best warranted calling to the Kingdome of *Judah* was his bloody sword, even if we suppose *Ieremiah* had not commanded them to submit to the *King of Babylon*, [195] I thinke cannot be said. 3. Naked birth cannot be this externall signification of Gods regulating Will to warrant the conscience of any to ascend to the Throne, for the Authors of this opinion *make royall birth equivalent to divine unction*, for *David* annoynted by *Samuel*, and so annoynted by *God*, is not

King, *Saul* remained the Lords anoynted many yeares, not *David*, even anoynted by *God*; the peoples making him *King at Hebron* founded upon divine unction, was not the only externall lawfull calling that we read of, [73] that *David* had to the Throne, then royall birth, because it is but equivalent only to divine unction, not superiour to divine unction, it cannot have more force to make a *King*, then divine unction. And if birth was equivalent to divine unction, what needed *Ioash* who had royall birth, be made *King* by the people? and what needed *Saul* and *David*, who had more then royall birth, even divine unction, be made *Kings* by the people? and *Saul* having the vocall and infallible testimony of a Prophet, needed not the peoples election, the one at *Mizpeh* and *Gilgall*, and the other at *Hebron*.

5. If royall birth be as just a title to the Crowne as divine unction, and so, as the peoples election is no title at all; then is it unlawfull that there should be a *King* by election in the world now: but the latter is absurd, so is the former. I prove the Proposition, because where conquerours are wanting, and there is no *King* for the present, but the people governing, and so much confusion aboundeth, they cannot lawfully appoint a *King*, for his lawfull title before *God* must either be conquest, which to me is no title, (and here, and in this case there is no conquest) or if the title must be a Propheticall word immediatly inspired by *God*, but this is now ceased; or thirdly the title must be royal birth, but here there is no royall birth, because the government is popular; except you imagine that the society is obliged in conscience to goe and seek the sonne of a forraine *King* to be their *King*. But I hope that such a royall birth should not be a just title before *God* to make him *King* of that society, to which he had no relation at all, but is a meere stranger. Hence in this case no title could be given to any man to make him *King*, but onely the peoples election; which is that which we say. And it is most unreasonable that a people under popular Government cannot lawfully choose a *King* to themselves, seeing a *King* is a lawfull Magistrate, and warranted by *Gods* Word, because they have not a *King* of royall birth to sit upon the throne.

Mr. Symmons saith that birth is the best title to the Crowne, because after the first of the family had been anoynted, [196] unction was no more used in that family, (unlesse there arose a strife about the Kingdome, as betwixt Solomon and Adonijah, Ioash and Athalia) the eldest sonne of the predecessor was afterward the chosen of the Lord, his birth-right spake the Lords appointment, as plainly as his fathers unction. Ans. It is a conjecture that unction was not used in the [74] family, after the first unction, except the contest was betwixt two Brethren, that is said, not proved, for 2 *King*. 23.30. when good *Iosiah* was killed, and there was no contest concerning the Throne of that beloved Prince, the people of the Land took *Iehoahaz* his son and anointed him, and made him *King* in his fathers stead; and the Priests were anointed, *Levit*. 6.22. yea, all the Priests were anointed, *Num*. 3.●●. yet read we not in the History, where this or this man was anointed. 2. In that *Adonijah*, *Solomons* elder Brother was not *King*, it is clear, That *Gods* anointing, and the peoples electing, made the right to the Crown, and not birth. 3. Birth *de facto* did design the man, [197] because of *Gods* speciall promises to *David*s house; but how doth a typicall descent made to *David*, and some others by *Gods* speciall promise, prove, that birth is the birth-right, and lawfull call of *God* to a Crown in all after ages? For as gifts to reign, goeth not by birth, so neither doth *Gods* title to a Crown go.

M. Symons. A Prince once possessed of a Kingdome coming to him by inheritance, can never, by any, upon any occasion be dispossessed thereof, without horrible impietie, and injustice. Royall unction was an indeleble Character of old, *Saul* remained the Lords anointed till the last gaspe; *David* durst not take the right of Government actually into him, although he had it in reversion, being already anointed thereunto, and had received the spirit thereof.

Answ. That is the question, If a Prince once a Prince by inheritance, cannot be dispossessed thereof without injustice: For if a Kingdom be his by birth, as an inheritance transmitted from the father to the son, [198] I see not but any man upon necessary occasions, may sell his inheritance; but if a Prince sell his Kingdom, a very *Barclay* and an *Hug. Grotius* with reason will say, he may be dispossessed and dethroned, and take up his indeleble Character then. 2. A Kingdom is not the Princes own so, as it is injustice to take it from him, as to take a mans purse from him; the Lords Church (in a Christian Kingdom) is Gods heritage, and the King onely a shepheard, and the sheep in the court of conscience, are not his. 3. Royall unction is not an indeleble Character; for neither *Saul* nor *David* were all their dayes Kings thereby, but lived many dayes private men after divine unction, while the people anointed them Kings, except you say, 1. That there were two Kings at once in *Israel*. 2. And that *Saul* killing *David*, should have killed [75] his own Lord, and his anointed. 4. If *David* durst not take the right of Government actually on him, then divine unction made him not King, but onely designed him to be King: the peoples election must make the King.

M. Symons addeth, *He that is born a King and a Prince, [199] can never be unborn, Semel Augustus semper Augustus; yea, I beleve the eldest son of such a King is in respect of birth, the Lords anointed in his fathers life time, even as David was before Sauls death, and to deprive him of his right of reversion, is as true injustice, as to dispossesse him of it.*

Answ. It is proper onely to Jesus Christ to be born a King, sure I am, No man bringeth out of the womb with him a Scepter, and a Crown on his head. Divine unction giveth a right infallibly to a Crown; but birth doth not so, for one may be born here to a Crown, as was hopefull Prince *Henry*, and yet never live to be King. The eldest son of a King, if he attempt to kill his father, as *Absolom* did, and raise forces against the lawfull Prince, I conceive he may be killed in battell, without any injustice. 2. If in his fathers time he be the Lords anointed, there be two Kings, and the heir may have a son, and so there shall be three Kings, possibly four; all Kings by divine right.

The Prelate of Rochester saith, *The people and nobles give no right to him, who is born a King, they onely declare his right. [200]*

Answ. This is said, not proved. A man born for an inheritance, is by birth an heir, because he is not born for these Lands, as a mean for the end, but by the contrary, these Lands are for the heir as the mean for the end: But the King is for his Kingdom, *as a mean for the end*, as the *watch-man for the Citie, the living Law for peace, and safetie to Gods people*; and therefore is not *heres hominum, An heir of men, but men are rather heredes regis, heirs of the King.*

Arnisaeus. *Many Kingdoms (saith he) are purchased by just war, and transmitted by the Law of heritage from the father to the son, [201] beside the consent of the people, because the son receiveth right to the Crown, not from the people, but from his parents, nor doth he possesse the Kingdom, as the trimony of the people, keeping onely to himself the burden of protecting and governing the people, but as a proprietie given to him lege regni, by his parents, which he is obliged to defend and rule, as a father looketh to the good and welfare of the family, yet so also as he may look to his own good.*

[76]

Answ. We read in the Word of God, That the people made *Solomon* King, not that *David*, or any King can leave in his Testament, a Kingdom to his son. 2. He saith, *The son hath not the right of reigning, [202] as the patrimony of the people, but as a proprietie, given by the Law of the Kingdom, by his parents:* Now this is all one, as if he said, *The son hath not the right of the Kingdom, as the patrimony of the people, but as the patrimony of the people,* which is good non-sense; For the proprietie of reigning, given from father to son, *by the Law*

of the Kingdom, is nothing but a right to reign, given by the Law of the people, and the very gift and patrimony of the people, for *Lex regni*, This Law of the Kingdom is the Law of the people, tying the Crown to such a Royall Family; and this Law of the people is prior and ancients then the King, or the right of reigning in the King, or which the King is supposed to have from his Royall father, because it made the first father, the first King of the Royall Line. For I demand, How doth the son succeed to his fathers Crown, and Throne? Not by any promise of a divine Covenant, that the Lord maketh to the father, as he promised, *that Davids seed should sit on his throne*, till the *Messiah* should come: this, as I conceive, is vanished with the Commonwealth of the Iews, nor can we now finde any immediate divine constitution, tying the Crown now to such a race: nor can we say, this cometh from the will of the father King, making his son King: For 1. there is no Scripture can warrant us to say, [203] *The King maketh a King*, but the Scripture holdeth forth, that the people made *Saul and David*, Kings. 2. This may prove, That the father is some way a cause, why this son succeedeth King; but he is not the cause of the Royaltie conferred upon the whole Line; because the question is, Who made the first father a King? Not himself; nor doth God now immediately by Prophets anoint men to be Kings, then need force, the people choose the first man, then must the peoples election of a King, be prior and more ancient then the birth-law to a Crown: And election must be a better right then birth. 2. The question is, Whence cometh it that not onely the first father should be chosen King; but also ••hence is that, whereas it is in the peoples freewill to make the succession of Kings go by free election, as it is in *Denmark* and *Pol*; yet the people doth freely choose, not only the first man to be King, but also the whole race of the first born of this mans Family to be Kings. All here [77] must be resolved in the free will of the Communitie; now since we have no immediate and propheticall enthroning of men: it is evident, That the lineall deduction of the Crown from father to son, through the whole line, is from the people, not from the parent.

Hence I adde this, as my sixth Argument, [204] That which taketh away that naturall aptitude, and natures birth-right, in a Communitie given to them by God and nature, to provide the most efficacious, and prevalent mean for their own preservation and peace in the fittest Government, that is not to be holden, but to make birth the best title to the Crown, and better then free election, taketh away and impedeth that naturall aptitude, and natures birth-right of chosing, not simply a Governour, but the best, the justest, the more righteous, and tyeth, and fettereth their choice to one of a house, whether he be a wise man, and righteous, and just, or a fool and an unjust man; therefore to make birth the best title to the Crown, is not to be holden.

It is objected: *That parents may binde their after Generations, to choose one of such a line; But by this Argument, their naturall birth-right of a free choice, to elect the best and fittest, is abridged and clipped, and so the posterity shall not be tyed to a King of the Royall Line, to which the Ancestors did swear.* See for this, the learned Author, [205] *of Scripture, and Reasons, pleaded for defensive Arms.*

Answ. Frequent elections of a King, [206] at the death of every Prince may have, by accident, and through the corruption of our nature, bloody, and tragicall sequels, and to eschew these, people may tie and oblige their children to chose one of the first born; Male or Female, as in *Scotland* and *England*, of such a line; but I have spoken of the excellencie of the title by election, above that of birth, as comparing things according to their own nature together; but give me leave to say, That the posterity are tyed to that Line, 1. Conditionally: So the first born, *ceteris paribus*, be qualified, and have an head to sit at the helm. 2. Elections of Governours would be performed, as in the sight of God; and in my weak apprehension, the person coming nearest to Gods judge, *Fearing God, hating covetousnesse*, and to *Moses* his King, *Deut. 17. one who shall read in the Book of the Law*, and it would seem now, that gracious morals are to us instead of Gods immediate designation. 3. The

genuine and intrinsecall end of making Kings, is not simply governing, but governing the best way in peace, honesty, and godlinesse, 1 *Tim.* 2.

[78] *Ergo*, These are to be made Kings, who may most expedately procure this end: neither is it my purpose to make him no King, who is not a gracious man, onely here I compare title with title.

7. *Argument.* Where God hath not bound the conscience, men may not binde themselves, or the consciences of the posterity. But God hath not bound any nation irrevocably, and unalterably to a Royall Line, or to one kinde of Government. *Ergo*, No nation can binde their conscience, and the conscience of the posterity, either to one Royall Line, or irrevocably and unalterably to Monarchy. The proposition is clear.

1. No Nation is tyed, *jure divin*••, by the tie of a divine Law to a Monarchy, rather then to another Government. The *Parisian Doctors* prove, That *the precept of having a Pope is affirmative*, and so tyeth not the Church, *ad semper*, for ever; and so the Church is the body of Christ without the Pope; and all oaths to things of their nature indifferent, and to things, the contrary whereof is lawfull, and may be expedient and necessary, lay on a tie onely conditionally, in so far, as they conduce to the end. If the *Gibeonites* had risen in *Joshuaes* dayes, to cut off the people of God, I think no wise man can think, that *Joshua* and the people were tyed by the oath of God, not to cut off the *Gibeonites* in that case: For to preserve them alive as enemies, was against the intent of the oath, which was to preserve them alive, as friends demanding, and supplicating peace, and submitting. The assumption is clear If a Nation seeth that *Aristocraticall* Government is better then *Monarchy*, *hic & nunc*: That the sequels of such a *Monarchy* is bloody, destructive, tyrannous, that the *Monarchy* compelleth the free subjects to *Turcisme*, to grosse Idolatry, they cannot by the divine bond of any oath captive their naturall freedom, which is to choose a Government, and Governours, for their safetie, for a peaceable and godly life; or fetter and chain the wisdom of the posterity unalterably to a Government, or a Royall Line, which *hic & nunc*, contrary to the intention of their oath, proveth destructive, and bloody. And in this case, even the King, though tyed by an oath to govern, is obliged to the practices of the Emperour *Otho*. And as *Speed* saith, [207] of *Richard* the second, to resign the Crown, for the eschewing of the effusion of blood: And who doubteth but the second wits of the experienced posterity, may correct the first wits of their fathers; nor shall I ever beleeve, that the fathers can [79] leave in legacie, by oath, any chaines of the best gold to fetter the after-wits of posteritie to a choice destructive to peace and true Godlinesse.

To these adde; 8. That 1. an heritor may defraud his first borne of his heritage, because of his dominion he hath over his heritage: A King cannot defraud his first-borne of the Crown. 2. An heritor may divide his heritage equally amongst his twelve sonnes: A King cannot divide his Royall Dominions in twelve parts, and give a part to every sonne; for so he might turne a Monarchie into an *Aristocracie*, and put twelve men in the place of one King. 3. Any heritor taken captive, may lawfully oppignorate, yea and give all his inheritance as a ransome for his liberty; for a man is better then his inheritance: but no King may give his Subjects as a price or ransome.

Yet I shall not be against the succession of *Kings* by birth, with good limitations; and shall agree, that through the corruption of mans nature, it may be in so far profitable, as it is peaceable, and preventeth bloody tumults, which are the bane of humane societies. Consider further for this, *Aegid. Romanus*, l. 3. *de reg. princi. cap. 5. Turrecremat.* and *Joan. de terra Reubea*, 1 *tract. contr. Rebelles*, ar. 1. *con.* 4. Yet *Aristotle* the flower of Natures wit, l. 3. *polit. c.* 10. preferreth Election to Succession; He preferreth *Carthage* to *Sparta*, though their Kings came of *Hercules*. *Plutarch* in *Scylla*, saith, he would have Kings as dogs, that is, best hunters, not those who are borne of best dogs. *Tacitus*, lib. 1. *Nasci & generari à Principibus*,

QUEST. XI. Whether or no he be more principally a King, who is a King by birth, or he who is a King by the free election and suffrages of the people? ↩

Without detaining the Reader, I desire liberty to assert, that,

1 *Assert.* Where *God* establisheth a Kingdome by Birth, that government, *hic & nunc*, is best: and because *God* principally distributeth Crownes, when *God* establisheth the Royall line of *David* to reigne, he is not principally a King, who commeth neerest and most immediately to the fountaine of Royaltie, which is *Gods* immediate will; but *God* established, *hic & nun••*, for typicall reasons [80] (with reverence of the learned) a King by birth.

[208]2 *Assert.* But to speake of them, *ex natura re••*, and according to the first mould and paterne of a *King* by law. A *King* by election is more principally King (*magis univoce & per se*) then an hereditarie Prince; 1. Because in hereditary Crownes, the first familie being chosen by the free suffrages of the people, for that cause *ultimate*, the hereditary Prince commeth to the throne, because his first father, and in him the whole line of the familie was chosen to the Crowne, and, *propter quod unumquodque tale, id ipsum magis tale*. 2. The first King ordained by *Gods* positive law, must be the measure of all Kings, and more principally the *King*, then he who is such by derivation. But the first *King* is a *King* by election, not by birth, *Deut.* 17.15. *Thou shalt in any wise set (him) King over thee, whom the Lord thy God shall choose, (One) from amongst thy brethren shalt thou set over thee.* If the free will of the people be not the neerest cause of the first moulded *King*, *God* could have made no positive law to choose such a man, not such a man; for all positive lawes presuppose free election. 3. The Law saith, *Surrogatum fruitur privilegiis ejus, in cujus locum surrogatur: He who is substituted in the place of another, enjoyeth the priviledges of him in whose place he succeedeth.* But the hereditary King hath Royall priviledges from him who is chosen King. *Salomon* hath the Royall priviledges of *David* his father, and is therefore King by birth, because his father *David* was King by election. And this I say, not because I think sole birth is a just title to the Crown, but because it designeth him who indeed virtually was chosen, when the first King of the race was chosen. 4. Because there is no dominion of either Royalty, or any other way by nature, no more then an *Eagle* is born *King* of *Eagles*, a *Lyon*, *King* of *Lyons*; neither is a man by nature, born King of men: and therefore, he who is made King by suffrages of the people, must be more principally King, then he who hath no title, but the womb of his mother.

Doct. Fern is so farre with us to father Royaltie upon the peoples free election, [209] as on the formall cause, that he saith, *If to design the person, and to procure limitation of the power in the exercise of it, ••e to give the power; we grant the power is from the people, but (saith he) you will have the power originally from themselves; in another sense, for you say, they reserve power to depose and displace the Magistrate, sometime they make the Monarch supreme, and then they devest [81] themselves of all power, and keep none to themselves, but before established Government, they have no politique power, whereby they may lay a command on others, but onely a naturall power of private resistance, which they cannot use against the Magistrate.*

Ans. But to take off those by the way, 1. If the *King* may choose *A. B.* an *Ambassadour*, and limit him in his power, and say, [210] *Doe this, and say this to the forraigne State you goe to, but no more; halfe a wit will say the King createth the Ambassadour, and the Ambassadours power is originally from the King; and we prove the power of the Lyon is originally from God, and of the Sea, and the fire is originally from God, because God limiteth the Lyon in the exercises of its power, that it shall not devoure Daniel, and limiteth the Sea,*

as *Jeremiah* saith, when as he will have its *proud Waves to come thither, and no farther*, and will have the fire to burne those who throwe the *three Children* into the fiery furnace, and yet not to burne the *three Children*, for this is as if Doctor *Ferne* said, the power of the *King* of six degrees, rather then his power of five is from the people, therefore the power of the *King* is not from the people, yea the contrary is true. 2. That the people can make a *King* supream, that is, *Absolute*, and so resigne natures birth-right; that is, a power to defend themselves is not lawfull, for if the people have not absolute power to destroy themselves, they cannot resigne such a power to their Prince. 3. It is false that a community, before they be established with formall Rulers, have no politicke power, for consider them as men onely, and not as associated, they have indeed no politicke power; but before Magistrates be established, they may convene and associate themselves in a body, and appoint Magistrates; and this they cannot doe if they had no politicke power at all. 4. They have virtually a power *to lay on Commandements*, in that they have power to appoint to themselves Rulers, who *may lay commandements on others*. 5. A community hath not formally power to punish themselves, for to punish is to inflict *Malum disconveniens natura*, an evill contrary to nature; [211] but in appointing Rulers, and in agreeing to Lawes they consent they shall be punished by another upon supposition of transgression, as the child willingly going to schoole submitteth himself in that to Schoole-discipline, if he shall faile against any Schoole Law; and by all this tis cleare, a *King* by election is principally a *King*. *Barclay* then [82] faileth, [212] who saith, No man denyeth but succession to a Crowne by birth is agreeable to nature; it is not against nature, but it is no more naturall, then for a Lyon to be borne a *King* of Lyons.

Obj. *Most of the best Divines approve an hereditary Monarch, rather then a Monarch by election*. Ans. So doe I in some cases, in respect of Empire simply it is not better, in respect of Empire now under mans fall in sin; I grant it to be better in some respect. So *S••lust In Ingurth*. [213] *Natura mortalium imperij avida*. *Tacitus*, Hist. 2. *Minore discrimine princeps sumitur, quam queritu*, there's lesse danger to accept of a Prince at hand, then to seeke one a farre off. 2. In a Kingdome to be constituted, election is better; in a constituted Kingdome birth seemeth lesse evill. 3. In respect of liberty election is more convenient; in respect of safety and peace, birth is safer and the nearest way to the Well. See *Bodin*, De Rep. 1. 6. c. 4. *Thol. ozan*, De Rep. 1. 7. c. 4.

QUEST. XII. Whether or not a Kingdome may lawfully be purchased by the sole title of conquest? ↩

The *Prelate* averreth confidently that a Title to a Kingdome by Conquest, [214] without the consent of the people, is so just and evident by *Scripture*, that it cannot be denied; but the man bringeth no *Scripture* to prove it. Mr. *Marshall* saith, *a conquered Kingdome is but continuata injuria*, [215] *a continued robbery*. A right of conquest is twofold; 1. When there is no just cause. 2. When there is just reason and ground of the war; [216] in this latter case, if a Prince subdue a whole Land, which justly deserveth to dye, yet by his grace who is so mild a conquerour they may be all preserved alive. Now amongst those who have thus injured the conquerour as they deserve death, we are to difference the persons offending, and the wives, children especially not borne, and such as have not offended. The former sort may resign their personall liberty to the conquerour, that the sweet life may be saved; but he cannot be their *King* properly, but I conceive that they are obliged to consent that he be their *King*, upon this condition, that the conquerour put not upon them violent and tyrannicall conditions that are harder then death now in reason we cannot thinke that a tyrannous and unjust domineering can be *God••* lawfull meane of translating Kingdomes, and for the other part; the [83] conquerour cannot domineere as *King* over the innocent, and especially the children not yet borne.

1. *Assert.* A people may be by Gods speciall Commandement, subject to a conquering *Nebuchadnezer*, and a *Caesar*, as to their *King*, as was *Judah* commanded by the Prophet *Ieremiah* to submit unto the yoake of the *King* of *Babylon*, and to pray for him, and the people of the *Iewes* were to *give to Caesar the things of Caesar*; and yet both those were unjust conquerours: for those Tyrants had no command of *God* to oppresse and raigne over the Lords people, yet were they to obey those Kings, so the passive subjection was just and commanded of *God*, and the active unjust and tyranous, and forbidden of *God*.

2. *Assert.* This title by conquest through the peoples after consent may be turned into a just title, as its like the case was with the *Iewes* in *Caesars* time, for which cause our Saviour commanded to obey *Caesar*, and to pay tribute unto him; as Dr. *Ferne* confesseth. But two things are to be condemned in the Doctor: [217] 1. That *God* manifesteth his Will to us in this worke of providence, whereby he translateth Kingdomes. 2. That this is an over-awed consent; now to the former I reply, [218] if the act of conquering be violent and unjust, it is no manifestation of Gods regulating and approving Will, and can no more prove a just title to a Crowne, because it is an act of Divine providence, then *Pilate* and *Herod* their crucifying of the Lord of Glory, which was an act of Divine providence, flowing from the Will and Decree of Divine providence, Act. 2.23. Act. 4.28. is a manifestation that it was Gods approving Will, that they should kill *Jesus Christ*. 2. Though the consent be some way over-awed, yet is it a sort of Contract and Covenant of loyall subjection made to the conquerour, and therefore sufficient to make the title just; otherwise if the people never give their consent, the conquerour domineering over them by violence hath no just title to the Crowne.

3. *Assert.* Meere conquest by the sword without the consent of the people, is no just title to the Crowne; 1. Because the lawfull title that *Gods Word* holdeth forth to us, beside the Lords choosing and calling of a man to the Crowne, is the peoples election, Deut. 17.15. all that had any lawfull calling to the Crowne in Gods Word, [219] as *Saul*, *David*, *Solomon*, &c. were called by the people, and the first lawfull calling is to us a rule and paterne to all lawfull callings. 2. A [84] *King* as a *King*, [220] and by vertue of his Royall Office is the Father of the Kingdome, a *Tutor*, a *Defender*, *Protector*, a *Shield*, a *Leader*, a *Shepherd*, [221] an *Husband*, a *Patron*, a *Watchman*, a *Keeper* of the people over which he is *King*, and so the Office essentially includeth acts of fatherly affection, care, love and kindnesse to those over whom he is set, so as he who is cloathed with all these relations of love to the people, cannot exercise those officiall Acts on a people against their will, and by meere violence. Can he be a Father, and a Guide, a Patron to us against our will? and by the sole power of the bloody sword? a benefit conferred upon any against their will is no benefit: Will he, by the awsome dominion of the sword be our father, and we unwilling to be his sonnes? an head over such as will not be members? will he guide me as a Father, an Husband against my will? he cannot come by meere violence to be a Patron, a Shield, and a defender of me through violence. 3. It is not to be thought that, [222] that is Gods just Title to a Crowne which hath nothing in it of the essence of a King; [223] but a violent and bloody purchase, which is in its prevalency in an oppressing *Nymrod*, and the cruellest tyrant that is, hath nothing essentiall to that which constituteth a *King*: for it hath nothing of Heroick and Royall wisdom and gifts to governe, and nothing of *Gods* approving and regulating will which must be manifested to any who would be a *King*, but by the contrary cruelty hath rather basenesse and witlesse fury, and a plaine reluctancy with *Gods* revealing Will, which forbideth murther, *Gods* Law should say, (*Murther thou, and prosper and raigne*) and by the act of violating the sixt Commandement, *God* should declare his approving Will, to wit, his lawfull call to a Throne. 4. There be none under a Law of *God* who may resist a lawfull call to a lawfull Office, [224] but men may resist any impulsion of *God* stirring them up to murther the maniest and strongest, and cheife men of a Kingdome, that they may raigne over the fewest, the weakest, and the young and lowest of the people against their will, therefore this call by the sword is not lawfull. If it be said, that the Divine impulsion stirring up a man to make a bloody conquest, that the ire and

just indignation of God in Justice may be declared on a wicked Nation, is an extraordinary impulsion of God, who is above a Law, and therefore no man may resist it. Ans. then all bloody Conquerors must have some extraordinary revelation from Heaven to warrant their yeelding of obedience to [85] such an extraordinary impulsion. And if it be so, They must shew a lawfull and immediate extraordinary impulsion now; but it is certaine, the sinnes of the people conquered, and their most equall and just demerit, before God, cannot be a just plea to legitimate the Conquest: for though the people of God deserved vastation and captivitie by the *Heathen*, in regard of their sinnes, before the throne of Divine Iustice, yet the Heathen grievously sinned in conquering them, *Zach.* 1.15. *And I am very sore displeas'd with the Heathen that are at ease: for I was but a little displeas'd, and they helped forward the affliction.* So though *Iudah* deserved to be made captives, and a conquered people, because of their idolatry, and other sinnes, as *Ieremiah* had prophecied; yet God was highly displeas'd at *Babylon* for their unjust and bloody Conquest, *Jer.* 50.17, 18▪33, 34. c. 51.35. *The violence done to me and to my flesh, be upon Babylon, shall the inhabitants of Zion say; and my blood upon the inhabitants of Chaldea, shall Jerusalem say.* And that any other extraordinary impulsion to be as lawfull a call to the Throne as the peoples free election, we know not from Gods word, and we have but the naked word of our Adversaries, that *William* the Conquerour, without the peoples consent, made himselfe by blood, the lawfull King of *England*, and also of all their posteritie; And that King *Fergus* conquered *Scotland*. 5. A King is a speciall gift of God, given to feed and defend the people of God, [225] that they may lead a godly and peaceable life under him, *Psal.* 78. v. 71, 72. 1 *Tim.* 2.2. as it is a judgement of God, [226] that *Israel* is without a King for many dayes, *Hos.* 3.4. and that there is no Iudge, no King, to put evill doers to shame, *Iudg.* 19.1. but if a King be given of God, as a King by the acts of a bloody Conquest to be avenged on the sinfull land over which he is made a King, he cannot be given, *actu primo*, as a speciall gift and blessing of God to feed, but to murther and to destroy; for the genuine end of a Conqueror, as a Conqueror, is not peace, but fire and sword. If God change his heart to be of a bloody Vastator, a father, Prince, and feeder of the people, *ex officio*, now he is not a violent Conquerour and he came to that meeknes by contraries, which is the proper worke of the omnipotent God, and not proper to man, who as he cannot worke miracles, so neither can he lawfully worke by contraries: and so if Conquest be a lawfull title to a Crown, and an ordinary calling, as the opponents presume; every bloody Conquerour [86] must be changed into a loving father, Prince and feeder; and if God call him, none should oppose him, but the whole Land should dethrone their own native Sovereigne (whom they are obliged before the Lord to defend) and submit to the bloody invasion of a strange Lord, presumed to be a just Conqueror, as if he were lawfully called to the Throne both by birth and the voyces of the people. And truly they deserve no wages, who thus defend the Kings Prerogative royall: for if the sword be a lawfull title to the crown, suppose the two Generals of both Kingdomes should conquer the most and the chiefest of the Kingdome now when they have so many forces in the field, by this wicked reason the one should have a lawfull call of God to be King of *England*, and the other to be King of *Scotland*; which is absurd. 6. Either conquest, as conquest, is a just title to the crown, [227] or as a just conquest. If as Conquest, then all conquests are just titles to a Crown; then the *Ammonites*, *Zidonians*, *Canaanites*, [228] *Edomites*, &c. subduing Gods people for a time, have just title to reigne over them; and if *Absolom* had been stronger then *David*, he had then had the just title to be the Lords Anointed and King of *Israel*, not *David*; and so strength actually prevailing, should be Gods lawfull call to a Crown. But strength, as strength victorious, is not law, nor reason: it were then reason that *Herod* behead *John Baptist*, and the *Roman Emperors* kill the witnesses of Christ Iesus. If Conquest, as just, be the title and lawfull claime before Gods court, to a Crown; then certainly a stronger King for pregnant nationall injuries, may lawfully subdue and reigne over an innocent posteritie not yet borne. But what word of God can, 1. warrant a posteritie not borne, and so accessarie to no offence against the Conquerour (but only sin originall) to be under a Conquerour against their will,

and who hath no right to reigne over them, but the bloody sword? for so Conquest, as Conquest, not as just, maketh him King over the posterity. [229] But 2. the fathers may ingage the posterity by an oath to *surrender themselvos as loyall subjects to the man who justly and deservedly made the fathers vassals by the title of the sword of justice*. I answer, the fathers may indeed dispose of the inheritance of their children, because that inheritance belongeth to the father as well as to the sonne; but because the liberty of the sonne being borne with the sonne, (all men being borne free from all Civill subjection) the father hath no more power to resigne the libertie of his children, then their lives; and the father, as a father [87] hath not power of the life of his child, [230] as a Magistrate he may have power, and as something more then a father, he may have power of life and death. I heare not what *Grotius* saith, *Those who are not borne have no accidents, and so no rights*, *Non entis nulla sunt accidentia; then Children not borne have neither right, nor liberty*, and so no injury (may some say) can be done to Children not borne, though the fathers should give away their liberty to the conquerour, those who are not capable of Law, are not capable of injury contrary to Law. *Ans.* There is a virtuall alienation of rights and lives of children not borne unlawfull, because the children are not borne; to say that children not borne, are not capable of law and injuries virtuall, which become reall in time might say, *Adam* did not an injury to his posterity by his first sin, which is contrary to *Gods Word*: so those who vowed yearely to give seven innocent children to the *Minotaure* to be devoured, and to kill their children not borne to bloody *Molech*, did no acts of bloody injury to their children; nor can any say then that fathers cannot tie themselves and their posterity to a King by succession, but I say, To be tyed to a lawfull King is no making away of liberty, but a resigning of a power to be justly governed, protected and awed from active and passive violence. 7. No lawfull King may be dethroned, [231] nor lawfull Kingdome dissolved; but Law and reason both saith, *Quod vi partum est imperium, vi dissolvi potest*. Every conquest made by violence may be dissolved by violence: *Censetur enim ipsa natura jus dare ad id omne, sine quo obtineri non potest quod ipsa imperat*.

It is objected, that *the people of God by their sword conquered seven nations of the Canaanites, David conquered the Ammonites for the disgrace done to his Embassadors. So God gave Egypt to Nebuchadnezar for his hire, in his service done against Iudah; had David no right over the Ammonites and Moabites but by expecting their consent*•• yee will say, *A right to their lands, goods and lives, but not to challenge their morall subjection, well, we doubt not but such conquerours will challenge and obtain their morall consent; but if the people refuse their consent, is there no way? for providence giveth no right. So D. Ferne, so Arnisaeus.* *Ans.* *A facto ad jus non vale*•• *consequentia, God, [232]* to whom belongeth the world and the fulnesse thereof, disposed to *Abraham and his seed* the Land of *Canaan* for their inheritance, and ordained that they should use their bow and their sword, for the actuall [88] possession thereof; [233] and the like divine right, had *David* to the *Edomites* and *Ammonites*, though the occasion of *Davids* taking possession of these Kingdoms by his sword, did arise from particular and occasionall exigences and injuries; but it followeth in no sort, That therefore Kings now wanting any word of promise, and so of divine right to any Lands, may ascend to the Throns of other Kingdoms then their own, by no better title then the bloody sword. That Gods will was the chief patent here, is clear, in that God forbad his people to conquer *Edom* or *Esau's* possession, when as he gave them command to conquer the *Ammonites*. I doubt not to say, if *Joshua* and *David* had had no better title, then their bloody sword, though provoked by injuries, they could have had no right to any kingly power over these Kingdoms: and if onely successe by the sword, be a *right of providence*, it is no *right of precept*. Gods providence, as providence without precept or promise, can conclude a thing is done, or may be done, but cannot conclude a thing is lawfully, and warrantably done, else you might say the selling of *Joseph*, the crucifying of *Christ*, the spoiling of *Job* were lawfully done. 2. Though Conquerours extort consent, and oath of Loyaltie, yet that maketh not over a Royall right to the Conquerour, to be King over their posterity without their

consent. 3. Though *the Children of Ammon* did a high injury to *David*, yet no injury can be recompensed in justice with the pressure of the constrained subjection of Loyaltie to a violent Lord; if *David* had not had an higher warrant from God then an injury done to his messengers, he could not have conquered them. But 1. the *Ammonites* were the declared enemies of the *Church of God*, and raised forces against *David*, when they themselves were the injurer's and offenders; and if *David's* Conquest will prove a lawfull title by the sword to all Conquerours, then may all Conquerours lawfully do to the conquered people, as *David* did; that is, they may *put them under saws, and under harrows of iron, and under axes of iron, and cause them passe through the Brick-kilne.* [234] But I beseech you, will *Royalists* say, that Conquerours who make themselves Kings by their sword, and so make themselves fathers, heads, defenders, and feeders of the people may use the extreamest Tyranny in the world, such as *David* used against the children of *Ammon*, which he could not have done, by the naked title of sword-conquest, if God had not laid a Commandment [89] of an higher nature on him to serve Gods enemies so▪ I shall then say, if a conquering King be a lawfull King, because a Conquerour, then hath God made such a lawfull King, both a father, because a King, and a Tyrant, and cruell, and lyon-hearted oppressour of these whom he hath conquered; for God hath given him Royall power by this example, to put these, [235] to whom he is a father and defender by office, to torment, and also to be a torturer of them, by office, by bringing their backs under such Instruments of crueltie, as *saws and harrows of iron, and axes of iron.*

QUEST. XIII. Whether or no Royall dignitie have its spring from nature, and how that is true (every man is born free) and how servitude is contrary to nature? ↩

I Conceive it to be evident, that Royall dignity is not immediately, and without the intervention of the peoples consent given by God to any one person. 2. That conquest and violence, is no just title to a Crown. Now the question is, If Royalty flow from nature, if Royalty be not a thing meerly naturall, neither can subjection to Royall power be meerly naturall; but the former is rather civill, then naturall: and the question of the same nature is, Whether subjection or servitude be naturall?

I conceive, that there be divers subjections to these that are above us, some way naturall, [236] and therefore I rank them in order thus. 1. There is a subjection in respect of naturall being, as the effect to the cause, so though *Adam* had never sinned, this morality of the fifth command, should have stood in vigour, that the son by nature, without any positive Law, should have been subject to the father, because from him he hath his being, as from a second cause: But I much doubt, if the relation of a father, as a father, doth necessarily infer a Royall or Kingly authority of the father over the son; or by natures Law, that the father hath power of life and death over, or above his children, and the reasons I give, are, 1. Because power of life and death is by a positive Law, [237] presupposing sin, and the fall of man; and if *Adam* standing in innocency, could lawfully kill his son, though the son should be a Malefactor, without any positive Law of God, I much doubt. 2. I judge, that the power Royall, and the fatherly power of a father over his children, shall be found to be different, and the one is founded on [90] the Law of nature, the other to wit, Royall power on a meere positive Law. The 2. degree or order of subjection naturall, is a subjection in respect of gifts, or age: so *Aristotle*, 1 *Polit. cap.* 3. saith, *that some are by nature servants:* [238] his meaning is good, that some gifts of nature, as wisdom naturall, or aptitude to govern, hath made some men of gold, fitter to command, and some of iron, and clay, fitter to be servants and slaves. But I judge this title to make a King by birth, seeing *Saul* whom God by supervenient gifts made a King, seemeth to ow small thanks to the womb, or nature, that he was a King, for his crueltie to the *Lords Priests* speaketh nothing but naturall basenesse. Its possible *Plato* had a good meaning, *Dialog. 3. de legib.* who made six orders here. 1. *That fathers command their sons.*

2. *The noble the ignoble.* 3. *The elder the younger.* 4. *The masters the servants.* 5. *The stronger the weaker.* 6. *The wiser the ignorant.* 3. *Aquinas* 22. q. 57. art. 3. *Dried de libert. Christ. l. 1. pag. 8.* following *Aristotle, polit. l. 7. c. 14.* hold, [239] though man had never sinned, there should have been a sort of dominion of the more gifted, and wiser, above the lesse wise and weaker, not antecedent from nature, properly, but consequent, for the utilitie and good of the weaker, in so far, as it is good for the weaker to be guided by the stronger, which cannot be denied to have some ground in nature: but there is no ground for Kings by nature here. 1. Because, even these who plead, that the mothers womb must be the best title for a Crown, [240] and make it equivalent to Royall unction, are to be corrected in memory, thus; That it is meerly accidentall, and not naturall, for such a son to be born a King, because the free consent of the people making choice of the first father of that Line to be their King, and in him making choice of the first born of the family, is meerly accidentall to father and son, and so cannot be naturall. 2. Because Royall gifts to reign are not holden by either us or our adversaries, to be the specific essence of a King; for if the people Crown a person their King, say we, if the womb bring him forth to be a King; say the opponents, he is essentially a King, and to be obeyed as the Lords annointed, though nature be very Parca, sparing, and a niggard in bestowing Royall gifts: Yea, though he be an idiot, *say some*, if he be the first born of a King, he is by just title a King, but must have Curators and Tutors to guide him, in the exercise of that Royall right that he hath from the womb. But *Buchanan* [91] saith well, *He who cannot govern himself, [241] shall never govern others.*

1 *Assert. de facto*, As a man commeth into the world a member of a politick societie, he is by consequence borne subject to the laws of that societie; but this maketh him not from the wombe and by nature subject to a King, as by nature he is subject to his Father who begat him; no more then by nature a Lyon is borne subject to another *King-Lyon*; for it is by accident that he is borne of parents under subjection to a Monarch, or to either *Democraticall* or *Aristocraticall* governours, for *Cain* and *Abel* were borne under none of these formes of Government properly: and if he had been borne in a new planted Colonie in a wilderness, where no government were yet established, he should be under no such Government.

2 *Assert.* Slavery of servants to Lords or Masters, such as were of old amongst the Iews, is not naturall, but against nature; [242] 1. Because slaverie is *malum naturae*, a penall evill, and contrary to nature, and a punishment of sinne. 2. Slaverie should not have been in the world, if man had never sinned, no more then there could have been buying and selling of men; which is a miserable consequent of sin, and a sort of death, when men are put to the toyling paines of the *hireling, who longeth for the shadow*, and under *iron harrowes and sawes, and to hew wood, and draw water* continually. 3. The originall of servitude was, when men were taken in warre, to eschew a greater evill, even *death*, the captives were willing to undergoe a lesse evill, *slaverie*. *S. Servitus*, 1. *de jur. Pers.* 4. A man being created according to Gods image, he is *res sacra*, a sacred thing, and can no more by natures law be sold and bought, then a religious and sacred thing dedicated to God. *S. 1. Instit. de invtil. scrupl. l. inter Stipulantem. S. Sacram. F. de verber. Obligat.*

3 *Assert.* Every man by nature is a freeman borne, that is, [243] by nature no man commeth out of the wombe vnder any civill subjection to King, Prince, or Judge, to master, captaine, conquerour, teacher, &c. 1. Because freedome is naturall to all, except freedome from subjection to Parents: And subjection politick is meerly accidentall, comming from some positive lawes of men, [244] as they are in a politique societie; whereas they might have been borne with all concomitants of nature, though borne in a single familie, the only naturall [92] and first societie in the world. [245] 2. Man is borne by nature free from all subjection, except of that which is most kindly and naturall, and that is fatherly or filial subjection, or matrimoniall subjection of the wife to the husband, and especially he is free of

subjection to a Prince by nature; Because to be under jurisdiction to a Iudge or King, hath a sort of jurisdiction. Argument. *L. Si quis sit fugitivus F. de edil. edict. in S. penult. vel fin.* especially to be under penall lawes now in the state of sinne. The learned Senator *Ferdinandus Vasquez* saith, *l. 2. c. 82. n. 15.* Every subject is to lay down his life for the Prince: now no man is borne under subjection to penall lawes or dying for his Prince. 3. Man by nature is borne free, and as free as beasts; [246] but by nature no beast, no *Lyon* is born *King of Lyons*; no *Horse*, no *Bullock*, no *Eagle*, *King of Horses, Bullocks, Eagles*; nor is there any subjection here, except that the young *Lyon* is subject to the old, every fowl to its damme, and by that same law of nature no man is borne *King of men*, nor any man subject to man in a civill subjection by nature, (I speake not of naturall subjection of children to parents) and therefore *Ferdi. Vasquez. illustr. quest. l. 2. c. 82. n. 6.* said that Kingdomes and Empires were brought in, not by Natures law, but by the law of Nations: he expoundeth himself elsewhere to speak of the law of nature secondary, otherwise the primarie law of Nations is indeed the law of Nature, as appropriated to man. If any reply, that the freedome naturall of beasts and birds who never sinned, cannot be one with the naturall freedome of man who are now under sin, and so under bondage for sin: my answer is, That the subjection of the miserie of man by nature, because of sinne, is more then the subjection of beasts, comparing spece and kind of beasts and birds with mankind, but comparing individuals of the same kinde amongst themselves, a *Lyon* with *Lyon*, *Eagle* with *Eagle*, and so Man with Man; in which respect, because he who is supposed to be the man borne free from subjection politike, even the *King* borne a *King*, is under the same state of sin, and so by reason of sinne, of which he hath a share equally with all other men by nature, he must be, by nature, borne under as great subjection penall for sinne (except the King be borne voyd of sinne) as other men; *Ergo*, [247] he is not borne freer by nature then other men, except he come out of the wombe with a Kings crown on his head. 4. To be a King, is a free gift of *God*, which *God* bestoweth on some men above others, as is evident, *2 Sam. 12.7, 8* ■ *Psal. 75.6. Dan. 4.32.* and [93] therefore all must be borne *Kings*, if any one man be by nature a *King* borne, and another a borne subject. But if some be by Gods grace made *Kings* above others, they are not so by nature; for things which agree to man by nature, agree to all men equally; but all men equally are not borne *Kings*, as is evident; and all men are not equally borne by nature under politique subjection to *Kings*, as the Adversaries grant; because those who are by nature *Kings*, cannot be also by nature subjects. [248] 5. If men be not by nature free from politique subjection, then must some, by the law of relation, by nature be *Kings*; But none are by nature *Kings*, because none have by nature these things which essentially constitute *Kings*, for they have neither by nature the calling of *God*, nor gifts for the throne, nor the free election of the people, nor conquest: and if there be none a *King* by nature, there can be none a Subject by nature. And the Law faith, *Omnes sumus naturâ liberi, nullius ditioni subjecti. l. Manumiss. F. de just. & jur. S. jus autem gentium, Ins. de jur. nat.* We are all by nature free. and *D. L. ex hoc jure cum simil.* 6. Politicians agree to this as an undeniable truth, [249] that as domestick society is naturall, being grounded upon Natures instinct; [250] so Politique societie is voluntary, being grounded on the consent of men; and so politique societie is naturall, *in radice*, in the root, and *voluntary* and *free, in modo*, in the manner of their union: and the Scripture cleareth to us, that a King is made by the free consent of the people, *Deut. 17.15.* and so not by nature. 7. What is from the wombe, [251] and so naturall, is eternall, and agreeth to all societies of men: but a Monarchie agreeth not to all societies of men; for many hundred years *de facto*, there was not a King, till *Nimrods* time, the world being governed by families, and till *Moses* his time we find no institution for *Kings*, *Gen. 7.* and the numerous multiplication of mankind did occasion Monarchies, otherwise Fatherly government being the first, and measure of the rest, must be the best; for it is better that my father governe me, then that a stranger governe me; and therefore the Lord forbad his people to set a stranger over themselves to be their *King*. The *P. Prelate* contendeth for the contrary. *Every man* (saith he) *is borne subject to his father, [252] of whom immediately he hath his existence in nature* ■

and if his Father be the subject of another, he is borne the subject of his fathers superiour. *Answ.* But the consequence is weake, every man is borne under naturall subjection to his father, *ergo* he is borne naturally under civill subjection to his [94] fathers superiour or King, it followeth not; yea because his father was borne only by nature subject to his owne father, *ergo* he was subject to a Prince or King only by accident, and by the free constitution of men who freely choose politick government, whereas there is no government naturall, but fatherly or martiall, and therefore the contradictory consequence is true.

P. Prelat. Obj. 2. *Every man by nature hath immunity and liberty from despotically and herill Empire, and so may dispose of his owne at will, and cannot inslave himselfe without his owne free will; but God hath laid a necessity on all men to be under government, and nature also laid this necessity on him, therefore this sovereignty cannot protect us in righteousnesse and honesty, except it be intirely indowed with soveraigne power to preserve it selfe, and protect us.*

Ans. The Prelate here deserteth his owne consequence, which is strong against himselfe, for if a man be naturally subject to his fathers superiour, as he said before, why is not the sonne of a slave naturally subject to his fathers superiour & master? 2. As a man may not make away his liberty without his own consent, so can he not without his owne consent give his liberty to be subject to penall Lawes, under a Prince without his owne consent, either in his fathers or in the representative society in which he liveth. 3. God and nature hath laid a necessity on all men to be under government, a naturall necessity from the wombe to be under some government, to wit, a paternall government, that is true; but under this government politique, and namely under sovereignty, it is false; and that is but said, for why is he naturally under sovereignty rather then Aristocracy? I beleeve any of the three formes are freely chosen by any society 4. It is false that one cannot defend the people, except he have intire power, that is to say, he cannot doe good, except he have a vast power to doe both good and ill.

[253]Obj. 3. *It is accidentall to any to render himselfe a slave, being occasioned by force or extreame indigence, but to submit to Government congruous to the condition of man, and is necessary for his happy being, and naturall, and necessary by the inviolable Ordinance of God and nature.* *Ans.* If the father be a slave, it is naturall and not accidentall, by the Prelates Logick, to be a slave. 2. it is also accidentall to be under Sovereignty, and sure not naturall, for then *Aristocracy* and *Democracy* must be unnaturall, [254] and so unlawfull Governments. 3. If to be congruous to the condition of man be all [95] one with naturall man (which he must say if he speake sense) to beleeve in God, to be an excellent Mathematician, to swim in deepe waters, being congruous to the nature of man, must be naturall. 4. Man by nature is under government Paternall, not Politique properly, but by the free consent of his will.

Obj. 4. Luke 11.5. [255] *Christ himselfe was* *< in non-Latin alphabet >* *< in non-Latin alphabet >* *subject to his Parents, the word that is used, Rom. 13. ergo none is exempted from subjection to lawfull government.* *Ans.* We never said, that any was exempted from lawfull government; the Prelate and his fellow Iesuites teach that the Clergy is exempted from the lawes of the civill Magistrate, not we; but because Christ was subject to his Parents, and the same word is used, *Luk. 11. that is, Rom. 13.* it will not follow therefore, men are by nature subject to Kings, because they are by nature subject to parents.

Obj. 5. *The father had power over the children by the Law of God and nature to redeeme himselfe from debt, or any distressed condition, by inslaving his children begotten of his owne body, if this power was not by the right of nature, and by the Warrant of God, I can see no other, for it could not be by mutuall and voluntary contract of children and fathers,* [256] *Ans.* 1. Shew a law of nature, that the father might inslave his children by a Divine positive

law presupposing sin, the father might doe that, and yet I thinke that may be questioned, whether it was not a permission rather then a law, as was the Bill of devorce, but a law of nature it was not. 2. The *P. Prelate* can see no Law but the law of nature here, but it is because he is blind or will not see; his reason is, it was not by mutuall and voluntary contract of children and fathers, *ergo* it was by the law of nature; so he that cursed his father was to dye by Gods Law. This law was not made by mutuall consent betwixt the Father and the Sonne, *ergo* it was a law of inature, the Prelate will see no better. Nature will teach a man to inslave hmselفة to redeeme hmselفة from death, but that it is a Dictate of nature that a man should inslave his sonne, I conceive not. 3. What can this prove, but that if the sonne may by the law of nature, be inslaved for the father, but that the sonne of a slave is by nature under subjection to slavery, & that by natures law, the contrary whereof he spake in the page preceding, and in this same page.

As for the Argument of the Prelate to answer *Suarez*, who laboureth to prove Monarchy not to be naturall, but of free consent, because it is various in sundry nations, it is the Iesuites Argument, not ours, I owne it not. Let Iesuites plead for Iesuites.

[96]

QUEST. XIII. Whether or no the people make a Person their King conditionally, or absolutely? and whether there be such a thing as a Covenant tying the King no lesse then his subjects? ↩

There is a Covenant Naturall and a Covenant Politick and Civill, there *is no politick or civill covenant betwixt the King and his Subjects*, because *there be no such equality (say Royalists) betwixt the King and his people, [257] as that the King can be brought under any civill or legall obligation in mans Court, to either necessitate the King civilly to keepe an Oath to his people, or to tye him to any punishment, if he faile, yet (say they) he is under naturall obligation in Gods Court to keepe his Oath, but he is comptible only to God, if he violate his Oath.*

Asser. 1. There is an Oath betwixt the *King* and his people, laying on, by reciprocation of bands, mutuall civill obligation upon the King to the people, and the people to the King, 2 Sam. 5.3 *So all the Elders of Israel came to the King to Hebron, and King David made a Covenant with them in Hebron before the Lord, and they annoynted David King over Israel,* 1 Chron. 11.3. *And David made a covenant with them before the Lord, and they annoynted David King over Israel, according to the Word of the Lord by Samuel,* 2 Chron. 23.2. *And they went about in Iudah and gathered the Levites out of all the Cities of Iudah, and the chiefe of the fathers of Israel, and they came to Ierusalem.* 3. *And all the congregation made a covenant with the King Ioash in the house of God,* 2 King. 11.17. *and Jehoiada made a covenant betwixt the Lord and the King, and the people that they should be the Lords people, between the King also and his people,* Eccles. 8.2. *I counsell thee to keepe the Kings commandement, and that in regard of the Oath of God;* then it is evident there was a covenant betwixt the *King* and the people. 2. That was not a covenant that did tye the *King* to God onely, and not to the people, 1. because the covenant betwixt the *King* and the people is clearly differenced from the *Kings* covenant with the *Lord*, 2 King. 11.17. 2. there were no necessity that this covenant should be made publickly before the people, if the King did not in the covenant tye and oblige hmselفة to the people; nor needed it be made solemnly before the *Lord* is the House of God. 3. It is expressly a covenant, that was between *Ioash the King* and his people, and *David* made a [97] covenant at his Coronation with the Princes and *Elders of Israel*; therefore the people give the Crown to *David* Covenant-wise, and upon condition that he should performe such and such duties to them; and this is cleare by all Covenants in the Word of God, even the Covenant between *God and man* is so mutuall; *I will be your God, and yee shall be my people.* The covenant is so mutuall, that if the people

breake the covenant, *God* is loosed from his part of the covenant, *Zach.* 11. v. 10.2. The covenant giveth to the beleever a sort of action of Law, and *jus quoddam*, to plead with God, in respect of his fidelity to stand to that covenant that bindeth him by reason of his fidelity, *Esay* 43.26. *Es.* 63.16. *Daniel* 9.4, 5. and farre more a covenant giveth ground of a civill action and claime to a people and the free estates against a King, seduced by wicked counsell to make war against the Land, whereas he did sweare by the most high God, that he should be a father and protector of the *Church of God*. 2. All covenants and contracts between man and man, yea all solemne promises bring the covenanters under a Law, and a claime before men, if the Oath of *God* be broken as the Covenant betwixt *Abraham* and *Abimelech*, *Gen.* 21.27. *Jonathan* and *David*, *1 Sam.* 18.3. the spies professe to *Rahab* in the covenant that they made with him, *Iosh.* 2. v. 20. *And if thou utter this our businesse* (say they) *we will be quit of thine Oath, which thou hast made us to swear.* There be no mutuall contract made upon certain conditions, but if the conditions be not fulfilled, the party injured is loosed from the contract. *Barclay* saith, [258] *That this covenant obligeth the King to God, but not the King to the people.* *Ans.* It is a vaine thing to say that the people and the King make a covenant, and that *David* made a covenant with the *Elders* and *Princes of Israel*; for if he be obliged to *God* only, and not to the people by a covenant made with the people, it is not made with the people at all, nay, it is no more made with the *people of Israel*, nor with the *Chaldeans*, for it bindeth *David* no more to *Israel*, nor to *Chaldea*, as a covenant made with men. *Arnisaeus* saith, *when two parties contract, if one performe the duty, the other is acquitted.* *Sect.* Ex hujusmod ubi vult just. de duob. reis, l. 3. F. *because every one of them are obliged fully.* *Sect.* 1. *Iust. eod. to God, to whom the Oath is made (for that is his meaning) and if either the people performe what is sworne to the Lord, or the King, yet one of the parties remaineth still under obligation, and neither doth the peoples obedience exempt the King from punishment, [98] if he faile, nor the Kings obedience exempt the people, if they faile, but every one beareth the punishment of his owne sin; and there is no mutuall power in the parties to compell one another to performe the promised duty, because that belongeth to the Pretor or Magistrate, before whom the contract was made. The King hath jurisdiction over the people, if they violate their Oath, but the people hath no power over the Prince, and the ground that Arnisaeus layeth downe is that, 1. The King is not a party contracting with the people, as if there were mutuall obligations betwixt the King and the people, and a mutuall coactive power on either side. 2. That the care of Religion belongeth not to the people, for that hath no warrant in the Word (saith he) 2. We read not that the people was to command and compell the Priests and the King to reforme Religion and abolish Idolatry, as it must follow, if the covenant be mutuall. 3. Iehoiada, 2 King. 11. obligeth himselfe and the King, and the people, by a like law to serve God, and here be not two parts, but three; the high Priest, the King, the People, if this example prove any thing. 4. Both King and people shall finde the revenging hand of God against them, if they faile in the breach of their Oath; but with this difference, and every one of the two, King and people by the Oath stand obliged to God, the King for himselfe, and the people for themselves, but with this difference, the King oweth to God proper and due obedience as any of the subjects, and also to governe the people according to Gods true religion, Deut. 17. 2 Chro. 29. and in this the Kings obligation differeth from the peoples obligation, the people, as they would be saved must serve God, and the King for the same cause, 1 Sam. 12. But besides this, the King is obliged to rule and governe the people, and keepe them in obedience to God; but the people is not obliged to governe the King, and keepe him in obedience to God, for then the people should have as great power of jurisdiction over the King, as the King hath oover the people, which is against the Word of God, and the examples of the Kings of Iudah; but this commeth not from any promise or covenant that the King hath made with the people, but from a peculiar obligation whereby he is obliged to God as a man, not as a King.*

This is the mystery of the businesse, but I oppose this in these Assertions. [259]

1. *Assert.* As the King is obliged to *God* for the maintenance of true Religion, so are the people and Princes no lesse in their place obliged to maintaine true Religion, for 1. the people are rebuked because they burnt Incense in all high places, *2 King.* 17.11. [99] *2 Chron.* 33.17. *Hos.* 4.13. And the reason why the high places are not taken away, *2 Chro.* 20.33. is given, for as yet the people *had not prepared their heart unto the God of their fathers*; but you will reply, elicite acts of maintenance of true Religion are commanded to the people, and that the places prove; but the question is *De actibus imperatis*, of commanded acts of Religion, sure none but the Magistrate is to command others to worship *God* according to his Word. I answer, in ordinary only, Magistrates (not the King only) but all the Princes of the Land, and Iudges are to maintaine Religion by their commandements, *Deut.* 1.16. *2 Chro.* 1.2. *Deut.* 16.19. *Eccles.* 5.8. *Hab.* 1.4. *Mic.* 3.9. *Zach.* 7.9. *Hos.* 5.10.11. and to take care of Religion; but when the Iudges decline from Gods way, and corrupt the Law, we finde the people punished and rebuked for it, *Ier.* 15.4. *And I will cause them to be removed to all Kingdomes of the earth, because of Manasseh the sonne of Hezekiah King of Iudah, for that which he did in Ierusalem,* *1 Sam.* 12.24. *only feare the Lord —25. But if yee doe still wickedly, yee shall be consumed, both yee and your King.* And this case I grant is extraordinary, yet so as *Iunius Brutus* proveth well and strongly, that Religion is not given only to the King, that he only should keepe it, but to all the inferiour Iudges and people also in their kind; but because the estates never gave the King power to corrupt Religion, [260] and presse a false and Idolatrous worship upon them, therefore when the *King* defendeth not true Religion, but presseth upon the people a false and Idolatrous Religion, in that they are not under the *King*, but are presumed to have no King *catenus* so farre, and are presumed to have the power in themselves, as if they had not appointed any King at all: as if we presume the body had given to the right hand a power to ward off strokes, and to defend the body, if the right hand should by a Palsie, or some other disease become impotent, and be withered up; when ill is comming on the body, it is presumed that the power of defence is recurred to the left hand, and to the rest of the body to defend it selfe, in this case as if the body had no right hand, and had never communicated any power to the right hand at all. So if an incorporation accused of Treason, and in danger of the sentence of death, shall appoint a Lawyer to Advocate their cause, and to give in their just defences to the Iudge; if their Advocate be stricken with dumbnesse, because they have losed their legall and representative tongue, none can say that [100] this incorporation hath loosed the tongues that Nature hath given them, so as by Natures law they may not plead in their own just & lawfull defence, as if they had never appointed the foresaid lawyer to plead for them. The *King*, as a man, is not more obliged to the publick and regall defence of the true Religion, then any other man of the land; but he is made by God and the people *King*, for the *Church* and people of *God's* sake, that he may defend true Religion, for the behalfe and salvation of all. If therefore he defend not Religion for the salvation of the soules of all in his publick and royall way, it is presumed as undeniable, that the people of *God*, who by the law of nature are to care for their own soule, are to defend in their way, true Religion, which so nearly concerneth them and their eternall happinesse.

2 *Assert.* When the covenant is betwixt God, on the one part, and the King, Priests, and people on the other part, it is true, if the one performe for his part to God, the whole duty, the other is acquitted; as if two men be indebted to one man ten thousand pounds, if the one pay the whole summe, the other is acquitted: but the King and People are not so, contracting parties in covenant with *God*, as that they are both indebted to *God* for one and the same sum of compleat obedience, so as if the King pay the whole summe of obedience to *God*, the people is acquitted; and if the People pay the whole summe, the King is acquitted: for every one standeth obliged to *God* for himselfe; for the people must doe all that is their part, in acquitting the King from his *Royall duty*, that they may free him and themselves both from punishment, if he disobey the *King of Kings*: Nor doth the Kings obedience acquit the people from their duty. And *Arnisaeus* dreamed▪ if he believed that we make King and People this way partie contracters in covenant with *God*. Nor can two co-partners in covenant with *God*,

so mutually compell one another to doe their duty; for we hold, that the covenant is made betwixt the *King and the People*, betwixt mortall men; but they both bind themselves before *God* to each other. But, saith *Arnisaeu*••, *It belongeth to a Pretor or Ruler, [261] who is above both King and People, to compell each of them; the King to performe his part of the covenant to the people, and the people to performe their part of the covenant to the King. Now there is no Ruler but God, above both King and People. But let me answer: The consequence is not needfull, no more then when the King of Iudah and the King of Israel make a covenant to perform [101] mutuall duties one to another: no more then it is necessarie that there should be a King and superior Ruler above the King of Israel and the King of Iudah, who should compell each one to doe a duty to his fellow King; for the King and People are each of them above, and below others in divers respects: The People, because they create the man King, they are so above the King, and have a virtuall power to compell him to doe his duty: and the King, as King, hath an authoritative power above the People, because Royaltie is formally in him, and originally and virtually only in the People; therefore may he compell them to their duty, as we shall heare anon; and therefore there is no need of an earthly Ruler higher then both, to compell both.*

3 *Assert.* We shall hereafter prove the power of the people above the *King*, *God* willing. And so it is false that there is not mutuall coactive power on each side.

4 *Assert.* The obligation of the *King* in this covenant, floweth from the peculiar obligation nationall betwixt the *King* and the Estates, and it bindeth the *King*, as *King*, [262] and not simply as he is a man. 1. Because it is a covenant betwixt the people and *David*, not as he is the sonne of *Jesse*, for then it should oblige *Eliab*, or any other of *Davids* brethren; yea, it should oblige any man, if it oblige *David* as a man: but it obl••geth *David* as a *King*, or as he is to be their *King*, because it is the specifick act of a *King*, that he is obliged unto, to wit, to governe the people in *Righteousnesse and Religion* with his *Royall power*. And so it is false that *Arnisaeus* saith, that the *King*, as a man, is obliged to *God* by this covenant, not as a *King*. 2. He saith, by covenant the *King* is bound to *God* as a Man, not as a *King*. But so the man will have the *King*, as *King*, under no law of *God*, and so he must either be above *God*, as *King*, or coequall with *God*; which are manifest blasphemies: for I thought ever, the *Royalists* had not denyed, but the *King*, as *King*, had been obliged to keep his oath to his subjects, in relation to *God*, and in regard of naturall obligation; so as he sinneth before *God*, if he breake his covenant with his people: [263] though they deny that he is obliged to keep his covenant in relation to his Subjects, and in regard of politique or civill obligation to men. Sure I am, this the *Royalists* constantly teach. 3. He would have this covenant so made with men, as it obligeth not the *King* to men, but to *God*. But the contrary is true. Beside the *King* and the Peoples covenant with the *Lord*, [102] *King Joash* made another covenant with the People, and *Jehoiada* the Priest was only a witness, or one who in *Gods* name performed the rite of anointing, otherwise he was a subject on the peoples side, obliged to keep allegiance to *Joash*, as to his Sovereigne and Master. But certainly, who ever maketh a covenant with the people, promising to governe them according to *Gods* word, and upon that condition and these termes receiveth a throne and crown from the people, he is obliged to what he promiseth to the people, *Omnis promittens facit alteri, cui promissio facta est, jus in promittentem*; Who ever maketh a promise to another, giveth to that other a sort of right or jurisdiction to challenge the promise. The covenant betwixt *David* and *Israel* were a shadow, if it tye the people to allegiance to *David* as their *King*, and if it tye not *David* as *King* to govern them in righteousness; but leave *David* loose to the people, and only tye him to *God*; then it is a covenant betwixt *David* and *God* only: But the Text saith, It is a covenant betwixt the *King* and the *People*, 2 King. 11.17. 2 Sam. 5.3.

Hence our second Argument. He who is made a minister of *God*, not simply, [264] but for the good of the subject; and so he take heed to walk in Gods law as a *King*, and governe according to Gods will, he is in so far only made King by *God*, as he fulfilleth the condition; and in so far as he is a minister for evill to the subject, and ruleth not according to that which the book of the Law commandeth him as King, in so far he is not by God appointed *King* and Ruler, and so must be made a King by *God* conditionally: But so hath *God* made Kings and Rulers, *Rom.* 13.4. 2 *Chron.* 6.16. *Ps.* 89.30, 31. 2 *Sam.* 7.12. 1 *Chron.* 28.7, 8, 9. This argument is not brought to prove that *Jeroboam* or *Saul* leave off to be Kings, when they faile in some part of the condition; or as if they were not *Gods Vicegerents* to be obeyed in things lawfull, after they have gone on in wicked courses: For, the People consenting to make *Saul* King, they give him the Crown, *pro hac vice*, at his entry, *absolutely*: there is no condition required in him before they make him *King*, but only that he covenant with them to rule according to Gods law: The conditions to be performed, are consequent, and posterior to his actuall coronation, and his sitting on the Throne. But the argument presupposing that which the Lords word teacheth, to wit, that the Lord and the people giveth a crown by one and the same action; for *God* formally maketh *David* a *King* by the *Princes* and *Elders of Israels* [103] choosing of him to be their *King at Hebron*; and therefore seeing the people maketh him a *King* covenant-wise, and conditionally, so he rule according to Gods Law, and the people resigning their power to him for their safety, and for a peaceable and godly life under him, and not to destroy them, and tyrannize over them; it is certain *God* giveth a *King* that same way, by that same very act of the people; and if the *King* tyrannize, I cannot say it is beside the intention of *God* making a *King*, nor yet beside his intention as a just punisher of their transgressions; for to me as I conceive, nothing either good or evill falleth out beside the intention of him, who *doeth all things according to the pleasure of his Will*; if then the people make a *King* as a *King* conditionally for their safety, and not for their destruction (for as a *King* he saveth, as a man he destroyeth, and not as a *King* and Father) and if *God* by the peoples free election make a *King*, *God* maketh him a *King* conditionally, and so by covenant; and therefore when *God* promiseth 2 *Sam.* 7.12. 1 *Chron.* 28.7, 8, 9. to *Davids seed*, and to *Solomon* a Throne, he promiseth not a Throne to them *immediatly*, as he raised up *Prophets* and *Apostles*, without any mediate action and consent of the people, but he promiseth a Throne to them by the mediate consent, election, and covenant of the people; which condition and covenant he expresseth in the very words of the people, [265] covenant with the *King*, *so they walke as Kings in the Law of the Lord, and take heed to Gods Commandements and Statutes to doe them*▪ Obj. *But then Solomon falling in love with many outlandish women, and so not walking according to Gods Law, loseth all royall dignity and Kingly power, and the people is not to acknowledge him as King, since the Kingly power was conferred upon him, rather then Adonijah, upon such a condition, which condition not being performed by him, it is presumed that neither God, nor the people under God, as Gods instruments in making King, conferred any royall power on him.* Ans. It doth not follow, that *Solomon* falling in love with strange women doth lose Royall dignity, either in the Court of Heaven, or before men; because the conditions of the covenant upon which *God* by the people made him *King* must be exponed by the Law, *Deut.* 17. now that cannot beare, that any one act contrary to the Royall Office, yea that any one or two acts of *Tyranny* doth denude a man of the *Royall dignity* that *God* and the people gave him, for so *David* committing two acts of tyranny, one of taking his owne faithfull Subjects [104] wife from him, and another in killing himselfe, should denude himselfe of all the Kingly power that he had, and that therefore the people after his Adultery and Murther were not to reknowledge *David* as their *King*, which is most absurd; for as one single act of unchastity is indeed against the matrimoniall covenant, and yet doth not make the woman no wife at all, so it must be such a breach of the Royall Covenant, as maketh the *King* no *King*, that annulleth the Royall Covenant, and denudeth the Prince of his Royall authority and power, that must be interpreted a breach of the Oath of *God*, because it must be such a breach upon supposition,

whereof the people would not have given the Crowne, but upon supposition of his destructiveness to the Common-wealth, they would never have given to him the Crowne.

Obj. 2. Yet at least it will follow, that Saul after he is rejected of God for disobedience, in not destroying the Amalekites, as Samuel speaketh to him, 1 Sam. 15. is no longer to be acknowledged King by the people, at least after he committeth such acts of tyranny, as are 1. Sam. 8.12, 13, 14, 15. &c. and after he had killed the Priests of the Lord, and persecuted innocent David without cause, he was no longer either in the Court of Heaven, or the Court of men to be acknowledged as King, seeing he had manifestly violated the royall covenant made with the people, 1 Sam. 11. v. 14, 15. and yet after those breaches David acknowledgeth him to be his Prince, and the Lords annoynted. Ans. The Prophet Samuel his threatning, 1 Sam. 17. is it not expounded of actuall unkinging and rejecting of Saul at the present; for after that, Samuel both honoured him as King before the people, and prayed for him, and mourned to God on his behalfe as King, 1 Sam. 16.1.2. but the threatning was to have effect in Gods time, when he should bring David to the Throne, as was prophesied, upon occasion of lesse sinne, even his sacrificing and not waiting the time appointed, as God had commanded, 1 Sam. 13. v. 13, 14.

[266]2. The people and Davids acknowledgment of Saul to be the Lords annoynted, and a King, after he had committed such acts of Tyranny as seeme destructive of the Royall Covenant, and inconsistent therewith, cannot prove that Saul was not made King by the Lord, and the people, conditionally, and that for the peoples good and safety, and not for their destruction; and it doth well prove that those acts of blood and tyranny committed by Saul, were not done by him as King, or from the principle of Royall power [105] given to him by God and the people. 2. That in these acts they were not to acknowledge him as King. 3. That these acts of blood were contrary to the covenant that Saul did sweare at his inauguration, and contrary to the conditions that Saul in the covenant tooke on him to perform at the making of the Royall covenant. 4. They prove not but the States who made Saul King, might lawfully dethrone him, and annoint David their King. But David had reason to hold him for his Prince, and the Lords Annoynted, so long as the people recalled not their grant of Royall dignity, as David or any man is obliged to honour him as King whom the people maketh King, though he were a bloodier and more tyrannous man then Saul. Any Tyrant standeth in titulo, so long as the People and Estates who made him King, have not recalled their grant; so as neither David, nor any single man, though six hundred with him, may unking him, or detract obedience from him as King; So, many acts of disloyaltie, and breaches of lawes in the Subjects, though they be contrary to this Covenant that the States make with their Prince, doth not make them to be no Subjects: and the Covenant mutuall standeth thus.

3 Arg. If the people as Gods instruments, [267] bestow the benefit of a Crown on their King, upon condition that he will rule them according to Gods word; then is the King made King by the people conditionally: but the former is true; Ergo, so is the latter. The assumption is proved thus: because to be a King, is to be an adopted father, tutor, a Politick servant and Royall watchman of the State; and the Royall honour, and Royall maintenance given to him, is a reward of his labours, and a Kingly hire. And this is the Apostles argument, Rom. 13.6. For this cause pay you tribute also; (there is the wages) for they are Gods ministers, attending continually upon this very thing; There is the worke. Qui non implet conditionem à se promissam, cadit beneficio. It is confirmed thus. The people either maketh the man their Prince conditionally, that he rule according to Law; or absolutely, so that he rule according to will or lust: or, 3. without any vocall transactions at all, but only brevi manu, say, Reigne thou over us, and, (God save the King.) And so there be no conditions spoken on either side; Or, 4. The King is obliged to God for the condition which he promiseth by oath to performe toward the people; but he is to make no reckoning to the people, whether he performe his promise or no; for the people being inferiour [106] to him, and he, solo Deo minor, only next and

immediate to God, the people can have no *jus*, no law over him by vertue of any covenant. But the first standing, we have what we seeke; The second is contrary to Scripture. He is not *Deut.* 17.15, 16. made *absolutely* a King to rule according to his will and lust; for, [*Reigne thou over us*] should have this meaning; *Come thou and play the Tyrant over us, and let thy lust and will be a law to us:* which is against naturall sense: nor can the sense and meaning be according to the third, That the people without any expresse, vocall, and positive covenant, give a Throne to their King to rule as he pleaseth; because, 1. it is a vain thing for the Prelate and other *Mancipia Aulae*, Court-bellies, to say *Scotland* and *England* must produce a written authentick covenant betwixt the first *King* and their People, because, say they, its the Lawes word, *De non apparentibus & non existentibus eadem lex*; that covenant which appeareth not, it is not. For in positive covenants that is true, and in such contracts as are made according to the Civill or Municipall lawes, [268] or the secondary law of Nations: But the generall covenant of nature is presupposed in making a King, where there is no vocall or written covenant, if there be no conditions betwixt a Christian King and his people, then those things which are just and right according to the law of God, and the rule of God in moulding the first King, are understood to regulate both King and People, as if they had been written: and here we produce our written covenant, *Deut.* 17.15. *Josh.* 1.8, 9. 2 *Chr.* 31, 32.1. Because this is as much against the King as the people, and more; for if the first *King* cannot bring forth his written and authentick tables to prove that the Crown was given to him and his heires, and his successors absolutely and without any conditions, so as his will shall be a law, *cadit causa*, he loseth his cause (say they) The King is in possession of the Royall power *absolutely*, without any condition, and you must put him from his possession by a law. I answer, this is most false; 1. Though he were in *mala fide*, and in unjust possession, the law of Nature will warrant the people to repeal their right, and plead for it, in a matter which concerneth their heads, lives, and soules. 2. The *Parliaments* of both Kingdomes standing in possession of a nomothetick power to make lawes, proveth cleerely that the King is in no possession of any Royall dignitie conferred *absolutely* and without any condition upon him: and therefore it is the Kings part by law to put the Estates out of possession. And so [107] though there were no written covenant, the standing law and practice of many hundreth acts of Parliament, is equivalent to a written covenant.

2. When the people appointeth any to be their *King*, the voyce of Nature exponeth their deed, though there be no vocall or written covenant; For that fact of making a King, is a morall lawfull act warranted by the word of *God*, *Deut.* 17.15, 16. *Rom.* 13.1.2. and the law of Nature: and therefore they having made such a man their King, they have given him power to be their father, feeder, healer, protector; and so must only have made him King *conditionally*, so he be a father, a feeder, and tutor. Now if this deed of making a King, must be exponed to be an investing with an absolute, and not a conditionall power; this fact shall be contrary to Scripture, and to the law of Nature: for if they have given him Royall power absolutely, and without any condition, [269] they must have given to him power to be a father, protector, tutor, and to be a tyrant, a murtherer, a bloody lyon to waste and destroy the people of God.

3. The Law permitteth the bestower of a benefit to interpret his own mind in the bestowing of a benefit, even as a King and State must expone their own Commission given to their Ambassadour, so must the Estates expone whether they bestowed the Crown upon the first King *conditionally* or *absolutely*.

For the 4th. if it stand, then must the people give to their first elected King a power to wast and destroy themselves, so as they may never controle it, but only leave it to *God* and the *King* to reckon together, but so the condition is a Chimera (*We give you a Throne, upon condition you swear by him who made heaven and earth, that you will govern us according to Gods Law; and you shall be answerable to God only, not to us, whether you keep the*

covenant you make with us, or violate it;) but how a covenant can be made with the people, and the *King* obliged to *God*, not to the people, I conceive not. 2. This presupposeth that the *King* as *King* cannot doe any sin, or commit any act of tyranny against the people, but against *God* only; because if he be obliged to *God* only as a *King* by vertue of his covenant: How can he faile against an obligation where there is no obligation? but as a *King* he owe no obligation of duty to the people, and indeed so doe our good men expound that *Psal.* 51. *Against thee, thee only have I sinned*, not against *Vriah*; for if he sinned not as *King* against *Vriah*, whose life he was obliged to conserve as a [92] *King*, he was not obliged as a *King* by any royall duty to conserve his life. Where there is no sin, there is no obligation not to sin, and where there is no obligation not to sin, there is no sin. By this the *King* as *King* is loosed from all duties of the second Table, being once made a *King*, he is above all obligation to love his neighbour as himselfe, for he is above all his neighbours, and above all mankind, and only lesse then *God*.

4. Arg. If the people be so given to the *King*, that they are committed to him as a pledge, [270] oppignorated in his hand, as a pupill to a Tutor, as a distressed man to a Patron, as a flocke to a Shepheard; and so as they remaine the *Lords Church, his people, his flocke, his portion, his inheritance, his vineyard, his redeemed ones*, then they cannot be given to the *King* as *Oxen* and *Sheepe*, that are freely gifted to a man; or as a gift or summe of gold or silver, that the man to whom they are given may use, so that he cannot commit a fault against the oxen, sheepe, gold or mony, that is given to him, how ever he shall dispose of them.

But the people are given to the *King* to be tutored and protected of him, so as they remaine the people of *God*, and in covenant with him, and if the people were the goods of fortune (as *Heathens* say) he could no more sinne against the people then a man can sin against his gold; now though a man by adoring gold, or by lavish profusion and wasting of gold may sin against *God*, yet not against gold; nor can he be in any covenant with gold, or under any obligation of either duty or sin to gold, or to livelesse and reasonlesse creatures properly, therefore he may sin in the use of them, and yet not sin against them, but against *God*. Hence of necessity the *King* must be under obligation to the *Lords* people in another manner, then that he should only answer to *God*, for the losse of men, as if men were worldly goods under his hand, and as if being a *King* he were now by this Royall Authority priviledged from the best halfe of the law of nature, to wit, from acts of mercy, and truth, and covenant keeping with his brethren.

[271]5. Arg. If a *King* because a *King* were priviledged from all covenant obligation to his subjects, then could no Law of men lawfully reach him for any contract violated by him, then he could not be a debtor to his subjects, if he borrowed mony from them, and it were utterly unlawfull either to crave him mony, or to sue him at Law for debts, yet our Civill Lawes of *Scotland* tyeth the [93] *King* to pay his debts, as any other man; yea and *King Solomons* traffiquing, and buying and selling betwixt him and his owne subjects would seeme unlawfull; for how can a *King* buy and sell with his subjects if he be under no covenant obligation to men, but to *God* only. Yea then a *King* could not marry a wife, for he could not come under a covenant to keepe his body to her only, nor if he committed adultery, could he sin against his wife, because being immediate unto *God*, and above all obligation to men, he could sin against no covenant made with men, but only against *God*.

6. If that was a lawfull covenant made by *Asa*, and the States of *Iudah*, 2 Chron. 15.13. [272] *That whosoever would not seeke the Lord God of their fathers, should be put to death, whether small or great, whether man or woman*: this obligeth the *King* for ought I see, and the Princes, and the people, but it was a lawfull covenant, ergo the *King* is under a covenant to the Princes and Iudges, as they are to him; it is replied, *If a Master of a Schoole should make a law, whoever shall goe out at the Schoole doores without liberty obtained of the Master, shall be whipped*, [273] *it will not oblige the Schoole-master that he shall be*

whipped, if he goe out at the Schoole doores without liberty; so neither doth this Law oblige the King the supream Law-giver. Ans. Suppose that the Schollars have no lesse hand and authority magisteriall in making the law, then the Schoole-master, as the *Princes of Iudah* had a collaterall power with King *Asa* about that law; it would follow, that the Schoole-master is under the same law. 2. Suppose going out at Schoole doores were that way a morall neglect of studying in the Master, as it is in the Scholars, as the *not seeking of God* is as hainous a sinne in King *Asa*, and no lesse deserving death then it is in the people; then should the Law oblige Schoolmaster and Scholler both without exception. 3. The Schoolemaster is clearly above all lawes of discipline which he imposeth on his Scholars, but none can say that King *Asa* was clearly above that law of *seeking of the Lord God of his fathers. Diodorus Siculus, l. 17.* saith, the *Kings of Persia* were under an oath, and that they might not change the Lawes; and so were the Kings of *Egypt and Ethiopia*. The Kings of *Sparta*, which *Aristotle* calleth just Kings, renew their oath every moneth. *Romulus* so covenanted with the Senate and People. *Carolus V. Austriacus*, sweareth he shall not change the Lawes, without the consent of the Electors, nor make new lawes, nor dispose or impledge any thing that belongeth to the Empire. So read [92] <1 page duplicate><1 page duplicate> [93] <1 page duplicate><1 page duplicate> [110] we, [274] *Spec. Saxon. l. 3. Act. 54.* and *Xenophon Cyriped. l. 8.* saith, there was a covenant between *Cyrus and the Persians*. The nobles are crowned when they crown their *King*, and exact a speciall Oath of the *King*. So doth *England, Polonia, Spaine, Arragonia, &c. Alberi. Gentilis. Hug. Grotius*, prove that Kings are really bound to performe Oathes and contracts to their people; but *notwithstanding there be such a covenant, it followeth not from this, saith Arnisaeus, that if the Prince breake his covenant and rule tyrannically, the people shall be free, and the contract or covenant nothing.* *Ans.* The covenant may be materially broken, while the *King* remaineth *King*, and the subjects remaine subjects, but when it is both materially and formally declared by the States to be broken, the people must be free from their Allegiance; but of this more hereafter.

Arg. 7. If a Master bind himselfe by an Oath to his servant, he shall not receive such a benefit of such a point of service; if he violateth the Oath, his Oath must give his servant Law and right, both to challenge his Master, and he is freed from that point of service; an Army appointeth such a one their Leader and Captaine, but they refuse to doe it, except he sweare he shall not betray them to the enemy, he doth betray them, then must the souldiers be loosed from that contract; if one be appointed Pilate of a ship, and not but by an Oath, if he sell the Passengers to the Turke, they may challenge the Pilate of his Oath; and it is cleare that 1. the estates should refuse to give the Crown, to him who would refuse to governe them according to Gods Law, but should professe that he would make his owne will a Law, therefore the intention of the Oath is clearly conditionall. 2. When the *King* sweareth the Oath, he is but *King in fieri*, and so not as King above the States of Kingdomes, now his being *King* doth not put him in a case above all civill obligation of a King to his subjects, because the matter of the Oath is, that he shall be under them so farre, in regard of the Oath of God.

Arg. 8. If the Oath of *God* made to the people doe not bind him to the people to governe according to Law, and not according to his will and lust, it should be unlawfull for any to sweare such an Oath, for if a power above law agree essentially to a *King* as a *King*, as *Royalists* hold, he who sweareth such a Oath, should both sweare to be a King to such a people, and should sweare to be no King in respect by his Oath he should renounce that which is essentiall to a *King*.

[111]

Arnisaeus objecteth; *Ex particularibus non potest colligi conclusio universalis*, some few of the Kings, as *David & Ioash*, made a covenant with the people; it followeth not that this was a universall law. *Ans.* Yea, the covenant is *Deut. 17.* and must be a rule to all; if so just a man as *David* was limited by a covenant, then all the rest also.

**QUEST. XV. Whether or no the King be Univocally, or only Analogically,
and by proportion a father? ↩**

IT is true, Aristotle Polit. 1. 3. c. 11. saith, [275] That the Kingly power is a fatherly power; and Iustin. Novell 12. c. 2. Pater quamvis legum contemptor, quamvis impius sit, tamen pater est. But I doe not beleeeve that, as *Royalists* say, that the Kingly power is essentially and univocally that same with a paternall or fatherly power; or that *Adam* as a father, was as a father and *King*, and that suppose *Adam* should live in *Noahs* daies, that by divine institution and without consent of the Kingdomes and communities on earth, *Adam hoc ipso*, and for no other reason but because he was a father, should also be the universall *King*, and *Monarch* of the whole world; or suppose *Adam* were living to this day; that all *Kings* that hath been since, and now are, held their Crownes of him, and had no more Kingly power then inferiour Iudges in *Scotland* have under our soveraigne *King Charles*, for so all that hath been, and now are lawfull *Kings* should be unjust usurpers; for if fatherly power be the first and native power of commanding, it is against nature that a *Monarch* who is not my father by generation, should take that power from me, and be a *King* over both me and my children.

But I assert, that though the Word warrant us to esteem *Kings* fathers, [276] *Esa.* 49.23. *Jud.* 5.7. *Gen.* 20. v. 2. yet are not they essentially and formally fathers by generation, *Num.* c. 11. v. 12. *Have I conceived all this people? have I begotten them?* and yet are they but *fathers* metaphorically; 1. By office, because they should care for them as fathers doe for children, and so come under the name of fathers in the fifth Commandement; and therefore rigorous and cruell Rulers are *Leopards* and *Lyons*, and *Wolves*, *Ezech.* 22.27. *Zeph.* 3.3. If then *tyrannous Judges* be not essentially and formally *Leopards* and *Lyons*, but only metaphorically, neither can *Kings* be formally fathers. 2. Not only *Kings*, but all Iudges are fathers in defending [112] their subjects from violence and the sword, and fighting the Lords battells for them, and counselling them. If therefore *Royalists* argue rightly, *A King is essentially a father, and, fatherly power and royall power are of the same essence and nature; As therefore he who is once a father, is ever a father, and his children cannot take up armes against him to resist him, for that is unnaturall, & repugnant to the 5. Commandement: So he who is once a King, is evermore a King, and it is repugnant to the fifth Commandement to resist him with armes.* It is answered, that the Argument presupposeth that Royall power, and Fatherly power is one and the same in nature, whereas they differ in nature, and are only one by *analogie* and proportion: for so Pastors of the Word are called *fathers*, 1 *Cor.* 4.15. it will not follow, that once a Pastor, evermore a Pastor; and that if therefore Pastors turne wolves, and by hereticall doctrine corrupt the flock, they cannot be cast out of the Church. 3. A father, as a father, hath not power of life and death over his sonnes, [277] because, *Rom.* 13. by divine institution the sword is given by God to *Kings* and *Iudges*: and if *Adam* had had any such power to kill his sonne *Cain*, for the killing of his brother *Abel*, it had been given to him by God as a power politike, different from a fatherly power: for a fatherly power, as such, is formally to conserve the life of the childaen, and not to take away the life: yea, and *Adam*, though he had never sinned, nor any of his posteritie, *Adam* should have been a perfect father, as he is now indued with all fatherly power that any father now hath; yea should not *God* have given the sword or power of punishing ill doers, since that power should have been in vaine, if there had been no violence, nor bloodshed, or sinne on the earth: for the power of the sword and of lawfull warre, is given to men now in the state of sinne. 4. Fatherly government and power is from the bosome and marrow of that fountaine law of nature; but Royall power is not from the law of nature, more then *Aristocraticall* or *Democraticall* power. [278] *D. Ferne* saith, *Monarchie* is not *jure divino*, (I am not of his mind) *nor yet from the law of Nature*, but, *ductu naturae, by the guidance of nature*. Sure it is from a supervenient commandement of *God*, added to the first law of nature, establishing Fatherly power. 5. Children having their life and first breathings of nature

from their parents, must be in a more intimate relation from their father, then from their Prince: Subjects have not their Being naturall, but their civill, politique and peaceable well-being from their [113] Prince. 6. A father is a father by generation, and giving the being of nature to *children*, and is a naturall head and root, without the free consent and suffrages of his children, and is essentially a father to one child, as *Adam* was to one *Cain*: but a Prince is a Prince by the free suffrages of a community, and cannot be a King to one only, and he is the politique head of a civill Corporation. 7. A father, so long as his children liveth can never leave off to be a father, though he were mad, and furious, though he be the most wicked man on earth. *Qui genuit filium non potest non genuisse filium*, what is once past cannot by any power be not passed, a father is a father for ever. But by confession of *Royalists*, as *Barclay*, *Hug*, *Grotius*, and *Arnisaeus* and others grant, if a King sell his subjects by sea or land to other nations, if he turne a furious *Nero*, he may be dethroned, and the power that created the King under such expresse conditions, as if the King violate them by his owne consent, he shall be put from the Throne, may cease to be a King, and if a stronger King conquer a King and his subjects, *Royalists* say the conquerour is a lawfull King; and so the conquered King must also lawfully come downe from his Throne, and turne a lawfull captive sitting in the dust. 8. Learned Politicians, as *Bartholomeus Romulus*, Defens. part. 1. num. 153. *Ioannes de Anania* in c. fin. de his qui fil. occid. teach that *the father is not obliged to reveale the conspiracy of his son against his Prince, nor is he more to accuse his son, then to accuse himselfe; because the father loveth the sonne better then himselfe*. D. Listi quidem. Sect. Fin. quod. met. caus. & D. L. fin. c. de cura furiosi, and certainly a father had rather dye in his own person as choose to dye in his sonnes, in whom he affecteth a sort of immortality, *In specie, quando non potest in individuo*: but a King doth not love his subjects with a naturall or fatherly love thus; and if the affections differ, the power which secondeth the affection, for the conservation either of being, or well being, must also differ proportionally.

The *P. Prelate* objecteth against us thus, [279] stealing word by word from *Arnisaeus*: *When a King is elected Sovereigne to a multitude, he is surrogated in the place of a common father*, Exod. 20.5. *Honour thy father; then as a naturall father receiveth not Paternall right, power, or authority from his sonnes, but hath this from God, and the ordinance of nature, nor can the King have his right from the community*. 2. *The maxime of the Law is, Surrogatus gaudet privilegiis ejus cui surrogatur, & qui succedit in locum, succedit in jus*. The [114] *person surrogated, hath all the Priviledges that he hath, in whose place he succeedeth, he who succeedeth to the place, succeedeth to the right; the adopted sonne, or the bastard who is legitimated, and commeth in the place of the lawfull borne sonne, commeth also in the priviledges of the lawfull borne sonne; a Prince elected commeth to the full possession of the Majesty of a naturall Prince and Father, for Modus acquirendi non tollit naturale jus possidendi* (saith *Arnisaeus*, more fully then the *poore Plagiarius*) *the manner of acquiring any thing taketh not away the naturall possession, for how ever things be acquired, if the title be just, possession is the Law of Nations; then when the King is chosen in place of the father, as the father hath a divine right by nature, so must the King have that same: and seeing the right proprietor* (saith the *Pamphleting Prelate*) *had his right by God, by nature, how can it be, but howsoever the designation of the person is from the disordered community, yet the collation of the power is from God immediatly, and from his sacred and inviolable ordinance. And what can be said against the way by which any one elected obtained his right, for seeing God doth not now send Samuells or Elisha's to anoynt or declare Kings, we are in his ordinary providence to conceive the designation of the person is the manifestation of Gods Will, called Voluntas signi, as the Schooles speake, just so as when the Church designeth one to sacred orders*.

Ans. 1. *He that is surrogated in the place of another, due to him, by a positive Law of man, he hath Law to all the priviledges that he hath in whose place he is surrogated, that is true. He who is made Assignee to an Obligation for a summe of money, hath all the rights*

that the principall party to whom the Bond or Obligation was made, he who commeth in the place of a Major of a City, of a Captaine in an Army, of a Pilot in a ship, of a Pope, hath all the priviledges and Rights that his predecessors had by Law. *Jus succedit juri, persona jure predita personae jure preditae*. So the Law, so far as my reading can reach, who professe my selfe a Divine; but that *he who succeedeth to the place of a father, by nature, should enjoy all the naturall Rights and Priviledges of the person to whom he succeedeth*; I beleeve the Law never dreamed it, for then the adopted sonne comming in place of the naturall sonne, hath right to the naturall affection of the father; if any should adopt *Maxwell* the Prelate, should he love him as the Pursevant of *Craile*, *Maxwell* his father loved him? I conceive not; hath the adopted sonne his life, his being, the figure bodily, the manners of the sonne in whose place he is adopted? [115] or doth he naturally resemble the father as the naturall sonne doth? The Prelate did not read this Law in any approved *Iurist*, though he did steale the argument from *Arnisaeus*, and stole the citations of *Homer* and *Aristotle* out of him, with a little Metathesis: A naturall sonne is not made a sonne by the consent of Parents, but he is a sonne by generation, so must the adopted sonne be adopted without the free consent and grace of the father adopting: [280] so here the King commeth in the place of a naturall father, but I conceive the Law saith not that the elected King is a King without consent of the subjects, as the naturall father is a father without consent of his sonnes. 2. Nor is it a Law true, as *once a father alwaies a father*, so once an elected King, alwaies a King, though he sell his subjects, being induced thereunto by wicked Counsellors. 3. If the King have no priviledges, but what the naturall father hath in whose place he commeth, then as the naturall father in a free Kingdome hath not power of life and death over his sonnes, neither hath the *King* power of life and death over his subjects, this is no Law. 4 This maxime should prove good, if the *King* were essentially a father, by generation and naturall propagation, but he is onely a father *Metaphorically*, and by a *borrowed speech*. A father *non generando, sed politicò alendo, tuendo, regendo*, therefore an elected Prince commeth not in the full possession of all the naturall power and rights of a naturall father. 2. The *P. Prelate* speaketh disgracefully of the Church of God, calling it a *disorderly community*, as if he himselfe were borne of Kings, where as God calleth the King their Shepheard, and the people, *Gods stocke, inheritance and people*; and they are not a disorderly body by nature, but by sin; in which sense the Prelate may call King, Priest and people, a company of Heires of Gods wrath, except he be an Arminian still, as once he was. 3. If we are in ordinary providence now, because we have not *Samuels*, and Prophets to anoynt Kings, to hold the designation of a person to be King, to be the manifestation of Gods Will, called *voluntas signi*, is Treason, for if *Scotland* and *England* should designe *Maxwell* in the place of King *Charles* our native Sovereigne (an odious comparison) *Maxwell* should be lawfull King for what is done by Gods Will, called by our Divines (they have it not from Schoolemen, as the Prelate ignorantly saith) his *signified will* which is our rule, is done lawfully, there can be no greater treason put in print then this.

[116]

QUEST. XVI. Whether or no a despotiticall and masterly dominion of men and things, agree to the King, because he is King. ↩

I May here dispute whether the King be Lord, having a masterly dominion both over men and things. But I first discusse shortly his dominion over his subjects.

It is agreed on by Divines, that servitude is a penall fruit of sinne, and against nature. *Institut. de jure personarum, Sect. 1. & F. de statu hominum. l. libertas*; Because all men are borne by nature of equall condition.

1 *Assert.* The *King* hath no proper, masterly, or herile dominion over his subjects: [281] his dominion is rather fiduciary and ministeriall, than masterly.

1. Because Royall Empire is essentially to feed, rule, defend, and to governe in *Peace and Godliness*, 1 Tim. 2.2. as the father doth his children, *Ps.* 78.71. *He brought him to feed Iacob his people, and Israel his inheritance*, *Esa.* 55.4. *I gave him for a leader and commander to the people*, 2 Sam. 5.2. *Thou shalt feed my people Israel*, 2 Sam. 5.2. 1 Chron. 11.2. 1 Chron. 17.6. And so it is, for the good of the people, and to bring those, over whom he is a feeder and ruler, to such a happy end; and, as saith *Althusius, polit. c. 1. n. 13.* and *Marius Salomonius, de princ. c. 2.* it is to take care of the good of those over whom the Ruler is set, and, *conservare est, rem illaesam servare*, to keep a thing safe. But to be a Master, and to have a masterly and herile power over slaves and servants, is to make use of servants for the owners benefit, not for the good of the slave, *L. 2, de leg. L. Servus de servit. expert. Danae polit. l. 1. Tolossan. de Rep. l. 1. c. 1. n. 15, 16.* therefore are servants bought and sold as goods, *jure belli. F. de statu hominum, l. & servorum.*

2. Not to be under Governors and Magistrates, is a judgement of God, [282] *Esa.* 3.6, 7. *Esa.* 3.1. *Hos.* 3.4. *Iudg.* 19.1, 2. But not to be under a master, as slaves are, is a blessing, seeing freedom is a blessing of God, *Ioh.* 8.33. *Exod.* 21.2. v. 26, 27. *Deut.* 15.12. so he that killeth *Goliah*, 1 Sam. 17.25. *his fathers house shall be free in Israel*, *Ier.* 34.9. *Act.* 22.28. 1 Cor. 9.19. *Gal.* 4.26.31. Therefore the power of a *King* cannot be an herile and masterly power; for then to be under a *Kingly power*, should both be a blessing, and a curse and just punishment of sinne.

[117]

3. Subjects are called the servants of the King, 1 Sam. 15.2. 2 Chron. 13.7. 1 King. 12.7. *Exod.* 10.1, 2. *Exod.* 9.20. but they are not slaves, because, *Deut.* 17.20. they are his brethren: *That the Kings heart be not lifted up against his brethren.* And his sonnes, *Esa.* 49.23. And the Lord gave his people a *King* as a blessing, 1 King. 10.9. *Hos.* 1.11. *Esa.* 1.26. *Ier.* 17.25. *And brought them out of the house of bondage*, *Exod.* 20. v. 2. as out of a place of miserie. And therefore to be the Kings servants, in the places cited, is some other thing then to be the Kings slaves.

4. The Master might in some cases sell the servant for money, yea for his own gain •• might doe it, *Nehem.* 5.8. *Eccles.* 2.7. 1 King. 2.32. *Gen.* 9.25. *Gen.* ••6.14. 2 King. 4.1. *Gen.* 20.14. and might give away his servants; and the servants were the proper goods and riches of the master, *Eccles.* 2.7. *Gen.* 30.43. *Gen.* 20.14. *Job.* 1.3.15. But the King may not sell his Kingdome or Subjects, or give them away for money, or any other way; for *Royalists* grant that *King* to be a *Tyrant*, and worthy to be dethroned, who shall sell his people: for the *King* may not delapidate the rents of the Crown, and give them away to the hurt and prejudice of his successors, *L. ult. Sect. sed nostr. C. Comment. de lege, l. peto. 69. Sect. fratrem de lege, 2. l. 32. ultimo. D. T.* and farre lesse can he lawfully sell men, and give away a whole Kingdome to the hurt of his successours, for that were to make merchandize of the living Temples of the *Holy Ghost*. And *Arnisaeus, de authorit. Princip. c. 3. n. 7.* saith, *Servitude is praeter naturam*, beside nature; he might have said, contrary to nature, *l. 5. de stat. homin. Sect. 2. Iust. de jur. perso. c. 3. & Novel. 89.* but the subjection of subjects is so consonant to nature, that it is seen in Bees and Cranes. Therefore a dominion is defined a facultie of using of things to what uses you will. Now a man hath not this way an absolute dominion over his beasts, to dispose of them at his will; for *a good man hath mercy on the life of his beast*, *Prov.* 12.10. nor hath he dominion over his goods to use them as he will, because he may not use them to the dammage of the Commonwealth, he may not use them to the dishonour of *God*; and so *God* and the Magistrate hath laid some bound on his dominion. And because the *King* being made a *King*, leaveth not off to be a reasonable creature, he must be under a Law, and so his will and lust cannot be the rule of his power and dominion, but law and reason must regulate him. [283] Now if *God* had given to the *King* a dominion over men as reasonable creatures, [118] his power and dominion which by *Royalists* is conceived to be above Law,

should be a rule to men as reasonable men, which would make men under *Kings* no better then brut beasts; for then should subjects exercise acts of reason, not because good and honest, but because their Prince commandeth them so to doe; and if this cannot be said, none can be at the disposing of Kings in politick acts liable to Royall government, that way that the slave is in his actions under the dominion of his master.

The *Prelate* objecteth out of *Spalato*, *Arnisaesus*, and *Hug. Grotius*, [284] (for in his booke there is not one line which is his own, except his raylings) 1. *All government and superioritie in Rulers is not primely and only for the Subjects good: for some are by God and Nature appointed for the mutuall and inseperable good of the superiour and inferiour, as in the government of husband and wife, or father and sonne; and in herili dominio, in the government of a Lord and his servant, the good and benefit of the servant is but secondary and consecutively intended, it is not the principall end, but the externall and adventitious, as the gaine that commeth to a Physitian, is not the proper and internall end of his art, but followeth only from his practice of Medicine.*

Ans. The *Prelates* logick tendeth to this; *some government tendeth to the mutuall good of the superior and inferior, but Royall Government is some government, ergo* nothing followeth from a major proposition, *Ex particulari affirmante, in prima figura*. Or of two particular propositions. 2. If it be thus formed, every maritall government, and every government of the Lord and servant is for the mutuall good of the superiour and inferiour: But *Royall Government* is such, *ergo* &c. the assumption is false, and cannot be proved, as I shall anon cleare.

2. Obj. *Solomon disposed of Cabul, and gave it to Hiram, ergo a conquered Kingdome is for the good of the conquerour especially.* *Ans.* *Solomons* speciall giving away some Titles to the *King of Tyre*, being a speciall fact of a *Prophet* as well as a *King*, cannot warrant the *King of England* to sell *England* to a forraine Prince, because *William* made *England* his owne by conquest; which also is a most false supposition: and this he stole from *Hugo Grotius*, who condemneth selling of Kingdomes.

3 Object. *A man may render himselfe totally under the power of a Master, without any conditions: and why may not the body of a people doe the like? even to have peace and safety, surrender themselves [119] fully to the power of a King? A lord of great Mannours may admit no man to live in his Lands, but upon a condition of a full surrender of him, and his posterity to that lord. [285] Tacitus sheweth us it was so anciently amongst the Germans, and the Campanians surrendered themselves fully to the Romans.*

Ans. What compelled people may do to redeem their lives with losse of liberty, is nothing to the point; such a violent Conquerour who will be a father and a husband to a people, against their will, is not their lawfull King; and that they may sell the liberty of their posteritie, not yet born, is utterly denied as unlawfull; yea, a violentated father to me is a father, and not a father, and the posteritie may vindicate their own liberty given away unjustly, before they were born: *Qua omne regnum vi partum potest vi dissolvi.*

Object. 4. *But* (saith Doct. *Fern*) *these which are ours, and given away to another, in which there redoundeth to God by donation a speciall interest, as in things devoted to holy uses, though after they be abused, yet we cannot recall them. Ergo, If the people be once forced to give away their liberty, they cannot recall it; far lesse, if they willingly resign it to their Prince.*

Ans. This is not true, when the power is given for the conservation of the Kingdom, and is abused for the destruction thereof, for a power to destruction was never given, nor can it by rationally nature be given. 2. Mortifications given to religious uses by a positive law, may be recalled by a more divine and stronger law of nature, such as is this: *I will have mercy and*

not sacrifice. Suppose *David* of his own proper heritage, had given the Shew-bread to the Priests, yet when *David* and his men are famishing, he may take it back from them against their will. Suppose Christ man had bought the Corns, and dedicated them to the Altar, yet might he and his Disciples eat the Ears of Corn in their hunger. The vessels of silver dedicated to the Church, may be taken and bestowed on wounded Souldiers. 2. A people free may not, and ought not totally surrender their liberty to a Prince, confiding on his goodnesse; 1. Because liberty is a condition of nature, that all men are born with, and they are not to give it away, [286] no not to a King, except in part, and for the better, that they may have peace and justice for it, which is better for them, *hic & nunc*. 2. If a people trusting in the goodnesse of their Prince, inslave themselves to him, and he shall after turn Tyrant; a rash and temerarious [120] surrender obligeth not, *Et ignorantia facit factum quasi involuntarium*: Ignorance maketh the fact some way unvoluntary; for if the people had beleevved that a meek King would have turned a *roaring Lyon*, they should not have resigned their liberty into his hand; and therefore the surrender was *tacitely conditionall* to the King as meek, or whom they beleevved to be meek, and not to a tyrannous Lord; and therefore, when the contract is made for the utilitie of the one party, the law saith their place is for after wits, that men may change their minde, and resume their liberty, though if they had given away their liberty for money, they cannot recall it; and if violence made the surrender of liberty, here is slavery, *and slaves taken in war so soon as they can escape, and return to their own, they are free*. *D. Sect. item. ea Justit. de rerum divin. l. nihil. F. de capt. l. 3.* So the learned *Ferdin. Vasquez illustri. l. 2. c. 82. n. 15.* saith, *The bird that was taken, and hath escaped, is free*; nature in a forced people, so soon as they can escape from a violent Conqueror maketh them a free people; and *si solo tempore* (saith *Ferd. Vasquez, l. 2. c. 82. n. 6.*) *justificatur subjectio, solo tempore facilius justificabitur liberatio*.

Assert. 20. All the Goods of the Subjects belongeth not to the King: [287] I presuppose, that the division of Goods doth not necessarily flow from the law of nature, for God made man before the fall, Lord of the creatures indefinitely; but what Goods be *Peters*, and not *Pauls*, we know not. But supposing mans sin, though the light of the Sun and Air be common to all, and religious places be proper to none, yet it is morally impossible, that there should not be a distinction of *meum & tuum, mine and thine*: and the decalogue forbidding theft, and coveting the wife of another man, (yet is she the wife of *Peter*, not of *Thomas* by free election, not by an act of natures law) doth evidence to us, that the division of things is so far forth, (men now being in the state of sin) of the law of nature, that it hath evident ground in the Law of nations; and thus farre naturall, that the heat that I have from my own coat and cloak, and the nourishment from my own meat, are physically incommunicable to any [288]. But I hasten to prove the Proposition: If 1. I have leave to premit, that in time of necessitie all things are common by Gods Law: A man travelling, might eat Grapes in his neighbours vineyard, though he was not licenced to carry any away. I doubt if *David* wanting money, was necessitated [121] to pay money for the Shew-bread, or for *Goliaths* sword, supposing these to be the very Goods of private men, and ordinarily to be bought and sold: natures Law in extremity, for self preservation, hath rather a Prerogative Royall above all Laws of Nations, and all civill Laws then any mortall King; and therefore by the civill Law, all are the Kings, in case of extreme necessity; in this meaning, any one man is obliged to give all he hath for the good of the Common-wealth, and so far the good of the King, in as farre as he is head and father of the Common-wealth [289]. 2. All things are the Kings, in regard of his publike power, to defend all men, and their Goods from unjust violence. 3. All are the Kings in regard of his Act of conservation of Goods, for the use of the just owner. 4. All are the Kings in regard of a legall limitation, in case of a dammage, offered to the Common-wealth, justice requireth confiscation of Goods for a fault; but confiscated Goods are to help the interested Common-wealth, and the King, not as a man (to bestow them on his children) but as a King; to this we may referre these called *bona caduca & inventa*, things losed by Shipwrack, or any other providence, *Vlpian. tit. 19. t. c. de bonis vacantibus. C. de Thesauro*.

And the Reasons why private men are just Lords and proprietors of their own Goods, are,
1. Because by order of nature, [290] division of Goods cometh neerer to natures law, and necessity, then any King or Magistrate in the world; for because it is agreeable to nature, th••• every man be warmed by his own fleece, [291] nourished by his own meat; therefore to conserve every mans Goods to the just owner, and to preserve a communitie from the violence of rapine and theft, a *Magistrate* and *King* was devised. So it is clear, men are just owners of their own Goods, by all good order, both of nature and time, before there be any such thing as a *King* or *Magistrate*. Now if it be good that every man enjoy his own Goods, as just proprietor thereof for his own use, before there be a *King*, who can be proprietor of his Goods, and a *King* being given of *God* for a blessing, not for any mans hurt and losse; the *King* cometh in to preserve a mans Goods, but not to be lord and owner thereof himself, nor to take from any man *Gods* right to his own Goods.

2. When *God* created man at the beginning, he made all the creatures for man, and made them by the law of nature, [292] the proper [122] possession of man, but then there was not any King formally as King; for certainly *Adam* was a father before he was a *King*, and no man being either born, or created a *King* over an other man, no more then the first Lyon, and the first Eagle, that *God* created, were by the birth-right, and first-start of creation, by nature, the King of all Lyons, and all Eagles to be after created; no man can by natures law, be the owner of all Goods of particular men: And because the law of nations founded upon the law of nature, hath brought in *meum & tuum, mine and thine*, as proper to every particular man, and the introduction of Kings cannot overturn natures foundation; neither civility, nor grace destroyeth, but perfiteth nature: and if a man be not born a *King*, because he is a man, he cannot be born the possessour of my Goods.

[293]3. What is a *Character*, and note of a *Tyrant*, and an oppressing *King* as a *Tyrant*, is not the just due of a *King* as a *King*: But to take the proper Goods of Subjects, and use them as his own, is a proper *Character*, and note of a *Tyrant*, and an oppressour. *Ergo*, the proposition is evident. A *King* and a *Tyrant* are by way of contradiction contrary one to another: the assumption is proved thus, *Ezek. 45.9. Thus saith the Lord, Let it suffice you, O Princes of Israel: remove violence and spoil, and execute judgement and justice, take away your exactions from my people, saith the Lord, Vers. 10. Ye shall have just ballances, and a just Ephah, and a just bath.* If all be the *Kings*, he is not capable of extortion and rapine, *Micah 3.2. God complaineth of the violence of Kings: Is it not for you to know judgement? Vers. 3. Who eat the flesh of my people, and flea their skins from off them, and they break their bones, and chop them in pieces, [294] as for the pot, and as flesh within the chaldron, Isai. 3.14. Zeph. 3.3.* and was it not an act of tyranny in *King Achab*, to take the vineyard of *Naboth*, and in *King Saul*? *1 Sam. 8.14. to take the people of Gods fields and vineyards, and olive-yards, and give them to their servants?* Was it a just fault that *Hybreas* objected to *Antonius*, [295] [296] exacting *two tributes in one yeer, that he said, If thou must have two tributes in one yeer, then make for us two Summers and two Harvests, in one yeer?* This cannot be just; if all be the *Kings*, the *King* taketh but his own.

4. Subjects under a Monarch could not give alms, nor exercise works of charity; for charity must be my own, *Isai. 58.7. Is it not to deal thy bread to the hungry? &c. Eccles. 11.1. Cast thy bread into [123] the waters;* and the Law saith, *It is theft to give of another mans to the poor:* yea, the distinction of poor and rich, should have no place under a *Monarchie*, he onely should be rich.

5. When *Paul* commandeth us to *pay tribute to Princes, Rom. 13.6. because they are the Ministers of God*, he layeth this ground, [297] That the *King* hath not all, but that the subjects are to give to him of their goods.

