LEX, REX,

OR

THE LAW AND THE PRINCE;

A DISPUTE FOR

THE JUST PREROGATIVE OF KING AND PEOPLE:

CONTAINING

THE REASONS AND CAUSES OF THE MOST NECESSARY DEFENSIVE WARS
OF THE KINGDOM OF SCOTLAND,

AND OF THEIR

EXPEDITION FOR THE AID AND HELP OF THEIR DEAR BRETHREN
OF ENGLAND;

IN WHICH THEIR INNOCENCY IS AssertED, AND A FULL ANSWER IS GIVEN TO A SEDITIOUS PAMPHLET,

ENTITLED,

"SACRO-SANCTA REGUM MAJESTAS,"

OR

THE SACRED AND ROYAL PREROGATIVE OF CHRISTIAN KINGS;

UNDER THE NAME OF J. A., BUT PENNED BY

JOHN MAXWELL, THE EXCOMMUNICATE POPISH PRELATE;

WITH A SCRIPTURAL CONFUTATION OF THE RUINOUS GROUNDS OF W. BARCLAY, H. GROTIIUS, H. ARNIBAUS,
ANT. DE DOM. POPISH BISHOP OF SPALATO, AND OF OTHER LATE ANTI-MAGISTRATICAL
ROYALISTS, AS THE AUTHOR OF OSSORIUM, DR. PERNE, E. SYMMONS,
THE DOCTORS OF ABERDEEN, ETC.

IN FORTY-FOUR QUESTIONS.

BY THE

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"But if you shall still do wickedly, ye shall be consumed, both ye and your king."—1 Sam. xii. 25.

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PREFACE.

In issuing a new edition of Lex, Rex, it has been considered advisable to print along with it Buchanan's De Jure Regni apud Scotos. This work, on its first appearance, gave great offence to the government of the time, as containing principles which were opposed to the established monarchy; and was consequently condemned by the parliament of 1684. In 1664 there was a proclamation issued against any translation of it being in the possession of any person. "This proclamation," says Wodrow, "is every way singular; for any thing that appears, this translation of that known piece of the celebrated Buchanan was not printed, but only, it seems, handed about in manuscript; while, in the meantime, thousands of copies of it in the Latin original were in everybody's hands. It had been more just to have ordered an answer to have been formed to the solid arguments in that dialogue against tyranny and arbitrary government." Again, in 1688, another proclamation was published by the Council, prohibiting every person from selling, dispersing, or lending such books as Buchanan's "De Jure Regni apud Scotos," "Lex, Rex," "Jus Populi Naphtali," along with some others which were considered as having a treasonable tendency. The same principles are advocated in Lex, Rex, that are held by Buchanan: both works are equally opposed to that absolute and passive obedience required from the subject to a royal prerogative. A modern writer* well remarks, "That resistance to lawful authority—even when that authority so called has, in point of fact, set at nought all law—is in no instance to be vindicated, will be held by those only who are the devotees of arbitrary power and passive obedience. The principles of Mr Rutherford's Lex, Rex, however obnoxious they may be to such men, are substantially the principles on which all government is founded, and without which the civil magistrate would become a curse rather than a blessing to a country. They are the very principles which lie at the basis of the British constitution, and by whose tenure the house of Brunswick does at this very moment hold possession of the throne of these realms."

CONTENTS.

Sketch of the Life of Rutherford, ................................................. xv.
Author's Preface, ........................................................................ xxi.

QUESTION I.

Whether government be by a divine law, ........................................ 1

How government is from God.—Civil power, in the root, immediately from God.

QUESTION II.

Whether or no government be warranted by the law of nature, ............ 1

Civil society natural in radius, in the root, voluntary in modo, in the manner.—Power of government, and power of government by such and such magistrates, different.—Civil subjection not formally from nature's laws.—Our consent to laws penal, not antecedently natural.—Government by such rulers, a secondary law of nature.—Family government and politic different.—Government by rulers a secondary law of nature; family government and civil different.—Civil government, by consequent, natural.

QUESTION III.

Whether royal power and definite forms of government be from God, .... 3

That kings are from God, understood in a fourfold sense.—The royal power hath warrant from divine institution.—The three forms of government not different in specie and nature.—How every form is from God.—How government is an ordinance of man, 1 Pet. ii. 13.

QUESTION IV.

Whether or no the king be only and immediately from God, and not from the people, ............................................................... 6

How the king is from God, how from the people.—Royal power three ways in the people.—How royal power is radically in the people.—The people maketh the king.—How any form of government is from God.—How government is a human ordinance, 1 Pet. ii. 3.—The people create the king.—Making a king, and choosing a king, not to be distinguished.—David not a king formally, because anointed by God.

QUESTION V.

Whether or no the P. Prelate proveth that sovereignty is immediately from God, not from the people, ..................................................... 9

Kings made by the people, though the office, in abstracto, were immediately from God.—The people have a real action, more than approbation, in making a king.—Kingship of a person ascribed to the people.—Kings in a special manner are from God, but it followeth not; therefore, not from the people.—The place, Prov. viii. 15, proveth not but kings are made by the people.—Nebuchadnezzar, and other heathen kings, had no just title before God to the kingdom of Judah, and divers other subdued kingdoms.
QUESTION VI.

Whether or no the king be so alienarily from both, in regard of sovereignty and designation of his person, as he is now away from the people, but only by mere approbation,

The forms of government not from God by an act of naked providence, but by his approving will.—Sovereignty not from the people by sole approbation.—Though God have peculiar acts of providence in creating kings, it followeth not hence that the people maketh not kings.—The P. Prelate expoundeth prophecies true only of David, Solomon, and Jesus Christ, as true of profane heathen kings.—The P. Prelate maketh all the heathen kings to be princes, anointed with the holy oil of saving grace.

PAGE

16

QUESTION VII.

Whether the P. Prelate conclude that neither constitution nor designation of kings is from the people,

The excellency of kings maketh them not of God's only constitution and designation.—How sovereignty is in the people, how not.—A community doth not surrender their right and liberty to their rulers, so much as their power active to do, and passive to suffer, violence.—God's loosing of the bonds of kings, by the mediation of the people's despising him, proveth against the P. Prelate that the Lord taketh away, and giveth royal majesty mediatly, not immediately.—The subordination of people to kings and rulers, both natural and voluntary; the subordination of beasts and creatures to man merely natural.—The place, Gen. ix. 5, "He that sheddeth man's blood," do. discussed.

22

QUESTION VIII.

Whether or no the P. Prelate proveth, by force of reason, that the people cannot be capable of any power of government,

In any community there is an active and passive power to government.—Popular government is not that wherein the whole people are governors.—People by nature are equally indifferent to all the three governments, and are not under any one by nature.—The P. Prelate denieth the Pope his father to be the antichrist.—The bad success of kings chosen by people proveth nothing against us, because kings chosen by God had bad success through their own wickedness.—The P. Prelate condemneth king Charles' ratifying (Parl. 2, an. 1641) the whole proceedings of Scotland in this present reformation.—That there be any supreme judges is an eminent act of divine providence, which hindereth not but that the king is made by the people.—The people not patients in making a king, as is water in the sacrament of baptism, in the act of production of grace.

28

QUESTION IX.

Whether or no sovereignty is so in and from the people, that they may resume their power in time of extreme necessity,

How the people is the subject of sovereignty.—No tyrannical power is from God.—People cannot alienate the natural power of self-defence.—The power of parliaments.—The Parliament hath more power than the king.—Judges and kings differ.—People may resume their power, not because they are insubordinate, but because they cannot so readily destroy themselves as one man may do.—That the saviour commanded not David, Bathseba, Joab, is but a fact, not a law.—There is a subordination of creatures natural, government must be natural; and yet this or that form is voluntary.

33

QUESTION X.

Whether or not royal birth be equivalent to divine union,

Impugned by eight arguments.—Royalty not transmitted from father to son.—A family may be chosen to a crown as a single person is chosen, but the tie is conditional in both.—The throne, by special promise, made to David and his seed, by God, (Psalm. lxxxix.) no ground to make birth, ex Deo, a just title to the crown.—A title by conquest to a throne must be unlawful, if birth be God's lawful title.—Royalist who hold conquest to be a just title to the crown, teach manifest treason against king Charles and his royal heirs.—Only, bona fortuna, not honour or royalty, pro-
perly transmittable from father to son.—Violent conquest cannot regulate the consciences of people to submit to a conqueror as their lawful king.—Naked birth is inferior to that very divine union, that made no man a king without the people's election.—If a kingdom were by birth the king might sell it.—The crown is the patrimony of the kingdom, not of him who is king, or of his father.—Birth a typical designation to the crown in Israel.—The choice of a family to the crown, resolveth upon the free election of the people as on the fountain cause.—Election of a family to the crown lawful.

QUESTION XI.

Whether or no he be more principally a king who is a king by birth, or he who is a king by the free election of the people,

45

The elective king cometh nearer to the first king. (Deut. xvii.)—If the people may limit the king, they give him the power.—A community have not power formally to punish themselves.—The hereditary and the elective prince in divers considerations, better or worse, each one than another.

QUESTION XII.

Whether or no a kingdom may lawfully be purchased by the sole title of conquest,

48

A Twofold right of conquest.—Conquest turned in an after-consent of the people, becometh a just title.—Conquest not a significance to us of God's approving will.—Mere violent domineering contrary to the acts of governing.—Violence hath nothing in it of a king.—A bloody conqueror not a blessing, _per se_, as a king is.—Strength as prevailing is not law or reason.—Fathers cannot dispose of the liberty of posterity not born.—A father, as a father, hath not power of life and death. Israel and David's conquests of the Canaanites, Edomites, Ammonites not lawful, because conquest, but upon a divine title of God's promise.

QUESTION XIII.

Whether or no royal dignity have its spring from nature, and how it is true "Every man is born free," and how servitude is contrary to nature,

50

Seven sorts of superiority and inferiority.—Power of life and death from a positive law.—A dominion antecedent and consequent.—Kings and subjects no natural order.—A man is born, _consequent_, in politic relation.—Slavery not natural from four reasons.—Every man born free in regard of civil subjection (not in regard of natural, such as of children and wife, to parents and husband) proved by seven arguments.—Politic government how necessary, how natural.—That parents should enslave their children not natural.

QUESTION XIV.

Whether or no the people make a person their king conditionally or absolutely; and whether the king be tyed by any such covenant,

54

The king under a natural, but no civil obligation to the people, as royalists teach.—The covenant civilly tyeth the king proved by Scriptures and reasons, by eight arguments.—If the condition, without which one of the parties would never have entered into covenant, be not performed, that party is loosed from the covenant.—The people and princes are obliged in their places for justice and religion, no less than the king.—In so far as the king preseth a false religion on the people, _eternus_, in so far they are understood not to have a king.—The covenant giveth a mutual co-active power to king and people to compel each other, though there be not one on earth higher than both to compel each of them.—The covenant bindeth the king as king, not as he is a man only.—One or two tyrannous acts deprive not the king of his royal right.—Though there were no positive written covenant (which yet we grant not) yet there is a natural, tacit, implicit covenant tying the king, by the nature of his office.—If the king be made king absolutely, it is contrary to Scripture and the nature of his office.—The people given to the king as a pledge, not as if they became his own to dispose of at his absolute will.—The king could not buy, sell, borrow, if no covenant should tie him to men.—The covenant sworn by Judah (2 Chron. xv.) tyed the king.

QUESTION XV.

Whether the king be univocally, or only analogically and by proportion, a father,

62

Adam not king of the whole earth because a father.—The king a father metaphorically and improperly, proved by eight arguments.
CONTENTS.

QUESTION XVI.

Whether or no a despotic or masterly dominion agree to the king, because he is king, 64

The king hath no masterly dominion over the subjects as if they were his servants, proved by four arguments.—The king not over men as reasonable creatures to dominere.—The king cannot give away his kingdom or his people as if they were his proper goods.—A violent surrender of liberty tyeth not.—A surrender of ignorance is so far involuntarily as it oblige not.—The goods of the subjects not the king’s, proved by eight arguments.—All the goods of the subjects are the king’s in a fourfold sense.

QUESTION XVII.

Whether or no the prince have properly the fiduciary or ministerial power of a tutor, husband, patron, minister, head, master of a family, not of a lord or dominator, 69

The king a tutor rather than a father as these are distinguished.—A free community not properly and in all respects a minor and pupil.—The king’s power not properly marital and husbandly.—The king a patron and servant.—The royal power only from God, immediacione simplicis constitutionis, et solus solitudine causae prince, but not immediacione applicationis dignitatis ad personam.—The king the servant of the people both objectively and subjectively.—The Lord and the people by one and the same act according to the physical relation maketh the king.—The king head of the people metaphorically only, not essentially, not univocally, by six arguments.—His power fiduciary only.

QUESTION XVIII.

What is the law or manner of the king (1 Sam. viii. 9, 11) discussed fully, 72

The power and the office badly differed by Barclay.—What is גמל נפש the manner of the king, by the harmony of interpreters, ancient and modern, protestants and papists.—Crying out (1 Sam. viii.) not necessarily a remedy of tyranny, nor a praying with faith and patience.—Resisting of kings that are tyrannous, and patience, not inconsistent.—The law of the king not a permissive law, as was the law of divorcement.—The law of the king (1 Sam. xii. 25, 26) not a law of tyranny.

QUESTION XIX.

Whether or no the king be in dignity and power above the people, 77

In what consideration the king is above the people, and the people above the king.—A mean, as a mean, inferior to the end, how it is true.—The church, because the church, is of more excellency than the king, because king.—The people being those to whom the king is given, worthier than the gift.—And the people immortal, the king mortal.—The king a mean only, not both the efficient, or author of the kingdom, and a mean; two necessary distinctions of a mean.—If sin had never been, there should have been no king.—The king is to give his life for his people.—The consistent cause more excellent than the effect.—The people than the king.—Impossible people can limit royal power, but they must give royal power also.—The people have an action in making a king, proved by four arguments.—Though it were granted that God immediately made kings, yet it is no consequent, God only, and not the people, can unmake him.—The people appointing a king over themselves, retain the fountain-power of making a king.—The mean inferior to the end, and the king, as a king, is a mean.—The king, as a mean, and also as a man, inferior to the people.—To swear non-self-preservation, and to swear self-murder, all one.—The people cannot make away their power, 1. Their whole power, nor 2. Irrevocably to the king.—The people may resume the power they give to the commissioners of parliament, when it is abused.—The tables in Scotland lawful, when the ordinary judicatures are corrupt.—Quod effectu talis id ipsum magis talis discussed, the fountain-power in the people derived only in the king.—The king is a fiduciary, a life-renter, not a lord or heritor.—How sovereignty is in the people.—Power of life and death, how in a community.—A community void of rulers, is yet, and may be a politic body.—Judges gods analogically.

QUESTION XX.

Whether inferior judges be essentially the immediate vicegerents of God, as kings, not differing in essence and nature from kings, 88

Inferior judges the immediate vicars of God, no less than the king.—The consciences of inferior judges, immediately subordinate to God, not to the king, either mediately or immediately.—How
CONTENTS.

the inferior judge is the deputy of the king. — He may put to death murderers, as having God’s
sword committed to him, no less than the king, even though the king command the contrary; for
he is not to execute judgment, and to relieve the oppressed conditionally, if a mortal king give
him leave; but whether the king will or no, he is to obey the King of kings. — Inferior judges are
ministers regni, non minister regis. — The king doth not make judges as he is a man, by an act of
private good-will; but as he is a king by an act of royal justice, and by a power that he hath from
the people, who made himself a supreme judge. — The king’s making inferior judges hindereth
not, but they are as essentially judges as the king who maketh them, not by fountain-power, but
power borrowed from the people. — The judges in Israel and the kings suffer not essentially. Aris-
tocracy as natural as monarchy, and as warrantable. — Inferior judges depend some way on the
king in fere, but not in facto esse. — The parliament not judges by derivation from the king. — The
king cannot make or unmake judges. — No heritable judges. — Inferior judges more necessary than
a king.

QUESTION XXI.

What power the people and states of parliament hath over the king and in the state, 96

The elders appointed by God to be judges. — Parliaments may convene and judge without the king.
— Parliaments are essentially judges, and so their consciences neither dependeth on the king,
quod quod speciesisationem, that is, that they should give out this sentence, not that, see quod exerci-
ficis, that they should not in the morning execute judgment. — Unjust judging, and no judging at
all, are sins in the states. — The parliament co-ordinate judges with the king, not advisers only; by
eleven arguments. — Inferior judges not the king’s messengers or legates, but public governors.
— The Jews’ monarchy mixed. — A power executive of laws more in the king, a power legislative
more in the parliament.

QUESTION XXII.

Whether the power of the king, as king, be absolute, or dependent and limited by
God’s first mould and pattern of a king, 99

The royalists make the king as absolute as the great Turk. — The king not absolute in his power,
proved by nine arguments. — Why the king is a living law. — Power to do ill not from God. — Roy-
alists say power to do ill is not from God, but power to do ill, as punishable by man, is from God.
— A king, actus primo, is a plague, and the people slaves, if the king, by God’s institution, be abso-
late. — Absoluteness of royalty against justice, peace, reason, and law. — Against the king’s relation
of a brother. — A damsel forced may resist the king. — The goodness of an absolute prince hinder-
eth not but he is actus primo a tyrant.

QUESTION XXIII.

Whether the king hath a prerogative royal above law, 106

Prerogative taken two ways. — Prerogative above laws a garland proper to infinite majesty. — A three-
fold dispensation. 1. Of power; 2. Of justice; 3. Of grace. — Acts of mere grace may be acts of
blood. — An oath to the king of Babylon tyed not the people of Judah to all that absolute power
could command. — The absolute princes is as absolute in acts of cruelty, as in acts of grace. — Ser-
vants are not (1 Pet. ii. 18, 19) interdicted of self-defence. — The parliament materially only, not
formally, hath the king for their lord. — Reason not a sufficient restraint to keep a prince from
acts of tyranny. — Princes have sufficient power to do good, though they have not absolute to do
evil. — A power to shed innocent blood can be no part of any royal power given of God. — The
king, because he is a public person, wasteth many privileges that subjects have.

QUESTION XXIV.

What relation the king hath to the law, 113

Human laws considered as reasonable, or as penal. — The king alone hath not a nemothetic power.
— Whether the king be above parliaments as their judge. — Subordination of the king to the parlia-
ment and co-ordination both consistent. — Each one of the three governments hath somewhat from
each other, and they cannot any one of them be in its prevalency conveniently without the mix-
ture of the other two. — The king as a king cannot err, as he erreth in so far, he is not the remedy
of oppression intended by the king’s regalia. — In the court of God and nature, — In the court of
the king. — Human laws not so obscure as tyranny is visible and discernable. — It is more requisite
that the whole people, church, and religion be secured than one man. — If there be any restraint
by law on the king it must be physical, for a moral restraint is upon all men. — To swear to an ab-
solute prince as absolute, is an oath inveterem, in so far unlawful, and not obligatory.
QUESTION XXV.

Whether the supreme law, the safety of the people, be above the king, 119

The safety of the people to be preferred to the king, for the king is not to seek himself, but the
good of the people.—Royalists make no kings but tyrants.—How the safety of the king is the
safety of the people.—A king, for the safety of the people, may break through the letter and
paper of the law.—The king's prerogative above law and reason, not comparable to the blood
that has been shed in Ireland and England.—The power of dictators prove not a prerogative above law.

QUESTION XXVI.

Whether the king be above the law, 125

The law above the king in four things, 1. in constitution; 2. direction; 3. limitation; 4. co-action.—
In what sense the king may do all things.—The king under the morality of laws; under funda-
mental laws, not under punishment to be inflicted by himself, nor because of the eminency of his
place, but for the physical incongruity thereof.—If, and how, the king may punish himself.—That
the king transgressing in a heinous manner, is under the co-action of law, proved by seven argu-
ments.—The coronation of a king, who is supposed to be a just prince, yet proved after a tyrant,
is conditional and from ignorance, and so involuntary, and in so far not obligatory in law.—Royal-
ists confess a tyrant in exercise may be dethroned.—How the people is the seat of the power
of sovereignty.—The place, Psal. li. “Against thee only have I sinned,” &c. discussed.—Israel's
not rising in arms against Pharaoh examined.—And Judah's not working their own deliver-
ance under Cyrus.—A covenant without the king's concurrence lawful.

QUESTION XXVII.

Whether or no the king be the sole, supreme, and final interpreter of the law, 136

He is not the supreme and peremptory interpreter.—Nor is his will the sense of the law.—Nor is
he the sole and only judicial interpreter of the law.

QUESTION XXVIII.

Whether or no wars raised by the estates and subjects for their own just defence
against the king's bloody emissaries be lawful, 139

The state of the question.—If kings be absolute, a superior judge may punish an inferior judge, not
as a judge but as an erring man.—By divine Institution all covenants to restrain their power must be
unlawful.—Resistence in some cases lawful.—Six arguments for the lawfulness of defensive wars.
—Many others follow.

QUESTION XXIX.

Whether, in the case of defensive wars, the distinction of the person of the king as a
man, who may and can commit hostile acts of tyranny against his subjects, and of
the office and royal power that he hath from God and the people, can have place, 143

The king's person in concreto, and his office in abstracto, or, which is all one, the king using his
power lawfully to be distinguished (Rom. xiii).—To command unjustly maketh not higher a power.
—The person may be resisted and yet the office cannot be resisted, proved by fourteen argu-
ments.—Contrary objections of royalists and of the P. Prelate answered.—What we mean by the
person and office in abstracto in this dispute; we do not exclude the person in concreto altogether,
but only the person as abusing his power; we may kill a person as a man, and love him as a son,
father, wife, according to Scripture.—We obey the king for the law, and not the law for the king.
The losing of habitual and actual royalty different.—John xix. 10, Pilate's power of crucifying
Christ no law-power given to him of God, is proved against royalists, by six arguments.

QUESTION XXX.

Whether or no passive obedience be a mean to which we are subjected in conscience by
virtue of a divine commandment; and what a mean resistance is. That flying is
resistance, 152

The place, 1 Pet. ii. 18, discussed.—Patient bearing of injuries and resistance of injuries compatible
in one and the same subject.—Christ's non-resistance hath many things rare and extraordinary,
and is no leading rule to us. — Suffering is either commanded to us comparatively only, that we rather choose to suffer than deny the truth; or the manner only is commanded, that we suffer with patience. — The physical act of taking away the life, or of offending when commanded by the law of self-defence, is no murder. — We have a greater dominion over goods and members, (except in case of manumission, which is a little death,) than over our life. — To kill is not of the nature of self-defence, but accidental therunto. — Defensive war cannot be without offending. — The nature of defensive and offensive wars. — Flying is resistance.

QUESTION XXXI.

Whether self-defence, by opposing violence to unjust violence, be lawful, by the law of God and nature, 

Self-defence in man natural, but modus, the way, must be rational and just. — The method of self-defence. — Violent re-offending in self-defence the last remedy. — It is physically impossible for a nation to fly in the case of persecution for religion, and so they may resist in their own self-defence. — Tu fido vitam prosema and remota. — In a remote posture of self-defence, we are not to take us to re-offending, as David was not to kill Saul when he was sleeping, or in the cave, for the same cause. — David would not kill Saul because he was the Lord's anointed. — The king not lord of chastity, name, conscience, and so may be resisted. — By universal and particular nature, self-defence lawful, proved by divers arguments. — And made good by the testimony of jurists. — The love of ourselves, the measure of the love of our neighbours, and enforceth self-defence. — Nature maketh a private man his own judge and magistrate, when the magistrate is absent, and violence is offered to his life, as the law saith. — Self-defence, how lawful it is. — What presumption is from the king's carriage to the two kingdoms, are in law sufficient grounds of defensive wars. — Offensive and defensive wars differ in the event and intentions of men, but not in nature and specie, nor physically. — David's case in not killing Saul nor his men, no rule to us, not in our lawful defence, to kill the king's emissaries, the cases far different.

QUESTION XXXII.

Whether or no the lawfulness of defensive wars can be proved from the Scripture, from the examples of David, the people's rescuing Jonathan, Elisha, and the eighty valiant priests who resisted Uzziah, 

David warrantably raised an army of men to defend himself against the unjust violence of his prince Saul. — David's not invading Saul and his men, who did not aim at arbitrary government, at subversion of laws, religion, and extermination of those that worshipped the God of Israel and opposed idolatry, but only pursuing one single person, far unlike to our case in Scotland and England now. — David's example not extraordinary. — Elisha's resistance proeth defensive wars to be warrantable. — Resistance made to king Uzziah by eighty valiant priests proeth the same. — The people's rescuing Jonathan proeth the same. — Libnah's revolt proeth this. — The city of Abel defended themselves against Joab, king David's general, when he came to destroy a city for one wicked conspirator, Sheba's sake.

QUESTION XXXIII.

Whether or no Rom. xiii. 1 make any thing against the lawfulness of defensive wars, 

The king not only understood, Rom. xiii. — And the place, Rom. xiii., discussed.

QUESTION XXXIV.

Whether royalists prove, by cogent reasons, the unlawfulness of defensive wars, 

Objections of royalists answered. — The place, Exod. xxi. 29, "Thou shalt not revile the gods," &c. answered. — And Eccles. x. 20. — The place, Eccles. viii. 3, 4, "Where the word of a king is," &c. answered. — The place, Job. xxxiv. 18, answered. — And Acts xxii. 3, "God shall smite thee, thou whited wall," &c. — The emperors in Paul's time not absolute by their law. — That objection, that we have no practice for defensive resistance, and that the prophets never complain of the omission of the resistance of princes, answered. — The prophets cry against the sin of non-resistance, when they cry against the judges, because they execute not judgment for the oppressed. — Judah's subjection to Nebuchadnezzar, a conquering tyrant, no warrant to us to subject ourselves to tyrannous acts. — Christ's subjection to Caesar nothing against defensive wars.
CONTENTS.

QUESTION XXXV.
Whether the sufferings of the martyrs in the primitive church militant be against the lawfulness of defensive wars, 182
Tertullian neither ours nor theirs in the question of defensive wars.

QUESTION XXXVI.
Whether the king have the power of war only, 184
Inferior judges have the power of the sword no less than the king.—The people tied to acts of charity, and to defend themselves, the church, and their posterity against a foreign enemy, though the king forbid.—Flying unlawful to the states of Scotland and England now, God’s law tying them to defend their country.—Parliamentary power a fountain-power above the king.

QUESTION XXXVII.
Whether the estates of Scotland are to help their brethren, the protestants of England, against cavaliers, proved by argument 13, 187
Helping of neighbour nations lawful, divers opinions concerning the point.—The law of Egypt against those that helped not the oppressed.

QUESTION XXXVIII.
Whether monarchy be the best of governments, 190
Whether monarchy be the best of governments hath divers considerations, in which each one may be less or more convenient.—Absolute monarchy is the worst of governments. Better want power to do ill as have it.—A mixture sweetest of all governments.—Neither king nor parliament have a voice against law and reason.

QUESTION XXXIX.
Whether or no any prerogative at all above the law be due to the king. Or if jura majestatis be any such prerogative, 193
A threefold supreme power.—What be jura regalia.—Kings confer not honours from their plentitude of absolute power, but according to the strait line and rule of law, justice, and good observing.—The law of the king, 1 Sam. viii. 9, 11.—Difference of kings and judges.—The law of the king, (1 Sam. viii. 9, 11,) no permissive law, such as the law of divorce.—What dominion the king hath over the goods of the subjects.

QUESTION XL.
Whether or no the people have any power over the king, either by his oath, covenant, or any other way, 198
The people have power over the king by reason of his covenant and promise.—Covenants and promises violated, infer co-action, de jure, by law, though not de facto.—Mutual punishments may be where there is no relation of superiority and inferiority.—Three covenants made by Arnisdæma.—The king not king while he swear the oath and be accepted as king by the people.—The oath of the kings of France.—Hugo Grotius setteth down seven cases in which the people may accusation, punish, or dethrone the king.—The prince a noble vassal of the kingdom upon four grounds.—The covenant had an oath annexed to it.—The prince is but a private man in a contract.—How the royal power is immediately from God, and yet conferred upon the king by the people.

QUESTION XLI.
Whether doth the P. Prelate with reason ascribe to us doctrine of Jesuits in the question of lawful defence, 204
The sovereignty is originally and radically in the people, as in the fountain, was taught by fathers, ancient doctors, sound divines, lawyers, before there was a Jesuit or a prelate whelped, in rerum
CONTENTS.

natura.—The P. Prelate holdeth the Pope to be the vicar of Christ.—Jesuits' tenets concerning kings.—The king not the people's deputy by our doctrine, it is only the calumniy of the P. Prelate.—The P. Prelate will have power to act the bloodiest tyrannies on earth upon the church of Christ, the essential power of a king.

QUESTION XLIII.

Whether all Christian kings are dependent from Christ, and may be called his vicegerents, ................................. 210

Why God, as God, hath a man a vicegerent under him, but not as mediator.—The king not head of the church.—The king a sub-mediator, and an under-redeemer, and a sub-priest to offer sacrifices to God for us if he be a vicegerent.—The king no mixed person.—Prelates deny kings to be subject to the gospel.—By no prerogative royal may the king prescribe religious observances and human ceremonies in God's worship.—The P. Prelate giveth to the king a power arbitrary, supreme, and independent, to govern the church.—Reiprocation of subjections of the king to the church, and of the church to the king, in divers kinds, to wit, of ecclesiastical and civil subjection, are no more absurd than for Aaron's priest to teach, instruct and rebuke Moses, if he turn a tyrannous Achab, and Moses to punish Aaron if he turn an obstinate idolator.

QUESTION XLIII.

Whether the king of Scotland be an absolute prince, having a prerogative above laws and parliaments, ................................. 216

The king of Scotland subject to parliaments by the fundamental laws, acts, and constant practices of parliaments, ancient and late in Scotland.—The king of Scotland's oath at his coronation.—A pretended absolute power given to James VI. upon respect of personal endowments, no ground of absoluteness to the king of Scotland.—By laws and constant practices the kings of Scotland subject to laws and parliaments, proved by the fundamental law of elective princes, and out of the most partial historians, and our acts of parliament of Scotland.—Coronation oath.—And again at the coronation of James VI. that oath sworn; and again, 1 Parl. James VI. ibid and seq.—How the king is supreme judge in all causes.—The power of the parliaments of Scotland.—The Confession of the faith of the church of Scotland, authorised by divers acts of parliament, doth evidently hold forth to all the reformed churches the lawfulness of defensive wars, when the supreme magistrate is misled by wicked counsel.—The same proved from the confessions of faith in other reformed churches.—The place, Rom. xiii., expos'd in our Confession of faith.—The confession, not only Saxon, exhibited to the Council of Trent, but also of Helvetia, France, England, Bohemia, prove the same.—William Laud and other prelates, enemies to parliaments, to states, and to the fundamental laws of the three kingdoms of England, Scotland, and Ireland.—The parliament of Scotland doth regulate, limit, and set bounds to the king's power.—Fergus the first king not a conqueror.—The king of Scotland below parliaments, considerable by them, hath no negative voice.

QUESTION XLIV.

General results of the former doctrine in some few corollaries, in twenty-two questions, ................................. 227

Concerning monarchy, compared with other forms.—How royalty is an issue of nature.—And how magistrates, as magistrates, be natural.—How absoluteness is not a ray of God's majesty.—And resistance not unlawful, because Christ and his apostles used it not in some cases.—Coronation is no ceremony.—Men may limit the power that they gave not.—The commonwealth not a pupil or minor properly.—Subjects not more obnoxious to a king than clients, vassals, children, to their superiors.—If subjection passive be natural.—Whether king Uzziah was dethroned.—Idiots and children not complete kings, children are kings in destination only.—Denial of passive subjection in things unlawful, not dishonourable to the king, more than denial of active obedience in the same things.—The king may not make away or sell any part of his dominions.—People may in some cases convene without the king.—How, and in what meaning subjects are to pay the king's debts.—Subsidies the kingdom's due, rather than the king's.—How the seas, ports, forte, castles, militia, magazine, are the king's, and how they are the kingdom's.
SKETCH OF THE LIFE

OF

SAMUEL RUTHERFORD.

The more prominent features of a man's public life are generally characterised by the spirit of the times in which he lived. If the period has been peaceful and undisturbed by party controversy and the disputes of opposing factions, then all flows smoothly and quietly on; the minds of the people repose unharassed and unexcited by public contentions and quarrels; there is opportunity for the cultivation of the useful arts; a taste is displayed in the pursuit of learning and literature, and improvements and discoveries, in every branch of science and art, advance with rapid strides. Such a state of things men of civilized nations in general desire. Yet a period like this, when there has been "peace in the land," looked back upon from a succeeding age, or read as a chapter of history, appears tame and monotonous. There is nothing to arouse the attention or awaken the feelings, when the only record we have of a man is, that he lived, died, and was buried. But it is otherwise when the times have been the scene of anarchy, civil war, or persecution. Then the calmness and repose of the community is broken up; men are excited and roused by the spirit-stirring events that are passing around them; each must take their side;—it is then that their characters are drawn out and shown in a true light: the weak, the timid and undecided, keep the back ground, while men of courage and daring stand forward in bold relief.

There has been in the history of mankind, in all ages, two great contending principles at issue—the contest of error against truth, and the struggle of truth with error. On the one side—error, with the violence of oppression, doing all that persecution can accomplish, in endeavouring to exterminate virtue from the moral universe; and on the other—truth, with noble courage and exalted firmness, maintaining the purity of her principles in opposition to ignorance and persecution. For upwards of four thousand years she has grappled with superstition, idolatry, and bigotry, and, with moral weapons, she has vindicated the justice of her principles, which her enemies have found easier to answer with the sword than by argument. In every age error has had the majority, for truth has had few followers; but, in the end, she has been triumphant even at the stake, or on the scaffold. Yet the faggot will burn with a fiercer flame, and the guillotine will be deeper dyed with the martyr's blood than it has ever yet been, ere the world assent to the truth of her doctrines. On looking back, and reviewing the civil and religious history of our own land, we observe the mighty contest between Popery and the Reformed Doctrine—we see the fearful conflict of right and wrong—and we see truth, with a gigantic effort, burst the fetters which had so long held the people in mental bondage and ignorance. Again, we observe the struggles between Presbytery and Episcopacy, during most of the latter half of the seventeenth century; one party urged on by a spirit of opposition and bigotry, to trample on the religious rights and privileges of the people, and doing all in their power to bring them again under the iron sway of the Church of Rome; the other, with moral
courage and firmness, standing boldly forward, in the front of persecution, tyranny, and oppression, for the cause and promotion of true religion; and from the martyrdom of Hamilton, Scotland’s first martyr, many a noble spirit has been immolated and set free, for the cause, and at the shrine of Truth;—

“Yet few remember them. They lived unknown
Till persecution dragg’d them into fame,
And chased them up to heaven.”

Samuel Rutherford was born in the parish of Nisbet, in Roxburghshire, in the year 1600. Of the sphere in life occupied by his parents, we have no means of correctly ascertaining. He is mentioned by Reid “to have been born of respectable parents,”* and Wodrow states that he came of “mean, but honest parents.” It is probable, however, that his father was engaged in agricultural pursuits; at all events, he must have held a respectable rank in society, as he otherwise could not have given his son so superior an education. At an early period of his life he discovered a precocious talent, and his parents consequently destined him for the ministry.

In 1617 he was sent to Edinburgh, and entered the University as a student, where he appears to have excelled in the studies in which he was engaged, for, in four years, he took his degree of Master of Arts; and in 1623, after a severe contest with three competitors, he was elected one of the Regents of the College. The acquirements he displayed at this early period were justly appreciated by his contemporaries. We are told that “the whole Regents, out of their particular knowledge of Mr Samuel Rutherford, demonstrated to them [the Judges] his eminent abilities of mind and virtuous dispositions, wherewith the Judges, being satisfied, declared him successor in the Professor of Humanity.”† He, however, only acted in the capacity of Regent about two years, and, on leaving his charge, he devoted himself to the study of Theology, under Mr Andrew Ramsay.

The Church of Scotland was at this period almost entirely under the jurisdiction of Episcopal bishops. The establishment of Episcopacy had been gradually going on since the accession of James to the throne of England, who lent all his aid and authority to the furtherance of that end. The Presbyterians who would not conform to the discipline of church government which had been obstructed upon them, were cruelly oppressed. Many were imprisoned, and their goods confiscated; others were banished from their native land; and not a few were dragged to the scaffold or the stake. At the death of King James, in 1625, his son Charles succeeded to the throne, and the people hoped that their grievances would now be listened to, and their wrongs redressed; but they were disappointed. “The father’s madness,” says Stevenson, “laid the foundation for his successor’s woes, and the son exactly followed the father’s steps.”‡ James held the principles of a royal prerogative, and required absolute and implicit obedience in too strict a manner. These he instilled into the mind of his son, and was, unhappily, too successful; for, on Charles’ succession, he carried out the same principles to a most intolerant degree, which was the cause of so much anarchy and confusion in the nation, and entailed upon himself those misfortunes which rendered his reign so unhappy, and his end so miserable.

In 1627, Rutherford was licensed as a preacher of the Gospel, and through the influence of John Gordon of Kenmure, (afterwards Viscount Kenmure,) appointed to a church in the parish of Anwoth, in Kirkcudbright. There is sufficient authority to show that he was not inducted by Episcopal ordination. Being firmly attached to the Presbyterian form of Government from his youth, he manifested great dislike to Prelacy, and could never be induced to stoop to the authority of the bishops, which, at that time, was a very difficult matter to evade. We are told by Stevenson, that “until the beginning of the year 1628, some few preachers, by influence, were suffered to enter the ministry without conformity, and in this number we suppose Mr Rutherford may be reckoned, because he was ordained before the doors came to be more closely shut upon honest preachers.” Other authorities might be quoted to the same effect. Here he discharged the duties of

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* Lives of the Westminster Divines.  † Crawford’s History of the University.  ‡ Stevenson’s Church History, Vol. I.
his sacred calling with great diligence; and, no doubt, with success. He was accustomed to rise so early as three o'clock in the morning, and devoted his whole time to the spiritual wants of his flock and his own private religious duties. His labours were not confined to his own parishioners, many persons resorted to him from surrounding parishes. "He was," says Livingston, "a great strengthener of all the Christians in that country, who had been the fruits of the ministry of Mr John Welsh, the time he had been at Kirkcudbright."

In 1630, Rutherford experienced a severe affliction by the death of his wife, after a painful and protracted illness of thirteen months, scarcely five years after their marriage. Her death seems to have been the source of much sorrow to him, as he frequently takes notice of it in his letters with much feeling, long after his painful bereavement. To add to his distress, he was himself afflicted with a fever, which lasted upwards of three months, by which he was so much reduced, that it was long ere he was able to perform his sacred duties.

John Gordon, Viscount Kenmure, who had long been the friend and patron of Rutherford, for whom he entertained the greatest respect and esteem, was in August 1634, seized with a disease which caused his death on September following, to the deep sorrow of Rutherford, who was with him at his last moments. Kenmure was a nobleman of an amiable and pious disposition; and, as may be supposed, experienced much pleasure in his intercourse with Rutherford. To Lady Kenmure, Rutherford wrote many of his famous "Letters."

About this time, the doctrines of Arminius began to spread to an alarming extent amongst the Episcopalians. His tenets were espoused by Laud, Archbishop of Canterbury, and also by many of the Scottish prelates, headed by Maxwell, Bishop of Ross, as those only who held the same principles had any chance of preferment in the Church. Rutherford viewed the promulgation of these dangerous tenets with great anxiety, and did all in his power to controvert and oppose them. In 1636, appeared his learned treatise, entitled, "Eserciziones Apologeticae pro Divina Gratia," which was dedicated to Viscount Kenmure, but was not published till eighteen months after his death. This work gave great offence to the government: he was in consequence summoned to appear before a High Commission Court, which had been constituted by Thomas Syderiff, Bishop of Galloway, a man of Arminian principles, which met at Wigton in June (1636), and there deprived of his office. Syderiff, who had imbibed an inveterate hatred against him, was not satisfied with this, but had him again summoned before the High Commission Court at Edinburgh, which met in July following, and he was there accused "of non-conformity, for preaching against the Perth Articles, and for writing a book, entitled, Eserciziones Apologeticae pro Divina Gratia, which they alleged did reflect upon the Church of Scotland; but the truth was, the arguments in that book did cut the sinews of Arminianism, and called the Episcopal clergy to the quick, and therefore Bishop Lyderiff could no longer abide him." Here many other false, frivolous, and extravagant charges were brought against him, but being firm in his innocence, he repelled them all. Lord Lorn (brother to Lady Kenmure), and many others, endeavoured to befriended him; but such was the malevolence of Syderiff, that he swore an oath, if they did not agree to his wishes, he would write to the king. After three days' trial, sentence was passed upon him, that he be deprived of his pastoral office, and discharged from preaching in any part of Scotland, under pain of rebellion, and to be confined before the 20th of August 1636, within the town of Aberdeen during the king's pleasure. This sentence he obeyed, but severe and unjust as it was, it did not discourage him, for in one of his letters, he says, "I go to my king's palace at Aberdeen; tongue, pen, nor wit, cannot express my joy."

During his confinement in Aberdeen, he wrote many of his well-known "Letters," which have been so popular. Indeed, there are few cottage libraries in Scotland in which they do not find a place among the scanty but select collection. Episcopacy and Arminianism at this time held the sole sway in Aberdeen, and it was with no gracious feeling that the learned doctors beheld the arrival of Rutherford. They had all imbibed the principles of their great patron, Laud, and manifested great hostility to Presbyterianism, which was the principal cause of his being sent to that town. He met at first with a cold reception, and his opponents did all in their power to operate on the minds of the people against him.
He says himself, that "the people thought him a strange man, and his cause not good." His innocence, however, and the truth of his cause, began at last to be known, and his popularity was spreading daily;—which so much alarmed the doctors, that they wished he might be banished from the kingdom. They entered into several disputations with him, but he appears to have proved himself a match for them. "I am here troubled," says he, "with the disputes of the great doctors, (especially with Dr Barron, on ceremonial and Arminian controversies—for all are corrupt here,) but, I thank God, with no detriment to the truth, or discredit to my profession."

About this period, great confusion and commotion reigned in Scotland. It had long been the wish of King Charles to introduce the Church of England Service-book and Canons into the worship of the Presbyterians of Scotland. He accordingly, in April 1636, with ill-judged policy, commenced arrangements for its accomplishment, and gave commands to Archbishop Laud, Bishops Juxon and Wren, to compile a liturgy for the special use of the Church of Scotland. Consequently, one was soon framed, which was nearly similar to that used in the Church of England, excepting a few alterations; and, wherever these occurred, the language was almost synonymous with the Roman Missal. In 1637, a proclamation was issued, commanding the people's strict observance of this new form of worship, and a day was accordingly fixed for its introduction into Edinburgh,—on which it was presumed that compliance would follow throughout all the land. The feelings of the people, as may be supposed, were roused to a high pitch;—they stood boldly forward in opposition to such a tyrannical encroachment on their religious liberty, and manifested such a firm and determined spirit of resistance, that Charles soon began to see, when too late, that he had drawn the reins too tight. They would accept of no measure short of an entirely free and unfettered Presbyterian form of worship, and a chain of events followed which led to a renewal of the National Covenant and the abolition of Episcopacy.

During these tumults, Rutherford ventured to leave the place of his confinement in Aberdeen, and returned to his parishioners in Anwoth about February 1638, after an absence of more than eighteen months. They did not, however, long enjoy his ministrations, as we find him, in the same year, actively engaged in Glasgow in forwarding the great covenanted work of reformation. Rutherford was deputed one of the commissioners from the Presbytery of Kirkcudbright to the famous General Assembly of 1638, which was convened at Glasgow on the 21st of November. He was called upon to give an account of the accusations which had been preferred against him by the high commission court. After deliberation, a sentence was passed in his favour, and he, along with some others who were in the same circumstances, were recognised as members of the Assembly. Soon after this, an application was made to the Assembly's commission to have him transferred to Glasgow, and another by the University of St. Andrews, that he might be elected professor of divinity in the New College there. The commission appointed him to the professorship in St. Andrews, as his learning and talents fully qualified him for that important situation. He manifested, however, great reluctance to leave Anwoth, and pleaded, in a petition, his "bodily weakness and mental incapacity." There were several other petitions presented from the county of Galloway against his leaving Anwoth, but to no effect; the Court sustained his appointment. In October 1639, he removed to the scene of his future labours, and was appointed colleague to Mr Robert Blair, one of the ministers of St. Andrews.

Rutherford was nominated one of the commissioners to the General Assembly of divines held at Westminster in 1643. His colleagues were—Alexander Henderson, Robert Baillie, George Gillespie, and Robert Douglas, ministers;—the Earl of Cassillis, Lord Maitland, (afterwards Duke of Lauderdale,) and Sir Archibald Johnston, of Warriston, elders. He took a prominent part in all the discussions in that famous council, and published several works of a controversial and practical nature. About this time, he wrote his celebrated work entitled Lea Rex, in answer to a treatise by John Maxwell, the excommunicated Bishop of Ross, entitled "Sacro-Sancta Regum Majestas; or the sacred and royal prerogative of Christian kings, wherein soveraigntis is, by Holy Scripture, reverend antiquitie, and sound reason asserted," 4to., Oxford, 1644. This work endeavours to prove, that the royal prerogative of kingly authority is derived alone from God; and it
demands an absolute and passive obedience of the subject to the will of the sovereign. The arguments in *Lex Rex* completely refute all the wild and absurd notions which Maxwell’s work contains, although some of the sentiments would be thought rather democratical in modern times. The author displays an intimate knowledge of the classics and the writings of the ancient fathers and schoolmen. The work caused great sensation on its appearance. Bishop Guthrie mentions, that every member of the assembly “had in his hand that book lately published by Mr Samuel Rutherford, which was so idolized, that whereas Buchanan’s treatise (*de jure Regni apud Scotos*) was looked upon as an oracle, this coming forth, it was slighted as not anti-monarchical enough, and Rutherford’s *Lex Rex* only thought authentic.”

Rutherford, who was anxious to return to Scotland, on account of bad health, had made an application to the Assembly for permission to leave; but it was not granted till their business was finished, as his services were very valuable to them; and it was not till 1647 that he was permitted to revisit his native land. On his return to Scotland, he resumed his labours in St. Andrews, and was in December of the same year appointed Principal of the New College, in room of Dr Howie, who had resigned on account of old age. In 1651 he was elected Rector of the University, and was now placed in situations of the highest eminence to which a clergyman of the Church of Scotland can be raised. The fame of Rutherford as a scholar and divine, had now spread both at home and abroad. In the Assembly of 1649, a motion was made, that he would be removed to Edinburgh as Professor of Divinity in the University; and about the same time he received a special invitation to occupy the chair of Divinity and Hebrew in the University of Harderwicke; and also another from the University of Utrecht, both of which he respectfully declined. He had too much regard for the interests of the Church of Scotland to leave the kingdom, considering the critical position in which it was at that time placed.

During the period which followed the death of Charles I. to the restoration, Rutherford took an active part in the struggles of the church in asserting her rights. Cromwell had in the meantime usurped the throne, and independency held the sway in England. On the death of Cromwell in 1658, measures were taken for the restoration of Charles II. to the throne. The Scottish Parliament met in 1651, when the national covenant was recalled—Presbyterianism abolished—and all the decrees of Parliament, since 1638, which sanctioned the Presbyterian system, were rescinded. The rights of the people were thus torn from them—their liberties trampled upon—and the whole period which followed, till the martyrdom of Renwick in 1688, was a scene of intolerant persecution and bloodshed. Rutherford, as may be supposed, did not escape persecution in such a state of things. His work, *Lex Rex*, was considered by the government as “inveighing against monachie and laying ground for rebellion;” and ordered to be burned by the hand of the common hangman at Edinburgh. It met with similar treatment at St Andrews, and also at London; and a proclamation was issued, that every person in possession of a copy, who did not deliver it up to the king’s solicitor, should be treated as an enemy to the government. Rutherford himself was deprived of his offices both in the University and the Church, and his stipend confiscated; he was ordered to confine himself within his own house, and was summoned to appear before the Parliament at Edinburgh, to answer a charge of high treason. It may be easily imagined what his fate would have been had he lived to obey the mandate; but ere the time arrived he was summoned to a far higher than an earthly tribunal. Not having a strong constitution, and being possessed of an active mind, he had evidently overworked himself in the share he took in the struggles and controversies of the time. Although not an old man, his health had been gradually declining for several years. His approaching dissolution he viewed with Christian calmness and fortitude. A few weeks before his death, he gave ample evidence of his faith and hope in the Gospel, by the Testimony which he left behind him.* On his death-bed he was cheered by the consolations of several Christian friends, and on the 20th of March 1681, in the sixty-first year of his age, he breathed his last, in the full assurance and hope of eternal life. His last words were, “Glory, glory, dwelleth in Emmanuel’s land.”

*A Testimony left by Mr Samuel Rutherford to the Work of Reformation in Great Britain and Ireland, before his death, 8vo.*
On April 28th, 1842, the foundation-stone of a colossal monument, called the "Rutherford Monument," was laid to his memory; it is erected on the farm of Borealnd, in the parish of Anwoth, about half-a-mile from where he used to preach. The monument is of granite; height, from the surface to the apex, sixty feet; square of the pedestal, seven feet, with three rows of steps.


THE AUTHOR'S PREFACE.

Who doubteth (Christian Reader) but innocence must be under the courtesy and mercy of malice, and that it is a real martyrdom to be brought under the lawless inquisition of the bloody tongue. Christ, the prophets, and apostles of our Lord, went to heaven with the note of traitors, seditionists, and such as turned the world upside down; calumnies of treason to Caesar were an ingredient in Christ's cup, and therefore the author is the more willing to drink of that cup that touched his lip, who is our glorious Forerunner: what, if conscience toward God, and credit with men, cannot both go to heaven with the saints, the author is satisfied with the former companion, and is willing to dismiss the other. Truth to Christ cannot be treason to Caesar, and for his choice he judgeth truth to have a nearer relation to Christ Jesus, than the transcendent and boundless power of a mortal prince.

He considered that popery and defection had made a large step in Britain, and that arbitrary government had over-swelled all banks of law, that it was now at the highest float, and that this sea approaching the farthest border of fancied absoluteness, was at the score of ebbing: and the naked truth is, prelates, a wild and pushing cattle to the lambs and flock of Christ, had made a hideous noise, the wheels of their chariot did run an equal pace with the blood-thirty mind of the daughter of Babel. Pre-lazy, the daughter planted in her mother's blood, must verify that word, As is the mother, so is the daughter: why, but do not the prelates now suffer? True, but their sufferings are not of blood, or kindred, to the calamities of these of whom Lactantius saith, (I. 5, c. 19.) O quam honesta voluntate miseri corunt! The causes of their suffering are, 1. Hope of gain and glory, steering their helm to a shore they much affect; even to a church of gold, of purple, yet really of clay and earth. 2. The lie is more active upon the spirits of men, not because of its own weakness, but because men are more passive in receiving the impressions of error than truth; and opinions lying in the world's fat womb, or of a conquering nature, whatever notions side with the world, to prelates and men of their make are very efficacious.

There is another cause of the sickness of our time, God plagued heresy to beget Atheism and secu- rity, as atheism and security had begotten heresy, even as clouds through reciprocation of causes engender rain, rain begat vapours, vapours clouds, and clouds rain, so do sins overspread our sad times in a circular generation.

And now judgment presseth the kingdoms, and of all the heaviest judgments the sword, and of words the civil sword, threateneth vastation, yet not, I hope, like the Roman civil sword, of which it was said, Bella geri placuit nullos habitura triumphos.

I hope this war shall be Christ's triumph, Babylou's rain.

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

I have not time to examine the P. Prelate's preface, only, I give a taste of his gall in this preface, and of a virulent piece, of his opusculo stigm et genium Tarasconi, in which he laboureth to prove how inconsistent presbyterial government is with monarchy, or any other government.

1. He denieth that the crown and sceptre is under any co-active power of pope or presbytery, or censurable, or detachable; to which we say, presbytery profess that kings are under the co-active power of Christ's keys of discipline, and that prophets and pastors, as ambassadors of Christ, have the keys of the kingdom of God, to open and let in believing princes, and also to shut them out, if they rebel against Christ; the law of Christ excepteth none, (Mat. xvi. 19; xviii. 15, 16; 2 Cor. x. 6; Jer. i. 9.) If the king's sins may be remitted in a ministerial way, (as Job xx. 23, 24.) as prelates and their priests absolve kings; we think they may be bound by the hand that loosed; presbytery never de-throned kings, never usurped that power. Your father, P. Prelate, hath de-throned many kings; I mean the Pope, whose power, by your own confession, (c. 5, p. 58.) differeth from yours by divine right only in extent.

2. When sacred hierarchy, the order instituted by Christ, is overthrown, what is the condition of sovereignty? — Ans. — Surer than before, when prelates deposed kings. 2. I fear Christ shall never own this order.

3. The mitre cannot suffer, and the diadem be secured. — Ans. — Have kings no pillars to their thrones but antichristian prelates. Prelates have trampled diadem and sceptre under their feet, as histories teach us.

4. Do they not (puritans) magisterially determine that kings are not of God's creation by authoritarian commission; but only by permission, extorted by importunity, and way given, that they may be a scourge to a sinful people? — Ans. — Any unclean spirit from hell, could not speak a blacker lie; we hold that the king, by office, is the church's nurse father, a sacred ordinance, the deputed power of
God; but by the Prelate's way, all inferior judges, and God's deputies on earth, who are also our fathers in the fifth commandment style, are to be obeyed by no divine law; the king, misled by p. prelates, shall forbid to obey them, who is in downright truth, a moral civil pope, may loose and liberate subjects from the tie of a divine law.

5. His inveighing against ruling elders, and the rooting out of antichristian prelacy, without any word of scripture on the copulrip, An as the king, who has the keys to open and shut heaven to, and upon the king, if he can offend."

6. None were of old anointed but kings, priests, and prophets; who, then, more obliged to maintain the Lord's anointed, than priests and prophets? The church hath never more beauty and plenty under any government than monarchy, which is most countenanced by God, and magnified by Scripture. 

—An. Pastors are to maintain the rights of people, and a true church, no less than the right of kings, but prelates, the court parasites, and creatures of the king, that are born for the glory of their king, can do no less than profess this in words, yet here, in the 4th book writeth, (Hist. P. L.) Libentius cum fortuna principis, quam cum princeipe loquantur: and it is true, that the church hath had plenty under kings, not so much, because they were kings, as because they were godly and zealous: except the P. P. say, that the opposing kings of Israel and Judah, and the bloody horns that made war with the lamb, are not kings. In the rest of the epistle he extols the Marquis of Ormond with base flattery, from his loyalty to the king, and his more than admirable prudence in the treaty of cessation with the rebels; a woe is due to this false prophet, who calleth darkness light. Benjamin was abominable and pernicious apostacy from the Lord's cause and people of God, whom he once defended, and the cessation was a selling of the blood of many hundreds thousand protestants, men, women, and sucking children.

This cursed P. hath written of late a treatise against the presbyterian government of Scotland, in which there is a bundle of lies, hollish calumnies, and vain calumniations.

1. The first lie is, that we have lay elders, whereas, they are such as rule, but labour not in the word and doctrine (1 Tim. v. 7., p. 3.)

2. The second lie, that deacons, who only attend tables, are joint rulers with pastors (p. 3).

3. That we never, or little use the lesser excommunication, that is, debarring from the Lord's Supper (p. 4).

4. That any church judicature in Scotland exacteth pecuniary mutlets, and threaten excommunication to the non-payers, and refuseth to accept the repentance of any who are not able to pay: the civil magistrate only fineth for drunkenness, and adultery, blaspeming of God, which are frequent sins in prelates.

5. A calumny it is to say that ruling elders are of equal authority to preach the word as pastors (p. 7).

6. That laymen are members of presbyteries or general assemblies. Buchanan and Mr Melvin were doctors of divinity; and could have taught such an ass as John Milton.

7. That expectants are intruders upon the sacred function, because, as sons of the prophets, they exercise their gifts for trial in preaching.

8. That the presbytery of Edinburgh hath a superintending power, because they communicate the affairs of the church, and write to the churches, what they hear presbles and bell devise against Christ and his church.

9. That the king must submit his sceptre to the presbytery; the king's sceptre is his royal office, which is not subject to any judicature, no more than any lawful ordnance of Christ; but if the king, as a man, blaspheme God, murder the innocent, advance belly-gods, (such as our prelates, for the most part, were) above the Lord's inheritance, the ministers of Christ, in their delegated power, "as the king's could Israel, and they have the keys to open and shut heaven to, and upon the king, if he can offend."

10. That King James said, a Scottish presbytery, and a monastery agree as well as God and the devil, is true, but king James meant of a wicked king; else he spake as a man.

11. That the presbytery, out of pride, refused to answer king James's honourable messengers, is a lie; they could not, in business of high concernment, return a present answer to a prince, seeking still to abolish presbyteries.

12. Its a lie, that all sins, even all civil business, come under the cognizance of the church, for only sins, as publicly scandalous, fall under their power. (Matt. xviii. 15.—17., 2. Thess. iii. 11; 1 Tim. vi. 20.) It is a calumny that they search out secret crimes, and crimes that are hid in families, (Hist. P. L.) it is a calumny that they search out, as the inest of Spotswood, P. Prelate of St. Andrews, with his own daughter; the adulteries of Whitford, P. Prelate of Brienach, whose bastard came weeping to the assembly of Glasgow in the arms of the prostitute: these they searched out, but are with the damnable oath, as ojioso, that the high commission put upon innocents, to cause them accuse themselves against the law of nature.

13. The presbytery hinder not lawful merchandize; scandalous exhortation, unjust suits of law, they may forbid; and as doth the Scripture, as scandalous to Christians, 2 Cor. vi.

14. They repeal no civil laws; they preach against unjust and grievous laws, as, Isaiah (xx. 1) doth, and censure the violation of God's holy day, which prelates profane.

15. We know no parochial popes, we turn out no holy ministers, but only dumb dogs, non-residents, scandalous, wretched, and apostate prelates.

16. Our moderator hath no dominion, the P. Prelate absolveth him, while he saith, "All is done in our church by common consent." (p. 5.)

17. It is true, we have no popish consecration, such as P. Prelate contendeth for in the mass, but we have such as Christ and his apostles used, in consecrating the elements.

18. If any sell the patrimony of the church, the presbytery censures him; if any take bards of malt, meal, bee, it is no law with us, no more than the bishop's five hundred marks, or a year's stipend that the entrant gave to the Lord Bishop for a church. And whoever took bards in these days, as king James by the earl of Dunbar, did buy episcopacy at a pretended assembly, by foul bedding,) they were either men for the episcopal way, or perilously against their oath became bishops, all personal faults of this kind imputed to presbyteries, agree to them under the reduplication of episcopal men.

19. The leading men that covered the sins of the dying man, and so lost his soul, were episcopal men; and though some men were presbyterians, the faults of men cannot prejudice the truth of God; but the prelates always cry out against the rigour of prebendaries in censuring scandals; because they themselves do ill, they hate the light; now here
the Prelate condemn them of remissness in discipline. 20. Satan, a liar from the beginning, saith, The Prelate was, as his letter saith, not only deviser, controller, and take poor, and bloody, because they excommunicated murderers against king James' will; which is all one to say, propehying is a nurse of bloody, because the prophets cried out against king Ahab, the Moravians, and the Mennonites, and that God must be either on the one side or the other, or then preach against reciprocation of injuries. 21. It is false that prelatest usurp both swords; because they can assure, which the civil magistrate should censure and punish. Elias might be said then to mix himself with the civil business of the kingdom, because be prophesied against idolators' killing of the Lord's prophets; which erime the civil magistrate was to punish. But the truth is, the assembly of Glasgow, 1637, condemned the prelates, because they, being pastors, woule be also lords of parliament, of session, of secret council, exchanger, judges, barons, and in their lawless high commission, would fine, imprison, and use the sword. 22. It is his ignorance that he saith, a provincial synod is an associate body chosen out of all judicial prebendaries; for all pastors and doctors, without delegation, by virtue of their place and office, repair to the provincial synods, and without any choice at all, consult and voice there. 23. It is a lie that some leading men rule all here; indeed, episcopal men made factions to rent the synods; and though men abuse their power to faction, this cannot prove that prebendaries are inconsistent with monarchy; for then the Prelate, the monarch of his diocesan round, should be anti-monarchical in a higher manner, for he ruleth at all his will. 24. The prime men, as Mr. R. Bruce, the faithful servant of Christ, was honoured and attended by all, because of his suffering, zeal, holiness, his fruitful ministry in gaining many thousand souls to Christ. So, though king James cast him off, and did swear, by God's name, he intended to be king, (the Prelate maketh blasphemy a virtue in the king,) yet king James swore he could not find an honest minister in Scotland. He was therefore he was necessitated to promote false knaves; but he said sometimes, and wrote it under his hand, that Mr. R. Bruce was worthy of the half of his kingdom: but wilt this prove prebendaries inconsistent with monarchical? I should rather think that knave bishops, by king James' judgment, were inconsistent with monarchical. 25. His lies of Mr. R. Bruce, excerpted out of the lying manuscript of apostate Spotswood, in that he woule not but preach against the king's recalling from exile some bloody bloody popish lords to undo all, are nothing comparable to the incests, adulteries, blasphemies, perjuries, Sabbath-breaches, drunkenness, profanities, &c., committed by prelates before the sun. 26. Our General Assembly is no other than Christ's court, (Acts xv.) made up of pastors, doctors, and brethren, or elders. 27. They ought to have no negative vote to impede the conclusions of Christ in his servants. 28. It is a lie that the king hath no power to appoint time and place for the General Assembly; but his power is not privy, and declarative of Christ, but accumulative to aid and assist them. 29. It is a lie that our General Assembly may repeal laws; command and expect performance of the king, or then excommunicate, subject to them, force and compel king, judges, and all, to submit to them. They may not force the conscience of the poorest beggar, nor is any Assembly infallible, nor can it lay bounds upon the souls of judges, which they are to obey with blind obedience—their power is ministerial, subordinate to Christ's law; and what civil laws parliaments make against God's word, they may authoritatively declare them to be unlawful, as though the emperor (Acts xv.) had commanded the crucification and eating of blood. Might not the Assembly forbid these in the synod? I conceive the prelates, if they had power, would repeal the act of parliament made, anno 1641, in Scotland, by his majesty personally present, and the three estates concerning the annulling of these acts of parliament and laws which established bishops in Scotland; therefore bishops set themselves as independent monarchs above kings and laws; and what they damn in presbyteries and assemblies, that they practise themselves. 30. Commissioners from burghs, and two from Edinburgh, because of the largeness of that church, not for cathedral superemination, sit in 'assemblies, not as sent from burghs, but as sent and authorised by the church session of the burgh, and so they sit there in a church capacity. 31. Doctors both in academies and in parishes, we desire, and our book of discipline holdeth forth such. 32. They hold, (I believe with warrant of God's word,) if the king refuse to reform religion, the inferior judges, and assembly of godly pastors, and other church-officers may reform; if the king will not kiss the Son, and do his duty in purging the House of the Lord, may not Elijah and the people do their duty, and cast out Baal's priests. Reformation of religion is a personal act that belongeth to all, even to any one private person according to his place. 33. They may swear a covenant without the king, if he refuse; and build the Lord's house (2 Chron. xv. 9) themselves; and relieve and defend one another, when they are oppressed. For my acts and duties of defending myself and the oppressed, do not tye my conscience conditionally, so the king consenteth, but absolutely, as all duties of the law of nature do. (De. xxii. 3; Prov. xxiv. 11; Is. viii. 6; i. 17.) 34. The P. Prelate condemn our reformation, because it was done against the will of our popish queen. This is a lie: who, by just estimation he knew of popery, and how he abhorreth protestant religion. 35. They deposed the queen for her tyranny, but crowned her son; all this is vindicated in the following treatise. 36. The killing of the monstrous and prodigious wicked cardinal in the Castle of St. Andrews, and the violence done to the prelates, who against all law of God and man, obtruded a mass service upon their own private motion, in Edinburgh anno 1637, can conclude nothing against presbyterial government except our doctrine commend these acts as lawful. 37. What was preached by the servant of Christ, whom (p. 46) he calleth the Scottish Pope, is printed, and the P. Prelate durst not, could not, cite any thing thereof as popish or unsound, he knoweth that the man whom he so slandereth, knocked down the Pope and the prelates. 38. The making away the fat abbacies and bishoprics is a bloody heresy to the earthly-minded Prelate; the Confession of Faith condemned by all the protestant churches, as a strong bar against popery, and the book of discipline, in which the servants of God laboured twenty years with fasting and praying, and frequent advice and counsel from the wise reformed churches, are in the P. Prelate negative faith and devout imaginations; it is a lie that episcopacy, by both sides, was ever agreed on by law in Scotland.
38. And it was a heresy that Mr Melvin taught, that presbyter and bishop are one function in Scripture, and that abbots and priors were not in God's books, *dic ubi legis*; and is this a proof of inconsistency of presbytery with a monarchy?

