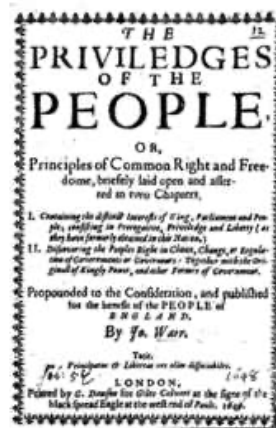
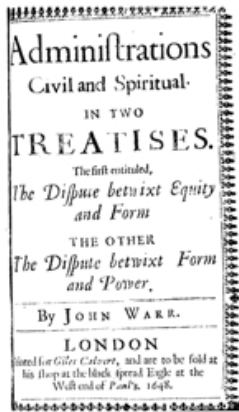
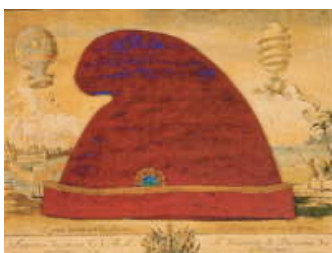


# JOHN WARR, "THE SPARKS OF FREEDOM IN THE MINDS OF MEN": *Three Tracts by John Warr (1648-1649)*



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John Warr, *"The Sparks of Freedom in the Minds of Men": Three Tracts by John Warr (1648-1649). Edited by David M. Hart* (The Pittwater Free Press, 2025).

This anthology consists of three tracts published by John Warr in 1648 and 1649:

1. John Warr, *Administrations Civil and Spiritual in Two Treatises. The First Entitled The Dispute betwixt Equity and Form. The Other The Dispute betwixt Form and Power*. (London: Giles Calvert, 1648).
2. John Warr, *The Priviledges of the People, or Principles of Common Right and Freedome asserted, briefly laid open and asserted in two Chapters* (London: Giles Calvert, 1649). Dated 5 February, 1649.
3. John Warr, *The Corruption and Deficiency of the Lawes of England soberly discovered: or, Liberty working up to its just height* (London: Giles Calvert, 1649). Dated 11 June, 1649.

## Editor's Introduction

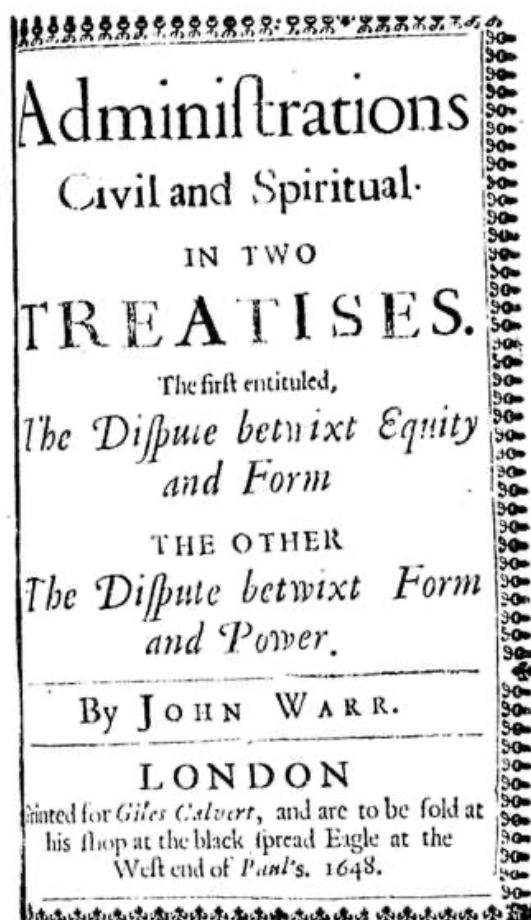
To make this edition useful to scholars and to make it more readable, I have done the following:

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

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JOHN WARR, *ADMINISTRATIONS CIVIL AND SPIRITUAL IN TWO  
TREATISES (1648)*



**Full Title:**

John Warr, *Administrations Civil and Spiritual in Two Treatises. The First Entitled The Dispute betwixt Equity and Form. The Other The Dispute betwixt Form and Power.* (London: Giles Calvert, 1648).

**Title ID:** T.296 [1648.00] John Warr, *Administrations Civil and Spiritual* (1648 no month given).

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**Thomason Tracts Catalog information:** Not listed in Thomason Tracts.

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## An Epistolary Preface to the Reader ↩

My intent and purpose in compiling this enchiridion was in order to the advance of light and knowledge; for I observed a double darkness upon the minds and spirits of most men, a moral and a spiritual darkness.

That which I call a moral darkness consists in the ignorance of the grounds and reasons of things: for how few are there which are acquainted with the origin and rise of governments, the nature and bounds of subjection, the distinction between the letter of the law and the sense, meaning and equity thereof. The [ii] want of light and understanding in these things hath engaged the world into parties and factions, through the arts and subtleties of self-interested men, who have imposed upon the darkness of ordinary understandings in the above-named particulars.

And the issue of such seductions, fallacies and deceits hath been very lamentable as to sense, and to the vast prejudice of those persons who have been ensnared by them, for by this means whole herds of them have been sacrificed to the ambition and tyranny of the pretended guides, rulers and princes of the world.

An experiment of this truth we have had in this, as well as in other kingdoms; for how many poor innocent souls have perished in these wars; and their blood designed to be but as stairs and footsteps to advance those into thrones of domination and rule that thus engaged them.

The corruption and wickedness of which undertaking hath so far provoked the Almighty as to design the ruin and extirpation of that greatness which hath been thus perverted and abused.

I take this to be the ground of that darkness and confusion which at present seems to cover the face of things.

And though there be a vein of beauty in all these things, yet the glory thereof is hid from ordinary understandings, who behold only the face [iii] or rather the vizard of things, which must needs represent an ugly and deformed state, yet the beauty is seen by the spiritual man, who, in the light of the spirit, foresees the fall of flesh and worldly pomp, and rejoices therein.

For doubtless there is such a deal of corruption and self in the laws, lawyers, civil forms and constitutions of this and other nations, and those so essentially inherent in them, that the administrations themselves are like to be altered, changed and removed, that so way may be made for clearer and brighter appearances of equity and truth.

To further which design, and to take us off from persons and forms to principles and things, I have drawn forth the first part of this discourse, touching the rise and period of civil forms.

And if any shall object that these are low and inferior actings, and have their foundation in the flesh, I answer, though there may be (and I believe is) a glory above them, yet the spiritual Christian may contemplate and admire the outgoings of God even in these things, as being himself rather above than against them.

As for the second part of this discourse, I have observed that most Christians live upon men: man is cried up and idolised by us: the sermons, writings and expositions of men. To occur and prevent this evil, I have given thee in my [iv] judgment, concerning spiritual administrations in the second treatise, how that God hath appointed them only as elementary and disciplinarian things, pointing and directing us to a higher glory; for while we stand in need to teach and be taught one by another, we are not yet come to that state wherein we shall be all taught of God.

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## THE DISPUTE BETWIXT EQUITY AND FORM ↩

or The Clear Principle in the Civil Reference; In the light whereof is discovered

1. The rise and expiration of civil forms and governments.
2. The true notion of rebellion, disobedience and treason.
3. The test of all human laws.
4. The judge of civil controversies.
5. The origin and fall of fleshly interests.

Serving as a gnomon to direct us in passing sentence upon the past or future transactions of the Parliament, Army or any other succeeding party, in the prosecution of their ends.

### *I*

The administrations which God hath put the creature under are either secular and civil, or spiritual and divine.

### *II*

Secular and civil administrations, relating to the guidance and orderment of outward policies and societies of men, have in them to be considered their rise, progress and expiration.

### *III*

Evil manners, in as much as they are occasions, may be said to be the father and mother of good laws. Man degenerating from his primitive [2] and original glory, and declining from a clear principle to a dark and muddy understanding, falls into the state of horse and mule, and so needs to be restrained with bit and bridle, law, penalties etc. lest the wolfish nature should break loose and fall foul on others.

### *IV*

The kingly creature thus dethroned is turned out (like Nebuchadnezzar) amongst the beasts, till such time as the divine principle gets ground in it again, and by degrees recovers its former state.

### *V*

When this principle once recovers, man becomes a law unto himself; for that of the apostle holds true, even in this sense also, that the law was not made for the righteous, i.e. such as in whom this principle obtains rule, but for the disobedient, i.e. those who fall short of it or walk contrary to it.

### *VI*

This principle is the clear light, equity, reason and understanding of things themselves, abstracted from all human constituted forms: the immediate issue and product of this principle in the spirits of men, in a proposition, is Do as thou wouldst be done unto: 'tis the beauty of equity stamped upon the soul. In the absence of this principle, the greater light guides the less, and men are beholding to those who have more judgment and understanding than themselves.

## VII

Hence it comes to pass (as by corruption) that human interests and factions do prevail amongst men; for the greater understanding imposes upon the less and swallows it up in itself and the inferior understanding offers sacrifice to the greater as its rule and guide, and so men's persons are had in admiration by us: this is the origin of fleshly interests.

## VIII

And the truth is that in the absence of this principle we may be thus helpful to one another: the manifestation of the power and spirit of God is made out to some, that so they may be lights to others. This method obtains in the days of our infancy, weakness and imperfection; the less is instructed, as well as blessed, of the greater.

## IX

But this commodity is not without its inconvenience; for very few men do purely serve the design of God herein, but mingle their own interest with God's, and their designs with his; this brings in a mixed or corrupt state.

## X

And besides, the seemingly clear and bright principle, in most men, is but respectively so, and men are accounted wise and knowing, compared with those who have less judgment and understanding than themselves; so that the folly of some sets off the wisdom of others: and because of the weakness of [4] this principle, men's eyes are dazzled with mistakes, and so the blind lead the blind. But he is truly and completely wise, and universally able to guide his brother, who hath obtained the fullness of the first principle, which is (as we have said) the clear reason and understanding of all things.

## XI

But the weakest principle hath its crown, when 'tis found in the ways of righteousness, i.e. when it presents the true image of that higher principle whereto it serves to the world, on purpose to bring up others to the same height. This is an honest and just design, for thus equity gets ground, and form decreases by degrees.

## XII

In the meantime this broken, imperfect and distracted state of things is the day of man, wherein man gets both honour and dishonour, but still from himself; the inferior understanding is dishonoured by the greater, as being outshined by it; and the superior understanding is admired by the inferior, as its idol or god.

## XIII

But when the clear understanding or first principle shall be fully restored, the Lord alone shall be exalted; we shall all then stand on even ground, in a perfect level, co-ordination and parity, no man admiring one another, but God in all. This is the fall of worldly interests.

## XIV

This time of restitution or redemption of principles from that thick darkness wherein they have lain is that which the saints long after, and count it their honour to be employed in, viz. the redemption of the world from its civil darkness.

## *XV*

This darkness is within, and consists in a nescience of the first principle, and an idolising of the form; and whatever yoke is being imposed by the form, as from without, is but a badge of our inward darkness, from both which we expect our deliverance in due time.

## *XVI*

Though it must cost the world much time and charge to be redeemed herefrom, especially having such great enemies to contest withal as the darkness of our spirits, the servility of our natures; all the constituted and established forms, which would keep us in subjection to themselves, yea all the Demetriuses of these Dianas, will cry out when their honour and profit is taken off, as it will undoubtedly be, when equity itself comes to be exalted.

## *XVII*

And the difficulty will be the greater because reason hath been long out of the throne, and usurper form hath possessed its place: use and custom hath inured the world to bondage, and men are contented herewith as knowing no better, or as [6] unwilling to be at the cost of deliverance; especially considering that power is sweet to those which have it and not easily wrested or extorted from them.

## *XVIII*

For the outward form is very tenacious and a lover of itself, and labours to maintain itself upon the stilts of its own power.

## *XIX*

But form had never attained to that height, but under the covert and shadow of equity, which it pretended to hold forth; for at first it crept under the protection of reason, and lived as a servant under it; but in process of time proved false to its master, and set up for itself.

## *XX*

So that treachery being in the raising up of form, persecution and violence must be the maintainers of it. Hence it is that form lays heavy burdens on its followers, to cow down their spirits and keep them in subjection.

## *XXI*

But God will break the iron yoke, and go forth with zeal and indignation against tyrant form: but very form hath corrupted itself, and darkened the true principle instead of promoting it: form has taken that honour to itself, which was due to reason. This is the ground of the controversy between reason and form, and God himself is on reason's side.

[7]

## *XXII*

True it is, that the injunctions of form do many times claim affinity with reason itself (at least in the pretence of those which manage them) but 'tis mixed, moderated and bended to the designs, humours and passions of men, that it forgets its own nature, and grows corrupt,

according to that corrupt interest upon which it is grafted.

### ***XXIII***

And besides, counterfeit reason is the ape of the true, and acts like it, but upon fleshly principles and interests.

### ***XXIV***

But true reason is a great traitor to the outward form, and will in time eat out our own darkness and overthrow the form.

### ***XXV***

Did I say overthrow? Nay, it will rather perfect it, for 'tis the perfection of the shadow to expire into the substance; and the purest form being but an image of that equity which it represents, when that which is perfect comes, that which is imperfect shall be done away.