6. It is the *Kings* place, [298] by justice to preserve every man in his own right, and under his own fig-tree. *Ergo*, Its not the Kings house.

7. Even *Pharaoh* could not make all the victuall of the land his own, while he had bought it with money: [299] and every thing is presumed to be free. *Allodialis*, free land, except the King prove that it is bought or purchased. *L. actius, C. de servit. & aqua. & Joan. And. m. C. F. de ind. & hosti. in C. minus de jur.*

8. If the subjects had no proprietie in their own goods, [300] but all were the Princes due, then the subject should not be able to make any contract of buying and selling without the King, and every subject were in the case of a slave. Now the Law saith, *L. 2. F. de Noxali. act. l. 2. F. ad legem aquil.* When he maketh any Covenant, he is not obliged civilly to keep it, because the condition of a servant, he not being *sui juris*, is compared to the state of a beast, though he be obliged by a naturall obligation, being a rationall Creature, in regard of the law of nature, *L. naturaliter, L. si id quod, L. interdum, F. de conà. indebit. cum aliis. 2.* The subject could not by *Solomon* be forbidden to be suretie for his friend; as *King Solomon* doth counsell, *Prov. 6.1, 2, 3.* he could not be condemned to bring on himself poverty by sluggishnesse, as *Prov. 6.6, 7, 8, 9, 10.* nor were he to *honour the Lord with his riches*, as *Prov. 3.9.* nor to *keep his Covenant, though to his losse*, *Psal. 15.4.* nor could he be *mercifull and lend*, *Psal. 37.26.* nor had he power to *borrow*; nor could he be guiltie *in not paying all again*, *Psal. 37.21.* For subjects under a *Monarch*, can neither perform a duty, nor fail in a duty, in the matter of Goods; If all be the Kings, what power or dominion hath the subject in disposing of his Princes Goods? See more in *Petr. Rebuffus, tract. congruae portionis, num. 225. pag. 109, 110. Sed quoad dominium rerum, &c.*

[124]

QUEST. XVII. Whether or not the Prince have properly a fiduciarie, and ministeriall power of a Tutor, Husband, Patron, Minister, head, father of a family, not of a Lord or dominator? ↩

That the power of the *King* is *fiduciarie*, that is given to him immediatly by God in trust, [301] *Royallists* deny not; but we hold that the trust is put upon the King by the people. 2. We deny that the people give themselves to the *King* as a gift, for what is freely given cannot be taken againe▪ but they gave themselves to the *King* as a pawne; and if the pawne be abused, or not used in that manner as it was conditionated to be used, the party in whose hand the pawne is intrusted, faileth in his trust.

[302]1. *Assertion. The King* is more properly a Tutor then a Father, 1. Indigencie is the originall of Tutors, the Parents dye; what then shall become of the Orphan and his inheritance? he cannot guide it himselfe; therefore nature devised a Tutor to supply the place of a father, [303] and to governe the Tutor; but with this consideration, the father is Lord of the inheritance, and if he be distressed, may sell it, that it shall never come to the sonne, and the father for the bad deserving of his sonne may dis-inherite him; but the Tutor being but a borrowed father, cannot sell the inheritance of the pupill, nor can he for the pupills bad deserving, by any dominion of Justice over the pupill, take away the inheritance from him, and give it to his owne son; so a Community of it selfe, because of sin, is a naked society that can but destroy it selfe, and *every one eate the flesh of his brother*, therefore God hath appointed a King or governour, who shall take care of that community, rule them in peace, and save all from reciprocation of mutuall acts of violence, yet so, as because a trust is put on the Ruler of a community, which is not his heritage, he cannot dispose of it as he pleaseth, because he is not the proper owner of the inheritance.

2. The Pupill when he commeth to age, may call his Tutor to an accompt for his administration; I doe not acknowledge that as a truth, which *Arnisaeus* saith, De autoritate. prin. c. 3. n. 5. *The Common-wealth is alwaies minor, and under Tutory, because it alway hath need of a curator and governour, and can never put away its governour, but the pupill may grow to age and wisdom, so as he may be without all Tutors, and can guide himselfe, and so may call in question [125] his Tutor, and the pupill cannot be his Iudge, but must stand to the sentence of a superiour Iudge, and so the people cannot judge or punish their Prince, God must be Iudge betwixt them both.*

But this is 1. a begging of the question, every comparison halteth, no community but it is Major in this, [304] that it can appoint its owne Tutors, and though it cannot be without all Rulers, yet it may well be without this or that Prince and Ruler, and therefore may resume its power, which it gave conditionally to the Ruler for its owne safety and good, and in so farre as this condition is violated, and power turned to the destruction of the Common-wealth, it is to be esteemed as not given; and though the people be not a politique Iudge in their owne cause, yet in case of manifest oppression, nature can teach them to oppose defensive violence against offensive: a community in its politique body is also above any Ruler, and may judge what is manifestly destructive to it selfe.

Obj. *The Pupill hath not power to appoint his owne Tutor, nor doth he give power to him, so neither doth the people give it to the King.* Ans. The Pupill hath not indeed a formall power to make a Tutor, but he hath vertyually a legall power in his father, who appointeth a Tutor for his sonne, and the people have vertyually all *Royall power* in them, as in a sort of immortall and eternall fountain, and may create to themselves many Kings.

Asser. 2. The Kings power is not *properly* and *univocally* a Maritall and husbandly power, but only *Analogically*, [305] 1. The Wife by nature is the weaker Vessel, and inferiour to the man, but the Kingdom, as shall be demonstrated is superiour to the King. 2. The Wife is given as an helpe to the man, but by the contrary the man here is given as an helpe and father to the Common-wealth, which is presumed to be the wife. 3. Maritall and husbandly power is naturall, though it be not naturall, but from free election that *Peter* is *Ana's* Husband, and should have been, though man had never sinned: but *Royall Power* is a politick constitution, and the world might have subsisted, though *Aristocracy* or *Democracy* had been the only and perpetuall governments. So let the Prelate glory in his borrowed Logick, he had it from *Barclay*. *It is not in the power of the Wife to repudiat her Husband, though never so wicked, she is tyed to him for ever, and may not give to him a bill of Divorcement, as by Law the Husband might give to her; if therefore the people sweare loyalty to him, they must keep, though to their hurt.* Ps. 15. Ans. There's [126] nothing here said, except *Barclay* and the *Plagiaries* prove, that the Kings Power is properly a Husbands power, which they cannot prove, but from a Simile that crooketh; but a King elected upon conditions, that if he sell his people, he shall lose his Crown, is as essentially a King, as *Adam* was *Eva's* Husband, and yet by grant of parties, the people may devorce from such a King, and dethrone him, if he sell his people; but a Wife may never devorce from her Husband, as the Argument saith. And this poore Argument the Prelate stole from Dr. *Ferne*, part 2. Sec. 3. pag. 10, 11. 2. The keeping of Covenant though to our hurt, is a penall hurt, and losse of goods, not a morall hurt, and losse of Religion.

[306]Assert. 3. The King is more properly a sort of Patron, to defend the people, and therefore hath no power given either by God or man to hurt the people, and a Minister or publick and honourable servant, Rom. 13.4. for he is the Minister of *God to thee for good*; he is the Common-wealths servant *objectively*, [307] because all the Kings service, as he is *King*, is for the good, safety, peace and salvation of the people, and in this he is a servant. 2. He is the servant of the people *Representatively*, in that the people hath impawned in his hand all their power to doe *Royall service*. Obj. *He is the servant of God, ergo he is not the peoples*

Servant, but their sovereigne Lord. Ans. It followeth not, because all the service the *King* as *King* performeth to *God*, they are acts of Royalty, and acts of Royall service, as terminated on the people; or acts of their Sovereigne Lord, and this proveth that to be their Sovereigne, is to be their servant, [308] and watch-man.

Object. 2. *God maketh a King only, and the Kingly power is in him only, not in the people.* Ans. *The Royall power is only from God, immediatly,* Immediatione simplicis constitutionis, & solum a Deo solitudine primae causae, by the immediation of simple constitution, none but *God* appointed there should be *Kings*; but 2. Royall power is not in *God*, nor only from *God*; *immediatione applicationis regia dignitatis ad personam, nec a Deo solum, solitudine causae applicantis dignitatem, huic, non illi,* in respect of the applying of Royall dignity to this person, not to this.

Object. 3. *Though Royall power were given to the people, it is not given to the people, as if it were the Royal power of the people, and not the Royall power of God, neither is it any other waies bestowed on the people but as on a beame, a channell, an instrument, by which it is derived [127] to others, and so the King is not the minister or servant of the people.*

Ans. *It is not in the people as in the principall cause;* Sure all Royall power that way is only in *God*; but it is in *the people as in the instrument:* and when the people maketh *David their King at Hebron*, in that same very act, *God* by the people using their free suffrages and consent, maketh *David King at Hebron:* so *God* only giveth raine, and none of the *vanities* and supposed *gods of the Gentiles can give raine*, Ier. 14 22. and yet the Clouds also give raine, as nature, as an organ and vessell out of which *God* powreth down raine upon the dry earth▪ *Amos* 9.6. and every instrument under *God*, that is properly an instrument▪ is a sort of Vicarious cause in *Gods* room, and so the people as in *Gods* roome, applyeth Royall power to *David*, [309] not to any of *Sauls* sonnes, and appointeth *David* to be their Royall Servant to governe, and in that to serve *God*, and to doe that, which a Communitie now in the state of sinne cannot formally doe themselves: and so I see not how it is a service to the people, not only *objectively*, because the *Kings* Royall service tendeth to the good, and peace, and safety of the people; but also *subjectively*, in regard he hath his power and Royall authoritie which he exerciseth as *King*, from the people under *God*, as *Gods* instruments: and therefore the *King* and *Parliament* give out Lawes and Statutes in the name of the whole people of the Land. And they are but flatterers, and belye the *Holy Ghost*, who teach that the people doe not make the *King*; for *Israel* made *Saul* King at *Mizpeh*, and *Israel* made *David* King at *Hebron*.

Object. 3. *Israel made David King, that is, Israel designed Davids person to be King, and Israel consented to Gods act of making David King, but they did not make David King.*

Ans. I say not that *Israel* made the Royall dignitie of *Kings*: [310] *God*, *Deut.* 17. instituted that himselfe: but the *Royalist* must give us an act of *God* going before an act of the peoples making *David King at Hebron*, by which *David* of no *King* is made formally a *King*: and then another act of the People, approving only and consenting to that act of *God*, whereby *David* is made formally of no *King* to be a *King*. This *Royalists* shall never instruct, for there be only two acts of *God* here; 1. *Gods* act of anointing *David* by the hand of *Samuel*; and 2. *Gods* act of making *David King at Hebron*: and a third they shall never give. But the former is not that by which *David* was essentially and formally changed from the state [128] of a private subject, and no *King*, into the state of a publike Judge and supreme Lord and *King*, for (as I have proved) after this act of anointing of *David* *King*, he was designed only and set apart to be *King* in the Lords fit time; and after this anointing, he was no more formally a *King* then *Doeg* or *Nabal* were *Kings*, but a subject who called *Saul* the Lords annointed and *King*, and obeyed *Saul* as another subject doth his *King*: but it is certaine *God* by no other act made *David* *King* at *Hebron*, then by *Israels* act of free electing

him to be King and leader of the Lords people, as God by no other act sendeth down rain on the earth, but by Gods melting the clouds, and causing raine to fall on the earth: and therefore to say *Israel* made *David King at Hebron*, that is, Israel approved only and consented to a prior act of *Gods* making *David* King, is all one as to say *Saul* prophecied, that is, *Saul* consented to a prior act of the Spirit of *God* who prophecied: and *Peter* preached, *Act. 2.* that is, *Peter* approved and consented to the *Holy Ghosts* act of preaching. Which to say, is childish.

Assert. 4. The King is an head of the Commonwealth only *metaphorically*, [311] by a borrowed speech, in a politique sense, because he ruleth, commandeth, directeth the whole politique body in all their operations and functions. But he is not univocally and essentially the head of the Commonwealth. 1. The same very life in number that is in the head, is in the members: there be divers distinct soules and lives in the King, and in his Subjects. 2. The head naturall is not made an head by the free election and consent of armes, shoulders, leggs, toes, fingers, &c. The *King* is made *King* only by the free election of his people. 3. The naturall head, so long as the person liveth, is ever the head, and cannot cease to be a head while it is seated on the shoulders: The *King*, if he sell his people, their persons and soules, may leave off to be a King and Head. 4. The head and members live together, and dye together: the King & the people are not so; the King may dye, and the People live. 5. The naturall head cannot destroy the members, and preserve it selfe: but *King Nero* may waste and destroy his people. *D. Ferne, M. Simmons, the P. Prelate*, when they draw arguments from the head, do but dream, *as the members should not resist the head*. Naturall members should not, or cannot resist the head, though the hand may pull a tooth out of the head, which is no small violence to the head. But *the members of a Politique body* may resist the Politique head. 2. This or that [129] *King* is not the adequate and totall Politique head of the Commonwealth: and therefore though you cut off a *Politique head*, there's nothing done against nature. If you cut off all Kings of the Royall line, and all Governors *Aristocraticall*, both King and Parliament, this were against nature; And a Common-wealth which would cut off all Governors, and all Heads, should goe against nature, and run to ruine quickly. I conceive a societie of reasonable men cannot want Governours. 6. The naturall head communicateth life, sense, and motion to the members, and is the seat of externall and internall senses: the *King* is not so.

Hence *Assert. 5.* the King is not properly the head of a family, [312] for, 1. (as *Tholossa* saith well *de Rep. l. 5. c. 5.*) Nature hath one intention in making the thumbe, another intention in making the whole hand, another in forming the body: so there is one intention of the God of nature in governing of one man, another in governing a Familie, another in governing a Citie: nor is the thumbe King of all the members: so domestick government is not Monarchicall properly. 1. The mother hath a parentall power as the father hath, *Prov. 4.5. & 10.3. & 31.17.* so the 5. Command saith, *Honour thy father and thy mother.* 2. *Domestick* government is naturall, *Monarchicall* politique. 3. *Domestick* is necessary, *Monarchicall* is not necessary, other governments may be as well as it. 4. *Domestick* is universall, *Monarchicall* not so. 5. *Domesticall* hath its rise from naturall instinct without any farther instruction: a *Monarchicall* government is not, but from election, choosing one Government, not another.

Hence that is a fiduciarie power, or a power of trust, [313] wherein 1. the thing put in trust is not his own proper either heritage or gift, so as he may dispose of it as he pleaseth, as men dispose of their goods or heritage. But the *King* may not dispose of men as men, as he pleaseth; nor 2. of Lawes as he pleaseth; nor 3. of governing men, killing or keeping alive, punishing and rewarding, as he pleaseth.

2. My life and Religion, and so my Soule, in some cases, are committed to the King as to a publick Watchman, even as the flock to the feeder, the Citie to the Watchmen: And he may berray it to the Enemy. *Ergo*, he hath the trust of Life and Religion, and hath both tables of the Law in his custodie, *ex officio*, to see that other men then himselfe keep the Law: But the Law is not the Kings [130] own, but given to him in trust. 3. He who receiveth a Kingdom *conditionally*, may be dethroned if he sell it, or put it away to any other is a fiduciarie Patron, and hath it only in trust. So *Hottoman, quest. ill. 1. Ferdinand. Vasquez, illust. quest. l. 1. c. 4. Althusius polit. c. 24. n. 35.* so saith the *law of every Factor or Deputy, l. 40. l. 63. procur. l. 16. C. dict. 1. Antigonus dixit Regnum esse nobilem servitutum. Tyberius Caesar called the Senate, Dominum suum, his Lord. Suetonius in vita Tiberii, c. 29.*

**QUEST. XVIII. What is the law of the King, and his Power? 1 Sam. 8.11.
This will be the manner of the King who shall reigne over you, &c. ↩**

[314] This place, 1 Sam. 8, 9, and v. 11. *The law or manner of the King* is alleadged to prove both the *absolute power of Kings*, and 2. the unlawfulness of resistance: therefore I crave leave here to vindicate the place, and to make it evident to all, that the place speaketh for no such matter. 1. [315] *Hug. Grotius* argueth thus: *that by this place, the people oppressed with injuries of a Tyrannous King, have nothing left them but prayers and cries to God; and therefore there is no ground for violent resisting.* [316] *Barclay* will have us to distinguish inter officium Regis, & potestatem, *between the Kings office, and the Kings power: And he will have the Lord here speaking, not of the Kings office, what he ought to doe before God, but what power a King hath beside and above the power of Judges, to tyrannize over the people, so as the people hath no power to resist it. He will have the Office of the King spoken of Deut. 17. and the Power of the King, 1 Sam. 8. and that power which the People was to obey and submit unto, without resisting.* But I answer, 1. It is a vaine thing to distinguish betwixt the *office* and the *power*; [317] for the *power* is either a *power* to rule according to *Gods* law, as he is commanded, *Deut. 17.* and this is the very office or official power which the *King of Kings* hath given to all *Kings* under him: and this is a power of the Royall office of a *King*, to governe for the Lord his maker; or this is a power to doe ill, and tyrannize over *Gods* people: [318] but this is accidentall to a *King*, and the character of a Tyrant, and is not from *God*: and so the Law of the *King* in this place must be the Tyranny of the *King*, which is our very mind. 2. *Barclay. Reges sine dominatione ne concipi quidem possunt.—Iudices dominationem in populum minimè habebant.* Hence it is cleare that *Barclay* saith, that the *Judges of Israel*, and the *Kings* [131] are different in essence and nature; so that domination is so essentiall to a *King*, that *you cannot conceive a King, but he must have domination, whereas the Judges of Israel had no domination over the people.* Hence I argue that, whereby a *King* is essentially distinguished from a *Iudge*, that must be from *God*; but by domination, which is a power to oppresse the subject, a *King* is essentially distinguished from a *Iudge of Israel. Ergo*, Domination and a power to do Acts of Tyranny, as they are expressed, *Verse 11, 12, 13.* and to oppresse a subject, is from *God*, and so must be a lawfull power; but the conclusion is absurd, the assumption is the doctrine of *Barclay*: The major proposition I prove. 1. Because both the *Iudge* and the *King* was from *God*, for *God* gave *Moses* a lawfull calling to be a *Iudge*, so did he to *Eli*, to *Samuel*, and *Deut. 17.15.* the *King* is a lawfull Ordinance of *God*: If then the *Judge* and the *King*, be both lawfull Ordinances, and if they differ essentially, as *Barclay* saith; then that specificke forme which distinguisheth the one from the other, to wit, Domination and a power to destroy the subject, must be from *God*, which is blasphemous; for *God* can give no morall power to do wickedly; for that is licence, and a power to sin against a Law of *God*, which is absolutely inconsistent with the holinesse of *God*; for so the Lord might deny himself, and dispence with sin (*God* avert such blasphemies.) Now if the kingly power be from *God*, That which essentially and specifically constituteth a *King*, must be from *God*, as the Office it self is from *God*: And [319] *Barclay* saith expressly; That the kingly power is from *God*, and that same which is

the specific form, that constituteth a King, must be that which essentially separateth the King from the Judge, if they be essentially different, as *Barclay* dreameth. Hence have we this *jus Regis*, this Manner or Law of the *King*, to tyrannize and oppresse, to be a power from *God*, and so a lawfull power; by which you shall have this result of *Barclayes* interpretation, That *God* made a Tyrant as well as a *King*. 3. By this difference that *Barclay* putteth betwixt the *King* and the *Judge*, the *Judge* might be resisted; for he had not this power of domination, that *Saul* hath, contrary to *Rom.* 13.2. *Exod.* 22.28. and 20.12.

But let us try the Text first ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ the word cannot inforce us to expone ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ a law; our English rendreth, *Shew them the manner of the King.* [320] *Arri. Montanus* turneth it *ratio Regis.* [132] I grant *the Seventy* render it, [321] ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩. The *Chalde Paraphrase* saith, *Statutum regis.* [322] *Hieronimus* translathet it *jus regis*; so *Calvin*: but I am sure the Hebrew both in words and sense beareth a consuetude; yea, and the word ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ signifieth not alwayes a law, as *Josh.* 6.14. *They compassed the citie* ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *seven times.* 70. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩. 2 *King.* 17.26. *They know not the manner of the God of the Land,* Vers. 33. *They served their own gods, after the manner of the Heathen.* ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ It cannot be according to the Law or right of the Heathen, except ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, be taken in an evill part. 70. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩. Vers. 34. *Vntill this day they do after these manners,* 1 *Kings* 18.28. *Baals Priests cut themselves with Knives* ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *after their manner,* 70. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, *Gen.* 40.13. *Thou shalt give the cup to Pharaoh, according as thou wast wont to do.* ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, *Exod.* 21.19. *He shall deal with her after the manner of daughters,* 1 *Sam.* 27.11. *And David saved neither man nor woman alive, to bring (tydings) to Gath, saying, So did David, and so will his manner be,* ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩. It cannot be, they meant that it was *Davids* law, right, or priviledge to spare none alive, 1 *Sam.* 2.13. *And the Priests custome with the people was, &c.* ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ This was a wicked custome, not a law, and the 70. turneth it, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩; and therefore ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ is not alwayes taken in a good meaning: so [323] *P. Martyr,* *He meaneth here of an usurped law,* saith he; *Calvin* [324] *Non jus a deo prescriptum, sed tyranidem. He speaketh not of Gods law here (saith he) but of tyranny.* [325] *And Rivetus,* ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ signifieth not ever *jus, law. Sed aliquando morem sive modum & rationem agendi, The custome and manner of doing,* so *Junius* [326] and *Tremellius.* [327] *Diodatus* exponeth *jus*; This law, *namely* (saith he) *that which is now grown to a common custome, by the consent of nations, and Gods toleration.* [328] *The interline glosse* (to speak of Papists) *exactionem & dominationem*; The extortion and domination of *King Saul* is here meant. [329] *Lyra* exponeth it *tyranny.* [330] *Tostatus Abulens.* *He meaneth here of Kings indefinitely, who oppressed the people with taxes and tributes, as Solomon and others.* [331] *Cornelius a lapide: This was an unjust law.* [332] *Cajetanus* [133] calleth it, *tyranny.* [333] *Hugo Cardinal,* nameth them, *exactiones & servitutes, exactions and slaveries*: And [334] *Serrarius,* he speaketh not here, *Quid Reges jure possint, What they may do by right and law; Sed quid audeant, What they will be bold to do, and what they tyrannically decern against all Laws of nature and humanitie.* And so [335] speaketh *Tho. Aquinas*: [336] So also *Mendoza,* saith he, speaketh of the *law of Tyrants*: and [337] amongst the fathers, *Clemens Alexandrinus* saith on this place, *Non humanum pollicetur dominum, sed insolentem daturum minatur tyrannum, He promiseth not a humane Prince, but threatneth to give them an insolent Tyrant*; and the like also saith [338] *Beda.* And an excellent [339] Lawyer, *Pet. Rebuffus* saith, *Etiam loquitur de Tyranno qui non erat a Deo electus.* And that he speaketh of *Sauls Tyrannicall usurpation, and not of the law prescribed by God, Deut.* 17. I prove, 1.

He speaketh of such a power, as is answerable to the Acts here spoken of; but the Acts here spoken of, are Acts of meere tyranny, Vers. 11. *And this will be the manner of your King, that shall reign over you, he will take your sons, and appoint them for himself, for his Chariots, and to be his horsemen, and some shall run before his Chariots:* Now to make slaves of their sons, was an Act of Tyranny. 2. To take their *fields and vineyards, and oliveyards* from them, and give them to his servants, was no better then *Ahabs* taking *Naboths vineyard* from him, which by *Gods law* he might not lawfully sell, except in the case of extreme povertie, and then in the yeer of *Jubilee*, he might redeem his own inheritance. 3. Verse 15, 16. To put the *people of God* to bondage and make them servants, was to deal with them, as the Tyrant *Pharaoh* did. 4. He speaketh of such a law, the execution whereof should make *them cry out to the Lord, because of their King:* but the execution of the just Law of the King, *Deut.* 17. is a blessing, and not a bondage which should make the people cry out of the bitterness of their spirit. 5. It is clear here, that God is by his Prophet, not instructing the King in his duty, but as [340] *Rabbi Levi Ben. Gersom* saith, *Terrifying them from their purpose of seeking a King, and foretelling the evil of punishment that they should suffer under a tyrannous King;* But he speaketh not one word of these necessary and comfortable Acts of favour, that a good King by his good Government was to do for his people, *Deut.* 17. [134] 15, 16. But he speaketh of contrary facts here; and that he is dissuading them from suiting a King, is clear from the Text. 1. Because he saith, Give them their will; but yet protest against their unlawfull course. 2. He biddeth the Prophet lay before them the tyranny, and oppression of their King; which tyranny *Saul* exercised in his time, as the story sheweth. 3. Because how uneffectuall *Samuels* exhortation was, is set down, Verse 19. *Neverthelesse, they would not obey the voice of Samuel, but said, Nay, but we will have a King over us;* if *Samuel* had not been dehorting them from a King, how could they be said in this, to refuse to heare the voice of *Samuel*? [341] 6. The ground of *Barclay* and *Royalists*, here is weak, *For they say, that the people sought a King like the Nations, and the Kings of the Nations were all absolute, and so Tyrants; And God granted their unlawfull desire, and gave them a Tyrant to reign over them, such as the Nations had.* The plain contrary is true, they sought not a Tyrant, but one of the speciall reasons why they sought a King, was to be freed of Tyranny; for 1 *Sam.* 8.3. *Because Samuels sons turned aside after lucre, and took bribes, and perverted judgement; therefore all the Elders of Israel gathered themselves together, and came to Samuel, to Ramah, and their they sought a King.* 7. One could not more clearly speak with the mouth of a false Prophet, then the *Author of active and passive obedience* doth, while he will have *Samuel* here to describe a King, [342] and to say; *ye have formerly committed one error in shaking off the yoke of God, and seeking a King; so now beware you fall not in the next error, in casting of the yoke of a King, which God at your own desire hath laid on you, for God hath onely power, both to make and unmake Kings; therefore prepare your selves patientlie to suffer and bear.* Answ. For if he were exhorting to patient suffering of the yoke of a King, he should presume it were Gods revealed and regulating will, that they should have a King; But the scope of *Samuels* Sermon, is to dissuade them from a King, and they by the contrary (*Verse 19.* say they) *Nay, but we will have a King;* and there not one word in the Text, that may intimate patience under the yoke of a King. 2. There is here the description of a Tyrant, not of a King. 3. Here is a threatning and a prediction, not any thing that smelleth of an exhortation.

[343]Object. *But it is evident, that God teaching the people how to behave themselves under the unjust oppressions of their King, he sets [135] down no remedy but tears, crying to God, prayer, and patience; therefore resistance is not lawfull.*

Answ. [344]Though this be not the place due to the doctrine of Resistance, yet to vindicate the place; I s••y, there is not one word of any lawfull remedy in the Text, onely it is said, \langle in non-Latin alphabet \rangle in non-Latin alphabet \rangle , *Et cl••matis in illa die a faciebus regis vestri:* It is not necessarily to be exponed of praying to God, *Iob* 35.9. by reason of the

multitude of the oppression, *They make the oppressed to cry*, \langle in non-Latin alphabet \rangle \langle in non-Latin alphabet \rangle *clamare faciunt*, Isai. 15.4. *And Heshbon shall cry*. \langle in non-Latin alphabet \rangle \langle in non-Latin alphabet \rangle *The armed souldiers of Moab shall cry out*. There is no other word here, then doth expresse the idolatrous prayers of *Moab*, Isai. 17.12. and *Habbak*. 2.11. *The stone shall cry out of the wall* \langle in non-Latin alphabet \rangle \langle in non-Latin alphabet \rangle , *Deut*. 22.24. *You shall stone the maide* \langle in non-Latin alphabet \rangle \langle in non-Latin alphabet \rangle , *because she cryed not* \langle in non-Latin alphabet \rangle \langle in non-Latin alphabet \rangle ; but she is not to be stoned, because *she prayed not to God*, *Ps*. 18.4. *Davids enemies cryed, and there was none to save, even to the Lord, and he heard not*. 2. *Though it were the Prophets meaning, they cryed to the Lord*, yet it is not the crying of a people humbled, and in faith speaking to God in their troubles, *Zach*. 7.13. *They cryed, and I will not heare*, therefore *Royalists* must make *crying to God* out of the bitterness of affliction, without humiliation and faith, and such prayers of sinners as God heareth not, *Psal*. 18.41. *Ioh*. 9.31. *Esay* 17.12. to be the only remedy of a people oppressed by a *Tyrannous King*; now it is certaine, *God* prescribeth no unlawfull meanes to an oppressed people, under their affliction, therefore it is cleare here, that *God* speaketh only of evils of punishment, such as is *to cry* in trouble, and not be heard of *God*, and that he prescribeth here no duty at all, nor any remedy. 3. All Protestant Divines say; *Ex particulari non valet argumentum negativé, from one particular place, a negative argument is not good*. This remedy is not written in this particular place, therefore it is not written at all in other places of Scripture; so *1 Tim*. 1.19. The end of excommunication is, that the party excommunicated may learne not to blaspheme, *ergo* the end is not also that the Church be not infected, it followeth not, the contrary is cleare, *1 Cor*. 5. v. 6. D. *Ferne* and other *Royalists* teach us, that we may supplicate and make prayers to a *Tyrannous King*. 2. We may fly from a tyrannous *King*: but neither supplicating the *King*, nor flying from his fury shall be lawfull meanes left by this Argument, because these meanes are no more in this text (where *Royalists* say the spirit [136] of *God* speaketh of purpose of the meanes to be used against Tyranny) then violent resisting, is in this text.

Barclay, Ferne, Grotius, Arnisaeus, the P. Prelate following them saith, [345] *An ill King is a punishment of God, for the sins of the people, and there is no remedy but patient suffering*. *Ans*. Truly it is a silly Argument. The *Assyrians* comming against the people of *God*, for their sins, is a punishment of *God*, *Esa*. 10.5.12.13. But doth it follow that it is unlawfull, for *Israel* to fight and resist the *Assyrians*, and that they had warrant to doe no other thing, but lay downe Armes, and pray to *God*, and fight none at all? Is there no lawfull resisting of ills of punishment, but meere prayers and patience? The *Amalikites* came out against *Israel* for their sinnes, *Senahkerib* against *Ezekiah*, for the sins of the people. *Asa* his enemies fought against him for his sins, and the peoples sins; shall *Moses* and the people, *Hezekiah, Asa*, do then nothing but pray and suffer? Is it unlawfull with the sword to resist them? I beleeve not, Famine is often a punishment of *God* in a Land, *Amos*. 4.7, 8. is it therefore in famine, unlawfull to till the earth, and seeke bread by our industry and are we to doe nothing but to pray for daily bread? It is a vaine Argument.

Observe therefore the wickednesse of *Barclay, contra Monarch*. l. 2. p. 56. for he would prove, that *a power of doing ill, and that without any punishment to be inflicted by man, is from God; because our Lawes punish not perjurie, but leaveth it to be punished of God*, l. 2. l. de Reb. cred. *Cujacius*, l. 2. obs. c. 19. *And the husband in Moses his law, had power to give a bill of divorce to his wife, and send her away; and the husband was not to be punished. And also Stewes and work-houses for harlots, and to take usurie, are tolerated in many Christian Commonwealths, and yet these are all sorts of murthers, by the confession of Heathen: Ergo, (saith Barclaius) God may give a power for Tyrannous acts to Kings, so as they shall be under no punishment to be inflicted by men*.

Ans. All this is an argument from fact. 1. A wicked Magistracie may permit perjurie and lying in the Common-wealth, [346] and that without punishment; and some Christian Commonweales, he meaneth his own *Synagogue of Rome, spirituall Sodome, a cage of uncleane birds*, suffereth Harlotrie by Law, and the whores pay so many thousands yearely to the *Pope*, and are free of all punishment by Law, to eschew homicides, adulteries of Romish Priests, and other [137] greater sinnes: Therefore *God* hath given power to a King to play the *Tyrant*, without any feare of punishment to be inflicted by man. But 1. if this be a good argument, The Magistrate to whom *God* hath committed the sword *to take vengeance on evill doers*, *Rom.* 13.3, 4, 5▪ 6. such as are perjured persons, professed whores and harlots, hath a lawfull power from *God* to connive at sinnes and grosse scandals in the Commonwealth, as they dreame that the *King* hath power given from *God* to exercise all acts of Tyranny without any resistance. But, 1. this was a grievous sinne in *Eli*, that he being a father and a Iudge, punished not his sonnes for their uncleannesse, and his house, in Gods heavy displeasure, was cut off from the Priesthood therefore. Then *God* hath given no such power to the Iudge. 2. The contrary duty is lying on the Iudge, *To execute judgement for the oppressed*, *Iob* 29.12, 13, 14, 15, 16, 17. *Ier.* 22.15, 16. and perverting of judgement, and conniving at the heynous sinnes of the wicked, is condemned, *Num.* 5.31, 32. *1 Sam.* 15.23. *1 King.* 20.42, 43. *Esa.* 1.17. & 10.1. & 5.23. and therefore *God* hath given no power to a Iudge to permit wicked men to commit grievous crimes, without any punishment. As for the *Law of Divorce*, it was indeed a permissive law, whereby the husband might give the wife a *bill of divorce*, and be free of punishment before men, but not free of sinne and guiltinesse before *God*, for it was contrary to Gods institution of Mariage at the beginning, as *Christ* saith: and the Prophet saith, that the *Lord hateth putting away*. [347] But that *God* hath given any such permissive power to the *King*, that he may doe what he pleaseth, and cannot be resisted: This is in question. 3. The Law spoken of in the Text, is by *Royalists* called, not a *consuetude of Tranny*, but the *divine law of God, whereby the King is formally and essentially distinguished from the Judge in Israel*: Now if so, a power to sinne, and a power to commit acts of Tyranny, yea, and a power in the Kings Sergeants and bloody Emissaries to waste and destroy the people of God, must be a lawfull power given of *God*: for a lawfull power it must be, if it commeth from God, whether it be from the *King* in his own person, or from his servants at his commandement, and by either put forth in acts, as the power of a bill of Divorce was a power from *God*, exempting either the husband from punishment before men, or freeing the servant, who at the husbands command, should write it, and put it in the hands of the woman. I cannot beleeeve that *God* hath given a power, and that by Law, to one Man to command [138] twenty thousand Cut-throats to kill and destroy all the Children of *God*, and that he hath commanded his Children to give their necks and heads to *Babels sonnes* without resistance. This I am sure is another matter then a Law for a bill of Divorce to one woman, married by free election of a humorous and unconstant man. But sure I am, *God* gave no permissive law from heaven, like the law of Divorce, for the hardnesse of the heart, not of the Iewes only, but also of the whole Christian and Heathen Kingdomes under a Monarch; that one Emperour may, by such a Law of God, as the Law of Divorce, kill, by bloody Cut-throats, such as the Irish Rebels are, all the Nations that call on Gods name, men, women, and sucking infants. And if Providence impede the Catholike issue, and dry up the seas of Blood, it is good: but *God* hath given a law, such as the law of Divorce, to the King, whereby he, and all his, may without resistance, by a legall power given of *God*, who giveth Kings to be fathers, nurses, protectors, guides, yea the breath of nostrils of his *Church*, as special mercies and blessings to his people, he may (I say) by a law of *God*, as it is *1 Sam.* 8.9, 11. cut off Nations, as that Lyon of the world, *Nebuchadnezzar* did. So *Royalists* teach us.

Barclaius 1. 2. cont. Monarchoma. pag. 69. *The Lord spake to Samuel the Law of the King, and wrot it in a book••, and laid it up before the Lord. But what Law? That same law which he proposed to the people when they first sought a King: but that was the Law contemning Precepts rather for the peoples obeying, then for the Kings commanding, for the*

people was to be instructed with those precepts, not the King. Those things that concerned the Kings duty, Deut. 17. Moses commanded to be put into the Arke, but so if Samuel had commanded the King, that which Moses, Deut. 17. commanded, he had done no new thing, but had done againe what was once done, actum egisset, but there was nothing before commanded the people concerning their obedience and patience under evill Princes. Ioseph. Antiq. 1. 6. c. 5. he wrote *< in non-Latin alphabet >* *< in non-Latin alphabet >*, the evils that were to befall them. Ans. It was not that same Law, for though this Law was written to the people, yet it was the Law of the King: and I pray you, did *Samuel* write in a booke all the Rules of Tyranny, [348] and teach *Saul* and all the Kings after him (for this book was put in the Ark of the Covenant, where also was the booke of the Law) how to play the Tyrant? And what instruction was it to King or people to write to them a book of the wicked waies of a King, which nature teacheth without a Doctor? [139] *Sanctius* saith on the place, *These things which by mens fraud, and to the hurt of the publick may be corrupted, were kept in the Tabernacle, and the booke of the Law was kept in the Arke.* *Cornelius a Lapide* saith, *It was the Law common to King and people, which was commonly kept with the booke of the Law, in the Arke of the Covenant.* *Lyra* contradicteth *Barclay*, he exponeth *Legem, legem regni non secundum usurpationem supra positam, sed secundum ordinationem Dei positam*, Deut. 17. *Theodat.* excellently exponeth *it the fundamentall Lawes of the Kingdome, inspired by God to temper Monarchy, with a liberty befitting Gods people, and with equity toward a Nation—to withstand the abuse of an absolute power.* 2. Can any beleeeve *Samuel* would have written a Law of Tyranny, and put that booke in the Arke of the Covenant before the Lord, to be kept to the posterity, seeing he was to teach both King and people the *good and the right way*, 1 Sam. 12.23, 24, 25. 3. Where is the Law of the Kingdome called a Law of punishing innocent people? 4. To write the duty of the King in a booke, and apply it to the King, is no more superfluous, nor to teach the people the good and the right way out of the Law, and apply generalls to persons. 5. There is nothing in the Law, 1 Sam. 8.9.11.12. of the peoples patience, but rather of their impatient crying out, God not hearing nor helping; and nothing of that in this booke, for any thing that we know, and *Iosephus* speaketh of the Law, 1 Sam. 8. not of this Law, 1 Sam. 12.

QUEST. XIX. Whether or no the King be in Dignity and power above the people? ↩

IN this grave question divers considerations are to be pondered.

1. There is a Dignity materiall in the people scattered, they being many representations of *God* and his Image, [349] which is in the King also, and formally more as King, he being indued with formall Magistraticall and publick Royall Authority, in the former regard this or that man is inferiour to the King, because the King hath that same remander of the Image of *God* that any private man hath, and something more, he hath a politicke resemblance of the King of Heavens, being a little *God*, and so is above any one man.

2. All these of the people taken collectively having more of *God*, as being representations, are according to this materiall dignity excellenter then the King, because many are excellenter then one, and the King according to the Magistraticall and Royall Authority he hath, is excellenter then they are, because he partaketh formally of [140] *Royalty*, which they have not formally.

3. A meane or medium, as it is such, is lesse then the end, though the thing materially that is a meane, [350] may be excellenter; every mean as a meane, under that reduplication hath all its goodnesse and excellency in relation to the end, yet an Angell that is a meane, and a ministring Spirit, ordained of *God* for an heire of life eternall, *Heb.* 1.13. considered materially, is excellenter then a man, *Psal.* 8.5. *Heb.* 2.6, 7, 8.

4. A *King* and leader in a military consideration, and as a Governour and conserver of the whole Army, is more worth then ten thousand of the people, *2 Sam.* 18.3.

[351]5. But simply and absolutely the people is above, and more excellent then the *King*, and the *King* in Dignity inferiour to the people; and that upon these Reasons. 1. Because he is the meane ordained for the people, [352] as for the end, that he may save them, *2. Sam.* 19.9. a publick *shepherd to feede them*, *Ps.* 78.70, 71, 72, 73. the Captaine and Leader of the Lords inheritance, *1 Sam.* 10.1. to defend them, [353] the *Minister of God for their good*, *Rom.* 13.4. 2. The Pilot is lesse then the whole Passengers, the Generall lesse then the whole Army, the Tutor lesse then all the children, the Physician lesse then all the living men whose health he careth for; the Master or Teacher lesse then all the Schollars, because the part is lesse then the whole: the King is but a part and a member (though I grant a very eminent and Noble Member) of the *Kingdome*. [354] 3. A Christian people especially is the *portion of the Lords inheritance*, *Deut.* 32.9. *the sheepe of his pasture*, his redeemed ones, for whom God gave his blood, *Act.* 20.28. And the killing of a man is to violate the *Image of God*, *Gen.* 9.6. and therefore the death and destruction of a *Church*, and of thousand thousands of men is a sadder and a more heavy matter then the death of a *King*, who is but one man. 4. A King as a *King*, or because a *King* is not the inheritance of God, nor the chosen and called of *God*, [355] nor the sheepe or flocke of the Lords pasture, nor the *redeemed* of Christ, for those excellencies agree not to *Kings*, because they are *Kings*; for then all *Kings* should be indued with those excellencies, and *God* should an be accepter of persons, if he put those excellencies of Grace upon men for externall respects of highnesse and Kingly power, and worldly glory and splendor; for many living Images and representations of *God*, as he is holy, or more excellent then a politique representation [141] of *Gods* greatnesse and Majesty, such as the *King* is; because that which is the fruit of a love of *God*, which commeth nearer to *Gods* most speciall love, is more excellent then that which is farther remote from his speciall love; now though *Royalty* be a beame of the Majesty of the greatnesse of the *King of Kings*, and *Lord of Lords*; yet is it such a fruit and beam of *Gods* greatnesse, as may consist with the eternall reprobation of the party loved, so now *Gods* love from whence he communicateth his Image, representing his owne holinesse, commeth nearer to his most speciall love of election of men to glory.

5. If God give Kings to be a ransome for his Church, [356] and if he stay great Kings for their sake, as *Pharaoh* King of *Aegypt*, [357] *Esa.* 43.3 and *Sihon* King of the *Amorites*, and *Og* King of *Bashan*, *Ps.* 136.18, 19, 20. if he plead with Princes and Kings for destroying his people, *Esa.* 3. v. 12, 13, 14. if he make *Babylon* and her King a threshing-floore, for the *violence done to the inhabitants of Zion*, *Ier.* 51.33, 34, 35. then his people as his people, must be so much dearer and more precious in the Lords eyes, then Kings because they are Kings, by how much more his Justice is active to destroy the one, and his Mercy to save the other. Neither is the Argument taken off, by saying the King must in this question be compared with his owne people; not a forraigne King with other forraigne people over whom he doth not Raigne, for the Argument proveth that the people of God are of more worth then Kings as Kings; and *Nebuchadnezer* and *Pharaoh* for the time were Kings to the people of God, and forraigne Kings are no lesse essentially Kings, then Kings native are.

6. Those who are given of God as gifts for the preservation of the people, to be Nurse-fathers to them; [358] those must be of lesse worth before God, then those to whom they are given, since the gift, as the gift, is lesse then the party on whom the gift is bestowed. But the King is a gift for the good and preservation of the people, as is cleare, *Esa* 1.26. And from this that God gave his people a King in his wrath, we may conclude, that a King of himselfe, except God be angry with his people, must be a gift.

7. That which is eternall, and cannot politically die, [359] yea which must continue as the dayes of heaven, because of Gods promise; That is more excellent then that which is both accidentall, temporarie and mortall. But the People is both eternall, as People, because [142] *Eccles. 1.4. one generation passeth away, [360] and another generation commeth:* And as a people in covenant with *God*, *Ier. 32.40, 41.* in respect that a People and Church, though mortall in the individuals, yet the *Church*, remaining the *Church*, cannot dye; but the *King*, as *King*, may, and doth dye: It is true, where a Kingdome goeth by succession, the Politicians say, the *man who is King, dyeth; but the King never dyeth*, because some other, either by birth or free election, succeedeth in his roome. But I answer, 1. People by a sort of necessity of nature succeedeth to People, generation to generation, except Gods judgement, contrary to nature, intervene to make *Babylon* no people, and a *land that shall never be inhabited*, (which I both believe and hope for, according to Gods word of Prophecie) But a *King* by a sort of contingencie succeedeth to *Kings*: for nature doth not ascertaine us there must be *Kings* to the worlds end; because the essence of Governours is kept safe in *Aristocracie* and *Democracie*, though there were no *Kings*. And that *Kings* should necessarily have been in the world, [361] if man had never fallen in sinne, I am not, by any cogent argument, induced to beleve. I conceive there should have been no Government but these of Fathers & Children, Husband and Wife; and (which is improperly Government) some more gifted with supervenient additions to nature, as gifts and excellencies of Engines. Now in this point, *Althusius polit. c. 38. n. 114.* saith, the *King* in respect of office is worthier then the people; (but this is but an accidentall respect) but as the *King* is a man, he is inferior to the people.

But, 8. he who by office is obliged to expend himselfe, and to give his life for the safety of the people, [362] he must be inferior to the people. [363] So *Christ* saith, the life is more then rayment or food, because both these give themselves to corruption for mans life: so the beasts are inferiour to man, because they die for our life, that they may sustaine our life: And *Caiaphas* prophesied right, that it was better that one man die, then that the whole Nation perish, *Joh. 11. v. 50.* and in nature, Elements against their particular inclination defraud themselves of their private and particular ends, that the Commonwealth of Nature may stand, as heavy elements ascend, light descend, lest nature should perish by a vacuitie. And *the good shepherd*, *Ioh. 10. giveth his life for his sheep.* So *Saul* and *David* both were made *Kings* to fight the Lords battels, and to expose their lives to hazard for the safetie of the *Church* and people of *God*. But the [143] *King* by office is obliged to expend his life for the safety of the people of *God*; he is obliged to fight the Lords battels for them, to goe betwixt the Flock and death, as *Paul* was willing to be spent for the *Church*. It may be objected, *Jesus Christ* gave himselfe a Ransome for his *Church*, and his life for the life of the World, and was a gift given to the world, *Ioh. 3.16. & 4.10.* and he was a meane to save us: And so what arguments we have before produced to prove that the *King* must be inferior to the people, because he is a ransome, a meane, a gift; are not concludent. I answer: [364] Consider a meane reduplicatively, and *formaliter*, as a meane, and secondly, as a meane materially, that is, the thing which is a meane. 2. Consider that which is only a mean, and ransome, and gift, and no more; and that which, beside that it is a meane, is of a higher nature also. So *Christ* formally as a meane, giving, 1. his temporall life; 2. for a time; 3. according to the flesh: For, 1. the eternall life; 2. of all the *Catholike Church* to be glorified eternally; 3. not his blessed Godhead and glorie, which, as *God*, he had with the Father from eternitie. In that respect *Christ* hath the relation of a servant, ransome, gift, and some inferioritie in comparison of the *Church of God*: and his Fathers glory, as a meane, is inferior to the end, but *Christ* materially, *in concreto*: *Christ* is not only a meane to save his *Church*, but as *God*, [365] (in which consideration he was the immortall Lord of life) he was more then a meane, even the author, efficient and Creator of heaven and earth: and so there is no ground to say that he is inferiour to the *Church*; but the absolute head, *King*, the chiefe of ten thousand, more in excellencie and worth then ten thousand millions of possible worlds of men and Angels. But such a consideration cannot befall any mortall *King*; because, consider the *King* materially as a

mortall man, he must be inferior to the whole *Church*, for he is but one, and so of lesse worth then the whole Church, as the thumb, though the strongest of the fingers, yet it is inferior to the hand, and far more to the whole body, as any part is inferior to the whole. 2. Consider the King *reduplicative*, and formally as King, and by the official relation he hath, he is no more then but a Royall servant, an official meane, tending, *ex officio*, to this end, to preserve the people, to rule and governe them; and a gift of God, given, by vertue of his office, to rule the people of God: and so any way inferiour to the people.

9. Those who are before the King, and may be a People without [144] a King, [366] must be of more worth then that which is posteriour, and cannot be a King without them. For thus Gods selfe sufficiency is proved, in that he might be, and eternally was blessed for ever, without his Creature, but his creature cannot subsist in being without him. Now the people were a people many yeares, before there was any government (save domestick) and is a people where there is no King, but only an *Aristocracy*, or a *Democracy*; but the King can be no King without a people. It is vaine that some say, the King and Kingdome are relatives, and not one is before another; for its true in the naked relation, so are father and sonne, Master and servant, *Relata simul natura*; but sure there is a priority of worth and independency for all that, in the father above the sonne, and in the master above the servant, and so in the people above the King, take away the people, and *Dyonisius* is but a poore Schoole-master.

[367]2. *Asser.* The people in power are superiour to the King, 1. because every efficient and constituent cause is more excellent then the effect. Every meane is inferiour in power to the end, so *Iun. Brutus*, q. 31. *Bucher l. 1. c. 16. Author. Lib. De offic. Magistr. q. 6. Henaenius disp. 2. n. 6. Ioan. Roffensis Epist. De potest. pap. l. 2. c. 5. Spalato de Repu. Ecclesiast. l. 6. c. 2. n. 31.* but the people is the efficient and constituent cause, the King is the effect, the people is the end; both intended of God to save the people, to be a healer and a Physician to them, *Esay 3. v. 7.* and the people appoint and create the King out of their indigence, to preserve themselves from mutuall violence. Many things are objected against this, 1. That the efficient and constituent cause is God, and the people is only the instrumentall cause; and *Spalato* saith, *that the people doth indirectly only give Kingly power, because God, at their act of election, ordinarily giveth it.* *Ans.* The Scripture saith plainly, as we heard before, the people made Kings, and if they doe, as other second causes produce their effects, it is all one that God as the principall cause maketh Kings, else we should not argue from the cause to the effect amongst the creatures. 2. God by that same action that the people createth a King, [368] doth also, by them, as by his instruments create a King, and that God doth not immediatly, at the naked presence of the act of popular election, conferre Royall dignity on the man, without any action of the people, as they say by the Churches act of conferring Orders, God doth immediatly without any act of the Church, infuse [145] from Heaven supernaturall habilities on the man, without any active influence of the *Church*, is evident by this, [369] 1. The Royall power to make Lawes with the *King*, and so a power eminent in their states representative to governe themselves, is in the people, for if the most high act of Royalty be in them, why not the power also? and so what need to fetch a Royall power from Heaven, to be immediatly infused in him, seeing the people hath such a power in themselves at hand? 2. The people can, and doth limite, and bind Royall power in elected *Kings*, [370] *ergo* they have in them Royall power to give to the King; those who limit power, can take away so many degrees of Royall power, and those who can take away power, can give power; and it is unconceivable, to say that people can put restraint upon a power immediatly comming from *God*, [371] if *Christ* immediatly infuse an Apostolick spirit in *Paul*, mortall men cannot take from him any degrees of that infused spirit; if *Christ* infuse a spirit of nine degrees, the *Church* cannot limit it to six degrees only; but *Royalists* consent that the people may choose a *King*, upon such conditions to raigne, as he hath Royall power of ten degrees, whereas his Ancestor had by birth a power of foureteen degrees. 3. It is not intelligible that the *Holy Ghost* should give Commandement to the people to make such a

man *King*, [372] Deut. 17.15, 16. and forbid them to make such a man *King*, if the people had no active influence in making a *King* at all, but *God* solely and immediately from Heaven did infuse Royalty in the *King* without any action of the people, save a naked consent only, and that after *God* had made the *King*, they should approve only with an after-act of naked approbation. 4. If the people by other Governours, [373] as by heads of families, and other choise men, governe themselves, and produce these same formall effects of Peace, Justice, Religion, on themselves, which the *King* doth produce, then is there a power of the same kind, and as excellent as the Royall power in the people, and no reason, but this power should be holden to come immediatly from *God*, as the *Royall Power*, for it is every way of the same nature and kind, and as I shall prove, *Kings and Iudges differ not in nature and spece*, but it is experienced that people doe, by *Aristocraticall* guides, governe themselves, &c. so then, if *God* immediatly infuse Royalty, when the people chooseth a *King*, without any action of the people, then must *God* immediatly infuse a beame of governing on a Provost and a Bailiffe, when the people choose such, and that [146] without any action of the people, because all Powers are, *in abstracto*, from *God*, Rom. 13.2. and *God* as immediatly maketh inferiour Iudges, as superiour, *Prov.* 8.16. and all promotion, even to be a *Provost* or *Major*, commeth from *God* only, as to be a *King*, except Royalists say, all promotion commeth from the East, and from the West, and not from *God*, except promotion to the Royall Throne, the contrary whereof is said, *Ps.* 75.6, 7. 1 *Sam.* 2.7, 8. not only *Kings*, but all *Judges* are *Gods*, *Ps.* 82.1, 2. and therefore all must be the same way created and moulded of *God*, except by Scripture *Royalists* can shew us a difference. [374] An *English Prelate* giveth Reasons, why *People, who are said to make Kings as efficientes, and Authours, cannot unmake them: the one is, because God as chief and sole supreme Moderator maketh Kings*, but I say, *Christ* as the chiefe Moderator, and head of the Church, doth immediatly conferre abilities to a man to be a Preacher, and though by industry the man acquire abilities, yet in regard the Church doth not so much as instrumentally conferre those abilities, they may be said to come from *God* immediatly, in relation to the *Church*, who calleth the man to the ministry, [375] yea *Royalists*, as our excommunicated Prelate learned from *Spalato*, say that *God*, at the naked presence of the Churches call, doth immediatly infuse that from Heaven, by which the man is now in Holy Orders, and a Pastor, whereas he was not so before; and yet Prelates cannot deny, but they can unmake Ministers, and have practised this in their unhallowed Courts: and therefore though *God* immediatly without any action of the people make *Kings*, this is a weake reason, to prove they cannot unmake them. As for their undeleble character, that Prelates cannot take from a Minister, it is nothing, if the *Church* may unmake a Minister, though his character goe to prison with him: [376] we seeke no more but to anull the reason. *God* immediatly maketh *Kings* and Pastors, *ergo* no power on earth can unmake them; this consequence is as weake as water. 2. *The other cause is, because God hath erected no Tribunall on earth higher then the Kings Tribunall, ergo* no power on earth can unmake a *King*; the Antecedent and consequence is both denied, and is a begging of the question: for the Tribunall that made the *King* is above the *King*. 2. Though there be no Tribunall formally regall and *Kingly* above the *King*, yet is there a Tribunall vertuall eminently above him in the case of tyranny, for the States and Princes have a Tribunall above him.

[147]

3. To this *the constituent cause is of more power and dignity then the effect, and so the people is above the King.* [377] The *P. Prelate* borrowed an answer from *Arnisaeus*, and *Barclay*, and other *Royalists*, and saith, If we knew any thing in Law, or were ruled by reason; *Every constituent* (saith *Arnisaeus* and *Barclay* more accurately then the *P. Prelate* had a head to transcribe their words) *where the constituent hath resigned all his power in the hand of the Prince whom h•• constitutes, is of more worth, and power, then he in whose hand they resigne the power: so the proposition is false. The servant who hath constituted his Master Lord of his liberty, is not worthier then his Master whom he hath made his Lord, and*

to whom he hath given himselfe a•• a slave; for after he hath resigned his liberty he cannot repent, he must keepe covenant though to his hurt: yea such a servant is not only not above his Master, but he cannot move his foot without his Master. The Governour of Britaine (saith Arnisaeus) being despised by King Philip▪ resigned himselfe as Vassall to King Edward of England, but did not for that make himselfe superiour to King Edward: indeed he who constituteth another under him as a Legat, is superiour; but the people do•• constitute a King above themselves, not a King under themselves, and therefore the people are not by this made the Kings superiour, but his inferiour.

Ans. 1. It is false that the people doth, or can by the Law of nature resigne their whole liberty in the hand of a King, 1. they cannot resigne to others that which they have not in themselves, *Nemo potest dare quod non habet*, but the people hath not an absolute power in themselves to destroy themselves, or to exercise those tyrannous acts spoken of, 1 *Sam.* 8.11, 12, 13, 14, 15, &c. for neither God, nor Natures Law hath given any such power. 2. He who constituteth himselfe a slave is supposed to be compelled to that unnaturall fact of alienation of that liberty, which he hath from his Maker, from the wombe, by violence, constraint, or extreame necessity, and so is inferiour to all free men, but the people doth not make themselves slaves when they constitute a *King* over themselves, because God giving to a people a *King*, the best and excellentest Governour on earth, giveth a blessing and speciall fafour, *Esay* 1.26. *Hosea* 1. v. 11. *Esay* 3.6, 7. *Ps.* 79.70, 71, 72. but to lay upon his people the state of slaverie, in which they renounce their whole libertie, is a curse of *God*, *Gen.* 9.25. *Gen.* 27.29. *Deut.* 28.32.36. But the people having their liberty to make any [148] of ten or twenty, [378] their King, and to advance one from a private state to an honorable throne, whereas it was in their libertie to advance another, and to give him Royall power of ten degrees, whereas they might give him power of twelve degrees, and of eight, or sixe, must be in excellencie and worth above the man, whom they constitute King, and invest with such honour: as Honour in the fountaine, and *honos participans & originans*, must be more excellent and pure then the derived honour in the *King*, which is *honos participatus & originatus*. 2. If the servant give his libertie to his master, *ergo*, he had that libertie in him; and in that act, libertie must be in a more excellent way in the servant, as in the Fountaine, then it is in the master: and so this libertie must be purer in the people then in the King: and therefore in that, both the servant is above the master, and the People worthier then the King: and when the people give themselves conditionally and Covenant-wise to the *King*, as to a Publique servant, and Patron, and Tutour, as the *Governour of Britaine*, out of his humour, gave himselfe to *King Edward*; there is even here a note of superioritie; Every giver of a benefit, as a giver, is superior to him to whom the gift is given; though after the servant hath given away his gift of libertie, by which he was superiour, he cannot be a superior, because by his gift he hath made himselfe inferior. 3. The People constituteth a *King* above themselves, I distinguish, *supra se*, above themselves, according to the fountaine power of Royaltie, that is false; for the fountaine-power remaineth most eminently in the people, 1. because they give it to the King, *ad modum recipientis*, and with limitations, *ergo*, it is unlimited in the people, and bounded and limited in the King, and so lesse in the King then in the people. 2. If the *King* turne distracted, and an *ill spirit from the Lord* come upon *Saul*, so as reason be taken from a *Nebuchadnezzar*, it is certaine the people may put Curators and Tutours over him, who hath the Royall power. 3. If the King be absent, and taken captive, the People may give the *Royall power* to one, or to some few to exercise it as *custodes regni*. And 4. if he die, and the Crown goe by election, they may create another with more or lesse power: all which evinceth, that they never constituted over themselves a *King*, in regard of *fountaine-power*; for if they give away the fountaine, as a slave selleth his libertie, they could not make use of it. Indeed they set a King above them, *quoad potestatem legum executivam*, in regard of a power of executing lawes and actuall government, [149] for their good and safetie: but this proveth only that the *King* is above the people, (in non-Latin alphabet) (in non-Latin alphabet), in some respect; but the most eminent and fountaine-power of Royaltie

remaineth in the people, as in an immortall spring, [379] which they communicate by succession to this or that mortall man, in the manner and measure that they thinke good: And *Vlpian* and *Bartolus*, cited by our *Prelate* out of *Barclaius*, are only to be understood of the derived▪ secondary and borrowed power of executing lawes, and not of the fountaine power, which the people cannot give away, no more then they can give away their rationall nature; for it is a power naturall, to conserve themselves, essentially adhering to every created Being: For, if the People give all their power away, 1. What shall they reserve to make a new King, if this man dye? 2. What if the Royall line surcease? there be no Prophets immediately sent of *God*, to make *Kings*. 3. What if he turne Tyrant, and destroy his Subjects with the sword? The Royalists say, *they may flie*: but when they made him *King*, they resigned all their power to him, even their power of *flying*; for they bound themselves by an oath (say *Royalists*) to all passive and lawfull active obedience: and, I suppose, to stand at his Tribunal, if he summoned the three Estates, upon Treason, to come before him, is contained in the oath, that Royalists say, bindeth all, and is contradictorie to flying.

Annisaeus, a more learned Iurist and Divine then the *P. Prelate*, answereth the other Maxime, [380] *The end is worthier then the meane leading to the end, because it is ordained for the end. These meanes, saith he, which referre their whole nature to the end, and have all their excellencie from the end, and have excellencie from no other thing but from the end, are lesse excellent then the end; that is true, such an end as medicine is for health. And Hugo Grotius, l. 1. c. 3. n. 8. Those meanes which are only for the end, & for the good of the end, and are not for their own good, also are of lesse excellencie, and inferior to the end. But so the assumption is false. But those meanes which beside their relation to the end, have an excellencie of nature in themselves, are not alwayes inferior to the end. The Disciple, as he is instituted, is inferior to the Master; but as he is the sonne of a Prince, he is above the Master. But by this reason, the shepherd should be inferior to bruit beasts, to sheep. And the master of the familie is for the familie, and referreth all that he hath for the entertaining of the familie: but it followeth not therefore the familie is above him. The forme is for the action, therefore the action is [150] more excellent then the forme, and an accident then the subject or substance? And Grotius saith; Every government is not for the good of another, but some for its own good, as the government of a master over the servant, and the husband over the wife.*

Ans. I take the answer thus: *Those who are meere meanes, and only meanes referred to the end, they are inferior to the end: but the King as King, [381] hath all his officiall and relative goodnesse in the world, as relative to the end.* All that you can imagine to be in a *King*, as a *King*, is all relative to the safety and good of the people, *Rom. 13.4. He is a minister for thy good.* He should not, as *King*, make himselfe, or his own gaine and honour, his end. I grant, the *King*, as a man, shall dye as another man, and so he may secondarily intend his own good; and what excellencie he hath as a man, is the excellencie of one mortall man, and cannot make him amount in dignitie, and in the absolute consideration of the excellencie of a man, to be above many men and a whole Kingdome: for the moe good things there be, the better they are, so the good things be multiplicable, as a hundred men are better then one: Otherwise, if the good be such as cannot be multiplied, [382] as *one God*, the multiplication maketh them worse, as *many Gods* are inferiour to *one God*. Now if *Royalists* can shew us any more in the *King* then these two, we shall be obliged to them; and in both, he is inferiour to the whole.

The *Prelate* and his followers would have the Maxime to lose credit; for then (say they) *the shepherd should be inferior to the sheep*: But in this the Maxime faileth indeed. 1. Because the shepherd is a reasonable man, and the sheep bruit beasts, and so must be excellenter then all the flocks of the world. Now as he is a reasonable man, he is not a shepherd, nor in that relation referred to the sh••ep and their preservation, as a mean to the

end; but he is a shepherd by accident, for the unrulinesse of the creatures, for mans sinne, withdrawing themselves from that naturall dominion that man had over the creatures, before the fall of man: in that relation of a meane to the end, and so by accident, is this officiall relation put on him; and according to that officiall relation, and by accident, man is put to be a servant to the brutish creature, and a meane to so base an end. But all this proveth him, through mans sinne, and by accident, to be under the officiall relation of a meane, to baser creatures then himselfe, as to the end, but not as a reasonable man. But the King, as King, is an officiall and Royall meane to this end, that the people [151] may *lead a godly and peaceable life under him*. And this *officiall relation* being an accident, is of lesse worth then the whole people, as they are to be governed. And I grant, the *Kings* sonne, in relation to blood and birth, is more excellent then his Teachers: but as he is taught, he is inferiour to his Teacher: but in both considerations the *King* is inferior to the people; for though he cōmand the people, and so have an *executive power* of law above them, yet have they a *fountain power* above him, because they made him King, and in Gods intention he is given as King for their good, according to that, *Thou shalt feed my people Israel: & that, I gave him for a leader of my people*.

4. Saith the P. Prelate: *The constituent cause is excellenter then the effect constituted, where the constitution is voluntary, [383] and dependeth upon the free act of the will, as when the King maketh a Vice-Roy or a Iudge, durante beneplacito, during his free will: but not when a man maketh over his right to another; for then there should be neither faith nor truth in covenants, if people might make over their power to their King, and retract and take back what they have once given. [384]*

Ans. This is a begging of the question: for it is denied that the people can absolutely make away their whole power to the King: It dependeth on the people that they be not destroyed. They give to the King a politique power for their own safetie, and they keepe a naturall power to themselves, which they must conserve, and cannot give away; and they doe not breake their covenant, when they put in act that naturall power to conserve themselves; for though the people should give away that power, and sweare, though the King should kill them all, they should not resist, nor defend their own lives; yet that being an oath against the sixth Command, which enjoyneth naturall selfe-preservation, it should not oblige the conscience; for it should be intrinsically sinfull; and it's all one to sweare to non-self-preservation, as to sweare to selfe-murther.

5. *If the people (saith the Prelate, begging the answer from Barclay) the constituent be more excellent then the effect, and so the people above the King, because they constitute him King. Then the Counties and Corporations may make voyd all the Commissions given to the Knights and Burgesses of the House of Commons, [385] and send others in their place, and repeal their Orders, therefore Buchanan saith, that Orders and Lawes in Parliament were but* < in non-Latin alphabet > in non-Latin alphabet *preparatorie consultationis, and had not the force of a Law, till the people give their consent, and have their influence authoritative, upon the [152] Statutes and Acts of Parliament. But the observator holdeth that the legislative power is whole and intire in the Parliament. But when the Scots were preferring Petitions and Declarations, they put all power in the collective body, and kept their distinct tables.*

Ans. There is no consequence here, the Counties and Incorporations that send Commissioners to Parliament, may make voyd their Commissions and anull their Acts, because they constitute them Commissioners; if they be unjust acts, they may disobey them, and so disanull them, but it is presumed God hath given no morall power to doe ill, nor can the Counties and Corporations give any such power to evill, for they have not any such f••om God, if they be just acts, they are to obey them, [386] and cannot retract Commissions to make just Orders. *Illud tantum possumus quod ••ure possumus*, and therefore as power to governe justly is irrevocably committed by the three est••tes who made the King, to the King,

so is that same power committed by the Shires and Corporations to their Commissioners, to decree in Parliament, what is just and good irrevocably, and to take any ju•st power from the King which is his due, is a great sin; but when he abuseth his power to the destruction of his subjects, it is lawfull to throw a sword out of a mad-mans hand, though it be his owne proper sword, and though he have due right to it, and a just power to use it for good, for all fiduciary power abused may be repealed; [387] and if the Knights and Burgesses of the House of Commons abuse their fiduciary power to the destruction of these Shires and Corporations, who put the trust on them, the observator did never say that Parliamentary power was so intire and irrevocably in them, as that the people may not resist them, annull their Commissions, and rescind their acts, and denude them of fiduciary power, even as the King may be denuded of that same power by the three estates, for particular Corporations are no more to be denuded of that fountain-power of making Commissioners, and of the self preservation, then the three estates are. 2. The *P. Prelate* commeth not home to the mind of *Buchanan*, who knew the fundamental Lawes of *Scotland*, & the power of Parliaments, for his meaning was not to deny a legislative power in the Parliament, but when he calleth their Parliamentary declarations < in non-Latin alphabet > his meaning is only that which Lawyers and Schoole-men both say, [388] *Leges non promulgatae non habent vim legis actu completo obligatoriae*, Lawes not promulgated doe not oblige the subject while they be promulgated, [153] but he falsifies *Buchanan*, when he saith, *Parliamentary Lawes must have the authoritative influence of the people, before they can be formall Lawes, or any more then* < in non-Latin alphabet > or preparatory notions. And it was no wonder, [389] when the King denied a Parliament, and the supreme Senate of the secret Counsell was corrupted, then that the people did set up Tables, and extraordinary judicatures of the three estates, seeing there could not be any other government for the time.

6. *Barclay* answereth to that, *The meane is inferiour to the end, it holdeth not, the Tutor and Curator is for the minor, as for the end*, [390] *and given for his good; but it followeth not that therefore the Tutor in the administration of the minor or Pupils inheritance is not superiour to the minor.* Ans. 1. It followeth well that the *Minor* virtually, and in the intention of the Law is more excellent then the Tutor, though the Tutor can exercise more excellent acts then the Pupill, by accident, for defect of age in the *Minor*, yet he doth exercise those acts with subordination to the *Minor*, and with correction, because he is to render an account of his doings to the Pupill comming to age: so the Tutor is only more excellent, and superiour in some respect, < in non-Latin alphabet > but not simply, and so is the *King* in some respect above the people.

The *P. Prelate* beggeth from the Royalists another of our Arguments, *Quod efficit tale, est magis tale*. [391] *That which maketh another such, is farre more such it selfe; if the people give Royall Power to the King, then farre more is the Royall Power in the people. By this (saith the Prelate) it shall follow if the observator give all his goods to me, to make me rich, the observator is more rich; if the people give most part of their goods to foment the Rebellion, then the people are more rich, having given all they have upon the Publicke Faith.* Ans. 1. This greedy *Prelate* was made richer then ten poore Pursevants, by a *Bishopricke*, it will follow well; ergo the *Bishopricke* is richer then the *Bishop*, whose goods the curse of God blasteth. 2. It holdeth in efficient causes, so working in other things as the vertue of the effect remaineth in the cause, even after the production of the effect. As the Sunne maketh all things light, the Fire all things hot, therefore the Sun is more light, the Fire more hot; but where the cause doth alienate and make over, in a corporall manner, that which it hath to another, as the hungry *Prelate* would have the *Observers* goods, it holde•h not; for the effect may [154] exhaust the vertue of the cause, [392] but the people doth, as the fountaine, derive a streame of *Royalty* to *Saul*, and make him *King*, and yet so as they keepe *Fountain-power* of making *Kings* in themselves; yea when *Saul* is dead to make *David King at Hebron*,

and when he is dead to make *Solomon King*, and after him, to make *Rehoboam King*: and therefore in the people there is more fountaine power of making Kings then in *David*, in *Saul*, in any *King* of the world; as for the Prelates jeere about the *peoples giving of their goods to the good cause*, I hope it shall by the blessing of God enrich them more, whereas Prelates by the Rebellion in *Ireland* (to which they assent, when they counsell His Majesty to sell the blood of some hundred thousands of innocents killed in *Ireland*) are brought from thousands a yeare, to begg a morsell of bread.

The *Prelate* answereth that *Maxime*, *Quod efficit tale, id ipsum est magis tale*. [393] *That which maketh another such, it is it selfe more such. It is true*, De principio formali effectivo (as I learned in the Vniversity) of such an Agent as is formally such in it selfe, as is the effect produced. Next, it is such as is effective and productive of it selfe, as when fire heateth cold water, so the quality must be formally inherent in the Agent, as Wine maketh drunke, it followeth not, Wine is more drunke because Drunkenesse is not inherent in the Wine, nor is it capable of drunkenesse; and therefore Aristotle qualifieth the *Maxime* with this, *Quod efficit tale est magis tale, modo utriusque insit*. And it holdeth not in Agents, who operate by donation, if the right of the King be transferred from the people to the King. The donation devesteth the people totally of it, except the King have it by way of loane, which to my thinking, never yet any spoke— *Soveraignty never was, never can be in the Community; Soveraignty hath power of life and death, which none hath over himselfe, and the community conceived without government, all as equall, endowed with Natures and native liberty, of that community can have no power over the life of another. And so the Argument may be turned home, if the people be not tales, such by nature (as hath formally Royall power, he should say) they cannot give the King Royall Power. Also none hath power of life and death either eminenter or formally, the people either singly or collectively have not power over their owne life, much lesse over their neighbours.*

Ans. 1. The *Prelate* would make the maxime true of a formall cause, and this he learned in the University of St. *Andrewes*, [155] he wrongeth the University, he rather learned it while he kept the Calves of *Craile*, the wall is white from whitenesse, [394] ergo whitenesse is more white by the Prelates learning; never such thing was taught in that learned University. 2. *Principium formale effectivum* is as good Logick, as *principium effectivum materiale, formale, finale*. The *Prelate* is in his acuracy of Logick now, he yet maketh the causality of the formall cause all one with the causality of the efficient, but he is weake in his Logicks. 3. He confoundeth a *cause equivocall*, and a *cause univocall*, and in that case the *Maxime* holdeth not. Nor is it necessary to make true the maxime, that the quality be inherent in the cause, the same way. For a City maketh a *Major*, but to be a *Major* is one way in the City, and another way in him who is created *Major*; and the Prelates *Maxime* would helpe him, if we reasoned thus: *The people maketh the King*, ergo *the people is more a King, and more formally a Soveraigne then the King*. But that is no more our Argument, then the simile that *Maxwell* used, as neere heart and mouth both. Wine maketh drunk the *Prelate*, ergo Wine is more drunk. But we reason this, the Fountaine-power of making six Kings is in the people, ergo there is more fountain-power of Royalty in the people then in any one King; for we read that *Israel* made *Saul King*, and made *David King*, and made *Abimelech King*; but never that *King Saul* made another *King*, or that an earthly *King* made another *Absolute King*. 4. The *Prelate* will have the *Maxime* false, *where the Agent worketh by donation*, which yet holdeth true by his owne grant, c. 9. pag. 98. The *King* giveth power to a Deputy, ergo there is more power in the *King*. 5. He supposeth that which is the Basis and foundation of all the question, that people devesteth themselves totally of their *Fountaine power*, which is most false. 6. *Either they must devest themselves totally* (saith he) *of their power, or the King hath power from the people, by way of loane, which to my thinking never any yet spake*. But the *P. Prelates* thinking is short, and no rule to Divines and Lawyers, for to the thinking of the learnedst Jurists *this power of the King is but fiduciary*, and that is (whether the *Prelate* thinke

it, or thinke it not) a sort of power by trust, pawn'd or loane. *Rex director Regni, non proprietarius*, [395] Molinae. in consuet. Parisi. Tit. 1.9.1. Glos. 7. n. 9. *The King is a life-renter, not a Lord, or proprietor of his Kingdome.* So Novel. 85. in princip. &c. 18. *Quod magistratus sit nudus dispensator & defensor jurium regni, non proprietarius, constat* [156] *ex eo quod non posset alienare imperium, oppida, urbes, regionésve, vel res subditorum, bonàve regni.* So Gregory, l. 3. c. 8. *de Repub. per c. 1. Sect. praeterea, de propo. feud. Hottoman. quest. illust. 1. Ferdinan▪ Vasquez. l. 1. c. 4. Bossius de princip. & privileg. illius, n. 290. The King is only a steward, and a defender of the lawes of the Kingdome, not a proprietor, because he hath not power to make away the Impire, Cities, Townes, Countries, and goods of the Subjects: and, bona commissa Magistratui, sunt subjecta restitutioni, & in prejudicium successorum alienari non possunt, per l. ult. Sect. sed nost. C. Comment. de leg. l. peto 69. fratrem de leg. 2. l. 32. ult. d. t. All the goods committed to any Magistrate, are under Restitution•• for he hath not power to make them away to the prejudice of his successors.* The Prelates thoughts reach not the secrets of *Jurists*, and therefore he speaketh with a warrant; he will say no more then his short-travel'd thoughts can reach; and that is but at the doore. 7. *Soveraigntie is not in the Communitie* (saith the P. Prelate. [396]) Truly it neither is, nor can be, more then ten, or a thousand, or a thousand thousands, or a whole Kingdome can be one man; for Soveraigntie is the abstract, the Soveraigne is the concrete: Many cannot be one *King* or one *Soveraigne*: a Soveraigne must be essentially one; and a multitude cannot be one: but what then? may not the Soveraigne power be *eminently, fontaliter; originally and radically* in the people? I thinke it may, and must be. A *King* is not an under-Iudge, he is not a Lord of Councell or Session formally, because he is more: The people is not *King* formally, because the people is eminently more then the *King*; for they make *David* King, and *Saul* King. And the power to make a Lord of Councell and Session, is in the *King* (say *Royalists*.) 8. *A Communitie hath not power of life and death. A King hath power of life and death,* (saith the Prelate) What then? *ergo*, a Communitie is not *King*. I grant all. But (poore man!) *Ergo*, the power of making a *King*, who hath power of life and death, is not in the people. It is like Prelates logick. *Samuel* is not a *King*; *ergo*, he cannot make *David* a *King*. It followeth not, by the Prelates ground. [397] So the *King* is not an inferiour Iudge: What? *ergo*, he cannot make an inferiour Iudge. 9. The power of life and death is *eminently and virtually* in the people, collectively taken, though not formally. And though no man can take away his own life, or hath power over his own life formally; yet a man, and a body of men hath power over their own lives, *radically and virtually*; in [157] respect they may render themselves to a *Magistrate*, and to Lawes, which if they violate, they must be in hazard of their lives, and so they virtually have power of their own lives, by putting them under the power of good lawes for the peace and safety of the whole. 10. This is a weake consequence: None hath power of his owne life, *Ergo*, far lesse of his neighbours (saith the Prelate.) I shall denie the consequence. The *King* hath not power of his own life, that is, according to the Prelates mind, he can neither by the law of nature, nor by any Civill law. kill himselfe: *Ergo*, the *King* hath far lesse power to kill another. It followeth not: for the Iudge hath more power over his neighbours life, then over his own. 11. But, saith the P. Prelate, *The Communitie conceived without government,* [398] *all as equall, endowed with natures and native libertie, hath no power of life and death,* because all are borne free, and so none is borne with dominion and power over his neighbours life. Yea but so, Mr. P. Prelate, a *King* considered without government, and as born a free man, hath not power of any mans life, more then a Communitie hath: for *King* and Begger are borne both alike free. But a Communitie in this consideration, as they come from the wombe, have no Politique consideration at all. If you consider them as without all policie, you cannot consider them as invested with policie: yea if you consider them so as they are by nature, voyd of all policie, they cannot so much as adde their after-consent and approbation to such a man to be their *King*, whom *God* immediately from heaven maketh a *King*: for to adde such an after-consent, is an act of government. Now as they are conceived to want all government, they cannot

performe any act of government. And this is as much against himselfe, as against us.

2. The power of a part, and the power of the whole is not alike. *Royaltie* never advanceth the *King* above the place of a member: And Lawyers say, The *King* is above the subjects, *in sensu diviso*, in a divisive sense he is above this or that subject: but he is inferiour to all the subjects collectively taken, because he is for the whole Kingdome, as a meane for the end. *Object.* If this be a good reason, that he is a meane for the whole Kingdome, as for the end; that he is therefore inferiour to the whole Kingdome: then is he also inferior to any one subject; for he is a meane for the safety of every subject, as for the whole Kingdome. *Answ.* Every meane is inferior to its compleat, adequate and whole end: and such an end is the whole Kingdome [158] in relation to the *King*; but every man is not alwayes inferiour to its incompleat, inadequate and partiall end. This or that subject is not adequate, but the inadequate and incompleat end in relation to the *King*. The *Prelate* saith, *Kings* are *Dii Elohim*, *Gods*; and the manner of their propagation is by filiation, [399] by adoption, *sonnes of the most high, and Gods first borne*. Now the first borne is not above every brother severally: [400] but if there were thousands, millions, numberlesse numbers, he is above all in precedencie and power. *Answ.* Not only *Kings*, but all inferiour *Iudges* are *Gods*, *Psal.* 82. *God* standeth in the congregation of the *Gods*, that is not a congregation of *Kings*. So *Exo.* 22.8. *the master of the house shall be brought, < in non-Latin alphabet >< in non-Latin alphabet > to the Gods, or to the Judges.* And that there were more *Iudges* then one, is cleare by *vers.* 9. and if they shall condemne < in non-Latin alphabet >< in non-Latin alphabet > *jarshignur, condemnarint*, *Joh.* 10.35. < in non-Latin alphabet >< in non-Latin alphabet >, *He called them Gods.* *Exod.* 4.16. *Thou shalt be to Aaron < in non-Latin alphabet >< in non-Latin alphabet > as a God.* They are *Gods* analogically only. *God* is infinite, not so the *King*. 2. *Gods* will is a law, not so the *Kings*. 3. *God* is an end to himselfe, not so the *King*. [401] The *Iudge* is but *God* by office, and representation, and conservation of the people. 2. It is denied that the first-borne is in power before all his brethren, though there were millions. That is but said. One, as one, is inferior to a multitude: as the first-borne was a *Politick Ruler* to his brethren, he was inferiour to them politically.

Object. 3. *The collective Unversitie of a Kingdome are subjects, sonnes, and the King their father, no lesse then this or that subject is the Kings subject. For the universitie of Subjects are either the King, or the King subjects: for all the kingdome must be one of these two; but they are not the King, Ergo, they are his subjects.*

Answ. All the Kingdome in any consideration is not either *King* or *Subjects*. I give a third: The Kingdome collective is neither properly *King* nor *Subject*: but the Kingdome embodied in a *State*, having collaterall or coordinate power with the *King*.

Object. 4. *The universitie is ruled by lawes, Ergo, they are inferior to the King who ruleth all by law.*

Answ. The *Universitie* properly is no otherwise ruled by *lawes*, then the *King* is ruled by *lawes*. The *Universitie* formally is the compleat *Politick* body, indued with a *nomothetick* facultie, which cannot use violence against it selfe, and so is not properly under a *Law*.

[159]

QUEST. XX. Whether or no inferiour Judges be univocally and essentially Judges, and the immediate Vicars of God, no lesse then the King, or if they be onely the Deputies and Vicars of the King? ↩

IT is certain that in one and the same Kingdom, the power of the *King* is more in extension, then the power of any inferiour *Iudge*: but if these powers of the *King*, and the inferiour *Iudges* differ *intensivè* and in *specie*, and nature, is the question, though it be not all

the question.

Assert. Inferiour Iudges are no lesse essentially Iudges, and the immediate Vicars of God, then the King. [402] 1. These who judge in the room of God, and exercise the judgement of God, are essentially Iudges, and the Deputies of God, as well as the King: but inferiour Iudges are such. *Ergo*, The proposition is clear, the formall reason, why the King is univocally and essentially a Iudge is, because the Kings throne is the Lords throne, 1 *Chron.* 29.23. And *Solomon sate on the throne of the Lord, as King, instead of David his father, 1 King.* 1.13. It is called *Davids throne*, because the King is the Deputy of *Jehovah*, and the judgement is the Lords: I prove the assumption. Inferiour Iudges appointed by King *Jehoshaphat* have this place, 2 *Chro.* 19.6. *The King said to the Iudges, Take heed what ye do, (in non-Latin alphabet)(in non-Latin alphabet), for ye judge not for man, but for the Lord:* then they were Deputies in the place of the Lord, and not the Kings Deputies in the formall and officiall acts of judging. 7. *Wherefore now let the fear of the Lord be upon you, take heed and do it, for there is no iniquity with the Lord our God, nor respect of persons, or taking of gifts.*

Hence I argue, If the *Holy Ghost* in this good *King*, forbid inriour Iudges *wresting of judgement, respecting of persons, and taking of gifts*, because the *judgement is the Lords*; and if the *Lord* himself were on the Bench, he would not respect persons, nor take gifts; then he presumeth, that inferiour Iudges are in the stead and place of *Jehovah*: and that when these inferiour Iudges should take gifts, they make (as it were) the Lord, whose place they represent, to take gifts, and to do iniquitie, and to respect persons: but that the holy Lord cannot do. 2. If the inferiour Iudges in the act of judging, were the Vicars, and Deputies of King *Jehoshaphat*, he would have said, *Judge righteous judgement; Why? For the judgement [160] is mine, and if I the King were on the Bench, I would not respect persons, nor take gifts; and you judge for me the supreme Judge, as my Deputies:* but the King saith, *They judge not for man, but for the Lord.* 3. If by this they were not Gods immediate Vicars, but the Vicars and Deputies of the King, then being meer servants, the King might command them to pronounce such a sentence, and not such a sentence as I may command my servant and deputy, in so far, as he is a servant and deputie, to say this, and say not this: but the *King* cannot limit the conscience of the inferiour Iudge, because the judgement is not the *Kings*, but the Lords. 4. The *King* cannot command any other to do that, as King; for the doing whereof, he hath no power from God himself, but the King hath no power from God to pronounce what sentence he pleaseth, because the judgement is not his own, [403] but Gods: And though inferiour Iudges be *sent of the King*, and appointed by him to be Iudges, and so have their externall call from Gods deputy, the King; yet because judging is an act of conscience, as one mans conscience cannot properly be a deputy for another mans conscience, so neither can an inferior Iudge, as a Iudge, be a deputy for a King: therefore the inferiour Iudges have designation to their office from the King; but if they have from the King, that they are Iudges, and be not Gods deputies, but the Kings, they could not be commanded to execute *judgement for God*, but for the King: and *Deut.* 1.17. *Moses* appointed Iudges, but not as his deputies to judge and give sentence, as subordinate to *Moses*: *For the judgement* (saith he) *is the Lords*, not mine. 6. If all the inferiour Iudges in *Israel*, [404] were but the deputies of the King, and not immediately subordinate to God, as his deputies, then could neither inferiour Iudges be admonished, nor condemned in Gods word for unjust judgement, because their sentence should be neither righteous, nor unrighteous judgement, but in so far, as the King should approve it, or disapprove it; and indeed, that *Royalist Hugo Grotius* saith so, That an inferiour Iudge can do nothing against the will of the supreme Magistrate, if it be so: When ever God commandeth inferiour Iudges to execute righteous judgement, it must have this sense, *Respect not persons in judgement, except the King command you, crush not the poor, oppresse not the fatherlesse, except the King command you.* I understand not such policie: Sure I am, The Lords commandments,

rebukes, and threats, oblige in conscience the inferiour Iudge as the superiour, as is manifest in these Scriptures, [161] *Jerem.* 5.1. *Isai.* 1.17, 21. and 5.7. and 10.2. and 59.14. *Jere.* 22.3. *Ezek.* 18.8. *Amos* 5.7. *Micah* 3.9. *Habak.* 1.4. *Levit.* 19.15. *Deut.* 17.11. and 1.17. *Exod.* 23.2.

Grotius saith, *It is here as in a Categorie: [405] the middle Spece is in respect of the Superiour a Spece, in respect of the inferiour a Genus; so inferiour Magistrates in relation to these who are inferiour to them, and under them, they are Magistrates or publike persons, but in relation to superiour Magistrates, especially the King, they are private persons, and not Magistrates.*

Answ. *Jehoshaphat* esteemed not Iudges appointed by himself private men, 2 *Chron.* 19.6, 7. *Yee judge not for men, but for the Lord.* 2. We shall prove, that under Iudges are powers ordained of God. 3. In *Scotland* the King can take no mans inheritance from him, because he is King: But if any man possesse Lands belonging to the Crown, the King by his Advocate must stand before the Lord-Iudges of the Session, and submit the matter to the Laws of the Land; and if the King for propertie of Goods, were not under a Law, and were not to acknowledge Iudges as Iudges, I see not how the subject in either Kingdoms have any propriete. 4. I judge it blasphemie to say, That a sentence of an inferiour Iudge must be no sentence, though never so legall, nor just, if it be contrary to the Kings will, as *Grotius* saith.

He citeth that of *Augustine: If the Consul command one thing, [406] and the Emperour another thing, you contemn not the power, but you choose to obey the highest: Peter* saith, *He will have us one way to be subject to the King, as to the supreme, sine ulla exceptione, without any exception, but to these who are sent by the King, as having their power from the King.*

Answ. When the Consull commandeth a thing lawfull, and the King that same thing lawfull, or a thing not unlawfull, we are to obey the King, rather then the Consull: so I expone *Augustine.* 2. We are not to obey the King and the Consull the same way, [407] that is with the same degree of reverence and submission; for we owe more submission of spirit to the King, then to the Consul; but *magis & minus non variant speciem*, more or lesse varietie not the natures of things: but if the meaning be that we are not to obey the inferiour Iudge commanding things lawfull, if the King command the contrary, this is utterly denied: But saith *Grotius, The inferiour Iudge is but the Deputie of the King, and hath all his power from him; [162] therefore we are to obey him for the King.* *Answ.* The inferiour Iudge may be called the Deputy of the King, (where it is the Kings place to make Iudges) because he hath his externall call from the King, and is Iudge, *in foro Soli*, in the name and authority of the King; [408] but being once made a Iudge *in foro poli*, before God, he is as essentially a Iudge, and in his officiall acts no lesse immediately subjected to God, then the King himself.

Argum. 2. These powers to whom we are to yield obedience, because they are ordained of God; these are as essentially Iudges, as the supreme Magistrate the King; but inferiour Iudges are such. *Ergo*, Inferiour Iudges are as essentially Iudges, as the supreme Magistrate. The proposition is *Rom.* 13.1. For that is the Apostles Arguments; whence we prove, Kings are to be obeyed, because they are powers from God: I prove the assumption. Inferiour Magistrates are powers from God, *Deut.* 1.17. and 19.6, 7. *Exod.* 22.7. *Jere.* 5.1. and the Apostle saith, *The powers that are, are ordained of God.*

3. Christ testified, that *Pilate had power from God as a Iudge (say Royalists) no lesse then Caesar the Emperour, Iohn* 19.11. and 1 *Pet.* 2.12. We are commanded to obey the King, and these that are sent by him, [409] and that for the *Lords sake*, and for conscience to God, and *Rom.* 13 5. We must be subject to all powers that are of God, not onely for wrath, but for conscience.

4. These, who are rebuked, because they execute not just judgement, as well as the King, are supposed to be essentially Iudges, as well as the King; but inferiour Iudges are rebuked, because of this, *Ierem.* 22.15, 16, 17. *Ezek.* 45.9, 10, 11, 12. *Zeph.* 3.3. *Amos* 5.6, 7. *Eccles.* 3.16. *Micah* 3.2, 3, 4. *Jerem.* 5.31. *Ierem.* 5.1.

5. *He is the Minister of God for good, and hath the sword not in vain, [410] but to execute vengeance on the evil doers;* no lesse then the King, *Rom.* 13.2, 3, 4. He to whom agreeth, by an Ordinance of God, the specifick acts of a Magistrate, he is essentially a Magistrate.

6. The resisting of the inferiour Magistrate in his lawfull commandments, [411] is the resisting of Gods Ordinance, and a breach of the fifth Commandment, as is disobedience to parents, and not to give him tribute, and fear, and honour, is the same transgression, *Rom.* 13.1, 2, 3, 4, 5, 6, 7.

[163]

7. These stiles of *Gods*, of *Heads of the people*, of *Fathers*, of *Physicians*, and *healers of the sonnes of the most High*, of such as *Raign and Decree by the wisdom of God*, &c. that are given to Kings, for the which *Royalists* make Kings onely Iudges, and all inferiour Iudges, but deputed, and Iudges by participation, and at the second hand, or given to inferiour Iudges, *Exod.* 22.8, 9. *Ioh.* 10.35. These who are appointed Iudges under *Moses*, [412] *Deut.* 1.16. are called in *Hebrew* or *Chaldee*, 1 *Kings* 8.1, 2. *Chap.* 5.2. *Mic.* 3.1. *Iosh.* 23.2. *Num.* 1.16. < in non-Latin alphabet > < in non-Latin alphabet > *rasce*, < in non-Latin alphabet > < in non-Latin alphabet > *fathers*, *Act.* 7.2. *Iosh.* 14.1. c. 19.51. 1 *Chro.* 8, 28. *Healers*, *Esai.* 3.7. *Gods*, and *sonnes of the most High*, *Psal.* 82.1.2.6.7. *Prov.* 8.16, 17. I much doubt, if Kings can infuse Godheads in their Subjects. I conceive they have from *the God of Gods* these gifts, whereby they are inabled to be Iudges, and that Kings may appoint them Iudges, but can do no more, they are no lesse essentially Iudges then themselves.

8. If inferiour Iudges be Deputies of the *King*, not of *God*, and have all their authority from the *King*, then may the King limit the practise of these inferiour Iudges. Say that an inferiour Iudge hath condemned to death an Paricide, and he be conveying him to the place of execution, the King commeth with a force to rescue him out of his hand, if this inferiour Magistrate beare Gods sword for the terrour of ill doers, and to execute Gods vengeance on murtherers, he cannot but resist the King in this, which I judge to be his Office: for the inferiour Iudge is to take vengeance on ill doers, and to use the coactive force of the sword, by vertue of his Office, to take away this Paracide, now if he be the Deputy of the King, he is not to breake the jawes of the wicked, *Iob* 29.17. not to *take vengeance on evill doers*, *Rom.* 13.4. nor to *execute judgement on the wicked*, [413] *Ps.* 149, 9. nor to execute judgment for the fatherlesse, *De.* 10.18. except a mortall man his Creator, the King say, Amen. Now truly then God, in all *Israel*, was to rebuke no inferiour Iudge for perverting judgement, As he doth, *Exod.* 23.2.6. *Mic.* 3.2, 3, 4. *Zach.* 3.3. *Numb.* 25.5. *Deut.* 1.16. For the King onely is Lord of the conscience of the inferiour Iudge, who is to give sentence, and execute sentence righteously upon condition, that the King the onely univocall and proper Iudge, first, decree the same, as *Royalists* teach.

Heare our Prelate: *How is it imaginable that Kings can be said to Iudge in Gods place, and not receive the power from God? but Kings Iudge in Gods place*, *Deut.* 1.17. 2 *Chro.* 19.6. *Let no man stumble, [164] (this is his Prolepsis) at this, that Moses in the one place, and Iehosaphat in the other speake to subordinate Iudges under them, this weakeneth no waies our Argument, for it is a ruled case in Law; Quod quis facit per alium, facit per se; all Iudgements of inferiour Iudges are in the name, authority, and by the power of the supreme, and are but communicatively, and derivatively from the Sovereigne power.*

Ans. *How is it possible that inferiour Iudges, Deut. 1.17. 2. Chron. 19.6. can be said to judge in Gods place, and not receive the power from God immediatly, without any consent or covenant of men?* So the *Prelate*. But inferiour Iudges judge in the Gods place, as both the *P. Prelate* and Scripture teach, *Deut. 1.17. 2. Chro. 19.6.* Let the *Prelate* see to the stumbling conclusion, for so he feareth it proves to his bad cause. 2. He saith the places, *Deut. 1.17. 2 Chro. 19.6.* prove that the *King* judgeth in the Roome of *God*, because their Deputies judge in the place of *God*. The *Prelate* may know, we would deny this stumbling and consequence; for 1. *Moses* and *Iehosaphat* are not speaking to themselves, but to other inferiour Iudges, who doth publickly exhort them. *Moses* and *Iehosaphat* are perswading the regulation of the personall actions of other men, who might pervert Iudgement. 2. The *Prelate* is much upon his Law, after he had forsworne the Gospell, and Religion of the Church, [414] where he was baptized. *What the King doth by another, that he doth by himselfe;* but were *Moses* and *Iehosaphat* feared that they should pervert Iudgement in the unjust Sentence pronounced by under Iudges, of which Sentence they could not know any thing? And doe inferiour Iudges so judge in the name, authority, and power of the King, as not in the Name, Authority and Power of the *Lord of Lords, and King of Kings?* or is the *Iudgement the Kings?* no, the Spirit of *God* saith no such matter, the *Iudgement* executed by those inferiour Iudges, is the *Lords*, not a mortall *Kings*, ergo a mortall *King* may not hinder them to execute Iudgement. Obj. *He cannot suggest an unjust Sentence, and command an inferiour Iudge to give out a sentence absolvatory on cut-throates, but he may hinder the execution of any sentence against Irish cut-throates.* Ans. It is all one to hinder the execution of a just sentence, and to suggest or command the inferiour Iudge to pronounce an unjust one, for inferiour Iudges by conscience of their Office, are both to judge righteously, and by force and power of the sword given to them of *God*, Rom. 23.2, 3, 4. to execute the sentence, and so *God* [165] hath commanded inferiour Iudges to execute Iudgement, and hath forbidden them to wrest Iudgement, to take gifts, except the King Command them so to doe.

Master Symmon, *The King is by the Grace of God, [415] the inferiour Iudge is Iudge by the grace of the King, even as the man is the image of God, and the woman the mans image.* Ans. This distinction is neither true in Law, nor conscience; not in Law, for it distinguisheth not betwixt *Ministros regis, & ministros regni*. The servants of the King are his domesticks, the Iudges are *Ministri regni, non regis*; the Ministers and Iudges of the Kingdome, not of the King. The King doth not show grace, as he is a man, in making such a man a Iudge, but Iustice as a King, by a Royall Power received from the people, and by an Act of Iustice, he makes Iudges of deserving men, he should neither for favour, nor bribes make any Iudge in the Land. [416] 2. It is the grace of *God* that men are to be advanced from a private condition to be inferiour Iudges, as Royall Dignity is a free gift of *God*, 1 Sam. 2.7. *The Lord bringeth low, and lifteth up, Ps. 757. God putteth downe one, and seteth up another.* Court flatterers take from *God*, and give to Kings; but to be a Iudge inferiour, is no lesse an immediate favour of *God*, then to be King; though the one be a greater favour then the other. *Magis honos, and Major honos* are to be considered.

9. Arg. Those powers which differ gradually, [417] and *per magis & minus*, by more and lesse only, differ not in nature and spece, [418] and constitute not Kings and inferiour Iudges different univocally. But the power of *Kings* and inferiour Iudges are such, therefore *Kings* and *inferiour Iudges* differ not univocally. That the powers are the same in nature, I prove 1. by the specific acts, and formall object of the power of both, for 1. both are *power ordained of God*, Rom. 13.1. to resist either, is to *resist the ordinance of God*, v. 2. both are by Office *a terrou to evill workes*, [419] v. 3. 3. both are the *Ministers of God for good*. 2. Though the King send and give a call to the inferiour Iudge, that doth no more make the inferiour Iudges powers in nature and spece different, then Ministers of the Word called by Ministers of the Word, have Offices different in nature. *Timotheus* Office to be Preacher of the Word differeth not *in specie*, from the Office of the Presbytery, which layed hands on him, though their

Office *by extension*, be more then *Timothies* Office. 3. The peoples power is put forth in [166] those same acts, when they choose one to be their King and supream Governour, and when they set up an *Aristocraticall Government*, and choose many, or more then one, to be their Governours; for the formall object of one or many Governours is Iustice and Religion, as they are to be advanced. 2. The forme and manner of their opperation is▪ *brachio seculari*, by a coactive power, and by the sword. 3. The formall acts of King and many Iudges in *Aristocracy*, are these same, the defending of the poore and needy from violence, the conservation of a Community in a *peaceable and a godly life*, 1 Tim. 2. 2 Iob 29.12, 13. Esay 1.17. 4. [420] These same Lawes of God that regulateth the King in all His Acts of Royall Government, and tyeth and obligeth his conscience, as the Lords Deputy to execute Iudgement for God, and not in the stead of men, in Gods Court of Heaven, doth in like manner tye, and oblige the conscience of *Aristocraticall* Iudges, and all inferiour Iudges, as is cleare and evident by these places, 1 Tim. 2.2. *not only Kings, but all in authority* *(in non-Latin alphabet)* *(in non-Latin alphabet)* are obliged to procure that their subjects leade a *quiet and peaceable life, in all godlinesse and honesty*. All in conscience are obliged, Deut. 1.16. to judge righteously *between every man and his brother, and the stranger that is with them*. 17. Neither are they *to respect persons in judgement, but are to heare the small as well as the great, nor to be affraid of the face of men, the judgement administred by all, is Gods*. 2. Chro. 19.6. *All are obliged to feare God*, Deut. 17.19.20. *to keepe the words of the Law, not to be lifted up in heart above their brethren*, Esay 1.17. Ier. 22.2, 3. Let any man show me a difference according to Gods Word, but in the extention that what the King is to doe as a King in all the Kingdome, and whole Dominions, (if God give to him many) as he gave to *David* and *Solomon*, and *Ioshua*, that the inferiour Iudges are to doe in such and such Circuits, and limited places, and I quit the cause, so as the inferiour Iudges are little Kings, and the King a great and delated Iudge, as a compressed hand or fist, and the hand stretched out in fingers and thumb, are one hand, so here. 4. *God* owneth inferiour Iudges as a *congregation of Gods*, Ps. 82.1.2. for that *God* sitteth in a congregation or Senate of *Kings* or *Monarches* I shall not beleeve, till I see *Royalists* shew to me a Common-wealth of *Monarches* convening in one Iudicature; all are equally called Gods, Ioh. 10.35. Exod. 22.8. if for any cause, but because all Iudges even inferiour are the immediate Deputies of the *King* of [167] *Kings*, and their sentence in Iudgement as the sentence of the Iudge of all the earth, I shall be informed by the *P. Prelate* when he shall answer my reasons, if his interdicted Lordship may cast an eye to a poore Presbyter below, [421] and as wisdom is that by which *Kings* raigne, *Prov.* 8.15. so also v. 16. by which *Princes Rule, and Nobles, even all the Iudges of the earth*; all that is said against this is: That the King hath a Prerogative Royall, by which he is differenced from all Iudges in Israel, called *jus regis* *(in non-Latin alphabet)* *(in non-Latin alphabet)* for (saith *Barclay*) *The King as King essentially hath a Domination and power above all, so as none can censure him, or punish him but God, because here be no thrones above his, but the throne of God. The Iudges of Israel, (◇)(◇) Samuel, Gedeon, &c. had no domination, the dominion was in Gods hand.* 2. *Wee may resist an inferior Iudge* (saith *Arnisaeus*) *otherwise there were no appeale from him, and the wrong we suffer were irreparable*, as saith *Marantius*. *And all the Iudges of the earth* (saith *Edw. Symmons*) *are from God more remotely, namely (mediante Rege) by the mediation of the Supream, even as the lesser starres have their light from God by the mediation of the Sun.* To the first I answer, There was a difference betwixt the Kings of Israel and their Iudges, no question: but if it be an essentiall difference, it is a question: for, 1. The *Iudges* were raised up in an extraordinary manner, out of any Tribe, to defend the people, and vindicate their libertie, *God* remaining their *King*: the *King* by the Lords appointment was tyed, after *Saul*, to the Royall tribe of *Judah*, till the *Messiahs* comming. *God* tooke his own blessed libertie to set up a succession in the ten tribes. 2. The Iudges were not by succession from father to sonne: the Kings were, as I conceive, for the typicall eternitie of the *Messiahs* throne, presignified to stand from generation to generation. 3. Whether the Iudges were appointed by the election of the people,

or no, some doubt, because *Iepthah* was so made Iudge: but I thinke it was not a law in Israel that it should be so: but the first mould of a King, *Deut.* 17. is by election. But that God gave power of domineering, that is, of Tyrannizing, to a King, so as he cannot be resisted, which he gave not to a Iudge, I thinke no Scripture can make good: For by what Scripture can Royalists warrant to us that the people might rise in armes to defend themselves against *Moses, Gideon, Eli, Samuel,* and other Iudges, if they should have tyrannized over the people: and that it is unlawfull to resist the most Tyrannous King in Israel and Iudah? [168] Yet *Barclay* and others must say this, if they be true to that principle of Tyranny, That the *jus Regis*, the law or manner of the King, *1 Sam.* 8.9, 11. & *1 Sam.* 10.25, doth essentially difference betwixt the *Kings of Israel*, and the *Iudges of Israel*: but we thinke *God* gave never any power of Tyranny to either Iudge or King of Israel; and domination in that sense was by *God* given to none of them. 2. *Arnisaeus* hath as little for him, to say the inferior Magistrate may be resisted, because we may appeale from him: but the *King* cannot be resisted, *quia sanctitas Majestatis id non permittit*, the sanctitie of Royall majestie will not permit us to resist the King. *Ans.* That is not *Pauls* argument, to prove it unlawfull to resist *Kings*, as *Kings*, and doing their office, because of the sanctitie of their Majestie, that is, as the man intendeth, because of the supreme absolute and illimited power that *God* hath given him. But this is a begging of the question, and all one as to say, *the King may not be resisted, because he may not be resisted*: for sanctitie of Majestie, if we beleieve *Royalists*, includeth essentially an absolute supremacie of power, whereby they are above the reach of all thrones, lawes, powers, or resistance on Earth. But the Argument is, *Resist no••, because the Power is of God.* But the inferiour Magistrates power is of *God.* 2. Resist not, because you resist *Gods* ordinance, in resisting the Iudge: But the inferior Iudge is *Gods* ordinance, *Rom.* 13.1. *Deut.* 1.17. 2 *Chro.* 19.6. 3. *Mr. Symmons* saith, all Iudges on earth are from the *Kings*, as starres have their light from the Sun. I answer, 1. Then *Aristocracie* were unlawfull, for it hath not its power from *Monarchie*. [422] Had the Lords of the *Philistims*, have the States of *Holland* no power but from a *Monarchie*? Name the *Monarch*. Have the *Venetians* any power from a King? Indeed our Prelate saith from *Augustine, Confess. lib. 3. cap. 8. Generale pactum est societatis humanae, obedire Regibus suis*: It is an universall covenant of humane societie, and a dictate of nature, that men obey their Kings. I beg the favour of *Sectaries* (saith he) to shew as much for *Aristocracie* and *Democracie*. Now all other governments to bellies borne at Court, are the inventions of men. But I can shew that same warrant for the one as for the other, because it is as well the dictate of nature, that People obey their Iudges and Rulers, as it is that they obey their Kings. And *Austin* speaketh of all Iudges, in that place, though he name Kings; for *Kingly government* is no more of the law of nature, then *Aristocracie* or *Democracie*: nor [169] are any borne Iudges, or Subjects at all: There is a naturall aptitude in all to either of these, for the conservation of nature, and that is all. Let us see that men naturally inclining to Government, incline rather to Royall Government, then to any other. [423] That the *P. Prelate* shall not be able to show. For fatherly government being in two, is not Kingly, but nearer to *Aristocracy*; and when many families were on earth, every one independent within themselves, if a commune enemy should invade a tract of Land governed by families, I conceive, by natures light they should incline to defend themselves, and to joyne in one politique body for their owne safety, as is most naturall; but in that case they having no *King*, and there we••e no reason of many fathers all alike loving their own families and selfe preservation, why one should be *King* over all, rather then another, except by voluntary compact; so it is cleare that Nature is nearer to *Aristocracy* before this contract, then a *Monarchy*: and let him shew us in multitudes of families dwelling together before there was a *King*, as cleare a warrant for *Monarchy*, as here is for *Aristocracy*, though to me both be lawdable and lawfull ordinances of *God*, and the difference meereley accidentall, being one and the same power from the Lord, *Rom.* 13.1. which is in divers subjects in one, as a *Monarchy*, in many as in *Aristocracy*, and the one is as naturall as the other: and the subjects are accidentall to the nature of the power. 2. The Starrs have no light at all, but in

actuall aspect toward the Sun, and they are not lightsome bodies by the free will of the Sunne, and have no immediate light from *God* formally, but from the Sun, so as if there were no Sun, there should be no Starres. 3. for actuall shining and sending out of beames of light *actu secundo*, they depend upon the presence of the Sun, but for inferiour Iudges though they have their call from the *King*, [424] yet have they gifts to governe from no *King* on earth, but only from the *King of Kings*. 4. When the *King* is dead the Iudges are Iudges, and they depend not on the *King* for their second acts of judging, and for the actuall emission and putting forth their beames and raies of justice, upon the poore and needy, they depend on no voluntary aspect, information or commandement of the *King*, but on that immediate subjection of their conscience to the *King of Kings*. And their Iudgement which they execute is the Lords immediatly, and not the *Kings*▪ and so the comparison halteth.

Arg. Our 10th. *Arg.* If the *King* dying, [425] the Iudges inferiour remaine [170] powers from *God*, the Deputies of the Lord of Hoasts having their power from *God*, then are they essentially Iudges; yea and if the estates in their prime representators, and leaders, have power in the death of the *King*, to choose and make another *King*, then are they not Iudges and Rulers by derivation and participation, [426] or improperly, but the *King* is rather the Ruler by derivation and participation, then these who are called inferiour Iudges. Now if these Iudges depend in their Sentences upon the immediat will of him who is supposed to be the only Iudge, when this only Iudge dyeth, they should cease to be Iudges: for *Expirante mandatore expirat mandatum*, because the Fountaine Iudge drying up, the streames must dry up. Now when *Saul* dyed, the Princes of the Tribes remaine by *Gods* institution Princes, and they by *Gods* Law and Warrant, *Deut. 17. choose David their King.*

[427]11. If the *King* through absolute power doe not send inferiour Iudges, and constitute them, but only by a power from the people; and if the Lord have no lesse immediate influence in making inferiour Iudges, then in making *Kings*, then is there no ground that the *King* should be sole Iudge, [428] and the inferiour Iudge only Iudge by derivation from him, and essentially his Deputy, and not the immediate Deputy of *God*. But the former is true, *ergo* so is the latter. And first that the *Kings* absolute Will maketh not inferiour Iudges, is cleare, from *Deut. 1.15. Moses* might not follow his owne will in making inferiour Iudges whom he pleased: *God* tyed him to a Law ▪ v. 13. that he should *take wise men, known amongst the people, and fearing God, and hating covetousnesse*. And these qualifications were not from *Moses*, but from *God*; and no lesse immediatly from *God* then the inward qualification of a *King*, *Deut. 17.* and therefore it is not *Gods* Law that the *King* may make inferiour Iudges only, *Durante beneplacito*, during his absolute will; for if these Divine qualifications remaine in the seventy Elders, *Moses* at his will could not remove them from their places. 2. That the *King* can make heritable Iudges more then he can communicate faculties and parts of judging, I doubt, *riches are of fathers*, but not promotion, which is from *God*, [429] and neither from the East, nor the West. That our Nobles are borne Lords of Parliament, and Iudges by blood, is a positive Law. 3. It seemeth to me from *Esay 3.1, 2, 3, 4.* that the inferiour Iudge is made by consent of the people, nor can it be called a wronging of the *King*, that all cities and Burroughs of *Scotland* [171] and *England*, have power to choose their owne *Provests, Rulers, and Majors*. 4. If it be warranted by *God*, that the lawfull Call of *God* to the Throne, be the election of the people, the call of inferiour Iudges must also be from the people, mediately or immediatly: So I see no ground to say that, the inferiour Iudge is the *Kings* Vicegerent, or that he is in respect of the *King*, or in relation to supreme Authority, only a private man.