40. It is a heresy to the P. Prelate that the church appoint a fast, when king James appointed an unseasonable feast, when God's wrath was upon the land, contrary to God's word (Isa. xxii. 12—14); and what! will this prove presbytery to be inconsistent with monarchies?

41. This Assembly is to judge what doctrine is treasonable. What then! Surely the secret council and king, in a constitute church, is not synodically to determine what is true or false doctrine, more than the Roman emperor could make the church canon, Acts xv.

42 Mr Gibson, Mr Black, preached against king James' maintaining the tyranny of bishops, his sympathizing with papists, and other crying sins, and were absolved in a general Assembly; shall this make presbytery inconsistent with monarchy? Nay, but it proveth only that they are inconsistent with the wickedness of some monarchies; and that prelates have been like the four hundred false prophets that flattered king Achab, and those men that preached against the sins of the king and court, by prelates in both kingdoms, have been imprisoned, banished, their noses ript, their cheeks burnt, their ears cut.

43. The godly men that kept the Assembly of Aberdeen, anno 1653, did stand for Christ's Prerogative, when king James took away all General Assemblies, as the event proved; and the king may, with as good warrant, inhibit all Assemblies for word and sacrament, as for church discipline.

44. They excommunicate not for light faults and trifles, as the liar saith; our discipline saith the contrary.

45. This Assembly never took on them to choose the king's counsellors; but those who were in authority took king James, when he was a child, out of the company of a corrupt and seducing papist, Esme Duke of Lennox, whom the P. Prelate nameth noble, worthy, of eminent endowments.

46. It is true Glasgow Assembly, 1637, voted down the high commission, because it was not consented unto by the church, and yet was a church judicature, which took upon them to judge of the doctrine of ministers, and deprive them, and did encroach upon the liberties of the established lawful church judicatures.

47. This Assembly might well forbid Mr John Graham, minister, to make use of an unjust decree, it being scandalous in a minister to oppress.

48. Though nobles, barons, and burgesses, that profess the truth, be elders, and so members of the general Assembly, this is not to make the church the house, and the commonwealth the hanging; for the constituent members, we are content to be examined by the pattern of synode, Acts xv. 22, 23. Is this inconsistent with monarchy?

46. The commissioners of the General Assembly, are, 1. A mere occasional judicature. 2. Appointed by, and subordinate to the General Assembly. 3. They have the same warrant of God's word, that messengers of the synod (Acts. xv. 22—27) hath.

60. The historical calamity of the 17th day of December, is known to all: 1. That the ministers had any purpose to dethrone king James, and that they wrote to John L. Marquis of Hamilton, to be king, because king James had made defection from the true religion: Satan devised, Spotswood and this P. Prelate vented this; I hope the true history of this is known to all. The holiest pastors, and professors in the kingdom, asserted this government, suffered for it, contended with authority only for sin, never for the power and office. These on the contrary side were men of another stamp, who minded earthly things, whose God was the world. 2. All the forged inconsistency betwixt presbytery and monarchies, is an opposition with absolute monarchy and concluded with a like strength against parliaments, and all synods of either side, against the law and gospel preached, to which kings and kingdoms are subordinate. Lord establish peace and truth.
QUESTION I.

WHETHER GOVERNMENT BE WARRANTED BY A DIVINE LAW.

I reduce all that I am to speak of the power of kings, to the author or efficient,—the matter or subject,—the form or power,—the end and fruit of their government,—and to some cases of resistance. Hence,

The question is either of government in general, or of particular species of government, such as government by one only, called monarchy, the government by some chief leading men, named aristocracy, the government by the people, going under the name of democracy. We cannot but put difference betwixt the institution of the office, viz. government, and the designation of person or persons to the office. What is warranted by the direction of nature's light is warranted by the law of nature, and consequently by a divine law; for who can deny the law of nature to be a divine law?

That power of government in general must be from God, I make good, 1st, Because (Rom. xiii. 1) "there is no power but of God; the powers that be are ordained of God." 2d, God commandeth obedience, and so subjection of conscience to powers; Rom. xiii. 5, "Wherefore ye must needs be subject, not only for wrath, (or civil punishment) but also for conscience sake;" 1 Pet. ii. 13, "Submit yourselves to every ordinance of man, for the Lord's sake, whether it be to the king as supreme," &c. Now God only by a divine law can lay a band of subjection on the conscience, tying men to guilt and punishment if they transgress.

Conclus. All civil power is immediately from God in its root; in that, 1st, God hath made man a social creature, and one who inclineth to be governed by man, then certainly he must have put this power in man's nature; so are we, by good reason, taught by Aristotle. 1d, God and nature intendeth the policy and peace of mankind, then must God and nature have given to mankind a power to compass this end; and this must be a power of government. I see not, then, why John Prelate, Mr Maxwell, the excommunicated prelate of Ross, who speaketh in the name of J. Armagh, 2 had reason to say, That he feared that we fancied that the government of superiors was only for the more perfect, but had no authority over or above the perfect, nec rex, nec lex, justo positae. He might have imputed this to the Brazilians, who teach, that every single man hath the power of the sword to revenge his own injuries, as Molina saith. 3

QUESTION II.

WHETHER OR NOT GOVERNMENT BE WARRANTED BY THE LAW OF NATURE.

As domestic society is by nature's instinct, so is civil society natural in radice, in the root, and voluntary in modo, in the manner of coalescing. Political power of government agreeeth not to man, singly as one man, except in that root of reasonable na-

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1 Aristot. Polit. lib. 1, c. 2.
3 Molina, tom. 1, de justit. disp. 22.
ture; but supposing that men be combined in societies, or that one family cannot contain a society, it is natural that they join in a civil society, though the manner of union in a politic body, as Bodine saith, be voluntary, Gen. x. 10; xv. 7; and Suarez saith, That a power of making laws is given by God as a property flowing from nature, Qui dat formam, dat consequentia ad formam; not by any special action or grant, different from creation, nor will he have it to result from nature, while men be united into one politic body: which union being made, that power followeth without any new action of the will.

We are to distinguish betwixt a power of government, and a power of government by magistracy. That we defend ourselves from violence by violence is a consequence of unbroken and sinless nature; but that we defend ourselves by devolving our power over in the hands of one or more rulers seemeth rather positively moral than natural, except that it is natural for the child to expect help against violence from his father: for which cause I judge that learned senator Ferdinandus Vasquius said well. That prindem, empire, kingdom, or jurisdiction hath its rise from a positive and secondary law of nations, and not from the law of pure nature. 1st, The law saith there is no law of nature agreeing to all living creatures for superiority; for by no reason in nature hath a boar dominion over a boar, a lion over a lion, a dragon over a dragon, a bull over a bull: and if all men be born equally free, as I hope to prove, there is no reason in nature why one man should be king and lord over another; therefore while I be otherwise taught by the aforesaid Prelate Maxwell, I conceive all jurisdiction of man over man to be as it were artificial and positive, and that it inferreth some servitude wherof nature from the womb hath freed us, if you except that subjectation of children to parents, and the wife to the husband; and the law saith; De jure gentium secundarius est omnis principatus. 2d. This also the Scripture proveth, while as the exalting of Saul or David above their brethren to be kings and captains of the Lord's people, is ascribed not to nature (for king and beggar spring of one clay), but to an act of divine bounty and grace above nature, 1 Sam. xiii. 19; Ps. lxxviii. 70, 71.

1. There is no cause why royalists should deny government to be natural, but to be altogether from God, and that the kingly power is immediately and only from God, because it is not natural to us to be subject to government, but against nature for us to resign our liberty to a king, or any ruler or rulers; for this is much for us, and proveth not but government is natural; it concluded that a power of government tali modo, by magistracy, is not natural; but this is but a sophism, a sic et id est illum quod est dictum et ille, this special of government, by resignation of our liberty, is not natural, therefore, power of government is not natural; it followeth not, a negatione speciei non sequitur negatio generis, non est homo, ergo non est animal. And by the same reason I may, by an antecedent will, agree to a magistrate and a law, that I may be ruled in a politic society, and by a consequent will only, yea, and conditionally only, agree to the penalty and punishment of the law; and it is most true no man, by the instinct of nature, giveth consent to penal laws as penal, for nature doth not teach a man, nor incline his spirit to yield that his life shall be taken away by the sword, and his blood shed, except on this remote ground: a man hath a disposition that a vein be cut by the physician, or a member of his body cut off, rather than the whole body and life perish by some contagious disease; but here reason in cold blood, not a natural disposition, is the nearest prevalent cause and disposer of the business. When, therefore, a community, by the instinct and guidance of nature, incline to government, and to defend themselves from violence, they do not, by that instinct, formally agree to government by magistrates; and when a natural conscience giveth a deliberate consent to good laws, as to this, "Whoso sheddeth man's blood, by man shall his blood be shed," Gen. ix. 6, he doth tacitly consent that his own blood shall be shed; but this he consenteth unto consequently, tacitly, and conditionally—if he shall do violence to the life of his brother: yet so as this consent proceedeth not from a disposition every way purely natural. I grant reason may be necessitated to assert
to the conclusion, being, as it were, forced by the prevalent power of the evidence of an insuperable and invincible light in the premises, yet, from natural affections, there resulteth an act of self-love for self-preservation. So David shall condemn another rich man, who hath many lambs, and robbeth his poor brother of his one lamb, and yet not condemn himself, though he be most deep in that fault, 1 Sam. xii. 5, 6; yet all this doth not hinder, but government, even by rulers, hath its ground in a secondary law of nature, which lawyers call secundario ius naturale, or ius gentium secundarum; a secondary law of nature, which is granted by Plato, and denied by none of sound judgment in a sound sense, and that is this, Licet vim vicepelleare. It is lawful to repel violence by violence; and this is a special act of the magistrate.

2. But there is no reason why we may not defend by good reasons that political societies, rulers, cities, and incorporations, have their rise, and spring from the secondary law of nature. 1st. Because by nature's law family-government hath its warrant; and Adam, though there had never been any positive law, had a power of governing his own family, and punishing malefactors; but as Tannerus saith well, and as I shall prove, God willing, this was not properly a royal or monarchial power; and I judge by the reasoning of Sotos, Molina, and Victoria. By what reason a family hath a power of government, and of punishing malefactors, that same power must be in a society of men, supposing that society were not made up of families, but of single persons; for the power of punishing ill-doers doth not reside in one single man of a family, or in them all, as they are single private persons, but as they are in a family. But this argument holdeth not but by proportion; for parental government, or a fatherly power of parents over their families, and a politic power of a magistrate over many families, are powers different in nature,—the one being warranted by nature's law even in its species, the other being, in its specie and kind, warranted by a positive law, and, in the general only, warranted by a law of nature.

2d, If we once lay the supposition, that God hath immediately by the law of nature appointed there should be a government, and mediateley defined by the dictate of nature light in a community, that there shall be one or many rulers to govern a community, then the Scripture's arguments may well be drawn out of the school of nature; as, (1.) The powers that be, are of God (Rom. xii.), therefore nature's light teacheth that we should be subject to these powers. (2.) It is against nature's light to resist the ordinance of God. (3.) Not to fear him to whom God hath committed the sword for the terror of evil-doers. (4.) Not to honour the public re汇der of well-doing. (5.) Not to pay tribute to him for his work. Therefore I see not but Govarruvias, Soto, and Suarez, have rightly said, that power of government is immediately from God, and this or that definite power is mediateley from God, proceeding from God by the mediation of the consent of a community, which resigneth their power to one or more rulers; and to me, Barcliais saith the same, Quamvis populus potestas laryitor videatur, &c.

QUESTION III.

WHETHER ROYAL POWER AND DEFINITE FORMS OF GOVERNMENT BE FROM GOD.

The king may be said to be from God and his word in these several notions:—

1. By way of permission, Jer. xliii. 10, "Say to them, Thus saith the Lord of hosts, the God of Israel, Behold I will send and take Nebuchadnezzar the king of Babylon, my servant, and will set his throne upon these stones that I have hid, and he shall spread his royal pavilion over them." And thus God made him a catholic king, and gave him all nations to serve him, Jer. xxvii. 6—8, though he was but an unjust tyrant, and his sword the best title to those crowns.

2. The king is said to be from God by way of naked approbation; God giving to a people power to appoint what government they shall think good, but instituting none in special in his word. This way some make kingly power to be from God in the

1 Ad Tannerus, m. 12, tom. 2, disp. 5. de peccatis, q. 5, dub. 1, num. 22.
2 Sotos, 4. de justit. q. 4, art. 1.
3 Lod. Molina, tom. 1, de just. disp. 22.
4 Victoria in relect. de potest civil. q. 4, art. 1.

1 Govarruvias, tr. 2, pract. quest. 1, n. 2, 3, 4.
2 Soto, loc. ett.
3 Suarez de Reg. lib. 3, c. 4, n. 1, 2.
4 Barcliais con. Monarchoms, 1, 3, c. 2.
general, but in the particular to be an invention of men, negatively lawful, and not repugnant to the word, as the wretched popish ceremonies are from God. But we teach no such thing: let Maxwell free his master Bellarmine, and other Jesuits with whom he sideth in Romish doctrine; we are free of this. Bellarmine saith that politic power in general is warranted by a divine law; but the particular forms of politic power, (he meaneth monarchy, with the first,) is not by divine right, but de jure gentium, by the law of nations, and floweth immediately from human election, as all things, saith he, that appertain to the law of nations. So monarchy to Bellarmine is but an human invention, as Mr Maxwell’s surplice is; and Dr Ferne, sect. 3, p. 13, saith with Bellarmine. 3. A king is said to be from God, by particular designation, as he appointed Saul by name for the crown of Israel. Of this hereafter.

4. The kingly or royal office is from God by divine institution, and not by naked approbation; for, 1st, we may well prove Aaron’s priesthood to be of divine institution, because God doth appoint the priest’s qualification from his family, bodily perfections, and his charge. 2d, We take the pastor to be by divine law and God’s institution, because the Holy Ghost (1 Tim. iii. 1—4) describeth his qualifications; so may we say that the royal power is by divine institution, because God mouldeth him: Deut. xvii. 15, “Thou shalt in any wise set him king over thee, whom the Lord thy God shall choose, one amongst thy brethren,” &c.; Rom. xiii. 1, “There is no power but of God, the powers that be are ordained of God.” 3d, That power must be ordained of God as his own ordinance, to which we owe subjection for conscience, and not for fear of punishment; but every power is such, Rom. xiii. 4th, To resist the kingly power is to resist God. 5th, He is the minister of God for our good. 6th, He heareth the sword of God to take vengeance upon ill-doers. 7th, The Lord expressly saith, 1 Pet. ii. 17, “Fear God, honour the king;” ver. 13, 14, “Submit yourselves to every ordinance of man for the Lord’s sake, whether it be to the king as supreme, or unto governors, as those that are sent by him.” &c.; Tit. iii. 1, “Put them in mind to be subject to principalities and powers;” and so the fifth commandment layeth obedience to the king on us no less than to our parents; whence, I conceive that power to be of God, to which, by the moral law of God, we owe perpetual subjection and obedience. 8th, Kings and magistrates are God’s, and God’s deputies and lieutenants upon earth, (Psalm lxxxii. 1, 6, 7; Exod. xxii. 8; iv. 16,) and therefore their office must be a lawful ordinance of God. 9th, By their office they are feeders of the Lord’s people, Psalm lxviii. 70—73, the shields of the earth, Psalm lxviii. 9, nursing fathers of the church, Psalm lxxiii. 23, captains over the Lord’s people, 1 Sam. xix. 10th, It is a great judgment of God when a land wanteth the benefit of such ordinances of God, Isa. iii. 1—3, 6, 7, 11. The execution of their office is an act of the just Lord of heaven and earth, not only by permission, but according to God’s revealed will in his word; their judgment is not the judgment of men, but of the Lord, 2 Chron. xix. 6, and their throne is the throne of God, 1 Chron. xxii. 10. Jerome saith, to punish murderers and sacrilegious persons is not bloodshed, but the ministry and service of good laws. So, if the king be a living law by office, and the law put in execution which God hath commanded, then, as the moral law is by divine institution, so must the officer of God be, who is custos et index legis divini, the keeper, preserver, and avenger of God’s law. Basilius saith, this is the prince’s office, Ut opem ferat virtuti, malitiam vero impugnet. When Paulinus Treverensis, Lucifer Metropolitane of Sardinia, Dionysius Mediolanensis, and other bishops, were commanded by Constantine to write against Athanasius, they answered, Regnum non IPSIUS esse, sed dei, a quo accoperit,—the kingdom was God’s, not his; as Athanasius saith, Optatus Milevitanus helpeth us in the cause, where he saith with Paul, “We are to pray for heathen kings.” The genuine end of the magistrate, saith Epiphanius, is ut ad bonum ordinem universitatis mundi omnia ex deo bene disponantur atque administren-
tur. But some object, If the kingly power be of divine institution, then shall any other government be unlawful, and contrary to a divine institution, and so we condemn aristocracy and democracy as unlawful. Ans. This consequence were good, if aristocracy and democracy were not also of divine institution, as all my arguments prove; for I judge they are not governments different in nature, if we speak morally and theologically, only they differ politically and positively; nor is aristocracy any thing but diffused and enlarged monarchy, and monarchy is nothing but contracted aristocracy, even as it is the same hand when the thumb and the four fingers are folded together and when all the five fingers are dilated and stretched out; and wherever God appointed a king he never appointed him absolute, and a sole independent angel, but joined always with him judges, who were no less to judge according to the law of God (2 Chron. xix. 6,) than the king, Deut. xvii. 15. And in a moral obligation of judging righteously, the conscience of the monarch and the conscience of the inferior judges are equally under immediate subjection to the King of kings; for there is here a co-ordination of consciences, and no subordination, for it is not in the power of the inferior judge to judge, quaod specificationem, as the king commandeth him, because the judgment is neither the king’s, nor any mortal man’s, but the Lord’s, 2 Chron. xix. 6, 7.

Hence all the three forms are from God; but let no man say, if they be all indifferent, and equally of God, societies and kingdoms are left in the dark, and know not which of the three they shall pitch upon, because God hath given to them no special direction for one rather than for another. But this is easily answered. 1st, That a republic appoint rulers to govern them is not an indifferent, but a moral action, because to set no rulers over themselves I conceive were a breach of the fifth commandment, which commandeth government to be one or other. 2d, It is not in men’s free will that they have government or no government, because it is not in their free will to obey or not to obey the acts of the court of nature, which is God’s court; and this court enacteth that societies suffer not mankind to perish, which must necessarily follow if they appoint no government; also it is proved elsewhere, that no moral acts, in their exercises and use, are left indifferent to us; so then, the aptitude and temper of every commonwealth to monarchy, rather than to democracy or aristocracy, is God’s warrant and nearest call to determine the wills and liberty of people to pitch upon a monarchy, hic et nunc, rather than any other form of government, though all the three be from God, even as single life and marriage are both the lawful ordinances of God, and the constitution and temper of the body is a calling to either of the two; nor are we to think that aristocracy and democracy are either unlawful ordinances, or men’s inventions, or that those societies which want monarchy do therefore live in sins.

But some say that Peter calleth any form of government an human ordinance, 1 Pet. ii. 13, ędεγείρθη πρός τούς, therefore monarchy can be no ordinance of God. Ans. Rivetus saith,—"It is called an ordinance of man, not because it is an invention of man, and not an ordinance of God, but respectu subjecti;" Piscator,—"Not because man is the efficient cause of magistracy, but because they are men who are magistrates;" Diodatus,—"Obey princes and magistrates, or governors made by men, or amongst men;" Oecumenius,—"An human constitution, because it is made by an human disposition, and created by human suffrages;" Dydimus,—"Because over it "presides presidents made by men;" Cajetanus,—"Every creature of God (as, preach the gospel to every creature) in authority." But I take the word, "every creature of man," to be put emphatically, to commend the worth of obedience to magistrates, though but men, when we do it for the Lord’s sake; therefore Betrandus Cardinalis Ednensis saith,—"He speaketh so for the more necessity of merit;" and Glossa Ordinaria saith,—"Be subject to all powers, etiam ex infidelibus et incredulis, even of infidels and unbelievers." Lyranus,—"For though they be men, the image of God shineth in them;" and the Syriac, as Lorinus saith,—leadeth us thereunto. Lechallelum benai anasa: Obey all the children of

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1 Rivetus in decal. Mand. 5, p. 194.
2 Piscator in loc.
3 Diodatus, annot.
4 Oecumenius quod hominum dispositione consistit, et humanis suffragiis creator.
5 Cajetanus, officium regimini, quia humanis suffragiis creator.
6 Estius in loc.
7 Betrandus, tom. 4, Bib.
8 Lorin. in loc.
men that are in authority. It is an ordinance of men, not effectively, as if it were an invention and a dream of men; but subjectively, because exercised by man. Objectively, and cinere, for the good of men, and for the external man’s peace and safety especially; whereas church-officers are for the spiritual good of men’s souls. And Durandus saith well,¹ “Civil power according to its institution is of God, and according to its acquisition and way of use is of man.” And we may thus far call the forms of magistrates a human ordinance,—that some magistrates are ordained to care for men’s lives and matters criminal, of life and death, and some for men’s lands and estates; some for commodities by sea, and some by land; and are thus called magistrates according to these determinations or human ordinances.

QUESTION IV.

Whether the king be only and immediately from God, and not from the people.

That this question may be the clearer we are to set down these considerations:—

1. The question is, Whether the kingly office itself come from God. I conceive it is, and floweth from the people, not by formal institution, as if the people had by an act of reason devised and excogitated such a power: God ordained the power. It is from the people only by a virtual emanation, in respect that a community having no government at all may ordain a king or appoint an aristocracy. But the question is concerning the designation of the person: Whence is it that this man rather than that man is crowned king? and whence is it—from God immediately and only—that this man rather than that man, and this race or family rather than that race and family, is chosen for the crown? Or is it from the people also, and their free choice? For the pastor’s and the doctor’s office is from Christ only; but that John rather than Thomas be the doctor or the pastor is from the will and choice of men—the presbyters and people.

2. The royal power is three ways in the people: 1st, Radically and virtually, as in the first subject. 2d, Collative vel communicative, by way of free donation, they giving it to this man, not to that man, that he may rule over them. 3d, Limitate,—they giving it so as these three acts remain with the people. (1.) That they may measure out, by ounce weights, so much royal power, and no more and no less. (2.) So as they may limit, moderate, and set banks and marches to the exercise. (3.) That they give it out, conditionate, upon this and that condition, that they may take again to themselves what they gave out upon condition if the condition be violated. The first I conceive is clear, 1st, Because if all living creatures have radically in them a power of self-preservation, to defend themselves from violence,—as we see lions have paws, some beasts have horns, some claws,—men being reasonable creatures, united in society, must have power in a more reasonable and honourable way to put this power of warding off violence in the hands of one or more rulers, to defend themselves by magistrates. 2d, If all men be born, as concerning civil power, alike,—for no man cometh out of the womb with a diadem on his head or a sceptre in his hand, and yet men united in a society may give crown and sceptre to this man and not to that man,—then this power was in this united society, but it was not in them formally, for they should then all have been one king, and so both above and superior, and below and inferior to themselves, which we cannot say; therefore this power must have been virtually in them, because neither man nor community of men can give that which they neither have formally nor virtually in them. 3d, Royalists cannot deny but cities have power to choose and create inferior magistrates; therefore many cities united have power to create a higher ruler; for royal power is but the united and superlative power of inferior judges in one greater judge whom they call a king.

Conclus. The power of creating a man a king is from the people.

1. Because those who may create this man a king rather than that man have power to appoint a king; for a comparative action doth positively infer an action. If a man have power to marry this woman and not that woman, we may strongly conclude that he hath power to marry; now, 1 Kings xvi, the people made Omri king and not Zimri, and his son Ahab rather than Tibni the

¹ Durandus lib. de orig. juris.
son of Sinath. Nor can it be replied that this was no lawful power that the people used, for that cannot elude the argument; for (1 Kings i.) the people made Solomon king and not Adonijah, though Adonijah was the elder brother. They say, God did extraordinarily both make the office, and design Solomon to be king,—the people had no hand in it, but approved God's act. 

Ans. This is what we say, God by the people, by Nathan the prophet, and by the servants of David and the states crying, "God save king Solomon!" made Solomon king; and here is a real action of the people. God is the first agent in all acts of the creature. Where a people maketh choice of a man to be their king, the states do no other thing, under God, but create this man rather than another; and we cannot here find two actions, one of God, another of the people; but in one and the same action, God, by the people's free suffrages and voices, createth such a man king, passing by many thousands; and the people are not passive in the action, because by the authoritative choice of the states the man is made of a private man and no king, a public person and a crowned king: 2 Sam. xvi. 18, "Hushai said to Absalom, Nay, but whom the Lord and the people, and all the men of Israel choose, his will I be, and with him will I abide;" Judg. viii. 22, "The men of Israel said to Gideon, Rule thou over us;" Judg. ix. 6, "The men of Sechem made Abimelech king;" Judg. xi. 8, 11; 2 Kings xiv. 21, "The people made Azariah king;" 1 Sam. xii. 1; 2 Chron. xxiii. 3.

2. If God doth regulate his people in making this man king, not that man, then he thereby insinuateth that the people have a power to make this man king, and not that man. But God doth regulate his people in making a king; therefore the people have a power to make this man king, not that man king. The proposition is clear, because God's law doth not regulate a non-ens, a mere nothing, or an unlawful power; nor can God's holy law regulate an unlawful power, or an unlawful action, but quite abolish and interdict it. The Lord seteth not down rules and ways how men should not commit treason, but the Lord commandeth loyalty, and simply interdicteth treason. If people have then more power to create a king over themselves than they had to make prophets, then God forbidding them to choose such a man for their king should say as much to his people as if he would say, "I command you to make Isaiah and Jeremiah prophets over you, but not these and those men." This, certainly, should prove that not God only, but the people also, with God, made prophets. I leave this to the consideration of the godly. The prophets were immediately called of God to be prophets, whether the people consented that they should be prophets or not; therefore God immediately and only sent the prophets, not the people; but though God extraordinarily designed some men to be kings, and anointed them by his prophets, yet were they never actually installed kings till the people made them kings. I prove the assumption, Deut. xvii. 14, 15, "When thou shalt say, I will set a king over me, like as all the nations that are about me, thou shalt in any wise set him king over thee whom the Lord thy God shall choose; one from amongst thy brethren shalt thou set king over thee: thou mayest not set a stranger over thee, which is not thy brother." Should not this be an unjust charge to the people, if God only, without any action of the people, should immediately set a king over them? Might not the people reply, We have no power at all to set a king over ourselves, more than we have power to make Isaiah a prophet, who saw the visions of God. To what end then should God mock us, and say, "Make a brother and not a stranger king over you?"

3. Expressly Scripture saith, that the people made the king, though under God: Judg. ix. 6, "The men of Sechem made Abimelech king;" 1 Sam. xi. 18, "And all the people went to Gilgal, and there they made Saul king before the Lord;" 2 King. x. 5, "We will not make any king." This had been an irrational speech to Jehu if both Jehu and the people held the royalists' tenet, that the people had no power to make a king, nor any active or causative influence therein, but that God immediately made the king: 1 Chron. xii. 38, "All these came with a perfect heart to make David king in Hebron;" and all the rest were of one heart to make David king. On these words Lavater saith, the same way are magistrates now to be chosen; now this day God, by an immediate oracle

1 Lavater com. in part 12, 38. Hodie quoque in libris uribibus, et gentibus, magistrates secundum dei verbum, Exod. xviii., Deut. i., elige undi sunt, non ex affectibus.
from heaven, appointeth the office of a king, but I am sure he doth not immediately design the man, but doth only mark him out to the people, as one who hath the most royal endowments, and the due qualifications required in a lawful magistrate by the word of God: Exod. xviii. 21, "Men of truth, hating covetousness," &c.; Deut. i. 16, 17, Men who will judge causes betwixt their brethren righteously, without respect of persons; 1 Sam. x. 21, Saul was chosen out of the tribes according to the law of God; Deut. xvii. They might not choose a stranger; and Abulensis, Serrarius, Cornelius à Lapide, Sanchez, and other popish writers, think that Saul was not only anointed with oil first privately by Samuel, (1 Sam. x. 1, 2,) but also at two other times before the people,—once at Mizpeh, and another time at Gilgal, by a parliament and a convention of the states. And Samuel judged the voices of the people so essential to make a king that Samuel doth not acknowledge him as formal king, (1 Sam. x. 7, 8, 17, 18, 19,) though he honoured him because he was to be king, (1 Sam. ix. 23, 24,) while the tribes of Israel and parliament were gathered together to make him king according to God's law, (Deut. xvii.) as is evident. 1st, For Samuel (1 Sam. v. 20,) caused all the tribes of Israel to stand before the Lord, and the tribe of Benjamin was taken. The law provided one of their own, not a stranger to reign over them; and, because some of the states of parliament did not choose him, but, being children of Belial, despised him in their hearts, (v. 27,) therefore after king Saul, by that victory over the Ammonites, had conquered the affections of all the people fully, (v. 10, 11,) Samuel would have his coronation and election by the estates of parliament renewed at Gilgal by all the people, (v. 14, 15,) to establish him king. 2d, The Lord by lots found out the tribe of Benjamin. 3d, The Lord found out the man, by name, Saul the son of Kish, when he did hide himself amongst the stuff, that the people might do their part in the creating of the king, whereas Samuel had anointed him before. But the text saith expressly that the people made Saul king; and Calvin, Martyr, Lavater, and popish writers, as Serrarius, Mendoza, Sanchez, Cornelius à Lapide, Lyra, Hugo Cardinalis, Barthusius, Sanctius, do all hence conclude that the people, under God, make the king.

I see no reason why Barclaius should here distinguish a power of choosing a king, which he granteth the people hath, and a power of making a king, which he saith is only proper to God.1 Ans. Choosing of a king is either—a comparative crowning of this man, not that man; and if the people have this it is a creating of a king under God, who principally disposeth of kings and kingdoms; and this is enough for us. The want of this made Zimri no king, and those whom the rulers of Jezreel at Samaria (2 King. x.) refused to make kings, no kings. This election of the people made Athallah a princess; the removal of it, and translation of the crown by the people to Joash made her no princess: for, I ask you, what other calling of God hath a race of a family, and a person to the crown, but only the election of the states? There is now no voice from heaven, no immediately inspired prophets such as Samuel and Elias, to anoint David, not Eliab,—Solomon, not Adonijah. The kingly or the heroic spirit of a royal faculty of governing, is, I grant, from God only, not from the people; but I suppose that maketh not a king, for then many sitting on the throne this day should be no kings, and many private persons should be kings. If they mean by the people's choosing nothing but the people's approbative consent, posterior to God's act of creating a king, let them show us an act of God making kings, and establishing royal power in this family rather than in that family, which is prior to the people's consent,—distinct from the people's consent I believe there is none at all.

Hence I argue: If there be no calling or title on earth to tie the crown to such a family and person but the suffrages of the people, then have the line of such a family, and the persons now, no calling of God, no right to the crown, but only by the suffrages of the people, except we say that there be no lawful kings on earth now when prophetic unction and designation to crowns are ceased, contrary to express scripture: Rom. xiii. 1—3; 1 Pet. ii. 13—17.

But there is no title on earth now to tie crowns to families, to persons, but only the suffrages of the people; for, 1st, Conquest without the consent of the people is but royal robbery, as we shall see. 2d, There is no prophetic and immediate calling to

1 Barclaius, lib. 3, cont. Monarchomach. 8. c. 3.
kings and parts. 3d. The Lord's giving of regal parts is somewhat; but I hope royalists will not deny but a child, young in years and judgment, may be a lawful king. 4th, Mr. Maxwell's appointment of the kingly office doth no more make one man a lawful king than another; for this were a wide consequence. God hath appointed that kings should be; therefore John A: Stiles is a king; yea, therefore David is a king. It followeth not. Therefore it remaineth only that the suffrages of the people of God is that just title and divine calling that kings have now to their crowns. I presuppose they have gifts to govern from God.

If the Lord's immediate designation of David, and his anointing by the divine authority of Samuel, had been that which alone, without the election of the people, made David formally king of Israel, then there were two kings in Israel at one time; for Samuel anointed David, and so he was formally king upon the ground laid by royalists, that the king hath no royal power from the people; and David, after he himself was anointed by Samuel, divers times calleth Saul the Lord's anointed, and that by the inspiration of God's Spirit, as we and royalists do both agree. Now two lawful supreme monarchs in one kingdom I conceive to be most repugnant to God's truth and sound reason; for they are as repugnant as two most highs or as two infinites. It shall follow that David all the while betwixt his anointing by Samuel and his coronation by the suffrages of all Israel at Hebron, was in-lacking in discharging and acquitting himself of his royal duty, God having made him formally a king, and so laying upon him a charge to execute justice and judgment, and defend religion, which he did not discharge. All David's suffering, upon David's part, must be unjust, for, as king, he should have cut off the murderer Saul, who killed the priests of the Lord; especially, seeing Saul, by this ground, must be a private murderer, and David the only lawful king. David, if he was formally king, deserted his calling in flying to the Philistines; for a king should not forsake his calling upon any hazard, even of his life, no more than a pilot should gives over the helm in an extreme storm; but certainly God's dispensation in this warranteth us to say, no man can be formally a lawful king without the suffrages of the people: for Saul, after Samuel from the Lord anointed him, remained a private man, and no king, till the people made him king, and elected him; and David, anointed by that same divine authority, remained formally a subject, and not a king, till all Israel made him king at Hebron; and Solomon, though by God designed and ordained to be king, yet was never king until the people made him so, (1 Kings i.) therefore there floweth something from the power of the people, by which he who is no king now becometh a king formally, and by God's lawful call; whereas before the man was no king, but, as touching all royal power, a mere private man. And I am sure birth must be less than God's designation to a crown, as is clear.—Adonijah was older than Solomon, yet God will have Solomon, the younger by birth, to be king, and not Adonijah. And so Mr. Symons, and other court prophets, must prevaricate, who will have birth, without the people's election, to make a king, and the people's voices but a ceremony.

I think royalists cannot deny but a people ruled by aristocratic magistrates may elect a king, and a king so elected is formally made a lawful king by the people's election; for of six willing and gifted to reign, what maketh one a king and not the other five? Certainly by God's disposing the people to choose this man, and not another man. It cannot be said but God giveth the kingly power immediately; and by him kings reign, that is true. The office is immediately from God, but the question now is, What is that which formally applieth the office and royal power to this person rather than to the other five as meet? Nothing can here be dreamed of but God's inclining the hearts of the states to choose this man and not that man.

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QUESTION V.

WHETHER OR NO THE POPISH PRELATE, THE AUTHOR OF "SAC. SAN. REGNUM MAJESTAS," CALLED THE SACRED AND ROYAL PREROGATIVE OF KINGS, PROVETH THAT GOD IS THE IMMEDIATE AUTHOR OF SOVEREIGNITY, AND THAT THE KING IS NO CREATURE OF THE PEOPLE'S MAKING.

Consider, 1. That the excommunicated prelate saith, (c. 2, p. 19.) "Kings are not
immediately from God as by any special ordinance sent from heaven by the ministry of angels and prophets; there were but some few such; as Moses, Saul, David, &c.; yet something may immediately proceed from God, and be his special work, without a revelation or manifestation extraordinary from heaven; so the designation to a sacred function is from the church and from man, yet the power of word, sacraments, binding and loosing, is immediately from Jesus Christ. The apostle Matthias was from Christ's immediate constitution, and yet he was designed by men, Acts i. The soul is by creation and infusion, without any special ordinance from heaven, though nature begetteth the body, and disposeth the matter, and prepareth it as fit to be conjoined with the soul, so as the father is said to beget the son.” 

Ans. 1st. The unchurched Prelate striveth to make us hateful by the title of the chapter.—That God is, by his title, the immediate author of sovereignty; and who denieth that? Not those who teach that the person who is king is created king by the people, no more than those who deny that men are now called to be pastors and deacons immediately, and by a voice from heaven, or by the ministry of angels and prophets, because the office of pastors and deacons is immediately from God. 2d. When he hath proved that God is the immediate author of sovereignty, what then? Shall it follow that the sovereign in concreto may not be resisted, and that he is above all law, and that there is no armour against his violence but prayers and tears? Because God is the immediate author of the pastor and of the apostle's office, does it therefore follow that it is unlawful to resist a pastor though he turn robber? If so, then the pastor is above all the king's laws. This is the Jesuit and all made, and there is no armour against the robbing prelate but prayer and tears.

2. He saith in his title, that “the king is no creature of the people's making.” If he mean the king in the abstract, that is, the royal dignity, whom speaketh he against? Not against us, but against his own father, Bellarmine, who saith, that “sovereignty hath no warrant by any divine law.” If he mean that the man who is king is not created and elected king by the people, he contradiceth himself and all the court doctors.

3. It is false that Saul and David's call to royalty was only from God, “by a special ordinance sent from heaven,” for their office is (Deut. xvi. 14) from the written word of God, as the killing of idolaters, (ver. 3, 7), and as the office of the priests and Levites, (ver. 6—10), and this is no extraordinary office from heaven, more than that is from heaven which is warranted by the word of God. If he mean that these men, Saul and David, were created kings only by the extraordinary revelation of God from heaven, it is a lie; for besides the propheticanointing of them, they were made kings by the people, as the Word saith expressly; except we say that David sinned in not setting himself down on the throne, when Samuel first anointed him king; and so he should have made away with his master, king Saul, out of the world; and there were not a few called to the throne by the people, but many, yea, all the kings of Israel and of Judah.

4. The prelate contendeth that a king is designed to his royal dignity “immediately from God, without an extraordinary revelation from heaven,” as the man is “designed to be a pastor by men, and yet the power of preaching is immediately from God,” &c.; but he proveth nothing, except he prove that all pastors are called to be pastors immediately, and that God calleth and designeth to the office such a person immediately as he hath immediately instituted by the power of preaching and the apostleship, and hath immediately infused the soul in the body by an act of creation; and we cannot conceive how God in our days, when there are no extraordinary revelations, doth immediately create this man a king, and immediately tie the crown to this family rather than to that. This he doth by the people now, without any prophetical union, and by this medium, viz., the free choice of the people. He need not bring the example of Matthias more than of any ordinary pastor; and yet an ordinary pastor is not immediately called of God, because the office is from God immediately, and also the man is made pastor by the church.

The P. Prelate saith, (c. 2, p. 20—23,) A thing is immediately from God three ways. 1st, When it is solely from God, and presupposeth nothing ordinary or human antecedent to the obtaining of it. Such was the power of Moses, Saul and David; such were the apostles. 2d, When the collation

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1 Bellarmine, lib. 5, c. 6, not 5, de Laudis.
of the power to such a person is immediately from God, though some act of man be antecedent, as Matthias was an apostle. A baptised man obtaineth remission and regeneration, yet aspersion of water cannot produce these excellent effects. A king giveth power to a favourite to make a lord or a baron, yet who is so stupid as to aver, that the honour of a lord cometh immediately from the favourite and not from the king. 3d, When a man hath, by some ordinary human right, a full and just right, and the approbation and confirmation of this right is immediately from God.

The first way, sovereignty is not from God. The second way, sovereignty is conferred on kings immediately: though some created act of election, succession or conquest intervene, the interposed act containeth not in it power to confer sovereignty; as in baptism, regeneration, if there be nothing repugnant in the recipient, is conferred, not by water, but immediately by God. In sacred orders, designation is from men, power to supernatural acts from God. Election, succession, conquests, remotely and improperly constitute a king. To say in the third sense, that sovereignty is immediately from God by approbation or confirmation only, is against Scripture, Prov. viii. 15; Psal. lxxxviii. 8; John xix.; then the people say, You are God's, your power is from below. And Paul's "ordained of God," is "approved and confirmed only of God;" the power of designation, or application of the person to royalty, is from man; the power of conferring royal power, or of applying the person to royal power, is from God. A man's hand may apply a faggot to the fire, the fire only maketh the faggot to burn.

Answer. 1st, Apostles, both according to their office and the designation of their person to the office, were immediately and only from God, without any act of the people, and therefore are badly coupled with the royal power of David and king Saul, who were not formally made kings but by the people at Mizpeh and Hebron. 2d, The second way God giveth royal power, by moving the people's hearts to confer royal power, and this is virtually in the people, formally from God. Water hath no influence to produce grace, God's institution and promise doth it; except you dream with your Jesuits, of opus operatum, that water sprinkled, by the doing of the deed, conferreth grace, nisit ponatur obex, what can the child do, or one baptised child more than another, to hinder the flux of remission of sins, if you mean not that baptism worketh as physic on a sick man, except strength of humour hinder? and therefore this comparison is not alike. The people cannot produce so noble an effect as royalty,—a beam from God. True, formally they cannot, but virtually it is in a society of reasonable men, in whom are left beams of authoritative majesty, which by a divine institution they can give (Deut. xvii. 14) to this man, to David, not to Eliab. And I could well say the favourite made the lord, and placed honour in the man whom he made lord, by a borrowed power from his prince; and yet the honour of a lord is principally from the king. 3. It is true the election of the people containeth not formally royal dignity, but the Word saith, they made Saul, they made David king; so virtually election must contain it. Samuel's oil maketh not David king, he is a subject after he is anointed; the people's election at Hebron maketh him king, differeth him from his brethren, and putteth him in royal state; yet God is the principal agent. What immediate action God hath here, is said and dreamed of, no man can divine, except Prophet P. Prelate. The eunuch, royal authority, is given organically by that act by which he is made king: another act is a night-dream, but by the act of election, David is of no king, a king. The collision of ουμενος, royal gifts, is immediately from God, but that formally maketh not a king, if Solomon saw right, "servants riding on horses, princes going on foot." 4th, Judge of the Prelate's subtilty,—I dare say not his own; he stealthed from Spalato, but telleth it not, —"The applying of the person to royal authority is from the people; but the applying of royal authority to the person of the king, is immediately and only from God; as the hand putteth the faggot to the fire, but the fire maketh it burn." To apply the subject to the accident, is it any thing else but to apply the accident to the subject? Royal authority is an accident, the person of the king the subject. The applying of the faggot to the fire, and the applying of the fire to the faggot, are all one, to any one not forsaken of common sense. When the people applyeth the person to the royal authority, they but put the person in the state of royal authority; this is to make an union betwixt the man and royal authority, and this is to apply royal authority to the per-
6th, The third sense is the Prelate’s dream, not a tenet of ours. We never said that sovereignty in the king is immediately from God by approbation or confirmation only, as if the people first made the king, and God did only by a posterior and latter act say Amen to the deed done, and subscribe, as recorder, to what the people doth: so the people should deal crowns and kingdoms at their pleasure, and God behoves to ratify and make good their act. When God doth apply the person to royal power, is this a different action from the people’s applying the person to royal dignity? It is not imaginable. But the people, by creating a king, applyeth the person to royal dignity; and God, by the people’s act of constituting the man king, doth by the mediation of this act convey royal authority to the man, as the church by sending a man and ordaining him to be a pastor, doth not by that, as God’s instruments, infuse supernatural powers of preaching; these supernatural powers may be, and often are in him before he be in orders. And sometimes God infuseth a supernatural power of government in a man when he is not yet a king, as the Lord turned Saul into another man, (1 Sam. x. 5, 6,) neither at that point of time when Samuel anointed him, but afterwards: “After that thou shalt come to the hill of God, the Spirit of the Lord shall come upon thee, and thou shalt prophesy with them, and shalt be turned into another man;” nor yet at that time when he is formally made king by the people; for Saul was not king formally because of Samuel’s anointing, nor yet was he king because another spirit was infused into him, (v. 5, 6) for he was yet a private man till the states of Israel chose him king at Mizpeh. And the word of God used words of action to express the people’s power: Judg. ix. 6, And all the men of Sechem gathered together, and all the men of Millo regnare fuerunt, they caused him to be king. The same is said 1 Sam. x. 15, They caused Saul to reign; 2 Kings x. 15, מָלֵא נָבֶלָהָוּ We shall not king any man; 1 Chron. xii. 38, They came to Hebron דַּנֶּהָוּ to king David over all Israel; Deut. xviii. three times the making of a king is given to the people.

When thou shalt say, אשר יְהַלֵּךְ עֲלֵי, I shall set a king over me, If it were not in their power to make a king no law could be imposed on them not to make a stranger their king; 1 Kings xii. 20, All the congregation kinged Jeroboam, or made him king over all Israel; 2 Kings xi. 12, They kinged Joash, or made Joash to reign. 6, The people are to say, You are God’s, and your power is below, saith the Prelate: What then? therefore their power is not from God also? It followeth not subordinata non pugnant. The Scripture saith both, the Lord exalted David to be king, and, and all power is from God; and so the power of a lord mayor of a city: the people made David king, and the people maketh such a man lord mayor. It is the Anabaptists’ argument,—God writeth his law in our heart, and teacheth his own children; therefore books and the ministry of men are needless. So all sciences and lawful arts are from God; therefore sciences applied to men are not from men’s free will, industry and studies. The Prelate extollieth the king when he will have his royalty from God, the way that John Stiles is the husband of such a woman.

P. Prelate.—Kings are of God, they are God’s, children of the Most High, his servants, public ministers,—their sword and judgment are God’s. This he hath said of their royalty in abstracto and in concreto; their power, person, charge, are all of divine extract, and so their authority and person are both sacred and inviolable.¹

Ans.—So are all the congregation of the judges; Psal. lxxxii. 1, 6, All of them are God’s; for he speaketh not there of a congregation of kings. So are apostles, their office and persons of God; and so the prelates (as they think), the successors of the apostles, are God’s servants; their ministry, word, rod of discipline, not theirs, but of God. The judgment of judges, inferior to the king, is the Lord’s judgment, not men’s. Deut. i. 17; 2 Chron. xix. 6, Hence by the Prelate’s logic, the persons of prelates, mayors, bailiffs, constables, pastors, are sacred and inviolable above all laws, as are kings. Is this an extolling of kings? But where are kings’ persons, as men, said to be of God, as the royalty in abstracto is? The Prelate seeth beside his book, (Psal. lxxxii. 7,) “But ye shall die like men.”

P. Prelate.—We begin with the law, in which, as God by himself prescribed the essentials, substantialis, and ceremonies of his piety and worship, gave order for piety and

justice; Deut. xvi. 14, 15, the king is here originally and immediately from God, and independent from all others. "Set over them"—them is collective, that is, all and every one. Scripture knoweth not this state principle,—Rex est singulis major, universis minor. The person is expressed in concreto, "Whom the Lord thy God shall choose." This peremptory precept dischargeth the people, all and every one, diffusively, representatively, or in any imaginable capacity to attempt the appointing of a king, but to leave it entirely and totally to God Almighty.

Ans.—Begin with the law, but end not with traditions. If God by himself prescribed the essentials of piety and worship, the other part of your distinction is, that God, not by himself, but by his prelates, appointed the whole Romish rites, as accidentals of piety. This is the Jesuits’ doctrine. This place is so far from proving the king to be independent, and that it totally is God’s to appoint a king, that it expressly giveth the people power to appoint a king; for the setting of a king over themselves, this one and not that one, makes the people to appoint the king, and the king to be less and dependent on the people, seeing God intendment the king for the people’s good, and not the people for the king’s good. This text shameth the Prelate, who also confessed, (p. 22,) that remotely and improperly, succession, election, and conquest maketh the king, and so it is lawful for men remotely and improperly to invade God’s chair.

P. Prelate.—Jesuits and puritans say, it was a privilege of the Jews that God chose their king. So Suarez, Soto, Navarra.

Ans.—The Jesuits are the Prelate’s brethren, they are under one banner,—we are in contrary camps to Jesuits. The Prelate said himself, (p. 19,) Moses, Saul, and David, were by extraordinary revelation from God. Sure I am kings are not so now. The Jews had this privilege that no nation had. God named some kings to them, as Saul, David;—he doth not so now. God did tie royalty to David’s house by a covenant till Christ should come,—he doth not so now; yet we stand to Deut. xvii.

P. Prelate.—Prov. 8. 15, "By me kings reign." If the people had right to constitute a king, it had not been king Solomon, but king Adonijah. Solomon saith not of himself, but indefinitely, "By me," as by the Author, Efficient, and Constituent, kings reign. Per is by Christ, not by the people, not by the high priest, state or presbytery,—not per me iratum, by me in my anger, as some sectaries say. Paul’s ἐν τοῖς οὖν ἕτεροι, an ordinance by high authority not revocable. Sinesius so useth the word, Aristotle, Lucilius, Appian, Plutarch, בּ in me and by me, and also Doctor Andrews. Kings indefinitely, all kings: none may distinguish where the law distinguisheth not,—they reign in concreto. That same power that maketh kings must unmake them.

Ans.—1. The prelate cannot restrict this to kings only; it extendeth to parliaments also. Solomon addeth, דְּרֵשֶׁי וּכְנֶסֶת, דְּרֵשֶׁי all the sirs, and princes, דְּרֵשֶׁי and magnificents, and nobles, and more דְּרֵשֶׁי and all and all the judges of the earth, they reign, rule, and decrees justice by Christ. Here, then, mayors, sheriffs, provosts, constables, are by the Prelate extolled as persons sacred, irresistible. Then, (1.) the judges of England rule not by the king of Britain, as their author, efficient, constituent, but by Jesus Christ immediately; nor doth the comissary rule by the prelate. (2.) All these, and their power, and persons, rule independently, and immediately by Jesus Christ. (3.) All inferior judges are ἀρχηγοὶ ἐν οἷς, the ordinances of God not revocable. Therefore the king cannot deprive any judge under him; he cannot declare the parliament no parliament: once a judge, and always and irrevocably a judge. This Prelate’s poor pleading for kings deserves no wages. Lavez vel specimen superiorum et inferiores magistratus, non est potestas nisi a deo, Vatable consiliarios. 2. If the people had absolute right to choose kings by the law of Israel, they might have chosen another than either Adonijah or Solomon; but the Lord expressly put an express law on them, that they should make no king but him whom the Lord should choose, Deut. xvii. 4. Now the Lord did either by his immediately inspired prophet anoint the man, as he anointed David, Saul, Jehu, &c., or then he restricted, by a revealed promise, the royal power to a family, and to the eldest by birth; and, therefore, the Lord first chose the man and then the people made him king. Birth was not their rule, as is clear, in that they made Solomon their king, not
Adonijah, the elder; and this proveth that God did both ordain kingly government to the kingdom of Israel, and chose the man, either in his person, or tied it to the first-born of the line. Now we have no Scripture nor law of God to tie royal dignity to one man or to one family; produce a warrant for it in the Word, for that must be a privilege of the Jews for which we have no word of God. We have no immediately inspired Samuels to say, “Make David, or this man king;” and no word of God to say, “Let the first-born of this family rather than another family sit upon the throne;” therefore the people must make such a man king, following the rule of God’s word, (Deut. xvii, 14,) and other rules showing what sort of men judges must be, as Deut. i. 16—18; 2 Chron. xix. 6, 7, 3. It is true, kings in a special manner reign by Christ; therefore not by the people’s free election? The P. Prelate argueth like himself: by this text a mayor of a city by the Lord decreeth justice; therefore he is not made a mayor of a city by the people of the city. It followeth not. None of us teach that kings reign by God’s anger. We judge a king a great mercy of God to church or state; but the text saith not, By the Lord kings and judges do not only reign and decree justice, but also murder protestants, by raising against them an army of papists. And the word ἀνέστη, powers, doth in no Greek author signify irrevocable powers; for Uzziah was a lawful king, and yet (2 Chron. xxvi.) lawfully put from the throne, and “cut off from the house of the Lord.” And interpreters of this passage deny that it is to be understood of tyrants. So the Chaldee paraphrase turns it well, Potentes virga justitie: so Lavater and Diodatus saith, this place doth prove, “That all kings, judges and laws, derivari a lege eterna, are derived from the Eternal Law.” The prelate, eating his tongue for anger, striveth to prove that all power, and so royal power, is of God; but what can be made of it? We believe it, though he saith (p. 30,) sectaries prove, by lex, “That a man is justified by faith only;” so there is no power but of God only; but feel the smell of a Jesuit. It is the sectaries’ doctrine, that we are justified by faith only, but the Prelates and the Jesuits go another way,—not by faith only, but by works also. And all power is from God only, as the first Author, and from no man. What then? Therefore men and people interpose no human act in making this man a king and not that man. It followeth not. Let us with the Prelate join Paul and Solomon together, and say, “That sovereignty is from God, of God, by God, as God’s appointment irrevocable.” Then shall it never follow: it is inseparable from the person unless you make the king a man immortal. As God only can remove the crown, it is true God only can put an unworthy and an excommunicated prelate from office and benefice; but how? Doth that prove that men and the church may not also in their place remove an unworthy churchman, when the church, following God’s word, delivereth to Satan? Christ only, as head of the church, excommunicateth scandalous men; therefore the church cannot do it. And yet the argument is as good the one way as the other; for all the churches on earth cannot make a minister properly,—they but design him to the ministry whom God hath gifted and called. But shall we conclude that no church on earth, but God only, by an immediate action from heaven, can deprive a minister? How, then, dare prelates excommunicate, unmaketh, and imprison so many ministers in the three kingdoms? But the truth is, take this one argument from the Prelate, and all that is in his book falleth to the ground,—to wit, Sovereignty is from God only. A king is a creature of God’s making only; and what then? Therefore sovereignty cannot be taken from him: so God only made Aaron’s house priests. Solomon had no law to depose Abiathar from the priesthood. Possibly the Prelate will grant all. The passage, Rom. xiii., which he saith hath tortured us, I refer to a fitter place—it will be found to torture court parasites. I go on with the Prelate, (c. 3.) “Sacred sovereignty is to be preserved, and kings are to be prayed for, that we may lead a godly life,” 1 Tim. iii. What then? All in authority are to be prayed for,—even parliaments; by that text pastors are to be prayed for, and without them sound religion cannot well subsist. Is this questioned, that kings should be prayed for; or are we wanting in this duty? but it followeth not that all dignities to be prayed for are immediately from God, not from men.

P. Prelate.—Prov. viii., Solomon speaketh first of the establishment of government before he speaks of the works of creation;
therefore better not be at all as be without government. And God fixed government in the person of Adam before Eve, or any one else, came into the world; and how shall government be, and we enjoy the fruits of it, except we preserve the king’s sacred authority inviolable?

Ans.—1. Moses (Gen. i.) speaketh of creation before he speaketh of kings, and he speaketh (Gen. iii.) of Adam’s sins before he speaks of redemption through the blessed Seed; therefore better never be redeemed at all as to be without sin. 2. If God made Adam a governor before he made Eve, and any of mankind, he was made a father and a husband before he had either son or wife. Is this the Prelate’s logic? He may prove that two eggs on his father’s table are three this way. 3. There is no government where sovereignty is not kept inviolable. It is true, where there is a king, sovereignty must be inviolable. What then? Arbitrary government is not sovereignty. 4. He intimateth aristocracy, and democracy, and the power of parliaments, which maketh kings, to be nothing but anarchy, for he speaketh here of no government but monarchy.

P. Prelate.—There is need of grace to obey the king, Psal. xviii. 43; cxliv. 2. It is God who subdueth the people under David. Rebellion against the king is rebellion against God. 1 Pet. ii. 17; Prov. xxiv. 12. Therefore kings have a near alliance with God.

Ans.—1. There is much grace in papists and prelates then, who use to write and preach against grace. 2. Lornius your brother Jesuit will, with good warrant of the texts infer, that the king may make a conquest of his own kingdoms of Scotland and England by the sword, as David subdued the heathen. 3. Arbitrary governing hath no alliance with God; a rebel to God and his country, and an apostate, hath no reason to term lawful defence against cut-throat Irish rebellion. 4. There is need of much grace to obey pastors, inferior judges, masters, (Col. iii. 22, 23,) therefore their power is from God immediately, and no more from men than the king is created king by the people, according to the way of royalists.

P. Prelate.—God saith of Pharaoh, (Ex. ix. 17,) I have raised thee up. Elisha, directed by God, constituted the king of Syria, 2 Kings viii. 13. Pharaoh, Abimelech, Hiram, Hazael, Hadad, are no less honoured with the appellation of kings, than David, Saul, &c., Jer. xxix. 9. Nebuchadnezzar is honoured to be called, by way of excellency, God’s servant, which God giveth to David, a king according to his own heart. And Isa. xlv. 1, “Thus saith the Lord to his anointed, Cyrus;” and God nameth him near a hundred years before he was born; Isa. xlv. 23, “He is my shepherd;” Dan. v. 21, God giveth kingdoms to whom he will; Dan. v. 21, empires, kingdoms, royalties, are not disposed of by the composed contracts of men, but by the immediate hand and work of God; Hos. xiii. 11, “I gave thee a king in my anger, I took him away in my wrath;” Job, He places kings in the throne, &c.

Ans.—Here is a whole chapter of seven pages for one raw argument ten times before repeated. 1. Exod. ix. 7, I have raised up Pharaoh; Paul expoundeth it, (Rom. ix.) to prove that king Pharaoh was a vessel fitted for destruction by God’s absolute will; and the Prelate following Arminius, with treasonable charity, applieth this to our king. Can this man pray for the king? 2. Elisha anointed, but did not constitute, Hazael king; he foretold he should be king; and if he be a king of God’s making, who slew his sick prince and invaded the throne by innocent blood, judge you. I would not take kings of the Prelate’s making. 3. If God give to Nebuchadnezzar the same title of the servant of God, which is given to Daniel, (Psal. xviii. 1, and cxvi. 16;) and to Moses, (Jos. i. 2;) all kings, because kings, are men according to God’s heart. Why is not royalty then founded on grace? Nebuchadnezzar was not otherwise his servant, than he was the hammer of the earth, and a tyrannous conqueror of the Lord’s people. All the heathen kings are called kings. But how came they to their thrones for the most part? As David and Hezekiah? But God anointed them not by his prophets; they came to their kingdoms by the people’s election, or by blood and rapine; the latter way is no ground to you to deny Athaliah to be a lawful princess—she and Abimelech were lawful princes, and their sovereignty, as immediately and independently from God, as the sovereignty of many heathen kings. See then how justly Athaliah was killed as a bloody usurper of the throne; and this would licencce your brethren, the Jesuits, to stab heathen kings, whom you will have as
well kings, as the Lord's anointed, though Nebuchadnezzar and many of them made their way to the throne, against all law of God and man, through a bloody patent. 4. Cyrus is God's anointed and his shepherd too, therefore his arbitrary government is a sovereignty immediately depending on God, and above all law; it is a wicked consequence. 5. God named Cyrus near a hundred years ere he was born; God named and designed Judas very individually, and named the ass that Christ should ride on to Jerusalem, (Zach. ix. 9,) some more hundred years than one. What, will the Prelate make them independent kings for that? 6. God giveth kingdoms to whom he will. What then? This will prove kingdoms to be as independent and immediately from God as kings are; for as God giveth kings to kingdoms, so he giveth kingdoms to kings, and no doubt he giveth kingdoms to whom he will. So he giveth prophets, apostles, pastors, to whom he will; and he giveth tyrannous conquistes to whom he will; and it is Nebuchadnezzar to whom Daniel speaketh that from the Lord, and he had no just title to many kingdoms, especially to the kingdom of Judah, which yet God, the King of kings, gave to him because it was his good pleasure; and if God had not commanded them by the mouth of his prophet Jeremiah, might they not have risen, and, with the sword, have vindicated themselves and their own liberty, no less than they lawfully, by the sword, vindicated themselves from under Moab, (Judges iii.,) and from under Jabin, king of Canaan, who, twenty years, mightily oppressed the children of Israel, Judges iv. Now this P. Prelate, by all these instances, making heathen kings to be kings by as good a title as David and Hezekiah, condemneth the people of God as rebels, if, being subdued and conquered by the Turk and Spanish king, they should, by the sword, recover their own liberty; and that Israel, and the saviours which God raised to them, had not warrant from the law of nature to vindicate themselves to liberty, which was taken from them violently and unjustly by the sword. From all this it shall well follow that the tyranny of bloody conquerors is immediately and only dependent from God, no less than lawful sovereignty; for Nebuchadnezzar's sovereignty over the people of God, and many other kingdoms also, was revenged of God as tyranny, Jer. 1. 6, 7; and therefore the vengeance of the Lord, and the vengeance of his temple, came upon him and his land, Jer. 1. 16, &c. It is true the people of God were commanded of God to submit to the king of Babylon, to serve him, and to pray for him, and to do the contrary was rebellion; but this was not because the king of Babylon was their king, and because the king of Babylon had a command of God so to bring under his yoke the people of God. So Christ had a commandment to suffer the death of the cross, (John x. 18,) but had Herod and Pilate any warrant to crucify him? None at all. 7. He saith, Royalties, even of heathen kings, are not disposed of by the composed contracts of men, but by the immediate hand and work of God. But the contracts of men to give a kingdom to a person, which a heathen community may lawfully do, and so by contract dispose of a kingdom, is not opposite to the immediate hand of God, appointing royalty and monarchy at his own blessed liberty. Lastly he saith, God took away Saul in his wrath; but I pray you, did God only do it? Then had Saul, because a king, a patent royal from God to kill himself, for so God took him away; and we are rebels by this, if we suffer not the king to kill himself. Well pleaded.

QUESTION VI.

WHETHER THE KING BE SO FROM GOD ONLY, BOTH IN REGARD OF HIS SOVEREIGNTY AND OF THE DESIGNATION OF HIS PERSON TO THE CROWN, AS THAT HE IS NO WAY FROM THE PEOPLE, BUT BY MERE APPRAVATION.