### ***XXVI***

He that levels at this mark, viz. the perfection, equity and reason of things, call him what you will, is an honest man, and a friend to the world, as desirous of its good.

### ***XXVII***

This clear light of equity and reason will [8] determine the great controversies of this last age, as their proper and only judge; the form judges corruptly and amiss, but the judgment of reason is according to truth; and that reason itself is the proper judge appears by the parallel between spiritual and civil controversies. For

### ***XXVIII***

If we make the spirit of God or the light of the thing the judge of spiritual controversies, why should not civil righteousness and light (which bears the same proportion within its sphere) be the determiners of all disputes in the civil reference? And,

### ***XXIX***

If the scripture itself be not the determiner of divine controversies, as managed by Pope, synod, council, or any other ecclesiastical form, how then come civil disputes to be decided by any outward form? The question is, whether principles or persons are fittest to determine?

### ***XXX***

You'll say, principles must be managed by persons.

### ***XXXI***

I answer, so they are, and that form will endure longest which is most conform to the first principle and gives out justice and judgment in a measured proportion thereto. This shadow will endure as a help until the substance itself comes.

[9]

### ***XXXII***

But this principle, in whomsoever it already is, renders that man a judge even wherein he is judged (a certain truth, though it seems heterodox), for no man submits to the judgment of the form, contrary to his own, but either for fear or by force; and thus the form gets the superiority over the principled man, as the lion doth over the lamb or the rest of the beasts.

### **XXXIII**

But true subjection is rational, not brutish, and carried on in the light of the reason and equity of the thing. Hence it is that we obey for conscience sake, not of the form but of the thing; form commands the outward man, but the understanding and judgment is led captive by none but reason itself.

### **XXXIV**

That which hath the best and highest command is the supreme judge, and the perfectest in every kind is the rule of the rest; these two axioms agree to none but reason itself.

### **XXXV**

All this hinders not, but rather implies that the light of this principle, in whom it is, should give law to those in whom it is not; for thus the light of the principle comes to shine abroad, if men sincerely walk according to that rule in managing their power over others. The design of this discourse is only to free the clear understanding from the bondage of [10] the form, and to raise it up to equity, which is the substance itself; for though the dark understanding may be restrained or guided, yet the principled man hath his freedom within himself, and walking in the light of equity and reason, truly so called, knows no bounds but his own, even equity.

### **XXXVI**

The law is cried up by some as the only judge of civil controversy; but we must know that laws were made by men, and are themselves oft-times to be condemned, for few laws are the results of pure reason. Laws are of two sorts:

### **XXXVII**

Some are the results of the humours, designs and corrupt passions of men to establish themselves and their own greatness: law in this sense is nothing else but will, lust, power, custom; 'tis as corrupt as those which made it.

### **XXXVIII**

Do not rich men oppress you? Are we not envassalled by them by fealties, homages, oaths, etc. and other badges of slavery? Are not many laws the direct issue of their own greatness, for the propagation and establishment thereof? And those laws which have any appearance of reason are yet bended by them to the same purpose.

### **XXXIX**

And indeed it profits little, how good soever the law be, so long as the interpreter is corrupt; we shall never attain to perfect freedom, till reason [11] itself make, establish and interpret its own sense.

### **XL**

Other laws are proportioned to that glimmering light of equity and reason which was in the breasts of those that made them; which, because it was weak and imperfect, left many things yet undone and much work for the reason of after ages to accomplish.

#### *XXI*

But lust, succeeding reason in the throne, hath not only perverted what reason hath done, and put a false gloss upon it, but added and supplied the defects of reason by dictates of its own, which by the potency of form are imposed upon the bland world as laws.

#### *XLII*

So that now lust and power hath as good a warrant in respect of established forms as reason itself; yea many times reason is condemned by the form, until the innocency thereof doth appear, and then the light of reason will clear itself, and all the fault will lie at the door of that form which hath opposed it.

#### *XLIII*

Till this day of judgment and declaration comes, reason is charged with disobedience and rebellion against the state; for the corrupt and self-interested form, being judge in its own case, lays heavy loads upon the backs of its adversaries, as guilty of the breach of the Apostles' rule, "Let every soul be subject to the higher powers".

[12]

#### *XLIV*

But 'tis the power or principle, not the person simply, which we are to be subject to; so that the greatest rebellion is against reason itself, and the most unwarrantable disobedience against the equity of things; which three, viz. equity, light and reason, are the triune in the civil reference, the only fountain and queen of order, and the lawful heirs of all good and warrantable subjection.

#### *XLV*

Some disobedience is more lawful than subjection; viz. when the dictates of reason do cross the injunctions of form; he that shifts reason to embrace the form is the traitor in this case.

#### *XLVI*

Upon this principle, the equity of things being supreme to the letter, form or order, are the actions of the Hollander against the Spaniard, of the Parliament against the King, or any other in other parties of the like nature, able to abide the test in the strict balance of equity itself, so far as either of these have opposed persons merely in adhesion to the principle.

#### *XLVII*

But yet some reverence is to be given to the form, either for order's sake or for necessity.

#### *XLVIII*

Sometimes the form is strong, and hath many followers, and the sons of reason are but few: in this case reason is wise as well as innocent, and reserves itself for a clearer call.

#### *XLIX*

But yet the wisdom of reason is not mere carnal policy or sinful prudence: engage when it will, it must be against opposition; only it is content to tarry the Lord's leisure: and if it seem to neglect the time, 'tis only to lay upon the opportunity.

## *L*

And when that comes, reason is valiant like a giant. And though the victory be already got in the light of the thing, yet it shall be made more visible to the whole world, when reason shall ride in triumph in the spirits of men, and draw all forms after it, as badges of its conquest.

## *LI*

But order may command reason to desist sometimes; viz. when the prize contended for is not likely to countervail the cost of the suit. For though every mite of equity be very precious, and more worth in itself than the whole bundle of established forms, yet form hath a deeper root in the world though a worse foundation, and the shaking thereof may endanger the breaking of the whole. In this case reason must muster up all its forces, hold forth valuable considerations, and have a considerable number of proselytes before it can engage, lest the whole should be destroyed. And when valuable mites of equity and reason are put together, and [14] enter the lists with established forms, if the world will not bend, it must break; and those laws (though never so essential in a constitution) which are the gravestones of liberty must be removed, that equity and freedom may obtain a glorious resurrection in the midst of us.

## *LII*

And truly the resurrection of principles will be the death of persons and personal interests. For when reason puts on strength, and rises from the dead, the most consecrated forms shall rend in sunder, as the veil did at the resurrection of Christ; and the whole world shall be taken off from its false basis of human forms, and carried up to the true foundation of equity and right.

## *LIII*

Thus equity rises from the dead, but (like Ezekiel's waters) by degrees; or, as the world out of its chaos, in a gradual perfection and ascent; so that forms are purified by degrees, and leave some dregs behind them, according to the proportion of discovered light: yea, in the strength of this discovery the purer form overthrows the corrupt, till the full vision of reason comes, which will darken the brightest form.

## *LIV*

This destruction of the world, or the present state of things, will be a great loss to some, but a mighty advantage to the world in general, when equity shall be advanced in its perfect height (the [15] clear image of God in the world); which is a sufficient compensation for all our sufferings, losses, blood.

## *LV*

But reason is not guilty of this blood: for as the schismatic is he which occasioneth, not he which maketh the schism, so all our sufferings must be charged upon the account of form and corrupt interest, which reason labours to redeem us from.

## *LVI*

And ordinarily reason stands on the defensive posture; for form, being jealous of its honour, takes advantage to nip the first buds or appearances of reason, lest it should get ground and prove too strong.

#### *LVII*

But all this labour is in vain; for who can hinder the design of God, which is to throw down principalities and powers, and to exalt things of low degree.

#### *LVIII*

You'll say, this principle overthrows all order, magistracy, government, and lets loose the reins to all licentiousness, and makes the world a heap? All these prejudices must be removed: and, in order thereunto, consider

#### *LIX*

That there may be a counterfeit order in the forms of the world, which brings fleshly ease; but God delights to overthrow this order, and to [16] set up his own confusion, which indeed is the best order; for the order of the world is confusion, but God's order is peace.

#### *LX*

There is a great deal of difference between the order of equity and the order of form; reason's order is secret and invisible to the worldly wise, 'tis seen only by itself, and in the light of its own principle; but the world's order is obvious, perspicuous, fleshly, and so taking with flesh and blood, like itself.

#### *LXI*

The world will venture nothing to overthrow its own order, but contributes its utmost assistance to preserve it; but the order of reason is stickled for by the champions of truth, upon whom the first principle is again risen.

#### *LXII*

And why should they cover this light under a bushel, which must shortly overflow, to the enlightenment of the civil firmament or world. This mustard seed will become a great tree, and all the birds of the air shall find protection under it against the storms, violence and fury of the outward form.

#### *LXIII*

'Tis true, the form promises protection to its followers, and is kind to its own party; but when it comes to be questioned, 'tis the greatest persecutor or tyrant, and it cares not how many lives it sacrifices to its own fury.

[17]

#### *LXIV*

And besides, the protection which it gives is many times so weak and imperfect, that the children of form are still subject to violence and toil; yea the form itself is made the engine of their destruction, so that the fleece is rent by those thorns and briars which should have preserved it. There can be no complete or sufficient safeguard but in the discovery of, and submission to, the clear principles of equity and right.



## *LXV*

But as for such as despise this principle, they and they only are the opposers of higher powers, and such as speak evil of dignities; there being no dignity comparable to that of reason itself, and other dignities are made so by reason sitting as in its throne in them.

## *LXVI*

If form have any edge at all, it ought to be directed against such, that so the mad world may be restrained, and the tares or wolfish nature may not choke the lamb-like appearance of equity and truth.

## *LXVII*

For outward magistracy is or ought to be but a symbol or badge of the secret virtue and light of truth, by which, as a compass, it ought to steer.

## *LXVIII*

And when equity itself comes, then the order, [18] government and majesty thereof shall command the spirits of all, and lead them forth from the resemblance to the thing itself.

## *LXIX*

This will be a glorious time indeed, when civil righteousness and truth shall possess the spirits of all, and every man be a complete resemblance of divine wisdom, goodness, love.

## *LXX*

This state is that which the apostle labours to raise us up to, Romans 13 (to which temporary subjection to laws and forms is but introductive), for though he advises us to pay our subjection unto whom it is due, whilst we walk in the absence of our principle, yet even in that state he minds us of a dispensation above it, wherein we should owe nothing to any man but love.

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[19]

## THE DISPUTE BETWIXT FORM AND POWER ↩

or The Clear Principle in the Spiritual Reference. Discovering

1. The rise, nature, kinds and period of spiritual administrations, ordinances and forms.
2. The state of a Christian under forms.
3. The state of a Christian above forms.
4. The cause and fall of all fleshly formal interests.
5. The explication of several scripture phrases and expressions, as flesh, death, spirit, manhood.

[21]

### *I*

Spiritual administrations relate to a higher good than civil, and bear the same proportion to the mind and spirit as civil do to the outward man.

### *II*

Hence it is that parallel considerations do fall in concerning either of those administrations: and the evils which are incident to the one have their place likewise in the other; but still you must have respect to the specifical difference which is betwixt them.

[22]

### *III*

For as civil forms are accompanied with many corrupt yet cleaving interests, so spiritual administrations are attended, in their proselytes, with flesh, form and self, which do many times deprave and corrupt the administration itself, and render it ineffectual to the end for which it was appointed.

### *IV*

And as it is the design of God to purge the civil administration from its dregs and filth, so the Lord carries on the same design in paring away all human interests from the spiritual, that so he alone may be exalted.

### *V*

And besides, as civil forms are not the substance, but the outside only and appearance of that equity and reason which they ought to represent; so is it with the spiritual, as being only supplemental to our wants, weakness, absence, until such time as we come to live in the very life or substance itself.

### *VI*

So that spiritual administrations, being of an inferior and intervening motion, cannot possibly hold forth the most complete and glorious way of enjoyment, which in the scripture is said to be by sight, not by faith, and such a sight as is not in a form or glass, but face to face.

*VII*

The sight which Moses had of God, as it did transcend the ordinary discovery to common saints, so it was far inferior to this vision (for Moses saw but the back parts of God); and yet as their sacrifices did type out the true sacrifice which we enjoy, so this vision, in regard of the immediateness of it, bears some proportion with that glorious discovery in the saints, where God shall be seen as he is.

*VIII*

But this discovery is darkened and veiled by the outward form, even in the design of God himself; for the weak understanding being not able to behold the brightness of his presence (as the Israelites fled from the sight of God), it is the pleasure of the Father to cast a veil over his glory, which veil is the form, that so the discoveries thereof may be borne by us.

*IX*

Our enjoyment will then be most sublime when this veil is rent asunder and way made to the holy of holies or the naked glory by the power and purity of the spirit.

*X*

Within this veil are many secrets which the fleshly birth or the man of form neither understands himself nor can bear in others; for here is hid the Everlasting Gospel, and the spiritual man converses with all the mysteries contained therein.