12. These Iudges cannot but be univocally and essentially Iudges, no lesse then the *King*, without which in a Kingdome Iustice is Physically impossible: and *Anarchie* and violence and confusion must follow, if they be wanting in the Kingdome. But without inferiour Iudges, though there be a *King*, Iustice is Physically impossible, and *Anarchie* and confusion

must follow, &c.

Now this Argument is more considerable, that without inferiour Iudges, though there be a King in a Kingdome, Iustice and safety are unpossible, and if there be inferiour Iudges, though there be no King, as in *Aristocracy*, and when the King is dead, and another not Crowned, or the King is Minor, or absent, or a captive in the enemies Land, yet justice is possible, and the Kingdome preserved; the Medium of the Argument is grounded upon Gods Word, *Num.* 11.14, 15. when *Moses* is unable alone to judge the people, *seventy Elders* re-joynd with him, [430] 16.17. so were the *Elders* adjoynd to helpe him, *Exo.* 24.1. *Deut.* 5.23. c. 22.16. *Iosh.* 23.2. *Iudg.* 8.14. *Iudg.* 11.5. *Iudg.* 11.11. 1 *Sam.* 11.3. 1 *King.* 20.7. 2 *King.* 6.32. 2 *Chro.* 34.29. *Ruth* 4.4. *Deut.* 19.12. *Ezech.* 8.1 *Lament.* 1.19. then were the *Elders of Moab* thought they had a King. 2. The end naturall of Iudges hath been indigence and weaknesse, because men could not in a society defend themselves from violence, therefore by the light of nature they gave their power to one, or more, and made a Iudge, or Iudges to obtaine the end of selfe preservation. But *Nature* useth the most efficacious meanes to obtaine its end, but in a great society and Kingdome the end is more easily attained by many Governours, then by one only; for where there is but one, he cannot minister Iustice to all, and the farther that the children are removed from their father and tutor, they are the nearer to violence and injustice. Iustice should be at as easie a rate to the poore, as a draught of water. *Samuel* went yearly through *the Land to Bethell, Gilgall, Mizpeh*, 1 *Sam.* 7.16. and brought Iustice to the doores of the poore. So were our Kings of [172] *Scotland* obliged to doe of old; but now justice is as deare as gold▪ it is not a good argument to prove inferior Iudges to be only Vicars and Deputies of the King, because the King may censure and punish them when they pervert judgement. 1. Because the King, in that, punisheth them not as Iudges, but as men. 2. That might prove all the Subjects to be Vicars and Deputies of the King., because he can punish them all, in the case of their breach of lawes.

QUEST. XXI. What power the People and States of Parliament have over the King, and in the State? ↩

IT is true, the King is the head of the Kingdome; but the States of the Kingdome are as the temples of the head, [431] and so as essentially parts of the head, as the King is the crown of the head.

Assert. 1. These *Ordines Regni*, the States, have been in famous Nations: so there were fathers of families, and Princes of Tribes amongst the Jewes: The *Ephori* amongst the *Lacedemonians*, *Polyb. hist. l. 6.* The Senate amongst the *Romanes*: The *sorum Superbiense* amongst the *Arragonians*: The *Parliaments*, in *Scotland, England, France, Spaine.* 2 *Sam.* 3.17. *Abner* communed with the *Elders of Israel*, to bring the King home. And there were *Elders in Israel*, both in the time of the Judges, and in the time of the Kings; who did not only give advice and counsell to the Judges and Kings, but also were Iudges, no lesse then the Kings, and Iudges; which I shall make good by these places: *Deut.* 21.19. The rebellious Son is brought to the *Elders of the Citie*, [432] who had power of life and death, and caused to stone him. *Deut.* 22.18. *The Elders of the Citie shall take that man, and chastise him.* *Iosh.* 20.4. But beside the *Elders of every Citie*, there were the *Elders of Israel*, and the Princes, who had also judicall power of life and death, as the Iudges and King had. *Iosh.* 22.30. Even when *Ioshua* was Iudge in Israel, the *Princes of the Congregation*, and *heads of the Thousands of Israel*, did judicially cognosce whether the Children of *Reuben*, of *Gad*, and of *halfe the tribe of Manasseh*, were apostates from God, and the Religion of Israel. 2 *Sam.* 5.3. All the *Elders of Israel made David King at Hebron*: and *Num.* 11. They are appointed by God not to be the advisers only and helpers of *Moses*, but, v. 14, 17. to beare a part of the burden of ruling and governing the people, that *Moses* might be eased. *Jeremiah* is accused, c. 26.10. upon his life, before the *Princes*, [173] *Iosh.* 7.4. The *Princes sit in judgement with Ioshua*, *Iosh.* 9.15. *Ioshua and the Princes of the Congregation sware to the Gibeonites*, that

they would not kill them. The Princes of the house of Israel could not be rebuked for oppression in judgement, *Mic.* 3.1, 2, 3. if they had not had power of judgement. So *Zeph.* 3.3. And *Deut.* 1.17. 2. *Chron.* 19.6, 7. They are expressly made Iudges in the place of God. And 1 *Sam.* 8.2. without advise or knowledge of *Samuel* the supreme Iudge, they conveene and ask a King: and without any head or superior, when there is no *King*, they conveene a Parliament, and make *David King at Hebron*: And when *David* is banished, they conveen to bring him home againe: when Tyrannous *Athalia* reigneth, they conveene and make *Ioash* King, and that without any *King*. And *Iosh.* 22. there is a Parliament conveened, and, for any thing we can read, without *Ioshua*, to take cognisance of a new Altar. It had been good that the Parliaments both of *Scotland*, and of *England*, had conveened, though the *King* had not indicted and summoned a *Parliament*; without the *King*, to take order with the wicked Clergie, who had made many idolatrous Altars: And the *P. Prelate* should have brought an argument to prove it unlawfull, *iu foro Dei*, to set up the Tables and Conventions in our Kingdome, when the Prelates were bringing in the grossest idolatrie into the *Church*, a service for adoring of Altars, of Bread, the worke of the hand of the Bake••; [433] a God more corruptible then any god of silver and gold.

And against *Achabs* will and minde, 1 *King* 18, 19. *Elias* causeth to kill the *Priests of Baal*, according to Gods expresse law. It is true, it was extraordinary; but no otherwise extraordinary then it is at this day. When the supreme Magistrate will not execute the judgement of the Lord, Those who made him supreme Magistrate under *God*, who have, under *God*, soveraigne libertie to dispose of crownes and kingdomes, are to execute the judgement of the Lord, when wicked men make the *law of God of none effect*. 1 *Sam.* 15.32. so *Samuel* killed *Hagage*, whom the *Lord* expresly commanded to be killed; because *Saul* disobeyed the *voyce of the Lord*. I deny not but there is necessitie of a cleere warrant that the Magistrate neglect his duty, either in not conveening the States, or not executing the judgement of the *Lord*. 3. I see not how the conveening of a Parliament is extraordinarie to the States; for none hath power ordinary when the *King* is dead, or when he is distracted, or captive in [174] another land, to conveene the Estates and Parliament, but they only; and in their defect, by the law of Nature, the people may conveene. But, 4. If they be essentially Iudges no lesse then the King. as I have demonstrated to the impartiall Reader, in the former Chapter; I conceive, though the State make a positive law, for Orders cause, that the *King* ordinarily conveene Parliaments; Yet, if we dispute the matter in the court of Conscience, the Estates have intrinsecally (because they are the Estates, and essentially Iudges of the Land) ordinary power to conveene themselves: 1. Because when *Moses*, by *Gods* rule, hath appointed seventie men to be Catholike Iudges in the Land, *Moses* upon his sole pleasure and will, hath not power to restraine them in the exercise of judgment given them of *God*: [434] for as *God* hath given to any one Iudge power to judge righteous judgement, though the King command the contrary; so hath he given to him power to sit down in the gate, or the bench, when and where the necessitie of the oppressed people calleth for it: For, 1. the expresse commandement of *God*, which saith to all Iudges, *Execute judgement in the morning*; involveth essentially a precept to all the Physicall actions, without which it is impossible to execute judgement: As namely, if by a divine precept the Iudge must execute judgement; *ergo*, he must come to some publique place, and he must cause partie and witnesses come before him, and he must consider, cognosce, examine in the place of judgement, things, persons, circumstances: and so *God* who commandeth positive acts of judging, commandeth the Iudges locomotive power, and his naturall actions of compelling by the sword the parties to come before him: even as *Christ* who commandeth his servants to preach, commandeth that the Preacher and the People goe to *Church*, and that he stand or sit in a place where all may heare, and that he give himselfe to reading and meditating, before he come to preach. And if *God* command one Iudge to come to the place of judgement, so doth he command seventie, and so all Estates to conveen in the place of judgement. It is objected, *That the Estates are not Iudges ordinary and habitually, but only Iudges at some certaine occasions,*

when the King, for cogent and weighty causes, calleth them, and calleth them not to judge, but to give him advise and counsell how to judge. Ans. 1. They are no lesse Iudges habitually then the King, when the common affaires of the whole Kingdome necessitateth these Publique Watchmen to come together: for even the King [175] judgeth not actually, but upon occasion. 2. This is to beg the question, to say that the Estates are not Iudges, but when the King calleth them, at such and such occasions: for the Elders, Princes and Heads of families and Tribes, were Iudges ordinarie, because they made the King. And 2. the Kingdome, by God, yea, and Church, Iustice and Religion, so far as they concerne the whole Kingdome, are committed not to the keeping of the King only, but to all the *Iudges, Elders, and Princes of the Land*: And they are rebuked as *evening wolves, Lyons, oppressors*, Ezech. 22.27. Zaca. 3.3. Esa. 3.14, 15. Mic. 3.1, 2, 3. when they oppresse the people in judgement, So are they, *Deut.* 1.15, 16, 17. 2 *Chron.* 19.6, 7. made Iudges, and therefore they are no more to be restrained not to conveene, by the Kings power, (which is in this, accumulative and auxiliarie, not privative) then they can be restrained in judgement, and in pronouncing such a sentence, as the King pleased, and not such a sentence: [435] Because as they are to answer to God for unjust sentences, so also for no just sentences, and for not conveening to judge, when Religion and Iustice, *which are fallen in the streets*, calleth for them. 3. As God in a law of nature, hath given to every man the keeping and selfe-preservation of himselfe, and of his brother; Cain ought in his place to be the keeper of Abel his brother. So hath God committed the keeping of the Commonwealth, by a positive law, not to the King only, because that is impossible, [436] *Num.* 11.14, 17. 2 *Chron.* 19.1, 2, 3, 4, 5, 6. 1 *Chron.* 27. 4. If the King had such a power as King, and so from God, he should have power to breake up the meeting of all *Courts of Parliament, Secret Councell*, and all *inferior Iudicatures*: And when the Congregation of gods, as *Ps.* 82. in the midst of which the Lord standeth, were about to pronounce just judgement for the oppressed and poere, they might be hindred by the King; and so they should be as just as the King maketh them, and might pervert judgement, and *take away the righteousnesse of the righteous from him*, Esa. 5.23. because the King commandeth: And the cause of the poore should not come before the Iudge, when the King so commandeth. And shall it excuse the Estates, to say, *We could not judge the cause of the poore, nor crush the Priests of Baal, and the idolatrous Masse-Preltes, because the King forbad us*. So might the King breake up the meeting of the Lords of Session, when they were to decerne that *Naboths vineyard* should be restored to him; and hinder the States to repress Tyranny: And this were as [176] much as if the States should say, *We made this man our King, and with our good will we agree, he shall be a Tyrant*. For if God gave it to him as a King, we are to consent that he enjoy it. 5. If *Barclay* and other flatterers have leave to make the *Parliament* but Counsellors and Advisers of the King; [437] and the King to be the only and sole Iudge: 1. The King is, by that same reason, the sole Iudge, in relation to all Iudges; the contrary whereof is cleere, *Num.* 11.16. *Deut.* 1.15, 16, 17. 2 *Chron.* 19.6. *Rom.* 13.1, 2. 1 *Pet.* 2.13, 14. *Yea but* (say they) *the King; when he sendeth an Ambassadour, he may tye him to a written Commission; and in so far as he exceedeth that, he is not an Ambassadour: and cleare it is, that all inferiour Iudges*, 1 *Pet.* 2.13, 14. *are but sent by the King, ergo, they are so Iudges, as they are but messengers, and are to adhere to the Royall pleasure of the Prince that sent them.*

[438]Ans. 1. The Ambassadour is not to accept an unjust Ambassage, that fighteth with the Law of nature. 2. The Ambassadour and the Iudge differ, the Ambassadour is the King and States Deputy, both in his call to the Ambassage, and also in the matter of the Ambassage; for which cause he is not to transgresse what is given to him in Writ, as a Rule; but the inferiour Iudges, and the high Court of Parliament, though they were the Kings Deputies (as the Parliament is in no sort his Deputy, but he their Deputy Royall) yet it is only in *respect of their call*, not in *respect of the matter of their Commission*, for the King may send the Iudge to judge in generall according to the Law, and Iustice and Religion, but he cannot depute the sentence, and command the conscience of the Iudge to pronounce such a

sentence, not such, the inferiour Iudge in the act of judging is as independent, and his conscience as immediatly subject to God, as the King, therefore the King owes to every sentence his approbative suffrage as King, but not his either directive suffrage, nor his imperative suffrage of absolute pleasure, 6. If the King should sell his Country, and bring in a forraigne Army, the estates are to convene, to take course for the safety of the Kingdome. 7. If *David* exhort the *Princes of Israel* to helpe King *Solomon* in governing the Kingdome, [439] in *building the Temple*, 2 Chron. 32.3. *Ezechiah* tooke counsell with his Princes, and his mighty men in the matter of holding off the *Assyrians*, who were to invade the Land, if *David* 1 Chron. 13.1, 2, 3, 4. consult with the *Captaines of thousands, and hundreds to bring the Arke of God to Kireath joarim*, if [177] *Solomon* 1 King. 8.1. *Assemble the Elders of Israel, and all the Heads of the Tribes, and the chief of the fathers to bring the Arke of the Tabernacle, to the congregation of the Lord*. And *Achab* gather together the States of Israel, in a matter that nearely concerned Religion. If the Elders and people, 1 King. 20.8. counsell and decree, that King *Achab* should hearken to *Benhadad* King of *Syria*, and if *Ahasuerus* make no Decrees, but with *consent of his Princes*, Ester, 1.21. nor *Darius* any Act without his *Nobles and Princes*, if *Hamor and Schechem*, Genes. 34.20. would not make a Covenant with *Iacobs* Sons, without the consent of *the men of the City*, and *Ephron* the Hittite would not *sell Abraham a buriall place* in his Land without the consent of *the children of Heth*, Gen. 23.10. Then must the estates have a power of judging with the King or Prince in matters of Religion, Iustice, and Government, which concerne the whole Kingdome; but the former is true by the Records of Scripture, *ergo*, so is the latter.

8. The men of *Ephraim* complaine that *Iephtah* had gone to warre against the children of *Ammon* without them, [440] and hence rose warre betwixt the men of *Ephraim, and the men of Gilead*, Iud. 12.1, 2, 3. and the men of Israel fiercely contend *with the men of Iudah, because they brought King David home againe without them*, pleading that they were therein dispised, 2 Sam. 19.41, 42, 43. which evinceth that the whole States have hand in matters of publick government, that concerne all the Kingdome; and when there is no King, *Iudg.* 20. *The chiefe of the people, and of all the Tribes goe out in battell, against the children of Benjamin*.

9. These who make the King, and so have power to unmake him in the case of Tyranny, [441] must be above the King in power of Government; but the *Elders and Princes* made both *David* and *Saul* Kings.

10. There is not any who say that the *Princes and people*, 1 Sam. 14. did not right in rescuing innocent *Jonathan* from death, [442] against the *Kings* Will, and his Law.

11. The speciall ground of *Royalists* is to make the *King* the absolute supream, [443] giving all life and power to the Parliament and States, and of meere grace convening them. So *Ferne*, the Author of *Ossorianum*, p. 69. but this ground is false, because the *Kings* power is fiduciary, and put in his hand upon trust, and must be ministeriall, and borrowed from these who put him in trust, and so his [178] power must be lesse, and derived from the Parliament: but the Parliament hath no power in trust from the *King*, because the time was, when the man who is the King, had no power, and the *Parliament* had the same power that they now have; and now when the King hath received power from them, they have the whole power that they had before. That is, to make Lawes, and resigned no power to the *King*, but to execute Lawes, and his convening of them is an Act of Royall Duty, which he oweth to the Paliament by vertue of his Office, and is not an act of grace, for an act of grace is an act of free Will, and what the *King* doth of free Will, he may not doe, and so he may never convene a Parliament. But when *David, Salomon, Asa, Ezechiah, Iehosaphat, Ahas* convened Parliaments, they convened Parliaments as *Kings*, and so *Ex debito & virtute officii*, out of debt and Royall Obligation, and if the *King* as the *King*, be *Lex animata, a breathing and living Law*, the *King* as *King* must doe by obligation of Law, what he doth as *King*, and not

from spontaneous and Arbitrary grace. 2. If the Scripture holds forth to us a *King in Israel*, and two *Princés and Elders* who made the *King*, and had power of life and death, as we have seene; then is there in Israel *Monarchy* tempered with *Aristocracy*; and if there were Elders and Rulers in every City, as the Scripture saith, here was also *Aristocracy* and *Democracy*. And for the warrant of the power of the Estates I appeale to Iurists, and to approved Authors. Argu. 1. aliud. 160. §. 1. De Iur. Reg. 1. 22. Mortuo de fidei. 1. 11.14. ad Mum. 1. 3.1.4. *Sigonius* De Rep. Iudaeor. 1. 6. c. 7. *Cornelius Bertramo*, c. 12. *Iunius Brutus* Vindic. contra. Tyran. §. 2. *Author Libelli* de jur Magistrat. in subd. q. 6. *Althus. Politic.* c. 18. *Calvin* Institut. 1. 4. c. 20. *Pareus Coment.* in Rom. 13. *Pet. Martyr* in Lib. Iudic. c. 3. *Ioan. Marianus* de rege Lib. 1. c. 7. *Hottoman* de jure Antiq. Regni Gallici l. 1. c. 12. *Buchanan* De jure Regni apud Scotos.

Obj. The King after a more noble way representeth the people, then the Estates doth; for the Princes and Commissioners of Parliament have all their power from the people, and the peoples power is concentricated in the King.

Ans. The Estates taken collectively doe represent the people both in respect of Office, and of persons, because they stand Iudges for them; for many represent many, *ratione numeri & officii*, better then one doeth. The King doth improperly represent the people, [179] though the power for actuall execution of Lawes, be more in the King, yet a legislative power is more in the Estates. Neither will it follow, that if the Estates of a Kingdome doe any thing but counsell a King, they must then command him; for a legall and judiciall advice hath influence in the effect to make it a Law, not on the Kings Will, to cause him give the being of a Law to that, which without his Will is no Law, for this supponeth that he is only Iudge.

Obj. What power the people reserveth, they reserve it to themselves *in unitate*, as united in a Parliament; and therefore what they doe out of a Parliament is tumultous.

Ans. I deny the consequence, they reserve the power of selfe preservation out of a Parliament, and a power of convening in Parliament for that effect, that they may by Common Counsell defend themselves.

QUEST. XXII. Whether the power of the King as King be absolute, or dependent and limited by Gods first mould and paterne of a King? ↩

DOctor *Ferne* sheweth us it was never his purpose to plead for absolutenesse of an Arbitrary commandement, [444] free from all Morall restraint laid on the power by Gods Law; but only he striveth for a power in the King that cannot be resisted by the subject. But truely we never disputed with Royalists of any absolute power in the King, free from Morall subjection to Gods Law 1. Because any bond that Gods Law imposeth on the King, it commeth wholly from God, and the nature of a Divine Law, [445] and not from any voluntary contract, or covenant, either expresse, or *tacito*, betwixt the King and the people who made him King, for if he faile against such a covenant, though he should exceed the cruelty of a King, or a man, and become a Lion and a *Nero*, a *Mother-killer*, he should in all his inhumanity and breach of covenant be countable to God, not to any man on earth. 2. To dispute with *Royalists*, if Gods Law lay any Morall restraint upon the King, nor to dispute whether the King be a ratioll man, or no; and whether he can sin against God, and shall cry in the day of Gods wrath (if he be a wicked Prince) *Hills fall on us, and cover us, as it is Revel. 6.15, 16.* and whether *Tophet* be prepared for all workers of iniquity; and certainly I justify the Schoole-men in that question: Whether or no God could have created a ratioll creature, such a one as by nature [180] is impeccable, and not naturally capable of sinne before God? if Royalists dispute this question of their absolute Monarch, they are wicked Divines.

2. *We plead not at this time* (saith the Prelate stealing from *Grotius*, [446] *Barclaius*, *Arnisaeus*, who spake it with more sinewes of reason) *for a (masterly, or) despotically, or rather a slavishing Sovereignty, which is Dominium herile, an absolute power, such as the great Turke this day exerciseth over his subjects, and the King of Spaine hath over, and in his territories without Europe: we maintain only regiam potestatem, quae fundatur in paterna, such royall fatherly Sovereignty as we live under, blessed be God, and our predecessors. This* (saith he) *as it hath its Royall Prerogative inherent to the Crowne naturally, and inseparable from it, so it trencheth not upon the liberty of the person, or the property of the goods of the subject, but in, and by the lawfull and just acts of jurisdiction.*

Ans. 1. Here is another absolute power disclaimed to be in the King, he hath not such a masterly and absolute liberty as the Turke hath. Why? *John P. P.* in such a tender and high point as concerneth soule and body of subjects in three Christian Kingdomes, you should have taught us 1. What bonds and fetters any covenant or paction betwixt the King and people layeth upon the King, why he hath not as King the power of the great Turke. I will tell you. The *Great Turke* may command any of his subjects to leape into a mountaine of fire, and burne himselfe quick, in conscience of obedience to his Law. And what if the subject disobey the *Great Turk*? if the *Great Turke* be a lawfull Prince, as you will not deny. And if the *King of Spaine* should command forraigne conquered slaves to doe the like. By your Doctrine neither the one, nor the other were obliged to resist by violence, [447] but to pray, or fly, which both were to speake to stones, and were like the man, who in case of ship-wrack, made his devotion of praying to the waves of the sea, not to enter the place of his bed and drowne him. But a Christian King hath not this power; Why, and a Christian King (by Royalists doctrine) hath a greater power then the Turke (if greater can be) he hath power to command his subjects to cast themselves into Hellfire; that is, to presse on them a service wherein it is written. (*Adore the worke of mens hands in the place of the living God*) and this is worse then the Turkes commandement of bodily burning quick. And what is left to the Christian Subjects, in this case, is the [181] very same, and no other then is left to the Turkish and forraigne Spanish subject; Either flee, or make prayers: There is no more left to us. 2. Many *Royalists* maintaine, that *England* is a conquered Nation. Why then, see what power, by law of Conquest, [448] the King of *Spaine* hath over his slaves, the same must the King of *England* have over his subjects. For, to *Royalists*, a title by Conquest to a Crown, is as lawfull as a title by birth or election. For lawfulness, in relation to Gods law, is placed in an indivisible point, if we regard the essence of lawfulness: And therefore there is nothing left to *England*, but that all Protestants who take the oath of a Protestant King, to defend the true Protestant Religion, should, after prayers, conveyed to the King through the fingers of Prelates and Papists; leave the Kingdome empty to *Papists, Prelates* and *Atheists*.

3. All power restrained, [449] that it cannot arise from ten degrees to foureteen, from the Kingly power of *Saul*, 1 Sam. 8.9, 11. to the Kingly power of the *Great Turke*, to fourteen; 1. must either be restrained by Gods law; 2. or by Mans law; or 3. by the innate goodnes and grace of the Prince; or 4. by the providence of God. A restraint from Gods law is vaine: for it is no question between us and *Royalists*, but *God* hath laid a morall restraint on *Kings*, and all men, that they have not morall power to sinne against *God*. 2. Is the restraint laid on by mans law? What law of man? 1. The *Royalist* saith, 1. The King, as King, is above all law of man. Then (say I) no law of man can hinder the Kings power of ten, to arise to the *Turkish* power of foureteen. 2. All law of man, as it is mans law, is seconded either with Ecclesiasticall and spirituall coaction, such as Excommunication;, or with Civill and temporall coaction, such as is the Sword, if it be violated. But *Royalists* deny, that either the sword of the Church in Excommunication, or the Civill sword, should be drawn against the King. 3. This law of man should be produced by this profound Iurist, the *P. Prelate*, who mocketh at all the Statists and Lawyers of *Scotland*. It is not a covenant betwixt the King and People, at his Coronation: for though there were any such covenant, yet the breach of it doth binde before *God*, but not

before man: nor can I see, or any man else, how a law of man can lay a restraint on the Kings power of two degrees, to cancell it within a Law, more then on a power of ten, or fourteene degrees. If the *King of Spaine*, the lawfull Sovereigne of those *over-European* [182] people, (as *Royalists* say) have a power of foureteene degrees over those conquered Subjects, as a *King*; I see not how he hath not the like power over his own Subjects of *Spaine*, to wit, even of Foureteen: for what agreeth to a *King*, as a *King*, (and *Kingly* power from God he hath as *King*) he hath it in relation to all Subjects, except it be taken from him in relation to some Subj•cts, and given by some law of God; or in relation to some other Subjects. Now, no man can produce any such law. 4. The nature of the goodnesse and grace of the Prince, cannot lay bonds on the *King*, to cancell his power, that he should not usurpe the power of the *King of Spaine* toward his *over-Europeans*. 1. *Royalists* plead for a power due to the *King*, as *King*, and that from God; such as *Saul* had, 1 *Sam.* 8.9, 11. 1 *Sam.* 10.25. But this power should be a power of grace and goodnesse in the King, *as a good man*; not in the King, *as a King*, and due to him by law: And so the *King* should have his Legall power from God, to be a Tyrant. But if he were not a Tyran••, but should lay limits on his own power, through the goodnesse of his own nature; No thanks to *Royalists* that he is not a Tyrant: For, *actu primo*, and as he is a *King*, (as they say) he is a Tyrant, having from God a Tyrannous power of ten degrees, as *Saul* had, 1 *Sam.* 8. and why not of foureteen degrees, as well as the Great *Turke*, or the *King of Spaine*? if he use it not, it is his own personall goodnesse, not his officiall and Royall power. 4. The rastraint of Providence laid by God upon any power to doe ill, hindreth only the exercise of the power not to breake forth in as Tyrannous acts as ever the *King of Spaine*, or the *great Turke* can exercise toward any. Yea, *Providence* layeth Physicall restraint, and possibly morall, sometimes, upon the exercise of that power that *Devils*, and the most wicked men of the world hath: but *Royalists* must shew us that Providence hath laid bounds on the *Kings* power, and made it fatherlie, and not masterly; so that if it the power exceed bounds of fatherly power, and passe over to the dispoticall and masterly power, it may be resisted by the Subjects. But that they will not say. 4. This paternall and fatherly power that God hath given to Kings, as *Royalists* teach, *it trencheth not upon the libertie of the Subjects, and proprietie of their goods; but in, and by lawfull and just acts of Jurisdiction* (saith the *P. Prelate*;) Well; Then it may trench upon the libertie of soule and body of the Subjects; but *in, and by lawfull and just acts of of jurisdiction*: But none are to judge [183] of these acts of Iurisdiction, whether they be *just* or not *just*, but the *King*, the only Iudge of supreme and absolute authoritie and power. And if the *King* command the idolatrous service in the obtruded Service-booke, it is a lawfull and a just *act of jurisdiction*: For to *Royalists*, who make the Kings power absolute, all acts are so just to the Subject, though he command Idolatrie and Turcisme, that we are to suffer only, and not to resist. 5. The Prelate presumeth that Fatherly power is absolute: But so if a father murder his childe, he is not comptable to the Magistrate therefore; but being absolute over his children, only the Judge of the World, not any power on earth can punish him. 6. We have proved that the *Kings* power is paternall or fatherly only, by analogie, and improperly. 7. What is this Prerogative Royall, we shall heare by and by, 8. There is no restraint on Earth, laid upon this fatherly power of the King, but Gods law, which is a morall restraint. If then the King challenge as great a power as the *Turke* hath, he o••ly sinneth against *God*; but no mortall man on earth may controll him, as *Royalists* teach: and who can know what power it is that *Royalists* plead for, whether a dispoticall power of Lordly power, or a fatherly power? If it be a power above law, such as none on earth may resist it; it is no matter whether it be above law of two degrees, or of twenty, even to the *Great Turkes* power.

These goe for Oracles, at Court. *Tacitus. Principi summum rerum arbitrium Dii dederunt, subditis obsequii gloria relicta est.* Seneca. *Indigna digna habenda sunt, Rex quae facit.* Salustius. *Impunè quidvis facere, id est, Regem esse.* As if to be a *King*, and to be a *God*, who cannot erre, were all one. But certainly, these Authors are taxing the Licence of *Kings*, and not commanding their power.

But that *God* hath given no absolute and unlimited power to a King, above the law, is evident by this:

Arg. 1. He who in his first institution, is appointed of *God*, by office, even *when he sitteth on the throne*, [450] to take heed to read on a written copie of Gods law, that he may learne to feare the Lord his God, and keep all the words of this law, &c. He is not of absolute power above law. But, *Deut.* 17.18, 19. the King, as King, while he *sitteth on the Throne*, is to doe this; Ergo, the Assumption is cleare: for this is the law of the King, as King; and not of a man, as a man. But as he sitteth on the Throne, he is to read on the booke of the Law: and ver. 20. Because he is King, *his heart is not to be lifted up* [184] *above his brethren*. And as King, v. 16. *he is not to multiply horses*, &c. So Politicians make this argument good: They say, *Rex est lex viva, animata. & loquens lex*: The King, as King, is a living, breathing, [451] and speaking Law. And there be three reasons of this: 1. If all were innocent persons, and could doe no violence one to another; the Law would rule all, and all men would put the Law in execution, *agendo sponte*, by doing right of their own accord; and there should be no need of a King to compell men to do right. But now, because men are, by nature, averse to good lawes, therefore there was need of a Ruler, who by office should reduce the Law into practice: and so is the King the Law reduced in practice. 2. The Law is *ratio five mens*, the reason or minde, free from all perturbations of anger, lust, hatred, and cannot be tempted to ill; and the King, as a man, may be tempted by his own passions; and therefore as King, he commeth by office out of himselfe to reason and law; and so much as he hath of Law, so much of a King; and in his remotest distance from Law and Reason, he is a Tyrant. 3. *Abstracta concretis sunt puriora & perfectiora*. Iustice is perfecter then a just man, Whitenes perfecter then the white wall: so the neerer the King comes to a Law, for the which he is a King, the neerer to a King; *Propter quod unumquodque tale, id ipsum magis tale*. Therefore Kings throwing lawes to themselves, as men, whereas they should have conformed themselves to the Law, have erred. *Cambyses* the sonne of *Cyrus*, because he loved his own sister, would have *the mariage of the brother with the sister, lawfull*. *Anaxarchus* said to *Alexander*, grieved in minde that he had killed *Clytus*: *Regi ac Iovi Themis atque Iustitiam assidere*: Iudgement and Righteousnesse did alway accompanie *God* and the King in all they doe. But some to this purpose say better; *The Law, rather then the King, hath power of life and death*.

[452]Arg. 2. The power that the King hath (I speak not of his gifts) he hath it from the people, who maketh him King, as I proved before: but the people have neither formally nor virtually any power absolute to give the King, all the power they have, is a legall and naturall power to guide themselves in *peace and godlinesse*, and save themselves from unjust violence, by the benefit of Rulers. Now an absolute power above a Law is a power to doe ill, and to destroy the people, and this the people have not themselves, it being repugnant to nature, that any should have a naturall power in themselves to [185] destroy themselves, or to inflict upon themselves an evill of punishment to destruction. Though therefore it were given, which yet is not granted, that the people had resigned all power that they have into their King, yet if he use a Tyrannicall power against the people for their hurt and destruction, he useth a power that the people never gave him; and against the intention of nature: for they invested a man with power to be their father, and defender for their good, And he faileth against the peoples intention in usurping an over power to himselfe, which they never gave, never had, never could give, for they cannot give what they never had, and power to destroy themselves they never had.

3. Arg. All Royall Power, whereby a King is a King, [453] and differenced from a private man, armed with no power of the sword, is from God.

But absolute power to Tyrannize over the people, [454] and to destroy them, is not a power from God: *Ergo* there is not any such royall power absolute. The proposition is evident, because that God who maketh Kings, and disposeth of Crownes, *Prov.* 8.15, 16. 2 *Sam.* 12.7. *Daniel* 4.32. must also create and give that Royall and Officiall power, by which a *King* is a *King*, 1. Because God created man, he must be the Author of his reasonable soule; if God be the Author of things, he must be the Author of their formes, by which they are, that which they are. 2. All power is Gods. 1 *Chro.* 29.11 *Matth.* 6.13. *Ps.* 62.11. P••. 68.35. *Dan.* 2.37. And that absolute power to Tyrannize, is not from God. [455] 1. Because if this Morall power to sinne be from God, it being formally wickednesse, God must be the Author of sinne. 2. What ever Morall power is from God, the exercises of that power, and the acts thereof must be from God, and so these acts must be Morally good and just; for if the Morall power be of God, as the Author, so must the acts be. Now the acts of a Tyrannicall power are acts of sinfull injustice and oppression, and cannot be from God. 3. Politicians say, *There is no power in Rulers to doe ill, but to helpe and defend the people*, as the power of a Physitian to destroy; of a Pilot to cast away the ship on a Rock, the power of a Tutor to wast the inheritance of the Orphan, and the power of father and mother to kill their children, and of the mighty to defraud and oppresse, are not powers from God. So *Ferdinand Vasquez* illustr. quest. 1. 1. c. 26. c. 45. *Pruckman* d. c. 3. §. *Soluta potestas.* *Althus.* pol. cap. 9. n. 25.

[186]

[456] *Barclaius, Grotius, Doct. Ferne,* (The *P. Prelates* wit could come up to it) say, *That absolute power to do ill, so as no mortall man can lawfully resist it is from God; and the King hath this way power from God as no subject can resist it, but he must resist the Ordinance of God, and yet the power of tyranny is not simply from God.*

Answ. The Law saith, *Illud possumus quod jure possumus, Papinus F. filius,* [457] *D. de cond. Just.* The Law saith, *It is no power which is not lawfull power.* The *Royalists* say, power of Tyranny in so farre as it may be resisted, and is punishable by men, is not from God; but what is the other part of the distinction; it must be, that Tyrannicall power is simpliciter from God, or in it self it is from God, but as it is punishable or restrainable by subjects, it is not from God: now to be punishable by subjects, is but an accident and tyrannicall power is the subject, yea, and it is an separable accident; for many Tyrants are never punished, and their power is never restrained, such a Tyrant was *Saul*, and many persecuting Emperours: Now if the Tyrannicall power it self was from God, the argument is yet valid, and remaineth unanswered; and shall not this fall to the ground as false, which *Arnisaeus de autho. princ.* c. 2. n. 10. *Dum contra officium facit. Magistratus non est Magistratus, quippe a quo non injuria, sed jus nasci debeat, l. meminert.* 6. *C. unde vi. din. in C. quod quis,* 24. n. 4, 5.—*Et de hoc neminem dubitare aut dissentire scribit, Marant.* ⟨◇⟩ ⟨◇⟩. 1. *num.* 14. When the Magistrate doth by violence, and without law any thing▪ in so farre doing against his Office, he is not a Magistrate; then say I, that power by which he doth, is not of God. 2. None doeth then resist the Ordinance of God, who resist the King in Tyrannous acts. 2. If the power, as it cannot be punished by the subject, nor restrained, be from God. *Ergo*, the Tyrannicall power itself, and without this accident (that it can be punished by men) it must be from God also; but the conclusion is absurd, and denied by *Royalists*. I prove the connexion: For if the King have such a power above all restraint, the power it self, to wi••, King *Davids* power to kill innocent *Vriah*, and defloor *Bathshebah*, without the accident, of being restrained or punished by men, is either from God, or not from God; if it be from God, it must be a power against the sixth and seventh Commandment, which God gave to *David*, and not to any subject, and so *David* lied when he confessed this sin, and this sin cannot be pardoned because it was no sin; and Kings because Kings, are under no tye of duties [187] of mercy and truth, and j••stice to their subjects, contrary to that which Gods Law requireth of all Judges, *Deut.* 1.15, 16, 17. and 17.15, 16, 17, 18, 19, 20. 2

Chro. 19.6, 7. *Rom.* 13.3, 4. If this power be from God, as it is unrestrainable and unpunishable by the subject, it is not from God at all; for how can God give a power to do ill, that is unpunishable by men, and not give that power to do ill; it is unconceivable: For in this very thing that God giveth to *David*, a power to murder the innocent, with this respect. That it shall be punishable by God onely, and not by men, God must give it as a sinfull power to do ill, which must be a power of dispensation to sin, and so not to be punished by either God, or man, which is contrary to his revealed will in his word: If such a power as not restrainable by man, be from God, by way of permission, as a power to sin in divels, and men is, then it is no Royall power, nor any Ordinance of God, and to resist this power, is not to resist the Ordinance of God.

Argum. 4. That power which maketh the benefit of a King, [458] to be no benefit, but a judgement of God, [459] as a making all the people slaves, such as were slaves amongst the Romans and Jews, is not to be asserted by any Christian: but an absolute power to do ill, and to *Tyrannize*, which is supposed to be an essentiall and constitutive of Kings, to difference them from all Judges, maketh the benefit of a King no benefit, but a judgement of God, as making all the people slaves. That the major may be clear, It is evident to have a King, is a blessing of God, because to have no King is a judgement, *Judg.* 17.6. *Every man doth what seemeth good in his own eyes*, *Judg.* 18.1. and 19.1. and 21.25. 2. So it is a part of Gods good providence to provide a King for his people, 1 *Sam.* 16.1. so 2 *Sam.* 5.12. And *David* perceived that the Lord had established him King over *Israel*, and that he had exalted his Kingdom, for his people *Israels* sake, 2 *Sam.* 15.2, 3, 6. 2 *Sam.* 18.3. *Rom.* 13.2, 3, 4. If the King be a thing good in it self, then can he not *actu primo*, be a curse and a judgement, and essentially a bondage and slavery to the people: also the genuine and intrinsecall end of a King is the good, *Rom.* 13.4. and the good of a *quiet a peaceable life in all godlinesse and honesty*, 1 *Tim.* 2.2. and he is by Office, *custos utriusque tabulae*, whose genuine end is to preserve the law from violence, and to defend the subject; he is the peoples debtor for all happynesse possible to be procured by Gods sword, either in peace or [188] war, at home or abroad. For the assumption, it is evident. An absolute and Arbitrary power is a King-law, such as *Royalists* say God gave to *Saul*, 1 *Sam.* 8.9, 11. and 10.25. to play the Tyrant, and this power Arbitrary and unlimited above all Laws, is that which 1. Is given of God. 2. Distinguisheth essentially the Kings of *Israel* from the Iudge, saith *Barclay*, *Grotius*, *Arnisaeus*. 3. A constitutive form of a King, therefore it must be *actu primo* a benefit, and a blessing of God: but if God hath given any such power absolute to a King, as 1. His will must be a law, either to do or suffer all the Tyranny and cruelty of a *Tyger*, *Leopard*, or a *Nero*, and a *Julian*, then hath God given *actu primo*, a power to a King as King, to inslave the people and flock of God, redeemed by the blood of God, as the slaves among the Romans and Iews, who were so under their masters, as their bondage was a plague of God, and the lives of the people of God under *Pharaoh*, who compelled them to work in brick and clay. 2. Though he cut the throats of the people of God, as the Lionnesse Queen *Mary* did, and command an Army of souldiers to come and burn the Cities of the Land, and kill man, wife, and children; yet in so doing, he doth the part of a King, so as you cannot resist him as a man, and obey him as a King, but must give your necks to him, upon this ground, because this absolute power of his *is ordained of God*; and there is no power, even to kill, and destroy the innocent, but it is of God, so saith *Paul*, *Rom.* 13. If we beleve *Court-Prophets*, or rather *Lying-Spirits*, who perswade the *King of Britain*, to make war against his three Dominions. Now it is clear, that the distinction of bound and free, continued in *Israel* even under the most tyrannous Kings, 2 *Kings* 4.1. yea, even when the Iews were captives under *Ahasuerus*, *Esther* 7.4. And what difference should there be between the people of God under their own Kings, and when they were captives under *Tyrants*, *serving wood and stone, and false gods*, as was threatned, as a curse in the Law, *Deut.* 28, 25, 36, 64, 68. If their own Kings by Gods appointment have the same absolute power over them; and if he be a Tyrant, *actu primo*, that is, if he be indued with absolute power, and so have power to play the Tyrant, then must the

people of God be *actu primo*, slaves, and under absolute subjection, for they are relatives, as *lord* and *servant*, *conquerour* and *captive*. It is true, *they say*, *Kings by office are fathers*, *they cannot put forth in action their power to destroy*: I answer, it is [189] their goodnesse of nature, that they put not forth in action, all their absolute power to destroy, which God hath given them as Kings; and therefore thanks are due to their goodnesse, for that they do not *actu secundo* play the Tyrant; for *Royalists* teach that by vertue of their office, God hath given to them a Royall power to destroy. *Ergo*, The Lords people are slaves under them, though they deal not with them as slaves, but that hindereth not, but the people by condition are slaves: so, many Conquerours of old, did deal kindly with these slaves whom they took in war, and dealt with them as sons, but as Conquerours they had power to sell them, to kill them, to put them to work in brick and clay: so say I here, Royall power and a King, cannot be a blessing, [460] and *actu primo* a favour of God to the people; for the which they are to pray, when they want a King, that they may have one, or to praise God when they have one. But a King must be a curse and a judgement, if he be such a creature as essentially, and in the intention and nature of the thing it self, hath by office a Royall power to destroy, and that from God; for then the people praying (*Lord give us a King*) should pray (*make us slaves, Lord, take our Libertie and power from us, and give a power illimited and absolute to one man, by which he may (if he please) waste us and destroy us, as all the bloody Emperours did the people of God.*) Surely, I see not but they should pray for a temptation, and to be led in temptation when they pray God to give them a King, and therefore such a power is a vain thing.

Argum. 5. A power contrary to justice. 2. To peace and the good of the people. 3. That looketh to no law as a rule, [461] and so is unreasonable, and forbidden by the Law of God, [462] and the Civill Law, *L. 15. filius de condit. Instit.* cannot be a lawfull power, and cannot constitute a lawfull Iudge; but an absolute and unlimited power is such: How can the Iudge be the *Minister of God for good to the people*, *Rom. 13.4*? If he have such a power as a King given him of God to destroy and waste the people?

Argum. 6. An absolute power is contrary to nature, [463] and so unlawfull; [464] for it maketh the people give away the naturall power of defending their life against illegall and cruell violence, and maketh a man who hath need to be ruled and lawed by nature, above all rule and law; and one who by nature can sin against his brethren, [465] such a one as cannot sin against any, but God onely, and maketh him a Lion and an unsociall man. What a man is *Nero*, whose life is [190] poesie & paintry, *Domitian* only an Archer. *Valentinian* only a Painter, *Charles the 9th* of *France* only an Hunter, *Alphonsus Dux Ferrariensis* only an Astronomer, *Philippe of Macedo* only a Musitian, and all because they are Kings? This our King denyeth when he saith, *Art. 13. There is power legally placed in the Parliament, more then sufficient to prevent and restraine the power of Tyranny*. But if they had not power to play the Lions, it is not much that Kings are Musitians, Hunters, &c.

[466]7. God in making •• King to preserve his people, should give liberty without all politick restraint, [467] for one man to destroy many; which is contrary to Gods end in the fift Commandement, if one have absolute power to destroy soules and bodies of many thousands.

[468]8. If the *Kings of Israel and Iudah* were under censures and rebukes of the Prophets, [469] and sinned against God and the people in rejecting these rebukes, and in persecuting the Prophets, and were under this Law not to take their neighbours wife, or his Vineyard from him against his will, and the inferiour Iudges were to accept the persons of none in Iudgement, small or great; and if the King yet remaine a brother, notwithstanding he be a King, then is his power not above any Law nor absolute: for what reason? 1. He should be under one Law of God to be executed by men, and not under another Law? Royalists are to shew a difference from Gods Word. 2. His neighbours, brother, or subjects may by violence keepe back their Vineyards, and chastity from the King: *Naboth* may by force keepe his owne

Vineyard from *Achab*; by the Lawes of *Scotland*, if a subject obtaine a Decree of the *King* of violent possession of the Heritages of a subject, he hath by Law, power to cast out, force, apprehend and deliver to prison these who are Tenants, brooking these Lands by the *Kings* personall Commandement. [470] If a King should force a Damsell, she may violently resist, and by violence, and bodily opposing of violence to violence, defend her owne chastity. Now that the Prophets have rebuked *Kings* is evident *Samuel* rebuked *Saul*, *Nathan David*, *Elias King Achab*. *Ieremiah* is commanded to Prophesie against the *Kings of Iudah*, Ier. 1.18. and the *Prophets* practised it, Ier. 19.3. c. 21.2. c. 22.13, 14, 15. *Hos.* 5.1. *Kings* are guilty before *God*, because they submitted not their Royall power and greatnesse to the rebukes of the Prophets, but persecuted them.

[191]

2 Deut. 17.20. The *King* on the Throne remaineth a Brother, *Psal.* 22.22. and so the Iudges or three Estates are not to accept of the Person of the *King*, for his greatnesse, in Iudgement, *Deut.* 1.16, 17. and the Iudge is to give out such a sentence in Iudgement as the Lord, with whom there is no iniquity, would give out, if the *Lord* himselfe were sitting in Iudgement; because the Iudge is in the very stead of *God*, as his Lievtenant, *2 Chron.* 19.6, 7. *Ps.* 82.1, 2. *Deut.* 1.17. And with *God* there is no respect of persons, *2 Chro.* 19.7. *1 Pet.* 1.17. *Act.* 10.34. I doe not intend that, any inferiour Iudge sent by the *King*, is to judge the *King*, but these who gave him the Throne, and made him *King* are truely above him, and to judge him without respect of persons, as *God* would judge himselfe, if he himselfe were sitting in the Beanch.

3. *God* is the Author of Civill Lawes and Government, and his intention is therein the externall peace and quiet life, [471] and godlinesse of his Church and people, and that all Iudges according to their places be Nurse-fathers to the Church, *Esay* 49.23. Now *God* must have appointed sufficient meanes for this end; but there is no sufficient meanes at all, but a meere Anarchy and confusion, if to one man an absolute and unlimited power be given of *God*, whereby at his pleasure he may obstruct the fountaines of Iustice, and command Lawyers and Lawes to speake not *Gods mind*, that is Iustice, righteousnesse, safety, true Religion, but the sole lust and pleasure of one man. And 2. this one having absolute and irresistibile influence on all the inferiour Instruments of Iustice, may by this power turne all into Anarchy, and put the people in a worse condition, then if there were no Iudge at all in the Land. For that of Polititians, that *Tyranny is better then Anarchy*, is to be taken *Cum grano salis*; but I shall never beleeve, that absolute power of one man, which is *actu primo*. Tyranny is Gods sufficient way of peaceable government. Therefore *Barclaius* saith nothing for the contrary, when he saith, *The Athenians made Draco and Solon absolute Law-givers*, For, [472] *a facto ad jus non valet consequentia*. What if a roving people trusting *Draco* and *Solon* to be Kings above mortall men, and to be gods, gave them power to make Lawes written, not with Inke, but with blood: Shall other Kings have from *God* the like Tyrannicall and bloody power from that, to make bloody Lawes? *Chytreus*, Lib. 2. and *Sleidan* citeth it. 1. 1. Sueton. *Sub paena periurii non tenentur fidensevare regi degeneri*.

[192]

[473]9. He who is regulated by Law, and sweareth to the three Estates to be regulated by Law, and accepteth the Crown *Covenant-wise*, and so as the Estates would refuse to make him their King, if either he should refuse to sweare, or if they did beleeve certainly that he would breake his oath; he hath no illimited and absolute power from *God* or the People: for, *faedus conditionatum, aut promissio conditionalis mutua, facit jus alteri in alterum*: A mutuall conditionall Covenant giveth law and power over one to another. But from that which hath been said; The *King* sweareth to the three-Estates, to be regulated by Law; He accepteth the Crowne upon the tenor of a mutuall covenant, &c. for if he should, as *King*,

sweare to be *King*, that is, one who hath absolute power above a Law; and also to be regulated by a Law: he should sweare things contradictorie, that is, that he should be their King, having absolute power over them, and according to that power to rule them: and he should sweare, not to be their King, and to rule them, not according to absolute power, but according to Law. If therefore this absolute power be essentiall to a King, as a King; no King can lawfully take the oath to governe according to Law: for then he should sweare not to reigne as King, and not be their King; For how could he be their King, wanting that which God hath made essentiall to a King, as a King?

QUEST. XXIII. Whether the *King* hath any Royall prerogative, or a power to dispence with Lawes? And some other grounds against absolute Monarchie.

[474] A Prerogative Royall, I take two wayes: 1. Either to be an act of meere will and pleasure, above, or beside Reason or Law: Or, an act of dispensation, beside, or against the letter of the Law.

Assert. 1. That which Royalists call the Prerogative Royall of Princes, is the salt of Absolute Power; and it is a supreme and highest power of a *King*, as a *King*, to doe above, without, or contrary to a Law, or Reason: which is unreasonable.

1. When Gods word speaketh of the power of *Kings* and Iudges, *Deut.* 17.15, 16, 17. *Deut.* 1.15, 16, 17. and elsewhere, there is not any footstep, or ground for such a power: and therefore (if [193] we speake according to conscience) there is no such thing in the world: And because *Royalists* cannot give us any warrant, [475] it is to be rejected.

2. A Prerogative Royall must be a power of doing good to the people, and grounded upon some reason or law: but this is but a branch of an ordinarie limited power, and no prerogative above or beside law. Yea, any power not grounded on a reason different from meere will or absolute pleasure, is an irracionall and brutish power; and therefore it may well be *jus personae*, the power of the man who is *King*; it cannot be *jus coronae*, [476] any power annexed to the Crown: for this holdeth true of all the actions of a *King*, as a *King*. *Illud potest Rex, & illud tantum quod jur•• potest.* The *King*, as *King*, can doe no more, then that which upon right and law he may doe.

3. To dispute this question, [477] Whether such a Prerogative agree to any *King*, as *King*; is to dispute whether *God* hath made all under a Monarch, slaves, by their own consent: which is a vaine question. 2. Those who hold such a Prerogative, must say, the *King* is so absolute and illimited a *God* on earth, that either by law, or his sole pleasure beside law, he may regularly and rationally move all wheeles in Policie; and his uncontrolled will shall be the axeltree on which all the wheeles are turned.

4. That which is the garland and proper flower of the *King of Kings*, as he is absolute above his creatures, and not tyed to any law, [478] without himselfe, that regulateth his will; That must be given to no mortall man, or *King*, except we would communicate that which is *Gods* proper due, to a sinfull man; which must be idolatrie. But to doe Royall acts out of an absolute power above Law and Reason, is such a power as agreeth to *God*, as is evident in positive lawes, and in acts of Gods meere pleasure, where we see no reason without the Almighty, for the one side, rather than for the other; as Gods forbidding the *eating of the tree of knowledge*, maketh the eating, sinne, and contrary to reason; [479] but there is no reason in the object: for if *God* should command eating of that tree, not to eat, should be also sinne. So *Gods* choosing *Peter* to glory, and his refusing *Judas*, is a good and a wise act, but not good or wise from the object of the act, but from the sole wise pleasure of *God*; because, if *God* had chosen *Judas* to glory, and rejected *Peter*, that act had been no lesse a good and a wise act, then the former. For when there [194] is no law in the object, but only *Gods will*, the act

i•• good and wise, seeing infinite wisdom cannot be separated from the perfect will of *God*: but no act of a mortall King, having sole and only will, and neither law nor reason in it, can be a lawfull, a wise, or a good act.

Assert. 2. There is something which may be called a Prerogative by way of dispensation. [480] There is a threefold dispensation; one of power, another of justice, and a third of grace. A dispensation of power, is, when the will of the Law-giver maketh that act to be no sinne, which without that will would have been sinne: As if *Gods* commanding Will had not interveened, the *Israelites* borrowing the eare-rings and jewels of the *Egyptians*, and not restoring them, had been a breach of the 8 Commandement: and in this sense no *King* hath a Prerogative to dispence with a Law.

[481]2. There is a dispensation of law and justice, not flowing from any Prerogative, but from the true intent of the Law. And thus the *King*, yea the inferiour Judge, is not to take the life of a man, whom the letter of the Law would condemne; because the Justice of the Law, is the intent and life of the Law: and where nothing is done against the intent of the Law, there is no breach of any Law.

The Third is not unlike unto the Second, when the *King* exponeth the Law by Grace: [482] and this is twofold; 1. Either when he exponeth it of his wisdom and mercifull nature, inclined to mercy and justice; yet according to the just intent, native sense and scope of the Law, considering the occasion, circumstances of the fact, and comparing both with the Law: and this dispensation of grace I grant to the *King*; As when the tribute is great, and the man poor, the *King* may dispense with the *custome*. [483] 2. The *Law* saith, In a doubtfull case the Prince may dispense, because it is presumed, the Law can have no sense against the principall sense and intent of the Law.

But there is another dispensation that Royalists doe plead for, and that is, a power in the King, *ex mera gratia absolutae potestatis regalis*; Out of meere grace of absolute Royall power, to pardon crimes, which *Gods* law saith, should be punished by death. Now this they call a power of Grace; but it is not a power of meere Grace.

But, 1. Though Princes may doe some things of Grace, yet not of meere Grace: because, what *Kings* doe, as *Kings*, and by vertue [195] of their Royall office, that they do *ex debito officii*, [484] by debt and right of their office; and that they cannot but do, it not being arbitrarie to them to doe the debtfull acts of their office: But what they doe of *meere grace*, that they doe as good men, and not as *Kings*: and that they may not doe. As for example: Some Kings, out of their pretended prerogative, have given foure pardons to one man, for foure murthers: Now this the *King* might have left undone without sinne; But of meere grace he pardoned the murtherer, who killed foure men. But the truth is, the *King* killed the three last; because he hath no power in point of Conscience, to dispute with blood, *Num.* 35.31. *Gen.* 9.6. These pardons are acts of meere grace to one man; but acts of blood to the Communitie.

2. Because the Prince is the *Minister of God for the good of the subject*; and therefore the Law saith, *He cannot pardon, and free the guilty, of the punishment due to him. Contra l. quod favore, F. de leg. l. non ideo minus. F. de proc. l. legata inutiliter. F. de lega. 1.* And the reason is cleare; He is but *the minister of God, a revenger to execute wrath upon him that doth evill*. And if the *Judgement be the Lords*, [485] *not mans*, not the Kings, as it is indeed, *Deut.* 1.17. *2 Chron.* 19.6. he cannot draw the sword against the innocent, nor *absolve the guiltie*, [486] except he would take on himselfe to carve and dispose of that which is proper to his master. Now certaine it is, *God* only, *univocally* and *essentially*, as *God*, is the Judge, *Ps.* 75.7. and *God* only and essentially *King*, *Ps.* 97.1. *Ps.* 99.1. and all men in relation to him, are meere *ministers, servants, legates, deputies*: and in relation to him *equivocally* and

improperly, Iudges or Kings, and meere created and breathing shadowes of the power of the *King of Kings*. [487] And looke as the Scribe, following his own device, and writing what sentence he pleaseth, is not an officer of the Court in that point, nor the pen and servant of the Iudge: so are *Kings*, and all Iudges, but forged intruders, and bastard Kings and Iudges, in so far as they give out the sentences of men, and are not the very mouthes of the *King of Kings*, to pronounce such a sentence as the *Almighty* himselfe would doe, if he were sitting on the Throne or Bench.

3. If the *King* from any supposed prerogative Royall, may doe acts of meere grace, without any warrant of Law, because he is above Law, by office: then also may he doe acts of meere rigorous Iustice, and kill and destroy the innocent, out of the same supposed [196] Prerogative; [488] For Gods word equally tyeth him to the place of a meere minister in doing good, as in executing wrath on evill doers, *Rom.* 13.3, 4. And reason would say, he must be as absolute in the one, as in the other, seeing God tieth him to the one, as to the other, by his office and place: yea by this, acts of Iustice to ill-doers, and acts of reward to well-doers, shall be arbitrary morally, and by vertue of office to the King, and the word *Prerogative Royall* saith this; for the word *Prerogative* is a supreme power absolute, that is loosed from all Law, and so from all reason of Law, and depending on the Kings meer and naked pleasure and will; and the word *Royall* or *Kingly*, is an Epithete of office, and of a Iudge, a created and limited Iudge, and so it must tye this supposed Prerogative to Law, Reason, and to that which is *debitum legale officii*, and a legall duty of an office; and by this our masters the *Royalists* make God to frame a rationall creature, which they call a King, to frame acts of Royalty, good and lawfull, upon his own meer pleasure, and the super-dominion of his will, above a Law and Reason. And from this it is that deluded Counsellours, made King *James* (a man not of shallow understanding) and King *Charls*, to give pardons to such bloody murtherers, as *James a Grant*, and to go so far on, by this supposed Prerogative Royall, that King *Charls* in Parliament at *Edinburgh*, 1633. did command an high point of Religion, That Ministers should use in officiating in Gods service, such Habits and Garments as he pleaseth; that is, all the Attire and Habits of the idolatrous Masse-Priests, that the *Romish Priests of Baal* useth in the oadest point of idolatry (the adoring of Bread) that the earth has; and by this Prerogative, the King commanded the Service Book in *Scotland*, An. 1637. without or above Law and Reason. [489] And I desire any man to satisfie me in this, If the Kings Prerogative Royall, may over-leap Law and Reason in two degrees, and if he may as King, by a Prerogative Royall, command the body of Popery in a Popish Book; If he may not by the same reason, over-leap Law and Reason by the elevation of twenty degrees; And if you make the *King a Iulian* (God avert, and give the spirit of revelation to our King) may he not command all the *Alcaron*, and the Religion of the *Heathen* and *Indians*? *Royalists* say, *The Prerogative of Royalty excludeth not reason, and maketh not the King to do as a brute beast without all reason; but it giveth a power to a King to do by his Royall pleasure, not fettered to the dictates of a [197] Law; for in things which the King doth by his Prerogative Royall, he is to follow the advice and counsell of his wise counsell, though their counsell and advice doth not binde the Royall will of the King.* I answer, it is to me, and I am sure to many Learneders, a great question; *If the will of any reasonable creature, even of the damned angels, can will, or chose any thing which their reason corrupted, as it is, doth not dictate, hic & nunc to be good.* [490] For the object of the will of all men is good, either truly, or apparently good to the doer; for the devill could not suite in marriage souls, except he war in the cloths of an Angel of light; sin as sin cannot sell, or obtrude it self upon any, but under the notion of good. I think it seemeth good to the *great Turk*, to command innocent men, to cast themselves over a precipie two hundred fadom high in the Sea, and drown themselves to pleasure him: So the *Turks* reason (for he is rationall, if he be a man) dictateth to his vast pleasure, that that is good which he commandeth.

2. Counsellours to the King, who will speak what will please the Queen, are but naked empty Titles, for they speak *que placent, non que prosunt*; what may please the King whom they make glad with their lies, not what law and reason dictateth.

3. Absolutenesse of an unreasonable Prerogative, doth not deny Counsell and Law also; for none more absolute, *de facto*, I cannot say *de jure* then the *Kings of Babylon*, and *Persia*: for *Daniel* saith of one of them, *Dan. 5.19. Whom he would, he slew, and whom he would, he kept alive, and whom he would, he set up, and whom he would, he put down*; and yet these same Kings did nothing, but by advice of their Princes and Counsellors, yea, so as they could not alter a decree and law, as is clear, *Ester 1.14, 15, 16, 17, 21*. Yea *Darius de facto* an absolute Prince, was not able to deliver *Daniel*, because the Law was passed, that he *should be cast into the Lions den, Dan. 6.14, 15, 16*.

4. That which the spirit of God condemneth as a point of Tyranny in *Nebuchadnezzar*, that is no lawfull Prerogative Royall: [491] but the spirit of God condemneth this as Tyranny in *Nebuchadnezzar*, *That he slew whom he would, he kept alive whom he would, he set up whom he would, he put down*, this is too God-like, *Deut. 32.39*. So *Polanus, Rollocus*, on the place, say, he did these things, *Vers. 19. Ex abusu legitimaie potestatis*; for *Nebuchadnezzars* will in matters of death and life, was his Law, and he did what pleased [198] himself above all Law beside, and contrary to it: and our flatterers of Kings draw the Kings Prerogative out of *Vlpian*s words, who saith, •hat is a Law which seemeth good to the Prince; but *Vlpian* was far from making the Princes will a rule of good and ill, for he saith the contrary, That the Law ruleth the just Prince.

[492]5. It is considerable here, that *Sanches* defineth the absolute power of Kings *to be a plenitude and fulnesse of power, subject to no necessity, and bounded with rules of no publick Law*, and so did *Baldus* before him: but all Politicians condemn that of *Caligula* (as *Suetonius* saith) which he spake to *Alexander the Great*, *Remember that thou maist do all things, and that thou hast a power to do to al men, what thou pleasest*: And *Lawyers* say, that this is Tyranny: *Chilon one of the seven wise of Greece* (as *Rodigi*) saith better, *Princes are like gods, because they onely can do that which is just*. And this power being meerly Tyrannicall, can be no ground of a Royall Prerogative: There is another power (saith *Sanches*) *absolute, by which a Prince dispenseth without a cause in a humane law*; and this power, saith he, may be defended: but he saith, What the King doth by this absolute power, he doth it *validè*, but not *jure* by Law; but by valid acts the Iesuite must mean Royall Acts, but no acts void of Law and Reason (say we) can be Royall Acts; for Royall Acts are acts performed by a King, as a King, and by a Law, and so cannot be Acts above, or beside a Law. It is true, a King may dispence with the breach of an humane Law, as a humane Law, that is, If the Law be death to any, who goeth up on the Walls of the Citie, the King may pardon any, who going up, discovereth the enemies approach, and saveth the Citie. But, 1. The inferiour Iudge according to the < in non-Latin alphabet > that benigne interpretation that the soul and intent of the Law requireth, may do this as well as the King. 2. All acts of independent Prerogative are above a Law, and acts of freewill having no cause or ground in the Law, otherwayes it is not founded upon absolute power, but on power ruled by Law and Reason: but to pardon a breach of the letter of the Law of man, by exponing it, according to the true intent of the Law and benignly, is an act of legall obligation, and so of the ordinary power of all Iudges; and if either King or Iudge kill a man for the violation of the Letter of the Law, when the intent of the Law contradicteth the rigid sentence, [493] he is guilty of innocent blood. If that learned *Ferdin. Vasquez* be consulted, he is against this distinction of a [199] power ordinary and extraordinary in men; and certainly, if you give to a King a Prerogative above a Law, it is a power to do evill, as well as good; but there is no lawfull power to do evill, and Doct. *Ferne* is plunged in a contradiction by this, for he saith, *Sect. 9. pag. 58. [494] I ask when these Emperours took away lives and goods at pleasure, Was that*

power ordained by God? No. But an illegall will and Tyranny: But, Pag. 61. The power though abused to execute such a (wicked) commandment, is an Ordinance of God.

It is objected 1. For the lawfulness of an absolute Monarchy. [495] *The Easterne, Persian, and Turkes Monarchy, maketh absolute Monarchy lawfull, for it is an Oath to a lawfull obligatory thing, and judgment, Ezech. 17.16, 18. is denounced against Iudah, for breaking the Oath of the King of Babylon, and it is called the Oath of God, and doubtlesse was an Oath of absolute subjection, and the power, Rom. 13. was absolute, and yet the Apostle calleth it an Ordinance of God. The sovereignty of Masters over servanes was absolute, and the Apostle exhorteth not to renounce that title as to ridged, but exhorteth to moderation in the use of it,*

Ans. That the Persian Monarchy was absolute, is but a *facto ad jus*, and no rule of a lawfull Monarchy, but that it was absolute, I beleeve not. *Darius* who was an absolute Prince (as many think) but (I thinke not) would gladly have delivered *Daniel* from the power of a Law, and Dan. 6.14. [496] *And he set his heart on Daniel to deliver him, and he laboured till the going downe of the Sun to deliver him,* and was so sorrowfull, that he could not breake through a Law, that he interdicted himselfe of all pleasures of Musicians, and if ever he had used the absolutenesse of a Prerogative Royall, I conceive he would have done it in this, yet he could not prevaile: But in things not established by Law, I conceive *Darius* was absolute, as to me is cleare, *Daniel* 6. v. 24. but absolute not by a Divine Law, but, *De facto, quod transierat in jus humanum*, by fact, which was now become a law.

2. It was Gods Oath, and God tyed Iudah to absolute subjection, ergo people may tie themselves. It followeth not, [497] except you could make good this inference, *God is absolute*, ergo the *King of Babylon* may lawfully be absolute; this is a blasphemous consequence. 2. That *Iudah* was to sweare the Oath of absolute subjection in the latitude of the absolutenesse of the *Kings of Chaldea*, I would see proved; [200] their absolutenesse by the *Chaldean Lawes* was to command murther, Idolatry, *Daniel* 3.4, 5. and to make wicked Lawes, *Dan.* 6. v. 7, 8. I beleeve *Jeremiah* commanded not absolute subjection in this sence. But the contrary, *Ier.* 10. v. 11. They were to sweare the Oath in the point of suffering; but what if the *King of Chaldea* had commanded them all, the whole holy Seed, men, women and children out of his Royall power, to give their neckes all in one day to his sword, were they obliged by this Oath to prayers and eares, and only to suffer? and was it against the Oath of God to defend themselves by Armes? I beleeve the Oath did not oblige to such absolute subjection, and though they had taken Armes in their owne lawfull defence, according to the Law of Nature, they had not broken the Oath of God. The Oath was not a tie to an absolute subjection of all and every one, either to worship Idols, or then to sly, or suffer death. Now the Service-booke commanded in the Kings absolute authority all *Scotland* to commit grosser Idolatry, in the intention of the work, if not in the intention of the Commander, then was in *Babylon*. (We read not that the King of *Babylon* pressed the consciences of Gods people to Idolatry) or that all should either sly the Kingdome, and leave their inheritances to *Papists* and *Prelates*, or then come under the mercy of the sword of *Papists* and *Atheists* by sea or land. 3. *God* may command against the Law of Nature; and Gods Commandement maketh subjection lawfull; so as men may not now, being under the Law of God, defend themselves. What then? Ergo we owe subjection to absolute Princes, and their power must be a lawfull power, it no waies is consequent. Gods Commandement by *Jeremiah* made the subjection of Iudah lawfull, and without that Commandement they might have taken Armes against the King of *Babylon*, as they did against the *Philistines*, and Gods Commandement maketh the Oath lawfull. As suppose *Ireland* would all rise in Armes, and come and destroy *Scotland*, the King of *Spain* leading, then we were by this Argument not to resist. 4. It is denied, that the power, *Rom.* 13. as absolute, is Gods ordinance. And I deny utterly that *Christ* and his Apostles did sweare non-resistance absolute to the Roman

Emperour.

Obj. 2. *It seemeth, 1 Pet. 2.18, 19. if well doing be mistaken by the reason and judgement of an absolute Monarch for ill doing, and we punished, yet the Magistrates will is the command of a reasonable will, and so to be submitted unto, because such a one suffereth by Law, [201] where the Monarches Will is a Law, and in this case some power must judge. Now in an absolute Monarchy all judgement resolveth in the Will of the Monarch, as the supream Law: and if Ancestors have submitted themselves by Oath, there is no repeale, or redresment.*

Ans. Who ever was the Author of this Treatise, he is a bad defender of the defensive warres in *England*, for all the lawfulness of warres then must depend on this. 1. Whether *England* be a conquered Nation at the beginning? 2. If the Law-will of an absolute *Monarch*, or a *Nero* be a reasonable Will, to which we must submit in suffering ill, I see not but we must submit to a reasonable will; if it be reasonable will in doing ill, no lesse then in suffering ill. 3. Absolute Will in absolute *Monarches* is no Iudge *De jure*, but an unlawfull and a usurping Iudge. 4. 1 *Pet.* 2.18, 19. Servants are not commanded simply to suffer (I can prove suffering formally not to fall under any Law of *God*, but only patient suffering. I except *Christ*, who was under a peculiar commandement to suffer.) But servants, [498] upon supposition that they are servants, and buffeted unjustly by their Masters, are by the Apostle *Peter* commanded, v. 20. *to suffer patiently*. But it doth not bind up a servants hand, to defend his owne life with weapons, if his Master invade him, without cause to kill him: otherwise if *God* call him to suffer, he is to suffer in the manner and way as *Christ* did, *not reviling, not threatning*. 4. To be a King and an absolute Master, to me are contradictory; a *King* essentially is a living Law. An absolute man is a creature, that they call a Tyrant, and no lawfull *King*; yet doe I not meane, that any that is a *King*, and usurpeth absolutenesse, leaveth off to be a King: but in so far as he is absolute, he is no more a King, then in so far as he is a *Tyrant*. But further, the King of *England* saith in a Declaration. [499] 1. *The Law is the measure of the Kings Power*. 2. Parliaments are essentially Lord Iudges to make Lawes essentially, as the King is, *ergo* the King is not above the Law. 3. *Magna Charta* saith the King, *can doe nothing, [500] but by Lawes, and no obedience is due to him, but by Law*. 4. Prescription taketh away the title of conquests.

Obj 3. *The King, not the Parliament is the Anoynted of God*, Ans. The Parliament is as good, even a Congregation of Gods. Psalme 82.1.

Obj. 4. *The Parliament is the Court, in their Acts, they say, [501] with consent of our Sovereigne Lord*.

[202]

Ans. They say not, at the Commandement, and absolute pleasure of our Sovereigne Lord. 2. He is their Lord materially, not as they are formally a Parliament, for the King made them not a Parliament, but sure I am, the Parliament had power before he was King, and made him King, 1 *Sam.* 10.17, 18.

[502]Obj. 5. *In an absolute Monarchy there is not a resignation of men to any will as will, but to the reasonable will of the Monarch, which having the law of reason to direct it, is kept from injurious acts*.

Ans. If reason be a sufficient restraint, and if *God* hath laid no other restraint upon some lawfull King, yee reason, Then is Magistracy a lame, a needlesse ordinance of *God*, for all Mankind hath reason to keepe themselves from injuries, and so there is no need of Iudges or *Kings* to defend them from either doing or suffering injuries. But certainly this must be admirable. If *God* as Author of nature should make *the Lyon King of all beasts*, the *Lyon* remaining a devouring beast, and should ordaine by nature all the sheepe and Lambs to come

and submit their corps to him, by instinct of nature, and to be eaten at his will, and then say, The nature of a beast in a Lyon is a sufficient restraint to keepe the Lyon from devouring Lambs. Certainly a King being a sinfull man, and having no restraint on his power, but reason, he may thinke it reason to allow rebells to kill, drowne, hang, torture to death an hundred thousand Protestants, men, women, infants in the wombe, and sucking babes, as is clere in *Pharaoh, Manasseh* and other Princes.

Obj. 6. *There is no Court or Iudge above the King, ergo he is absolutely supream.*

Ans. The Antecedent is false. The Court that made the *King* of a private man, a King, is above him; and here are limitations laid on him at his Coronation. 2. The States of Parliament are above him, to censure him. 3. In case of open Tyranny, though the States had not time to convene in Parliament, if he bring on his people an hoast of *Spaniards* or *forraine Rebels*, his owne conscience is above him, and the conscience of the people farre more, called *conscientia terrae*, may judge him in so farre, as they may rise up and defend themselves.

Obj. 7. Here the Prelate borrowing from *Grotius, Barclay, Arnisaus*; [503] (or its possible he be not so farre travelled) for Doct. *Ferne* hath the same. *Soveraignty weakned in Aristocracy cannot doe [203] its worke, and is in the next place to Anarchy and confusion. When Zedekiah was over Lorded by his Nobles, he could neither save himselfe, nor the people, nor the Prophet the servant of God Ieremiah; nor could David punish Ioab, when he was over-awed by that power he himselfe had put in his hand. To weaken the head, is to distemper the whole body, if any good Prince or his Royall Antecessors be cheated of their sacred right by fraud or force, he may at his fittest opportunity, resume it. What a sinne is it to rob God, or the King of their due?*

Ans. *Aristocracy* is no lesse an ordinance of *God*, then *Royalty*, for *Rom. 13.1.* and *1 Tim. 2.1.* All in Authority are to be acknowledged as Gods Vice-gerents, the Senate, the Consuls as well as the Emperour: And so one ordinance of *God* cannot weaken another, nor can any but by a lawlesse Animall say, *Aristocracy bordereth with confusion*; but he must say, *Order and Light* are sister Germanes to *confusion and darknesse*. 2, Though *Zedekiah*, a man voyd of *God*, were over-awed with his Nobles, and so could not help *Ieremiah*; it followeth not, that because Kings may not do this and this good, therefore they are to be invested with power to doe all ill: if they doe all the good that they have power to doe, they'l finde way to helpe the oppressed *Jeremiahes*: and because power to doe both good and evill is given by the Divell to our *Scottish Witches*, its a poore consequent, that the States should give to the King power absolute to be a Tyrant. [504] 3. A State must give a King more power then ordinary, especially to execute Laws, which requireth singular wisdom, when a Prince cannot alwayes have his great Councell about with him to advise him. But, 1. That is power borrowed, and by loan, and not properly his own; and therefore, it is no sacriledge in the States, to resume what the King hath by a fiduciary Title, and borrowed from them. 2. This power was given to do good, not evill. *David* had power over *Joab*, to punish him for his murther, but he executed it not upon carnall fears, and abused his power to kill innocent *Vriah*, which power neither *God* nor the States gave him. But how proveth he the States took power from *David*, or that *Ioab* took power from *David*, to put to death a murtherer, that I see not. 3. If Princes power to do good, be taken from them, they may resume it, when *God* giveth opportunity; But this is to the Prelate Perjury, that the people by Oath give away their power to their King, and resume it when he abuseth [204] it to Tyranny: But it is no perjury in the King to resume a taken away power, which if it be his own, is yet *lis sub iudice*, a great controversie, *Quod in Cajo licet, in Nevio non licet*. So he teacheth the King, That Perjury and Sacriledge is lawfull to him. If Princes power to do ill, and cut the whole Land off, as one neck (which was the wicked desire of *Caligula*) be taken from them by the States. I am sure, 1. This power was never theirs, and never the peoples, and you cannot take the Princes power from him, which was never his power. 2. I am also sure, the Prince should never

resume an unjust power, though he were cheated of it.

P. Prelate. It is a poor shift to acknowledge no more for the Royall Prerogative, then the Municipall Law hath determined, as some smatterers in the Law say. They cannot distinguish betwixt a Statute Declarative, and a Statute Constitutive: but the Statutes of a Kingdom do declare onely, what is the Prerogative Royall, but do not constitute or make it, God Almighty hath by himself constituted it: It is laughter to say, the Decalogue was not a Law, till God wrote it.

Answ. Here a profound Lawyer calleth all smatters in the Law, who cannot say, that non ens, a Prerogative Royall, that is, a power contrary to God and mans Law, to kill and destroy the innocent, came not immediately down from Heaven: but I professe my self no Lawyer, but do maintain against the Prelate, that no Municipall Law can constitute a power to do ill; nor can any Law, either justly constitute, or declare such a fancie as a Prerogative Royall; so far is it from being like the Decalogue, that is, a Law before it be written, that this Prerogative is neither Law, before it be written, nor after Court Placebo's have written for it: for it must be eternall as the Decalogue, if it have any blood from so noble a house. 2. In what Scripture hath God Almighty spoken of a fancied Prerogative Royall?

P. Prelate. Prerogative resteth not in its naturall seat, but in the King. [505] God saith, Reddite, not, Date, render to Kings that which is Kings, not give to Kings; it shall never be well with us, if his annointed, and his Church be wronged.

Answ. The Prelate may remember a Countrey Proverb. He and his Prelates, called the Church, (the scum of men, not the Church) are like the Tinkers dogs, they like good company, they must be ranked with the King. And 2. Here a false Prophet, It shall never [205] be well with the Land, while Arbitrary power, and Popery be erected, saith he, in good sense.

P. •••elate. The King hath his right from God, and cannot make it away to the people. Render to Caesar, the things that are Caesars. [506] Kings persons, their Charge, their Right, their Authority, their Prerogative are by Scriptures, Fathers, Iurists, Sacred, inseparable Ordinances inherent in their Crowns, they cannot be made away; and when they are given to inferiour Judges, it is not ad minuendam majestatem, sed solitudinem, to lessen Sovereign Majesty, but to ease them.

Answ. The King hath his right from God: What then, not from the people? I read in Scripture, The people made the King; Never: That the King made the people. 2. All these are inseparably in the Crown, but he stealeth in Prerogative Royall in the clause which is now in question? Render to Caesar all Caesars: And therefore saith he, Render to him a Prerogative, [507] that is an absolute power to pardon and sell the blood of thousands. Is power of blood, either the Kings; or inherent inseparably in his Crown? Alas, I fear Prelates have made blood an inseparable accident of his Throne. 3. When Kings by that publike power given to them, at their Coronation, maketh inferiour Iudges, they give them power to judge for the Lord, not for men, Deut. 1.17. 2 Chron. 19.6. Now they cannot both make away a power, and keep it also; for the inferiour Iudges conscience hangeth not at the Kings girdle, he hath no lesse power to judge in his sphere, then the King hath in his sphere, though the Orb and circle of Motion be larger in compasse in the one, then in the other; and if the King cannot give himself Royall Power, but God and the people must do it, how can he communicate any part of that power to inferiour Judges, except by trust? Yea, he hath not that power that other men have in many respects.

1. He may not marry whom he pleaseth, [508] for he might give his body to a Leper woman, and so hurt the Kingdom.

2. He may not do, as *Solomon* and *Ahab*, marry the daughter of a strange god, to make her the mother of the heir of the Crown. He must in this follow his great Senate. 2. He may not expose his person to hazard of Warres.

3. He may not go over Sea, and leave his Watch-Tower, without consent.

[206]

4. Many Acts of Parliament of both Kingdoms, discharge Papists to come within ten miles of the King.

5. Some pernicious Counsellours have been discharged ⟨◇⟩ company, by Laws.

6. He may not eat what Meats he pleaseth.

7. He may not make Wasters his Treasurers.

8. Nor Delapidate the Rents of the Crown.

9. He may not dis-inherit his eldest son of the Crown, at his own pleasure.

10. He is sworn to follow no false gods, and false religions, nor is it in his power to go to Masse.

11. If a Priest say Masse to the King, by the Law, he is hanged drawn and quartered.

12. He may not write Letters to the Pope, by Law.

13. He may not by Law pardon seducing Priests and Iesuites.

14. He may not take Physick for his health, but from Physitians sworn to be true to him.

15. He may not educate his heir, as he pleaseth.

16. He hath not power of his children, nor hath he that power that other fathers have, to marry his eldest son, as he pleaseth.

17. He may not befriend a Traytor.

18. It is high Treason for any woman to give her body to the King, except she be his married wife.

19. He ought not to build sumptuous Houses, without advice of his Councill.

20. He may not dwell constantly where he pleaseth.

21. Nor may he go to the Countrey to Hunt; farlesse, to kill his subjects, and desert the Parliament.

22. He may not confer honours and high places without his Councill.

23. He may not deprive Iudges at his will.

24. Nor is it in his power to be buried where he pleaseth, but amongst the Kings.

Now in most of these twenty four points, private persons have their own liberty, far lesse restricted then the King.

[207]

QUEST. XXIV. What power hath the King in relation to the Law, and the people? And how a King and a Tyrant differ? ↩

M^r. Symmons saith, *That Authoritie is rooted rather in the Prince, [509] then in the Law; for as the King giveth Being to the inferiour Iudge, so he doth to the Law it self, making it authorizable; for propter quod unum-quodque tale, id ipsum magis tale, and therefore the King is greater then the Law: others say, That the King is the Fountain of the Law, and the sole and onely Law-giver.*

Assert. 1. The Law hath a twofold consideration, [510] 1. *Secundum esse paenale*, in relation to the punishment to be inflicted by man. 2. *Secundum esse legis*, as it is a thing legally good in it self: In the former notion, it is this way true, [511] Humane Laws take life and being, inway to be punished, or rewarded by men, from the will of Princes and Law-givers, and so Symmons saith true, *Because men cannot punish or reward Laws, but where they are made; and the will of Rulers putteth a sort of stamp on a Law, that it bringeth the Common-wealth under guiltinesse, if they break this Law.* But this maketh not the King greater then the Law; for therefore do Rulers put the stamp of relation to punishment on the Law, because there is intrinsecall worth in the Law, Prior to the Act of the will of Law-givers, for which it meriteth to be inacted; and therefore, [512] because it is authorizable as good and just, the King puteth on it this stamp of a Politique Law. God formeth Being, and morall Aptitude to the end in all Laws, to wit, the safetie of the people; and the Kings will is neither the measure, nor the cause of the goodnesse of things.

2. If the King be he who maketh the Law good and just, because he is more such himself, then as the Law cannot crook, and erre, nor sin; neither can the King sin, nor break a Law. This is blasphemy, Every man is a lyer; a Law which deserveth the name of a Law, cannot lie.

3. His ground is, *That there is such majesty in Kings, [513] that their will must be done either in us, or on us: A great untruth. Achabs will must neither be done of Elias, for he commandeth things unjust; nor yet on Elias, for Elias fled, and lawfully we may flie Tyrants: and so Achabs will in killing Ekias was not done to him.*

[208]

[514]Assert. 2. Nor can it be made good, that the King only hath power of making Lawes; because his power were then absolute, to inflict penalties on Subjects, without any consent of theirs; and that were a dominion of Masters, who command what they please, and under what paine they please. And the people consenting to be ruled by such a man, they tacitely consent to penaltie of laws, because naturall reason saith, *An ill-doer should be punished. Florianus in l. inde. Vasquez, l. 2. c. 55. n. 3.* Therefore they must have some power in making these lawes.

2. Jer. 26. It is cleare, The Princes judge with the people: A nomothetick power differeth gradually only from a judiciaall power, both being collaterall meanes to the end of Government, the peoples safetie. But Parliaments judge, *ergo*, they have a nomothetick power with the King.

3. The Parliament giveth all supremacie to the King; *ergo*, to prevent Tyrannie, it must keep a coordinate power with the King, in the highest acts.

4. If the Kingly line be interrupted, if the King be a Childe, or a Captive, they make Lawes, who make Kings; *Ergo*, this nomothetick power recurrereth into the States, as to the first subject.

Obj. *The King is the fountaine of the law, and Subjects cannot make Lawes to themselves, [515] more then they can punish themselves. He is only the Supreme.*

Ans. The People being the fountaine of the King, must rather be the fountaine of Lawes. 2. It is false, that no man maketh lawes to himselfe. Those who teach others, teach themselves also, 1 *Tim.* 2.12. 1 *Cor.* 14.34. though Teaching be an act of authoritie. But they agree to the penaltie of the Law secondarily only; and so doth the *King*, who, as a father, doth not will evill of punishment to his children, but by a consequent will. 3. The *King* is the only Supreme, in the power ministeriall of executing lawes: but this is a derived power, so as no one man is above him; but in the fountaine-power of Royaltie, the States are above him.

5. The Civil law is cleare, that the laws of the Emperour have force only from this fountaine, because the People have transferred their power to the King. *Lib. 1. digest. tit. 4. de constit. Princip. leg. 1. sic Vlpian. Quod Principi placuit, (loquitur de Principe formaliter, qua Princeps est, non qua est homo) legis habet vigorem, utpote cum lege [209] Regia, quae de imperio ejus lata est. populus ei, & in eum, omne suum imperium & potestatem conferat.* Yea, the Emperour himselfe may be conveyed before the Prince Elector. *Aurea Bulla Carol. 4. Imper. c. 5.* The *King of France* may be conveyed before the Senate of *Paris*. The States may resist a Tyrant, as *Bossius* saith, *de Principe, & privileg. jus, n. 55. Paris de puteo, in tract. syno. tit. de excess. Reg. c. 3.* Divines acknowledge that *Elias* rebuked the halting of *Israel* betwixt *God* and *Baal*, that their Princes permitted *Baals Priests* to converse with the *King*. And is not this the sinne of the Land, that they suffer their *King* to worship Idols? and therefore the Land is punished for the sinnes of *Manasseh*, as *Knox* observeth in his *Dispute* with *Lethington*, where he proveth that the States of *Scotland* should not permit the Queen of *Scotland* to have her abominable Masse: *Hist. of Scotland, l. 4. p. 379. edit. an. 1644.* Surely the power or Sea-Prerogative of a sleepe or mad Pilot to split the ship on a rock, as I conceive, is limited by the Passengers. [516] Suppose a father, in a distemper, would set his own house on fire, and burne himselfe, and his ten sonnes; I conceive, his Fatherly prerogative, which neither *God* nor Nature gave, should not be looked to in this; but they may binde him. Yea, *Althusius, polit. c. 39. n. 60.* answering that, That in *Democracie* the people cannot both command and obey; saith, It is true, *secundum ideus, ad idem, & eodem tempore:* But the people may (saith he) choose Magistrates by succession. Yea, I say, 1. they may change Rulers yearely, to remove envie: A yearely *King* were more dangerous, the *King* being almost above envie; Men incline more to flatter then to envie Kings. 2. *Aristotle* saith, *polit. l. 4. c. 4. l. 6. c. 2.* The people may give their judgement of the wisest.

Obj. *Williams B. of Ossorie, Vindic. Reg. [A Looking-glasse for Rebels] saith, p. 64. To say the King is better than any one, doth not prove him to be better then two: and if his supremacie be no more, then any other may challenge as much: for the Prince is singulis major: A Lord is above all Knights; a Knight above all Esquires: and so the People have placed a King under them, not above them.*

Ans. The reason is not alike: [517] for all the Knights united cannot make one Lord; and all the Esquires united, cannot make one Knight; but all the People united, made *David* King at *Hebron*. 2. The *King* is above the people, by eminencie of derived authoritie, as a Watchman; and in actuall supremacie; and he is inferior to [210] them in fountaine-power, as the effect to the cause.

[518]Object. 2. *The Parliament* (saith *Williams*) may not command the *King*: Why then make they supplications to him, if their Vote be a Law?

Ans. They supplicate, *ex decentia*, of decencie and connveniencie for his place; as a Citie doth supplicate a Lord Major: but they supplicate not *ex debito*, of obligation, as beggars seeke almes: then should they be cyphers. 2. When a Subject oppressed, supplicateth his

Sovereigne for justice; the King is obliged by office to give justice: And to heare the oppressed, is not an act of grace and mercie, as to give almes, though it should proceed from mercie in the Prince, *Psal.* 72.13. but an act of Royall debt.

3. The *P. Prelate* objecteth: *The most you claime to Parliaments, is a coordinate power, [519] which in law and reason run in equall tearmes. In Law, par in parem non habet imperium; an equall cannot judge an equall, much lesse may an inferiour usurpeto judge a superiour. Our Lord knew, gratiâ visionis, the woman taken in adulterie, to be guilty; bat he would not s••ntence her: to teach us, not improbably, not to be both Judge and Witnessse. The Parliament are Judges, accusers, and witnesses against the King in their owne cause, against the Imperiall lawes.*

Ans. 1. The Parliament is coordinate ordinarily with the King, in the power of making Lawes: [520] but the coordination on the Kings part, is by derivation; on the Parliaments part, *originaliter & fontaliter*, as in the fountaine. 2. In ordinarie there is coordination: but if the King turne Tyrant, the Estates are to use their fountaine-power. And that of the Law, *Par in parem, &c.* is no better from his Pen, that stealeth all he hath, then from *Barclaius, Grotius, Arnisaeus, Blackwood, &c.* It is cold and sowre. We hold the Parliament that made the King at Hebron, to be above their own creature the King. *Barclaius* saith more acurately, *l. 5, cont. Monarch. p. 129. It is absurd, that the People should both be subject to the King, and command the King also.*

Ans. It is not absurd, that a Father naturall, as a private man, should be subject to his Sonne; even that *Jesse*, and his elder brother, the Lord of all the rest, be subject to *David* their King. Royalists say, Our late Queen, being supreme Magistrate, might by Law have put to death her own husband, for adulterie or murder.

2. The Parliament should not be both Accuser, Iudge, and Witnessse [211] in their own cause. 1. It is the Cause of Religion, of God, of Protestants, and of the whole people. 2. The oppressed accuse: there is no need of Witnesses in raising armes against the Subjects. 3. The *P. Prelate* could not object this, if against the Imperiall laws the King were both Partie and Iudge in his own cause, and in these acts of arbitrarie power, which he hath done, through bad counsell, in wronging Fundamentall lawes, raising armes against his subjects, bringing in forraigne enemies into both his Kingdomes, &c. Now this is properly the cause of the *King*, as he is a man; and his owne cause, not the cause of God, and by no Law of nature, reason, or Imperiall Statutes can he be both Iudge and party.

4. If the *King* be sole supream Iudge without any fellow sharers in power, 1. He is not obliged by Law to follow Counsell, or hold Parliaments; for Counsell is not Command. 2. It is impossible to limit him even in the exercises of his power, which yet *Dr. Ferne* saith cannot be said: for if any of his power be retrinched, *God* is robbed, saith *Maxwell*. 3. He may by Law play the Tyrant, *gratis*.

Ferne objecteth. §. 7. pag. 26. *The King is a fundamentall with the Estates, now foundations are not to be stirred or removed. [521]*

Ans. The King as King inspired with Law is a fundamentall, and his power is not to be stirred, but as a man wasting his people, he is a destruction to the house, and community, and not a fundamentall in that notion.

Some object, *The three Estates as men, and looking to their owne ends, not to Law, and the publick good, are not fundamentalls, and are to be judged by the King.*

Ans. By the people, and the conscience of the people they are to be judged.

Obj. *But the people also doe judge as corrupt men, and not as the people, and a Politique Body, providing for their owne safety.*

Ans. I grant all, when *God* will bring a vengeance on *Jerusalem*, Prince and people both are hardened to their owne destruction. Now *God* hath made all the three, in every Government where there is *Democracy*, there is some chosen ones resembling an *Aristocracy*, and some one for order presiding in *Democraticall* courts, resembling a *King*. In *Aristocracy* as in *Holland*, there is somewhat of *Democracy*, the people have their Commissioners, and one Duke or Generall, as the Prince of *Orange* is some umbrage of [112] *Royalty*, and in *Monarchy* there are the three Estates of *Parliament*, and these containe the three Estates, and so somewhat of the three formes of Government, and there is no one Government just that hath not some of all three; powre and absolute *Monarchy* is Tyranny, unmixed *Democracy*, is confusion, untempered *Aristocracy* is factious Dominion, and a *limited Monarchy* hath from *Democracy* respect to publick good without confusion. From *Aristocracy* safety in multitude of Counsellors without factious emulation, [522] and so a barre laid on *Tyranny*, by the joynt powers of many; and from Sovereignty union of many children in one father: and all the three thus contempered have their owne sweet fruits through *Gods* blessing, and their owne diseases by accident, and through mens corruption; and neither reason nor Scripture shall warrant any one in its rigid purity without mixture: And *God* having chosen the best government to bring men fallen in sinne to happinesse, must warrant in any one a mixture of all three, as in mixt bodies the foure Elements are reduced to a fit temper resulting of all the foure, where the acrimony of all the foure first qualities is broken, and the good of all combined in one.

[523] *The King* as the *King* is an unerring and living Law, and by grant of *Barclay*, of old was one of excellent parts, and noble through vertue and goodnesse; and the goodnesse of a father as a father, of a tutor as a tutor, of a head as a head, of a husband as a husband doe agree to the *King* as the *King*, so as *King* he is the Law it selfe, commanding, governing, saving. 2. His Will as *King*, or his Royall Will is reason, conscience, Law. 3. This Will is politickly present (when his person is absent) in all Parliaments, Courts, and inferiour Iudicatures. 4. The *King* as *King* cannot doe wrong or violence to any. 5. Amongst the *Romanes* the name *King* and *Tyrant* were common to one thing. 1. Because *de facto*, some of their *Kings* were *Tyrants*, in respect of their Dominion, rather then *Kings*. 2. Because he who was a *Tyrant De facto*, should have been, and was a *King too de jure*. 6. It is not lawfull to either disobey or resist a *King* as a *King*, no more then it is lawfull to disobey a good Law. 7. What violence, what injustice, and excesse of passion the *King* mixeth in, with his Acts of Government, are meere accidentall to a *King* as *King*! for because men by their owne innate goodnesse will not, yea Morally cannot doe that which is lawfull, and just one to another, and doe naturally, since the fall of man, [113] violence one to another; therefore, if there had not been sin, there should not have been need of a *King*, more then there should have been need of a Tutor to defend the child, whose father is not dead, or of a Physitian to cure sicknesse where there is health; for remove sinne, and there is neither death nor sicknesse, but because sinne is entered into the world, *God* devised, as a remedy of violence and injustice, a living, rationall breathing Law called a *King*, [524] a Iudge, a Father: now the aberrations, violence, and oppression of this thing which is the living, rationall, breathing Law is no *Medium*, no meane intended by *God*, and nature to remove violence. How shall violence remove violence? Therefore an unjust *King*, as unjust, is not that genuine ordinance of *God*, appointed to remove injustice, but accidentall to a *King*. So we may resist the injustice of the *King*, and not resist the *King*. 8. If then any cast off the nature of a *King*, and become habitually a *Tyrant*, in so farre he is not *from God*, nor any ordinance which *God* doth owne: If the Office of a *Tyrant* (to speake so) be contrary to a *Kings* Offices, it is not from *God*, and so neither is the power from *God*. 9. Yea Lawes (which are no lesse from *God*, then the *Kings* are) when they begin to be hurtfull, *Cessant materialiter*, they leave off

to be Lawes; because they oblige *Non secundum vim verborum, sed in vim sensus*, not according to the force of words, but according to sense, 1. *Non figura literarum F. de actione & obligatione, l. ita stipulatus. But who* (saith the Royalists) *shall be judge betwixt the King and the people, when the people alledge that the King is a Tyrant.*

Ans. There is a Court of necessity, [525] no lesse then a Court of Justice; and 2. The fundamentall Lawes must then speake, and it is with the people in this extremity, as if they had no Ruler.

Obj. 1. But if the Law be doubtsome, as all humane, all Civill, all municipall Lawes may endure great dispute, the peremptory person expone, the Law must be the supream Iudge. This cannot be the people, ergo, it must be the King.

Ans. 1. As the Scriptures in all fundamentalls are cleare, [526] and expone themselves, and *Actu primo* condemne Heresies, so all Lawes of men in their fundamentals, which are the Law of Nature, and of Nations are cleare. And 2. Tyranny is more visible and intelligible then Heresie, and its soone decerned. If a King bring in upon his native subjects twenty thousand *Turks* armed, and the King [114] lead them. It is evident, they come not to make a friendly visite to salute the Kingdom, and depart in peace: the people have a naturall throne of policie in their conscience to give warning, and materially sentence against the King, as a Tyrant, and so by nature are to defend themselves: Where Tyranny is more obscure, and the thred small, that it escape the eye of men, the King keepeth possession; but I deny that Tyranny can be obscure long.

[527] *Object. 2. Doct. Ferne. A King may not, or cannot easily alter the frame of fundamentall Laws, he may make some actuall invasion, in some transient, and not fixed acts; and it is safer to bear these, then to raise a civill Warre of the Body, against the Head.*

Answ. 1. If the King as King, may alter any one wholesome Law, by that same reason he may alter all. 2. You give short wings to an Arbitrary Prince, [528] if he cannot over flie all Laws to the subversion of the Fundamentalls of a State, if you make him as you do. 1. One who hath the sole Legislative power, who allanerly by himself, maketh Laws, and his Parliament and Councill are onely to give him advice, which by Law he may as easily reject, as they can speak words to him. He may in one transient act (and it is but one) cancell all Laws made against idolatry and Popery, and command, through bad Counsell, in all his Dominions; the Pope to be acknowledged as Christs Vicar, and all his doctrine to be established as the *Catholike true Religion*. It is but one transient act to seal a pardon to the shedding of the blood of two hundred thousand, killed by Papists. 2. You make him a King, who may not be resisted in any case; and though he subvert all Fundamentall Laws, he is countable to God onely, his people have no remedy, but prayers, or flight.

Object. 3. Ferne. Limitations and mixtures in Monarchies do not imply a forceable restraining power in subjects, [529] for the preventing of the dissolution of the State, but onely a legall restraining power; and if such a restraining power be in the subjects, by reservation, then it must be expressed in the constitution of the Government, and in the Covenant betwixt the Monarch and his people: but such a condition is unlawfull, which will not have the Sovereign power secured, is unprofitable for King, and people; a seminary for seditions and jealousies.

Answ. I understand not a difference betwixt *forceable restraining* and *legall restraining*: For he must mean by (legall) mans Law, [115] because he saith, It is a Law in the Covenant betwixt the Monarch, and his people. Now if this be not forceable, and physicall, [530] it is onely Morall in the conscience of the King, and a Cypher, and a meer vanitie, for God, not the people putteth a restraint of conscience on the King, that he may not oppresse his poor subjects; but he shall sin against God, that is a poor restraint: the goodnesse of the King a

sinfull man inclined from the womb to all sin, and so to Tyranny, is no restraint. 2. There's no necessitie, that the reserve be expressed in the Covenant between King, and people, more then in contract of marriage between a husband and a wife, beside her joynter; you should set down this clause in the contract, that if the husband attempt to kill the wife, or the wife the husband, in that case it shall be lawfull to either of them to part companies: For Doct. *Ferne* saith, *That personall defence is lawfull in the people, if the Kings assault be* 1. *Suddain*. 2. *Without colour of Law*. 3. *Inevitable*: Yet the reserve of this power of defence, is not necessarily to be expressed in the contract, betwixt King and people. Exigences of the Law of nature cannot be set down in positive Covenants, they are presupposed. 3. He saith, *A reservation of power, whereby soveraigntie is not secured, is unlawfull*. Lend me this Argument: The giving away of a power of defence, and a making the King absolute, is unlawfull, because by it the people is not secured; [531] but one man hath thereby the *sword of God* put in his hand, whereby *ex officio*, he may as King cut the throats of thousands, and be countable to none therefore, but to God onely: now if the non-securing of the King, make a condition unlawfull, the non-securing of a Kingdom and Church, yea, of the true religion (which are infinitely in worth above one single man) may far more make the condition unlawfull. 4. A legall restraint on a King, is no more unprofitable, and a seminary of jealousies between King and people, then a legall restraint upon people; for the King out of a non-restraint, as out of seed, may more easily educe tyranny, and subversion of religion: If outlandish women tempt even a *Solomon to idolatry*, as people may educe sedition out of a legall restraint laid upon a King, to say nothing, that Tyranny is a more dangerous sin, then sedition; by how much more the lives of many, and true religion, are to be preferred to the safetie of one, and a false peace.

Object. 4. *An absolute Monarch is free from all forceable restraint, [532] [216] and so far, as he is absolute from all legall restraint of positive Laws: now in a limited Monarch there is onely sought a legall restraint, and limitation cannot infer a forceable restraint, for an absolute Monarch is limited also, not by civill compact, but by the Law of nature and nations, which he cannot justly transgresse; if therefore an absolute Monarch being exorbitant, may not be resisted, because he transgresseth the Law of nature; how shall we think a limited Monarch may be resisted, for transgressing the bounds set by civill agreement.*

Answ. *A legall restraint on the people, is a forceable restraint*: For if Law be not backed with force, it is onely a Law of rewarding weldoing, which is no restraint, but an encouragement to do evil. If then there be a legall restraint upon the King, without any force, it is no restraint, but onely such a request as this, *Be a just Prince, and we will give your Majestie two Subsidies in one yeer*. 2. I utterly deny, that God ever ordained such an irrationall creature, as an absolute Monarch. If a people unjustly, and against natures dictates make away, irrevocably, their own libertie, and the libertie of their posteritie, which is not their's to dispose off, and set over themselves, as base slaves, a sinning creature with absolute power, he is their King, but not as he is absolute, and that he may not be forceably resisted; [533] notwithstanding, the subjects did swear to his absolute power (which oath in the point of absolutenesse, is unlawfull, and so not obligatory) I utterly deny. 3. *An absolute Monarch (saith he) is limited, but by Law of nature*: That is, Master *Doctor*, he is not limited as a Monarch, not as an absolute Monarch, but as a son of *Adam*, he is under the limites of the Law of nature, which he should have been under, though he had never been a King, all his dayes, but a slave. But what then? Therefore he cannot be resisted. Yes, *Doctor*, by your own grant he can be resisted: If he invade an innocent subject (say you) 1. *Suddenly*. 2. *Without colour of Law*. 3. *Inevitably*: And that because he transgresseth the Law of nature. 4. You say, a limited Monarch can lesse be resisted for transgressing the bounds set by civill agreement. But, 1. What if the thus limited Monarch transgresse the Law of nature, and subvert Fundamentall Lawes, he is then, you seem to say, to be resisted; it is not for simple

transgression of a civill agreement, that he is to be resisted. 2. The limited Monarch is as essentially the Lords anointed, and the power ordained of God, as the absolute Monarch. Now resistance by all your grounds, is unlawfull, because [217] of Gods power and place conferred upon him, not because of mens positive covenant made with him.

To finde out the essentiall difference betwixt a King and a Tyrant: We are to observe, that it is one thing to sin against a man, [534] another thing against a Stat^{••}. *David* killing *Vriah*, committed an act of murther: But on this supposition, that *David* is not punished for that murther, he did not so sin against the State, and Catholike good of the State, that he turneth Tyrant, and ceaseth to be a lawfull King. A Tyrant is he who habitually sinneth against the Catholike good of the Subjects and State, and subverteth Law. Such a one should not be, as *Jason*, of whom it is said by *Aeneas Silvius*, *Graviter ferebat, si non regnaret, quasi nesciret esse privatus*. [535] When such as are monstrous Tyrants, are not taken away by the Estates, God pursueth them in wrath. [536] *Domitian* was killed by his own Family, his wife knowing of it. *Aurelianus* was killed with a thunder-bolt. *Darius* was drowned in a River. *Dioclesian* fearing death, poysoned himself. *Salerius* died eaten with Worms: The end of *Herod*, and *Antiochus*. *Maxentius* was swallowed up in a standing River. *Iulian* died, being stricken through with a Dart thrown at him by a man, or an Angel, it is not known. *Valens* the *Arian* was burnt with fire in a little Village by the *Gothes*. *Anastasius* the *Eutychian Emperour*, was stricken by God with thunder. *Gundericus Vandalus*, when he rose against the Church of God, being apprehended by the Divell, died. Some time the State have taken order with Tyrants. The Empire was taken from *Vitellius*, *Heliogabalus*, *Maximinus*, *Didius*, *Iulianus*: So was the two *Childerici* of *France* served: So were also *Sigebertus*, *Dagabertus*, and *Lodowick* the 11. of *France*. *Christiernus* of *Denmark*, *Mary* of *Scotland*, who killed her husband, and raised Forces against the Kingdom: So was *Henricus Valesius* of *Pol*, for fleeing the Kingdom. *Sigismundus* of *Pol*, for violating his faith to the States.

[218]

QUEST. XXV. What force the Supreme Law hath over the King? even that Law of the Peoples safetie, called, *Salus Populi*. ↩

The Law of the 12. Tables, is, *Salus populi, Suprema lex*. The safetie of the People is the supreme and Cardinall law, to which all Lawes are to stoope. And that from these Reasons:

[537]1. *Originaliter*: Because, if the People be the first Author, Fountaine, and Efficient, under *God*, of *Law* and *King*, then their own safetie must be principally sought, and their safetie must be farre above the *King*, as the safetie of a Cause, especially of an universall Cause, such as is the People, must be more then the safetie of one, as *Aristotle* saith, *l. 3. polit. alias l. 5.* (in non-Latin alphabet) (in non-Latin alphabet). *The part cannot be more excellent then the whole*: nor the effect above the cause.

2. *Finaliter*. This Supreme law must stand; for if all Law, Policie, Magistrates and Power be referred to the peoples good, as the end, *Rom. 13.4.* and to their *quiet and peaceable life in godlinesse and honestie*: then must this Law stand, as of more worth then the *King*, as the end is of more worth then the meanes leading to the end; for the end is the measure and rule of the goodnesse of the meane: and, *finis ultimus in influxu est potentissimus*. The *King* is good, because he conduceth much for the safetie of the People; *Ergo*, the safetie of the people must be better.

3. By way of limitation: Because no Law, in its letter, hath force, where the safetie of the Subject is in hazard: and if Law, or *King* be destructive to the people, they are to be abolished. This is cleare in a Tyrant, or a wicked man.

4. In the desires of the most holy: *Moses*, a Prince, desired for the safetie of Gods people; and rather then God should destroy his people, that his name should be razed out of the booke of life. And *David* saith, 1 Chron. 21.17. *Let thine hand, I pray thee, O Lord my God, be on me, and on my fathers house; but not on thy people, that they should be plagued.* This being a holy desire of these two publick Spirits, [538] the object must be in it selfe true; and the safetie of Gods people, and their happinesse, must be of more worth then the salvation of *Moses*, and the life of *David*, and his Fathers house.

[219]

The *Prelate* borroweth an answer to this, [539] (for he hath none of his own) from D. *Ferne*. *The safetie of the Subjects is the prime end of the constitution of Government: but it is not the sole and adequate end of government in Monarchie; for that is the safetie of both King and People. And it beseemeth the King to proportion his lawes for their good; and it becommeth the People to proportion all their obedience, actions and endeavours, for the safetie, honour, and happinesse of the King. It's impossible the people can have safetie, when Soveraigntie is weakened.*

Ans. The *Prelate* would have the other halfe of the end, why a King is set over a People, to be the safetie and happinesse of the King, as well as the safetie of the People. [540] This is new Logick indeed, that one and the same thing should be the meane, and the end. The question is, For what end is a *King* made so happy, as to be exalted King? The *Prelate* answereth; He is made happy, that he may be happy; and made a *King*, that he may be made a *King*. Now is the *King*, as *King*, to intend this halfe end? that is, Whether or no accepteth he the burden of setting his head and shoulders under the Crowne, for this end, that he may not only make the people happy, but also that he may make himselfe rich and honorable above his brethren, and enrich himselfe? I beleeeve not: but that he *feed the people of God*. For if he intend himselfe, and his own honour, it is the intention of the man who is *King*, and *intentio operantis*; but it is not the intention of the *King*, as the King, or *intentio operis*. The *King*, as a *King*, is formally and essentially the *Minister of God for our good*, Rom. 13.4. 1 Tim. 2.2. and cannot come under any notion as a *King*, but as a mean, not as an end, nor as that which he is, to seeke himselfe. I conceive, *God* did forbid this, in the moulding of the first King, *Deut.* 17.18, 19, 26. He is a minister by office, and one who receiveth honour and wages for this worke, that *ex officio*, he may feed his people. But the *Prelate* saith, the people are to intend his riches and honour. I cannot say but the people may intend to honour the *King*: but that is not the question, whether the people be to referre the King and his government as a meane to honour the King? I conceive not. But that end which the people in obeying the King in being ruled by him, may intend, is, 1 Tim. 2.2. That under him they may lead a *quiet and a peaceable life, in all Godlinesse and honestie*. And Gods end in giving a King, is the good and safetie of his people.

[220]

[541]P. *Prelate*. *To reason from the one part and end of Monarchicall government, The safetie of the Subjects; to the destruction and weakning of the other part of the end of the power of Soveraigntie, and the Royall prerogative: is a caption à divisio. If the King be not happy, and invested with the full power of a Head, the Body cannot be well. By Anti-Monarchists; The people at the beginning were necessitated to commit themselves, lives and fortunes to the government of a King, because of themselves they had not wisdom and power enough to doe it: and therefore they enabled him with honour and power, without which he could not doe this, being assured that he could not choose but most earnestly and carefully endeavour this end, to wit, his own, and the peoples happines. Ergo, the safetie of the people issueth from the safetie of the King, as the life of the naturall body from the soule. Weake Government is neare to Anarchie. Puritans will not say, Quovis modo esse, etiam*

poenale, *is better then non esse: The Scripture saith the contrary; It were better for some never to have been borne, then to be. Tyranny is better then no Government.*

Ans. 1. He knowes not Sophismes of Logick, who calleth this Argument, à *divisis*: for the Kings Honour is not the end of the Kings Government: He should seeke the safetie of State and Church, not himself; Himselfe is a private end, and a step to *Tyranny*.

2. The *Prelate* lyeth, when he maketh us to *reason from the safetie of the Subject to the destruction of the King*. *Ferne, Barclay, Grotius*, taught the hungry Scholler to reason so. Where read he this? The People must be saved; That is the Supreme law: *Ergo*, destroy the King. The Devill and the *Prelate* both, shall not fasten this on us. But thus we reason: When the man who is the King, endeavoreth not the end of his Royall place, but, through bad counsell, the subversion of Lawes, Religion, and bondage of the Kingdome; The free Estates are to joyne with him for that end of Safetie, according as God hath made them heads of Tribes, and Princes of the people: And if the King refuse to joyne with them, and will not doe his dutie; I see not how they are in conscience liberated, before God, from doing their part.

3. If the *P. Prelate* call resisting the King by lawfull defensive wars, the destruction of the Head; He speaketh with the mouth of one excommunicated, and delivered up to *Sathan*.