Dr Ferne, a man much for monarchy, saith, Though monarchy hath its excellency, being first set up of God, in Moses, yet neither monarchy, aristocracy, nor any other form, is jus divino, but "we say (saith he)" the power itself, or that sufficiency of authority to govern that is in a monarchy or aristocracy, abstractly considered from the qualification of other forms, is a flux and constitution subordinate to that providence; an ordinance of that dicti or silent word by which the world was made, and shall be governed under God." This is a great debasing of the Lord's anointed,

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1 Dr Ferne, 3, a. 13.
for so sovereignty hath no warrant in God's word, formally as it is such a government, but is in the world by providence, as sin is, and as the falling of a sparrow to the ground; whereas God's word hath not only commanded that government should be, but that fathers and mothers should be; and not only that politic rulers should be, but also kings by name, and other judges aristocratic should be, Rom. xiii. 3; Deut. xvii. 14; 1 Pet. ii. xvii.; Prov. xxiv. 21; Prov. xv. 16. If the power of monarchy and aristocracy, abstracted from the forms, be from God, then it is no more lawful to resist aristocratic government and our lords of parliament or judges, than it is lawful to resist kings.

But hear the Prelate's reasons to prove that the king is from the people by approbation only. "The people (Deut. xviii.) are said to set a king over them only as (1 Cor. vi.) the saints are said to judge the world, that is, by consenting to Christ's judgment: so the people do not make a king by transferring on him sovereignty, but by accepting, acknowledging, and reverencing him as king, whom God hath both constituted and designed king."

Ans.—1. This is said, but not a word proved, for the Queen of Sheba and Hiram acknowledged, reverenced and obeyed Solomon as king, and yet they made him not king, as the princes of Israel did. 2. Reverence and obedience of the people is relative to the king's laws, but the people's making a king is not relative to the laws of a king; for then he should be a king giving laws and commanding the people as king, before the people make him king. 3. If the people's approving and consenting that an elected king be their king, presupposeth that he is a king, designed and constituted by God, before the people approve him as king, let the P. Prelate give us an act of God now designing a man king, for there is no immediate voice from heaven saying to a people, This is your king, before the people elect one of six to be their king. And this infallibly proveth that God designed one of six to be a king, to a people who had no king before, by no other act but by determining the hearts of the states to elect and design this man king, and pass any of the other five. 4. When God (Deut. xvii.) forbiddeth them to choose a stranger, he presupposeth they may choose a stranger; for God's law now given to man in the state of sin, presupposeth he hath corruption of nature to do contrary to God's law. Now if God did hold forth that their setting a king over them was but the people's approving the man whom God shall both constitute and design to be king, then he should presuppose that God was to design a stranger to be the lawful king of Israel, and the people should be interdicted to approve and consent that the man should be king whom God should choose; for it was impossible that the people should make a stranger king (God is the only immediate king-creator), the people should only approve and consent that a stranger should be king; yet, upon supposition that God first constituted and designed the stranger king, it was not in the people's power that the king should be a brother rather than a stranger, for the people have no power to make a king, but do only approve him or consent to him, when he is both made and designed of God to be king, it is not in their power that he be either brother or stranger, and so God commandeth what is simply impossible. Consider the sense of the command by the Prelate's vain logic: I Jehovah, as I only create the world of nothing, so I only constitute and design a man, whether a Jew or Nebuchadnezzar, a stranger, to be your king; yet I inhibit you, under the pain of my curse, that you set any king over yourselves, but only a brother. What is this, but I inhibit you to be creators by omnipotent power? 5. To these add the reasons I produced before, that the people, by no shadow of reason, can be commanded to make this man king, not that man, if they only consent to the man made king, but have no action in the making of the king.

P. Prelate.—All the acts, real and imaginable, which are necessary for the making of kings, are ascribed to God. Take the first king as a ruling case, 1 Sam. xii. 13, "Behold the king whom ye have chosen, and whom ye have desired; and, behold, the Lord hath set a king over you!" This election of the people can be no other but their admittance or acceptance of the king whom God hath chosen and constituted, as the words, "whom ye have chosen," imply. 1 Sam. ix. 17; 1 Sam. x. 1, You have Saul's election and constitution, where Samuel, as priest and prophet, anointeth him, doing reverence and obedience to him, and ascribing to God, that he did appoint him supreme and sovereign over his inheritance.
And the same expression is, (1 Sam. xii. 13.) "The Lord hath set a king over you;" which is, Psal. ii. 6, "I have set my king upon my holy hill of Zion." Neither man nor angel hath any share in any act of constituting Christ king. Deut. xvii. the Lord vindicateth, as proper and peculiar to himself, the designation of the person. It was not arbitrary to the people to admit or reject Saul so designed. It pleased God to con- summate the work by the acceptance, consent and approbation of the people, ut suaviore modo, that by a smoother way he might encourage Saul to undergo the hard charge, and make his people the more heartily, without grumbling and scruple, reverence and obey him. The people's admittance possibly added something to the solemnity and to the pomp, but nothing to the essential and real constitution or necessity; it only puts the subjects in mala fide, if they should contravene, as the intimation of a law, the coronation of an hereditary king, the enthronement of a bishop. And 1 Kings, iii. 7, "Thou hast made thy servant king;" 1 Sam. xvi. 1, "I have provided me a king;" Psal. xviii. 50, He is God's king; Ps. lxxxix. 19, "I have exalted one chosen out of the people;" (ver. 20.) He anointeth them; (ver. 27.) adopteth them: "I will make him my first-born." The first-born is above every brother severally, and above all, though a thousand jointly.

Ans.—1. By this reason, inferior judges are no less immediate deputies of God, and so irresponsible, than the king, because God took off the spirit that was on Moses, and immediately poured it on the seventy elders, who were judges inferior to Moses, Num. ii. 14—16. 2. This P. Prelate cannot make a syllogism. If all the acts necessary to make a king be ascribed to God, none to the people, then God both constituteth and designeth the king—but the former the Scripture saith; therefore, if all the acts be ascribed to God, as to the prime king-maker and disposer of kings and kingdoms, and none to the people, in that notion, then God both constituteth and designeth a king. Both major and minor are false. The major is as false as the very P. Prelate himself. All the acts necessary for war-making are, in an eminent manner, ascribed to God, as (1.) The Lord fighteth for his own people. (2.) The Lord scattered the enemies. (3.) The Lord slew Og, king of Bashan. (4.) The battle is the Lord's. (5.) The victory the Lord's; therefore Israel never fought a battle. So Deut. xxxii., the Lord alone led his people—the Lord led them in the wilderness—their bow and their sword gave them not the land. God wrought all their works for them, (Isa. xxvi. 12;) therefore Moses led them not; therefore the people went not on their own legs through the wilderness; therefore the people never shot an arrow, never drew a sword. It followeth not. God did all these as the first, eminent, principal, and efficacious pre-determinator of the creature (though this Armenian and popish prelate mind not so to honour God.) The assumption is also false, for the people made Saul and David kings; and it were ridiculous that God should command them to make a brother, not a stranger, king, if it was not in their power whether he should be a Jew, a Scythian, an Ethiopian, who was their king, if God did only, without them, both choose, constitute, design the person, and perform all acts essential to make a king; and the people had no more in them but only to admit and consent, and that for the solemnity and pomp, not for the essential constitution of the king. 1 Sam. ix. 17; 1 Sam. x. 1, we have not Saul elected and constituted king. Samuel did obesiance to him and kissed him, for the honour royal which God was to put upon him; for, before this prophetical unction, (1 Sam. ix. 22,) he made him sit in the chief place, and honoured him as king, when as yet Samuel was materially king and the Lord's vicegerent in Israel. If, then, the Prelate conclude any thing from Samuel's doing reverence and obesiance to him as king, it shall follow that Saul was formally king, before Samuel (1 Sam. x. 1) anointed him and kissed him, and that must be before he was formally king, otherwise he was in God's appointment king, before ever he saw Samuel's face; and it is true he ascribed honour to him, as to one appointed by God to be supreme sovereign, for that which he should be, not for that which he was, as (1 Sam. ix. 22) he set him in the chief place; and, therefore, it is false that we have Saul's election and constitution to be king, (1 Sam. x.,) for after that time the people are rebuked for seeking a king, and that with a purpose to disuade them from it as a sinful desire: and he is chosen by lots after that and made king, and after Samuel's anointing of him he was a private man, and did hide himself amongst the stuff,
ver. 22. 3. The Prelate, from ignorance or willfully, I know not, saith, The expression and phrase is the same, 1 Sam. xii. 13, and Psal. ii. 6, which is false; for 1 Sam. xii. 13, it is דוד נואת יהוה עלברכמ יהלק Behold the Lord hath given you a king, such is the expression; Hos. xiii. 11, I gave them a king in my wrath, but that is not the expression in Psalm ii. 6, but this, גזור ילמה אמלק "But I have established him my king," and though it were the same expression, it followeth not that the people have no hand any other way in appointing Christ their head, (though that phrase also be in the Word, Hos. i. 11,) than by consenting and believing in him as king; but this proveth not that the people, in appointing a king, hath no hand but naked approbation, for the same phrase doth not express the same action; nay, the judges are to kiss Christ, (Psal. ii. 12.) the same way, and by the same action, that Samuel kissed Saul, (1 Sam. x. 1,) and the idolaters kissed the calves, (Hos. xiii. 2;) for the same Hebrew word is used in all the three places, and yet it it certain the first kissing is spiritual, the second a kiss of honour, and the third an idolatrous kissing. 4. The anointing of Saul cannot be a leading rule to the making of all kings to the world's end; for the P. Prelate, forgetting himself, said, that only some few, as Moses, Saul, and David, &c., by extraordinary manifestation from heaven, were made kings. (p. 19.) 5. He saith it was not arbitrary for the people to admit or reject Saul so designed. What meaneth he. It was not morally arbitrary, because they were under a law (Deut. xvii. 14, 15) to make him king whom the Lord should choose. That is true. But was it not arbitrary to them to break a law physically? I think he, who is a professed Arminian, will not so side with Manicheans and fatalists. But the P. Prelate must prove it was not arbitrary, either morally or physically, to them not to accept Saul as their king, because they had no action at all in the making of a king. God did it all, both by constituting and designing the king. Why then did God (Deut. xvii.) give a law to them to make this man king, not that man, if it was not in their free will to have any action or hand in the making of a king at all? But that some sons of Belial would not accept him as their king, is expressly said, (1 Sam. x. 27;) and how did Israel conspire with Absalom to unking and dethrone David, whom the Lord had made king? If the Prelate mean it was not arbitrary to them physically to reject Saul, he speaketh wonders; the sons of Belial did reject him, therefore they had physical power to do it. If he mean it was not arbitrary, that is, it was not lawful to them to reject him, that is true; but doth it follow they had no hand nor action in making Saul king, because it was not lawful for them to make a king in a sinful way, and to refuse him whom God choose to be king? Then see what I infer. (1.) That they had no hand in obeying him as king, because they sinned in obeying unlawful commandments against God's law, and so they had no hand in approving and consenting he should be king; the contrary whereof the P. Prelate saith. (2.) So might the P. Prelate prove men are passive, and have no action in violating all the commandments of God, because it is not lawful to them to violate any one commandment. 6. The Lord (Deut. xviii.) vindicates this, as proper and peculiar to himself, to choose the person, and to choose Saul. What then? Therefore now the people, choosing a king, have no power to choose or name a man, because God anointed Saul and David by immediate manifestation of his will to Samuel; this consequence is nothing, and also it followeth in nowise, that therefore the people made not Saul king. 7. That the people's approbation of a king is not necessary, is the saying of Bellarmine and the papists, and that the people choose their ministers in the apostolic church, not by a necessity of a divine commandment, but to conciliate love betwixt pastor and people. Papists hold that if the Pope make a popish king the head and king of Britain, against the people's will, yet is he their king. 8. David was then king all the time Saul persecuted him. He sinned, truly, in not discharging the duty of a king, only because he wanted a ceremony, the people's approbation, which the Prelate saith is required to the solemnity and pomp, not to the necessity, and truth, and essence, of a formal king. So the king's coronation oath, and the people's oath, must be ceremonies; and because the Prelate is perjured himself, therefore perjury is but a ceremony also. 9. The enthronement of bishops is like the kinging of the Pope. The apostles must spare thrones when they come to heaven, (Luke xxii. 29, 30;) the popish
prelates, with their head the Pope, must be enthroned. 10. The hereditary king he makest a king before his coronation, and his acts are as valid before as after his coronation. It might cost him his head to say that the Prince of Wales is now king of Britain, and his acts acts of kingship and royalty, no less than our sovereign is king of Britain, if laws and parliaments had their own vigour from royal authority. 11. I allow that kings be as high as God hath placed them, but that God said of all kings, "I will make him my first-born," &c., Psal. lxxxix. 26, 27,—which is true of Solomon as the type, 2 Sam. vii. 1 Chron. xvii. 12; and fulfilled of Christ, and by the Holy Ghost spoken of him, (Heb. i. 5, 6),—is blasphemy; for God said not to Nero, Julian, Dioclesian, Belshazzar, Evil-merodach, who were lawful kings, "I will make him my first-born;" and that any of these blasphemous idolatrous princes should cry to God, "He is my father, my God," &c., is divinity well-beseeing an excommunicated prelate. Of the king's dignity above the kingdom I speak not now; the Prelate pulled it in by the hair, but hereafter we shall hear of it.

P. Prelate (p. 43, 44).—God only anointed David, (1 Sam. xvi. 4), the men of Bethlehem, yea, Samuel knew it not before. God saith, "With mine holy oil have I anointed him," Psal. lxxxix. 1. 1. He is the Lord's anointed. 2. The oil is God's, not from the apothecary's shop, nor the priest's vial—this oil descended from the Holy Ghost, who is no less the true olive than Christ is the true vine; yet not the oil of saving grace, as some fanatics say, but holy. (1.) From the author, God. (2.) From influence in the person, it maketh the person of the king sacred. (3.) From influence on his charge, his function and power is sacred.

Ans.—1. The Prelate said before, David's anointing was extraordinary; here he draweth this anointing to all kings. 2. Let David be formally both constituted and designated king divers years before the states made him king at Hebron, and then (1) Saul was not king,—the Prelate will term that treason. (2) This was a dry oil. David's person was not made sacred, nor his authority sacred by it, for he remained a private man, and called Saul his king, his master, and himself a subject. (3) This oil was, no doubt, God's oil, and the Prelate will have it the Holy Ghost's, yet he denieth that saving grace, yea, (p. 2. c. i.) he denieth

that any supernatural gift should be the foundation of royal dignity, and that it is a pernicious tenet. So to me he would have the oil from heaven, and yet not from heaven. 4. This holy oil, wherewith David was anointed, (Psal. lxxxix. 20), is the oil of saving grace;^1 his own dear brethren, the papists, say so, and especially Lyranus,^2 Glossa ordinaria, Hugo Cardinalis,^3 his beloved Bellarmine, and Lorinus, Calvin, Musculus, Marloratus. If these be fanatics, (as I think they are to the Prelate,) yet the text is evident that this oil of God was the oil of saving grace, bestowed on David as on a special type of Christ, who received the Spirit above measure, and was the anointed of God, (Psal. xliv. 7), whereby all his garments smell of myrrh, aloes and cassia, (ver. 8), and his name Messiah is an ointment poured out, (Song. i.) This anointed shall be head of his enemies. His dominion shall be from the sea to the rivers, ver. 25. He is in the covenant of grace, ver. 26. He is "higher than the kings of the earth." The grace of perseverance is promised to his seed, ver. 28—30. His kingdom is eternal "as the days of heaven," ver. 35, 36. If the Prelate will look under himself to Diosdatus and Ainsworth,^4 this holy oil was poured on David by Samuel, and on Christ was poured the Holy Ghost, and that by warrant of Scripture, (1 Sam. xvi. 1; xiii. 14; Luke iv. 18, 21; John iii. 34,) and Junius^5 and Mollerus^6 saith with them. Now the Prelate taketh the court way, to pour this oil of grace on many dry princes, who, without all doubt, are kings essentially no less than David. He must see better than the man who, finding Pontius Pilate in the Creed, said, he behooved to be a good man; so, because he hath found Nero the tyrant, Julian the apostate, Nebuchadnezzar, Evil-merodach, Hazael, Hagar, all the kings of Spain, and, I doubt not, the Great Turk, in Psal. lxxxix. 19, 20, so all these kings are anointed with the oil of grace, and all these must make their enemies' necks their footstool. All these be higher than the kings of the earth, and are hard and fast in the covenant of grace, &c.

^1 Aug. in locum, unxi manum fortium, servum obedientem idem in eo posui adjutorium.
^2 Lyranus Gratia est habitualls, quia stat pagi contra diabolum.
^3 Hugo Cardinalis, Oleo latitu quo pra consorribus unctus fuit Christus, Ps. xliv.
^4 Ainsworth, Annot.
^5 Junius Annot. in loc. Mollerus Com. ib.
P. Prelate.—All the royal ensigns and acts of kings are ascribed to God. The crown is of God, Isa. lxxi. 3; Psal. xxi. 3. In the emperors' coin was a hand putting a crown on their head. The heathen said they were Surophui, as holding their crowns from God. Psal. xviii. 39. Thou hast girt me with strength (the sword is the emblem of strength) unto battle. See Judg. vii. 17, Their sceptre God's sceptre. Exod. iv. 20; xvii. 9, We read of two rods, Moses' and Aaron's; Aaron's rod budded: God made both their rods. Their judgment is the Lord's, 2 Chron. xix. 6; their throne is God's, 1 Chron. xix. 21. The fathers called them, sacra vestigia, sacra majestas,—their commandment, divitis jussu. The law saith, all their goods are res sacre. Therefore our new statistis disgrace kings, if they blaspheme not God, in making them thederivatives of the people,—the basest extract of the basest of irrational creatures, the multitude, the commonalty.

Ans.—This is all one argument from the Prelate's beginning of his book to the end: In a most special and eminent act of God's providence kings are from God; but, therefore, they are not from men and men's consent. It followeth not. From a most special and eminent act of God's providence Christ came into the world, and took on him our nature, therefore he came not of David's loins. It is a vain consequence. There could not be a more eminent act than this, (Psal. xl.) "A body thou hast given me;" therefore he came not of David's house, and from Adam by natural generation, and was not a man like us in all things except sin. It is tyrannical and domineering logic. Many things are ascribed to God only, by reason of a special and admirable act of providence,—as the saving of the world by Christ, the giving of Canaan to Israel, the bringing his people out from Egypt and from Chaldee, the sending of the gospel to both Jew and Gentile, &c.; but, a thing we say that God did none of these things by the ministry of men, and weak and frail men? 1. How proveth the Prelate that all royal ensigns are ascribed to God, because (Isa. lxiii.) the church universal shall be as a crown of glory and a royal diadem in the hand of the Lord; therefore, boccatus in angulo, the church shall be as a seal on the heart of Christ. What then? Jerome, Procopius, Cyril, with good reason, render the meaning thus: Thou, O Zion and church, shalt be to me a royal priesthood, and a holy people. For that he speaketh of his own kingdom and church is most evident, (ver. 1, 2,) "For Zion's sake I will not hold my peace," &c. 2. God put a crown of pure gold on David's head, (Psal. xxi. 3,) therefore Julian, Nero, and no elective kings, are made and designed to be kings by the people. He shall never prove this consequence. The Chaldee paraphrase applieth it to the reign of King Messiah; Didatus speaketh of the kingdom of Christ; Ainsworth maketh this crown a sign of Christ's victory; Athanasius, Eusebius, Origen, Augustine, Dydimus, expound it of Christ and his kingdom. The Prelate extendeth it to all kings, as the blasphemous rabbins, especially Rabbin Solomon, deny that he speaketh of Christ here. But what more reason is there to expound this of the crowns of all kings given by God, (which I deny not,) to Nero, Julian, &c., than to expound the foregoing and following verses as applied to all kings? Did Julian rejoice in God's salvation? did God grant Nero his heart's desire? did God grant (as it is, ver. 4,) life eternal to heathen kings as kings? which words all interpreters expound of the eternity of David's throne, till Christ come, and of victory and life eternal purchased by Christ, as Ainsworth, with good reason, expounds it. And what though God gave David a crown, was it not by second causes, and by bowing all Israel's heart to come in sincerity to Hebron to make David king? 1 Kings xii. 36. God gave corn and wine to Israel, (Hos. ii.) and shall the prelate and the anabaptist infer, therefore, he giveth it not by ploughing, sowing, and the art of the husbandman? 3. The heathen acknowledgeth a divinity in kings, but he is blind who readeth them and seeth not in their writings that they teach that the people maketh kings. 4. God girt David with strength, while he was a private man, and persecuted by Saul, and fought with Goliath, as the title of the same beareth; and he made him a valiant man of war, to break bows of steel; therefore he giveth the sword to kings as kings, and they receive no sword from the people. This is poor logic. 5. The P. Prelate sendeth us (Judg. vii. 17,) to the singular and extraordinary power of God with Gideon; and, I say, that same power behoved to be in Oreb and Zeeb, (ver. 27,) for they were 17 princes, and such as the Prelate, from Prov. vii. 15,
saith have no power from the people. 6. Moses' and Aaron's rods were miraculous. This will prove that priests are also God's, and their persons sacred. I see not (except the Prelate would be at worshipping of relics) what more royal divinity is in Moses' rod, because he wrought miracles by his rod, than there is in Elijah's staff, in Peter's napkin, in Paul's shadow. This is like the strong symbolical theology of his fathers the Jesuits, which is not argumentative, except he say that Moses, as king of Jeshurun, wrought miracles; and why should not Nero's, Caligula's, Pharaoh's, and all kings' rods then dry up the Red Sea, and work miracles? 7. We give all the styles to kings that the fathers gave, and yet we think not when David commandeth to kill Uriah, and a king commandeth to murder his innocent subjects in England and Scotland, that that is divitis jussio, the command of a god; and that this is a good consequence—Whatever the king commandeth, though it were to kill his most loyal subjects, is the commandment of God; therefore the king is not made king by the people. 8. Therefore, saith he, these new statistists disgrace the king. If a new statist, sprung out of a poor pursuivant of Crail—from the dunghill to the court—could have made himself an old statist, and more expert in state affairs than all the nobles and soundest lawyers in Scotland and England, this might have more weight. 9. Therefore, the king (saith P. P.) is not the extract of the basest of rational creatures.” He meaneth, fec populi, his own house and lineage; but God calleth them his own people, “a royal priesthood, a chosen generation;” and Psalm lxxviii. 71, will warrant us to say, the people is much worship before God than one man, seeing God chose David for “Jacob his people, and Israel his inheritance,” that he might feed them. John P. P.'s father's suffrage in making a king will never be sought. “We make not the multitude, but the three estates, including the nobles and gentry, to be as rational creatures as any apostate prelate in the three kingdoms.

QUESTION VII.

WHETHER OR NO THE POPISH PRELATE, THE AFORESAYD AUTHOR, DOOTH BY FORCE OF REASON EVINCE THAT NEITHER CONSTITUTION NOR DESIGNATION OF THE KING IS FROM THE PEOPLE.

The P. Prelate aimeth (but it is an empty aim) to prove that the people are wholly excluded. I answer only arguments not pitched on before, as the Prelate saith.

P. Prelate.—1. To whom can it be more proper to give the rule over men than to Him who is the only king truly and properly of the whole world? 2. God is the immediate author of all rule and power that is amongst all his creatures, above or below. 3. Man before the fall received dominion and empire over all the creatures below immediately, as Gen. i. 28; Gen. ix. 2; therefore we cannot deny that the most noble government (to wit monarchy) must be immediately from God, without any contract or compact of men.

Ans.—1. The first reason concluseth not what is in question; for God only giveth rule and power to one man over another; therefore he giveth it immediately. It followeth not. 2. It shall as well prove that God doth immediately constitute all judges, and therefore it shall be unlawful for a city to appoint a mayor, or a shire a justice of peace. 3. The second argument is inconsequent also, because God in creation is the immediate author of all things, and, therefore, without consent of the creatures, or any act of the creature, created an angel a nobler creature than man, and a man than a woman, and men above beasts; because those that are not can exercise no act at all. But it followeth not that all the works of providence, such as is the government of kingdoms, are done immediately by God; for in the works of providence, for the most part in ordinary, God worketh by means. It is then as good a consequence as this: God immediately created man, therefore he keepeth his life immediately also without food and sleep; God immediately created the sun, therefore God immediately, without the mediation of the sun, giveth light to the world. The making of a king is an act of reason, and God hath given a man reason to rule himself; and therefore hath given to a society an instinct of reason to appoint a
THE LAW AND THE PRINCE.

Prelate saith the people hath a hand in making a king; and that is no hand at all by the Prelate's way. 2. We may borrow the Prelate's argument.—Inferior judges execute the judgment of the Lord, and not the judgment of the king; therefore, by the Prelate's argument, God doth only by immediate power execute judgment in them, and the inferior judges are not God's ministers, executing the judgment of the Lord. But the conclusion is against all truth, and so must the Prelate's argument be; and that inferior judges are the immediate substitutes and deputies of God, is hence proved, and shall be hereafter made good, if God will. 3. God is properly King of kings, so is God properly causa causarum, the Cause of causes, the Life of lives, the Joy of joys. What! shall it then follow that he worketh nothing in the creatures by their mediation as causes? Because God is Light of lights, doth he not enlighten the earth and air by the mediation of the sun? Then God communicateth not life mediately by generation, he causeth not his saints to rejoice, with joy unspeakable and glorious, by the intervening mediation of the Word. These are vain consequences. Sovereignty, and all power and virtue is in God infinitely; and what virtue and power of action is in the creatures, as they are compared with God, are in the creatures equivocally and in resemblance, and non omnia in opinion rather than really. Hence it must follow that second causes work none at all,—no more than the people hath a hand or action in making the king, and that is no hand at all, as the Prelate saith. And God only and immediately worketh all works in the creatures, because both the power of working and actual working cometh from God, and the creatures, in all their working, are God's instruments. And if the Prelate argue so frequently from power given of God, to prove that actual reigning is from God immediately,—Deut. viii. 18, The Lord "giveth the power to get wealth,"—will it follow that Israel getteth no riches at all, or that God doth not mediately by them and their industry get them? I think not.

P. Prelate.—To whom can it be due to give the kingly office but to Him only who is able to give the endowment and ability for the office? Now God only and immediately giveth ability to be a king, as the sacramental anointing prueth, Josh. iii. 10.

governor over themselves; but no act of reason goeth before man be created, therefore it is not in his power whether he be created a creature of greater power than a beast or no. 4. God by creation gave power to a man over the creatures, and so immediately; but I hope men cannot say, God by creation hath made a man king over men. 5. The excellency of monarchy (if it be more excellent than any other government, of which hereafter) is no ground why it should be immediately from God as well as man's dominion over the creature; for then the work of man's redemption, being more excellent than the raising of Lazarus, should have been done immediately without the incarnation, death and satisfaction of Christ, (for no act of God without himself is comparable to the work of redemption, 1 Pet. i. 11, 12; Col. i. 18—22,) and God's less excellent works, as his creating of beasts and worms, should have been done mediateley, and his creating of man immediately.

P. Prelate.—They who execute the judgment of God must needs have the power to judge from God; but kings are deputies in the exercise of the judgments of God, therefore the proposition is proved. How is it imaginable that God reconcileth the world by ministers, and saveth man by them, (1 Cor. v.; 1 Tim. iv. 16,) except they receive a power so to do from God? The assumption is, (Deut. i. 17; 1 Chron. xix. 6,) Let none say Moses and Jehosaphat spake of inferior judges; for that which the king doth to others he doth by himself. Also, the execution of the kingly power is from God; for the king is the servant, angel, legate, minister of God, Rom. xiii. 6, 7. God properly and primarily is King, and King of kings, and Lord of lords (1 Tim. vi. 15; Rev. i. 5); all kings, related to him, are kings equivocally, and in resemblance, and he the only King.

Ans.—1. That which is in question is never concluded, to wit, that "the king is both immediately constituted and designed king by God only, and not by the mediation of the people," for when God reconcileth and saveth men by pastors, he saveth them by the intervening action of men; so he scourgeth his people by men as by his sword, (Psal. xlvii. 14,) hand, staff; rod, (Isa. x. 6,) and his hammer. Doth it follow that God only doth immediately scourge his people, and that wicked men have no more hand and action in scourging his people than the
Othniel is the first judge after Joshua; and it is said, "And the Spirit of the Lord came upon him, and he judged Israel:" the like is said of Saul and David.

Ans.—1. God gave royal endowments immediately, therefore he immediately now maketh the king. It followeth not, for the species of government is not that which formally constituteth a king, for then Nero, Caligula, Julian, should not have been kings; and those who come to the crown by conquest and blood, are essentially kings, as the Prelate saith. But be all these Othniels upon whom the Spirit of the Lord cometh? Then they are not essentially kings who are babes and children, and foolish and destitute of the royal endowments; but it is one thing to have a royal gift, and another thing to be formally called to the kingdom. David had royal gifts after Samuel anointed him, but if you make him king, before Saul's death, Saul was both a traitor all the time that he persecuted David, and so no king, and also king and God's anointed, as David acknowledgeth him; and, therefore, that spirit that came on David and Saul, maketh nothing against the people's election of a king, as the Spirit of God is given to pastors under the New Testament, as Christ promised; but it will not follow that the designation of the man who is to be pastor should not be from the church and from men, as the Prelate denieth that either the constitution or designation of the king is from the people, but from God only.

2. I believe the infusion of the Spirit of God upon the judges will not prove that kings are now both constituted and designed of God solely, only, and immediately; for the judges were indeed immediately, and for the most part extraordinarily, raised up of God; and God indeed, in the time of the Jews, was the king of Israel in another manner than he was the king of all the nations, and is the king of Christian realms now, and, therefore, the people's despising of Samuel was a refusing that God should reign over them, because God, in the judges, revealed himself even in matters of policy, as what should be done to the man that gathered sticks on the Sabbath-day, and the like, as he doth not now to kings.

P. Prelate.—Sovereignty is a ray of divine glory and majesty, but this cannot be found in people, whether you consider them jointly or singly; if you consider them singly, it cannot be in every individual man, for sectaries say, That all are born equal, with a like freedom; and if it be not in the people singly, it cannot be in them jointly, for all the contribution in this compact and contract, which they fancy to be human composition and voluntary constitution, is only by a surrender of the native right that every one had in himself. From whence, then, can this majesty and authority be derived? Again, where the obligation amongst equals is by contract and compact, violation of the faith plighted in the contract, cannot in proper terms be called disobedience or contempt of authority. It is no more but a receding from, and a violation of, that which was promised, as it may be in states or countries confederate. Nature, reason, conscience, Scripture, teach, that disobedience to sovereign power is not only a violation of truth and breach of covenant, but also high disobedience and contempt, as is clear, 1 Sam. x. 26. So when Saul (chap. xi.) sent a yoke of oxen, hewed in pieces, to all the tribes, the fear of the Lord fell on the people, and they came out with one consent, 1 Sam. xi. 7; also, (Job xi. 18,) He loosest the bonds of kings, that is, he loseth their authority, and bringeth them into contempt; and he girdeth their loins with a girdle, that is, he strengtheneth their authority, and maketh the people to reverence them. Heathens observe that there is sim eol, some divine thing in kings. Profane histories say, that this was so eminent in Alexander the Great, that it was a terror to his enemies, and a powerful loadstone to draw men to compose the most seditious councils, and cause his most experienced commanders embrace and obey his counsel and command. Some stories write that, upon some great exigency, there was some resplendent majesty in the eyes of Scipio. This kept Pharaoh from lifting his hand against Moses, who charged him so boldly with his sins. When Moses did speak with God, face to face, in the mount, this resplendent glory of majesty so awed the people, that they durst not behold his glory, Exod. xxxiv.; this repressed the fury of the people, enraged against Gideon from destroying their idol, Judg. vi.; and the fear of man is naturally upon all living creatures below, Gen. ix. So what can this reverence, which is innate in the hearts of all subjects toward their sovereigns, be, but the ordinance unrepeatable of God, and the natural effect of that majesty of princes with which they are endowed from above?

Ans.—1. I never heard any shadow of rea-
son till now, and yet (because the lie hath a latitude) here is but a shadow, which the Prelate stole from M. Anton. de Dom. Archiepisc. Spalatensis; and I may say, confidently, this Plagiarus hath not one line in his book which is not stolen; and, for the present, Spalato's argument is but split, and the nerves cut from it, while it is both bleeding and lamed. Let the reader compare them, and I pawn my credit he hath ignorantly clipped Spalato. But I answer, "Sovereignty is a beam and ray (as Spalato saith) of divine majesty, and is not either formally or virtually in the people." It is false that it is not virtually in the people; for there be two things in the judge, either inferior or supreme, for the argument holdeth in the majesty of a parliament, as we shall hear. (1.) The gift or grace of governing (the Arminian Prelate will be offended at this). (2.) The authority of governing. The gift is supernatural, and is not in man naturally, and so not in the king; for he is physically but a mortal man, and this is a gift received, for Solomon asked it by prayer from God. There is a capacity passive in all individual men for it. As for the official authority itself, it is virtually in all in whom any of God's image is remaining since the fall, as is clear, as may be gathered from Gen. i. 28; yea, the father, the master, the judge, have it by God's institution, in some measure, over son, servant, and subject, though it be more in the supreme ruler; and, for our purpose, it is not requisite that authoritative majesty should be in all, (what is in the father and husband I hope to clear.) I mean, it needeth not to be formally in all, and so all are born alike and equal. But he who is a Papist, a Socinian, an Arminian, and therefore delivered to Satan by his mother church, must be the sectary, for we are where this Prelate left us, maintainers of the Protestant religion, contained in the Confession of Faith and National Covenant of Scotland, when this Demas forsook us and embraced the world. 2. Though not one single man in Israel be a judge or king by nature, nor have in them formally any ray of royalty or magistratical authority, yet it followeth not that Israel, parliamentarily convened, hath no such authority as to name Saul king in Mizpeh, and David king in Hebron,

1 Antonin. de Dominis Archiepis. de dom. lib. 6, c. 2, n. 5, 6, seq.
vitute and bondage. But the Prelate talketh of royalty as of mere tyranny, as if it were a proper dominion and servile empire that the prince hath over his people, and not more paternal and fatherly, than lordly or masterly. 5. He saith, "Violation of faith, plighted in a contract amongst equals, cannot be called disobedience; but disobedience to the authority of the sovereign is not only breach of covenant, but high disobedience and contempt." But violation of faith amongst equals, as equals, is not properly disobedience; for disobedience is between a superior and an inferior: but violation of faith amongst equals, when they make one of their equals their judge and ruler, is not only violation of truth, but also disobedience. All Israel, and Saul, while he is a private man seeking his father's asses, are equals by covenant, obliged one to another; and so any injury done by Israel to Saul, in that case, is not disobedience, but only violation of faith. But when all Israel maketh Saul their king, and sweareth to him obedience, he is not now their equal; and an injury done to him now, is both a violation of their faith, and high disobedience also. Suppose a city of aldermen, all equal amongst themselves in dignity and place, take one of their number and make him their mayor and provost—a wrong done to him now, is not only against the rules of fraternity, but disobedience to one placed by God over them. 6. 1 Sam. xi. 7, "The fear of the Lord fell on the people, and they came out with one consent to obey Saul!" therefore God hath placed authority in kings, which is not in people. It is true; because God hath transferred the scattered authorities that are in all the people, in one mass; and, by virtue of his own ordinance, hath placed them in one man, who is king. What followeth? That God conferreth this authority immediately upon the king, without the mediation of any action of the people? Yea, the contrary rather followeth. 7. God looseth the bond of kings; that is, when God is to cast off kings, he causeth them to lose all authority, and maketh them come into contempt with the people. But what doth this prove? That God taketh away the majesty and authority of kings immediately; and therefore God gave to kings this authority immediately, without the people's conveyance? Yea, I take the Prelate's weapon from him. God doth not take the authority of the king from him immediately, but mediately, by the people's hating and despising him, when they see his wickedness, as the people see Nero a monster—a prodigious blood-sucker. Upon this, all the people contumeliously despise him, and so the majesty is taken from Nero and all his mandates and laws, when they see him trample upon all laws, divine and human, and that by the people's heart despising of his majesty; and so they repeat, and take again, that awesome authority that they once gave him. And this proved that God gave him the authority mediately, by the consent of man. 8. Nor speakest he of kings only, but (ver. 21) he poureth contempt super mundos. Pineda. Aria. Mont. super Principes, upon nobles and great men; and this place may prove that no judges of the earth are made by men. 9. The heathen say, That there is some divinity in princes, as in Alexander the Great and Scipio, toward their enemies; but this will prove that princes and kings have a superiority over those who are not their native subjects, for something of God is in them, in relation to all men that are not their subjects. If this be a ground strong and good, because God only, and independently from men, taketh away this majesty, as God only and independently giveth it, then a king is sacred to all men, subjects or not subjects. Then it is unlawful to make war against any foreign king and prince, for in invading him or resisting him, you resist that divine majesty of God that is in him; then you may not lawfully flee from a tyrant, no more than you may lawfully flee from God. 10. Scipio was not a king, therefore this divine majesty is in all judges of the earth, in a more or less measure;—therefore God, only and immediately, may take this spark of divine majesty from inferior judges. It followeth not. And kings, certainly, cannot infuse any spark of a divine majesty on any inferior judges, for God only immediately infuseth it in men; therefore it is unlawful for kings to take this divinity from judges, for they resist God who resist parliaments, no less than those who resist kings. Scipio hath divinity in him as well as Caesar, and that immediately from God, and not from any king. 11. Moses was not a king when he went to Pharaoh, for he had not, as yet, a people. Pharaoh was the king, and because Pharaoh was a king, the divines of Oxford must say, His majesty must not, in words of rebuke, be resisted more than by deeds. 12. Moses' face
THE LAW AND THE PRINCE.

27
did shine as a prophet receiving the law from God—not as a king. And is this sunshine from heaven upon the face of Nero and Julian? It must be, if it be a beam of royal majesty, if this pratter say right, but (2 Cor. iii. 7) this was a majesty typical, which did adumbrate the glory of the law of God, and is far from being a royalty due to all heathen kings. 13. I would our king would evidence such a majesty in breaking the images and idols of his queen, and of papists about him. 14. The fear of Noah, and the regenerated who are in covenant with the beasts of the field, (Job v. 23,) is upon the beasts of the earth, not by approbation only, as the people maketh kings by the Prelate's way; nor yet by free consent, as the people freely transfer their power to him who is king. The creatures inferior to man, have, by no act of free will, chosen man to be their ruler, and transferred their power to him, because they are, by nature, inferior to man; and God, by nature, hath subjected the creatures to man, (Gen. i. 28,) and so this proveth not that the king, by nature, is above the people—I mean the man who is king; and, therefore, though God had planted in the hearts of all subjects a fear and reverence toward the king, upon supposition that they have made him king, it followeth not that this authority and majesty is immediately given by God to the man who is king, without the intervening consent of the people, for there is a native fear in the scholar to stand in awe of his teacher, and yet the scholar may willingly give himself to be a disciple to his teacher, and so give his teacher power over him. Citizens naturally fear their supreme governor of the city, yet they give to the man who is their supreme governor, that power and authority which is the ground of awe and reverence. A servant naturally feareth his master, yet often he giveth his liberty, and resigneth it up voluntarily to his master; and this was not extraordinary amongst the Jews, where the servant did entirely love the master, and is now most ordinary when servants do, for hire, tie themselves to such a master. Soldiers naturally fear their commanders, yet they may, and often do, by voluntary consent, make such men their commanders; and, therefore, from this, it followeth in no way that the governor of a city, the teacher, the master, the commander in war, have not their power and authority only and immediately from God, but from their inferiors, who, by their free consent, appointed them for such places.

P. Prelate (Arg. 7, p. 51, 52).—This seemeth, or rather is, an unanswerable argument,—No man hath power of life and death but the Sovereign Power of life and death, to wit, God, Gen. ix. 5. God saith thrice he will require the blood of man at the hands of man, and this power God hath committed to God's deputy: whose sheddest man's blood accipit by man shall die,—by the king, for the world knew not any kind of government at this time but monarchical, and this monarch was Noah; and if this power be from God, why not all sovereign power? seeing it is homogeneous, and, as jurists say, in indivisibili posta, a thing in its nature indivisible, and that cannot be distracted or impaired, and if every man had the power of life and death, God should not be the God of order.

The P. Prelate taketh the pains to prove out of the text that a magistracy is established in the text. Ans. I. Let us consider this unanswerable argument. (1) It is grounded upon a lie, and a conjecture never taught by any but himself, to wit, that by, or in, or through man, must signify a magistracy, and a king only. This king was Noah. Never interpreter, nay, not common sense can say, that no magistracy is here understood but a king. The consequence is vain: His blood shall be shed by man; therefore by a magistracy? it followeth not; therefore by a king? it followeth not. There was not a king in the world as yet. Some make Belus, the father of Ninus, the first king, and the builder of Babylon. This Ninus is thought the first builder of the city after called Nineveh, and the first king of the Assyrians. So saith Quintus Curtius and others; but grave authors believe that Nimrod was no other than Belus the father of Ninus. So saith Augustine, Eusebius, Hieronym., and Eusebius maketh him the first founder of Babylon: so saith Clemens, Pirerius, and Josephus saith the same. Their times, their cruel natures are the same. Calvin saith, Noah

1 Quintus Curtius, lib. 5.
3 Hieron. in Hos, lib. ii.
4 Euseb. lib. 9, de prepar. Evan. c. 3.
5 Clemens recog. lib. 4.
6 Pirerius in Gen. x. 8, 9, disp. 3, n. 67. Illud quoque mili fit pereradicabile, Nimrod fuisse cœnus, atque enim quem alii appellant Belum patrem Nin.
7 Calvin Com. in Gen. ix.
yet lived while Nimrod lived; and the Scripture saith, "Nimrod began to reign, and be powerful on the earth." And Babel was the beginning of his kingdom. No writer, Moses nor any other, can show us a king before Nimrod. So Eusebius, Paul Orosius, Hieronymus, Josephus, say that he was the first king; and Tostatus Abulena, and our own Calvin, Luther, Musculus on the place, and Ainsworth, make him the first king and the founder of Babylon. How Noah was a king, or there was any monarchical government in the world then, the Prelate hath alone dreamed it. There was but family-government before this. 2. And if there be magistracy here established by God, there is no warrant to say it is only a monarchy; for if the Holy Ghost intendeth a policy, it is a policy to be established to the world's end, and not to be limited (as the Prelate doth) to Noah's days. All interpreters, upon good ground, establish the same policy that our Saviour speaketh of, when he saith, "He shall perish by the sword who taketh the sword," Matt. xxvi. 52. So the Netherlands have no lawful magistrate who hath power of life and death, because their government is aristocratical, and they have no king. So all acts of taking away the lives of ill-doers shall be acts of homicide in Holland. How absurd! 3. Nor do I see how the place, in the native scope, doth establish a magistracy. Calvin saith not so; and interpreters deduce, by consequence, the power of the magistrate from this place. But the text is general,—He who killeth man shall be killed by man; either he shall fall into the magistrate's hand, or into the hand of some murderer; so Calvin, Marlbor, &c. He speaketh, saith Pirerius, not of the fact and event itself, but of the deserving of murderers; and it is certain all murderers fall not into the magistrate's hands; but he saith, by God and man's laws they ought to die, though sometime one murderer killeth another. 4. The sovereign power is given to the king; therefore, it is given to him immediately without the consent of the people. It followeth not. 5. Power of life and death is not given to the king only, but also to other magistrates, yea, and to a single private man in the just defence of his own life. Other arguments are but what the Prelate hath said already.

QUESTION VIII.

WHETHER THE PRELATE PROVETH BY FORCE OF REASON THAT THE PEOPLE CANNOT BE CAPABLE OF ANY POWER OF GOVERNMENT.

P. Prelate.—God and nature giveth no power in vain, and which may not be reduced into action; but an active power, or a power of actual governing, was never acted by the community; therefore this power cannot be seated in the community as in the prime and proper subject, and it cannot be in every individual person of a community, because government intrinsically and essentially includeth a special distinction of governors, and some to be governed; and, to speak properly, can no other power be conceived in the community, naturally and properly, but only potestas passiva regiminitis, a capacity or susceptibility to be governed, by one or by more, just as the first matter desireth a form. This obligeth all, by the dictate of nature's law, to submit to actual government; and as it is in every individual person, it is not merely and properly voluntary, because, howsoever nature dictates that government is necessary for the safety of the society, yet every singular person, by corruption and self-love, hath a natural aversion and repugnance to submit to any: every man would be a king himself. This universal desire, appetitus universalis aut naturalis, or universal propension to government, is like the act of the understanding assenting to the first principles of truth, and to the will's general propension to happiness in general, which propension is not a free act, except our new statists, as they have changed their faith, so they overturn true reason. It will puzzle them infinitely to make anything, in its kind passive, really active and collative.
of positive acts and effects. All know no man can give what he hath not. An old philosopher would laugh at him who would say, that a matter perfected and actuated by union with a form, could at pleasure shake off its form, and marry itself to another. They may as well say, every wife hath power to resume her freedom and marry another, as that any such power active is in the community, or any power to cast off monarchy.

Ans.—1. The P. Prelate might have thanked Spalato for this argument, but he doth not so much as cite him, for fear his theft be apprehended; but Spalato hath it set down with stronger nerves than the Prelate's head was able to copy out of him. But Jac. de Almain,1 and Navarres,2 with the Parisian doctors, said in the Council of Paris, "that politic power is immediately from God, but first from the community;" but so that the community apply their power to this or that government—not of liberty, but by natural necessity—but Spalato and the plagiarist Prelate do both look beside the book. The question is not now concerning the vie rectiva, the power of governing in the people, but concerning the power of government; for these two differ much. The former is a power of ruling and monopolical commanding of themselves. This power is not formally in the people, but only virtuall; and no reason can say that a virtual power is idle because it cannot be actuated by that same subject that it is in; for then it should not be a virtual, but a formal power. Do not philosophers say such an herb virtually maketh hot? and can the sottish Prelate say this virtual power is idle, and in vain given of God, because it doth not formally heat your hand when you touch it.

2. The P. Prelate, who is excommunicated for Popery, Socinianism, Arminianism, and is now turned apostate to Christ and his church, must have changed his faith, not we, and be unreasonably ignorant, to press that axiom, "That the power is idle that cannot be reduced to acts;" for a generative power is given to living and sensitive creatures,

—this power is not idle though it be not reduced in act by all and every individual sensitive creature. A power of seeing is given to all who naturally do, or ought to see, yet it is not an idle power because divers are blind, seeing it is put forth in action in divers of the kind; so this power in the community is not idle because it is not put forth in acts in the people in which it is virtua/ly, but is put forth in action in some of them whom they choose to be their governors; nor is it reasonable to say that it should be put forth in action by all the people, as if all should be kings and governors. But the question is not of the power of governing in the people, but of the power of government, that is, of the power of making governors and kings; and the community doth put forth in act this power, as a free, voluntary, and active power; for (1.) a community transplanted to India, or any place of the world not before inhabited, have a perfect liberty to choose either a monarchy, or a democracy, or an aristocracy; for though nature incline them to government in general, yet are they not naturally determined to any one of those three more than another. (2.) Israel did of their own free will choose the change of government, and would have a king as the nations had; therefore they had free will, and so an active power so to do, and not a passive inclination only to be governed, such as Spalato saith agreeeth to the first matter. (3.) Royalists teach that a people under democracy or aristocracy have liberty to choose a king; and the Romans did this, therefore they had an active power to do it,—therefore the Prelate's simile crooks: the matter at its pleasure cannot shake off its form, nor the wife cast off her husband being once married; but Barcalius, Grotius, Arnisens, Blackwood, and all the royalists, teach that the people under any of these two forms of democracy or aristocracy may resume their power, and cast off these forms and choose a monarch; and if monarchy be the best government, as royalists say, they may choose the best. And is this but a passive capacity to be governed? (4.) Of ten men fit for a kingdom they may design one, and put the crown on his head, and refuse the other nine, as Israel crowned Solomon and refused Adonijah. Is this not a voluntary action, proceeding from a free, active, elective power? It will puzzle the pretended Prelate to deny this,—that which the

1 M. Auto. de domini. Arch. Spalatens. lib. 6, c. 2, n. 6. Plebs potius habet a natura, non tam vim active rectivm aut gubernativam, quam inclinatio nem passive regibulum (ut ita loquar) et gubernabil em, qua volens et libens esse submittit rectoribus, &c.
2 Almain de potest et La. 1, q. 1, c. 1, 6, et q. 2, 3, 5.
3 Nem. don jud. not. 3, n. 85.
community doth freely, they do not from such a passive capacity as is in the first matter in regard of the form. 3. It is true that people, through corruption of nature, are averse to submit to governors "for conscience sake, as unto the Lord," because the natural man, remaining in the state of nature, can do nothing that is truly good, but it is false that men have no active moral power to submit to superiors, but only a passive capacity to be governed. He quite contradicteth himself; for he said before, (c. 4, p. 49,) that there is an "innate fear and reverence in the hearts of all men naturally, even in heathens, toward their sovereign;" yea, as we have a natural moral active power to love our parents and superiors, (though it be not evangelically, or legally in God's court, good) and so to obey their commandments, only we are averse to penal laws of superiors. But this proveth no way that we have only by nature a passive capacity to government; for heathens have, by instinct of nature, both made laws morally good, submitted to them, and set kings and judges over them, which clearly proveth that men have an active power of government by nature. Yea, what difference maketh the Prelate betwixt men and beasts? for beasts have a capacity to be governed, even lions and tigers; but here is the matter, if men have any natural power of government, the P. Prelate would have it, with his brethren the Jesuits and Arminians, to be not natural, but done by the help of universal grace; for so do they confound nature and grace. But it is certain our power to submit to rulers and kings, as to rectors, and guides, and fathers, is natural; to submit to tyrants in doing ills of sin is natural, but in suffering ills of punishment is not natural. "No man can give that which he hath not," is true, but that people have no power to make their governors is that which is in question, and denied by us. This argument doth prove that people hath no power to appoint aristocratical rulers more than kings, and so the aristocratical and democratical rulers are all inviolable and sacred as the king. By this the people may not resume their freedom if they turn tyrants and oppressors. This the Prelate shall deny, for he averreth, (p. 96,) out of Augustine, that the people may, without sin, change a corrupt democracy into a monarchy.

P. Prelate (pp. 95, 96).—If sovereignty be originally inherent in the people, then democracy, or government by the people, were the best government, because it cometh nearest to the fountain and stream of the first and radical power in the people, yea, and all other forms of government were unlawful; and if sovereignty be natively inherent in the multitude it must be proper to every individual of the community, which is against that false maxim of theirs, Quisque nascitur liber. Every one by nature is born a free man, and the posterity of those who first contracted with their elected king are not bound to that covenant, but, upon their native right and liberty, may appoint another king without breach of covenant. The posterity of Joshua, and the elders in their time, who contracted with the Gibeonites to incorporate them, though in a serving condition, might have made their fathers' government nothing.

Ans.—1. The P. Prelate might thank Spalato for this argument also, for it is stolen; but he never once named him, lest his theft should be apprehended. So are his other arguments stolen from Spalato; but the Prelate weakeneth them, and it is seen stolen goods are not blessed. Spalato saith, then, by the law of nature every commonwealth should be governed by the people, and by the law of nature the people should be under the worst government; but this consequence is nothing; for a community of many families is formally and of themselves under no government, but may choose any of the three; for popular government is not that wherein all the people are rulers, for this is confusion and not government, because all are rulers, and none are governed and ruled. But in popular government many are chosen out of the people to rule; and that this is the worst government is said gratis, without warrant; and if monarchy be the best of itself, yet, when men are in the state of sin, in some other respects it hath many inconveniences.

2. I see not how democracy is best because nearest to the multitude's power of making a king; for if all the three depend upon the free will of the people, all are alike afar off, and alike near hand, to the people's free choice, according as they see most conducive to the safety and protection of the commonwealth, seeing the forms of government are not more natural than politic incorporations of cities, yea, than of shires; but from a po-

1 Spalatensis, p. 648.
sitive institution of God, who erecteth this rather than that, not immediately now, but mediately, by the free will of men; no one cometh formally, and ex natura a rei, nearer to the fountain than another, except that materially democracy may come nearer to the people's power than monarchy, but the excellency of it above monarchy is not hence concluded: for by this reason the number of four should be more excellent than the number of five, of ten, of a hundred, of a thousand, or of millions, because four cometh near to the number of three, which Aristotle calleth the first perfect number, cui additur ō uis of which yet formally all do alike share in the nature and essence of number. 2. It is denied that it followeth from this antecedent, that the people have power to choose their own governors; therefore all governments except democracy, or government by the people, must be sinful and unlawful. (1.) Because government by kings is of divine institution, and of other judges also, as is evident from God's word, Rom. xiii. 1—3; Deut. xvii. 14; Prov. viii. 15, 16; 1 Pet. ii. 13, 14; Psal. ii. 10, 11, &c. (2.) Power of choosing any form of government is in the people; therefore there is no government lawful but popular government. It followeth no ways; but presupposeth that power to choose any form of government must be formally actual government; which is most false, yes, they be contrary, as the prevalency or power and the act are contrary; so these two are contrary, or opposite. Neither is sovereignty, nor any government, formally inherent in either the community by nature, nor in any one particular man by nature; and that every man is born free, so as no man, rather than his brother, is born a king and a ruler, I hope, God willing, to make good, as the Prelate shall never answer on the contrary. 3. It followeth not that the posterity living, when their fathers made a covenant with their first elected king, may without any breach of covenant on the king's part, make void and null their fathers' election of a king, and choose another king, because the lawful covenant of the fathers, in point of government, if it be not broken, teth the children, but it cannot deprive them of their lawful liberty naturally inherent in them to choose the fittest man to be king; but of this hereafter more fully. 4. Spalato addeth, (the Prelate is not a faithful thief,) "If the community by the law of nature have power of all forms of government, and so should be, by nature, under popular government, and yet should refuse a monarchy and an aristocracy," yet, Augustine addeth, "If the people should prefer their own private gain to the public good, and sell the commonwealth, then some good man might take their liberty from them, and, against their will, erect a monarchy or an aristocracy." But the Prelate (p. 97) and Augustine supposeth the people to be under popular government. This is not our case; for Spalato and the Prelate presupposeth by our grounds that the people by nature must be under popular government. Augustine dreameth no such thing, and we deny that by nature they are under any form of government. Augustine, in a case most considerable thinketh one good and potent man may take the corrupt people's power of giving honours, and making rulers from them, and give it to some good men, few or many, or to one; then Augustine layeth down as a ground that which Spalato and the Prelate denyeth,—that the people hath power to appoint their own rulers; otherwise, how could one man take that power from them? The Prelate's fifth argument is but a branch of the fourth argument, and is answered already.

P. Prelate (chap. 11).—He would prove that kings of the people's making are not blessed of God. The first creature of the people's making was Abimelech (Judg. ix. 22), who reigned only three years, well near Antichrist's time of endurance. He came to it by blood, and an evil spirit rose betwixt him and the men of Sechem, and he made a miserable end. The next was Jeroboam, who had this motto, He made Israel to sin. The people made him king, and he made the same pretence of a glorious reformation that our reformers now make: new calves, new altars, new feasts are erected; they banish the Levites and take in the scum and dross of the vulgar, &c. Every action of Christ is our instruction. Christ was truly born a king, notwithstanding, when the people would make

1 Spalato, 16.
2 August. de lib. arb., lib. 1, c. 6. Si depravatus populus rem privatum Reipub. preferat, atque ha-bast venale suffragium cor ruptissiue ab hist qui ho-nores amant, regnum in affectiosis conscriberestisque committat; non ne item recte, si quis tunc exiliter vir bonus qui plurimum possis, adhuc huic populo postestatem dandi honores, et in pavorum bonorum, vel etiam unius redregat arbitrium?
him a king, he disclaimed it—he would not be an arbiter betwixt two brethren differing.

*Ans.*—I am not to follow the Prelate’s order every way, though, God willing, I shall reach him in the forthcoming chapters. Nor purpose I to answer his treasonable railing against his own nation, and the judges of the land, whom God hath set over this seditious excommunicated apostate. He layeth to us frequently the Jesuit’s tenets, when as he is known himself to be a papist. In this argument he saith, Abimelech did reign only three years, well near Antichrist’s reign. Is not this the basis and the mother principle of popery? That the Pope is not the Antichrist, for the Pope hath continued many ages? He is not an individual man, but a race of men; but the Antichrist, saith Belarmine, Stapleton, Becanus, and the nation of Jesuits and poplings, shall be one individual man—a born Jew, and shall reign only three years and a half. But, 1. The argument from success proveth nothing; except the Prelate prove their bad success to be from this, because they were chosen of the people. When as Saul chosen of God, and most of the kings of Israel and Judah, who, undeniably, had God’s calling to the crown, were not blessed of God; and their government was a ruin to both people and religion, as the people were removed to all the kingdoms of the earth, for the sins of Manasseh, Jer. xv. 4. Was therefore Manasseh not lawfully called to the crown? 2. For his instance of kings unlawfully called to the throne, he bringeth us whole two, and telleth us that he doubteth, as many learned men do, whether Jeroboam was a king by permission only, or by a commission from God. 3. Abimelech was cursed, because he wanted God’s calling to the throne; for then Israel had no king, but judges, extraordinarily raised up by God; and God did not raise him at all, only he came to the throne by blood, and carnal reasons moving the men of Sechem to advance him. The argument presupposeth that the whole lawful calling of a king is the voices of the people. This we never taught, though the Prelate make conquest a just title to a crown, and it is but a title of blood and rapine. 4. Abimelech was not the first king, but only a judge. All our divines, with the word of God, maketh Saul the first king. 5. For Jeroboam had God’s word and promise to be king, 6. 1 Kings xi. 34—38. But, in my weak judgment, he waited not God’s time and way of coming to the crown; but that his coming to the throne was unlawful, because he came by the people’s election, is in question. 6. That the people’s reformation, and their making a new king, was like the kingdom of Scotland’s reformation, and the parliament of England’s way now, is a traitorous calumny. For, 1. It condemneth the king, who hath, in parliament, declared all their proceedings to be legal. Rehoboam never declared Jeroboam’s coronation to be lawful, but, contrary to God’s word, made war against Israel. 2. It is false that Israel pretended religion in that change. The cause was the rough answer given to the supplication of the estates, complaining of the oppression they were under in Solomon’s reign. 3. Religion is still subjected to policy by prelates and cavaliers, not by us in Scotland, who sought nothing but reformation of religion, and of laws so far as they serve religion, as our supplications, declarations, and the event proved. 4. We have no new calves, new altars, new feasts, but profess, and really do hazard, life and estate, to put away the Prelate’s calves, images, tree-worship, altar-worship, saints, feast-days, idolatry, masses; and nothing is said here but Jesuits, and Canaanites, and Baalites, might say, (though falsely) against the reformation of Josiah. Truth and purity of worship this year is new in relation to idolatry last year, but it is *simpliciter* older. 5. We have not put away the Lord’s priests and Levites, and taken in the scum of the vulgar, but have put away Baal’s priests, such as excommunicated Prelate Maxwell and other apostates, and resumed the faithful servants of God, who were deprived and banished for standing to the Protestant faith, sworn to by the prelates themselves. 6. Every action of Christ, such as his walking on the sea, is not our instruction in that sense, that Christ’s refusing a kingdom is directly our instruction. And did Christ refuse to be a king, because the people would have made him a king? That is, *non causa pro causa*, he refused it, because his kingdom was not in this world, and he came to suffer for men, not to reign over men. 7. The Prelate, and others who were lords of session, and would be judges of men’s inheritances, and would usurp the sword by being lords of council and parliament, have refused to be instructed by every action of
Christ, who would not judge betwixt brother and brother.

P. Prelate.—Jephthah came to be judge by covenant betwixt him and the Gileadites. Here you have an interposed act of man, yet the Lord himself, in authorising him as judge, vindicated it no less to himself, than when extraordinarily he authorised Gideon and Samuel, 1 Sam. xii. 11; therefore, whatsoever act of man interveneth, it contributeth nothing to royal authority—it cannot weaken or repeal it.

Ans.—It was as extraordinary that Jephthah, a bastard and the son of an harlot, should be judge, as that Gideon should be judge. God vindicateth to himself, that he giveth his people favour in the eyes of their enemies. But doth it follow that the enemies are not agents, and to be commended for their humanity in favouring the people of God? So Psalm. lxv. 9, 10, God maketh corn to grow, therefore clouds, and earth, and sun, and summer, and husbandry, contributeth nothing to the growing of corn. But this is but that which he said before. We grant that this is an eminent and singular act of God's special providence, that he moveth and boweth the wills of a great multitude to promote such a man, who, by nature, cometh no more out of the womb a crowned king, than the poorest shepherd in the land; and it is an act of grace to endue him with heroic and royal parts for the government. But what is all this? Doth it exclude the people's consent? In no ways. So the works of supernatural grace, as to love Christ above all things, to believe in Christ in a singular manner, are ascribed to the rich grace of God. But can the Prelate say that the understanding and will, in these acts, are merely passive, and contributeth no more than the people contributeth to royal authority in the king? and that is just nothing by the Prelate's way. And we utterly deny, that as water in baptism hath no action at all in the working of remission of sins, so the people hath no influence in making a king; for the people are worthier and more excellent than the king, and they have an active power of ruling and directing themselves toward the intrinsical end of human policy, which is the external safety and peace of a society, in so far as there are moral principles of the second table, for this effect, written in their heart; and, therefore, that royal authority which, by God's special providence, is united in one 

king, and, as it were, over-gilded and lusted with princely grace and royal endowments, is diffused in the people, for the people hath an after-approbative consent in making a king, as royalists confess water hath no such action in producing grace.

QUESTION IX.

WHETHER OR NO SOVEREIGNTY IS SO FROM THE PEOPLE, THAT IT REMAINETH IN THEM IN SOME PART, SO AS THEY MAY, IN CASE OF NECESSITY, RESUME IT.

The Prelate will have it Babylonish confusion, that we are divided in opinion. Jesuits (saith he) place all sovereignty in the community. Of the sectaries, some warrant any one subject to make away his king, and such a work is no less to be rewarded than when one killeth a wolf. Some say this power is in the whole community; some will have it in the collective body, not convened by warrant or writ of sovereignty; but when necessity (which is often fancied) of reforming state and church, calleth them together; some in the nobles and peers; some in the three estates assembled by the king's writ; some in the inferior judges.