*XI*

And besides, the form is proportioned to the narrowness and darkness of the fleshly understanding; and therefore it is that the glory is limited and confined therein and given out according to the measure of our stature, by degrees.

*XII*

This justifies the design and wisdom of God in choosing these ways and methods of the manifestation of himself. For the occasion of spiritual administrations is the darkness, weakness, shortness, absence and imperfection of the creature; all which make up a bundle of necessities which are thus summed up: viz.

*XIII*

Man, being clouded with a dark and misty understanding, stands at a great distance from the clear light of God; by reason whereof he apprehends nothing but what is suitable to himself, and his enjoyment is answerable to his light, i.e. weak and glimmering. But God, who comprehends all things in himself, stoops down to human frailty and gives out himself in weak appearances or Mosaical forms which are as mediums between God and us.

*XIV*

But when this darkness and distance is removed by the power of God, man becomes near and his enjoyment is immediate, which must needs be the best because nearest the fountain.

## *XV*

For the appearances of God, like the beams of the sun, the farther they pass, the more weak and imperfect are they as to us. Hence it is that God in spirit, being the most immediate appearance, is therefore strongest. God in flesh is the next to that, but of an inferior cognizance and operation; and the deeper God descends into flesh, as into the sacrifices of old, the more is his glory clothed upon; and by consequence the more dark and obscure is his presence and our enjoyment.

## *XVI*

So that still, while we are within the compass of appearances, they may afford us a good, but not the most excellent, life: for the highest life is above all appearances, even in the substance itself.

## *XVII*

For which is better, to live in the appearance of the thing, or the thing itself? In the branch or in the tree? In the root or in the rind?

## *XVIII*

To live in the substance is a life fuller of heavenly contemplation and rest. For as the days of God's labour were common and ordinary, but the day of his rest sanctified and holy, so it is with the saints, especially considering that all labour is in order to rest, and the end is more excellent than the means.

[26]

## *XIX*

The life of a Christian under administrations and forms is the day of his labour, and he meets with many uncertainties, disappointments and troubles in the outward form, as the experiences of the saints can witness. But the life above is the day of his rest, wherein he studies all things and sees them to be very good, yea, and ceaseth from his works as God did from his.

## *XX*

But administrations take place, of one sort or another, till this state come. For as the appearances of God are stronger or weaker, so administrations are of several sorts; the most eminent are paradisical, legal and evangelical.

## *XXI*

Paradisical administration then took place when the angelical nature, being clothed upon with a human appearance, did contemplate its maker in things below himself, viz. the clear stream of the whole creation.

## *XXII*

For the water was not then defiled, but the true image of the substance was seen in the shadow. And the heavenly spirit, being likewise clothed upon, was a proportionated subject to entertain that discovery; so that face answered face in that, as in all other administrations.

[27]

### **XXIII**

This administration did not contain the most complete enjoyment; for here the veil was first set up, and man must of necessity have ceased to this being or form, though he had never sinned, that so he might be raised up to a higher enjoyment.

### **XXIV**

So that death, as it is the cessation of the natural being or appearance, is not properly said to be the wages of sin, and yet there is a death which is the wages of sin, of which by and by.

### **XXV**

This administration was but for a season; for when flesh and self had defiled the stream, the glory crept inward and was withdrawn from our view, and in came a multitude of helps to usher in but a review of the same glory; this was the origin of legal sacrifices and administrations.

### **XXVI**

But as the fountain or glass was cleared by degrees, and the image rendered more perspicuous; so gospel administrations succeeded in the place of the legal, as differing only from them in degrees of light.

### **XXVII**

These administrations are of a spiritual, not chronical, consideration, and are not distinguished by fleshly epochs or periods of time, but are [28] interchangeably managed within the saints, according to their degrees of light, as being partly bond or partly free; partly in the flesh, form and letter; partly in the spirit and power; which state is a state of confusion and mixture, not of purity.

### **XXVIII**

The death of Christ himself in the flesh did not straight determine the legal administration; for the apostle and believers did continue to observe them until such time as a higher discovery was made known within them. See section LXXI.

### **XXIX**

And yet, though the progress and expiration of all administrations be in the spirit, this hinders not but that one administration may more generally take place in the spirits of Christians in one age of the world than another; and the signal appearance and course of any one administration is called a world.

### **XXX**

For every administration hath its world or race to run out. Thus there is the legal world, in respect of which the gospel administration is called the world to come. Hebrews 2.

### **XXXI**

And the forms which are incident to every administration do obtain till the end of the world or administration itself. Thus circumcision and sacrifices endure till the end of the [29] legal world, and gospel forms have their place till the end of their world, Matthew 28, which is the second appearance of Jesus Christ in greater immediateness and power, or until the Lord comes. Corinthians II.

## *XXXII*

And yet every change of administration will produce such a stir and combat in the spirits of Christians that the symptoms of the dissolution of the legal state or world are interpreted by some as relating to the ruin of the natural frame of things. Matthew 24.

## *XXXIII*

But there is a new world yet behind, wherein there is no temple, i.e. form; for heaven and earth make a world. Revelation 21.

## *XXXIV*

The first heaven and the first earth shall pass away to give place to this, i.e. the fleshly state of Christians, yea and that estate which seems to have more of heaven and divineness in it shall give way to that state which is more excellent than itself.

## *XXXV*

But a new world doth not presently introduce a new gospel, for the gospel is old and from everlasting. The legal ministration in sacrifices and types (though another world) was yet but a part of the same gospel; and the new world doth but present us with a more full and perfect [30] relation of the same good tidings; for that is gospel.

## *XXXVI*

The wisdom which is contained in every one of these administrations is justified only by her own children. And this is the ground of false judgment, when the sons of one administration pry into the secrets of another, being puffed up in their fleshly minds; whereas indeed no man can truly and properly judge of a ministration but the child thereof? i.e. one raised up to the same height; he which doth otherwise judges another man's servant.

## *XXXVII*

For God himself being the master of all dispensations accounts himself one to the legal Christian, another to the gospel; so that he which is one is yet many masters in respect of the several manifestations of himself; and the servants of God in one ministration may not judge his servants in another, but contain themselves within their own sphere.

## *XXXVIII*

But yet this spirit of judging is very presumptuous and of an aspiring nature (and all persecution mounts upward against that which is better than itself); for he that's born after the flesh persecutes him that's born after the spirit, not on the contrary. Thus men speak evil of what they know not; for no man can despise the appearances of God which he knows.

[31]

## *XXXIX*

In the meantime, through evil report and good report, the truth gets ground and the potency of form is weakened by degrees. For form being the element of most saints, both the form and lives of saints are purified and raised up from lower and darker to higher and clearer discoveries; for the lives of the saints are more or less pure according to the obscurity or clearness of the outward form.

## *XL*

But in every form there's weakness in some degree or other, and a tincture of flesh, self, distance, death, manhood, the true notion of which words comes to be explained.

#### *XLI*

By flesh I understand not the material part of the compound, man, or anything relating to a bodily mixture; but I take flesh for a dark and weak (though a regenerate) principle. And to clear this, consider

#### *XLII*

That there is a birth after the flesh, as well as a birth after the spirit, only the first is more in the form or letter, the latter more in the spirit and power. The former, in regard of its adhesion to the form, opposes the latter, which is above it, Galatians 4.29. Hence it is that the Apostle speaks of travelling again, Galatians 4, and Christ of being born again, John 3.

[32]

#### *XLIII*

So that there is a double birth, a birth of water, i.e. to the flesh and form; and a birth of the spirit, i.e. to the power and life; not but that there is some power in the form, but 'tis a weak and inferior appearance, and therefore 'tis called a fleshly life, in a similitude borrowed from the natural part, which is from the earth, earthly.

#### *XLIV*

But yet, as water came out of the sides of Christ, as well as blood, so God is the God of weakness as well as strength; of flesh as well as of spirit. For flesh is nothing else but a darker administration left behind upon the approach of a higher glory; so that the legal Christian is fleshly in respect of the gospel. Therefore the Apostle, in the sense of higher discoveries, renounces circumcision and other legal rites of God's own planting as having no confidence in the flesh, Philemon 4. And the Galatians, who stuck upon the foresaid rites, are said to apostatise from spirit to flesh, Galatians 3.

#### *XLV*

So that the fleshly life is of a lawful race and heir of all, but under age and therefore managed like a servant, till the divine principle gets strength and grows up from childhood to manhood, even to the fulness of its stature.

[33]

#### *XLVI*

Neither is the fleshly life carried on only in the legal sacrifices, but all externals are comparatively flesh; and 'tis not rare for Christians to be of as legal a spirit in the observation of gospel rites as Jews were in offering of sacrifice, especially considering that the difference of these two states is in the spirit within, and not in the outward observation; for these, which we call gospel rites, are as outward as those of the law.

#### *XLVII*

But all outward, be they what they will, are part of those childish things which the Apostle says are to be put away. Hence it is that forms shall cease, even as childhood doth, and grow up of themselves to a more excellent glory, or the state of manhood and perfection.

### *XLVIII*

But as man dies of himself when his radical moisture is spent, yet by intemperance and miscarriage is anticipated in his course and cut off in the midst, so the form would naturally expire of itself, yet the ruin of it is hastened by the folly and weakness of its children in their abuse thereof, even as the brazen serpent was destroyed when it began to be idolised.

### *XLIX*

For God is jealous of his honour, and rather than any part thereof shall be ascribed to the form, he will break it in pieces like a potter's vessel. And [34] who knows not but that provocations of this nature do abound; for the religion of most men is in the form only, as being pleasant, easy and near at hand.

### *L*

Form is many ways perverted by its followers; as first, form maintains man and human interests. The distinction of clergy and laity came up under the protection of form. Form makes faction and division, even amongst the saints.

### *LI*

And the grosser the form, the easier is the fleshliness of its interest to be discerned, as in the papal and prelatical way. Yet the more refined forms have a spice of this evil; for clerical and fleshly interests may be maintained in a presbyterial as well as papal way, and in independent as well as presbyterial.

### *LII*

For the same spirit may appear under different forms; yea, all forms being of an external cognisance love to be great and expect honour from men; yea, the more refined and subtle the form is, the more eager is the spirit which animates it.

### *LIII*

Hence it is that form opposes form, because every form would establish itself, and God suffers it to be so, as having a design to dash them one against another till both be broken.

[35]

### *LIV*

Form is made the engine of much cruelty, persecution and blood; for who so ready to crucify Christ as the Pharisee or man of form.

### *LV*

But the day of the Lord is above and beyond the day of form, and when that day comes we shall all be taught of God, we shall not need weak helps. Human interests shall cease, distinctions and divisions vanish, all flesh be silent and the Lord alone exalted. So that as darkness and weakness were the womb of flesh and form and of all the inconveniences which did attend them, so discovery and light will be the grave of them, and spirit and power will succeed in their places.

### *LVI*



And no marvel that we call men rabbi in the day of form; for self hath a great stroke here. 'Tis the man in us which admires the man in another; and as long as man lives in us we cannot see the face of God in pure and immediate discoveries. But when the man dies, i.e. the Adamical principle or nature, which is short of God, we shall see the Lord in his own appearance and we shall be like him.

#### *LVII*

This death of the manhood or human principle, with the resurrection of the divine, is that mark or goal or resurrection from the dead which the Apostle himself had not attained unto. Philadelphians 4.

[36]

#### *LVIII*

This death and resurrection is carried on in us by degrees; for as the outward and fleshly man which is the man of form perishes within us, so the inward man is renewed. Therefore the Apostle saith "I die daily".

#### *LIX*

This death is effected in us by the powerful operation of the spirit of God, taking up our weak principle into his own heavenly light, and so the man dies and is no more, even as Enoch, for God takes him.

#### *LX*

But as long as the man lives he is for externals, outsides, appearances, letter, to be seen and heard, which all are the appurtenances of the form or fleshly man.

#### *LXI*

And this may well be called a resurrection from the dead; for there is death in some degree or other in every form.

#### *LXII*

Death is darkness, weakness, sorrow. How much of this doth a Christian meet withal in the letter or outward form, which he escapes in the spirit.

#### *LXIII*

And therefore the Apostle, speaking of the weak Christian or man of form, under the notion of the observer of days, Romans 14, calls him a dying [37] Christian. He dies, though it be to the Lord; but to live to the Lord is more excellent.

#### *LXIV*

When this dying state or mortality comes to be swallowed up of life or the divine principle, we shall no longer be absent but present, and ever be with the Lord. Corinthians 6.

#### *LXV*

This death is the wages of sin, being a legal darkness, seizing upon the spirit and leading it into captivity to itself.

## ***LXVI***

But as for the natural death or the cessation of the human appearance, that undergoes another consideration. For I see not how that death can be called the enemy of Christ, as having no sting in itself; neither doth the nature or human appearance obstruct or hinder the vision of God (considered in itself, for nature remains even in the highest enjoyment) as bearing no proportion thereto. A body hinders a body like itself as a cloud hinders the sun; but divine appearances (like lightning) reach the spirit and are not hindered by the scabbard of the flesh or natural part.