4. We endeavour nothing more then the safetie and happinesse [221] of the King, as King: but his happinesse is not to suffer him to destroy his Subjects, subvert Religion, arme Papists, who have slaughtered above two hundred thousand innocent Protestants, only for the profession of that true Religion which the King hath sworne to maintaine. Not to rise in armes to helpe the King against these, were to gratifie him as a Man, but to be accessarie to his soules destruction, as a King.

5. That the Royall Prerogative is the end of a Monarchie ordained by God; neither Scripture, Law, nor Reason can admit.

6. The people are to intend the safetie of other Iudges, as well as the Kings. If *Parliaments* be destroyed, whose it is to make Lawes and Kings; the People can neither be safe, free to serve *Christ*, nor happy.

7. It is a lie, that people were necessitated, at the beginning, to commit themselves to a King: for we read of no King, while *Nimrod* arose: Fathers of families (who were not Kings) and others, did governe till then.

8. It was not want of wisdom, (for in many, and in the people, there must be more wisdom then in one man:) but rather corruption of nature, and reciprocation of injuries, that created Kings, and other Iudges.

9. The King shall better compasse his end, to wit, the safetie of the people, with limited power, (*placent mediocria*) and with other Iudges added to helpe him, *Num.* 11.14, 16. *Deut.* 1.12, 13, 14, 15. then to put in one mans hand absolute power: for a sinfull mans head cannot beare so much new wine, such as exorbitant power is.

10. He is a base flatterer, who saith, The King *cannot choose but earnestly and carefully endeavour his own, and the peoples happinesse*: that is, the King is an *Angel*, and cannot sinne; and decline from the duties of a King. Of the many Kings of *Judah* and *Israel*, how many chose this? All the good Kings that have been, may be written in a gold ring.

11. The peoples safetie dependeth indeed on the King, as a King and a happy Governour; but the people shall never be fattened to eat the winde of an imaginarie Prerogative Royall.

12. Weake Government, that is, a *King* with a limited power, who hath more power about his head, nor within his head; is a [222] strong King, and farre from Anarchy.

[542]13. I know not what he meaneth, but *Arminius*, his Masters way and words are here, for *Arminians* say, *That being in the damned eternally tormented is no benefit, it were better they never had being, then to be eternally tormented*; and this they say to the defiance of the Doctrine of eternall Reprobation, in which we teach, That though by accident, and because of the Damned their abuse of being and life, it were to them better not to be; as is said of *Iudas*, yet *simpliciter* comparing being with non-being, and considering the eternity of miserable being in relation to the absolute liberty of the Former of all things, who maketh use of the sinfull being of Clay-vessells for the illustration of the glory of his Iustice and power, *Rom.* 9.17, 22. *1 Pet.* 2.8. *Iude* v. 4. It is a censuring of God, and his unsearchable Wisedome, and a condemning of the Almighty of cruelty (*God* avert blasphemy of the unspotted and holy Majesty) who by Arminian grounds, keepeth the Damned in life, and being to be fuell eternally for *Tophet*, to declare the glory of his Iustice. But the Prelate behoved to goe out of his way to salute and gratifie, a proclaimed enemy of free Grace *Arminius*, and hence he would inferre, That the King wanting his Prerogative Royall, and fulnesse of absolute power to doe wickedly, is in a penall and miserable condition, and that it were better for the *King* to be a *Tyrant*, with absolute liberty to destroy, and save alive at his pleasure, as is said of a Tyrant, *Dan.* 5. v. 19. then to be no King at all. And here consider a Principle of Royalists Court faith.

[543]1. The *King* is no *King*, but a lame and miserable Iudge, if he have not irresistable power to wast and destroy.

2. The *King* cannot be happy, nor the people safe; nor can the King doe good in saving the needy, except he have the uncontrollable and unlimited power of a Tyrant, to crush the poore and needy, and lay wast the mountaine of the Lords inheritance: such Court-ravens, who feede upon the soules of living Kings, are more cruell then Ravens and Vultures, who are but dead carcasses.

[544]*Williams B. of Ossarie* answereth to the Maxime, *Salus populi, &c. No wise King but will carefully provide for the peoples safety, because his safety and honour is included in theirs, his destruction in theirs. And it is, saith Lipsius, egri animi proprium nihil diu pati. Absolom perswaded there was no justice in the Land, when he intendeth Rebellion.* [223] And the poore Prelate following him, [545] spendeth pages to prove that *Goods, Life, Chastity and Fame dependeth on the safety of the King, as the breath of our nostrills, our Nurse-father, our Head, cornerstone, and Judge, c.* 17.6.18.1. The reason why all disorder was in Church and State, *was not because there was no Iudge, no Government; none can be so stupid as to imagine that. But because* 1. *They wanted the excellentest of Governments.* 2. *Because Aristocracy was weakened so, as there was no right. No doubt Priests there were, but Hos. 4. either they would not serve, or were over-awed, no doubt in those daies they had Iudges, but Priests and Iudges were stoned by a rascally multitude, and they were not able to rule; therefore it is most consonant to Scripture to say, Salus regis suprema populi salus. The safety of the King and his Prerogative Royall is the safest sanctuary for the people. So Hos. 3.4. Lament. 2.9.*

Ans. 1. The question is not of the Wisedome, but of the Power of the King, if it should be bounded by no Law.

2. The flatterer may know, there be more foolish Kings in the world then wise, and that Kings misled with Idolatrous *Queenes*, and by name *Achab* ruined himselfe, and his posterity and Kingdome.

3. The salvation and happinesse of men standing in the exalting of Christs Throne and the Gospell, *ergo* every King, and every man will exalt the Throne, and so let them have an incontrollable power without constraint of Law, to doe what they list, and let no bounds be set to Kings over subjects; by this Argument their owne wisdom is a law to leade them to Heaven.

4. It is not *Absoloms* mad Male-contents in *Britane*, but there were really no justice to Protestants, all indulgence to Papists, Popery, Arminianisme, Idolatry printed, Preached, professed, rewarded by Authority, Parliaments, and Church Assemblies, the Bulwarkes of Iustice and Religion were denied, dissolved, crushed, &c.

5. That by a King he understandeth a *Monarch*, Iudg. 17. and that such a one, as *Saul*, of *Absolute power*, and not a Iudge, cannot be proved, for there were no Kings in Israel in the Iudges daies, the Government not being changed till neare the end of *Samuels* Government.

6. And that they had no Iudges, he saith, It is not imaginable, but I rather beleeve God then the Prelate, *Every one did what was [224] right in his owne eyes*, because there was none to put ill doers to shame. Possible the Estates of Israel governed some way for meere necessity, but wanting a supreme Iudge which they should have, they were loose: but this was not because where there is no King, as *P. P.* would insinuate, there was no Government, as is cleare.

7. Of tempered and limited Monarchy, I thinke as honourably as the Prelate, but that absolute and unlimited Monarchy is excellenter then Aristocracy, I shall then beleeve when *Royalists* shall prove such a Government, in so farre it is absolute, to be of God.

8. That *Aristocracy* was now weakened I beleeve not, seeing God so highly commendeth it, and calleth it his own *reigning over his people*, 1 Sam. 8.7. The weakening of it through abuse, is not to a purpose, more then the abuse of *Monarchy*.

9. *No doubt* (saith he) Hos. 4. *They were Priests and Iudges*, Hos. 4. *but they were over-awed as they are now. I thinke he would say, Hos. 3.4. otherwise he citeth Scripture sleeping.* That the Priests of *Antichrist* be not only over-awed, but out of the earth; I yeeld, that the *King* be limited, not over-awed, I thinke Gods Law, and mans Law alloweth.

10. The safety of the *King* as *King*, is not only safety, but a blessing to Church and State, and therefore this *P. Prelate* and his fellowes deserve to be hanged before the Sun, who have led him on a warre to destroy him, and his Protestant subjects. But the safety and flourishing of a King in the exercises of an Arbitrary, unlimited power against Law, and Religion, and to the destruction of his subjects, is not the safety of the people, nor the safety of the *Kings* soule, which these men, if they be the Priests of the Lord, should care for.

The Prelate commeth to refute the learned and worthy *Observer*. [546] *The safety of the people is the supreme Law, ergo the King is bound in duty to promote all and every one of his subjects to all happinesse.* The *Observer* hath no such inference, the King is bound to promote some of his subjects even as King, to a Gallowes, especially *Irish* Rebels, and many bloody Malignants. But the Prelate will needs have *God* rigorous (hallowed be his name) if it be so, for it is impossible to the tenderest-hearted father to doe so: actuall promotion of all is impossible, that the King intend it of all his subjects, [225] as good subjects, by a Throne established on righteousness and judgement, is that which the *worthy Observer* meaneth; other things here are answered.

The summe of his second answer is, a repetition of what he hath said; I give my word in a *Pamphlet* of one hundred ninety and foure pages, I never saw more idle repetitions, of one thing twenty times before said. But page one hundred sixty and eight, he saith, *The safety of*

the King and his subjects in the Morall notion may be esteemed Morally the same, no lesse then the soule and the body make one personall subsistence.

Ans. This is strange Logick, the *King* and his subjects are *Ens per aggregationem*; and the *King* as *King* hath one Morall subsistence, and the people another. Hath the Father and the sonne, the Master and the servant one Morall subsistence? but the man speaketh of their well being: and then he must meane that our Kings Government that was not long agoe, and is yet, to wit, the Popery, Arminianisme, Idolatry, cutting of mens eares, and noses, banishing, imprisonment, for speaking against Popery, arming of Papists to slay Protestants, pardoning the blood of *Ireland*, that I feare, shall not be soone taken away, &c. are identically the same with the life, safety, and happinesse of Protestants, then life and death, justice and injustice, Idolatry and sincere worship are identically one, as the soule of the Prelate and his body are one.

The third is but a repitition. [547] *The Acts of Royaltie (saith the Observator) are Acts of dutie and obligation; Ergo, not acts of grace properly so called. Ergo, We may not thank the King for a courtesie. This is no consequence. What fathers do to children, are acts of naturall dutie, and of naturall grace; and yet children owe gratitude to parents, and subjects to good Kings, in a legall sense. No, but in way of courtesie onely. The Observator said, The King is not a father to the whole collective body, and its well said, he is son to them, and they his maker. Who made the King? Policy answereth, The State made him, and Divinitie: God made him.*

4. The *Observator* said well: [548] *The peoples weaknesse is not the Kings strength. The Prelate saith, Amen: He said, That that perisheth not to the King, which is granted to the people. The Prelate denyeth. Because, What the King hath in trust from God, the King cannot make away to another, nor can any take it from him, without sacriledge.*

[226]

Ans. True indeed, If the *King* had Royalty by immediate trust, and infusion by God, as *Elias* had the spirit of prophecie, that he cannot make away: Royalists dream that God immediately from heaven, now infuseth facultie and right to Crowns, without any word of God. Its enough to make an *Euthysia*st leap up to the Throne, and kill Kings. Judge if these Fanaticks be favourers of Kings: But if the *King* have Royaltie mediately by the peoples free consent from God, there is no reason, but people give as much power even by ounce weights (for power is strong Wine, and a great mocker) as they know a weak mans head will bear, and no more; power is not an immediate inheritance from heaven: But a birth-right of the people borrowed from them, they may let it out for their good, and resume it when a man is drunk with it. 2. The man will have it conscience on the *King* to fight and destroy his three Kingdoms, for a dream, his prerogative above Law. But the truth is, *Prelates* do engage the *King*, his house, honour, subjects, Church, for their cursed Mytres.

[549] *The Prelate* vexeth the Reader with Repetitions, and saith, *The King must proportion his Government, to the safety of the people on the one hand, and to his owne safety and power on the other hand.*

Ans. What the *King* doth as *King*, he doth it for the happinesse of his people, the *King* is a relative, yea even his owne happinesse that he seeketh, he is to referre to the good of *Gods* people. He saith farther, [550] *The safety of the people includeth the safety of the King, because the word populus is so taken, which he proveth by a raw sickly rabble of words, stollen out of Passerats Dictioner. His father the Schoole-master may whip him for frivolous Etymologies.*

This supreme Law (saith the Prelate) is not above the Law of Prerogative Royall, the highest Law, nor is Rex above Lex. The Democracie of Rome had a supremacie above Lawes, to make and unmake Lawes: and will they force this power on a Monarch, to the destruction of Soveraigntie?

Ans. This, which is stollen from *Spalato, Barclay, Grotius*, and others, [551] is easily answered. The supremacie of People, is a Law of natures selfe-preservation, above all positive Lawes, and above the *King*; and is to regulate Soveraigntie, not to destroy it. 2. If this supremacie of Majesty was in people, before they have a *King*, then 1. they lose it not by a voluntary choise of a *King*; for a *King* is chosen for good, and not for the peoples losse, *ergo* they must retain [227] this power in habite, and potency, even when they have a *King*. 2. Then supremacy of Majesty is not a beame of Divinity proper to a *King* only. 3. Then the people having Royall soveraignty vertually in them, make, and so unmake a *King*, all which the Prelate denyeth.

This supreme Law (saith the Prelate, begging it from Spalato, Arnisaeus, Grotius) advance the King, not the people: [552] and the sense is, The Kingdome is really some time in such a case, that the Soveraigne must exercise an Arbitrary Power, and not stand upon private mens interests, or transgressing of Lawes, made for the private good of individualls, but for the preservation of it selfe, and the publicke, may break through all Lawes. This he may, in the case when suddaine forraine invasion threatneth ruine inevitably to King and Kingdome; a Physitian may rather cut a Gangreened member, then suffer the whole body to perish. The Dictator in case of extreame dangers (as Livie and Dion. Halicarnass. shew us) had power according to his owne Arbitrament, had a soveraigne Commission in peace and war of life, death, persons, &c. not co-ordinate, not subordinate to any.

Ans. It is not an Arbitrary power, but naturally tyed and fettered to this same supreme Law, *Salus populi*, the safety of the people, that a *King* breake through, not the Law, but the letter of the Law for the safety of the people; as the Chyrurgion, not by any prerogative that he hath above the Art of Chyrurgery, [553] but by necessity, cutteth off a Gangreened member, thus its not Arbitrary to the *King* to save his people from ruine, but by the strong and imperious Law of the peoples safety he doth it; for if he did it not, he were a murderer of his people. 2. He is to stand upon transgression of Lawes according to their genuine sense of the peoples safety, for good Lawes are not contrary one to another, though when he breaketh through the letter to the Law, yet he breaketh not the Law, for if twenty thousand Rebels invade *Scotland*, he is to command all to rise, though the formality of a Parliament cannot be had to indict the war, as our Law provideth; but the *King* doth not command all to rise, and defend themselves by a Prerogative Royall, proper to him as *King*, and incommunicable to any but to himselfe.

1. There is no such dinne and noise to be made for a *King*, and his incommunicable Prerogative, for though the *King* were not at all, yea though he command the contrary (as he did when he came [228] against *Scotland* with an English Army) the law of Nature teacheth all to rise without the *King*.

2. That the *King* command this as *King*, it is not a particular positive Law; but he doth it as a man, and a member of the Kingdom; The law of Nature, (which knoweth no dreame of such a Prerogative) forceth him to it, as every member is, by Natures indictment, to care for the whole.

3. It is poore hungry skill in this New Statist, (for so he nameth all *Scotland*) to say, that any Lawes are made for private interests, and the good of some individuals. [554] Lawes are not Lawes, if they be not made for the safetie of the people.

4. It is false, that the King in a publike danger is to care for himselfe as a man, with the ruine and losse of any: Yea, in a publike calamitie, a good *King*, as *David*, is to desire he may die, that the Publike may bee saved, 2 *Samuel*, 24.17. *Exodus* 32.32. It is commended of all, that the Emperour *Otho*, yea and *Richard* the 2. of *England*, as *M. Speed* saith, *Hist. of England*, p. 757. resigned their Kingdomes to eschew the effusion of blood. The *Prelate* adviseth the King to passe over all lawes of Nature, and slay thousands of innocents, and destroy Church and State of three Kingdomes, for a straw, and *supposed Prerogative Royall*. Now certainly, Prerogative, and Absolutenes to doe good and ill, must be inferior to a Law, the end whereof is the safetie of the People. For *David* willeth the pestilence may take him away, and so his Prerogative, that the People may be saved, 2 *Sam.* 24.17. for Prerogative is *cumulative*, to doe good, not *privative* to doe ill; and so is but a meane to defend both the Law and the People.

2. Prerogative is either a power to doe good, or ill, or both: If the first be said, it must be limited by the End, and Law, for which it is ordained. A meane is no farther a meane, but in so far as it condueth to the end; the safetie of all. If the second be admitted, it is Licence and Tyrannie, not power from *God*. If the third be said, both reasons plead against this, that Prerogative should be the King•• end in the present warres.

3. Prerogative being a power given by the mediation of the people; yea, suppose (which is false) that it were given immediatly of *God*; yet it not a thing for which the *King* should raise war against his Subjects: for *God* will aske no more of the *King*, then he giveth to him: *The Lord reapeth not, where he soweth not*. If the *Militia*, [229] and other things, be ordered hitherto for the holding off Irish and Spanish invasion by Sea, and so for the good of the Land, seeing the King, in his own person, cannot make use of the *Militia*; he is to rejoyce that his Subjects are defended. The King cannot answer to *God* for the justice of warre on his part: It is not a case of conscience that the King should shed blood for, to wit, because the under-Officers are such men, and not others of his choosing; seeing the Kingdome is defended sufficiently, except where Cavaliers destroy it. And to me, this is an unanswerable argument, that the Cavaliers destroy not the Kingdomes for this Prerogative Royall, as the principall ground; but for a deeper designe, even for that which was working by Prelates and Malignants, before the late troubles in both Kingdomes.

4. The *King* is to intend the safetie of his People; and the safety of the *King*, as a Governour, but not as this *King*, and this man, *Charles*: that is a selfe end: a King *David* is not to looke to that: for when the people was seeking his life and crown, he saith, *Ps.* 3.8. *Thy blessing upon thy People*. He may care for, and intend that the *King* and Government be safe: for if the Kingdome be destroyed, there cannot be a new Kingdome and Church on earth againe to serve *God*, in that generation, *Psal.* 89.47. but they may easily have a new King againe: and so the safetie of the one, cannot in reason be intended, as a collaterall end, with the safetie of the other: for there is no imaginable comparison betwixt one man, with all his accidents of Prerogative and Absolutenesse, and three Nationall Churches and Kingdomes: Better the King weep for a Childish trifle of a Prerogative, than Poperie be erected, and three Kingdomes be destroyed by Cavaliers, for their own ends.

5. The *Dictators* power is, 1. a fact, and proveth not a point of Conscience. [555] 2. His power was in an exigence of extreme danger of the Commonwealth. The *P. Prelate* pleadeth for a constant absolutenesse above Lawes, to the King at all times, and that *jure Divino*. 3. The Dictator was the Peoples creature; *ergo*, the Creator, the People, had that soveraigntie over him. 4. The Dictator was not above a King: but the Romanes ejected Kings. 5. The Dictators power was not to destroy a State: 2. He might be, and was resisted. 3. He might be deposed.

Prelate. *The safetie of the People is pretended as a Law, that the Jewes must put Christ to death; and that Saul spared Agag.* [556]

[230]

Ans. No shadow for either, in the word of God. *Caiaphas* prophecied, and knew not what he said. But that the Iewes intended the salvation of the Elect, in kil•ing Christ: or that *Saul* intended a publick good in sparing *Agag*, shall be the Prelates Divinitie, not mine.

2. What, howbeit many should abuse this Law of the peoples safety, to wrong good Kings, it ceaseth not therefore to be a Law, and licenseth not ill Kings, to place a Tyrannicall Prerogative above a just Dictate of nature.

[557]In the last Chapter, the Prelate hath no reasons, onely he would have Kings holy, and this he proveth from *Apocrypha* Books, because he is ebbe in holy Scripture; but it is Romish holinesse, as is cleer.

2. He must preach something to himself, that the King adore a tree-Altar. Thus Kings *must be most reverend in their gestures*, pag. 182.

3. The King must hazard his sacred life and three Kingdoms, his Crown, Royall posterity, to preserve sacred things, that is, Antichristian Romish Idols, Images, Altars, Ceremonies, Idolatry, Popery.

4. He must upon the same pain maintain sacred persons, that is, greasie Apostate Prelates. The rest I am weary to trouble the Reader withall, but know *ex ungue leo••em*.

QUEST. XXVI. Whether the King be above the Law or no?↩

[558]WE may consider the question of the Laws supremacie over the King, either in the supremacie of constitution of the King, 2. or of direction, or 3. of limitation, or 4. of coaction and punishing. Those who maintain this, [*The King is not subject to the Law*] if their meaning be [*The King as King is not subject to the Laws direction*] They say nothing; [559] for the King as the King is a living Law; then they say [*The Law is not subject to the Laws direction*] a very improper speech; or, The King as King, is not subject to the coaction of the Law; that is true, for he who is a living Law, as such, cannot punish himself, as the Law saith.

1. *Assert.* The Law hath a supremacy of constitution above the King;

[231]

1. Because the King by nature is not King, as is proved; *Ergo*, he must be King by a politique constitution and Law, and so the Law in that consideration is above the King, because it is from a civil Law, that there is a King, rather then any other kinde of Governour.

2. It is by Law, that amongst many hundred men, this man is King, not this man; and because, *by the which a thing is constituted, by the same thing it is, or may be dissolved*; therefore,

3. As a Community finding such and such qualifications as the Law requireth to be in a King, in this man, not in this man; therefore upon Law-ground,

5. They make him a King, and upon Law-grounds and just demerit, they may unmake him again; for, *what men voluntarily doe upon condition, the condition being removed, they may undoe again*.

2. *Assert.* It is denied by none; but *the King is under the directive power of the Law*, though many liberate the King from the coercive power of a civil Law. But I see not what direction a civil Law can give to the King, if he be above all obedience, or disobedience to a Law, seeing all *Law-direction* is *in ordine ad obedientiam*, in order to obey; except thus far, that the light that is in the civil Law, is a morall or naturall guide to conduct a King in his walking; but this is the morality of the Law which inlightneth and informeth, not any obligation that aweth the King; and so the King is under Gods and Natures Law, this is nothing to the purpose.

3. *Assert.* The King is under the Law, in regard of some coercive limitation:

1. Because there is no absolute power given to him to do what he listeth, as a man. And because,

2. God, in making *Saul* a King, doth not by any Royall stamp give him a power to sin, or to play the Tyrant; for which cause I expone these of the Law, *Omnia sunt possibilia Regi*, [560] *Imperator omnia potest. Baldus in §. F. de no. for. fidel. in F. & in prima constitut. C. col. 2. Chassanaeus in Catalog. gloriae mundi. par. 5. considerat. 24. & tanta est ejus celsitudo, ut non posset ei imponi lex in regno suo. Curt. in consol. 65. col. 6. ad. F. Petrus Rebuff. Notab. 3. repet. l. unicae. C. de sentent. quae pro eo quod nu. 17. pag. 363.* All these go no otherwise but thus, The King can do all things which by *Law* he can do, and that holdeth him: *id possumus quod jure possumus.* [232] And therefore the King cannot be above the Covenant and Law made betwixt him and his people, at his Coronation-oath; for then the Covenant and Oath should binde him onely, by a naturall obligation, as he is a man, not by a civil or politique obligation, as he is a King.

So then, 1. it were sufficient that the King should swear that Oath in his Cabinet-chamber, and it is but a mocking of an Oath, that he swear it to the people.

2. That Oath given by the Representative-Kingdom, should also oblige the Subjects naturally, *in foro Dei*, not politically, *in foro humano*, upon the same reason.

3. He may be resisted as a man.

4. *Assert.* The fourth case is, if the King be under the obliging politique coercion of civil Laws, for that he *in foro Dei*, be under the morality of civil Laws, so as he cannot contraveen any Law in that notion, but he must sin against God, is granted on all hands, *Deut. 17.20. Iosh. 1.8. 1 Sam. 12.15.* That the King binde himself to the same Law that he doth binde others, is decent, and obligeth the King as he is a man;

1. Because, *Matth. 7.12.* It is said to be the Law and the Prophets, *All things, whatsoever ye would men should do unto you, do ye even so to them.*

2. It is the Law, *Imperator L. 4. digna v•x. C. de lege & tit. Quod quisque juris in alium statuit, eodem & ipse utatur. Iulius Caesar* commanded the youth who had defloured the Emperours daughter, to be scourged, above that which the Law allowed. The youth said to the Emperour, [561] *Dixisti legem Caesar;* You appointed the Law, *Caesar. The Emperor was so offended with himself, that he had failed against the Law, that for the whole day he refused to taste meat.*

Assert. 5. The King cannot but he subject to the coercive power of Fundamentall Laws: [562] Because this is a Fundamentall Law, that the free Estates lay upon the King, that all the power that they give to the King as King, is *for the good and safety of the people*; and so what he doth to the hurt of his subjects, he doth it not as King.

2. The Law saith, *Qui habet potestatem constituendi etiam & jus adimendi. l. nemo. 37. l. 21. de reg. jure.* Those who have power to make, have power to unmake *Kings*.

3. What ever the *King* doth as *King*, that he doth by a power [233] borrowed from, (or by a *fiduciary* power which is his by trust) the Estates, who made him *King*. He must then be nothing but an *eminent servant* of the State, in the punishing of others. If therefore he be unpunishable, it is not so much because his Royall power is above all *Law-coaction*, as because one & the same man cannot be both the punisher and the punished, and this is a Physicall incongruity rather then a Morall absurdity. So the Law of God layeth a duty on the inferiour Magistrate, to use the sword against the murtherer, and that by vertue of his Office, but I much doubt it for that, he is to use the sword against himselfe in the case of Murther▪ for this is a truth I purpose to make good; [563] that suffering as suffering according to the substance and essence of passion, is not commanded by any Law of *God* or nature to the sufferer, but only the manner of suffering: I doubt if it be not, by the Law of Nature, lawfull even to the ill doer who hath deserved death by Gods Law, to fly from the sword of the lawfull Magistrate; only the manner of suffering with patience is commanded of God. I know the Law saith here, That the Magistrate is both Iudge, and the Executor of the sentence against himselfe, in his owne cause, for the excellency of his Office. Therefore these are to be distinguished, whether the King *Ratione demeriti & jure*, by Law be punishable, or if the King can actually be punished corporally by a Law of man, he remaining *King*; and since he must be a punisher himselfe, and that by vertue of his Office. In matters of goods the King may be both Iudge and punisher of himselfe, as our Law provideth that any subject may plead his owne heritage from the *King* before the inferiour Iudges, and if the *King* be a violent possessour, and in *Mala fide* for many yeares, by Law he is obliged upon a Decree of the Lords, to execute the sentence against himselfe, *Ex officio*, and to restore the Lands, and repay the dammage to the just owner, and this the *King* is to doe against himselfe, *ex officio*. I grant here the *King* as *King* punisheth himselfe as an unjust man, but because bodily suffering is meere violence to nature, I doubt if the *King ex officio*, is to doe or inflict any bodily punishment on himselfe: *Nemo potest a seipso cogi. l. ille a quo. 13. §.*

Assert. 6. There be some Lawes made in favour of the *King* as *King*, as to pay tribute. The *King* must be above this Law as *King*. [564] True, but if a Noble man of a great rent be elected *King*, I know not, if he can be free from paying to himselfe as *King*, tribute, seeing [234] this is not allowed to the *King* by a Divine Law, *Rom. 13.6.* as a reward of his worke; and *Christ* expresly maketh tribute a thing due to *Caesar* as a King, *Matth. 22. v. 21.* There be some solemnities of the Law from which the *King* may be free, *Prickman. D. c. 3. n. 78.* and he relateth what they are, they are not Lawes, but some circumstances belonging to Lawes, and *Prickman* answereth to many places alledged out of the Lawyers, to prove the *King to be above the Law, Maldorus* in 12. Art. 4, 5, 9, 96. *will have the Prince under that Law, [565] which concerneth all the Common-wealth equally in regard of the matter, and that by the Law of nature, but he will not have him subject to these Lawes which concerneth the subjects as subjects, as to pay tribute.* He citeth Francis••. a Vict. *Covarruvia*, and *Turrecremata*. He also will have the Prince under positive Lawes, such as not to transport victualls, not because the Law bindeth him as a Law. But because the making of the Law bindeth him, *Tanquam conditio sine qua non, even as he who teacheth another that he should not steale, he should not steale himselfe, Rom. 2.* But the truth is, this is but a branch of the Law of Nature, that I should not commit Adultery, and Theft, and Sacriledge, and such sinnes as nature condemneth, if I shall condemne them in others, and doth not prove that the King is under the coactive power of Civill Lawes.

[566] *Vlpianus, l. 31. F. de regibus* saith, *The Prince is loosed from Lawes*, Bodine de *Repub. l. 7. c. 8. Nemo imperat sibi, No man commandeth himselfe. Tholosanus* saith, *Ipsius est dare, non accipere leges. The Prince giveth Lawes, but receiveth none, De Rep. l. 7. c. 20.*

Donellus Lib. 1. Comment. c. 17. distinguisheth betwixt a *Law*, and a *Royall Law proper* to the King. *Trentlerus* Volum. 1.79.80. saith, The Prince is freed from Laws ■ and that he obeyeth Laws, *de honestate*, [567] *non de necessitate*, *Vpon honesty*, *not of necessity*. *Thomas P.* 1. q. 96. Art. 5. and with him *Soto*, *Gregorius de Valentia*, and other Schoole-men, subject the King to the *directive power of the Law*, and liberate him of the *coactive power of the Law*.

Assert. 7. If a King turne a Paricide, a Lyon, and a waster and destroyer of the people, as a man he is subject to the *Coactive power* of the Lawes of the Land. If any Law should hinder that a *Tyrant* should not be punished by Law, it must be, because he hath not a superiour but *God*; for *Royalists* build all upon this, but this ground is false: because the Estates of the Kingdome who gave him the [235] Crowne, are above him, and they may take away what they gave him; as the Law of Nature and *God* saith, If they had knowne he would turne *Tyrant*, they would never have given him the sword■■■■ and so how much ignorance is in the contract they made with the *King*, as little of will is in it, and so it is not every way willing, but being conditionall is supposed to be against their will. 2. They gave the power to him only for their good, and that they make the King, is cleare, 2 *Chron.* 23.11. 1 *Sam.* 10.17, 24. *Deut.* 17.14, 15, 16, 17. 2 *King.* 11. v. 12. 1 *King.* 16.21. 2 *King.* 10.5. *Iud.* 9.6.2. 2 *Chron.* 26.18. fourescore valiant men of the Priests withstood *Vzziah* in a corporall violence, and thrust him out, and cut him off from the house of the Lord. And,

2. If the Princes place doe not put him above the Lawes of *Church-Discipline*, (*Matth.* 18. for Christ excepteth none, [568] and how can men except?) and if the rod of Christs *lips smite the earth, and slay the wicked*, *Esay* 11.4. and the Prophets *Elias*, *Nathan*, *Jeremiah*, *Esaiiah*, &c. *John Baptist*, *Jesus Christ* ■ and his Apostles have used this rod of censure and rebuke, as servants under *God*, against Kings, this is a sort of spirituall coaction of Lawes put in execution by men, and by due proportion corporall coaction being the same ordinance of *God*, though of another nature, must have the like power over all, whom the Law of *God* hath not excepted, but Gods Law excepteth none at all.

3. It is presumed that *God* hath not provided better for the safety of the part, then of the whole, [569] especially when he maketh the part a meane for the safety of the whole.

But if *God* have provided that the *King*, who is a part of the Common-wealth, shall be free of all punishment, though he be a habituall destroyer of the whole Kingdome, seeing *God* hath given him to be a *Father*, *Tutor*, *Saviour*, *Defender* thereof, and destinated him as a meane for their safety, then must *God* have worse, not better provided, for the safety of the whole, then of the part. The Proposition is cleare in that *God*, *Rom.* 13.4. 1 *Tim.* 2.2. hath ordained the Ruler, and given to him the sword to defend the whole Kingdome and City; but we read no where, that the Lord hath given the sword to the whole Kingdome, to defend one man a *King*, though a Ruler come going on in a Tyrannicall way of destroying all his subjects.

The assumption is evident: for then the *King*, turning *Tyrant*, might [236] set an Army of *Turkes*, [570] *Jewes*, cruell *Papists*, to destroy the *Church of God*, without all feire of L••w or punishment. Yea, this is contrary to the doctrine of *Royalists*: for, *Winzetus adversus Buchana••um*, p. 275. s••ith of *Nero*, that he seeking to destroy the Senate and people of *Rom••*, and seeking to m••ke new lawes for himselfe, *excidit jure Regni*, lost right to the Kingdome. And *Barclaius advers. Monarcho-Machous*, l. 3. c. ult. p. 212, 213. saith, A *Tyrant*, such as *Caligula*, *spoliare se jure Regni*, spoileth himselfe of the right to the Crown. [571] And in that same place: *Regem, si regnum suum alienae ditioni manciparit, regno cadere*: If the King sell his Kingdome, he loseth the title to the Crown. *Grotius de jure belli & pacis*, l. 1. c. 4. n. 7, *Si Rex hostili animo in totius populi exitium feratur, amittit regnum*: If he turne *Enemie* to the Kingdome, for their destruction, he loseth his Kingdome, because (saith he) *Voluntas imperandi, & voluntas perdendi, simul consistere non possunt*: A will or

minde to governe, and to destroy, cannot consist together in one. Now if this be true, that a King turning *Tyrant*, loseth title to the Crown; this is either a falling from his Royall title only in Gods court; or it is a losing of it before men, and in the court of his Subjects. If the former be said, 1. He is no *King*, having before God lost his Royall title: and yet the people is to obey him *as the Minister of God*, and a power from God, when as he is no such thing. 2. In vaine doe these Authors provide remedies to save the people from a Tyrannous waster of the people, if they speake of a Tyrant who is no King in Gods court only, and yet remaineth a King to the people in regard of the Law: for the places speake of Remedies that *God* hath provided against Tyrants *cum titulo*, such as are lawfull Kings, but turn Tyrants. Now by this they provide no remedie at all, if only in Gods court, and not in Mans court also, a Tyrant lose his title. As for Tyrants *sine titulo*, such as usurpe the throne, and have no just claime to it: *Barclaius adver. Monarcho-Ma. l. 4. c. 10. p. 268.* saith, *Any private man may kill him, as a publike enemie of the State*: but if he lose his title to the Crown in the court of Men, then is there, 1. a Court on Earth to judge the King, and so he is under the coactive power of a Law. 2. Then a King may be resisted, and yet those who resist them, doe not incurre damnation; the contrary whereof Royalists endeavour to prove from *Rom. 13.3.* Then the people may un-king one who was a King. But 4. I would know who taketh that ⟨ in non-Latin alphabet ⟩ in non-Latin alphabet ⟩, from him, whereby he is a King, that beame [237] of Divine majestie? Not the people; because Royalists say, they neither can give, nor take away Royall dignitie, and so they cannot un-king him.

4. *The more Will be in the consent*▪ (saith *Ferd. Vasquez*▪: [572] l. 1. c 41.) *the obligation is the stricter.* So, *doubled words* (saith the Law, [573] l. 1. §. 13. n. 13.) *oblige more strictly.* And all lawes of Kings, who are rationally fathers, and so lead us by Lawes, as by rationally meanes to peace and externall happinesse; are contracts of King and People. *Omnis lex sponsio & contractus Reip.* §. 1. *Iust. de ver. relig.* Now the King at his Coronation-covenant with the people, giveth a most intense consent, an Oath, to be a keeper and preserver of all good Lawes: and so hardly he can be freed from the strictest obligation that Law can impose: And if he keep Lawes by office, he is a meane to preserve Lawes; and no meane can bee superior and above the end, but inferior thereunto.

5. *Bodine* proveth, *de Rep. l. 2. c. 5. p. 221.* that Emperors at first were but Princes of the Commonwealth: [574] and that Soveraigntie remained still in the Senate and people. *Marius Salomonius*, [575] a learned Romane Civilian, wrote sixe bookes *de Principatu*, to refute the supremacie of Emperors above the State. *Ferd. Vasq. illust. quest. part. 1. l. 1. n. 21.* proveth, that the Prince, by Royall dignitie, leaveth not off to be a Citizen, a member of the Politique body; and not a King, but a Keeper of Lawes.

Hence, 6. The Prince remaineth, even being a Prince, a sociall creature, a Man, as well as a King; one who must buy, sell, promise, contract, dispose: *Ergo*, he is not *Regula regulans*, but under rule of law: for impossible it is, if the King can, in a politicall way, live as a member of a societie, and doe and performe acts of policie, and so performe them, as he may by his office, buy, and not pay; promise, and vow, and sweare to men, and not performe, nor be obliged to men to render a reckoning of his Oath, and kill and destroy, and yet in *Curia politicae societatis*, in the Court of humane policie, be free: and that he may give inheritances, as just rewards of vertue and well-doing, and take them away againe. Yea, seeing these sinnes that are not punishable before men, are not sinnes before men: If all the sinnes and oppressions of a Prince be so above the punishment that men can inflict, they are not sinnes before men, by which meanes the *King* is loosed from all guiltinesse of the sinnes against the Second Table: for, the *ratio formalis*, the formall reason, why [238] the Iudge, by warrant from God, condemneth, in the Court of men, the guilty man, is, because he hath sinned against humane societie, either through the scandall of blasphemie, or through other heynous sinnes he hath defiled the Land. Now this is incident to the *King*, as well as to some

other sinfull man.

[576]To these, and the like, heare what the *excommunicated Prelate* hath to say; 1. *They say* (he meaneth the *Jesuites*) *Every societie of men is a perfect Republick, and so must have within it selfe a power to preserve it selfe from ruine, and by that to punish a Tyrant. He answereth, A societie without a Head, is a disorderly rout, not a Politique body; and so cannot have this power.*

Ans. 1. The Pope giveth to every Societie, Politick power to make away a *Tyrant*, or hereticall King, and to un-king him, by his brethren the *Jesuites* way. And observe, how *Papists* (of which number I could easily prove the *P. Prelate* to be, by the *Popish* doctrine that he delivered, while the iniquitie of time, and dominion of *Prelates* in *Scotland*, advanced him, against all worth of true learning and holinesse, to be a *Preacher* in *Edinborough*) and *Jesuites* agree, as the builders of *Babylon*. It is the purpose of *God* to destroy *Babylon*.

2. This answer shall inferre, that the *Aristocraticall* *Governors* of any free State, and that the *Duke* of *Venice*, and the *Senate* there, is above all Law, and cannot be resisted, because without their *Heads* they are a disorderly *Rout*.

3. A *Politick* societie, as by *Natures* instinct, they may appoint a *Head*, or *Heads* to themselves: so also if their *Head*, or *Heads* become ravenous *Wolves*, the *God* of *Nature* hath not left a perfect Societie remedillesse; but they may both resist, and punish the *Head* or *Heads*, to whom they gave all the power that they have, for their good, not for their destruction.

4. They are as orderly a body *Politique*, to unmake a *Tyrannous* *Commander*, as they were to make a just *Governour*. The *Prelate* saith, *It is alike to conceive a Politique body without a Governour, as to conceive the naturall body without a Head.* He meaneth, None of them can be conceivable. I am not of his minde. When *Saul* was dead, *Israel* was a perfect *Politique* body: and the *Prelate*, if he be not very obtuse in his head, (as this hungry peece stollen from others, sheweth him to be) may conceive a visible *Politick* societie performing a *Politick* action, 2 *Sam.* 5.1, 2, 3. making *David* King [239] at a visible and conceivable place, at *Hebron*; and making a *Covenant* with him. And that they wanted not all *Governors*, is nothing to make them *Chymera's* unconceivable: For when so many families before *Nimrod*, were governed only by fathers of families, and they agreed to make either a *King*, or other *Governors*, a *Head*, or *Heads* over themselves: though the severall families had government, yet these consociated families had no government; and yet so conceivable a *Politique* body, as if *Maxwell* would have compeared amongst them, and called them a *disorderly rout*, or an unconceivable *Chymera*, they should have made the *Prelate* know, that *Chymera's* can knock down *Prelates*. Neither is a *King* the *life of a Politique body*, as the *soule is of the naturall body*: The body createth not the soule: but *Israel* created *Saul* King; and when he was dead, they made *David* King, and so, under *God*, many *Kings*, as they succeeded, till the *Messiah* came. No naturall body can make soules to it selfe by succession; Nor can *Seas* create new *Prelates* alwayes.

P. Prelate. Jesuites and Puritans differ infinitely; We are hopefull God shall cast down this Babel. The Iesuites, for ought I know, seat the superintendent power in the Communitie: Some Sectaries follow them, and warrant any individuall person to make away a King in case of defects, and the worke is to be rewarded as when one killeth a ravenous Wolfe. Some will have it in a collective body, but how? not met together by warrant, or writ of Sovereigne Authoritie, but when fancie of reforming Church and State calleth them. Some will have the power in the Nobles and Peeres; some in the three Estates assembled by the Kings Writ; some in the inferior Iudges. I know not where this power to curbe Soveraigntie is, but in Almighty God.

Ans. 1. *Jesuites* and *Puritans* differ infinitely: true. *Jesuites* deny the Pope to be Antichrist, hold all Arminian doctrine, Christs locall descension to hell: all which the Prelate did preach. We deny all this.

2. We hope also the Lord shall destroy the *Jesuites Babel*; the suburbs whereof, and more, are the Popish Prelates in *Scotland* and *England*.

3. *The Jesuites, for ought he knoweth, [577] place all superintendent power in the Communitie.* The Prelate knoweth not all his brethren the *Jesuites* wayes: but it is ignorance, not want of good will. For *Bellarmino, Beucanus, Suarez, Gre••gor, de Valentia,* and others his [240] deare fellowes say, That all superintendent power of policy, *in ordine ad spiritualia* is in the man, whose foot *Maxwell* would kisse for a Cardinals Hat.

4. If these be all the differences, it is not much, the Community is the remote and l••st subject, the representative body the nearest subject, the Nobles a partiall subject; the Iudges as Iudges sent by the King, are so in the game, that when an Arbitrary Prince at his pleasure setteth them up, and at command that they judge for men, and not for the Lord, and accordingly obey, they are by this power to be punished, and others put in their place.

5. A true cause of convening Parliaments the prelate maketh a *Fancie* at this time▪ it is as if the theeves and robbers should say a Iustice Court were a *fancie*; but if the Prelate might compeare before the Parliament of *Scotland* (to which he is an out-law, like his father, 2 *Thess: 2.4.*) such a *fancie* I conceive should hang him, and that deservedly.

P. Prelate. *The subject of this superintending power must be secured from error, [578] in judgement and practise, and the community and States then should be infallible.*

Ans ▪ The consequence is nought, no more then the King the absolute independent is infallible. 2. It is sure the people are in lesse hazard of *Tyranny* and selfe destruction, then the King is to subvert Lawes, and make himselfe absolute, and for that cause there must be a superintendent power above the King; and God Almighty also must be above all.

P. Prelate. *The Parliament may erre, then God hath left the state remedillesse except the King remedy it.*

Ans. There's no consequence here, except the King be impeccable. 2. Posteriour Parliaments may correct the former. 3. A State is not remedillesse, because *Gods* remedies, in sinfull mens hands may miscarry. But the question is now, whether God hath given power to one man to destroy men, subvert Lawes, and Religion, without any power above him to coerce, restraine or punish.

P. Prelate. *If when the Parliament erreth, the remedy is left to the Wisedome of God, [579] why not when the King erreth?*

Ans. Neither is Antecedent true, nor the consequence valid, for the founder part may resist; and it is easier to one to destroy many, having a power absolute, which God never gave him, then for many to destroy themselves. Then if the King *Vzza••* intrude [241] himselfe and sacrifice, the Priests doe sin in remedying thereof.

P. Prelate. *Why might not the people of Israell, [580] Peers or Sanedrim have convened before them, judged, and punished David, for his Adultery and Murther? Romanists and new Statists acknowledge no case lawfull, but Heresie, Apostacy, or Tyranny; and tyranny they say must be universall, 2. Manifest as the Sunne. 3. And with obstinacy, and invincible by prayers; as is recorded of Nero, whose wish was rather a transported passion, then a fixed resolution, this cannot fall in the attempts of any but a Mad-man. Now this cannot be proved of our King; but though we grant in the foresaid case, that the community may resume their*

power, and rectifie what is amisse, which we cannot grant, but this will follow by their doctrine in every case of male administration.

Ans. The Prelate draweth me to speake of the case of the Kings unjust Murther, confessed Ps. 51. to which I answer, [581] He taketh it for confessed, that it had been treason in the Sanedrin and States of Israel to have taken on them to judge and punish *David* for his Adultery and his Murther; but he giveth no reason for this, nor any word of God; and truly though I will not presume to goe before others in this, Gods Law, *Gen.* 9.6. compared with *Num.* 35.30.31. seemeth to say against them.

Nor can I thinke that Gods Law, or his Deputy the Iudges are to *accept the persons of the great*, because they are great, [582] *Deut.* 1.17. 2 *Chro.* 19.6, 7. and we say, *We cannot distinguish where the Law distinguisheth not*, The Lord speaketh to under Iudges, *Levit.* 19.15. *Thou shalt not respect the person of the poore, nor honour the person of the mighty*, or of the Prince, for we know what these names < in non-Latin alphabet > in non-Latin alphabet > and < in non-Latin alphabet > in non-Latin alphabet > meaneth. I grant, it is not Gods meaning that the *King* should draw the sword against himselfe, but yet it followeth not, that if we speake of the demerit of blood, that the Law of God accepteth any Iudge, great or small, & if the Estate be above the *King*, as I conceive they are, though it be *a humane politicke constitution*, that the *King* be free of al coaction of Law, because it conduceth for the peace of the Common-wealth, yet if we make a matter of conscience, for my part I see no exception that God maketh it, if men make, [583] I crave leave to say, *A facto ad jus non sequitur*. And I easily yeeld that in every case the Estates may coerce the *King*, if we make it a case of conscience. And for the place *Ps.* 51.4. *Against thee only have I [242] sinned*. < in non-Latin alphabet > in non-Latin alphabet > flatterers alleadge it to be a place that *proveth that the King is above all earthly Tribunals, and all Lawes, and that there was not on earth any who might punish King David*; and so they cite *Clemens Alexandrin.* Strom. 1. 4. *Arnobi.* Psal. 50. *Dydimus, Hieronim.* But *Calvine* on the place giveth the meaning that most of the Fathers give. *Domine, etiam si me totus mundus absolvat, mihi tamen plusquam satis est, quod te solum iudicem sentio*. It is true, *Beda, Euthymius, Ambrosius*, Apol. David, c. 4. & c. 10. do all acknowledge from the place, *De facto*, there was none above *David* to judge him, and so doth *Augustine, Basilius, Theodoret* say, and *Chrysostomus*, and *Cyrillus*, and *Hieronim.* Epist. 22. *Ambrose* Sermo. 16. in Psal. 118. *Gregorius*, and *Augusti.* Ioan. 8. saith, he meaneth *no man durst judge or punish him, but God only*. *Lorinus* the Iesuit observeth eleven interpretatiōs of the Fathers all to this sense, *since Lyra*, saith he, *sinned only against God, because God only could pardon him; Hugo Cardinalis, because God only could wash him, which he asketh in the Text. And Lorin. Solo Deo conscio peccavi*. But the simple meaning is, *Against thee only have I sinned, as my eye witnesseth and imediate beholder*; and therefore he addeth, *and have done this evill in thy sight*. 2. *Against thee only, as my Iudge, that thou maist be justified when thou judgest*, [584] *as cleare from all unrighteousnesse, when thou shalt send the sword on my house*. 3. *Against thee, O Lord only, who canst wash me, and pardon me*, v. 1, 2. And if this (*thee only*) exclude all together, *Vriah, Bathsheba*, and the Law of the Iudges, as if he had sinned against none of these in their kind, then is the *King* because a *King* free, not only from a punishing Law of man, but from the duties of the second Table simply, and so a *King* cannot be under the best and largest halfe of the Law, *Thou shalt love thy neighbour as thy selfe*. 2. He shall not need to say, *Forgive us our sinnes, as we forgive them that sin against us*; for there is no reason from the nature of sin, and the nature of the *Law of God*, why we can say more the subjects and sonnes sin against the *King* and *Father*, then to say the *Father* and *King* sin against the sonnes and subjects. 3. By this, the *King* killing his *Father Iesse*, should sin against God, but not breake the fift Command, nor sinne against his father. 4. God should in vaine forbid *fathers to provoke their children to wrath*.

1. And Kings to doe unjustice to their subjects, because by this the superiour cannot sinne against the inferiour, for as much as [243] Kings can sin against none, but those who have power to judge and punish them; but God only, and no inferiours, and no subjects have power to punish the Kings, therefore Kings can sin against none of their subjects, and where there is no sin, how can there be a Law? neither *Major* or *Minor* can be denied by *Royalists*.

2. We acknowledge *Tyranny* must only unking a Prince. The Prelate denyeth it, but he is a green Statist. *Barclay, Grotius, Winzetus*, as I have proved granteth it.

3. He will excuse *Nero* as of infirmity, wishing all *Rome to have one necke*, that he may cut it off. And is that charitable of Kings ■ that they *will not be so mad as to destroy their owne Kingdome*? But when Stories teach us there have been more Tyrants then Kings, the Kings are more obliged to him for flattery, then for State-wit, except we say that all Kings *who eate the people of God, as they doe bread*, owe him little, for making them all madde and franticke.

4. But let them be *Nero's*, and madde, and worse, there is no coercing of them, but all must give their neckes to the sword, if the poore Prelate be heard; and yet Kings cannot be so madde as to destroy their subjects. *Mary of England* was that madde, the Romish Princes who have given, Revel. 17.13. *their power and strength to the beast, and doe make warre with the Lambe*; and Kings inspired with the spirit of the beast, and drunke with the wine of the *Cup of Babells fornications*, are so madde, and the *ten Emperours* are so madde, who wasted their faithfulllest subjects.

P. Prelate. *If there be such a power in the Peeres, resumable in the ex••gent of necessity, as the last necessary remedy for safety of Church and State, God and nature not being deficient in things necessary, it must be proved out of the Scripture, and not taken on trust, for Affirmanti incumbit probatio.*

Ans. Mr. *Bishop*, what better is your *Affirmanti incumbit, &c.* then mine? for you are the affirmer. I can prove a power in the King, limited onely to feed, governe, and save the people; and you affirme that *God* hath given to the *King*, not only a power officiall and Royall to save, but also to destroy and cut off, so as no man may say, *Why doest thou this?* Shall we take this upon the word of an excommunicated Prelate? *Profer tabulas, Iohn P. P.* I beleeve you not, Royall power is *Deut. 17.18. Rom. 3.14.* I am sure there is there a power given to the King to doe good, and that [244] from *God*: Let *John P.P.* prove a power to doe ill, given of *God* to the King.

2. We shall quickly prove that the States may repress this power, and punish the Tyrant, not the King: when he shall prove that a *Tyrannous power* is an Ordinance of *God*, and so may not be resisted. For the law of Nature teacheth, If •• give my sword to my fellow to defend me from the murtherer, if he shall fall to, and murther me with my own sword, I may (if I have strength) take my sword from him.

Prelate. *It is infidelitie, to thinke that God cannot helpe us; and impatience, that we will not wait on God. When a King oppresseth us, it is against Gods wisdom, that he hath not provided another meane for our safetie, than intrusion on Gods right. 2. It is against Gods power ■ 3. his Holinesse, 4. Christian Religion, that we necessitate God to so weake a meane, to make use of sinne: and we cast the aspersion of Treason on Religion, and deterre Kings to professe Reformed Catholike Religion. 5. We are not to justle God out of his right.*

Ans. I see nothing but what *D. Ferne, Grotius, Barclay, Blackwood* have said before, with some colour of proving the consequence. The *P. Prelate* giveth us other mens arguments, but without bones. All were good, if the States coercing and curbing a power which God never gave to the King, were a sinne, and an act of impatience, and unbelief: And, if it were proper

to God only, by his immediate hand, to coerce Tyrannie.

2. He calleth it not Protestant Religion, either here, or elsewhere; but cautelously giveth a name that will agree to the *Roman Catholique Religion*: For the *Dominicans, Franciscans*, and the *Parisian Doctors and Schoolemen*, following *Occham, Gerson, Alma*••••, and other Papists, call themselves *Reformed Catholiques*. 2. He layeth this for a ground, in 3 or 4 pages, where these same Arguments are againe and againe repeated *in terminis*, as his second Reason, p. 149. was handled *ad nauseam*, p. 148. his 3. Reason is repeated in his 6. Reason, p. 151. He layeth (I say) down this ground, which is the begged Conclusion, and maketh the Conclusion the Assumption, in 8 raw and often repeated Arguments: to wit, *That the Parliaments coercing and restraining of Arbitrarie power, is rebellion, and resisting the Ordinance of God*. But he dare not looke the place *Rom. 13.* on the face: other Royalists have done it with bad successe. This I desire to be weighed, and I retort the Prelates argument. [245] But it is indeed the triviall Argument of all *Royalists*, especially of *Barclay*, obvious in his 3. Booke. If Arbitrarie and Tyrannicall power above any Law that the lawfull Magistrate commandeth under the paine of death, (*Thou shalt not murther one man*) (*Thou shalt not take away the vineyard of one Naboth violently*) be lawfull and warrantable by Gods word; then an Arbitrarie power above all Divine lawes, is given to the keeping of the Civill Magistrate. And it is no lesse lawfull Arbitrarie, or rather Tyrannicall power, for *David* to kill all his Subjects, and to plunder all *Jerusalem*, (as I beleeve, Prelates, and Malignants, and Papists would serve the three Kingdomes, if the King should command them) then to kill one *Vriah*, or for *Achab* to spoile one *Naboth*. The essence of ••inne must agree alike to all, though the degrees varie.

Of *Gods* remedie against Arbitrary power, hereafter, in the Question of Resistance: but the confused ingine of the Prelate bringeth it in here, where there is no place for i••.

His 7. Argument is: *Before God would authorize Rebellion, and give a bad president thereof for ever, he would rather worke extraordinary and wond••rfull miracles, and therefore would not authorize the people to deliver themselves from under Pharaoh, but made Moses a Prince, to bring them out of Egypt with a str••tched-out arm••: nor did the Lord deliver his people by the wisdom of Moses, or strength of the people, or any act that way of theirs, but by his own immediate hand and power.*

Ans. I reduce the Prelates confused words to a few: for I speake not of his Popish tearme of *Saint Steven*, and others the like: because all that he hath said in a book of 149 pages, might have been said in three sheets of paper. But, I pray you, what is this Argument to the Question in hand, w••••ch is, *Whether the King be so above all Lawes, as People and Peeres, in the case of Arbitrarie power, may resume their power, and punish a Tyrant?* The *P. Pr••late* draweth in the Question of Resistance by the haire. *Israels* not rising in armes against *K. Pharaoh*, proveth nothing against the power of a Free Kingdome against a Tyrant.

1. *Moses*, who wrought miracles destructive to *Pharaoh*, might pray a vengeance against *Pharaoh*, God having revealed to *Moses*, that *Pharaoh* was a Reprobate▪ But may Ministers and Nobles pray so against King *Charles*? God forbid.

2. *Pharaoh* had not his Crown from Israel.

[246]

3. *Pharaoh* had not sworne to defend Israel, nor became he their King upon condition he should maintaine and professe the Religion of the *God of Israel*: Therefore *Israel* could not, as free Estates, challenge him in their supreme Court of Parliament, of breach of oath: and upon no termes could they un-king *Pharaoh*; He held not his Crown of them.

4. *Pharaoh* was never circumcised, nor within the *Covenant of the God of Israel*, in profession.

5. *Israel* had their lands by the meere gift of the King. I hope the *King of Britaine* standeth to *Scotland* and *England* in a foure-fold contrary relation.

All Divines know, that *Pharaoh* his Princes, and the *Egyptians*, were his Peeres and People; and that *Israel* were not his native Subjects, but a number of strangers, who by the lawes of the King and Princes, by the meanes of *Joseph*, had gotten the land of *Goshen* for their dwelling, and libertie to serve the *God of Abraham*, to whom they prayed in their bondage, *Exod.* 2.23, 24. and they were not to serve the *Gods of Egypt*, nor were of the Kings Religion: And therefore his Argument is thus: *A number of poore exiled strangers under King Pharaoh, who were not Pharaohs Princes and Peeres, could not restraine the Tyrannie of King Pharaoh: Ergo, the three Estates in a free Kingdome may not restraine the Arbitrarie power of a King.*

2. The Prelate must prove that *God* gave a Royall and Kingly power to *King Pharaoh*, due to him by vertue of his Kingly calling, (according as Royalists expone *1 Sam.* 8.9, 11.) to kill all the *male children* of *Israel*, to make *slaves of themselves, and compell them to worke in brick and clay, while their lives were a burden to them:* And that if a Romish Catholique, *Mary of England*, should kill all the male Children of *Protestants*, by the hands of Papists, at the Queenes commandement, and make bondslaves of all the Peeres, Iudges, and three Estates, who made her a free Princesse: yet notwithstanding that *Mary* had sworne to maintaine the Protestant Religion; they were to suffer, and not to defend themselves. But if *God* give *Pharaoh* a power to kill all *Israel*, so as they could not controll it; then *God* giveth to a *King* a Royall power by office to sinne: only the *Royalist* saveth *God* from being the author of sinne, in this, that *God* gave the power to sinne, but yet with this limitation, *that the Subjects should not resist this power.* 2. He must prove [247] that *Israel* was to give their Male-child••en to *Pharaohs* Butchers, for to hide them, was to resist a Royall power, and to disobey a Royall power given of *God*, is to disobey *God*. 3. The Subjects may not resist the Kings Butchers coming to kill them, and their Male-children, *For to resist the servant of the King in that, wherein he is a servant, is to resist the King,* *1 Sam.* 8.7. *1 Pet.* 2.14. *Rom.* 13.1. 4. He must prove that upon the supposition, That *Israel* had been as strong as *Pharaoh* and his people; that without *Gods* speciall commandment (they then wanting the written Word) they should have fought with *Pharaoh*; and that we now for all wars, must have a word from Heaven, as if we had not *Gods* perfit Will in his Word, as at that time *Israel* behoved to have in all wars, *Judg.* 18.5. *1 Sam.* 14.37. *Esa.* 30.2. *Iere.* 38.37. *1 King.* 22.5. *1 Sam.* 30.5. *Judg.* 20.27. *1 Sam.* 23.2. *2 Sam.* 16.23. *1 Chron.* 10.14. But because *God* gave not them an answer to fight against *Pharaoh*, therefore we have no warrant now to fight ag••inst a forraign Nation, invading us; the consequence is null, and therefore this is a vain Argument, *The Prophets never reprove the people for not performing the duty of defensive wars against Tyrannous Kings.* Ergo ■ *There is no such dutie enjoyned by any Law of God to us;* For the Prophets never rebuke the people for non-performing the dutie of offensive wars against their enemies; but where *God* gave a speciall command, and responce, from his own *Oracle*, that they should fight: And if *God* was pleased never to command the people to rise against a Tyrannous King, they did not sin where they had no commandment of *God*: but I hope we have now a more sure word of prophecie to inform us. 5. The *Prelate* conjectureth *Moses* his mira••les, and the deliverance of the people, by dividing the Red Sea, was to forbid, and condemn, defensive wars of people against their King; but he hath neither Scripture, nor Reasons to do it. The end of these miracles, was to Seal to *Pharaoh* the Truth of *Gods* calling of *Moses* and *Aaron*, to deliver the people, as is clear, *Exod.* 4.1, 2, 3, 4. compared with *Chap.* 7. vers. 8, 9, 10. And that the Lord might get to himself a name on all the earth, *Rom.* 9.17. *Exod.* 9.16. and 13.13, 14. and 15. 1, 2, 3. & seq. But of the Prelates conjecturall end,

the Scripture is silent, and we cannot take an excommunicated mans word. What I said of *Pharaoh*, who had not his Crown from Israel, that I say of *Nebuchadnezzar*, and the Kings of *Persia*, keeping th^o people of God captive.

[248]

[585]P. Prelate. *So in the Book of the Judge^s, when the people were delivered over to the hand of their enemies, because of their sins; h^o never warranted the ordinary Iudges, or Communitie, to be their own deliverers, [586] but when they repented, God raised up ^o Judge. The people had no hand in their own deliverance out of Babylon, God effected it by Cyrus, immediately and totally. Is not this a reall proof, God will not have inferiour Iudges, to rectifie what is amisse; but we must waite in patience till God provide lawfull means, some Sovereign power immediately sent by himself, in which course of his ordinary providence, he will not be deficient.*

Answ. All this is beside the question, and proveth nothing lesse, then that Peers and Communitie, may not resume their power to curbe an Arbitrary power: For in the first case, there is neither Arbitrary, nor lawfull supreme Iudge. 2. If the first prove any thing, it proveth, That it was rebellion in the inferiour Iudges ^a and Communitie of *Israel*, to fight against forraign Kings, not set over them by God; and that offensive wars against any Kings whatsoever, because they are Kings, though strangers, are unlawfull. Let *Socinians* and *Anabaptists* consider, if the *P. Prelate* help not them in this, and may prove all wars to be unlawfull. 3. He is so Malignant to all inferiour Iudges, as if they were *not powers sent of God*, and to all Governours, that are not Kings, and so upholders of Prelates, and of himself as he conceiveth, that by his arguing, he will have all deliverance by Kings onely, the onely lawfull means in ordinary providence: and so *Aristocracy* and *Democracy* except in Gods extraordinary providence, and by some divine dispensation must be extraordinary, and ordinarily unlawfull 2. The Acts of a State, when a King is dead, and they choos^o another, shall be an Anticipating of Gods providence. 3. If the King be a childe, a captive, or distracted, and the Kingdom oppressed with Malignants, they are to waite, while God immediately from Heaven, create a King to them, as he did *Saul* long ago. But have we now Kings immediately sent as *Saul* was? 1. How is the spirit of Prophecie and Government infused in them, as in King *Saul*? Or are they by propheticall inspiration, anointed as *David* was: I conceive their calling to the throne on Gods part, do differ as much from the calling of *Saul* and *David*, in some respect, as the calling of ordinary Pastors, who must be gifted by industry and learning, and called by the Church, and the calling of *Apostles*. [249] 4. God would deliver his people from *Babylon*, by moving the heart of *Cyrus* immediately, the people having no hand in it, not so much as supplicating *Cyrus*. *Ergo*, The People and Peers who made the King, cannot curb his Tyrannicall power, if he make captives and slaves of them, as the *Kings of Chaldea* made slaves of the people of *Israel*. What? Because God useth another mean. *Ergo*, This mean is not lawfull. It followeth in no sort; If we must use no means, but what the captive people did under *Cyru^s*, we may not lawfully flie, nor supplicate, for the people did neither.

P. Prelate. *You read of no Covenant in Scripture made without the King, Exod. 34. Moses King of Iesurum: neither Tables nor Parliament framed it. Joshua another, Iosh. 24. and Asa, 2 Chron. 15. and 2 Chron. 34. and Ezra 10. The Covenant of Iehojada in the non-age of Ioash, was the High Priests Act, as the Kings Governour. There is a covenant with Hell, made without the King, an^o a false Covenant, Hos. 10.3, 4.*

Answ. We argue this negatively; This is neither commanded, nor practised, nor warranted by promise. *Ergo*, It is not lawfull. But this is not practised in Scripture: *Ergo*, It is not lawfull. It followeth it. Shew me in Scripture the killing of a Goaring Ox who killed a man; the not making battlements on an house; the putting to death of a man lying with a Beast; the

killing of seducing Prophets, who tempted the people to go a whoring, and serve another God, then *Jehovah*: I mean, a god made by the hand of the Baker, such a one as the excommunicated Prelate is known to be, who hath Preached this Idolatry in three Kingdoms, yet *Deut.* 13. This is written, and all the former Laws are divine Precepts; shall the Precept make them all unlawfull, because they are not practised by some in Scripture? By this? I ask, Where read yee, that the people entered in a Covenant with God, not to worship the Golden Image, and the King; and these who pretend they are the Priests of *Iehovah*, the Church-men and Prelates refused to enter in Covenant with God? By this argument, the King and Prelates in non-practising with us, wanting the precedent of a like practice in Scripture, are in the fault. 2. This is nothing to prove the conclusion in question. 3. All these places prove it is the Kings dutie, when the people under him, and their fathers, have corrupted the worship of God, to renew a Covenant with God, and to cause [250] the people to do the like, [587] as *Moses, Asa, Iehoshaphat* did•• 4. If the King refuse to do his dutie, where is it written. That the people ought also to omit their dutie, and *to love to have it so*, because the Rulers corrupt their ways, *Jerem.* 5.31? To renew a Covenant with God, is a point of service due to God, that the people are obliged unto; whether the King command it, or no. What if the King command not his people to serve God; or, What if he forbid *Daniel* to pray to God? Shall the people in that case serve the *King of Kings*, onely at the nod, and Royall command of an earthly King? Clear this from Scripture. 5. *Ezra ch. 5.* had no commandment in particular from *Artaxerxes King of Persia*, or from *Darius*, but a generall, that *Ezr. 7.23. Whatsoever is commanded by the God of Heaven, let it be diligently done for the house of the God of Heaven:* But, the Tables in *Scotland*, and the two Parliaments of *England* and *Scotland*, who renewed the Covenant, and entered in Covenant not against the King (as the *P. P.* saith) but to restore Religion to its ancient Puritie, have this expresse Law from King *James* and King *Charles* both, in many Acts of Parliament, that Religion be kept pure. Now as *Artaxerxes* knew nothing of the Covenant, and was unwilling to subscribe it, and yet gave to *Ezra* and the Princes a warrant in generall, *to do all that the God of Heaven required to be done ■ for the Religion, and house of the God of Heaven*, and so a generall warrant, for a Covenant without the King; and yet *Ezra*, and the people, in swearing that Covenant ■ failed in no dutie against their King: to whom, by the fifth Commandment, they were no lesse subject then we are to our King, just so we are, and so have not failed; but they say, *The King hath committed to no Lievtenant and Deputie under him, to do what they please in Religion, without his Royall consent in particular, and the direction of his Clergy, seeing he is of that same Religion with his people; whereas Artaxerxes was of another Religion, then were the Jews, and their Governour.* Answ. Nor can our King take on himself, to do what he pleaseth, and what the Prelates (amongst whom these who ruled all, are known before the World and the Sun, to be of another Religion, then we are) pleaseth in particular. But see what Religion and Worship the Lord our God, and the Law of the Land (which is the Kings revealed will) alloweth to us, that we may swear, though the King should not swear it; otherwayes, we are to be of no Religion, but of the Kings, and to swear no Covenant, [251] but the Kings, which is to joyn with *Papists* against *Protestants*. 6. *The strangers of Ephraim and Manasseh, and out of Simeon fell out of Israel in abundance to Asa, when they saw that the Lord his God was with him, 2 Chron. 15.9, 10.* And sware that Covenant without their own Kings consent, their own King being against it; If a people may swear a Religious Covenant, without their King, who is averse thereunto, far more may the Nobles, Peers, and Estates of Parliament do it without their King: And here is an example of a practise, which the *P. Prelate* requireth. 7. That *Jehojadah* was Governour and Vice-Roy, during the non-age of *Joash*, and that by this Royall Authoritie the Covenant was sworn, is a dream, to the end he may make the Pope, and the Arch-Prelate, now Vice-Royes and Kings, when the throne varieth. The Nobles were Authors of the making of that Covenant, no lesse then *Iehojadah* was; yea, and the People of the Land, when the King was but a childe, *went unto the house of Baal, and brake down his Images, &c.* Here is a Reformation made without the King by the people. 8. Grave

Expositors say, That the Covenant with death and hell, *Esay* 28. was the Kings Covenant with *Egypt*. 9. And the Covenant, *Hos.* 10. is by none expounded of a Covenant made without the King. I heard say, this *Prelate* Preaching on this Text before the King, expounded it so, *But he spake words* (as the Text is) *falsly*. The *P. Prelate*, to the end of the Chapter, giveth instance of the ill-successe of Popular Reformation, because *the people caused Aaron to make a Golden Calf, and they revolted from Rehoboam to Ieroboam, and made two Golden Calves, and they conspired with Absolom against David.* *Answ.* If the first example make good any thing, neither the High-Priest, as was *Aaron*, nor the *P. Prelate*, who claimeth to be descended of *Aarons* house, should have any hand in Reformation at all, for *Aaron* erred in that; and to argue from the peoples sins, to deny their power, is no better then to prove *Achab, Ieroboam*, and many Kings in *Israel* and *Judah*, committed Idolatry. *Ergo*, They had no Royall power at all. In the rest of the Chapter, for a whole Page, he singeth over again his Mattens in a circle, and giveth us the same Arguments we heard before; of which you have these three notes; 1. They are stoln, and not his own. 2. Repeated again and again to fill the field. 3. All hang on a false supposition, and a begging of the question: That the people without the King, have no power at all.

[252]

QUEST. XXVII. Whether or no the King be the sole supreme and finall interpreter of the Law? ↩

This Question conduceth not a little to the clearing of the doubts concerning the Kings absolute power, and the supposed sole nomothetick power in the *King*. And I thinke it not unlike to the question, whether the Pope and *Romish Church* havt a sole and peremptory power of expounding Lawes, and the Word of God? We are to consider that there is a twofold exposition of Lawes, one speculative in a Schoole way, so exquisite *Iurists* have a power to expone Lawes. [588] 2. Practicall, in so farre as the sense of the Law falleth under our Practice, and this is twofold; either private and common to all, or judicall and proper to Iudges, and of this last is the question.

For this Publicke, the Law hath one fundamentall rule, *Salus populi*, like the King of Planets the Sunne, which lendeth Star-light to all Lawes, and by which they are expounded; whatever interpretation swarveth either from fundamentall Lawes of policy, or from the Law of Nature, [589] and the Law of Nations, and especially from the safety of the publick, is to be rejected as a perverting of the Law: and therefore, *Conscientia humani generis, the naturall conscience of all men, to which* the oppressed people may appeale unto, when the *King* exponeth a Law unjustly, at his owne pleasure, is the last rule on earth, for expounding of Lawes. Nor ought Lawes to be made so obscure, as an ordinary wit cannot see their connexion with fundamentall truths of policy, and the safety of the people, and therefore I see no inconvenience, to say that, The Law it selfe is *Norma & regula judicandi*, the Rule and directory to square the Iudge, and that the Iudge is the publicke practicall interpreter of the Law ■

Assert. 1. The King is not the sole and finall interpreter of the Law.

[590] 1. Because then inferiour Iudges should not be interpreters of the Law, but inferiour Iudges are no lesse essentially Iudges, then the *King* •• *Deut.* 1.17. 2 *Chron.* 19.6. 1 *Pet.* 2.14. *Rom.* 13.1, 2. and so by Office must interpret the Law, else they cannot give sentence according to their conscience and equity, now expounding of [253] the Law judicallly is an act of judging, and so a personall and incommunicable act, so as I can no more judge and expone the Law according to another mans conscience, then I can beleeve with another mans soule, [591] or understand with another mans understanding, see with another mans eye: The *Kings* pleasure therefore cannot be the rule of the inferiour Iudges conscience, for he giveth an

immediate accompt to *God* the Iudge of all, of a just or an unjust sentence. Suppose *Caesar* shall expone the Law to *Pilate*, that *Christ* deserveth to dye the death, yet *Pilate* is not in conscience to expone the Law so. If therefore inferiour Iudges judge for the *King*, they judge only by power borrowed from the *King*, not by the pleasure, will, or command of the *King* thus and thus expounding the Law, *ergo* the *King* cannot be the sole interpreter of the Law.

2. If the Lord say not to the *King* only, but also to other inferiour Iudges, *Be wise, understand, and the cause that you know not, search out*; then the *King* is not the only interpreter of the Law. But the Lord saith not to the *King* only, but to other Iudges also, *Be wise, understand, and the cause that you know not search out, ergo* the *King* is not the sole Law-giver. The Major is cleare from *Ps.* 2.10. *Be wise now therefore, O yee Kings, be instructed yee Iudges of the earth.* So are commands and rebukes for unjust judgement given to others then to *Kings*, *Ps.* 82.1, 2, 3, 4, 5. *Ps.* 58.1, 2. *Esay* 1.17, 23 25 ■ 26. *Esay* 3.14. see *Iob.* 29.12, 13, 14, 15. c. 31. v. 21.22.

3, The *King* is either the sole interpreter of Law, in respect ■ he is to follow the Law as his Rule, and so he is a ministeriall interpreter of the Law, or he is an interpreter of the Law according to that super-dominion of absolute power, that he hath above the Law. If the former be holden, then it is cleare that the *King* is not the only interpreter, for all Iudges, as they are Iudges, have a ministeriall power to expone the Law by the Law: but the second is the sense of *Royalists*.

Hence our second Assertion is, That the *Kings* power of expounding the Law, is a meere ministeriall power, [592] and he hath no dominion of any absolute Royall Power, to expone the Law as he will, and to put such a sense and meaning of the Law as he pleaseth.

1. Because *Saul* maketh a Law, 1 Sam. 14.24. *Cursed be the man that tasteth any food till night, that the King may be avenged on his enemies*, the Law according to the letter was bloody, [593] but according [452] to the intent of the Law-giver, and substance of the Law profitable, for the end was that the enemies should be pursued with all speed. But *King Sauls* expounding the Law after a Tyrannicall way, against the intent of the Law, which is the Diamond and Pearle of all Lawes, *the safety of the innocent people*, was justly resisted by the people, who violently hindered innocent *Jonathan* to be killed. Whence it is cleare, that the people and Princes put on the Law its true sense and meaning, for *Ionathans* tasting of a little honey, though as it was against that sinfull and precipitate circumstance a rash oath, yet it was not against the substance and true intent of the Law, which was the peoples speedy pursuite of the enemy. Whence it is cleare, that the people including the Princes, hath a ministeriall power to expone the Law aright, and according to its genuine intent, and that the *King* as *King* hath no absolute power to expone the Law as he pleaseth.

[594]2. The *Kings* absolute pleasure can no more be the genuine sense of a just Law, [595] then his absolute pleasure can be a Law, because the genuine sense of the Law is the Law it selfe, as the formall essence of a thing differeth not really, but in respect of reason from the thing it selfe. The Pope and *Romish Church* cannot put on the Scripture, *Ex plenitudine potestatis*, what ever meaning they will, no more then they can, out of absolute power, make Canonicke Scripture. Now so it is, that the *King* by his absolute power cannot make Law no Law.

[596]1. Because he is *King* by, or according to Law, but he is not *King of Law*. *Rex est Rex secundum legem, sed non est Dominus & Rex legis.*

2. Because although it have a good meaning, which *Vlpian* saith, *Quod principi placet legis vigorem habet* *The Will of the Prince is the Law*, yet the meaning is not that any thing is a just Law, because it is the Princes Will, for its rule formally: for it must be good and just before the Prince can will it, and then he finding it so, he puteth the stampe of a humane Law

on it▪

[597]3. This is the difference between Gods Will, and the will of the King, or any mortall creature. Things are just and good, because God willeth them, especially things positively good (though I conceive it hold in all things) and *God* doth not will things, because they are good and just; But the creature, be he King, or any never so eminent, doe will things, because they are good and just, and the [255] Kings willing of a thing, maketh it not good and just: for only Gods will, not the Creatures will, can be the cause why things are good and just. If therefore it be so, it must undeniably hence follow, that the *Kings* will maketh not a just Law to have an unjust and bloody sense: and he cannot, as *King*, by any absolute super-dominion over the Law, put a just sense on a bloody and unjust Law.

4. The advancing of any man to the Throne and Royall dignitie, putteth not the man above the number of rationall men: But no rationall man can create, by any act of power, never so transcendent or boundlesse, a sense to a Law, contrary to the Law. Nay, give me leave to doubt if Omnipotencie can make a just Law to have an unjust and bloody sense, *aut contra*: because it involveth a contradiction; the true meaning of a Law, being the essentiall forme of the Law. Hence judge what brutish, swinish flatterers they are, who say, *That it is the true meaning of the Law, which the King, the only supreme and independent expositor of the Law, saith is the true sense of the Law*. There was once an *Animal*, a Foole of the first magnitude, who said, He could demonstrate by invincible reasons, that the *Kings* dung was more nourishing food, then bread of the floore of the finest wheat. For my part, I could wish it were the Demonstrators only food for seven dayes; and that should be the best demonstration he could make for his prooffe.

5. It must follow, [598] that there can be no necessitie of written laws to the Subjects; against Scripture, and naturall reason, [599] and the law of Nations, in which all accord, That Lawes not promulgated and published, cannot oblige as Lawes: Yea, *Adam*, in his innocencie, was not obliged to obey a Law not written in his heart by Nature, except *God* had made known the Law; as is cleare, *Gen. 3.11. Hast thou eaten of the tree whereof I commanded thee that thou shouldest not eat?* But if the *Kings* absolute Will may put on the Law what sense he pleaseth, out of his independent and irresistable *Supremacie*; The Lawes promulgated and written to the Subjects, can declare nothing, what is to be done by the Subjects, as just, and what is to be avoyded as unjust: because the Lawes must signifie to the Subjects, what is just, and unjust, according to their genuine sense. Now, their genuine sense, according to *Royalists*, is not only uncertaine and impossible to be known, but also contradictorious: for the *King* obligeth us without gainsaying, to believe that the just Law hath [256] this unjust sense. Hence this of flattering *Royalists*, crueller to *Kings*, than Ravens, (for these ear but dead men, and they devoure living men) when there is a *controversie between the King and the Estates of Parliament, who shall expone the Law, and render its native meaning?* (say *Royalists*) *not the Estates of Parliament, for they are Subjects, not Iudges to the King, and only Counsellors and advisers of the King. The King therefore must be the only judicall and finall expositor. As for Lawyers* (said *Strafford*) *the Law is not inclosed in a Lawyers Cap*. But I remember this was one of the Articles laid to the charge of *Richard* the Second, that he said, *The Law was in his head and breast*. [600] And indeed it must follow, if the *King*, by the plenitude of absolute power, be the only supreme, uncontrollable Expositor of the Law, that is not Law which is written in the Acts of Parliament, but that is the Law which is in the *Kings* breast and head: which *Iosephus, lib. 19. Antiq. c. 2.* objected to *Caius*. And all justice, and injustice should be finally and peremptorily resolved on the *Kings* will and absolute pleasure.

[601]6. The *King* either is to expone the Law by the Law it selfe; or, by his Absolute power loosed from all Law, he exponeth it; or according to the advise of his Great Senate. If the first be said, he is nothing more then other Iudges. If the second be said, he must be

omnipotent, and more. If the third be said, he is not absolute, if the Senate be only Advisers, and he yet the only Iudicial expositor. The *King* often professteth his ignorance of the Lawes; and he must then both be absolute above the Law, and ignorant of the Law, and 2. the sole and finall Iudicial exponer of the Law: And by this, all Parliaments, and their power of making Lawes, and of judging, i•• cryed down.

They object, *Prov. 16.10. A Divine sentence is in the lips of the King, His mouth transgresseth not in judgement, ergo, he only can expone the Law.*

Ans. 1. *Lavater* saith, (and I see no reason on the contrary) by a *King*, he meaneth all *Magistrates*. 2. *Aben Ezra*, and *Isidorus* read the words imperatively. The *Tigurine* version: *They are Oracles which proceed from his lips: let not therefore his mouth transgresse in judgement.* *Vatabulus*: *When he is in his prophecies, he lyeth not.* *Iansenius*: *Non facile errabit in iudicando.* *Mich. Iermine*: *If he pray.* *Calvine*: *If he read in the booke of the Law, as God commandeth him,* *Deut. 17.* But why stand we on the place? He speaketh of [257] good Kings, saith *Cornel, à Lapide*. Otherwise, *Ieroboam*, *Achab*, *Manasseh*, erred in judgement. And except, (as *Mercerus* exponeth it) *We understand him to speake of Kings according to their office, not their facts and practice, we make them Popes, and men who cannot give out grievous and unjust sentences on the Throne:* against both the Word, and experience.

Object. 2. *Sometimes all is cast upon ou•• mans voice, why may not the King be this one man?*

Ans. The Antecedent is false, the last Voter in a Senate, is not the sole Iudge, else why should others give suffrages with him. 2. This were to take away inferiour Iudges, contrary to Gods Word, *Deut. 1.17. 2 Chron. 19.6, 7. Rom. 13.1, 2, 3.*

QUEST. XXVIII. Whether or no, Wars raised by the Subjects and Estates, for their own just defence against the Kings bloody Emissaries, be lawfull?



A Ruisaeus perverteth the question; he saith, The question is, *Whether or no, the Subjects may according to their power, [602] judge the King, and dethrone him; that is, Whether or no, is it lawfull for the Subjects in any case, to take arms against their lawfull Prince, if he degenerate, and shall wickedly use his lawfull power?*

The state of the question is much perverted, for these be different questions, Whether the *Kingdom* may dethrone a wicked and *Tyrannous Prince*? And whether may the *Kingdom* take up arms against the man who is the *King*, in their own innocent defence: For the former is an Act offensive, and of punishing, the latter is an Act of Defence.

2. The present question is not of Subjects onely, but of the Estates, and Parliamentary Lords of a Kingdom; I utterly deny these as they are Iudges, to be subjects to the King; for the question is, Whether is the King, or the representative Kingdom greatest, and which of them be subject one to another: I affirm, Amongst Iudges as Iudges, not one is the Commander or Superiour, and the other, the commanded or subject. Indeed, one higher Iudge may correct and punish a Iudge, not as a Iudge, but as an erring man.

3. The question is not so much concerning the authoritative Act [258] of War, as concerning the power of naturall Defence, upon supposition, That the King be not now turned an habituall Tyrant, but that upon some acts of mis-information, he come in arms against his Subjects.

[603]2. *Arnisaeus* maketh two sort of Kings, *Some Kings integra Majestatis*, of intire power and Sovereignty; some Kings by pactions or voluntary agreement, between King and people. But I judge this a vain distinction: For the limited Prince, so he be limited to a power onely of doing just and right; by this is not a Prince *integrae Majestatis* of entire Royall Majestie, whereby he may do both good, and also play the Tyrant; but a power to do ill, being no wayes essentiall, yea, repugnant to the absolute Majestie of the King of Kings, cannot be an essentiall part of the Majestie of a lawfull King; and therefore the Prince limited by voluntary and positive paction onely, to rule according to law and equity, is the good, lawfull, and entire Prince, if he have not power to do every thing just and good in that regard, onely he is not an intire and compleat Prince. So the man will have it lawfull to resist the limited Prince, not the absolute Prince; by the contrary, it is more lawfull to me to resist the absolute Prince, then the limited, in as much, as we may with safer consciences resist the Tyrant, and the Lyon, then the just Prince and the Lamb. Nor can I assent to *Cunnerus de officio princip. Christia. c. 5. & 17. Who holdeth, that these voluntary pactions betwixt King and people, in which the power of the Prince is diminished, cannot stand, because their power is given to them by Gods Word, which cannot be taken from them, by any voluntary paction, lawfully*; and from the same ground, *Winzetus in v•lit. contr. Buchan. p. 32. will have it unlawfull to resist Kings, because God hath made them unresistable.* [604] I answer, If God by a divine institution make Kings absolute, and above all Laws (which is a blasphemous supposition, the holy Lord can give to no man a power to sin, for God hath not himself any such power) then the Covenant betwixt the King and people, cannot lawfully remove and take away what God by institution has given; but because God, *Deut. 17.* hath limited the first lawfull King, the mould of all the rest, the people ought also to limit him by a voluntary Covenant; and because the lawfull power of a King to do good, is not by divine Institution placed in an indivisible point. It is not a sin for the people to take some power, even of doing good from the King, that [259] he solely, and by himself, shall not have power to pardon an involuntary homicide, without advice, and the judicall suffrages of the Councell of the Kingdom, least he, instead of this, give pardons to Robbers, to abominable Murtherers, and in so doing, the people robbeth not the King of the power that God gave him as King, nor ought the King to contend for a sole power in himself, of ministring justice to all; for God layeth not upon Kings, burdens unpossible, and God by Institution, hath denied to the King, all power of doing all good, because it is his Will that other Iudges be sharers with the King in that power, *Num. 14.16. Deut. 1.14, 15, 16, 17. 1 Pet. 2.14. Rom. 13.1, 2, 3, 4.* And therefore the Duke of *Venice* to me cometh nearest to the King, moulded by God, *Deut. 17.* in respect of power, *de jure*, of any King I know in *Europe*. And in point of conscience, the inferiour Iudge discerning a murtherer, and bloody man to die, may *in foro conscientiae*, despise the Kings unjust pardon, and resist the Kings force by his sword and coactive power that God hath given him, and put to death the bloody murtherer, and he sinneth, if he do not this; for to me it is clear, The King cannot judge so justly and understandingly of a murtherer in *Scotland*, as a Iudge, to whom God hath committed the sword in *Scotland*: Nor hath the Lord laid that unpossible burden on a King to judge so of a murther four hundred miles, removed from the King, as the Iudge nearer to him, as is clear by *Num. 14.16. 1 Sam. 7.15, 16, 17.* The King should go from place to place, and judge; and whereas it is unpossible to him, to go thorow three Kingdoms, he should appoint faithfull Iudges, who may not be resisted, no not by the King.

2. The question is, If the King command *A. B.* to kill his father, his pastour; the man neither being cited nor convicted of any fault, may lawfully be resisted.

3. *Queritur*, If in that case in which the King is captived, imprisoned, and not *sui juris*, and awed or over-awed by bloody Papists, and so is forced to command a barbarous and unjust War; and if being distracted *Physically* or *Morally* through wicked Counsell, he command that which no father in his sober wits would command, even against Law and

Conscience, That the sons should yeild obedience and subjection to him, in maintaining with lives and goods, a bloody Religion, and bloody Papists: If in that case, the King may not be resisted in his person, because the power lawfull [260] and the sinfull person cannot be separated? We hold the *King* using, contrary to the oath of God, and his Royall Office, violence in killing against Law and Conscience his Subjects, by bloody Emissaries, may be resisted by defensive Wars, at the commandment of the Estates of the *Kingdom*.

[605]But before I produce Arguments, to prove the lawfulness of resistance, a little of the case of resistance. 1. Doct. *Ferne, part. 3. sect. 5. pag. 39.* granteth resistance by force to the *King* to be lawfull. 1. *When the assault is sudden.* 2. *Without colour of a Law, and Reason.* 3. *Inevitable.* But if *Nero* burn *Rome*, he hath a colour of Law and Reason; yea, if all *Rome*, and his mother, in whose Womb he lay, were one neck. A man who will with reason go mad, hath colour of Reason, and so of Law, to invade and kill the innocent.

[606]2. *Arnisaeus* saith, If the Magistrate proceed *extra-judicialiter, without order of Law by violence, the Laws giveth every private man power to resist, if the danger be irrecoverable; yea, though it be recoverable. L. prohibitum, C. de jur. fisc. l. quemadmodum. 39. §. Magistratus ad l. Aquil. l. nec Magistratibus, [607] 32. de injur.* Because while the Magistrate doth against his office, he is not a Magistrate, for Law and right, not injury, should come from the Magistrate. *L. meminerint. 6. C. unde vi.* Yea, if the Magistrate proceed judicially, and the losse be irrecoverable. *Jurists* say, That a private man hath the same Law to resist, *Marantius, dis. 1. n. 35.* And in a recoverable losse, they say, every man is holden to resist, *si evidenter constet de iniquitate; If the iniquity be known to all, D. D. Iason. n. 19. dec. n. 26. ad l. ut vim de just. & jur.*

[608]3. I would think it not fit, easily to resist the *Kings* unjust Exactors of custome or tribute; 1. Because *Christ* payed tribute to *Tiberius Caesar*, an unjust usurper, though he was free from that, by Gods Law, least he should offend. 2. Because we have a greater dominion over Goods, then over our Lives and Bodies; and it is better to yield in a matter of Goods, then to come to Arms; for of sinlesse evils, we may choose the least.

4. A *Tyrant* without a Title may be resisted by any private man. *Quia licet vim vi repellere; Because we may repell violence by violence, yea, he may be killed. Vt l. & vim. F. de iustit. & jure, ubi plene per omnes. Vasquez, l. 1. c. 8. n. 33. Barcla. contra. Monarcho ■ l. 4 ■ c. 10. pag. 268.*

[261]

For the lawfulness of resistance in the matter of the *Kings* unjust invasion of life and Religion, we offer these Arguments. [609]

1. That power which is obliged to command and rule justly and religiously, for the good of the subjects, and is only set over the people on these conditions, and not absolutely, [610] cannot tye the people to subjection without resistance, when the power is abused to the destruction of Lawes, Religion, and the subjects. But all power of the Law is thus obliged, *Rom. 13.4. Deut. 17. vers. 18, 19, 20. 2 Chron. 19.6. Ps. 132.11, 12. Ps. 89.30, 31. 2 Sam. 7.12. Ier. 17.24, 25.* and hath, and may be abused by *Kings*, to the destruction of Lawes, Religion, and Subjects.

The Proposition is cleare, for the powers that tye us to subjection, only are of God. 2. Because to resist them, is to resist the ordinance of God. 3. Because they are not a terrour to good workes, but to evill. 4. Because they are *Gods* Ministers for our good, but abused powers are not of God, but of men, or not ordinances of *God*: they are a terrour to good workes, not to evill; they are not *Gods* Ministers for our good.

2. That power which is contrary to Law, [611] and is evill and Tyrannicall, can tye none to subjection, but is a meere Tyrannicall power and unlawfull; and if it tye not to subjection, it may lawfully be resisted. But the power of the *King* abused to the destruction of Lawes, Religion, and subjects, is a power contrary to Law, evill and Tyrannicall, and tyeth no man to subjection; wickednesse by no imaginable reason can oblige any man. Obligation to suffer of wicked men, falleth under no Commandement of *God*, except in our Saviour. A *Passion*, as such, is not formally commanded, I meane a Physicall Passion, such as to be killed. *God* hath not said to me in any Morall Law, *Be thou killed, tortured, beheaded*; but only, *be thou patient, if God deliver thee to wicked mens hands, to suffer these things*.

3. There is not a stricter Obligation Morall betwixt King and people, then betwixt Parents and Children, Master and servant, [612] Patron and Clients, Husband and Wife, the Lord and the Vassell; between the Pilot of a Ship and the Passengers, the Physitian and the sick, the Doctor and the schollars: but the Law granteth *l. Minime 35. De Relig. & sumpt. funer*. If these betray their trust committed to them ▪ they may be resisted; if the father turne distracted, and arise to kill his sonnes, his sonnes may violently apprehend him, and [262] bind his hands, and spoile him of his Weapons: for in that he is not a father, *Vasquez*, Lib. 1. Illustr. question. c. 8. n. 18. *Si dominus subditum enormiter & atrociter oneraret, princeps superior vassallum posset ex toto e•imere a sua jurisdictione, & etiam tacente subdito & nihil petente. Quid papa in suis decis. Parliam. grat. decis. 62. si quis Baro. abutentes dominio privari possunt*. The servant may resist the Master, if he attempt unjustly to kill him; so may the Wife doe to the Husband: if the Pilot should wilfully run the ship on a Rock to destroy himselfe and his Passengers, they might violently thrust him from the Helme. Every Tyrant is a furious man, and is morally distracted, as *Althusius* saith, *Politi. c. 28. n. 30. & seq.*

4. That which is given as a blessing and a favour, and a Scrine betweene the peoples liberty and their bondage, [613] cannot be given of *God*, as a bondage, and slavery to the people. But the power of a King is given as a blessing, and favour of *God* to defend the poore and needy, to preserve both Tables of the Law, and to keepe the people in their liberties from oppressing and treading one upon another. But so it is, that if such a power be given of *God* to a *King*, by which, *Actu primo*, he is invested of *God*, to doe acts of Tyranny, and so to doe them, that to resist him in the most innocent way, which is selfe defence, must be a resisting of *God*, and Rebellion against the *King*, his Deputy, then hath *God* given a Royall power as incontrollable by mortall men, by any violence, as if *God* himselfe were immediatly and personally resisted, when the *King* is resisted, and so this power shall be a power to wast and destroy irresistably, and so in it selfe a plague and a curse; for it cannot be ordained both according to the intention and genuine formall effect, and intrinsecall operation of the power to preserve the Tables of the Law, Religion and Liberty, Subjects and Lawes, and also to destroy the same; but it is taught by *Royalists* that this power is for *Tyranny*, as well as for peaceable Government, because to resist this *Royall Power* put forth in Acts either waies, either in acts of *Tyranny*, or *just Government*, is to resist the Ordinance of *God*, as *Royalists* say, from *Rom. 13.1, 2, 3*. And we know to resist Gods ordinances and Gods Deputy, *formaliter*, as his Deputy, is to resist *God* himselfe, 1 *Sam. 8.7. Mat. 10.40*. as if *God* were doing personally these Acts, that the *King* is doing, and it importeth as much as the *King of Kings* doth these Acts in, and through the *Tyrant*. Now it is blasphemy to thinke or say, that when a *King* is drinking the [263] blood of innocents, and wasting the *Church of God*, that *God*, if he were personally present, would commit these same acts of Tyranny, (*God* would avert such blasphemy) and that *God* in, and through the *King*, as his lawfull Deputy, and Vicegerent in these acts of *Tyranny*, is wasting the *poore Church of God*. If it be said in these sinfull acts of Tyranny, he is not *Gods formall Vicegerent, but only in good and lawfull acts of Government, yet he is not to be resisted in these acts, not because the acts are just and good, but because of the dignity of his Royall Person*. Yet this must prov•• that these who

resist the *King* in these acts of Tyranny, must resist no *ordinance of God*, but only that we resist him, who is the Lords Deputy, though not as the Lords Deputy; what absurd is there in that more then to disobey him, refusing active obedience to him who is the Lords Deputy, but not as the Lords Deputy, but as a man commanding, beside his Masters Warrant?

5. That which is inconsistent with the care and providence of *God* in giving a *King* to his *Church*, is not to be taught. [614] Now *Gods* end in giving a *King* to his *Church*, is the feeding, safetie, preservation, the peaceable and quiet life of his *Church*, 1 *Tim.* 2.2. *Esa.* 49.23. *Psal.* 79.71. But *God* should crosse his own end in the same act of giving a *King*, if he should provide a *King*, who, by office, were to suppress Robbers, Murtherers, and all oppressors and wasters in his holy Mount: and yet should give an irresistible power to one crowned *Lyon*, a *King*, who may kill a thousand thousand Protestants for their Religion, in an ordinary Providence, and they are by an ordinary law of *God* to give their throats to his Emissaries and bloody executioners. If any say, The *King* will not be so cruell: I beleeve it; because, *actu secundo*, it is not possibly in his power to be so cruell.

2. We owe thanks to his good will, that he killeth not so many; but no thanks to the nature and genuine intrinsecall end of a *King*, who hath power from *God* to kill all these, and that without resistance made by any mortall man. Yea, no thanks (God avert blasphemie) to *Gods* ordinary providence, which (if *Royalists* may be beleeved) putteth no barre upon the illimited power of a man inclined to sinne, and abuse his power to so much crueltie. Some may say, the same absurditie doth follow, if the *King* should turne Papist, and the Parliament all were Papists; in that case there might be so many *Martyrs* for the truth put to death: and *God* should put no bar of providence [264] upon this power, then, more then now: and yet in that case, the *King* and *Parliament*, should be Iudges given of *God*, *actu primo*, and by vertue of their office obliged to preserve the people in *Peace and Godlinesse*. But I answer: If *God* gave a lawfull officiall power to *King* and *Parliament* to worke the same crueltie upon millions of *Martyrs*, and it should be unlawfull for them by armes to defend themselves; I should then think that *King* and *Parliament* were both *ex officio*, by vertue of their office, and *actu primo*, *Iudges and Fathers*, and also by that same office, *Murtherers and Butchers*. Which were a grievous aspersion to the unspotted Providence of *God*.

[615]6. If the Estates of a Kingdome give the power to a *King*, it is their own power in the fountaine; and if they give it for their own good, they have power to judge when it is used against themselves, and for their evill; and so power to limit and resist the power that they gave. Now that they may take away this power, is cleare in *Athaliahs* case. It is true, she was a Tyrant without a Title, and had not the right of Heaven to the Crown; yet she had, in Mens Court, a title. For supposing all the seed Royall to be killed, and the peoples Consent; we cannot say, That for these sixe yeares, or thereabout, she was no Magistrate. 2. That there were none on the Throne of *David* at this time. 3. That she was not to be obeyed as *Gods* Deputie. But grant that she was no Magistrate: yet when *Iehoash* is brought forth to be crowned, it was a controversie to the States, to whom the Crown should belong. 1. *Athaliah* was in possession. 2. *Iehoash* himselfe being but seven yeares old, could not be Iudge. 3. It might be doubted, if *Ioash* was the true sonne of *Ahaziah*, and if he was not killed with the rest of the blood Royall.

Two great Adversaries say with us: *Hugo Grotius*, *de jur. belli & pacis*, l. 1. c. 4. n. 7. He saith, He dare not condemne this, if the lesser part of the People, and every one of them indifferently, should defend themselves against a Tyrant, *ultimo necessitatis praesidio*. The case of *Scotland*, when we were blocked up by Sea and Land, with Armes: The case of *England*, when the *King*, induced by Prelates, first attempted to bring an Army to cut off the *Parliament*, and then gathered an Army, and fortified *Yorke*, and invaded *Hull*, to make the *Militia* his own, sure is considerable. *Barclay* saith, The People hath *jus se tuendi adversus immanem saevitiem*. *Advers. Monarchomach.* [265] l. 3. c. 8. A power to defend themselves

against prodigious cruelty. The case of *England* and *Ireland*, now invaded by the bloody Rebels of *Ireland*, is also worthy of consideration. I could cite hoasts more.

QUEST. XXIX. Whether, in the case of Defensive warre, the distinction of the person of the King, as a man, who can commit acts of hostile Tyrannie against his Subjects: and of the Office and Royall power that he hath from God, and the People, as a King; can have place? ↩

BEfore I can proceed to other Scripture-prooves for the lawfulness of Resistance; this Distinction, rejected by Royalists, [616] must be cleared. This is an evident and sensible distinction: *The King* in concreto, *the Man who is King*; And *the King* in abstracto, *the Royall office of the King*. The ground of this distinction we desire to be considered from, *Rom. 13.* we affirme with *Buchanan*, that *Paul*, *Rom. 13.* speaketh of the office and duty of *good Magistrates*, and that the text speaketh nothing of an absolute *King*, nothing of a Tyrant; and the *Royalists* distinguish where the Law distinguisheth not, against the Law, 1. pret. 10. gl. Bart. de pub. in Rem. and therefore we move the question here, *Whether or no* to resist the illegall and Tyrannicall will of the man, who is King, be to resist the *King*, and the ordinance of *God*, we say no: Nor doe we deny the *King*, abusing his power in unjust acts, to remaine *King*, and the *Minister of God*, whose person for his royall office, and his Royall Office both are to be honoured, revered and obeyed. God forbid that we should doe so as the *sonnes of Belial*, imputing to us the doctrine of *Anabaptists*, and the doctrine falsely imputed to *Wicliffe*, That *Dominion is founded upon supernaturall grace, and that a Magistrate being in the state of mortall sin, cannot be a lawfull Magistrate*; we teach no such thing. The *P. Prelate* sheweth us his sympathy with Papists, and that he buildeth the Monuments and Sepulchres of the slaine and murdered Prophets, when he refusing to open his mouth in the Gates for the righteous, professeth he will not purge the Witnesses of Christ, the *Waldenses* and *Wicliffe*, [617] and *Husse* of these notes of disloyalty, but that these acts proceeding from this roote of bitterness, the abused power of a King should be acknowledged with obedience active or passive, in these unjust acts, we deny.

1. *Assert.* It is evident from *Rom. 13.* That all subjection and [266] obedience to higher powers commanded there is subjection to the power and office of the Magistrate *in abstracto*, or (which is all one) to the person using the power lawfully, and that no subjection is due by that text, or any *Word of God*, to the abused and Tyrannicall power of the King, which I evince from the Text, and from other Scriptures. 1. Because the Text saith, *Let every soule be subject to the higher powers. But no powers* commanding things unlawfull, and killing the innocent people of *God*, can be < in non-Latin alphabet > < in non-Latin alphabet > *higher powers*, but in that lower powers. 1. He that commandeth not what *God* commandeth, and punisheth and killeth where *God* is personally and immediatly present, would neither command nor punish, is not in these acts to be subjected unto, and obeyed as a *superiour power*, though in habit he may remaine a superiour power, for all habituall, all actuall superiority is a formall participation of the power of the most high. [618] 2. *Arnisaeus* well saith, That of *Aristotle* must be true, *It is against nature, that better and worthier men should be in subjection to unworthier, and more wicked men*: but in this when Magistrates command wickednesse, and killeth the innocent, the non-obeyers *eatenus* in so far, are worthier the commanders (whatever they be in habite and in office) *actually*, or in these wicked acts are unworthier and inferiour, and the non-obeyers are in that worthier, as being zealous adherents to Gods Command, and not to mans will. I desire not to be mistaken, if we speake of habituall excellency, godly and holy men as the Witnesses of *Christ* in things lawfull, are to obey wicked and Infidell *Kings* and *Emperours*, but in that these wicked *Kings* have an excellency in respect of office above them; [619] but when they command things unlawfull, and kill the innocent, They doe it not by vertue of any office, and so in that they are not higher powers, but lower and weak ones. *Laertius* doth explain *Aristotle* well, who defineth a Tyrant by this, [620] *That he commandeth his subjects by violence*, and *Arnisaeus*

condemne *Laertius* for this, *Because one Tyrannicall action doth no more constitute a Tyrant, then one unjust action doth constitute an unjust man.* But he may condemne (as he doth indeed) for this also *Covarruvias* pract. quest. c. 1. and *Vasquez* Illustr. quest. 1. 1. c. 47. n^o. 1.12. for this is essentiall to a Tyrant, to command and rule by violence. If a lawfull Prince doe one, or more acts of a Tyrant, he is not a Tyrant for that, yet his action in that is Tyrannicall, and he doth not that as a King, but in that act as a sinfull man, having something [267] of Tyrannie in him. 2. The Powers, *Rom.* 13.1. that are, are ordained of God, as their author and efficient; But Kings commanding unjust things, and killing the innocent, in these acts, are but men, and sinfull men; and the power by which they doe these acts, a sinfull and an usurped power, and so far they are not powers ordained of *God*, according to his revealed Will, which must rule us. Now the authoritie and officiall power, *in abstracto*, is ordained of God, as the Text saith, and other Scriptures doe evidence. And this Politicians doe cleare, while they distinguish betwixt *jus Personae*, and *jus Coronae*, the *power of the Person, and the power of the Crown and Royall office*. They must then be two different things. 3. He that resisteth the power, that is, the officiall power, and the *King*, as *King*, and commanding in the Lord, resisteth the Ordinance of *God*, and Gods *lawfull* constitution, v. 2. But he who resisteth the Man, who is the *King*, commanding that which is against *God*, and killing the innocent; resisteth no ordinance of *God*, but an ordinance of Sin and Sathan: for a man commanding unjustly, and ruling Tyrannically, hath, in that, no *power from God*. 4. They that resist the power and Royall office of the King in things just and right, shall receive to themselves damnation, *ver.* 3. but they that resist, that is, refuse, for Conscience, to obey the man who is the King, and choose to obey God rather then men, as all the Martyrs did, shall receive to themselves salvation. And the 80 *valiant men*, the *Priests*, who used bodily violence against *King Vzzahs person, and thrust him out of the house of the Lord*, from offering incense to the Lord, which belonged to the Priest only: received not damnation to themselves, but salvation in doing *Gods* will, and in resisting the Kings wicked will.

Arg. 5. The lawfull Ruler, as a Ruler, and in respect of his office, is not to be resisted, because he is not a *terroure to good workes*, [621] *but to evill*; and no man *who doth Good*, is to be afraid of the Office, or the Power, but to expect praise, and a reward of the same, v. 3. But the man who is a *King*, may command an idolatrous and superstitious *Worship*, send an Army of Cut-throats against them, because they refuse that *Worship*: and may reward Papists, Prelates, and other corrupt men, and may advance them to places of State and Honour, because they kneele to a Tree-Altar, pray to the East, adore the letters and sound of the word [*Jesus*] teach and write Arminianisme: And may imprison, deprive, confine, cut the eares, and [268] rip the noses, and burne the faces of those who speake, and preach, and write the truth of God: and may send Armies of Cut-throats, Irish Rebels, and other Papists, and malignant Atheists, to destroy and murther the Iudges of the Land, and innocent defenders of the Reformed Religion, &c. The Man (I say) in these acts, is a terrour to Good workes, an encouragement to Evill: And those that doe Good, are to be afraid of the King, and to expect no praise, but punishment and vexation from him; *Ergo*, this reason in the Text will prove that the Man, who is the King, in so far as he doth these things that are against his offi^oe, may be resisted; and that in these we are not to be subject, but only we are to be subject to his power and Royall authori^oie, *in abstracto*, in so farre as according to his office, he is not a *terroure to good workes, but to evill*. 6. The lawfull Ruler is the *minister of God*, or the servant of *God*, for *Good* to the Commonwealth: And to resist the servant in that wherein he is a servant, and using the power that he hath from his Master, is to resist the *Lord his Master*, v. 4. But the man who is the King, commanding unjust things, and killing the innocent; in these acts ■ is not the *minister of God*, for the Good of the Commonwealth: he serveth himselfe, and Papists and Prelates, for the destruction of Religion, Lawes and Commonwealth: therefore the Man may be resisted, by this Text, when the office and power cannot be resisted. 7. The Ruler, as the Ruler, and the nature and intrinsecall end of the office is, that he beare *Gods sword*, as an *avenger to execute wrath on him that doth evill*, v. 4. and so cannot

be resisted without sinne. But the man who is the Ruler, and commandeth things unlawfull, and killeth the innocent; carieth the Papists and Prelates sword, to execute, not the righteous judgement of the *Lord*, upon the *ill-doer*; but his own private revenge, *upon him that doth well*: Ergo, the Man may be resisted, the Office may not be resisted: and they must be two different things. 8. We must needs be subject to the *Royall office*, for *•onscience*, v. 5. by reason of the fifth Commandement. But we must not needs be subject to the man who is *King*, if he command things unlawfull: for *D. Ferne* warranteth us to resist, if the Ruler invade us *sodainly*; 2. *Without colour of Law or Reason*; 3. *Vnavoydably*. And *Winzetus*, and *Barclay*, and *Grotius*, as before I cited, give us leave to resist a King, turning a cruell Tyrant. But *Paul*, Rom. 13. forbiddeth us to resist the Power, *in Abstracto*; Ergo, it must be the Man, *in concreto*, that we must resist. 9. Those [269] we may not resist, to whom we owe tribute, as a reward of the onerous worke, on which they, as Ministers of *God*, doe attend continually. But we owe not tribute to the King as a man; for then should we be addebted tribute to all men: but as a *King*, to whom the wages of tribute is due, as to a Princely workman, a *King* as a *King*: ergo, the Man and the *King* are different. 10. We owe fear and honour as due, to be rendred to the man who is *King*, because he is a *King*, not because he is a man; for it is the highest feare and honour due to any mortall man, which is due to the *King*, as *King*. 11. The Man, and the inferiour Judge are different: and we cannot, by this Text, resist the inferiour Judge, as a Iudge, but we resist the ordinance of *God*, as the Text proveth. But Cavaliers resist the inferior Iudges as men, and have killed divers members of both Houses of Parliament: but they will not say, that they killed them as *Judges*, but as Rebels. If therefore to be a Rebell, as a wicked Man, and to be a Iudge, are differenced thus: then, to be a Man, and to commit some acts of Tyrannie; and to be the supreme Iudge and King, are two different things. 12. Mr. *Knox*, *Hist. of Scotland*, l. 2. The Congregation, in a letter to the Nobilitie, say: [622] *There is great difference betwixt the Authoritie, which is Gods Ordinance, and the Persons of those who are placed in authoritie. The Authoritie, and Gods ordinances can never doe wrong; for it commandeth that Vice and wicked men be punished, and Vertue, with vertuous men and just. be maintained: But the corrupt Person placed in this Authoritie, may offend, and most commonly doe contrary to this Authoritie: and is then the corruption of Man to be followed, by reason that it is clothed with the name of Authoritie?* And they give instance in *Pharaoh* and *Saul*, who were lawfull Kings, and yet corrupt Men. And certainly, the Man, and the Divine authoritie, differ as the Subject and the Accident; as that which is under a Law, and can offend *God*; and that which is neither capable of Law, nor sinne. 13. The *King*, as *King*, is a j•st creature, and by office a living and breathing Law: His Will, as he is *King*, is nothing but a just Law: But the *King*, as a sinfull man, is not a just creature, but one who can sinne, and play the Tyrant: and his Will, as a private sinfull man, is a private Will, and may be resisted. So the Law saith, *The King, as King, can doe no wrong*: but the *King*, as a Man, may doe a wrong. While as then the Parliaments of both Kingdomes resist the *Kings private will, as a Man*, and fight against his illegall Cut-throats, sent out by him, [270] to d•stroy his native subjects, they fight for him as a King, and obey his *publick Legall will*, which is his *Royall will, de jure*, and while he is absent from his *Parliaments* as a man, he is *Legally and in his Law-Power* present, and so the *Parliaments* are as Legall, as if he were personally present with them.