I answer, If the Prelate were not a Jesuit himself, he would not bid his brethren take the mote out of their eye; but there is nothing here said but what Barcellus said better before this plagiarist. To which I answer, We teach that any private man may kill a tyrant, void of all title; and that great Royalist saith so also. And if he have not the consent of the people, he is an usurper, for we know no external lawful calling that kings have now, or their family, to the crown, but only the call of the people. All other calls to us are now invisible and unknown; and God would not command us to obey kings, and leave us in the dark, that we shall not know who is the king. The Prelate placeth his lawful calling to the crown, in such an immediate, invisible, and subtle act of omnipotence, as that whereby God conferreth remission of sins, by spinking with water in baptism, and that where-

1 Barcellus contr. Monarch. lib. 4, c. 10, p. 268, ut hostes publicos non solum ab universo populo, sed a singulis etiam impeti aedique jure optimo posse tota Antiquitas censuit.
by God directed Samuel to anoint Saul and David, not Eliab, nor any other brother. It is the devil in the P. P., not any of us, who teach that any private man may kill a lawful king, though tyrannous in his government. For the subject of royal power, we affirm, the first, and ultimate, and native subject of all power, is the community, as reasonable men naturally inclining to a society; but the ethical and political subject, or the legal and positive receptacle of this power, is various, according to the various constitutions of the policy. In Scotland and England, it is the three estates of parliament; in other nations, some other judges or peers of the land. The Prelate had no more common sense for him to object a confusion of opinion to us, for this, than to all the commonwealths on earth, because all have not parliaments, as Scotland hath. All have not constables, and officials, and churchmen, and barons, lords of council, parliaments, &c., as England had; but the truth is, the community, orderly convened, as it includeth all the estates civil, have hand, and are to act in choosing their rulers. I see not what privilege nobles have, above commons, in a court of parliament, by God’s law; but as they are judges, all are equally judges, and all make up one congregation of God’s. But the question now is, if all power of governing (the Prelate, to make all the people kings, saith, if all sovereignty) be so in the people that they retain power to guard themselves against tyranny; and if they retain some of it, habitus, in habit, and in their power. I am not now unseasonably, according to the Prelate’s order, to dispute of the power of lawful defence against tyranny; but, I lay down this maxim of divinity: Tyranny being a work of Satan, is not from God, because sin, either habitual or actual, is not from God: the power that is, must be from God; the magistrate, as magistrate, is good in nature of office, and the intrinsic end of his office, (Rom. xiii. 4) for he is the minister of God for thy good; and, therefore, a power ethical, politic, or moral, to oppress, is not from God, and is not a power, but a licentious deviation of a power; and is no more from God, but from sinful nature and the old serpent, than a license to sin. God in Christ giveth pardons of sin, but the Pope, not God, giveth dispensations to sin. To this add, if for nature to defend itself be lawful, no community, without sin, hath power to alienate and give away this power; for as no power given to man to murder his brother is of God, so no power to suffer his brother to be murdered is of God; and no power to suffer himself, a fortiori, far less can be from God. Here I speak not of physical power, for if free will be the creature of God, a physical power to acts which, in relation to God’s law, are sinful, must be from God.

But I now follow the P. Prelate (c. ix., p. 101, 102).—Some of the adversaries, as Buchanan, say that the parliament hath no power to make a law, but only proelermai without the approbation of the community. Others, as the Observer, say, that the right of the gentry and commonality is entirely in the knights and burgesses of the House of Commons, and will have their orders irrevocable. If, then, the common people cannot resume their power and oppose the parliament, how can tables and parliaments resume their power and resist the king?

Ans.—The ignorant man should have thanked Barcalius for this argument, and yet Barcalius need not thank him, for it hath not the nerves that Barcalius gave it. But I answer, 1. If the parliament should have been corrupted by fair hopes (as in our age we have seen the like) the people did well to resist the Prelate’s obtruding the Mass Book, when the lords of the council pressed it, against all law of God and man, upon the kingdom of Scotland; and, therefore, it is denied that the acts of parliament are irrevocable. The observer said they were irrevocable by the king, he being but one man; the P. Prelate wrongeth him, for he said only, they have the power of a law, and the king is obliged to consent, by his royal office, to all good laws, and neither king nor people may oppose them. Buchanan said, Acts of parliament are not laws, obliging the people, till they be promulgated; and the people’s silence, when they are promulgated, is their approbation, and maketh them obligatory laws to them; but if the people speak against unjust laws, they are not laws at all: and Buchanan knew the power of the Scottish parliament better than this ignorant statist. 2. There is not like reason to grant so much to the king, as to parliaments, because, certainly, parliaments who make kings under God, or above any one man, and they must have more authority and wisdom than any one king, except Solomon (as base flatterers say) should return to the thrones of the earth. And as
the power to make just laws is all in the parliament, only the people have power to resist tyrannical laws. The power of all the parliament was never given to the king by God. The parliament are as essentially judges as the king, and, therefore, the king’s deed may well be revoked, because he seteth nothing as king, but united with his great or lesser council, no more than the eye can see, being separated from the body. The peers and members of parliament have more than the king, because they have their own power, being parts and special members of the people, and, also, they have their high places in parliament, either from the people’s express or tacit consent. 3. We allow no arbitrary power to the parliament, because their just laws are irrevocable; for the irrevocable power of making just laws doth argue a legal, not an irrevocable, arbitrary power; nor is there any arbitrary power in the people, or in any mortal man. But of the covenant betwixt king and people hereafter.

P. Prelate (c. 10, p. 105).—If sovereign power be habitually in the community, so as they may resume it at their pleasure, then nothing is given to the king but an empty title; for, at the same instant, he receiveth empire and sovereignty, and layeth down the power to rule or determine in matters which concern either private or public good, and so he is both a king and a subject.

Ans.—This naked consequence the Prelate saith and proveth not, and we deny it, and give this reason. The king receiveth royal power with the states to make good laws, and power by his royalty to execute those laws, and this power the community hath devolved in the hands of the king and states of parliament; but the community keepeth to themselves a power to resist tyranny, and to coerce it, and e tenus in so far is Saul subject, that David is not to compere before him, nor to lay down Goliath’s sword, nor disband his army of defence, though the king should command him so to do.

P. Prelate (c. xvi, pp. 105—107).—By all politicians, kings and inferior magistrates are differenced by their different specific entity, but by this they are not differenced; nay, a magistrate is in a better condition than a king, for the magistrate is to judge by a known statute and law, and cannot be censured and punished but by law. But the king is censurable, yea, disabled by the multitude; yea, the basest of subjects may cite and convent the king, before the underived majesty of the community, and he may be judged by the arbitrary law that is in the closet of their hearts, not only for real misdemeanour, but for fancied jealousies. It will be said, good kings are in danger; the contrary appeareth this day, and ordinarily the best are in greatest danger. No government, except Plato’s republic, wanteth in commodities: subtle spirits may make them apprehend them. The poor people, bewitch’d, follow Absalom in his treason; they strike not at royalty at first, but labour to make the prince naked of the good council of great statesmen, &c.

Ans.—Whether the king and the under magistrate differ essentially, we shall see. 1. The P. Prelate saith all politicians grant it, but he saith untruth. He bringeth the power of Moses and the judges to prove the power of kings; and so either the judges of Israel and the kings differ not essentially, or then the Prelate must correct the spirit of God, terming one book of Scripture Kings, and another Judges, and make the book of Kings the book of Judges. 2. The magistrate’s condition is not better than the king’s, because the magistrate is to judge by a known statute and law, and the king not so. God moulded the first king, (Deut. xvii. 18,) when he sitteth judging on his throne, to look to a written copy of the law of God, as his rule. Now, a power to follow God’s law is better than a power to follow man’s sinful will; so the Prelate puttheth the king in a worse condition than the magistrate, not we, who will have the king to judge according to just statutes and laws. 3. Whether the king be censurable and disposable by the multitude, he cannot determine out of our writings. 4. The community’s law is the law of nature—not their arbitrary lust. 5. The Prelate’s treasonable railings I cannot follow. He saith that we agree not ten of us to a positive faith, and that our faith is negative; but his faith is Privative, Popish, Socinian, Arminian, Pelagian, and worse, for he was one of that same faith that we are of. Our Confession of Faith is positive, as the confession of all the reformed churches; but I judge he thinketh the Protestant faith of all the reformed churches but negative. The incommodities of government, before our reformation, were not fancied, but prin-
ted by authority. All the b:dy of popery was printed and avowed as the doctrine of the Church of Scotland and England, as the learned author, and my much respected brother, evidenceth in his Luctenium, the Canterbury Self-conviction. The parliament of England was never yet found guilty of treason. The good counselors of great statesmen, that parliaments of both kingdoms would take from the king's majesty, are a faction of perjured Papists, Prelates, Jesuits, Irish cut-throats, Straffords, and Apostates; subverters of all laws, divine, human, of God, of church, of state.

P. Prelate (c. 15, pp. 147, 148).—In whomsoever this power of government be it is the only remedy to supply all defects, and to set right whatever is disjointed in church and state, and the subject of this superintending power must be free from all error in judgment and practice, and so we have a pope in temporalibus; and if the parliament err the people must take order with them, else God hath left church and state remediless.

Ans.—1. This is stolen from Barcuaus also, who saith, Si Rex regnum suum aliena ditioni manciparit, regno cadit: "If the king shall sell his kingdom, or enslave it to a foreign power, he falleth from all right to his kingdom." But who shall execute any such law against him? not the people, not the peers, not the parliament; for this mancipium ventris et aulae, this slave saith, (p. 149), "I know no power in any to punish or curb sovereignty but in Almighty God." 2. We see no superintending power on earth, in king or people, which is infallible, nor is the last power of taking order with a prince who enslaveth his kingdom to a foreign power, placed by us in the people because they cannot err. Court flatterers, who teach that the will of the prince is the measure of all right and wrong, of law and no law, and above all law, must hold that the king is a temporal pope, both in ecclesiastical and civil matters; but because they cannot so readily destroy themselves (the law of nature having given to them a contrary internal principle of self-preservation) as a tyrant who doth care for himself, and not for the people. 3. And because Extremis morbis extrema remedia, in an extraordinary exigent, when Ahab and Jeze-

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1 Barcuaus contra Monarchum. lib. 5, c. 12, idem. lib. 3, c. ult. p. 2, 3.
nor yet Joab, the nearest agent of the murdering of innocent Uriah, because Bathsheba's adultery was the king's adultery—she did it in obedience to king David; Joab's murder was royal murder, as the murder of all the cavaliers, for he had the king's handwriting for it. Murder is murder, and the murderer is to die, though the king by a secret let-alone, a private and illegal warrant, command it; therefore the Sanhedrim might have taken Bathsheba's life and Joab's head also; and, consequently, the parliament of England, if they be judges, (as I conceive God and the law of that ancient and renowned kingdom maketh them,) may take the head of many Joabs and Jerminys for murder; for the command of a king cannot legitimize murder. 4. David himself, as king, speakest more for us than for the Prelate,—2 Sam. xii. 7. "And David's anger was greatly kindled against the man, (the man was himself, ver. 7, 'Thou art the man,)" and he said to Nathan, as the Lord liveth, the man that hath done this thing shall surely die." 5. Every act of injustice doth not unking a prince before God, as every act of uncleanness doth not make a wife no wife before God. 6. The Prelate excuses Nero, and would not have him resisted, if "all Rome were one neck that he might cut it off with one stroke (I read it of Caligula; if the Prelate see more in history than I do, I yield)." 7. He saith, the thoughts of total eversion of a kingdom must only fall on a madman. The king of Britain was not mad when he declared the Scots traitors (because they resisted the service of the mass) and raised an army of prelatical cut-throats to destroy them, if all the kingdom should resist idolatry (as all are obliged). The king slept upon this prelatical resolution many months: passions in favour have not a day's reign upon a man; and this was not so clear as the sun, but it was as clear as written, printed proclamations, and the pressing of soldiers, and the visible marching of cut-throats, and the blocking up of Scotland by sea and land, could be visible to men having five senses.

Covarruvias, a great lawyer, saith, 1 that all civil power is pene cemp. in the hands of the commonwealth; because nature hath given to man to be a social creature, and impossible he can preserve himself in a society except he, being in community, trans-

1 Covarruvias. tom. 2, pract. quest. c. 1, n. 2—4.

form his power to an head. He saith: Husus vero civilis societatis et resp. rector ob alio quam ab ipsamen repub. constituiri non potest juste et abeq. tyrannide. Sicquidem ab ipso Deo constitutius non est, nec electus cui libet civil societati immediate Rex aut Princeps. Arist. (pol. 3, c. 10) saith, "It is better that kings be got by election than by birth; because kingdoms by succession are vene regia, truly kindly: these by birth are more tyrannical, masterly, and proper to barbarous nations. And Covarru. (tom. 2, pract. quest. de jurisdict. Castellan. Reip. c. 1, n. 4) saith, "Hereditary kings are also made hereditary by the tacit consent of the people, and so by law and consuetude." 3

Spalato saith, "Let us grant that a society shall refuse to have a governor over them, shall they be for that free? In no sort. But there be many ways by which a people may be compelled to admit a governor; for then no man might rule over a community against their will. But nature hath otherwise disposed, ut quod singulii nollent, universi vellent, that which every one will not have, a community naturally desireth." And the Prelate saith, "God is no less the author of order than he is the author of being; for the Lord who createth all conserveth all; and without government all human societies should be dissolved and go to ruin: then government must be natural, and not depend upon a voluntary and arbitrary constitution of men. In nature the creatures inferior give a tacit consent and silent obedience to their superior, and the superior hath a powerful influence on the inferior. In the subordination of creatures we ascend from one superior to another, till at last we come to one supreme, which, by the way, pleadeth for the excellency of monarchy. Amongst angels there is an order; how can it then be supposed that God hath left it to the simple consent of man to establish a heraldry of sub et supra, of one above another, which neither nature nor the gospel doth warrant? To leave it thus arbitrary, that upon this supposed principle mankind may be without government at all, is vain; which paradox cannot be maintained. In nature God hath established a superiority inherent in superior creatures, which is no ways derived from the inferior by communication in what proportion it will, and resumable upon such

1 Spalato de rep. eccles. lib. 6, c. 2, n. 32.
exigents as the inferior listeth; therefore neither hath God left to the multitude, the community, the collective, the representative or virtual body, to derive from itself and communicate sovereignty, whether in one or few, or more, in what measure and proportion pleaseth them, which they resume at pleasure.”

**Ans.**—To answer Spalato: No society hath liberty to be without all government, for “God hath given to every society,” saith Covarruias, “a faculty of preserving themselves, and warding off violence and injuries; and this they could not do except they gave their power to one or many rulers.” But all that the Prelate buildeth on this false supposition, which is his fiction and calumny, not our doctrine, to wit, “that it is voluntary to man to be without all government, because it is voluntary to them to give away their power to one or more rulers,” is a mere non-consequence. We teach that government is natural, not voluntary; but the way and manner of government is voluntary. All societies should be quickly ruined if there were no government; but it followeth not, therefore, God hath made some kings, and that immediately, without the intervening consent of the people, and, therefore, it is not arbitrary to the people to choose one supreme ruler, and to erect a monarchy, or to choose more rulers, and to erect an aristocracy. It followeth no way. It is natural to men to express their mind by human voices. Is not speaking of this or that language, Greek rather than Latin, (as Aristotle saith,) ἡ συναίνεσις by human institution? It is natural for men to eat, therefore election of this or that meat is not in their choice. What reason is in this consequence? And so it is a poor consequence also. Power of sovereignty is in the people naturally, therefore is it not in their power to give it out in that measure that pleaseth them, and to resume it at pleasure. It followeth no way. Because the inherency of sovereignty is natural and not arbitrary, therefore, the alienation and giving out of the power to one, not to three, thus much, not thus much, conditionally, not absolutely and irrevocably, must be also arbitrary. It is as if you should say, a father having six children, naturally loveth them all, therefore he hath not freedom of will in expressing his affection, to give so much of his goods to this son, and that conditionally, if he use these goods well; and not more or less of his goods at his pleasure. 2. There is a natural subordination in nature in creatures superior and inferior, without any freedom of election. The earth made not the heavens more excellent than the earth, and the earth by no freedom of will made the heavens superior in excellency to itself. Man gave no superiority of excellence to angels above himself. The Creator of all beings did both immediately, without freedom of election in the creature, create the being of all the creatures, and their essential degrees of superiority and inferiority, but God created not Saul by nature king over Israel; nor is David by the act of creation by which he is made a man, created also king over Israel; for then David should from the womb and by nature be a king, and not by God’s free gift. Here both the free gift of God, and the free consent of the people intervene. Indeed God made the office and royalty of a king above the dignity of the people, but he, by the intervening consent of the people, maketh David a king, not Eliah; and the people maketh a covenant at David’s inauguration, that David shall have so much power, to wit, power to be a father, not power to be a tyrant,—power to fight for the people, not power to waste and destroy them. The inferior creatures in nature give no power to the superior, and therefore they cannot give in such a proportion power. The denial of the positive degree is a denial of the comparative and superlative, and so they cannot resume any power; but the designing of these men or those men to be kings or rulers is a rational, voluntary action, not an action of nature,—such as is God’s act of creating an angel a nobler creature than man, and the creating of man a more excellent creature than a beast; and, for this cause, the argument is vain and foolish; for inferior creatures are inferior to the more noble and superior by nature, not by voluntary designation, or, as royalists say, by naked approbation, which yet must be an arbitrary and voluntary action. 3. The Prelate commendeth order while we come to the most supreme; hence he commendeth monarchy above all governments because it is God’s government. I am not against it, that monarchy well-tempered is the best government, though the question to me is most problematic; but because God is a monarch who cannot err or

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1 Covarr. tom. 4, pract. quest. c. 1, n. 2.
deny himself, therefore that sinful man be a monarch is miserable logic; and he must argue solidly, forsooth, by this, because there is order, as he saith, amongst angels, will he make a monarch and a king-angel? His argument, if it have any weight at all in it, driveth at that, even that there be crowned kings amongst the angels.

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QUESTION X.

WHETHER OR NOT ROYAL BIRTH BE EQUIVALENT TO DIVINE UNTION.

Symmons holdeth that birth is as good a title to the crown, as any given of God. How this question can be cleared, I see not, except we dispute that, Whether or not kingdoms be proper patronies derived from the father to the son. I take there is a large difference betwixt a thing transmissible by birth from the father to the son, and a thing not transmissible. I conceive, as a person is chosen to be a king over a people, so a family or house may be chosen; and a kingdom at first choosing a person to be their king, may also tie themselves to choose the first-born of his body, but as they transfer their power to the father, for their own safety and peace, (not if he use the power they give him to their destruction,) the same way they tie themselves to his first-born, as to their king. As they choose the father not as a man, but a man gifted with royal grace and a princely faculty for government, so they can but tie themselves to his first-born, as to one graced with a faculty of governing; and if his first-born shall be born an idiot and a fool, they are not obliged to make him king; for the obligation to the son can be no greater than the obligation to the father, which first obligation is the ground, measure, and cause, of all posterior obligations. If tutors be appointed to govern such an one, the tutors have the royal power, not the idiot; nor can he govern others who cannot govern himself. That kings go not as heritage from the father to the son, I prove,

1. God (Deut. xvii.) could not command them to choose such an one for the king, and such an one who, sitting on his throne, shall follow the direction of God, speaking in his word, if birth were that which gave him God’s title and right to the crown; for that were as much as such a man should be heir to his father’s inheritance, and the son not heir to his father’s crown, except he were such a man. But God, in all the law moral or judicial, never required the heir should be thus and thus qualified, else he should not be heir; but he requireth that a man, and so that a family, should be thus and thus qualified, else they should not be kings. And I confirm it thus:—The first king of divine institution must be the rule, pattern, and measure, of all the rest of the kings, as Christ maketh the first marriage (Matt. xix. 8,) a pattern to all others; and Paul reduceth the right administration of the Supper to Christ’s first institution, 1 Cor. xi. 23. Now, the first king (Deut. xvi. 14, 15) is not a man qualified by naked birth, for then the Lord, in describing the manner of the king and his due qualifications, should seek no other but this, You shall choose only the first-born, or the lawful son of the former king. But seeing the king of God’s first moulding is a king by election, and what God did after, by promises and free grace, give to David and his seed, even a throne till the Messiah should come, and did promise to some kings, if they would walk in his commandments, that their sons, and sons’ sons, should sit upon the throne, in my judgment, is not an obliging law that sole birth should be as just a title, in foro Dei, (for now I dispute the question in point of conscience,) as royal unction.

2. If, by divine institution, God hath impawed in the people’s hand a subordinate power to the Most High, who giveth kingdoms to whom he will, to make and create kings, then is not sole birth a just title to the crown, But the former is true. By precept (Deut. xvi. 15) God expressly saith, “Thou shalt choose him king, whom the Lord shall choose.” And if it had not been the people’s power to create their own kings, how doth God, after he had designed Saul their king, yet expressly (1 Sam. x.) inspire Samuel to call the people before the Lord at Mizpeh to make Saul king? And how doth the Lord (ver. 22) expressly shew to Samuel and the people, the man that they might make him king? And because all consented not that Saul should be king, God will have his coronation renewed. Ver. 14, “Then said Samuel to the people, come and

1 Edward Symmons, in his Loyal Subjects Belief, sect. 3, p. 16.
let us go to Gilgal, and renew the kingdom
there;" ver. 15, "And all the people went
to Gilgal, and there they made Saul king
before the Lord in Gilgal." And how is it
that David, anointed by God, is yet no king,
but a private subject, while all Israel make
him king at Hebron?

3. If royal birth be equivalent to royal
unction and the best title; if birth speak and
decide to us the Lord's will and appoint-
ment, that the first-born of a king should be
king, as M. Symmons and others say, then
is all title by conquest, where the former
king standeth in title to the crown and hath
an heir, unlawful. But the latter is against
all the nation of the royalists, for Arnisseus,
Barclay, Grotius, Jo. Rossensis Episcop.,
the Bishop of Spalato, Dr Ferne, M. Symmons,
the excommunicate Prelate, if his poor learn-
ing may bring him in the roll, teach that
conquest is a lawful title to a crown. I
prove the proposition, (1.) because if birth
speak God's revealed will, that the heir of a
king is the lawful king, then conquest can-
not speak contrary to the will of God, that
he is no lawful king, but the conqueror is
the lawful king. God's revealed will should
be contradictory to himself, and birth should
speak, it is God's will that the heir of the
former king be king, and the conquest being
also God's revealed will, should also speak
that that heir should not be king. (2.) If
birth speak and reveal God's will that the
heir be king, it is unlawful for a conquered
people to give their consent that a conque-
ror be their king; for their consent being
counter to God's revealed will, (which is,
that birth is the just title,) must be an un-
lawful consent. If royalists say, God, the
King of kings, who immediately maketh
kings, may and doth transfer kingdoms to
whom he will; and when he putteth the
sword in Nebuchadnezzar's hand to con-
quar the king and kingdom of Judah, then
Zedekiah or his son is not king of Judah,
but Nebuchadnezzar is king, and God, be-
ing above his law, speaketh in that case his
will by conquiste, as before he spake his
will by birth. This is all can be said. Ans.
They answer black treason in saying so, for
if Jeremiah, from the Lord, had not com-
manded expressly, that both the king and
kingdom of Judah should submit to the king
of Babylon, and serve him, and pray for
him, as their lawful king, it had been as
lawful for them to rebel against that tyrant,
as it was for them to fight against the Phi-
listines and the king of Ammon; but if birth
be the just and lawful title, in foro Dei,
in God's court, and the only thing that evi-
denceth God's will, without any election of
the people, that the first-born of such a
king is their lawful king, then conquests can-
not now speak a contradictory will of God;
for the question is not, whether or not God
giveth power to tyrants to conquer kingdoms
from the just heirs of kings, which did reign
lawfully before their sword made an empty
throne, but whether conquest now, when
Jeremias are not sent immediately from
God to command, for example, Britain to
submit to a violent intruder, who hath ex-
pelled the lawful heirs of the royal line of
the king of Britain, whether, I say, doth
conquest, in a such a violent way, speak that
it is God's revealed will, called Voluntas
signi, the will that is to rule us in all our
moral duties, to cast off the just heirs of
the blood royal, and to swear homage to a
conqueror, and so as that conqueror now
hath as just right as the king of Britain
had by birth. This cannot be taken off by
the wit of any who maintain that conquest
is a lawful title to a crown, and that royal
birth, without the people's election, speaketh
God's regulating will in his word, that the
first-born of a king is a lawful king by birth,
for God now-a-days doth not say the con-
trary of what he revealed in his word. If
birth be God's regulating will, that the heir
of the king is in God's court a king, no act
of the conqueror can annul that word of
God to us, and the people may not lawfully,
though they were ten times subdued, swear
homage and allegiance to a conqueror against
the due right of birth, which by royalists'
doctrine revealeth to us the plain contradic-
tory will of God. It is, I grant, often God's
decree revealed by the event, that a conque-
or be on the throne, but this will is not our
rule, and the people are to swear no oath of
allegiance contrary to God's Voluntas signi,
which is his revealed will in his word regu-
lating us.

4. Things transferable and communicable
by birth from father to son, are only, in
law, those which heathens call bona fortuna
riches, as lands, houses, monies and heri-
tages; and so saith the law also. These
things which essentially include gifts of the
mind, and honour properly so called—I
mean honour founded on virtue—as Aris-
totle, with good reason, maketh honour pra-
eminum virtutis, cannot be communicated by
birth from the father to the son; for royal dignity includeth these three constituent parts essentially, of which none can be communicable by birth. (1.) The royal faculty of governing, which is a special gift of God above nature, is from God. Solomon asked it from God, and had it not by generation from his father David. (2.) The royal honour to be set above the people because of this royal virtue is not from the womb, for then God's Spirit would not have said, "Blessed art thou, O land, when thy king is the son of nobles," Eccl. x. 17; this honour, springing from virtue, is not born with any man, nor is any man born with either the gift or honour to be a judge. God maketh high and low, not birth. Nobles are born to great estates. If judging be heritage to any, it is a municipal positive law, I now speak in point of conscience. (3.) The external lawful title, before men come to a crown, must be God's will, revealed by such an external sign as, by God's appointment and warrant, is to regulate our will; but according to Scripture, nothing regulateth our will, and leadeth the people now that they cannot err following God's rule in making a king, but the free suffrages of the states choosing a man whom they conceive God hath endued with these royal gifts required in the king whom God holdeth forth to them in his word. (Deut. xvii.) Now there be but these to regulate the people, or to be a rule to any man to ascend lawfully, in foro Dei, in God's court to the throne. (1.) God's immediate designation of a man by prophetic and divinely-inspired unction, as Samuel anointed Saul and David; this we are not to expect now, nor can royalists say it. (2.) Conquest, seeing it is an act of violence, and God's revenging justice for the sins of a people, cannot give in God's court such a just title to the throne as the people are to submit their consciences unto, except God reveal his regulating will by some immediate voice from heaven, as he commanded Judah to submit to Nebuchadnezzar as to their king by the mouth of Jeremiah. Now this is not a rule to us; for then, if the Spanish king should invade this land, and, as Nebuchadnezzar did, defice the temple, and instruments and means of God's worship, and abolish the true worship of God, it should be unlawful to resist him, after he had once conquered the land; neither God's word, nor the law of nature could permit this. I suppose, even by grant of adversaries, now no act of violence done to a people, though in God's court they have deserved it, can be a testimony to us of God's regulating will; except it have some warrant from the law and testimony, it is no rule to our conscience to acknowledge him a lawful magistrate, whose sole law to the throne is an act of the bloody instrument of divine wrath, I mean the sword. That, therefore, Judah was to submit, according to God's word, to Nebuchadnezzar, whose conscience and best warranted calling to the kingdom of Judah was his bloody sword, even if we suppose Jeremiah had not commanded them to submit to the king of Babylon, I think cannot be said. (3) Naked birth cannot be this external signification of God's regulating will to warrant the conscience of any to ascend to the throne, for the authors of this opinion make royal birth equivalent to divine union; for David anointed by Samuel, and so anointed by God, is not king.—Saul remained the Lord's anointed many years, not David, although anointed by God; the people's making him king at Hebron, founded upon divine union, was not the only external lawful calling that we read of that David had to the throne; then royal birth, because it is but equivalent only to divine union, not superior to divine union, it cannot have more force to make a king than divine union. And if birth was equivalent to divine union, what needed Jonah, who had royal birth, be made king by the people? and what needed Saul and David, who had more than royal birth, even divine union, be made kings by the people? and Saul, having the vocal and inallible testimony of a prophet, needed not the people's election—the one at Mizpeh and Gilgal, and the other at Hebron.

5. If royal birth be as just a title to the crown as divine union, and so as the people's election is no title at all, then is it unlawful that there should be a king by election in the world now; but the latter is absurd,—so is the former. I prove the proposition, because where conquerors are wanting, and there is no king for the present, but the people governing, and so much confusion aboundeth, they cannot lawfully appoint a king, for his lawful title before God must either be conquest—which to me is no title—and here, and in this case, there is no conquest—or the title must be a prophetic word immediately inspired of God, but this is now ceased; or the title must be
royal birth, but here there is no royal birth, because the government is popular; except you imagine that the society is obliged in conscience to go and seek the son of a foreign king to be their king. But I hope that such a royal birth should not be a just title before God to make him king of that society to which he had no relation at all, but is a mere stranger. Hence in this case no title could be given to any man to make him king, but only the people’s election, which is that which we say. And it is most unreasonable that a people under popular government cannot lawfully choose a king to themselves, seeing a king is a lawful magistrate, and warranted by God’s word, because they have not a king of royal birth to sit upon the throne.

Mr Symmons saith 1 that birth is the best title to the crown, because after the first of the family had been anointed union was no more used in that family, unless there arose a strife about the kingdom, as betwixt Solomon and Adonijah, Joash and Athaliah; the eldest son of the predecessor was afterward the chosen of the Lord, his birthright spake the Lord’s appointment as plainly as his father’s union.  

Ans. 1. It is a conjecture that union was not used in the family, after the first union, except the contest was betwixt two brethren: that is said, not proved; for 2 Kings xxxii. 30, when good Josiah was killed, and there was no contest concerning the throne of that beloved prince, the people of the land took Je-hoahaz his son, and anointed him, and made him king in his father’s stead; and the priests were anointed, (Lev. vi. 22.) yea, all the priests were anointed, (Num. iii. 3.) yet read we not in the history, where this or that man was anointed. 2. In that Adonijah, Solomon’s elder brother, was not king, it is clear that God’s anointing and the people’s electing made the right to the crown, and not birth. 3. Birth de facto did design the man, because of God’s special promises to David’s house; but how doth a typical descent made to David, and some others by God’s promise, prove, that birth is the birhtright and lawful call of God to a crown in all after ages? For as gifts to reign goeth not by birth, so neither doth God’s title to a crown go.

M. Symmons.—A prince once possessed of a kingdom coming to him by inheritance, can never, by any, upon any occasion be dispossessed thereof, without horrible impiety and injustice. Royal union was an indelible character of old: Saul remained the Lord’s anointed till the last gasp. David durst not take the right of government actually unto him, although he had it in reversion, being already anointed thereunto, and had received the spirit thereof.

Ans.—1. This is the question, If a prince, once a prince by inheritance, cannot be dispossessed thereof without injustice; for if a kingdom be his by birth, as an inheritance transmitted from the father to the son, I see not but any man upon necessary occasions may sell his inheritance; but if a prince sell his kingdom, a very Barclay and a Grothus with reason will say, he may be dispossessed and dethroned, and take up his indelible character then. (2.) A kingdom is not the prince’s own, so as it is injustice to take it from him, as to take a man’s purse from him; the Lord’s church, in a Christian kingdom, is God’s heritage, and the king only a shepherd, and the sheep, in the court of conscience, are not his. (3.) Royal union is not an indelible character; for neither Saul nor David were all their days kings thereby, but lived many days private men after divine union, while the people anointed them kings, except you say that there were two kings at once in Israel; and that Saul, killing David, should have killed his own lord, and his anointed. (4.) If David durst not take the right of government actually on him, then divine union made him not king, but only designed him to be king: the people’s election must make the king.

M. Symmons addeth, “He that is born a king and a prince can never be unborn, Semel Augustus semper Augustus; yea, I believe the eldest son of such a king is, in respect of birth, the Lord’s anointed in his father’s life-time,—even as David was before Saul’s death, and to deprive him of his right of reversion is as true injustice as to dispossess him of it.”

Ans.—It is proper only to Jesus Christ to be born a king. Sure I am no man bringeth out of the womb with him a sceptre, and a crown on his head. Divine union giveth a right infallibly to a crown, but birth doth not so; for one may be born heir to a crown, as was hopeful prince Henry,

1 Symmons’ Loyal Subjects Believers, sect. 3, p. 16.  
1 Symmons, sect. 3, p. 7.
and yet never live to be king. The eldest son of a king, if he attempt to kill his father, as Absalom did, and raise forces against the lawful prince, I conceive he may be killed in battle without any injustice. If in his father's time he be the Lord's anointed, there be two kings; and the heir may have a son, and so there shall be three kings, possibly four,—all kings by divine right.

The Prelate of Rochester saith, "The people and nobles give no right to him who is born a king, they only declare his right."

Ans.—This is said, not proved. A man born for an inheritance is by birth an heir, because he is not born for these lands as a mean for the end, but by the contrary, those lands are for the heir as the mean for the end; but the king is for his kingdom as a mean for the end, as the watchman for the city, the living law for peace and safety to God's people; and, therefore, is not heredes hominum, an heir of men, but men are rather heredes regis, heirs of the king.

Arnissæus saith, "Many kingdoms are purchased by just war, and transmitted by the law of heritage from the father to the son, beside the consent of the people, because the son receiveth right to the crown not from the people, but from his parents; nor doth he possess the kingdom as the patrimony of the people, keeping only to himself the burden of protecting and governing the people; but as a propriety given to him lege regni, by his parents, which he is obliged to defend and rule, as a father looketh to the good and welfare of the family, yet so also as he may look to his own good."

Ans.—We read in the word of God that the people made Solomon king, not that David, or any king, can leave in his testament a kingdom to his son. He saith, the son hath not the right of reigning as the patrimony of the people, but as a propriety, given by the law of the kingdom by his parents. Now this is all one as if he said the son hath not the right of the kingdom as the patrimony of the people, but as the patrimony of the people—which is good nonsense; for the propriety of reigning given from father to son by the law of the kingdom, is nothing but a right to reign given by the law of the people, and the very gift and patrimony of the people; for lege regni, this law of the kingdom is the law of the people, tying the crown to such a royal family; and this law of the people is prior and more ancient than the king, or the right of reigning in the king, or which the king is supposed to have from his royal father, because it made the first father the first king of the royal line. For I demand, how doth the son succeed to his father's crown and throne? Not by any promise of a divine covenant that the Lord maketh to the father, as he promised that David's seed should sit on his throne till the Messiah should come. This, as I conceive, is vanished with the commonwealth of the Jews; nor can we now find any immediate divine constitution, tying the crown now to such a race,—nor can we say this cometh from the will of the father-king making his son king. For, 1. There is no Scripture can warrant us to say the king maketh a king, but the Scripture holdeth forth that the people made Saul and David kings. 2. This may prove that the father is some way a cause why this son succeedeth king; but he is not the cause of the royalty conferred upon the whole line, because the question is, Who made the first father a king? Not himself; nor doth God now immediately by prophets anoint men to be kings,—then must the people choose the first man, then must the people's election of a king be prior and more ancient than the birth-law to a crown; and election must be a better right than birth. The question is, Whence cometh it that not only the first father should be chosen king; but also whence is it, that whereas it is in the people's free will to make the succession of kings go by free election, as it is in Denmark and Poland, yet the people doth freely choose, not only the first man to be king, but also the whole race of the first-born of this man's family to be kings. All here must be resolved in the free will of the community. Now, since we have no immediate and prophetic enthroning of men, it is evident that the lineal deduction of the crown from father to son, through the whole line, is from the people, not from the parent.

6. Hence, I add this as my sixth argument, That which taketh away that natural aptitude and nature's birthright in a community, given to them by God and nature, to provide the most efficacious and prevalent mean for their own preservation and peace in the fittest government, that is not to be held; but to make birth the best title to the crown, and better than free election,

1 Joan. Episc. Roffens. de potest. Paps. lib. 2, c. 5.
2 Arnissæus de authorit. princip. c. 1, n. 13.
taketh away and impedeth that natural aptitude and nature's birthright of choosing, not simply a governor, but the best, the justest, the more righteous, and tyeth and fettereth their choice to one of a house, whether he be a wise man, and just, or a fool and an unjust man; therefore to make birth the best title to the crown, is not to be holden.

It is objected, That parents may bind their after generations to choose one of such a line, but by this argument, their natural birthright of a free choice to elect the best and fittest, is abridged and clipped, and so the posterity shall not be tied to a king of the royal line to which the ancestors did swear. See for this the learned author of "Scripture and Reasons pleaded for Defensive Arms."

An. — Frequent elections of a king, at the death of every prince, may have, by accident, and through the corruption of our nature, bloody and tragical sequels; and to eschew these, people may tie and oblige their children to choose one of the first-born, male or female, as in Scotland and England, of such a line; but I have spoken of the excellency of the title by election above that of birth, as comparing things according to their own nature together, but give me leave to say, that the posterity are tied to that line.—1. Conditionally: so the first-born,_eyeis paribus, be qualified, and have an head to sit at the helm. 2. Elections of governors would be performed as in the sight of God, and, in my weak apprehension, the person coming nearest to God's judge, fearing God, hating covetousness; and to Moses' king, (Deut. xvii.) one who shall read in the book of the law; and it would seem now that gracious morals are to us instead of God's immediate designation. 3. The genuine and intrinsic end of making kings is not simply governing, but governing the best way, in peace, honesty, and godliness, (1 Tim. ii.) therefore, these are to be made kings who may most expeditely procure this end. Neither is it my purpose to make him no king who is not a gracious man, only here I compare title with title.

Arg. 7. Where God hath not bound the conscience, men may not bind themselves, or the consciences of the posterity. But God hath not bound any nation irrevocably and unalterably to a royal line, or to one kind of government; therefore, no nation can bind their conscience, and the conscience of the posterity, either to one royal line, or irrevocably and unalterably to monarchy. The proposition is clear. 1. No nation is tyed, _jure diviso_, by the tie of a divine law, to a monarchy, rather than to another government. The Parisian doctors prove, that the precept of having a pope is affirmative, and so tyeth the church, _ad semper_, for ever; and so the church is the body of Christ, without the Pope; and all oaths to things of their nature indifferent, and to things the contrary whereof is lawful and may be expedient and necessary, lay on a tie only conditionally, in so far as they conduce to the end. If the Gibeonites had risen in Joshua's days to cut off the people of God, I think no wise man can think that Joshua and the people were tyed, by the oath of God, not to cut off the Gibeonites in that case; for to preserve them alive, as enemies, was against the intent of the oath, which was to preserve them alive, as friends demanding and supplicating peace, and submitting. The assumption is clear. If a nation seeth that aristocratical government is better than monarchy, _hic et nunc_, that the sequels of such a monarchy is bloody, destructive, tyrannous; that the monarchy compelth the free subjects to Mahomedanism, to gross idolatry, they cannot, by the divine bond of any oath, captive their natural freedom, which is to choose a government and governors for their safety, and for a peaceable and godly life; or fetter and chain the wisdom of the posterity unalterably to a government or a royal line, which, _hic et nunc_, contrary to the intention of their oath, proveth destructive and bloody. And in this case, even the king, though tyed by an oath to govern, is obliged to the practices of the Emperor Othon; and as Speed saith of Richard the second, to resign the crown for the eschewing of the effusion of blood. And who doubteth but the second wits of the experienced posterity may correct the first wits of their fathers; nor shall I ever believe that the fathers can leave in legacy by oath, any chains of the best gold to fetter the after wits of posterity, to a choice destructive to peace and true godliness.

Arg. 8. An heir for may defraud his first-born of his heritage, because of his dominion he hath over his heritage: a king cannot de-

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1 Sect. 4, p. 39.

2 Speed, Hist. p. 757.
fraud his first-born of the crown. An heiror may divide his heritage equally amongst his
twelve sons: a king cannot divide his royal
dominions in twelve parts, and give a part to
every son; for so he might turn a monarchy
into an aristocracy, and put twelve men in
the place of one king. Any heiror taken
captive may lawfully oppugnate, yes, and
give all his inheritance as a ransom for his
liberty; for a man is better than his inheri-
tance: but no king may give his subjects as
a price or ransom.

Yet I shall not be against the succession
of kings by birth with good limitations; and
shall agree, that through the corruption of
man’s nature, it may be in so far profitable,
as it is peaceable, and preventeth bloody tu-
mults, which are the bane of human societi-
s. Consider further for this, Egid. Rom-
ans, lib. 3, de reg. princi. cap. 5; Tryer-
cremat. and Joan. de terre Reubee, 1 tract.
contr. Rebelles, ar. 1, con. 4. Yet Aristo-
tole, the flower of nature’s wit, (lib. 3. polit.
c. 10;) preferreth election to succession. He
preferreth Carthage to Sparta, though their
kings came of Hercules. Plutarch in Scylla,
saith, he would have kings as dogs, that is,
best hunters, not those who are born of best
dogs. Tacitus, lib. 1, Naci et generari a
Principibus, fortutium, nec ultra aestimant-
tur.

QUESTION XI.

WHETHER OR NO HE BE MORE PRINCIPALLY A
KING WHO IS A KING BY BIRTH, OR HE
WHO IS A KING BY THE FREE ELECTION
AND SUFFRAGES OF THE PEOPLE.

Assert. 1.—Without detaining the reader,
I desire liberty to assert that, where God
establisheth a kingdom by birth, that govern-
ment, hic et nunc, is best; and because God
principally distributeth crowns, when God es-
establisheth the royal line of David to reign,
he is not principally a king who cometh near-
est and most immediately to the fountain of
royalty, which is God’s immediate will; but
God established, hic et nunc, for typical rea-
sons (with reverence of the learned) a king
by birth.

Assert. 2.—But to speak of them, ex na-
tur a rei, and according to the first mould
and pattern of a king by law, a king by elec-
tion is more principally king (magis univoce
et per se) than an hereditary prince. (1.)
Because in hereditary crowns, the first fami-
ly being chosen by the free suffrages of the
people, for that cause ultimate, the heredi-

tary prince cometh to the throne, because
his first father, and in him the whole line of
the family, was chosen to the crown, and
propter quod unumquodque tale, id ipsum
magis tale. (2.) The first king ordained
by God’s positive law, must be the measure
of all kings, and more principally the king
than he who is such by derivation. But the
first king is a king by election, not by birth,
Deut. xvii. 18, Thou shalt in any wise set
him king over thee, whom the Lord thy
God shall choose; one from amongst thy
brethren shalt thou set over thee. (3.) The
law saith, Surrogatum frutur privilegiis
ejus, in cuius locum surrogatur, he who is
substituted in the place of another, enjoy-
eth the privileges of him in whose place he
succeedeth. But the hereditary king hath
royal privileges from him who is chosen king.
Solomon hath the royal privileges of David
his father, and is therefore king by birth,
because his father David was king by elec-
tion; and this I say, not because I think sole
birth is a just title to the crown, but because
it designeth him who indeed virtually was
chosen, when the first king of the race was
chosen. (4.) Because there is no dominion of
either royalty, or any other way by nature,
no more than an eagle is born king of eagles,
a lion king of lions; neither is a man by na-
ture born king of men; and, therefore, he
who is made king by suffrages of the peo-
ple, must be more principally king than he
who hath no title but the womb of his
mother.

Dr Fern is so far with us, to father roy-
alty upon the people’s free election as on
the formal cause, that he saith, If to design
the person and to procure limitation of the
power, in the exercise of it, be to give the
power, we grant the power is from the peo-
ple; but (saith he) you will have the power
originally from themselves, in another sense,
for you say, they reserve power to depose
and displace the magistrate; sometimes they
make the monarchy supreme, and then they
divest themselves of all power, and keep
none to themselves; but, before establish-
ed government, they have no politic power
whereby they may lay a command on others,
but only a natural power of private resist-

1 Dr Fern, part 3, sect. 3, p. 14.
ance, which they cannot use against the magistrate.

Ans.—But to take off those by the way.

1. If the king may choose A. B. an ambassador, and limit him in his power, and say, Do this, and say this to the foreign state you go to, but no more, half a wit will say the king createth the ambassador, and the ambassador’s power is originally from the king; and we prove the power of the lion is originally from God, and of the sea and the fire is originally from God, because God limiteth the lion in the exercises of its power, that it shall not devour Daniel, and limiteth the sea, as Jeremiah saith, when as he will have its proud waves to come thither and no farther, and will have the fire to burn those who threw the three children into the fiery furnace, and yet not to burn the three children; for this is as if Dr Ferne said, The power of the king of six degrees, rather than his power of five, is from the people, therefore the power of the king is not from the people; yea, the contrary is true. 2. That the people can make a king supreme, that is, absolute, and so resign nature’s birthright, that is, a power to defend themselves, is not lawful, for if the people have not absolute power to destroy themselves, they cannot resign such a power to their prince. 3. It is false that a community, before they be established with formal rulers, have no politic power; for consider them as men only, and not as associated, they have indeed no politic power: but before magistrates be established, they may convene and associate themselves in a body, and appoint magistrates; and this they cannot do if they had no politic power at all. 4. They have virtually a power to lay on commandments, in that they have power to appoint to themselves rulers, who may lay commandments on others. 5. A community hath not formally power to punish themselves, for to punish, is to inflict malum disconveniens naturae, an evil contrary to nature; but, in appointing rulers and in agreeing to laws, they consent they shall be punished by another, upon supposition of transgression, as the child willingly going to school submitteh himself in that to school discipline, if he shall fail against any school law; and by all this it is clear, a king by election is principally a king. Barclay then faileth, who saith,1 No man denieth but succession to a crown by birth is agreeable to nature. It is not against nature, but it is no more natural than for a lion to be born a king of lions.

Obj.—Most of the best divines approve an hereditary monarch, rather than a monarch by election.

Ans.—So do I in some cases. In respect of empire simply, it is not better; in respect of empire now, under man’s fall in sin, I grant it to be better in some respects. So Salust in Jugurth. Natura mortalium imperij avida. Tacitus, Hist. 2. Minore discrimine princeps sumitur, quam queritur, there is less danger to accept of a prince at hand, than to seek one afar off. In a kingdom to be constituted, election is better; in a constituted kingdom, birth seemeth less evil. In respect of liberty, election is more convenient; in respect of safety and peace, birth is safer and the nearest way to the well. See Bodin. de Rep. lib. 6, c. iv.; Thol. de Rep. lib. 7, c iv.

QUESTION XII.

WHETHER OR NOT A KINGDOM MAY LAWFULLY BE PURCHASED BY THE SOLE TITLE OF CONQUEST.

The Prelate averreth confidently (c. 17, p. 58) that a title to a kingdom by conquest, without the consent of a people, is so just and evident by Scripture, that it cannot be denied; but the man bringeth no Scripture to prove it. Mr Marshall saith, (Let. p. 7,) a conquered kingdom is but continuata injuria, a continued robbery. A right of conquest is twofold. 1. When there is no just cause. 2. When there is just reason and ground of the war. In this latter case, if a prince subdue a whole land which justly deserveth to die, yet, by his grace, who is so mild a conqueror, they may be all preserved alive; now, amongst those who have thus injur’d the conqueror, as they deserve death, we are to difference the persons offending, and the wives, children—especially those not born—and such as have not offended. The former sort may resign their personal liberty to the conqueror, that the sweet life may be saved. He cannot be their king properly; but I conceive that they are oblig’d to consent that he be their king, upon this condition, that the conqueror put not upon them violent and tyrannical conditions that are harder than

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1 Barcl. cont. Monarcham. c. 2, p. 56.
death. Now, in reason, we cannot think that a tyrannous and unjust domineering can be God’s lawful mean of translating kingdoms; and, for the other part, the conqueror cannot domineer as king over the innocent, and especially the children not yet born.

**Assert. 1.**—A people may be, by God’s special commandment, subject to a conquering Nebuchadnessar and a Cæsar, as to their king, as was Judah commanded by the prophet Jeremiah to submit unto the yoke of the king of Babylon, and to pray for him, and the people of the Jews were to give to Cæsar the things of Cæsar; and yet both those were unjust conquerors; for those tyrants had no command of God to oppress and reign over the Lord’s people, yet were they to obey those kings, so the passive subjection was just and commanded of God, and the active, unjust and tyrannous, and forbidden of God.

**Assert. 2.**—This title by conquest, through the people’s after consent, may be turned into a just title, as in the case of the Jews in Cæsar’s time, for which cause our Saviour commanded to obey Cæsar, and to pay tribute unto him, as Dr Ferne confesseth, (sec. vii. p. 30.) But two things are to be condemned in the Doctor. 1. That God manifesteth his will to us in this work of providence, whereby he translateth kingdoms. 2. That this is an over-awed consent. Now to the former I reply.—1. If the act of conquering be violent and unjust, it is no manifestation of God’s regulating and approving will, and can no more prove a just title to a crown, because it is an act of divine providence, than Pilot and Herod’s crucifying of the Lord of glory, which was an act of divine providence, flowing from the will and decree of divine providence, (Acts ii. 23; iv. 28,) is a manifestation that it was God’s approving will, that they should kill Jesus Christ. 2. Though the consent be some way over-awed, yet is it a sort of contract and covenant of loyal subjection made to the conqueror, and therefore sufficient to make the title just; otherwise, if the people never give their consent, the conqueror, domineering over them by violence, hath no just title to the crown.

**Assert. 3.**—Mere conquest by the sword, without the consent of the people, is no just title to the crown.

**Arg. 1.**—Because the lawful title that God’s word holdeth forth to us, beside the Lord’s choosing and calling of a man to the crown, is the people’s election, Deut. xvii. 15, all that had any lawful calling to the crown in God’s word, as Saul, David, Solommon, &c., were called by the people; and the first lawful calling is to us a rule and pattern to all lawful callings.

**Arg. 2.**—A king, as a king, and by virtue of his royal office, is the father of the kingdom, a tutor, a defender, protector, a shield, a leader, a shepherd, a husband, a patron, a watchman, a keeper of the people over which he is king, and so the office essentially includeth acts of fatherly affection, care, love and kindness, to those over whom he is set, so as he who is clothed with all these relations of love to the people, cannot exercise those official acts on a people against their will, and by mere violence. Can he be a father, a guide and a patron to us against our will, and by the sole power of the bloody sword! A benefit conferred on any against their will is no benefit. Will he by the awesome dominion of the sword be our father, and we unwilling to be his sons—an head over such as will not be members? Will he guide me as a father, a husband, against my will? He cannot come by mere violence to be a patron, a shield, and a defender of me through violence.

**Arg. 3.**—It is not to be thought that that is God’s just title to a crown which hath nothing in it of the essence of a king, but a violent and bloody purchase, which is in its prevalency in an oppressing Nimrod, and the cruelest tyrant that is hath nothing essential to that which constituted a king; for it hath nothing of heroic and royal wisdom and gifts to govern, and nothing of God’s approving and regulating will, which must be manifested to any who would be a king, but by the contrary, cruelty hath rather baseness and witless fury, and a plain reluctancy with God’s revealed will, which forbideth murder. God’s law shold say, “Murder thou, and prosper and reign;” and by the act of violating the sixth commandment, God should declare his approving will, to wit, his lawful call to a throne.

**Arg. 4.**—There be none under a law of God who may resist a lawful call to a lawful office, but men may resist any impulse of God stirring them up to murder the most numerous and strongest, and chief men of a kingdom, that they may reign over the fewest, the weakest, and the young, and lowest of the people, against their will; therefore this call by the sword is not lawful. If it
be said that the divine impulsion, stirring up a man to make a bloody conquest, that the ire and just indignation of God in justice may be declared on a wicked nation, is an extraordinary impulsion of God, who is above a law, and therefore no man may resist it; then all bloody conquerors must have some extraordinary revelation from heaven to warrant their yielding of obedience to such an extraordinary impulsion. And if it be so, they must show a lawful and immediate extraordinary impulsion now, but, it is certain, the sins of the people conquered, and their most equal and just demerit before God, cannot be a just plea to legitimize the conquest; for though the people of God deserved devastation and captivity by the heathen, in regard of their sins, before the throne of divine justice, yet the heathen grievously sinned in conquering them, Zech. i. 18, "And I am very sore displeased with the heathen that are at ease; for I was but a little displeased, and they helped forward the affliction." So though Judah deserved to be made captives, and a conquered people, because of their idolatry and other sins, as Jeremiah had prophesied, yet God was highly displeased at Babylon for their unjust and bloody conquest, Jer. i. 17, 18, 33, 34; li. 35, "The violence done to me and to my flesh be upon Babylon, shall the inhabitants of Zion say; and my blood upon the inhabitants of Chaldea, shall Jerusalem say." And that any other extraordinary impulsion to be as lawful a call to the throne as the people's free election, we know not from God's word; and we have but the naked word of our adversaries, that William the Conqueror, without the people's consent, made himself, by blood, the lawful king of England, and also of all their posterity; and that king Fergus conquered Scotland.

Arg. 5.—A king is a special gift from God, given to feed and defend the people of God, that they may lead a godly and peaceable life under him, (Psal. lxxxviii. 71, 72; 1 Tim. ii. 2;) as it is a judgment of God that Israel is without a king many days, (Hos. iii. 4,) and that there is no judge, no king, to put evil-doers to shame. (Judg. ix. 1.) But if a king be given of God as a king, by the acts of a bloody conquest, to be avenged on the sinful land over which he is made a king, he cannot be given, acta primo, as a special gift and blessing of God to feed, but to murder and to destroy; for the genuine end of a conqueror, as a conqueror, is not peace, but fire and sword. If God change his heart, to be of a bloody devastator, a father, prince, and feeder of the people, ex officio, now he is not a violent conqueror, and he came to that meekness by contraries, which is the proper work of the omnipotent God, and not proper to man, who, as he cannot work miracles, so neither can he lawfully work by contraries. And so if conquest be a lawful title to a crown, and an ordinary calling, as the opponents presume, every bloody conqueror must be changed into a loving father, prince and feeder; and if God call him, none should oppose him, but the whole land should dethrone their own native sovereign (whom they are obliged before the Lord to defend) and submit to the bloody invasion of a strange lord, presumed to be a just conqueror, as if he were lawfully called to the throne both by birth and the voices of the people. And truly they deserve no wages who thus defend the king's prerogative royal; for if the sword be a lawful title to the crown, suppose the two generals of both kingdoms should conquer the most and the chiefest of the kingdom now, when they have so many forces in the field, by this wicked reason the one should have a lawful call of God to be king of England and the other to be king of Scotland; which is absurd.

Arg. 6.—Either conquest, as conquest, is a just title to the crown, or as a just conquest. If as a conquest, then all conquests are just titles to a crown; then the Ammonites, Zidonians, Canaanites, Edomites, &c., subduing God's people for a time, have just title to reign over them; and if Absalom had been stronger than David, he had then had just the last title to be the Lord's anointed king of Israel, not David; and so strength actually prevailing should be God's lawful call to a crown. But strength, as strength victorious, is not law nor reason: it were then reason that Herod behead John Baptist, and the Roman Emperors kill the witnesses of Christ Jesus. If conquest, as just, be the title and lawful claim before God's court to a crown, then, certainly, a stronger king, for pregnant national injuries, may lawfully subdue and reign over an innocent posterity not yet born. But what word of God can warrant a posterity not born, and so accessory to no offence against the conqueror, (but only sin original,) to be under a conqueror against their will, and
who hath no right to reign over them but the bloody sword? For so conquest, as conquest, not as just, maketh him king over the posterity. If it be said, The fathers may engage the posterity by an oath to surrender themselves as loyal subjects to the man who justly and deservedly made the fathers vassals by the title of the sword of justice; I answer, The fathers may indeed dispose of the inheritance of their children, because that inheritance belongeth to the father as well as to the son; but because the liberty of the son being born with the son, (all men being born free from all civil subjection,) the father hath no more power to resign the liberty of his children than their lives; and the father, as a father, hath not power of the life of his child; as a magistrate he may have power, and, as something more than a father, he may have power of life and death. I hear not what Grotius saith, 1 "Those who are not born have no accidents, and so no rights, Non entis nulla sunt accidentia; then children not born have neither right nor liberty." And so no injury (may some say) can be done to children not born, though the fathers should give away their liberty to the conquerors,—those who are not capable of law are not capable of injury contrary to law.—Ans. There is a virtual alienation of rights and lives of children not born unlawful, because the children are not born. To say that children not born are not capable of law and injuries virtual, which become real in time, might say, Adam did not any injury to his posterity by his first sin, which is contrary to God's word: so those who vowed yearly to give seven innocent children to the Mino- taur to be devoured, and to kill their children not born to bloody Molech, did no acts of bloody injury to their children; nor can any say, then, that fathers cannot tie themselves and their posterity to a king by succession. But I say, to be tied to a lawful king is no making away of liberty, but a resigning of a power to be justly governed, protected and awed from active and passive violence.

Arg. 7.—No lawful king may be de-throned, nor lawful kingdom dissolved; but law and reason both saith, Quod vi partum est imperium, vi dissolvi potest. Every conquest made by violence may be dissolved by violence: Censetur enim ipsa natura jus dare ad id omne, sine quo obtineri non potest quod ipsa imperat.

Obj.—It is objected, that the people of God, by their sword, conquered seven nations of the Canaanites; David conquered the Ammonites for the disgrace done to his ambassadors; so God gave Egypt to Nebuchadnezzar for his hire in his service done against Judah. Had David no right over the Ammonites and Moabites but by expecting their consent? Ye will say, A right to their lands, goods and lives, but not to challenge their moral subjection. Well, we doubt not but such conquerors will challenge and obtain their moral consent. But if the people refuse their consent, is there no way, for providence giveth no right? So Dr Ferne, 1 so Arnissus. 2

Ans.—A facto ad jus non vales consequentia, God, to whom belongeth the world and the fulness thereof, disposed to Abraham and his seed the land of Canaan for their inheritance, and ordained that they should use their bow and their sword, for the actual possession thereof; and the like divine right had David to the Edomites and Ammonites, though the occasion of David's taking possession of these kingdoms by his sword, did arise from particular and occasional exigencies and injuries; but it followeth in no sort that, therefore, kings now wanting any word of promise, and so of divine right to any lands, may ascend to the thrones of other kingdoms than their own, by no other title than the bloody sword. That God's will was the chief patent here is clear, in that God forbade his people to conquer Edom, or Esau's possession, when as he gave them command to conquer the Amo- rites. I doubt not to say, if Joshua and David had no better title than their bloody sword, though provoked by injuries, they could have had no right to any kingly power over these kingdoms; and if only success by the sword be a right of providence, it is no right of precept. God's providence, as providence without precept or promise, can conclude a thing is done, or may be done, but cannot conclude a thing is lawfully and warrantably done, else you might say the selling of Joseph, the crucifying of Christ, the spoiling of Job, were lawfully done. Though conquerors extort consent and oath of loyal-

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1 Hugo Grotias de jure belli et pacis, lib. 2, c. 4, n. 19.
2 Dr Ferne, part 3, sect. 3, p. 20.
3 Arnissus de autoritatis principi. c. 1, n. 12.
ty, yet that maketh not over a royal right to the conqueror to be king over their posterity without their consent. Though the children of Ammon did a high injury to David, yet no injury can be recompensed in justice with the pressure of the constrained subjection of loyalty to a violent lord. If David had not had an higher warrant from God than an injury done to his messengers, he could not have conquered them. But the Ammonites were the declared enemies of the church of God, and raised forces against David when they themselves were the injured and offenders. And if David’s conquest will prove a lawful title by the sword to all conquerors, then may all conquerors lawfully do to the conquered people as David did; that is, they may “put them under saws, and under harrows of iron, and under axes of iron, and cause them pass through the brick-kilne.” But, I beseech you, will royalists say, that conquerors, who make themselves kings by their sword, and so make themselves fathers, heads, defenders, and feeders of the people, may use the most extreme tyranny in the world, such as David used against the children of Ammon, which he could not have done by the naked title of sword-conquest, if God had not laid a commandment of an higher nature on him to serve God’s enemies so? I shall then say, if a conquering king be a lawful king, because a conqueror, then hath God made such a lawful king both a father, because a king, and a tyrant, and cruel and lion-hearted oppressor of those whom he hath conquered; for God hath given him royal power by this example, (2 Sam. xii. 30, 31,) to put these, to whom he is a father and defender by office, to torment, and also to be a torturer of them by office, by bringing their backs under such instruments of cruelty as “saws, and harrows of iron, and axes of iron.”

QUESTION XIII.

WHETHER OR NO ROYAL DIGNITY HAVE ITS SPRING FROM NATURE, AND HOW THAT IS TRUE, “EVERY MAN IS BORN FREE,” AND HOW SERVITUDE IS CONTRARY TO NATURE.

I conceive it to be evident that royal dignity is not immediately, and without the intervention of the people’s consent, given by God to any one person, and that conquest and violence is no just title to a crown. Now the question is, If royalty flow from nature, if royalty be not a thing merely natural, neither can subjection to royal power be merely natural; but the former is rather civil than natural: and the question of the same nature is, Whether subjection or servitude be natural.

I conceive that there be divers subjections to these that are above us some way natural, and therefore I rank them in order, thus:—1. There is a subjection in respect of natural being, as the effect to the cause; so, though Adam had never sinned, this morality of the fifth command should have stood in vigour, that the son by nature, without any positive law, should have been subject to the father, because from him he hath his being, as from a second cause. But I doubt if the relation of a father, as a father, doth necessarily infer a royal or kingly authority of the father over the son; or by nature’s law, that the father hath a power of life and death over, or above, his children, and the reasons I give are, (1.) Because power of life and death is by a positive law, presupposing sin and the fall of man; and if Adam, standing in innocency, could lawfully kill his son, though the son should be a malefactor, without any positive law of God, I much doubt. (2.) I judge that the power royal, and the fatherly power of a father over his children, shall be found to be different; and the one is founded on the law of nature, the other, to wit, royal power, on a mere positive law. 2. The degree or order of subjection natural is a subjection in respect of gifts or age. So Aristotle (1 polit. cap. 3) saith, “that some are by nature servants.” His meaning is good,—that some gifts of nature, as wisdom natural, or aptitude to govern, hath made some men of gold, fitter to command, and some of iron and clay, fitter to be servants and slaves. But I judge this title to make a king by birth, seeing Saul, whom God by supervenient gifts made a king, seemeth to owe small thanks to the womb, or nature, that he was a king, for his cruelty to the Lord’s priests speaketh nothing but natural baseness. It is possible Plato had a good meaning, (dialog. 3, de legib.,) who made six orders here. “1. That fathers command their sons; 2. The noble the ignoble; 3. The elder the younger; 4. The masters the servants; 5. The stronger the weaker; 6. The wise the ignorant.”
AAquinas (22, q. 57, art. 3), Driedo (de libert. Christ. lib. 1, p. 8), following Aristotle, (polit. lib. 7, c. 14,) hold, though man had never sinned there should have been a sort of dominion of the more gifted and wiwer above the less wise and weaker; not antecedent from nature properly, but consequent, for the utility and good of the weaker, in so far as it is good for the weaker to be guided by the stronger, which cannot be denied to have some ground in nature. But there is no ground for kings by nature here. 1. Because even those who plead that the mother's womb must be the best title for a crown, and make it equivalent to royalunction, are to be corrected in memory thus,—That it is merely accidental, and not natural, for such a son to be born a king, because the free consent of the people making choice of the first father of that line to be their king, and in him making choice of the first-born of the family, is merely accidental to father and son, and so cannot be natural. 2. Because royal gifts to reign are not held by either us or our adversaries to be the specific essence of a king; for if the people crown a person their king, say we,—if the womb bring him forth to be a king, say the opponents,—he is essentially a king, and to be obeyed as the Lord's anointed, though nature be very parce, sparing, and a niggard in bestowing royal gifts; yea, though he be an idiot, say some, if he be the first-born of a king, he is by just title a king, but must have curators and tutors to guide him in the exercise of that royal right that he hath from the womb. But Buchanan saith well,1 "He who cannot govern himself shall never govern others."

**Assert. 2.**—Slavery of servants to lords or masters, such as were of old amongst the Jews, is not natural, but against nature. 1. Because slavery is malum naturae, a penal evil and contrary to nature, and a punishment of sin. 2. Slavery should not have been in the world, if man had never sinned, no more than there could have been buying and selling of men, which is a miserable consequent of sin and a sort of death, when men are put to the toiling pains of the hireling, who longeth for the shadow, and under iron harrows and saws, and to hew wood, and draw water continually. 3. The original of servitude was, when men were taken in war, to eschew a greater evil, even death, the captives were willing to undergo a less evil, slavery, (S. Servitus, 1 de jure. Pers.) 4. A man being created according to God's image, he is res sacra, a sacred thing, and can no more, by nature's law, be sold and bought, than a religious and sacred thing dedicated to God. S. 1. Institut. de inutil. scrupl. l. inter Stipulament. S. Sacram. F. de verber. Obligat.