## ***LXVII***

But death truly so called, the wages of sin and [38] the enemy of Christ, is a spiritual evil, a legal darkness, a divine eclipse, and so can impede a spiritual good, and indeed is a great Antichrist sitting in the temple of God, and would have no god but itself.

## ***LXVIII***

But the highest state or day of the Lord ushers in clear appearances (as the sun scatters the clouds) and swallows up death and hell too, according to prophecy, Revelations 20.14, Es. 25.8.

## ***LXIX***

But did not God himself ordain form, and where did he abrogate it? I answer:

## ***LXX***

As there was a time to plant, so there is a time to pluck up that which is planted; for form was never created as a standing rule but as a temporary help to serve a turn; which when it is once accomplished, the means cease as having ushered in the end.

## ***LXXI***

Neither is the abrogation of form only in the letter, but in the discovery of a higher glory which darkens the first as the sun darkens the stars; so that the discovery of gospel forms is the abrogation of legal. And the gospel administration, [39] in external rites, gives way to a higher glory; so that as the stars yield to the sun, so the sun to God, for he himself is the light of the new Jerusalem.

## ***LXXII***

And yet there are some hints in the letter of this glorious state, as Es. 25 and Revelations 21, 2 Peter 13, though the glory of the mysteries contained within it are to be experimented in us.

## ***LXXIII***

You'll say Christ and his apostles submitted to the outward form.

## ***LXXIV***

'Tis true Christ in flesh was made under the law and submitted to circumcision as well as baptism. He underwent the state of death or sorrow and the state of flesh or form, Hebrews 5.7, wherein he prayed and at last he was raised up to the state of mirth or immediate discovery, wherein he did rejoice, James 5-13.

## ***LXXV***

So that Christ in the flesh is the figure of several administrations; and every Christian is an emblem of Christ in one stage or other of his life. Some live in a crucified, some in a glorified Jesus; some live in his life, some in his death; some [40] live in Christ after the flesh, others in Christ after the spirit. Christ himself had not complete enjoyment under ministrations, for he was darkened and groaned under them.

## ***LXXVI***

The highest pitch of a Christian's life is Christ risen, or rather sitting at the right hand of God; for here is immediateness of favour and enjoyment.

## ***LXXVII***

As for the apostles, their own carriages and confessions do conclude them under fleshly ministrations, for they had but the first fruits of the spirit and were in the dark in many things; yea, the Apostle Paul holds forth a state attainable by the saints which he himself came short of, Philemon 4, which John saw by the spirit of prophecy, Revelation 21.

## ***LXXVIII***

And if any shall deny this new state, let us reason a little from concessions and grants and see what the enjoyment of a Christian may amount unto.

## ***LXXIX***

It is granted by all and cannot be denied that the letter of the Word holds forth more glory than [41] is yet attained, and that many prophecies are to be fulfilled relating to the glory of the saints, amongst which that in Revelation is one; as likewise that perfection is to be pressed after, Hebrews 6, which is certainly more than uprightness, for the Apostle speaks to upright saints.

## ***LXXX***

Now what this glory, this new heavens, new Jerusalem, state of perfection is, is the dispute and question of these days.

## ***LXXXI***

Which to me is resolved thus, that there is a glorious state of the saints to be discovered in the last days, consisting not in a fleshly paradise or material enjoyment but in the true vision of God in the spirit and high light of heavenly glory.

## ***LXXXII***

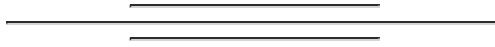
This state was the hope and joy of the prophets, apostles and others Christians who foresaw the day thereof.

## ***LXXXIII***

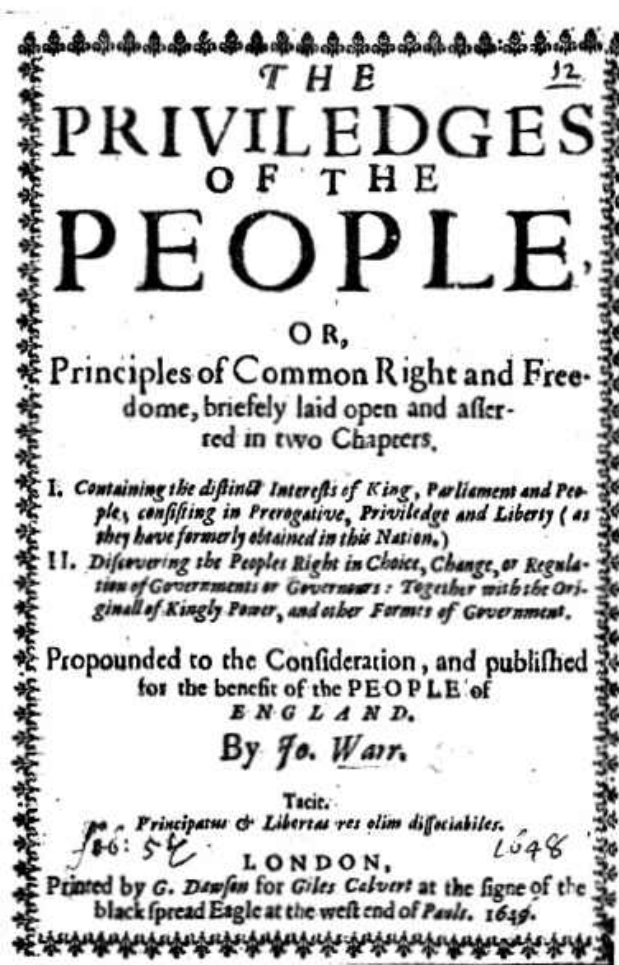
And well might it be so, considering the many mysteries contained therein, which no other state can attain unto. For here the Christian sees all things in the light of God: here is opened unchangeable glory and essential will; perfect [42] freedom, restitution of all things, heavenly rest. There man ceaseth, questions are resolved, union cleated and all expectations satisfied.

A particular view of all these and other secrets of this state (being all parts of the Everlasting Gospel, not circumscribed in word or letter but bearing an equal latitude with the essential will of which it is the image) may be discoursed of distinctly, if the Lord will, another time.

**FINIS**



JOHN WARR, *THE PRIVILEGES OF THE PEOPLE, OR PRINCIPLES  
OF COMMON RIGHT AND FREEDOME* (5 FEBRUARY, 1649)



Full Title

John Warr, *The Priviledges of the People, or Principles of Common Right and Freedome asserted, briefly laid open and asserted in two Chapters.*

I. Containing the distinct Interests of King, Parliament and People; consisting in Prerogative, Priviledge and Liberty (as they have formerly obtained in this Nation.)

II. Discovering the Peoples Right in Choice, Change, or Regulation of Governments or Governours: Together with the Originall of Kingly Power, and other Formes of Government.

Propounded to the Consideration, and published for the benefit of the PEOPLE of ENGLAND. By Jo. Warr.

Tacit. Principatus & Libertas res olim dissociabiles.

LONDON, Printed by G. Dawson for Giles Calvert at the signe of the black spread Eagle at the west end of Pauls. 1649.

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## CHAP. I. *Discovering the distinct Interests of King, Parliament, and People.*[↪](#)

### SECT. I. *Of Prerogative or Kingly Interest.*

THE *Interest* of the *King* having advanced it self into a Principle of *Distinction*, *Seperation*, and *Superiority* above the *Interest* of the *People*, is called *Prerogative* or *Kingly greatness*; which is a Tuber or *exuberance* growing out from the *stock* of the *Common wealth*, partly through the weaknes and indulgence of *People* to their *Kings* and *Rulers*, (which hath been most eminent in the English Nation) and partly through the *ambition* and *lust* of *Princes* themselves, who not considering their *greatnesse* as in a principle of *union* with the *People*, in a way of tendencie and subserviencie to the *Peoples* good, have heightned themselves beyond their due *bounds*, and framed a *distinct Interest* of their own, pretendedly *Supream*? To advance this *Interest*, Kings and Princes have *politiques*, and *Principles* of their own, and certain *State-maxims*, whereby they soare a loft, and walk in a distinct way of opposition to the *Rights* and *Freedomes* of the *People*; all which you may see in *Machiavils Prince*.

Hence it is that *Kings* have been always jealous of the people, and have held forth their own *Interest*, as a *Mystery* or *Riddle*, not to be pried into by ordinary understandings: And [2] the *Proselytes* of this corrupt and *tyrannous Interest* have alwayes served it up, as a *Sacred* thing, a thing as much *above* our *reach*, as it is truly and indeed *against* our *Freedomes*.

So that *Ignorance* being the *Mother* and *Nurse* of *Bondage*, such *Principles* have been watchfully observed, as have ushered in any *Light*, or discovery of the corruptnesse of the *Prerogative Interest*; hence is it that the *Expositions of Pareus* upon *Rom. 13.* were censured and condemned by the *Court Party*, as giving too much *Liberty* to *Subjects*, to resist their *Kings*: and the *Genevah* notes upon *Exod. 1. v. 17.* were disliked by *King James*, because they countenanced the *Midwives disobedience* to the *King*; not, but that the *thing commanded* was unlawfull, but it was interpreted to open too great a *gap* to the ruine of this *Interest*, of which wee now speak.

And yet some have not been wanting, who in times of greatest hazard have adventured their own *Freedomes* as a *Sacrifice* to the *Publike*; and have made forth discoveries of the corruption & rottenes of this *oppressive Prerogative Interest*, upon conscientious grounds of *Publike Freedome*. Though this hath been censured by the *Potencie* of that *Interest* which it did oppose, as an *offence* no lesse then *piacular*; And their *Persons* loaded with calumnies of all sorts, as being a *faction* or *Party of Levellers*, as *King James* calls some in his *Star-chamber Speech*.

And though we may possibly suppose that the corruption of this *Interest*, may be in some measure discovered to those that use it, and that *Kings* themselves may suck in some *principles* of common Right and Freedome; some glimmerings whereof, seem to sparkle in the *writings of King James*, yet their *judgements* are so over clouded by their *Interests*, that they doe not onely blinde *themselves*, but *hoodwink others*, and all to establish *that*, which God himself purposes to destroy and overthrow.

For when *Principles* of *light* and *knowledge* shall be advanced amongst *men*, they shall then scorn to be subject to the corrupt Wils and Lusts of others: they shall know no *Policie*, but *integritie* and *honestie*; *False interests* shall tumble down [3] *truth* and *righteousnesse* take place, and *Prerogative* be worried, as an Enemy to Freedome.



And if this were made out to *Princes themselves*, they would not onely *prophane* their own *mysteries*, and make them *common*, but sacrifice their *greatnesse* to the *light* of *Truth*, (which hath so often sacrificed *Truth* to *it self*) and study which way to advance the *Peoples Interest*, though in opposition to *their own*. And if this *self-denying spirit* were in them, and the *power* of *Truth*, the rough way of worldly *force* and *spoile* would be prevented, and the *work* rendered more easie to *themselves* and *others*.

## *SECT. II. Of Priviledge, or Parliament Interest.*

IF the voice of *Common Right* or *Freedome* could be heard amongst *Men*, the world would not be so deeply engaged in *factions*, and distinct *Parties*, as they are; but this is the misery, The *mindes* of men being prejudiced with corrupt *Interests* of one sort or other, and pertinaciously adhearing to them, doe contribute their utmost assistance to maintain them, partly through the inbred corruption within men, and partly through those provocations which (in the heat of contest) they meet with, from *Interests* which are at variance with their *own* (for even *truth* itself will justle its adversarie in a narrow passe) Hence it is that some are said to be for the *King*, some for the *Parliament*, some for the *Army*.

But is *Truth* divided? Is there not one common principle of *Freedome*, which (if discovered) would reconcile all; Tis true this Principle may be weakly and imperfectly managed by the *Children* thereof, but the miscarriage (whether reall or supposed) is not to be charged upon the *Principle* it self; And yet this is the practise of corrupt men, who take advantage from common frailties in the prosecution of *just* things, to cry down the things *Themselves*, and so to strengthen their adhesion to their own *Interests*, though never so corrupt.

The purest civill *interest*, is the *Peoples Freedome*, which [4] may be crushed by *Priviledge* as well as *Prerogative*; For *Prerogative* and *Priviledge* (in its usuall adoeptation) are neer of kin; and it is possible for a *Societic* to exercise *Tyrannie* as well as a single *Person*. What hath been spoken of *Prerogative*, may be affirmed of *Priviledge*, the Impe thereof; For *Man* being naturally of an aspiring temper, mannages all advantages to set up himself, and to this the *Peoples election* is a faire *temptation*, and though the gentlenesse of the phrase doth word the *Parliament*, To *serve* for their Country, yet tis sometimes in the same kinde of oratory, as the *Pope* is the servant of the *Church*, whilest he exerciseth rule and domination over it.

*Priviledge* hath formed it self into a distinct *Interest*, as well as *Prerogative*, and hath forgot its originall and *fire*, thinks it self compleat without superior or equall: Thus hath it broke off it self, from its *stock*, and like a *succour* draws nourishment away from the true *branches*; so that, where *Prerogative* and *Priviledge* are in a thriving posture, the *Freedomes* of that *People* are underlings and leane as being crop'd on both sides.