Let me answer Royalists. The *P. Prelate* saith it is *Solomons* word, [623] *By me Kings reign. Kings in concreto, with their Sovereignty, he saith not, By me Royalty or Sovereignty reigneth.* And elsewhere he saith, that *Barclay* saith, *Paul writing to the Romans, keepeth the Roman usuall diction in this, who expresse by Powers in abstracto, the persons authorized by Power, and it is the scriptures Dialect; By him were created thrones, Dominions, Principalities, that is Angels, to say Angels, in abstracto, were created, 2 Pet. 2.10. They speak ill of dignities, [624] Iud. 8. dispise dominion. That is, they speak ill of Cajus, Caligula, Nero; our Levites rail against the Lords Anoynted, the best of Kings in the world. Nero, Rom. 13.4. in concreto beareth not the sword in vain. Arnisaeus saith it better th•n the Prelate, (he*

is a witlesse thief. Rom. 13.4. *the Royall Power in abstracto, doth not bear the sword, but the Person, not the Power but the Prince himself beareth the sword.* And the Prelate poor man following Doctor Fern saith, [625] *Its absurd to pursue the Kings Person with a canon-bullet at Edge-hill, and preserve his authority at London, or elsewhere.* So saith Fern 16. sect. 10. pag. 64. *The concret Powers here are purposed as objects of our obedience, which cannot be directed, but upon power in some person, for it is said (in non-Latin alphabet)(in non-Latin alphabet), the Powers that are, are of God, now Power cannot be (in non-Latin alphabet)(in non-Latin alphabet) existent, but in some person; and Pag. 69. saith Fern, can Power in the abstract have praise? Or is tribute payed to the Power in the abstract. Yea the Power is the reason why we yeeld obedience to the person, &c. and the Prelate hath as much learning as to copy out of Fern, and Barclay, Arniseus, and others these words and the like, but hath not wit to adde the sinewes of these Authors reason, and with all this he can in his Preface call it his own, and provoke any to answer him if they dare, whereas while I answer this excommunicated Pamphletter.*

I answer these learned Authors, from which he stealeth all he hath, and yet he must perswade the King, he is the onely man can defend his Majesties Cause, and *the importunity*, forsooth, *of friends extorted this peece*, as if it were a fault, that this Delphick Oracle (giving out railings, and lies for responses) should be silent. 2. Not [271] we onely, but the Holy Ghost, *in terminis*, hath this distinction, Act. 4.19. and 5.29. *We ought to obey God rather then men.* Them Rulers (for of Rulers sitting in judgement is that speech uttered) commanding and tyrannizing over the Apostles, are men contradistinguished from God; and as they command and punish unjustly, they are but men, otherwise commanding for God, they are Gods, and more then men. 2. From *Theophylact* also, or from *Chrysostome*, on Rom. 13. we have this; The Apostle speaketh not (say they) (in non-Latin alphabet)(in non-Latin alphabet). 3. *Soveraignty* or *Royaltie*, doth not properly reign or bear the sword, or receive praise, and this accident doth not bear a sword; nor do we think, or *Paul* speak, Rom. 13. of the *abstracted Jew* of power and *Royaltie*, subsisting out of its subject; nor dream we, that the naked accident of Royall Authority, is to be feared and honoured as the Lords anointed; the person or man who is the King, and beareth the Crown on his head, and holdeth the scepter in his hand, is to be obeyed; accidentes are not persons, but they speak non-sense, and like brute beasts, who deny that all the kingly honour due to the King, must be due to him as a King, and because of the Royall dignity that God hath given to him, and not because he is a man; for a Pursevants son is a man, and if a Pursevants son would usurpe the throne, and take the Crown on his head, and the scepter in his hand, and command that all souls be subject to such a superior Power, because he is a man, the Lawes of *Scotland* would hang a man for a lesse fault, we know: and the *P. Prelate* was wont to edifie women, and converted souls to *Christ*, with such a distinction as *objectum quod*, and *objectum quo*, in the Pulpits of *Edenburgh*, and it hath good use here, *we never took* abstract Royalty to be the King. *The Kings of Scotland* of old were not second notions, and we exclude not the person of the King, yet we distinguish with leave of the *P. Prelate* betwixt the person *in linea physica*, we must take (*physica*) largely heer and *in linea morali*, obedience, fear, tribute, honour is due to the person of the King, and to the man who is King, not because of his person, or because he is a man (the *P. Prelate* may know in what notion, we take the name (*Person*) but because God by the peoples election, hath exalted him to Royall dignity, and for this cause illdoers are to subject their throats and necks to the sword of the Lords Annoynteds *executioner* or hangman with patience, and willingly, because in taking away the head of ill doers, for ill doing, [272] he is acting the Office of the *Lord*, by whom he Raigneth; but if he take away their heads, and send out the long-tusked Vultures and Boares of *Babylon*, the Irish Rebels to execute his wrath, as he is in that act a mis-informed man, and wanteth the authority of Gods Law, or mans Law, he may be resisted with Armes. For 1. If Royalists say against this, then if a *King* turne an habituall Tyrant, and conduce an hundred thousand *Turkes* to destroy his subjects upon meere desire of revenge, they are not to resist, but to be subject, [626] and suffer for conscience. I

am sure *Grotius* saith, If a King sell his subjects, he loseth all title to the Crowne, and so may be resisted, and *Winzetus* saith, A Tyrant may be resisted, and *Barclay*, It is lawfull for the people in case of Tyranny to defend themselves *Adversus immanem saevitiam*, against extreame cruelty: and I desire the Prelate to answer how people are subject in suffering such cruelty of the higher power, because he is Gods ordinance, and a power from *God*, except he say, as he selleth his people, and barbarously destroyeth by Cut-throat *Irishes*, his whole subjects refusing to worship Idolls, he is a man and a sinfull man, *eatenus*, and an inferiour power inspired by wicked counsell, not a King, *eatenus*, not a higher power, and that in resisting him thus, the subjects resist not the ordinance of God. Also suppose King *David* defend his Kingdome and people against *Iesse* his naturall father, who we suppose cometh in against his sonne and Prince, King *David*, with a huge army of the *Philistines*, to destroy him and his Kingdome, if he shall kill his owne native father, in that warr at some *Edge-hill*, how shall he preserve at *Ierusalem* that honour, & love that he oweth to his father, by vertue of the fifth Commandement, *Honour thy father and thy mother, &c.* Let them answer this, except King *David* consider *Iesse* in one relation, *in abstracto*, as his father, whom he is to obey, and as he is a wicked man, and a perfidious subject, in another relation, and except King *David* say, he is to subject himselfe to his father as a father, according to the fifth Commandement, [627] and that in the act of his fathers violent invasion, he is not to subject himselfe to him, as he is a violent invader, and as a man. Let the Royalist see how he can answer the Argument, and how *Levie* is not to know his father and mother as they are sinfull men, *Deut.* 33.9. and yet to know and honour them as Parents; and how an *Israelite* is not to pittie the wife that lyeth in his bosome, when she inticeth him to goe a whooring after strange Gods, but is to kill her, *Deut.* 13.6, 7, 8. and yet the husband [273] is to love the wife as *Christ* loved his Church, *Eph.* 5.25. If the husband take away his wifes life in some mountaine in the holy Land, as Gods Law commandeth, let the *Royalists* answer us, where is then the maritall love he owes to her, and that respect due to her as she is a wife and a helper. But let not the Royalist infer, that I am from these examples pleading for the killing of Kings, for lawfull resistance is one thing, and killing of Kings is another; the one defensive and lawfull, the other offensive and unlawfull, so long as he remaineth a King, and the Lords Anoynted: But if he be a murtherer of his father, who doth counsell his father to come to a place of danger, where he may be killed, and where the King ought not to be, as *Abner* was worthy of death, who watched not carefully King *Saul*, but slept when *David* came to his bed side, and had opportunity to kill the King, they are Traitors and murtherers of the King, who either counselled his Majesty to come to *Edge-hill*, where the danger was so grett, or did not violently restraine him from comming thither, seeing Kings safety and lives are as much, yea more in the disposing of the people then in their owne private will, *2 Sam.* 18.2, 3. for certainly the people might have violently restrained King *Saul* from killing himselfe, and the King was guilty of his own death, and sinneth against his Office and subjects, who commeth out in person to any such battles where he may be killed, and the contrary party free of his blood. And here our *Prelate* is blind, if he see not the cleare difference between the Kings Person, and the Office as he is King, and between his private Will, and his publicke and Royall Will. 3. The Angels may be named Thrones and Dominions *in abstracto*, and yet created, *in concreto*, and we may say the Angell and his power are both created at once; but *David* was not both borne the Son of *Iesse*, and a King at once: and the *P. Prelate*, by this may prove it is not lawfull to resist the Divell (for he is of the number of these created Angells, *Col.* 1.) as he is a Divell, because in resisting the Divell as a Divell, we must resist an Angell of God, and a Principality. 4. To speake ill of dignities, *2 Pet.* 2. and *Iud.* 8. *Piscator* insinuateth is, to speake evill of the very Office of Rulers, as well as of their manners▪ and *Theodat.* saith, on *2 Pet.* 2. that these *Raylers* spake evill of the place of Governours and Masters, as unbeseeming beleivers. All our Interpreters, as *Beza*, *Calvin*, *Luther*, *Bucer*, *Marloratus* from the place saith, It is a speciall reproofe of *Anabaptists* and *Libertines*, who in that time maintained, that we are all free men in *Christ*, and that there should not be Kings,

Masters, nor any Magistrates; however the abstract is put for the concrete, [274] its true, and it saith we are not to raile upon *Nero*, but to say *Nero* was a persecutor of Christians, and yet obey him commanding what is just, are very consistent. 5. *The persons are proposed*, Rom. 13. *to be the object of our obedience*, saith D. *Ferne*, it is very true; but he is ignorant of our mind in expounding the word *Person*: we never meant that feare, honour, royalty, tribute, must be due to the abstracted accident of *Kingly Authority*, and not to the man who is King. Nor is it our meaning that *Royalty in abstracto* is Crowned King, and is anoynted, but that the Person is crowned and anoynted. But againe by a person we meane nothing lesse then the man *Nero* wasting *Rome*, burning, crucifying *Paul*, and torturing Christians, and that we owe subjection to *Nero*, and to his person *in concreto* as to Gods ordinance, Gods Minister, Gods sword-bearer in that notion of a *Person*; is that only that we deny. Nay in that *Nero in concreto* to us, is no *Power ordained of God*, no *Minister of God*, but a Minister of the Divell, and Sathans armour-bearer, and therefore we owe not feare, [628] honour, subjection, and tribute to the Person of *Nero*. But the Person thus far *is the object of our obedience*; that feare, honour, subjection, and tribute must be due to the man *in concreto*, to his Person who is Prince; but not because he is a man, or a person simply, or a sword-bearer of Papists, but for his office, for that eminent place of royall dignity that God hath conferred on his Person. We know the light of the Sun, the heate of fire, *in abstracto*, doe not properly give light and heat, but the Sun and fire, *in concreto*; yet the *principium quo, ratio qua*, the principles of these operations in Sun and fire be light & heate, and we ascribe illuminating of dark bodies, heating of cold bodies to Sun and fire *in concreto*, yet not to the subjects simply, but to them as affected with such accidents: so here we honour and submit to the man who is King, not because he is a man, that were treason; not because he useth his sword against the Church, that were impiety: but because of his Royall Dignity, and because he useth it for the Lord. It is true, *Arnisaeus, Barclay, Ferne*, say, *That Kings leave not off to be Kings, when they use their power and sword against the Church and Religion*. And also it is considerable, that when the worst of Emperors bloody *Nero did raigne, the Apostle presseth the duty of subjection to him, as to a power appointed of God, and condemneth the resisting of Nero, as the resisting of an ordinance of God*. And certainly if the cause and reason in point of duty-Morall, and of conscience before God remaine in Kings, to wit, that while they are enemies and persecutors as *Nero was* ■ their Royall Dignity given them of God [275] remaineth, then subjection upon that ground is lawfull, and resistance unlawfull. Ans. It is true so long as Kings remaine Kings, subjection is due to them because Kings, but that is not the question. But the question is, if subjection be due to them, [629] when they use their power unlawfully and Tyrannically. What ever *David* did, though he was a King, he did it not as King, he deflowred not *Bathsheba* as King, and *Bathsheba* might with bodily resistance and violence lawfully have resisted King *David*, though Kingly Power, remained in him, while he should thus attempt to commit *Adultery*; else *David* might have said to *Bathshba*, *Because I am the Lords Anoynted, it is rebellion in thee a subject to oppose any bodily violence to my act of forcing of thee, it is unlawfull to thee to cry for helpe, for if any shall offer violently to rescue thee from me, he resisteth the ordinance of God*. Subjection is due to *Nero* as an Emperour, but not any subjection is due to him in the burning of *Rome*, and torturing of Christians, except you say that *Nero's* power abused in these acts of cruelty was, 1. *A power from God*. 2. *An ordinance of God*. 3. That in these, he was the *Minister of God for the good of the Common-wealth*. Because some beleevd Christians were free from the yoake of Magistracy, and that the dignity it selfe was unlawfull. And 2. because, ch. 12. he had set downe the lawfull Church Rulers, and in this and the following chapter the duties of brotherly love of one toward another. So here ch. 13. he teacheth that all Magistrates, suppose Heathen, are to be obeyed and submitted unto in all things, so far as they are Ministers of God. *Arnisaeus* objecteth to *Buchan*. *If we are by this place to subject our selves to every power in abstracto, then also to a power contrary to the truth, and to a power of a King exceeding the limits of a King, for such a power is a power, [630] and we are not to distinguish where the Law*

distinguisheth not.

Ans. The Law clearly distinguisheth we are to obey Parents *in the Lord*, and if Nero command Idolatry, this is an excessive power; are we obliged to obey, because the Law distinguisheth not? 2. The text saith, we are to obey every power, 1. from God, 2. That is Gods ordinance, 3. by which the man is a Minister of God for good; but an unjust and excessive power is none of these three. 3. The text in words distinguisheth not obedience active in things wicked, and lawfull: yet we are to distinguish.

Mr. Symmons. *Is authoritie subjected solely in the Kings Law, and no whit in his Person, though put upon him both by God and Man? [631] Or, is Authoritie only the subject; and the Person exercising the Authoritie, [276] a bare accident to that, being in it only more separably, as pride and folly are in a man: Then if one in Authoritie command, out of his own Will, and not by Law: if I neithr actively, nor passively obey, I doe not so much as resist abused Authoritie: and then must the Prince by his disorderly Will have quite lost his authoritie, and become like another man; and yet his Authoritie has not fled from him.*

Ans. If we speake accurately, neither the Man solely, nor his Power only is resisted: but the Man clothed with lawfull habituell power, is resisted, in such and such acts flowing from an abused power. 2. It is an ignorant speech, to ask, *Is Authoritie subjected solely in the Kings Law, and no whit in his Person?* for the Authoritie hath all its power by Law, not from the Mans person; The Authoritie hath nothing from the Person, but a naked inherencie in the Person, as in the subject: and the Person is to be honored for the Authoritie, not the Authoritie for the Person. 3. Authoritie is not so separable from the person, as that for every act of lawlesse Will, the King loseth his Royall authoritie, and ceaseth to be *King*: no, but every act of a *King*, in so far can claime subjection of the inferiour, as the act of commanding and ruling, hath law for it; and in so far as it is lawlesse, the Person in that act repugnant to Law, loseth all due claime of actuall subjection in that act, and in that act, power actuall is losed, as is cleare, *Act. 4.19. & 5.29.* The *Apostles* say to Rulers, *It is safer to obey God than Men.* What? were not these Rulers lawfull Magistrates, armed with power from *God*? I answer, habitually they were Rulers, and more then *men*, and to obey them in things lawfull, is to obey *God*: But actually in these unlawfull commandements, especially being commanded to speake no more in the name of *Jesus*; the *Apostles* doe acknowledge them to be no more but *Men*: and so their actuall authoritie is as separable from the person, *as pride and folly from men.*

Symmons. *The distinction holdeth good of inferior Magistrates, That they may be considered as Magistrates, [632] and as Men: because their authoritie is only sacred, and addeth veneration to their persons; and is separable from the person; The Man may live, when his Authoritie is extinguished: but it holdeth not in Kings. King Sauls person is venerable as his authoritie, and his authoritie commeth by inheritance, and dyeth, and liveth inseparably with his person: and Authoritie and Person adde honour each one to another.*

Ans. 1. If this be true, *Manasseh*, a King, did not shed innocent blood, and use *••orcerie*▪ he did not these great wickednesses as a *man*, [277] but as a *King*. *Salomon* played the Apostate as a *King*, not as a *man*: if so, the man must make the *King* more infallible then the Pope; for the Pope, as a man, can erre; as a Pope he cannot erre, say Papists. But Prophets, in their persons, were anoynted of *God*, as *Saul* and *David* were: then must we say, *Nathan* and *Samuel* erred not as men, because their persons were sacred and anointed: and they erred not as Prophets, sure; *Ergo*, they erred not all. A *King*, as a *King*, is an holy Ordinance of *God*, and so cannot doe injustice, *Ergo*, they must doe acts of Iustice, as men. 2. The inferior Iudge is a Power from *God*. 2. To resist him, is to resist an ordinance of *God*. 3. He is not a terrour to good workes, but to evill. 4. He is the *minister of God* for good. 5. He is Gods Sword-bearer; his officiall power to rule, may by as good right come by birth, as the Crown: and the

Kings person is sacred only for his office, and is annointed only for his office. For then the Chaldeans dishonored not inferior Iudges, *Lam. 5.12.* when they *hanged the Prince, & honored not the faces of Elders.* It is in questiō, if the Kings actual authority be not as separable frō him, as the actuall authority of the Iudge.

Symmons, p. 24. The King himselfe may use this distinction. As a Christian, he may forgive any that offendeth against his person: but as a Iudge, he must punish, in regard of his office. Ans. Well then, Flatterers will grant the distinction, when the *King* doth good, and pardoneth the blood of Protestants, shed by bloody Rebels: But when the King doth acts of injustice, he is neither man, nor King, but some independent absolute God.

Symmons, p. 27. Gods Word tyeth me to every one of his personall commandements, as well as his legall commandements: nor doe I obey the Kings law, because it is established, or because of its known penaltie; nor yet the King himselfe, because he ruleth according to Law. But I obey the Kings law, because I obey the King: and I obey the King, because I obey God: I obey the King, and his Law ■ because I obey God and his Law. Better obey the Command, for a reverent regard to the Prince, then for a penaltie. Ans. It is hard to answer a sick man. It is blasphemie, to seek this distinction of Person and Office, in the King of Kings; because by (*Person*) in a mortall King, we understand a Man that can sinne. 1. I am not obliged to obey his personall commandement, except I were his domestick: nor his unlawfull personall commandements, because they are sinfull. 2. It is false that *you obey the Kings Law, because you obey the King:* for then you say but this, *I obey the King, because I obey the King.* The truth is, [278] Obedience is not formally terminated on the person of the King; Obedience is relative to a precept: and it is Men-service, to obey a Law, not because it is good and just; but upon this formall motive, because it is the will of a mortall man to command it. And Reverence, Love, Feare, being acts of the Affection, are not terminated on a Law, but properly on the Person of the Iudge: and they are modifications, or laudable qualifications of acts of obedience; not motives, not the formall reason why I obey, but the manner how I obey. And the Apostle maketh expresly, *Rom. 13 ■ 4.* feare of punishment, a motive of obedience, while he saith, *He beareth not the sword in vaine; Ergo, Be subject to the King.* And this hindreth not personall resistance to unjust commandements.

Symmons, p. 27, 28, 29. You say, To obey the Princes Personall commandement against his Legall will, is to obey himselfe against himselfe. So say I, To obey his Legall will against his Personall will, is to obey himselfe against himselfe: for I take his Person to be himselfe

Ans. To obey the Kings personall will, when it is sinfull, (as we now suppose) against his legall will, is a sinne, and a disobedience to *God*, and the King also, seeing the Law is the *Kings will, as King:* but to obey his Legall will against his sinfull personall will (as it must be sinfull, if contrary to a just Law) is obedience to the *King as King*, and so obedience to God. 2. You take the Kings person to be himself; but you take *quid pro quo*, for his person here, you must take not *Physically* for his suppost of soul and body; but morally, it is the King, as a sinning man doing his worst will, against the Law which is his just and best will, and the rule of the Subjects: and the Kings personall will is so far just, and to regulate the Subjects, in so far, as it agreeth with his legall Will, or his Law, and this will can sinne, and therefore may be crossed without breach of the fifth Commandement: but his Legall Will cannot be crossed without disobedience both to *God* and the *King*.

Symmons, p. 28. The Kings Personall will doth not alwayes presuppone passion: and if it be attended with passion, yet we must beare it for conscience sake. Ans. We are to obey the Kings Personall will, when the thing commanded, is not sinne; but his Subjects as Subjects, have little to do with his personall will in that notion. It concerneth his domestick servant, and is the Kings will as he is the master of servants, not as he is King in relation to Subjects; but we speak of the Kings personall will, as repugnant to Law, and contrary to the Kings will

as King, and so contrary to the fifth [279] Commandment; and this is attended often, not onely with Passion, but also with prejudice; and we owe no subjection to prejudice, and Passions, or to Actions commanded, by these misordered powers, because they are not from God, nor his Ordinances, but from men, and the flesh, and we owe no subjection to the flesh.

Doct. *Ferne*, Sect. 9. pag. 58. *The distinction of personall and legall will, hath place in evill actions, but not in resistance, where we cannot sever the person, and the dignitie, or authority, because we cannot resist the power, but we must resist the person who hath the power. Saul had lawfully the command of Arms, but that power he useth unjustly, against innocent David. I ask when these Emperours took away lives and goods at their pleasure; was that a power ordained of God? No, but an Illegall will, a Tyranny, but they might not resist: nay, but they cannot resist: for that power and soveraigntie employed to compasse these illegall commandments, was ordained and settled in them. When Pilate condemned our Saviour, it was an illegall will, ye•• our Saviour acknowledgeth in it Pilates power, that was given him from above. Answ. 1. Here we have the distinction, denied by Royalists, granted by D. *Ferne*; but if when the King commands us to do wickednesse, we may resist that personall will, and when he commandeth us to suffer unjustly we cannot resist his will, but we must resist also his Royall person. What? Is it not still the King, and his person sacred, as his power is sacred, when he commandeth the subjects to do unjustly, as when he commandeth them to suffer unjustly? It were fearfull to say, when Kings command any one act of idolatry, they are no longer Kings; if for conscience I am to suffer unjustly, when *Nero* commandeth unjust punishment, because *Nero* commanding so, remaineth Gods Minister. Why? But when *Nero* commandeth me to worship an Heathen God, I am upon the same ground to obey that unjust will in doing ill: For *Nero* in commanding Idolatry, remaineth the Lords Minister, his person is sacred in the one commandment of doing ill, as in inflicting ill of punishment. And do I not resist his person in the one, as in the other? His power and his person are unseparably conjoynd by God in the one, as in the other, 2. In bodily thrusting out of *Vzzah* from the Temple, these fourscore valiant men did resist the Kings person, by bodily violence, as well as his power. 3. If the power of killing the Martyrs in *Nero*, was no power ordained of God, then the resisting of *Nero*, in his taking away the lives of the *Martyrs*, was but the resisting of Tyranny: And certainly, if that [280] power in *Nero* was (in non-Latin alphabet) a power ordained of *God*, and not to be resisted, as the place, *Rom.* 13. is alleaged by *Royalists*, then it must be a lawfull power, and no Tyranny; and if it cannot be resisted, because *it was a power ordained and settled in him*, it is either settled by God, and so not Tyranny; except God be the Author of Tyranny, or then settled by the devill, and so may well be resisted; but the Text speaketh of no power, but *of that which is of God*. 4. We are not to be subject to all powers *in concreto*, by the Text; for we are not to be subject to powers lawfull, yet commanding active obedience to things unlawfull. Now subjection includeth active obedience of honour, love, fear, paying tribute, and therefore of need force, some powers must be excepted. 5. *Pilates* power is meerly a power by *divine permission*, not a *power ordained of God*, as are the powers spoken of *Rom.* 13. *Gregori. mor. l. 3. c. 11.* expresly saith, *This was Satans power given to Pilate, against Christ. Manibus Satanae pro nostra redemptione se traddit.* *Lyra. A Principibus Romanorum & ulterius permissum a Deo, qui est potestas, superior.* *Calvin, B••za, Diod••tus*, saith the same, and that he cannot mean of Legall power from Gods regulating will is evident; 1. Because Christ is answering *Pilate*, [633] *John* 19.10. *Knowest thou not, that I have power to crucifie thee?* This was an untruth. *Pilate* had a command to worship him, and beleeve in him; and whereas *Ferne* saith, Sect. 9. pag. 59. *Pilate had power to judge any accused before him:* It is true, but he being obliged to beleeve in Christ, he was obliged to be perswaded of Christs innocency; and so neither to judge, nor receive accusation against him: and the power he saith, he had to crucifie, was a *Law-power* in *Pilates* meaning, but not in very deed any *Law-power*; because a *Law-power* is from Gods regulating will in the fifth Commandment; but no creature hath a lawfull or a *Law-power* to crucifie Christ. 2. A *Law-power* is for good, *Rom.* 13.4. *A power to crucifie**

Christ, is for ill. 3. A Law-power is a terrour to ill works, and a praise to good. *Pilates* power to *crucifie Christ*, was the contrary. 4. A Law-power is to execute wrath on ill-doing, a power to crucifie *Christ* is no such. 5. A Law-power conciliateth honour, fear, and veneration to the person of the Judge, a power to crucifie *Christ*, conciliateth no such thing, but a disgrace to *Pilate*. 6. The Genuine Acts of a lawfull power, are lawfull Acts; for such as is the Fountain-power, such are the Acts flowing therefrom; good Acts slow not from bad powers, neither hath God given a power to sin, except by way of permission.

[313]

QUEST. XXX. Whether or no Passive Obedience be a meane to which we are subjected in conscience by vertue of a Divine Commandement, and what a meane Resistance is. That Flying is Resistance. ↩

MUCH is built, to commend patient suffering of ill, and condemne all resistance of Superiors, by *Royalists*, on the place 1 *Pet.* 2.18. Where we are commanded, being servants, to suffer buffets, not onely for ill doing, of good masters, but also undeservedly, and when we do well, we are to suffer of these masters that are evil; and so much more are we patiently, without Resistance, to suffer of *Kings*. But it is cleare, the place is nothing against Resistance, as in these Assertions I cleare.

Assertion 1. Patient suffering of wicked men, and violent resisting are not incompatible, but they may well stand together: So this consequence is the basis of the argument, and it is just nothing. To wit, Servants are to suffer unjustly wounds and tormenting of their wicked Masters, and they are to bear it patiently; Ergo, Servants are in conscience obliged to non-resistance. Now Scripture maketh this clear; The Church of God is to bear with all patience, [634] *the* $\langle \diamond \rangle \langle \diamond \rangle$ *of the Lord, because she hath sinned*, and to suffer of wicked enemies, which were to be troden as mire in the streets, *Micah* 7.9, 10, 11, 12. but withall they were not obliged to non-resistance, and not to fight against these enemies, yea they were obliged to fight against them also. If these were, *Babilon, Iudah* might have resisted and fought, if God had not given a speciall commandement of a positive law, that they should not fight, if these were the *Assyrians* and other enemies, or rather both, the people were to resist by fighting, and yet to endure patiently the indignation of the *Lord*. *David* did bear most patiently the wrong that his own son *Absolon* and *Achitophel*, and the people inflicted on him in pursuing him to take his life and the kingdom from him: as is cleare by his gracious expressions, 2 *Sam.* 15.25, 26. chap. 16. ver. 10, 11, 12. *Psal.* 3.1, 2, 3. Yea he prayeth for a blessing on the people, that conspired against him. *Psal.* 3.8. Yet did he lawfully resist *Absalom*, and the conspiratours, and sent out *Ioab* and a huge army in open battel against them. 2. *Sam.* 18.1, 2, 3, 4, &c. and fought against them. And were not the people of God patient to endure the violence done to them in the wildernes, by *Og king of Bashan, Sihon* [314] *king of Heshbon*, by the *Ammorites, Moabites, &c?* I think *Gods* law tyeth all men, especially his people, to as patient a suffering in wars, *Deut.* 8.16. *God* then trying and humbling his people, as the servant is to endure patiently, unjustly inflicted buffets, 1 *Pet.* 2.18. And yet *Gods people* at *Gods* command did resist these *Kings* and people, and did fight and kill them, and possesse their land, as the history is cleare. See the like *Iosh.* 11. ver. 18, 19. 2. One act of grace and vertue is not contrary to another. Resistance is in the Children of God an innocent act of self-preservation, as is patient suffering, and therefore they may well subsist in one. And so saith *Amasa* by the spirit of the *Lord*. 1 *Chro.* 12.18. *Peace, peace be unto thee, and peace to thy helpers, for God helpeth thee*. Now *David* in that, and all his helpers were resisters of King *Saul*. 3. The scope of the place 1 *Pet.* 2. is not to forbid all violent resisting, as is clear, [635] he speaketh nothing of violent resisting either one way or other, but onely he forbiddeth revengefull resisting of repaying one wrong with another, from the example of *Christ*, who when he was reviled, reviled not again, when he suffered he threatned not. Therefore the argument is a falacy, *ab* $\bullet\bullet o$ *quod docitur* \langle in non-Latin alphabet \rangle \langle in non-Latin alphabet \rangle ,

ad illud quod dicitur ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩. Though therefore the master should attempt to kill an innocent servant, and invade him with a weapon of ⟨◇⟩⟨◇⟩. 1. *Suddenly*. 2. *Without all reason or cause*. 3. *Vnavoidably*, Doctor *Ferne* in that case doth free a Subject from guiltynesse, [636] if he violently resist his Prince: *Ergo* the servant who should violently resist his Master in the aforesaid case, should, and might patiently suffer, and violently resist, notwithstanding any thing that Royalists can conclude on the contrary. 4. No Prince hath a Masterly or herile dominion over his subjects, but onely a free, ingenious, paternall and tutorly over-sight for the good of the people, *Rom.* 13.4. The Master, especially in the Apostle *Peters* time, had a dominion over servants, as over their proper goods.

2. *Assertion*. Neither suffering formally as suffering, and so neith••r can non-resisting passive fall under any morall law of God, except in two conditions: [637] 1. In the point of Christs passive obedience, he being the eternall God, as well as Man, and so Lord of his owne blood and life, by vertue of a speciall commandement imposed on him by his Father, was commanded to lay downe his life, yea and to be an Agent as well as a Patient in dying. *Ioh.* 10.18. Yea and actively he was to contribute somthing for his own death, [315] and ••ffer himself willingly to death, *Mat.* 28.20. And knowing the houre that he was to depart out of this world unto the Father, [638] *Iohn* 13.1. would not onely not flee, which is to Royalists lawfull, to us a speciall point of resistance, *Ioh.* 14.31. *Ioh.* 18.4, 5, 6, 7. and but upbraided *Peter*, as the Agent of Sathan, who would dissuade him to die, *Mat.* 16.22, 23. and would fight for him. And he doth not fetch any argument against *Peters* drawing of his sword, from the unlawfulness of self-defence, and innocent resistance, (which he should have done, if Royalists plead with any colour of reason from his example, against the lawfulness of Resistance and self-defence) but from the absolute power of God. 2. From Gods positive wil••w••o commanded him to die, *Mat.* 26.53, 54. if therefore *Royalists* p••ove any thing against the lawfulness of resisting Kings, when they offer (most unjustly) violence to the life of Gods servants, from thi•• one meerly extraordinary and rare example of *Christ*, the like wh••reof was never in the world, they may from the same example prove it unlawfull to flee; for *Christ* would not flee, *Psal.* 40.6, 7. *Heb.* 10.6, 7, 8, 9. *Ioh.* 14.31. *Ioh.* 18.4, 5, 6, 7, 2. They may prove that people sought by a Tyrant to be crucified for the Cause of *God*, or to reveale and discover themselves to an Armie of men who come to seek them, *Ioh.* 13.1, 2. *Ioh.* 18.4, 5, 6, 7, 3. That Martyrs are of purpose to goe to the place where they know they shall be apprehended and put to death, for this *Christ* did, and are willingly to offer themselves to the enemies Armie, for so did *Christ*, [639] *Ioh.* 14.3. *Mar.* 14.41, 42. *Mat.* 26.46, 47. and so by his example, all the Parliament, all the Innocents of the Citie of London, and Assemblie of Divines, are obliged to lay downe Armes, and to goe to their owne death to Prince *Rupert*, and the bloody Irish Rebels. 4. By this example it is unlawfull to resist the cutthroats of a *King*, for *Cesar* in his owne Royall person, the High Priest in person came not out against *Christ*. Yea it is not lawfull for the Parliament to resist a *Iudas*, who hath ••led as a traitorous Apostate from the Truth and the Temple of *Christ*. 5. It is not lawful for innocents to defend themselves by any violence against the invasion of superiours in D. *Fernes* three cases, in which he alloweth resistance. 1. *When the Invasion is sudden*. 2. *Vnavoidable*. 3. *Without all colour of Law and Reason*. In the two last cases, [640] *Royalists* defend the lawfulness of self-defence. 6. If the example be pressed, *Christ* did not this and this, he resisted not with violence to save his [316] owne life, therefore we are to abstaine from resistance, and such and such meanes of self-preservation, then because *Christ* appealed not from inferiour Judges to the *Emperour Caesar*; who, no doubt, would have shewne him more favour, then the Scribes and Pharisees did, and because *Christ* conveyed not a humble supplication to his Sovereigne and Father *Caesar*, then because he proffered not a humble petition to *Prince Pilate* for his life, he being an innocent man, and his cause just, because he neither conduced an Orator to pleade his owne just cause, nor did he so plead for himselfe, and give in word and writ, all lawfull and possible defences for his own safety, but answered many *things with silence*, to the admiration of the Judge, *Marke* 15.3, 4 5. and was thrice

pronounced by the Judge to be innocent, *Luke 22. ver. 23.* because▪ I say, Christ did not all these for his owne life, therefore it is unlawfull for *Scotland* and *England* to appeale to the *King*, to supplicate, to give in Appol•g•••s, &c. I thinke Royalists dare not say so. But if they say, he would not resist, and yet might have done all these lawfully, because these be lawfull meanes, and resistance with the sword unlawfull; bec••use, *He that taketh the sword, shall perish by the sword.* Let me Answer then, 1. They leave the argument from Christs example, who was thus farre subject to higher powers, that he would not r••sist, and plead from the unlawfulness of resistance; this is *petitio principii*. 2. He that taketh the sword without Gods warrant, which *Peter* had not, but the contrary, he was himselfe a Sathan to Christ, who would but counsell him not to die; but there is no shadow of a word to prove that violent resisting is unlawfull, when the King and his I••ish cut-throats pursue us unjustly; onely Christ saith, when God may deliver extraordinarily by his Angels, except it be his absolute will, that his Son should drink the cup of death, then to take the sword, when *God* hath declared his will on the contrary, is unlawfull; and that is all: Though I doe not question but Christs asking for swords, and his arresting all his enemies to the ground, *Ioh. 18.6.* backward, is a justifying of selfe-defence. But hitherto it is cleare by *Christs* example, that he onely was commanded to suffer. Now the second case in which suffering falleth under a Commandement, is indirectly and comparatively, when it commeth to the election of the witnesse of *Jesus*, that it is referred to them, either to deny the truth of Christ and his name, or then to suffer death, the choise is apparently evident, and this [317] choise that persecuters referre us unto, is to us a Commandement of God, that we ••ust choose suffering for *Christ*, and refuse sinning against Christ: but the supposition must stand, that this alternative is unavoydable, that is not in our power to decline either suffering for Christ, or denying of Christ b••fore men; otherwayes no man is to expect the reward of a witnesse of *Jesus*, who having a lawfull possible meanes of eschewing suffering, doth yet cast himselfe into suffering ne••dlesly. But I prove that suffering by men of this world, falleth not formally and directly under any divine positive Law, for the Law of nature, what ••ver *Arminians* in their Declaration, or this *Arminian* excommunicate think with them, (for they teach that God gave a Commadement to *Adam*, [641] to abstaine from such and such fruit with paine and trouble to sinlesse nature) doth not command suffering, or any thing contrary to nature as nature is sinlesse: I prove it thus, [642] 1. What ever falleth under a positive Commandem••nt of *God*, I may say here, und••r any Commandement of *God*, is not a thing under the freewill and power of others, from whom we are not discended necessarily by naturall generation, but that men of the world kill me, even these from whom I am not d••scended by naturall generation (which I speake to exclude *Adam*, who killed all his posterity) is not in my free will, either as if they had my common nature in that act, or as if I wer•• accessory by counsell, consent, or approbation to that act, for this is under the free-will and power of others, not under my owne free-will: *Ergo*, that I suffer by others is not under my free-will, and cannot fall under a Commandement of God: And certainly, it is an irratioll Law, (glorified be his name) that God should command *Antipas* either formally to suffer, or formally not to suffer death by these of the Synagogue of Sathan, *Revel. 2.13.* because if they be pleased not to kill him, it is not in his free-will to be killed by them; and if they shall have him in their power (except God extraordinarily deliver) it is not in his power, in an ordinary providence, not to be killed. 2. All these places of Gods word, that recommendeth suffering to the followers of Christ, do not command formally that we suffer; *Ergo*, suffering falleth not formally under any Commandement of God; I prove the Antecedent, because i•• they be considered, they prove onely that comparatively we are to choose rather to suffer, then to deny Christ before men, *Mat. 10.28, 32. Revel. 2.13. Mat. 10.37. Mat. 16.24. c. 19.29.* [318] or then they command not suffering according to the substance of the passion, [643] but according to the manner, that we suffer willingly, cheerfully, and patiently. Hence Christs word to take up his Crosse, which is not a meere passion, but commendeth an act of the vertue of patience. Now no Christian vertue consisteth in a meer passion, but in laudable habits, and good and gracious

acts, and the Text we are now on, 1 *Pet.* 2.18, 19. doth not recommend suffering from the example of Christ, but patient suffering, and so the word ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, not simply enjoyed, but ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, in all *feare*, *ver.* 18. and the words ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ and ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, *to suffer with patience*, as 2 *Tim.* 3.11. 1 *Cor.* 10.13. and ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ is to suffer patiently, 1 *Cor.* 13.7. *Love*, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, *suffereth all things*, *Heb.* 12.17. *if you suffer correction*, 1 *Tim.* 5.5. *She continueth patiently in prayers*, *Heb.* 12.2. Christ endured the Crosse (patiently) & *Rom.* 15.5. *Rom.* 8.25. *Luk.* 8.15. & 21.29. the derivats hence signifie patience, so doe all our Inter••reters, *Beza*, *Calvin*, *Marlorat*, and Popish expositors, as *Lorinus*, *Estius*, *Carthusian*, *Lyra*, *Hugo Cardinali*•• expound it of patient suffering, and the text is clear, it is suffering like *Christ*, without rendring evil for evil, and reviling for reviling. 3. Suffering simply according to substance of the passion (I cannot say action) is common to good and ill, and to the wicked, yea to the damned in hell, who suff••r against their will, and that cannot be joynd according to its substance as an act of formall obedi••nce and subjection to higher powers, Kings, Fathers, Masters, by force of the fifth commandment, and of the place *Rom.* 13.1, 2. Which according to its substance, [644] wicked men suffer, and the damned in hell also against their will. 4. Passive obedience to wicked Emperours can but be enjoyed, *Rom.* 13. but onely in the manner, and upon supposition, that we must be subject to them, and must suffer against our wills, all the ill of punishment, that they can in••lict, we must suffer patiently; and because it is Gods permissive will that they punish us unjustly; for it is not Gods ruling and approving will (called *voluntas signi*) that they should against the law of God and man kill us, and persecute us, and therefore neither *Rom.* 13. nor 1 *Pet.* 2. nor any place in Gods word, nor any common Divin••, naturall, of nations, or any municipal Law commandeth formally obedience passive, or subjection passive, or non-resistance under the notion of passive obedience, yea to me obedience passive, (if we speak o•• obedience properly called as relative essentially to [319] a law) is a chymera, a dream, and *repugnantia in adjecto*, and therefore I utterly deny that resistance passive or subjection passive, doth formally fal under either commandment of God affirmative, or negative, onely the unlawfull manner of resistance by way of revenge, or for defence of Popery and false Religion, and out of impatient tolleration of Monarchy or any Tyranny is forbidden in Gods word, and certainly all the words used *Rom.* 13. as they fall under a formal commandment of God, or words of action, not of any Chymericall passive obedi••nce, as we are not to resist actively Gods ordinance, as his ordinance, *ver.* 1.2. that is, to resist God actively. 2. We are to do good works, not evil, if we would have the ruler no terror to us, *ver.* 3. 3. We must not do ill, if we would be free of vengeances sword: *ver.* 7. we are to pay tribute and to give fear and honour to the ruler, *ver.* 7. ••ll which are evidently actions, not passive subjection, and if any passive subjection be commanded, it is not here, nor in the first commandment, commanded, but in the first commandment under the hand of patience and submission under Gods hand in sufferings, or in the third commandment under the hand of rather dying for *Christ*, or denying his truth before men; hence I argue here *Rom.* 13. and 1 *Pet.* 2. and *Tit.* 3. is nothing else, but an exposition of the fifth commandment, but in the fifth commandment onely active obedience is formally commanded, and the subordination of inferiours to superiours is ordained, and passive obedience is no where commanded, but onely *modus rei*, the manner of suffering, and the occasion of the commandment, here it is thought that the *Iewes* converted under this pretext, that they were *Gods* people, beleaved that they should not be subject to the Romans. A certaine *Galilean* made the *Galileans* beleave that they should not pay tribute to *Strangers*, and that they should call none Lord, but the God of heaven, as *Ioseph*, saith, *Antiq. Iudaic. l.* 20. c. 2. and *De bell. Iudaic. l.* 7. c. 29. yea and *Hieron. Com. in 3. Tit.* saith, At this time the sect of the *Galileans* were on foot. It is like the *Jews* were thought to be *Galileans*, and that their liberty purchased in *Christ* could not consist with the order of master and servant, King

and subject. And to remove this, *Paul* establisheth Magistracie, and commandeth obedience in the *Lord*; and he is more to prove the office of the Magistrate to be of *God*, then any other thing; and to shew what is his due, then to establish absolutenesse in *Nero* to be of *God*; yea to me, every word in the Text speaketh *limitednesse of* [320] *Princes*, and cryeth downe absolutenesse: 1. No power of God, 2. No ordinance of God, 3. Who is a terror to evill, but a praise to good works, 4. No minister of God for good, &c. can be a power to which we submit our selves on earth, as next unto God, without controlment. 5. That passive obedience falleth formally under no commandement of God, I prove thus: All obedience lyable to a divine commandement, doth commend morally the performer of obedience, as having a will conformed to Gods morall Law, and deformity betwixt the will of him who performeth not obedience, involveth the non-obedient in wrath and guiltinesse. But non-passive subjection to the sword of the Judge doth not morally commend him that suffereth not punishment, for no man is formally a sinner against a morall law, because he suffereth not the ill of punishment; nor is he morally good, or to be commended, because hee suffereth ill of punishment, but because he doth the ill of sin. And all evil of punishment unjustly inflicted hath Gods *voluntas beneplaciti*, the instrumentall and hidden decree of God, which ordereth both good and ill, *Ephes.* 1.11. for its rule and cause, and hath not Gods will of approbation called, *voluntas signi*, for its rule, both is contrary to that will; I am sure *Epiphanius* li. 1. tom. 3. *heres.* 40. *Basilius* in *Psal.* 32. *Nazianzen Orat. ad subd. & imperat.* *Hilar.* li. ad *Constant.* *August.* citeth these words, and saith the same. If then passive subjection be not commanded, non subjection passive cannot be forbidden, and this text, *Rom.* 13. and 1 *Pet.* 2. cannot a whit help the bad cause of *Royalists*; All then must be reduced to some action of resisting, arguments for passive subjection though there were ship-fulls of them, they cannot help us.

[645]Assert. 3. By the place 1 *Pet.* 2. The servant unjustly buffeted is not to buffet his master again, but to bear patiently as Christ did, *who when he was reviled, did not revile again*. Not because the place condemneth resistance for self-defence, but because buffeting again is formally re-offending, not defending; defending is properly a warding of a blow or stroak: if my neighbour come to kill me, and I can by no means save my life by flight, I may defend my self, and all Divines say, I may rather kill, ere I be killed, because I am nearer by the law of nature, and dearer to my self, and my own life then to my brother: but if I kill him out of malice, or hatred, the act of defending, by the unlawfull manner of doing, becometh an act of offending, and murther, whence the mind of the blood-shedder will [321] vary the nature of the action, from whence this corolarie doth naturally issue, that the physicall action of taking away the life maketh not murther, nor homicide, [646] and so the physical action of offending my neighbour is not murther: *Abraham* may kill his son, he for whom the cities of refuge were ordained, and did kill his brother, yet not hating him, he was not, by Gods law, judged a murtherer. And 2. It necessarily hence followeth, that an act which is physically an act of offending my brother, yea even to the taking away of his life is often morally and legally an act of lawfull self-defence: an offending of another necessitated from the sole invention of self-defence is no more but an act of innocent self defence: if *David* with his men had killed any of *Sauls* men, in a set battel, *David* and his men onely intending self defence, the warre *David*s part was meere defensive, for physicall actions of killing, indifferent of themselves, yet imperated by a principle of naturall self-defence, and clothed with this formall end of self-defence, or according to the substance of the action, the act is of self-defence. If therefore one shall wound me deadly, and I know it is my death, after that, to kill the killer of my selfe, I being onely a private man, must be no act of self-defence, but of homicide, because it cannot be imperated by a sinlesse dictate of a naturall conscience, for this end of self-defence, after I know I am killed. Any mean not used for preventing death, must be an act of revenge, not of self-defence, for it is physically unusuall for the intended end of self-defence. And so for a servant buffeted, to buffet againe, is of the same nature: the second buffet not being a conducible meane to ward the first buffet, but a meane to procure heavier stroakes and possibly killing, it cannot be an act of self defence, for an act of self

defence must be an act destinated *ex natura rei*, onely for defence, and if it be known to be an act of sole offending, without any known necessary relation of a mean to self-defence as the end, it cannot be properly an act of self-defence.

Assert. 4. When the matter is lighter, as in paying tribute, or suffering a buffet of a rough master, though unjustly, we are not to use any act of re-offending. [647] For though I be not absolute Lord of my owne goods, and so may not at my sole pleasure give tribute and expend monies to the hurting of my children, where I am not by Gods Law or Mans Law obliged to pay tribute; and though I be not an absolute Lord of my members, to expose face, and cheeks, and back to stripes and whips at my owne meere will, yet have [322] we a comparative dominion given to us of God in matters of goods, and disposing of our members, (I think I may except the case of mutilation, which is a little death) for buffets, because Christ no doubt to teach us the like, would rather give of his goods, and pay tribute, where it is not due, then that this scandall lay on the way of Christ, that Christ was no loyall subject to lawfull Emperors and Kings. And 1 *Cor.* 9. *Paul* would rather not take stipend, though it was due to him, then hinder the course of the Gospel. And the like is 1 *Cor.* 6. where the *Corinthians* were rather to suffer losse in their goods, then to goe to Law before Infidel Judges, and by the like to prevent greater inconveniences, and mutilation, and death; the Christian servant hath that dominion over his members, rather to suffer buff•ts, then to ward off buffets with violent resistance. But it is no consequent that innocent subjects should suffer death of tyrants, and servants be killed by masters, and yet that they shall not be allowed by the law of nature to defend themselves, by re-offending, when on•ly self-defence is intended, because we have not that dominion over life and death. And therefore as a man is his brothers murther•r, who, with froward *Cain*, will not be his brothers keeper, and may preserve his brothers life, without losse of his owne life, when his brother is unjustly preserved; so when he may preserve his owne life, and doth not that which Natures Law alloweth h•m to doe, rather to kill ere he be killed, he is guilty of self-murther; because he is deficient in the duty of lawfull self-defence. But I grant to offend or kill is not of the nature of defensive warre, but accidentall ther•unto, and yet killing of cut-throats sent forth by the illegal commandement of the *King* may be intended, as a mean and a lawfull mean of self-defence.

2. Of two ill of punishment, we have a comparative dominion over our selves, a man may cast his goods in the sea to redeeme his life. So for to redeeme peace, we may suffer buffets, but because death is the greatest ill of punishment, God hath not made it eligible to us, when lawfull self defence is at hand; But in defending our own life against Tyrannicall power, though we do it by offending and killing, we resist no ordinance of God, onely I judge killing of the *King* in self-defence not lawfull, because self-defence must be national, on just causes. Let here the reader judge, *Barclay l. 3. c. 8. pag. 159. con. Monar. If the King (saith he) shall vex the Common-wealth or one part thereof, with great and intollerable cruelty; what shall the people do? they have [323] (saith he) in that case a power to resist and defend themselves from injury, but onely to defend themselves, not to invade the Prince, [648] nor to resist the injury, or to recede from reverence due to the Prince.* I answer 1. Let *Barclay* or the prelate (if he may carry *Barclayes* books) or any, difference these two, the people may resist a Tyrant, but they may not resist the injuries inflicted by a Tyrants officers & cut-throats. I cannot imagine how to conciliate these two: for to resist the cruelty of a *King*, is but to hold off the injurie by resistance. 2. If this *Nero* waste the Common-wealth unsufferably with his cruelty, and remaine a lawful *King*, to be honoured as a *King*, who may resist him, according to *Royalists* way? but from *Rom.* 13. they resist the Ordinance of God. 3. Resisting is not a meere suffering, nor is it a morall resisting by alledging l•wes to be broken by him. We had never a question with *Royalists* about such resisting. 2. Nor is this resisting non-obedience to unjust commandements; that resisting was never yet in question, by any, except the Papists, who in good •arnest, by consequent, say, It is better to obey men, then God. 3. It is then resisting by bodily violence; but if the *King* have such an absolute power given him by God, as *Royalists* fancie from *Rom.* 13.1, 2. 1 *Sam.* 8 ■ 9, 11. I know not how Subjects have any

power given them of God, to resist the power from God, and Gods Ordinance. And if this resisting extend not it selfe to defensive wars, [649] how shall the people defend themselves from injuries and the greatest injuries imaginable, from an Armie of Cut-throats and Idolaters in war comming to destroy Religion, set up Idolatry, and root out the name of Gods people, and lay waste the mountaine of the Lords house? And if they may defend themselves by defensive wars, how can wars be without offending? 3. The law of Nature teacheth to repell violence with violence, when one man is oppressed, no lesse then when the Common-wealth is oppressed. *Barclay* should have given either Scripture, or the law of Nature for his warrant here. 4. Let us suppose a King can be perjured, how are the Estates of the Kingdome, who are his Subjects, by *Barclays* way, not to challenge such a *Tyrant* of his perjurie? He did swear, he should be meek and clement, and he is now become a furious Lyon, shall the flock of God be committed to the keeping of a furious Lyon?

D. Ferne, p. 3. sect. 2. pag. 9. addeth, *Personall defence is lawfull against sudden and illegall invasion, such as Elisha practiced, even if it [324] were against the Prince to ward blowes, and to hold the Princes hand, but not to returne blowes, [650] but generall resistance by Armes, cannot be without many unjust violences, and doth immediatelie strike at the order, which is the life of the Common-wealth.*

Answ. If it be naturall to one man to defend himself against the personall invasion of a Prince, then is it naturall and warrantable to ten thousand, and to a whole Kingdome; and what reason to defraud a Kingdome of the benefit of self-defence, more then one man? Neither grace nor policy destroyeth nature: and how shall ten or twenty thousand be defended against Cannons and Musquets that killeth afar off, except they keepe Townes against the King, which *D. Ferne* and others say had beene treason in *David*, if he had kept *Keilah* against King *Saul*, except they be armed to offend, with weapons of the like nature to kill rather then be killed, as the Law of nature teacheth. 3. To hold the hands of the Prince is no lesse resisting violence, then to cut the lap of his garment, which Royalists think unlawfull, and is an opposing of externall force to the Kings person. [651] 4. It is true, warres meere defensive cannot be but they must be offensive, but they are offensive by accident, and intended for meere defence, and they cannot be without warres sinfully offensive, nor can any warres be *in rerum naturâ* now, (I except the warres commanded by God, who onely must have beene sinfull in the manner of doing) but some innocent must be killed; but warres cannot for that be condemned. 5. Neither are offensive warres against these who are no powers and no ordinances of God, such as are cut-throate Irish, condemned Prelates and Papists now in Armes, more destructive to the order established by God, then acts of lawfull war are, or the punishing of robbers; and by all this Protestants in *Scotland* and *England*, should remaine in their houses unarmed, while the Papists and Irish come on them armed and cut their throats, and spoyle and plunder at will.

[652]Nor can we think that resistance to a King in holding his hands can be naturall, if he be stronger, it is not a naturall meane of selfe-preservation: Nature hath appoynted innocent and offending violence, against unjust violence, as a meanes of selfe-preservation. *Goliahs* sword is no naturall meanes to hold *Sauls* hands, for a sword hath no fingers; and if *Saul*, 1. suddainly, 2. without colour of Law or reason, 3. inevitably should make personall invasion on *David* to kill him; *Dr. Ferne* saith he may resist, but resisting is essentially [325] a reaction of violence; shew us Scripture or reason for violent holding a Kings hands in an unjust personall invasion, without any other reaction of offence: *Walter Torrils* killed King *W. Rufus*, as he was shooting at a Deere; the Earle of *Suffolk* killed *Henrie* the 8. at *Tilting*; there is no treasonable intention here, and so no homicide: Defensive wars are offensive, *ex eventu* & *effectu*, not *ex causa*, or *ex intentione*.

But it may be asked, if no passive subjection at all be commanded as due to Superiours? *Rom. 13. Answ.* None properly so called, that is, purely passive, onely we are for feare of the sword to doe our duety. 2. We are to suffer ill of punishment of Tyrants, *ex hypothesi*, that they inflict that ill on us, some other way, and in some other notion then we are to suffer ill of equals, for we are to suffer of equals not for any paternall authority that they have over us, as certainly wee are to suffer ill inflicted by Superiours. I demand of Royalists, if Tyrants inflicting evill of punishment upon Subjects unjustly, be powers ordained of *God*. 2. If to resist a power in Tyrannicall acts be to resist *God*. 3. Since wee are not to yield active obedience to all the commandements of Superiours, whether they be good, or ill, by vertue of this place, *Rom. 13.* how is it that we may not deny passive subjection to all the Acts of violence exercised whether of injustice, whether in these Acts of violence, wherein the Prince *in actu ex cito*, and formally punisheth not in Gods stead, or in these wherein he punisheth Tyrannically in no formall or actuall subordination to God we owe passive subjection: I desire an answer to these.

Assert. 5. Flying from the tyranny of abused Authority, [653] is a plaine resisting of Rulers in their unlawfull oppression and perverting of judgement.

All Royalists grant it lawfull, and ground it upon the Law of Nature, that those that are persecuted by tyrannous Princes may flee, and it is evident from Christs Commandment, *If they persecute you in one City, flee to another*, *Mat. 10.23.* and by *Mat. 23.34.* Christ fled from the fury of the Jewes, till his houre was come; *Elias, Vriah, Ier. 26.20. Ioseph and Mary fled*; the Martyres did hide themselves in caves and dens of the earth, *Heb. 11.37, 38.* *Paul* was let downe through a window in a basket at Damascus; this certainly is resistance: For looke what legall power God hath given to a tyrannous Ruler, remaining a power ordained of God, to summon [326] legally, and set before his tribunall the *servants of God*, that he may kill them and murther them unjustly, that same legall power he hath to murther them: For if it be a legall power to kill the innocent, and such a power as they are obliged in conscience to submit unto, they are obliged in conscience to submit to the legall power of citing; for it is one and the same power: Now if resistance to the one power be unlawfull, resistance to the other must be unlawfull also, and if the law of self-defence, or command of Christ warrant me to disobey a tyrannous power, commanding me to compeere to receive the sentence of death, that same Law farre more shall warrant me to resist and deny passive subjection, in submitting to the un-just sentence of death. 2. When a murtherer self-convicted sleeth from the just power of a Judge lawfully citing him, he resisteth the just power ordained of God. *Rom. 3. Ergo*, by the same reason if we flee from a tyrannous power, we resist that tyrannous power, and so by Royalists ground we resist the ordinance of God by flying. Now to be disobedient to a just power summoning a manfactor, is to hinder that lawfull power, to be put forth in lawfull Acts, for the Judge cannot purge the land of blood, if the murtherer slee. 3. When the *King of Israel* sendeth a Captaine, and fifty victors to fetch *Elisha*, these come instructed with legall power from the King, if I may lay fetters on their power by flight upon the ground of self-preservation, the same warrant shall allow me to oppose harmelesse violence, for my owne safety. 4. Royalists hold it unlawfull to keepe a strong hold against the King, though the Fort be not the Kings house; and though that *David* should not have offended, if he had kept Keilah against *Saul*, *Dr. Ferne* and Royalists say, it had beene unlawfull resistance. What more resistance is made to Royall power by wals interposed, then by Seas and miles of earth interposed? Both are physicall resistance, and violent in their kinde.

QUEST. XXXI. Whether or no self-defence against any unjust violence offered to the life, be warranted by Gods Law, and the Law of Nature and Nations? ↩

Self-preservation in all creatures in which is nature, is in the creatures suitable to their nature: The Bull defendeth it selfe by its hornes, [654] the Eagle by her clawes and bill, it will not follow [327] that a Lambe will defend it selfe against a Wolfe any other way, then by flying. So men, and Christian men doe naturally defend themselves; but the manner of self-defence in a rationally creature, is rationally, and not alwayes meere naturall: therefore a politique communitie, being a combination of many natures, as neither grace, farre lesse can policy destroy nature, then must these many natures be allowed of God to use a naturall self-defence. If the King bring in an Army of forraigners, then a politique community must defend it selfe in a rationally way; Why? Self-defence is naturall to Man, and naturall to a Lamb, but not the same way; A Lamb or a Dove naturally defend themselves against beasts of another kinde, onely by flight, not by re-action and re-offending: But it followeth not that a man defendeth himselfe from his enemy only by flight; If a robber invade me, to take away my life and my purse, I may defend my selfe by re-action; for reason and grace both may determine the way of self-preservation: Hence Royalists say, a private man against his Prince, hath no way to defend himselfe, but by flight; *Ergo*, a community hath no other way to defend themselves, but by flight. 1. The antecedent is false. [655] Dr. *Ferne* alloweth to a private man supplications, and denying of Subsidies, and Tribute to the Prince, when he employeth Tribute to the destruction of the Common-wealth; which by the way, is a cleere resistance, and an active resistance made against the King, *Rom.* 13.6, 7. and against a Commandement of God, except Royalists grant tyrannous powers may be resisted. 2. The consequence is naught, for a private man may defend himselfe against unjust violence, but not any way he pleaseth; The first way is by supplications and apologies, he may not presently use violence to the Kings servants before he supplicate, nor may he use re-offending, if flight may save. *David* used all the three in order; [656] 1. He made his defence by words, by the mediation of *Ionathan*; when that prevailed not, he tooke himselfe to flight, as the next; but because he knew flight was not safe every way, and nature taught him self-preservation, and reason and light of grace taught him the meanes, and the religious order of these meanes for self-preservation. Therefore he addeth a third, *He took Goliaths sword, and gathered six hundred armed men*, and after that made use of an hoast. Now a sword and armour are not horsing and shipping for flight, but contrary to flight; so re-offending, is Policies last refuge. A godly magistrate taketh not away [328] the life of a subject, if other means can compass the end of the Law; and so he is compelled and necessitated to take away the life: [657] so the private man, in his naturall self-defence, not to use re-action, or violent re-offending, in his self-defence against any man, farre lesse against the servants of a King, but in the exigence of the last and most inexorable necessity. [658] And it is true that *M. Symmons* saith, *Sect.* 11. *pag.* 35. *Self-defence is not to be used, where it cannot be without sinne.* It is certaine, Necessity is but a hungry plea for sinne, *Luke* 14.18. but it is also true, re-offending comparatively, that I kill rather then I be killed, [659] in the sinlesse Court of Natures spotlesse and harmelesse necessity, is lawfull and necessary, except I be guilty of self-murder, in the culpable omission of self-defence. Now a private man may flie, and that is his second necessity, and violent re-offending is the third meane of self-preservation. But with leave, violent re-offending is necessary to a private man, when his second meane, to wit, flight, is not possible, and cannot attaine the end, as in the case of *David*: if flight doe not prevaile, *Goliaths* sword and an host of armed men are lawfull: So to a Church and a community of Protestants, men, women, aged, sucking children, sick, and diseased, who are pressed either to be killed, or forsake Religion and Jesus Christ, flight is not the second meane, nor a meane at all because 1. not possible, and therefore not a naturall meane of preservation: For 1. the aged, the sick, the sucking infants, and sound Religion in the posteritie cannot flee, [660] flight here is physically and by natures necessity impossible, and therefore no lawfull mean. What is to nature physically impossible, is no lawfull mean. 2. If Christ have a promise that the ends of the earth, *Psal.* 2.8. and the Isles shall be his possession, *Esa.* 49.1. I see not how naturall defence can put us to flee, even all Protestants,

and their seed, and the weak and sick, whom we are obliged to defend as our selves, both by the Law of nature and grace. I read that seven wicked nations and idolatrous were cast out of their land to give place to the *Church of God*, to dwell there, but shew me a warrant in natures Law and in Gods word that three Kingdomes of Protestants, their seed, aged, sick, sucking children, should flee out of *England, Scotland, Ireland*, and leave Religion and the Land to a King and to *Papists, Prelates and bloody Irish, and Atheists*: and therefore to a Church and community having Gods right and mans law to the land, violent re-offending is their second mean (next to supplications and declarations, [329] &c.) and flight is not required of them, as of a private man. Yea flight is not necessarily required of a private man, but where it is a possible mean of self-preservation, violent and unjust invasion of a private man, which is unavoidable may be obviated with violent re-offending. Now the unjust invasion made on *Scotland* in 1640. for refusing the Service-book, or rather the idolatry of the *Masse*, therein intended, was unavoidable, it was impossible for the Protestants, their old and sick, their women and sucking children to flee over sea, or to have shipping betwixt the Kings bringing an army on them at *Duns-law*, and the Prelates charging of the Ministers to receive the masse-book; *Althusius* saith well, *Pol. c. 38. n. 78*. Though private men may flee; but the estates if they flee, they do not their duty to commit a country, religion and all to a Lion. L••t not any object, we may not devise a way to fulfill the prophecy, *Psal. 2.8, 9. Isa. 49.1*. it is true, if the way be our own sinfull way; nor let any object, *a Colony went to New-England and fled the persecution*. Answer, True, but if fleeing be the onely mean after supplication, there was no more reason that one *Colony* should go to *New-England*, then it is necessary & by a divine law obligatory, that the whole Protestants in the three kingdomes according to Royalists Doctrine, are to leave th••ir native country, & religion to one man & to popish Idolators & Atheists willing to worship idols with them, and whethere then shall the Gospel be, which we are obliged to defend with our lives?

2. There is *Tutela vitae proxima, & remota*. [661] A meer and immediat defence of our life, and a remote or mediat defence; when there is no actuall invasion made by a man seeking our life, we are not to use violent re-offending. *David* might have killed *Saul*, when he was sleeping, and when he cut off the lap of his garment, but it was unlawfull for him to kill the Lords Anointed, because he is the Lords Annoited, as it is unlawfull to kill a man, because he is the Image of *God*, *Gen. 9 6*. except in case of necessity; The magistrate in case of necessity may kill the malefactor, though his malefices do not put him in that case, that he hath not now the image of *God*; [662] now prudency and light of grace determineth, When we are to use violent re-offending for self-preservation, it is not left to our pleasure. In a remote posture of self-defence, we are not to use violet re-offending, *David* having *Saul* in his hand was in a remote posture of defence, the unjust invasion then was not actuall, not inavoidable, [330] not a necess••ry mean in human prudency for self-preservation, for *King Saul* was then in a habituall, not in an actuall pursuit of the whole Princes, Elders and judges of *Israel*, or of a whole community and *Church*; *Saul* did but seek the life of one man, *David*, and that not for religion, or a nationall pretended offence, and therefore he could not in conscience put hands on the Lords anoynted; but if *Saul* had actually invaded *David* for his life, *David* might in that case make use of *Goliahs* sword, (for he took not that weapon with him as a Cypher to boast *Saul*, it is no lesse unlawfull to thr••atten a *King* then to put hands on him) and rather kill or be killed by *Sauls* emissaries: Because then he should have been in an immediate and nearest posture of actuall self-defence. Now the case is farre otherwayes between the *King*, and the two Parliaments of *England*, and *Scotland*, for the King is not 1. Sleeping in his emissari••s, for he hath armies in two kingdomes, and now in thre•• kingdomes, [663] by sea and land, night and day in actuall pursuit, not of one *David*, but of the estates, and a Christian community in *England* and *Scotland*, and that for Religions, Lawes and Liberties, for the question is now betweene *Papist* and *Protestant*, between Arbitr••ry or Tyranicall government, and law-government, and Therefore by both the Lawes of the politique societies of both *Kingdomes*, and by the Law of *God* and nature, we are to

use violent re-offending for self-preservation, and put to this necessity when armies are in actual pursuit of all the Protestant Churches of the suffrages, and Religion to be undone. But saith the *Royalist, Davids argument, God forbid that I stretch out my hand against the Lords Annoynted, my Master the King, concludeth universally, that the King in his most Tyrannous acts, still remaining the Lords Annoynted, cannot be resisted.* Ans. 1. *David* speaketh of stretching out his hand against the person of *King Saul*: no man in the three Kingdomes, did so much as attempt to do violence to the *Kings person*. [664] But this argument 2. is inconsequent, for a King invading in his own Royall person, the innocent subject, 1. Suddainly. 2. Without colour of Law and reason. 3. Unavoidably, may be personally resisted, and that with opposing a violence bodily, yet in that invasion he remaineth the Lords Annoynted. 2. By this argument the life of a murtherer cannot be taken away by a Judge, for he remaineth one endued with Gods image, and keepeth stil the nature [331] of a man under all the murthers that he doth, but it followeth no wayes, that because God hath indowed his person with a sort of Royalty, of a Divine image, that his life cannot be taken; and certainly, if to be a man endued with Gods image, *Gen.* 6.9, 10. and to be an ill doer worthy of evill punishment are different; to be a King, and an ill doer may be distinguished.

The grounds of self-defence are these; A woman or a young man may violently oppose a *King*, if he force the one to adultery and incest, and the other to *Sodomy*; Though Court-flatterers should say, the *King* in regard of his absolutenesse is Lord of life and death; yet no man ever said, that the *King* is Lord of chastity, faith, and oath that the wife hath made to her husband.

2. Particular nature yeelds to the good of universall nature, [665] for which cause hevie bodies ascend, aerie and light bodies descend; If then a wilde Bull or a goaring Oxe, may not be let loose, in a great market-confluence of people; and if any man turne so distracted, as he smite himselfe with stones and kill all that passe by him, or come at him; in that case the man is to be bound, and his hands fettered, and all whom he invadeth may resist him, were they his owne sons, and may save their owne lives with weapons; much more a *King* turning a *Nero*: *King Saul* vexed with an evill spirit from the Lord, may be resisted; and faare more if a King indued with use of reason, shall put violent hands on all his subjects, kill his son and heire; yea, any violently invaded, by natures law, may defend themselves, and the violent restraining of such an one is but the hurting of one man, who cannot be virtually the Common-wealth; but his destroying of the community of men sent out in warres, as his bloody emissaries, to the dissolution of the Common-wealth.

3. The cutting off of a contagious member, that by a Gangrene, would corrupt the whole body, is well warranted by nature, because the safety of the whole is to be preferred to the safety of a part: Nor is it much that *Royalists* say the *King being the head, destroy him, & the whole body the Common-wealth is dissolved; as cut off a mans head, & the life of the whole man is taken away*; Because, 1. God cutteth off the spirits of tyrannous *Kings*, and yet the Common-wealth is not dissolved, [666] no more then when a Leopard or a wilde Boare, running through children is killed, it can be the destruction of all the children in the land. 2. A king indefinitely is referred to the Common-wealth as an adequat head to a Monarchicall Kingdome, [332] and remove all Kings and the politique body as Monarchicall, in its frame, is not Monarchicall, but it leaveth not off to be a politique body, seeing it hath other Judges, but the naturall body without the head cannot live. 2. This or that tyrannous King, being a transient mortall thing, cannot be referred to the immortall Common-wealth, as it is adequat correlate. They say, *the King never dieth*, yet this King can dye; an immortall politique body, such as the Common-wealth, must have an immortall head, and that is a King as a King; not this or that man, possibly a tyrant, who is for the time (and eternall things abstract from time) onely a King.

4. The reason of *Fortunius Garcias* a skilfull Lawyer in Spaine is considerable, *Coment. in l. ut vim vi ff. de justit. & jure. God hath implanted in every creature naturall inclinations, and motions to preserve it selfe, and we are to love our self for God, and have a love to preserve our selves rather then our neighbour, and Natures law teacheth every man to love God best of all, and next our selves more then our neighbour; for the Law saith, Thou shalt love thy neighbour as thy selfe; then (saith Malderus com. in 12. q. 26. tom. 2. c. 10. concl. 2.) The love of our selfe, is the measure of the love of our neighbour.* But the rule and the measure is more perfect, simple, and more principall then the thing that is measured: It is true, I am to love the salvation of the *Church*, it comming neerer to Gods glory, more then my owne salvation, [667] as the wishes of *Moses* and *Paul* do prove; and I am to love the salvation of my brother, more then my owne temporall life; but I am to love my owne temporall life, more then the life of any other, and therefore I am rather to kill, [668] then to be killed, the exigence of necessity so requiring; Nature without sin aimeth this as a truth, in the case of losse of life; *Proximus sum egomet mihi. Ephes. 5.28, 29. He that loveth his wife, loveth himselfe; for no man ever yet hated his owne flesh, but nourisheth it, and cherisheth it, even as the Lord the Church.* As then nature tyeth the dam to defend the young birds, and the Lyon her whelps, and the husband the wife, [669] and that by a comparative re-offending, rather then the wife or children should be killed; yea, hee that is wanting to his brother, (if a robber unjustly invade his brother) and helpeth him not, is a murtherer of his brother so farre, Gods spirituall law requiring both conservation of it in our person, and preservation in others. The forced Damsell was commanded to [333] cry for help, and not the Magistrate onely, but the neerest private man or woman was to come, by an obligation of a divine Law of the seventh Commandement, to rescue the Damsell with violence; even as a man is to save his enemies Oxe or his Asse out of a pit: And if a private man may inflict bodily punishment of two degrees, to preserve the life and chastity of his neighbour, far rather then suffer his life and chastity to be taken away, then he may inflict violence of foure degrees even to killing, for his life, and much more for his owne life. So when a Robber, with deadly weapons invadeth an innocent traveller to kill him, for his goods, upon the supposition that if the Robber be not killed, the innocent shall be killed; Now the question is, which of the two, by Gods morall Law and revealed will in point of conscience, ought to be killed by his fellow; for we speake not now of Gods eternall decree of permitting evill, according to the which murtherers may crucifie the innocent Lord of glory: by no morall Law of God, should the unjust robber kill the innocent traveller, therefore in this exigence of providence, the traveller should rather kill the robber. If any say, by Gods morall Law not one should kill his fellow; and it is a sin against the morall Law in either to kill other; I answer: If a third shall come in when the robber and the innocent are invading each other for his life, all acknowledge by the sixt Commandement, the third may cut off the robbers arme to save the innocent; but by what Law of God he may cut off his arme, he may take his life also to save the other; for it is murther to wound unjustly, and to dismember a man by private authority, as it is to take away his life: If therefore the third may take away the robbers member, then also his life, so hee doe it without malice or appetite of revenge, and if he may doe it out of this principle, *Thou shalt love thy neighbour as thy selfe;* because a man is obliged more to love his owne flesh, then his neighbours, *Ephes. 5.28.* and so more to defend himselfe, then to defend his neighbour, [670] then may he oppose violence to the robber; As two men drowning in a water, the one is not obliged by Gods Law, to expose himselfe to drowning to save his neighbour; but by the contrary, hee is obliged rather to save himselfe, though it were with the losse of his neighbours life: As in war, if souldiers in a strait passage be pursued on their life, nature teacheth them to flee; if one fall, his fellow in that exigence is not onely not obliged to lift him up, but he and the rest flying, [334] though they trample on him and kill him, they are not guilty of murther, seeing they hated him not before. *Deut. 19.4.6.* so *Chemnit. loc. com. de vindic. q. 3.* alloweth private defence. 1. *When the violence is suddaine, And the 2. Violence manifestly inevitable. 3. When the Magistrate is absent and*

cannot help. 4. When moderation is kept as Lawyers require. 1. That it be done incontinent, if it be done after the injury, it is revenge, not defence. 2. Not of Desire of revenge. 3. With proportion of armor. If the violent invader invade not with deadly weapons, you must not invade him with deadly weapons, and certainly the law, *Exod. 22.* of a mans defending his house is clear. 1. If he come in the night, it is presumed he is a robber. 2. If he be taken with a weapon breaking the house, he cometh to kill, a man may defend himself, wife, and children, but he is 3. but to wound him, and if he die of the wound, the defender is free, so the defender is not to intend his death, but to save himself.

5. It were a mighty defect in providence to man, if dogs by nature may defend themselves against Wolves, [671] Bulls against Lyons, Doves, against Haukes, if man in the absence of the lawfull Magistrate, should not defend himself against unjust violence, but one man might raise armies of Papists sick for blood to destroy innocent men. They object, *When the King is present in his person, and his invaders, he is not absent, and so though you may rather kill a private man, then suffer your self to be killed, yet, because prudence determineth the means of self-defence, you are to expose your life to hazard for justice of your King, and therefore not to do violence to the life of your King, nor can the body in any self-defence, fight against the head, that must be the destruction of the whole.* Ans. Though the King be present as an unjust invader in Warres against his innocent subjects, he is absent as a King, and a father and defender, and present as an unjust grassator, and therefore the innocent may defend themselves, when the King neither can, nor will defend him. *Nature maketh a man (saith the law. l. Gener. c. de decur. l. 10. l. si alius. ••. Bellissimè ubique Gloss. in vers. ex magn. not. per. il••um. text. ff. quod vi aut clam. l. ait praetor. §. si debitorem nicum. ff. de hisque in fraud. credito.) even a privat man his own judge, magistrate and defender, quando copiam judicis, qui sibi jus reddat, non habet. When he hath no judge, to give him justice and law. 2.* The subjects are to give their lives, for the King, as the King▪ because the safety of the King as King is the safety of the common-wealth. But the King as offering unjust [335] violence to his innocent subjects is not King. *Zoannet. part. 3. defens. n. 44. transgrediens notoriè officium suum judex, agit velut privatus aliquis, non ut magistratus. ff. de injur. est bonus in simili in. l. qui fundum. §. si. tutor. ff. pro emptore. 3.* If the politick body fight against this head in particular, not as head, but as an oppressor of the people. There is no fear of dissolution, if the body rise against all magistracy, as magistracy and lawes: dissolution of all must follow, Parliaments and inferiour judges are heads. *Num. 1.16. Num. 10.4. Deut. 1.15. Iosh. 22.21. Mic. 3.1. ver. 9.11. 1 King. 8.1. 1 Chron. 5.25. 2 Chro. 5.2.* No lesse then the King, and it is unlawfull to offer violence to them, though I shall rather thinke a private man is to suffer the King to kill him, rather then he kill the King; because he is to preferre the life of a private man, to the life of a publique man.

6. By the law of nature a ruler is appointed to defend the innocent. Now by nature an infant in the wombe d••fendeth it self first, before the parents can defend it, then when parents and magistrates are not, (and violent invading magistrates are not in that magistrates) nature hath commended every man to self-def••nce.

7. The Law of nature excepteth no violence, whether inflicted by a magistrate, or any other unjust violence from a ruler is twice injustice. 1. He doth unjustly as a man. 2. As a member of the common-wealth. 3. He committeth a speciall kind of sin of injustice, against his office, but it is absurd to say we may lawfully defend our selves from smaller injuries, by the law of nature; and not from the greater. *If the Pope (saith Fer. Vasquez. illust. quest. l. 1. c. 24. n. 24, 25.) command to take away benefices from the just owner, these who are to execute his commandement, are not to obey, but to write back that that mandat came not from his holinesse, but from the avarice of his Officers; but if the Pope still continue and presse the same unjust Mandat, the same should be written againe to him: and though there be none above the Pope, yet there is naturall self-defence patent for all. Defensio vitae nece*

aria est, & à jure naturali profluit: L. ut vim. ff. de just. & jure 16. Nam quod quisque ob tutelam corporis sui fecerit, jure fecisse videatur. C. jus naturale. l. 1. distinc. l. 1. ff. de vi & vi armata. l. injuriarum. ff. de injuria. C. significasti. 2. de hom. l. scientiam. sect. qui non aliter ff. ad leg. Aquil. C. si vero 1. de sent. excom. & l. sed etsi ff. ad leg. Aquil. etiamsi sequatur homicidium. Vasquez. l. 1. c. 17. n. 5. etiam occidere licet ob [336] defensionem rerum. Vim vi repellere omnia jura permittunt in C. significasti. Garcias Fortunius Comment. in l. ut vim. ff. de instit. & jur. n. 3. defendere se est juris naturae & gentium. A jure civili fuit additum moderamen inculpatae tutelae. Jac. Novel. defens. n. 101. Occidens Principem vel alium Tyrannidem exercentem, à poena homicidii excusatur. Grotius de jure belli & pacit ■ l. 2. c. 1. n. 3. Si corpus impetatur vi presente, cum periculo vitae non aliter vitabili, tunc bellum est licitum etiam cum interfectione periculum inferentis, ratio, natura quemque sibi commendat. Barcl. advers. Monar. l. 3. c. 8. est jus cuilibet se tenendi adversus immanem sevitiā.

But what ground (saith the Royalist) is there to take Arms against a King? Ielousies and suspitions are not enough.

Ans. The King sent first an Armie to Scotland, and blocked us up by sea, before we took Armes. 2. Papists were armed in England, they have professed themselves in their Religion of Trent to ••e so much the holyer, [672] that they root out Protestants. 3. The King declared we had broken loyalty to him, since the last Parliament. 4. He d••clared both Kingdoms Rebels. 5. Attempted in his Emissaries to destroy the Parliament. 6. And to bring in a forraigne enemy. And the Law saith, An imminent danger, which is a sufficient warrant to take up Armes, is not strokes, but either the terrour of Armour, or threatning. Glossator. in d. l. 1. C. Vnde vi. ait non esse verbera expectanda, sed vel terrorem armorum sufficere, vel minas, & hoc esse imminens periculum. L. Sed & si quemcunque in princ. ff. ad leg. Aquil. l. 3. quod qui armati ff. de vi & vi armata is qui aggressorem. C. ad legem C. ad legem Corneli.

In most hainous sinnes, conatus, the endeavour and aime (etiāmsi effectus non sequatur, puniri debet) is punishable. Bartoln. in l. Si quis non dicam rapere.

The King hath aimed at the destruction of his Subjects, through the power of wicked counsellors, and we are to consider not the intenton of the workes, but the nature and intention of the work; *Papists* are in armes, their religion, the Conspiracy of *Trent*, their conscience (if they have any) their malice against the covenant of *Scotland* which abjureth their Religion to the full, their ceremonies, their Prelates lead, and necessitate them to root out the name of Protestant, Religion, yea and to stab a King who is a Protestant. Nor is our King remaining a Protestant, and adhering to his oath made at his Coronation in both kingdomes, Lord of his own person, [337] master of himself, nor able as *King* to be a *King* over Protestant subjects, if the *Papists* now in armes under his standard, shall prevail.

The King hath been comp••lled to go against his own oath and the Lawes which he did swear to maintaine: *The Pope* sendeth to his popish armies both dispensations, bulls, mandats, encouragements: *The King* hath made a cessation with the bloody Irish, and hath put arms in the hands of *Papists*. Now he being under the oath of *God*, tied to maintain the Protestant Religion, he hath a metaphysically subtle, pearching faith of miracles, who beleeveth armed *Papists*, and Prelates shall defend Protestants, their Religion, and these who have abjured Prelats as the lawful sons of the Pope, that < in non-Latin alphabet > < in non-Latin alphabet >, and as the law saith, *Quilibet in dubio praesumitur bonus. L. merito praesumi. L. non omnes § à Barbaris de re milit. Charity beleeveth not ill: So Charity is not a foole to beleeve all things. So saith the Law, Semel malus, semper praesumitur malus, in eodem genere. C. semel malus de jure gentium in 6. Once wicked is alwayes wicked in that kind. Marius Salamonijs I. C. in L. ut vim atque injuriam ff. de just. & jure. We are not to*

wait on strokes, the terrour of armour, omnium consensu, by consent of all is sufficient. n. 3. If I see (saith he) the enemy take an arrow out of the Quiver, before he bend the bow, it is lawfull to prevent him with a blow—*cunctatio est periculosa*. The Kings comming with armed men, to demand the Five Members, into the House of Commons, is very symbolically, and Warre was printed on that fact, *he that runneth may reade*. His comming to Hull with an Armie, saith not he had no errand there, but aske what it was in the clock. See *Novellus that learned Venetian Lawyer*, in a Treatise for defence, he maketh *continuatam rixam, a continued upbraiding a sufficient ground of violent defence*. He citeth *Doctores Commuter. in L. ut vim. ff. de just. & jure*. Yea he saith, *Drunkenesse, defens. n. 44. Error, n. 46. Madnesse, n. 49, 50. Ignorance, n. 51, 52. Impudence, n. 54. Necessity, n. 56. Lasciviousnesse, 58. Continuall reproaches, 59. The fervour of anger, 64. Threatning, 66. Feare of imminent danger, 67. Iust grief doe excuse a man from homicide*, and that in these he ought to be more mildly punished, *Quia obnubilatum & mancum est consilium, Reason in these being lame and clogged*. Ambros. 1. 1. offic. *Qui non repellit injuriam à socio, cum potest, tam est in vitio, quam ille qui facit*. And as Nature, so the Law saith, *When the losses are such as can never be repaired, as Death, Mutilation, losse of Chastity, Quoniam [338] facta infecta fieri nequeunt, things of that kinde once done, can never be undone, we are to prevent the enemy, l. Zonat. tract. defens. par. 3. l. in bello §. factae de capit. notat. Gloss. in l. si quis provocatione*. If the King send an Irish Rebelle to cast me over a bridge, and drowne me in a water, I am not to do nothing, while the Kings emissary first cast me over, and then in the next room I am to defend my self; but nature and the law of self-defence warranteth me (if I know certainly his ayme) to horse him first over the bridge, and then consult how to defend my selfe at my own leasure.

Royalists object that David in his defence never invaded and persecuted Saul; yea, when he came upon Saul and his men sleeping, hee would not kill any; but the Scottish and Parliaments Forces not onely defend, but invade, offend, kill and plunder; and this is cleere an offensive, not a defensive warre.

[673]Answ. There is no defensive warre different in spece and nature from an offensive warre, if we speake physically, they differ onely in the event and intention of the heart, and it is most cleare that the affection and intention doth make one and the same action of taking away the life, either homicide, or no homicide: If a man out of hatred deliberately take away his brothers life, he is a murtherer *catenus*, but if that same man had taken away that same brothers life, by th•••lying off o•• an Axe he••d of•• the staffe, while he was hewing timber, he neither hating him before, nor intending to hurt his brother, he is no murtherer, by Gods expresse Law, *Deut. 4.42. Deut. 19 4. Ioshua 20.5. 2*. The cause betweene the King and the two Parliaments, and betweene *Saul* and *David*, are so different in this, as it is much for us: *Royalists* say, *David* might if he had seene offending to conduce for selfe-preservation, have invaded *Sauls* men, and say they, the case was extraordinary, and bindeth not us to selfe-defence; and thus they must say; for offensive weapons, such as *Goliahs* sword, and an hoast of armed men, cannot by any rationall men be assumed (and *David* had the wisdom of God) but to offend, if providence should so dispose; and so what was lawfull to *David*, is lawfull to us in self-defence, he might offend lawfully, and so may we.

2. If *Saul* and the Philistims ayning (as under an oath) to set up *Dagon* in the land of *Israel*, should invade *David*, and the Princes and Elders of *Israel* who made him King; and if *David* with an hoast of armed men, he and the Princes of *Israel*, should come in [339] that case upon *Saul* and the Philistims sleeping, if in that case *David* might not lawfully have cut oft the Philistims, and as he defended in that case Gods Church, and true Religion, if he might not then have lawfully killed (I say) the Philistims, I remit to the conscience of the Reader. Now to us *Papists* and *Prelates* under the K••n••s banner, are Philistims, introducing the Idolatry of Bread-worship and Popery, as hatefull to God, as *Dagon-worship*.

3. *Saul* intended no arbitrary government, nor to make Israel a conquered people, nor yet to cut off all that professed the true worship of God; nor came *Saul* against these Princes, Elders and people who made him King, only *Davids* head would have made *Saul* lay downe Arms; but *Prelates*, and *Papists*, and *Malignants* under the King, intended to make the *Kings* sole will a Law, to destroy the Court of Parliament, which putteth Lawes in execution against their Idolatry; and their ayme is that Protestants be a conquered people, and their attempt hath been hitherto to blow up King and Parliament, to cut off all Protestants, and they are in Armes in divers parts of the Kingdome, against the Princes of the Land, who are no lesse Judges and deputies of the *Lord*, then the *King* himselfe; and would kill, and do kill, plunder and spoyle us, if we kill not them. And the case is every way now betweene Armies and Armies, as betweene a single man unjustly invaded for his life, and an unjust invader: neither in a naturall action, such as is self-defence, is that of policy to be urged; none can be Judge in his owne cause, when oppression is manifest; [674] one may be both agent and patient, as the fire and water conflicting; there is no need of a judge, a community casts not off nature; when the judge is wanting, nature is judge, actor, accused and all.

Lastly, *no man is Lord of his owne members, of his body, m. l. liber homo ff. ad leg. Aquil. nor Lord of his owne life, but is to be accountable to God for it.*

[340]

QUEST. XXXII. Whether or no the lawfulness of defensive warres hath its warrant in Gods word, from the example of *David*, *Elisha*, the eighty Priests who resisted *Uzziah*, &c? ↵

[675] *David* defended himselfe against King *Saul*, 1. by taking *Goliahs* sword with him, 2. by being Captaine to six hundred men, yea, it is more then cleare, 1 *Chron.* 12. that there came to *David* a hoast like the hoast of God, v. 22. to help against *Saul*, exceeding foure thousand, v. 36. Now that this hoast came warrantably to help him against *Saul*, I prove, 1. because it is said, *ver. 1. Now these are they that came to David to Ziglaga, while he kept himselfe close, because of Saul the son of Kish; and they were amongst the mighty men, helpers of the warre: and then so many mighty Captains are rec••o••ed out, v. 16. There came of the children of Benjamin and Iudah to the hold of David, v. 19. And there fell some of Manasseh to David. 20. As he went to Ziglaga there fell to him of Manasseh; Ken••h, and Jozabad, Jediel and Michael, and Jozabad, and Elihu, and Zilthai Captaines of the thousands that were of Manasseh. 21. And they helped David against the band (of the rovers.) 22. At that time day by day there came to David, untill it was a great hoast, like the hoast of God.* Now the same expression that is *ver. 1.* where it is said, they came to help *David* against *Saul*, which *ver. 1. is repeated, ver. 16. ver. 19, 20, 21, 22, 23. 2.* That they warrantably came, is evident; because, 1. the Spirit of God commendeth them for their *valor and skill in war*, *ver. 2. ver. 8. ver. 15. ver. 21.* which the Spirit of ••od doth not in unlawfull wars. 2. Because *Amasai, v. 18. The Spirit of the Lord comming on him, saith, Thine are we, David, and on thy side, thou son of Jesse; peace, peace unto thee, and peace to thy helpers, for thy God helpeth thee.* The Spirit of God inspireth no man to pray peace, to those who are in an unlawfull warre. 3. That they came to *Davids side* onely to be sufferers, and to flee with *David*, and not to pursue and offend, is ridiculous. 1. It is said, *ver. 1. They came to David to Ziglaga, while he kept himselfe close, because of Saul the son of Kish. And they were amongst the mighty men, helpers of the warre.* It is a scorne to say, that their might, and their helping in warre, consisted in being meere patients with *David*, and such as fled from *Saul*: for they had beene on *Sauls* side before; and to come with armour to flee, is a mocking of the word of God. 2. It [341] is cleare, the scope of the Spirit of God is to shew how God helped his innocent servant *David* against his persecuting Prince and Master King *Saul*, in moving so many mighty men of warre to come in such multitudes, all in Armes, to help him in warre. Now to what end would the Lord commend them, as *fit for Warre, men of might, fit to handle shield & buckler,*

whose faces are as the faces of Lyons, as swift as the Roes on the Mountaines, ver. 8. and commend them as helpers of David, if it were unlawfull for David, and all those mighty men, to carry Armes to pursue Saul and his followers, and to doe nothing with their armour but flee? Judge if the Spirit of God in reason could say, All these men came armed with bowes, ver. 2. and could handle both the right hand and the left in slinging stones, and shooting of arrowes, and that ver. 22. all these came to David, being mighty men of valour, and they came as Captains over hundreds and thousands, & they put to slight all them of the valleyes, both toward the East, and toward the West, ver. 14, 15. and that David received them, and made them Captains of the band, if they did not come in a posture of warre, and for hostile invasion, if need were? For if they came onely to suffer and to flee, not to pursue, Bowes, Captaines, and Captaines of Bands made by David and Davids helpers in the warre, came not to help David by lying, that was a hurt to David, not a help. It is true, M. Symmons saith, 1 Sam. 22.2. Those that came out to David, strengthened him, [676] but he strengthened not them; and David might easily have revenged himselfe on the Ziphites, who did good will to betray him to the hands of Saul, if his conscience had served him.

Answ. 1. This would inferre that these armed men came to help David against his conscience, and that David was a patient in the businesse, the contrary is in the Text, 1 Sam. 26.2. David became a Captaine over them: and 1 Chron. 12.17. If ye come peaceably to help me, my heart shall be knit to you. ver. 18. Then David received them, and made them Captains of the band. 2. David might have revenged himselfe upon the Ziphites: True, but that Conscience hindred him, cannot be proved. To pursue an enemy is an act of a Councell of Warre; and he saw it would create more enemies, not help his Cause. 3. To David to kill Saul sleeping, and the people who out of a mis-informed conscience came out, many of them to help their lawfull Prince against a Traitor (as was supposed) seeking to kill their King, and to usurp the throne, had not been wisdom [342] nor justice, because to kill the enemy in a just self-defence, must be, when the enemy actually doth invade, and the life of the defendant cannot be otherwise saved. A sleeping enemy is not in the act of unjust pursuit of the innocent; but if an Armie of Papists, Philistims were in the fields sleeping, pursuing not one single David onely for a supposed personall wrong to the King, but lying in the fields and campe against the whole Kingdome and Religion, & labouring to introduce arbitrary Government, [677] Popery, Idolatry, and to destroy Lawes and Liberties, and Parliaments, then David were obliged to kill these murtherers in their sleep.

If any say, The case is all one in a naturall self-defence, what ever be the cause, and who ever be the enemy, because the self-defender is not to offend except the unjust Invader be in actuall pursuit, now Armies in their sleep are not in actuall pursuit.

Answ. Wh••n one man with a multitude invadeth one man, that one man may pursue, as he seeth most conducible for self-defence. Now the Law saith, Threatnings and terror of Armour maketh imminent danger, and the case of pursuit in self-defence lawfull; i•• therefore an Armie of Irish Rebels and Spanyards were sleeping in their Camp, and our King in a deep sleep in the midst of them, and these R••b••ls actually in the Camp besieging the Parliament, and the Citie of London, most unjustly to take away Parliament, Lawes, and Liberties of Religion, it should follow that Generall Essex ought not to kill the Kings Majesty in his sleep, for he is the Lords Anointed, but 1. will it follow that Generall Essex may not kill the Irish Rebels sleeping about the King? and that he may not rescue the Kings Person out of the hands of the Papists and Rebels, ensnaring the King, and leading him on to Popery, and to employ his Authority to defend Popery, and trample upon Protestant Parliaments, and Lawes? Certainly from this example this cannot be concluded. For Armies in actuall pursuit of a whole Parliament, Kingdome, Lawes, and Religion, (though sleeping in the Camp) because in actuall pursuit, may be invaded, and killed, though sleeping. And David useth no argument from conscience, why hee might not kill Sauls Armie, (I conceive he had not

Armes to doe that) and should have created more enemies to himselfe, and hazard his owne life, and the life of all his men, if he had of purpose killed so many sleeping men; yea the inexpedience of that, for a private wrong to kill Gods mis-led people, should have made *all Israel* enemies [343] to *David*. But *David* useth an Argument from Conscience onely, to prove it was not lawfull for him *to stretch forth his hand against the King*; and for my part, so long as he remaineth King, [678] and is not dethroned by those who made him *King at Hebron*, to put hands on his person, I judge utterly unlawfull: one man sleeping cannot be in actuall pursuit of another man; so that the self-defender may lawfully kill him in his sleep; but the case is farre otherwise in lawfull wars, the Israelites might lawfully kill the Philistims encamping about Jerusalem to destroy it, and Religion, and the Church of God, though they were all sleeping; even though we suppose King *Saul* had brought them in by his Authority, & though he were sleeping in the midst of the uncircumcised Armies; and it is evident, that an hoast of armed enemies, though sleeping, by the law of self-defence may be killed, lest they awake and kill us; whereas one single man, and that a King, cannot be killed. 2. I think certainly, *David* had not done unwisely, but hazarded his owne life, and all his mens, if he, and *Ahimelech*, and *Ab•shai* should have killed an host of their enemies sleeping, that had been a work, as impossible to three, so hazard some to all his men.

D. *Ferne*, as *Arnisaeus* did before him, saith, [679] *The example of David was extraordinary, because he was anointed and designed by God as successor to Saul, and so he must use an extraordinary way of guarding himselfe. Arnisaeus citeth Alberic. Gentilis, that David was now exempted from amongst the number of Subjects.*

Answ. There were not two Kings in Israel now, both *David* and *Saul*. 2. *David* acknowledgeth his subjection in naming *Saul* the *Lords Anointed*, & his *Master, Lord & King*; and therefore *David* was yet a subject. 3. If *David* would have proved his title to the Crowne by extraordinary wayes, he who killed *Goliah* extraordinarily, might have killed *Saul* by a miracle; but *David* goeth a most ordinary way to work, for self-defence, and his comming to the Kingdom was through persecution, want, eating shew-bread in case of necessity, defending himself with *Goliahs* sword. 4. How was any thing extraordinary, and above a Law, seeing *David* might have killed his enimie *Saul*, and according to Gods Law he spared him? and hee argueth from a morall duty, he is the *Lords annoynted*, therefore I will not kill him? was this extraoordinary above a law? then according to *Gods law* he might [344] have killed him. Royalists cannot say so, what ground to say one of *Davids* acts in his deportment toward *Saul* was extraordinary, and not all? was it extraordinary that *David* fled? no: or that *David* consulted the oracle of God, what to do when *Saul* was coming against him? 5. in an ordinary fact something ••ay be extraordinary, as the dead *sleep from the Lord upon Saul, and his men*. 1. *Sam.* 26. and yet the fact according to its substance ordinary. 6. Nor is this extraordinary, that a distressed man, being an excellent Warriour as *David* was, may use the help of six hundred men, who by the law of charity are to help to *deliver the innocent from death*; yea, all *Israel* were obliged to defend him, who killed *Goliah*. 7. *Royalists* make *Davids* act of not putting hands on the *Lords* annoynted an ordinary morall reason against resistance, but his putting on of armour, they will have extraordinary, and this <◇>(I confesse) a short way to an adversary to cull out something t••at is for his cause, and make it ordinary, and something that is against his cause, must be extraordinary. 8. These men by the law of nature were obliged to joyne in armes with *David*, ergo the non-helping of an oppressed man, must be Gods ordinary law: a blasphemous tenet. 9. If *David* by an extraordinary spirit killed ••ot *King Saul*, then the Jesuits way of killing must be Gods ordinary Law.

2. *David* certainly intended to keep *Keilah* against *King Saul*, for the *Lord* would not have answered *David* in an unlawfull fact, for that were all one, as if God should teach *David* how to play the Traitor to his *King*; for if *God had* answ••red, They will not deliver thee up,

but they shall save thee from the *hand of Saul*, As *David* beleeved he might say this, as well as its contradictent, then *David* behoved to keep the city, for certainly *David's* question presupposeth he was to keep the city.

[680]The example of *Elisha* the Prophet is considerable, 2 Kings 6.32. *But Elisha sate in his house, and the Elders with him: And the King sent a man before him; but ••re the messengers came to him, he said to the Elders, See now the sonn•• of a murtherer, hath sent to take away mine head.* Here is unjust violence offered by King *Ioram* to an innocent man. *Elisha* keepeth the house violently against the Kings Messenger, as we did keep Castles against King *Charles* his unlawfull messengers. *Look* (saith he) *when the messenger commeth, shut the doore.* 2. There is violence also commanded, and resistance [345] to be made, *Hold him fast at the doore.* In the Hebrew it is, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *Arias Montan. Claudite ostium, & opprimetis eum in ostio: Violently presse him at the doore:* And so the Chaldee Paraphrase, *Ierom. Ne sinatis eum introir••.* The LXX. Interpreters, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, *illidite eum in ostio, Presse him betwixt the doore and the wall.* It is a word of bodily violence, according to *Vatablus*, *Yea Theodoret* will have King *Ioram* himselfe holden at the doore. And 3. It is no Answer that *D. Ferne* and other Royalists give, that *Elisha made no personall resistance to the King himselfe, but onely to the Kings cut-throat, sent to take away his head.* Yea they say, *It is lawfull to resist the Kings cut-throats.* But the text is cleere, that the violent resistance is made to the King himselfe also, for he addeth, *Is not the sound of his Masters feet behinde him?* And by this answer, it is lawfull to keep Townes with iron gates and barres, and violently to oppose the *Kings cut-throats*, comming to take away the heads of the *Parliaments* of both Kingdomes, and of Protestants in the three Kingdomes.

Some Royalists are so impudent, as to say that there was no violence here, and that *Elisha* was an extraordinary man, and that it is not lawfull for us to call a King the *son of a murtherer*, as the Prophet *Elisha* did: but *Ferne sect. 2. pag. 9.* forge••ting himselfe, saith from hence, *It is lawfull to resist the Prince himselfe, thus farre, as toward his blowes, and hold his hands:* But let *Ferne* answer, if the violent binding of the Princes hands, that he shall not be able to kill, be a greater violence done to his Royall person, then *David's cutting off the lap of Sauls garment;* for certainly, the Royall body of a Prince is of more worth then his cloathes. Now it was a sinne, I judge, that *smote David's conscience*, that he being a subject, and not in the act of naturall self-defence, did cut the garment of the Lords Anointed. Let *Ferne* see then how he will save his owne principles, for certainly hee yeeldeth the cause for me; I judge that the person of the King, or any Judge, who is the Lords Deputy, as is the King, is sacred, and that remaining in that honourable case, no subject can without guiltinesse before God, put hands in his person, the case of naturall self-defence being excepted: for because the Royall dignity doth not advance a King above the common condition of men, and the Throne maketh him not leave off to bee a man, and a man that can do wrong; and therefore as one that doth manifest violence to the life of a man, though his subject, he may [346] be resisted with ••od••ly ⟨◇⟩⟨◇⟩ in the case of u••j••st and violent invasion. It is a vaine thing to say, *Who shall be judge betweene the King and his subj••cts? The ••subject cannot judge the King, because none can be judge in his owne cause, and an inferiour or equall cannot judge a superiour or equall.* But I answer, 1. This is the Kings owne cause also, and he doth unjust violence as a man, and not as a King, and so he cannot be judge more then the subject. 2. Every one that doth unjust violence as he is such, is inferiour to the innocent, and so ought to be judged by some. 3. There is no need of the formality of a judge in things evident to natures eye, such as are manifestly unjust violences: Nature in acts naturall of self-defence, is judge, party, accuser, witnesse, and all; for it is supposed the Judge is absent, when the Judge doth wrong. And for the plea of *Elisha's* extraordinary spirit; [681] it is no thing extraordinary to the Prophet to call the King the sonne of a murtherer, when hee complaineth to the Elders for justice of his oppression, no

more then it is for a plaintiffe to libell a true crime against a wicked person; and if *Elisha's* resistance came from an extraordinary spirit, then it is not naturall for an oppressed man to close the doore upon a murtherer, then the taking away of the innocent Prophets head must be extraordinary, for this was but an ordinary and most naturall remedy against this oppression; and though to name the King the sonne of a murtherer, be extraordinary, (and I should grant it without any hurt to this cause) it followeth no wayes that the self-defence was extraordinary. 3. 2. *Chron.* 26.17. Foure score of Priests, with *Azariah* are commended as valiant men. LXX. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩. Heb. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *Arias Montan. filii virtutis, Men of courage* and valour, for that they resisted *Vzziah the King*, who would take on him to burne Incense to the Lord, [682] against the Law. M. *Symmons pag.* 34. *sect.* 10. *They withstood him not with swords and weapons, but onely by speaking, and one but spake.* I answer; It was a bodily resistance: for beside that, *Ierome* turneth it, [683] *Viri fortissimi, Most valiant men*; And it is a speech in the Scripture, taken for men valorous for warre; As 1 *Sam.* 14.25. 2 *Sam.* 17.10. 1 *Chron.* 5.18. And so doth the phrase ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *Potent in valour.* And the phrase, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ 2 *Sam.* 24.9. 2 *Sam.* 11.16. 1 *Sam.* 31.12. and therefore all the 80. not onely by words, but violently *expelled the King out of the Temple.* 2. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *Arias Mont. &*eterunt [347] *contra a Huzzi-Iahu.* the LXX. say, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩. *They resisted the King*, so *Dan.* 11.17. *The armies of the south shall not stand.* *Dan.* 8 25. [684] It is a word of violence. 3. The text saith *ver.* 20. *and, they thrust him out.* ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *Ar. Mont. & fecerunt eum festinare. Hy•rony. festinatò expulerunt eum.* The LXX. say, The Priest ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, so *Vatablus*, they *cast him out.* And 4. it is said *ver.* 21. *he was cut off from the house of the Lord.* *Doctor Ferne* saith *sect.* 4. *pag.* 50. *They are valiant men who dare withstand a King in an evil way, by a home reproofe, and by withdrawing the holy things from him, especially since by the law the leper was to be put out of the congregation.*

Ans. 1. He contradicteth the text, it was not a resistance by words, for the text saith *they withstood him, and they thrust him out violently.* 2. He yeeldeth the cause, for to withdraw the holy things of God, by corporall violence, and violently to pull the censor out of his hand, that he should not provoke Gods wrath, by offering incense to the Lord is resistance, and the like violence may, by this example, be used, when the *King* useth the *sword* and the *Militia* to bring in an enemy to destroy the kingdom: it is no lesse in justice against the second table, that the *King* useth the sword to destroy the innocent, then to usurpe the censor against the first table. But *Doctor Ferne* yeeldeth that the censor may be pulled out of his hand, lest he provoke God to wrath. *Ergo*, by the same very reason, *à fortiore*, the *Sword*, the Castles, the Sea-ports, the *Militia* may be violently pulled out of his hand, for if there was an expresse Law that the leper should be put out of the congregation, and therefore the *King* also should be subject to his *Church-censor*, then he subjecteth the *King* to a punishment to be inflicted by the subjects, upon the *King*, *Ergo* the *King* is obnoxious to the coactive power of the law. 2. *Ergo*, subjects may judge him and punish him. 3. *Ergo* he is to be subject to all Church-censors, no lesse then the people. 4. There is an expresse law that the leper should be put out of the congregation. What then? flattering court Divines say *the King is above all these lawes*, for there is an expresse law of God as expresse as that ceremoniall on touching lepers, and a more binding law, *that the murtherer should die the death.* Will Royalists put no exception upon a ceremoniall law of expelling the leper, and yet put an exception upon a Divine morall law, concerning the punishing of murtherers given before the law on *Mount Sinai. Gen.* 6.9. They so declare that they *accept the persons of men.* 5. If [348] a leper *King* could not actually sit upon the throne, but must be cut off *from the house of the Lord*, because of an expresse law of God, these being inconsistent, that a *King* remaining amongst Gods people, ruling and rainging, should keep company with the *Church of God*, and yet be a leper who was to be cut off, by a Divine law from the Church, now I perswade my self that far

lesse can he actually raigne in the full use of the power of the sword, if he use the sword to cut off thousands of innocent people, because murdering the innocent and fatherles, and Royall governing in Righteousnesse and Godlinesse are more inconsistent, by Gods law, being morally opposite, then remaining a governour of the people, and the disease of leprosie, are incompatible. 6. I think not much that *Barclay* saith *cont. Monar. l. 5. c. 11. Vzziah remained King, after he was removed from the congregation for leprosie.* 1. Because that toucheth the question of dethroning Kings, this is an argument brought for violent resisting of Kings, and that the people did resume all power from *Vzziah*, and put it in the hand of *Iotham* his son, who was over the Kings house, judging the people of the land. ver. 21. And by this same reason the Parliaments of both Kingdomes may resume the power once given to the King, when he hath proved more unfit to governe morally, then *Vzziah* was ceremonially, that he ought not to judge the people of the land in this case. 2. If the priests did execute a ceremoniall law upon *King Vzziah*, Far more may the three *estates of Scotland*, [685] and the two houses of Parliament of England execute the morall law of God on their King.

If the people may covenant by oath to rescue the innocent and unjustly condemned, from the sentence of death notoriously known to be tyrannous and cruel, then may the people resist the King in his unlawfull practises. But this the people did in the matter of *Jonathan. M. Symmons* saith pag. 32. and *Doctor Ferne* §. 9.49. *That with no violence, but by prayers and teares the people saved Jonathan, as Peter was rescued out of prison by the prayers of the Church, King Saul might easily be intreated to break a rash vow to save the life of his eldest son.* Ans. 1. I say not the common people did it, but the people including *proceres regni*, the Princes of the land, and captaines of thousands. 2. The text hath not one word or syllable of either prayers, supplications or teares, but by the contrary. *They bound themselves by an oath, contrary to the oath of Saul.* 1 *Sam.* 14.44. and swear. ver. 45. *God forbid, as the Lord liveth, [349] there shal not one hair of his head fall to the ground, so the people rescued Jonathan.* [686] The Church prayed not to God for *Peters* deliverance with an oath, that they must have *Peter* saved whether God will or no.

2. Though we read of no violence used by the people, yet an oath upon so reasonable a ground. 1. without the Kings consent. 2. contrary to a standing law, that they had agreed unto, ver. 24. 3. contradictory to the Kings sentence and unjust oath. 4. spoken to the King in his face, all these prove that the people meant, and that the oath *ex conditione operis*, tended to a violent resisting of the King in a manifestly unjust sentence. *Chrysostom. hom. 14. ad Pop. Antioch.* accuseth *Saul* as a murtherer in this sentence, and praiseth the people. So *Iunius, Peter Martyr*, (whom Royalists impudently cite) so *Cor. à lap. Zanch. Lyra*, and *Hug. Cardinalis* say it was Tyranny in *Saul*, and laudable that the people resisted *Saul*, and the same is asserted by *Iosephus l. 6. antiquit. c. 7.* so *Althus. Polyt. c. 38. n. 109.*

We see also 2 *Chron.* 21.10. *That Libnah revolted from under Iehoram, because he had forsaken the Lord God of his fathers.* It hath no ground in the text that Royalists say, that the defection of *Lybnah* is not justified in th•• ••ex••, but the cause is from the demerit of wicked *Iehoram, because he made defection from God, Libnah made defection from him, as the ten tribes revolted from Rehoboam for Solomons idolatry, which before the Lord procured this defection, yet the ten tribes make defection for oppression.* I answer, where the literal meaning is simple and obvious, we are not to go from it. The text sheweth what cause moved *Libnah* to revolt, it was a town of the Levites, and we know they were longer sound in the truth then the ten tribes, 2. *Chron.* 13.8 9, 10. *Hos.* 11.12. *Lavater* saith *Iehoram* hath pressed them to idolatry, and therefore they revolted. *Zanch. Cor. à Lap.* saith, *this was the cause that moved them to revolt*, and it is cleare ver. 13. *he caused Judah and the inhabitants of Jerusalem to go a whoring from God*, and no doubt tempted *Libnah* to the like.

Yea the city of *Abel* 2 *Sam.* 20. did well to resist *Ioab*, *David's* Generall, for he came to destroy a whole city for a traitors sake, for *Sheba*, they resisted and defended themselves, the wise woman calleth the city *a mother in Israel, and the inheritance of the Lord.* ver. 19. and *Ioab* professeth ver. 20. far be it from him to swallow up [350] and destroy *Abel*. The woman saith ver. 18. *They said of old, they shall surely ask counsell at Abel, [687] and so they ended the matter*, that is, the city of *Abel* was a place of Prophets and Oracles of old where they asked responses of their doubts, and therefore peace should be first offered to the City before *Ioab* should destroy it; as the law saith, *Deut.* 20.10. from all which it is evident, that the city, in defending it self did nothing against peace, so they should deliver *Sheba* the traitour to *Ioab's* hand, which accordingly they did: and *Ioab* pursued them not as traitors for keeping the city against the King, but professeth in that they did no wrong.