**Assert. 3.**—Every man by nature is a free man born, that is, by nature no man cometh out of the womb under any civil subjection to king, prince, or judge, to master, captain, conqueror, teacher, &c.

**Arg. 1.**—Because freedom is natural to all, except freedom from subjection to parents; and subjection politic is merely accidental, coming from some positive laws of men, as they are in a politic society; whereas they might have been born with all comenants of nature, though born in a single family, the only natural and first society in the world.

**Arg. 2.**—Man is born by nature free from all subjection, except of that which is most kindly and natural, and that is fatherly or filial subjection, or matrimonial subjection of the wife to the husband; and especially he is free of subjection to a prince by nature; because to be under jurisdiction to a judge or king, hath a sort of jurisdiction, (argument, L. Si quis sit fugitivus. F. de edil. edict. in S. penult. vel fin.) especially to be under penal laws now in the state of sin. The learned senator Ferdinandus Vasquez saith, (lib. 2. c. 82. n. 16.) Every subject is to lay down his life for the prince. Now no man is born under subjection to penal laws or dying for his prince.

**Arg. 3.**—Man by nature is born free, and as free as beasts; but by nature no beast, no

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1 Buchan. de jure Regni apud Scotos.
lion is born king of lions; no horse, no bullock, no eagle, king of horses, bullocks, or eagles. Nor is there any subjection here, except that the young lion is subject to the old, every foal to its dam; and by that same law of nature, no man is born king of men, nor any man subject to man in a civil subjection by nature, (I speak not of natural subjection of children to parents,) and therefore Ferdi. Vasquez (illust. quest. lib. 2, c. 82, n. 6,) said, that kingdoms and empires were brought in, not by nature's law, but by the law of nations. He expoundeth himself elsewhere to speak of the law of nature secondary, otherwise the primary law of nations is indeed the law of nature, as appropriated to man. If any reply, That the freedom natural of beasts and birds, who never sinned, cannot be one with the natural freedom of man who is now under sin, and so under bondage for sin, my answer is, That the subjection of the misery of man by nature, because of sin, is more than the subjection of beasts, comparing species and kinds of beasts and birds with mankind, but comparing individuals of the same kind amongst themselves; as lion with lion, eagle with eagle, and so man with man; in which respect, because he who is supposed to be the man born free from subjection politic, even the king born a king, is under the same state of sin, and so by reason of sin, of which he hath a share equally with all other men by nature, he must be, by nature, born under as great subjection penal for sin (except the king be born void of sin) as other men; therefore he is not born freer by nature than other men, except he come out of the womb with a king's crown on his head.

Arg. 4.—To be a king is a free gift of God, which God bestoweth on some men above others, as is evident, (2 Sam. xii. 7, 8; Psal. lxxx. 6; Dan. iv. 32;) and therefore all must be born kings, if any one man be by nature a king born, and another a born subject. But if some be by God's grace made kings above others, they are not so by nature; for things which agree to man by nature, agree to all men equally: but all men equally are not born kings, as is evident; and all men are not equally born by nature under politic subjection to kings, as the adversaries grant, because those who are by nature kings, cannot be also by nature subjects.

Arg. 5.—If men be not by nature free from politic subjection, then must some, by the law of relation, by nature be kings. But none are by nature kings, because none have by nature these things which essentially constitute kings, for they have neither by nature the calling of God, nor gifts for the throne, nor the free election of the people, nor conquest; and if there be none a king by nature, there can be none a subject by nature. And the law saith, Omnes sumus natura liberi, nullius ditioni subjecti. lib. Manumiss. F. de just. et jur. S. jus antem gentium, Just. de jur. nat. We are by nature free, and D. L. ex hoc jure cum simil.

Arg. 6.—Politicians agree to this as an undeniable truth, that as domestic society is natural, being grounded upon nature's instinct, so politic society is voluntary, being grounded on the consent of men; and so politic society is natural, in radice, in the root, and voluntary and free, in modo, in the manner of their union; and the Scripture cleareth to us, that a king is made by the free consent of the people, (Deut xvii. 15,) and so not by nature.

Arg. 7.—What is from the womb, and so natural, is eternal, and agreeeth to all societies of men; but a monarchy agreeeth not to all societies of men; for many hundred years, de facto, there was not a king till Nimrod's time, the world being governed by families, and till Moses' time we find no institution for kings, (Gen. vii,) and the numerous multiplication of mankind did occasion monarchies, otherwise, fatherly government being the first and measure of the rest, must be the best; for it is better that my father govern me, than that a stranger govern me, and therefore, the Lord forbade his people to set a stranger over themselves to be their king. The P. Prelate contendeth for the contrary, (c. 12, p. 125;) "Every man (saith he) is born subject to his father, of whom immediately he hath his existence in nature; and if his father be the subject of another, he is born the subject of his father's superior."—Ans. But the consequence is weak. Every man is born under natural subjection to his father, therefore he is born naturally under civil subjection to his father's superior or king. It followeth not. Yea, because his father was born only by nature subject to his own father, therefore he was subject to a prince or king only by accident, and by the free constitution of men, who freely choose politic government, whereas there is no government natural, but fatherly or marital, and therefore the contradictory consequence is true.
P. Prelate.—Every man by nature hath immunity and liberty from despotic and hierarchial empire, and so may dispose of his own at will, and cannot enslave himself without his own free will; but God hath laid a necessity on all men to be under government, and nature also laid this necessity on him, therefore this sovereignty cannot protect us in righteousness and honesty, except it be entirely endowed with sovereign power to preserve itself, and protect us.

Ans.—1. The Prelate here deserteth his own consequence, which is strong against himself, for if a man be naturally subject to his father’s superior, as he said before, why is not the son of a slave naturally subject to his father’s superior and master? 2. As a man may not make away his liberty without his own consent, so can he not, without his own consent, give his liberty to be subject to penal laws under a prince, without his own consent, either in his father’s or in the representative society in which he liveth.

3. God and nature hath laid a necessity on all men to be under government, a natural necessity from the womb to be under some government, to wit, a paternal government, that is true; but under this government politic, and namely under sovereignty, it is false; and that is but said: for why is he naturally under sovereignty rather than aristocracy? I believe any of the three forms are freely chosen by any society. 4. It is false that one cannot defend the people, except he have entire power, that is to say, he cannot do good except he have a vast power to do both good and ill.

P. Prelate.—It is accidental to any to render himself a slave, being occasioned by force or extreme indigence, but to submit to government congruous to the condition of man, and is necessary for his happy being, and natural, and necessary, by the inviolable ordinance of God and nature.

Ans. 1.—If the father be a slave, it is natural and not accidental, by the Prelate’s logic, to be a slave. 2. It is also accidental to be under sovereignty, and sure not natural; for then aristocracy and democracy must be unnatural, and so unlawful governments. 3. If to be congruous to the condition of man be all one with natural man, (which he must say if he speak sense) to believe in God, to be an excellent mathematician, to swim in deep waters, being congruous to the nature of man, must be natural. 4. Man by nature is under government paternal, not political properly, but by the free consent of his will.

P. Prelate (p. 126).—Luke xi. 5, Christ himself was bewraying subject to his parents, (the word which is used, Rom. xiii,) therefore none are exempted from subjection to lawful government.

Ans.—We never said that any were exempted from lawful government. The Prelate and his fellow Jesuits teach that the clergy are exempted from the laws of the civil magistrate, not we; but because Christ was subject to his parents, and the same word is used, Luke xi., which is in Rom. xiii., it will not follow, therefore, men are by nature subject to kings, because they are by nature subject to parents.

P. Prelate.—The father had power over the children, by the law of God and nature, to redeem himself from debt, or any distressed condition, by enslaving his children begotten of his own body; if this power was not by the right of nature and by the warrant of God, I can see no other, for it could not be by mutual and voluntary contract of children and fathers.

Ans.—1. Show a law of nature, that the father might enslave his children; by a divine positive law, presupposing sin, the father might do that; and yet I think that may be questioned, whether it was not a permission rather than a law, as was the bill of divorce; but a law of nature it was not. 2. The Prelate can see no law but the law of nature here; but it is because he is blind or will not see. His reason is, it was not by mutual and voluntary contract of children and fathers, therefore it was by the law of nature; so he that cursed his father was to die by God’s law. This law was not made by mutual consent between the father and the son, therefore it was a law of nature; the Prelate will see no better. ‘Nature will teach a man to enslave himself to redeem himself from death, but that it is a dictate of nature that a man should enslave his son, I conceive not. 3. What can this prove, but that if the son may, by the law of nature, be enslaved for the father, but that the son of a slave is by nature under subjection to slavery, and that by nature’s law; the contrary whereof he speaketh in the page preceding, and in this same page.

As for the argument of the Prelate to answer Suarez, who laboureth to prove monarchy not to be natural, but of free consent, because it is various in sundry nations, it
is the Jesuits' argument, not ours. I own it not. Let Jesuits plead for Jesuits.

QUESTION XIV.

WHETHER OR NO THE PEOPLE MAKE A PERSON THEIR KING CONDITIONALLY, OR ABSOLUTELY; AND WHETHER THERE BE SUCH A THING AS A COVENANT TYING THE KING NO LESS THAN HIS SUBJECTS.

There is a covenant natural, and a covenant politic and civil. There is no politic or civil covenant betwixt the king and his subjects, because there be no such equality (say royalists) betwixt the king and his people, as that the king can be brought under any civil or legal obligation in man’s court, to either necessitate the king civilly to keep an oath to his people, or to tie him to any punishment, if he fail, yet (say they) he is under natural obligation in God’s court to keep his oath, but he is accountable only to God if he violate his oath.

Assert. 1—There is an oath betwixt the king and his people, laying on, by reciprocation of bands, mutual civil obligation upon the king to the people, and the people to the king; 2 Sam. v. 3, “So all the elders of Israel came to the king to Hebron, and king David made a covenant with them in Hebron before the Lord, and they anointed David king over Israel.” 1 Chron. xi. 3, “And David made a covenant with them before the Lord, and they anointed David king over Israel, according to the word of the Lord by Samuel.” 2 Chron. xxiii. 2, 3, “And they went about in Judah, and gathered the Levites out of all the cities of Judah, and the chief of the fathers of Israel, and they came to Jerusalem. And all the congregation made a covenant with the king [Joash] in the house of God.” 2 Kings xi. 17, “Jehoiada made a covenant between the Lord and the king and the people, that they should be the Lord’s people; between the king also and the people.” Eccl. viii. 2, “I counsel thee to keep the king’s commandment, and that in regard of the oath of God.” Then it is evident there was a covenant betwixt the king and the people. That was not a covenant that did tie the king to God only, and not to the people,—1. Because the covenant betwixt the king and the people is clearly differenced from the king’s covenant with the Lord, 2 Kings xi. 17. 2. There was no necessity that this covenant should be made publicly before the people, if the king did not in the covenant tie and oblige himself to the people; nor needed it be made solemnly before the Lord in the house of God. 3. It is expressly a covenant that was between Josiah the king and his people; and David made a covenant at his coronation with the princes and elders of Israel, therefore the people gave the crown to David covenant-wise, and upon condition that he should perform such and such duties to them. And this is clear by all covenants in the word of God: even the covenant between God and man is in like manner mutual,—“I will be your God, and ye shall be my people.” The covenant is so mutual, that if the people break the covenant, God is loosed from his part of the covenant, Zech. xi. 10. The covenant giveth to the believer a sort of action of law, and jus quodam, to plead with God in respect of his fidelity to stand to that covenant that bindeth him by reason of his fidelity, Isa. xiii. 26; lix. 16; Dan. ix. 4, 5; and far more a covenant giveth ground of a civil action and claim to a people and the free estates against a king, seduced by wicked counsel to make war against the land, whereas he did swear by the most high God, that he should be a father and protector of the church of God.

Assert. 2. All covenants and contracts between man and man, yea, all solemn promises, bring the covenanters under a law and a claim before men, if the oath of God be broken, as the covenant betwixt Abraham and Abimelech, (Gen. xxiv. 27,) Jonathan and David. (1 Sam. xviii. 3.) The spies profess to Rahab in the covenant that they made with her, (Josh. ii. 20,) “And if thou utter this our business, we will be quit of thine oath which thou hast made us to swear.” There be no mutual contract made upon certain conditions, but if the conditions be not fulfilled, the party injured is loosed from the contract. Barclay saith, “That this covenant obligeth the king to God, but not the king to the people.” —Ans. It is a vain thing to say that the people and the king make a covenant, and that David made a covenant with the elders and princes of Israel; for if he be obliged to God only, and not to the people, by a covenant made with the people, it is not made with the people at all, nay, it is no more made with the people.
of Israel than with the Chaldeans, for it bindeth David no more to Israel than to Chaldea, as a covenant made with men. Arnissæus saith, 1 "When two parties contract, if one perform the duty, the other is acquitted." Sect. 1. Deus hujus modi ubi velis just. de duob. reis, lib. 3. Dr Ferne saith, "Because every one of them are obliged fully (Sect. 1) Just. cod. to God, to whom the oath is made (for that is his meaning), and if either the people perform what is sworn to the Lord or the king, yet one of the parties remaineth still under obligation; and neither doth the people's obedience exempt the king from punishment, if he fail, nor the king's obedience exempt the people, if they fail, but every one beareth the punishment of his own sin; and there is no mutual power in the parties to compel one another to perform the promised duty, because that belongeth to the pretor or magistrate, before whom the contract is made. The king hath jurisdiction over the people, if they violate their oath; but the people hath no power over the king; and the ground that Arnissæus layeth down is this.—1. The king is not a party contracting with the people, as if there were mutual obligations between the king and the people, and a mutual co-active power on either side. 2. That the care of religion belongeth not to the people, for that hath no warrant in the Word (saith he). 3. We read not that the people was to command and compel the priests and the king to reform religion and abolish idolatry, as it must follow, if the covenant be mutual. 4. Jehoiada (2 Kings xi.) obligeth himself, and the king, and the people, by a like law, to serve God; and here be not two parties but three—the high priest, the king, and the people, if this example prove any thing. 5. Both king and people shall find the revenging hand of God against them, if they fail in the breach of their oath; every one, king and people, by the oath stand obliged to God, the king for himself, and the people for themselves, but with this difference, the king oweth to God proper and due obedience as any of the subjects, and also to govern the people according to God's true religion, (Deut. xvii.; 2 Chron. xxix.) and in this the king's obligation differeth from the people's obligation; the people, as they would be saved, must serve God and the king, for the same cause. (1 Sam. xii.) But, besides this, the king is obliged to rule and govern the people, and keep them in obedience to God; but the people is not obliged to govern the king, and keep him in obedience to God, for then the people should have as great power and jurisdiction over the king, as the king hath over the people, which is against the word of God, and the examples of the kings of Judah; but this cometh not from any promise or covenant that the king hath made with the people, but from a peculiar obligation whereby he is obliged to God as a man, not as a king:—

Arg. 1.—This is the mystery of the business which I oppose in these assertions. Assert. 1.—As the king is obliged to God for the maintenance of true religion, so are the people and princes no less in their place obliged to maintain true religion; for the people are rebuked, because they burn incense in all high places, 2 Kings xvii. 11; 2 Chron. xxxiii. 17; Hos. iv. 13. And the reason why the high places are not taken away, is given in 2 Chron. xx. 33, for as yet the people "had not prepared their heart unto the God of their fathers;" but you will reply, elicit acts of maintenance of true religion are commanded to the people, and that the places prove; but the question is de actibus imperatis, of commanded acts of religion, sure none but the magistrate is to command others to worship God according to his word. I answer, in ordinary only, magistrates (not the king only but all the princes of the land) and judges are to maintain religion by their commandments, (Deut. i. 16; 2 Chron. i. 2; Deut. xvi. 19; Eccles. v. 8; Hab. i. 4; Mic. iii. 9; Zech. vii. 9; Hos. v. 10, 11,) and to take care of religion; but when the judges decline from God's way and corrupt the law, we find the people punished and rebuked for it: Jer. xv. 4, "And I will cause them to be removed to all kingdoms of the earth, because of Manasseh, the son of Hezekiah king of Judah, for that which he did in Jerusalem;" 1 Sam. xii. 24, 25, "Only fear the Lord; but if ye shall still do wickedly, ye shall be consumed, both ye and your king." And this case, I grant, is extraordinary; yet so, as Junius Brutus proved well and strongly, that religion is not given only to the king, that he only should keep it, but to all the inferior judges and people also in their kind; but because the estates never gave the king power to corrupt religion, and press a false and idolatrous worship upon them, therefore

1 Arniss. de autorit. prin. c. 1. n. 6, 7.
when the king defendeth not true religion, but presseth upon the people a false and idolatrous religion, in that they are not under the king, but are presumed to have no king, "catenus, so far, and are presumed to have the power in themselves, as if they had not appointed any king at all; as if we presume the body had given to the right hand a power to ward off strokes and to defend the body; if the right hand should by a palsy, or some other disease, become impotent, and be withered up, when ill is coming on the body, it is presumed that the power of defence is returned to the left hand, and to the rest of the body to defend itself in this case as if the body had no right hand, and had never communicated any power to the right hand. So if an incorporation accused of treason, and in danger of the sentence of death, shall appoint a lawyer to advocate their cause, and to give in their just defences to the judge, if their advocate be stricken with dumbness, because they have lost their legal and representative tongue, none can say that this incorporation hath lost the tongues that nature hath given them, so as by nature's law they may not plead in their own just and lawful defence, as if they had never appointed the foresaid lawyer to plead for them. The king, as a man, is not more obliged to the public and regal defence of the true religion than any other man of the land; but he is made by God and the people king, for the church and people of God's sake, that he may defend true religion for the behalf and salvation of all. If therefore he defend not religion for the salvation of the souls of all in his public and royal way, it is presumed as undeniable that the people of God, who by the law of nature are to care for their own souls, are to defend in their way true religion, which so nearly concerneth them and their eternal happiness.

Assert. 2.—When the covenant is betwixt God, on the one part, and the king, priests and people, on the other; it is true, if the one perform for his part to God the whole duty, the other is acquitted; as if two men be indebted to one man ten thousand pounds, if the one pay the whole sum the other is acquitted. But the king and people are not so contracting parties in covenant with God as that they are both indebted to God for one and the same sum of complete obedience, so as if the king pay the whole sum of obedience to God, the people are acquitted; and if the people pay the whole sum, the king is acquitted; for every one standeth obliged to God for himself; for the people must do all that is their part in acquitting the king from his royal duty, that they may free him and themselves both from punishment, if he disobey the King of kings; nor doth the king's obedience acquit the people from their duty. Arnæus dreamed if he believed that we make king and people this way party-contractors in covenant with God. Nor can two copartners in covenant with God so mutually compel one another to do their duty; for we hold that the covenant is made betwixt the king and the people, betwixt mortal men; but they both bind themselves before God to each other. But saith Arnæus, "It belongeth to a pretor or ruler, who is above both king and people, to compel each of them,—the king to perform his part of the covenant to the people, and the people to perform their part of the covenant to the king. Now there is no ruler but God, above both king and people." But let me answer. The consequence is not needful, no more than when the king of Judah and the king of Israel make a covenant to perform mutual duties one to another,—no more than it is necessary that there should be a king and superior ruler above the king of Israel and the king of Judah, who should compel each one to do a duty to his fellow-king; for the king and people are each of them above and below others in divers respects: the people, because they create the man king, they are so above the king, and have a virtual power to compel him to do his duty; and the king, as king, hath an authoritative power above the people, because royalty is formally in him, and originally and virtually only in the people, therefore may he compel them to their duty, as we shall hear anon; and therefore there is no need of an earthly ruler higher than both, to compel both.

Assert. 3.—We shall hereafter prove the power of the people above the king, God willing; and so it is false that there is not mutual coercive power on each side.

Assert. 4.—The obligation of the king in this covenant floweth from the peculiar national obligation betwixt the king and the estates, and it bindeth the king as king, and not simply as he is a man. 1. Because it is a covenant betwixt the people and David, not as he is the son of Jesse, for then it should oblige Eliab, or any other of David's
brothre n; yes, it should oblige any man if it oblige David as a man; but it obligeth David as a king, or as he is to be their king, because it is the specific act of a king that he is obliged unto, to wit, to govern the people in righteousness and religion with his royal power. And so it is false that Arnisseus saith, that "the king, as a man, is obliged to God by this covenant, not as a king." 2. He saith, by covenant the king is bound to God as a man, not as a king. But so the man will have the king, as king, under no law of God; and so he must either be above God, as king, or co-equal with God; which are manifest blasphemies. For I thought ever the royalists had not denied that the king, as king, had been obliged to keep his oath to his subjects, in relation to God, and in regard of natural obligation,—so as, he sinneth before God if he break his covenant with his people,—though they deny that he is obliged to keep his covenant in relation to his subjects, and in regard of politic or civil obligation to men. Sure I am this the royalists constantly teach, 3. He would have this covenant so made with men as it obligeth not the king to men, but to God. But the contrary is true. Besides the king and the people's covenant with the Lord, king Josiah made another covenant with the people, and Jehoiada the priest was only a witness, or one who, in God's name, performed the rite of anointing; otherwise he was a subject on the people's side, obliged to keep allegiance to Josiah, as to his sovereign and master. But, certainly, whoever maketh a covenant with the people, promising to govern them according to God's word, and upon that condition and these terms receiveth a throne and crown from the people, he is obliged to what he promiseth to the people, Omnis promittens, factum alteri, cui promissio facta est, jus in promissi- tem. Whoever maketh a promise to another, giveth to that other a sort of right or jurisdiction to challenge the promise. The covenant betwixt David and Israel were a shadow, if it tie the people to allegiance to David as their king, and if it tie not David as king to govern them in righteousness; but leave David loose to the people, and only tie him to God, then it is a covenant betwixt David and God only; but the text saith, it is a covenant betwixt the king and the people, 2 Kings xi. 17; 2 Sam. v. 3. 

Arg. 2.—Hence our second argument. He who is made a minister of God, not sim-
ply, but for the good of the subject, and so he take heed to God's law as a king, and govern according to God's will, he is in so far only made king by God as he fullfilleth the condition; and in so far as he is a minister for evil to the subject, and ruleth not according to that which the book of the law commandeth him as king, in so far he is not by God appointed king and ruler, and so must be made a king by God conditionally: but so hath God made kings and rulers, Rom. xiii. 4; 2 Chron. vi. 16; Psal. lxxxix. 30, 31; 2 Sam. vii. 12; 1 Chron. xxviii. 7—9. This argument is not brought to prove that Jeroboam or Saul leave off to be kings when they fall in some part of the condition; or as if they were not God's vice-regents, to be obeyed in things lawful, after they have gone on in wicked courses; for the people consenting to make Saul king, they give him the crown, pro hac vice, at his entry absolutely. There is no condition required in him before they make him king, but only that he covenant with them to rule according to God's law. The conditions to be performed are consequent, and posterior to his actual coronation and his sitting on the throne. But the argument presupposeth that which the Lord's word teacheth, to wit, that the Lord and the people giveth a crown by one and the same action; for God formally maketh David a king by the princes and elders of Israel choosing of him to be their king at Hebron; and, therefore, seeing the people maketh him a king covenantwise and conditionally, so he rule according to God's law, and the people resigning their power to him for their safety, and for a peaceable and godly life under him, and not to destroy them, and tyrannise over them. It is certain God giveth a king that same way by that very same act of the people; and if the king tyrannise, I cannot say it is beside the intention of God making a king, nor yet beside his intention as a just punisher of their transgressions; for to me, as I conceive, nothing either good or evil fall eth out beside the intention of Him who doeth all things according to the pleasure of his will." If, then, the people make a king, as a king, conditionally, for their safety, and not for their destruction, (for as a king he saveth, as a man he destroyeth, and not as a king and father,) and if God, by the people's free election, make a king, God maketh him a king conditionally, and so by covenant; and, therefore, when God promiseth (2 Sam. vii.
12; 1 Chron. xxviii. 7—9) to David's seed, and to Solomon, a throne, he promiseth not a throne to them immediately, as he raised up prophets and apostles without any mediates action and consent of the people, but he promiseth a throne to them by the mediates consent, election, and covenant of the people; which condition and covenant he expresseth in the very words of the people's covenant with the king, "So they walk as kings in the law of the Lord, and take heed to God's commandment and statutes to do them."

Obj. 1.—But then Solomon, falling in love with many outlandish women, and so not walking according to God's law, loseth all royal dignity and kingly power, and the people is not to acknowledge him as king, since the kingly power was conferred upon him rather than upon Adonijah, upon such a condition, which condition not being performed by him, it is presumed that neither God, nor the people under God, as God's instruments in making king, conferred any royal power on him.

Ans.—It doth not follow that Solomon, falling in love with strange women, doth lose royal dignity, either in the court of heaven or before men; because the conditions of the covenant upon which God, by the people, made him king must be exeed by the law, Deut. xvii. Now that cannot bear that any one act, contrary to the royal office; yea, that any one or two acts of tyranny doth denude a man of the royal dignity that God and the people gave him; for so David, committing two acts of tyranny: one of taking his own faithful subject's wife from, and another in killing himself, should denude himself of all the kingly power that he had; and that, therefore, the people, after his adultery and murder, were not to acknowledge David as their king,—which is most absurd; for as one single act of unchastity is indeed against the matrimonial covenant, and yet doth not make the woman no wife at all, so it must be such a breach of the royal covenant as maketh the king no king, that annulleth the royal covenant, and denudeth the prince of his royal authority and power, that must be interpreted a breach of the oath of God, because it must be such a breach upon supposition whereof the people would not have given the crown, but upon supposition of his destructiveness to the commonwealth, they would never have given to him the crown.

Obj. 2.—Yet at least it will follow that Saul, after he is rejected of God for disobedience in not destroying the Amalekites, as Samuel speaketh to him, (1 Sam. xv.) is no longer to be acknowledged king by the people, at least after he committeth such acts of tyranny, as are 1 Sam. xviii. 12—15, &c.; and after he had killed the priests of the Lord and persecuted innocent David, without cause, he was no longer, either in the court of heaven or the court of men, to be acknowledged as king, seeing he had manifestly violated the royal covenant made with the people; (1 Sam. xi. 14, 15,) and yet, after those breaches, David acknowledgeth him to be his prince and the Lord's anointed.

Ans. 1.—The prophet Samuel's threatening, (1 Sam. xvii.) is not exeed of actual unkinging and rejecting of Saul at the present; for after that, Samuel both honoureth him as king before the people and prayed for him, and mourned to God on his behalf as king, (1 Sam. xvi. 1, 2,) but the threatening was to have effect in God's time, when he should bring David to the throne, as was prophesied, upon occasion of less sin, even his sacrificing and not waiting the time appointed, as God had commanded, 1 Sam. xiii. 13, 14. 2. The people and David's acknowledgment of Saul to be the Lord's anointed and a king, after he had committed such acts of tyranny as seem destructive of the royal covenant, and inconsistent therewith, cannot prove that Saul was not made king by the Lord and the people conditionally, and that for the people's good and safety, and not for their destruction; and it doth well prove,—(1.) That those acts of blood and tyranny committed by Saul, were not done by him as king, or from the principle of royal power given to him by God and the people. (2.) That in these acts they were not to acknowledge him as king. (3.) That these acts of blood were contrary to the covenant that Saul did swear at his inauguration, and contrary to the conditions that Saul, in the covenant, took on him to perform at the making of the royal covenant. (4.) They prove not but the states who made Saul king might lawfully de-throne him, and anoint David their king. But David had reason to hold him for his prince and the Lord's anointed, so long as the people recalled not their grant of royal dignity, as David, or any man, is obliged to honour him as king whom the people mak-
eth king, though he were a bloodier and more tyrannical man than Saul. Any tyrant standeth in titulo, so long as the people and estates who made him king have not recalled their grant; so as neither David, nor any single man, though six hundred with him, may unking him or detract obedience from him as king; so many acts of disloyalty and breaches of law in the subjects, though they be contrary to this covenant that the states make with their prince, doth not make them to be no subjects—and the covenant mutual standeth thus.

Arg. 3.—1. If the people, as God’s instruments, bestow the benefit of a crown on their king, upon condition that he will rule them according to God’s word, then is the king made king by the people conditionally; but the former is true, therefore so is the latter. The assumption is proved thus:—Because to be a king, is to be an adopted father, tutor, a politic servant and royal watchman of the state; and the royal honour and royal maintenance given to him, is a reward of his labours and a kingly hire. And this is the apostle’s argument, Rom. xiii. 6, “For this cause pay you tribute also, [there is the wages] for they are God’s ministers, attending continually upon this very thing.” There is the work. Qui non implet conditionem a se promissam, cadit beneficio. It is confirmed thus:—The people either maketh the man their prince conditionally;—(1.) that he rule according to law or absolutely;—(2.) so that he rule according to will or lust;—or, (3.) without any vocal transactions at all, but only brevi manu, say, “Reign thou over us, and, God save the king!” and so there be no conditions spoken on either side;—or, (4.) the king is obliged to God for the condition which he promised by oath to perform toward the people; but he is to make no reckoning to the people, whether he perform his promise or no; for the people being inferior to him, and he, solo Deo minor, only next and immediate to God, the people can have no ius, no law over him by virtue of any covenant. But the first standing, we have what we seek; the second is contrary to Scripture. He is not (Deut. xvii. 15, 16) made absolutely a a king to rule according to his will and lust; for “reign thou over us,” should have this meaning—“Come thou and play the tyrant over us, and let thy lust and will be a law to us.”—which is against natural sense; nor can the sense and meaning be according to the third, That the people, without any express, vocal, and positive covenant, give a throne to their king to rule as he pleaseth; because it is a vain thing for the Prelate and other Mancipia Aulic, court-bellies, to say Scotland and England must produce a written authentic covenant betwixt the first king and their people, because, say they, it is the law’s word, Do non apparentibus et non existentibus eadem lex, that covenant which appeareth not, it is not; for in positive covenants that is true, and in such contracts as are made according to the civil or municipal laws, or the secondary law of nature. But the general covenant of nature is presupposed in making a king, where there is no vocal or written covenant. If there be no conditions betwixt a Christian king and his people, then those things which are just and right according to the law of God, and the rule of God in moulding the first king, are understood to rule both king and people, as if they had been written; and here we produce our written covenant, Deut. xvi. 15; Josh. i. 8, 9; 2 Chron. xxxi. 32. Because this is as much against the king as the people, and more; for if the first king cannot bring forth his written and authentic tables to prove that the crown was given to him and his heirs, and his successors, absolutely and without any conditions, so as his will shall be a law, cadit causa, he losest his cause (say they). The king is in possession of the royal power absolutely, without any condition, and you must put him from his possession by a law. I answer, This is most false. (1.) Though he were in mala fide, and in unjust possession, the law of nature will warrant the people to repeal their right and plead for it, in a matter which concerneth their heads, lives, and souls. (2.) The parliaments of both kingdoms standing in possession of a nomothetic power to make laws, proveth clearly that the king is in no possession of any royal dignity conferred absolutely, and without any condition, upon him; and, therefore, it is the king’s part by law to put the estates out of possession; and though there were no written covenant, the standing law and practice of many hundred acts of parliament, is equivalent to a written covenant.

2. When the people appointed any to be their king, the voice of nature expound their deed, though there be no vocal or written covenant; for that fact—of making a king—is a moral lawful act warranted by the
word of God (Deut. xvii. 15, 16; Rom. xiii. 1, 2) and the law of nature; and, therefore, they having made such a man their king, they have given him power to be their father, feeder, healer, and protector; and so must only have made him king conditionally, so he be a father, a feeder, and tutor. Now, if this deed of making a king must be expos'd to be an investing with an absolute, and not a conditional power, this fact shall be contrary to Scripture and to the law of nature; for if they have given him royal power absolutely, and without any condition, they must have given him to power to be a father, protector, tutor, and to be a tyrant, a murderer, a bloody lion, to waste and destroy the people of God.

3. The law permitteth the bestower of a benefit to interpret his own mind in the bestowing of a benefit, even as a king and state must expone their own commission given to their ambassador, so must the estates expone whether they bestowed the crown upon the first king conditionally or absolutely.

4. If it stand, then must the people give to their first elected king a power to waste and destroy themselves, as so they may never control it, but only leave it to God and the king to reckon together, but so the condition is a chimera. "We give you a throne, upon condition you swear by him who made heaven and earth, that you will govern us according to God's law; and you shall be answerable to God only, not to us, whether you keep the covenant you make with us, or violate it." But how a covenant can be made with the people, and the king obliged to God, not to the people, I conceive not. This presupposeth that the king, as king, cannot do any sin, or commit any act of tyranny against the people, but against God only; because if he be obliged to God only as a king, by virtue of his covenant, how can he fail against an obligation where there is no obligation? But, as a king, he oweth no obligation of duty to the people; and indeed so do our good men expound Psal. lii. 5: "Against thee, thee only have I sinned," not against Uriah; for if he sinned not as king against Uriah, whose life he was obliged to preserve as a king, he was not obliged as a king by any royal duty to preserve his life. Where there is no sin, there is no obligation not to sin; and where there is no obligation not to sin, there is no sin. By this the king, as king, is loosed from all duties of the second table, being once made a king, he is above all obligation to love his neighbour as himself; for he is above all his neighbours, and above all mankind, and only less than God.

Arg. 4.—If the people be so given to the king, that they are committed to him as a pledge, oppignerate in his hand as a pupil to a tutor, as a distracted man to a patron, as a flock to a shepherd; and so they remain the Lord's church, his people, his flock, his portion, his inheritance, his vineyard, his redeemed ones, then they cannot be given to the king as oxen and sheep, that are freely gifted to a man; or as a gift or sum of gold or silver that the man to whom they are given may use, so that he cannot commit a fault against the oxen, sheep, gold, or money that is given to him, however he shall dispose of them. But the people are given to the king to be tutored and protected of him, so as they remain the people of God, and in covenant with him; and if the people were the goods of fortune (as heathens say), he could no more sin against the people than a man can sin against his gold; now, though a man by adoring gold, or by lavish profusion and wasting of gold, may sin against God, yet not against gold; nor can he be in any covenant with gold, or under any obligation of either duty or sin to gold, or to lifeless and reasonless creatures properly, therefore he may sin in the use of them, and yet not sin against them, but against God. Hence, of necessity, the king must be under obligation to the Lord's people in another manner than that he should only answer to God for the loss of men, as if men were worldly goods under his hand, and as if being a king he were now by this royal authority privileged from the best half of the law of nature, to wit, from acts of mercy and truth, and covenant-keeping with his brethren.

Arg. 5.—If a king, because a king, were privileged from all covenant obligation to his subjects, then could no law of men lawfully reach him for any contract violated by him; then he could not be a debtor to his subjects if he borrowed money from them; and it were utterly unlawful either to crave him money, or to sue him at law for debts; yet our civil laws of Scotland tyeth the king to pay his debts, as any other man: yea, and King Solomon trafficking, and buying, and selling betwixt him and his own subjects, would seem unlawful; for how can a king buy and sell with his subjects, if he be under no covenant obligation to men, but to God.
only. Yea, then, a king could not marry a wife, for he could not come under a covenant to keep his body to her only, nor if he committed adultery, could he sin against his wife, because being immediate unto God, and above all obligation to men, he could sin against no covenant made with men, but only against God.

Arg. 6.—If that was a lawful covenant made by Asa, and the states of Judah, 2 Chron. 15, 18, “That whosoever would not seek the Lord God of their fathers, should be put to death, whether small or great, whether man or woman,” this obligeth the king, for ought I see, and the princes, and the people, but it was a lawful covenant; therefore the king is under a covenant to the princes and judges, as they are to him; it is replied by Barcibus: “If a master of a school should make a law, Whosoever shall go out at the school doors without liberty obtained of the master, shall be whipped, it will not oblige the schoolmaster that he shall be whipped if he go out at the school doors without liberty; so neither doth this law oblige the king, the supreme lawgiver.”

Ans. 1.—Suppose that the scholars have no less hand and authority magisterial in making the law than the schoolmaster, as the princes of Judah had a collateral power with king Asa about that law, it would follow, that the schoolmaster is under the same law. 2. Suppose going out at school doors, were that way a moral neglect of studying in the master, as it is in the scholars, as the not seeking of God is as heinous a sin in king Asa, and no less deserving death, than it is in the people, then should the law oblige schoolmaster and scholar both without exception. 3. The schoolmaster is clearly above all laws of discipline which he imposeth on his scholars; but none can say that king Asa was clearly above that law of seeking of the Lord God of his fathers. Diodorus Siculus (l. 17), saith, the kings of Persia were under an oath, and that they might not change the laws; and so were the kings of Egypt and Ethiopia. The kings of Sparta, which Aristotle calleth just kings, renew their oath every month. Romulus so covenanted with the senate and people. Carolus V. Austriacus sweareth he shall not change the laws without the consent of the electors, nor maketh new laws, nor dispose or pledge any thing that belongeth to the empire. So read we Spec. Saxon, lib. 3, act. 54, and Xenophon (Cyroped. lib. 8,) saith there was a covenant between Cyrus and the Persians. The nobles are crowned when they crown their king, and exact a special oath of the king. So doth England, Poland, Spain, Arragonia, &c. Alber. Gentilis,1 and Grotius,2 prove that kings are really bound to perform oaths and contracts to their people; but “notwithstanding there be such a covenant, it followeth not from this, (saith Arninus)3 that if the prince break his covenant and rule tyrannically, the people shall be free, and the contract or covenant nothing.”—Ans. The covenant may be materially broken, while the king remaineth king, and the subjects remain subjects; but when it is both materially and formally declared by the states to be broken, the people must be free from their allegiance; but of this more hereafter.

Arg. 7.—If a master bind himself by an oath to his servant, he shall not receive such a benefit of such a point of service; if he violate the oath, his oath must give his servant law and right both to challenge his master, and to be free from that point of service; an army appointeth such a one their leader and captain, but they refuse to do it except he swear he shall not betray them to the enemy. If he doth betray them, then must the soldiers be loosed from that contract. If one be appointed pilate of a ship, and not but by an oath, if he sell the passengers to the Turks, they may challenge the pilate of his oath; and it is clear that (1.) the estates should refuse the crown to him who would refuse to govern them according to God’s law, but should profess that he would make his own will a law, therefore the intention of the oath is clearly conditional. (2.) When the king swears the oath, he is but king in fieri, and so not as king above the states of kingdoms. Now his being king doth not put him in a case above all civil obligation of a king to his subjects, because the matter of the oath is, that he shall be under them so far in regard of the oath of God.

Arg. 8.—If the oath of God made to the people do not bind him to the people to govern according to law, and not according to his will and lust, it should be unlawful for any to swear such an oath, for if a power above law agree essentially to a king as a king, as royalists hold, he who sweareth such an oath

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2 Hugo Grotius de jure belli et pec. lib. 2, c. 11—13.
3 Arninus de auctoritate principi. c. 1, n. 7, 8, 10.
should both swear to be a king to such a people, and should swear to be no king, in respect by his oath he should renounce that which is essential to a king.

Amnisus objecteth: *Ex particularibus non potest colligi conclusio universalis,* some few of the kings, as David and Joash, made a covenant with the people; it followeth not that this was an universal law.—Ans. Yea, the covenant is (Deut. 17.) and must be a rule to all; if so just a man as David was limited by a covenant, then all the rest also.

QUESTION XV.

WHETHER OR NO THE KING BE UNIVOCALLY, OR ONLY ANALOGICALLY, AND BY PROPORTION, A FATHER.

It is true Aristotle (Polit. l. 3, c. 11) saith, that the kingly power is a fatherly power; and Justin, (Novell 12, c. 2,) *Pater quamvis legum contemptor, quamvis impius sit, tamen pater est.* But I do not believe that, as royalists say, the kingly power is essentially and univocally that same with a paternal or fatherly power; or that Adam, as a father, was as a father and king; and that suppose Adam should live in Noah’s days, that by divine institution and without consent of the kingdoms and communities on earth, Adam hoc ipso, and for no other reason but because he was a father, should also be the universal king, and monarch of the whole world; or suppose Adam was living to this day, that all kings that hath been since, and now are, held their crowns of him, and had no more kingly power than inferior judges in Scotland have, under our sovereign king Charles, for so all that hath been, and now are, lawful kings, should be unjust usurpers; for if fatherly power be the first and native power of commanding, it is against nature that a monarch who is not my father by generation, should take that power from me, and be a king over me and my children.

1. But I assert, first, that though the Word warrant us to esteem kings fathers, Isa xliv. 23; Jud. v. 7; Gen. xx. 2, yet are not they essentially and formally fathers by generation; Num. xi. 12, “Have I conceived all this people? have I begotten them?” and yet are they but fathers metaphorically—by office, because they should care for them as fathers do for children, and so come under the name of fathers in the fifth commandment, and therefore rigorous and cruel rulers are leopards, and lions, and wolves, Ezek. xxii. 27; Zeph. iii. 3. If, then, tyrannous judges be not essentially and formally leopards and lions, but only metaphorically, neither can kings be formally fathers. 2. Not only kings but all judges are fathers, in defending their subjects from violence and the sword, and fighting the Lord’s battles for them, and counselling them. If, therefore, royalists argue rightly, a king is essentially a father, and fatherly power and royal power are of the same essence and nature. As, therefore, he who is once a father is ever a father, and his children cannot take up arms against him to resist him, for that is unnatural and repugnant to the fifth commandment; so he who is once a king is evermore a king, and it is repugnant to the fifth commandment to resist him with arms. It is answered,—that the argument presupposeth that royal power and fatherly power is one and the same in nature, whereas they differ in nature, and are only one by analogy and proportion; for so pastors of the Word are called fathers, 1 Cor. iv. 16, it will not follow, that once a pastor, evermore a pastor; and that if therefore pastors turn wolves, and by heretical doctrine corrupt the flock, they cannot be cast out of the church. 3. A father, as a father, hath not power of life and death over his sons, because, Rom. xiii., by divine institution the sword is given by God to kings and judges; and if Adam had had any such power to kill his son Cain for the killing of his brother Abel, it had been given to him by God as a power politic, different from a fatherly power; for a fatherly power is such as formally to preserve the life of the children, and not to take away the life; yea, and Adam, though he had never sinned, nor any of his posterity, Adam should have been a perfect father, as he is now indued with all fatherly power that any father now hath; yea God should not have given the sword or power of punishing ill-doers, since that power should have been in vain, if there had been no violence, nor bloodshed, or sin on the earth; for the power of the sword and of lawful war, is given to men now in the state of sin. 4. Fatherly government and power is from the bosom and marrow of that fountain law of nature; but royal power is not from the law of nature, more than is aristocratical or democratical power. Dr. Ferne saith, (part 1, sec. 3, p. 8,) Monarchy is not *jure divino,* (I am not of
his mind,) nor yet from the law of nature, but
actus naturae, by the guidance of nature.
Sure it is from a supervenient command-
ment of God, added to the first law of na-
ture, establishing fatherly power. 5. Chil-
dren having their life and first breathings
of nature from their parents, must be in a
more entire relation from their father than
from their prince. Subjects have not their
being natural, but their civil, politick and
peaceable well-being from their prince. 6.
A father is a father by generation, and
giving the being of nature to children, and
is a natural head and root, without the free
consent and suffrages of his children, and is
essentially a father to one child, as Adam
was to one Cain; but a prince is a prince by
the free suffrages of a community, and can-
not be a king to one only, and he is the po-
litic head of a civil corporation. 7. A fa-
ther, so long as his children liveth, can never
leave off to be a father, though he were mad
and furious—though he be the most wicked
man on earth. Qui genuit filium non po-
test non genuisse filium, what is once past
cannot, by any power, be not past; a fa-
ther is a father for ever. But by confession
of royalists, as Barclius, Hugo Grotius, and
Armisseus, and others, grant, If a king sell
his subjects by sea or land to other nations,
—if he turn a furious Nero, he may be de-
throned; and the power that created the
king under such express conditions, as if the
king violate them by his own consent shall
be put from the throne—may cease to hold
him king; and if a stronger king conquer
a king and his subjects, royalists say the
conqueror is a lawful king; and so the con-
quered king must also lawfully come down
from his throne, and turn a lawful captive
sitting in the dust. 8. Learned politicians,
as Bartholomeus Romulus, (Defens. part 1,
n. 153,) and Joannes de Ananis (in c. fin.
de his qui fil. occid.) teach that “the fa-
ther is not obliged to reveal the conspiracy of
his son against his king; nor is he more to ac-
cuse his son, than to accuse himself,” because
the father loveth the son better than him-
met. casus, et D. L. fin. c. de cura furiosi,) and
certainly a father had rather die in his
own person, as choose to die in his son’s, in
whom he affecteth a sort of immortalitity, in
specie, quando non potest in individuo; but
a king doth not love his subjects with a
natural or fatherly love thus; and if the af-
fections differ, the power which secondeth
the affection, for the conservation either of
being, or well-being, must also differ pro-
portionally.

The F. Prelate (c. 7, p. 87,) objecteth
against us thus, stealing word by word from
Arnisseus. 1 1. When a king is elected so-
vereign to a multitude, he is surrogated in
the place of a common father, Exod. xx.
12, “Honour thy father.” Then, as a na-
tural father receiveth not paternal right,
power, or authority, from his sons, but hath
this from God and the ordinance of nature,
nor can the king have his right from the
community. 2. The maxim of the law is,
Surrogatus gaudet privilegus ejus cui sur-
rugatur, et qui succedit in locum, succedit
in jus. The person surrogated hath all the
privileges that he hath in whose place he
succeeded; he who succeeded to the place
succeeded to the rights; the adopted son,
or the bastard who is legitimated and com-
eth in the place of the lawful born son, com-
eth also in the privileges of the lawful born
son. A prince elected cometh to the full
possession of the majesty of a natural prince
and father, for Modus acquirendi non tol-
it naturale jus possidendi (saith Armisseus,
more fully than the poor Plagianus), the
manner of acquiring any thing, taketh not
away the natural possession, for however
things be acquired, if the title be just, pos-
session is the law of nations. Then when
the king is chosen in place of the father, as
the father hath a divine right by nature, (so
must the king have that same;) and seeing
the right proprietor (saith the pamphleting
Prelate) had his right by God, by nature,
how can it be but howsoever the designa-
tion of the person is from the disordered
community, yet the collation of the power is
from God immediately, and from his sacred
and inviolable ordinance? And what can
be said against the way by which any one
elected obtain his right, for seeing God
doth not now send Samuels or Elisheas to
anoint or declare kings, we are, in his ordi-
inary providence, to conceive the designa-
tion of the person is the manifestation of
God’s will, called voluntas signi, as the schools
speak, just so as when the church designeth
one to sacred orders.

Ans. 1.—He that is surrogated in the
place of another, due to him by a positive
law of man, he hath law to all the privileges
that he hath in whose place he is surro-

1 Arnisseus de potest princip. c. 3, n. 1, 2.
gated, that is true. He who is made assignee to an obligation for a sum of money, hath all the rights that the principal party to whom the bond or obligation was made. He who cometh in the place of a mayor of a city, of a captain in an army, of a pilot in a ship, or of a pope, hath all the privileges and rights that his predecessors had by law.

*Jus succedit juri, persona jure predicta persona jure predicit.* So the law, so far as my reading can reach,—who profess myself a divine;—but that he who succeedeth to the place of a father by nature, should enjoy all the natural rights and privileges of the person to whom he succeedeth, I believe the law never dreamed it; for then the adopted son, coming in place of the natural son, hath right to the natural affection of the father. If any should adopt Maxwell the prelate, should he love him as the pursuivant of Crail (Maxwell’s father) loved him, I conceive not. Hath the adopted son his life, his being, the figure bodily, the manners of the son in whose place he is adopted; or doth he naturally resemble the father as the natural son doth? The Prelate did not read this law in any approved jurist, though he did steal the argument from Aristotle, and stole the citations of Homer and Aristotle out of him, with a little metathesis. A natural son is not made a son by the consent of parents, but he is a son by generation: so must the adopted son be adopted without the free consent and grace of the father adopting; so here the king cometh in the place of a natural father. But I conceive the law saith not that the elected king is a king without consent of the subjects, as a natural father is a father without the consent of his sons. Nor is it a law true, as “once a father always a father,” so once an elected king always a king, though he sell his subjects, being induced thereunto by wicked counsellors. If the king have no privileges but what the natural father hath, in whose place he cometh, then, as the natural father, in a free kingdom, hath not power of life and death over his sons, neither hath the king power of life and death over his subjects. This is no law. This maxim should prove good if the king were essentially a father by generation and natural propagation; but he is only a father metaphorically, and by a borrowed speech. A father non generando, sed positis alendo, tuendo, regendo, therefore an elected prince cometh not in the full possession of all the natural power and rights of a natural father. The P. Prelate speaketh disgracefully of the church of God, calling it a disorderly community, as if he himself were born of kings, whereas God calleth the king their shepherd, and the people, “God’s flock, inheritance and people;” and they are not a disorderly body by nature, but by sin; in which sense the Prelate may call king, priest and people, a company of heirs of God’s wrath, except he be an Arminian still, as once he was. If we are in ordinary providence now, because we have not Samuels and prophets to anoint kings, to hold the designation of a person to be king to be the manifestation of God’s will, called *voluntas signi,* is treason, for if Scotland and England should design Maxwell in the place of King Charles our native sovereign, (an odious comparison,) Maxwell should be lawful king; for what is done by God’s will, called by our divines (they have it not from schoolmen, as the Prelate ignorantly saith) his *significed will,* which is our rule, is done lawfully. There can be no greater treason put in print than this.

**QUESTION XVI.**

**WHETHER OR NO A DESPOTICAL AND MASTERY DOMINION OF MEN AND THINGS AGREE TO THE KING BECAUSE HE IS KING,**

I may here dispute whether the king be lord, having a mastery dominion both over men and things. But I first discuss shortly his dominion over his subjects.

It is agreed on by divines, that servitude is a penal fruit of sin, and against nature. *Institut. de jure personarum, Sect. 1,* and *F. de statu hominum. l. libertas*; because all men are born by nature of equal condition.

*Assert. 1.*—The king hath no proper, masterly, or lordly dominion over his subjects; his dominion is rather fiduciary and ministerial, than masterly.

1. Because royal empire is essentially to feed, rule, defend, and to govern in peace and godliness, (1 Tim. ii. 2,) as the father doth his children; *Psal. lxxviii. 71,* “He brought him to feed Jacob his people, and Israel his inheritance;” *Isa. lv. 4,* “I gave him for a leader and commander to the people;” *2 Sam. v. 2,* “Thou shalt feed my people Israel;” *2 Sam. v. 2; 1 Chron. xi.*
2; 1 Chron. xvii. 6.) And so it is for the good of the people, and to bring those over whom he is a feeder and ruler, to such a happy end; and, as saith Althusius, (polit. c. 1, n. 13.) and Marius Salomonius, (de princ. c. 2,) it is to take care of the good of those over whom the ruler is set, and, conservare est, rem illasam servare, to keep a thing safe. But to be a master, and to have a masterly and lordly power over slaves and servants, is to make use of servants for the owner's benefit, not for the good of the slave, (l. 2, de leg. l. Servus do servit. expert. Deana polit. l. 1, Tolossaen. de Rep. l. 1., c. 1., n. 15, 16,) therefore are servants bought and sold as goods, (jure belli. F. de statu hominum l. et servorum.)

2. Not to be under governors and magistrates is a judgment of God, (Isa. iii. 6, 7; iii. 1; Hos. iii. 4; Judg. xix. 1, 2,) but not to be under a master as slaves are, is a blessing; seeing freedom is a blessing of God, (John viii. 39; Exod. xxi. 2, 26, 27; Deut. xv. 12,) so he that killeth Goliath, (1 Sam. xvii. 25,) his father's house shall be free in Israel. (Jer. xxxiv. 9; Acts xxii. 29; 1 Cor. ix. 19; Gal. iv. 26, 31.) Therefore the power of a king cannot be a lordly and masterly power; for then to be under a king's power should both be a blessing and a curse, and just punishment of sin.

3. Subjects are called the servants of the king, (1 Sam. xv. 2; 2 Chron. xiii. 7; 1 Kings xii. 7; Exod. x. 1, 2; Exod. ix. 20,) but they are not slaves, because (Deut. xvii. 20) they are his brethren: "That the king's heart be not lifted up against his brethren;" and his sons; (Isa. xliv. 23;) and the Lord gave his people a king as a blessing, (1 Kings x. 9; Hos. i. 11; Isa. i. 26; Jer. xvii. 25,) "and brought them out of the house of bondage," (Exod. xx. 2,) as out of a place of misery. And therefore to be the king's servants in the place cited, is some other thing than to be the king's slaves.

4. The master might in some cases sell the servant for money, yea for his own gain he might do it, (Nehem. v. 8; Eccles. ii. 7; 1 Kings ii. 32; Gen. ix. 25; Gen. xxvi. 14; 2 Kings iv. 1; Gen. xx. 14,) and might give away his servants; and the servants were the proper goods and riches of the master; (Eccles. ii. 7; Gen. xxx. 43; Gen. xx. 14; Job i. 3, 15;) but the king may not sell his kingdom or subjects, or give them away for money, or any other way; for royals grant that king to be a tyrant, and worthy to be deethroned, who shall sell his people; for the king may not dilapidate the rents of the crown and give them away to the hurt and prejudice of his successors, (l. ult. Sect. sed nostr. c. Comment. de lege, l. peto, 69, Sect. fra-trem de lege, l. 32, ultimo, D.T.) and far less can he lawfully sell men, and give away a whole kingdom to the hurt of his successors, for that were to make merchandise of the living temples of the Holy Ghost; and Arnisseus, (de authorit. principi. c. 3, n. 7,) saith, servitude is prater naturam, beside nature; he might have said, contrary to nature (l. 5, de stat. homin. Sect. 2, Inst. de jur. perso. c. 3, et Novel. 89;) but the subject is that it is more consonant to nature, that it is seen in bees and cranes. Therefore a dominion is defined, a faculty of using things to what uses you will. Now a man hath not this way an absolute dominion over his beasts, to dispose of them at his will; for a good man hath mercy on the life of his beast, (Prov. xii. 10;) nor hath he dominion over his goods to use them as he will, because he may not use them to the damage of the commonwealth, he may not use them to the dishonour of God; and so God and the magistrate hath laid some bound on his dominion. And because the king being made a king leaveth not off to be a reasonable creature, he must be under a law, and so his will and lust cannot be the rule of his power and dominion, but law and reason must regulate him, Now if God had given to the king a dominion over men as reasonable creatures, his power and dominion which by royalsists is conceived to be above law, should be a rule to men as reasonable men, which would make men under kings no better than brute beasts, for then should subjects exercise acts of reason, not because good and honest, but because their prince commandeth them so to do; and if this cannot be said, none can be at the disposing of kings in politic acts liable to royal government, that way that the slave is in his actions under the dominion of his master.

Obj. 1. The Prelate objecteth out of Spalato, Arnisseus, and Hugo Grotius, (for in his book there is not one line which is his own, except his railings;) "All government and superiority in rulers is not primarily and only for the subjects' good; for some are by God and nature appointed for the mutual and inseparable good of the superior and inferior, as in the government of husband and wife, or father and son; and in heriti domi-nio, in the government of a lord and his ser-
vant, the good and benefit of the servant is but secondary and consecutively intended, it is not the principal end, but the external and adventitious, as the gain that cometh to a physician is not the proper and internal end of his art, but followeth only from his practice of medicine.

**Ans.** 1.—The Prelate's logic tendeth to this; some government tendeth to the mutual good of the superior and inferior, but royal government is some government, therefore, nothing followeth from a major proposition, *Ex particulari affirmante, in prima figura*; or of two particular propositions. 2. If it be thus formed, every marital government, and every government of the lord and servant is for the mutual good of the superior and inferior; but royal government is such, therefore the assumption is false, and cannot be proved, as I shall anon clear.

**Obj.** 2.—Solomon disposed of Cabul and gave it to Hiram, therefore a conquered kingdom is for the good of the conqueror especially.

**Ans.**—Solomon's special giving away some titles to the king of Tyre, being a special act of a prophet as well as a king, cannot warrant the king of England to sell England to a foreign prince, because William made England his own by conquest, which also is a most false supposition; and this he stol from Hugo Grotius, who condemneth selling of kingdoms.

**Obj.** 3.—A man may render himself totally under the power of a master without any conditions; and why may not the body of a people do the like? even to have peace and safety, surrender themselves fully to the power of a king? A lord of great manors may admit no man to live in his lands but upon a condition of a full surrender of him and his posterity to that lord. Tacitus sheweth us it was so anciently amongst the Germans: those engaged in the campaigns surrendered themselves fully to the Romans.

**Ans.**—What compelled people may do to redeem their lives, with loss of liberty, is nothing to the point; such a violent conqueror who will be a father and a husband to a people, against their will, is not their lawful king; and that they may sell the liberty of their posterity, not yet born, is utterly denied as unlawful: yea, a violentated father to me is a father, and not a father, and the posterity may vindicate their own liberty given away unjustly, before they were born, *Qua omne regnum vi partum potest vi dissolvit.*

**Obj.** 4.—But (saith Dr Ferne) these which are ours, and given away to another, in which there redoundeth to God by donation a special interest, as in things devoted to holy uses, though after they be abused, yet we cannot recall them; therefore, if the people be once forced to give away their liberty, they cannot recall it, far less if they willingly resign it to their prince.

**Ans.**—1. This is not true, when the power is given for the conservation of the kingdom, and is abused for the destruction thereof; for a power to destruction was never given, nor can it, by rational nature, be given. Mortifications given to religious uses by a positive law, may be recalled by a more divine and stronger law of nature, such as this,—"I will have mercy and not sacrifice." Suppose David, of his own proper heritage, had given the shew-bread to the priests; yet, when David and his men are famishing, he may take it back from them against their will. Suppose Christ had bought the ears of corn, and dedicated them to the altar, yet might he and his disciples eat them in their hunger. The vessels of silver, dedicated to the church, may be taken and bestowed on wounded soldiers. 2. A people free may not, and ought not, totally surrender their liberty to a prince, confiding on his goodness. (1) Because liberty is a condition of nature that all men are born with, and they are not to give it away—no, not to a king, except in part and for the better, that they may have peace and justice for it, which is better for them, *hic et nunc.* (2) If a people, trusting in the goodness of their prince, enslave themselves to him, and he shall after turn tyrant, a rash and temerarious surrender obligeth not, *Et ignorantia facit factum quasi involuntarium.* Ignorance maketh the fact some way involuntary; for if the people had believed that a meek king would have turned a roaring lion, they should not have resigned their liberty into his hand; and, therefore, the surrender was tacitly conditional to the king as meek, or whom they believed to be meek, and not to a tyrannous lord; and, therefore, when the contract is made for the utility of the one party, the law saith, their place is for after wits, that men may change their mind and resume their liberty, though, if they had given away their liberty for money, they cannot recall it; and if violence made the surrender of liberty, here is slavery; and slaves taken in war, so soon as they can escape and return.
to their own, they are free. (D. Sect. item. ea justiti. de rerum divin. l. nul. F. de capt. l. 3.) So the learned Ferdin. Vasquez (illust. l. 2. c. 82. n. 16.) saith, "The bird that was taken, and hath escaped, is free." Nature in a forced people, so soon as they can escape from a violent conqueror, maketh them a free people; and si solo tempore (saith Ferd. Vasquez, l. 2. c. 82. n. 6.) justificatur subjectio, solo tempore faciutus justificabilitur liberatio.

**Assert. 2.**—All the goods of the subjects belongeth not to the king. I presuppose that the division of goods doth not necessarily flow from the law of nature, for God made man, before the fall, lord of the creatures indefinitely; but what goods be Peter's, and not Paul's, we know not. But supposing man's sin, though the light of the sun and air be common to all, and religious places be proper to none, yet it is morally impossible that there should not be a distinction of meum et tuum, mine and thine; and the decalogue forbidding theft, and coveting the wife of another man, (yet is she the wife of Peter, not of Thomas, by free election, not by an act of nature's law,) doth evidence to us, that the division of things is so far forth (men now being in the state of sin) of the law of nature, that it hath evident ground in the law of nations; and thus far natural, that the heat that I have from my own coat and cloak, and the nourishment from my own meat, are physically incommunicable to any. But I hasten to prove the proposition:—If, 1. I have leave to permit that, in time of necessity, all things are common by God's law—a man travelling might eat grapes in his neighbour's vineyard, though he was not licensed to carry any way. I doubt if David, wanting money, was necessitated to pay money for the shew-bread, or for Goliath's sword, supposing these to be the very goods of private men, and ordinarily to be bought and sold. Nature's law in extremity, for self-preservation, hath rather a prerogative royal above all laws of nations and all civil laws, than any mortal king; and, therefore, by the civil law, all are the king's, in case of extreme necessity. In this meaning, any one man is obliged to give all he hath for the good of the commonwealth, and so far the good of the king, in as far as he is head and father of the commonwealth. 1

2. All things are the king's, in regard of his public power to defend all men and their goods from unjust violence. 3. All are the king's, in regard of his act of conservation of goods, for the use of the just owner. 4. All are the king's in regard of a legal limitation, in case of a damage offered to the commonwealth. Justice requireth confiscation of goods for a fault; but confiscated goods are to help the interested commonwealth, and the king, not as a man (to bestow them on his children) but as a king. To this we may refer these called bona caduca et inventa, things lost by shipwreck or any other providence, Ulpian, tit. 19, t. o. de bonis vacantibus. C. de Theauro.

**Arg. 1.**—And the reasons why private men are just lords and proprietors of their own goods, are,—1. Because, by order of nature, division of goods cometh nearer to nature's law and necessity than any king or magistrate in the world; and because it is agreeable to nature that every man be warmed by his own fleeces—nourished by his own meat, therefore, to conserve every man's goods to the just owner, and to preserve a community from the violence of rapine and theft, a magistrate and king was devised. So it is clear, men are just owners of their own goods, by all good order, both of nature and time, before there be any such thing as a king or magistrate. Now, if it be good that every man enjoy his own goods, as just proprietor thereof, for his own use, before there be a king, who can be proprietor of his goods? And a king being given of God for a blessing, not for any man's hurt and loss, the king cometh in to preserve a man's goods, but not to be lord and owner thereof himself, nor to take from any man God's right to his own goods.

**Arg. 2.**—When God created man at the beginning, he made all the creatures for man, and made them by the law of nature the proper possession of man, but then there was not any king formally as king; for certainly Adam was a father before he was a king, and no man being either born or created a king over another man, no more than the first lion and the first eagle that God created, were, by the birthright and first start of creation, by nature the king of all lions and all eagles to be after created,—no

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1 Quod jure gentium dicitur. F. de justitia et jure. l. ex hoc.—Quod partim jure civili. Justi. de rerum divisio. sect. singulorum.

1 L. item si verberatum. F. de rei vindicat. Jas. plane. m. lib. Barbarius. F. de offici. pretor.
man can, by nature's law, be the owner of all laws of particular men. And because the laws of nations, founded upon the law of nature, have brought in meum et tuum, mine and thine, as proper to every particular man, and the introduction of kings cannot overturn nature's foundation; neither civility nor grace destroy but perfecteth nature; and if a man be not born a king, because he is a man, he cannot be born the possessor of my goods.