When things doe continue in their proper *place* and order, they stand in God, and are usefull to those ends for which he hath appointed them; but when they warpe, they turn aside from God; and when they leave their station, and would be of themselves (as Lucifer) they fall down into Hell and a condition of darknesse; The way to advance *Priviledge* is to keep it within its due bounds.

Tis true, somethings doe naturally ascend, but tis to their own place and Center, and when they are there, they are cloathed with *Majestie* and glory. Every thing is beautifull in its place and season: There is a beauty in *Priviledge* (thus considered) as well as in *Libertie*.

To ascend beyond due and measured bounds, is no way *honourable* but *monstrous*, as if the Feet should grow out of the Thighs, or the Hands upon top of the Head; this is a disorder and confusion, and thus *Pride* is the wombe of darknesse, which may be verified in

*Priviledge* as well as *Prerogative*.

Tis true, *Priviledge* hath a stronger plea, as being founded [5] upon *Election* and *Consent*, but this will not justify the *Abuse* thereof: for when *Priviledge* soares high, the *people* sometimes follow it, either through ignorance of its *Nature* or bounds, or else that they may not lose the benefit of that, which is truly so called, and is usefull in its place. For as *Water* ascends for the continuation of it selfe, so the interest between *Parliament* and *people*, must not bee discontinued. And yet this motion on the *peoples* part is *violent*, not *naturall*: for *Liberty* should not ascend to *Priviledge*, but *Priviledge* should stoop downe to *Liberty*, as its *Center* and *Rest*.

*Priviledges* may sometimes mount so high, that *Liberty* cannot onely not follow, but is endangered by it. In this case *Priviledge* discontinues it selfe, and *Liberty* casts off *homage* and subjection thereto, such *Priviledge* is to be lop'd off as a burden to *Freedome*.

True *priviledge* of *Parliament* is this, in a principle of *Union* with the *peoples Right*, an *Immunity* and *Freedome* to mind just things, and to prosecute impartiall grounds of righteousness and *Truth*, other *priviledges* may be pared away, as bearing no proportion with their *End*, but this shall continue as subservient unto *Freedome*.

### SECT. 3. Of *Liberty*, or the *Peoples Interest*.

IN every *Common-wealth* the *Interest* of the *People* is the *True* and *Proper-Interest* of that *Common-wealth*; other *Interests* have advanced themselves, pretendedly to exalt *This*, and yet being once gotten into the *Throne of Rule*, they labour nothing lesse, or rather indeed they bend their utmost endeavour to overthrow *It*.

*Prerogative* and *Priviledge Interests*, (as formerly explained in their corrupt notions) are altogether inconsistent with *True Freedome*: Hence it is that there is an irreconcilable contest between *Them*, which will never cease, till either *Prerogative* and *Priviledge* be swallowed up in *Freedome*, [6] or *Liberty* it selfe be led *caprive* by *Prerogative*. He which hath the worst *Cause* may sometimes have the best *Successe*, (for Time and Chance happens to all) and thus *Liberty* may be worsted by *Priviledge*, as having lesse specious advantages in the *Flesh*. For true *Freedome* is in the *Mind*, and its *Proselytes* are but few. Most men give up themselves to the *Idoll-Interests* of *Prerogative* and *Priviledge*, as being more taking with *flesh* and *blood*.

And when *Liberty* is once put to the rout, it is not easie to rally again, or to redeem it selfe, for the darkest Dungeon is its *Prison*, 'tis chained with oathes and servile bonds, yea and the strong bolts of human *Lawes* doe keep it in subjection. Thus are all things made sure, with a *Grave-stone*, a *Seale*, and a *Watch*, and oppression rides in *triumph* upon the backes of the *people*.

All imaginary gaps for the re-entrance of *Freedome*, being thus stop'd up, it were impossible for it to arise from the dead, or to recover its *true* and proper state, if God himselfe did not appeare, and laugh the counsels of men to scorn, yea and open the *Iron gates*, and knock off the bolts, and lead forth *Freedome* to open view, as the *Angel* did *Peter*.

In this designe *God* co-operates with *Man*, and makes *him* instrumentall in the work, by clearing his principles, and stirring up his spirit. There are some sparkes of *Freedome* in the mindes of most, which ordinarily lye deep, and are covered in the *Darke*, as a spark in the ashes. This spark is the image of *God* in the mind, which is indeed the *Man*, (for the divine Image makes the *Man*.) This *Man* is hid in most persons, onely the *Tyrant*, the *Beast*, or the slavish principle appeares, and the whole bulk is hurried about by the *motion* of that principle, and the *Man* within us swimmes with the stream.

But *God* favours all *weak* things, and hath a speciall regard to *tender ones*, when under darknesse and oppression. And in order hereunto he layes the Axe to the root of the *Tree*, and strengthens our weake principle, he layes the foundation of *Freedome* within us, and so proceeds to blow up the fire, till the *roome* be too hot for unrighteousnesse and wrong.

Thus *Tyranny* being driven out of the *Spirit*, or *Mind* (its [7] surest hold, its Metropolis, or Citie of Refuge) 'tis hunted too and fro like a beast of *pray*. Neither is this a rare thing, but according to the usuall proceedings of God in the World, who *spoyles the Spoyler*, and punishes oppression in *Methodes* of its owne, that *Men* may see and admire his Greatnesse and Power.

Be *wise* now therefore, O yee *Kings*, be instructed O yee *Judges* of the earth. Most of your designs are founded upon *Selfe*, and are against the *Lord* you establish *your selves* and your own *greatnesse*; your hands are against every one, and every ones hands against you, you have led *Liberty* captive. 'Tis the voyce of God to you, *Let my oppressed goe free*. Some of you have allowed a *Mock-freedom* to *Liberty*, your prisoner, when you could keep it close no longer, you have sent it abroad, but with *prison garments*, some badges of *Slavery* have remained upon it; no portion of *Freedome* hath been wrung from you, but through *exigence* or *necessity*. Thus have you demeaned your selves, as if the *people* had been made for *you*, not *you* for the people. For these things doth God arise, and the day of your *visitation* is come.

For why? 'Tis not possible for a people to be too free. True *Liberty* hath a cleare sight *Principle* or *Rule*, and a large compasse, a spacious walk, 'tis not limited or circumscribed, but by the bounds of righteousness. *Liberty* is the daughter of *Truth* and *Righteousnesse*, and hath *Light* within it, as the Sun, other lights are borrowed from it. *Tyranny* is as a *Clog*, or an *Eclipse* to *Freedome*. God sees good that *Liberty* should recover but by degrees, that so the world may be ballanced with light and knowledge, according to the advance thereof, and be more considerate in her *actings*. The deeper the *Foundation*, the surer the *Work*, *Liberty* in its full appearance would darken the eye newly recovered from blindnesse, the principles thereof are infused to us by degrees, that our heads may be *strengthened* (not overturned) by its *Influence*.

[8]

## **CHAP. II. Of the Peoples Right in the Choyce, Change, or Regulation of Government, together with the originall of Kingly Power, and other Formes of Government.**

ALL *Governments* being *fundamentally* (as to Man) seated in the *People*, which *Maxime* is sufficiently spoken to of late. The inhabitants of severall *Countries*, for the equall distribution of *Justice* to the whole, have voluntarily submitted to severall *Administrations* and *Formes* of *Government*, either under *one* or *many* Rulers: so that *Election*, or *Consent* (setting aside Titles by *Conquest*) are the proper source and *Fountain* of all *Just Governments*. Hence it is that the power of *Rulers* is but *Ministeriall*, and in order to the peoples good, which hath given occasion to that known *Maxime*, *That the safty of the people is the supream Law*.

From hence wee may see the *Reason*, why some *Governments* are *more* or *lesse Free*, viz. according to the prudence or neglect of *Auncestors* in bargaining with the *Princes*, and setting limits to their *Power*. Some have (as it were) given up themselves to the Wils of their *Princes*, and out of confidence of their integritie have left them to themselves, not considering, that just men are liable to temptations, when they are in place and power; which if it were possible for them to avoid, yet *Justice* is not *hereditary*, nor goes by discent. Some *Nations* having been pinched with this inconvenience, have afterwards set Bounds and Lawes

to their *Rulers*, according as *Tully* doth excellently describe it. Lib. 2. de offic. *Eadem constituendarum legum fuit causa, quæ Regum, Jus enim semper quesitum est aquabile, neque aliter esset Jus, id si ab uno [9] just, & bono viro consequerentur, eo contenti, cum id minus contingeret, Leges sunt inventæ, quæ cum omnibus temper una & eadem voce loquerentur.*

***Englished thus,***

There is the same reason for Laws, as there was for Kings, for People have always sought after Right, or an equall, distribution of things, which if they did obtain from one just and good man, they were content therewith; but when they failed thereof, Laws were found out, which spake one and the same thing to all men.

Those *Nations* which have been most strict in prescribing such *Rules*, are most *Free*, unlesse in processe of time, through the oscitancie of the people, *Princes* have trampled upon their bounds, and made them common; and in this case, as good none at all, as not observed.

Though then Governments have been diversified according to the different tempers and apprehensions of their *Founders*, the *People*; yet the *Rise* of them all, is *One* and the same: so that what *Tully* affirms of the originall of *Monarchy*, or *Kingly Government*, may be said of all the rest, his words are these, lib. 2. de Offic. Apud majores nostros fruenda justitiæ causa videntur olim bene morati Reges constituti: nam cum premerentur olim multitudo ab iis qui majores opes habebant, ad unum aliquem confugiebant virtutem præstantem, qui cum prohiberet injuria tenuiores acquitate constituenda, summos cum inimis pari jure retinebat. The effect of which in English is this, *Our Ancestors first appointed Kings for the administration of justice: For when the multitude was oppressed by great and mighty men, they presently addressed themselves to some one eminent and vertuous man, who defended the poore from wrong, and kept both poor and rich within the bounds of Equity.* An instance of this kinde wee have in *Herod: Clio*, where the *Medes* revolting from the *Assyrians*, chose one *Deioces* for their King, a man of supposed strictnesse and *Equity* in preventing disorders and abuses [10] amongst them. But this remedy in time proved as bad as the disease so that people were enforced to seek protection under severall Rulers, which they missed under *One*. Hence it came to passe that the *Romans* banished their King and his *Government* together, and submitted themselves to another *Forme*.

But at first they which subject themselves to the government of *One*, may by the same reason submit to *many*, which is Aristocracie, or may alter their government from one *Form* to another: For they that *choose* may *change*, provided it bee upon just and valuable grounds. Famous was the dispute had before *Octavius Cæsar* by two of his *Favourites* and *Councillors*, about continuance or change of *Monarchy*, of which you may read in *Dion. lib. 52*. The story is this, When *Octavius Cæsar* had by the Armes and successes of his predecessors and his own, reduced the world to *peace*, and made a compleat conquest of the great known part thereof, hee tooke counsell with *Agrippa* and *Mecænas*, two of his intimate friends, whether he should maintaine the *Empire* and *Monarchy* in his own hands, or resigne it to the Senate and people of *Rome*; *Agrippa* makes an eloquent Oration against *Monarchy*, perswading him to surrender up the *Government* into the hands of the Senate. On the other side, *Mecænas* perswades the contrary, and pleads for *Monarchy*, whose counsell was followed by *Cæsar*, yet so, as that *Agrippa* was still honorably entertained and respected by him. From which Story we may observe two things.

1. That *Anti-monarchicalnes* is no crime at all, but a difference in judgement about an *Externall Forme* of *Civill* government: Yea great *Statesmen* (such as *Agrippa*) have given in their judgements freely against *Monarchical* government, as *Agrippa* here did.

2. That to perswade and endeavour the alteration of *Governments* from one *form* to another, hath been the subject of the discourse and action of *wisemen*, as we see here in *Agrippa*.

And though there may be a beauty in *Monarchy*, (duely circumscribed) as well as in other forms of Government, yet such [11] cases may sometimes fall out, when Reason and Judgement may not onely call for, but enforce a *change*; A provocation it must be of grand and fundamentall importance, which if it cannot be otherwise or not so conveniently redressed, may undergoe this kinde of *cure*; which in cases of extremity hath been practised by *Nations*.

Smaller inconveniencies may be redressed without the *abolition* of a *form*, viz. by prescribing limits to those *Rulers*, who have abused their *Power*, which under pain of guilt they may not exceed; For the whole body of the *People* is above their *Ruler*, whether one or more.

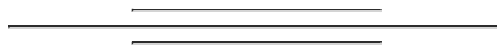
Not to spend much time herein, I shal conclude this with the argument of the *Bishop of Burgen* in the *Councel of Basil* (which was in the reign of our *Henry the 6<sup>th</sup>*) where disputing against the authority of the *Pope* above Councils, he urgeth this argument, that as *Kingdoms* are and ought to be above *Kings*, so is a *Councel* above a *Pope*. So that former ages have had some light, as touching the Office and duty of a chiefe *Ruler* or *King* and would have been able to descry the flattery of those, who ascribe so much *Majestie* and Sacrednesse either to *Man*, or *Men*.