QUEST. XXXIII. Whether or no the place *Rom.* 13.1. prove that in no case it is lawfull to resist the King? ↩

The speciall ground of Royalists from *Rom.* 13. against the lawfulness of defensive Wars, [688] is to make *Paul*, *Rom.* 13. speake onely of Kings. *Hugo Grotius de jure belli & pac.* l. 1. c. 4. num. 6. *Barclay cont. Monarch.* l. 3. c. 9. saith, Though *Ambrose* expound the place *Rom.* 13. *de solis Regibus*, of Kings onely, (this is false of Kings onely, he doth not, but of Kings principally) *Yea it followeth not that all Magistrates, by this place, are freed from all lawes, because (saith he) there is no Iudge above a King on earth, and therefore he cannot be punished; but there is a Iudge above all inferiour Iudges, and therefore they must be subject to Lawes.* So *D. Ferne* followeth him, *sect.* 2. pag. 10. and our poore *Prelate* must be an accident to them, *Sacr. San. Maj. cap.* 2. pag. 29. for his learning cannot subsist *per se*.

1. *Assert.* In a free Monarchie (such as *Scotland* is known to be) by the higher power *Rom.* 13. is the King principally in respect of dignity understood; [689] but not solely and onely, as if inferiour Judges were not higher powers. 1. I say in a free Monarchie: For no man can say, that where there is not a King, but onely *Aristocracie*, and government by States, as in *Holland*, that there the people are obliged to obey the King; and yet this Text, I hope, can reach the consciences of all *Holland*, that there every soul•• must be subject to the higher powers, and yet not a subject in *Holland* is to be subject to any King: for *non entis nulla sunt accidentia*. 2. I said the King in a free Monarchie is here principally understood in regard of dignity, but not in regard of the essence of a magistrate, because the essence [351] of a Magistrate doth equally belong to all inferiour Magistrates, as to the King, as is already proved, [690] (let the *Prelate* answer if he can) for though some Judges be sent by the King, and have from him authority to judge, yet this doth no more prove that inferiour Judges are improperly Judges, and onely such by analogie, & not essentially; Then it will prove a Citizen is not essentially a Citizen, nor a Church-officer essentially a Church-officer, nor a sonne not essentially a living creature, because the former have authority from the Incorporation of Citizens, and of Church-officers, and the latter hath his life by generation from his father, as Gods instrument. For though the Citizen and the Church-officers may be judged by their severall Incorporations that made them, yet are they also essentially Citizens and Church-officers, as those who made them such.

2. *Assert.* There is no reason to restrain the higher powers to Monarchs onely, or yet principally, [691] as if they onely were essentially *powers ordained of God*, 1. Because he calleth them (in non-Latin alphabet X in non-Latin alphabet), *higher powers*. Now this will include all higher powers, as *Piscator* observeth on the place. And certainly *Rome* had never two or three Kings to which every soule should be subject, if *Paul* had intended that they should have given obedience to one *Nero*, as the onely essentiall Judge he would have designed him by the nowne in the singular number. 2. All the reasons that the Apostle bringeth to prove that subjection is due, agreeth to inferiour Judges, as well as to Emperours, for they are *powers ordained of God*, and they *bear the sword*, and we must obey them *for*

conscience sake, and they are Gods deputies, and their judgement is not the judgement of men, but of the Lord, 2 Chron. 19.6, 7. Deut. 1.16. Numb. 11.16, 17. Tribute and wages be no lesse due to them, as ministers and servants, for their work, then to the King, &c. 3. The Apostle could not omit obedience to the good Civill Lawes enacted by the Senate, nor could he omit to command subjection to Rulers, if the Romanes should change the Government, and abolish Monarchie, and erect their ancient forme of Government before they had Kings. 5. This is Canonick Scripture, and a cleare exposition of the first Commandement, and so must reach the consciences of all Christian Republicks, where there is no Monarchie. 5. Parallel places of Scripture prove this. Paul, 1 Tim. 2.1, 2. will have prayers made to God, for Kings, and for all that are in authority, and the intrinsecall [352] end of all is, a godly, honest, and peaceable life. And 1 Pet. 2.13. Submit to every ordinance of man for the Lords sake. Tit. 3.1. It is true, subjection to Nero, of whom Tertullian said, *Apol. 5. Nihil nisi grande bonum à Nerone damnatum*, is commanded here, but to Nero as such an one as he is obliged, *de jure*, to be, (whether you speak of the office, *in abstracto*, or of the Emperour, *in concreto*, in this notion, to me it is all one) but that Paul commandeth subjection to Nero, and that principally and solely, as he was such a man, *de facto*, I shall then believe, when Antichristian Prelats turn Pauls Bishops, 1 Tim. 2. which is a miracle. 6. Inferiour Judges are not necessarily sent by the King, by any divine Law, but chosen by the people, as the King is; and *de facto*, is the practise of creating all Magistrates of Cities in both Kingdomes. [692] 7. Augustin. *expos. Prop. 72. on Epist. Rom. Irenaeus 1. 5. c. 24. Chrysostom. in Psal. 148. and on the place, Hieron. Epist. 53. advers. vigilant*, expound it of Masters, Magistrates; so do Calvin, Beza, Pareus, Pistorator, Rollocu. Marlorat. So do Popish Writers, Aquinas, Lyra, Hugo Cardinal. [693] Carthus. Pirerius, Toletus, Cornel. à Lapide, Salmeron, Estius, expound the place; And therefore there is no argument, that Royalists hence draw against resisting of the King by the Parliaments; but they do strongly conclude against the Cavalliers unlawfull warres against the Parliaments and Estates of two Kingdomes: Here what P. P. saith to the contrary. 1. *They are called eminent powers. Ergo, Kings only. Answ.* It followeth not, for these can be no other then < in non-Latin alphabet > (in non-Latin alphabet), 1 Tim. 2.2. But these are not Kings, but in the Text contradivided from < in non-Latin alphabet > (in non-Latin alphabet), Kings, and they can be no other then < in non-Latin alphabet > (in non-Latin alphabet), *Principalities and powers*. 2. The reason of the Apostle proveth clearely, that < in non-Latin alphabet > (in non-Latin alphabet) cannot meane Kings onely, for Paul addeth of that same < in non-Latin alphabet > (in non-Latin alphabet), *For there is no power but of God*: It must be there is no supereminent Royall power, but it is of God, and the powers Royall onely (so he must meane) that are, are ordained of God. Now this latter is manifestly false, for *inferiour powers are of God*; The power of the Roman Senate, of a Master, of a Father, are of God. P. Prelate. Peter must expound Paul, and Pauls higher powers must be, 1 Pet. 2. < in non-Latin alphabet > (in non-Latin alphabet). More reason that Paul expound Paul: Now 1 Tim. 2.2. < in non-Latin alphabet > (in non-Latin alphabet), *All in authority are not Kings. P. Prelate. (Are of God) or (ordained of God) cannot so properly be understood of subordinate powers, for that is not [353] by immediate derivation from God, but immediately from the higher power the King, and mediately from God.*

Answ. It is most false that King David is so immediatly a King from God, as that he is not also by the mediation of the people, who made him King at Hebron. 2. The inferiour Magistrats are also immediate vicars and ministers of God as the King, for their throne and judgement is not the Kings, but the Lords, Deut. 1.16. 2 Chron. 19.6. 3. Though they were mediately from man, it followeth not that they are not so properly from God, for Wisdome Prov. 8. saith as properly, ver. 16. *By me Princes rule, and Nobles, even all the Iudges of the earth, as ver. 15. By me Kings reigne*; and promotion is as properly from God, and not from the East, and the West, Psal. 75.6, 7. Though God promote Ioseph by the thankfull munificence of Pharaoh, and Mordecai by Ahasuerus, Daniel by Darius, as if he gave them power and honour immediately from Heaven.

Prelat. *Learned Interpreters expound it so.* Answ. It is an untruth, for none expound it onely and principally of Kings. Produce one Interpreter for that conceit. Prelat. Paul wrote this when Nero was Monarch. Answ. Then must the Text be expounded of Nero only. 2. He wrote this when Nero played the Tyrant, and persecuted Christians: Ergo, We are not to disobey Nero's now. 3. He wrote it when the Senate of Rome had power to declare Nero an enemy, not a Father; as they did. P. Prelat. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ must be referred to the Antecedent ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ and this, There is no power, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ but of God; must undeniably inferre, there is no supreme power but of God; and so Sovereignty relates to God as his immediate author; so Sectaries reason, Gal. 2.16. Not justified by works, (⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩) but by faith onely. Then ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, must be a perfect exclusive, else their strong hold for Iustification is overthrowne. Answ. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, hath a neerer Antecedent, which is ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, it is alone without ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩. And this Grammer is not so good as Beza's, which hee rejected. 2. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, will referre to God alone, as the onely cause, *In genere causae primae*. God alone giveth raine: but not for that immediatly, but by the mediation of vapours and clouds. *God alone killeth and maketh alive*, Deut. 32.39. That is, excluding all strange gods, but not immediatly; for by his peoples fighting, he slew *Og King of Bashan*, and cast out seven Nations, yet they used bow and sword, as it is in the booke of Ioshua; and therefore God killed not *Og* immediately. [354] God hath an infinite, eminent, transcendent way of working, so that in his kinde he onely worketh his alone: *Deus solus operatur solitudine primae causae, non solus solitudine omnium causae*, God onely giveth learning and wisdome, yet not immediatly alwayes; often he doth it by teaching, and industry. God onely maketh rich, yet the Prelates make themselves rich also with the fat of the flock, and God onely maketh poore; yet the *P. Prelates* Courts mediately also under God, ••ade many men poore. 3. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, is not such an exclusive Particle when we ascribe it to God, as when we ascribe it to two created c••uses, *works, and faith*; and the Protestants forme of arguing, Gal. 2. to prove we are justified by faith, he calleth our strong hold: Ergo. It is not his strong hold. In this point then hee must be a Papist, and so he refuses to owne Protestant strong holds, for justification by faith alone.

D. Ferne s••ct. 2. pag. 10. *As many as have soules must be subject to the higher powers spoken of here; but all inferiour Iudges have soules.* Answ. If the word (*soules*) be thus pressed, none shall be understood by *higher powers*, but the King onely. 2. Certainly, he that commandeth as he commandeth, must be excepted, except, because the King ha••h a soule, you must subject the King to himself, and to his owne commandements *Royall*; and so to penall Lawes.

3. Inferiour Judges, as Judges by this text, must either be subject to themselves as Judges, and by the same reason, the King must be subject to himselfe, as he is a Judge: Or Judges as men, or as erring men are to be subject; which I would grant, but they are not subject as Judges, no more then one as he commandeth, can also obey as he command••th. These are contradictory; I am not put off that opinion since I was at Schools, *Species subjicibilis qua subjicibilis non est praedicabilis*.

4. ••f Nero make fathers rulers over their mothers and children, and command them, by his publique sword of justice, to kill their own•• children and mothers; if a Senate of such fathers disobey, and if with the sword they defend their own children and mothers, which some other Do••gs as Judges are to kill, in the name and commandement of Nero: Then they resisting *Neroes* bastard-commandment, by ••his doct••ine resist the ordinance of God, and resist the Minister of God. I have not a faith stretcht out so farre to the Prelates Court-

divinity. Yet *Ferne* saith, there was never more cause to resist higher powers, for their wicked *Nero* was *Emperour*, when [355] he now forbideth resistance *Rom.* 13. under the paine of damnation.

I desire to be informed, whether to resist the Kings servants be to resist the King. Doctor *Ferne* p. 3. §. 2. p. 10. and par. 3. §. 9. p. 59. allow us *in unavoidable assaults, where death is imminent, personall defence without offending, as lawfull, whether the King or his emissaries invade, without law or reason.* Well then, the resisting then of the Kings cut-throats, though they have a personall command of the King to kill the innocent, yet if they want a legall, is no resisting of the King, not as King, and the servant hath no more then the Master giveth, but the King in lawlesse commandements gave nothing royall to his cut-throates, and so nothing legall.

QUEST. XXXIII. Whether Royalists by cogent reasons do prove the unlawfulness of defensive warres? ↩

WHAT reasons have already been discussed, I touch not.

Obj. 1. Arnisaeus de authorit princ••p. c. 2. num. 2. If we are to obey our parents, not if they be good, [694] but simply whether they be good or ill (so Iust. saith of the King, Quamvis legum contemptor, quamvis impius, tamen pater §. si vero in ff. vos. 12.) then must we submit to wicked Kings.

*Ans. Valeat totum, we are to submit to wicked Kings, & wicked parents, because Kings, and parents: but when it cometh to actuall submission, we are to submit to neither but in the Lord; the question is not touching subjection to a Prince, let him be *Nero*, but if in acts of Tyranny we may not deny subjection: there be great odds betwixt wicked rulers, and rulers commanding or punishing unjustly.*

Obj. 2. Arnisaeus c. 3. n. 9. We may resist an inferior magistrate. Ergo, we may resist the supreme, it followeth not, for an inferiour judge hath a Majesty in fiction onely, not properly: treason is, or can onely be committed against the King, the obligation to inferiour judges is onely for the prince, the person of none is sacred and inviolable but the Kings.

*Ans. We obey parents, masters, kings, upon this formall ground, because they are Gods deputies, and set over us, not by man, but by God: So that not onely are we to obey them because what they command is good and just (such a sort of obedience an equall owes to the counsell of either equall or inferiour) but also by vertue of [356] the fift commandement, because of their place of dignity: now this Majesty which is the formall reason of subjection is one and the same in spece and nature in King and Constable, and onely different gradually in the King and in other judges, and it is denied that there is any incommunicable sanctity in the Kings person which is not in some degree in the inferiour judge, all proceedeth from this false ground, that the King and inferiour judges differ in nature, which is denied: and treason inferiour may be committed against an inferiour judge, and it is a fiction that the inferiour judge doth not resemble God, as the King doth, yea there is a sacred Majesty in all inferiour judges, in the aged, in every superiour, wherefore they deserve honour▪ feare and reverence. Suppose there were no King on earth, as is cleare in Scripture. *Exod.* 20.12. *Levit.* 19.32. *Esther* 1.20. *Psal.* 149.9. *Prov.* 3.16. *Math.* 13.57. *Heb.* 5.4. *Isa.* 3 3. *Lam.* 5.12. *Mal.* 1.6. *Psal.* 8.5. and this honour is but united in a speciall manner in the King, because of his high place.*

Obj. 3. A King elected upon conditions may be resisted.

Ans. He is as essentially a King, as a hereditary, yea as an absolute Prince, and no lesse the Lords annoynted then another prince, if then one, also another may be resisted.

Obj. 4. The oath of God bindeth the subjects. Ergo, they must obey, not resist.

Ans. Obedience and resistance are very consistent. 2. No doubt the people gave their oath to *Athaliah*, but to her as the onely heir of the crown, they not knowing, that *Ioash* the lawfull heir was liveing, so may conditionall oaths (all of this kinde are conditionall) in which there is interpretative and virtuell ignorance, be broken, as the peopl•• swear loyalty to such a man conceived to be a father, he after that turneth Tyrant, may they not resist his Tyranny? they may. Also no doubt Israel gave their oath of loyalty to *Iabin*, (for when *Nebuchadnezer* subdued *Iudah* he took an oath of loyalty of their King.) Yet many of *Zabulon*, *Nepthali*, and *Isachar*, *Barack* leading them, conspired against *Iabin*.

Obj. 5. There is no law to take a Kings life, if he turne a Nero, we never read that Subjects did it.

Ans. The treatise of unlimited prerogative saith, *p. 7. We read not that a father killing his children, was killed by them, the fact being abhominable.* 2. The law *Gen. 6.9. Levit. 24.16. ••xcepteth none.* See *Deut. 13.6.* the dearest that nature knoweth, are not excepted.

[357]

Obj. 6. Vengeance pursued Core, Dathan and Abiram who resisted Moses.

Ans. From resisting of a lawfull magistrate, in a thing lawfull, it followeth not, it must be unlawfull to resist Kings, in Tyrannous acts.

Obj. 7. Exod. 22.28. Thou shalt not revile the Gods, nor curse the Ruler of the people. Exod. 10.20. Curse not the King, no not in thy thought, nor the rich in thy bed-chamber.

Ans. 1. The word *Elohim* signifieth all judges, and ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩, *nasi* signifieth one lifted up above the people, saith *Rivetus in loc.* whether a monarch, or many rulers. All cursing of any is unlawfull, even of a private man, *Rom. 12.14. Ergo* we may not resist a private man by this: the other text readeth, *contemne not the King.* ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *in scientiâ tuâ. Aria. Mon. or in thy conscience or thought:* and it may prove resisting any rich man to be unlawfull. Nothing in word or deed tending to the dishonour of the King may be done, now to resist him in self-defence, being a commandment of God in the law of nature cannot fight with another commandment to honour the King, no more then the fift commandment can fight with the six••h, for all resistance is against the judge, as a man exce••ding the limits of his office, in that, wherein he is resisted, not as a judge.

Obj. 8. Eccles. 8.3.4. Where the word of a King is, there is power: and who may say to him, what dost thou? Ergo, the King cannot be resisted.

Ans. 1. *Tremel.* saith well, that *the scope is that a man go not from the Kings lawfull command in passion and rebellion. Vatab. If thou go from the King in disgrace, strive to be reconciled to him quickly. Cajetan. Vse not Kings too familiarly, by comming too quickly to them, or going too hastily from them. Plutarch, Cum rege agendum ut cum rogo,* neither too neere this fire, nor too farre off. Those have smarted who have been too great in their favour, *Ahasuerus* slew *Haman*, *Alexander* so served *Clitus*, and *Tiberius Sejanus*, and *Nero Seneca.* But th•• ⟨◇⟩⟨◇⟩ is cleare, rebellion is forbidden, not resistance, so the hebrew, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *stand not in an evil matter, or in a rebellion. And he dehorteth from rebellion against the King, by an argument taken from his power.* 3. *For he doth whatsoever pleaseth him.* 4. *Where the word of a King is, there is power, And who may say unto him, What doest thou?* The meaning is in way of justice, he is armed with power that cannot be resisted, other wayes *Samuel* [358] said to King *Saul*, *1 Sam. 13.13. Thou hast done foolishly. Eliah* said more to *Ahab* then *What hast thou done?* And the Prophets were to

rebuke sinne in Kings, 2 King. 3.14. Ier. 1.28. Chap. 22.3. Hos. 5.1, 2. And though Solomon here give them a power, he speaketh of Kings as they are *de facto*; but *de jure* they are under a Law, Deut. 17.18.

If the meaning be, as Royalists dreame, he doth whatsoever hee will or desireth, [695] as a Prince, by his royall, that is, his legall will, by which he is *lex animata*, a breathing law; we shall owne that as truth, and it is nothing against us. But if the meaning be, that *De jure*, as King, he doth whatsoever he will, by the absolute supremacie of Royall will above all law and reason; then Ioram should by law as King, take Elisha's head away, and Elisha resisted God, in saying, *What doth the King?* and he sinned in commanding to *deal roughly with the Kings messenger, and hold him at the doore*: then the *fourcore valiant Priests*, who said to King Vzziah, *What dost thou?* resisted him, in burning incense, *which he desired to doe*, sinned; Then Pharaoh, who said, Ezech. 29.3. *The river Nilus is mine, I have made it for my selfe*: and the King of Tyrus, Ezek. 28.2. *I am God, I sit in the seat of God*, should not be controlled by the Prophets, and no man should say to them, *What sayest thou?* Did Cyrus as a King, with a Royall power from God, and *jure regio*, be angry at the river Gyndes, because it drowned one of his horses, and punish it, by dividing it in 130. Channels? Sen. l. 3. *de ira*, c. 21. And did Xerxes, *jure regio*, by a Royall power given of God, [696] when Hellespontus had cast downe his bridges, command that three hundred whips should be inflicted on that little sea, and that it should be cast in fetters? And our Royalists will have these mad fooles, doing these acts of blasphemous insolencie against heaven, to be honoured as Kings, and to act those acts by a regall power. But heare, flatterers, a Royall power is the good gift of God, a lawfull and just power. A King acting and speaking as a King, speaketh and acteth Law and Justice. A power to blaspheme is not a lawfull power; they did and spake thes• things with a humane and a sinfull will, if therefore this be the Royali•ts meaning, as Kings, 1. They are absolute, and so the limited and elected King is no King. 2. The King as King is above Gods Law, put on him by God, Deut. 17. 3. His will is the measure of good and ill. 4. It were unlawfull to say to the King of Cyrus, *What sayest thou?* Thou art not [359] God, according to this vaine sense of Royalists.

Obj. 9. Elisha saith, Iob 34.18. *Is it (fit) to say to a King, (Thou art) wicked, and to Princes, (Ye are) ungodly?* Ergo, *You may not resist Kings.*

Ans. 1. This Text no more proveth that Kings should not be resisted, then it proveth that rich men, or liberall men, or other Judges in••eriour, should not be resisted, for ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ signifieth all that, and it signifieth liberall, Isa. 32.5. And ver. 8. the same word is. 2. Deodat. and Calvin say, the meaning is, *Learn from the respect that is due to earthly princes, the reverence due to the Sovereign Lord*, Mal. 1.8. for it is not convenient to reproach earthly Kings, and and to say to a Prince, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ Beliel, a word of reproach, signifying extreme wickednesse. And you may not say to a man of place, ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *an extremely wicked man*, so are the words taken, as signifying most vile and wicked men, 1 Sam. 2.12. 1 Sam. 10.27. 2 Sam. 24.6. Psal. 1.1, 6. Psal. 11.5. Psal. 12.8. Prov. 16.4. Psa. 146.9. and in infinite places. For ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ is a word of extreme reproach, comming from ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *sine non*, and ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *profuit*, Iud. 19.22. a most naughtie and a lewd man, or from ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ *jugum*, a lawlesse man, who hath cast off all yokes of Gods or Mans Law. [697] So then the meaning is, It is unlawfull to reproach earthly Princes and men of place, farre more is it unlawfull to reproach the Judge of the whole earth with injustice. And what then? We may not reproach the King, as Shimei cursed King David, Ergo, it is unlawfull to resist the King in any tyrannous act: I shall deny the consequence. Nay, as Pineda observeth, if the Royalist presse the words literally, it shall not be lawfull for Prophets to reprove Kings of their sins. Christ called Herod a Fox, Elias

Obj. 10. Act. 23. Paul excuseth himselfe that he called Ananias the High-priest a whited wall.

Ans. Rivetus, Exo. 22. learnedly discussing the place, thinketh Paul, professing he knew him not to be the High-Priest, speaketh ironically, that he could not acknowledge such a man for a Judge. Piscator answereth, he could not then cite Scripture, *It is written, Exod. &c. Ans.* But they may well consist, in that act of smiting Paul unjustly, he might be reproached, otherwise it is not lawfull to reproach him; and surely it is not like that Paul was ignorant that he was a Judge. Yea it is certain he knew him to be a Judge. [360] 1. He appeared before him as a Judge, to answer for himselfe. 2. Paul saith expresly he was a Judge, ver. 3. *Sittest thou to judge me after the Law?* &c. and therefore the place is for us, for even according to the mind of all, the fault was (if there were any) in calling him a whited wall: and he resisted him in judgement, when he said, *Commandest thou me to be smitten against the Law?* 2. Though Royalists rather put a fault on the Apostle Paul now in the act of prophecying judgement against Ananias, which after fell out, then upon their God the King; yet the consequence amounteth but to this, We may not revile the High Priest, Ergo we may not resist the King in his illegall commandments. It followeth not. Yea it should prove, if a Prelate come in open war to kill the innocent Apostle Paul, the Apostle might fly or hold his hands, but might not re-offend: Now the Prelate is the High Priests successor, and his base person so is as sacred as the person of the Lords Anointed, the King. Hence the Cavalliers had in one of their Colours which was taken by the Scots at the battle of Marston, Jul. 2. An. 1644 the Crowne and the Prelates Mitre painted with these words, *Nolite tangere Christos meos*, as if the Antichristian Mitre were as sacred as the lawfull Crowne of the King of Britaine.

Obj. 11. Ferne, sect. 9.56. *If the Senate and people of Rome, who a little before had the supreme Government over the thorn Emperours, that of Subjects had made them Lords, might not resist their Emperours, much lesse can the people of England have power of resistance, against the succession of this Crowne, descending from the Conqueror, who by force of Armes, but in justice, conquered the Kingdom.*

Ans. 1. Though the Roman Emperours were absolute (of which I much doubt) and though the Senate had made them absolute, I deny that therefore they cannot be resisted. The unlawfull resistance condemned by Paul Rom. 13. is not upon the ground of Absolutenesse, which is in the Court of God nothing, being never ordained of God, but upon reasons of conscience, because the powers are of God, and ordained of God. But some may say, *Volenti non fit injuria, If a people totally resigne their power, and swear non-resistance to a Conqueror, by compact, they cannot resist.* I answer, neither doth this follow, because it is an unlawfull compact, and none is obliged to what is unlawfull. For 1. it is no more lawfull for me to resigne to another my power of naturall self-defence, then I can resigne my power to defend the innocent drawne to death, and [361] the wives, children and posterity that God hath tyed me unto. 2. The people can no more resigne power of self-defence, which Nature hath given them, then they can be guilty of self-murther, and be wanting in the lawfull defence of Kingdome and Religion. 3. Though you make one their King with absolutenesse of power, yet when he use that transcendent power, not for the safety, but for the destruction of the State, it is knowne they could not resigne to another that power which neither God nor nature gave them, to wit, a power to destroy themselves. 2. I much doubt if the Roman Emperour was absolute, when Paul wrote this. Iustinian saith so, *Digest. l. 2. tit. 2.* but he is partiall in this cause. Bodine de repub. l. 2. c. 5. pag. 221. proveth that the Roman Emperours were but Princes of the Common-wealth, and that the Sovereignty remained still in the Senate and people. Marius Salamon. writeth sixe Books, *De Principatu*, on the contrary. How could they make their Emperours absolute? Livie saith, The name of a King was contrary to a Senate liberty. Florus, *Nomen Regis invidiosum*, They instituted a yearly Feast,

February 23. called *Regifugium*. Cicero, as Augustine observeth, *Regem Romae post haec nec Dii, nec homines esse patiantur*. The Emperours might doe something *de facto*, but *Lex Regia* was not before *Vespasians* time. *Augustus* took on him to be Tribune of the people, from ten yeares to ten. *Suetonius* and *Tacitus* say, *The succeeding Kings encroached by degrees upon the peoples liberty*. For speedier execution of Law, the Kings in time of Warre were forced to doe many things without the Senate, and after the reigne of Emperours, though there were no *Plebescita*, yet there were *Senatusconsulta*, and one great one is, that the Senate declard *Nero* to be an enemy to the State. It is thought, *Iulius Caesar* in the warre against *Pompey*, subdued the Romans, and the Senate, and they were subdued againe in the battaile of *Octavius*, against *Cassius* and *Brutus*. But *Tacitus* saith, that was *de facto*, not *de jure*, *Anal. l. 1. s. 2. Rome ruere in servitium, Consules, Patres, Eques*. *Caligula* intended to assume *Diadema*, the Ensigne of a King, but his friends dissuaded him. 3. *England* is obliged to *D. Ferne*, who maketh them a subdued Nation. The contrary of which is known to the world.

Obj. M. Simmons Loyall Subj. Beliefe, sect. 6. pag. 19. God is not honoured by being resisted, no more is the King.

Answ. I deny the consequence. Those who resist the Kings [362] personall will, and will not suffer him to ruine his Crowne and posterity in following Papists, against his Oath at the Coronation, do honour him and his Throne and Race as a King, though for the time they displease him. 2. *Vzz••ah* was not dishonoured in that he was resisted. 3. Nor doe we honour the King, when we flee from him and his Law. Yet that resistance is lawfull, according to the way of Royalists; and in truth also.

Object. 12. Supreme power is not to be resisted by subordinate powers, because they are inferiour to the supreme.

Answ. The bloody Irish Rebels then being inferiour to the Parliament, cannot resist the Parliament. 2. Inferiour Judges as Judges are immediately subordinate to God as the King, and must be guilty of blood before God, if they use not the sword against bloody Cavalliers, and Irish cut-throats, except you say, inferiour Judges are not obliged to execute judgement, but at the Kings commandment.

Object. As the Irish Rebels are armed with the Kings power, they are superiour to the Parliament.

Answ. So an Armie of *Turks* and *Spaniards*, armed with the Kings power, and comming against the two Kingdomes, at the Kings commandment, though they be but Lictors in a lawlesse cause, are superiour to the highest Courts of Parliament in the two Kingdomes. But the King and the Law gave power to the Parliament, first to resist Rebels; now he giveth power to Rebels to resist the Parliament: here must be contradictory wils, and contradictory powers in the King; Which of them is the Kings will, and his power? the former is legall and Parliamentary; Then, because Law is not contrary to Law, the latter cannot be legall also, nor can it be from God; and to resist it then is not to resist God.

Object. 13. If resistance bee restrained to legall commandments, What shall we say to these arguments, that Paul forbiddeth resistance under these tyrannous governours, and that from the end of their government, which is for good, and which their subjects did in some sort enjoy under them?

Answ. 1. This proveth nothing, but that we are to cooperate with these governours, though tyrannous, by subjecting to their Laws, so farre, as they come up to this end, the *morall good and peace of their government*; but *Paul* no where commandeth absolute subjection to tyrannous governours in tyrannous act••; which is still the question.

Object. 14. Hee that hath the supreme trust next to God, should have the greatest security to his person and power; but if resistance be lawfull, he hath a poore security.

Answ. He that hath the greatest trust, should have the greatest security to his person and power, in the •••eping his power, and using it according to his trust, for its owne native end, for justice, peace, and godlinesse. God alloweth security to no man, nor that his Angels shall guard them, but on••ly when they are in their wayes, and the service of God; else, There is no peace to the wicked.

2. It is denyed that one man having the greatest trust should have the greatest security; the Church and people of God, for whose safety he hath the trust, as a meanes for the end, should have a greater security; the City ought to have greater security then the *watchers*, the Armie then the leaders; *The good Shepherd giveth his life for his sheepe.*

3. A power to doe ill, without resistance, is not security.

Object. 15. If God appoint Ministers to preach, then the sheep cannot seeke safety elsewhere. Ergo.

Answ. The wife is obliged to bed and board with her husband, but not if she feare he will kill her in the bed. The obedience of positive duties that subjects owe to Princes, cannot loose them from Natures law of self-preservation, nor from Gods Law, of defending Religion against Papists in Armes; nor are the sheep obliged to intrust themselves, but to a saving shepherd.

Object. 16. If self-defence, and that by taking up Armes against the King, he an unlawfull duty, how is it that you have no practise, no precept, no promise for it in all the word of God?
 1. *You have no practise; Ahab sold himselfe to do evill, he was an Idolater, and killed the Prophets; and his Queene a bloody Idolatresse, stirred him up to great wickednesse: Elias had as great power with the people as you have, yet hee never stirred up the people to take Armes against the King. Why did God at this time rather use an extraordinary meanes of saving his Church? Arnisaeus de autho. Princ. c. 8. but Elias only fled. Nebuchadnezer, Ahab, Manassah, Julian were Tyrants and Idolaters, the people never raised an Armie against them. B. Williams of Ossorie, p. 21. Deut. 14. If brother, son, daughter, wife or friend intice thee to follow strange gods, kill them, not a word of the father: Children are to love Fathers, not to kill them. [699] Christ (saith John P.P.) in the cradle, taught by practise to flee from Herod; and all Christs [364] acts and sufferings are full of mysteries, and our instructions: Hee might have had legions of Angels to defend him, but would rather worke a miracle, in curing Malchus eare, as use the sword against Caesar. If Sectaries give us a new Creed, it will concerne them neere with expunging Christs descent into hell, and the communion of Saints, to raze out this, He suffered under Pontius Pilate—My resolution is (for this sin of yours) to dissolve in teares and Prayers, and with my Master say daylie and hourelly, Father forgive them, &c. Christ thought it an uncouth spirit, to call for fire from heaven to burne the Samaritans, because they refused him lodging. 2. The Prophets cried out against Idolatry, blasphemy, murther, adultery, &c. and all sins; never against the sin of neglect, and murtherous omission to defend Church and Religion against a tyrannous King. 3. No promise is made to such a rebellious insurrection in Gods word.*

Answ. It is a gr••at non-cons••quence; this duty is not practised by any examples in Gods word. Ergo. It is no duty. Practice in Scripture is a narrow rule of faith: [700] Shew a practice when a husband stoned his wife, because she inticed him to follow strange Gods. Yet it is commanded, Deut. 13.6. when a man lying with a beast is put to death: Yet it is a Law, Exod. 22.19. infinite more Lawes are, the practise of which we finde not in Scripture. 2. Iehu and

the Elders of Israel rooted out *Ahabs* posterity for their Idolatry; and if *Iehu* out of sincerity, and for the zeale of God, had done what God commanded, he should have been rewarded: for say that it was extraordinary to *Iehu*, that he should kill *Ahab*, yet there was an expresse Law for it, that he that stirreth up others to Idolatry should die the death, *Deut.* 13.6. and there is no exception of King, or Father in the Law, and to except father or mother in Gods matters, is expresly against the zeale of God, *Deut.* 33.9. And many grave Divines think the people to be commended in making *Iehu* King, and in killing King *Nabad*, and smiting all the house of *Iereboam* for his Idolatry; they did that which was a part of their ordinary duty, according to Gods expresse Law, *Deut.* 13.6, 7, 8, 9. though the facts of these men be extraordinary. 3. *Ahab* and *Iezabel* •ais• not an Armie of Idolaters, Malignants, such as are Papists, Prelates, and Cavalliers, against the three Estates, to destroy Parliaments, Lawes and Religion, and the people conspired with *Ahab* in the persecution and Idolatry, to forsake the Covenant *throw dowwe the Altars of God, and slay his Prophets*, so as in the estimation [365] of *Elias*, 1 *King.* 19.9, 10, 11. there was not one man, but they were Malignant Cavalliers, and hath any *Elias* now power with the Cavalliers, to exhort them to rise in Armes against themselves, and to shew them it is their duty to make warre against the King and themselves, in the defence of Religion? when the Prophets had much adoe to convince the people, that they sinned in joyning with the King, what place was there to shew them their sin, in not using their owne lawfull defence? And in reason any may judge it unreasonable, for *Elias* to exhort, of thousand thousands in Israel; poore seven thousand (of which many no doubt were women, aged, weake, young) to rise in Armes against *Ahab* and all Israel, except God had given a positive and extraordinary Commandement, and with all miraculous courage and strength in war against the whole Land; [701] and God worketh not alwayes by miracles to save his Church, and therefore the naturall mandate of self-preservation in that case doth no more oblige a few weake ones to lawfull resistance, then it obliged one Martyre to rise against a persecuting *Nero* and all his forces. *Arnisaeus* should remember wee are not to tye our Lord to miracles.

2. *Elias* did not onely flee, but denounced wrath against the King, and Cavalliers, who joyned with them in Idolatry, and when God gave oportunity, he shewed himself, and stirred the people up to kill *Baals Iesuits and seducing idolatours*, when the Idolatrous King refu•ed to do it, and *Eliah* with his own hand took them not, but all Israel being gathered together, 1 *King.* 18.19. The Princes and Judges did apprehend them, *ver.* 40. which is a warrant, when the King refuseth to draw the sword of justice against armed Papists, that other judges are to do it. 2. For *Nebuchadnezzar*, *Jeremiah* from the Lord, expresly forbad to fight against him, shew us the like for no defending our selves against bloody Papists and Irish cut-throats: for that example may as well prove (if it be a binding law to us) that our King should not raise his Subjects, to fight against a *Spanish Armado*, and a forraigne Pri•ce; for before ever *Nebuchadnezzar* subdued the Kingdom of *Iudah* *Ier.* 27.1. In the beginning of the raigne of *Iehoiakim*, *ver.* 12, 13, 14. *chap.* 36. *chap.* 37. the King of *Iudah* is from the Lord commanded, not to draw a sword against the King of *Babylon*; I hope this will not tye us, and our King, not to fight against forraigne Princes, or against the great Turk, if they shall unjustly invade us and our King, and this example [366] is against the Kings resisting of a forraigne Prince unjustly invading him, as much, as against us, for *Nebuchadnezzar* was a Tyrannous invader, and the King of *Iudah* the Lords Annoynted. 3. The people also conspired with *Manasseh*, as with *Ahab*, *Ier.* 15.4. 4 Of Emp•rours persecuting Christians we shall heare anon. 5. *Deut.* 13. None are excepted, by a synecdoche, the dearest are expressed, *sonne, daughter, brother, the friend that is as thine own soul.* Ergo, fathers also. *And husbands are to love their lives.* *Ephes.* 5.25. Yet to execute judgement on them, without pittie, *Deut.* 13.8.9. The father is to love the son, yet if *the son prophesy falsely in the name of the Lord*, to kill him. *Zach.* 13.3. Hence love, fear, reverence toward the King may be commanded, and defensive warres also. 6. Christ fled from *Herod*, and all his actions and sufferings are mysteries and instructions, saith the poor Prelate. 1. Christ kissed the man that to his

knowledge came to betray him, Christ fled not, but knowing where, and when his enemy should apprehend him, came willingly to the place. [702] *Ergo*, we should not flee. 2. His actions are so mysterious that *Iohn P. P.* in imitation of Christs fourty dayes fast, will fast from flesh in lent, and the Prelate must walk on the sea, and work miracles, if all Christs actions be our instructions. 7. He might with more then twelve Legions of Angels defend himself, but he would not, not because resistance was unlawfull, no shadow for that in the text, but because it was Gods will, that he should drink the cup his Father gave him, & because to take the sword without Gods warrant, subjecteth the usurper of Gods place to *perish with the sword*. *Peter* had Gods revealed wil, that Christ behoved to suffer, *Math.* 26.52, 53. *Math.* 16.21, 22, 23. & Gods positive command that Christ should die for sinners, *Iohn* 10.24. may well restraine an act of lawfull self-preservation, *hic & nunc*, and such an act as Christ lawfully used, at another time, *Luk.* 4.29-30. *Ioh.* 11.7, 8. we give no new creed, but this apostate hath forsaken his old creed, & the religion of the Church of *Scotland*, in which he was *Baptised*. 9. Nor do we expunge out of the *Creed Christs descension into hell*, & the *communion of Saints*, as the apostate saith, but the Popish locall descension of Christ, & the Popish advancing of the Churches power above the Scriptures & the intercession & prayers to the saints, or of the saints for us, we deny, & this Prelate, though he did swear the doctrine of the *Church of Scotland*, preached expresly all these & many other poynts of Popery in the *Pulpits of Edenburgh*. 10. We beleeve that [367] Christ suffered *under Pontius Pilat*, but that *Pilat* had any legal power to condemne Christ, (but onely a power by a permissive Decree, *Act.* 4.27, 28. Such as Devils had by Gods permission, *Luke.* 22.53.) we utterly deny. 11. The Prelat saith it is his resolution, for our sin of naturall selfe defence, to *dissolve in tears*, because his *Bishopricke* (I conceive) by which he was wont to dissolve in cups, (being drunk on the Lords day, after he (with other Prelates) had been at the Lords Supper, while the Chamber wherein they were, was dissolved in vomitting,) was taken from him. 12. *The prophets cry against all sins, but never against the sin of non-resistance, and yet they had very Tyrannous and Idolatrous Kings*. 1. This is but a weak argument. 1. The Prophets cry not out against all sins, they cry not out against men-stealers, and killers of father and mother in expresse tearmes, yet do they by consequence condemne all these sins, and so do they condemne non-resistance in wars, by consequence, when they cry out *Ier.* 5.31. *The Prophets prophesie falsly, and the Priests beare rule by their meanes, and my people love to have it so*. And when they complaine, *Ezek.* 22.26, 27, 28. That the *Prophets and Priests violate the Law, her Princes are like wolves ravening the prey, to shed blood, and the people use oppression, and exercise robbery, and vex the poore*. And when they say, *Ier.* 22.2. not to the King onely, but also to his servants, and the people that enter in by the gates, 3. *Execute judgement and righteousnesse, and deliver the spoiled out of the hand of the oppressour*. I pray you, who are the oppressors? I answer, The murthering Judges, *Esa.* 1.21. And *Esa.* 3.12. *As for my people, children are their oppressors, and women rule over them*: [703] And ver. 14, 15. *The ancients of the people grind the faces of the poore*: and when they are not valiant for the truth upon the earth. And *Prov.* 24.11. the Lord shal render to these men according to their works, which forbore to help men that are *drawn to death, and those that be ready to be slaine, if they shift the businesse, and say, Behold, we know not, doth not he that pondereth the heart, consider it?* When therefore the Lords Prophets complaine that *the people execute not judgement, relieve not the oppressed, help not and rescue not those that are drawn to death unjustly by the King*, or his murthering Judges, they expresly cry out against the sin of non-resistance. 2. The Prophets cannot expresly and formally cry out against the Judges for non-resisting the King, when they joyne as avenging wolves with the King in these same acts of oppression, even as the Judge cannot formally [368] impannell 24 men sent out to guard the travellers from an arch robber, if these men joyne with the robber, and rob the travellers, and become cut-throats as the arch robber is, he cannot accuse them for their omission in not guarding the innocent travellers, but for a more hainous crime, that not onely they omitted what was their duty, in that they did not rescue the oppressed out

of the hands of the wicked, but because they did rob and murther, and so the lesser sinne is swallowed up in the greater. The under-Judges are watchmen, and a guard to the Church of God; if the King turn a bosome robber, their part is, *Ier. 22.3. to deliver the spoiled out of the hand of the oppressour*, to watch against domestick and forraine enemies, and to defend the flock from wolves, *Ezek. 23.2, 3, 4. Ier. 50.6. to let the oppressed goe free, and to break every yোক*, *Esay 58.6. to break the jakes of the wicked, and pluck the spoile out of his teeth*, *Job 29.17*. Now if these Judges turne Lyons, and ravening Wolves, to prey upon the flock, and joyne with the King, as alwayes they did when the King was an oppressor, *his Princes made him glad with their lies*, and joynd with him, and the people with both. *Ier. 1.18. Ier. 5.1. Ier. 9.1. Mic. 7.1. Ezek. 22.24, 25, 26, 27, 28, 29, 30, 31. Ier. 15.1, 2, 3*. It is no wonder if the Prophets condemne and cry out against the hugest and most bloody crime of positive oppression formally and expresly, and in that their negative murthers in not relieving the oppressed must also be cryed out against. 13. The whole Land cannot formally be accused for non-resistance, when the whole Land are oppressors, for then they should be accused for not resisting themselves. 14. The King ought to resist the inferiour judges in their oppression of the people, by the confession of Royalists, then this argument cometh with the like force of strength on themselves, let them shew us practice, precept or promise in the Word, [704] where the King raised an Armie for defence of Religion, against Princes and people who were subverting Religion, and we shall make use of that same place of Scripture, to prove that the Estates and people who are above the King, (as I have proved) and made the King, may and ought to resist the King, with the like force of Scripturall truth, in the like case. 16. Royalists desire the like president of practice and precept for defensive warres: but I answer, let them shew us a practice where any King of Israel or Judah raised an Armie of Malignants, of Phylistims, Sydonians, Ammonites, against the Princes of Israel and Judah, conveened [369] in an Assemblie, to take course for bringing home the captived Arke of God, and vindicating the Lawes of the Land, and raised an Armie contrary to the knowledge of the Elders, Princes, and Judges, to set up Dagon, or tollerate the worship of the Sydonian gods, and yet Princes, Elders, Judges and the whole people were obliged, all to flee out of Gods land, or then onely to weep and request that the King would not destroy souls and bodies of them and their innocent posterities, because they could not in conscience, imbrace the worship of Dagon and the Sydonian gods: when the Royalist can parallel this with a precedent, we can answer, there was as smal apparency of precedency in Scripture, (except you flee to the law of nature) that 80 Priests the Subjects of King *Vzziah* should put in execution a penall Law against the Lords Annoynted, and that the inferiours, and subjects should resist the Superiour, and that these Priests with the Princes of the land should remove the King from actuall government, all his dayes, and crown his son, at least make the father their Prince and superiour (as Royalists say) as good as a Cypher? Is not this a punishment inflicted by inferiours upon a superiour, according to the way of Royalists? Now it is clear a worshipping of bread and the Masse commanded, and against law obruded upon Scotland, by influence of the counsell of known Papists, is to us, and in it self as abominable as the worshipping of Dagon or the Sydonian Gods, and when the Kingdom of Scotland did but conveen, supplicat, and protest against that obruded Idolatry, they were first declared rebels by the King, and then an army raised against them, by Prelates and Malignants, inspired with the spirit of Anti-christ, to destroy the whole land, if they should not submit soul and conscience to that wicked service.

QUEST. XXXV. Whether or no the sufferings of the Martyrs in the Primitive Church militate against the lawfulness of defensive wars? ↩

ROYALISTS think they burden our Cause much with hatred, when they bring the Fathers and ancient Martyrs against us. So the P. Prelate extracted out of other Authors, testimonies for this, [705] and from *I. Armagh*, in a Sermon on *Rom. 13. pag. 20, 21*. So the Do. of *Aberdeene*. The Prelat proveth from *Clem. Alexand. l. 7. c. 17. That the King is constituted by*

the Lord. So Ignatius.

Answ. 1. Except he prove from these Fathers that the King [370] is from God onely and immediately, he proveth nothing.

Obj. 2. *Iren. l. 5. adv. haer. c. 20.* proveth that *God giveth Kingdomes, and that the devill lied*▪ *Luk. 4. and we make the people to make Kings,* and so to be the children of the Devill.

Answ. If we denied God to dispose of Kingdomes, this man might alledge the *Church of God in England and Scotland, to be the sons of Satan.* But Gods Word, *Deut. 17.18.* and many other places make the people to make Kings, and yet not devils. But to say that Prelates should crowne Kings, and with their foule fingers anoint him; and that as the Popes substitutes, is to make him that is the sonne of perdition, a Donor of Kingdoms, also to make a man with his bloodie sword to ascend to a throne, is to deny God to be the disposer of Kingdoms, and Prelats teach both these.

Obj. 3. *Tertul. Apol. c. 30. Inde est Imperator, unde & homo, antequam imperator, inde potestas illi, unde & spiritus: God is no lesse the Creator of Soveraigntie, then of the soul of man.*

Answ. God onely maketh Kings, by his absolute soveraignty, as he onely maketh high and low, and so onely he maketh Mayors, Provosts, Bailiffes, for *there is no power but of him, Rom. 13. Ergo, Provosts and Bailiffes* are not from men. The Reader shall not be troubled with the rest of the testimonies of this poore Plagiarie, for they prove what never man denyed, but Prelats and Royalists, to wit, that Kings are not from Gods approving and regulating will; which they oppose, when they say, Sole Conquest is a just title to the Crowne.

But they deserve rather an answer which *Grotius, Barclay, Arnisaeus, and Spalato* alledge, as

Obj. 1. *Cyprian Epist. 1. Non est fas Christianis, armis, ac vi tueri s•• adversus impetum persecutorum, Christians cannot by violence defend themselves against persecutors.*

Answ. If these words be pressed literally, it were not lawfull to defend our selfe against murtherers; but *Cyprian* is expresly condemning in that place, the seditious tumults of people against the lawfull Magistrate.

Obj. 2. *The Ancients say he was justly punished who did rend and teare the Edict of Dioclesian and Maximinus, Euseb. l. 7. Hist. Eccles. c. 5.*

Answ. To rend an Edict is no act of naturall self-defence, but a breach of a positive commandment of the Emperors, and could not [371] be lawfully done, especially by a private man.

Object. 3. *Cyprian Epist. 56. Incumbamus gemitibus assiduis & depr••cationibus crebris, haec enim sunt munimenta spiritualia & tela divina quae protegunt: And Ruffinus, l. 2. c. 6. Ambrosius adversus reginae (Iustinae Arianae) ••urorem non se manu defensabat aut telo, sed jejuniis continuatisque vigiliis sub altari positus.*

Answ. It is true, *Cyprian* reputed prayers his armour, but not his onely armour. Though *Ambrose, de facto,* used no other against *Iustina*; the places say nothing against the lawfulness of selfe-defence. *Ambrose* speaketh of that armour and these meanes of d••fence, that are proper to Pastors, and these are prayers and teares, not the sword; because Pastors carry the Arke, that is their charge, not the sword, that is the Magistrates place.

Object. 4. Tertullian Apolog. c. 37. saith expressly, that the Christians might for strength and number have defended themselves against their persecutors, but thought it unlawfull. *Quando vel una nox pauculis faculis largitatem ultionis potest operari, si malum malo dispungi penes nos liceret, sed absit ut igni humano vindicetur divina secta, aut doleat pati, in quo probetur. Si enim hostes extraneos, non tantum vindices occultos agere vellemus, deesset nobis vis numerorum & copiarum?*

Answ. I will not goe about to say that *Tertullian* thought it lawfull to raise Armes against the Emperour; I ingeniously confesse *Tertullian* was in that errour. But, 1. something of the man. [706] 2. Of the Christians. Of the man. *Tertullian* after this turned a Montanist. 2. *Pamelius* saith of him, *in vit. Tertul. inter Apocrypha numeratur—excommunicatus*. 3. It was *Tertullians* error in a fact, not in a question, that he believed Christians were so numerous, as that they might have fought with the Emperours. 4. *M. Pryn* doth judiciously observe, 3. part. soveraigne power of Parl. pag. 139, 140. He not onely thought it unlawfull to resist, but also to flee, and therefore wrote a booke *de fuga*, and therefore as some men are excessive in doing for Christ, so also in suffering for Christ; Hence I inferre, that *Tertullian* is neither ours, nor theirs in this point; and we can cite *Tertullian* against them also, *Iam sumus ergo pares*. Yea *Fox* in his *Monum.* saith, *Christians ranne to the stakes to be burnt, when they were neither condemned, nor cited*. 4. What if wee cite *Theodoret*, fol. 98. *De provid. Who about that time say that evill men reigne, (in non-Latin alphabet) (in non-Latin alphabet) through the cowardlinesse of the subjects; [372]* as the *Prelate* saith of *Tertullian*, I turne it, if *Theodoret* were now living, [707] he would goe for a Rebell. About that time *Christians* sought help from *Constantine* the Great, against *Lycinius* their Emperour, and overthrew him in battaile. And the *Christians* being oppressed by the *King of Persia* their owne King, sent to *Theodosius* to help them against him. 2. For the man▪ *Tertullian* in the place cited, saith, *The Christians were strangers under the Emperour. Externi sumus*, and therefore they had no Laws of their owne, but were under the *Civill Laws of Heathen*, till *Constantines* time; and they had sworne to *Iulian* as his souldiers, and therefore might have, and no doubt had, scruples of conscience to resist the Emperour. 2. It is knowne *Iulian* had huge numbers of *Heathen* in his Armie, and to resist had beene great danger. 3. Wanting Leaders and Commanders, (many prime men doubting of the lawfulness thereof) though they had beene equall in number, yet number is not all in warre, skill in valorous Commanders is required. 4. What if all *Christians* were not of *Tertullians* minde. 5. If I would go to humane testimonies, which I judge not satisfactory to the conscience, I might cite many; The practice of *France*, of *Holland*: The Divines in *Luthers* time, as *Sleidan*. 8. c. 8.22. resolved resistance to be lawfull. *Calvin. Beza, Pareus*; the German Divines, *Bucanus*, and an hoast might be produced.

QUEST. XXXVI. Whether the power of Warre be onely in the King? ↩

IT is not hard to determine this question: The *Sword* in a constitute Common-wealth is given to the Judge supreme, or subordinate, *Rom.* 13.4. *He beareth not the sword in vaine*, in the *Empire*; the use of Armour is restricted to the Emperour by a positive Law; so the Law saith, *Armorum officia nisi jussu Principis sunt interdita*, lib. de Cod. de Lege. 1. *Imperat Valentinian. nulli, nobis inconsultis, usus armorum tribuatur*, ad 1. Jul. Mai. 1. 3. Warre is a species, and a particular, the sword is a generall.

Assert. 1. The power of the sword by Gods Law is not proper & peculiar to the King only, [708] but given by God, to the inferiour Judges. 1. Because the inferiour Judge is essentially a Judge no lesse then the King, as is proved, and therefore he must beare the sword, *Rom.* 13.4. 2 Not *Moses* onely, but the Congregation of *Israel* had power of life and death, and so of the sword, *Numb.* 35.12. The [373] manslayer shall not die, *untill he stand before the Congregation in judgement*, ver. 24. *Then the Congregation shall judge betweene the slayer and the avenger of blood*, Deut. 22.18. *The Elders of the City shall take that man*

and chastise him. 21. *The men of the Citie shall stone her with stones*, Deu. 17.5. Deu. 19.12, 13. v. 18, 19, 20, 21. Deu. 21.19. *Then shall his father and his mother bring him to the Elders of his City.* 21. *And the men of the City shall stone him with stones.* 1 King. 21.11. *The Elders and Nobles that were inhabitants in his City stoned Naboth.* 3. Inferiour Judges are condemned as murtherers, who have shed innocent blood, *Esay* 1.21. *Psal.* 94.5.6. *Ier.* 22.3. *Ezek.* 22.12. *ver.* 27. *Hosea* 6.8. *Zephan.* 3.1, 2, 3. *Ergo*, they must have the power of the sword, hence upon the same grounds.

Assert. 2. That the King onely hath the power of warre, and raising Armies must be but a positive civill Law. For, 1. by divine right, if the inferiour Judges have the sword given to them of God, then have they also power of Warre, and raising Armies. 2. All power of warre that the King hath is cumulative, not privative, and not destructive, but given for the safety of the Kingdome, as therefore the King cannot take from one particular man the power of the sword for naturall self-preservation, because it is the birth-right of life; neither can the King take from a community and Kingdome a power of rising in Armes for their owne defence: If an Armie of *Turks* shall suddenly invade the Land, and the Kings consent expresse cannot be had (for it is essentially involved in the office of the King as King, that all the power of the sword that he hath, be for their safety) or if the King should as a man refuse his consent, and interdict and discharge the Land to rise in Armes, yet they have his Royall consent, though they want his personall consent, in respect that his office obligeth him to command them to rise in Armes. 2. Because no King, no Civill power can take away Natures *birth-right* of self-defence from any man, or a community of men. [709] 2. Because if a King should sell his Kingdome, and invite a bloody Conquerour to come in with an Armie of men to destroy his people, impose upon their conscience an Idolatrous Religion, they may lawfully rise against that Armie, without the Kings consent, for though Royalists say, they need not come *in asinine patience, and offer their throats to cut-throats but may flee*, yet two things hindereth a flight. 1. They are obliged by vertue of the first Commandement to re-man, and with their sword defend the Cities of the [374] Lord, and the King. *2 Sam.* 10.12. *1 Chron.* 19.13. for if to defend our Country and children, and the Church of God from unjust invaders and cut-throats by the sword, be an act of charity, that God and the Law of Nature requireth of a people, as is evident, *Prov.* 24.11. and if the fift Commandement oblige the Land to defend their aged Parents and young children from these invaders, and if the sixt Commandement lay on us the like bond, all the Land are to act works of mercy and charity, though the King unjustly command the contrary; except *Royalists* say, that we are not to performe the duties of the second Table commanded by God, if an earthly King forbid us; and if we exercise not acts of mercy toward our brethren, when their life is in hazard, to save them, wee are murtherers, and so men may murther their neighbour, if the King command them so to doe; [710] this is like the Court-faith. 2. The Kings power of warres is for the safety of his people; if he deny his consent to their raising of Armes till they be destroyed, he playeth the Tyrant, not the King, and the law of Nature will necessitate them, either to defend themselves (seeing slight of all in that case is harder then death) else they must be guilty of self-murther. Now the Kings commandement of not rising in Armes, at best is positive and against the nature of his Office, and it followeth then from him as from a man, and so must be farre inferiour to the naturall Commandement of God, which commandeth self-preservation, if wee would not be guilty of self-murther, and of *obeying men, rather then God*. So *Althusius Polit.* c. 25. n. 9. *Halicarnas.* l. 4. *Antiq. Rom. Aristo. Pol.* l. 3. c. 3. 3. *David* tooke *Goliahs* sword, and became a Captaine, a Captaine to an hoast of armed men in the battaile, and *fought the battailes of the Lord*, *1 Sam.* 25.28. (and this *Abigal* by the spirit of prophecy, as I take it, saith, *ver.* 29, 30, 31.) *1 Sam.* 22.2. *1 Chron.* 12.1.2.3.17.18.21.22. not onely without *Sauls* consent, but against King *Saul* as he was a man, but not against him as hee was King of *Israel*. 4. If there be no King, or the King be *minor*, or an usurper, as *Athalia* be on the Throne, the Kingdome may lawfully make war without the King, [711] as *Judges* cap. 20. *The children of Israel, foure hundred thousand footemen that drew sword* went out to warre

against the children of *Benjamin*. *Iudah* had the power of the sword when *Iosiah* was but eight yeares old, in the beginning of his reigne, 2 *King*. 22.1, 2. and before *Iehoash* was crowned King, and while he was *minor*, 2 *King*. 11. there were Captaines of hundreds [375] in armes raised by *Iehoiada* and the people of *Iudah* to defend the young King. It cannot be said, that this is more extraordinary, then that it is extraordinary for Kings to die, and in the *interregnum*, warres, in an ordinary providence, may fall out in these Kingdoms, where Kings goe by election; and for Kings to fall to be Minors, Captives, Tyrannous. And I shall be of that opinion that M^r *Symmons*, who holdeth, *That Royall birth is equivalent to divine unction*, must also hold, that election is not equivalent to divine unction; for both election and birth cannot be of the same validity, the one being naturall, the other a matter of free choise, which shall infer that Kings by election are lesse properly, and analogically onely Kings; and so *Saul* was not properly a King, for he was King by election; but I conceive that rather Kings by birth must be lesse properly Kings, because the first King by Gods institution, being the mould of all the rest, was by election. *Deut.* 17.18.19.20.

5. If the estates create the King, and make this man King, not this man, as is clear *Deut.* 17.18. and 2 *Chron.* 5.1, 2, 3, [712] 4. they give to him the power of the Sword, and the power of War, and the Militia, and I shall judge it strange and reasonlesse, that the power given to the King, by the Parliament or estates of a free Kingdom, (such as Scotland as acknowledged to be, by all) should create, regulate, limit, abridge, yea and annull that power that created it self, hath God ordained a Parliamentary power to create a Royal power of the sword and war to be placed in the King, the Parliaments creature, for the safety of Parliament and Kingdome, which yet is destructive of it selfe? D. *Ferne* saith that the *King summoneth a Parliament, and giveth them power to be a Parliament, and to advise and counsell him*; and in the meane time Scripture saith, *Deut.* 17.18, 19, 20. 1 *Sam.* 10▪20, 21, 22, 23, 24, 25. 2 *Sam.* 5.1, 2, 3, 4. that the Parliament createth the King, heir's admirable reciprocation of creation in policie, and shall God make the mother to destroy the daughter? The Parliamentarie power that giveth Crown, Militia, sword and all to the King, must give power to the King to use sword and war for the destruction of the Kingdome, and to annull all the power of Parliaments, to make, unmake Parliaments, and all Parliamentary power; what more absurd?

Obj. 1. *Symmons Loyall Subj. Pag. 57. These phrases, 2. Sam.* 9.1. *When Kings goe forth to warre, and Luk.* 14.31. *What King going forth to warre? speak to my conscience, that both offensive [376] and defensive warre are in the Kings hand.*

Answ. It is not much to other men what is spoken to any mans conscience by Phrase and customes; for by this no States where there be no Kings, but government by the best, or the people, as in *Holland*, or in other Nations, can have power of war, for what time of yeare shall Kings goe to war who are not Kings? and because Christ saith, *A certaine housholder delivered talents to his servants*, will this infer to any conscience, that none but a housholder may take usurie? And when he saith, *If the good man of the house knew at what houre the thiefe would come, he would watch*; shall it follow, the sonne or servant may not watch the house, but onely the good man?

Obj. 2. *Ferne, pag. 95. The naturall Bodie cannot move, but upon naturall Principles; and so neither can the Politique Bodie move in Warre, but upon Politique reasons from the Prince, which must direct by Law.*

Answ. This may well be retorted, the Politique Head cannot then move, but upon politique reasons; and so the King cannot move to wars, but by the Law, and that is by consent of Parliament, and no Law can principle the head to destroy the members. 2. If an Armie of cut-throats rise to destroy the Kingdome, because the King is in lacking, in his place, to doe his duty, how can the other Judges, the States and Pa••liament, be accessorie to

murder committed by them, in not raising armies to suppress such robbers? Shall the inferiour Judges be guilty of innocent blood, because the King will not doe his duty? 3. The politique body ceaseth no more to renounce the principles of sinlesse nature, in self-defence, because it is a politique body, and subject to a King, then it can leave off to sleep, eat and drink; and there is more need of politique principles to the one, then the other. 4. The Parliaments and Estates of both Kingdoms move in these wars by the Kings Lawes, and are a formall politique body in themselves.

Obj. 2. The ground of the present wars against the King (saith D. Ferne, sect. 4. pag. 13.) is false, to wit, that the Parliament is coordinate with the King, but so the King shall not be supreme, the Parliaments consent is required to an act of supremacie, but not to a denyall of that act. And there can no more (saith Arnisaeus de jure majestatis, c. 3. in quo consistat essen ■ majest. c. 3. n. 1. and c. 2. an jur. majest. separ. &c. n. 2.) be two equall and coordinate supreme powers, then [377] there can be two supreme Gods, and multitudo deorum est nullitas deorum, many gods infer no gods.

Ans. 1. If we consider the fountaine-power, [713] the King is subordinate to the Parliament, and not coordinate; for the constituent is above that which is constituted. If we regard the derived and executive power in Parliamentarie acts, they make but a totall and compleat soveraigne power, yet so as the soveraigne power of the Parliament being habitually and underived, a prime and fountaine power, (for I doe not here separate people and Parliament) is perfect without the King, for all Parliamentarie acts, as is cleare, in that the Parliament make Kings. 2. Make Lawes, raise Armies, when either the King is minor, captived, tyrannous, or dead, but Royall power Parliamentarie without the Parliament is null, because it is essentially but a part of the Parliament, and can work nothing separated from the Parliament, no more then a hand cut off from the body, can write; and so here we see two supremes coordinate: Amongst infinite things there cannot be two, because it involveth a contradiction, that an infinite thing can be created, for then should it be finite; but a royall power is essentially a derived and created power and supreme, *secundum quid*, onely in relation to single men, but not in relation to the Communitie; it is alwayes a creature of the communitie with leave of the Royalist. 2. It is false, that to an act of Parliamentarie supremacie the consent of the King is required, for it is repugnant that there can be any Parliamentarie judiciall act without the Parliament, but there may be without the King. 3. More false it is, that the King hath a negative voice in Parliament, then he shall be sole Judge ■ and the Parliament, the Kings Creator and Constituent, shall be a cypher.

Obj. 3. Arnesaeus de jur. Maj. de potest. armorum, c. 5. n. 4. The People is mad and furious, therefore supreme Majestie cannot be secured, and Rebels suppressed, and publike Peace kept, if the power of Armour be not in the Kings hand only.

Answ. To denude the people of Armour, because they may abuse the Prince, is to expose them to violence and oppression, unjustly; for one King may easilier abuse armour, then all the people; one man may more easily fail, then a Community. 2. The safety of the people is far to be preferred before the safety of one man ■ though he were two Emperours, one in the East, another in the West, because the Emperour is ordained of God, for the good and safety of the people, [378] 1 *Tim.* 2.2. 3. There can be no inferiour Judges to bear the sword, as God requireth, *Rom.* 13 4. *Deut.* 1.15, 16. 2 *Chron.* 19.6, 7. and the King must be sole Judge, if he onely have the sword, and all armour monopolized to himselfe.

[714]*Obj. 4. The causes of Warre (saith M. Simmons, sect. 4. pag. 9.) should not be made knowne to the Subjects, who are to look more to the lawfull call to Warre from the Prince, then to the cause of the War.*

[715]Answ. The Parliament and all the Judges and Nobles are Subjects to Royalists, if they should make war and shed blood upon blind obedience to the King, not inquiring either in causes of Law, or fact, they must resigne their consciences to the King. 2. The King cannot make unlawfull warre to be lawfull by any authority Royall, except he could raze out the sixt Commandement: therefore Subjects must look more to the causes of Warre, then to the authority of the King; and this were a faire way to make Parliaments of both Kingdomes set up Popery by the sword, and root out the Reformed Religion upon the Kings Authority, as the lawfull call to warre, not looking to the causes of warre.

QUEST. XXXVII. Whether or no it be lawfull that the Estates of Scotland help their oppressed brethren the *Parliament* and *Protestants in England* against Papists and Prelates now in Armes against them, and killing them, and endeavouring the establishment of Poperie, though the King of Scotland should inhibit them? ↩

Marianus saith, one is obliged to help his brother, *non vinculo efficace*, [716] not with any efficacious band, because in these (saith he) *non est actio aut poena*, one may not have action of law against his brother, who refuseth to help him; yet (saith he) as man he is obliged to man *nexu civilis societatis*, by the bond of humane society. Others say, [717] one nation may indirectly defend a neighbour nation against a common enemy, because it is a self-defence; and it is presumed that a forraigne enemy having overcome the neighbour nation, shall invade that nation it selfe who denyeth help and succour to the neighbour nation, this is a self-opinion, and to me it looketh not like the spiritua^l law of God.

3. Some say it is lawfull, but not alwayes expedient, in which opinion there is this much truth, that if the neighbor nation have an evil cause, *neque licet, neque expedit, it is neither lawfull, nor expedient*. [379] But what is lawful in the case of necessity so extreame, as is the losse of a brothers life or of a nation, must be expedient, [718] because necessity of non-sinning maketh any lawfull thing expedient. As to help my brother in fire or water, requiring my present and speedy help though to the losse of my goods must be as expedient, as a negative commandement (*Thou shalt not murther*.)

4. Others think it lawfull in the case that my brother seek my help only, other wayes I have no calling thereunto: to which opinion, I cannot universally subscribe, it is holden both by reason, and the soundest divines, that to rebuke my brother of sinne is (*actus misericordiae, & charitatis*.) an act of mercy and charity to his soul, [719] yet I hold I am obliged to rebuke him by Gods law. *Levit.* 19.17. otherwise I hate him. *1 Thes.* 5.14. *Col.* 4.17. *Math.* 18 15. Nor can I think in reason, that my duty of love to my brother, doth not oblige me but upon dependency on his free consent, but as I am to help my neighbours oxe out of a ditch, though my neighbour know not, and so I have onely his implicit and virtuell consent, so is the case here. I go not farther in this case of conscience, if a neighbour nation be jealous of our help, and in an hostile way should oppose us in helping, (which blessed be the Lord, the honourable houses of the Parliament of *England* hath not done, though Malignant spirits tempted them to such a course,) what in that case we should owe to the afflicted members of Christs body, is a case may be determined easily.

The fift and last opinion is of those who think if the King command Papists and Prelates to rise against the Parliament and *our dear brethren in England* in warres, that we are obliged in conscience, and by our oath and covenant, to help our native Prince against them, to which opinion with hands and feet I should accord, if our Kings cause were just and lawfull, but from this it followeth that we must thus far judge of the cause, as concerneth our consciences in the matter of our necessary duty, leaving the judiciall cognizance to the honourable *Parliament of England*. But because I cannot returne to all these opinions particularly, I see no reason but the Civil Law of a Kingdom doth oblige any Citizen to help an innocent man

against a murdering robber, & that he may be judicially accused as a murderer who faileth in his duty, & that *Solon* said well, *beatam remp. esse illam, in quâ quisque injuriam alterius suam estimet.* [720] *It is a blessed society in which every man is to repute an injury done against* [380] *a brother, as an injury done against himself.* As the *Egyptians* had a good law, by which, he was accused upon his head, who helped not one that suffered wrong; and if he was not able to help, he was holden to accuse the injurer, [721] if not, his punishment was whips, or three dayes hunger, it may be upon this ground it was that *Moses* slew the *Egyptian.* *Ambrose* commendeth him for so doing.

Assert. We are obliged, by many bands, to expose our lives, goods, children, &c. in this cause of religion and of the unjust oppression of enemies, for the safety and defence of our *deare brethren and true religion in England.* 1. *Prov.* 24.11. *If thou forbear to deliver them, that are drawn to death, < in non-Latin alphabet > < in non-Latin alphabet > taken as captives to be killed, and those that are ready to be slaine.* 12. *If thou say, behold we know it not, doth not he that pondereth the heart consider it? and he that keepeth thy soul, doth he not know it? and shall he not render to every man, according to his work?* Master *Iermin* on the place, is too narrow, who commenting on the place, restricteth all to these two, that the priest should deliver, by interceding for the innocent, [722] and the King by pardoning only. But 1. to deliver is a word of violence, [723] as 1 *Sam.* 30.18. *David* by the sword rescued his wives, *Hos.* 5 14. *I will take away, and none shall rescue.* 1 *Sam.* 17.35. *I rescued the lambs out of his mouth,* out of the *Lyons* mouth, which behov'd to be done with great violence. 2 *King.* 18.34. *They have not delivered < in non-Latin alphabet > < in non-Latin alphabet > Samaria out of my hand.* So *Cornel. à Lapid.*, *Charitas suadet, ut vi & armis eruamus injuste ductos ad mortem.* *Amoros. lib.* 1. *offic.* c. 36. citeth this same text, and commendeth *Moses* who killed the *Egyptian* in defending a *Hebrew* man. 2. It is an act of Charity and so to be done, though the judge forbid it, when the innocent is unjustly put to death.

[724] *Object.* *But in so doing private men may offer violence to the lawfull magistrate, when he unjustly putteth an innocent man to death, and rescue him out of the hands of the magistrate, and this were to bring in anarchy and confusion, for if it be an act of charity to deliver the innocent out of the hand of the Magistrate, it is homicide to a private man not to do it, for our obedience to the law of nature tyeth us absolutely, though the Magistrate forbid these acts, for it is known, that I must obey God rather then man.*

Answ. The law of nature tyeth us to obedience in acts of charity, yet not to performe these acts after any way and manner, in a meere naturall way, *impetu naturae*, but I am to performe acts of naturall [381] charity in a rationall and prudent way, and in looking to Gods law, else if my brother or father were justly condemned to die, I might violently deliver him out of the Magistrates hand, but by the contrary, my hand should be first on him, without naturall compassion. As if my brother or my wife have been a blasphemmer of God, *Deut.* 13.6, 7, 8. and therefore am I to do acts naturall, as a wise man *observing* (as *Solomon* saith *Eccles.* 8.5.) *both time and judgement.* Now it were no wisdom for one private man to hazard his own life, by attempting to rescue an innocent brother, because he hath not strength to do it, and the law of nature obligeth me not to acts of charity, when I in all reason, see them unpossible, but a multitude who had strength did well to rescue innocent *Ionathan* out of the hands of the King, that he should not be put to death: yet one man was not tyed by the law of nature to rescue *Ionathan*, if the King and Prince had condemned him, though unjustly.

2. The hoast of men that helped *David* against King *Saul*, 1 *Sam.* 22.2. entered in a lawfull war, and 1 *Chron.* 12.18. *Amasa* by the spirit of the Lord blesseth his helpers, *peace, peace be unto thee, and peace be to thy helpers, for thy God helpeth the.* *Ergo,* Peace must be to the Parliament of *England*, and to their help•rs their *brethren* of *Scotland.*

3. *Numb.* 32.1.2.3.16.17.18.19. *Iosh.* 1.12.13.14. *The children of Gad, and of Reuben, and the half tribe of Manasseh*, though their inheritance fell to be in this side of *Jordan*, yet they were to goe over the river armed to fight for their brethren, while they had also possession of the land, at the commandement of *Moses and Joshua*.

4. So *Saul and Israel* helped the men of *Iabesh Gilead* conjoynd in blood with them, against *Nahash the Ammonite*, and his unjust conditions in plucking out their right eyes, 1 *Sam.* 11.

5. *Iephtha Iudg.* 12.2. justly rebuketh the men of *Ephraim* because they would not help him and his people, against the *Ammonites*.

6. If the communion of Saints be any bound, that *England and we have one Lord, one faith, one Baptisme, one head and Saviour Iesus Christ*, then are we obliged to help our bleeding sister Church, against these same common enemies *Papists and Prelates*, but the former is undenyably true, for 1. We send help to the *Rotchel*, if there had not been a secret betraying of our brethren, we send help to the recovery of the *Palatinate*, and the aide of the confederat [382] Princes against *Babels strength* and power, and that lawfully, but we did it at great leisure and coldly. *Q. Elizabeth* helped *Holland* against the King of *Spain*. And beside the union in Religion. 1. We sayle in one ship together, being in one *Iland*, under one *King*; and now by the mercy of God, have sworne one Covenant, and so must stand or fall together.

7. We are obliged by the union betwixt the Kingdomes concluded to be by the Convention of the Estates of *Scotland*, An. 1585. at the desire of the Generall Assembly, 1583. to joyne forces together at home, and enter in League with *Protestant Princes*, and Estates abroad, to maintaine the Protestant Religion, against the bloody confederacy of *Trent*; and accordingly this League betweene the two Crownes was subscribed at *Berwick*, An. 1586. and the same renewed, An. 1587, 1588. as also the confession of Faith subscribed, when the *Spanish Armado* was on our coasts.

8. The Law of God, commanding that we love our neighbour as our selfe, and therefore to defend one another against unjust violence. *l. ut vim. ff. de just. & jur.* obligeth us to the same, except we thinke God can be pleased with lipp•-love in word onely, which the Spirit of God condemneth, 1 *Ioh.* 2.9, 10. *cap.* 3.16. and the summe of Law and Prophets, is that as we would not men should refuse to help us, when we are unjustly oppressed, so neither would we so serve our afflicted brethren. *l. in facto ff. de cond. & demonstr. § Si uxor. Iustit. de nupt.*

9. Every man is a keeper of his brothers life, there is a voluntary homicide, when a man refuseth food or physick necessary for his owne life, and refuseth food to his dying brother; and men are not borne for themselves. And when the King defendeth not subjects against their enemies, all fellow-subjects, by the law of Nature, of Nations, the Civill, and cannon Law, have a naturall priviledge to defend one another, and are mutuall Magistrates to one another, when there be no other Magistrates. If an Army of *Turks* or *Pagans* would come upon Britaine, if the King were dead, as he is civilly dead in this juncture of time, when he refuseth to helpe his subjects, one part of Britaine would help another: As *Iehoshaphat* King of *Iudah* did right in helping *Ahab* and *Israel*, so the Lord had approved of the warre. If the left hand be wounded, and the left eye put out, nature teacheth that the whole burden of naturall acts is devolved on the other hand and eye, and so are they obliged to helpe one another.

[383]

10. As we are to beare one anothers burthens, and to help our enemies, to compassionate strangers; so far more these, who make one body of Christ with us.

11. *Meroz* *i*•• *under a curse, who helpeth not the Lord*, one part of a Church another. A woe lieth on them that are at ease in *Zion*, and helpeth not afflicted *Ioseph*, so farre as they are able.

12. The law of Gratitude obligeth us to this: *England* sent an Armie to free both our soules and bodies from the bondage of Popery, and the fury of the French, upon which occasion a Parliament at Leith, Anno 1560. established Peace and Religion, and then after they helped us against a faction of Papists, in our owne bosome; for which we take Gods name in a prayer, seeking grace never to forget that kindnesse.

13. When Papists in Armes, had undone *England* (if *God* give them victory) they should next fall on us, and it should not be in the Kings power to resist them. When our enemies within two dayes journey are in Armes, and have the person of our King, and his judgement, and so the breathing Law of the two Kingdomes under their power, we should but sleepe to be killed in our nest, if we did not arise and fight for King, Church, Countrey, and Brethren.

Object. *By these and the like grounds, when the Kings Royall Person and life is in danger, he may use Papists as subjects, not as Papists in his owne naturall self-defence.*

Ans. Hell and the Devill cannot say, that a thought was in any heart, against the Kings person: He slept in Scotland safe, and at Westminster in his owne Palace, when the Estates of both Kingdomes, would not so much as take the water-pot from his bed-side, and his Speare; and Satan instilled this traitorous lye, first in Prelates, then in Papists. 2. The King professeth his maintenance of the true Protestant Religion, in his Declarations, since he tooke Armes; but if *Saul* had put Armes in the hands of *Baals Priests*, and in an Armie of *Sidonians, Philistims, Ammonites*, professing their quarrell against *Israel* was not to defend the King, but their *Dagon* and false gods; cleere it were, *Sauls* Armie should not stand in relation of helpers of the Kings, but of advancers of their owne Religion. Now Irish Papists and English in Armes, presse the King to cancell all Lawes against Popery, and make Laws for the [384] free liberty of Masse, and the full power of Papists, then the King must use *Papists as Papists* in these warres.

QUEST. XXXVIII. Whether Monarchy be the best of governments? [↗](#)

Nothing more unwillingly doe I write then one word of this question. It is a darke way; circumstances in falne nature may make things best to be, *hic & nunc*, evill: Though to me it is probable, that Monarchy in it selfe, 2. Monarchy, *de jure*, that is, lawfull and limited Monarchy is best; even now in a Kingdome, under the fall of sin, if other circumstances be considered.

[725]But observe I pray you, 1. That M. *Symmons*, and this poore *Prelate*, do so extoll *Monarchy*, that there is not a government save *Monarchy onely, all other governments are deviations*; and therefore M. *Symmons* saith, pag. 8. *If I should affect another government then Monarchy, I should neither feare God, nor the King, but associate my selfe with the seditious*: and so the question of Monarchy is, 1. *Which is the choisest government in it selfe; or, which is the choisest government in policie, and in the condition of man falne in the state of sinne.* 2. Which is the best government, that is, the most profitable, or the most pleasant, [726] or the most honest? For wee know that there bee these three kinds of good things; things usefull and profitable, *bona, utilia*; things pleasant, *jucunda*; things honest, *honesta*; and the question may be of every one of the three. 3. The question may be, which of these governments be most agreeable to nature? that is, either to nature in it selfe, as it agreeth, *communiter*, to all natures of elements, birds, beasts, Angels, Men, to lead them, as a governour doth, to their last end, or which government is most agreeable to men, to sinfull men, to sinfull men of this, or this Nation; for some Nations are more ambitious, some more factious; some are better ruled by one, some better ruled by many, some by most and by the

people. 4. The question may be in regard of the facility or difficulty of loving, fearing, obeying and serving; and so it may be thought easier to love, feare and obey one Monarch then many Rulers, in respect that our Lord saith, it is difficult to serve two Masters, and possibly more difficult to serve twenty or an hundred. 5. The question may be in regard of the power of commanding, or [385] of the justice and equity of commanding; hence from this last I shall set downe the first Thesis.

Assert. 1. [727] An absolute and unlimited Monarchy is not onely not the best forme of Government, but it is the worst, and this is against our *Petty Prelat*, and all Royalists. My reasons be these, 1. Because it is an unlawfull Ordinance, and God never ordained it; and I cannot ascribe the superlative degree to any thing, of which I deny the positive: Absolute government in a sinfull and peccable man is a wicked government, and not a power from God, for God never gave a power to sin. *Plenitudo potestatis ad malum & injuriam non extenditur. Soz•nus Junior cons. 65. in causa occurrenti, l. 2. Ferdinand. Loazes in suo cons. pro March. de Velez. pag. 54. n. 65. And so that learned Senator Ferdin. Vasquez. pag. 1. lib. 1. cap. 5. n. 17.* 2. It was better for the State that *Epiminondas* could not sleepe, then that he could sleepe, when the people was dancing, [728] because, said he, I wake that you may have leave to sleepe and be secure; for he was upon deepe cogitations, how to doe good to the Common-wealth, when the people were upon their pleasures. Because all Kings since the fall of the Father-King *Adam*, are inclined to sin and injustice, and so had need to be guided by a Law, even because they are Kings, so they remaine men. Omnipotency in one that can sin, is a cursed power. With reason all our Divines say, the state of saving grace in the second *Adam*, where there is *non posse deficere*, they cannot fall a way from God, [729] is better then the state of the *first Adam*, where there was *posse non deficere*, a power not to fall away; and that our free-will is better in our countrey in Heaven, where we cannot sin, then in the way to our countrey on earth, where we have a power to sin, and so Gods people is in •• better case, *Hos. 2.6, 7. Where her power to overtake her lovers is closed up with an hedge of thornes that she cannot finde her paths; then the condition of Ephraim, of whom God saith, Hos. 4.17. Ephraim is joyned to Idols, let him alone.* So cannot that be a good government when the supreme power is in a sinfull man, as inclinable to injustice by nature as any man, and more inclinable to injustice by the condition of his place then any: and yet by office he is one that can doe no injustice against his subjects; he is a King, and so may destroy *Vriah*, kill his subjects, but cannot sinne; and this is to flattering *Royalists* the best government in the world. As if an unchained Lion were the best governour, because unchained, to all [386] the beasts, sheepe and lambs and all others, which with his teeth and pawes he may reach, and that by vertue of an ordinance of God. 3. What is on man under no restraint, but made a God on earth, and so drunk with the graunder of a *sinning-God*, here under the Moone and Clouds? who may heare good counsell, from men of his owne choosing, yet is under no restraint of Law to follow it, being the supreme power absolute, high, mighty, and an impeccable god on earth: Certainly this man may more easily erre, and break out in violent acts of injustice, then a number of Rulers, grave, wise, under a Law. One being a sinfull man, shall sooner sin and turne a *Nero* (when he may goe to hell, and leade thousands to hell with him *gratis*) then a multitude of sinfull men, who have lesse power to doe against Law: and a tyrannous killing of innocents, and a subversion of Lawes, Liberties and Religion, by one who may *by office*, and *without resistance of mortall men*, doe all ill, is more dangerous and hurtfull, then division and fraction incident to *Aristocracy*. 4. *Caesar is great, but Law and reason is greater:* by an absolute Monarchy all things are ruled by will and pleasure above Law; then this government cannot be so good, as Law and Reason in a government by the best, or by many. 5. Under absolute *Monarchy* a free people is, *actu primo*, and in themselves inslaved, because though the *Monarch* so absolute should kill all, hee cannot be controlled; there is no more but flight, prayers and teares remaining, and what greater power hath a Tyrant? none at all, so may we say. An *absolute Monarch is, actu primo*, a sleeping Lion, and a Tyrant is a waking and a devouring Lion, and they differ in accidents onely. 6. This is the

Papists way, *Bellarmino de Pontif. l. 1. c. 1.* and *Sa••derus de visibili Monarchia, l. 3. c. 3.* *Turr••re in sum. de Eccles. l. 2. c. 2.* prove that the government of the Church is by an *absolut•• Monarch* and *Pope*, because that is the best government, which yet is in question. So *Royalists* prove Common-wealths must be best governed by *absolute Monarchs*, because that is the best government, but the Law saith, it is contrary to nature, even though people should paction to make a King absolute: *Conventio procuratoria ad dilapidandum & dissipandum juri naturali contraria nulla est, l. filius 15. de cond. Iust. l. Nepos. procul. 125. de verb. signif. l. 188. ubi. de jure Regu•• l. 85. d. tit. [730]*

Assert. 2. Monarchy in its latitude as heaven and earth and all the hoast therein are Citizens, is the best government absolutely, [387] because Gods immediate government must be best, but that other governments are good or best so farre as they come neere to this, must prove that there is a Monarchy in *Angels*, if there be a government, and a Monarchy amongst *Fishes, Beasts, Birds, &c.* and that, if *Adam* had never sinned there should be one *Monarchy* amongst all mankind. I professe I have no eye to see what Government could be in that State, but paternall, or maritall; and by this reason there should be one *Catholique Emperour* over all the Kings of the ••arth; A position holden by some Papists, and Interpreters of the cannon Law, which maketh all the Princes of the earth to be usurpers, except these who acknowledge a Catholique dominion of the whole earth in the *Emperour*, to whom they submit themselves as *Vassals*. If Kings were Gods and could not sin, and just as *Solomon* in the beginning of his reigne, and as *David*, I could say Monarchy so limited must be better then *Aristocracy, or Democracy*. 1. Because it is farthest from injustice, neerest to peace and godlinesse; *m. l. 3. §. aparet. ff. de administrat. tutor. l. 2. §. novissime. ff. de Orig. jur. Aristot. pol. l. 8. c. 10. Bodin. de Rep. l. 6. c. 4. 2.* Because God ordained this government in his people. 3. By experience it is knowne to be lesse obnoxious to change, except that some think the Venetian Common-wealth best; but with reverence, I see small difference betweene a King, and the Duke of *Venice*.

Assert. 3. Every government hath some thing wherein it is best. [731] 1. Monarchy is honorable and glorious-like before men. *Aristocracie* for counsell is surest. *Democracie* for liberty, and possibly for riches and gaine ■ best. *Monarchy* obtaineth its end with more conveniency. 1. Because the ship is easilier brought to land, when one sitteth at the helme, then when ten move the helme. 2. Wee more easily feare, love, obey, and serve one, then many. 3. He can more easily execute the Lawes.

Assert. 4. A limited and mixed Monarchy, [732] such as is in *Scotland and England*, seeme to me the best government, when Parliaments with the King, have the good of all the three. This government hath, 1. glory, order, unities from a *Monarch*, from the government of the most and wisest it hath safety of counsell, stability, strength; from the influence of the Commons ■ it hath liberty, priviledges, promptitude of obedience.

Object. 1. There is more power, terrour, and love in one, then in many.

[388]

Answ. Not more power, 2. terrour cometh from sin, and so to nature fallen in sin, in circumstances a Monarchy is best.

Object. 2. It is more convenient to nature, that one should be Lord then many.

Answ. To sinlesse nature, true, as in a father to many children.

[733]*Object. 3 Monarchies for invention of counsels, execution, concealing of secrets, is above any other government.*

Answ. That is in some particulars, because sin hath brought darknesse on us; so are we all dull of invention, slow in execution, and by reason of the falsnesse of men, silence is needlesse, but this is the accidentary state of nature, & otherways there is safety in a multitude of counsellors: one commanding all without following counsell trusteth in his own heart, and is a foole.

Object. 4. *A Monarch is above envy, because he hath no equall.*

Answ. Grant all; in many things a Monarchy is more excellent, but that is nothing to an *absolute Monarchy*, for whom Royalists contend.

Object. 5. *In a multitude there be more fooles then wise men, and a multitude of vices, [734] and little vertue is in many.*

Answ. Meere multitude cannot governe in either *Democracy or Aristocracy*, for then all should be rulers, and none ruled, *but many eyes see more then one*, by accident one may see more then hundreds, *but accidents are not rules.*

[735]*Object.* 6. *Monarchy is most perfect, because most opposite to Anarchy, and most agreeable to nature, as is evident in Plants, Birds, Bees.*

Answ. Government of sinlesse nature void of reason, as in bi••ds, bees, is weak to conclude politique civil government amongst men in sin, and especially *absolute government*, a King-Bee is not absolute, nor a King-Eagle, if either destroy its fellowes, by nature all rise and d••stroy their King. 2. A King-Bee doth not act by counsell borrowed from fellow Bees as a King must do, and communication of counsels lesseneth absolutenesse of a man. 2. I see not how a Monarchy is more opposite to Anarchy and confusion, then other governments, a Monarch as one, is more opposite to a multitude, as many; but there is no lesse order in Aristocracy then in Monarchy: for a government essentially includeth order of commanding and subjection. Now one is not, for absolutenesse, more contrary to Anarchy then many, for that one now who can easily slip from a King [389] to a Tyrant, cannot have a negative voice in acts of justice, for then should he have a legall power to oppose justice, and so for his absolutenesse he should be most contrary to order of justice, and a Monarch because absolute, should be a door-neighbour to disorder and confusion.

Object. *But the Parliament hath no power to deny their voices to things just, or to crosse the law of God, more then the King.*

Answ. It is true, neither of them hath a negative voice against law and reason, but if the Monarch by his exorbitant power may deny justice, he may by that same legall power do all injustice; and so there is no absolutenesse in either.

Object. *Who should then punish and coerce the Parliament in the case of exorbitance?*

Answ. Posterior Parliaments.

Object. *Posterior Parliaments and people both may erre.*

Answ. All is true, God must remedy that onely.

QUEST. XXXIX. Whether or no any Prerogative at all above the law be due to the King? or if *jura Majestatis* be any such Prerogative Royall? ↩

I Conceive Kings are conceived to have a threefold supreme power. 1. *Strictly absolute*, to do what they please, [736] their will being simply a law; this is Tyranicall, some Kings have it, *de facto, ex consuetudine*, but by a divine law none have it; I doubt if any have it by a human positive law, except the great *Turk*, and the King of *Spaine* over his conqu••st without

the borders of *Europe*, and some few other conquerours. There is another 2. power limited to Gods law, the due proper right of Kings, *Deut.* 17.18.19.20. There is 3. a *potestas intermedia*, a middle power, not so vast as that which is absolute and tyrannicall, which yet is some way humane: this I take *Iurists* call *jus regium, lex regia, jura Regalia regis*, [737] Cicero *jura Majestatis*, Livius, *jura imperii*, and these *Royall priviledges* are such common and high dignities, as no one particular magistrate can have, seeing they are common to all the kingdom, as that *Cesar* only should coyne money in his own name. Hence the penny •••ven to Christ, because it had *Cesars image and superscription. Mat••■* 22.20, 21. Infer by way of *argumentation*, { in non-Latin alphabet } { in non-Latin alphabet } &c. *give therefore tribute to Cesar*, as his due, so the Magazine and Armory for the safety of the Kingdom is in the Kings hand, the King hath the like of [390] these priviledges, because he is the common▪ supream, publick officer and Minister of God for the good of the whole Kingdom, and amongst these Royall priviledges, I reckon that power that is given to the King, when he is made King, to do many things without warrant of the letter of the law, without the expresse consent of his counsell, which he cannot alwayes carry about with him, as the law saith. The King shall not raise armes without consent of the Parliament, but if an army of *Irish*, or *Danes*, or *Spanyards* should suddenly land in *Scotland*, he hath power without a formally conveened Parliament, to command them all to rise in armes against these invade••s, and defend themselves, this power to inferiour Magistrate hath as he is, but such a Magistrate. And in many such exigences, when the necessity of justice or grace requireth an extemporall exposition of Lawes, *Pro re natâ*, for present necessary execution, some say onely the Emperour, others all Kings have these priviledges. I am of the minde of *Arnisaeus*, [738] that these priviledges are not rewards given to Princes for their great paines. For the King is not obliged to governe the Common-wealth, because he receiveth these Royall Priviledges as his reward, but because by office he is obliged to gov••rne the common-wealth, therefore these priviledges are given to him, and without them he could not so easily governe. But I am utterly against *Arnisaeus*, who saith, these are not essentiall to a King, *Because* (saith he) *he createth Marquesses, Dukes, &c. and Nobles, constituteth, Magistrates, not because of His Royall Dignity, but by reason of his absolute power, for many Princes have supream power, and cannot make Nobles, and therefore to him they are jura majestatis, non ••ura potestatis.* But 1. The King, suppose a limited King, may ••nd ought to make nobles, for he may conferre honours as a reward of vertue; [739] none can say *Pharoah* by his absolute authority, and not as a King advanced *Ioseph* to be a noble Ruler, we cannot say that, for there was merit and worth in him deserving that honour, and *Darius* not by absolute authority, but on the ground of well-deserving (the rule by which Kings are obliged in justice to confer honours) promoted *Daniel*, to be the first president of all his kingdomes, because *D••n.* 6.3. *An excellent spirit was in him:* and in Justice the King could nobilitate none, rather then *Daniel*, except he should fail against the rule of conferring honours. It is acknowledged by all, that *honus est proemium virtutis*, honour is founded upon vertue, and therefore *Darius* did not this out of his absolute Majesty, but as King.

[391]

2. All Kings as Kings, and by a Divine Law of God, and so by no absolutenesse of Majesty, are to make *men of wisdom, fearing God, hating covetousnesse*, Judges under them, *Deut.* 1.13. 2 *Chro.* 19.6, 7. *Psal.* 101.6, 7, 8.

3. If we suppose a King to be limited as Gods King is *Deut.* 17.18, 19, 20. Yet is it his part to confer honours upon the worthiest. Now if he have no absolutenesse of Majesty, he cannot confer honours out of a principle that is none at all, *unum quodque sicut est, ita operatur*, and if the people confer honours, then must Royalists grant that there is an absolute Majesty in the people, why then may they not derive Majesty to a King? and why then do Royalists talk to us of Gods immediate creating of Kings, without any interveening action of

the people?

4. By this absolutnesse of Majesty, Kings may play the Tyrant as *Samuel* 1 *Sam.* 8.9, 10, 11, 12, 13, 14. foretelleth *Saul* would do. But I cannot beleeeve that Knigs have the same very officiall absolute power, from whence they do both acts of grace, goodnesse and justice, such as are to expone Laws extemporally in extraordinary cases, to confer honours upon good and excellent men of grace to pardon offenders upon good grounds, and also doe acts of extreme Tyrannie: For out of the same fountaine doth not proceed both sweet water and bitter. Then by this absolutenesse, Kings cannot doe acts of goodnesse, justice and grace, and so they must doe good as Kings, and they must doe acts of tyrannie, as men, not from absolutenesse of majesty.

5. Inferiour Magistrates, in whom there is no absolutenesse of Majesty, according to Royalists, way, may expound laws also extemporally, and doe acts of justice, without formalities of civill or municipall laws, so they keep the genuine intent of the Law, as they may pardon one that goeth up to the wall of a City, and discovereth the approach of the enemy, when the watchmen are sleeping, though the Law be, *That any ascending to the wall of the Citie shall die.* Also the inferiour Judge may make Judges and Deputies under himselfe.

6. This Distinction is neither grounded upon Reason or Lawes, nor on any Word of God. Not the former, as is proved before, for there is no absolute power in a King to do above, or against law; all the officiall power that a King hath, is a Royall power to do good▪ for the safety and good of his subjects, and that according to law and [392] reason, and there is no other power given to a King as a King, and for Scripture *Arnisaeus, ibid.* alledgeth 1 *Sam.* 8. *The manner or law of the King. ver. 9.11.* And he saith, *it cannot be the custome and manner of the King, but must be the law of absolute Majesty. 1. Because it was the manner of inferiour judges, as Tyberius said of his judges, to flea the people, when they were commanded to shear them onely. 2. Samuels sons who wrested judgment and perverted the law, had this manner and custome to oppresse the people, as did the sons of Eli: and therefore without reason is it called the law of Kings, jus regum, if it was the law of the judges, for if all this law be Tyrannicall and but an abuse of Kingly power, [740] the same law may agree to all other Magistrates, who by the same unjust power may abuse their power, but Samuel (as Brentius observeth homi. 27. in 1 Sam. in princ.) doth meane here a greater license then Kings can challenge, if at any time they would make use of their plenitude of absolute power, and therefore, nomine juris, by the word [law] here he understandeth a power granted by law, jure, or right to the King, but pernicious to the people, which Gregory calleth jus regium Tyrannorum, the Royall law of Tyrants.—So Seneca 1 de clem. c. 11. hoc interest inter regem & Tyrannum, Species ipsa fortunae ac licentiae par est, nisi quod Tyranni ex voluntate saeviunt, Reges non nisi ex causa & necessitate? quid ergo? non Reges quoque accidere solent? sed quoties fieri publica utilitas persuadet, Tirannus saevitia cordi est. A Tyran (saith Arnisaeus) in this differeth from a King, Qui ne ea quidem vult, quae sibi licent, that a King will not do these things which are lawfull; a Tyran doth quae libet, what he pleaseth to do.*

Answ. *Arnisaeus* bewrayeth his ignorance in the Scriptures, for the word ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩ signifieth a custome, [741] and a wicked custome, as by many Scriptures I have proved already, his reasons are poor. *It is the manner of inferiour judges, as we see in the sons of Eli, and Samuel, to pervert judgment, as well as King Saul did, but the King may more oppresse, and his Tyranny hath more colour, and is more catholick then the oppression of inferiour judges, it is not Samuels purpose thus to distinguish the judges of Israel and the kings, in that the judges had no power granted them of God to oppresse, because the people might judge their judges and resist them, and there was power given of God to the king, so far to play the Tyrant, that no man could resist him, or say, what*

dost thou? the text will not beare any such difference, for it was as unlawfull to resist *Moses*, *Ioshua*, [393] *Samuel*, as Royalists prove from the judgement of God that came upon *Core*, *Dathan and Abiram*, as to resist King *Saul* and King *David*, Royalists doubt not to make *Moses* a King. It was also no lesse sin to resist *Samuels* sons, or to do violence to their persons, as judging for the Lord, and sent by the supreme judge their father *Samuel*, then it was sin to resist many inferiour Judges that were Lyons, and even Wolves under the *Kings of Israel and Iudah*, so they judged for the Lord, and as sent by the Supreme Magistrate; But the difference was in this, that judges were extraordinarily raised up of God out of any tribe, as he pleased, and were beleivers, *Heb.* 11.32. *Saved by faith*, and so used not their power to oppresse the people, though inferiour judges, as the sons of *Eli* and of *Samuel* perverted judgment, and therefore in the time of the judges, [742] God who gave them saviours and judges, was their King, but Kings were tied to a certaine tribe, especially the line of *David* to the Kingdom of *Iudah*.

2. They were hereditary, judges not so.

3. They were made and chosen by the people, *Deut.* 17.14.15. 1 *Sam.* 10.17, 18, 19, 20. 2 *Sam.* 5.1, 2, 3. as were the Kings of the nations, and the first King (though a King be the lawfull ordinance of God) was sought from God in a sinfull imitation of the nations, 1 *Sam.* 8.19, 20. and therefore were not of Gods peculiar election, as the judges, and so they were wicked men, and many of them, yea all for the most part, did evil in the sight of the Lord, and their law, < in non-Latin alphabet >< in non-Latin alphabet > their manner and custome was to oppresse the people, and so were their inferiour judges little Tyrants, and lesser Lyons, Leopards, evening Wolves. *Ezech.* 22.27. *Mic.* 3.1, 2, 3. *Esa.* 3.14, 15. And the Kings and inferiour judges are onely distinguished, *de facto*, that the King was a more Catholick oppressour, and the old Lyon, and so had more art and power to catch the prey then the inferiour judges who were but whelps, and had lesse power, but all were oppressors (some few excepted, and *Samuel* speaketh of that which *Saul* was to be, *de facto*, not *de jure*, and the most part of the Kings after him) and this Tyranny is well called *jus regis*, the manner of the King, and not the manner of the jugdes, because it had not been the practice, custome and < in non-Latin alphabet >< in non-Latin alphabet > of the beleiving judges, before *Sauls* Reigne, and while God was his peoples King, 1 *Sam.* 8.7. to oppresse. 3. We grant that all other inferiour judges after the people cast off Gods government, and in imitation of the nations, would have a King, were also lesser Tyrants, as the King was a greater [394] Tyrant, and that was a punishment of their rejecting God and *Samuel* to be their King and judge. 4. How shall *Arnisaeus* prove that this *manner or < in non-Latin alphabet >< in non-Latin alphabet > of the King w••s potestas concessa, a power granted*, I hope, granted of God; and <...><...> abuse of Kingly power, for then he and Royalists must say, that all the acts of Tyranny ascribed to King *Saul*, 1 *Sam.* 8.11, 12, 13, 14. by reason of which they did cry out, and complaine to God because of their oppression, was no abuse of power given to *Saul*. *Ergo*, it was an use and a lawfull use of power given of God to their King, for there is no medium or mids betwixt a lawfull power used in morall acts, and a lawfull power abused, and indeed *Arnisaeus* so distinguisheth a King and a Tyrant, that he maketh them all one in nature and spece. He saith, a Tyrant doth *quod licet, that which by Law he may do*, and a King doth not these things, *quae licent, which by Law he may do*, but so to me it is clear, a Tyrant acting as a Tyrant, must act according to this < in non-Latin alphabet >< in non-Latin alphabet > law of the King ■ and that which is lawfull, and a King acting as a King and not doing these things that are lawfull, must sin against his office, and the power that God hath given to him, which were to commend and praise the Tyrant, and to condemne and dispraise the King. 3. If this Law of the King be a permissive Law of God, which the king may out of his absolutenesse, put in execution to oppress•• the people, such as the *law of a bill of divorcement*, as *Arnisaeus*, *Barcklay*, and other Royalists say, then must God have given a Law to every King to play the Tyrant, [743] because of the hardnesse of the Kings heart, but

we would gladly see some word of God for this. The Law of a bill of Divorcement is a meere positive Law permitted in a particular *exigent*, when a husband out of levity of heart and affection cannot love his wife, therefore God by a Law permitted him out of indulgence to put her away, that both he might have a seed (the want whereof, because of the blessed seed, to be borne of woman, was a reproach in Israel) and though this was an affliction to some particular women, yet the intent of the Law, and the soul thereof was a publique benefit to the Common-wealth of *Israel*, of which sort of Lawes I judge the hard usage permitted by God to his people, in the Master toward the servant, and the people of God toward the stranger of whom they might exact usury, not toward their brethren to be; But that God should make a permissive Law that *Ieroboam* might presse all *Israel* to sinne and worship the Golden Calves, and that a King by Law may kill, as a [395] bloody *Nero*, all the people of God, by a Divine permissive Law, hath no warrant in Gods word: Judge reader, if Royalists make God to confer a benefit on a land, when he giveth them a King, if by a Law of God, such as the Law for a bill of Divorcement, the King may kill and devour as a lawfull absolute Lion, six kingdoms of nations that professe Christ and beleeve in his name. For if the King have a divine law to kill an innocent *Ionathan*, so as it be unlawfull to resist him, he may by that same law turne bloodier then either *Nero*, *Iulian*, or any that ever sucked the paps of a Liones, or of any of whom it may be said,

Quaeque dedit nutrix ubera, Tigris erat.

and he shall be given as a plague of God, *ex conditione doni*, to the people, and the people, inasmuch as they are gifted of God with a King, to feed them in a peaceable and godly life, must be made slaves; now it wanteth reason that God will have a permissive Law of murthering the Church of Christ, a Law so contrary to the publique good and intrinsecall intention of a King, and to the immutabile and eternall law of Nature, that one man because of his power, may by Gods permissive Law murther millions of innocents: Some may say, *It is against the duty of love, that by Nature and Gods Law the husband owes to the wife*, Ephes. 5.25. *that the husband should put away his wife; for God hateth putting away, and yet God made a Law, that a husband might give his wife a bill of divorce, and so put her away; and by the same reason, God may make a Law, though against nature, that a King should kill and murther, without all resistance.*

Answ. The question is not if God may make permissive Laws to oppresse the innocent; I grant he may doe it, as he may command *Abraham* to kill his son *Isaac* ■ and *Abraham* by Law is obliged to kill him, except God retract his Commandement, and whether God retract it, or no, he may intend to kill his son, which is an act of love and obedience to God; but this were more then a permissive Law. 2. We have a cleere Scripture for a permissive Law of divorce, [744] and it was not a Law tending to the universall destruction of a whole Kingdome, or many Kingdomes, but onely to the grievance of some particular wives: but the Law of divorce gave not power to all husbands to put away their wives, but onely to the husband, who could not command his affection to love his wife. But this law of the King, is a Catholique law to all Kings, (for [396] Royalists will have all Kings so absolute, as it is sin and disobedience to God to resist any) that all Kings have a divine law to kill all their subjects; surely, then it were better for the Church to want such nurse-fathers, as have absolute power to suck their blood: and for such a perpetuall permissive Law continuing to the end of the world, there is no word of God. Nor can we think that the hardnesse of one Princes heart, can be a ground for God to make a Law so destructive to his Church and all mankind: such a permissive Law, being a positive Law of God, must have a word of Christ for it, else we are not to receive it. 2. *Arnisaeus cap. 4. distru. Tyran. & princ. n. 16.* thinketh a Tyrant, in excercito, becomming a notorious Tyrant, when there is no other remedy may be removed from government, *sine magno scelere, without great sin.* But I aske how men can annull any divine Law of God, though but a permissive Law. For if Gods permissive Law

warrant a Tyrant to kill two innocent men, it is tyranny more or lesse, and the Law distinguisheth not. 3. This permissive Law is expressly contrary to Gods Law, limiting all Kings *Deut.* 17.16, 17, 18. How then are we to believe, that God would make an universall Law contrary to the Law that he established before *Israel* had a King? 4. What *Brentius* saith is much for us, for he calleth this \langle in non-Latin alphabet \rangle Law a licence, and so to use it must be licentiousnesse. 5. *Arnisaeus* desireth that Kings may use sparingly the plenitude of their power, *for publique good; there must be (saith he) necessity to make it lawfull to use the plenitude of this power justly; therefore Ahab sinned, in that he unjustly possessed Naboths vineyard, though he sinned specially in this, that he came to the possession by murder, and it was peculiar to the Jewes, that they could not transfer their possessions from one tribe to another.* But if it be so, then this power of absolutenesse is not given, by permissive Law, by which God permitted putting away of wives, for the object of a permissive Law is sinne, but this plenitude of power may be justly put forth in act (saith he) if the publique good may be regarded: I would know what publique good can legitimate Tyranny and killing of the innocent, the intentions of men can make nothing intrinsically evil to become good. And 6. How can that be a permissive Law of God, and not his approving Law by which Kings create inferiour judges? for this is done by Gods approving will. 7. It is evident that *Arnisaeus* his minde is, that Kings may take their subjects vineyards, and their goods, so they erre not in the manner, and [397] way of the act, so be like, if there had not been a peculiar Law that *Naboth* should not sell his vineyard, and if the King had had any publique use for it, he might have taken *Naboths* vineyard from him, but he specially sinned (saith he) *in eo maxime culpatur, &c.* that he took away the mans vineyard by murdering of him, therefore saith *Arnisaeus* c. 1. *de potest. maj. in bona privato.* 2. that by the Kings Law 1 *Sam.* 8. *There is given to the King, a dominion over the peoples sons, daughters, fields, vineyards, olive-yards, servants and flockes. So he citeth that that Daniel putteth all places, the Rocks of the Mountaines, the birds of the heaven Dan. 2. under the Kings power. So all is the Kings in dominion, and the subjects in use onely.*

But 1. This law of the King then can be no ground for the Kings absolutenesse above Law, and there can be no permissive Law of God here, for that which asserteth the Kings Royall Dominion over persons and things, that must be the Law of Gods approving, not his permitting evil, but this is such a Law as *Arnisaeus* saith.

2. The text speaketh of no Law or lawful power, or of any absolutenesse of King *Saul*; but of his wicked custome, and his rapine and Tyranny, *He will take your sons, your daughters, your fields, and your vineyards from you. Saul* took not these through any power of dominion by Law, but by meere Tyranny.

3. I have before cleared that the subjects have a propriety, and an use also, else how could we be obliged by vertue of the fift commandement to pay tribute to the King, *Rom.* 13.7. for that which we pay, was as much the Kings before we payed, as when we have payed it.

4. *Arnisaeus* saith all are the Kings in respect of the universall jurisdiction, that the King hath in governing and ordering all to the universall end, the good of the Common-wealth, for as universall nature careth for the conservation of the spece and kind, so doth particular nature care for the conservation of individuals, so do men care for their private good, and the King is to refer every mans private goods, to the good of the publick, but the truth is, this taketh not away propriety of goods from private men, retaining onely the use to private men, and giving the dominion to the King, because this power that the King hath of mens goods, is not power of dominion, that the King hath over the goods of men, as if the King were *Dominus*, Lord and owner of the fields and monyes of the private subject, but it is a power to regulate the goods for a publique use, and [398] supposeth the abuse of goods, when they are Monopolized to, and for private ends. [745] 2. The power that the King hath over my bread is not a power of dominion, so as he may eat my bread, as if it were his own bread, and he be

Lord of my bread as I was sometimes my self, before I abused it, but it is a dominion improperly, and abusively so called, and is a meere fiduciary, and dispensatory power, because he is set over my bread not to eat it, nor over my houses to dwell in them, but onely with a ministeriall power as a publique, though a honourable servant and watchman appointed by the community, as a mean for an end to regulate my bread, houses, moneys, fields for the good of the publique. Dominion is defined *a faculty to use a thing as you please, except you be hindered by force, or by Law.* Justin. tit. c. de legibus in l. digna vox. &c. So have I a dominion over my own garments, house, money, to use them for us not forbidden by the Law of God, and man, but I may not lay my corne field wast that it shall neither bear grass nor corne, the King may hinder that, because it is a hurt to the publique: but the King as Lord and Sovereigne hath no such dominion over Naboths vineyard. How the King is lord of all goods, *ratione jurisdictionis, & tuitionis*. Anton. de paudrill. in l. Altius. n. 5. c. de servit. Hottom. illust. quest. q. 1. ad fin. Conc. 2. Lod. Molin. de just. & jur. dis. 25. Soto. de justitiis & jur. l. 4. q. 4. art. 1.