Arg. 3.—What is a character and note of a tyrant, and an oppressing king as a tyrant, is not the just due of a king as a king; but to take the proper goods of subjects, and use them as his own, is a proper character and note of a tyrant and oppressor; therefore the proposition is evident: A king and a tyrant are, by way of contradiction, contrary one to another. The assumption is proved thus:—Ezek. xlvi. 9, 10, "Thus saith the Lord, Let it suffice you, 0 princes of Israel: remove violence and spoil, and execute judgment and justice; take away your exactions from my people, saith the Lord. Ye shall have just balances, and a just ephah, and a just bath." If all be the king's, he is not capable of extortion and rapine. God complaineth of the violence of kings, Micah iii. 1, 3, "Is it not for you to know judgment? who also eat the flesh of my people, and flay their skins from off them; and they break their bones, and chop them in pieces, as for the pot, and as flesh within the chaldron." (Isa. iii. 14; Zeph. iii. 3.) Was it not an act of tyranny in king Achab to take the vineyard of Naboth? and in king Saul (1 Sam. viii. 14) to take the people of God's "fields and vineyards, and oliveyards, and give them to his servants?" Was it a just fault that Hybreas objected to Antonius, exacting two tributes in one year, that he said, "If thou must have two tributes in one year, then make for us two summers and two harvests in one year?" This cannot be just. If all be the king's, the king taketh but his own.

Arg. 4.—Subjects under a monarch could not give alms, nor exercise works of charity: for charity must be my own, Isa. lviii. 7, "Is it not to deal thy bread to the hungry?" &c.; Eccles. xi. 1, "Cast thy bread upon the waters;" and the law saith, "It is theft to give of another man's to the poor;" yea, the distinction of poor and rich should have no place under a monarchy, he only should be rich.

Arg. 5.—When Paul commandeth us to pay tribute to princes (Rom. xiii. 6) because they are the ministers of God, he layeth this ground, that the king hath not all, but that the subjects are to give to him of their goods.

Arg. 6.—It is the king's place, by justice, to preserve every man in his own right, and under his own fig-tree; therefore, it is not the king's house.

Arg. 7.—Even Pharaoh could not make all the victual of the land his own, while he had bought it with money; and every thing is presumed to be free (alloialis, free land,) except the king prove that it is bought or purchased. L. actius, C. de servit. et aqua. et Joan. And. m. C. F. de ind. et hosti. in C. minus de jur.

Arg. 8.—If the subjects had no propriety in their own goods, but all were the prince's due, then the subject should not be able to make any contract of buying and selling without the king, and every subject were in the case of a slave. Now the law saith, (L. 2. F. de Nozali. act. i. 2. F. ad legem aquil.) When he maketh any covenant, he is not obliged civilly to keep it, because the condition of a servant, he not being sui juris, is compared to the state of a beast, though he be obliged by a natural obligation, being a rational creature, in regard of the law of nature, L. naturaliter, L. si id quod, L. interdum, F. de cond. indebit. cum alis. The subject could not, by Solomon, be forbidden to be surety for his friend, as king Solomon doth counsel, (Prov. vi. 1 —3;) he could not be condemned to bring on himself poverty by sluggishness, (as Prov. vi. 6—10;) nor were he to honour the Lord with his riches, (as Prov. iii. 9;) nor to keep his covenant, though to his loss, (Psal. xv. 14;) nor could he be merciful and lend, (Psal. xxxvii. 26;) nor had he power to borrow; nor could he be guilty in not paying all again. (Psal. xxxvii. 21.) For subjects, under a monarchy, can neither perform a duty, nor fail in a duty, in the matter of goods. If all be the king's, what power or dominion hath the subject in disposing of his prince's goods? See more in Petr. Rebuffus, tract. congruae portionis, n. 225, p. 109, 110. Sed quod dominium rerum, &c.
QUESTION XVII.

WHETHER OR NOT THE PRINCE HAVE PROPERLY A FIDUCIARY AND MINISTERIAL POWER OF A TUTOR, HUSBAND, PATRON, MINISTER, HEAD, FATHER OF A FAMILY, NOT OF A LORD OR DOMINATOR.

That the power of the king is fiduciary, that is, given to him immediately by God in trust, royalties deny not; but we hold that the trust is put upon the king by the people. We deny that the people give themselves to the king as a gift, for what is freely given cannot be taken again; but they gave themselves to the king as a pawn, and if the pawn be abused, or not used in that manner as it was conditioned to be used, the party in whose hand the pawn is intrusted, faieth in his trust.

Assert. 1.—The king is more properly a tutor than a father. 1. Indigency is the original of tutors—the parents die; what then shall become of the orphan and his inheritance? He cannot guide it himself, therefore nature devised a tutor to supply the place of a father, and to govern the tutor; but, with this consideration, the father is lord of the inheritance, and if he be distressed, may sell it, that it shall never come to the son, and the father, for the bad deserving of his son, may disinherit him; but the tutor, being but a borrowed father, cannot sell the inheritance of the pupil, nor can he, for the pupil’s bad deserving, by any dominion of justice over the pupil, take away the inheritance from him, and give it to his own son. So a community of itself, because of sin, is a naked society that can but destroy itself, and every one eat the flesh of his brother; therefore God hath appointed a king or governor, who shall take care of that community, rule them in peace, and save all from reciprocation of mutual acts of violence, yet so as, because a trust is put on the ruler of a community which is not his heritage, he cannot dispose of it as he pleaseth, because he is not the proper owner of the inheritance. 2. The pupil, when he cometh to age, may call his tutor to an account for his administration. I do not acknowledge that as a truth, which Aristeus saith, (de authoritye prin. c. 3, n. 5,) “The commonwealth is always minor and under tutury, because it alway hath need of a curator and governor, and can never put away its govern-
Barclay. "It is not in the power of the wife to repudiate her husband, though never so wicked. She is tyed to him for ever, and may not give to him a bill of divorcement, as by law the husband might give to her. If therefore the people swear loyalty to him, they keep it, though to their hurt." Psal. xv.—Ans. There is nothing here said, except Barclay and the Plagiary prove that the king's power is properly a husband's power, which they cannot prove but from a simile that crooketh. But a king, elected upon conditions, that if he sell his people he shall lose his crown, is as essentially a king as Adam was Eve's husband; and yet, by grant of parties, the people may never divorce from such a king, and dethrone him, if he sell his people; but a wife may divorce from her husband, as the argument saith, in this poor argument the Prelate stole from Dr Ferne (part 2, sect. 3, p. 10, 11). The keeping of covenant, though to our hurt, is a penal hurt, and loss of goods, not a moral hurt, and loss of religion.

Assert. 3.—The king is more properly a sort of patron, to defend the people, and therefore hath no power given either by God or man to hurt the people; and a minister, or public and honourable servant, (Rom. xiii. 4.) for he is the minister of God to thee for good. 1. He is the commonwealth's servant objectively, because all the king's service, as he is king, is for the good, safety, peace and salvation of the people, and in this he is a servant. 2. He is the servant of the people representatively, in that the people hath impawned in his hand all their power to do royal service.

Obj. 1.—He is the servant of God, therefore he is not the people's servant, but their sovereign lord.

Ans.—It followeth not; because all the services the king, as king, performeth to God, are acts of royalty, and acts of royal service, as terminated on the people, or acts of their sovereign lord; and this proveth, that to be their sovereign is to be their servant and watchman.

Obj. 2.—God maketh a king only, and the kingly power is in him only, not in the people.

Ans. 1.—The royal power is only from God immediately,—immediatione simplicis constitutionis, et solutum a Deo solutudine prince cause,—by the immediation of simple constitution, none but God appointed there should be kings. But 2. Royal power is not in God, nor only from God, immediatione applicationis regiae dignitatis ad personam, nec a Deo solutum, solitudine causae applicantis dignitatem, huc, non illi, in respect of the applying of royal dignity to this person, not to that.

Obj. 3.—Though royal power were given to the people, it is not given to the people as if it were the royal power of the people, and not the royal power of God, neither is it any otherwise bestowed on the people but as on a beam, a channel, an instrument by which it is derived to others, and so the king is not the minister or servant of the people.

Ans.—If it is not in the people as in the principal cause; sure all royal power that way is only in God; but it is in the people as in the instrument, and when the people maketh David their king at Hebron, in that same very act, God, by the people using their free suffrages and consent, maketh David king at Hebron; so God only giveth rain, and none of the vanities and supposed gods of the Gentiles can give rain, (Jer. xiv. 22,) and yet the clouds also give rain, as nature, as an organ and vessel out of which God poureth down rain upon the dry earth; (Amos ix. 6;) and every instrument under God that is properly an instrument, is a sort of vicarious cause in God's room, and so the people as in God's room applieth royal power to David, not to any of Saul's sons, and appointeth David to be their royal servant to govern, and in that to serve God, and to do that which a community now in the state of sin cannot formally do themselves; and so I see not how it is a service to the people, not only objectively, because the king's royal service tendeth to the good, and peace, and safety of the people, but also subjectively, in regard he hath his power and royal authority which he exerciseth as king from the people under God, as God's instruments; and, therefore, the king and parliament give out laws and statutes in the name of the whole people of the land; and they are but flatterers, and belie the Holy Ghost, who teach that the people do not make the king; for Israel made Saul king at Mizpah, and Israel made David king at Hebron.

Obj. 4.—Israel made David king, that is, Israel designed David's person to be king, and Israel consented to God's act of making David king, but they did not make David king.

Ans.—I say not that Israel made the royal dignity of kings: God (Deut. xvii.) insti-
tuted that himself; but the royalist must give us an act of God going before an act of the people's making David king at Hebron, by which David of no king is made formally a king; and then another act of the people, approving only and consenting to that act of God, whereby David is made formally of no king to be a king. This royalists shall never instruct, for there be only two acts of God here; 1. God's act of anointing David by the hand of Samuel; and 2. God's act of making David king at Hebron; and a third they shall never give. But the former is not that by which David was essentially and formally changed from the state of a private subject and no king, into the state of a public judge and supreme lord and king; for (as I have proved) after this act of anointing of David king, he was designed only and set apart to be king in the Lord's fit time; and after this anointing, he was no more formally a king than Doeg or Nabal were kings, but a subject who called Saul the Lord's anointed and king, and obeyed him as another subject doth his king; but it is certain God by no other act made David king at Hebron, than by Israel's act of free electing him to be king and leader of the Lord's people, as God by no other act senteth down rain on the earth, but by his melting the clouds, and causing rain to fall on the earth; and therefore to say Israel made David king at Hebron, that is, Israel approved only and consented to a prior act of God's making David king, is just to say Saul prophesied, that is, Saul consented to a prior act of the Spirit of God who prophesied; and Peter preached, (Acts ii.) that is, Peter approved and consented to the Holy Ghost's act of preaching, which to say, is childish.

Assert. 4.—The king is an head of the commonwealth only metaphorically, by a borrowed speech in a politic sense, because he ruleth, commandeth, directeth the whole politic body in all their operations and functions. But he is not univocally and essentially the head of the commonwealth. 1. The very same life in number that is in the head, is in the members; there be divers distinct souls and lives in the king and in his subjects. 2. The head natural is not made an head by the free election and consent of arms, shoulders, legs, toes, fingers, &c. The king is made king only by the free election of his people. 3. The natural head, so long as the person liveth, is ever the head, and cannot cease to be a head while it is seated on the shoulders; the king, if he sell his people's persons and souls, may leave off to be a king and head. 4. The head and members live together and die together, the king and the people are not so; the king may die and the people live. 5. The natural head cannot destroy the members and preserve itself; but king Nero may waste and destroy his people. Dr Ferne, M. Symmons, the P. Prelate, when they draw arguments from the head, do but dream, as the members should not resist the head. Natural members should not or cannot resist the head, though the hand may pull a tooth out of the head, which is no small violence to the head; but the members of a politic body may resist the politic head. This or that king is not the adequate and total politic head of the commonwealth; and therefore though you cut off a politic head, there is nothing done against nature. If you cut off all kings of the royal line, and all governors aristocratical, both king and parliament, this were against nature; and a commonwealth which would cut off all governors and all heads, should go against nature and run to ruin quickly. I conceive a society of reasonable men cannot want governors. 6. The natural head communicateth life, sense, and motion to the members, and is the seat of external and internal senses; the king is not so.

Assert. 5.—Hence the king is not properly the head of a family, for, as Tholusa saith well, (de Rep. l. 5, c. 5.) Nature hath one intention in making the thumb, another intention in making the whole hand, another in forming the body; so there is one intention of the God of nature in governing one man, another in governing a family, another in governing a city: nor is the thumb king of all the members; so domestic government is not monarchical properly. 1. The mother hath a parental power as the father hath, (Prov. iv. 5; x. 3; xxxi. 17,) so the fifth commandment saith, "Honour thy father and thy mother." 2. Domestic government is natural, monarchical politic. 3. Domestic is necessary, monarchical is not necessary; other government may be as well as it. 4. Domestic is universal, monarchical not so. 5. Domestic hath its rise from natural instinct without any farther instruction; a monarchical government is not but from election, choosing one government, not another. Hence that is a fiduciary power, or a power of trust, wherein the thing put in trust is not either his own proper heritage or gift, so as he may dispose of it as he pleaseth, as men dispose of
their goods or heritage. But the king may not dispose of men as men, as he pleaseth; nor of laws as he pleaseth; nor of governing men, killing or keeping alive, punishing and rewarding, as he pleaseth. My life and religion, and so my soul, in some cases, are committed to the king as to a public watchman, even as the flock to the feeder, the city to the watchmen; and he may betray it to the enemy. Therefore, he hath the trust of life and religion, and hath both tables of the law in his custody, ex officio, to see that other men than himself keep the law. But the law is not the king's office, but given to him in trust. He who receiveth a kingdom conditionally, and may be dethroned if he sell it or put it away to any other, is a fiduciary patron, and hath it only in trust. So Hotto- man, (quest. ill. 1.) Ferdinand. Vasquez, (illust. quest. l. 1, c. 4.) Althusius, (polit. c. 24, n. 36,) saith the law of every factor or deputy, (l. 40, l. 63, procur. l. 16, C. dict. 1.) Antigonus dixit regnum esse nobilis servitutem. Tyberius Cæsar called the senate, dominum suum, his lord. (Suetonius in vita Tiberti, c. 29.)

QUESTION XVIII.
WHAT IS THE LAW OF THE KING, AND HIS POWER?

1 Sam. viii. 11. "This will be the manner of the king who shall reign over you," &c.

This place, (1 Sam. viii. 11,) the law or manner of the king is alleged to prove both the absolute power of kings, and the unlawfulness of resistance; therefore I crave leave here to vindicate the place, and to make it evident to all that the place speaketh for no such matter. Grotius argueth thus: 1 "that by this place, the people oppressed with injuries of a tyrannous king have nothing left them but prayers and cries to God; and therefore there is no ground for violent resisting." Barclay 2 will have us to distinguish inter officium regis, et potestatem, between the king's office and the king's power; and he will have the Lord here speaking, not of

1 Grotius de jure bell et pacis, lib. 1, c. 4, n. 3. 2 Barclaius contra Monarchom. lib. 2, p. 84. Potestatem intellig non esse quod competit ex precetto, neque etiam quae ex permisso est, quatenus liberat a peccato, sed quatenus penitus legalibus eximiat operantem.

the king's office, what he ought to do before God, but what power a king hath beside and above the power of judges, to tyrannise over the people, so as the people hath no power to resist it. He will have the office of the king spoken of Deut. xvii., and the power of the king, 1 Sam. viii., and that power which the people was to obey and submit unto without resisting. But I answer, 1. It is a vain thing to distinguish betwixt the office and the power; for the power is either a power to rule according to God's law, as he is commanded, (Deut. xvii.) and this is the very office or official power which the King of kings hath given to all kings under him, and this is a power of the royal office of a king, to govern for the Lord his Maker; or this is a power to do ill and tyrannise over God's people; but this is accidental to a king and the character of a tyrant, and is not from God, and so the law of the king in this place must be the tyranny of the king, which is our very mind. 2. "Reges sine dominacione ne concepi quidem possunt; —judices dominationem in populum minime habebant." 1 Hence it is clear that Barclay saith, that the judges of Israel and the kings are different in essence and nature; so that domination is so essential to a king, that you cannot conceive a king but he must have domination, whereas the judges of Israel had no domination over the people. Hence I argue, that whereby a king is essentially distinguished from a judge that must be from God; but by domination, which is a power to oppress the subject, a king is essentially distinguished from a judge of Israel; therefore, domination and a power to do acts of tyranny, as they are expressed, (ver. 11—13,) and to oppress a subject, is from God, and so must be a lawful power. But the conclusion is absurd; the assumption is the doctrine of Barclay. The major proposition I prove. 1. Because both the judge and the king was from God; for God gave Moses a lawful calling to be a judge, so did he to Eli and to Samuel, and hence (Deut. xvii. 15) the king is a lawful ordinance of God. If then the judge and the king be both lawful ordinances, and if they differ essentially, as Barclay saith, then that specific form which distinguisheth the one from the other, to wit, domination and a power to destroy the subject, must be from God; which is blasphemous: for God

2 Barclaius contra Monarcho. lib. 2, p. 56, 57.
can give no moral power to do wickedly; for that is licence, and a power to sin against a law of God, which is absolutely inconsistent with the holiness of God; for so the Lord might deny himself, and dispense with sin. God avert such blasphemies! 2. Now if the kingly power be from God, that which essentially and specifically constitueth a king must be from God, as the office itself is from God. Barclay saith expressly that the kingly power is from God, and that same, which is the specific form that constitueth a king, must be that which essentially separateth the king from the judge, if they be essentially different, as Barclay dreameth. Hence have we this jus regis, this manner or law of the king to tyrannise and oppress, to be a power from God, and so a lawful power, by which you shall have this result of Barclay's interpretation,—that God made a tyrant as well as a king. 3. By this difference that Barclay puteth between the king and the judge, the judge might be resisted; for he had not this power of dominion that Saul hath, contrary to Rom. xiii. 2; Exod. xxii. 28; xxi. 12.

But let us try the text first, and the word cannot enforce us to enquire if the word in an English rendering, show them the manner of the king. Arri. Montanus turneth it ratio regis. I grant the LXX. render it, οἱ λαοὶ τῶν βασιλέων. The Chaldee Paraphrase saith, Statutum regis. Hieronymus translathit it jus regis, and also Calvin; but I am sure the Hebrew, both in words and sense, beareth a consuetude; yes, and the word λαοὶ signifies not always a law, as, (Josh. xi. 14,) "They compassed the city seven times;" the LXX. κατὰ τοῦ προσελογίου; 2 Kings xvii. 26. They "know not the manner of the God of the land;" (ver. 33) they served their own gods, after the manner of the heathen." cannot be according to the law or right of the heathen, except be taken in an evil part: the LXX. κατὰ τοῦ ριγίου τῶν οίκων, ver. 34, "Until this day they do after these manners;" 1 Kings xviii. 28. Baal's priests "cut themselves with knives and after their manner;" the LXX. κατὰ τοῦ γειτονίου; Gen. xl. 13. Thou shalt give the cup to Pharaoh, according as thou wast wont to do; ἐν αὐτῷ. Exod. xxi. 9, "He shall deal with her after the manner of daughters;" 1 Sam. xxvi. 11, "And David saved neither man nor woman alive, to bring tidings to Gath, saying, So did David, and so will his manner be;" and therefore διατάξεις is not always taken in a good meaning; so P. Martyr, "He meaneth here of an usurped law;" Calvin, Non jus a deo prescriptum, sed tyrannidem, "He speaketh not of God's law here, but of tyranny;" and Rivetus, διατάξεις signifieth not ever jus, law. Sed aliquando morem sive modum et rationem agendi, "The custom and manner of doing;" so Junius and Tremellius. Diodatus exponeth jus. This law, "namely, (saith he,) that which is now grown to a common custom, by the consent of nations and God's toleration." Glossa, (to speak of papists,) Excitation et dominationem, "The extortion and domination of king Saul is here meant;" Lyra exponeth it tyranny; Tostatus Albolum, "He meaneth here of kings indefinitely who oppressed the people with taxes and tributes, as Solomon and others;" Cornelius à Lapide, "This was an unjust law;" Cajetanus called it tyranny; Hugo Cardinal. nameth them, excitationes et servitutis, "exactions and slaveries;" and Serrarius speaketh not here, Quid Reges jure possint, "What they may do by right and law;" Sed quid audeant, "What they will be bold to do, and what they tyrannically discern against all laws of nature and humanity;" and so speaketh Thom. Aquinas; so also Mon-

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1 Barclay's, lib. 3, c. 2.
2 Arr. Mon. Hæc erit ratio Regis.
3 Chald. Para.
doza speaks of the "law of tyrants;" and, amongst the fathers, Clemens Alexandrinus saith on this place, Non humanum pollicetur dominum, sed insolentem datum minatur tyrannum,— He promiseth not a humane prince, but threateneth to give them an insolent tyrant; and the like also saith Bede; and an excellent lawyer, Pet. Rebuffus saith, Etiam loquitur de tyranno qui non erat a Deo electus, and that he speaketh of Saul's tyrannical usurpation, and not of the law prescribed by God, Deut. xvii. I prove,—1. He speaketh of such a power as is answerable to the acts here spoken of; but the acts here spoken of are acts of more tyranny; ver. 11, "And this will be the manner of your king that shall reign over you: he will take your sons, and appoint them for himself, for his chariots, and to be his horsemen; and some shall run before his chariots." Now, to make slaves of their sons was an act of tyranny. 2. To take their fields, and vineyards, and oliveyards from them, and give them to his servants, was no better than Ahab's taking Naboth's vineyard from him, which by God's law he might not lawfully sell, except in the case of extreme poverty, and then, in the year of jubilee, he might redeem his own inheritance. 3. (Ver. 15, 16.) To put the people of God to bondage, and make them servants, was to deal with them as the tyrant Pharaoh did. 4. He speaketh of such a law, the execution whereof should "make them cry out to the Lord because of their king:" but the execution of the just law of the king (Deut. xvii.) is a blessing, and not a bondage which should make the people cry out of the bitterness of their spirit. 5. It is clear here that God is, by his prophet, not instructing the king in his duty, but, as Rabbi Levi Ben. Gersom saith, "Terrifying them from their purpose of seeking a king, and foretelling the evil of punishment that they should suffer under a tyrannous king;" but he speaketh not one word of these necessary and comfortable acts of favour that a good king, by his good govern-

ment, was to do for his people. Deut. xvii. 15, 16. But he speaketh of contrary facts here; and that he is dissuading them from suitting a king is clear from the text. (1.) Because he saith, Give them their will; but yet protest against their unlawful course. (2.) He biddeth the prophet lay before them the tyranny and oppression of their king; which tyranny Saul exerced in his time, as the story showeth. (3.) Because how ineffectual Samuel's exhortation was is set down, ver. 19, "Nevertheless they would not obey the voice of Samuel, but said, Nay, but we will have a king over us." If Samuel had not been dehoring them from a king, how could they be said in this to refuse to hear the voice of Samuel? 6. The ground of Barclay and royalists here is weak; for they say, That the people sought a king like the nations, and the kings of the nations were all absolute, and so tyrants; and God granted their unlawful desire, and gave them a tyrant to reign over them such as the nations had. The plain contrary is true. They sought not a tyrant; but one of the special reasons why they sought a king was to be freed of tyranny; for 1 Sam. viii. 3, "Because Samuel's sons turned aside after lucre, and took bribes, and perverted judgment; therefore all the elders of Israel gathered themselves together, and came to Samuel, to Ramah, and there they sought a king." 7. One could not more clearly speak with the mouth of a false prophet than the author of "Active and Passive Obedience" doth, while he will have Samuel here to describe a king, and to say, "Ye have formerly committed one error in shaking off the yoke of God, and seeking a king; so now beware you fall not in the next error, in casting off the yoke of a king, which God, at your own desire, hath laid on you; for God only hath power to make and unmake kings; therefore prepare yourselves patiently to suffer and bear. Anas. 1.—For if he were exhorting to patient suffering of the yoke of a king, he should presume it were God's revealed and regulating will that they should have a king. But the scope of Samuel's sermon is to dissuade them from a king, and they by the contrary, (ver. 19,) say, "Nay, but we will have a king;" and there is not one word in the text that may intimate patience under the yoke of a king. 2. There is here

the description of a tyrant, not of a king. 3. Here is a threatening and a prediction, not anything that smelleth of an exhortation.

Obij.—But it is evident that God, teaching the people how to behave themselves under the unjust oppressions of their king, set down no remedy but tears, crying to God, and patience; therefore resistance is not lawful. 1

Ans. Though this be not the place due to the doctrine of resistance, yet, to vindicate the place, 1. I say, there is not one word of any lawful remedy in the text; only it is said, Et clamavit in illa die a faciebus regis vestri. It is not necessarily to be expected of praying to God; Job xxxv. 9, “By reason of the multitude of oppressions, they make the oppressed to cry,” הַיְעַלְכוּ clamare factunt; Isa. xxv. 4, “And Hashbon shall cry: הַיְעַלְכוּ the armed soldiers of Moab shall cry out.” There is no other word here than doth express the idolatrous prayers of Moab; Isa. xvii. 12; Hab. ii. 11, “The stone shall cry out of the wall חַיָּלֶד יִנְשָׁל;” Deut. xxii: 24, “You shall stone the maids of נוֹמַר נֶשׁ, because she cried not חַיָּלֶד;” but she is not to be stoned because she prayed not to God; Psal. xviii. 4, “David’s enemies cried, and there was none to save, even to the Lord, and he heard not.”

2. Though it were the prophet’s meaning, “they cried to the Lord,” yet it is not the crying of a people humbled, and, in faith, praying to God in their troubles; Zech. vii. 12, “They cried, and I would not hear;” therefore royalists must make crying to God out of the bitterness of affliction, without humiliation and faith, and such prayers of sinners as God heareth not, (Psal. xviii. 41; John ix. 31; Isa. xvii. 12,) to be the only remedy of a people oppressed by a tyrannous king. Now, it is certain God prescribeth no unlawful means to an oppressed people under their affliction; therefore it is clear here that God speaketh only of evils of punishment, such as is to cry in trouble

and not be heard of God, and that he prescribeth here no duty at all, nor any remedy. 3. All protestant divines say, Ex partiociari non valet argumentum negative,—“From one particular place, a negative argument is not good.” This remedy is not written in this particular place, therefore it is not written at all in other places of Scripture; so 1 Tim. i. 19, the end of excommunication is, that the party excommunicated may learn not to blaspheme; therefore the end is not also that the church be not inflected. It followeth not. The contrary is clear (1 Cor. v. 6). Dr Ferne, and other royalists, teach us that we may supplicate and make prayers to a tyrannous king. We may fly from a tyrannous king; but neither supplicating the king, nor flying from his fury, shall be lawful means left by this argument; because these means are no more in this text (where royalists say the Spirit of God speaketh of purpose of the means to be used against tyranny) than violent resistance is in this text.

Barclay, Ferne, Grutius, Arnisseus, the P. Prelate following them, saith, “An ill king is a punishment of God for the sins of the people, and there is no remedy but patient suffering.”

Ans.—Truly it is a silly argument. The Assyrians coming against the people of God for their sins, is a punishment of God. (Isa. x. 5; xii. 13.) But doth it follow that it is unlawful for Israel to fight and resist the Assyrians, and that they had warrant to do no other thing but lay down arms and pray to God, and fight none at all? Is there no lawful resisting of ills of punishment, but mere prayers and patience? The Amalekites came out against Israel for their sins, Sennacherib against Hezekiah for the sins of the people; Assa’s enemies fought against him for his sins, and the people’s sins. Shall Moses and the people, Hezekiah and Assa, do then nothing but pray and suffer? Is it unlawful with the sword to resist them? I believe not. Famine is often a punishment of God in a land, (Amos iv. 7, 8,) is it therefore in famine unlawful to till the earth, and seek bread by our industry, and are we to do nothing but pray for daily bread? It is a vain argument.

Observe, therefore, the wickedness of Barclay, (contra monarch. l. 2, p. 56,) for he would prove, that “a power of doing ill, and that without any punishment to be inflicted by man, is from God; because our laws pu-

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1 Dr Ferne, part 3, sect. 2, p. 10.
2 Learned authors teach that God’s law, (Deut. xvii.) and the דְּבָשָׁה a manner of the king, (1 Sam. viii. 9,) are opposite one to another, so Gesen. in triumprop. sac. adu. par. 4, Alp. 66, lit. 1. cons. 8, Buchan. de jure regni apud Soot. Chasson. cat. glo. mundi cons. 24, n. 162, cons. 35. Tholos. 1. 9, c. 1. Rossen. de polus, Rep. c. 2, n. 10. Magdeburg. in trac. de off. ma.
nish not perjury, but leaveth it to be punished of God (L. 2. l. de Neb. cred. Cujacius. l. 2. obs. c. 19); and the husband in the law of Moses had power to give a bill of divorce to his wife and send her away, and the husband was not to be punished. And also stews and work-houses for harlots, and to take usury, are tolerated in many Christian commonwealths, and yet these are all sorts of murders by the confession of heathen; therefore, (saith Barclay,) God may give a power of tyrannous acts to kings, so as they shall be under no punishment to be inflicted by men.

Ans.—All this is an argument from fact. 1. A wicked magistracy may permit perjury and lying in the commonwealth, and that without punishment; and some Christian commonwealths, he meaneth his own synagogue of Rome, spiritual Sodom, a cage of unclean birds, suffereth harlots by law, and the whores pay so many thousands yearly to the Pope, and are free of all punishment by law, to eschew homicides, adulteries of Romish priests, and other greater sins; therefore God hath given power to a king to play the tyrant without any fear of punishment to be inflicted by man. But if this be a good argument, the magistrate to whom God hath committed the sword to take vengeance on evil doers, (Rom. xiii. 3—6,) such as are perjured persons, professed whores and harlots, hath a lawful power from God to connive at sins and gross scandals in the commonwealth, as they dream that the king hath power given from God to exercise all acts of tyranny without any resistance. But, 1. This was a grievous sin in Eli, that he being a father and a judge, punished not his sons for their uncleanness, and his house, in God's heavy displeasure, was cut off from the priesthood therefor. Then God hath given no such power to the judge. 2. The contrary duty is lying on the judge, to execute judgment for the oppressed, (Job xxix. 12—17; Jer. xxvii. 15, 16,) and perverting of judgment, and conniving at the heinous sins of the wicked, is condemned, (Num. v. 31, 32; 1 Sam. xv. 23; 1 Kings xx. 42, 43; Isa. i. 17; x. 1; v. 23,) and therefore God hath given no power to a judge to permit wicked men to commit grievous crimes, without any punishment. As for the law of divorce, it was indeed a permissive law, whereby the husband might give the wife a bill of divorce, and be free of punishment before men, but not free of sin and guiltiness before God, for it was contrary to God's institution of marriage at the beginning, as Christ saith; and the prophet saith, (Mal. 2,) that the Lord hateth putting away; but that God hath given any such permisssive power to the king, that he may do what he pleaseth, and cannot be resisted, this is in question. 3. The law spoken of in the text is by royalists called, not a consequence of tyranny, but the divine law of God, whereby the king is formally and essentially distinguished from the judge in Israel; now if so, a power to sin and a power to commit acts of tyranny, yea, and a power in the king's sergeants and bloody emissaries to waste and destroy the people of God, must be a lawful power given of God; for a lawful power it must be if it cometh from God, whether it be from the king in his own person, or from his servants at his commandment, and by either put forth in acts, as the power of a bill of divorce was a power from God, exempting either the husband from punishment before men, or freeing the servant, who at the husband's command should write it and put it in the hands of the woman. I cannot believe that God hath given a power, and that by law, to one man to command twenty thousand cut-throats to kill and destroy all the children of God, and that he hath commanded his children to give their necks and heads to Babel's sons without resistance. This I am sure is another matter than a law for a bill of divorce to one woman married by free election of a changeable and unconstant man. But sure I am, God gave no permissive law from heaven like the law of divorce, for the hardness of the heart, not of the Jews only, but also of the whole Christian and heathen kingdoms under a monarch, that one emperor may, by such a law of God as the law of divorce, kill, by bloody cut-throats, such as the Irish rebels are, all the nations that call on God's name, men, women, and sucking infants. And if Providence impede the catholic issue, and dry up the seas of blood, it is good; but God hath given a law, such as the law of divorce, to the king, whereby he, and all his, may, without resistance, by a legal power given of God, who giveth kings to be fathers, nurses, protectors, guides, yea the breath of nostrils of his church, as special mercies and blessings to his people, he may, I say, by a law of God, as it is I Sam. viii. 9, 11, cut off nations, as that lion of the world, Nebuchadnezzar, did. So royalists teach us.

Barclay saith (l. 2. contra Monarch. p. 69)—The Lord spake to Samuel the law of
the king, and wrote it in a book, and laid it up before the Lord. But what law? That same law which he proposed to the people when they first sought a king. But that was the law combating precepts, rather for the people’s obeying than for the king’s commanding; for the people was to be instructed with those precepts, not the king. Those things that concerned the king’s duty (Deut. xvii.) Moses commanded to be put into the ark; but so if Samuel had commanded the king that which Moses (Deut. xvii.) commanded, he had done no new thing, but had done again what was once done actum egisset; but there was nothing before commanded the people concerning their obedience and patience under evil princes. Joseph. Antiq. (l. 6, c. 5.) wrote, et multa vides the evils that were to befall them.

Ans. 1.—It was not that same law, for though this law was written to the people, yet it was the law of the king; and, I pray you, did Samuel write in a book all the rules of tyranny, and teach Saul, and all the kings after him, (for this book was put in the ark of the covenant, where also was the book of the law) how to play the tyrant? And what instruction was it to king or people to write to them a book of the wicked ways of a king, which nature teacheth without a doctor? Sanctius saith on the place. These things which, by men’s fraud and to the hurt of the public, may be corrupted, were kept in the tabernacle, and the book of the law was kept in the ark. Cornelius a Lapide saith, It was the law common to king and people, which was commonly kept with the book of the law in the ark of the covenant. Lyra contradicteth Barclay. He exponeth Legem, legem regni non secundum usurpationem suprema posita, sed secundum ordinationem Dei positaem. (Deut. xvii.) Theodatus excellently exponeth it. The fundamental laws of the kingdom, inspired by God to temper monarchy with a liberty befitting God’s people, and with equity toward a nation—to withstand the abuse of an absolute power. 2. Can any believe Samuel would have written a law of tyranny, and put that book in the ark of the covenant before the Lord, to be kept to the posterity, seeing he was to teach both king and people the good and the right way, 1 Sam. xii. 23—25. 3. Where is the law of the kingdom called a law of punishing innocent people? 4. To write the duty of the king in a book, and apply it to the king, is no more superfluous than to teach the people the good and the right way out of the law, and apply general laws to particular persons. 5. There is nothing in the law (1 Sam. viii. 9—12) of the people’s patience, but rather of their impatient crying out, God not hearing nor helping; and nothing of that in this book, for any thing that we know, and Josephus speaketh of the law in 1 Sam. viii., not of this law, 1 Sam. xii.

QUESTION XIX.

WHETHER OR NO THE KING BE IN DIGNITY AND POWER ABOVE THE PEOPLE.

In this grave question, divers considerations are to be pondered. 1. There is a dignity material in the people scattered—they being many representations of God and his image, which is in the king also, and formally more as king, he being endowed with formal magistratical and public royal authority. In the former regard, this or that man is inferior to the king, because the king hath that same remainder of the image of God that any private man hath, and something more—he hath a politic resemblance of the King of heavens, being a little god, and so is above any one man.

2. All these of the people taken collectively having more of God, as being representations, are, according to this material dignity, more excellent than the king, because many are more excellent than one; and the king, according to the magistratical and royal authority he hath, is more excellent than they are, because he partaketh formally of royalty, which they have not formally.

3. A mean or medium, as it is such, is less than the end, though the thing materially that is a mean may be more excellent. Every mean, as a mean, under that reduplication, hath all its goodness and excellency in relation to the end; yet an angel that is a mean (or medium) and a ministering spirit, ordained of God for an heir of life eternal, (Heb. i. 13.) considered materially, is more excellent than a man. (Psal. viii. 5; Heb. ii. 6—8.)

4. A king and leader, in a military consideration, and as a governor and conservor of the whole army, is more worth than ten thousand of the people, 2 Sam. xviii. 13.
5. But simply and absolutely the people is above, and more excellent, than the king, and the king in dignity inferior to the people; and that upon these reasons:

Arg. 1.—Because he is the mean ordained for the people, as for the end, that he may save them, (2 Sam. xix. 9;) a public shepherd to feed them, (Psal. lxviii. 70—73;) the captain and leader of the Lord's inheritance to defend them, (1 Sam. x. 1;) the minister of God for their good. (Rom. xiii. 4.)

Arg. 2.—The pilot is less than the whole passengers; the general less than the whole army; the tutor less than all the children; the physician less than all the living men whose health he careth for; the master or teacher less than all the scholars, because the part is less than the whole; the king is but a part and member (though I grant a very eminent and noble member) of the kingdom.

Arg. 3.—A Christian people, especially, is the portion of the Lord's inheritance, (Deut. xxxii. 9,) the sheep of his pasture—his redeemed ones—for whom God gave his blood, Acts xx. 28. And the killing of a man is to violate the image of God, (Gen. ix. 6,) and therefore the death and destruction of a church, and of thousand thousands of men, is a sadder and a more heavy matter than the death of a king, who is but one man.

Arg. 4.—A king as a king, or because a king, is not the inheritance of God, nor the chosen and called of God, nor the sheep or flock of the Lord's pasture, nor the redeemed of Christ, for those excellencies agree not to kings because they are kings; for then all kings should be endowed with those excellencies, and God should be an acceptor of persons, if he put those excellencies of grace upon men for external respects of highness and kingly power, and worldly glory and splendour; for many living imagines and representations of God, as he is holy, or more excellent than a politic representation of God's greatness and majesty, such as the king is; because that which is the fruit of a love of God, which cometh nearer to God's most special love, is more excellent than that which is farther remote from his special love. Now, though royalty be a beam of the majesty of the greatness of the King of kings and Lord of lords, yet is it such a fruit and beam of God's greatness, as may consist with the eternal reprobation of the party loved; and so now God's love, from whence he communicateth his image representing his own holiness, cometh nearer to his most special love of election of men to glory.

Arg. 5.—If God give kings to be a ransom for his church, and if he slay great kings for their sake, as Pharaoh king of Egypt, (Isa. xliii. 3,) and Sihon king of the Amorites, and Og king of Bashan; (Psal. cxxxvi. 18—20;) if he plead with princes and kings for destroying his people; (Isa. iii. 12—14;) if he make Babylon and her king a threshing-floor, for the "violence done to the inhabitants of Zion," (Jer. ii. 33—35,) then his people, as his people, must be so much dearer and more precious in the Lord's eyes than kings, because they are kings; by how much more his justice is active to destroy the one, and his mercy to save the other.

Neither is the argument taken off by saying the king must, in this question, be compared with his own people; not a foreign king, with other foreign people, over whom he doth not reign, for the argument proveth that the people of God are of more worth than kings as kings; and Nebuchadnezzar and Pharaoh, for the time, were kings to the people of God, and foreign kings are no less essentially kings, than kings native are.

6. Those who are given of God as gifts for the preservation of the people, to be nurse-fathers to them, those must be of less worth before God, than those to whom they are given, since the gift, as the gift, is less than the party on whom the gift is bestowed. But the king is a gift for the good and preservation of the people, as is clear, Isa. i. 28; and from this, that God gave his people a king in his wrath, we may conclude, that a king of himself, except God be angry with his people, must be a gift.

Arg. 7.—That which is eternal, and cannot politically die, yea, which must continue as the days of heaven, because of God's promise, is more excellent than that which is both accidental, temporary, and mortal. But the people are both eternal as people, because (Eccles. i. 4) "one generation passeth away, and another generation cometh," and as a people in covenant with God, (Jer. xxxii. 40, 41,) in respect that a people and church, though mortal in the individuals, yet the church, remaining the church, cannot die; but the king, as king, may and doth die. It is true, where a kingdom goeth by succession, the politicians say, the man who is king dieth, but the king never
THE LAW AND THE PRINCE.

79
dieth, because some other, either by birth or
free election, succeedeth in his room. But
I answer,—1. People, by a sort of necessity
of nature, succeedeth to people, generation
to generation, except God's judgment, con-
trary to nature, intervene to make Babylon
no people, and a land that shall never be in-
habited (which I both believe and hope for,
according to God's word of prophecy). But
a king, by a sort of contingency, succeedeth
to kings; for nature doth not ascertain us
there must be kings to the world's end, be-
cause the essence of governors is kept safe
in aristocracy and democracy, though there
were no kings; and that kings should neces-
sarily have been in the world, if man had
never fallen in sin, I am not, by any cogent
argument, induced to believe. I conceive
there should have been no government but
those of fathers and children, husband and
wife, and (which is improperly government)
some more gifted with supervenient addi-
tions to nature, as gifts and excellencies of
engines. Now on this point Althusius
(polit. c. 38. n. 114) saith, the king, in re-
spect of office, is worthier than the people,
(but this is but an accidental respect,) but
as the king is a man, he is inferior to the
people.

Arg. 8.—He who, by office, is obliged to
expend himself, and to give his life for the
safety of the people, must be inferior to the
people. So Christ saith, the life is more
than raiment or food, because both these
give themselves to corruption for man's life;
so the beasts are inferior to man, because
they die for our life, that they may sustain
our life. And Caiaphas prophesied right,
that it was better that one man die than the
whole nation perish (John xi. 50); and in
nature, elements, against their particular in-
cination, defraud themselves of their private
and particular ends, that the commonwealth
of nature may stand; as heavy elements
ascend, light descend, lest nature should pe-
nish by a vacuity. And the good Shepherd
(John x.) giveth his life for his sheep; so
both Saul and David were made kings to
fight the Lord's battles, and to expose their
lives to hazard for the safety of the church
and people of God. But the king, by office,
is obliged to expend his life for the safety of
the people of God; he is obliged to fight the
Lord's battles for them; to go betwixt the
flock and death, as Paul was willing to be
spent for the church. It may be objected,
Jesus Christ gave himself a ransom for his
church, and his life for the life of the world,
and was a gift given to the world, (John iii.
16; iv. 10,) and he was a mean to save us;
and so, what arguments we have before pro-
duced to prove that the king must be infe-
rior to the people, because he is a ransom,
a mean, a gift, are not conclusive, I answer,
—1. Consider a mean reduplicatively, and
formaliter, as a mean; and secondly, as a
mean materially, that is, the thing which is
a mean. 2. Consider that which is only a
mean, and ransom, and gift, and no more;
and that which, besides that it is a mean, is
of a higher nature also. So Christ formally
as a mean, giving his temporal life for a
time, according to the flash, for the etern-
al life of all the catholick church, to be
glorified eternally—(not his blessed god-
head and glory, which, as God, he had with
the Father from eternity)—in that respect
Christ hath the relation of a servant, ran-
som, gift, and some inferiority in compari-
son of the church of God; and his Father's
glory, as a mean, is inferior to the end, but
Christ materially, in concreto. Christ is
is not only a mean to save his church, but,
as God (in which consideration he was the
immortal Lord of life) he was more than a
mean,—even the Author, Efficient and
Creator of heaven and earth; and so there
is no ground to say that he is inferior to the
church, but the absolute head, king,—
the chief of ten thousand;—more in ex-
cellency and worth than ten thousand mil-
ions of possible worlds of men and angels.
But such a consideration cannot befall any
mortal king; because, consider the king ma-
terially as a mortal man, he must be infe-
or to the whole church, for he is but one,
and so of less worth than the whole church;
as the thumb, though the strongest of the
fingers, yet it is inferior to the hand, and
far more to the whole body, as any part is
inferior to the whole. Consider the king
reduplicative and formally as king, and by
the official relation he hath, he is no more
then but a royal servant, an official mean
tending, ex officio, to this end, to preserve
the people, to rule and govern them; and a
gift of God, given by virtue of his office, to
rule the people of God, and so any way in-
ferior to the people.

Arg. 9.—Those who are before the peo-
ple, and may be a people without a king, must
be of more worth than that which is poste-
rior and cannot be a king without them.
For thus, God's self-sufficiency is proved, in
that he might be, and eternally was, blessed for ever, without his creature; but his creature cannot subsist in being without him. Now, the people were a people many years before there was a government, (save domestic,) and are a people where there is no king, but only an aristocracy or a democracy; but the king can be no king without a people. It is vain that some say, the king and kingdoms are relatives, and not one is before another, for it is true in the naked relation; so are father and son, master and servant, Relata simul natura; but sure there is a priority of worth and independency, for all that, in the father above the son, and in the master above the servant, and so in the people above the king; take away the people, and Dionysius is but a poor schoolmaster.

Arg. 10.—The people in power are superior to the king, because every efficient and constituent cause is more excellent than the effect. Every mean is inferior in power to the end; (So Jun. Brutus, q. 31. Bucher l. 1. c. 16. Author Lib. de offic. Magistr. q. 6. Henecius disp. 2. n. 6. Joan Roffensiis Epist. de potest. pop. l. 2, c. 6. Spalato de Repu. Ecclesiast. l. 6, c. 2, n. 3;) but the people is the efficient and constituent cause, the king is the effect; the people is the end; both intended of God to save the people, to be a healer and a physician to them (Isa. iii. 7;) and the people appoint and create the king out of their indigence, to preserve themselves from mutual violence. Many things are objected against this. That the efficient and constituent cause is God, and the people are only the instrumental cause; and Spalato saith, that the people doth indirectly only give kingly power, because God, at their act of election, ordinarily giveth it.

Answ.—1. The Scripture saith plainly, as we heard before, the people made kings; and if they do, as other second causes produce their effects, it is all one that God, as the principal cause, maketh kings, else we should not argue from the cause to the effect amongst the creatures. 2. God, by that same action that the people createth a king, doth also, by them, as by his instruments, create a king; and that God doth not immediately, at the naked presence of the act of popular election, confer royal dignity on the man, without any action of the people, as they say, by the church's act of conferring orders, God doth immediately, without any act of the church, infuse from heaven supernatural liabilities on the man, without any active influence of the church, is evident by this. 1. The royal power to make laws with the king, and so a power eminent in their states representative to govern themselves, is in the people; for if the most high acts of royalty be in them, why not the power also? And so, what need to fetch a royal power from heaven to be immediately infused in him, seeing the people hath such a power in themselves at hand? 2. The people can, and doth, limit and bind royal power in elected kings, therefore they have in them royal power to give to the king. Those who limit power, can take away so many degrees of royal power; and those who can take away power, can give power; and it is inconceivable to say that people can put restraint upon a power immediately coming from God. If Christ immediately infused an apostolic spirit into Paul, mortal men cannot take from him any degrees of that infused spirit; if Christ infuse a spirit of nine degrees, the church cannot limit it to six-degrees only. But royalists consent that the people may choose a king upon such conditions to reign, as he hath royal power of ten degrees, whereas his ancestor had by birth a power of fourteen degrees. 3. It is not intelligible that the Holy Ghost should give commandment unto the people to make this man king, (Deut. xvii. 15, 16,) and forbid them to make that man king, if the people had no active influence in making a king at all; but God, solely and immediately from heaven, did infuse royalty in the king without any action of the people, save a naked consent only; and that after God had made the king, they should approve only with an after-act of naked approbation. 4. If the people by other governors, as by heads of families and other choice men, govern themselves and produce these same formal effects of peace, justice, religion, on themselves, which the king doth produce, then is there a power of the same kind, and as excellent as the royal power, in the people; and there is no reason but this power should be held to come immediately from God, as the royal power; for it is every way of the same nature and kind, as I shall prove. Kings and judges differ not in nature and specie, but it is experienced that people do, by aristocratical guides, govern themselves, &c.; so then, if God imme-
diately infuse royalty when the people chooseth a king, without any action of the people, they must God immediately infuse a beam of governing on a provost and bailie, when the people choose such, and that without any action of the people, because all powers are, in abstracção, from God, (Rom. xiii. 2.) And God as immediately maketh inferior judges as superior, (Prov. viii. 15;) and all promotion (even to be a provost or mayor) cometh from God only, as to be a king; except royalists say, all promotion cometh from the east and from the west, and not from God, except promotion to the royal throne; the contrary whereof is said, Psal. lixv. 6, 7; 1 Sam. ii. 7, 8. Not only kings, but all judges are gods, (Psal. lxxxii. 1, 2;) and therefore all must be the same way created and moulded of God, except by Scripture royalists can show us a difference. An English prelate¹ giveth reasons why people, who are said to make kings as efficient and authors, cannot unmakethem: the one is, because God, as chief and sole supreme moderator, maketh kings; but I say, Christ, as the chief moderator and head of the church, doth immediately confer abilities upon a man to be a preacher; and though, by industry, the man acquire abilities, yet in regard the church doth not so much as instrumentally confer those abilities, they may be said to come from God immediately, in relation to the church who calleth the man to the ministry. Yea, royalists, as our excommunicated Prelate learned from Spalato, say, that God, at the naked presence of the church’s call, doth immediately infuse that from heaven by which the man is now in holy orders and a pastor, whereas he was not so before; and yet prelates cannot deny but they can unmakemakers, and have practised this in their unhallowed courts; and, therefore, though God immediately, without any action of the people, make kings, this is a weak reason to prove they cannot unmakethem. As for their indigible character, that prelates cannot take from a minister; it is nothing, if the church may unmaketh an minister, though his character go to prison with him. We seek no more but to annul the reason, God immediately maketh kings and pastors, therefore no power on earth can unmakethem. This consequence is as weak as water, 2. The other cause is, because God hath erected no tribunal on earth higher than the king’s tribunal, therefore no power on earth can unmaketh a king. The antecedent and consequence is both denied, and is a begging of the question; for the tribunal that made the king is above the king. Though there be no tribunal formally regal and kingly above the king, yet is there a tribunal virtual eminently alone him in the case of tyranny; for the states and princes have a tribunal above him.

Assever.—To this the constituent cause is of more power and dignity than the effect, and so the people are above the king. The P. Prelate borrowed an answer from Arnisseus, and Barclay, and other royalists, and saith, If we knew anything in law, or were ruled by reason, “every constituent, (saith Arnisseus² and Barclay, more accurately than the P. Prelate had a head to transcribe their words,) where the constituent hath resigned all his power in the hand of the prince whom he constitutes, is of more worth and power than he in whose hand he resigns the power: so the proposition is false. The servant who hath constituted his master lord of his liberty, is not more worthy than his master whom he hath made his lord, and to whom he hath given himself as a slave, (for after he hath resigned his liberty he cannot repent, he must keep covenant though to his hurt,) yea, such a servant is not only not above his master, but he cannot move his foot without his master.” “The governor of Britain (saith Arnisseus) being despised by king Philip, resigned himself as vassal to king Edward of England; but did not for that make himself superior to king Edward. Indeed, he who constituteth another under him as a legate is superior; but the people do constitute a king above themselves, not a king under themselves; and, therefore, the people are not by this made the king’s superior, but his inferior.”

Ἀνα. 1.—It is false that the people doth, or can by the law of nature, resign their whole liberty in the hand of a king. 1. They cannot resign to others that which they have not in themselves, Nemo potest dare quod non habet; but the people hath not an absolute power in themselves to destroy themselves, or to exercise those tyrannous acts spoken of, 1 Sam. viii. 11—15, &c.; for neither God nor nature’s law hath

¹ Joan. Roffens. de potest. pap. l. 9, c. 6.
² Arnisseus de authorit. princip. c. 1, n. 1.
given any such power. 2. He who constit-
tuteth himself a slave is supposed to be com-
pelled to that unnatural act of alienation of
that liberty which he hath from his Maker
from the womb, by violence, constraint, or
extreme necessity, and so is inferior to all
free men; but the people do not make them-
selves slaves when they constitute a king
over themselves; because God, giving
to a people a king, the best and most exc-
clent governor on earth, giveth a blessing
and special favour, (Isa. i. 28; Hos. i. 11;
Isa. iii. 6, 7; Psal. lxix. 70—72;) but to
lay upon his people the state of slavery, in
which they renounce their whole liberty,
is a curse of God. (Gen. ix. 25; xxvii.
29; Deut. xxviii. 32, 36.) But the peo-
ple, having their liberty to make any of
their own, or twenty, their king, and to advance one
from a private state to an honourable throne,
whereas it was in their liberty to advance
another, and to give him royal power of ten
degrees, whereas they might give him power
of twelve degrees, of eight, or six, must be
in excellency and worth above the man
whom they constitute king, and invest with
such honour; as honour in the fountain, and
honos participans et originans, must be
more excellent and pure than the derived
honour in the king, which is honos partici-
patus et originatus. If the servant give
his liberty to his master, therefore he had
that liberty in him, and in that act, liberty
must be in a more excellent way in the ser-
vant, as in the fountain, than it is in the
master; and so this liberty must be purer
in the people than in the king; and there-
fore, in that both the servant is above the
master, and the people worthier than the
king. And when the people give themselves
conditionally and covenant-wise to the king,
as to a public servant, and patron, and tu-
or,—as the governor of Britain, out of his
humour, gave himself to king Edward—there
is even here a note of superiority. Every
giver of a benefit, as a giver, is superior to
him to whom the gift is given; though after
the servant hath given away his gift of li-
erty, by which he was superior, he cannot
be a superior, because by his gift he hath
made himself inferior. The people consti-
tuteth a king above themselves, I distin-
guish supra se, above themselves; according
to the fountain-power of royalty,—that is
false; for the fountain-power remaineth
most eminently in the people, 1. Because
they give it to the king, ad modum recipi-
entis, and with limitations; therefore it is
unlimited in the people, and bounded and
limited in the king, and so less in the king
than in the people. 2. If the king turn
distracted, and an ill spirit from the Lord
come upon Saul, so as reason be taken from
a Nebuchadnezzar, it is certain the people
may put curators and tutors over him who
hath the royal power. 3. If the king be
absent and taken captive, the people may
give the royal power to one, or to some few,
to exercise it as custodes regni. And, 4.
If he die, and the crown go by election,
they may create another, with more or less
power. All which evinceth, that they never
constituted over themselves a king, in re-
gard of fountain-power; for if they give
away the fountain, as a slave selleth his li-
berty, they could not make use of it. In-
deed they set a king above them, quoad
potestatem legum executivum, in regard of
a power of executing laws and actual go-
vernment for their good and safety; but this
provereth only that the king is above the peo-
ple, serva &c., in some respect. But the most
eminent and fountain-power of royalty re-
maineth in the people as in an immortal
spring, which they communicate by succes-
sion to this or that mortal man, in the
manner and measure that they think good. Ul-
opian and Bartolus, cited by our Prelate out
of Barciaus, are only to be understood of
the derived, secondary, and borrowed power
of executing laws, and not of the fountain-
power, which the people cannot give away,
no more than they can give away their ra-
tional nature; for it is a power natural to
conserve themselves, essentially adhering to
every created being. For if the people give
all their power away, what shall they re-
serve to make a new king, if this man die?
What if the royal line should cease? there
be no prophets immediately sent of God
to make kings. What if he turn tyrant,
and destroy his subjects with the sword?
The royalists say, they may fly; but when
they made him king, they resigned all their
power to him, even their power of flying;
for they bound themselves by an oath (say
royalists) to all passive and lawful active
obedience; and, I suppose, to stand at his
tribunal, if he summoned the three estates,
upon treason, to come before him, is con-

1 Ulpian l. 1, ad Sc. Tubil. Populus omne suum
imperium et potestatem confert in Regem.
2 Bartolus ad l. hostes 24, f. de capt. et host.
tained in the oath, that royalists say, bind-eth all, and is contradictory to flying.

Armisenus, a more learned jurist and divine than the P. Prelate, answereth the other maxim, "The end is worthier than the mean leading to the end, because it is ordained for the end. These means, (saith he,) which refer their whole nature to the end, and have all their excellency from the end, and have excellency from no other thing but from the end, are less excellent than the end. That is true, such an end as medicine is for health." And Hugo Grotius, (l. i, c. 3, n. 8,) "Those means which are only for the end, and for the good of the end, and are not for their own good, also are of less excellency, and inferior to the end; but so the assumption is false. But these means which, beside their relation to the end, have an excellency of nature in themselves, are not always inferior to the end. The disciple, as he is instituted, is inferior to the master; but as he is the son of a prince, he is above the master. But by this reason the shepherd should be inferior to brute beasts, to sheep; and the master of the family is for the family, and refereeth all that he hath for the entertaining of the family; but it followeth not therefore the family is above him. The form is for the action, is therefore the action more excellent than the form, and an accident than the subject or substance?" And Grotius saith, "Every government is not for the good of another, but some for its own good, as the government of a master over the servant, and the husband over the wife.

Ans.—I take the answer thus: Those who are mere means, and only means referred to the end, they are inferior to the end; but the king, as king, hath all his official and relative goodness in the world, as relative to the end. All that you can imagine to be in a king, as a king, is all relative to the safety and good of the people, (Rom. xiii. 4,) "He is a minister for thy good." He should not, as king, make himself, or his own gain and honour, his end. I grant, the king, as a man, shall die as another man, and so he may secondarily intend his own good; and what excellency he hath as a man, is the excellency of one mortal man, and cannot make him amount in dignity, and in the absolute consideration of the excellency of a man, to be above many men and a whole kingdom; for the more good things there be, the better they are, so the good things be multiplicable, as a hundred men are better than one; otherwise, if the good be such as cannot be multiplied, as one God, the multiplication maketh them worse, as many gods are inferior to one God. Now if royalists can show us any more in the king than these two, we shall be obliged to them; and in both he is inferior to the whole.

The Prelate and his followers would have the maxim to lose credit; for then (say they) the shepherd should be inferior to the sheep; but in this the maxim faileth indeed, because the shepherd is a reasonable man, and the sheep brute beasts, and so must be more excellent than all the flocks of the world. Now, as he is a reasonable man, he is not a shepherd, nor in that relation referred to the sheep and their preservation as a mean to the end; but he is a shepherd by accident, for the unreasonableness of the creatures, for man's sin, withdrawing themselves from that natural dominion that man had over the creatures before the fall; in that relation of a mean to the end, and so by accident, is this official relation put on him; and according to that official relation, and by accident, man is put to be a servant to the brutish creature, and a mean to so base an end. But all this proveth him, through man's sin and by accident, to be under the official relation of a mean to base creatures than himself, as to the end, but not a reasonable man. But the king, as king, is an official and royal mean to this end, that the people may lead a godly and peaceable life under him; and this official relation being an accident, is of less worth than the whole people, as they are to be governed. And I grant the king's son, in relation to blood and birth, is more excellent than his teachers; but as he is taught, he is inferior to his teacher. But in both considerations the king is inferior to the people; or though he command the people, and so have an executive power of law above them, yet have they a fountain-power above him, because they made him king, and in God's intention he is given as king for their good, according to this, "Thou shalt feed my people Israel;" and that, "I gave him for a leader of my people."

The P. Prelate saith: "The constituent cause is more excellent than the effect constituted, where the constitution is voluntary, and dependeth upon the free act of the will, as when the king maketh a viceroy or a judge, durante beneplacito, during his free
will, but not when a man maketh over his right to another; for then there should be neither faith nor truth in covenants, if people might make over their power to their king, and retract and take back what they have once given.

**Ans.**—This is a begging of the question; for it is denied that the people can absolutely make away their whole power to the king. It dependeth on the people that they be not destroyed. They give to the king a politic power for their own safety, and they keep a natural power to conserve themselves; for though the people should give away that power, and swear though the king should kill them all, they should not resist, nor defend their own lives, yet that being against the sixth commandment, which enjoineth natural self-preservation, it should not oblige the conscience, for it should be intrinsically sinful; for it is all one to swear to non-self-preservation as to swear to self-murder.

"If the people, (saith the Prelate, begging the answer from Barclay,) the constituent, be more excellent than the effect, and so the people above the king, because they constitute him king, then the counties and corporations may make void all the commissions given to the knights and burgesses of the House of Commons, and send others in their place, and repeal their orders; therefore Buchanan saith, that orders and laws in parliament were but preparatory consultations, and had not the force of a law, till the people give their consent and have their influence authoritative, upon the statutes and acts of parliament; but the observator holdeth that the legislative power is whole and entire in the parliament. But when the Scots were preferring petitions and declarations they put all power in the collective body, and kept their distinct tables.

**Ans.**—1. There is no consequence here; the counties and corporations that send commissioners to parliament, may make void their commissions and annul their acts, because they constitute them commissioners. If they be unjust acts, they may disobey them, and so disannul them; but, it is presumed, God hath given no moral power to do ill, nor can the counties and corporations give any such power to evil, for they have not any such from God. If they be just acts, they are to obey them, and cannot retract commissions to make just orders. **Ille tantum possumus quod juris possimus,** and therefore, as power to govern justly is irrevocably committed by the three estates who made the king to the king, so is that same committed by the shires and corporations to their commissioners, to decree in parliament what is just and good irrevocably; and to take away just power from the king which is his due, is a great sin. But when he abuseth his power to the destruction of his subjects, it is lawful to throw a sword out of a madman's hand, though it be his own proper sword, and though he have due right to it, and a just power to use it for good; for all fiduciary power abused may be repealed. And if the knights and burgesses of the House of Commons abuse their fiduciary power to the destruction of these shires and corporations who put the trust on them, the observator did never say that parliamentary power was so entire and irrevocably in them, as that the people may not resist them, annul their commissions and rescind their acts, and demide them of fiduciary power, even as the king may be demuded of that same power by the three estates; for particular corporations are no more to be demuded of that fountain-power of making commissioners, and of the self-preservation, than the three estates are. 2. The P. Prelate cometh not home to the mind of Buchanan, who knew the fundamental laws of Scotland, and the power of parliaments; for his meaning was not to deny a legislative power in the parliament; but when he calleth their parliamentary declarations preparatory, his meaning is only that which lawyers and schoolmen both say, **Leges non promulgates non habent vim legis actu completo obligatione,**—"Laws not promulgated do not oblige the subject while they be promulgated!" but he fulfilts Buchanan, when he saith, "Parliamentary laws must have the authoritative influence of the people, before they can be formal laws, or any more than preparatory or preparatory notions. And it was no wonder when the king denied a parliament, and the supreme senate of the secret council was corrupted, that the people did then set up tables, and extraordinary judicatures of the three es-

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1 Scot. Sanc. Mai. c. 8, p. 129, stolen from Barcl. lib. 5, c. 12.
make him king, and yet so as they keep fountain-power of making kings in themselves; yes, when Saul is dead to make David king at Hebron, and when he is dead to make Solomon king, and after him to make Rehoboam king; and, therefore, in the people there is more fountain-power of making kings than in David, in Saul, in any king of the world. As for the Prelate’s scoff about the people’s giving of their goods to the good cause, I hope it shall, by the blessing of God, enrich them more; whereas prelates, by the rebellion in Ireland, (to which they assent, when they council his Majesty to sell the blood of some hundred thousands of innocents killed in Ireland,) are brought, from thousands a year, to beg a morsel of bread.