For are not *Rulers* themselves under a *Law*? are they not accountable for what they do? Are they not subject to frailties like other men? Are we not all derived from one common *Stock*? Is not every man born *free*? when wee ascribe so much to *Man*, wee detract from the praise and glory of God.

True *Majesty* is in the spirit and consists in the Divine *Image* of *God* in the *minde*, which the Princes of the World comming short off, have supplied its defect with outward badges of *Fleshly honour*; which are but *Empty shews* and *carnall appearances*, when void of the *substance*.

But as weake as they are, they have dazled our eyes, through the darknesse which is in us, when we our selves shall be raised up to an inward *glory*, we shall then be able to judge of that *Majesty* and *Glory*, which rests upon another.

***FINIS.***



The Corruption and Deficiency <sup>10</sup>

OF THE  
L A W S  
OF  
E N G L A N D

Soberly discovered:

Or, *Liberty working up to its just height.*

Wherein is set down,

I. The Standard, or Measure of all just Lawes; which is threefold.  
1. Their Originall and Rule, viz. The free Choice, or Election of the People.  
2. Their Rule and Square, viz. Principles of Justice, Righteousness, and Truth.  
3. Their Use and End, viz. The { Liberty } of the People.  
Safety }

II. The Laws of England weighed in this threefold balance, & found too light.  
1. In their Originall, Force, Power, Conquest, or Constraint.  
2. In their Rule, corrupt Will, or Principles of Unrighteousness and Wrong.  
3. In their End, the Grievance, Trouble, and Bondage of the People.

III. The Necessity of the Reformation of the Lawes of England; together with the Excellency (and yet Difficulty) of this Work.

IV. The corrupt Interest of Lawyers in this Commonwealth.

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By JOHN WARR.

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P H I L I P . H O N O R . *Leges Angliae plena sunt tricarum, ambiguitatum, sibi contraria; sacrae siquidem excoitate, atque sanctae à Normannis, quibus nulla gens magis litigiosa, atque in controversia machinandi ac proferendis fallacior reperi potest.*

Englished thus. The Lawes of England are full of tricks, doubts, and contrary to themselves; for they were invented and established by the Normans, which were of all Nations the most quarrelsome, and most fallacious in contriving of controversies and Suits.

London: Printed for Giles Calvert, at the black Spread-Eagle at the West end of PAULS. 1649.

John Warr, *The Corruption and Deficiency of the Lawes of England soberly discovered: or, Liberty working up to its just height. Wherein is set down,*

- 38

By John Warr.

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**CHAP. I. Containing the just measure of all good Lawes, in their Originall, Rule, and end: Together with a reflexion (by way of Antithesis) upon unjust Lawes.** [↩](#)

Those *Lawes* which do carry any thing of *Freedom* in their *bowells*, do owe their *Originall* to the *Peoples choice*; and have been wrested from the *Rulers* and *Princes* of the world, by *importunity of intreaty*, or by *force of Armes*: For the *great men* of the world being invested with the *Power* thereof, cannot be imagined to eclipse *themselves* or their own *Pomp*, unlesse by the violent *interposition* of the *peoples spirits*, who are most sensible of their own *burdens*, and most forward in seeking *reliefe*. So that *Exorbitancie* and *Injustice* on the part of *Rulers* was the *rise* of *Lawes* in behalf of the *People*, which consideration will afford us this *generall Maxime*, That the *pure and genuine intent* of *Lawes* was to *bridle Princes*, not the *People*, and to keep *Rulers* within the *bounds*, of *just* and *righteous Government*: from whence, as from a *Fountain*, the rivulet of *subjection* and *obedience* on the *peoples* part, did reciprocally flow forth, partly to gratifie, and partly to incourage *good* and *vertuous Governors*: So that *Lawes* have but a secondary reflexion on the *People*, glancing onely at them, but looking with a full eye upon *Princes*. Agreeable to this is that of [2] *Cicero Lib. 2. de Offic.* whose words are to this effect: *Cum premeretur ulim multitudo ab iis qui maiores opes habebant, statim confugiebat ad unum aliquem virtute prastantem, &c. Jus enim semper quæsitum est æquabile, neq; enim aliter esset jus; id si ab uno bono et justo viro consequerentur, eo erant contenti; cum id minus contingeret, leges sunt inventæ,*" &c. (i.) *When the people did obtain redresse of their wrongs from some just and good man, they were satisfied therewith; but when they failed thereof, they found out Lawes, &c.*

From which Assertion we may deduce a twofold corollarie.

1. That at the *Foundation* of *Governments Justice* was in *men*, before it came to be in *Lawes*; for the onely *Rule* of *Government*, to *good Princes*, was their own *wills*; and *people* were content to pay *them* their *subjection* upon the *security* of their bare words: So here in *England*, in the daies of *King Alfred*, the *Administration of Justice* was immediately in the *Crown*, and required the *personall attendance* of the *King*.

2. But this *course* did soon bankrupt the world, and drive men to a necessity of taking bond from their *Princes*, and setting limits to their *Power*; hence it came to passe, that *Justice* was transmitted from *men* to *Lawes*, that both *Prince* and *People* might read their *duties*, *offences*, and *punishments* before them.

And yet such hath been the *interest* of *Princes* in the world, that the *sting* of the *Law* hath been plucked out as to *them*; and the weight of it fallen upon the *People*, which hath been more grievous, because out of its *place*, the *Element* of the *Law* being beneficiall, not cumbersom within its own *sphere*. Hence it is, that *Lawes* (like swords) come to be used against those which made them; and being put upon the rack of *self* and *worldly interest*, are forced to *speak* what they never *meant*, and to accuse their best friends, the *People*. Thus the *Law* becomes any thing or nothing, at the *courtesie* of *great men*, and is bended by them like a *twig*: Yea, how easie is it for such men to *break* those *Customes* which will not *bow*, and to erect *traditions* of a more complying temper [3] to the *wills* of those, whose end they serve. So that *Law* comes to be lost in *Will* and *Lust*; yea *Lust* by the adoption of *greatnesse* is enacted *Law*. Hence it comes to passe, that *Lawes* upon *Lawes* do bridle the *People*; and run counter to their *end*; yea the farther we go, the more out of the way. This is the *originall* of unjust *Lawes*.

No marvell that *Freedom* hath no voice here, for an *Usurper* reigns; and *Freedom* is proscribed like an *Exile*, living only in the understandings of some few *men*, and not daring to appear upon the *Theater* of the *world*.

But yet the *minds* of *men* are the great *wheel*s of things; thence come changes and alterations in the world; teeming *Freedom* exerts and puts forth it self; the unjust world would suppress its appearance, many fall in this conflict, but *Freedom* will at last prevaile, and give *Law* to all things.

So that here is the *proper Fountain* of good and *righteous Laws*, a spirit of understanding big with *Freedom*, and having a single respect to *Peoples Rights*, *Judgement* goes before to create a capacity, and *Freedom* follows after to fill it up. And thus *Law* comes to be the *bank* of *Freedom*, which is not said to *straighten*, but to *conduct* the *streame*. A *people* thus watered, are in a thriving posture; and the rather because the foundation is well laid, and the *Law* reduced to its *originall state*, which is the *protection* of the *Poor* against the *Mighty*.

If it were possible for a *People* to *choose* such *Laws* as were prejudiciall to themselves, this were to forsake their own interest: Here (you'l say) is free *choice*; But bring such *Laws* to the *Rule*, and there is a *failer* there; the *Rule* of *righteous Laws* are *clear and righteous Principles* (according to the severall appearances of *truth* within us) for *Reason* is the *measure* of all just *Laws* though the size differ according to the various apprehensions of *People*, or *tempers* of *Common-Wealths*, so that *choice* abstracted or considered in it self is no undeniable *badge* of a *just Law*, but as it is mixed with other *ingredients*; as on the contrarie *Force and Power* are not therefore condemned, because they have hands to strike, but because they have no eyes to see (i.e.) they are not usually [4] ballanced with *understanding* and *right reason* in *making* or *executing* of *Laws*, the *sword* having commonly more of the *Beast* in it, then the *Man*.

Otherwise, to be imposed upon by the *art* of *truth*, is to be caught by a warrantable *guile*, and to be kept by *force* from injuring ones self or others, hath more of *courtesie* then *severenesse* therein; And in this case reason will cast the *scales* and ascribe more to a *seeing force* then a *blind choice*; the *righteousnesse* or *unrighteousnesse* of things depends not upon the circumstances of our embracing or rejecting then, but upon the *true nature* of the things themselves: Let *righteousnesse* and *truth* be given out to the *Nation*, we shall not much quarrell at the manner of conveyance, whether this way, or that way, by the *Beast*, or by the *Man*, by the *Vine*, or by the *Bramble*.

There is a twofold *Rule* of *corrupt Laws*.

1. *Principles* of *self* and *wordly greatnesse* in the *Rulers* of the world, who standing upon the Mountain of *Force* and *Power*, see nothing but their own Land round about them, and make it their design to subdue *Lawes* as well as *Persons*, and enforce both to do homage to their *wills*.

2. *Obsequiousnesse*, *Flatterie*, or *Compliancie* of spirit to the foresaid *principles*, is the womb of all degenerous laws in inferiour *Ministers*: 'Tis hard indeed, not to swim with the *stream*, and some men had rather give up their *Right* then contend, especially upon apparent disadvantage; 'Tis true these things are *temptations* to men, and 'tis one thing to be deflowred, but to give up ones self to uncleannesse is another: 'Tis better to be ravished of our *Freedom*s (corrupt times have a force upon us) then to give them up as a *Free-wil* offering to the *lusts* of great men, especially if we our selves have a share with them in the same design.

*Easinesse of spirit* is a wanton frame, and so far from resisting, that it courts an assault; yea such persons are *prodigall* of other mens stock, and give that away for the bare asking, which will cost much labour to regain. *Obsequious and servile spirits are the worst Guardians of the Peoples Rights.*

Upon the *advantage* of such spirits, the *interest* of *Rulers* [5] hath been heightened in the world, and strictly guarded by severest *Laws*, And truly, when the door of an *Interest* flies open at a knock, no marvell that *Princes* enter in.

And being once admitted into the bosom of the *Law*, their first work is to secure *themselves*; And here what *servility* and *flatterie* are not able to effect, that *Force* and *Power* shall: And in order hereto a *guard of Lawes* is impressed to serve and defend *Prerogative Power*, and to secure it against the assaults of *Freedom*, so that in this case, *Freedom* is not able to stir without a load of prejudice in the minds of men, and (as a ground thereof) a visible guilt, as to the *Letter of the Law*.

But how can such *Lawes* be good which swerve from their *end*: The *end* of *just Laws* is the *safety* and *freedom* of a *People*.

As for *safety*, just *Laws* are bucklers of defence: when the mouth of violence is muzzled by a *law*, the innocent feed and sleep securely: when the wolvis nature is destroyed, there shall then be no need of *law*, as long as that is in being, the *curb* of the *law* keeps it in restraint, that the *great* may not oppresse or injure the *small*.

As for *safety*, *laws* are the *Manacles of Princes*, and the *guards* of private men: So far as *lawes* advance the *Peoples Freedoms*, so far are they *just*, for as the *Power* of the *Prince* is the *measure* of unrighteous *lawes*, so *just laws* are weigh'd in the balance of *Freedom*: where the first of these take place, the *People* are wholly *slaves*; where the second, they are wholly *free*: but most *Common-wealths* are in a middle posture, as having their *lawes* grounded partly upon the interest of the *Prince*, and partly upon the *account* of the *People*, yet so as that *Prerogative* hath the greatest influence, and is the chiefest ingredient in the mixture of *Law*, in the *Laws of England* will by and by appear.

[6]

## ***CHAP. II. The Failers of our English Lawes, in their Originall, Rule, and End.***

The influence of *force* and *power* in the *sanction* of our *English lawes*, appears by this, That severall alterations have been made of our *lawes*, either in whole, or in part, upon every conquest. And if at any time the *Conqueror* hath continued any of the *Ancient lawes*, it hath been only to please and ingratiate himself into the people, for so generous *Thieves* give back some part of their *money* to *Travellers*; to abate their zeal in pursuit.