QUEST. XL. Whether or no the people have any power over the King, either by his oath, covenant, or any other way? ↩

Aristotle saith, *Ethic.* 8. c. 12. (in non-Latin alphabet) (in non-Latin alphabet). *A Tyrant seeketh his owne, a King the good of the Subjects, for he is no King who is not content, and excelleth in goodness.* [746] The former part of these words distinguish essentially the King by his office, from the Tyrant. Now every office requirerth essentially a duty to be performed by him that is in office; and where there is a duty required, there is some obligation; if it be a politique duty, it is a politique obligation. Now amongst politique duties betwixt equall and equall, superiour and inferiour, that is not, *de facto*, required coercion for the performance thereof, but *de jure*, there is, for two neighbour Kings and two neighbour Nations, both being equall and independent, the one toward the other, the one owe a duty to the other, and if the Ammonites do a [399] wrong to *David* and *Israel*, as they are equall *de facto*, the one cannot punish the other, though the Ammonites do a disgrace to *David*s messengers, yet *de jure*, *David* and *Israel* may compell them to politique duties of politique consociation; (for betwixt independent kingdomes there must be some politique government, and some politique and civil Lawes, for two or three making a society, cannot dwell together without some policy) and *David* and *Israel* as by the Law of nature they may repell violence with violence, [747] so if the lawes of neighbour-hood and nations be broken, the one may punish the other, though there be no relation of superiority and inferiority betwixt them. 2. Where ever there is a covenant and oath betwixt equals, yea or superiours and inferiours, the one hath some coactive power over the other; if the father give his bond to pay to his son ten thousand pounds, as his patrimony to him, though before the giving of the bond the father was not obliged, but onely by the Law of nature to give a patrimony to his son, yet now by a politique obligation of promise, covenant and writ he is obliged so to his son to pay ten thousand pounds, that by the Law of Nations and the civil Law, the son hath now a coactive power by Law to compell his father, though his superiour, to pay him no lesse then ten thousand pounds of patrimony. Though therefore the King should stand simply superiour to his kingdom and estates (which I shall never grant) yet if the King come under covenant with his kingdom, as I have proved at length c. 13. he must, by that same, come under some coactive power to fulfill his covenant, for *omne promissum* (saith the Law) *cadit in debitum*. What any doth promise falleth under debt, if the covenant be politique and civil, as is the covenant between King *David* and all *Israel*, 2 *Sam.* 5.1, 2, 3. and between King *Iehoash* and the people, 2 *King.* 11.17, 18. [748] Then the King must come under a civil obligation to performe the covenant, and though their be none superiour to King, and the people on earth to compell them both to performe what they have promised, yet *de jure*, by the Law of Nations, each may compell the other to mutuall performance. This is evident,

1. By the Law of nations, if one nation break covenant to another, though both be independent, yet hath the wronged nation a coactive power, *de jure* (by accident, because they are weaker, they want strength to compell, yet they have right, and *jus* to compell them) to force the other to keep covenant, or then to punish them, [400] because nature teacheth to repel violence by violence, so it be done without desire of revenge and malice.

2. This is proved from the nature of a promise or covenant, for *Solomon* saith, *Prov.* 6.1. *My son, if thou be surety for thy friend, if thou hast stricken thy hand with a stranger, 2. Thou art snared with the words of thy mouth, & art taken with the words of thy mouth.* But whence is it that a man free is now snared as a beast in a gin or trap? Certainly *Solomon* saith it is by a word and striking of hands, by a word of promise and covenant. Now the Creditor hath coactive power, though he be an equall or an inferiour to the man who is surety, even by Law to force him to pay, and the Judge is obliged to give his coactive power to the Creditor, that he may force the surety to pay. Hence it is cleare that a Covenant maketh a free man under the coactive power of law to an equall and to weaker, and the stronger is by the law of fraternity to help the weaker, with his coactive power, to cause the superiour fulfill his covenant. If then the King (giving, and not granting, he were superiour to his whole Kingdome) come under a covenant to them, to seek their good, not his owne, to defend true Protestant Religion, they have power to compell him to keep his covenant, and *Scotland* (if the King be stronger then *England*, and break his covenant to them.) is obliged by Gods law, *Prov.* 24.11. to adde their forces and coactive power to help their brethren of *England*.

3. The Law shall warrant to loose the vassal from the Lord, when the Lord hath broken his covenant. *Hippolitus in l. Si quis viduam col.* 5. & *dixit de quest. l. Si quis major.* 41. & 161. *Bartol. n.* 41. *The Magdeburgens. in libel. de offic. magistrat. Imperatores & reges esse primarios vasallos imperii, & regni, & proinde si feloniam contra imperium aut regnum committant, fewdo privari, proinde ut alios vasallos.*

Arnisaeus q. 6. *An princeps qui jurat subditis, &c. n.* 2. saith, *This occasioneth confusion and sedition. The Egyptians* (saith he) *cast off Ptolomeus, because he affected too much the name of a King of the Romans his own friend, Dion. l.* 9. *The States punished Archidanius because he married a wife of a low stature, Plutarch. in Agos. in pris. The ancient Burgundions thought it cause enough to expell their King, if matters went not well in the State, Marcel. l.* 27. *The Goths in Spain gave no other cause of expelling their King, nisi quod sibi displiceret, because he displeased them. Aimon. l.* 2. c. 20. l. 4. c. 35.

[401]

Ans. All these are not to be excused in people, but neither every abuse of power in a King exautorateth a King, nor every abuse in people, can make null their power.

Arnisaeus maketh three kinds of oathes: the first is, [749] *when the King sweareth to defend true Religion, and the Pope, and he denyeth that this is an oath of fidelitie, or by paction or covenant made to th•• Pope or Clergie, he saith it is onely on oath of protection, nor doth the King receive the Crown from the Pope or Clergie.*

Answ. 1. *Arnisaeus* divideth oathes that are to be conjoyned, we read not that Kings swear to defend Religion in one oath, and to administrate judgement and justice in another: for *David* made not two Covenants, but onely one with all Israel. 2. The king was not King while he did swear this oath, and therefore it must be a pactionall oath between him and the Kingdom, and it is true the King receiveth not a Crown from the Church, yet *David* received a Crowne from the Church, for this end, *to feed the Lords people*, and so conditionally. *Papir Masse l.* 3. *Chron. Gal. saith, [750] The King was not king before the oath. 2. That he did swear to be a keeper not onely of the first, but also of the second Table of the Law. Ego N. Dei gratia, mox futuras rex Francorum, in die ordinationis mea coram Deo, & sanctis ejus*

polliceor, quod servabo privilegia canonica, justitiamque & jus unicuique Praelato debitum, vosque defendam, Deo juvante, quantum potero, quemadmodum Rex ex officio in suo regno defendere debet, unumquemque Episcopum ac Ecclesiam, & administrabo populo justitiam & leges, uti jus postulat. And so is it ordained in the Council of Tolet. 6. c. 6. *Quisquis deinceps regni sortitus fuerit apicem, non ante conscendat Regiam sedem, quam inter reliquas conditiones sacramento pollicitus fuerit, quod non sinet in regno suo degere cum qui non sit Catholicus.* All these by Scripture are oath••s of Covenant, *Deut. 17. ver. 17, 18. 2 Sam. 5.1, 2, 3, 4. 2 Kings 11.17, 18.*

Arnisaeus maketh a second oath of absolute Kings, *who sweare they shall raigne according to equitie and justice; and he saith, There is no need of this oath, a promise is enough, for an oath encreaseth not the obligation.* L. fin. de non num. pec. *Onelie it addeth the bound of Religion, for there is no use of an oath, where there is no paction of law against him that sweareth, if he violateth his oath. There followeth onelie the punishment of Perjurie. And the word of a Prince is as good as his oath, onelie he condescendeth to sweare to please the people, out of [402] indulgence, not out of necessitie. And the King doth not therefore sweare because he is made King, but because he is made King he sweareth. And he is not King because he is crowned, but he is crowned because he is King. Where the Crowne goeth by succession, the King never dieth; and he is King by nature before he be crowned.*

Ans. 1. This oath is the very first oath spoken of before, included in the covenant that the King maketh with the people, 2 *Sam. 5.2, 3, 4.* For absolute Princes, by *Arnisaeus* his grant, doth swear to do the duties of a King, as *Bodinus* maketh the oath of *France, de Rep. l. 1. c. 8. Iuro ego, per deum, ac promitt•• me justè regnaturum ■ iudicium, equitatem, ac misericordiam facturum.* And *papir. Mass. l. 3. Chron.* hath the same expressly in the particulars. And by this a King sweareth he shall not be absolute, and if he swear this oath, he bindeth himself not to governe by the Law of the King, whereby he may play the Tyrant as *Saul* did, 1 *Sam. 8.9, 10, 11, 12, &c.* As all Royalists expound the place.

2. It is but a poor evasion to distinguish betwixt the Kings promise and his oath, [751] for the promise and covenant of any man, and so of the King doth no lesse bring him under a civil obligation and politique coaction, to keep his promise, then an oath, for he that becometh surety for his friend doth by no civil Law, sweare he shall be good for the sonne, or performe in liew and place of the friend, what he is to performe, he doth onely covenant and promise, and in law and politique obligation he is taken and snared by that promise, no lesse then if he had sworne. *Reuben* offereth to be caution to bring *Benjamin* safe home to his old father, *Gen. 42.37. & Iudah* also, *Gen. 43.9.* but they do not swear any oath, & it is true *that an oath adeth nothing to a contract and promise, but onely it laies on a religious tie before God,* yet so as consequently, if the contractor violateth both promise and oath, he cometh under the guilt of perjury, which a law of men may punish. Now that a covenant bringeth the King under a politique obligation, as well as an oath is already proved, and farther confirmed by *Gal. 3.15. Though it be a mans testament or covenant no man disanulleth and addeth thereunto;* No man even by mans law can annul a confirmed covenant, and therefore the man that made the covenant bringeth himself under law to fulfill his own covenant; and so must the King put himself under mens law, by a covenant at his Coronation. Yea and *David* is reputed by Royallists, an absolute Prince, yet he cometh under a covenant before he be [403] made King. 3. It is but a weak reason to say, *that an oath is needlesse, where no action of law can be against the King who sweareth,* if it have any strength of reason. I retort it, a legall and solemne promise then is needlesse also, for there is no action of law against a King (as Royalists teach) if he violateth his promise. So then King *David* needlesly made a Covenant with the people at his Coronation; for though *David* should turne as bloody an enemy to the Church as *Nero* or *Iulian*, the people have no Law-action against *David*; and why then did *Jeremiah* seek an oath of the King of *Iudah*, that he *would not kill him, nor deliver him into*

the hands of his enemies? and why did *David* seek an oath of *Jonathan*? It is not like *Jeremiah* and *David* could have law-action against a King and a Kings son, if they should violate the oath of God. And farther, it is a begging of the question, to say that the States can have no action against the king, if he should violate his oath. [752] *Hugo Grotius* putteth seven cases in which the people may have most reall action against the King to accuse and punish him.

1. *They may punish the King to death, for matters capitall, [753] if so it be agreed on betwixt the King and the people, as in Lacedemonia.*

2. *He may be punished as a private man.*

3. *If the King make away a Kingdome given to him by succession, his act is null, and he may be resisted, because the Kingdome is a liferent onely to him. Yea saith Barclay, He loseth the Crown.*

4. *He loseth his Kingdom, if with a hostile mind he seek the destruction of the Kingdome.*

5. *If such a clause be put in, that if he commit felonie, or doe such oppressions, the Subjects shall be loosed from the bonds of subjection; then the King failing thus, turneth a private man.*

6. *If the King have the one halfe or part of the Kingdome, and the people or Senate the other halfe; if the King prey upon that half which is not his owne, he may violently be resisted, for in so farre he hath not the Empire.*

7. *If when the Crowne was given, this be declared, that in some cases he may be resisted; then some naturall liberty is free from the Kings power, and reserved in the peoples hand.*

It is then reason that the King swear an oath. 4. That the Kings oath is but a ceremonie to please the people, and that because he is king, and king by birth; therefore he sweareth, and is crowned, is in question, and denied. No man is borne a king, as no man [404] is borne a subject, and because the people maketh him King, therefore he is to swear. The council of *Toledo* saith, *non antea conscendat regiam sedem quam iuret.* 2 An oath is a religious obligation, no arbitrary ceremony. 3. He may swear in his cabinet chamber, not covenanting with the people, as *David* and *Iehoash* did. 4. So he maketh promises that he may be King, [754] not because he is King, it were ridiculous, he should promise or swear to be a just King, because he is a just King, and by the same reason the estates swear the oath of loyalty to the new King, not that they may be loyall in all time coming, but because they are loyall Subjects already, for if the one half of the covenant on the Kings part be a ceremony of indulgence, not of necessity, by the same reason, the other half of the covenant must be a ceremony of indulgence also to the people.

Object. *Arnisaeus* saith, *a contract cannot be dissolved in law, but by consent of two parties contracting, because both are obliged. l. ab emptione 58. in pr. de pact. l. 3. de rescind. vend. l. 80. de solu. Therefore if the subjects go from the covenant, that they have made to be loyall to the King, they ought to be punished.*

Answ. A contract, the conditions whereof are violated, by neither side, cannot be dissolved, but by the joynt consent of both; and in buying and selling, and in all contracts unviolated, the sole wil of neither side can violate the contract, of this speaketh the law. But I ask the Royalist, if the contract betwixt the spies sent to view *Iericho* and *Rahab* the harlot, had not been null, and the spies free from any obligation, if *Rahab* had neglected to keep within doors, when *Iericho* was taken, though *Rahab* and the spies had never consented expresly to break the covenant? We hould that the law saith with us, that *vassals lose their farme, if they pay not what is due:* Now what are Kings but vassals to the State, [755] who if

they turne Tyrants, fall from their Right?

Arnisaeus saith in the councell of Toledo 4. c. 74. *The subjects ask from the King, that Kings would be meek and just, not upon the ground of a voluntarie Contract and Paction, but because God shall rejoyce in King and People, by so doing.*

Answ. These two do no more fight one with another, then that two Marchants should keep faith one to another, both because God hath said he shall dwell in Gods mountaine who sweareth and covenanteth, and standeth to his oath & covenant, though to his losse & hurt, *Psa.* 15. and also, because they made their covenant and contract thus and thus.

[405]

Arnisaeus. 16. *Every Prince is subject to God, but not as a vassal: for a Master may commit felonie, and lose the proprietie of his farme; can God do so? The Master cannot take the farme from the vassal without an expresse cause legally deduced, but cannot God take what he hath given, but by a law-Process? a vassall can intitle to himself a farme against the Masters will, as some jurists say, but can a Prince intitle a kingdom to himself, against the God of heavens will? though we grant the comparison, yet the subjects have no law over the Kings, because the coercive power of the vassal is in the Lord of the manner, the punishing of Kings belongeth to God.*

Answ. We compare not the lord of a mannor and the Lord of Heaven together, all these dissimilitudes we grant, but as the King is Gods vassal, so is he a noble and Princely vassal to the Estates of a kingdom, because they make him. 2. They make him rather then another their noble servant. 3. They make him for themselves, and their own Godly, quiet, and honest life. 4. They, in their first election, limit him to such a way, to governe by law, and give to him so much power for their good, no more, in these four acts they are above the Prince, and so have a coercive power over him.

Arnisaeus n. 9. *It is to make the Princes fidelity doubtfull to put him to an oath. Lawyers say there is no need of an oath, when a person is of approved fidelitie.*

Answ. Then we are not to seek an oath of an inferiour Magistrate, of a Commander in wars, of a pastor, it is presumed these are of approved fidelity, and it maketh their integritie obnoxious to slanders, to put them to an oath. 2. *David* was of more approved fidelity then any King now adayes, and to put him to a covenant seemed to call his fidelity in question; *Jonathan* sought an oath of *David* to deal kindly with his seed, when he came to the throne, *Ieremiah* sought an oath of the King of *Iudah*, did they put any note of false-hood on them therefore?

Arnisaeus. *You cannot prove that ever any King gave an oath to their subjects in Scriptures.*

Answ. What more unbeseeming Kings is it to swear to do their duty, then to promise covenant wayes to do the same? and a covenant you cannot deny. 2. In a covenant for religious duties there was alwayes an oath. 2 *Chro.* 15.12, 13, 14. hence the right of *cutting a calf*, and swearing in a covenant *Ier.* 34.18. 3. There is an oath that the people giveth to the King to obey him, *Eccles.* 8.2. and a [406] covenant 2 *Sam.* 5.1, 2, 3. mutuall between the king and people, I leave it to the judicious, if the people swear to the king obedience in a covenant mutuall, and he swear not to them.

Arnisaeus sheweth to us a third sort of oath that limited Princes do swear, this oath in *Denmarke, Suecia, Polonia, Hungaria*, is sworne by the kings, who may do nothing without consent of the Senat, and according to order of Law, this is but the other two oathes specified, and a Prince cannot contraveen his own contract, *the law saith in that the Prince is but as a*

private man, in *l. digna vox C. de ll. Rom. cons.* 426. n. 17. And it is known that the Emperour is constituted and created by the Princes Electors, subject to them, and by Law may be dethroned by them.

[756] *The B. of Rochester saith from Barclay, none can denude a King of his power, but he that gave him the power, or hath an expresse commandement so to do, from him that gave the power.*

But God onely and the people gave the King his power. Ergo, God with the people having an expresse commandement from God, must denude the King of power.

Answ. 1. This shall prove that God onely by an immediat action, or some having an expresse commandement from him, can deprive a preacher for scandals, Christ onely, or those who have an expresse commandement from him can excommunicate, God only or the magistrate with him can take away the life of man; and *Numb.* 11.14, 15, 16. No inferiour Magistrates, who also have their power from God immediatly, *Rom.* 13.1. If we speak of the immediation of the office, can devide inferiour judges of their power. God only by the husbandmans paines maketh a fruitfull vineyard, *Ergo*, the husbandman cannot make his vineyard grow over with nettles and briars.

2. The argument must run thus, else the assumption shall be false. God onely by the action of the people, as his instrument, and by no other action make a lawfull King. God onely by the action of the people as his instrument can make a King, God onely by the action of the people as his instrument can dethrone a King, for as the people making a King, are in that doing what God doth before them, and what God doth by them in that very act, so the people unmaking a King, doth that which God doth before the people, both the one and the other according to Gods rule obligeth, *Deut.* 17.14.15.16.17.18.19.20.

[407]

The Prelate, whose tribe seldom saith truth, addeth, *As a fatherly power, by God and natures law, over a family, [757] was in the father of a family, before the children could either transfer their power, or consent to the translation of that power to him, so a Kingly power (which succeedeth to a paternal or fatherly power) to governe many families, (yea & a Kingdom) was in that same father, in relation to many families, before these many families can transfer their power. The Kingly power floweth immediately from God, & the people doth not transfer that power, but doth onely consent to the person of the King, or doth onely choose his person at some time. And though this power were principally given to the people, it is not so given to the people as if it were the peoples power, & not Gods ■ for it is Gods power, neither is it any other waies given to the people, but as to a streame, a beam, and an instrument which may confer it to another. M. Anton. de domini. l. 6. c. 2. n 22.23. doth more subtilly illustrate the matter, if the King should confer honour on a subject, by the hand of a servant, who had not power or freedom to confer that honour, or not to confer it, but by necessity of the Kings commandment must confer it, nothing should hinder us to say, that such a subject had his honour immediately from the King: so the earth is immediately illuminated by the sun, although light be received in the earth, but by the interveining mediation of many inferiour bodies and elements, because by no other thing, but by the sun only, is the light as an efficient cause in a nearest capacity to give light, so the Royall power in whomsoever it be is immediatly from God onely, though it be applyed by men to this, or this person, because from God onely, and from no other the Kingly power is formally and effectively that which it is, and worketh that which it worketh, and if you ask by what cause is the tree immediatly turned in fire, none sound in reason would say, it is made fire, not by the fire, but by him that laid the tree on the fire. John P. P. would have stollen this argument also, if he had been capable thereof.*

Ans. 1. A fatherly power is in a father, not before he have a child, but indeed before his children by an act of their free-will consent that he be their father, yea & whether the children consent or no, from a physical act of generation he must be the father; & let the father be the most wicked man & let him be made by no moral requisite, is he made a father, nor can he ever leave off physically to be a father, he may leave off morally to do the duty of a father, & so be *non pater officio*, but he cannot but be *pater naturae generantis vi*. So there never is nor can be any need, that childrens free consent intervene to make *Kish* the Father [408] of *Saul* because he is by nature a father, to make *Saul* a King & a moral father by analogy and improperly, [758] a father by ruling, governing, guiding, defending Israel, by good laws, in peace and godlinesse, I hope there is some act of the peoples free-will required even by *Spalatoes* way, the people must approve him to be King, yea they must King him, or constitute him King, say we, no such act is required of naturall sons to make a physical father, and so here is a great halt in the comparison, and it is most false *that there is a Kingly power to governe many families in the same father, before these many families can transfer their power to make him King*. Put Royallists to their Logick, they have not found out a medium to make good, that there is a formall Kingly power, whereby *Saul* is King and father morally over all *Israel* before *Israel* chose him and made him, as *Kish* was *Sauls* father formally, and had a fatherly power to be his father, before *Saul* had the use of free-will to consent, that he should be his father. Royalists are here at a stand; The man may have Royall gifts before the people make him King, but this is not (*regia potestas*) a Royall power, by which the man is formally King. Many have more Royal gifts then the man that beareth the Crown, yet are never Kings, nor is there formally, (*regia potestas*) kingly power in them. In this meaning *Petrarcha* said, *Plures sunt reges quam regna*.

3. He saith, *The people doth not confer royall power, but onely consent to the person of the man, or choise of his person*. This is non-sense, for the peoples choosing of *David* at *Hebron* to be King, and their refusing of *Sauls* seed to be King, what was it but an act of God, by the free suffrages of the people, conferring royall power on *David*, and making him King? whereas in former times, *David* even anointed by *Samuel* at *Bethleem*, 1 *Sam.* 16. was onely a private man, the subject of King *Saul*, and never tearmed by the *Spirit of God*, a King; nor was he King, till God, by the peoples consent, made him King at *Hebron*; for *Samuel* neither honoured him as King, nor bowed to him as King, nor did the people say, *God save King David*, but after this *David* acknowledged *Saul* as his Master, and King. Let Royalists shew us any act of God making *David* King, save this act of the people making him formally *King at Hebron*, and therefore the people as Gods instrument transferred the power, and God by them in the same act transferred the power, and in the same they chose the person; the Royalists affirm these to be different actions; *affirmanti incumbit probatio*.

[409]

4. This power is the peoples *radically, naturally*, as the Bees (as some think) have a power naturall to choose a *King-Bee*, so hath a communitie a power naturally, to defend and protect themselves; and God hath revealed in *Deut.* 17.14, 15. the way of regulating the act of choosing Governours and Kings, which is a speciall mean of defending and protecting themselves; and the people is as principally the subject and fountain of *Royall power, as a fountain is of water*. I shall not contend, if you call a Fountain Gods Instrument to give water, as all creatures are his Instruments. 5. For *Spalato's* comparison, he is far out, for the people choosing one of ten to be their King, have freewill to choose any, and are under a Law, *Deut.* 17.14, 15. In the manner of their choosing, and thought, they erre and make a sinfull choice; yet the man is King, and Gods King, whom they make King; but if the King command a servant to make *A. B.* a Knight, if the servant make *C. D.* a Knight, I shall not think *C. D.* is a valid Knight at all; and indeed, the honour is immediately here from the King, because the Kings servant by no innate power maketh the Knight, but Nations by a *radicall* and *naturall*

and innate power maketh this man a King, not this man: and I conceive, the man chosen by the people, oweth thanks, and gratefull service to the people, who rejected others, that they had power to choose, and made him King. 6. The light immediately and formally, is light from the Sun, and so is the Office of a King, immediately instituted of God, *Deut.* 17.14. Whether the institution be naturall, or positive, it is no matter. 2. The man is not King, because of Royall indowments, though we should say these were immediately from God, to which instruction and education may also conferre not a little; but he is formally King, *ratione* (in non-Latin alphabet)(in non-Latin alphabet), in regard of the formall essence of a King, not immediately from God, as the light is from the Sun, but by the mediation of the free consent of the people, *2 Sam.* 5.1, 2, 3. nor is the people in making a King, as the man who onely casteth Wood in the fire; the Wood is not made fire formally, but by the fire, not by the approach of fire to Wood, or of Wood to fire; for the people do not apply the Royaltie, which is immediately in, and from God to the person: explicate such an application; for to me it is a Fiction unconceivable, because the people hath the Royaltie radically in themselves, as in the Fountain and Cause, and conferreth it on the man who is made King; yea, the people by making *David* [410] King, confer the Royall power on the King: this is so true, that Royalists forgetting themselves, inculcate frequently in asserting their absolute *Monarch* from *Vlpian*, but misunderstood, that the people have resigned all their power, libertie, right of life, death, goods, chastitie, a potency of rapine, homicides, unjust wars, &c. upon a creature called an absolute Prince, even, saith *Grotius*, as a man may make himself a slave, by selling his liberty to a master. Now if the people make away this power to the *King*, [759] and this be nothing but the transcendent absolutenesse of a *King*: certainly, this power was in the people; for how can they give to a *King*, that which they have not themselves? As a man cannot make away his liberty, to a master, by becoming a slave to him, if his libertie were immediately in God, as *Royalists* say, Sovereignty is immediately in God, and people can exercise no Act about Sovereignty, to make it over to one man, rather then to another. People onely have an after-approbation, that this man to whom God hath given it immediately, shall have it. Furthermore, they say, people in making a *King*, may make such conditions, as in seven cases a King may be dethroned, at least resisted, saith *Hu. Grotius. Ergo*, people may give more, or lesse, half or whole, limited or absolute Royall power to the Prince; but if this power were immediately in God, and from God; how could the people have the husbanding of it, at their need to expend it out in ounce weights, or pound weights, as they please? And that the people may be Taverners of it, to sell, or give it, is taught by *Grotius de jur. bel & pac. l. 1. c. 4. Barclai. advers. Monarch. l. 4. c. 6. Arnisae. cap. 6. de majest. an princeps qui jurat subditis, &c. n. 10. n. se Aventiun. Anal. l. 3. Chytreus, l. 23. l. 28. Saxon Sleid. lib. 1. in fi;* yet *Arnisaeus* is not ashamed to cite *Arist. po. c. 12. l. 3.* That he is not a true and absolute *King*, who ruleth by Laws: The point black contrary of which *Aristotle* saith.

QUEST. XLI. Whether doth the *P. Prelate* upon good grounds, ascribe to us the doctrine of Jesuites in these Questions of lawfull defensive Wars? ↩

The *P. Prelate* without all ground, will have us all Jesuites in this point; but if we make good, that this Truth was in Scripture before a Jesuite was in the earth, he falleth from his Cause.

[411]

P. Prelate. The Begardi saith, There was no Government, [760] no Law given to the just. It f...reth me, this age fancieth to it self, some such thing, and have learned of Core, Dathan, &c.

Ans. This Calumniator in the next words belieth himself, when he saith, *We presuppose, that these with whom we are to enter in Lists, do willingly grant, That Government is not onely lawfull and just, but necessary both for Church and Common-wealth:* then we fancie

no such thing as he imputeth to us.

P. Prelate. *Some said, that the right of Dominion is founded on grace; whether the Waldenses and Hus, held any such Tenet, I cannot now insist to prove, or disprove. Gerson and others held, that there must be a new Title and Right to what men possesse: Too many too confidently hold these, or the like.*

Answ. 1. That Dominion is founded upon Grace, as its essentiall Pillar; so as wicked men be no Magistrates, because they are in mortall sin, was falsly imputed to ancient Protestants, the *Waldenses*, *Wickcliff*, and *Hus*, by *Papists*; and this day by *Iesuites*, *Suarez*, *Bellarmino*, *Becan*. The *P. Prelate* will leave them under this Calumny, that he may offend *Papists* and *Iesuites* as little as he can, but he would lay it on us; but if the *P. Prelate* think, that Dominion is not founded on Grace, *de jure*, that Rulers should have that spirit that God put on the seventy Elders for their Calling, and that they ought not to be *men fearing God, and hating covetousnesse*, as *Gerson* and others did, he belieith the Scripture.

2. It is no error of *Gerson*, that beleivers have a spirituall Right to their civill possessions, but by Scripture, 1 *Cor.* 4.21. *Revel.* 21.7.

P. Prelate. *The Iesuites are ashamed of the error of Casuists, who hold that, directum imperium, the direct and primary power, Supreme, Civill, and Ecclesiasticall, is in the Pope; and therefore, they give an indirect directive, and coercive power to him, over Kings and States, in ordine ad spiritualia: So may he King and un-King Princes at his pleasure. Our Presbyterians, if they run not fully this way, are very neer to it.*

Answ. The Windy man would seem versed in *School-men*, he should have named some *Casuists*, who hold any like thing.

2. The Presbyterians must be Popes, because they subject Kings to the Gospel, and Christs Scepter in Church Censures, and think Christian Kings may be rebuked for blasphemy, blood-shed, [412] &c. Whereas *Prelates, in ordine ad diabolica*, murther souls of *Kings*. [761] 2. *Prelates* do King Princes. An *P. Arch-Prelate*, when our *King* was crowned, put the Crown on King *Charls* Head, the Sword and Scepter in his hand, anointed him in his hands, Crown, shoulders, arms, with sacred Oyl: The King must kisse the Archbishop, and Bishops; is not this to King Prince••, *in ordine ad spiritualia*: And these that Kingeth may unking, and judge what relation the *P. Arch-Bishop Spotwood* had, when he proffered to the King, The Oath that the *Popish Kings* sweareth to maintain, the *professed Religion* (not one word of the true Protestant Religion) *and will carefully root out all Hereticks, and enemies* (that is Protestants as the expone it,) *to the true Worship of God, that shall be convicted by the true Church of God of the foresaid crimes.* And when the *Prelates* professed, they held not their *Prelacies of the King, but of the Pope indeed*: Who are then nearest to the Popes power, *in ordine ad spiritualia*? 3. How will this black mouthed Calumniator, make Presbyterians to dethrone *Kings*? He hath written a Pamphlet of the inconsistency of Monarchie and Presbyterian Government, consisting of lies, invented Calumnies of his Church, in which he was baptized. But the truth is, all his Arguments prove the inconsistencie of Monarchs and Parliaments, and transform any King in a most absolute Tyrant; for which Treason he deserveth to suffer as a Traytor.

P. Prelate. Q. 1. c. 1. *The Puritan saith, That all power Civill, is radically and originally seated in the Communitie; he here joyneth hands with the Jesuite.*

Answ. In six pages he repeateth the same things. 1. Is this such an Heresie, that a Colonie casted into *America* by the Tyranny of *P. Prelates*, have power to choose their own Governours; all *Israel* was Hereticall in this, for *David* could not be their *King*, though designed and anointed by God, 1 *Sam.* 16. till the people, 2 *Sam.* 5. put forth in act, this

power, and made *David King* in *Hebron*. 2. Let the Prelate make a Syllogisme, it is but *ex utraque affirmante in secunda figura*, Logick like the bellies of the Court, in which men of their own way is disgraced and cast out of Grace and Court, because in this controversie of the *King* with his two Parliaments, they are like *Erasmus* in Gods matters, who said, *Lutherum nec accuso, nec defendo*. 1. He is discourted who ever he be, who is in shape like a Puritan, and not fire and sword against [413] Religion and his Countrey, and *Oath* and *Covenant with God*, and so it is this. *The Iesuite teacheth, that power of Government is in the Communitie originally. The Puritan teacheth, that power of Government is in the Communitie originally.* Ergo, *The Puritan is a Iesuite*. But so the *Puritan* is a *Iesuite*, because he and the *Iesuite* teacheth, that there is *one God, and three persons*; And if the Prelate like this reasoning, we shall make himself and the Prelates, and Court-Divines, *Iesuites* upon surer grounds.

Jesuites teach, *The Pope is not the Antichrist*. 2. *Christ locally descended to Hell, to free some out of that prison*. 3. *It was sin to separate from Babylonish Rome*. 4. *We are justified by works*. 5. *The merit of fasting is not to be condemned*. 6. *The Masse is no idolatry*. 7. *The Church is the judge of controversies*. 8. *All the Arminian points are safer to be beleevd, then the contrary*; yea, and *all the substantial of Popery are true, and Catholick doctrine* to be preached and Printed: The Prelates and Court-Divines, and this Prelate conspireth, in all these with the Iesuites, as is learnedly and invincibly proved in the Treatise, called *(in non-Latin alphabet) (in non-Latin alphabet) the Canterburian self-conviction*: to which no man of the Prelaticall and Romish Faction durst ever make answer for their hearts: and see then who are Iesuites. 3. This doctrine was taught by Lawyers, Protestants, yeilded to by Papists before any Iesuite was whelped in *rerum naturâ*. Never learned man wrote of policy, till of late; but he held power of Government, by the light of nature must be *radically* and *originally*, in a Communitie: the *P. Prelate* saith, *Iesuites* are not the father of this opinion, *Cap. 1. pag. 12*. How then can the Liar say, that the *Puritan* conspireth with the Iesuite? *Suarez the Iesuite de primat. sum. pontifi. l. 3. c. 2. n. 10. Non est novum, aut a Cardinali Bellarmino inventum. The Iesuite Tannerus* will not have their Family the mother of this opinion, *Tom. 2. disp. 5. de leg. q. 5. in 12. q. 95, 96. Dubi. 1. n. 7. Sine dubio communis omnium Theologorum & Iurisperitorum sententia, &c. The Iesuite Tolet, in Rom. 13.* taketh it for a ground, That the Civill powers are from God, by the naturall mediation of men, and Civill Societies. 4. Iesuites teach, That there is no lawfull Christian society truely politick that hath a neer and formall power, to choose and ordain their own Magistrates, but that which acknowledgeth subjection, and the due regulation of their creating of Magistrates, to be due and proper to the *Pope of Rome*. We acknowledge [414] no wayes the *Bishop of Rome*, for a lawfull *Bishop* and *Pastor* at all: But this *Popish Prelate* doth acknowledge him, for he hath these words, *Cap. 5. pag. 58. It is high presumption in the Pope, to challenge to himself, the Title or Right of Christs universall Vicar on earth, by Divine right. The Pope, the Bishop of Rome, hath no more by Divine right, (what he may have by positive Ecclesiasticall right, is not pertinent for us now to examine and discusse) no higher priviledge (except it be in extent) then the meanest Bishop of the world in his Diocesse.* And amongst all proofes, he passing by Scriptures, which should prove, or improve a Divine right, he will content himselfe with one prooffe of *Cyprian, de unitat. Eccles.* And endeth with these words: *Would God, both sides, in this, and other controversies, would submit to the judgement of the holy Fathers.*

Hence the *P. Prelate*, in his 4. Article, (the other two I shall touch anon) maketh *Puritans* grosser then *Jesuites*, in dethroning *Kings*; because, if the *King* be deficient, the People may resume their power, and governe for him, and so dethrone the *King*. But *Bellarmino, l. 3. q. de laic.* holdeth, the people cannot dethrone the *King*, but, [762] *in certis casibus*, in some cases, that is, (as *Suarez* saith) *si Rex sua potestate iu manifestam (Civitatis ceu Regni) perniciem abutatur*. But I will demonstrate, that if *Papists* hold that the *Pope* may dethrone

Kings, this Prelate is of their mind: for, 1. the words I cited, make good that he is for the *Popes* Supremacie; (now it is a joynt or lith of his supremacie, to King and un-King Princes.) 2. They make good that he is a Papist: for, 1. *It is presumption in the Pope to challenge to himselfe, that he is Christs Vniversall Vicar on Earth by Divine right.* [763] Why saith he not, *by no right at all*, but only he is not Christs Vicar *by Divine right*: for it is evident that *Papists* make him *Christs Vicar, only by Ecclesiasticall right*; for they professe, succession of *Popes* to this day, cannot be proved but by Tradition, not by Scripture.

2. The *Popes supremacie*, by Papists, is expresly reckoned amongst unwritten Traditions, and so there is no necessitie that the right of it be proved from Scripture.

3. The Prelate expresly saith, He will not discusse the *Ecclesiasticall right that the Pope hath to be Christs Vicar*. And by that he clearely insinuateth, that he hath a *right* to be Christs Vicar, beside a *Scripturall and Divine right*: only, for offending Papists, he will not discusse it.

[415]

4. *He hath no higher priviledge (saith he) then other Bishops, except in extent, by Divine right.* Now other *Bishops*, as officers in nature different from Presbyters, (for of such the *P. Prelate* must speak in his own dialect) have their office *by Divine right*: and this the Prelates words must include, else he saith non-sense to the matter in hand. And in extent the Pope hath by Divine right more then other Bishops have. Now what is the Pope of Rome his extent? All knowes it is the whole Catholike visible Church on earth. If then all Bishops be particular Ambassadors in Christs stead, 2 *Cor.* 5.20. and so Legates and Deputies of *Christ*; He who by Divine right is a *Bishop in extent over the whole world*, is as like one that calleth himselfe the universall Vicar of Christ, as one egge is like another. 2. The doctrine taught by this Prelate, so Popish, & hints, yea are more then evidences of grosse Poperie in this book, and his other Pamphlet against Presbyteries; And his desire that the Controversie concerning the *Popes* supremacie, and others, were *determined with submission to the judgement of the Fathers*: doe cry, that he is but a rotten *Papist*. For why will he submit all other controversies to the *judgement of the Fathers*? Why not to the Prophets and Apostles? Can *Fathers* decide Controversies better then the Word of God? A reason cannot be dreamed of, why the *Fathers* should be Iudges, and not the Scriptures, except that Scriptures are obscure. 2. Their authoritie and light cannot determine and judge controversies, except in so far as they have authoritie from *Fathers* and the *Church*: and we know this to be *proprium 4^{to} modo*, proper to *Jesuites and Papists*, to cry *Fathers, Fathers*, in all controversies, though the *Fathers* be more for us, then for them, except two things; 1. What *Fathers* speake for us, are corrupted by them: 2. What were but errors in *Fathers*, when children adde contumacie to error, becomes the heresies of the sonnes.

And it is most false, that we joyne with *Jesuites*. [764] 1. We teach no more against Tyrants, *in exercitio*, then *Grotius, Barclay, Winzetus*, in the matter of deposing *Kings*. And in this, *Royalists* conspire with *Jesuites*. 2. We deny that the Pope may loose Subjects from the *oath of Fidelitie*, when a *King* turneth Hereticall; 3. That People at the *Popes* commandement, are to dethrone *Kings*, for Heresie, So doe the Prelates, and their fellowes the Papists teach. So *Gregorie* the 7. practised: so *Aquinas* taught, 22 *q.* 12. *ar.* 2. *Antonin. sum. par. 3. t. 22. c. 3. §. 7. Thou hast put all things under the Popes feet:* [416] oves, id est, Christianos; boves, Iudaeos & Hereticos; pecora, Paganos. So *Navar. l. 1. c. 13. Pagans have no jurisdiction.* Iaco. Symanca, de Catho. Instit. tit. 45. n. 25. *Catholica uxor heretico viro debitum reddere non tenetur.* Item. *Constat Haereticum privatum esse omni dominio, naturali, civili, politico, naturali quod habet in filios, nam propter haeresin patris efficiuntur filii sui iuris, civili, quod habet in servos, ab eo enim servi liberantur, politico, quod rerum domini habent in subditos, ita* Bannes 22. *q.* 12. *art.* 10. *Gregor. de valent* 22. *dis.* 1. *q.* 12.

p. 2. lod. Mol. to. 1. De just. & jur. tract. 2. dis. 29. v. 3. 2. Papists hold that *Generatio clericorum est corruptio subditi*, Churchmen are not subjects under the Kings Law. It is a Canonically privileged of the Clergy, that they are not subject to the Kings Civill Lawes. Now this Prelate and his fellowes made the King sweare, at his Coronation, to maintaine all Canonically Priviledges of the Prelaticall Clergy, the very Oath and words sworne by all the *Popish Kings*.

P. Prelate. *Power is given by the multitude to the King immediatly, and by God mediately, not so much by collation, as by approbation, how the Iesuite and Puritane walke all along in equall pace. See Bellarmine l. 1. de liac. c. 6. Suarez cont. sect. Angl. l. 3. c. 3.*

Ans. It is a *Calummie*, that we teach that the power of the King is from God mediately, by *meere approbation*; indeed a fellow of his, a Papist writing against the Kings Supremacy, *Anthony Capell* Cont. 1. c. 5. saith, *Saul was made King, and others also by Gods permission*, [765] and *Deo invito & irato, God being angry*, that is not our Doctrine; but with what reall efficiencie God hath made men, and communities, rationally and sociall men, with the same hath he made them by instinct of nature, by the mediation of reason, to create a King; and *Bellarmino* and *Suarez* say, Not God maketh Kings by approbation only.

P. Prelate. *The people may change Monarchy into Aristocracy or Democracy, or Aristocracy into Monarchy; for ought I know, they differ not in this neither.*

Ans. The P. Prelate knoweth not all things, the two Iesuites, *Bellarmino* and *Suarez* are produced only, as if they were *all Iesuites*; and *Suarez* saith, De prim. po. 1. 3. n. 4. *Donationem absolutam semel valide factam revocari non posse, neque in totum, neque ex parte, maxime quando onerosa fuit*. If the people once give their power to the King, they cannot resume it without cause, and laying downe [417] the grounds of *Suarez* and other Iesuites, that *our Religion is Heresie*, they doe soundly collect this consequence, *That no King can be Lord of the consciences of their subjects, to compell them to an Hereticall Religion*. We teach that the King of Spaine hath no power over the consciences of Protestant Subjects, to force them to Idolatry, and that their soules are not his subjects, but only their persons, and *in the Lord*. 2. It is no great crime, that if a King degenerate in a Tyranny, or if the Royall Line faile, that we thinke the people have liberty to change *Monarchy* into *Aristocracy*, aut contra. Iesuites deny that the people can make this change without the Popes consent. We judge neither the great Bishop the Pope, nor the little Popes ought to have hand in making Kings.

P. Prelate. *They say the power is derived to the King from the people, Cumulative, or Communicative, non Privative, by way of communication, not by way of privation, so as the people denude not themselves of this sovereignty. As the King maketh a Lieutenant in Ireland, not to denude himselfe of his Royall power, but to put him in trust for his service. If this be their mind, the King is in a poore case. The principal authority is in the Delegate, and so the people is still Iudge, and the King their Deputy.*

Ans. The P. Prelate taketh on him to write he knoweth not what, this is not our opinion. The King is King, and hath the peoples power not as their Deputy.

1. Because the people is not principall Iudge, and the King subordinate. The King in the executive power of Lawes, is really a Sovereigne above the people, a Deputy is not so.

2. The people have irrevocably made over to the King, their power of governing, defending, and protecting themselves, I except the power of selfe preservation, which people can no more make away, it being sinlesse natures birth-right then the liberty of eating, drinking, sleeping; and this the people cannot resume, except in case of the Kings Tyranny, there is no power by the King so irrevocably resigned to his Servant or Deputy, but he may

use it himselfe.

3. A Delegate is comptable for all he doth to those that put him in trust, whether he doe ill or well. The *King* in acts of Iustice is not comptable to any, for if his acts be not lyable to high suspicions of Tyranny, no man may say to him *What dost thou?* onely in acts of unjustice, and those so tyrannous, that they be inconsistent with the [418] habituall fiduciary repose and trust put on him, he is to render accounts to the Parliament, which representeth the people.

4. A Delegate *in esse, in fieri*, both that he may be a Delegate, and that he may continue a Delegate, whether he doe ill or well, dependeth on his pleasure who delegateth him; but though a *King* depend *in fieri*, in regard of his call to the Crowne, upon the suffrages of his people, yet that he may be continued *King*, he dependeth not on the people simply, but only in case of Tyrannicall administration, and in this sense *Suarez* and *Bellarmino* spake with no more honesty, then we doe, but with more then Prelates doe, for they professe any Emissary of Hell may stab a Protestant *King* ■ We know the Prelates professe the contrary, but their judgement is the same with Iesuites in all points; and since they will have the Pope Christs Vicar, by such a Divine right as they themselves are Bishops, and have the *King* under *Oath* to maintaine the *Clergie, Bishops, and all their Canonically priviledges*, amongst which the Bishops of Rome his indirect power *in ordine ad spiritualia*, and to dethrone Kings who turne Heritickes, is one principall right. I see not how Prelates are not as deepe in treason against *Kings* as the *Pope* himselfe, and therefore *P. Prelate*, take the beame out of your owne eye.

The *P. Prelate* taketh unlearned paines, to prove that *Gerson, Occam, Iac. de almaine, Parisian Doctors* maintained these same grounds a nent the peoples power over *Kings* in the case of *Tyranny*, and that before *Luther* and *Calvine* was in the world, and this is to give himselfe the lye, that *Luther, Calvin*, and we have not this Doctrine from *Iesuites*, and what is *Calvines* mind, is evident, *Instit. l. 4. c.* all that the estates may coerce, and reduce in order a Tyrant, [766] else they are deficient in their trust that *God* hath given them over the Common-wealth and Church; and this is the Doctrine for which Royalists cry out against Master *Knox of blessed memory, Buchanan, Iunius Brutus, Bouchier, Rossaeus, Althusius*, and *Luther, in scripto ad pastorem, to 7. German. fol. 386.* bringeth two examples for resistance; the people resisted *Saul*, when he was willing to kill *Ionathan* his sonne, and *Ahikam* and other *Princes* rescued *Ieremiah* out of the hands of the King of *Iudah*: and *Gerardus* citeth many Divines, who second *Luther* in this, as *Bugenliagius, Iustus Ionas, Nicholas Ambsderffius, George Spalatinus, Iustus Menius, Christopher Hofmanus*. It is knowne what is the mind of [419] Protestant Divines, as *Beza, Pareus, Melancthon, Bucanus, Polanus Chamer*, all the Divines of *France, of Germany, of Holland*. No wonder then Prelates were upon the plot of betraying the City of *Rochel*, and of the Protestant Church there, when they then will have the Protestants of *France*, for their defensive warres to be Rebels, and siders with Iesuites, when in these warres Iesuites sought their blood and ruine.

The *P. Prelate* having shewn his mind concerning the deposing of *Childericke* by the Pope (of which I say nothing, but the Pope was an Antichristian Usurper, and the poore man never fit to beare a Crowne) he goeth on to set downe an opinion of some mute Authors, he might devise a thousand opinions that way, to make men beleeve he had been in a wood of learned mens secrets, and that never man saw the bottome of the controversie, while he, *seeing the escapes of many Pens* (as supercilious *Bubo* praiseth) was forced to appeare a Star new risen in the firmament of Pursevants, and reveale all dreames, and teach all the New-Statists, the *Gamaliels, Buchanan, Iunius Brutus*, and a world who were all sleeping, while this Lucifer the sonne of the night did appeare, this new way of Lawes, Divinity and casuists Theologie.

They hold (saith P. P.) *Sovereigne power is primarily and naturally in the multitude, from it derived to th^o King, [767] immediatly from God. The reason of which order is, because we cannot reape the frutes of government, unlesse by compact we submit to some possible and accidentall inconveniences.*

Ans. 1. Who speaketh so the *P. Prelate* cannot name. *That Sovereigne power is primarily and naturally in the multitude.* Vertually (it may be) Sovereignty is in the multitude, but primarily and naturally, as heat is in the fire, light in the Sun; I thinke the *P. Prelate* dreamed it, no man said it but himselfe: for what attribute is naturally in a Subject, I conceive may directly and naturally be predicated thereof. Now the *P. Prelate* hath taught us of a very naturall predication. (*Our Dreadful and Sovereign Lord the multitude commandeth this and this.*)

2. This is no more a reason for a *Monarchy*, then for a *Democracy*, for we can reape the frutes of no government, except we submit to it.

3. We must submit in *Monarchy* (saith he) *to some possible and accidentall inconveniences.* Here be soft words, but is subversion of [420] Religion, Lawes, and Liberties of Church and State, introducing of Popery, Arminianisme, of Idolatry, Altar-worship, the Masse proved by a learned Treatise, *The Canterburian selfe conviction*, printed the 3. edit. an 1641. *never answered*, couched under the name of *inconveniency*? The pardoning of the innocent blood of hundreds of thousand Protestants in Ireland, the killing of many thousands, Nobles, Barons, Commons, by the hands of Papists in Armes ag^oinst the Law of the Land, the making of England a field of blood, the obruding of an Idolatrous Service-Booke, with Armies of men, by Sea and Land, to blocke up the Kingdome of *Scotland*, are all these inconveniences only?

4. Are they only *possible and accidentall*? but make a Monarch absolute, as the *P. Prelate* doth, and tyranny is as necessary and as much intended by a sinfull man, inclined to make a God of himselfe, as it is naturall to men to sinne, when they are tempted, and to be drunken and giddy with honour and greatnesse; witness the Kings of *Israel* and *Iudah*, though *de jure* they were not absolute. Is it *accidentall* to Nero, *Iulian*, to the ten hornes that grew out of the womans head, who sate upon the scarlet colloured beast, to make warre against the Lambe, and his followers, especially the spirit of Sathan being in them?

P. Prelate, They inferre, 1. They cannot without violation of a Divine ordinance, and breach of faith resume the authority, they have placed in the King. 2. It were high sin to rob authority of its essentials. 3. This ordinance is not < in non-Latin alphabet > < in non-Latin alphabet > but < in non-Latin alphabet > < in non-Latin alphabet > and hath urgent reasons.

Ans. 1. These namelesse Authors cannot inferre that an Oath is broken, which is made conditionally; all authority given by the people to the King is conditionall, that he use it for the safety of the people, if it be used for their distruction, they breake no faith to resume it, for they never made faith to give up their power to the King upon such tearmes, and so they *cannot be said to resume what they never gave.*

2. So the *P. Prelate* maketh power to act all the former mischiefes, the *essentialls of a King.* *Balaam* he is not worthy his wages, for Prophecying thus, that the Kings essentialls is a power of blood, and destructive to people, Law, Religion and liberties of Church and State, for otherwise we teach not, that people may resume from the King Authority and power of disarme Papists, to [421] roote out the *bloody Irish*, and in justice serve them, as they have served us.

3. This ordinance of the people giving lawfull power to a King, for the governing of the people in peace and godlinesse, is *Gods good pleasure, and hath just reasons and causes*. But that the people make over a power to one man, to act all the inconveniences above named, I mean the bloody and destructive inconveniences, hath nothing of God, or reason in it.

P. Prelate. *The reasons of this opinion are*. 1. *If Power soveraigne were not in one, he could not have strength enough to act all necessary parts and acts of government*. 2. *Nor to prevent divisions which attend multitudes, or many indowed with equall power; and the Authors say, They must part with their native right entirely, for a greater good, and to prevent greater evils*. 3. *To resume any part of this power, of which the people have totally devested themselves, or to limit it, is to disable Sovereignty from government, loose the sinewes of all society, &c.*

Ans. 1. I know none for this opinion, [768] but the P. Prelate himselfe. The first Reason may be made rhyme, but never reason: for though there be not absolute power to good and ill, there may be strength of limited power in abundance in the *King*, and sufficient for all acts of just Government, and the adequate end of Government, which is, *salus populi*, the safetie of the people. But the *Royalist* will have strength to be a Tyrant, and act all the Tyrannicall and bloody inconveniences of which we spake, *an essentiall part of the power of a King*; As if weaknesse were essentiall to strength; and a *King* could not be powerfull as a *King*, to doe good, and save and protect, except he had power also as a *Tyrant* to doe evill, and to destroy and waste his people, This power is weaknesse, and no part of the image of the greatnesse of the *King of Kings*, whom a *King* representeth.

2. The second Reason condemneth *Democracie* and *Aristocracie*, as unlawfull, and maketh Monarchie the only Physick to *cure* these; as if there were no Government an ordinance of *God*, save only absolute Monarchie, which indeed is no ordinance of *God* at all, but contrary to the nature of a lawfull *King*, Deut. 17.3.

3. That people *must part with their native right totally*, to make an absolute Monarch; is, as if the whole members of the Body would part with their whole nutritive power, to cause the Milt to swell; [422] which would be the destruction of the Body.

4. The people cannot divest themselves of power of defensive Warres, more then they can part with Nature, and put themselves in a condition inferior to a slave, who, if his master, who hath power to sell him, invade him unjustly, to take away his life, may oppose violence to unjust violence. And the other Consequences are null.

QUEST. XLII. Whether all Christian Kings are dependent from Christ, and may be called his Vicegerents? ↩

[769]The P. Prelate taketh on him to *prove the truth of this: but the question is not pertinent: it belongeth to another head, to the Kings power in Church matters*. I therefore only examine what he saith, and follow him.

P. Prelate. *Sectaries have found a Quere of late, that Kings are Gods, not Christs Lieutenants on earth. Romanists and Puritans erect two Soveraignes in every State; The Jesuite, in the Pope; the Puritan, in the Presbyterie.*

Ans. We give a reason why *God* hath a Lieutenant, as *God*; Because Kings are Gods, bearing the sword of vengeance against seditious and bloody Prelates, and other ill-doers. But *Christ, God-Man*, the Mediator and *Head of the body the Church*, hath neither *Pope* nor *King* to be head under him. The sword is communicable to men; but the Headship of *Christ* is communicable to no King, nor to any created shoulders. 2. The *Jesuite* maketh the Pope a King; and so this P. Prelate maketh him, in extent, the Bishop of Bishops, and so King, as I

have proved. But we place no Soveraigntie in Presbyteries, but a meere ministeriall power of servants, who doe not take on them to make Lawes and Religious Ceremonies, as Prelates doe, who indeed make themselves Kings and Lawgivers in Gods house.

P. Prelate. *We speake of Christ as Head of the Church. Some think that Christ was King by his Resurrection, jure adquisito, by a new title, Right of merit. I think he was a King from his conception.*

[770]Ans. You declare hereby, that the *King* is a *ministeriall Head* of the Church, under the head *Christ*. All our Divines disputing against the Popes headship, say, No mortall man hath shoulders for [423] so glorious a head. You give the *King* such shoulders. But why are not the Kings, euen *Nero, Iulian, Nebuchadnezzar, Belshazer*, Vicegerents of *Christ*, as Mediator, as Priest, as Redeemer, as Prophet, as Advocate, presenting our prayers to *God his Father*? What action, I pray you, have Christian Kings, by office, under *Christ*, in dying, and rising from the dead for us, in sending down the Holy Ghost, preparing mansions for us? Now it is as proper and incommunicably reciprocall with the Mediator, to be the *only Head of the body the Church*, Col. 1.18. as to be the *only Redeemer and Advocate of his Church*.

2. That *Christ* was *King* from his conception, as Man borne of the Virgin *Mary*, ••uteth well with *Papists*, who will have *Christ*, as Man, the visible Head of the Church; that so as *Christ-man*, is now in heaven, he may have a visible Pope to be Head in all Ecclesiasticall matters. And that is the reason why this P. Prelate maketh him head of the Church by an Ecclesiasticall right, as we heard: and so he followeth *Becanus* the Iesuite, in this, and others his fellowes.

P. Prelate. 1. *Proofe. If Kings reigne by < in non-Latin alphabet > per, in and through Christ, as the Wisdome of God, and the Mediator: then are Kings the Vicegerents of Christ, as Mediator. But the former is said, Prov. 8.15, 16. as D. Andrewes, of blessed memorie.*

Ans. 1. Denies the major: [771] All beleevers living the life of *God* ingrafted in *Christ* as branches in the tree, *Ioh. 15.1.2.* should by the same reason be Vicegerents of the Mediator: so should the Angels, to whom *Christ* is a head, *Col. 2.10.* be his Vicegerents; and all the Iudges and Constables on earth, should be under-Mediators, for they live and act in *Christ*: yea, all the Creatures, in the Mediator, are made new, *Rev. 21.5. Rom. 8.20, 21, 22.*

2. *D. Andrewes* name is a curse on the earth, his writings prove him to be a Popish Apostate.

P. Prelate. 2. *Christ is not only King of his Church; but in order to his Church, King over the Kings and Kingdomes of the earth, Ps. 2.5.8.*

3. *Math. 21.18. To him is given all power in heaven and earth; ergo, all Soveraigntie over Kings.*

Ans. 1. If all these be *Christs vicegerents*, over whom he hath obtained power; then, because the Father hath given him power over all flesh, to give them life eternall, *Ioh. 17.1.2.* then are all beleevers [424] his Vicegerents, yea and all the damned men and Devils, and Death and Hell are his Vicegerents: for *Christ*, as Mediator, hath *all power* given to him, as *King of the Church*, and so power Kingly over all his enemies, *to reigne while he make them his footstoole*, *Ps. 110.1.2. to break them with a rod of iron*, *Ps. 2.9. 1 Cor. 15.24, 25, 26, 27. Revel. 1.18.20. v. 10, 11, 12, 13, 14, 15.* And by that same reason, the *P. Prelates* 4. and 5. Argument fall to the ground, *He is heire of all things*, ergo, all things are his Vicegerents. What more vaine? He is Prince of the Kings of the earth, and King of Oggs, of Kings, of his Enemies; ergo, Sea and Land are his Vicegerents.

[772]P. Prelate. *Kings are nurse-fathers of the Church, ergo, they hold their crowns of Christ: 3. Divines say, that by men in sacred Orders Christ doth rule his Church mediately, in those things which primely concerne salvation; and that by Kings their scepter and power, he doth protect his Church, and what concerneth externall pompe, order and decencie. Then, in this latter sense, Kings are no lesse the immediate Vicegerents of Christ, than Bishops, Priests and Deacons, in the former.*

Ans. Because *Kings* hold their Crownes of *Christ*, as Mediator and Redeemer, it followeth by as good consequence, *Kings* are submediators and under-Priests, and Redeemers, as Vicegerents. *Christ*, as *King*, hath no visible Royall Vicegerents under him.

[773]2. Men in holy Orders sprinkled with one of the Papists five blessed Sacraments, such as *Antichristian Prelates*, unwashed Priests to offer sacrifices, and Popish Deacons, are no more admitted by *Christ* to enter into his sanctuary as governours, then the Leaper into the Campe of old, and the *Moabite* and *Ammonite* were to enter into the congregation of the Lord, *Deut. 23.3.* therefore we have excommunicated this *P. Prelate*, and such *Moabites* out of the Lords house. 2. What be the things that doe not primely concerne salvation, the *P. Prelate* knoweth, to wit, Images in the Church, Altar worship, Antichristian Ceremonies, which primely concerne damnation.

[774]3. I understand not what the *P. Prelate* meaneth, *that the King preserveth externall Government in order and decency, in Scotland, in our Parliament, 1633.* the prescribed Surplice, and he commanded the Service-booke, and the Masse-worship. The Prelate degradeth [425] the King here, to make him onely keep, or preserve the Prelates Masse-Clothes: they intended indeed to make the *King* but the Popes servant, for all they say and do for him now.

4. If the *King* be vicegerent of *Christ* in prescribing Laws for the externall ordering of the worship, and all their decent symbolicall Ceremonies: What more doth the Pope, and the Prelate in that kinde? He may, with as good warrant Preach and Administrate the Sacraments.

P. Prelate. *Kings have the sign of the Crosse on their Crowns.*

Ans. Ergo, *Baculus est in angulo.* Prelates have put a crosse in the Kings heart, and crossed Crown and Throne to Really. Some Knights, some Ships, some Cities and Burroughes, do carry a crosse; are they made *Christs vice-gerents* of late? By what antiquity doth the Crosse signifie *Christ*? Of old it was a badge of Christians, no Religious Ceremony; and is this all. The *King* is the vicegerent of *Christians*. The Prelates we know, adore the Crosse with Religious worship: so must they adore the Crown.

P. Prelate. *Grant that the Pope were the Vicar of Christ in spirituall things, it followeth not: Ergo, Kings Crowns are subject to the Pope; for Papists teach, that all power that was in Christ, as man, as power to work miracles, to institute Sacraments, was not transmitted to Peter and his successors.*

Ans. This is a base consequence, Make the Pope head of the Church: the King, if he be a mixed person, that is, half a Churchman, and *Christs Vice-gerent*; both he and Prelates must be members of the head. Papists teach, that all in *Christ* as man, cannot be transmitted to *Peter*, but a Ministeriall Catholike Headship (say *Batcanus* and his fellows) was transmitted from *Christ* as man, and visible head, to *Peter* and the Pope.

P. Prelate. *I wish the Pope, [775] who claimeth so neer alliance with Christ, would learn of him to be meek and humble in heart; so should he finde rest to his own soul, to Church and State.*

Answ. The same was the wish of *Gerson, Occam*, the Doctors of *Paris*, the fathers of the Concels of *Constance* and *Basil*; yet all make him *head of the Church*.

2. The Excommunicate Prelate is turned Chaplain to Preach to the Pope: the *Soul-rest* that Protestants wish to the Pope is, *That the Lord would destroy him by the Spirit of his mouth*, 2 *Thes.* 2.8. But *P. Prelates*, This wish is a Reformation of accidents, [426] with the safety of the subject, the Pope, and is as good as a wish, That the Devill remaining a Devill, may finde rest for his soul, all we are to pray for; as having place in the Church, are supposed members of the Church. The Prelate would not pray so for the Presbytery, by which he was ordained a Pastour, 1 *Tim.* 4.14. though he be now an Apostate: It is gratitude to pray for his lucky father the Pope. What ever the Prelate wish, we pray for, and beleieve, that desolation shall be his *Soul-rest*, and that the vengeance of the Lord, and of his Temple, shall fall upon him, and the Prelates his sons.

P. Prelate. *That which they purpose, by denying Kings to be Christs Vice-gerents, is to set up a Sovereignty Ecclesiasticall in Presbyteries, to constrain Kings, repeal his Laws, correct his Satutes, reverse his Judgements, to cite, convent, and censure Kings; and if there be not power to execute, what Presbyteries decrees, they may call and command the help of the people, in whom is the underived Majstie; and promise, and swear, and covenant to defend their fancies, against all mortall men, with their Goods, Lands, Fortunes, to admit no divisive motion; and this Sovereign Association maketh every private man an armed Magistrate.*

[776]*Answ.* You see the Excommunicate Apostats tusses against the Presbytery of a Reformed Church, from which he had his baptism, faith, ministry.

1. We deny the *King* to be the head of the Church.

2. We assert, that in the Pastors, Doctors, and Elders of the Church, there is a Ministeriall power, as servants under Christ, in his authority, and name, to rebuke and censure Kings; that there is *revenge in the Gospel against all disobedience*, 2 *Cor.* 2.6. and 10.6. *The rod of God*, 1 *Cor.* 4.21. *The rod of Christs lips*, *Isai.* 11.4. *The Scepter and Sword of Christ*, *Revel.* 1.16. and 19.15. *The Keyes of his Kingdom, to binde and loose, open and shut*, *Matth.* 18.17, 18. and 16.19. 1 *Cor.* 5.1, 2, 3. 2 *Thes.* 3.14, 15. 1 *Tim.* 1.19. and 5.22. and 5.17. And that this power is committed to the Officers of Christs house, call them as you will.

[777]3. For reversing of Laws made for the establishing of Popery, we think the Church of Christ did well to declare all these unjust grievous decrees; and that woe is due to the Judges, even the Queen, if they should not repent, as *Isai.* 10.1. And this *P.* must shew his teeth in this, against our Reformation in *Scotland*, which [427] he once commended in Pulpit, as a glorious work of Gods right arm. And the Assemble of *Glaskow*, 1637. declared, That Bishops though established by Acts of Parliament, procured by Prelates onely, Commissioners, and Agents, for the Church, who betrayed their trust, were unlawfull, and did supplicate, That the ensuing Parliament would annull these wicked Acts. They think God priviledgeth neither King, nor others from Church-Censures: the *P. Prelates* imprisoned, and silenced the Ministers of Christ, who preached against the publike sins, the blood, oppressions, injustice, open swearing, and blasphemy of the holy Name of God, the countenancing of Idolaters, &c. in King and Court.

4. They did never sought the help of the people, against the most unjust standing Law of authority.

5. *They never swear and covenant, to defend their own fancies*, For the Confession and Covenant of the Protestant Religion, translated in Latin to all the Protestants in *Europe* and *America*, being termed a *fancie*, is a clear evidence, That this *P. Prelate* was justly excommunicated for Popery.

6. This Covenant was sworn by King *James*, and his house, by the whole Land, by the Prelates themselves. And to this fancy, this *P. Prelate* by the Law of our Land was obliged to swear, when he received degrees in the Universitie.

7. There is reason our Covenant should provide *against divisive motions*. The Prelates moved the King to command all the Land to swear our Covenant, in the Prelaticall sense, against the intent thereof, and onely to devide, and so command. Iudge what Religion Prelates are of, who will have the Name of God prophaned by a whole Nation, by swearing fancies.

8. Of making private men Magistrates, in defending themselves against cut-throats. Enough already: Let the *P. Prelate* answer if he can.

P. Prelate. [778] *Let no man imagine me to priviledge a King from the direction, and just power of the Church, or that like Uzzah he should intrude upon sacred actions, ex vi ordinis, in foro interno conscientiae, to Preach or Administrate Sacraments, &c.*

Answ. *Vzzah* did not burn Incense, *ex vi ordinis*, as if he had been a Priest, but because he was a King, and Gods anointed. Prelates sit not in Councell and Parliament, *ex vi ordinis*, as temporall Lords. The Pope is no temporall Monarch, *ex vi ordinis*; yet [428] all are intruders. So the *P. P.* will licence *Kings* to administer Sacraments, so they doe it not *Ex vi ordinis*.

P.P. *Men in sacred Orders in things intrinsecally spirituall, have immediatly a directive and authoritative power, in order, to all whatsoever, although ministeriall only, as related to Christ; but that giveth them no coercive civill power over the Prince, per se, or per accidens, directly or indirectly, that either the one way or the other, any or many in sacred Order, Pope, or Presbytery, can cite and censure Kings, associate, Covenant or sweare to resist him, and force him to submit to the Scepter of Christ. This power over man God Almighty useth not, much lesse hath he given it to man, Ps. 110. His people are a willing people, Suadenda non cogenda religio.*

[779] *Ans.* 1. *Pastors have a ministerial power (saith he) in spirituall things, but in order to Christ, ergo in order to others it is not ministeriall, but Lordly. So here a Lordly power Pastors have over Kings, by the P. P. way. We teach it is ministeriall in relation to all, because Ministers can make no Lawes as Kings can doe, but only as Heralds, declare Christs Lawes.*

2. None of us give any coercive Civill power to the Church, over either *Kings*, or any other, it is Ecclesiasticall; a power to rebuke and censure was never civill.

3. A religious Covenant to sweare to resist that is, to defend our selves is one thing, and a lawfull Oath, as is cleare in those of *Israel*, that did sweare *Asa's* Covenant, without the authority of their owne King, 2 *Chron.* 15.9, 10, 11, 12. and to sweare to force the King to submit to *Christs* Scepter is another thing; the Presbytery never did sweare or covenant any such thing: nor doe we take Sacrament upon it, to force the *King*. Prelates have made the King sweare, and take his Sacrament upon it, that he shall roote out Puritanes, that is Protestants, whereas he did sweare at his Coronation to roote out Heretickes; that is, (if Prelates were not traiterous in administring the Oath) *Arminians and Papists*, such as this *P. P.* is knowne to be; but I hold that the Estates of *Scotland* have power to punish the *King*, if he labour to subvert Religion and Lawes.

4. If this Argument, that Religion *is to be perswaded, not forced, which* ■ *P. P.* useth, be good, it will make much against the *King*, for the *King* then can force no man to the externall profession, and use of the ordinances of God, and not only *Kings*, but all the people should be willing.

[429]

P. Prelate. *Though the King may not preach, [780] &c. yet the exercise of these things freely within his Kingdome, what concerneth the decent and orderly doing of all, and the externall man, in the externall government of the Church, in appointing things arbitrary and indifferent, and what else is of this straine, are so due to the prerogative of the Crowne as that the Priests without highest Rebellion, may not usurpe upon him a King in the State and Church is a mixed person, not simply civill, but sacred too. They are not only professors of truth, that they have in the capacity of Christians, but they are defenders of the faith as Kings, they are not sonnes only, but Nurse-fathers, they serve God, as Augustine saith, as men, and as Kings also.*

Ans. If yee give the King power of the exercises of Word and Sacraments in his Kingdome, [781] this is deprivation of Ministers in his Kingdome (for sure he cannot hinder them in another Kingdome) you may make him to give a Ministeriall calling, if he may take it away. By what word of God can the King close the mouth of the man of God, whom Christ hath commanded to speake in his name? 2. If the King may externally governe the Church, why may he not excommunicate, for this is one of the speciall acts of Church Government, especially seeing he is a mixed person, that is *halfe a Church-man*, and if he may prescribe Arbitrary teaching Ceremonies, *Surplise* to instruct men in the duties of holinesse required of Pastors, I see not, but he may teach the Word. [782] 3. Dr. *Ferne* and other *Royalists* deny Arbitrary Government to the King in the State, and with reason, because it is Tyranny over the people, but Prelates are not ashamed of commanding a thing Arbitrary and indifferent in Gods Worship, shall not Arbitrary Government in the Church be tyranny over the conscience? But (say they,) *Church-men teacheth the King what is decent and orderly in Gods Worship, and he commandeth it.*

Ans. *Solomon* by no teaching of Church-men deposed *Abiather*, *David* by no teaching of Church-men appointed the forme of the Temple. 2. Hath God given a *Prerogative Royall* to Kings, whereby they may governe the Church, and as Kings they shall not know how to use it, but in so farre, as they are taught by Church-men? 4. Certainly we shall once be informed by Gods Word, what is this Prerogative, if according to it, all the externall worship of God may be ordered. Lawyers and *Royalists* teach, that it is an absolutenesse of power, to doe above, or against a Law, as they say from [430] 1 *Sam.* 8. v. 9.11. and whereby the King may oppresse, [783] and no man may say, *What dost thou?* Now, Good P. Prelate, if by a plenitude of tyranny the King prescribe what he will in the externall worship and government of Gods House, who can rebuke the King, though he command all the *Antichristian Ceremonies* of Rome, and of Turkey, yea and the sacrificing of children to *Molech*? (for absolutenesse Royall will amount to shedding of innocent blood) for if any oppose the King, or say, Sir, *What doe you?* he opposeth the *Prerogative Royall*, and that is highest Rebellion, saith our P. Prelate.

5. I see not how the King is a mixt person, because he is Defender of the faith, as the Pope named the King of England, *Henry* the eighth: he defendeth it by his Sword, as he is a Nurse-father, not by the sword that commeth out of his mouth.

6. I would know how *Iulian*, *Nebuchadnezzar*, *Og*, and *Sihon*, were mixed persons, and did all in the externall government of the Church; and that by their office, as they were Kings.

7. All the instances that *Augustine* bringeth to prove that the King is a mixt person, proveth nothing but Civill acts in Kings; as *Hezekiah* cast down the high places, the King of Nineve compelled to obey the Prophet *Ionah*; *Darius* cast *Daniels* enemies to the Lyons.

P. Prelate. *If you make two Sovereignes, and two Independents, there is no more peace in the State, then in Rebeckahs wombe, while Jacob and Esau strove for the prerogative.*

Ans. 1. What need Israel strive, when *Moses* and *Aaron* are two Independents? If *Aaron* make a golden Calfe, may not *Moses* punish him? If *Moses* turne an *Achab*, and sell himselfe to doe wickedly, ought not 80 valiant Priests and *Aarons* both rebuke, censure, and resist?

2. p. 65. The P.P. said, *Let no man imagine we priviledge the King from the direction and power of the Church, so he be no intruding Vzzah*. I pray, P. P. what is this *Church power*? Is it not supreme in its kinde of *Church power*? or is it subordinate to the *King*? If it be supreme, [784] see how P. P. maketh two Supremes, and two Soveraignes. If it be subordinate to the *King*, as he is a mixt person, the *King* is priviledged from this power, and he may intrude as *Vzzah*; and by his prerogative, as a mixed person, he may say *Masse*, and offer a sacrifice, if there be no power above his prerogative to curbe him. If there be none, the P.P. his imagination is reall, [431] The *King* is priviledged from all *Church power*. Let the P.P. see to it; I see no inconvenience for reciprocations of subjections in two Supremes; and that they may mutually censure and judge one another.

Object. *Not in the same cause; that is impossible. If the King say Masse, shall the Church judge and censure the King for intrusion? and because the King is also Soveraigne and Supreme in his kinde, he may judge and punish the Church for their act of judging and censuring the King; it being an intrusion on his prerogative, that any should judge the highest Judge.*

Ans. The one is not subject to the other, but in the case of male-administration: the innocent, as innocent, is subject to no higher punishing; he may be subject to a higher, as accusing, citing, &c. Now the *Royalist* must give instance in the same cause, where the *Church* faileth against the *King* and his *Civill law*; and the *King* in the same cause faileth against the *Church-canon*; and then it shall be easie to answer.

P. Prelate. *Religion is the bottome of all happinesse, if you make the King only to execute what a Presbyterie commandeth, [785] he is in a hard case, and you take from him the chiefeest in Government. Ecclesiasticall power hath the soule in subjection; the Civill Soveraigntie holdeth a dead dominion ever the body. Then the Pope and Presbyterie shall be in better condition then the King.* Cic. in Ver. Omnes Religione moventur: *Superstition is furious, and maddeth people, that they spare neither Crown nor Mitre.*

Ans. Cold and dry is the P. P. when he spendeth foure pages in declamation for the excellencie of Religion; The madnesse of Superstition, nothing to the purpose.

1. The *King* hath a chiefe hand in *Church affaires*, when he is a Nurse-father, and beareth the *Royall sword* to defend both the *Tables of the Law*, though he doe not spin and weave *Surplices*, and other base *Masse-cloaths*, to Prelates, and such *Priests of Baal*: They dishonour his *Majestie*, who bring his *Prerogative* so low.

2. The *King* doth not execute with blind obedience, with us, [786] what the *Pope* commandeth, and the Prelates; but with light of knowledge what *Synods* discernes: and he is no more made the servant of the *Church* by this, then the *King of Iudah*, and *Nebuchadnezzar* are servants to *Ieremiah* and *Daniel*, because they are to obey the *Word of the Lord in their mouth*. Let them shew a reason of [432] this, why they are servants in executing Gods will in *Discipline*, and in punishing what the *Holy Ghost* by his *Apostles* and *Elders* decree, when any contemne the *Decree concerning the abstinence from blood, things strangled, &c.* Act. 15. rather then when they punish murder, idolatrie, blasphemie, which are condemned in the *Word* preached by *Pastors of Christ*: and farther, this objection would have some more colour (realitie it hath not) if *Kings* were only to execute what the *Church* ministerially in *Christ*s name, commandeth to be done in *Synods*: but *Kings* may, and doe command *Synods* to conveen, and doe their duty, and command many duties never *Synodically* decreed; as they are to cast out of their *Court* apostate Prelates, sleeping many yeares in the *Devils* armes, and

are to command Trencher-Divines, neglecting their flock, and lying at Court, attending the falling of a dead Bishop, as Ravens doe an old dying horse; To goe and attend the flock, and not the Court, as this *P. P.* did.

3. A *King* hath greater outward glory, and may doe much more service to *Christ* in respect of extension, and is excellenter then the Pastor, who yet, in regard of intension, is busied about nobler things, to wit, the Soule, the Gospel, Eternitie, than the *King*.

4. Superstition maddeth men; but it followeth not, that true Religion may not set them on work to defend soule and body against Tyrannie of the Crown, and Antichristian Mitres.

P. Prelate. The Kingdome had peace, and plentie in Prelates time.

Ans. A belly-argument. We had plenty, when we sacrificed to the *Queen of Heaven*. 2. If the Traveller contend to have his purse againe, shall the Robber say, *Robberie was blessed with peace?* The rest, to the end, are lies, and answered already. Only his invectives against ruling Elders, falsly called *Lay-Elders*, are not to purpose. Parliament-Priests, and Lay and Court-Pastors, are Lay-Prophets.

[787]2. That Presbyteries meddle with Civill businesse, is a slander; They meddle with publike scandals that offendeth in Christs Kingdome. But the *Prelate*, by office, was more in two elements, in *Church* and *State*, then any Frogs even in the Kings Leaven••tubs ordinarily,

3. Something he saith of Popes usurping over Kings; but only of one of his fathers, a great uncleane spirit, *Gregorie the Great*: But [433] if he had refuted him by Gods Word, he should have thrown stones at his own Tribe; for Prelates, like him, doe, *ex officio*, trample upon the neck of *Kings*.

4. His testimonies of one Councill, and one Father, for all Antiquitie, proveth nothing. *Athanasius* said, *God hath given Davids Throne to Kings*: What, to be Head of the Church? No, to be the Minister of God, without < in non-Latin alphabet > < in non-Latin alphabet > to tutour the *Church*. And because *Kings reigne by Christ*, as the Councill of *Arimin* saith; therefore it may follow, a Baily is also Head of the *Church*. It is taken from *Prov.* 8. and answered.

5. That Presbyteries have usurped upon *Kings*, more then Popes, since *Hildebrand*, is a lie: all stories are full of the usurpation of Prelates, his own tribe; The Pope is but a swelled fat Prelate; and what he saith of Popes, he saith of his own house.

6. The Ministers of Christ in *Scotland*, had never a contest with King *Iames*, but for his sinnes, and his conniving with Papists, and his introducing Bishops, the usher of the Pope.

QUEST. XLIII. Whether the King of Scotland be an absolute Prince, having Prerogatives above Parliament and Lawes? The Negative is asserted by the Lawes of Scotland, the Kings Oath of Coronation, the Confession of Faith, &c.↩

The negative part of this, I hold, in these Assertions.

Assert. 1. The *Kings of Scotland* have not any Prerogative distinct from Supremacie above the Lawes. [788] 1. If the People must be governed by no Lawes, but by the Kings own Lawes, that is, the Lawes and Statutes of the Realme *acted in Parliament*, under paine of disobedience; then must the *King* governe by no other Lawes, and so by no Prerogative above Law. But the former is an evident truth, by our Acts of Parliament; *ergo*, so is the latter. The Proposition is confirmed; 1. Because what ever Law enjoyneth passive obedience no way but by Lawes; that must injoyne also the King actively to command no other way but by Law: for to be governed by Law, essentially includeth, to be governed by the Supreme

Gouverneur, only by Law. 2. An act of Regall governing, is an act of Law, and essentially an act of Law; an act of absolute Prerogative is no act of Law, but an act above Law, or of pleasure loosed from [434] Law; and so they are opposed as acts of Law, and non acts of Law. If the Subjects, by command of the King and Parliament, cannot be governed but by Law; How can the *King* but be under his own, and the Parliaments Law, to governe only by Law? I prove the Assumption from *Parl. 3. of K. James the 1. Act 48. Ordaines, That all and sundry the Kings Lieges be governed under the Kings Laws and Statutes of the Realme allanerly, and under no particular Lawes, or speciall Priviledges, nor by any Lawes of other Countries or Realmes.* Priviledges doe exclude Lawes: Absolute pleasure of the *King*, as a Man, and the Law of the *King* as *King*, are opposed by way of contradiction: and so in *Parl. 6. K. James 4. Act. 79.* and ratified *Parl. 8. K. James 6. Act. 131.*

2. The *King*, at his Coronation, 1. *Par. K. James 6. Act. 8.* sweareth to *maintaine the true Kirk of God, [789] and Religion now presently professed, in puritie; And to rule the People according to the Lawes and Constitutions received in the Realme; causing Justice and equitie to be ministred without partialitie.* This did *King Charles* sweare at his Coronation, and ratified *Parl. 7. K. Jam. 6. Act. 99.* Hence he who by the Oath of *God* is limited to governe by Law, can have no Prerogative above the Law. If then the *King* change the Religion, Confession of Faith, authorised by many Parliaments, especially by Parliament, 1. *K. Charles, An. 1633.* He goeth against his Oath 3. The Kings Royall Prerogative, or rather Supremacie, enacted *Parl. 8. K. James 6. Act. 129.* and *Parl. 18. Act. 1.* and *Parl. 21. Act. 1. K. James,* and 1 *Parl. K. Charles, Act. 3.* cannot, 1. be contrary to the Oath that *K. Charles* did sweare at his Coronation, which bringeth down the *Prerogative*, to governing *according to the standing Lawes of the Realme.* 2. It cannot be contrary to these former Parliaments and Acts, declaring *that the Lieges are to be governed by the Lawes of the Realme, and by no particular Lawes and speciall Priviledges:* (but absolute Prerogative is a speciall Priviledge above, or without Law) which Acts stand unrepealed to this day: and these Acts of Parliaments stand ratified, *An. 1633. the 1 Parl. K. Charles.*

3. *Parl. 8. K. James 6.* in the first three Acts thereof, the *Kings* Supremacie, and the power and authoritie of *Parliaments*, are equally ratified, under the same paine: *Their jurisdictions, power and judgements in Spirituall or Temporall causes, not ratified by His Majestie, and the three Estates conveyed in Parliament, are discharged. [435]* But the Absolute Prerogative of the *King* above Law, Equity, and Iustice, was never ratified in any Parliament of *Scotland* to this day.

4. *Parliam. 12. K. James 6. Act. 114.* All former Acts in favour of the true Church and Religion, being ratified, Their power of making *Constitutions concerning* \langle *in non-Latin alphabet* \rangle *Order and Decency; the Priviledges that God hath given to spirituall Office-bearers, as well of Doctrine and Discipline, in matters of Heresie, Excommunication, Collation, Deprivation, and such like, warranted by the Word of God, and also to Assembles and Presbyteries, are ratified.* Now in that Parliament, in Acts so contiguous, we are not to think, That the *King* and three Estates, would make Acts for establishing the Churches power in all the former heads of Government; in which, Royalists say, *The soul of the Kings Absolute Prerogative doth consist:* And therefore it must be the true intent of our Parliament, to give the *King* a Supremacy and a Prerogative Royall (which we also give) but without any Absolutenesse of boundlesse and transcendent power above Law; and not to obtrude a Service-Book, and all the Superstitious Rites of the Church of *Rome*, without Gods Word, upon us.

5. The former Act of Parliament ratifieth the true Religion, according to the Word of *God*, then could it never have been the intent of our Parliament, to ratifie an Absolute supremacy, according to which, a *King* might govern his people, as a Tyrannous Lion, contrary to *Deut. 17.18, 19, 20.* And 'tis true: The 18. P. of *King James 6. Act. 1.* and *Act. 2.* upon personall

qualifications, giveth a Royall Prerogative to King *James* over all causes, persons, and estates, within His Majesties Dominion; whom they humbly acknowledge, *to be Sovereign Monarch, Absolute Prince, Judge, and Governour over all Estates, Persons, and Causes.*

These two Acts, for my part I acknowledge, spoken rather in *Court-expressions*, then in *Law-terms*.

1. Because personall vertues cannot advance a limited Prince (such as the Kings of *Scotland, Post hominum memoriam*, ever were) to be an Absolute Prince: Personall graces make not *David* absolutely *supreme Judge over all persons and causes*; nor can King *James*, advanced to be King of *England*, be for that, made more King of *Scotland*, and more supreme Iudge, then he was, while he was onely King of *Scotland*. A wicked Prince is as essentially supreme Iudge, as a godly King.

[436]

2. If this Parliamentary figure of speech which is to be imputed to the times, exalted King *James* to be Absolute in *Scotland*, for his personall indowments, there was no ground to put the same on King *Charls*. Personall vertues are not alway Hereditary, though to me the present King be the best.

3. There is not any Absolutenesse above Law in the Act. 1. The Parliament must be more absolute themselves. King *James* 6. had been divers yeers before this 18. Parl. King of *Scotland*; then if they gave him by Law an Absolutenesse, which he had not before, then they were more Absolute. These who can adde Absolutenesse, must have it in themselves, *Nemo dat quod non habet*, if it be said, *King James had that before the Act, the Parliament legally declared it to be his power, which before the Declaration, was his power*. I answer, All he had before this Declaration was, to *govern the people according to Law and Conscience*, and no more; and if they declare no other Prerogative Royall to be due to him, there is an end, we grant all. But then this which they call *Prerogative Royall* is no more, then, a power to govern according to Law, and so you adde nothing to King *James*, upon the ground of his personall vertues, onely you make an oration to his praise in the *Acts of Parliament*.

4. If this Absolutenesse of Prerogative, be given to the *King*, the subjects swearing obedience, swear, That he hath power from themselves, to destroy themselves: this is neither a lawfull oath, nor though they should swear it, doth it oblige them.

6. A Supreme Iudge, is a supreme father of all his children, and all their causes; and to be a supreme Father, cannot be contrary to a supreme Iudge: but contrary it must be, if this supremacy make over to the Prince, a power of devouring as a Lyon, and that by a regall priviledge, and by office, whereas he should be a father to save; or if a Iudge kill an ill-doer, though that be an act destructive to one man, yet is it an act of a father to the Commonwealth. An act of supreme and absolute *Royaltie* is often an act of destruction to one particular man, and to the whole Commonwealth. For example, when the King out of his Absolute Prerogative, pardoneth a murtherer, and he killeth another innocent man, and out of the same ground, the King pardoneth him again, and so till he kill twenty (for by what reason the Prerogative giveth one pardon, he may give twenty, there is a like reason above Law for all.) This act of Absolute *Royaltie*, is such an act of murther, as if [437] a shepherd would keep a Woolf in the fold with the sheep, he were guilty of the losse of these sheep. Now an act of destroying, cannot be an act of judging, far lesse of a supreme Iudge, but of a supreme Murtherer; 7. Whereas he is called *Absolute Prince, and Supreme Judge, in all Causes, Ecclesiasticall and Civill*. It is to be considered, 1. That the Estates professe in these acts, [790] not to give any new Prerogative, but onely to continue the old power, and that onely with that amplitude, and freedom, which the King and his Predecessors did enjoy and exerce of before: the extent whereof, is best known from the Acts of Parliament, Histories of the

time, and the Oaths of the Kings of *Scotland*. 2. That he is called Absolute Prince, not in any relation of *freedom, from Law, or Prerogative above Law*; whereunto as unto the *norma, regula, ac mensura potestatis suae, ac subjectionis meae*, He is tyed by the Fundamentall Law, and his own Oath, but in opposition to all forraign Iurisdiction or principallitie above him, as is evident, by the Oath of *Supremacie* set down, for acknowledging of his power in the first Act of Parliament 21. K. *Iam*. 6. 3. They are but the same expressions, giving onely the same power before acknowledged in the 129. Act. *Parl*. 8. K. *Iam*. 6. And that onely over Persons or Estates, considered *Separatim*, and over Causes; but neither at all over the Laws, nor over the Estates, taken *Conjunctim*, and as convened in Parliament, as is clear, both by the two immediately subsequent Acts of that Parliament 8. K. *Iam*. 6. Establishing the Authority of Parliaments, equally with the Kings, and discharging all Iurisdiccions (albeit granted by the King) without their Warrant; as also by the Narrative Depositive words, and certification of the Act it self: otherwayes, the Estates convened in Parliament, might by vertue of that Act, be summoned before, and censured by the Kings Majestie or His Councell a Iudicatory substitute be, subordinate to, and censurable by themselves, which were contrary to sense and reason. 4. The very termes of *Supreme Iudge, and in all Causes*, according to the nature of Correlates, presupposeth Courts, and judiciall Proceedings and Laws, as the ground work and rule of all, not a freedom from them. 5. The sixth Act of the twenty Parliament, K. *Iac*. 6. Cleerly interpreteth what is meant by the Kings Iurisdiction *in all Spirituall and Ecclesiastick Causes*: to wit, to be onely in the Consistoriall Causes of *Matrimony, Testaments, Bastardy, Adulteries*, abusively called Spirituall Causes, because [438] handled in Commissary Courts, wherin the King appoints the Commissary, his Deputies, and makes the Lords of the Session his great Consistory in *all Ecclesiasticall Causes*, with reservation of his Supremacy and Prerogative therein.

7. *Supreame Iudge in all causes*, cannot be taken *Quoad actus elicitos*, as if the *King* were to judge between two Sea-men, or two Husband-men, or two Trades-men, in that which is proper to their Art; or between two Painters: certainly the *King* is not to Iudge which of the two draweth the fairest Picture, but which of the two wasteth most gold on his Picture, and so doth interest most of the Common-wealth. So the *King* cannot judge in all Ecclesiasticall Causes, that is, he cannot, *Quoad actus elicitos*, prescribe this Worship: for example, the *Masse*, not the *Sacrament of the Lords Supper*. Therefore the *King* hath but *Actus imperatos*, some Royall Politicall Acts about the Worship of God to command *God* to be Worshipped according to his Word, to punish the superstitions or neglectors of Divine Worship; therefore cannot the *King* be sole Iudge in matters that belong to the Colledge of Iudges by the Lawes of *Scotland*, the Lords of Session onely may judge these maters. K. *Iames*, 1. *Parl*. 2. Act. 45. K. *Iames* 3. *Par*. 8. Act 62. K. *Iames* 3. *Par*. 4. Act. 105. K. I. 1. *Parl*. 6. Act. 83. K. I. 1. *Par*. 6. Act. 86. K. I. 5. *Par*. 7. Act. 104. and that only according to Law, without any remedy of appellation to *King* or the Parliament, Act 62, and 63. *Par*. 14. K. I. 2. And the *King* is by *Act of Parliament inhibited to send any private letter to stay the Acts of Iustice; or if any such letter be procured, the Iudges are not to acknowledge it, as the Kings Will, for they are to proceed unpartially according to Iustice*, and are to make the Law, which is the *King and Parliaments* publick revealed will, their rule, King I. 5. *Parl*. 5. Act. 68. K. *Ia*. 6. *Part*. 8. Act. 139. and K. I. 6. *Par*. 6. Act. 92. most lawfull. Nor may the Lords suspend the course of *Iustice, or the sentence or execution of Decrees upon the Kings private letter*. King I. 6. *Parl*. 11. Act 79. and K. *Iam*. 6. *Par*. 11. Act 47. and so if the Kings Will or desire, as he is a man, be opposite to his Law, and his Will as *King*, it is not to be regarded. This is a strong Argument, that the Parliaments never made the *King* supreame Iudge, *Quoad actus elicitos*, in all causes, nay not if the *King* have a Cause of his owne that concerneth Lands of the Crowne; farre lesse can the *King* have a will of Prerogative above the Law by our Lawes of *Scotland*: [439] And therefore, when in the eighth Parliament King *Ia*. 6. the Kings Royall Power is established in the first Act, the very next act immediatly subjoynd thereunto declareth the authority of the supreame Court of Parliament continued past all memory of

man unto this day, and constitute of the free voices of the three estates of this ancient *Kingdome*, which in the Parliament 1606. is called, *The ancient and fundamentall policy of this Kingdome*; and so fundamentall, as if it should be innovate, such confusion would ensue, as it could no more be a free Monarchy, as is exprest in the Parliaments printed Commission, 1604. by whom the same under *God* hath been upholden, rebellious and traitorous subjects punished, the good and faithfull preserved and maintained, and the Lawes and Acts of Parliament (by which all men are governed) made and established, and appointeth the Honour, Authority, and Dignity of the Estates of Parliament to stand in their owne integrity, according to the ancient and laudable custome by past, without alteration or diminution, and therefore dischargeth any to presume or take in hand, *To impugne the dignity, and the authority of the said Estates, or to seeke, or procure the innovation, or diminution of their power or authority under the paine of Treason*: and therefore in the next Act, they discharge all Iurisdictions, or Judicatories (albeit appointed by the *Kings Majesty*, as the High Commission was,) *without their Warrant and approbation*; and that as *contrary to the fundamentall Laws*, above titled, 48. Act. Parl. 3. K. Ia. 1. and Act. 79. Parl. 6. King Ia. 4. whereby the Lieges should only be ruled by the Lawes or Acts, past in the Parliament of this *Kingdome*. Now what was the ancient Dignity, Authority, and power of the Parliaments of Scotland, which is to stand without diminution, that will be easily and best known from the subsequent passages, or Historians, which can also be very easily verified, by the old Registers, whensoever they should be produced; In the meane time remember that in Parliament and by Act of Parl. *K. Ia. 6.* for observing the due order of Parliament, promiseth, *never to doe, or command any thing, which may directly or indirectly prejudge the libertie of free reasoning or voting of Parliament. K. Ia. 6. Parl. 11. Act. 40.* And withall, to evidence the freedome of the *Parliament of Scotland*, from that absolute unlimited Prerogative of the Prince; and their libertie to resist his breaking of Covenant with them, or Treaties with forraigne Nations; Ye shall consider, 1. That the Kings of *Scotland* are *obliged* ■ *before they be inaugurate, [440] to sweare and make their faithfull Covenant to the true Kirk of God, that they shall maintaine, defend, and set forward the true Religion confessed and established within this Realme; even as they are obliged and astricted by the Law of God, aswell in Deuteronomie, as in the 11 chap. of the 2. book of the Kings; and as they crave obedience of their subjects.* So that the bond and contract shall be mutuall and recipocall, in all time comming, between the Prince and the People, according to the Word of God; as is fully exprest in the Register of the convention of Estates, *Iuly 1567.*

2. That important Acts and Sentences at home, (whereof one is printed, 112 *Act. Parl. 14. K. Ia. 3.*) and in Treaties with Forraigne Princes, the Estates of Parliament did append their severall Seales with the *Kings Great Seale*, [791] (which to *Grotius, Barclaius, and Arnisaeus*, is an undeniable argument of a limited Prince, as well as the stile of our Parliament, that the Estates with the King, *ordaine, ratifie, rescind, &c.*) as also they were obliged, in case of the *Kings* breaking these Treaties, to resist him therein, even by armes, and that without any breach of their allegiance, or of his Prerogative; as is yet extant in the records of our old Treaties with *England* and *France*, &c. But to goe on, and leave some high mysteries unto a rejoinder.

And to the end I may make good, that nothing is here taught, in this Treatise, but the very Doctrine of the Church of *Scotland*, I desire that the Reader may take notice of the *larger Confession of the Church of Scotland*, printed with the Syntagme and body of the Confessions, at *Geneva, anno MDCXII.* and authorized by King *James* the 6. and the three Estates in Parliament; and printed in our Acts of Parliament, *Parl. 15. K. James 6. An. 1567.* Amongst good works of the Second Table, saith our Confession, *art. 14.* are these: *To honour Father, Mother, Princes, Rulers, and superiour Powers: To love them, to support them, yea to obey their Charge, (not repugning to the commandement of God) to save the lives of innocents, to repress Tyrannie, to defend the oppressed, to keep our bodies cleane and holy,*

&c. The contrary whereof is, *To disobey or resist any that God hath placed in Authoritie, (while they passe not over the bounds of their office) to murther, or to consent thereunto, to beare hatred, or to let innocent blood be shed, if we may withstand it, &c.* Now the *Confession* citeth in the margin, *Ephes. 6.1.7. and Ezek. 22.1, 2, 3, 4, &c.* where it is evident, by the name of *Father and Mother*, [441] all inferiour Iudges as well as the *King*, and especially the *Princes, Rulers, and Lords of Parliament are understood.* 2. *Ezek. 22.* The bloody City is to be judged, because they releevd *not the oppressed out of the hand of bloody Princes, v. 6. who every one of them were to their power to shed innocent blood.* 3. To resist superiour powers, and so the Estates of Parliament, as the *Cavaliers of Scotland* doe, is resistance forbidden, *Romans 13.1. the place is also cited in the confession.* And the *Confession* exponeth the place, *Romans 13.* according to the interpretation of all sound Expositers; as is evident in these words, *Art. 24. And therefore we confesse and avouch, that such as resist the supream power, doing that thing which appertaineth to his charge, doe resist Gods ordinance, and therefore cannot be guiltlesse. And further we affirme, that whosoever denyeth unto them aide, their counsell and comfort, while as the Princes and Rulers vigilantly travell in execution of their Office, that the same men deny their helpe, support and counsell to God, who by the presence of his Lieutenant craves it of them.* From which words we have cleare:

1. That to resist the *King* or Parliament, is to resist them, while as they are doing the thing that appertaineth to their charge, and while they vigilantly travell in the execution of their office. But while *King* and Parliament doe acts of Tyranny against Gods Law, and all good Lawes of men, they doe not the things that appertaine to their charge and the execution of their Office; ergo by our confession, to resist them in Tyrannicall acts is, not to resist the ordinance of God.

2. To resist *Princes and Rulers, and so inferiour Iudges, and to deny them counsell and comfort, is to deny helpe, counsell, and comfort to God.* Let then *Cavaliers*, and such as refuse to helpe the *Princes of the Land* against *Papists, Prelates, and Malignants* know, that they resist *Gods ordinance*, which rebellion they unjustly impute to us.

3. Whereas it is added in our *Confession*, that *God by the presence of his Lieutenant craveth support and counsell of the people.* It is not so to be taken, as if then only we are to ayde and helpe inferiour Iudges and *Parliaments*, when the *King* personally requireth it, and not other waies.

1. Because the *King* requireth helpe, when by his Office he is obliged to require our helpe and counsell against *Papists* and *Malignants*, though as misled, he should command the contrary: so if the Law require our helpe, the *King* requireth it *ex officio.*

2. This should expresly contradict our confession, if none were [442] obliged to give helpe and counsell to the *Parliament* and Estates, except the *King* in his own person should require it, because *Art. 14.* it is expresly said, That to save the lives of innocents, or repress Tyranny, to defend the oppressed, —not to suffer innocent blood to be shed; or workes pleasing to God, which he rewardeth. Now we are not to thinke in reason, if the *King* shall be induced by wicked Counsell, to doe tyrannicall workes, and to raise *Papists* in Armes against *Protestants*, that *God* doth by him as by his Lieutenant, require our helpe, comfort and counsell, in assisting the *King* in acts of Tyranny, and in oppression, and in shedding innocent blood; yea our confession tyeth us to deny helpe and comfort to the *King* in these wicked acts, and therefore our helpe must be in the things that pertaineth to his Royall Office, and duty only; otherwise we are to repress all tyranny, art 14.

4 *To save the lives of innocents, to repress Tyranny, to defend the oppressed,* are by our confession good workes, well pleasing to God, and so is this a good worke, *not to suffer innocent blood to be shed, if we may withstand it.* Hence it is cleare as the Sunne, that our confession according to the Word of God, to which King Charles did sweare at his Coronation, doth oblige and tye us in the *presence of God, and his holy Angels to rise in Armes, to save the innocent, to repress Tyranny, to defend the oppressed.* When the King induced by ill counsell sent Armies by Sea and Land, to kill and destroy the whole Kingdome who should refuse such a Service-booke, as they could not in conscience receive, except they would disobey God, renounce the confession of Faith, which the King and they had sworne unto, and prove perfidious Apostates to Christ and his Church, what could we doe, and that the same Confession, considering our bonds to our deare Brethren in *England,* layeth bonds on us, to this as a good worke also, *not to suffer their innocent blood to be shed,* but to defend them; when they against all Law of God, of men, to State, of Nations, are destroyed and killed. For my part, I judge, it had been a guiltinesse of blood upon *Scotland,* if we had not helped them, and risen in Armes to defend our selves, and our innocent brethren against bloody Cavaliers. Adde to this what is in the 24. Article of the same Confession.

We confesse—whosoever goeth about to take away, or to confound the whole state of Civill Polity, now long established; we affirme the same men, not only to be enemies to mankind, but also wickedly to fight [443] against Gods Will. But these who have taken Armes against the Estates of *Scotland,* and the Princes and Rulers of the Land, have laboured to take away Parliaments, and the fundamentall Lawes of this Kingdome, *ergo &c.*

The Confession addeth, 16. *We farther confesse and acknowledge, that such persons as are placed in authority, are to be loved, honoured, feared, and holden in most reverent estimation; because that they are Lieutenants of God, in whose Sessions God himselfe doth sit and Iudge: yea even the Iudges and Princes themselves, to whom by God is given the sword, to the praise and defence of good men, and to revenge and punish all open malefactors.* Ergo the Parliament, and Princes, and Rulers of the Land are Gods Lieutenants on earth, no lesse then the King by our Confession of Faith, and those who resist them, resist the ordinance of God. *Royalists* say, They are but the Deputies of the King, and when they doe contrary to his Royall Will, they may be resisted, yea and killed, for in so farre they are private men, though they are to be honoured as Iudges, when they act according to the Kings Will whose Deputies they are. But I answer:

1. It is a wonder that inferiour Judges should be formally Iudges, in so far as they act conforme to the will of a mortall King, and not in so far as they act conforme to the will of the King of Kings, seeing the judgement they execute is the King of Kings, and not the Iudgement of a mortall King, 2 *Chro.* 19.6.

2. *Royalists* cannot indure the former distinction as it is applyed to the King, but they receive it with both hands, as it is applyed to inferiour Iudges; and yet certaine it is, that it is as ordinary for a King being a sinfull man, to act sometimes as the Lieutenant of God, and sometimes as an erring and misinformed man, no lesse then the inferiour Iudge acteth sometimes according to the Kings will and Law, and sometimes according to his owne private way; and if we are to obey the inferiour Iudge as the Deputy of the King, what shall become of his Person, when Cavaliers may kill him at some *Edge-hill?* for so they mock this distinction, as applyed to the King in regard of his Person, and of his Royall Office; and for this point our Confession citeth in the Margin. *Rom.* 13.7. 1 *Pet.* 2.17. *Psal.* 82.1. which places doe clearely prove: 1. That inferiour Magistrates are: 1. Gods ordinances. 2. Gods on earth, *Psal.* 82. 3. Such as beare the Lords sword. 4. *That they are not only (as the Confession saith) appointed for Civill [444] policie, but also for maintenance of true Religion, and for suppressing of idolatrie and superstition.* Then it is evident, to resist inferior Magistrates, is to resist God himselfe, and to labour to throw the sword out of Gods hands. 5. Our

Confession useth the same Scriptures cited by *Junius Brutus*, to wit, *Ezek. 22.1, 2, 3, 4, 5, 6, 7.* and *Ier. 22.3.* where we are, no lesse then the Iewes, commanded to *execute judgement and righteousnesse, and deliver the spoyled out of the hands of the oppressour.* For both the Law of God, and the Civill Law saith, *Qui non impedit homicidium, quum potest, is homicidii reus est.* I will cast in a word of other Confessions, lest we seeme to be Iesuites alone.

The Confession of *Helvetia* saith, *c. 30. de Magistratu.—Viduas, pupillos, afflictos asserat:* Every *Magistrate* is to defend the widow, the orphan, and the oppressed. The French Confession saith, *art. 40. Affirmamus ergo parendum esse Legibus & Statutis, solvenda Tributa, subjectionis denique jugum voluntariè tolerandum, etiamsi infideles fuerint Magistratus, dummodo Dei summum imperium integrum & illibatum maneat.* So cleare it is, that all active obedience, is due to all *Magistrates*, and that that yoake of passive obedience is to be tolerated, but conditionally, with a *dummodo*, so as the *Magistrate* violate not the supreme commandement of the *King of Kings*. And we know accordingly, [792] Protestants of that Church have taken defensive armes against their *King*. But our *P. Prelate* can say, The Confessions of *Scotland, Helvetia, France,* and all the Reformed Churches, are *Jesuiticall:* when as it was the doctrine of the *Waldenses, Protestants,* and *Luther, Calvin* and others, while as there was no *Iesuite* on earth.

The 37. Art. of the Church of *Englands* Confession, is so far from erecting an absolute power in the *King*, that they expresly bring down the Royall Prerogative from the high seat and transcendent superlative power above the Law; and expone the *Prerogative* to be nothing but *meere Law-power.* We only (say they) *ascribe that Prerogative to the King, which the Scripture doth ascribe to all Godly Princes, that is, that they cause all committed to their trust, whether Ecclesiasticall or Civill persons, doe their duty; and punish with the Civill sword, all disobedient offenders.* In syntag. Confess. *And this they say in answer to some, who beleaved, the Church of England made the King the Head of the Church.* The Prelates Convocation must be *Iesuites* to this *P. P.* also.

[445]

So the 36. Article of the *Belgick Confession*, saith of all *Magistrates*, no lesse then of a *King*, (We know, for *Tyrannie* of Soule and Body, they justly revolted from their *King*.) *Idcirco Magistratus ipsos gladio armavit, ut malos quidem plectant paenis, probos vero tueantur. Horum porro est, non modo de Civili politia conservanda esse sollicitos, verum etiam dare operam ut sacrum Ministerium conservetur, omnis, Idololatria & adulterinus Dei cultus è medio tollatur, regnum Antichristi diruatur, &c.* Then all *Magistrates*, though inferiour, must doe their duty, that the Law of *God* hath laid on them, though the *King* forbid them. But by the *Belgick Confession*, and the Scripture, it is their duty *to relieve the oppressed*, to use the sword against murthering *Papists*, and *Irish Rebels*, and destroying *Cavaliers*. For, shall it be a good plea in the day of *Christ*, to say, *Lord Iesus, we would have used thy sword against bloody Murtherers, if thy Anoynted, the King, had not commanded us to obey a mortall King rather than the King of ages; and to execute no judgement for the oppressed, because he judged them faithfull Catholike subjects.* Let all *Oxford*, and *Cavalier Doctors* in the three Kingdomes, satisfie the consciences of men in this, that inferior Iudges are to obey a Divine Law, with a *proviso*, that the *King* command them so to doe; and otherwise they are to obey *Men rather then God*. This is evidently holden forth in the *Argentine Confession*, exhibited by foure Cities to the Emperour *Charles* the Fifth, *An. M.D.XXX.* in the same very cause of innocent Defence, that we are now in, in the three Kingdomes of *Scotland, England,* and *Ireland*.

The *Saxonick* Confession, exhibited to the Councell of *Trent*, *An. M.D.LI. art. 23,* maketh the *Magistrates* office essentially to consist *in keeping of the two Tables of Gods Law:* and so what can follow hence, but in so far as he defendeth Murtherers: or if he be a *King*, and shall

with the sword, or Armies, impede inferior *Magistrates* (for the *Confession* speaketh of all) to defend *Gods law*, and true Religion, against *Papists, Murtherers, and bloody Cavaliers*; and hinder them to execute the judgement of the Lord against evill doers: He is not, in that, a Magistrate; and the denying of obedience active or passive to him, in that, is no resistance to the Ordinance of *God*: but by the contrary, the *King* himselfe must resist the ordinance of God.

The Confession of *Bohemia* is clear, *art. 16. Qui publico munere magistratu{que} funguntur, quemcun{que} gradu teneant, se non suum, sed Dei [446] opus agere sciant.* Hence all inferior, or the supreme Magistrate, what ever be their place, they doe not their *own work*, nor the work of the *King*, but the *work of God*, in the use of the sword, *Ergo*, they are to use the sword against bloody Cavaliers, as doing *Gods worke*: suppose the *King* should forbid them *to doe Gods worke*. And it saith of all Magistrates: *Sunt autem Magistratum partes ac munus, omnibus ex aequo jus dicere, in communem omnium usum, sine personarum acceptatione, pacem ac tranquillitatem publicam tueri ac procurare de malis ac facinorosis, hanc inter turbantibus poenas sumere, alios{que} omnes ab eorum vi & injuria vindicare.* Now this Confession was the faith of the *Barons and Nobles of Bohemia*, who were Magistrates, and exhibited to the Emperour, *An. 1535.* in the cause not unlike unto ours now: and the Emperour was their Sovereigne: yet they professe they are obliged in conscience to defend all under them from all violence and injuries, that the *Emperour*, or any other could bring on them; and that this is their office before God, which they are obliged to performe as *a worke of God*: and the Christian Magistrate is not *to doe that worke, which is not his own, but Gods*, upon condition that the *King* shall not inhibit him. What if the *King* shall inhibit *Parliaments, Princes and Rulers, to relieve the oppressed, to defend the Orphan, the Widow, the Stranger*, from unjust violence? Shall they obey man rather than *God*?

To say no more of this: Prelates, in *Scotland*, did what they could to hinder his Majestie to indict a Parliament. 2. When it was indicted, to have its freedome destroyed by prelimitations. 3. When it was sitting, their care was to divide, impede, and annull the course of Iustice. 4. All in the P. Prelates booke tendeth to abolish Parliaments, and to enervate their power. 5. There were many wayes used to break up Parliaments in *England*; And to command Iudges not to judge at all, but to interrupt the course of Iustice, is all one as to command unrighteous judgement, *Ier. 22. v. 3.* 6. Many wayes have been used by Cavaliers, to cut off Parliaments, and the present Parliament in *England*.

The paper found in *William Lauds Studie*, touching feares and hopes of the Parliament of *England*, [793] evidenceth that Cavaliers hate the Supreme seat of Iustice, and would it were not in the World; which is the highest rebellion and resistance made against superior Powers.

1. *He feareth, this Parliament shall begin where the last left.*

[447]

Ans. What ever ungrate Courtier had hand in the death of King *James*, deserved to come under Tryall.

2. *He feareth they sacrifice some man.*

Ans. If Parliaments have not power to cut off Rebels, and corrupt Iudges, the root of their being is undone. 2. If they be lawfull Courts, none needeth feare them, but the guilty.

3. *He feareth their Consultations be long, and the supply must be present.*

Ans. Then Cavaliers intend *Parliaments* for Subsidies to the *King*, to foment, and promote the warre against *Scotland*, not for Iustice. 2. He that feareth long and serious consultations, to rip up and launce the wounds of *Church* and State, is affraid that the wounds

be cured.

4. *He feareth they deny Subsidies, which are due by the Law of God, Nature, and Nations, whereas Parliaments have but their deliberation and consent for the manner of giving, otherwise this is to sell Subsidies, not to give them.*

Ans. Tribute, and the standing Revenues of the *King*, are due by the *Law of God and Nations*; but Subsidies are occasionall Rents, given upon occasion of Warre, or some extraordinary necessity; and they are not given to the *King* as Tribute, and standing Revenues, which the *King* may bestow for his House, Family, and Royall Honour, but they are given by the *Kingdome*, rather to the *Kingdome*, then to the *King* for the present warre, or some other necessity of the *Kingdome*, and therefore are not due to the *King* as *King*, by any *Law of Nature or Nations*, and so should not be given but by deliberation and judiciall sentence, of the States; and they are not sold to the *King*, but given out by the *Kingdome*, by Statute of *Parliament*, to be bestowed on the *Kingdome*, and the *King* should sell no Acts of Justice for Subsidies.

5. *He dare not speake of the consequences, if the King grant Bills of Grace, and part with the flowers of the Crowne.* *Ans.* He dare not say, The people shall vindicate their liberty by selling Subsidies, to buy branches of the Prerogative Royall, and diminishing the Kings fancied absolutenesse: so would Prelates have the *King* absolute, that they may ride over the soules, purses, persons, estates, and Religion of men upon the horse of pretended absolutenesse.