The P. Prelate (p. 131) answereth that maxim, *Quod efficit tale, id ipsum est magis tale,*—"That which maketh another such, is itself more such." It is true, de principio formalis effectivo, (as I learned in the university,) of such an agent as is formally such in itself as is the effect produced. Next, it is such as is effective and productive of itself, as when fire heateth cold water, so the quality must be formally inherent in the agent; as wine maketh drunk, it followeth not, wine is more drunk, because drunkenness is not inherent in the wine, nor is it capable of drunkenness; and, therefore, Aristotle qualifieth the maxim with this, *Quod efficit tale est magis tale, modo utrique sit,*—"and it holdeth not in agents, who operate by donation, if the right of the king be transferred from the people to the king." The donation divesteth the people totally of it, except the king have it by way of loan, which, to my thinking, never yet any spoke. Sovereignty never was, never can be, in the community. Sovereignty hath power of life and death, which none hath over himself, and the community conceived without government, all as equal, endowed with nature’s and native liberty, of that community no one can have power over the life of another. And so the argument may be turned home, if the people be not tales, such by nature, (as hath formally royal power, he should say,) they cannot give the king royal power; also, none hath power of life and death, either more eminently or formally, the people, either singly or collectively, have not power over their own life, much less over their neighbours'.

Ans.—1. The Prelate would make the maxim true of a formal cause, and this he
learned in the University of St. Andrews. He wrongeth the university, he rather learned it while he kept the calves of Crail. The wall is white from whiteness; therefore, whiteness is more white by the Prelate's learning. Never such thing was taught in that learned university. 2. *Principium formale effectivum* is as good logic as *principium effectivum materiales, formale, finale*. The Prelate is in his accuracy of logic now. He yet maketh the causality of the formal cause all one with the causality of the efficient; but he is weak in his logic. 3. He confoundeth a cause equivocal and a cause univocal, and in that case the maxim holdeth not. Nor is it necessary to make true the maxim, that the quality be inherent in the cause the same way; for a city maketh a mayor, but to be a mayor is one way in the city, and another way in him who is created mayor. The Prelate's maxim would help him, if we reasoned thus: The people maketh the king, therefore the people is more a king, and more formally a sovereign than the king. But that is no more our argument than the simile that Maxwell used, as near heart and mouth both. Wine maketh drunk the Prelate, therefore wine is more drunk. But we reason thus: The fountain-power of making six kings is in the people, therefore there is more fountain-power of royalty in the people than in any one king. For we read that Israel made Saul king, and made David king, and made Abimelech king; but never that king Saul made another king, or that an earthly king made another absolute king. 4. The Prelate will have the maxim false, where the agent worketh by donation, which yet holdeth true by his own grant (c. 9, p. 98). The king giveth power to a deputy, therefore there is more power in the king. 5. He supposeth that which is the basis and foundation of all the question, that people divest themselves totally of their fountain-power, which is most false. 6. Either they must divest themselves totally (saith he) of their power, or the king hath power from the people, by way of loan, which, to my thinking, never any yet spake. But the Prelate's thinking is short, and no rule to divines and lawyers; for, to the thinking of the learned jurists, this power of the king is but fiduciary, and that is (whether the Prelate think it or think it not) a sort of power by trust, pawn or loan. *Rex director Regni, non proprietarius,* (Molinae. in consuet. Parisi. Tit. 1, 9; 1 Gloss. 7, n. 9.)—"The king is a life-tenant, not a lord, or proprietor of his kingdom." So *Novel. 86, in principi, et c.* 18, *Quod magnator sit nudus dispensator et defensor jurium regni, non propriarius, constat, ex eo quod non possit alienare imperium, oppida, urbes, regiones ve, vel res subditorum, bonave regni.* So Gregory, l. 3, c. 8, de *Repub.* per c. 1, *Sect. preterea, de prope. feud.* Hortom. *quest. illust.* 1; *Ferdinan. Vasquez, l. 1, c. 4; Bossius, de principi. et privileg. illius, n. 290,—"The king is only a steward, and a defender of the laws of the kingdom, not a proprietor, because he hath not power to make away the empire, cities, towns, countries, and goods of the subjects;" and, *bona commissa magistrati, sunt subjecta restitutioni, et in prejudicium successorum alienari non possunt,* (per l. ult. *Sect. sed nost.* C. *Comment. de leg. l. peto 69, fratrem de leg. 2, l. 32, ult. d. t.)—"All the goods committed to any magistrate are under restitution; for he hath not power to make them away, to the prejudice of his successors." The Prelate's thoughts reach not the secrets of jurists, and therefore he speaketh with a warrant; he will say no more than his short-travelled thoughts can reach, and that is but at the door. 7. Sovereignty is not in the community, (saith the Prelate). Truly it neither is, nor can be, more than ten, or a thousand, or a thousand thousands, or a whole kingdom, can be one man; for sovereignty is the abstract, the sovereign is the concrete. Many cannot be one king or one sovereign: a sovereign must be essentially one; and a multitude cannot be one. But what then? May not the sovereign power be eminently, *fontaliter,* originally and radically in the people? I think it may, and must be. A king is not an under judge: he is not a lord of council and session formally, because he is more. The people are not king formally, because the people are eminently more than the king; for they make David king, and Saul king; and the power to make a lord of council and session, is in the king (say royalists). 8. A community hath not power of life and death; a king hath power of life and death (saith the Prelate). What then? Therefore a community is not king. I grant all. The power of making a king, who hath power of life and death, is not in the people. Poor man! It is like prelates' logic. Samuel
is not a king, therefore he cannot make David a king. It followeth not by the Prelate's ground. So the king is not an inferior judge. What! Therefore he cannot make an inferior judge? 9. The power of life and death is eminently and virtually in the people, collectively taken, though not formally. And though no man can take away his own life, or hath power over his own life formally, yet a man, and a body of men, hath power over their own lives, radically and virtually, in respect they may render themselves to a magistrate, and to laws which, if they violate, they must be in hazard of their lives; and so they virtually have power of their own lives, by putting them under the power of good laws, for the peace and safety of the whole. 10. This is a weak consequence. None hath power of his own life, therefore, far less of his neighbour's (saith the Prelate). I shall deny the consequence. The king hath not power of his own life, that is, according to the Prelate's mind, he can neither, by the law of nature, nor by any civil law, kill himself; therefore, the king hath far less power to kill another; it followeth not: for the judge hath more power over his neighbour's life than over his own. 11. But, saith the P. Prelate, the community conceived without government, all as equal, endowed with nature's and native liberty, hath no power of life and death, because all are born free; and so none is born with dominion and power over his neighbour's life. Yea, but so, Mr P. Prelate, a king considered without government, and as born a free man, hath not power of any man's life more than a community hath; for king and beggar are born both alike free. But a community, in this consideration, as they come from the womb, have no politic consideration at all. If you consider them as without all policy, you cannot consider them as invested with policy; yes, if you consider them so as they are by nature, void of all policy, they cannot so much as add their after-consent and approbation to such a man to be their king, whom God immediately from heaven maketh a king; for to add such an after-consent, is an act of government. Now, as they are conceived to want all government, they cannot perform any act of government. And this is as much against himself as against us.

2. The power of a part and the power of the whole is not alike. Royalty never ad-

vanceth the king above the place of a member; and lawyers say, the king is above the subjects, in sensu diviso, in a divise sense, he is above this or that subject; but he is inferior to all the subjects collectively taken, because he is for the whole kingdom, as a mean for the end.

Obj.—If this be a good reason, that he is a mean for the whole kingdom as for the end; that he is therefore inferior to the whole kingdom, then is he also inferior to any one subject; for he is a mean for the safety of every subject, as for the whole kingdom.

Ans.—Every mean is inferior to its complete, adequate, and whole end; and such an end is the whole kingdom in relation to the king; but every mean is not always inferior to its incomplete, inadequate, and partial end. This or that subject is not adequate, but the inadequate and incomplete end in relation to the king.

The Prelate saith, Kings are Di Elohim, gods; and the manner of their propagation is by filiation, by adoption, sons of the Most High, and God's first-born. Now, the first-born is not above every brother severally; but if there were thousands, millions, numberless numbers, he is above all in precedence and power.

Ans.—Not only kings but all inferior judges are gods. Psal. lxxxii., God standeth in the congregation of the gods, that is not a congregation of kings. So (Exod. xxii. 8) the master of the house shall be brought to the gods, or to the judges. And that there were more judges than one, is clear by ver. 9; and if they shall condemn ḫaršignur, condemnare, (John xvi. 35.) he shall be to Aaron as a god. They are gods analogically only. God is infinite, not so the king. God's will is a law, not so the king's. God is an end to himself, not so the king. The judge is but God by office, and representation, and conservation of the people. It is denied that the first-born is in power before all his brethren, though there were millions. That is but said, one, as one, is inferior to a multitude. As the first-born was a politic ruler to his brethren, he was inferior to them politically.

Obj.—The collective university of a kingdom are subjects, sons, and the king their father, no less than this or that subject is the king's subject. For the university of
subjects are either the king, or the king’s subjects; for all the kingdom must be one of these two; but they are not the king, therefore they are his subjects.

Ans.—All the kingdom, in any consideration, is not either king or subjects. I give a third: The kingdom collective is neither properly king nor subject; but the kingdom embodied in a state, having collateral, is a co-ordinate power with the king.

Obj.—The university is ruled by laws, therefore they are inferior to the king who ruleth all by law.

Ans.—The university, properly, is no otherwise ruled by laws than the king is ruled by laws. The university, formally, is the complete politic body, endued with a nomothetic faculty, which cannot use violence against itself, and so is not properly under a law.

QUESTION XX,

WHETHER OR NO INFERIOR JUDGES BE UNIVOCALLY AND ESSENTIALLY JUDGES, AND THE IMMEDIATE VICARS OF GOD, NO LESS THAN THE KING, OR IF THEY BE ONLY THE DEPUTIES AND VICARS OF THE KING.

It is certain that, in one and the same kingdom, the power of the king is more in extension than the power of any inferior judge; but if these powers of the king and the inferior judges differ intensive and in space, and nature is the question, though it be not all the question.

Assert.—Inferior judges are no less essentially, and the immediate vicars of God, than the king. Those who judge in the room of God, and exercise the judgment of God, are essentially judges and deputies of God, as well as the king; but inferior judges are such, therefore the proposition is clear. The formal reason, why the king is univocally and essentially a judge, is, because the king’s throne is the Lord’s throne; 1 Chron. xxxix. 23, “Then Solomon sat on the throne of the Lord, as king, instead of David his father.” 1 Kings i. 13, It is called David’s throne, because the king is the deputy of Jehovah; and the judgment is the Lord’s. I prove the assumption. Inferior judges appointed by king Jehoashaphat have this place, 2 Chron. xix. 6, “The king said to the judges, Take heed what ye do, for ye judge not for man, but for the Lord.” Then, they were deputies in the place of the Lord, and not the king’s deputies in the formal and official acts of judging. Ver. 7, “Wherefore, now, let the fear of the Lord be upon you, take heed and do it; for there is no iniquity with the Lord our God, nor respect of persons, or taking of gifts.

Hence I argue, 1. If the Holy Ghost, in this good king, forbids inferior judges, wresting of judgment, respecting of persons, and taking of gifts, because the judgment is the Lord’s, and if the Lord himself were on the bench, he would not respect persons, nor take gifts, then he presumeth, that inferior judges are in the stead and place of Jehovah, and that when these inferior judges should take gifts, they make, as it were, the Lord, whose place they represent, to take gifts, and to do iniquity, and to respect persons; but that the Holy Lord cannot do. 2. If the inferior judges, in the act of judging, were the vicars and deputies of king Jehoashaphat, he would have said, judge righteous judgment. Why? For the judgment is mine, and if I, the king, were on the bench, I would not respect persons, nor take gifts; and you judge for me, the Supreme Judge, as my deputies. But the king saith, They judge not for man, but for the Lord. 3. If, by this, they were not God’s immediate vicars, but the vicars and deputies of the king; then, being mere servants, the king might command them to pronounce such a sentence, and not such a sentence as I may command my servant and deputy, in so far as he is a servant and deputy, to say this, and say not that; but the king cannot limit the conscience of the inferior judge, because the judgment is not the king’s, but the Lord’s. 4. The king cannot command any other to do that as king, for the doing whereof he hath no power from God himself; but the king hath no power from God to pronounce what sentence he pleaseth, because the judgment is not his own but God’s. And though inferior judges be sent of the king, and appointed by him to be judges, and so have their external call from God’s deputy the king, yet, because judging is an act of conscience, as one man’s conscience cannot properly be a deputy for another man’s conscience, so neither can an inferior judge, as a judge, be a deputy for a king. There-
fore, the inferior judges have designation to their office from the king; but if they have from the king that they are judges, and be not God's deputies, but the king's, they could not be commanded to execute judgment for God, but for the king; (Deut. i. 17,) Moses appointed judges, but not as his deputies to judge and give sentence, as subordinate to him; for the judgment (saith he) is the Lord's, not mine. 5. If all the inferior judges in Israel were but the deputies of the king, and not immediately subordinate to God as his deputies, then could neither inferior judges be admonished nor condemned in God's word for unjust judgment, because their sentence should be neither righteous nor unrighteous judgment, but in so far as the king should approve it or disapprove it; and, indeed, that royalist, Hugo Grotius 1 saith so,—that an inferior judge can do nothing against the will of the supreme magistrate if it be so. Whenever God commandeth inferior judges to execute righteous judgment, it must have this sense, "Respect not persons in judgment, except the king command you; crush not the poor, oppress not the fatherless, except the king command you." I understand not such policy. Sure I am the Lord's commandments, rebukes and threats, oblige, in conscience, the inferior judge as the superior, as is manifest in these scriptures, Jer. v. 1; Isa. i. 17, 21; v. 7; x. 2; lxx. 14; Jer. xxii. 3; Ezek. xviii. 8; Amos v. 7; Mic. iii. 9; Hab. i. 4; Lev. xiv. 15; Deut. xvii. 11; i. 17; Exod. xxiii. 2.

Grotius saith, 2 "It is here as in a category; the middle species is, in respect of the superior, a species,—in respect of the inferior, a genus; so inferior magistrates in relation to those who are inferior to them and under them, are magistrates or public persons; but in relation to superior magistrates, especially the king, they are private persons, and not magistrates."

Ans.—Jehoshaphat esteemed not judges, appointed by himself, private men, 2 Chron.

1 Grotius de jure bell i et pac. lib. i. c. 4, Nam omnes facultas gubernandi in magistratibus, summa potentia sua utique contra voluntas summi imperatoris faciant, id defectum sit ea facultate, ac proinde de pro actu privato habendum.

2 Grotius ib. species intermedia, si genus respec- cias, est species, si speciem infra posteam, est genus; its magistratus illi, inferiorum quidem ratius ha- bita sunt publicae, personas, at superiores si considerentur, sunt privati.
the supreme magistrate the king; but inferior judges are such, therefore inferior judges are as essentially judges as the supreme magistrate. The proposition is, Rom. xiii. 1, for that is the apostle's arguments; whence we prove kings are to be obeyed, because they are powers from God. I prove the assumption: inferior magistrates are powers from God, Deut. i. 17; xix. 6, 7; Exod. xxii. 7; Jer. v. 1; and the apostle saith, "The powers that be are ordained of God."

Arg. 3.—Christ testified that Pilate had power from God as a judge (say royalists) no less than Cæsar the emperor. (John xix. 11; 1 Pet. ii. 12.) We are commanded to obey the king and those that are sent by him, and that for the Lord's sake, and for conscience to God; and (Rom. xiii. 3) we must be subject to all powers that are of God, not only for wrath, but for conscience.

Arg. 4. Those who are rebuked because they execute not just judgment, as well as the king, are supposed to be essentially judges, as well as the king; but inferior judges are rebuked because of this, Jer. xxii. 15—17; Ezek. xlv. 9—12; Zeph. iii. 3; Amos v. 6, 7; Eccles. iii. 16; Mic. iii. 2—4; Jer. v. 1, 31.

Arg. 5.—He is the minister of God for good, and hath the sword not in vain, but to execute vengeance on the evil-doers, no less than the king. (Rom. xiii. 2—4.) He to whom agreeeth, by an ordinance of God, the specific acts of a magistrate, is essentially a magistrate.

Arg. 6.—The resisting of the inferior magistrate in his lawful commandments is the resisting of God's ordinance, and a breach of the fifth commandment, as is disobedience to parents; and not to give him tribute, and fear, and honour, is the same transgression, Rom. xiii. 1—7.

Arg. 7.—These styles, of gods, of heads of the people, of fathers, of physicians and healers of the sons of the Most High, of such as reign and decree by the wisdom of God, &c., that are given to kings, for which royalists make kings only judges, and all inferior judges but deputed, and judges by participation, and at the second hand, or given to inferior judges. (Exod. xxi. 1, 9; John x. 35.) Those who are appointed judges under Moses (Deut. i. 16) are called, in Hebrew or Chaldee, (1 Kings viii. 1, 2; v. 2; Mic. iii. 1; Josh. xxxii. 2; Num. i. 16.) יָּשָׁר יָּשָׁר יָּשָׁר fathers, (Acts vii. 2; Josh. xiv. 1; xix. 15; 1 Chron. viii. 28,) healers, (Isa. iii. 7,) gods, and sons of the Most High. (Psal. lxxxii. 1, 2, 6, 7; Prov. xii. 16, 17.) I much doubt if kings can infuse godheads in their subjects. I conceive they have, from the God of gods, these gifts whereby they are enabled to be judges; and that kings may appoint them judges, but can do no more: they are no less essentially judges than themselves.

Arg. 8.—If inferior judges be deputes of the king, not of God, and have all their authority from the king, then may the king limit the practice of these inferior judges. Say that an inferior judge hath condemned to death a paricide, and he be conveying him to the place of execution, the king cometh with a force to rescue him out of his hand; if this inferior magistrate bear God's sword for the terror of ill-doers, and to execute God's vengeance on murderers, he cannot but resist the king in this, which I judge to be his office; for the inferior judge is to take vengeance on ill-doers, and to use the co-active force of the sword, by virtue of his office, to take away this paricide. Now, if he be the deputy of the king, he is not to break the jaws of the wicked (Job xxix. 17); not to take vengeance on evil-doers (Rom. xiii. 4); nor to execute judgment on the wicked, (Psal. cxlix. 9); nor to execute judgment for the fatherless (Deut. x. 18); except a mortal man's creator, the king, say Amen. Now, truly then, God, in all Israel, was to rebuke no inferior judge for perverting judgment,—as he doth, Exod. xxxiii. 26; Mic. iii. 2—4; Zech. iii. 3; Num. xxv. 5; Deut. i. 16; for the king only is lord of the conscience of the inferior judge who is to give sentence, and execute sentence righteous upon condition that the king, the only univocal and proper judge, first decree the same, as royalists teach.

Hear our Prelate (c. 4, p. 46).—How is it imaginable that kings can be said to judge in God's place, and not receive the power from God? But kings judge in God's place. (Deut. i. 17; 2 Chron. xix. 6.) Let no man stumble (this is his prolepsis) at this, that Moses in the one place, and Jehoshaphat in the other, spake to subordinate judges under them. This weakemeth nowise our argument; for it is a ruled case in law, Quod quis facti per alium, facti per se, all judgments of inferior judges are in the name, authority, and by the power of the supreme, and are but communicatively and derivatively from the sovereign power.
The king is by the grace of God, the inferior judge is judge by the grace of the king; even as the man is the image of God, and the woman the man's image.\footnote{Symmon's Loyal Subjects' Belief, sect. 1, p. 3.}

**Ans. 1.**—This distinction is neither true in law nor conscience. Not in law, for it distinguisheth not betwixt ministros regis, et ministros regni. The servants of the king are his domestics, the judges are ministri regni, non regis; the ministers and judges of the kingdom, not of the king. The king doth not show grace, as he is a man, in making such a man a judge; but justice as a king, by a royal power received from the people, and by an act of justice, he makes judges of deserving men; he should neither for favour nor bribes make any one judge in the land. 2. It is by the grace of God that men are to be advanced from a private condition to be inferior judges, as royal dignity is a free gift of God; 1 Sam. ii. 7, "The Lord bringeth low and lifteth up;" Psal. lxxix, 7, "God putteth down one and setteth up another." Court flatterers take from God and give to kings; but to be a judge inferior is no less an immediate favour of God than to be king, though the one be a greater favour than the other. Magis homos and Majoc homos are to be considered.

**Arg. 9.**—Those powers which differ gradually, and per magis et minus, by more and less only, differ not in nature and species, and constitute not kings and inferior judges different univocally. But the power of kings and inferior judges are such; therefore kings and inferior judges differ not univocally. That the powers are the same in nature, I prove, 1. by the specific acts and formal object of the power of both; for both are powers ordained of God. (Rom. xiii. 1.) To resist either, is to resist the ordinance of God. 2. Both are by office a terror to evil workers, ver. 3. 3. Both are the ministers of God for good. Though the king send and give a call to the inferior judge, that doth no more make the inferior judge's powers in nature and specie different than ministers of the Word, called by ministers of the Word, have offices different in nature. Timothy's office to be preacher of the Word differeth not in specie from the office of the presbytery which laid hands on him, though their office by extension be more than Timothy's office. The people's power is put...
forth in those same acts, when they choose one to be their king and supreme governor, and when they set up an aristocratical government, and choose many, or more than one, to be their governors; for the formal object of one or many governors is justice and religion, as they are to be advanced. The form and manner of their operation is, brachio seculari, by a co-active power, and by the sword. The formal acts of king and many judges in aristocracy are these same, the defending of the poor and needy from violence, the conservation of a community in a peaceable and a godly life. (1 Tim. ii. 2; Job xxix. 12, 13; Isa. i. 17.) These same laws of God that regulateth the king in all his acts of royal government, and teteth and obligeth his conscience, as the Lord’s deputy, to execute judgment for God, and not in the stead of men, in God’s court of heaven, doth in like manner tie, and oblige the conscience of aristocratical judges, and all inferior judges, as is clear and evident by these places, 1 Tim. ii. 2, not only kings, but all in authority are obliged to procure that their subjects lead a quiet and peaceable life, in all godliness and honesty. All in conscience are obliged (Deut. i. 16) to judge righteously between every man and his brother, and the stranger that is with them. Neither are they to respect persons in judgment, but are to hear the small as well as the great, nor to be afraid of the face of men—the judgment administered by all, is God’s. (2 Chron. xix. 6.) All are obliged to fear God, (Deut. xvii, 19, 20,) to keep the words of the law; not to be lifted up in heart above their brethren. (Isa. i. 17; Jer. xxii. 2, 3.) Let any man show me a difference, according to God’s word, but in the extension, that what the king is to do as a king, in all the kingdom and whole dominions, (if God give to him many, as he gave to David, and Solomon, and Joshua,) that the inferior judges are to do in such and such circuits, and limited places, and I quit the cause; so as the inferior judges are little kings, and the king a great and delated judge, as a compressed hand or fist, and the hand stretched out in fingers and thumb, are one hand; so here. 4. God owneth inferior judges as a congregation of gods; (Psalm lixxxii, 1, 2;) for that God sitteth in a congregation or senate of kings or monarchs, I shall not believe till I see royalists show to me a commonwealth of monarchs convening in one judicature. All are equally called gods, (John x. 36; Exod. xxii. 8;) if for any cause, but because all judges, even inferior, are the immediate deputies of the King of kings, and their sentence in judgment as the sentence of the Judge of all the earth, I shall be informed by the P. Prelate, when he shall answer my reasons, if his interdicted lordship may cast an eye to a poor presbyter below; and as wisdom is that by which kings reign, (Prov. viii. 15, so also ver. 16,) by which princes rule, and nobles, even all the judges of the earth; all that is said against this is, that the king hath a prerogative royal, by which he is differenced from all judges in Israel, called jus regis Μακανια, for, (saith Barclay,) the king, as king, essentially hath a domination and power above all, so as none can censure him, or punish him, but God, because there be no thrones above his but the throne of God. The judges of Israel, as Samuel, Gideon, &c. had no domination,—the dominion was in God’s hand. “We may resist an inferior judge, (saith Arnisius,) otherwise there were no appeal from him, and the wrong we suffer were irreparable,” as saith Marantis. “And all the judges of the earth (saith Edward Symmons) are from God more remotely; namely, mediate reges, by the mediation of the Supreme, even as the lesser stars have their light from God by the mediation of the sun. To the first I answer:—There was a difference betwixt the kings of Israel and their judges, no question; but if it be an essential difference, it is a question. For, 1. The judges were raised up in an extraordinary manner, out of any tribe, to defend the people, and vindicate their liberty, God remaining their king: the king, by the Lord’s appointment, was tyed, after Saul, to the royal tribe of Judah, till the Messiah’s coming. God took his own blessed liberty to set up a succession in the ten tribes. 2. The judges were not by succession from father to son: the kings were, as I conceive, for the typical eternity of the Messiah’s throne, preassigned to stand from

1 Inferiores Judices sunt impropre Vicarii Regis, quod missionem externam ad officium, sed immediati Dei vicarii, quod officium in quod misii sunt. Barcellaus contr. Monarch. i. 2, p. 66, 67.
2 Arnissa de authoritate principi. c. 3, n. 9.
3 Marant. disp. 1, Zoan. tract. 3, de defens. Mynsing. obs. 13, cent. 5.
4 Symmou, sect. 1, p. 2.
THE LAW AND THE PRINCE.

93

generation to generation. 3. Whether the judges were appointed by the election of the people, or no, some doubt; because Jephthah was so made judge: but I think it was not a law in Israel that it should be so. But the first mould of a king (Deut. xvii.) is by election. But that God gave power of domineering, that is, of tyrannising, to a king, so as he cannot be resisted, which he gave not to a judge, I think no scripture can make good. For by what scripture can royalists warrant to us that the people might rise in arms to defend themselves against Moses, Gideon, Eli, Samuel, and other judges, if they should have tyrannised over the people; and that it is unlawful to resist the most tyrannous king in Israel and Judah? Yet Barclay and others must say this, if they be true to that principle of tyranny, that the jus regis, the law or manner of the king (1 Sam. viii. 9, 11; and 1 Sam. x. 25) doth essentially differ between the kings of Israel and the judges of Israel. But we think God gave never any power of tyranny to either judge or king of Israel; and domination in that sense was by God given to none of them. Arminians hath as little for him, to say the inferior magistrate may be resisted, because we may appeal from him; but the king cannot be resisted, quia sanctitas majestatis id non permitit, the sanctity of royal majesty will not permit us to resist the king.

Ans. That is not Paul's argument to prove it unlawful to resist kings, as kings, and doing their office, because of the sanctity of their majesty; that is, as the man intendeth, because of the supreme, absolute, and unlimited power that God hath given him. But this is a begging of the question, and all one as to say, the king may not be resisted, because he may not be resisted; for sanctity of majesty, if we believe royalists, includeth essentially an absolute supremacy of power, whereby they are above the reach of all thrones, laws, powers, or resistance on earth. But the argument is, resist not, because the power is of God. But the inferior magistrate's power is of God. Resist not, because you resist God's ordinance in resisting the judge; but the inferior judge is God's ordinance. (Rom. xiii. 1; Deut. i. 17; 2 Chron. xix. 6.) Mr Symmons saith, "All judges on earth are from the king, as stars have their light from the sun." I answer, 1. Then aristocracy were unlawful, for it hath not its power from monarchical. Had the lords of the Philistines, have the states of Holland, no power but from a monarchy? Name the monarch. Have the Venetians any power from a king? Indeed, our Prelate saith from Augustine, (Confess. lib. 3, cap. 8.) Generale pactum est societatis humanae, obedire Regibus suis, it is an universal covenant of human society, and a dictate of nature, that men obey their kings. "I beg the favour of sectaries (saith he) to show as much for aristocracy and democracy." Now all other governments, to those born at court, are the inventions of men. But I can show that same warrant for the one as for the other; because it is as well the dictate of nature that people obey their judges and rulers as it is that they obey their kings. And Augustine speaketh of all judges in that place, though he name kings; for kingly government is no more of the law of nature than aristocracy or democracy; nor are any born judges or subjects at all. There is a natural aptitude in all to either of these, for the conservation of nature, and that is all. Let us see that men, naturally inclining to government, incline rather to royal government than to any other. That the Prelate shall not be able to show; for fatherly government, being in two, is not kingly, but nearer to aristocracy; and when many families were on earth, every one independent within themselves, if a common enemy should invade a tract of land governed by families, I conceive, by nature's light, they should incline to defend themselves, and to join in one politic body for their own safety, as is most natural. But, in that case they, having no king, and there were no reason of many fathers all alike loving their own families and self-preservation, why one should be king over all, rather than another, except by voluntary compact. So it is clear that nature is nearer to aristocracy before this contract than a monarchy. And let him show us in multitudes of families dwelling together, before there was a king, as clear a warrant for monarchy as here is for aristocracy; though to me both be laudable and lawful ordinances of God, and the difference merely accidental, being one and the same power from the Lord, (Rom. xiii. 1,) which is in divers subjects; in one as a monarchy, in many as in aristocracy; and the one is as natural as the other, and the subjects are accidental to the nature of the power. 2. The stars have no light at all.
but in actual aspect toward the sun; and they are not lighthome bodies by the free will of the sun, and have no immediate light from God formally, but from the sun; so as if there were no sun, there should be no stars. 3. For actual shining and sending out of beams of light actu secundo, they depend upon the presence of the sun; but for inferior judges, though they have their call from the king, yet have they gifts to govern from no king on earth, but only from the King of kings. 4. When the king is dead, the judges are judges, and they depend not on the king for their second acts of judging; and for the actual emission and putting forth their beams and rays of justice upon the poor and needy, they depend on no voluntary aspect, information or commandment of the king, but on that immediate subjection of their conscience to the King of kings. And their judgment which they execute is the Lord's immediately, and not the king's; and so the comparison halteth.

Arg. 10.—If the king dying, the judges inferior remain powers from God, the deputies of the Lord of Hosts, having their power from God, then are they essentially judges; yes, and if the estates, in their prime representatives and leaders, have power in the death of the king to choose and make another king, then are they not judges and rulers by derivation and participation, or improperly; but the king is rather the ruler by derivation and participation than those who are called inferior judges. Now, if these judges depend in their sentences upon the immediate will of him who is supposed to be the only judge, when this only judge dieth, they should cease to be judges: for Expectante mandatore expectat mandatum; because the fountain-judge drying up, the streams must dry up. Now, when Saul died, the princes of the tribes remain by God's institution princes, and they by God's law and warrant (Deut. xvii.) choose David their king.

Arg. 11.—If the king, through absolute power, do not send inferior judges, and constitute them, but only by a power from the people; and if the Lord have no less immediate influence in making inferior judges than in making kings, then there is no ground that the king should be sole judge, and the inferior judge only judge by derivation from him, and essentially his deputy, and not the immediate deputy of God. If the former is true, therefore, so is the latter. And, 1. That the king's absolute will maketh not inferior judges, is clear, from Deut. i. 15. Moses might not follow his own will in making inferior judges whom he pleased: God tyed him to a law, (ver. 13,) that he should take wise men, known amongst the people, and fearing God, and hating covetousness. And these qualifications were not from Moses, but from God; and no less immediately from God than the inward qualification of a king (Deut. xviii.); and therefore, it is not God's law that the king may make inferior judges only, Duo behaves beneplacito, during his absolute will; for if these divine qualifications remain in the seventy elders, Moses, at his will, could not remove them from their places. 2. That the king can make heritable judges more than he can communicate faculties and parts of judging, I doubt. Riches are of fathers, but not promotion, which is from God, and neither from the east nor the west: that our nobles are born lords of parliament, and judges by blood, is a positive law. 3. It seemeth to me, from Isa. iii. 1—4, that the inferior judge is made by consent of the people; nor can it be called a wronging of the king, that all cities and burghs of Scotland and England have power to choose their own provosts, rulers, and mayors. 4. If it be warranted by God, that the lawful call of God to the throne be the election of the people, the call of inferior judges must also be from the people, mediately or immediately. So I see no ground to say, that the inferior judge is the king's vicegerent, or that he is in respect of the king, or in relation to supreme authority, only a private man.

Arg. 12. These judges cannot but be univocally and essentially judges no less than the king, without which in a kingdom justice is physically impossible; and anarchy, and violence, and confusion, must follow, if they be wanting in the kingdom. But without inferior judges, though there be a king, justice is physically impossible; and anarchy and confusion, &c., must follow.

Now this argument is more considerable, that without inferior judges, though there be a king in a kingdom, justice and safety are impossible; and if there be inferior judges, though there be no king, as in aristocracy, and when the king is dead, and another not crowned, or the king is minor, or absent, or a captive in the enemy's land, yet justice is possible, and the kingdom
preserved; the medium of the argument is grounded upon God’s word, Num. xi. 14, 15, when Moses is unable alone to judge the people, seventy elders are joined with him (ver. 16, 17); so were the elders adjoined to help him (Exod. xxiv, 1; Deut. v. 23; xxxii. 16; Josh. xxxiii. 2; Judg. viii. 14; xi. 5, 11; 1 Sam. xi. 9; 1 Kings xx. 7; 2 Kings vi. 32; 2 Chron. xxxiv. 29; Ruth iv. 4; Deut. xix. 12; Ezek. viii. 1; Lam. i. 19); then were the elders of Moab thought to have a king. The natural end of judges hath been indigence and weakness, because men could not in a society defend themselves from violence; therefore, by the light of nature they gave their power to one or more, and made a judge or judges to obtain the end of self-preservation. But nature useth the most efficacious means to obtain its end; but in a great society and kingdom, the end is more easily attained by many governors than by one only; for where there is but one, he cannot minister justice to all; and the farther that the children are removed from their father and tutor, they are the nearer to violence and injustice. Justice should be as easy a rate to the poor as a draught of water. Samuel went yearly through the land to Bethel, Gilgal, Mizpeh, (1 Sam. vii. 16,) and brought justice to the doors of the poor. So were our kings of Scotland obliged to do of old; but now justice is as dear as gold. It is not a good argument to prove inferior judges to be only vicars and deputies of the king, because the king may censure and punish them when they pervert judgment. 1. Because the king, in that punisheth them not as judges, but as men. 2. That might prove all the subjects to be vicars and deputies of the king, because he can punish them all, in the case of their breach of laws.

QUESTION XXI.
WHAT POWER THE PEOPLE AND STATES OF PARLIAMENT HAVE OVER THE KING, AND IN THE STATE.

It is true the king is the head of the kingdom; but the states of the kingdom are as the temples of the head, and so, as essentially parts of the head as the king is the crown of the head. 1

1 Principes sunt capitia temporis rex vertex.
vene and make Joash king, and that without any king; and (Josh. xxiii.) there is a parliament convened, and, for any thing we can read, without Joshua, to take cognisance of a new altar. It had been good that the parliaments both of Scotland and of England had convened, though the king had not indicted and summoned a parliament, without the king, to take order with the wicked clergy, who had made many idolatrous altars; and the P. Prelate should have brought an argument to prove it unlawful, in foro Dei, to set up the tables and conventions in our kingdom, when the prelates were bringing in the grossest idolatry into the church—a service for adoring of altars, of bread, the work of the hand of the baker—a god more corruptible than any god of silver and gold.

And against Achab's will and mind, (1 Kings xviii. 19,) Elias causeth to kill the priests of Baal, according to God's express law. It is true it was extraordinary; but no otherwise extraordinary than it is at this day. When the supreme magistrate will not execute the judgment of the Lord, those who made him supreme magistrate, under God, who have, under God, sovereign liberty to dispose of crowns and kingdoms, are to execute the judgment of the Lord, when wicked men make the law of God of none effect. 1 Sam. xv. 32, so Samuel killed Agag, whom the Lord expressly commanded to be killed, because Saul disobeyed the voice of the Lord. I deny not but there is necessity of a clear warrant that the magistrate neglect his duty, either in not convening the states, or not executing the judgment of the Lord. I see not how the convening of a parliament is extraordinary to the states; for none hath power ordinary when the king is dead, or when he is distracted, or captive in another land, to convene the estates and parliament, but they only; and in their defect, by the law of nature, the people may convene. But, if they be essentially judges no less than the king, as I have demonstrated to the impartial reader, in the former chapter, I conceive, though the state make a positive law, for order's cause, that the king ordinarily convene parliaments; yet, if we dispute the matter in the court of conscience, the estates have intrinsically (because they are the estates, and essentially judges of the land) ordinary power to convene themselves. Because, when Moses, by God's rule, hath appointed seventy men to be catholic judges in the land, Moses, upon his sole pleasure and will, hath not power to restrain them in the exercise of judgment given them of God; for, as God hath given to any one judge power to judge righteous judgment, though the king command the contrary, so hath he given to him power to sit down in the gate, or the bench, when and where the necessity of the oppressed people calleth for it. For the express commandment of God, which saith to all judges, execute judgment in the morning, involveth essentially a precept to all the physical actions, without which it is impossible to execute judgment;—as, namely, if, by a divine precept, the judge must execute judgment; therefore he must come to some public place, and he must cause party and witnesses come before him, and he must consider, examine, in the place of judgment, things, persons, circumstances; and so God, who commandeth positive acts of judging, commandeth the judge's locomotive power, and his natural actions of compelling, by the sword, the parties to come before him, even as Christ, who commandeth his servants to preach, commandeth that the preacher and the people go to church, and that he stand or sit in a place where all may hear, and that he give himself to reading and meditating before he come to preach. And if God command one judge to come to the place of judgment, so doth he command seventy, and so all estates to convene in the place of judgment. It is objected, "That the estates are not judges, ordinary and habitually, but only judges at some certain occasions, when the king, for cogent and weighty causes, calleth them, and calleth them not to judge, but to give him advice and counsel how to judge." 

Arg. 1.—They are no less judges habitually than the king, when the common affairs of the whole kingdom necessitate these public watchmen to come together; for even the king judgeth not actually, but upon occasion. This is to beg the question, to say that the estates are not judges but when the king calleth them at such and such occasions; for the elders, princes, and heads of families and tribes, were judges ordinary, because they made the king.

Arg. 2.—The kingdom, by God, yea, and church, justice and religion, so far as they concern the whole kingdom, are committed not to the keeping of the king only, but to all the judges, elders, and princes of the
land: and they are rebuked as evening wolves, lions, oppressors. (Ezek. xxii. 27; Zec. iii. 3; Isa. iii. 14, 16; Mic. iii. 1—3,) when they oppress the people in judgment, so are they (Deut. i. 15—17; 2 Chron. xix. 6, 7) made judges, and therefore they are no more to be restrained not to convene by the king’s power, (which is in this accumulative and auxiliary, not private,) than they can be restrained in judgment, and in pronouncing such a sentence, as the king pleased, and not such a sentence; because, as they are to answer to God for unjust sentences, so also for no just sentences, and for not convening to judge, when religion and justice, which are fallen in the streets, calleth for them.

Arg. 3.—As God in a law of nature hath given to every man the keeping and self-preservation of himself and of his brother, Cain ought in his place to be the keeper of Abel his brother; so hath God committed the keeping of the commonwealth, by a positive law, not to the king alone, because that is impossible. (Num. xi. 14, 17; 2 Chron. xix. 1—6; 1 Chron. xxvii.)

Arg. 4.—If the king had such a power as king, and so from God, he should have power to break up the meeting of all courts of parliament, secret councils, and all inferior judicatures; and when the congregation of gods, as Psal. lxxxii., in the midst of which the Lord standeth, were about to pronounce just judgment for the oppressed and poor, they might be hindered by the king; and so they should be as just as the king maketh them, and might pervert judgment, and take away the rightousness of the righteous from him, (Isa. v. 23,) because the king commandeth; and the cause of the poor should not come before the judge, when the king so commandeth. And shall it excuse the estates, to say, we could not judge the cause of the poor, nor crush the priests of Baal, and the idolatrous mass-prelates, because the king forbade us? So might the king break up the meeting of the lords of session, when they were to discern that Naboth’s vineyard should be restored to him, and hinder the states to repress tyranny; and this were as much as if the states should say, We made this man our king, and with our good-will we agree he shall be a tyrant. For if God gave it to him as a king, we are to consent that he enjoy it.

Arg. 5.—If Barclay and other flatterers have leave to make the parliament but counsellors and advisers of the king, and the king to be the only and sole judge, the king is, by that same reason, the sole judge, in relation to all judges; the contrary whereof is clear. (Num. xi. 16; Deut. i. 15—17; Chron. xix. 6; Rom. xiii. 1, 2; 1 Pet. ii. 13, 14.) Yes, but (say they) the king, when he sendeth an ambassador, he may tie him to a written commission; and in so far as he exceedeth that, he is not an ambassador; and clear it is, that all inferior judges (1 Pet. ii. 13, 14) are but sent by the king; therefore, they are so judges as they are but messengers, and are to adhere to the royal pleasure of the prince that sent them. Ans. (1.)—The ambassador is not to accept an unjust ambassador, that fighteth with the law of nature. (2.) The ambassador and the judge differ, the ambassador is the king and states’ deputy, both in his call to the embassy, and also in the matter of the embassy; for which cause he is not to transgress what is given to him in writ as a rule; but the inferior judges, and the high court of parliament, though they were the king’s deputies, (as the parliament is in no sort his deputy, but he their deputy royal) yet it is only in respect of their call, not in respect of the matter of their commission, for the king may send the judge to judge in general according to the law, justice, and religion, but he cannot depute the sentence, and command the conscience of the judge to pronounce such a sentence, not such. The inferior judge in the act of judging is as independent, and his conscience as immediately subject to God as the king; therefore, the king owes to every sentence his approbative suffrage as king, but not either his directive suffrage, or his imperative suffrage of absolute pleasure.

Arg. 6.—If the king should sell his country, and bring in a foreign army, the estates are to convene, to take course for the safety of the kingdom.

Arg. 7.—If David exhort the princes of Israel to help king Solomon in governing the kingdom, and in building the temple (2 Chron. xxxii. 3);—if Hezekiah took counsel with his princes, and his mighty men in the matter of holding off the Assyrians, who were to invade the land: if David (1 Chron.
consult with the captains of thousands and hundreds, to bring the ark of God to Kirjath-jearim: if Solomon (1 Kings viii. 1) "assemble the elders of Israel, and all the heads of the tribes, and the chief of the fathers, to bring the ark of the tabernacle to the congregation of the Lord": if Achab gathered together the states of Israel, in a matter that nearly concerned religion: if the elders and people (1 Kings xx. 8) counsel and decree that king Achab should hearken to Ben-hadad king of Syria, and if Ahasuerus make no decrees, but with consent of his princes, (Esth. i. 21,) nor Darius any act without his nobles and princes: if Hamor and Shechem (Gen. xxxiv. 20) would not make a covenant with Jacob's sons, without the consent of the men of the city, and Ephron the Hittite would not sell Abraham a burial place in his land without the consent of the children of Heth (Gen. xxiii. 10)—then must the estates have a power of judging with the king or prince in matters of religion, justice, and government, which concern the whole kingdom. But the former is true by the records of Scripture; therefore, so is the latter.

Arg. 8.—The men of Ephraim complain that Jephthah had gone to war against the children of Ammon without them, and hence rose war betwixt the men of Ephraim and the men of Gilead, (Judges xii. 1—3,) and the men of Israel fiercely contended with the men of Judah, because they brought king David home again without them, pleading that they were therein despised, (2. Sam. xix. 41—43,) which evinced that the whole states have hand in matters of public government, that concern all the kingdom; and when there is no king, (Judg. xx.) the chief of the people, and of all the tribes, go out in battle against the children of Benjamin.

Arg. 9.—Those who make the king, and so have power to unmake him in the case of tyranny, must be above the king in power of government; but the elders and princes made both David and Saul kings.

Arg. 10.—There is not any who say that the princes and people, (1 Sam. xiv.) did not right in rescuing innocent Jonathan from death, against the king's will and his law.

Arg. 11.—The special ground of royalists is, to make the king the absolute supreme, giving all life and power to the parliament and states, and of mere grace convening them. So saith Ferne, the author of

"Ossorianum," (p. 69,) but this ground is false, because the king's power is fiduciary, and put in his hand upon trust, and must be ministerial, and borrowed from those who put him in trust, and so his power must be less, and derived from the parliament. But the parliament hath no power in trust from the king, because the time was when the man who is the king had no power, and the parliament had the same power that they now have; and now, when the king hath received power from them, they have the whole power that they had before—that is, to make laws; and resigned no power to the king, but to execute laws; and his convening of them is an act of royal duty, which he oweth to the parliament by virtue of his office, and is not an act of grace; for an act of grace is an act of free will; and what the king doth of free will, he may not do, and so he may never convene a parliament. But, when David, Solomon, Assa, Hezekiah, Jehoshaphat, Ahaz, convened parliaments, they convened parliaments as kings, and so ex debito et virtute officii, out of debt and royal obligation, and if the king as the king, be les animata, a breathing and living law, the king, as king, must do by obligation of law what he doth as king, and not from spontaneous and arbitrary grace. If the Scripture holds forth to us a king in Israel, and two princes and elders who made the king, and had power of life and death, as we have seen; then is there in Israel monarchy tempered with aristocracy; and if there were elders and rulers in every city, as the Scripture saith, here was also aristocracy and democracy; and for the warrant of the power of the estates, I appeal to jurists, and to approved authors: Arg. l. aliud. 160, sect. 1; De Jur. Reg. l. 22; Mortuo de jdei. l. 11, 14, ad Mum. l. 3, 1, 4; Sigennius De Rep. Judaeor. l. 6, c. 7; Cornelius Bertram, c. 12; Junius Brutus, Vindic. contra. Tyran. sect. 2; Author Libelli de jur Magistrat. in subd. q. 6; Althus. Politic. c. 18; Calvin Institut. l. 4, c. 20; Pareus Coment. in Rom. xiii.; Pet. Martyr in Lib. Judic. c. 3; Joan Marianus de regi lib. 1, c. 7; Hotoman de jure Antig. Regni Gallici l. 1, c. 12; Buchanan de jure Regni apud Scotos.

Obj.—The king after a more noble way representeth the people than the estates doth; for the princes and commissioners of parliament have all their power from the
people, and the people’s power is concentr-
tated in the king.

Ans.—The estates taken collectively do
represent the people both in respect of office,
and of persons, because they stand judges
for them; for many represent many, ratione
numeri et officii, better than one doth.
The king doth improperly represent the
people, though the power for actual execu-
tion of laws be more in the king, yet a legis-
lative power is more in the estates. Neither
will it follow, that if the estates of a king-
dom do any thing but counsel a king, they
must then command him, for a legal and
judicial advice hath influence in the effect
to make it a law, not on the king’s will, to
cause him give the being of a law to that,
which without his will is no law, for this
supposeth that he is only judge.

Obj.—What power the people reserveth,
they reserve it to themselves in unitate,
as united in a parliament; and therefore
what they do out of a parliament is tumultu-
ous.

Ans.—I deny the consequence; they re-
serve the power of self-preservation out of a
parliament, and a power of convening in
parliament for that effect, that they may by
common counsel defend themselves.

QUESTION XXII.

WHETHER THE POWER OF THE KING AS KING
BE ABSOLUTE, ORDEPENDENT ANDLIMITED
BY GOD’S FIRST MOULD AND PATTERN
OF A KING.

Dr Ferne (sect. 3, p. 12) sheweth us it was
never his purpose to plead for absoluteness
of an arbitrary commandment, free from all
moral restraint laid on the power by God’s
law; but only he striveth for a power in the
king that cannot be resisted by the subject.
But truly we never disputed with royalists
of any absolute power in the king, free from
moral subjection to God’s law. 1. Because
any bond that God’s law imposeth on the
king, cometh wholly from God, and the
nature of a divine law, and not from any
voluntary contract or covenant, either ex-
press or tacito, betwixt the king and the
people who made him king; for, if he fall
against such a covenant, though he should
exceed the cruelty of a king or a man, and
become a lion, a Nero, and a mother-killer,
he should in all his inhumanity and breach
of covenant be accountable to God, not to
any man on earth. 2. To dispute with
royalists if God’s law lay any moral restraint
upon the king, were to dispute whether the
king be a rational man or no, and whether
he can sin against God, and shall cry in the
day of God’s wrath, (if he be a wicked
prince) Hills fall on us and cover us, as it is
Rev. vi. 15, 16; and whether Tophet be
prepared for all workers of iniquity; and
 certainly I justify the schoolmen in that
question: Whether or no God could have
created a rational creature, such a one as
by nature is impeccable, and not naturally
capable of sin before God? If royalists dis-
pute this question of their absolute monarch,
they are wicked divines.

We plead not at this time, (saith the
Prelate, c. 14, p. 163, stealing from Gro-
tius, Barclay, Arnisseus, who spake it with
more sinews of reason;) for a masterly or
despotical, or rather for a slavish sovereig-
ity, which is dominium herile, an absolute
power, such as the great Turk this day ex-
erciseth over his subjects, and the king of
Spain hath over and in his territories with-
out Europe: we maintain only regiam po-
testatem, qua fundatur in patria, such
royal, fatherly sovereignty, as we live un-
der, blessed be God, and our predecessors.
This, (saith he,) as it hath its royal prero-
gative inherent to the crown naturally, and
inseparable from it, so it trencheth not upon
the liberty of the person, or the property of
the goods of the subject, but in and by the
lawful and just acts of jurisdiction.

Ans.—1. Here is another absolute power
disclaimed to be in the king; he hath not
such a masterly and absolute liberty as the
Turk hath. Why? John P. P., in such a
tender and high point as concerneth soul
and body of subjects in three Christian king-
doms, you should have taught us. What
bonds and fetters any covenant or pacti-
betwixt the king and people layeth upon
the king,—why he hath not, as king, the
power of the great Turk, I will tell you.
The great Turk may command any of his
subjects to leap into a mountain of fire, and
burn himself quick, in conscience of obe-
dience to his law. And what if the subject
dooby the great Turk? if the great Turk
be a lawful prince, as you will not deny;—
and if the king of Spain should command
foreign conquered slaves to do the like. By
your doctrine, neither the one nor the other

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were obliged to resist by violence, but to pray, or fly; which both were to speak to stones, and were like the man who, in case of shipwreck, made his devotion of praying to the waves of the sea, not to enter the place of his bed and drown him. But a Christian king hath not this power; why? and a Christian king (by royalist's doctrine) hath a greater power than the Turk (if greater can be): he hath power to command his subjects to cast themselves into hell-fire; that is, to press on them a service wherein it is written,—Adore the work of men's hands in the place of the living God; and this is worse than the Turk's commandment of bodily burning quick. And what is left to the Christian subjects in this case is the very same, and no other than is left to the Turkish and foreign Spanish subject. Either fly, or make prayers. There is no more left to us.

2. Many royalists maintain that England is a conquered nation. Why, then, see what power, by law of conquest, the king of Spain hath over his slaves; the same must the king of England have over his subjects. For, to royalists, a title by conquest to a crown is as lawful as a title by birth or election; for lawfulness, in relation to God's law, is placed in an indivisible point, if we regard the essence of lawfulness; and therefore there is nothing left to England, but that all protagonists who take the oath of a protestant king, to defend the true protestant religion, should, after prayers conveyed to the king through the fingers of prelates and papists, leave the kingdom empty to papists, prelates, and atheists.

3. All power restrained that it cannot arise from ten degrees to fourteen,—from the kingly power of Saul (1 Sam. viii. 9, 11) to the kingly power of the great Turk, to fourteen,—must either be restrained by God's law, or by man's law, or by the innate goodness and grace of the prince, or by the providence of God. A restraint from God's law is vain; for it is no question between us and royalists but God hath laid a moral restraint on kings, and all men, that they have not moral power to sin against God. Is the restraint laid on man's law? What law of man? The royalist saith, the king, as king, is above all law of man. Then (say I) no law of man can hinder the king's power of ten, to arise to the Turkish power of fourteen. All law of man, as it is man's law, is seconded either with ec-

clesiastical and spiritual co-action, such as excommunication, or with civil and temporal co-action, such as is the sword, if it be violated. But royalists deny that either the sword of the church in excommunication, or the civil sword, should be drawn against the king. This law of man should be produced by this profound jurist, the P. Prelate, who mocketh at all the statists and lawyers of Scotland. It is not a covenant betwixt the king and people at his coronation; for though there were any such covenant, yet the breach of it doth bind before God, but not before man. Nor can I see, or any man else, how a law of man can lay a restraint on the king's power of two degrees, to cancel it within a law, more than on a power of ten or fourteen degrees. If the king of Spain, the lawful sovereign of those over-European people, (as royalists say,) have a power of fourteen degrees over those conquered subjects, as a king, I see not how he hath not the like power over his own subjects of Spain, to wit, even of fourteen; for what agreeeth to a king, as a king, (and kingly power from God he hath as king,) he hath it in relation to all subjects, except it be taken from him in relation to some subjects, and given by some law of God, or in relation to some other subjects. Now no man can produce any such law. The nature of the goodness and grace of the prince cannot lay bonds on the king to cancel his power, that he should not usurp the power of the king of Spain toward his over-Europeans. 1. Royalists plead for a power due to the king, as king, and that from God, such as Saul had; (1 Sam. viii. 9, 11; x. 25;) but this power should be a power of grace and goodness in the king as a good man; not in the king as a king, and due to him by law; and so the king should have his legal power from God to be a tyrant. But if he were not a tyrant, but should lay limits on his own power, through the goodness of his own nature, no thanks to royalists that he is not a tyrant; for, actu primo, and as he is a king, (as they say) he is a tyrant, having from God a tyrannous power of ten degrees, as Saul had; (1 Sam. viii. ) and why not of fourteen degrees as well as the great Turk, or the king of Spain? If he use it not, it is his own personal goodness, not his official and royal power. The restraint of providence laid by God upon any power to do ill, hindereth only the exercise of the power
not to break forth in as tyrannous acts as ever the king of Spain or the great Turk can exercise toward any. Yea, providence layeth physical restraint, and possibly moral, sometimes, upon the exercise of that power that devils and the most wicked men of the world hath. But royalists must show us that providence hath laid bounds on the king’s power, and made it fatherly and not masterly; so that if it, the power, exceed bounds of fatherly power, and pass over to the despotic and masterly power, it may be resisted by the subjects; but that they will not say.

4. This paternal and fatherly power that God hath given to kings, as royalists teach, trencheth not upon the liberty of the subjects and the property of their goods, but in and by lawful and just acts of jurisdiction (with the P. Prelate). Well; then it may trench upon the liberty of soul and body of the subjects but in and by lawful and just acts of jurisdiction. But none are to judge of these acts of jurisdiction, whether they be just or not just, but the king, the only judge of supreme and absolute authority and power. And if the king command the idolatrous service in the obtruded service-book, it is a lawful and a just act of jurisdiction. For to royalists, who make the king’s power absolute, all acts are so just to the subject, though he command idolatry and Mahommedanism, that we are to suffer only, and not to resist.

5. The Prelate presumeth that fatherly power is absolute; but so, if a father murder his child, he is not accountable to the magistrate therefor, but, being absolute over his children, only the Judge of the world, not any power on earth, can punish him.

6. We have proved that the king’s power is paternal or fatherly only by analogy, and improperly.

7. What is this prerogative royal, we shall hear by and by.

8. There is no restraint on earth laid upon this fatherly power of the king but God’s law, which is a moral restraint. If then, the king challenge as great a power as the Turk hath, he only sinneth against God, but no mortal man on earth may control him, as royalists teach. And who can know what power it is that royalists plead for, whether a despotic power of lordly power, or a fatherly power? If it be a power above law, such as none on earth may resist it, it is no matter whether it be above law of two degrees, or of twenty, even to the great Turk’s power.

These go for oracles at court: Tacitus,—
Principi sumnum rerum arbitrium Di de
derunt, subditis obsequii gloria relicta est;
Seneca,—Indigna digna habenda sunt, Res
qua facta; Salust,—Impune quidvis facere,
id est, Regem esse. As if to be a king and to be a god who cannot err were all one. But certainly these authors are taxing the license of kings, and not commanding their power.

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

Arg. 1.—He who, in his first institution, is appointed of God by office, even when he sitteth on the throne, to take heed to read on a written copy of God’s law, that he may “learn to fear the Lord his God, and keep all the words of this law,” &c., he is not of absolute power above law. But (Deut. xvii. 18, 19) the king as king, while he sitteth on the throne, is to do this; therefore the assumption is clear, for this is the law of the king as king, and not of a man as a man. But as he sitteth on the throne, he is to read on the book of the law; and (ver. 20) because he is king, “his heart is not to be lifted up above his brethren”; and as king, (ver. 16,) “he is not to multiply horses,” &c. So politicians make this argument good:—they say, Rex est lea viva, animata, et loquens lea, the king as king, is a living, breathing, and speaking law. And there be three reasons of this,—1. If all were innocent persons, and could do no violence one to another, the law would rule all, and all men would put the law in execution, agendo sponte, by doing right of their own accord; and there should be no need of a king to compel men to do right. But now, because men are by nature averse to good laws, therefore there was need of a ruler, who, by office, should reduce the law into practice; and so is the king the law reduced in practice. 2. The law is ratio sive mens, the reason or mind, free from all perturbations of anger, lust, hatred, and cannot be tempted to ill; and the king, as a man, may be tempted by his own passions, and therefore, as king, he cometh by office out of himself to reason and law; and so much as he hath of law, so much of a king; and in his remotest distance from law and reason he is a tyrant. 3. Abstracta concreta sunt puriora et perfectiora. Justice
is more perfect than a just man, whiteness more perfect than the white wall; so the nearer he comes to a law, for which he is a king, the nearer to a king, Propert quod unumquodque tale, id ipsum magis tale. Therefore, kings throwing laws to themselves as men, whereas they should have conformed themselves to the law, have erred. Cambyses, the son of Cyrus, because he loved his own sister, would have "the marriage of the brother with the sister lawful." Anaxarchus said to Alexander, (grieved in mind that he had killed Clytus,) Regi ac Jovi themin atque institunt asidere:— Judgment and righteousness did always accompany God and the king in all they do; but some, to this purpose, say better:—The law, rather than the king, hath power of life and death.

Arg. 2.—The power that the king hath (I speak not of his gifts) he hath it from the people who maketh him king, as I proved before; but the people have neither formally nor virtually any power absolute to give the king. All the power they have is a legal and natural power to guide themselves in peace and godliness, and save themselves from unjust violence by the benefit of rulers. Now, an absolute power above a law is a power to do ill and to destroy the people, and this the people have not themselves, it being repugnant to nature that any should have a natural power in themselves to destroy themselves, or to inflict upon themselves an evil of punishment to destruction. Though therefore it were given, which yet is not granted, that the people had resigned all power that they have into their king, yet if he use a tyrannical power against the people for their hurt and destruction, he useth a power that the people never gave him, and against the intention of nature; for they invested a man with power to be their father and defender for their good; and he faieth against the people's intention in usurping an over-power to himself, which they never gave, never had, never could give; for they cannot give what they never had, and power to destroy themselves they never had.

Arg. 3.—All royal power, whereby a king is a king and differenced from a private man, armed with no power of the sword, is from God. But absolute power to tyrannise over the people and to destroy them is not a power from God; therefore there is not any such royal power absolute. The proposition is evident, because that God who maketh kings and disposeth of crowns, (Prov. viii. 15, 16; 2 Sam. xii. 7; Dan. iv. 32,) must also create and give that royal and official power by which a king is a king. 1. Because God created man, he must be the author of his reasonable soul. If God be the author of things, he must be the author of their forms by which they are that which they are. 2. All power is God's, (1 Chron. xxix. 11; Matt. vi. 13; Psal. lixii. 11; lxviii. 35; Dan. ii. 37,) and that absolute power to tyrannise, is not from God. 1. Because, if this moral power to sin be from God, it being formally wickedness, God must be the author of sin. 2. Whatever moral power is from God, the exercises of that power, and the acts thereof, must be from God, and so these acts must be morally good and just; for if the moral power be of God, as the author, so must the acts be. Now, the acts of a tyrannical power are acts of sinful injustice and oppression, and cannot be from God. 3. Politicians say, there is no power in rulers to do ill, but to help and defend the people,—as the power of a physician to destroy,—of a pilot to cast away the ship on the rock, the power of a tutor to waste the inheritance of the orphan, and the power of father and mother to kill their children, and of the mighty to defraud and oppress, are not powers from God. So Ferdinand. Vasquez illustr. quest. l. 1, c. 26, c. 45; Prickman d. c. 3, sect. Soluta potestas; Althus. pol. cap. 9, n. 25.

Barclay, Grotius, Dr Ferne, (The P. Prelate's wit could come up to it,) say, "That absolute power to do ill, so as no mortal man can lawfully resist it, is from God; and the king hath this way power from God as no subject can resist it, but he must resist the ordinance of God, and yet the power of tyranny is not simply from God."

Ans.—The law saith, Illud possimum quod jure possimum, Papinus F. filius, D. de cond. Just. It is no power which is not lawful power. The royalists say, power of tyranny, in so far as it may be resisted, and is punishable by men, is not from God. But what is the other part of the distinction? It must be, that tyrannical power is simpliciter from God, or in itself it is from God; but as it is punishable or restraints by subjects, it is not from God. Now, to be punishable

1 Barclay, contra Monarcho. lib. 2. p. 62.
by subjects is but an accident, and tyrannical power is the subject; yea, and it is a separable accident; for many tyrants are never punished, and their power is never restrained: such a tyrant was Saul, and many persecuting emperors. Now, if the tyrannical power itself was from God, the argument is yet valid, and remaineth unanswered. And shall not this fall to the ground as false, which Arnisseus saith, *(de autho. princ. c. 2, n. 10,)* *Dum contra officium facti, magistratus non est magistratus, qui pos non injuria, sed jus nasci debet. L. meminerint: 6. C. unde vi. din. in C. quod quis, 24, n. 4, 5.—Et de hac neminem dubitare aut dissentire scribit,* Marcat. disp. 1, num. 14. When the magistrate doth anything by violence, and without law, in so far doing against his office, he is not a magistrate. Then, say I, that power by which he doth, is not of God. None doth, then, resist the ordinance of God who resist the king in tyrannous acts. If the power, as it cannot be punished by the subject nor restrained, be from God, therefore the tyrannical power itself, and without this accident—that it can be punished by men—it must be from God also. But the conclusion is absurd, and denied by royalists. I prove the connection: If the king have such a power above all restraint, the power itself, to wit, king David’s power to kill innocent Uriah, and deflower Bathsheba, without the accident of being restrained or punished by men, it is either from God or not from God. If it be from God, it must be a power against the sixth and seventh commandments, which God gave to David, and not to any subject; and so David lied when he confessed this sin, and this sin cannot be pardoned because it was no sin: and kings, because kings, are under no tie of duties of mercy, and truth, and justice to their subjects, contrary to that which God’s law requireth of all judges (Deut. i. 15—17; xvii. 15—20; 2 Chron. xix. 6, 7; Rom. xiii. 3, 4); if this power be from God, as it is unrestrainable and unpunishable by the subject, it is not from God at all; for how can God give a power to do ill, that is unpunishable by men, and not give that power to do ill? It is inconceivable; for in this very thing that God giveth to David—a power to murder the innocent—with this respect, that it shall be punishable by God only, and not by men, God must give it as a sinful power to do ill, which must be a power of dispensation to sin, and so not to be punished by either God or man, which is contrary to his revealed will in his word. If such a power as not restrainable by man be from God by way of permission, as a power to sin in devils and men is, then it is no royal power, nor any ordinance of God; and to resist this power, is not to resist the ordinance of God.