Upon this ground I conceive it is, why *Fortescue* (and some others) do affirm; That notwithstanding the severall conquests of this *Realm*, yet the same *lawes* *Fortesc. cap. 17.* have still continued, his words are these: *Regnum Angliæ primò per Britones inhabitatum est, deinde per Romanos regulatum, iterumq, per Britones, ac deinde per Saxones possessum, qui nomen ejus ex Britannia in Angliam mutaverunt; extunc per Danes idem regnum parumper dominatum est, & iterum per Saxones, sed finaliter per Normannes, quorum propago regnum illud obtinet in præsenti, & in omnibus Nationum harum & Regum earum temporibus, regnum illud iisdem quibus jam regitur consuetudinibus continuè regulatum est.* That is, *The Kingdom of England was first inhabited by the Britons, afterwards 'twas governed by the Romans; and again by the Britons, and after that by the Saxons; who changed its name from Brittain to England: In processe of time the Danes ruled here, and again the Saxons, and last*

of all the Normans, whose posterity, governeth the Kingdome at this day; And in all the times of these severall Nations, and of their Kings, this Realme was still ruled by the same customes, that it is now governed withall: Thus far Fortescue in the Reign of Henry the Sixth. Which opinion of his can be no otherwise explained (besides what we have already said) then that succeeding *Conquerors* did still retain those parts of former [7] *Lawes*, which made for their own *interest*; otherwise 'tis altogether inconsistent with *reason*, that the *Saxons* who banished the *Inhabitants*, and changed the *Name*, should yet retain the *Lawes* of this *Island*. *Conquerors* seldom submit to the *law* of the *conquered* (where *Conquests* are compleat, as the *Saxons* was) but on the contrary, especially when they bare such a mortall feud to their persons: which argument (if it were alone) were sufficient to demonstrate, that the *Britons* and their *Lawes* were banished together; and to discover the weaknesse of the contrarie opinion, unlesse you take the *Comment* together with the *Text*, and make that explanation of it which we have done.

And yet this is no honor at all to the *Lawes* of *England*, that they are such pure *servants* to corrupt *interests*, that they can keep their *places* under *contrary masters*; just and *equall lawes* will rather indure perpetuall imprisonment, or undergo the severest death, then take up *Arms* on the other side (yea *Princes* cannot trust such *lawes*) *An hoary head (in a law) is no Crown, unlesse it be found in the way of righteousness*, Prov. 16. 31.

By this it appears that the *notion* of *fundamental law*, is no such *Idoll* as men make it: For, what (I pray you) is *fundamentall law*, but such *customs* as are of the *eldest date*, & longest continuance? Now *Freedom* being the proper *rule* of *Custom*, 'tis more fit that unjust *customs* should be reduced, that they may continue no longer, then that they should keep up their *Arms*, because they have continued so long. The more *fundamentall a law* is, the more *difficult*, not the lesse *necessarie*, to be reformed: but to return.

Upon every *Conquest*, our very *lawes* have been found *transgressors*, and without any judiciall processe, have undergone the *penalty* of *Abrogation*; not but that our *Lawes* needed to be *reformed*, but the onely *reason* in the *Conqueror* was his own *will*, without respect to the *Peoples Rights*; and in this case the *riders* are changed, but the *burdens* continued, for meer *force* is a most partiall thing, and ought never to passe in a *Jury* upon the *Freedoms* of the *People*; and yet thus it hath been in our *English Nation*, as by examining the *originall* of it may appear; and in bringing down its pedigree to this present time, we shall easily perceive, that the *British laws* were altered by the *Romans*, the *Roman law* by the *Saxons*, the *Saxon law* by the *Danes*, the *Danish law* by *King Edward the Confessor*, *King Edwards Lawes* by [8] *William the Conqueror*, which being somewhat moderated and altered by succeeding *Kings*, is the *present Common law* in *force* amongst us, as will by and by appear.

*The several alterations of the Lawes of England.*

The *History* of this *Nation* is transmitted down to us upon reasonable credit for 1700. yeers last past; but whence the *Britons* drew their *originall* (who inhabited this *Island* before the *Roman Conquest*) is as uncertainly related by *Historians*, as what their *Lawes* and *Constitutions* were; and truly after so long a *series* of times, 'tis better to be silent, then to bear false witness.

But certain it is, that the *Britains* were under some kind of *Government*, both *Martiall* and *Civill*, when the *Romans* entred this *Island*, as having perhaps borrowed some *Lawes* from the *Greeks*, the *refiners* of humane spirits, and the ancientest *inventers of Lawes*: and this may seem more then conjecturall, if the opinion of some may take place, that the *Phaenicians* or *Greeks* first sailed into *Britain*, and mingled *Customes* and *Languages* together: For, it cannot be denied, that the *Etymon* of many *British* words seems to be *Greekish*, as (if it were materiall to this purpose) might be clearly shown.

But 'tis sufficient for us to know, that whatever the *lawes* of the *Britons* were upon the *Conquest* of *Cæsar*, they were reviewed and altered, and the *Roman law* *Brittish Laws altered by the Romans.* substituted in it's room, by *Vespasian*, *Papinian* and others, who were in person here; yet divers of the *British Nobles* were educated at *Rome*, on purpose to inure them to their *lawes*.

The *Civill law* remaining in *Scotland*, is said to have been planted there by the *Romans*, who conquered a part thereof. And this *Nation* was likewise subject to the same *law*, till the subversion of this State by the *Saxons*, who made so barbarous a *Conquest* of the *Nation*, and so razed out the *Foundation* of former *lawes*, that there are lesse footsteps of the *Civill law* in this, then in *France*, *Spain*, or any other *province* under the *Roman Power*.

So that whilst the *Saxons* ruled here, they were governed by their own *lawes*, which differed much from the *British law*, some of these *Saxon laws* were *Roman Law altered by the Saxons.* afterward digested into *form*, and are yet extant in their *originall tongue*, and translated into *Latin*.

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The next *alteration* of our *English lawes* was by the *Danes*, who *Saxon law altered by the Danes.* repealed and nulled the *Saxon law*, and established their owne in its stead; hence it is, that the *Laws of England* do bear great affinity with the *Customes* of *Denmarke*, in *Descents of Inheritance*, *Trialls of Right*, and severall other wayes: 'tis propable that originally *Inheritances* were divided in this *Kingdom* amongst all the Sons by *Gavel-kind*, which *Custom* seemes to have been instituted by *Cæsar* both amongst *us*, and the *Germans*, (and as yet remains in *Kent*, not wrested from them by the *Conqueror*) but the *Danes* being ambitious to conform us to the pattern of their owne *Countrey*, did doubtlesse alter this *Custom*, and allot the *Inheritance* to the *eldest son*; for that was the *course* in *Denmarke*, as *Walsingham* reports in his *Vpodigma Neustriæ*; *Pater cunctos filios adultos à se pellebat, præter unum quem haeredem sui juris relinquebat*; (i.e.) *Fathers did expose and put forth all their sons, besides one whom they made heir of their estates*.

So likewise in *Trialls of Rights* by *twelve men* our *Customes* agree with the *Danish*, and in many other particulars which were introduced by the *Danes*, *disused* at their expulsion, and revived againe by *William the Conqueror*.

For after the *Massacre* of the *Deans* in this *Island*, King *Edward the Confessor* did againe alter their *Laws*, and though he extracted many particulars out of the *Danish Lawes*, yet he grafted them upon a *new stock*, and compiled a *Body of lawes* since knowne by his name, under the *protection* of which the people then lived; so that here was another alteration of our *English lawes*. *Danish Law altered by K. Edward the Confessor.*

And as the *Danish law* was altered by King *Edward*, so were King *Edwards lawes* *Edw. the Confessors Laws altered by William the Conqueror.* disused by the *Conqueror*, and some of the *Danish Customes* againe revived: And to clear this, we must consider, that the *Danes* and *Normans* were both of a stock, and situated in *Denmarke*, but called *Normans* from their *Northern* Situation, from whence they sailed into *France*, and settled their *Customes* in that part of it, which they called *Normandy* by their owne *name*, and from thence into *Britain*. And here comes in the *great alteration* of our *English lawes* by *William the Conqueror*, who selecting some passages out of the *Saxon*, and some out of the *Danish law*, and in both having greatest respect to [10] his owne *Interest*, made by the *Rule* of his *Government*, but his own *will* was an *exception* to this *Rule* as often as he pleased.

For, the *alterations* which the *Conqueror* brought in, were very great, as the *clothing his lawes with the Norman Tongue*, the appointment of *Termes* at *Westminster*, whereas before the *people* had *Justice* in their owne *Countreyes*, there being severall *Courts* in every *County*, and the *Supreme Court* in the *County* was called, *Generale Placitum*, for the determining of those *Controversies* which the *Parish* or the *Hundred Court* could not decide; the ordaining of *Sheriffes* and other *Court-Officers* in every *County* to keep *people* in subjection to the *Crowne*, and upon any attempt for redresse of *injustice*, *life* and *land* was forfeited to the *King*: Thus were the *Possessions* of the *Inhabitants* distributed amongst his *Followers*, yet still upon their good behaviour, for they must hold it of the *Crowne*, and in [Holinshed](#). case of disobedience, the *Propriety* did revert: And in order hereto, *certaine Rents* yearly were to be paid to the *King*. Thus as the *Lords* and *Rulers* held of the *King*, so did *inferiour persons* hold of the *Lords*; Hence come *Landlord*, *Tenant*, *Holds*, *Tenures* &c. which are slavish ties and badges upon men, grounded originally on *Conquest and Power*.

Yea the *lawes* of the *Conqueror* were so burthensome to the *people*, that succeeding *Kings* were forced to abate of their *price*, and to give back some *freedom* to the *people*: Hence it came to passe, that *Henry the first* did mitigate the *lawes* of his *Father the Conqueror*, and restored those of *King Edward*; hence likewise came the *Confirmation of Magna Charta*, and *Charta Forestæ*, by which latter, the power of the *King* was abridged in inlarging of *Forrests*, whereas the *Conqueror* is said to have demolished a vast number of buildings to erect and inlarge *New Forests* by *Salisbury*, which must needs bee a grievance to the *people*. These *freedomes* were granted to the *people* not out of any love to *them*, but extorted from *Princes* by fury of *War*, or *incessantnesse of adresse*; and in this case *Princes* making a *vertue* of *necessity*, have given away that, which was none of their own, and they could not well keep, in hope to regaine it at other times; so that what of *freedom* we have by the *law*, is the *price* of much *hazard* and *blood*. Grant, that the *People* seem to have had a shadow of *freedom* in *choosing of lawes*, as consenting [11] to them by their *Representatives*, or *Proxies* both before and since the *Conquest*, (for even the *Saxon Kings* held their *Conventions* or *Parliaments*.) yet whosoever shall consider how arbitrary such *meetings* were, and how much at the *devotion* of the *Prince* both to *summon* and *dissolve*, and withall how the spirit of *Freedom* was observed and kept under, and likewise how most of the *Members* of such *Assemblies* were *Lords*, *Dukes*, *Earls*, *Pensioners to the Prince*, and the *Royall Interest*, will easily conclude, that there hath been a failer in our *English Lawes*, as to matter of *Election* or *free choice*, there having been alwaies a rod held over the *Choosers*, and a *Negative Voice*, with a *Power of dissolution*, having alwaies nipt *Fredome* in the *Bud*.

The *Rule* of our *English Lawes* is as faulty as the *Rise*. The *Rule* of our *laws* may be referred to a twofold *Interest*.

1. The *interest* of the *King* which was the *great bias* and *rule* of the *law*, and other *interests*, but *tributary* to this: hence it is all our *laws* run in the *name* of the *King*, and are caried on in an *Orb* above the *sphere* of the *people*; hence is that saying of *Philip Honor*, *Cum à Gulielmo Conquestore, quod perinde est ac tyrannus, institutæ sint leges Angliæ, admirandum non est quod solam Principis utilitatem respiciant, subditorum verò bonum desertum esse videatur.* (i.e.) Since the *laws* of *England* were instituted by *William the Conqueror*, or *Tyrant*, 'tis no wonder that they respect onely the *Prerogative* of the *King*, and neglect the *Freedom* of the *People*.

2. The *interest* of the *People*, which (like a worme) when *trod* upon did *turne* againe, and in smaller *iotas* and diminutive *parcells*, wound in it selfe into the *Texture* of *law*, yet so as that the *Royall interest* was above it, and did frequently suppress it at its pleasure. The *Freedom* which we have by the *law*, owns its originall to this *interest* of the *People*, which as it was formerly little knowne to the world, so was it misrepresented by *Princes*, and loaden with reproaches, to make it odious: yea, *liberty* the result thereof was obtained but by



parcells, so that we have rather a *tast* then a *draught* of *Freedome*.

If then the *rise* and *rule* of our *law* be so much out of *tune*, no marvell that we have no good Musick in the end, but [12] *Bondage*, instead of *freedom*, and instead of *safety*, *danger*. For the *law* of *England* is so full of *uncertainty*, *nicety*, *ambiguity*, and *delay*, that the poor people are *ensnared*, not remedied thereby: the *formality* of our *English law* is that to an oppressed man, which *School-Divinity* is to a wounded spirit, when the *Conscience* of a *sinner* is peirced with *remorse*, 'tis not the niceitie of the *Casuist*, which is able to heale it, but the *solid experience* of the grounded *Christian*.

'Tis so with the *law*, when the poor & oppressed want *right*, they meet with *law*; which (as 'tis managed) is their greatest wrong; so that *law* it self becoms a sin, & an experimented grievance in this *Nation*. Who knows not that the *web* of the *law* intangles the *small flies*, and dismisseth the *great*? so that a mite of *equity* is worth a whole bundle of *law*: yea many times the very *law* is the *badge* of our *oppression*, its proper intent being to enslave the *people*; so that the *Inhabitants* of this *Nation* are lost in the *law*, such and so many are the *References*, *Orders*, and *Appeales*, that it were better for us to sit down by the *losse*, then to seek for *relief*; for *law* is a chargeable *Physitian*, and he which hath a great *Family* to maintain, may well take large *fees*.