6. *He feareth the Parliament fall upon Church businesse; but 1. The Church is too weake already, if it had more power, the King [448] might have more, both obedience and service. 2. The Houses can be no competent Iudges in point of Doctrine. 3. For the King, Clergy, and Convocation are Iudges in all causes Ecclesiasticall.*

Ans. 1. This striketh at the root of all Parliamentary power, 1. The *P. P.* giveth them but a poore *deliberative power in Subsidies*, and that is, to make the Kings Will a Law, in taking all the subjects goods from them, to foment warre against the subjects. 2. He taketh all jurisdiction from them *••ver Persons*, though they were as black Traitors as breathe. 3. And spoileth them of all power in *Church matters*, to make all Iudges, yea and the *King* himselfe yield blind obedience to the *Pope* and *Prelate*, and their illuminated Clergie. Sure I am, *P. Maxwell* imputeth this, but most unjustly, to *Presbyteries*. What essentiall and fundamentall priviledges are left to Parliaments? *David*, and the *Parliament of Israel* are impertinent Iudges in the matter of *bringing home the Ark of God*. And for the Churches weaknesse, that is, the weaknesse of the *damned Prelates*, shall this be the Kings weaknesse? Yes, the *P.P.* must make it true, *No Bishop, no King*.

7. *He feareth, factious spirits will take heart to themselves, if the King yield to them without any submission of theirs.*

Ans. The Princes and Iudges of the Land are a company of factious men, and so no *Parliament*, no Court, but at best some good advisers of a *King* to breake up the *Parliament*, because they refuse Subsidies, that he may be a lawlesse way extort Subsidies.

8. *He desireth the Parliament may sit a short time, that they may not well understand one another.*

Ans. He loveth short, or no justice from the *Parliament*, he feareth they reforme Gods house, and execute justice on men like himselfe. But I returne to the *Scotish Parliament*.

Assert. 2. The Parliament is to regulate the power of the *King*. The heritable Sheriffes complaine, [794] that the *King* granteth Commissions to others, in cases pertaining to their office. Whereupon, the Estates, *Par.* 6. *K. Iam.* 5. *Act.* 82. dischargeth all such Commissions, as also appointeth that all *Murthers be judged by the Iustice generall only*. And in severall Acts the *King* is inhibited to grant pardons to malefactors. *K. Ia.* 6. *Act.* 75. *P.* 11.

It is to be considered, that King *Iames* in his *Basilicon Doron*, layeth down an unsound ground, that *Fergus* the first father of 107 *Kings of Scotland*, conquered this Kingdom. The contrary whereof [449] is asserted by *Fordome, Major, Boethius, Buchannan, Hollanshed*; who run all upon this Principle, That the Estates of the Kingdome did, 1. Choose a *Monarchie*, and freely, and no other Government. 2 That they freely elected *Fergus* to be their *King*. 3. King *Fergus* frequently convened the *Parliament*, called, *In••ulanorum Duces*, [795] *Tribuum Rectores, Majorum consessus, Conventus Ordinum, conventus Statuum, Communitatum Regni, Phylarchi, Primores, Principes, patres*, and as *Hollanshed* saith, they made *Fergus King*, therefore a Parliament must be before the *King*; yea and after the death of *King Fergus, Philarchi coeunt concione advocatâ*, the Estates convened without any *King*, and made that fundamentall Law *Regni electivi, That when the Kings Children were minores, any of the Fergusian Race might be chosen to Reigne*: and this indured to the daies of *Kennethus*: and *Redotha, Rex.* 7. resigneth and maketh over the Government into the hands of the Parliament, [796] and *Philarchi & Tribuum Gabernatores* ordained *Therius* the 8. King. *Buchanan*, 1. 4. *Rer. Scot.* calleth him *Reutha*, and said he did this, *Populo egrè permittente*, then the Royall Power recurred to the fountaine. *Therius* the 8. a wicked man, filled the Kingdome with Roberies fearing that the Parliament should punish him, fled to the *Britaines*, and thereupon the Parliament choose *Connanus* to be *Prorex*, and protector of the Kingdome.

Finnanus R. 10. Decreed; *Ne quid Reges, quod majoris esset momenti, nisi de publici consilii autoritate juberent, & ne domestico consilio remp. administrarent, regia publica que negotia non sine patrum consultatione ductu{que} tractarentur, nec bellum pacem aut faedera reges per se patrum, Tribuumve, Rectorum injussu facerent, demerentue*. Then it is cleare, that Parliaments were *consortes imperii*, and had Authority with, and above the *King*. When a Law is made that the Kings should doe nothing, *Injussu rectorum tribuum, without commandement of the Parliament*, a *Cabinet Counsell* was not lawfull to the *Kings of Scotland*. So *Durstus Rex XI.* sweareth to the Parliament, *Se nihil nisi de primorum consilio acturum. That he shall doe nothing but by counsell of the Rulers and Heads of the Kingdome*.

The *Parliament* rejecting the lawfull sonne of *Corbredus* the 20, *King*, because he was young, created *Dardanus* the sonne of *Metellanus King*, which is a great argument of the power of the *Scottish Parliament* of old for elective, rather than hereditary *Kings*.

[450]

[797]*Corbredus secundus*, called *Galdus*, the 21, *King*, at his Coronation renouncing all negative voices, did sweare, *So majorum consiliis acquieturum, That he should be ruled by the Parliament*; and it is said, *Leges quasdam tollere non potuit, adversante multitudine*.

[798]*Lactatus R.* 22. is censured by a Parliament, *Quod spreto majorum consilio, He appointed base men to publick Offices*.

Mogaldus R. 23. *Ad consilia seniorum omnia ex prisco more rev••cavit, did all by the Parliament, as the ancient custome was*.

Conarus 24. *K.* was cast in Prison by the *Parliament*, *Quod non expectato decreto patrum, quod summa orat potestatis, privatis consiliis administrasset, Because he did the weightiest businesse that concerned the Kingdome, by private advice, without the judiciall*

Ordinance of Parliament, that was of greatest authority. Where is the negative voice of the King here?

Ethodius 2. the sonne of Ethodius the 1. the 28. King. (The Parliament passing by his son of the first Bed, because he was a child, had created Satrael his Brother King before) a simple ignorant man, [799] yet for reverence to the race of Fergus, kept the name of a King, but the Estates appointed Tutors to him, he was the 28. King.

Nathalocus the 30. K. corrupting the Nobles with buds and faire promises, obtained the Crowne.

*Romachus, Fethelmachus, and Angusianus, or as Buchanan calleth him Aenneannus, contended for the Crowne, the Parliament convened to judge the matter, was dissolved by tumult, and Rommachus chosen King, doing all, *Non adhibito, de more, consilio majorum*, was censured by the Parliament.*

Fergus the 2. was created King by the States, De more.

Constantine 43. K. a most wicked man, was punished by the States.

Aidanus 49. K. by the counsell of Sanctus Columba, governed all in peace, by three Parliaments every yeare.

Ferchardus 52. K. and Ferchardus 2. the 54. King, were both censured by Parliaments.

*Eugenius 62. K. a wicked Prince, was put to death by the Parliament, *Omnibus in ejus exitium, consentientibus*.*

Eugenius 7. the 59. K. was judicially accused, and absolved by the States, of killing his Wife Spondan••.

*Donaldus the 70. K. is censured by a Parliament which convened [451] *Pro salute Reipublica*, for the good of the Land. So Ethus the 72. K. *Ne unius culpâ, regnum periret*.*

Gregorius the 73. K. sweareth to maintaine Kirk and State in their liberties; the Oath is ordained to be sworne by all Kings at their Coronation.

*The Estates complaine of Duffus 78. K. because contemning the counsell of the Nobles, *Saerificulorum consiliis abduceretur*, and that neither the Nobility must depart the Kingdome, or another King must be made.*

Culenus the 79. King, was summoned before the Estates, so before him Constantine the 3. the 75. K. did by Oath resigne the Kingdome to the States, and entered in a Monastery at Saint Andrewes.

*Kenethus the 70. K. procured almost, *per vim*, saith Buchanan, [800] that the Parliament should change the elective Kings in hereditary; observe the *Power of Parliaments*.*

*After this Grimus, and then Macbethus, [801] R. 85. is rebuked for governing by private counsell, in his time the King is ordained by the States, *to sweare to maintaine the community of the Kingdome*.*

*When Maccolumbus the 92. King would have admitted a Treaty to the hurt of the Kingdome; the Nobles said, *Non jus esse Regi, the King had no right to take any thing from the Kingdome, Nisi omnibus Ordinibus consentientibus*. In the time of Alexander the 94. K. is ordained, *Acta regis oporteri confirmari decreto ordinum regni, quia ordinibus regni non consultis, aut adversantibus, nihil quod ad ••otius regnistatum attinet, Regi agere liceret*. So all our Historians observe, by which it is cleare, that the Parliament, not the King hath a*

negative voyce.

The States answer to K. *Edwards* Legates concerning *Balzees* conditions in his contest with *Bruce* is, *That these conditions were made a solo Rege, by the King only, without the estates of the Kingdome, and therefore they did not oblige the Kingdome.*

In *Robert* the *Bruce* his Raigne, [802] the K. 97. the succession to the Crowne is appointed by Act of *Parliament*, and twice changed; and in the League with France, *Quod quando de successuro rege ambigeretur apud Scot•s, ea controversia ab Ordinum de creto decideretur.*

Robert the 100. K. in a Parliament at *Sc••••ne* moved the States, [452] to appoint the Earle of *Carick* his eldest sonne, of the second Mariage to the Crowne, passing his children of the first Mariage; and when he would have made a Treatie, he was told, That he could not *inducias facere nisi ex sententia conventus publici*; he could not make Truces but with the consent of the Estates of Parliament.

K. James the 1. could not doe any thing in his Oath in *England*. The Parliaments approbation of the Battell at *Stirling* against King *James* the 3. is set downe in the printed Acts, because *he had not the consent of the States.*

To come to our first Reformation, *Queene* Regent breaking her promise to the States, said, *Faith of promise should not be sought from Princes*; the States answered, *That they then were not obliged to obey, and suspended her government as inconsistent with the duty of Princes, by the Articles of pacification at Leith, Anno 1560. Junii 16. No peace or warre can be without the States.*

In the Parliament thereafter, Anno 1560. the Nobility say frequently to the *Queene*, *Regum Scotorum limitatum esse imperium, nec unquam adunius libidinem, sed ad legum praescriptum & nobilitatis consensum regi solitum.*

So it is declared, *Parliament at Stirling*, 1578. and Parl. 1567, concerning *Queene Mary*, I need not insist here. *K. James* the 6. Anno 1567. Iul. 21. was Crowned, the *Earle of Morton and Humne*, *jurarunt pro ••o, & ejus nomine, in leges, eum doctrinam & ritus religionis, quae tum docebantur, publicè quoad posset, servaturum, & contrarios oppugnaturum.* Buch. Rer. Scot. Hist. 1. 18. *The three Estates revoke all alienations made by the King without consent of the Parliament. Parliam. K. James, 2. cap. 2. K. James, 4, 5, 6.*

Three Parliaments of K. James the 2. are holden without any mention of the King, as Anno 1437. Anno 1438. Anno 1440. and the 5. and 6. Act of Parl. 1440. the Estates ordaine the King to doe such and such things, to ride through the country for doing of Justice. And Parl. 1. *K. James* 1. Act. 23. the Estates ordained the King to mend his money. But shew any Parliament where ever the King doth prescribe Lawes to the States, or censure the States.

In the 1. Parl. of *K. James* the 6. the Confession of Faith being ratified, in Acts made by the three Estates, that the Kings must sweare at their Coronation. *In the presence of the eternall God, that they shall maintaine the true Religion, right Preaching, and administration [453] of the Sacraments now received and preached within this Realme: and shall abolish and gain-stand all false Religions contrary to the same: and shall rule the people committed to their charge, according to the will of God, laudable Lawes and Constitutions of the Realme, &c.*

The 1. Parl. of *K. James* the 6. 1567. approveth the Acts, Parl. 1560. conceived only in name of the States, without the King and Queen, who had deserted the same. So saith the Act, 2.5.4.20.28. And so this Parliament, wanting the King and Queenes authoritie, is confirmed, Parl. 1572. Act. 51. *K. Ia.* 6. and Parl. 1581. Act. 1. and Parl. 1581. Act. 115. in which it is

declared, *That they have been Common lawes from their first Date:* and all are ratified, Parl. 1587. and Parl. 1592. Act. 1. and stand ratified to this day, by *K. Charles* his Parliament, *An.* 1633. The Act of the *Assemblie*, 1566. commendeth that Parliament, 1560. as the *most lawfull and free Parliament that ever was in the Kingdome.*

Yea, even Parl. 1641. King *Charles* himselfe being present, an Act was passed upon the occasion of the Kings illegall imprisoning of the Laird of *Langtoun*, That the King hath no power to imprison any Member of the Parliament, without consent of the Parliament: Which Act, to the great prejudice of the libertie of the Subject, should not have been left unprinted: for, by what Law the King may imprison one Member of the Parliament, by that same reason he may imprison two, and twenty, and a hundreth: and so may he clap up the whole Free Estates; and where shall then the highest Court of the Kingdome be?

All Politicians say, The King is a limited Prince, not absolute; where the King giveth out Lawes, not in his own name, but in the name of himselfe, and the Estates judicially conveened.

Pag. 33. of the old Acts of Parliament, Members are summoned to treat and conclude.

The duty of Parliaments, and their power, according to the Laws of *Scotland*, may be seen in the *Historie of Knox*, now printed at *London*, *An.* 1643. in the Nobles proceeding with the Queen, *who killed her Husband, and married Bodwell*, and was arraigned in Parliament, and by a great part condemned to death, by many, to perpetuall imprisonment.

King *Charles* received not Crown, Sword, and Scepter, while first he did sweare the Oath, that King *James* his Father did sweare. [454] 2. He was not crowned, till one of every one of the three Estates came and offered to him the Crown. 3. With an expresse condition of his duty, before he be crowned.

After, King *Charles* said, *I will by Gods assistance bestow my life for your defence, wishing to live no longer, then that I may see this Kingdome flourish in happinesse.* Thereafter the King shewing himselfe on a Stage to the people, the P. Archbishop said; *Sir, I doe present unto you, King Charles, the right descended inheritor, the Crown, and dignitie of this Realme;* appointed by the Peeres of the Kingdome: And, *Are ye not willing to have him for your King, and become subject to him?* The King turning himselfe on the stage, to be seen of the *People*, They declare their willingnesse, by crying, *God save King Charles! Let the King live!*

QUEST. XLIV. Generall results of the former Doctrine, in some few Corollaries, or straying Questions, fallen off the Road-way: answered briefly.

Q^{uest.} 1. *Whether all Governments be but broken Governments, and deviations from Monarchie?*] Answ. It is denyed; There is no lesse somewhat of Gods authoritie in Government, by many, or some of the choisest of the People, than in *Monarchie*: nor can we judge any *Ordinance of Man* unlawfull▪ for we are to be *subject to all, for the Lords sake*, 1 Pet. 2.13. Tit. 3.1. 1 Tim. 2.1, 2, 3.2. Though *Monarchie* should seeme the rule of all other Governments, in regard of resemblance of the *supreme Monarch* of all: Yet is it not the morall rule, from which, if other Governments shall erre, they are to be judged sinfull deviations.

[803]Q^{uest.} 2. *Whether is Royaltie an immediate issue and spring of Nature?*] Answ. No; For man, fallen in sinne, knowing naturally he hath need of a Law and a Government, could have, by reason, devised Governors, one or moe; and the supervenient institution of *God*, comming upon this Ordinance, doth more fully assure us, that *God*, for mans good, hath

appointed Governours: but if we consult with Nature, many Iudges and Governours, to fallen Nature, seeme nearer of blood, to Nature, then one only: for two, because of mans weaknesse, are better then one. Now Nature seemeth, to me, not to teach, that one onely sinfull man should be the sole and onely Ruler [455] of a whole Kingdome. *God*, in his Word, [804] ever joynd with the Supreme Ruler, many Rulers, who, as touching the essence of a Iudge, (which is, to rule for *God*) were all equally Iudges: some reserved Acts, or a longer cubite of power, in regard of extente, being due to the *King*.

Quest. 3. *Whether Magistrates, as Magistrates, be naturall?*] Answ. Nature is considered, as whole and sinlesse, or as fallen and broken. In the former consideration, that either man should stand in need of any, to compell him with the sword to doe his duty, and not oppresse; was no more naturall to man, than to stand in need of *Lictors* and *Hangmen*, or *Physitians* for the body, which in this state was not in a capacitie of sicknesse or death: And so Government by Parents and Husbands was only naturall, in the latter consideration. *Magistrates* as *Magistrates*, are two wayes considered; 1. According to the knowledge of such an Ordinance; 2. According to the actuall erection of the practice of the office of *Magistrates*. In the former notion, I humbly conceive, that by Natures light, Man, now fallen and broken, even under all the fractions of the powers and faculties of the soule, doth know, that promises of reward, feare of punishment, and the coactive power of the Sword, as *Plato* said, are naturall meanes to move us, and wings to promote obedience, and to doe our duty. And that Government by *Magistrates* is naturall: But, in the second relation, it is hard to determine, that *Kings*, rather then other Governours, are more naturall.

Quest. 4. *Whether Nature hath determined, that there should be one supreme Ruler a King, or many Rulers in a free Commnitie?* Answ. It is denied.

Quest. 6. *Whether every free Commonwealth hath not in it a supremacie of Majestie, which it may formally place in one, or many?*] Answ. It is affirmed.

Quest. 6. *Whether absolute and unlimited power of Royaltie, be a ray and beame of Divine Majestie, immediatly derived from God?*] Answ. Not at all: Such a creature is not in the world of *Gods* creation: Royalists, and flatterers of *Kings*, are parents to this prodigious birth. There is no shadow of power, to doe ill, in *God*: An absolute power is, essentially, a power to do without or above Law, and a power to doe ill, to destroy: and so it cannot come from *God*, as a Morall power, by institution; though it come from *God* by a [456] flux of permissive providence: but so things unlawfull and sinfull come from *God*.

Quest. 7. *Whether the King may, in his actions, intend his owne Prerogative and Absolutenes?*] Answ. He can neither intend it as his nearest end, nor as his remote end. Not the former: for if he fight, and destroy his People for a *Prerogative*, he destroyeth his People, that he may have a power to destroy them, which must be meere Tyranny, nor can it be his remote end; for granting that his supposed absolute *Prerogative* were lawfull, he is to referre all lawfull Power, and all his actions to a more noble end, to wit, to the safetie and good of the People. [805]

Quest. 8. *Doe not they that resist the Parliaments power, resist the Parliament? And they that resist the Kings power, resist the King? God hath joynd King and Power: who dare seperate them?*] Answ. If the *Parliament* abuse their power, we may resist their abused power, [806] and not their power *Parliamentarie*. Mr. *Bridges* doth well distinguish, in his Annot. on the [*Loyall Convert*] betwixt the *Kings power*, and the *Kings will*. 2. The Resisters doe not separate *King* and *Power*; but the *King* himselfe doth separate his lawfull Power from his Will, if he worke and act Tyrannie, out of this principle, Will, Passion, Lust; not out of the Royall principle of Kingly power: So far we may resist the one, and not the other.

Quest. 9. *Why, if God might work a miracle in the three Childrens resistance active; why doth he evidence omnipotencie in the passive obedience of these Witnesses? The Kingdome of Iudah was Christs birthright, as man, and Davids sonne: why did he not, by legions of Men & Angels, rather vindicate his own flesh and blood, than triumph by non-resistance, and the omnipotencie of glorie to shine in his meere suffering?*] Ans. *Who art thou that disputest with God? He that killeth with the jaw-bone of an Asse, thousands; [807] and he that destroyed the numberlesse Midianites by only three hundred, should no more put the three Children to an unlawfull fact in the one, if they had by three men killed Nebuchadnezzar and all his Subjects, than in the other. But nothing is said against us in a Sophisme à non-causa pro causa; except it be proved, God would neither deliver his three Children, nor Christ from death, and the Iewes from bondage, by miraculous resistance, because resistance is unlawfull. What? patient suffering is lawfull; Ergo resistance is [457] unlawfull. It is a poor consequent, and a begging of the question, both must be lawfull to us. And so we hold, of ten lawfull meanes fit to compasse Gods blessed end, he may choose one, and let goe nine: shall any inferre, ergo, These other nine meanes are unlawfull, because God chose a mean, different from those nine, and refused them. So may I answer by retortion. The three hundred sinned in resisting Midian, and defeating them: Why? Because it should be more honour to God, if they had, by suffering patiently the sword of Midian, glorified God in Martyrdome. So Christ and the Apostles, who could have wrought miracles, might have wrought Reformation by the sword, and destroyed Kings and Emperors, the opposers of the Lambe: and they did reforme by suffering; Ergo, the sword is unlawfull in Reformation. It followeth not. The meane Christ used, is lawfull; Ergo, all other meanes that he used not, are unlawfull, It is vaine Logick.*

Quest. 10. *Whether is the Coronation of a King any other thing but a Ceremonie?*] Ans. In the *Coronation* there is, and may be, [808] the *Ceremonie of a shout* and an *Acclamation*, and the reaching of a Scepter in his right hand who is made *King*; and the like: But the *Coronation in concreto*, according to the substance of the act, is no *Ceremonie*, nor any accidentall ingredient in the constitution of a *King*; 1. Because *Israel* should have performed a meere ceremoniall action on *Saul*, when they made him *King*, which we cannot say: for as the Peoples act of *Coronation* is distinctive, so is it constitutive; it distinguished *Saul* from all *Israel*, and did constitute him in a new relation, that he was changed from no *King*, to be a *King*. 2. The people cannot by a *Ceremonie* make a *King*; they must really put some honour on him, that was not on him before. Now this *Ceremonie* which *Royalists* doe fancie *Coronation* to be, is only symbolically and declarative, not really dative, it placeth nothing in the *King*.

Quest. 11. *Whether may Subjects limit the power that they gave not to the King, it being the immediate result (without intervening of Law, or any act of man) issuing from God only?*] Ans. Though we should give (which in reason we cannot grant) that *Royall* power were a result of the immediate bounty of *God*, [809] without any act of man; Yet it may be limited by men that it over-swell not its banks, though *God* immediatly make *Peter* an *Apostle*, without any act of men, yet *Paul* by a sharpe rebuke, *Gal. 2.* curbeth and limiteth [458] his power, that he abuse it not to *Iudaizing*; *Royalists* deny not, but they teach, That the 80. *Priests* that restrained *Vzziah* his power, *from burning incense to the Lord*, gave no *Royall* power to *Vzziah*. Doe not subjects by flight lay restraint upon a *Kings* power, that he kill not the subjects without cause? yet they teach, That subjects gave no power to the *King*; certainly this is a prooffe of the immense power of the *King of Kings*, that none can fly from his pursuing hand, *Ps. 139.1, 2, 3. Amos 9.1, 2, 3, 4.* whereas men may fly from earthly *Kings*. *Nebuchadnezzar*, (as *Royalists* teach) might justly conquer some *Kingdomes*, for conquest is a just title to the Crowne, (say they) now the Conquerour then justly not only limiteth the *Royall Power* of the conquered *King*, but wholly removeth his *Royalty* and unkingeth him, yet we know, the conquerour gave no *Royall* power to the conquered *King*. *Ioshua* and *David* tooke away *Royall* power which they never gave, and therefore this is no good reason, *The*

people gave not to the King Royall Power, ergo, they could not lawfully limit it, and take it away.

2. We cannot admit that God giveth Royall power immediatly, without the intervention of any Act of Law, for it is an Act of Law, that *Deut.* 17. the people chooseth such a *King*, not such a *King*, that the people by a legall covenant make *Saul*, *David*, and *Joash* Kings, and that *God* exerciseth any politicall action of making a *King*, over such subjects, upon such a condition, is absurd, and inconceivable; for how can *God* make *Saul* and *David* Kings of *Jsrael*, upon this politicall and legall condition, that they rule in Iustice and Judgement, but there must intervene a politicall action, and so they are not made Kings immediatly. If *God* feed *Moses*, by bread, and *Manna*, the *Lords* act of feeding is mediate, by the mediation of second causes; if he feed *Moses* 40. dayes without eating any thing, the act of feeding is immediate. If *God* made *David* King, as he made him a Prophet, I should thinke *God* immediatly made him King; for *God* asked consent of no man, of no people, no not of *David* himselfe, before he infused on him the *Spirit of Prophecy*; but he made him formally King, by the politicall and legall Covenant betwixt him and the people. I shall not thinke that a Covenant and Oath of *God* is a Ceremony, especially a Law-covenant, or a politicall paction between *David* and the people, the contents whereof behoved to be *De materia gravi & onerosa*, concerning a great part of obedience to the fifth Commandement of [459] Gods Morall Law, the duties Morall concerning Religion, and Mercy, and Justice, to be performed reciprocally, between King and people. Oathes (I hope) are more then Ceremonies.

Quest. 12. *Whether or no is not the Common-wealth ever a Pupill, never growing to age, as a minor under nonage doth come not to need a Tutor, but the Common-wealth being still in need of a Tutor, a Governour, or King, must alwaies be a Tutor, and so the Kingdome can never come to that condition, as to accuse the King, it alwaies being minor?*] Ans. 1. Then can they never accuse inferiour Iudges, for a *Kingdome* is perpetually in such a nonage, as it cannot want them, when sometime it wanteth a *King*. 2. Can the *Common-wealth* under *Democracy* and *Aristocracy* being perpetually under nonage, ever then quarrell at these Governments, and never seeke a *King*? by this reason they cannot. 3. The *King* in all respects is not a Tutor, every comparison in something beareth a Leg; for the *Common-wealth*, in their owne persons doe choose a *King*. 2. Complaine of a *King*. 3. Resist an *Vzziah*. 4. Tye their elective Prince to a Law; a Pupill cannot choose his Tutor, either his dying Father, or the living Law doth that service for him; he cannot resist his Tutor, he cannot tye his Tutor to a Law, nor limit him, when first he chooseth him. *Pupillo non licet postulare Tutorem suspecti, quamdiu sub tutela est, & manet impubes.* l. Pietatis 6. in fin. C. de susp. Tutor. l. impuberem. 7. & §. Impuberes. Iust. eod.

Quest. 13. [810] *Whether or no are subjects more obnoxious to a King then Clients to Patrons, and servants to Masters, because the Patron cannot be the Clients Judge? but some superiour Magistrate must judge both, and the slave had no refuge against his Master, but only flight. And the King doth conferre infinite greater benefits on the subjects, then the Master doth on the slave, because he exposeth his life, pleasure, ease, credit, and all for the safety of his subjects?* [811] Ans. Its denied; for to draw the case to *Fathers*, and *Lords* in respect of *Children* and *Vassals*; the reason why *Sons*, *Clients*, *Vassals* can neither formally judge, nor judicially punish *Fathers*, *Patrons*, *Lords* and *Masters*, though never so Tyrannous, is a Morall impotency, or a politicall incongruity, because these relations of *Patron* and *Client*, *Fathers* and *Children* are supposed to be in a Community, in which are Rulers and Iudges, above the *Father* and *Sonne*, the *Patron* and the *Client*; but there is no Physicall incongruity that the politique inferiour punish the superiour, if we suppose [460] there were no Iudges on the earth, and no relation, but *Patron* and *Client*; and because, for the *father* to destroy the *children*, is a troubling of the harmony of Nature, and the highest degree of violence, therefore one violence of selfe defence, and that most j•st, though

contrary to nature, must be a remedy against another violence: but in a *Kingdome* there is no politicall Ruler above both *King* and *People*; and therefore though Nature have not formallly appointed the politicall relation of a King, rather then many Governours, and subjects, yet hath Nature appointed a *Court and Tribunall of necessity*, in which the *people* may by innocent violence, repress the unjust violence of an injuring Prince; so as the people injured in the matter of selfe defence, may be their owne Iudge. 2. I wonder that any should teach, That *oppressed slaves had of old no refuge against the tyranny of Masters, but only flight*: for 1. The Law expresly saith, That they might not only fly, *but also change Masters*, which we all know was a great dammage to the Master, to whom the servant was as good as mony in his purse. [812] 2. I have demonstrated before by the Law of Nature, and out of divers learned *Iurists*, that all inferiours may defend themselves by opposing violence against unjust violence; to say nothing, that unanswerably I have proved, that *the Kingdome is superiour to the King*. 3. It is true, *Qui plus dat, plus obligat*, as the Scripture saith, *Luke 7. He that giveth a greater benefit, layeth a foundation of a greater obligation*. But 1. If benefit be compared with benefit, it is disputable; if a King give a greater benefit then an earthly father, to whom under God the sonne is debtor for life and being, if we regard the compensation of eminency of honour and riches, that the *People* puteth upon the *King*; but I utterly deny that a power to act Tyrannous acts, is any benefit or obligation, that the *People* in reason can lay upon their Prince, as a compensation or hire for his great paines, he taketh in his *Royall Watch-Tower*: I Iudge it no benefit, but a great hurt, dammage, and an ill of nature, both to King and people, that the people should give to their Prince any power to destroy themselves, and therefore that people doth reverence and honour the Prince most, who lay strongest chaines and Iron fetters on him, that he cannot tyrannize.

[813]Quest. 14. *But are not Subjects more subject to their Prince (seeing the subjection is naturall, as we see Bees and Cranes) to obey him, then servants to their Lord. C. in Apib. 7.9.1. ex Hiero. 4. ad Rustic. [461] Monarch. Plin. n. 17. For Jurists teach, that servitude is beside or against nature. l. 5. de stat. homi. §. 2. just, & jur. pers. c. 3. §. & sicut Nov. 89. quib. med. nat. eff. sui.*

Ans. There is no question, [814] in active subjection to *Princes* and *Fathers* commanding in the Lord, we shall grant as high a measure as you desire. But the question is, if either active subjection to ill and unjust mandates, or passive subjection to penall inflictions of *Tyrannie* and abused power, be naturall, or most naturall? or if Subjects doe renounce naturall subjection to their *Prince*, when they oppose violence to unjust violence. This is to beg the question. And for the *Commonwealth of Bees and Cranes*, and Crown and Scepter amongst them, Give me leave to doubt of it. To be subject to *Kings*, is a Divine morall Law of *God*; but not properly naturall to be subject to coaction of the Sword. Government and subjection to Parents, is naturall: But that a *King* is *juris naturae strictim*, I must crave leave to doubt. I hold him to be a Divine morall Ordinance, to which, in conscience, we are to submit in the Lord.

Quest. 15. *Whether was King Uzzah dethroned by the People?* [815] Ans. Though we should say, he was not formallly unkinged and dethroned; yet if the Royall power consist in an indivisible point, as some *Royalists* say: and if *Vzzah* was removed to a private house, and could not reigne, being a Leper; Certainly, much Royall power was taken from him. 'Tis true, *Arnisaeus* saith, he neither could be compelled to resigne his power, [816] nor was he compelled to resigne his Royall authoritie; but he willingly resigned actuall government, and remained *King*, as Tutors and Curators are put upon *Kings* that are mad, stupid, and Children, who yet governe all by the authoritie of lawfull Kings. But that *Vzzah* did not denude himselfe of the Royall power voluntarily, is cleare. The reason, 2 *Chro. 26.21*. why he dwelt in an house apart, and did not actually reigne; is, because he was a Leper; for, *He was cut off* (saith the Text) *from the house of the Lord; and Jotham his sonne was over the Kings house,*

judging the people of the Land. Whereby it is cleare by the expresse law of *God*, he being a Leper, and so not, by Law, to enter into the Congregation, he was *cut off from the house of the Lord*: and he being a patient, is said to be *cut off from the Lords house*. Whether then *Vzzah* turned necessitie to a vertue, I know not: It is evident that *Gods* Law removed the actuall exercise of his power. If we obtaine this, which *Gods* Word doth give us, we have enough [462] for our purpose, though *Vzzah* kept the naked title of a *King*, as indeed he tooke but up roome in the Catalogue of *Kings*. Now if, by Law, he was *cut off* from actuall governing; Whether he was willing, or not willing to denude himselfe of Reigning, it is all one. And to say, that *furious men, ideots, stupid men, and Children*, who must doe all Royall acts by Curators and Tutors, are *Kings jure*, with correction, is *petitio principii*: for then hath *God* infused immediatly from heaven, (as *Royalists* teach us) a *Royall power* to governe a *Kingdome*, on those, who are as capable of *Royaltie*, as blocks. I conceive that the Lord, *Deut.* 17.14, 15, 16, 17. commandeth the people, to make no blocks *Kings*: and that the Lord hath not done that himselfe in a binding Law to us, which we have no commandement from him to doe. I conceive that *God* made *Josiah* and *Joash* *Kings* typicall, and in destination, for his promise sake to *David*, while they were Children, as well as he made them *Kings*; but not *actu completo ratione officii*, to be a rule to us now, to make a Childe of sixe yeares of age, a *King* by office. I conceive, Children are to us, only *Kings* in destination and appointment: And for Idiots and Fooles, I shall not believe, (let *Royalists* breake their faith upon so rocky and stony a point, at their pleasure) that *God* hath made them Governours of others, by *Royall office*, who can scarce number their own fingers; Or that *God* tyeth a people to acknowledge stupid blocks for Royall Governours of a *Kingdome*, who cannot governe themselves. But far be it from me to argue with *Bellarmino*; From *Vzziah* his bodily leprosie, [817] to inferre, that any Prince spirituallly Leprous, and turned Hereticall, is presently to be dethroned. Nothing can dethrone a *King*, but such Tyrannie as is inconsistent with his Royall office. Nor durst I inferre, that *Kings*, now adayes, may be removed from actuall Government, for one single transgression. It is true, 80 Priests, and the whole *Kingdome* so serving *King Vzzah*, (their motives, I know, were Divine) proveth well that the Subjects may punish the transgression of *Gods* expresse law, in the *King*, in some cases, even to remove him from the Throne: but as from *Gods* commanding to stone the man that gathered sticks on the Sabbath day, we cannot inferre, that Sabbath-breakers are now to be punished with death; yet we may well argue, Sabbath-breakers may be punished, and Sabbath-breakers are not unpunishable, and above all Law; So may we argue here: *Vzzah*, though a *King*, was punished; Ergo, *Kings* are punishable by Subjects.

[463]

Quest. 16. *Whether or no, as the deniall of active obedience in things unlawfull, is not dishonourable to the King as King, he being obliged to command in the Lord only, so the deniall of passive subjection to the King using unjust violence, be also no dishonouring of the King?* Ans. As the *King* is under *Gods* Law both in commanding, or in exacting active obedience, so is he under the same regulating Law of *God*, in punishing or demanding of us, passive subjection, [818] and as he may not command what he will, but what the *King* of *Kings* warranteth him to command, so may he not punish as he will, but by warrant also of the supreame Iudge of all the earth; and therefore it is not dishonourable to the Majesty of the Ruler, that we deny passive subjection to him, when he punisheth beside his warrant, more then its against his Majesty and honour, that we deny active obedience, when he commandeth illegally; else I see not how it is lawfull to fly from a tyrannous *King*, as *Elias*, *Christ*, and other of the witnesses of our Lord have done; and therefore what *Royalists* say here is a great untruth, namely, *Tha•• in things lawfull we must be subject actively, in things unlawfull, passively*. For as we are in things lawfull to be subject actively, [819] so there is no duty in point of conscience, laying on us to be subject passively, because I may lawfully fly, and so lawfully deny passive subjection to the *Kings* will, punishing unjustly.

Quest. 17. *Whether may the Prince make away any part of his Dominions, as an Iland, or a Kingdome, for the safety of the whole kingdome he hath: as if goods be like to sinke an over-burthened Ship, the Sea-men cast away a part of the Goods in the Sea, to save the lives of the whole Passengers: and if three thousand Passengers being in one Ship, and the Ship in a storme like to be loosed, it would seeme that a thousand may be cast over-board, to save the lives of the whole Passengers?]* Ans. The Kingdome being not the Kings proper Heritage, it would seeme he cannot make away any part of his Kingdome to save the whole, without the expresse consent of that part, [820] though they be made away to save the whole, In things of this kind, men are not as the commodities of Merchants, nor is the case alike: as when one thousand of three thousand are to be cast into the Sea to save all the rest, and that either by common consent, or by Lots, or some other way; for it is one thing, when destruction is evidently inevitable, as in the casting so many men into the Sea to save the whole and many Passengers, and when a King for peace, or for [464] help from another King, [821] maketh away part of his Dominion. The Lord is here to be waited on in his good Providence, and events are to be committed to him; but far lesse can it be imaginably lawfull for a King, to make away a part of his Dominions, without their consent, that he may have help from a forraign Prince to destroy the rest: This were to make merchandize of the lives of men.

Quest. 18. *Whether or no, the convening of the subjects without the Kings will, be unlawfull?]* Answ. The convention of men of it self, is an indifferent thing, and taketh its specification from its causes, and manner of convening, though some convention of the Subjects without the King, be forbidden; yet *Ratio Legis est anima Legis, The reason and intent of the Law, is the soul of the Law.* Convention of the Subjects in a tumultuary way, for a seditious end, to make war without warrant of Law, is forbidden; but not when Religion, Laws, Liberties, Invasion of forraign Enemies, necessitateth the Subjects to conveen, though the King and ordinary Iudicatures, going a corrupt way to pervert Iudgement, shall refuse to consent to their conventions: Upon which ground, no convention of Tables at *Edinburgh*, or any other place, *An. 1637. 1638. 1639.* can be judged there unlawfull; for if these be unlawfull, because they are convention of the Leagues, without expresse Act of Parliament, then the convention of the Leagues to quench a house on fire, and the convention of a Countrey, to pursue a Wolf entered in the Land, to destroy women and children, which are warranted by the Law of nature, should be lawlesse, or against Acts of Parliament.

Quest. 19. *Whether the Subjects be obliged to pay the debts of the King?]* Answ. These debts which the King contracteth as King, *in Throno Regali*, the people are to pay; For the Law of nature, and the divine Law doth prove, That to every servant and Minister, wages is due, *Rom. 13.5, 6.* compared with *Vers. 4.* and *1 Cor. 9.9, 10, 11, 12. 1 Tim. 5.18.* *If the Prince be taken in a war, for the defence of the people, it is just that he be redeemed by them:* So the Law saith, *Tit. F. & C. de negotiis gestis, & F. & C. Manda.* But when *Fer. Vasquius illust. quest. l. 1. c. 7. n. 6. Vicesimo tertio apparet, &c.*—saith, If the Prince was not doing the businesse of the publike, and did make war without advice, and consent of the people, then are they not to redeem him. Now certain it is, when the King raiseth war, not onely against his Oath, and saith, *God do [465] so to me and mine, if I intend any thing but peace,* yet maketh war, and also raiseth war without consent of the Parliament, and a Parliament at that time convocated by his own Royall Writ, and not raised, and dissolved at all, but still sitting formally a Parliament; if he borrow money from his own Subjects, and from forraign Princes, to raise war against his Subjects and Parliament, then the people are not obliged to pay his debts, [822] 1. Because they are obliged to the King only as a King, and not as an enemy: But in so raising war, he cannot be considered as a King. 2. Though, if the people agree with him, and still acknowledge him King; it is impossible, *Physicè*, he can be their King, and they not pay his debts, yet they sin not, but may, *ex decentia, non ex debito legali*, pay his debts, yet are they not obliged by any Law of God, or man to pay his debts; but

though it be true, by all Law the King be obliged to pay his debt, (except we say, that all the peoples goods, are the Kings, a compendious way, I confesse, to pay all that any voluptuous *H•liogabolus* shall contract) yet it may easily be proved, That what his subjects and forraign Princes lent him to the raising of an unjust war, are not properly debts, but expences unjustly given out under the reduplication of formall enemies to the Countrey, and so not payable by the Subjects; and this is evident by Law, because one may give most unjustly moneys to his neighbour, under the notion of loan, which yet hath nothing of the essence of loan and debt, but is meer delapidation, and cannot properly be debt by Gods Law; for the Law regulateth a man in borrowing and lending, as in other politike actions: if I, out of desire of revenge, should lend moneys to a robber, to buy powder and fewel to burn an innocent Citie, or to buy armour to kill innocent men, I deny that that is legally debt. I dispute not, whether *A. B.* borrowing money formally, that thereby he may buy a Whore, shall be obliged to repay it to *C. D.* under the reduplication of debt; or if the borrower be obliged to pay what the lender hath unjustly lent. I dare not pray to God, That all our Kings debts may be payed; I have scarce faith so to do.

Quest. 20. *Whether Subsidies be due to the King as King?* [823] *Answ.* There is a twofold Subsidie; one *Debitum*, of debt, another *Charitativum*, By way of charitie: a Subsidie of debt, is rather the Kingdoms due for their necessitie, then the Kings due, as a part of his rent; we read of *Custome* due to the King as King, and for [464] *<1 page duplicate><1 page duplicate>* [465] *<1 page duplicate><1 page duplicate>* [466] *conscience sake*, Rom. 13.5, 6. never of a Subsidie or taxation to the Kings of *Israel* and *Judah*, at any convention of the States. *Augustus Caesar* his taxing of all the World, *Luk. 2.* for the maintenance of Wars, cannot be the proper rent of *Augustus*, as *Emperour*, but the rent of the *Romane Empire*: and it is but the fact of a man. *Charitative* subsidies to the *King*, of indulgence; because, through bad husbanding of the *Kings* rents, he hath contracted debts: I judge no better than *Royall and Princely begging*. Yet lawfull they are, as I owe charitie to my brother, so to my father, so to my Politique father the *King*. See *Ferd. Vasq. illust. quest. l. 1. c. 8.* who desireth that Superiors, under the name of Charitie, hid not rapine: and citeth *Cleer*, gravely saying, *offic: l. 1. Nulla generi humano & justitiae major pestis est, quam eorum, qui dum maximè fallunt, id agunt, ut boni viri esse videantur, &c.*

Quest. 21. *Whether the Seas, Floods, Road-ways, Castles, Ports, publike Magazine, Militia, Armour, Forts and Strengths be the Kings?* [824] *Ans.* All these may be understood to be the *Kings*, in divers notions. 1. They are the *Kings*, *quoad custodiam, & publicam possessionem*, as a pawn is the mans in whose hand the pawn is laid down. 2. They are the *Kings*, *quoad jurisdictionem cumulativam, non privativam*; The *King* is to direct, and Royally to command, that the Castles, Forts, Ports, Strengths, Armour, Magazine, Militia, be employed for the safetie of the *Kingdome*. All the Wayes, Bridges, the publike Road-ways, are the *Kings*, in so far as he, as a *publike and Royall watchman*, is to secure the Subjects from Robbers, and to cognosce of unknown Murthers, by himselfe and the inferior Iudges: yet may not the *King* imploy any of these against the *Kingdome*. 3. They are the *Kings*, as he is *King, quoad officialem, & Regalem, & publicam proprietatem*: for he hath a Royall and Princely propriety to all these, as his own, in so far as he useth them according to Law: And thus they are, 4. The *Kings* also, *quoad usum*, in regard of officiall use. But they are the *Kingdomes, quoad fructum*, in regard of the effect and fruit. 2. They are the *Kingdomes, finaliter*, being destined for the safetie and securitie of the *Kingdome*. 3. They are the *Kingdomes, quoad proprietatem propriam, & legalem strictè sumptam*; according to the proper and legall propriety; And are not the *Kings* proper heritage, as he is a Man: 1. Because he may not sell these Forts, Strengths, Ports, Magazine, Bridges, &c. to a stranger, or a Forraigne Prince. [467] 2. When the *King* is dead, and his Heires and Royall line interrupted, these all remaine proper to the *Kingdome*; yet so, as the State cannot, as they are Men, make them away, or sell them, more then the *King*: for no Publike persons, yea the

Multitude cannot make away the securitie, safetie, and that which necessarily conduceth to the securitie of the Posteritie. *The Lord build his owne Zion, and appoint Salvation for walls and bulwarks.*

FINIS.

ERRATA.

In the Preface, p. 4. l. 5. for who is, r. which is.

PAge 14. Line 9. for he read they. ib. l. 39. for is r. its. p. 24. l. 19. adde not. ib. l. 27. r. Satan. p. 28. l. penult. for Ant. r. for. p. 47. l. 38. for yet as, r. as yet. p. 52. l. 28. for rest, r. right. p. 91. l. 36. r. nature. p. 96. l. 33. for is, r. in. p. 97. l. 21. for him, r. her. p. 98. l. 10. for 2. r. 3. ib. l. 13. for 3. r. 4. l. 17. for 4. r. 5. for fol. 92, 93. r. 108, 109. p. 121. l. 8 for far, r. for. p. 158. l. 31. for or, r. is a. p. 171. l. 22. for re-joyned, r. are joyned. p. 179 l. 31. for nor, r. were p. 186. l. 28. for are, r. or. p. 195. l. 10. for dispute, r. dispence▪ p. 201 l. 37. for is, r. in. p. 203. l. 13. dele by. p. 224. l. 9 r. in so far as it is. p. 228. l. 37. for it, r. its. p. 234. l. 8. r. Malderus. p. 235. l. 37. dele come. p. 271. l. 2. for them, r. then. p. 280 l. 16. for traddit, r. tradidit. for fol. 313. r. 290. & sequent. p. 325. l. 23. for excito, r. exercito. p. 332. l. 29. for aimeth, r. owneth. p. 336. l. 33. for works, r. worker. p. 343 l. 16. dele not. p. 351. l. 35. for first, r. fift. p. 373. l. penult. for first, r. fift. ib. l. ult. for re-man, r. remain. p. 388. l. 10. for needlesse, r. needfull. p. 392. l. 22. for accidere, r. occidere. p. 405. l. antepenult. for right, r. rite. p. 406. l. 26. for devide, r. denude. p. 444 in marg. for •ive r. suae. p. 451. l. 8. for neither, r. either.

Notes

[1] *Sacr. san. Epist. dedi*••.

[2] *Sacr. san. reg. maj. c. 5.*

[3] A refutation of the P. P. Pamphlet, touching the inconsistency of the Presbytery with Monarchy.

The pretended Prelates lies and calumnies of the Presbyteries of *Scotland*.

[4] *Pag. 6.*

[5] 6.

[6] 7.

[7] *Pag. 9.*

[8] *Pag. 10.*

[9] 10.

[10] 10, 11.

[11] *Pag. 11.*

[12] *Pa. 11, 12, 13.*

[13] 14.

[14] 15.

[15] *Pag. 7.*

[16] *Pag. 9.*

[17] *Pag. 18.*

[18] *Pa. 17, 18.*

[19] *Pag. 18.*

[20] *Pag. 19.*

[21] *Pag. 22.*

[22] *P. 22, 23, 24.*

[23] *Pag. 31.*

[24] *Pag. 31.*

[25] *Pag. 33, 34, 35.*

[26] His lies of the generall Assemblies of *Scotland*.

[27] How Government is from God.

[28] Civill power in the root immediately from God.

- [29] *Aristot. polit. l. 1. c. 2.*
- [30] *Sacro sanc. reg. majestas, c. 1. p. 1.*
- [31] *Molina to. de justit. 22.*
- [32] *Bodin. de rep. l. 1 c. 6.*
- [33] *Suarez to. 1. de legib. l. 3. c. 3.*
- [34] Civill societie how naturall.
- [35] *Vasquez illust. quae t. l. 1. c. 41. num. 28, 29.*
- [36] Power of Government, and of Government by Magistrates distinct.
- [37] *L. 2. in princ. F. de iust. & jur. & in princ. Iust. Cod. tit. c. jus nat. 1. disp.*
- [38] *Dominium est jus quoddam. l. fin. ad med. C. de long. temp. prest. l. qui usum fert.* Civil subjectiō formally not natures Law.
- [39] Our consent to Laws not antecedently naturall.
- [40] Government by Rulers a secondary Law of nature.
- [41] *Ad Tannerus, m. 12. tom. 2. disp. 5. de peccatis, q. 5. dub. 1. num. 22.*
- [42] *Sotus 4. de justit. q. 4. ar. 1.*
- [43] *Lod. Molina, to. 1. de just. disp. 22.*
- [44] *Victoria in relect. de potest. civil. q. 4. art. 1.*
- [45] Family Government and civil different.
- [46] Civill government, by consequent, naturall.
- [47] Rom. 13.
- [48] *Govarruvilas, tr. 2. pract. quest. 1. n 2, 3, 4*
- [49] *Soto loc. cit.*
- [50] *Suarez de Reg. lib. 3. c. 4. n. 1, 2.*
- [51] *Barclaius con. Monarchoma, l. 3. c. 2.*
- [52] The King from God, understood in a fourefold sense.
- [53] *Sacro, an. reg. maj. sacred and royall prerogatives of Christian Kings c. 1. q. 1. p. 6, 7.*
- [54] *Bellarmin. de locis, l. 5. c. 6. not. 5. Politica universe considerata est de jure divino, in particulari considerata est de jure gentium.*
- [55] Royall power is of divine institution.
- [56] *Hieromy in 4. Comment. in Ierem.*
- [57] *Basilii Epist. 125.*
- [58] *Athanasius Epist. ad solita.*

- [59] *Optat. Mellevitanus. Lib. 3*
- [60] Epiphanius l. 1. tom. 3. *Heret.* 40.
- [61] How and in what sence any forme of Government is indifferent.
- [62] How Government is an Ordinance of man, 1 Pet. 2 3.
- [63] *Rivetus in dee••t. Mand. 5. pa. 194.*
- [64] *Pisc. in loc*
- [65] *Diodat. annot.*
- [66] *Occumenius Quod hominum dispositione consistit. & humanis suffragiis creatur.*
- [67] *Dydimus.*
- [68] *Cajetan, officium regiminis, quia humanis suffragiis creatur.*
- [69] *Estius in loc.*
- [70] *Bertrandus tom 4. Bib.*
- [71] *Gloss. ordinar.*
- [72] *Lyranus.*
- [73] *Syriak.*
- [74] *Lorin. in lo.*
- [75] *Durandus lib. de orig▪ juris*
- [76] How the King is from God, and how from the people.
- [77] Royall power three wayes in the people.
- [78] How Royall power is radiidically in the people.
- [79] The people make the King.
- [80] The people create a King according to the Scripture.
- [81] *Lavater com. in Part 12 38. Hodie quo que in liberis urbibus, & gentibus, magi'stratus secundum dei verbum, Exod. 18. & Deut. 1. eligendi sunt, non ex assectibus.*
- [82] *Barclaius, l. 3. cont. Monar'chomach. 8. c. 3.*
- [83] Making a king and choosing a king, not to be distinguished.
- [84] David not a King, because anointed by Samuel.
- [85] By the peoples▪ election one is made of no King a King.
- [86] Kings elected & made by the people, though the Office in the ••bst••act be imme••j••tely of God.
- [87] *Bellarmino l. 5. c. 6. not 5. De Laicis.*
- [88] *Sacro. Sa. reg. Ma. 5.2. pag. 20.21, 22, 23.*

- [89] The people have a reall action more then approbation in making a King.
- [90] The same word that is ascribed to the people in making a King, 2 Sam. 16.18. is given to God, 1 King. 12.28.
- [91] Kinging of a person ascribed to the people.
- [92] Kings in a speiciall manner from God, but it followeth not, ergo, not from the people.
- [93] *Ib.* c 24.
- [94] Kings are from God, yet from the people also.
- [95] The place, *Prov.* 8.15. proveth not but Kings are made by the people.
- [96] *Thom.* 12. q. 93. art. 3.
- [97] *Pag.* 30.
- [98] *Dr. Fern,* 3. ••. 13.
- [99] The formes of Government not from God by a naked act of Providence, but by his approving will.
- [100] *cap.* 4. *pag* 41
- [101] Soveraigntie not from the people by sole approbation.
- [102] That Kings in an eminent ⟨◇⟩⟨◇⟩ of divine providence, have their crownes from God, hindreth not but they have their crownes from the people also ■
- [103] Phrases ascribing the making of Kings in a peculiar manner to God prove not that the free will of the people hath no hand in the making Kings.
- [104] Prophetes of Christ expounded by the P. Prelate of prophane Heathen Kings. The P. Prelate expoundeth Prophetes of David, Solomon and Iesus Christ as true of prophane heathen Kings.
- [105] *Sacro sancta Maj.* 43.44.
- [106] The P. P. maketh all the Heathen Kings to be anoynted with grace from Heaven.
- [107] *Aug. in locum, u••xi malnum fortem, serlvum obedient••m ideo in ••o posui adjutorium.*
- [108] *Lyra. Gratia est habitualis, quia stat pugil contra dialbolum.*
- [109] *Gloss. or/din. &*
- [110] *Hu/go Cardinalis, Oleo laetitia quo prae consortibus unctus fuit Christus, Ps.* 45.
- [111] *Bellarm. ib.*
- [112] *Lorinus.*
- [113] *Theodatus.*
- [114] *Ainsworth, annot.*
- [115] 1 *Sam.* 16 1.13, 14. *Luk.* 4.18.21. *Io.* 3.••4.
- [116] *Iunius an/not. in loc.*

- [117] *Mollerus com. ibid.*
- [118] <...><...> of the Church and Christ, by the P.P. expounded of profane Kings▪
- [119] *Chald. par.*
- [120] *Diodat. an.*
- [121] *Ainsworth. Athanasius, Eusebius, Origen. Augustine, Dydimus.*
- [122] *Ainsw. an. i•• v. 5.*
- [123] The excellency of Kings maketh them not of Gods only constitution and designation.
- [124] *Antonin. de dominis Archiepis. de dom. l. 6. c. 2. n. 5, 6. seq.*
- [125] How Sovereignty is in the people, and how not.
- [126] A Community doth not surrender their right and libertie to their Rulers, so much as their power active to do, and passive to suffer unjust violence.
- [127] Gods losing of the bond of Kings, by the mediation of the peoples despising him, proveth against P.P. that the Lord taketh and giveth Royall Majesty mediately.
- [128] The subordination of creatures naturall, not voluntary as is the subordination of people to Kings and Rulers.
- [129] 7. Arg. pag. 51.52. The place Gen. 9.5. He that sheddeth mans blood, &c.
- [130] *Quint. Curtius, l. 5.*
- [131] *Aug. de civ. Dei, l. 16. c. 17.*
- [132] *Euseb. in exo. Cronic.*
- [133] *Hieron. in c. 2. Hos.*
- [134] *Euseb. l. 9. de prepar. Evan. c. 3.*
- [135] *Clemens recog. l. 4.*
- [136] *Pirerius in Gen. c. 10. v. 8, 9. disp. 3. n. 67. Illud quoque mihi fit percredibile, Nimrod fuisse eundem, at{que} enim quem alia appellant Belum patre•• Ni••i.*
- [137] *Euseb. prolog l. 1. Chron.*
- [138] *Paul Orosius. l. 1. de Or/mesta mundi.*
- [139] *Hieron. in traditio Hebrei in Gen.*
- [140] *Tostat. Abulensan Gen. c. 10.9.6.*
- [141] *Calvin com.*
- [142] *Iosephus in c. 10. Ge.*
- [143] *Luth. cò. ib.*
- [144] *Musculus.*
- [145] *Calv. com. Quanquam hoc loco non simpliter fertur lex politica, ut plectantur homicidae.*

[146] *Ainsw. com.*

[147] *Calv. in lect.*

[148] *Mortar.*

[149] *Pirerius in Gen. 9. v. 3, 4. n. 37. Vatablus hath divers interpretations; In homine, id est, in conspectu omnium & publicè, aut in homine, i.e. hominibus testificantibus, alii, in homine, i. e. propter hominem, quia occidit hominem, jussu magistratus. Cajetan expoundeth < in non-Latin alphabet > < in non-Latin alphabet > contra hominem, in despite of man.*

[150] *Calvin com. in c. 9. Gen.*

[151] *Mortar*

[152] *Pirerius in Gen. 9. v. 3, 4. n. 37. Vatablus hath divers interpretations; In homine, id est, in conspectu omnium & publicè, aut in homine, i. e. hominibus testificantibus, alii, in homine, i. e. propter hominem, quia occidit hominem, jussu magistratus. Cajetan expoundeth < in non-Latin alphabet > < in non-Latin alphabet > contra hominem, in despite of man.*

[153] *M. Anto. de domini. Arch. Spalatens. l. 6. c. 2. n. 5.6. < > petius habet a natura, non tam vim auctoritative rectivam aut gubernativam, quam inclinatio nem passive re gibilem (ut ita loquar) & guibernabilem, qua volens & libens sese submittit rectoribus &c.*

[154] *Almain. de potest. & La. 1 q. 1. c. 1.6. & q. 2.3, 5.*

[155] *Navarrus*

[156] *Nem. don iud. not. 3. n. 85.*

[157] *In any commulnity there are active and pas sive power to government.*

[158] *Pag. 95, 96.*

[159] *Spalacensis, Ibid. pag. 648.*

[160] *Popular Go v ernment is not that in which the whole people are Governors. People by nature, are equally indifferent to all the three forms of Go v ernment.*

[161] < > 16. *August. de lib. arb. l. 1. c. 6. si deprauatus populus rem privatam Reipub. preserat. atque habeat venale suffragium cor ruptusque ab iis qui honores annant, regnum in sefactiosis consuleratisque committat; non ne item rectè, si quis tunc extile rit vir bonus qui plurimum possit, adimat huic populo potestatem dandi honores, & in pavcorum bonorum, vel etiam unjus red regat arbitrium?*

Pag. 97. sacr. sanc. regum majest.

[162] *The P. Prelate holdeth the Pope not to be the Antichrist, but that as Palpists say, the Antichrist shal be one single man.*

[163] *The bad suclesse of Kings chosen by the people proveth nothing, because Kings chosen by God had bad suclesse, through their own wick ednesse.*

[164] *The P. Prelate condemne th King Charles his ratifying in Parliament, 2. An. 1641. the proceedings of Scotland in this present Reformation.*

- [165] That any are supreme Iudges, is an eminent act of speciall providence, which hindereth not but that the King is made by the people▪
- [166] The people not patients▪ in making a King, as is water in producing grace in baptisme.
- [167] *Barclaius contr. Monarch. l. 4. c. 10. p. 268. ut hostes publicos non solù ab uni/verso populo, sed à singulis etiam ••mpeti o••edi{que} jure optimo posse tota Antiquitas ••ensuit.*
- [168] ••ow the people is the subject of Soveraigntie.
- [169] *Sac. Reg. Maj.* The sacred an•• royall prerogative of King c. 9. p. 101.102
- [170] Stollen from *Barclaius*.
- [171] The power of Parliaments.
- [172] The Parliamt hath more power then the King.
- [173] C. 10. pag. 105.
- [174] C. 16.105, 106, 107.
- [175] Iudges and Kings differ.
- [176] Cap. 15. p. 147 148.
- [177] *Barclaius contra Monarchum. l. 5. c. 12. Idem. l. 3 c. ult pag. 2, 3.*
- [178] People may resume their power in some cases, not because they are infallible, but because they cannot so easily erre as one man.
- [179] That the Sanledrim punished not *David, Bathsheba, Ioab*, proveth nothing in law, as a fact or non fact is not law.
- [180] *Covarruvilas, tom. 2. pract. ••uest.. c. 1. n. 2 3 4▪*
- [181] *Spalato de rep. eccles. l. 6. c. 2. n. 32.*
- [182] *Sa. sa. maj.* The sacred and royall prerogative of Kings c. 7. p. 82, 83, 84.
- [183] *Covarr. to 4 pract. quest. c. 1. ••2.*
- [184] Government how both naturall, and also voluntary.
- [185] There is a subordination of creatures naturall, and government must be naturall, and yet this or that forme i•• voluntary.
- [186] *Edward Symmons*, in his loyall subjects beleefe, *sect. 3. p. 16.*
- Royaltie not transmittable from father to sonne.
- Vpon what tearme a people chooseth a Familie to reigne over them by succession.
- [187] The Throne by speciall promises of God, made to *David* and his seed, Ps. 89. no ground to make birth *in foro dei* a iust title to the Crowne.
- [188] 3 Arg.
- [189] *M. Symmons*, Loyall Subjects beleefe, Sect. 3. p. 16.

- [190] Title to a Crown by conquest must be unlawfull if truth be Gods just Title to a Crowne.
- [191] Royalists who hold conquests a iust title to the Crowne, teach manifest treason against our So|veraigne King *Charles* and his Heires.
- [192] 4. Arg.
- [193] Onely *bona fortunae*, not holnour is trans|mittable from father to son.
- [194] Violent conquest cannot regulate the consciences of people to submit to a conquerour as their lawfull King.
- [195] Naked birth is inferiour to the divine unction, which yet made no man a King, without the peoples election.
- [196] *Symmons* loyall Subiects beleef. Sect. 3. p. 16.
- [197] Birth a typical designment to the crown.
- [198] If a Kingdom were by birth, the King might sell it.
- [199] *Symons, sect. 3. pag. 7.*
- [200] *Joan. Episc••. Roffens. de potest. Papae. l. 2. c. 5.*
- [201] *Arnisaeu•• de authorit. princip. c. 1. n. 13.*
- [202] The heir of a Crown hath the Crown as the patrimony of the King|dom, not of the King his father.
- [203] The choice of a family to the Crown, resolveth upon the free election of the people, as on the fountain-cause.
- [204] 6. *Argum.*
- [205] *Sect. 4, p. 39.*
- [206] Election of a family to the Crown law|full.
- [207] *Speed, Hist. pag. 757.*
- [208] A King by el|•ction com|m••th neerer to the first King th•••• a K••ng by suc|••••ssi••n.
- [209] D. Fern, part 3. sect. 3 p. 14.
- [210] If the people may limit the King, they may give him power
- [211] A community have not power formally to punish them|selves.
- [212] *Barclay cont. Monarcham. c. 2. p. 56.*
- [213] The elective King and the hereditary King better and worse, every one then another, in divers relations.
- [214] *Sac. sanc. Reg. Maiest. c. 17. p. 158.*
- [215] Letter p. 7.
- [216] Twofold right of conquest.
- [217] Sect. 7. p. 30.

[218] Vniust conquest is no signification of Gods approving Will.

[219] 1 Arg.

[220] 2 Arg.

[221] Meere violent domineering is contrary to the rules of governing.

[222] 3 Arg.

[223] Violence hath nothing in it of a King.

[224] 4 Arg.

[225] 5 Arg.

[226] A King given to a people by a bloody Conquest, must be a judgement, not a blessing, and so not *per se* a King.

[227] 6 Arg.

[228] Strength, as prevailing strength, is not law or reason.

[229] Fathers cannot dispose of the liberty of the posteritie not borne.

[230] A father as a father hath not power of life and death.

Hugo Gootius de ••ute belli & pacis l. 2. c. 4. n. 10.

[231] 7 Arg.

[232] Part 3. Sect. 3. pag. 20. *Arnisaeus de auctoritat. Princip. c. 1. n. 12.*

[233] The peoples and *Davids* conquest of *Canaanites*, *Ammonites*, and *Edomites*, do not prove conquest to be a good title to a Crown.

[234] *Davids* conquest of the *Ammonites* more rigorous then that it can legitimate Crowns by conquest.

[235] 2 Sam. 12.30.31.

[236] 7. sorts of superiortie and inferioritie.

[237] Power of life and death from a positive law not from the superiortie o•• father & children.

[238] 〈 in non-Latin alphabet 〉〈 in non-Latin alphabet 〉.

[239] A dominion antecedent and consequent.

[240] Kings and subjects no naturall order.

[241] *Buchan. de ju•• Regni apud Sco••tos.*

A man is bor•• *consequenter*, i•• a poltique re••lation.

[242] Slavery not naturall.

[243] Every man by nature free borne in reigard of civill subjection.

[244] 1 Arg.

- [245] 2 Arg.
- [246] 3 Arg.
- [247] 4 Arg.
- [248] 5 Arg.
- [249] 6 Arg.
- [250] Politique societie naturall in *radice*, free in *modo rei*.
- [251] 7 Arg.
- [252] *Sac. sanct. R^og. ma. c. 12. p. 12^o*.
- [253] *P. Prelate*.
- [254] Politick Government how naturall.
- [255] *P. Prelate. Sac. sanct. Mai. p. 26*.
- [256] Inslaving of children by the parents not naturall.
- [257] The King under a naturall, but no civil obligation to the people, say Royalists.
- [258] If the condition without the which one of the parties would never have entered in covenant, be not performed, that person is loosed from the covenant. *Arnis. de anthorit. prin. c. 1 n. 6, 7*.
- [259] The people & Princes in their place are obliged to maintain Religion and Iustice, no lesse then the King.
- [260] In so far as the King presseth a false Religion on the people, *catenus*, in so far they are understood not to have a Kingly power.
- [261] The covenant between King and People giveth a coactive power to each other.
- [262] The covenant bindeth the King, as King, not as he is a man only.
- [263] The covenant tyeth the King to the People politically as well as to God naturally or religiously.
- [264] 2 Arg.
- [265] How the covenant is conditionall, and what breach dissolveth the covenant.
- [266] One or two tyrannous acts deprive not a King of his Royall right.
- [267] The covenant between King and people conditionall.
- [268] Though there be no positive written coveicant (which yet we grant not) yet there is a naturall, tacite, and implicite covenant betwixt the King and the people.
- [269] If the King be made King absolutely, he is made such an one contrary to the word of God and nature of his office.
- [270] The people are not given to the Kings keeping so as they be his owne, as sheep or mony are given.

[271] The King could not buy or sell, borrow or contract debt if his covenant with men did not bind him.

[272] The covenant sworn by *Asa* and all *Iudah*, 2 Chron. 15. obligeth the King.

[273] *Barclay*.

[274] *Alber. Gentilis in disput. Regal. l. 2. c. 12. l. 3. c. 14. 15. 116. Hug. Grotius de jure belli, & pac. l. 2. c. 11, 12, 13. Arnisaeus de authorit. princip. c. 1. n. 7. 8. 10. Haenon. disp. 2.*

[275] *Ioan. Roffens. de potest. pape. l. 2. c. 5.*

Adam suppose he had lived till now should not have bin King of the whole earth because a father.

[276] King a father Metaphorically only.

[277] A fatherly power and a politike power are not one and the same.

[278] *D. Ferne, par. 1. sect. 3. pag. 8.*

[279] *Sacr. sanct. Reg. Maiest. c. 7. pag. 87. Arnisaeus de potest. princip. c. 3. n. 1. 2.*

[280] See *Aristotle* saith the *Prostate*, *Eth. 8. 10. pol. 1. c. Homer. Odys. 1.* he might have said, see *Arnisaeus loc. tit.*

[281] The King as King, hath no masterly dominion over the people, but only fiduciary.

[282] To be a King, is by office, and *actu primo*, to defend, save, feed, and not to hurt or enthral.

[283] A King not over men as reasonable men.

[284] *Prelate. Sacr. sanct. maj. c. 16. p. 15. Hugo Grotius hath the same de jur. bel. & pacis, l. 1. c. 3.*

[285] A compelled surrender of liberty tyeth not.

[286] A surrender of ignorance and mistake, is some way unvoluntary and obligeth not.

[287] The Goods of the Subjects not the Kings.

[288] *Quod jure gentium dicitur. F. de justitia & jure. l. ex h. e.*

Quod partim jure civili. Insti. de rerum divisio. sect. singulorum.

[289] *L. item si verberatum. F. de rei vindicat. Ias. plene m. l. Barbarius. F. de offici. prator.* all the goods of the people are the Kings in a fourfold notion, but not in propriety.

[290] Subjects are proprietors of their own Goods.

[291] *Argum. 1.*

[292] *Argum. 2.*

[293] *Argum. 3.*

[294] The answer of *Hybreas* to a extorting Prince *Antonius*.

[295] *Argum. 4.*

- [296] *Species enim furti est de alio••no largiri, & beneficium debito rem sibi acquirere••, L. si pig/nore, sect. de furt.*
- [297] *Argum. 5.*
- [298] *Argum. 6.*
- [299] *Argum. 7.*
- [300] *Argum. 8.*
- [301] The Kings power fiduciarie.
- [302] The King a Tutor.
- [303] Difference between a father and a Tutor.
- [304] A free Community no pupil or minor.
- [305] The Kings power not properly Maritall or husbandly.
- [306] The King a Patron rather then a Lord.
- [307] The King an honourable servant.
- [308] Royall power only from God, and only from the people in divers respects.
- [309] The King the servant of the people both objectively & subjectively.
- [310] By one and the same act the Lord of Heaven, and the People make the King according to the physicall realitie of the act.
- [311] The King head of the Communitie only metaphorically
- [312] The King but metaphorically only Lord of the familie.
- [313] The King not heire nor proprietor of the Kingdome.
- [314] The place, 1 *Sam.* 8, 9, 11. discussed.
- [315] *Grotius de ju. bel▪ & pacis, l. 1. c. 4. n. 3.*
- [316] *Barclaius contra Monar chom. l. 2. p. 64. Potestatem intelligit non eam quae competit e•• praecepto, neque etiam quae ex permissu est, quatenus liberat à ••cecato, sed quatenus paenis legalibus eximit operantem.*
- [317] *Barclaius contra Monarcho. l. 2. p. 56, 57.*
- [318] The power & office of the King, badly di•••erenced by *Barclay.*
- [319] *Barclaius, l. 3. c. 2.*
- [320] *Arr. Mon. Haec erit ratio Regis.*
- [321] 70. *Interpret.*
- Vatabul. judica ⟨⟩⟨⟩ judicium & consuetudinem, ••. mores & ib. his moribus & hac consuetudine utentur erga vos reges.*
- [322] *Chald▪ Para. ⟨ in non-Latin alphabet ⟩⟨ in non-Latin alphabet ⟩. 70. Interp. 70. Interp.*

[323] *P. Martyr. coment. 1 Sam. 8. verum jus regium describit in Deut. apud Salmuelem autem usurpatum.*

[324] *Calvin. conc. 1 Sam. 8.*

[325] *Andr. Rivetus in decal. c. 20. Exod. in ••. mundat. p. 195.*

[326] *Junius an/not. in 1 Sam. 2.13.*

[327] *Diodatus annot. 1 Sam. 8.3.*

[328] *Gloss•• interlinearis.*

[329] *Lyra in locum. hic accipitur jus large sumptum quo•• reputatur jus propter malum abusum. Nam illa quae dicuntur hic de jure Regis, magis contingunt p••r Tyranidem.*

[330] *Tostatu•• Abulens. in 1 Reg. 8. q. 17. deq. 21.*

[331] *Cornelius a Lapid. in locum.*

[332] *Cajetan. in locum.*

[333] *Hugo Cardinal. in loc.*

[334] *Serrarius in locum.*

[335] *Thom. Aquin. l. 3. de Regni Princip. c. 11.*

[336] *Mendoza, jus Tyrannorum.*

[337] *Clemens Alexand. pag. 26.*

[338] *Beda, l. 2 expo. in Samuel*

[339] *Petrus Ro'buffus tract. d•• incongrua. prert. p. 110. Osiander, he setteth not down the Office of the King, what he ought to be, but what man••ner of King they should have.*

Pelican. that ruled by will, not by law.

Willet. Such as decline to Tyranny.

Borhais, Tyrants, not Kings.

[340] *Rabb. Levi Ben. Gersom. in 1 Sam. 8. Pezelius in exp. leg. Mosai. l. 4. c. 8. Tossan. in not. Bibl. Bosseus de Rep. Christ. potest. supra regem, c. 2. n. 103. Bodin. de Rep. l. 1. •• 19. Brentius, homil. 27. in 1 Sam. 8. Mos regis non de jure, sed de vulgatâ consuetudin••.*

[341] *Doct. Ferne, p. 2. sect. pag. 55.*

[342] *Active and passive, Obed. pag. 24.*

[343] *D. Ferne. 3. p. Sect. 2. pag. 10.*

[344] *Learned Authors teach that Gods Law, Deut. 17. and the < in non-Latin alphabet > in non-Latin alphabet > a manner of the King, 1 Sam. 8, 9 are opposite one to another, so Gerson in trin/princ. sac. adu. lat. par. 4. Alp. 66. lit. l. cons. 8. Buchan. de jure regni. apud Scot. Chasson. cat. glo. mundi cons. 24. n. 162. cons. 35. Tho'loss. l. 9. c. 1. Rossen. De polus Rep. c. 2. n. 10. Magdeburg. in trac. de. off. ma.*

Crying to God not the only remedy against a tyrant.

[345] *Ferne* par. 3. pag. 95.

Resisting of tyrants, and patience not inconsistent.

[346] The Law of the King not a permissive law as was the law of devorcement

[347] *Mal.* 2.

[348] The law of the King written in a booke, 1 Sam. 11. not the law of *Tyranny*.

[349] In what considerations the King is worlthier then the people, and the people worlthier then the King.

[350] A meane as a meane inferiour to the end.

[351] A King inferiour to the people.

[352] *Argum.* ••.

[353] *Argum.* 2.

[354] *Argum.* 3.

[355] *Argum.* 4.

[356] *Argum.* 5.

[357] The *Church* because the *Church* of more worth then the *King* because *King*.

[358] *Argum.* 6.

[359] *Argum.* 7.

[360] People in the spece immortall, King not so.

[361] If sinne had never been, there should have been no need of Kings.

[362] *Arg.* 8.

[363] The King is to expend his life for the people, and so inferior ••o them.

[364] A meane is considered relduplicatively and formally as a meane, and materially, as the thing which is the mean: in this latter sense the mean may be of more worth then the end, but not so in the former sense.

[365] A meane may be considered as a meane only, and as more then a meane.

[366] The people may be with/out the King, but not the King without the people.

[367] 10. *Argum.*

[368] The people worthier as the constituent cause then the King, who is the effect.

[369] *Argum.* 1.

[370] *Argum.* 2.

[371] Vnpossible that people can limit Royall power, but they must giv•• Royllall power.

[372] *Argum.* 3.

[373] *Argum.* 4.

[374] *Except. 2. Ioan. Rossens. De potest. pap. l. 2. c. 5.*

[375] Though God immediately create Kings without the people, yet can the people unmake Kings.

[376] Though God should immediately give a talent and gift for Prophecy'ing, as he gave to *Balaam, Caiaphas* and others, yet they may lose that talent by digging it in the earth, and be deprived by the *Church*.

[377] *Except. 3. Sac. sanc. M••jes. c. 9. p. 98.99 Arnisaus De aulthorit. princip. cap. 1. n. 1.*

[378] The people putting a King above themselves, retain the fountain-power, and so are superior to the King.

[379] *Ulpian l. 1. ad Sc. Tupil. Populus omne sulum imperium & potestatem confert in Reigem. Bartolus ad l. hostes 24. f. de capt. & host.*

[380] *Arnis. c. ••. n. 10.*

[381] The King; as King, a meane and inferior to the people.

[382] The King both as a man, and as a King inferior to the people.

[383] *Except. 4. Sac. sanct. maj. c. 9. p. 98.*

[384] Observe here, that the *P. P.* yieldeth there is a free covenant, by which the people resigne their power to the King; but whether Roy'all power, or some other, he dare not assert, lest he destroy his own principles.

To swear non-selfe-preservation, and to swear self-murther, all one.

[385] *5 Reply. Sac. sanct. maj. c. 9. p. 129. stollen from Barclaius, l. 5. c. 12.*

[386] The people cannot make away their power to the King irrevocably

[387] The people may resume the power they gave to Commissioners of Parliament, when they abuse that power ■

[388] *Buchanan* not understood by the *P. P.*

[389] Tables lawfull when the secret Counsell is corrupted, and Parliaments are denied.

[390] *6 Rep. Barc. l. 4. con••. Monar••bo. c. 11 pag. 27.*

[391] *7. Rep. Sac. sanc. Ma•• ■ c. 13. p. 130. stollen out of Arnisaeus d•• jure Majest. cap. 3. n. 1. pag. 34.*

[392] *Quod ••fficit tale, &c.* holdieth when the agent maketh not away all its vertue by alienation.

[393] *8. Rep. Sac. sanc. Mai. pag. 131.*

[394] *Propter quod unumquod{que} &c.* not understood by the *P. P.*

[395] The King hath Sovereignty by loane and in trust.

[396] Sovereignty how in the Communitie, how not.

[397] Power of life and death, how in the Communitie.

[398] A Communitie of it selfe, wanting Rulers, is a Politique body, and how.

[399] *Sacr. sanc. maj. c. 4. p. 43.*

[400] The propagation of Kings is by filiatiōn, saith the P.P. A speech that hath neither sense nor reason. Filiatiōn is later then propagation: one must be propagated ere he be a sonne.

[401] Kings and inferior Iudges Gods analogically.

[402] Inferiour Iudges no lesse Gods immediate Vicars then the King.

[403] The conscience of the inferiour Iudge is immediately subordinate to God, not to the King either mediately, or immediately.

[404] *Grotius de jure Belli & <ϕ><ϕ> l. 1. c. 4. Nam ••••nis faculeas gubernandi in Magistratibus, summae potestati ita subijcitur ut qui••quid con••ra voluntatem summi imperantis faciant, id dosectum sit ca facultate, ac proinde de pro actu privato ••abendum.*

[405] *Grotius ibi. species intermedia, si genus respicias, est species, si speciem infra positam, est genus: ita magistratus illi, inferiorum quidem ratione habita sunt publicae, personae, at super ores si considerentur, sunt privati.*

[406] *Grot. 16.*

[407] Inferiour Iudges truly Iudges in relation to the King.

[408] The <ϕ><ϕ> judge, how the Deputy of the King.

[409] Inferiour Iudges powers ordained of God.

Rebuked for perverting judgement.

[410] They are the Ministers of God.

[411] To resist them is to resist God.

[412] They are Gods

[413] By this the Parliament of both Kingdomes ought to put to death cut-throat-; Cavaliers ••aising warre against the subject, though the King commands the contrary. *Sac. Sanc. mai. c. 4. pag. 46.*

[414] How the King judgeth by inferiour Iudges.

[415] *Simmons* loyall subjects beleif. Sect. 1. pag. 3.

[416] The honour of an inferiour Iudge commeth neither from East, nor from West, more then from the King.

[417] *Argu. 9.*

[418] Power of Kings and of inferiour Iudges diste gradually, not specifically.

[419] The specificke acts and forme object of Kings and inferiour Iudges are the same.

[420] The same obligation of conscience that lyeth on the King in all things, lyeth on the inferiour Iudge.

[421] *Inferiores Iudices sunt improprie Vicarii Regis, quoad missionem externam ad officium, sed immediati Dei vicarii, quoad officium in quod missi sunt. Barcl. l. 2. contr. Monarchom. p. 56, 57.*

Arnisaeus de aauthorit. Princ. c. 3. n. 9. Marant. disp. 1. Zoan. tract. 3. de desens. Mynsing. obs. 18. cent. 5. Symmons, sect. 1 p. 2.

The Iudges of Israel, and the Kings after them, differed, but not essentially.

[422] *Sacr. sanct. maj. 6.7. p. 81, 82.*

[423] Nature is as neare to Aristocracy as to Monarchy, for the wife cannot be under the husband, as a subject under a Monarch, slie by the fift Commandement hath a joynt headship with the husband.

[424] Iudges inferiour depend on the King, *in fieri* when the constitution of the Kingdome is such, but not *in facto esse* nor in their essence.

[425] *Arg. 10.*

[426] Inferiour Iudges, after the King is dead, as also the States of Parliament remain Iudges.

[427] *Arg. 11.*

[428] God, not the absolute Pr••nce, maketh the inferiour Iudges.

[429] No heritable Iudges according to Gods Word.

[430] Inferiour Iudges more necessary in a large Kingdom then the K••ng, and so *Aristocracy* in that more sutable to the naturall end of government then *Monarchy*.

[431] *Principes sunt capitis tempora, Rex ••ertex.*

[432] Elders of a land joyntly in Parliament, must have as much, if not more, (*vi•• uni/••a sortior*) then when they are divided in severall tribes, cities, shires: but, divided, they are as essentially Iudges, as the King. The whole must have more power in extension, then the part. *Jer. 38.25.* they had power against the Kings will, to put Ieremiah to death. Ieremiah saith, Doe whatsoever soe meth good to you, v. 10.

The power of conveening Parliaments, in the Estates, without the King.

Ps. 122.2, 3. Why are thrones set for judgement for all the tribes, if only the King judge.

[433] Tables in *Scotland* lawfull.

[434] The inferiour Iudges are not subject in their conscience to the King, in their acts of judgement, either, *quoad •••••cifi••ationem*, to give unjust sentences at his will; nor *quoad* $\langle\phi\rangle\langle\phi\rangle$, to execute, or not execute judgement for the oppressed.

[435] Vnjust judging, and no judging at all, are sinnes in the States.

[436] *Junius Brut. q. 2. p. 51. vin. l. contr. Tyran.*

[437] The Parliament Iudges not advisers only.

[438] Inferiour Iudges not the Legats, or Serivants, or Mes|sengers of the King.

[439] Publick Government bellongeth to the States, and Elders as to the King.

[440] *Arg. 8.*

[441] *Arg. 9.*

- [442] Arg. 10.
- [443] Arg. 11.
- [444] *Ferne* par. 3. Defence. Sect. 3. pag. pag. 12
- [445] The question is not, if the King be so absolute as he is freed from all Morall restraint comming from Gods Law.
- [446] *Sacr. sanc. Maj.* ⟨ϕ⟩⟨ϕ⟩. 14 p. 163.
- [447] No resisting of the most Turkish Tyran by the Royalists way.
- [448] An absolute King more absolute then the Great Turke, by Royalists way.
- [449] No law at all, by Royalists way, to impede a King from a super-inundation of overflowing Tyranny.
- [450] 1 Arg. against Absolu••en••slo of Kings.
- [451] Why the King •• breathing Law? three reasons.
- [452] 2. Argument against an absolute King: The People have no absolute power over themselves, and so cannot make over any such power to the King.
- [453] Arg. 3.
- [454] Against an absolute Prince.
- [455] Power Tyrannicall is not from God.
- [456] *Barclaius* ⟨...⟩⟨...⟩ l. 2. pag. 62.
- [457] That •••••sion ⟨...⟩⟨...⟩ mortall ••an may resist, ••s from God.
- [458] *Argum.* 4.
- [459] Against an absolute Prince. A King as a King must be a plague, if God be the Creator of an absolute Prince.
- [460] The goodnesse of an absolute Prince in not putting forth his power in actuall destroying of the people, hinderleth not the power to be *actu primo*, Tyrannicall.
- [461] *Argum.* 5.
- [462] Against absolute Princes. An absolute Prince against justice, peace, reason, law, &c.
- [463] *Argum.* 6.
- [464] Against an absolute Prince.
- [465] It is against nature.
- [466] Arg. 7.
- [467] Against an absolute Prince, contrary to the fift Commanidement.
- [468] Arg. 8.
- [469] Against an absolute Prince. The King remaineth a brother when he is King, and may be rebuked, may not take his neighbours vineyard from him.

- [470] A Damsell forced by the King may violently resist.
- [471] No sufficient means against all cruelties and unjust violences, if an absolute Prince be from God, all go to confusion.
- [472] *Barclaius cont. Monarch. l. 2. pag. 76, 77.*
- [473] 9. Argument $\langle \diamond \rangle \langle \diamond \rangle$ an absolute Prince. The $\langle \dots \rangle \langle \dots \rangle$ express, upon which the Princes receive the crown right with all absolute power.
- [474] Prerogative taken two ways.
- [475] No Prerogative Royall in the Scripture.
- [476] *Jus personae, jus coronae.*
- [477] The question touching Prerogative Royall, vaine.
- [478] Prerogative Royall of Royalists, Gods due.
- [479] Acts founded upon the sole pleasure of the Agent, proper to God.
- [480] A threefold dispensation.
- [481] A dispensation, 1. of sole pleasure, 2. of justice, 3. of grace.
- [482] A twofold expounding of the Law by grace.
- [483] *In re dubia possunt dispensare Principes, quia nullus sensus presumitur, qui vincat principalem, l. 2. Sect. initium ib.*
- [484] Kings, as Kings, cannot do things of mere grace, because they must do all *ex debito officii*, by necessity of their office.
- [485] Rom. 13.4.
- [486] Prov. 17.15.
- [487] Kings, equivocally Kings.
- [488] The King may as well do acts of mere cruelty, from his supposed Prerogative, as acts of mere grace to one man, out of the same fountain.
- [489] If Prerogative may over-leap Law in one, why not in twenty?
- [490] No Tyrant can do any the most cruel act, but under the notion of apprehended good.
- [491] Pretended Prerogative Royal of Royalists Tyranny *Polanus in Daniel, c. 5.19. Rollocus, com. 16. ib.*
- [492] *The Saeches de matr. tom. 1. l. 2. dis. 15. n. 3. est arbitrii plenitudo, nulli necessitati subjecta, rullius{que} publici juri regalis limita $\langle \diamond \rangle \langle \diamond \rangle$. Baldus, l. 2. n. 40. C. de servit. & aqua. Sueti. in Calligu. cap. 29. memento tibi omnia, & in omne licere. Coelius Rodigi, l. 8. Lect. Antiq. c. 1.*
- [493] *Vasquez, illust. quest. l. 1. c. 26. n. 2.*
- [494] A contradiction in *Ferne*.
- [495] *Treaties of Monarchicall Government. c. 2. pag. 6, 7.*

- [496] The King of Persia not absolute.
- [497] The Oath of Judah to the King of Babylon tyed them not to renounce naturall selfe preservation.
- [498] Servants are not by 1 Pet. 2.18, 19. interdicted of selfe-defence.
- [499] Declar. at New Market, Mar. 9. 1641.
- [500] *Magna Charta* against an absolute Prince.
- [501] How the King is Lord of the Parliamen.
- [502] Monarch. Govern. part 2. c. 1. pag. 31.
- [503] *Sac. sanc. Mai. c. 14. p. 144.*
- [504] Princes are not to be invested with power to all Tyranny, upon this pretence, that they cannot do good, except they have also absolute power to do evil.
- [505] *Sac. Maj. pag. 145.*
- [506] *Sacr. sanc. Maj. c. 16. p. 170, 171.*
- [507] A power to shed innocent blood, is no part of a true Prerogative.
- [508] The King because of the publiquesse of his office inferiour to subjects and other Judges, in many priviledges.
- [509] Loyall subjects belief, *Sect. 6. p. 19.*
- [510] *Barcl. l. 4. c. 23. p. 325.*
- [511] Humane Laws as penall, take life from Law makers: as reasonable, they have life from the eternall Law of God.
- [512] The King not greater then the Law.
- [513] No necessitie that an unjust will of a King be either done by us, or on us.
- [514] The King hath no Nomothetick power, his alone.
- [515] *Symmons, Loyall Subject, Sect. 5. pag. 8.*
- [516] Prerogative Royall, warranteth not the Prince to destroy himselfe; nor is the people to permit him to cooperat for destruction to themselves.
- [517] The King inferiour to the People.
- [518] Parliaments supplicate not the King, *ex debito* ■
- [519] *Sac. sanct. maj. . 9 p. 103, 104*
- [520] Subordination of the King to the Parliament, and coordinatiō, both consistent.
- [521] Do. p. 3. Sect. 4. pag. 27.
- [522] Temperament of all the three in a limited Monarchy.
- [523] *Barcl. Ad verfus Monarchomachous l. 1. pag. 24.*

A King as King how excellent a head of the people, how contrary to a Tyrant.

- [524] The King as an erring man no remedy against confusions, and oppressions of Anarchy.
- [525] A Court of necessity, and a Court of Justice.
- [526] Humane Laws not so obscure as Tyranny is legible.
- [527] *Ferne, part. 3. sect. 5. pag. 39.*
- [528] It is ridiculous to say, a King cannot be so void of reason, as to destroy his people.
- [529] *Part. 3. sect. 5. pag. 39.*
- [530] If there be a civill restraint from mans Law, laid upon the King, it must be forceable.
- [531] Its more requisite, the people, religion, and Church, be secured, then one man.
- [532] *D. Ferne, p. 3. sect. 5. pag. 40.*
- [533] To swear to an absolute Prince, as absolute, is an oath *Eatenus*, in so far, not obligatory.
- [534] Difference betwixt a Tyrant in act, and a Tyrant in habit.
- [535] *Epist. 45.*
- [536] The tragicall end of many Tyrannous Princes.
- [537] Reasons why the Peoples obedience, is the overaignes law.
- [538] A good Prince to postpone own safetie the safetie of the people.
- [539] *Sac. sane. Mai. c. 16.159. Dr. Ferne, Conscience satisfied, Sec. p. 28.*
- [540] The King in his government is to seeke safetie of the people, not himselfe.
- [541] *c. sanc. maj. 160.*
- [542] *Armini. Declar. Remonstrant. in uod. dordra.*
- [543] The Royalists principles drive at this, to make none Kings but only rank Tyrants.
- [544] *V. dix regum. pag. 65.*
- [545] *Sac. sanc. Mai. 16. pag. 161, 162, 163.*
- [546] *Sacr. san. Mai. pag. 165.*
- [547] The subjects may gratifie the King for doing what he is obliged to doe by his office.
- [548] *Sac. sacr. Mai. pag. 170.*
- [549] *Page 172.*
- [550] *Symmons* hath the same very thing in his *Loyall Subjec. belief. p. 39. Page 175.*
- [551] The safetie of the people, far above the King
- [552] *Page 176.*

[553] A King may though we should deny all Prerogative, breake through the letter of a Law, for the safety of the whole Land.

[554] The Kings supposed Prerogative, no|thing, in com|parison of the lives and blood of so many thousands as are killed in England and Ireland.

[555] The power of the Dictator no plea for a Prerogative above Law.

[556] Pag. 177.

[557] *Sac. sa••••. maj. cap. 16.*

[558] The Law above the King in four considerations.

[559] The meaning of this [The King is not subject to the Law]

The Law above the King in supremacy of constitution

[560] In what sense the King m••y do all things.

[561] *Plutarch in Alpoth••g. l. 4.*

[562] The King under the fundamentall Laws.

[563] Whether the King be punishable, or be to he punished. Two divers questions. *Magistratus ipse est judex & exlecùtor contra s••ipsum, in pr••lpria causa, propter excellentiam sut officii, l. s•• pater familias ■ & l. & hoc Tiberius Caesar F. De Here••oc. just.*

[564] The King above s••me Lawes.

[565] The King ••lbove Lawes that con••erne subj••cts as subjects.

[566] Some Lawyers and Schoole-men free the King from the Law.

[567] Reasons to prove that the King is under the Law.

Th••t a King hath no superiour but God, a false ground to liberate the the King from the coaction of Law.

[568] *Argum. 2.*

[569] *Argum. 3.*

[570] A Tyrant in ••xercise, may be puni•••••d by th•• <...><...>.

[571] But how this c••n <◇><◇> w••th th•• d••lctrine o•• R••y|al•••••ts, I see not: to wit, *Once a father, alway a father, once a King, ever a King. None can punish a King, <◇><◇> Go•• Almighty, say they.*

[572] *Arg. 4.*

[573] The K••ng under the strict••st obligation of L••w.

[574] *Arg. 5.*

[575] A King remai|neth a man, and a sociall creature.

[576] <...><...> *Mai. <...><...> 1••6, 14••.*

[577] In what considerations the people is the subject of all politike power.

- [578] *Sac. Mai.* p. 147, 148.
- [579] *C. 15.* p. 148.
- [580] Stollen from *Arnisaeus De authorit. Prin. c. 4. num, 5. pag. 73* ■
- [581] If *David* in his Murthering *Vriah* and his Adultery sinned against none but God.
- [582] *Arg.* 6.
- [583] The place *Psa. 51.* Against hee only have I sinned, Discussed.
- [584] Against thee only, &c. cannot exclu••e men, as if *Dauid* had sinned against no mortall men on earth, as Royalists would teach.
- [585] *Sac. sanct. maj. pag.* 153.
- [586] Gods deliv••ring his peo••ple by Iudges, and by *Cyrus* nothing ag••inst the power of a free people.
- [587] That the peo••ple may swear a Covenant for Reformation, of Religion, without the King, is proved.
- [588] A twofold ex••position of Lawes.
- [589] A Rule to ex••pone Lawes.
- [590] The King not the sole inter••preter of the Law.
- [591] The Kings conscience no rule of judging to the inferiour Iudge.
- [592] The King not the authentick peremtory and Lordly inter••preter of the Law.
- [593] *Argum.* 1.
- [594] *Argum.* 2.
- [595] The Will of the King is not the sense of the Law.
- [596] The King is King according to the Law, but not King of the Law.
- [597] *Argum.* 3.
- [598] *Arg.* 5.
- [599] There can be no written Law, if the King only be the authentick expositor of the Law.
- [600] *Imperator ⟨...⟩⟨...⟩ condere dicit. i. omnium, C. de testam.*
- [601] *Arg* ■ 6.
- [602] *Arnisaus de authori. Princ. c. 1. n. 2.* The state of the question concerning resistance.
- [603] *Arnisaes. 16. n. 4.*
- [604] If Kings be absolute by di••vine Institution, then all Covenants restraining them, must be unlawfull spoiling of Kings, of that which God hath gi••ven them.
- [605] Resistance in some c••ses lawfull, according to *D. Fern.*
- [606] *De author. Princ. c. 2. n. 10.*

- [607] Royalists hold it lawfull to resist an inferiour Iudge.
- [608] The Exactors of unjust tribute, not easily to be resisted.
- [609] Arguments for the lawfulness of resisting unjust violence.
- [610] *Argum. 1.*
- [611] *Argum. 2.*
- [612] *Argum. 3.*
- [613] *Argum. 4.*
- [614] *Arg. 5.*
- [615] *Arg. 6.*
- [616] The Kings person as a man, *in concret* and as a King and his office, *in abstracto*, are very different in this dispute.
- [617] *Socr. sanc. Reg. Mai. c. 1. pag. 2.*
- [618] *Arnisaes. de aulhoritat. Princip. c. 4. n. n. pag. 96.*
- Every one that commandeth obedience active or passive unjustly, is *.....e/nus*, no higher power.
- [619] *Arnisaeus 16. Laertius, l. 3. in Plato.*
- [620] The person or the man who is the Magistrate, may lawfully be resisted, and the man as using the power lawfully, or the office can not be resisted.
- [621] *Arg. 5.*
- [622] *Pag. 141.*
- [623] *Sac. sarc. mac. 2 pag 28. pag. 30.31.*
- [624] *Arnis...n de potest. prin. c. 2.11.17.*
- [625] *pag. 3. sec. 5. pag. 30.* Royalists reasons th^ot to resist the man or person is to resist the King, office or ordinance of God.
- [626] *Grot. de iur. belli & pacis. l. 1. c. 4. n. 7. Winzetus V.../...tat. ad...er. Bulchanan. Barclay, adv. Monarchom. l. 3. c. 8.*
- [627] We may kill a person as a man, and love him as a sonne, a father, a wife, according to Gods Word.
- [628] How the person and office of the Ruler are both the object of our subiection.
- [629] The question of subiection toucheth the persons as abusing their power.
- [630] *De Authorit. princ. c. 2. n. 18.*
- [631] Loyall Subiects believe. pag. 49.
- [632] *<...><...> pag. 9.*
- [633] *Pilates* power to crucifie Christ, was no Law-power given by God to *Pilate* as a Iudge.

- [662] When *David* had *Saul* in his hand, he was in a case of actual self-defence, *Saul* being in a habitual unjust pursuit.
- [663] (...) was in, when he came upon King *Saul* sleeping.
- [664] D. *Ferne*.
- [665] The law of universal and particular nature warranteth self-defence.
- [666] This or that King not the adequate head of the community.
- [667] *Exod* 32. *Rom* 9.
- [668] The love of our selfe the rule and measure of our love to our neighbour.
- [669] We are to our brethrens salvation above our life, not their life above our owne.
- [670] How many wayes a man may preferre the safety of his owne life to the safety of his brother.
- [671] (...) common to man with beast.
- [672] Taking armes in the law is a sovereign ground of a defensive posture.
- [673] Offensive and defensive wars differ in the event and intentions of men, but not physically.
- [674] *A whore may not sell her own body for hire*. *Covar.* 10.1. par. 2. §. 1. de turpi & rapiti restituti §. 2. n. 1.
- [675] The lawfulness of violent resistance of Kings cleare from Scripture proofes.
- [676] *Symmons* Loyall subject. 5.10. pag. 31.
- [677] *David* not invading *Saul* and his men, a case far contrary to the condition of *England* and *Scotland* now.
- [678] It is not lawful to kill the King as Jesuits teach.
- [679] D. *Ferne* his resolving of conscience. Sect. .
- Arnisaeus de authorit. princ. c. 2. n. 15.*
- Davids* example not extraordinary.
- [680] *Elisha's* fact proveth the lawfulness of defensive wars.
- [681] (...) by no extraordinary spirit resisted *Joam*.
- [682] Loyall subjects believe.
- [683] Resistance made to King *Vzziah* proveth the same.
- [684] *Vatib. Deturbant eum ex illo loco, compulsusque ut egredietur.* in not. *Festinanter egredi eum coegerunt, hoc est, extruserunt eum.*
- [685] 1 *Sam.* 14. The peoples resisting of *Saul* in rescuing *Jonathan* unjustly condemned to die, saith, that the Estates of the two Kingdomes may swear and covenant to rescue thousands of innocents from the unjust sword of the throats of *Ireland*, & Papists in *England*.

[686] Chald. Par. *Manifestum est quod Jonathan peccavit perignorantiam. P. Ma*... saith with a doubt, *Si ista seditio se fecerunt—nullo modo excusari possunt.* Yea he saith, they might *sus/sagiis*, with their suffrages free him. *Jun.* The people opposed a just oath to *Sauls* hypocritical oath. *Osiander* and *Borharius* justify the people.

P. Mar. Com. in 2 Reg. c. 8. saith, *Libah* revolted, *Quia subditos nitbatur cogere ad Idololatriam, quod ipsi libnenses pati noluerunt & merito: principibus nim parendum est, verum usque ad aras* ■ The King would compell them to Idolatry, and they justly revolted. *Vatab.* in no. *Impulit Judaeos ad Idololatriam, alioqui am pronos ad cultum Idolorum.*

[687] The Cite of *Abels* revolting, a proof for the lawfulness of resistance.

[688] The place *Rom. 13.* discussd.

[689] The King onely is not understood in the Text.

[690] The King is principally understood in the Text, *Rom. 13.* in regard of dignity, but not only in regard of essence.

[691] Onely *Nero* cannot be understood, *Rom. 13.1.*

[692] *Vata Homines intelligit publica auctoritate peditus.*

[693] The P. Prelats p... reas... ■ ...estraining the Text to Kings, answered. *Prelat. <><> Sanct. ma. c. 2. pag. 29. P. Marty. <...><...> potestatum g...ra—regna, Aristocrat...a, Politi...a, Tyrannica, Oligar...hi...a— Deus etiam illorum author.* Willet saith the same, and so *Beza*, so *Tolet. Haymo.*

[694] Reasons against the lawfulness of resistance made to unjust violence, answered.

[695] < in non-Latin alphabet > < in non-Latin alphabet >

[696] *He...d. l. 7. de Xe...e.*

[697] Vulgar version and *Lyra* turn < in non-Latin alphabet > < in non-Latin alphabet > an Apostate.

[698] *Luk. 15.32.*

[699] *Prelat. Sac. sanc. maj. c. 5. n. 6.*

[700] The objection that Gods Prophets never <><> non-resistance as a murderous omission, and that God... people in Scripture never pract...d resista... , and God n...r c...mmede... it, ...lly ...nsw...red.

[701] *Nota.*

[702] <...><...>. 6. <><> ■ 234. Sheweth the reasons, why Christ ...ndemned <><>, not because he thought felt de...ce unlawfull, <><> 1. it had a kind of revenge in it. ...or so, ...ew could not repel such an army as came to take Christ. 2. He waited not on Christs answer. 3. He could have defended himself ...noth...r way. 4. It was contrary to Gods will relve...led to *Pet...*.

[703] The Prophets cry against the sin of non-resistance, when they cry against the peoples not executing judgement for the oppressed, and not relieving those that were crushed in the gate.

- [704] There is no warrant in the word, by precept, or practice, that the King and Cavaliers should rise, and oppose Princes and States, in a hostile way, for their conscience.
- [705] *Sacr. sanc.* 6. pag. 74, 75, 76. The Doctors of *Aberdeene* in their *Duplyes*.
- [706] *Tullian* in an error.
- [707] The ancient Christians did rise in Arms against persecuting Empirours.
- [708] Inferiour Judges have the $\langle \diamond \rangle \langle \diamond \rangle$ of the sword as well as the King.
- [709] The people tyed to acts of Charity, and to defend themselves, the *Church*, and their posterity against a forreigne Army, though the King forbid.
- [710] We must defend with the sword the Church of God, whether the King will or no, except it be said the King may command murder, and discharge us $\langle \diamond \rangle \langle \diamond \rangle$ the duties $\langle \diamond \rangle \langle \diamond \rangle$ the second Table.
- [711] Examples of lawfull warres without the King.
- [712] If the Parliament make the King and give to him the sword, the King cannot make the Parliament nor use the sword to their destruction.
- [713] Parliamentary power a fountaine power above the King.
- [714] $\langle \dots \rangle \langle \dots \rangle$. Believe.
- [715] Cause of war make lawfull war, not the sole pleasure $\langle \diamond \rangle \langle \diamond \rangle$ the King.
- [716] $\langle \dots \rangle \langle \dots \rangle$ 6. n. 18.
- [717] It is necessary and lawful for the States of *Scotland* to help their brethren in *England*.
- [718] Cases in which we are to help our brethren according to divers opinions.
- [719] We are to help our brethren, though they desire us not.
- [720] *Solons* testimony.
- [721] $\langle \diamond \rangle \langle \diamond \rangle$ of the Egyptians against those that helped not the oppressed.
- [722] \langle in non-Latin alphabet \rangle in non-Latin alphabet $\rangle \langle \dots \rangle \langle \dots \rangle$ ad $\langle \diamond \rangle \langle \diamond \rangle$.
- [723] $\langle \dots \rangle \langle \dots \rangle$ ad $\langle \diamond \rangle \langle \diamond \rangle$.
- [724] Acts of charity $\langle \diamond \rangle \langle \diamond \rangle$ helping our brethren against unjust oppressions, of lig us whether the King command them or forbid $\langle \diamond \rangle \langle \diamond \rangle$.
- [725] *Loyall subiects reliefe. sect. 4. pag. 7.*
Sacr. Sanct. Reg. ma. c. 2. pag. 26.27.
- [726] The question concerning the excellency of Monarchy above other forms, various according to divers considerations.
- [727] An absolute Monarchy the baddest of governments
- [728] *Epiminondas* his watchfulness.
- [729] A power to sin worse then a power of non-sinning.

- [730] Monarchy in it selfe considered is the best government.
- [731] Every forme in some construlction, best.
- [732] A mixed Moynarchy, best.
- [733] *Tolossan. de Rep. l. 13. c. 12.*
- [734] *Pa••••l cont. Mona••ch. l. ⟨...⟩⟨...⟩.*
- [735] *Symm••ns L••y|all Subj. un|b••liefe. § 4. pag 7.*
- [736] A threefold supream power.
- [737] What be *jura regalia* or *ju•••• majestatis*.
- [738] *An••isaeus d•• ju••i 6. mat. c. 1. n 3. pag. 15••■ 158.*
- [739] Kings con••••r honours, a•• re|wards of vertue as they p••nish ••ldoers, not belcause they are absolute, but according to law.
- [740] The law of the King 1 *Sam* 8.9.11.
- [741] ⟨ in non-Latin alphabet ⟩ in non-Latin alphabet } A Father consideration of the place 1 *Sam.* 8.9.11.
- [742] Difference of Kings and Judges.
- [743] The law or manner of the King 1 *Sam.* 8.9. no permissive law of God as was the law of a bill of dilvorcement.
- [744] God cannot make a permissive law tendng to the delstruction of a whole national Church and Kingdome.
- [745] What dominion the King hath over the goods of the subject.
- [746] The peoples power over the King by reason of the Coronation covenant.
- [747] Mutuall pun••shments may be, w••ere there be no mutuall relations of supleriority and inferiority.
- [748] A promise lay|eth a politique obligation on the promiser, and giveth law to him to whom the promise is made, to presse performance, or punish violation, when the promises are betwixt man and man.
- [749] Three kindes of oathes or covenants ••••de by Kings as *Arnisaeus* thinketh.
- [750] The King not King while he first swear the oath.
- [751] It is an evasion onely to distngu••sh between the Kings promis••s and his oath.
- [752] *Grotius de jur. bel. & pac. l. 1. c. 4.*
- [753] *Barclai. l. 4. c. 6.*
- [754] A King cannot swear to be a just King, belcause he is already King.
- [755] *Bartol in l. 1. n. 4. de his qu•• not. ••nfam. Arnisae. cap. 6. An princeps qui tura•• sub|ditis, &c.*
- [756] *Io. Ross. de potest. pa. lib. 2. c. 20.*

- [757] *B. Rochester.* 16
- [758] A difference betwixt a father and a King.
- [759] A people may give Royall power to the King by limitation and measure: but people can give no gift which is solely and immediately from God, by measure: they cannot measure God.
- [760] *Sacr. san. reg. maj. c. 1. pag. 1, 2.*
- [761] *An. 1633. Coronation of King Charls in Scotland.*
- [762] *L. 3. desens. sid. Orth. c. 3. n. 2, 3.*
- [763] The P. Prelate is a Papist.
- [764] Iesuites telnents concerning Kings.
- [765] *Tract. contra primatum Religis Angliae.*
- [766] *Calvin Iust. l. 4. c. 4.*
- [767] *Sac. sanc. Mai. c. 1. p. 17, 18.*
- [768] Sovereaign power in the King, but not power of Tyrannie.
- [769] The King not the Vicegerent of Christ, as mediator.
- [770] The King not the head of the Church.
- [771] The Prelates reason proveth all creatures to be the vicegerents of Christ, as Mediator.
- [772] 2 Reas. p. 58.
- [773] The King no mix•••• person, or half Clergie man, in the externall government of the Church, as the P. P. drealmeth.
- [774] 1 *Parl. King Charles, an. 1633.*
- [775] The P. Prelate prayeth for the Pope.
- [776] The power of Presbyteries Ministeriall.
- [777] P. Prelates deny Kings to be subject to the Gospel and Discipline of Christ▪
- [778] *Pag. 65.*
- [779] The Ministeriall power of
- [780] Page 65.
- [781] The *P. Prelate* maketh the *King* a *Church-man.*
- [782] The *P. Prelate* giveth an Arbitrary power of government, in Christs-Church to the King.
- [783] Prelates extend a lawlesse prerogative to the government of the Church.
- [784] Two Supremes under Christ; one in the Church, another in the State, are not absurd.
- [785] *P. 66, 67, 68.*

- [786] The King no•• the servant of the Church.
- [787] Ruling Elders not Lay-men.
- [788] The King of *Scotland* not above Laws and Parliaments, proved from our acts of Parliament.
- [789] The King of *Scotland's* oath at his Coronation.
- [790] How the King is supreme Judge in all Causes.
- [791] The Estates of Parliament do append their collaterall Seales with the Great Seal, in Treaties with forraigne Princes.
- [792] *Angl. Conf. art. 37. Sed eam tantum Prerogativam aquam in sacris Scripturis à Deo ipso omnibus piis Principibus semper fuisse tributam, hoc est, ut omnes status atque ordinis fidei, sive commensos, esse illi ecclesiastici sint, sive civiles, in officio contineant, & contumaces a clinquentes in ladio civili everent.*
- [793] *W. Laud* and other Prelates enemies to Parliaments.
- [794] The Parliaments of *Scotland* doe regulate, limit, and set bounds to the Kings power.
- [795] *Fergus* the first King of *Scotland* no Conquerour, but a freely elected Prince.
- A fundamentall Law of elective Kings in *Scotland*.
- [796] The Parliaments of *Scotland* chosed Kings.
- [797] The Oath of *aldus* the 21. King of *Scotland*.
- [798] Kings of *Scotland* censured and punished by the Parliament.
- [799] Kings of *Scotland* of old had no negative voyce.
- [800] *Buchan Res. Scot. l. 7.*
- [801] Coronation Oath.
- [802] Parliament of *Scotland* by Law are to decide who should raigne.
- [803] How Royaltie is the first and naturall Government.
- [804] Many Rulers over a great multitude, more naturall than one.
- [805] To resist the Will, is not to resist the Power.
- [806] *Pag. 9.*
- [807] It is no good consequence: Christ and the Apostles used not violent resistance to spread the Gospel, *ergo*, such resistance is unlawfull.
- [808] The Coronation of the King, *in concreto*, is more then a *Ceremonie*.
- [809] Men may limit the Power that they gave not.
- [810] *Arnisaeus de authorit. princi. c. 3. n. 6.*
- [811] Subjects not more obnoxious to a King then Clients, Vassals, Children.

- [812] *Servi indignè ••abiti consugi••ndi ad statuas, & dominum ••••utandi copiam ••abent, l. 2. De ••is qui sunt sui. Item, C. De lat. Hered. toll.*
- [813] *Arnisaeus De authori. princi••um in popul. •• 3. n. 7.*
- [814] Subjects in a|ctive obedience must subject to a Kings law|full comman|dement: but in things unlawfull, they are not natu|rally subject, in passive subjection.
- [815] Whether King *Vzzah* was de|throned.
- [816] *Arnisaeus de jure Pontif. Rom. in Regna & Princ. c. 5. n. 30.*
- [817] *Bellarm. de pae|nit. l. 3. c. 2.*
- [818] Deniall of passive obedie|nce in things unjust not dis|honourable to the King, more then deniall of active obedie|nce in these same things.
- [819] *Loyall Convert*, page 10.
- [820] The King may not make away a part of his owne Dominions.
- [821] *Ferdinan. Vas|quius illustr. quest. l. 1. c. 3. n. 8. juri alieno quisquam nec in minima parte obesse potest. l. id quod no|stru. F. de reg. jur. l. jur. natu. cod. titul. l.*
- [822] How subjects are obliged to pay the Kings debts.
- [823] Subsidies the Kingdoms due rather then the Kings.
- [824] In how many divers notions the Seas, Forts, Castles, Militia, Road-wayes, are the Kings: and how more properly they are the *Kingdomes*.