For the *Officers* or *meniall servants* of the *law* are so numerous, that the *price of right* is too high for a poor man; yea many of them procuring their places by sinister waies, must make themselves *savers* by the vailles of their office; yea 'twere well, if they rested here and did not raise the *Market* of their *Fees*, for they that buy at a great rate, must needs sell deer.

But the *poor* and the *oppressed* pay for all, hence it is, that such men grow rich upon the ruines of others, and whilst *law* and *Lawyer* is advanced, *equity* and *truth* are under hatches, and the people subject to a legall *Tyranny*, which of all bondages is one of the greatest.

Meer *force* is its own *argument*, and hath nothing to plead for it, but it self, but when oppression comes under the *notion* of *law*, 'tis most ensnaring; for sober-minded men will part with some *right* to keep the *rest*, and are willing to bear to the utmost; but perpetuall burdens will break their *backs* (as the strongest jade tyres at the last) especially when there is no hope of relief.

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### ***CHAP. III. Of the necessity of the Reformation of the Laws of England, together with the excellency (and yet difficulty) of the worke.***

THE more generall a *good* is, the more *divine* and *God-like*: Grant that *Prerogative lawes* are good for *Princes*, and advantageous to their *Interest*, yet the shrubs are more in number then the *Cedars* in the *Forrest* of the world; and *Lawes of Freedome* in behalfe of the *people* are more usefull, because directed to a more *generall good*. *Communities* are rather to be respected, then the *Private Interests* of great men.

*Good Patriots* study the *people*, as *Favourites* do the *Prince*, and it is altogether impossible, that the people should be *free* without a *Reformation* of the *law*, the source and root of *Freedome*. An equall and speedy distribution of *Right* ought to be the *Abstract and Epitome* of all *lawes*, and if so,

Why are there so many delayes, turnings and windings in the *laws* of *England*?

Why is our *law* a *Meander* of *Intricacies*, where a man must have contrary winds before he can arrive at his destred *Port*?

Why are so many men destroyed for want of a *Formality* and *Punctilio* in *law*? And who would not blush, to behold seemingly grave and learned *sages* to prefer a *letter*, *syllable* or *word* before the *weight* and *merit* of a *cause*?

Why do the issue of most *Law-suits* depend upon *Presidents* rather than the *Rule*, especially the *Rule of Reason*?

Why are mens lives forfeited by the *law* upon *light* and triviall grounds?

Why do some *laws* exceed the *offence*? and on the contrary other *offences* are of greater demerit then the *penalty* of the *law*?

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Why is the *Law* still kept in an unknown *tongue*, and the nicety of it rather *countenanced* then *corrected*?

Why are not *Courts* rejourned into every *County*, that the *People* may have *right* at their own doors, and such tedious journeyings may be prevented?

Why under pretence of equity, and a Court of Conscience, are our wrongs doubled and trebled upon us, the Court of Chancerie being as extortionous (or more) then any other Court? yea 'tis a considerable Quaere, whether the Court of Chancery were not first erected meerly to elude the Letter of the Law, which though defective, yet had some certainty; and under a pretence of Conscience to devolve all causes upon meer will, swayed by corrupt interest. If *former Ages* have taken advantage to mix some *wheat* with the *Tares*, and to insert some mites of *Freedom* into our *Lawes*: why should we neglect (upon greater advantages) to double our files, and to produce the perfect image of *Freedom*, which is therefore *neglected*, because not *known*.

How otherwise can we answer the *Call of God*, or the *cryes of the People*, who search for *Freedom* as for an hid *Treasure*? yea, how can we be registred, even in the *Catalogue of Heathens*, who made lesse *shew*, but had more *substance*, and were excellent *Justiciaries*, as to the *Peoples Rights*: so *Solon*, *Lycurgus* &c. such morall appearances in the minds of men, are of sufficient *Energie* for the ordering of *Common-wealths*, and it were to be wished, that those *States* which are called *Christian*, were but as *just* as *Heathens* in their *lawes*, and such strict promoters of *Common Right*.

*Pure Religion* is to visit the *Fatherlesse*, and the most glorious *Fast* to abstain from strife, and smiting with the fist of wickednesse; in a word, to relieve the oppressed, will be a just *Guerdon* and reward for our pains and *travell* in the *reformation* of the *law*.

And yet this work is very hard, there being so many concerned therein, and most being buisier to advance and secure *themselves*, then to benefit the *publike*: yea our *Phisitians* being *themselves Parties*, and ingaged in those *interests* which *freedom* condemns, will hardly be brought to deny *themselves*, unlesse upon [15] much *conviction* and assistance from above; and yet this we must hope for, that the *reformation* of the *times* may begin in the breasts of our *Reformers*, for such men are likely to be the hopefull fire of *freedom*, who have the *image* of it engrafted in their own minds.

#### ***CHAP. IV. Of the corrupt Interest of Lawyers in the Common-wealth of England.***

OF *Interests*, some are grounded upon *weaknesse*, and some upon *corruption*; the most *lawfull interests* are sown in *weaknesse*, and have their *rise* and *growth* there: *Apostle*, *Prophet*, *Evangelist* were onely for the perfecting of the *Saints*; *Phisitians* are of the like *interest* to the *body*; *marriage* is but an help and comfort in a *dead* state for in the *Resurrection* they neither marry, nor are given in marriage.



*Interests grounded upon weakness* may be used, as long as our *weaknesse* doth continue, and no longer, *for the whole need not a Phisician*, &c. such *interests* are good, profitable, usefull; and in their own *nature self-denying*, (i.e) contented to sit down, and give way to that *strength* and glory to which they *serve*.

But the *interest* of *Lawyers* in this *Common-wealth*, seems to be grounded rather upon *corruption*, then *weaknesse*, as by surveying its originall, may appear. The *rise* and *potency* of *Lawyers* in this *Kingdom*, may be ascribed to a twofold ground.

1. The *Unknownnesse of the law*, being in a strange tongue, whereas when the *law* was in a *known* language (as before the *Conquest*) a man might be his own *Advocate*. But the *hiddennesse* of the *law*, together with the *fallacies* and doubts thereof, render us in a posture unable to *extricate our* selves, but we must have recourse to the *shrine* of the *Lawyer*, whose *Oracle* is in such request, because it pretends to resolve *doubts*.

2. The *quarterly Terms* at *Westminster*, whereas when *justice* was administred in every *County*, this *interest* could not possibly grow to an height, but every man could mind and attend his own cause [16] without such *journeying* to and fro, and such chargeable Attendance, as at *Westminster-Hall*. For, first in the *County*, the *law* was plain, and *controversies* decided by *Neighbours* of the Hundred who could be soon informed in the state of the matter, and were very ready to administer *Justice*, as making it their own case; but, as for *Common Lawyers*, they carry only the *Idea* of *right* and *wrong* in their *heads*, and are so far from being touched with the *sense* of those wrongs, against which they seem to argue, that they go on meerly in a *formalitie* of words, I speak not this out of emulation or envy against any mans *person*, but singly in behalf of the *people* against the *corruption* of the *interest it self*.

After the *Conquest*, when *Courts* and *Terms* were established a *Westminster* (for how could the *Darling of Prerogative* thrive unlesse alwaies under the *Kings eye*?) men were not at leisure to take so much pains for their own, but sometimes *they themselves*, sometimes their *friends* in their behalf, came up in *Term-time* to *London*, to plead their *causes*, and to procure *justice*: as yet the *interest* of *Lawyers* was a puny thing, for one friend would undertake to plead his *cause* for another; and he which was more versed in the tricks of the *law*, then his neighbour, would undertake a journey to *London*, at the request of those who had businesse to do, perhaps his charges born on the way, and some small reward for his pains; there were then no stately Mansions for *Lawyers*, but such *Agents* *Innes of Court why so called, and when erected.* (whether *Parents*, *Friends* or *Neighbour* to the *Parties*) lodged like other *Travellers* in *Innes* as *Country Attornies* still do: hence it came to passe, that when the interests of *Lawyers* came to be advanced in Edward the third's Time, their Mansions or *Colledges* were still called *Innes*, but with an Addition of *honor*, *Innes of Court*.

The *proceed of Lawyers interest* is as followeth: when such *Agents*, as we have spoken of, who were employed by their neighbours at *London*, and by this means coming to be versed in the *niceties* of the *law*, found it sweeter then the *Plough*, and *Controversies* beginning to increase, they took up their *Quarters* here till such time as they were formed into an *orderly* body, and distinct *interest*, as now they are. [1]

There is ground enough to conclude, even from the Letter of the *Statute Law* (in 28. Edw. 1. c. 11.) that mens *Parents*, *Friends* or *Neighbours* did plead for them, without the help of any other *Lawyer*.

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After the *Lawyers* were formed into a *Society* and had hired the *Temple* of the *Knights Templers* for the place of their abode, their *interest* was not presently advanced, but by the *Contentions of the people*, after a long *series* of time, so that the *interest of Lawyers* (in the height which now it is) comes from the same root, as *pride* and *idlenesse*, (*i.e.*) from *fulnesse of bread*, or *prosperity the mother of strife*; not but that just and equall administrators of *laws* are very necessary in a *Common-wealth*, but when once that which was at first but a *Title*, comes to be framed into an *interest*, then it sets up it self, and growes great upon the *ruines* of others, and thorough the *corruption* of the *people*.

I take this to be a main difference between *lawfull* and *corrupt interests*, *just interests* are the *servants* of all, and are of an *humble spirit*, as being content to have their *light* put out by the brightness of that glory which they are supplemental to. But *corrupt interests* feare a change, and use all wiles to establish *themselves*, that so their *fall* may be great, and their *ruin* as chargeable to the world as it can; for such *interests* care for none but *themselves*.

The readiest way to informe such men is to do it within us for most men have the *common Barrator* within them, (*i.e.*) *principles of contention and wrong*; and thus the *law* becomes the *Engine of strife*, the *instrument of lust*, the *mother of debates*, and *Lawyers* are as *make-bates* between a man and his neighbour.

When Sir Walter Rawleigh was upon his triall, the *Lawyers* that were of *Councell* for the *King*, were very violent against him, whereupon Sir Walter turning to the *Jury*, used these words, *Gentlemen, I pray you consider, that these men, meaning the Lawyers, do usually defend very bad causes every day in the Courts, against men of their own profession, as able as themselves, what then will they not do against me?*&c. which Speech of his may be too truly affirmed of many *Lawyers*, who are any thing or nothing for gaine, and measuring *Causes* by their owne *Interest*, care not how long *right* be deferred and suits prolonged: There was a Suit in *Glocestershire* between two *Families*, which lasted [\*Cambden Brit. in Glocest.\*](#) since the *Reign of Edward the fourth*, till of late composed, which certainly must be ascribed either to the *ambiguity* of the *law*, or the *subtilty* of the *Lawyers*, neither of which are any great honor to the *English Nation*.

How much better were it to spend the *acutenesse* of the *mind* [18] in the *reall* and *substantiall* ways of *good*, and benefit to ourselves and others? and not to unbowell our selves into a meer Web, a frothy and contentious way of *law*, which the oppressed man stands in no more need of, then the tender-hearted Christian of *Thomas Aquinas* to resolve him in his *doubts*.

If there be such a thing as *right* in the world, let us have it *sine suco*. Why is it delayed, or denied, or varnished over with guilty words? Why comes it not forth in its owne Dresse? Why doth it not put off *law*, and put on *reason*; the *mother* of all just *laws*? Why is not ashamed of its long and mercenary train? Why can we not ask it and receive it our selves, but must have it handed to us by others? In a word, why may not a man plead his own *Case*? or his *friends* and *acquaintance* (as formerly) plead for him?

Memorable is that passage in King James Speech in *Star-Chamber, In Countreys* (sayes he) *where the formality of law hath no place, as in Denmark, all their State is governed only by a written law, there is no Advocate or Procter admitted to plead, only the parties themselves plead their own cause, and then a man stands up and pleads the law, and there is an end; for the very Law-Book it self is their only Judge: happy were all Kingdoms, if they could be so: but here curious wits, various conceits, different actions, and variety of examples breed questions in law.* Thus far he. And if this *Kingdom* doth resemble *Denmark* in so many other *Custom*, why may it not be assimilated to it in this also? especially considering, that the world travells with *Freedom*, and some real compensation is desired by

the *people*, for all their sufferings, losses, (and) blood.

To clear the Channel of the *law* is an honorable worke for a *Senate*, who should be *preservers* of the *Peoples Rights*.

**FINIS.**

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## Endnotes [↩](#)

- [1] Anno 28. Edward. Primi 1300 cap. 11. *But it may not be understood hereby, that any persons shall be prohibited to have Councell of Pleaders, or of learned men in the Law, for his fee, or of his Parents and next Friends.*