**Arg. 4.**—That power which maketh the benefit of a king to be no benefit, but a judgment of God, as a making all the people slaves, such as were slaves amongst the Romans and Jews, is not to be asserted by any Christian; but an absolute power to do ill, and to tyrannise, which is supposed to be an essential and constitutive of kings, to difference them from all judges, maketh the benefit of a king no benefit, but a judgment of God, as making all the people slaves. That the major may be clear, it is evident, 1. To have a king is a blessing of God, because to have no king is a judgment; Judg. xvii. 6, “Every man doth what seemeth good in his own eyes.” (Judg. xviii. 1; xix. 1; xxi. 25.) 2. So it is a part of God’s good providence to provide a king for his people. (1 Sam. vii. 1; so 2 Sam. v. 12.) And David perceived that the Lord had established him king over Israel, and that he had exalted his kingdom for his people Israel’s sake, 2 Sam. xvi. 2, 3, 6; xviii. 3; Rom. xiii. 2—4. If the king be a thing good in itself, then can he not, *actu primo,* be a curse and a judgment, and essentially a bondage and slavery to the people; also the genuine and intrinsical end of a king is the good, (Rom. xiii. 4,) and the good of a quiet and peaceable life in all godliness and honesty (1 Tim. ii. 2); and he is by office, *custos utriusque tabulae,* whose genuine end is to preserve the law from violence, and to defend the subject; he is the people’s debtor for all happiness possible to be procured by God’s sword, either in peace or war, at home or abroad. For the assumption is evident. An absolute and arbitrary power is a king-law, such as royalists say God gave to Saul (1 Sam. viii. 9, 11; x. 25) to play the tyrant; and this power, arbitrary and unlimited, above all laws, is that which, (1.) Is given to God; (2.) Distinguisheth essentially the kings of Israel from the judge, saith Barclay, Grotius, Arnisseus; (3.) A constitutive form of a king, therefore it must be *actu primo,* a benefit, and a blessing of God; but if God...
hath given any such power absolute to a king: as, 1. His will must be a law, either to do or suffer all the tyranny and cruelty of a tiger, a leopard, a Nero, or a Julian; then hath God given, actu primo, a power to a king, as king, to enslave the people and flock of God, redeemed by the blood of God, as the slaves among the Romans and Jews, who were so under their masters, as their bondage was a plague of God, and the lives of the people of God under Pharaoh, who compelled them to work in brick and clay. 2. Though he cut the throats of the people of God, as the lioness Queen Mary did, and command an army of soldiers to come and burn the cities of the land, and kill man, wife, and children; yet in so doing, he doth the part of a king, so as you cannot resist him as a man, and obey him as a king, but must give your necks to him, upon this ground, because this absolute power of his is ordained of God; and there is no power even to kill and destroy the innocent, but it is of God. So saith Paul, Rom. xiii., if we believe court-prophets, or rather lying-spirits, who persuade the king of Britain to make war against his three dominions. Now, it is clear that the distinction of bound and free continued in Israel even under the most tyrannous kings; (2 Kings iv. 1;) yea, even when the Jews were captives under Ahasuerus. (Esth. vii. 4.) And what difference should there be between the people of God under their own kings, and when they were captives under tyrants, serving wood and stone, and false gods, as was threatened as a curse in the law? (Deut. xxviii. 25, 36, 64, 68.) If their own kings, by God's appointment, have the same absolute power over them, and if he be a tyrant, actu primo, that is, if he be indue with absolute power, and so have power to play the tyrant, then must the people of God be actu primo, slaves, and under absolute subjection; for they are relatives, as lord and servant, conqueror and captive. It is true, they say, kings by office are fathers, they cannot put forth in action their power to destroy. I answer, it is their goodness of nature that they put not forth in action all their absolute power to destroy, which God hath given them as kings, and therefore, thanks are due to their goodness, for that they do not, actu secundo, play the tyrant; for royals teach, that by virtue of their office God hath given to them a royal power to destroy; therefore, the Lord's people are slaves under them, though they deal not with them as slaves, but that hindereth not but the people by condition are slaves. So many conquerors of old did deal kindly with their slaves whom they took in war, and dealt with them as sons; but as conquerors they had power to sell them, to kill them, to put them to work in brick and clay. So say I here, royal power and a king cannot be a blessing; and actu primo a favour of God to the people, for the which they are to pray when they want a king that they may have one, or to praise God when they have one. But a king must be a curse and a judgment, if he be such a creature as essentially, and in the intention and nature of the thing itself, hath by office a royal power to destroy, and that from God; for then the people praying—'Lord give us a king,' should pray, 'Make us slaves, Lord; take our liberty and power from us, and give a power unlimited and absolute to one man, by which he may, if he please, waste and destroy us, as all the bloody emperors did the people of God.' Surely, I see not but they should pray for a temptation, and to be led into temptation when they pray God to give them a king; and, therefore, such a power is a vain thing.

**Arg. 5.**—A power contrary to justice, to peace and the good of the people, that looketh to no law as a rule, and so is unreasonable, and forbidden by the law of God and the civil law, (L. 15, filius de condit. Instit.) cannot be lawful power, and cannot constitute a lawful judge; but an absolute and unlimited power is such. How can the judge be the minister of God for good to the people (Rom. xiii. 4) if he have such a power as a king, given him of God, to destroy and waste the people?

**Arg. 6.** An absolute power is contrary to nature, and so unlawful; for it maketh the people give away the natural power of defending their life against illegal and cruel violence, and maketh a man who hath need to be ruled and lawed by nature above all rule and law, and one who, by nature, can sin against his brethren such a one as cannot sin against any but God only, and maketh him a lion and an unsocial man. What a man is Nero, whose life is poetry and painting! Domitian, only an archer; Valentinian, only a painter; Charles IX. of France, only a hunter; Alphonso Dux Ferrarensis, only an astronomer; Philip of Macedonia, a musician; and all because
they are kings. This our king denieth, when he saith, (art. 13,) "There is power legally placed in the parliament more than sufficient to prevent and restrain the power of tyranny." But if they had not power to play the lions, it is not much that kings are musicians, hunters, &c.

Arg. 7.—God, in making a king to preserve his people, should give liberty without all politic restrain, for one man to destroy many, which is contrary to God's end in the fifth commandment, if one have absolute power to destroy souls and bodies of many thousands.

Arg. 8.—If the kings of Israel and Judah were under censures and rebukes of the prophets, and sinned against God and the people in rejecting these rebukes, and in persecuting the prophets, and were under this law not to take their neighbour's wife, or his vineyard from him against his will; and the inferior judges were to accept the persons of none in judgment, small or great; and if the king yet remain a brother, notwithstanding he be a king, then is his power not above any law, nor absolute. For what reason?—1. He should be under one law of God to be executed by men, and not under another law? Royalists are to show a difference from God's word. 2. His neighbours, brother, or subjects, may by violence keep back their vineyards, and chastity from the king. Naboth may by force keep his own vineyard from Ahab. By the laws of Scotland, if a subject obtain a decree of the king, of violent possession of the heritages of a subject, he hath by law power to cast out, force, apprehend, and deliver to prison those who are tenants, brooking these lands by the king's personal commandment. If a king should force a damsel, she may violently resist, and by violence, and bodily opposing of violence to violence, defend her own chastity. Now, that the prophets have rebuked kings is evident: Samuel rebuked Saul, Nathan David, Elias king Ahab; Jeremiah is commanded to prophecy against the kings of Judah, (Jer. i. 18,) and the prophets practised it. (Jer. xix. 3; xxii. 2; xxii. 13—15; Hos. v. 1.) Kings are guilty before God because they submitted not their royal power and greatness to the rebukes of the prophets, but persecuted them.

Deut. xvii. 20. The king on the throne remaineth a brother; Psal. xxi. 22, and so the judges or three estates are not to accept of the person of the king for his greatness in judgment; Deut. i. 16, 17, and the judge is to give out such a sentence in judgment as the Lord, with whom there is no iniquity, would give out if the Lord himself were sitting in judgment; because the judge is in the very stead of God, as his lieutenant; (2 Chron. xix. 6, 7; Psal. lxxix. 1, 2; Deut. i. 17;) and with God there is no respect of persons. (2 Chron. xix. 7; 1 Pet. i. 17; Acts x. 34.) I do not intend that any inferior judge sent by the king is to judge the king; but those who gave him the throne, and made him king, are truly above him, and to judge him without respect of persons, as God himself would judge if he were sitting on the bench.

God is the author of civil laws and government, and his intention is therein the external peace, and quiet life, and godliness of his church and people, and that all judges, according to their places, be nurse-fathers to the church. (Isa. xlix. 23.) Now God must have appointed sufficient means for this end; but there is no sufficient means at all, but a mere anarchy and confusion, if to one man an absolute and unlimited power be given of God, whereby, at his pleasure, he may obstruct the fountains of justice, and command lawyers and laws to speak not God's mind, that is justice, righteousness, safety, true religion, but the sole lust and pleasure of one man. And this one having absolute and irresistible influence on all the inferior instruments of justice, may, by this power, turn all into anarchy, and put the people in a worse condition than if there were no judge at all in the land. For that of politicians, that tyranny is better than anarchy, is to be taken cum grano salis; but I shall never believe that absolute power of one man, which is actu primo tyranny, is God's sufficient way of peaceable government. Therefore, Barclay's saith nothing for the contrary, when he saith, "The Athenians made Draco and Solon absolute law-givers, for, a facto ad jus non valet consequentia." What if a roving people, trusting Draco and Solon to be kings above mortal men, and to be gods, gave them power to make laws, written not with ink, but with blood, shall other kings have from God the like tyrannical and bloody power from that to make bloody laws? Chytreus (lib. 2) and Sleidan citeth it, (l.

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8 Barclay contra Monarch. lib. 2, p. 76, 77.
1.) Sueon, Sub pæna periurii non tenentur fidem sevæ regis degeneri.

Arg. 9.—He who is regulated by law, and swears to the three estates to be regulated by law, and accepteth the crown covenant-wise, and so as the estates would refuse to make him their king, if either he should refuse to swear, or if they did believe certainly that he would break his oath, hath no unlimited and absolute power from God or the people; for, foedus conditionatum, aut promissio conditionalis mutua, facit jus alteri in alterum, a mutual conditional covenant gives power and power over one to another. But, from that which hath been said, the king sweareth to the three estates to be regulated by law—he accepteth the crown upon the tenor of a mutual covenant, &c.; for if he should, as king, swear to be king, that is, one who hath absolute power above a law, and also to be regulated by a law, he should swear things contradictory, that is, that he should be their king, having absolute power over them, and according to that power to rule them; and he should swear not to be their king, and to rule them, not according to absolute power, but according to law. If, therefore, this absolute power be essential to a king, as a king, no king can lawfully take the oath to govern according to law, for then he should swear not to reign as king, and not be their king; for how could he be their king, wanting that which God hath made essential to a king as a king?

QUESTION XXIII.

WHETHER THE KING HATH ANY ROYAL PREROGATIVE, OR A POWER TO DISPENSE WITH LAWS; AND SOME OTHER GROUNDS AGAINST ABSOLUTE MONARCHY.

A prerogative royal I take two ways: either to be an act of mere will and pleasure above or beside reason or law, or an act of dispensation beside or against the letter of the law.

Assert. 1.—That which royalists call the prerogative royal of princes is the salt of absolute power; and it is a supreme and highest power of a king, as a king, to do above, without or contrary to a law or reason, which is unreasonable. 1. When God’s word speaketh of the power of kings and judges, Deut. xvii. 15—17; i. 15—17, and elsewhere there is not any footstep or any ground for such a power; and, therefore, (if we speak according to conscience,) there is no such thing in the world; and because royalists cannot give us any warrant, it is to be rejected. 2. A prerogative royal must be a power of doing good to the people, and grounded upon some reason or law; but this is but a branch of an ordinary limited power, and no prerogative above or beside law; yea, any power not grounded on a reason different from mere will or absolute pleasure is an irrational and brutish power; and, therefore, it may well be jus personæ, the power of the man who is king; it cannot be jus coronæ, any power annexed to the crown; for this holdeth true of all the actions of the king, as a king, illud potest rex, et illud tantum quod juris potest. The king, as king, can do no more than that which upon right and law he may do. 3. To dispute this question, whether such a prerogative agree to any king, as king, is to dispute whether God hath made all under a monarch slaves by their own consent; which is a vain question. Those who hold such a prerogative, must say the king is so absolute and unlimited a god on earth, that either by law, or his sole pleasure beside law, he may regularly and rationally move all wheels in policy; and his uncontrolled will shall be the axetree on which all the wheels are turned. 4. That which is the garland and proper flower of the King of kings, as he is absolute above his creatures, and not tied to any law, without himself, that regulateth his will, that must be given to no mortal man or king, except we would communicate that which is God’s proper due to a sinful man, which must be idolatory. But to do royal acts out of an absolute power above law and reason, is such a power as agreeth to God, as is evident in positive laws and in acts of God’s mere pleasure, where we see no reason without the Almighty for the one side rather than for the other, as God’s forbidding the eating of the tree of knowledge maketh the eating sin and contrary to reason; but there is no reason in the object: for if God should command eating of that tree, not to eat should also be sin. So God’s choosing Peter to glory, and his refusing Judas, is a good and a wise act, but not good or wise
from the object of the act, but from the sole wise pleasure of God; because, if God had chosen Judas to glory and rejected Peter, that act had been no less a good and a wise act than the former. For when there is no law in the object but only God's will, the act is good and wise, seeing infinite wisdom cannot be separated from the perfect will of God; but no act of a mortal king, having sole and only will, and neither law nor reason in it, can be a lawful, a wise, or a good act.

Assert. 2.—There is something which may be called a prerogative by way of dispensation. There is a threefold dispensation,—one of power, another of justice, and a third of grace. 1. A dispensation of power is when the will of the law-giver maketh that act to be no sin, which without that will would have been sin,—as if God's commanding will had not intervened, the Israelites borrowing the ear-rings and jewels of the Egyptians, and not restoring them, had been a breach of the eighth commandment; and in this sense no king hath a prerogative to dispense with a law. 2. There is a dispensation of law and justice not flowing from any prerogative, but from the true intent of the law; and thus the king, yea, the inferior judge, is not to take the life of a man whom the letter of the law would condemn, because the justice of the law is the intent and life of the law; and where nothing is done against the intent of the law, there is no breach of any law. 3. The third is not unlike unto the second, when the king exponeth the law by grace, and this is twofold: (1.) Either when he exponeth it of his wisdom and merciful nature, inclined to mercy and justice, yet, according to the just intent, native sense, and scope of the law, considering the occasion, circumstances of the fact, and comparing both with the law,—and this dispensation of grace I grant to the king, as when the tribute is great and the man poor, the king may dispense with the custom. 2 (2.) The law saith, in a doubtful case the prince may dispense, because it is presumed the law can have no sense against the principal sense and intent of the law.

But there is another dispensation that royalists do plead for, and that is, a power

1 In re dubia possunt dispensare principes, quia nullus sensus presumitur, qui vincat principalem, lib. 1, sect. initium ib.
judges, in so far as they give out the sentences of men, and are not the very mouths of the King of kings to pronounce such a sentence as the Almighty himself would do, if he were sitting on the throne or bench.

3. If the king, from any supposed prerogative royal, may do acts of mere grace without any warrant of law, because he is above law by office, then also may he do acts of mere rigorous justice, and kill and destroy the innocent, out of the same supposed prerogative; for God's word equally tyeth him to the place of a mere minister in doing good, as in executing wrath on evil-doers, Rom. xiii. 3, 4. And reason would say, he must be as absolute in the one as in the other, seeing God tyeth him to the one as to the other, by his office and place; yes, by this, acts of justice to ill-doers, and acts of reward to well-doers, shall be arbitrary morally, and by virtue of office to the king, and the word prerogative royal saith this; for the word prerogative is a supreme power absolute that is loosed from all law, and so from all reason of law, and depending on the king's mere and naked pleasure and will; and the word royal or kingly is an epithet of office and of a judge,—a created and limited judge, and so it must tie this supposed prerogative to law, reason, and to that which is debitum legale officii and a legal duty of an office; and by this our masters, the royalists, make God to frame a rational creature, which they call a king, to frame acts of royalty, good and lawful, upon his own mere pleasure and the super-dominion of his will above a law and reason. And from this it is that deluded counsellors made king James (a man not of shallow understanding) and king Charles to give pardons to such bloody murderers as James a Grant; and to go so far on, by this supposed prerogative royal, that king Charles in parliament at Edinburgh, 1633, did command an high point of religion:—that ministers should use, in officiating in God's service, such habits and garments as he pleaseth, that is, all the attire and habits of the idolatrous mass-priests that the Romish priests of Baal useth in the oddest point of idolatry (the adoring of bread) that the earth has; and by this prerogative the king commanded the Service Book in Scotland, anno 1637, without or above law and reason. And I desire any man to satisfy me in this, if the king's prerogative royal may overleap law and reason in two degrees, and if he may as king, by a prerogative royal, command the body of popery in a popish book;—if he may not, by the same reason, over-leap law and reason by the elevation of twenty degrees;—and if you make the king a Julian, (God avert, and give the spirit of revelation to our king,) may he not command all the Alkoran and the religion of the heathen and Indians? Royalists say the prerogative of royalty excluded not reason, and maketh not the king to do as a brute beast, without all reason, but it giveth a power to a king to do by his royal pleasure, not fettered to the dictates of a law; for in things which the king doth by his prerogative royal he is to follow the advice and counsel of his wise council, though their counsel and advice doth not bind the royal will of the king.

Ans. 1.—I answer, it is to me, and I am sure to many more learned, a great question,—if the will of any reasonable creature, even of the damned angels, can will or choose anything which their reason, corrupted as it is, doth not dictate hic et nunc to be good? For the object of the will of all men is good, either truly, or apparently good to the doer; for the devil could not suit in marriage souls except he war in the clothes of an angel of light; sin, as sin, cannot sell, or obstruct itself upon any, but under the notion of good. I think it seemeth good to the great Turk to command innocent men to cast themselves over a precipice two hundred fathoms high into the sea, and drown themselves to pleasure him; so the Turk's reason (for he is rational, if he be a man) dictatesthe, to his vast pleasure, that is good which he commandeth.

2. Counsellors to the king, who will speak what will please the queen, are but naked empty titles, for they speak que placet, non que prosunt, what may please the king whom they make glad with their lies, not what law and reason dictate.

3. Absoluteness of an unreasonable prerogative doth not deny counsel and law also, for none more absolute, de facto, I cannot say de jure, than the kings of Babylon and Persia; for Daniel saith of one of them, (Dan. v. 19,) "Whom he would he slew, and whom he would he kept alive, and whom he would he set up, and whom he would he put down;" and yet these same kings did nothing but by advice of their princes and counsellors; yes, so as they could
not alter a decree and law, as is clear; (Esth. i. 14—17, 21) yea, Darius, de facto, an absolute prince, was not able to deliver Daniel, because the law was passed; that he should be cast into the lions' den. (Dan. vi. 14—16.)

4. That which the Spirit of God condemns as a point of tyranny in Nebuchadnezzar, is no lawful prerogative royal; but the Spirit of God condemns this as tyranny in Nebuchadnezzar,—that he slew whom he would, he kept alive whom he would, he set up whom he would, he put down whom he would. This is too God-like. (Deut. xxxii. 39.) So Polanus¹ and Rolloclus² on the place say, he did these things, (ver 19,) Ex absus legitimo potestatis: for Nebuchadnezzar's will, in matters of death and life, was his law, and he did what pleased himself, above all law, beside and contrary to it. And our flatterers of kings draw the king's prerogative out of Ulpian's words, who saith, "That is a law which seemeth good to the prince;" but Ulpian was far from making the prince's will a rule of good and ill; for he saith the contrary, "That the law ruleth the just prince."

5. It is considerable here, that Sanches³ defineth the absolute power of kings to be a plentitude and fulness of power, subject to no necessity, and bounded with rules of no public law; and so did Baldus⁴ before him. But all politicians condemn that of Caligula, (as Suetonius saith,)⁵ which he spake to Alexander the Great, "Remember that thou must do all things, and that thou hast a power to do to all men what thou pleasest." And lawyers say, that this is tyranny. Chilon, one of the seven wise of Greece, (as Rodigi,)⁶ saith better, "Princes are like gods, because they only can do that which is just; and this power, being merely tyrannical, can be no ground of a royal prerogative. There is another power (saith Sanches) absolute, by which a prince dispenseth without a cause in a human law; and this power, saith he, may be defended. But he saith, what the king doth by this absolute power he doth it valide, validly, but not jure, by law; but by valid acts the Jesuit must mean royal acts. But no acts void of law and reason (say we) can be royal acts; for royal acts are acts performed by a king, as a king, and by a law, and so cannot be acts above or beside a law. It is true a king may dispense with the breach of a human law, as a human law, that is, if the law be death to any who goeth upon the walls of the city, the king may pardon any, who, going up, discovereth the enemies approach, and saveth the city. But, 1. The inferior judge according to the lex hominis that benign interpretation that the soul and intent of the law requireth, may do this as well as the king. 2. All acts of independent prerogative are above a law, and acts of free will having no cause or ground in the law, otherwise it is not founded upon absolute power, but on power ruled by law and reason. But to pardon a breach of the letter of the law of man by exponing it according to the true intent of the law, and benignly, is an act of legal obligation, and so of the ordinary power of all judges; and if either king or judge kill a man for the violation of the letter of the law, when the intent of the law contradicteth the rigid sentence, he is guilty of innocent blood. If that learned Ferdinandus Vasquez be consulted, he is against this distinction of a power ordinary and extraordinary in men; and certainly, if you give to a king a prerogative above a law, it is a power to do evil as well as good; but there is no lawful power to do evil; and Dr Ferne is plunged in a contradiction by this, for he saith, (sect. 9, p. 58,) ["I ask when these emperors took away lives and goods at pleasure? Was that power ordained by God? No; but an illegal will and tyranny; but (p. 81) the power, though abused to execute such a wicked commandment, is an ordinance of God."]

Obj. 1.—For the lawfulness of an absolute monarchy,—the Eastern, Persian, and Turkish monarchy maketh absolute monarchy lawful, for it is an oath to a lawful obligatory thing; and judgment (Ezek. xvii. 16, 18) is denounced against Judah for breaking the oath of the king of Babylon, and it is called the oath of God, and doubtless was an oath of absolute suention; and the power (Rom. xiii.) was absolute, and yet the apostle calleth it an ordinance of God. The so-

¹ Polanus in Daniel, c. 5, 19.
² Rolloclus, com. 16, lb.
³ Th. Sanches de matr. tom. 1, lib. 2, dis. 15, n. 3, est arbitrio plenitudo, nulli necessitati subjecta, nullius; q publice juris regulis limitata.
⁴ Baldus, lib. 2. n. 40, C. de servit. et aqua.
⁵ Suetoni. in Calign. cap. 29, memento tibi omnia, et in omnibus licere.
⁶ Cestius Rodigi, lib. 8, Lect. Antiq. c. 1.

¹ Vasquez, Illust. quest. lib. 1, c. 26, n. 2.
vereignty of masters over servants was absolute, and the apostle exhorteth not to renounce that title as too rigid, but exhorteth to moderation in the use of it.

Answ. 1.—That the Persian monarchy was absolute is but a factum ad ius, and no rule of a lawful monarchy; but that it was absolute, I believe not. Darius, who was an absolute prince, as many think, but I think not, would gladly have delivered Daniel from the power of a law, (Dan. vi. 14.) “And he set his heart on Daniel to deliver him, and he laboured till the going down of the sun to deliver him,” and was so sorrowful that he could not break through a law, that he interdicted himself of all pleasures of musicians; and if ever he had used the absoluteness of a prerogative royal, I conceive he would have done it in this, yet he could not prevail. But in things not established by law I conceive Darius was absolute, as to me is clear, (Dan vi. 24.) but absolute not by a divine law, but de facto, quod transierat in juss humanum, by fact, which was now become a law.

2. It was God’s oath, and God tied Judah to absolute subjection, therefore, people may tie themselves. It followeth not, except you could make good this inference: 1. God is absolute, therefore the king of Babylon may lawfully be absolute. This is a blasphemous consequence. 2. That Judah was to swear the oath of absolute subjection in the latitude of the absoluteness of the kings of Chaldea, I would see proved. Their absoluteness by the Chaldean laws was to command murder, idolatry, (Dan. iii. 4, 5,) and to make wicked laws. (Dan. vi. 7, 8.) I believe Jeremiah commanded not absolute subjection in this sense, but the contrary. (Jer. x. 11.) They were to swear the oath in the point of suffering; but what if the king of Chaldea had commanded them all, the whole holy seed, men, women and children, out of his royal power, to give their necks all in one day to his sword, were they obliged by this oath to prayers and tears, and only to suffer? and was it against the oath of God to defend themselves by arms? I believe the oath did not oblige to such absolute subjection, and though they had taken arms in their own lawful defence, according to the law of nature, they had not broken the oath of God. The oath was not a tie to an absolute subjection of all and every one, either to worship idols, or then to fly or suffer death. Now, the Service Book commanded, in the king’s absolute authority, all Scotland to commit grosser idolatry, in the intention of the work, if not in the intention of the commander, than was in Babylon. We read not that the king of Babylon pressed the consciences of God’s people to idolatry, or that all should either fly the kingdom, and leave their inheritances to papists and prelates, or then come under the mercy of the sword of papists and atheists by sea or land. 3. God may command against the law of nature, and God’s commandment maketh subjection lawful, so as men may not now, being under that law of God, defend themselves. What then? Therefore we owe subjection to absolute princes, and their power must be a lawful power, it nowise is consequent. God’s commandment by Jeremiah made the subjection of Judah lawful, and without that commandment they might have taken arms against the king of Babylon, as they did against the Philistines; and God’s commandment maketh the oath lawful. As suppose Ireland would all rise in arms, and come and destroy Scotland, the king of Spain leading, then we were by this argument not to resist. 4. It is denied, that the power, (Rom. xiii.) as absolute, is God’s ordinance. And I deny utterly that Christ and his apostles did swear non-resistance absolute to the Roman emperor.

Obj. 2.—It seemeth, (1 Pet. ii. 18, 19,) if well-doing be mistaken by the reason and judgment of an absolute monarch for ill-doing, and we punished, yet the magistrate’s will is the command of a reasonable will, and so to be submitted unto; because such a one suffereth by law, where the monarch’s will is a law, and in this case some power must judge. Now in an absolute monarchy all judgment resolveth in the will of the monarch, as the supreme law; and if ancestors have submitted themselves by oath, there is no repeal or redressment.

Answ.—Whoever was the author of this treatise he is a bad defender of the defensive wars in England, for all the lawfulness of wars then must depend on this: 1. Whether England be a conquered nation at the beginning? 2. If the law-will of an absolute monarch, or a Nero, be a reasonable will, to which we must submit in suffering ill, I see not but we must submit to a reasonable will, if it be reasonable will in doing ill, no less than in suffering ill. 3. Absolute will in absolute monarchies is no
judge de jure, but an unlawful and a usurping judge. (1 Pet. ii. 18, 19.) Servants are not commanded simply to suffer. (I can prove suffering formally not to fall under any law of God, but only patient suffering. I except Christ, who was under a peculiar commandment to suffer.) But servants, upon supposition that they are servants, and buffeted unjustly by their masters, are, by the apostle Peter, commanded (ver. 20) to suffer patiently. But it doth not bind up a servant's hand to no more his own life with weapons if his master invade him, without cause, to kill him; otherwise, if God call him to suffer, he is to suffer in the manner and way as Christ did, not reviling, not threatening. 4. To be a king and an absolute master to me are contradictory. A king essentially is a living law; an absolute man is a creature that they call a tyrant, and no lawful king. Yet do I not mean that any that is a king, and usurpeth absoluteness, leaveth off to be a king; but in so far as he is absolute he do no more a king than in so far as he is a tyrant. But further, the king of England saith in a declaration, 1. The law is the measure of the king's power. 2. Parliaments are essentially lord-judges, to make laws essentially, as the king is, therefore, the king is not above the law. 3. Magna Charta, saith the king, can do nothing but by laws, and no obedience is due to him but by law. 4. Prescriptions taketh away the title of conquests.

Obj. 3.—The king, not the parliament, is the anointed of God.

Ans.—The parliament is as good, even a congregation of gods. (Ps. lxxxi. 6.)

Obj. 4.—The parliament in the court, in their acts, they say, with consent of our sovereign lord.

Ans.—They say not at the commandment and absolute pleasure of our sovereign lord. He is their lord materially, not as they are formally a parliament, for the king made them not a parliament; but sure I am the parliament had power before he was king, and made him king. (1 Sam. x. 17, 18.)

Obj. 5.—In an absolute monarchy there is not a resignation of men to any will as will, but to the reasonable will of the monarch, which, having the law of reason to direct it, is kept from injurious acts.

Ans.—If reason be a sufficient restraint, and if God hath laid no other restraint upon some lawful king, then is magistracy a lame, a needless ordinance of God; for all mankind hath reason to keep themselves from injuries, and so there is no need of judges or kings to defend them from either doing or suffering injuries. But certainly this must be admirable,—if God, as author of nature, should make the lion king of all beasts, the lion remaining a devouring beast, and should ordain by nature all the sheep and lambs to come and submit their bodies to him, by instinct of nature, and to be eaten at his will, and then say, the nature of a beast in a lion is a sufficient restraint to keep the lion from devouring lambs. Certainly, a king being a sinful man, and having no restraint on his power but reason, he may think it reason to allow rebels to kill, drown, hang, torture to death, an hundred thousand protestants, men, women, infants in the womb, and sucking babes, as is clear in Pharaoh, Manasseh, and other princes.

Obj. 6.—There is no court or judge above the king, therefore he is absolutely supreme.

Ans.—The antecedent is false. 1. The court that made the king of a private man is above him; and here are limitations laid on him at his coronation. 2. The states of parliament are above him, to censure him. 3. In case of open tyranny, though the states had not time to convene in parliament, if he bring on his people an host of Spaniards or foreign rebels, his own conscience is above him, and the conscience of the people far more, called conscientia terra, may judge him in so far as they may rise up and defend themselves.

Obj. 7.—Here the Prelate, (c. 14, p. 144,) borrowing from Grotius, Barclay, Arnaeus, (or it is possible he be not so far travelled, for Dr Ferne hath the same,) "Soeverignty weakened in aristocracy cannot do its work, and is in the next place to anarchy and confusion. When Zedekiah was overlorded by his nobles, he could neither save himself nor the people, nor the prophet, the servant of God, Jeremiah; nor could David punish Joab when he was overawed by that power he himself had put in his head. To weaken the hand is to distemper the whole body; if any good prince, or his royal ancestors, be cheated of their sacred right by fraud or force, he may, at his fittest opportunity, resume it. What a sin it is to rob God or the king of their due!"

Ans.—Aristocracy is no less an ordinance
of God than royalty; for (Rom. xiii. 1, and 1 Tim. ii.)—1. All in authority are to be acknowledged as God’s vice-regents, the senate, the consuls, as well as the emperor; and so one ordinance of God cannot weaken another, nor can any but a lawless animal say, aristocracy bordereth with confusion; but he must say, order and light are sister-germans to confusion and darkness. 2. Though Zedekiah, a man void of God, was over-awed by his nobles, and so could not help Jeremiah, it followeth not that because kings may not do this and this good, therefore they are to be invested with power to do all ill: if they do all the good that they have power to do, they will find way to help the oppressed Jeremiah. And, because power to do both good and evil is given by the devil to our Scottish witches, it is a poor consequent that the states should give to the king power absolute to be a tyrant. 3. A state must give a king more power than ordinary, especially to execute laws, which requireth singular wisdom, when a prince cannot always have his great council about with him to advise him. 1. That is power borrowed, and by loan, and not properly his own; and therefore it is no sacrifligie in the states to resume what the king hath by a fiduciary title, and borrowed from them. 2. This power was given to do good, not evil. David had power over Joab to punish him for his murder, but he executed it not upon carnal fears, and abused his power to kill innocent Uriah, which power neither God nor the states gave him. But how proveth he the states took power from David, or that Joab took power from David to put to death a murderer? That I see not. 3. If princes’ power to do good be taken from them, they may resume it when God giveth opportunity; but this is to the Prelate perjury, that the people by oath give away their power to their king and resume it when he abuseth it to tyranny. But it is no perjury in the king to resume a taken-away power, which, if it be his own, is yet its sub judice, a great controversy, Quod in Ceio licet, in Nevio non licet. So he teacheth the king that perjury and sacrilege is lawful to him. If princes’ power to do ill and cut the whole land off as one neck, (which was the wicked desire of Caligula,) be taken from them by the states, I am sure this power was never theirs, and never the people’s; and you cannot take the prince’s power from him which was never his power. I am also sure the prince should never resume an unjust power, though he were cheated of it.

P. Prelate.—It is a poor shift to acknowledge no more for the royal prerogative than the municipal law hath determined, as some smatterers in the law say. They cannot distinguish betwixt a statute declarative and a statute constitutive; but the statutes of a kingdom do declare only what is the prerogative royal, but do not constitute or make it. God Almighty hath by himself constituted it. It is laughter to say the decalogue was not a law till God wrote it.

Ans.—Here a profound lawyer calleth all smatterers in the law, who cannot say that non ens, a prerogative royal, that is, a power contrary to God and man’s law to kill and destroy the innocent, came not immediately down from heaven. But I profess myself no lawyer; but do maintain against the Prelate that no municipal law can constitute a power to do ill, nor can any law either justly constitute or declare such a fancy as a prerogative royal. So far is it from being like the decalogue, that is, a law before it be written, that this prerogative is neither law before it be written, nor after court-hunters have written for it; for it must be eternal as the decalogue if it have any blood from so noble a house. In what scripture hath God Almighty spoken of a fancied prerogative royal?

P. Prelate (p. 145).—Prerogative resteth not in its natural seat, but in the king. God saith, Reddite, not Date, render to kings that which is king’s, not give to kings; it shall never be well with us if his anointed and his church be wronged.

Ans.—The Prelate may remember a country proverb: he and his prelates (called the church,—the scum of men, not the church,) are like the tinker’s dogs,—they like good company,—they must be ranked with the king. And hear a false prophet: It shall never be well with the land while arbitrary power and popery be erected, saith he, in good sense.

P. Prelate (c. 16, p. 170, 171).—The king hath his right from God, and cannot make it away to the people. Render to Caesar the things that are Caesar’s. Kings’ persons, their charge, their right, their authority, their prerogative, are by Scriptures, fathers, jurists, sacred, inseparable ordinances inherent in their crowns,—they cannot be made away; and when they are
given to inferior judges, it is not ad minuendam majestatem, sed sollicitudinem, to lessen sovereign majesty, but to ease them.

Ans.—The king hath his right from God. What, then, not from the people? I read in Scripture, the people made the king, never that the king made the people. All these are inseparably in the crown, but he stealeth in prerogative royal, in the clause which is now in question, “Render to Cesar all Cesar’s;” and therefore, saith he, render to him a prerogative, that is, an absolute power to pardon and sell the blood of thousands. Is power of blood either the king’s, or inherent inseparably in his crown? Also! I fear prelates have made blood an inseparable accident of his throne. When kings, by that public power given to them at their coronation, makest inferior judges, they give them power to judge for the Lord, not for men. (Deut. i. 17; 2 Chron. xix. 6.) Now, they cannot both make away a power and keep it also; for the inferior judge’s conscience hangeth not at the king’s girdle. He hath no less power to judge in his sphere than the king hath in his sphere, though the orb and circle of motion be larger in compass in the one than in the other; and if the king cannot give himself royal power, but God and the people must do it, how can he communicate any part of that power to inferior judges except by trust? Yea, he hath not that power that other men have in many respects:

1. He may not marry whom he pleaseth; for he might give his body to a leper woman, and so hurt the kingdom.—2. He may not do as Solomon and Ahab, marry the daughter of a strange god, to make her the mother of the heir of the crown. He must in this follow his great senate. He may not expose his person to hazard of wars.—3. He may not go over sea and leave his watch-tower, without consent.—4. Many acts of parliament of both kingdoms discharge papists to come within ten miles of the king.—5. Some pernicious counsellors have been discharged his company by laws.—6. He may not eat what meats he pleaseth.—7. He may not make wasters his treasurers.—8. Nor dilapidate the rents of the crown.—9. He may not disinherit his eldest son of the crown at his own pleasure.—10. He is sworn to follow no false gods and false religions, nor is it in his power to go to mass.—11. If a priest say mass to the king, by the law he is hanged, drawn and quartered.—12. He may not write letters to the Pope, by law.—13. He may not, by law, pardon seducing priests and Jesuits.—14. He may not take physic for his health but from physicians, sworn to be true to him.—15. He may not educate his heir as he pleaseth.—16. He hath not power of his children, nor hath he that power that other fathers have, to marry his eldest son as he pleaseth.—17. He may not befriend a traitor.—18. It is high treason for any woman to give her body to the king, except she be his married wife.—19. He ought not to build sumptuous houses without advice of his council.—20. He may not dwell constantly where he pleaseth.—21. Nor may he go to the country to hunt, far less to kill his subjects and desert the parliament.—22. He may not confer honours and high places without his council.—23. He may not deprive judges at his will.—24. Nor is it in his power to be buried where he pleaseth, but amongst the kings. Now, in most of these twenty-four points, private persons have their own liberty far less restricted than the king.

QUESTION XXIV.

WHAT POWER THE KING HATH IN RELATION TO THE LAW AND THE PEOPLE, AND HOW A KING AND A TYRANT DIFFER.

Mr Symmons saith, (sect. 6, p. 19,) that authority is rooted rather in the prince than in the law; for as the king giveth being to the inferior judge, so he doth to the law itself, making it authorisable; for propter quod unum-quodque tale, id ipsum magis tale, and therefore the king is greater than the law; others say, that the king is the fountain of the law, and the sole and only law-giver.

Assertion First.—1. The law hath a twofold consideration,—(1.) Secundum esse personal, in relation to the punishment to be inflicted by man.4 (2.) Secundum esse legis, as it is a thing legally good in itself. In the former notion it is this way true,—human laws take life and being, so as to be punished or rewarded by men, from the will of princes and law-givers; and so Symmons saith true, because men cannot punish or reward laws but where they are made; and

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1 Barcius, lib. 4, c. 23, p. 325.
the will of rulers puttheth a sort of stamp on
a law, that it bringeth the commonwealth
under guiltiness if they break this law.

But this maketh not the king greater than
the law, for therefore do rulers put the
stamp of relation to punishment on the law,
because there is intrinsical worth in the law
prior to the act of the will of lawgivers for
which it meritteth to be enacted; and, there-
fore, because it is authorisable as good and
just, the king puttheth on it this stamp of a
politic law. God formeth being and moral
aptitude to the end in all laws, to wit, the
safety of the people, and the king's will is
neither the measure nor the cause of the
goodness of kings.

2. If the king be he who maketh the
law good and just, because he is more such
himself, then as the law cannot crook, and
er, nor sin, neither can the king sin, nor
break a law. This is blasphemy; every man
is a liar: a law which deserveth the name
of a law cannot lie.

3. His ground is, that there is such ma-
jecty in kings, that their will must be done
either in us or on us. A great untruth.
Ahab's will must neither be done of Elias,
for he commandeth things unjust, nor yet
on Elias, for Elias fled, and lawfully we may
fly tyrants; and so Ahab's will in killing
Elias was not done on him.

Assertion Second.—1. Nor can it be
made good, that the king only hath power
of making laws, because his power were then
absolute to inflict penalties on subjects, with-
out any consent of theirs; and that were
a dominion of masters, who command what
they please, and under what pain they please.
And the people consenting to be ruled by
such a man, they tacitly consent to penalty of
laws, because natural reason saith, an ill-
deer should be punished; (Florianus in l.
inde. Vasquez, l. 2, c. 56, n. 3,) therefore they
must have some power in making these
laws.

2. Jer. xxvi., It is clear the princes judge
with the people. A nomothetic power dif-
fereth gradually only from a judicial power,
both being collateral means to the end of
government, the people's safety. But par-
liaments judge, therefore they have a no-
omothetic power with the king.

3. The parliament giveth all supremacy
to the king, therefore to prevent tyranny,
it must keep a co-ordinate power with the
king in the highest acts.

4. If the kingly line be interrupted, if

the king be a child or a captive, they make
laws who make kings; therefore, this nomo-
thetic power recurreth into the states, as to
the first subject.

Obj.—The king is the fountain of the law,
and subjects cannot make laws to themselves
more than they can punish themselves. He
is only the supreme.¹

Ans.—The people being the fountain of
the king must rather be the fountain of
laws. It is false that no man maketh laws
to himself. Those who teach others teach
themselves also, (1 Tim. ii. 12; 1 Cor. xiv.
34,) though teaching be an act of authority.
But they agree to the penalty of the law
secondarily only; and so doth the king who,
as a father, doth not will evil of punishment
to his children, but by a consequent will.
The king is the only supreme in the power
ministerial of executing laws; but this is a
derived power, so as no one man is above
him; but in the fountain-power of royalty
the states are above him.

5. The civil law is clear, that the laws of
the emperor have force only from this foun-
tain, because the people have transferred
their power to the king. Lib. 1, digest. tit.
4, de consitt. Princip. leg. 1, sic Ulpian.
Quod principi placuit, (loquitur de prin-
cipe formaliter, qua princeps est, non qua
est homo,) legis habet vigorem, utpote cum
legi regia, quae de imperio ejus lata est.
populii ei, et in cum, omne suum imperium
et potestatem conferat. Yes, the emperor
himself may be convened before the prince
elector. (Aurea Bulla Carol. 4, Imper.
c. 5.) The king of France may be con-
voked before the senate of Paris. The
states may resist a tyrant, as Bossius saith,
(de principi, et privileg. ejus, n. 55. Pa-
sis de puteo, in tract. syno. tit. de exess.
reg. c. 3.) Divines acknowledge that Elias
rebuked the halting of Israel betwixt God
and Baal, that their princes permitted Basl's
priests to converse with the king. And is
not this the sin of the land, that they suffer
their king to worship idols? And, there-
fore, the land is punished for the sins of
Manasseh, as Knox observeth in his dispute
with Lethington, where he proveth that the
states of Scotland should not permit the
queen of Scotland to have her abominable
mass. (Hist. of Scotland.) Surely the power,
or sea prerogative, of a sleepy or mad pilot,
to split the ship on a rock, as I conceive, is

¹ Symmons' Loyal Subject, sect. 5, p. 8.
limited by the passengers. Suppose a father in a distemper would set his own house on fire, and burn himself and his ten sons, I conceive his fatherly prerogative, which neither God nor nature gave, should not be looked to in this, but they may bind him. Yes, Althiusi (polit. c. 50), answering this, "That in democracy the people cannot both command and obey," saith, It is true, secundum idem, ad idem, et eodem tempore. But the people may (saith he) choose magistrates by succession. Yes, I say, 1. They may change rulers yearly to remove envy: a yearly king were more dangerous, the king being almost above envy. Men incline more to flatter than to envy kings. 2. Aristotle saith, (polit. l. 4, c. 4, l. 6, c. 2,) The people may give their judgment of the wisest.

Obj. 1.—Williams, bishop of Ossoy, in Vindic. Reg. (a looking-glass for rebels,) saith, "To say the king is better than any one, doth not prove him to be better than two; and if his supremacy be no more, then any other may challenge as much, for the prince is singulis major. A lord is above all knights; a knight above all esquires; and so the people have placed a king under them, not above them.

Ans.—The reason is not alike: 1. For all the knights united cannot make one lord; and all the esquires united cannot make one knight; but all the people united made David king at Hebron. 2. The king is above the people, by eminence of derived authority as a watchman, and in actual supremacy; and he is inferior to them in fountain-power, as the effect to the cause.

Obj. 2.—The parliament (saith Williams) "may not command the king; why, then, make they supplication to him, if their vote be a law?"

Ans.—They supplicate, ex decentia, of decency and conveniency for his place, as a city supplicate a lord mayor; but they supplicate not ex debito, of obligation, as beggars seek alms, then should they be cyphers. When a subject oppressed supplicateth his sovereign for justice, the king is obliged, by office, to give justice; and to hear the oppressed is not an act of grace and mercy, as to give alms, though it should proceed from mercy in the prince, (Psal. lixxii. 18,) but an act of royal debt.

Obj. 3.—The P. Prelate (c. 9, pp. 103, 104) objecteth: The most you claim to parliament is a co-ordinate power, which, in law and reason, run in equal terms. In law, par in parém non habet imperium; an equal cannot judge an equal, much less may an inferior usurp to judge a superior. Our Lord knew, gratia vestris, the woman taken in adultery to be guilty, but he would not sentence her; to teach us, not improbably, not to be both judge and witness. The parliament are judges, accusers, and witnesses against the king in their own cause, against the imperial laws.

Ans. 1.—The parliament is co-ordinate ordinarily with the king in the power of making laws; but the co-ordination on the king's part is by derivation, on the parliament's part, originaliter et fontaliter, as in the fountain. 2. In ordinary there is co-ordination; but if the king turn tyrant, the estates are to use their fountain-power. And that of the law, par in parém, &c. is no better from his pen, that stealtheth all he hath, than from Barclauius, Grotius, Arnisse, Blackwood, &c.: it is cold and sour. We hold the parliament that made the king at Hebron to be above their own creature, the king. Barclauius saith more accurately, (l. 6, cont. Monarch, p. 129,) "It is absurd that the people should both be subject to the king, and command the king also.—Ans. 1. It is not absurd that a father natural, as a private man, should be subject to his son; even that Jesse, and his elder brother, the lord of all the rest, be subject to David their king. Royalists say, Our late queen, being supreme magistrate, might by law have put to death her own husband, for adultery or murder. 2. The parliament should not be both accuser, judge, and witness in their own cause. 1. It is the cause of religion, of God, of protestants, and of the whole people. 2. The oppressed accuse; there is no need of witnesses in raising arms against the subjects. 3. The P. Prelate could not object this, if against the imperial laws the king were both party and judge in his own cause; and in those acts of arbitrary power, which he hath done through bad counsel, in wronging fundamental laws, raising arms against his subjects, bringing in foreign enemies into both his kingdoms, &c. Now this is properly the cause of the king, as he is a man, and his own cause, not the cause of God; and by no law of nature, reason, or imperial statutes, can he be both judge and party. 4. If the king be sole supreme judge without any fellow sharers in power, (1.) He is not obliged by law to follow counsel or hold parliaments; for counsel is not...
command. (2.) It is impossible to limit him even in the exercises of his power, which yet Dr Ferne saith cannot be said; for if any of his power be retrenched, God is robbed, saith Maxwell. (3.) He may by law play the tyrant gratis. Ferne objecteth, (sect. 7, p. 26)—The king is a fundamental with the estates; now foundations are not to be stirred or removed.

Ans.—The king, as king, inspired with law, is a fundamental, and his power is not to be stirred; but as a man wasting his people, he is a destruction to the house and community, and not a fundamental in that notion.

Some object: The three estates, as men, and looking to their own ends, not to law and the public good, are not fundamentals, and are to be judged by the king.

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

Obj.—But the people also do judge as corrupt men, and not as the people, and a politic body providing for their own safety.

Ans.—I grant all; when God will bring a vengeance on Jerusalem, prince and people both are hardened to their own destruction. Now, God hath made all the three. In every government where there is democracy, there is some chosen ones resembling an aristocracy, and some one for order, presiding in democratic courts, resembling a king. In aristocracy, as in Holland, there is somewhat of democracy,—the people have their commissioners, and one duke or general, as the prince of Orange is some umbrage of royalty; and in monarchy there are the three estates of parliament, and these contain the three estates, and so somewhat of the three forms of government; and there is no one government just that hath not some of all three. Power and absolute monarchy is tyranny; unmixed democracy is confusion; untempered aristocracy is factious dominion; and a limited monarchy hath from democracy respect to public good, without confusion. From aristocracy safety in multitude of counsels without factious emulation, and so a bar laid on tyranny by the joint powers of many; and from sovereignty union of many children in one father; and all the three thus contemplated have their own sweet fruits through God's blessing, and their own diseases by accident, and through men's corruption; and neither reason nor Scripture shall war-

rant any one in its rigid purity without mixture. And God having chosen the best government to bring men fallen in sin to happiness, must warrant in any one a mixture of all three, as in mixed bodies the four elements are reduced to a fit temper resulting of all the four, where the acrimony of all the four first qualities is broken, and the good of all combined in one.

1. The king, as the king, is an unerring and living law, and by grant of Barclay of old, was one of excellent parts, and noble through virtue and goodness; and the goodness of a father as a father, of a tutor as a tutor, of a head as a head, of a husband as a husband, do agree to the king as a king; so, as king, he is the law itself, commanding, governing, saving. 2. His will as king, or his royal will, is reason, conscience, law. 3. This will is politically present (when his person is absent) in all parliaments, courts, and inferior judicatures. 4. The king, as king, cannot do wrong or violence to any. 5. Amongst the Romans the name king and tyrant were common to one thing. (1.) Because, de facto, some of their kings were tyrants, in respect of their dominion, rather than kings. (2.) Because he who was a tyrant, de facto, should have been, and was a king too, de jure. 6. It is not lawful either to disobey or resist a king as a king, no more than it is lawful to disobey a good law. "What violence, what injustice and excess of passion the king mixeth in with his acts of government, are merely accidental to a king as king; for, because men by their own innate goodness will not, yes, morally cannot do that which is lawful and just one to another, and do naturally, since the fall of man, violence one to another; therefore, if there had not been sin, there should not have been need of a king, more than there should have been need of a tutor to defend the child whose father is not dead, or of a physician to cure sickness where there is health; for, remove sin, and there is neither death nor sickness; but because sin is entered into the world, God devised, as a remedy of violence and injustice, a living, rational, breathing law, called a king, a judge, a father. Now the aberrations, violence, and oppression of this thing which is the living, rational, breathing law, is no medium, no mean intended by God and nature to remove violence. How shall violence re-

move violence? Therefore an unjust king, as unjust, is not that genuine ordinance of God, appointed to remove injustice, but accidental to a king. So we may resist the injustice of the king, and not resist the king. 8. If, then, any cast off the nature of a king, and become habitually a tyrant, in so far he is not from God, nor any ordinance which God doth own. If the office of a tyrant (to speak so) be contrary to a king’s offices, it is not from God, and so neither is the power from God. 9. Yea, laws, (which are no less from God than the king’s are,) when they begin to be hurtful, cessant materialiter, they leave off to be laws; because they oblige non secundum vim verborum, sed in vim seneus, not according to the force of words, but according to sense.—L. non figura literarum F. de actione et obligatione, l. ita stipulatus. But who (saith the royalists) shall be judge betwixt the king and the people, when the people allege that the king is a tyrant.

Ans.—There is a court of necessity no less than a court of justice; and the fundamental laws must then speak, and it is with the people, in this extremity, as if they had no ruler.

Obj. 1.—But if the law be doubtful, as all human, all civil, all municipal laws may endure great dispute,—the peremptory person exponing the law must be the supreme judge. This cannot be the people, therefore it must be the king.

Ans. 1.—As the Scriptures in all fundamentals are clear, and expone themselves, and actus primo condemn heresies, so all laws of men in their fundamentals, which are the law of nature and of nations, are clear; and, 2. Tyranny is more visible and intelligible than heresy, and is soon discerned. If a king bring in upon his native subjects twenty thousand Turks armed, and the king lead them, it is evident they come not to make a friendly visit to salute the kingdom, and depart in peace. The people have a natural throne of policy in their conscience to give warning, and materially sentence against the king as a tyrant, and so by nature are to defend themselves. Where tyranny is more obscure, and the thread small, that it escape the eye of men, the king keepeth possession; but I deny that tyranny can be obscure long.

Obj. 2.—Dr Ferne (p. 3, sect. 5, p. 39).—A king may not, or cannot easily alter the frame of fundamental laws, he may make some actual invasion in some transient and unfixed acts; and it is safer to bear these, than to raise a civil war of the body against the head.

Ans. 1.—If the king, as king, may alter any one wholesome law, by that same reason he may alter all. 2. You give short wings to an arbitrary prince, if he cannot overfly all laws to the subversion of the fundamentals of a state, if you make him, as you do, (1.) One who hath the sole legislative power, who alienary by himself maketh laws, and his parliament and council are only to give him advice, which by law he may as easily reject as they can speak words to him, he may in one transient act (and it is but one) cancel all laws made against idolatry and popery, and command, through bad counsel, in all his dominions, the Pope to be acknowledged as Christ’s vicar, and all his doctrine to be established as the catholic true religion. It is but one transient act to seal a pardon to the shedding of the blood of two hundred thousand killed by papists. (2.) If you make him a king, who may not be resisted in any case, and though he subvert all fundamental laws, he is accountable to God only: his people have no remedy, but prayers or flight.

Obj. 3.—Ferne (p. 3, sect. 5, p. 39).—Limitations and mixtures in monarchies do not imply a forcible restraining power in subjects, for the preventing of the dissolution of the state, but only a legal restraining power; and if such a restraining power be in the subjects by reservation, then it must be expressed in the constitution of the government, and in the covenant betwixt the monarch and his people. But such a condition is unlawful, which will not have the sovereign power secured,—is unprofitable for king and people,—a seminary for seditions and jealousies.

Ans. 1.—I understand not a difference betwixt forcible restraining and legal restraining: for he must mean by “legal,” man’s law, because he saith it is a law in the covenant betwixt the monarch and his people. Now, if this be not forcible and physical, it is only moral in the conscience of the king, and a cypher and a mere vanity; for God, not the people, putteth a restraint of conscience on the king, that he may not oppress his poor subjects; but he shall sin against God—that is a poor restraint: the goodness of the king, a sinful man, inclined from the womb to all sin, and so to tyranny, is no restraint.
2. There is no necessity that the reserve be expressed in the covenant between king and people, more than in contract of marriage between a husband and a wife; beside her jointure, you should set down this clause in the contract, that if the husband attempt to kill the wife, or the wife the husband, in that case it shall be lawful to either of them to part company. For Dr. Ferne saith, "That personal defence is lawful in the people, if the king's assault be sudden, without colour of law, or inevitable." Yet the reserve of this power of defence is not necessarily to be expressed in the contract betwixt king and people. Exigencies of the law of nature cannot be set down in positive covenants, they are presupposed. 3. He saith, "A reservation of power whereby sovereignty is not secured, is unlawful." Lend me this argument: the giving away of a power of defence, and a making the king absolute, is unlawful, because by it the people is not secured; but one man hath thereby the sword of God put in his hand, whereby ex officio he may, as king, cut the throats of thousands, and be accountable to none therefore, but to God only. Now, if the non-securing of the king make a condition unlawful, the non-securing of a kingdom and church, yes, of the true religion, (which are infinitely in worth above one single man,) may far more make the condition unlawful. 4. A legal restraint on a king is no more unprofitable, and a seminary of jealousies between king and people, than a legal restraint upon people; for the king, out of a non-restraint, as out of seed, may more easily educe tyranny and subversion of religion. If outlandish women tempt even a Solomon to idolatry, as people may educe sedition out of a legal restraint laid upon a king, to say nothing that tyranny is a more dangerous sin than sedition, by how much more the lives of many, and true religion, are to be preferred to the safety of one, and a false peace.

Obj. 4.—An absolute monarch is free from all forcible restraint, and so far as he is absolute from all legal restraints of positive laws. Now, in a limited monarch, there is only sought a legal restraint; and limitation cannot infer a forcible restraint, for an absolute monarch is limited also, not by civil compact, but by the law of nature and nations, which he cannot justly transgress. If therefore an absolute monarch, being exorbitant, may not be resisted because he transgresseth the law of nature, how shall we think a limited monarch may be resisted for transgressing the bounds set by civil agreement.

Ans. 1.—A legal restraint on the people is a forcible restraint; for if law be not backed with force, it is only a law of rewarding well-doing, which is no restraint, but an encouragement to do evil. If, then, there be a legal restraint upon the king, without any force, it is no restraint, but only such a request as this: be a just prince, and we will give your majesty two subsidies in one year. 2. I utterly deny that God ever ordained such an irrational creature as an absolute monarch. If a people unjustly, and against nature's dictates, make away irrevocably their own liberty, and the liberty of their posterity, which is not their's to dispose off, and set over themselves as base slaves, a sinning creature, with absolute power, he is their king, but not as he is absolute, and that he may not be forcibly resisted, notwithstanding the subjects did swear to his absolute power, (which oath in the point of absoluteness is unlawful, and so not obligatory,) I utterly deny. 3. An absolute monarch (say he) is limited, but by law of nature. That is, Master Doctor, he is not limited as a monarch, not as an absolute monarch, but as a son of Adam; he is under the limits of the law of nature, which he should have been under though he had never been a king all his days, but a slave. But what then? Therefore, he cannot be resisted. Yes, Doctor, by your own grant he can be resisted: if he invade an innocent subject (say you) suddenly, without colour of law, or inevitably; and that because he transgresseth the law of nature. You say a limited monarch can less be resisted for transgressing the bounds set by civil agreement. But what if the thus limited monarch transgress the law of nature, and subvert fundamental laws? He is then, you seem to say, to be resisted. It is not for simple transgression of a civil agreement that he is to be resisted. The limited monarch is as essentially the Lord's anointed, and the power ordained of God, as the absolute monarch. Now resistance by all your grounds is unlawful, because of God's power and place conferred upon him, not because of men's positive covenant made with him.

To find out the essential difference be-

1 Dr. Ferne, p. 3, sect. 5, p. 40.
twixt a king and a tyrant, we are to observe, that it is one thing to sin against a man, another thing against a state. David, killing Uriah, committed an act of murder. But upon this supposition, that David is not punished for that murder, he did not so sin against the state, and catholic good of the state, that he turneth tyrant and ceaseth to be a lawful king. A tyrant is he who habitually sinneth against the catholic good of the subjects and state, and subverteth law. Such a one should not be, as Jason, of whom it is said by Æneas Silvius, Gratiae ferebat, si non regnaret, quasi nesciret esse privatus. When such as are monstrous tyrants are not taken away by the estates, God pursueth them in wrath. Domitian was killed by his own family, his wife knowing of it; Aurelianus was killed with a thunderbolt; Darius was drowned in a river; Dioclesian, fearing death, poisoned himself; Salerius died eaten with worms,—the end also of Herod and Antiochus; Maxentius was swallowed up in a standing river; Julian died, being stricken through with a dart thrown at him by a man or an angel, it is not known; Valens, the Arian, was burnt with fire in a little village by the Goths; Anastasius, the Eutychian emperor, was stricken by God with thunder; Gundericus Vandalus, when he rose against the church of God, being apprehended by the devil, died. Some time the state have taken order with tyrants: the empire was taken from Vitellius, Heligabalus, Maximinus, Didius, Julianus; so was the two Childerici of France served; so were also Sigebertus, Dagobertus, and Luodovic II. of France: Christiernus of Denmark, Mary of Scotland, who killed her husband and raised forces against the kingdom; so was Henricus Valesius of Poland, for flying the kingdom; Sigismundus of Poland, for violating his faith to the states.

1. Originally: Because if the people be the first author, fountain and efficient under God, of law and king, then their own safety must be principally sought, and their safety must be far above the king, as the safety of a cause, especially of an universal cause, such as is the people, must be more than the safety of one, as Aristotle saith, (I. 3. polit., alias I. 8,) où μάνι κίρμων κτ ὦ μέσος αὐτίχειας κτ ἀναλει,—"The part cannot be more excellent than the whole;" nor the effect above the cause.

2. Finaliter. This supreme law must stand; for if all law, policy, magistrates and power be referred to the people's good as the end, (Rom. xii.), and to their quiet and peaceable life in godliness and honesty, then must this law stand, as of more worth than the king, as the end is of more worth than the means leading to the end, for the end is the measure and rule of the goodness of the mean; and, finis ultimus in influxu est potentissimus, the king is good, because he condueth much for the safety of the people; therefore, the safety of the people must be better.

3. By way of limitation: because no law in its letter hath force where the safety of the subject is in hazard; and if law or king be destructive to the people they are to be abolished. This is clear in a tyrant or a wicked man.

4. In the desires of the most holy: Moses, a prince, desired for the safety of God's people, and rather than God should destroy his people, that his name should be rased out of the book of life; and David saith, (1 Chron. xxi.) "Let thine hand, I pray thee, O Lord my God, be on me, and on my father's house; but not on thy people, that they should be plagued." This being a holy desire of these two public spirits, the object must be in itself true, and the safety of God's people and their happiness must be of more worth than the salvation of Moses and the life of David and his father's house.

The Prelate (c. 16, p. 159) boweth then an answer to this—for he hath none of his own—from Dr Ferne (sect. 7, p. 28): The safety of the subject is the prime end of the constitution of government; but it is not the sole and adequate end of government in monarchy; for that is the safety of both king and people. And it becometh the king to proportion his laws for their good; and it becometh the people to proportion all their obedience, actions, and en-
deavours for the safety, honour, and happiness of the king. It is impossible the people can have safety when sovereignty is weakened.

Ans.—The Prelate would have the other half of the end, why a king is set over a people, to be the safety and happiness of the king, as well as the safety of the people. This is new logic indeed, that one and the same thing should be the mean and the end. The question is, For what end is a king made so happy as to be exalted king? The Prelate answereth, He is made happy that he may be happy, and made a king that he may be made a king. Now, is the king, as king, to intend this half end? that is, whether or no accepteth he the burden of setting his head and shoulders under the crown, for this end, that he may not only make the people happy, but also that he may make himself rich and honourable above his brethren, and enrich himself? I believe not; but that he feed the people of God; for if he intend himself, and his own honour, it is the intention of the man who is king, and intentio operantis, but it is not the intention of the king, as the king, or intentio operis. The king, as a king, is formally and essentially the "minister of God for our good," (Rom. xiii. 4; 1 Tim. ii. 2) and cannot come under any notion as a king, but as a mean, not as an end, nor as that which he is, to seek himself. I conceive God did forbid this in the moulding of the first king. (Deut. xvii. 18, 19, 26.) He is a minister by office, and one who receiveth honour and wages for this work, that, ex officio, he may feed his people. But the Prelate saith, the people are to intend his riches and honour. I cannot say but the people may intend to honour the king; but the question is not, whether the people be to refer the king and his government as a mean to honour the king? I conceive not. But that end which the people, in obeying the king, in being ruled by him, may intend, is, (1 Tim. ii. 2,)

"That under him they may lead a quiet and peaceable life, in all godliness and honesty." And God's end in giving a king is the good and safety of his people.

P. Prelate (c. 16, p. 160).—To reason from the one part and end of monarchical government—the safety of the subjects, to the destruction and weakening of the other part of the end—the power of sovereignty and the royal prerogative, is a caption a divisis. If the king be not happy, and in-
vested with the full power of a head, the body cannot be well. By anti-monarchists, the people at the beginning were necessitated to commit themselves, lives and fortunes, to the government of a king, because of themselves they had not wisdom and power enough to do it; and therefore, they enabled him with honour and power, without which he could not do this, being assured that he could not choose, but most earnestly and carefully endeavour this end, to wit, his own and the people's happiness; therefore, the safety of the people issueth from the safety of the king, as the life of the natural body from the soul. Weak government is near to anarchy. Puritans will not say, Quovus modo esse, etiam paenae, is better than non esse: the Scripture saith the contrary; it were better for some never to have been born than to be. Tyranny is better than no government.

Ans. 1.—He knows not sophisms of logic who calleth this argument a divisis; for the king's honour is not the end of the king's government. He should seek the safety of state and church, not himself; himself is a private end, and a step to tyranny.

2. The Prelate lieth when he maketh us to reason from the safety of the subject to the destruction of the king. Ferne, Barclay, Grotius, taught the hungry scholar to reason so. Where read he this? The people must be saved, that is the supreme law, therefore, destroy the king. The devil and the Prelate both shall not fasten this on us. But thus we reason: when the man who is the king endeavoureth not the end of his royal place, but, through bad counsel, the subversion of laws, religion, and bondage of the kingdom, the free estates are to join with him for that end of safety, according as God hath made them heads of tribes and princes of the people; and if the king refuse to join with them, and will not do his duty, I see not how they are in conscience liberated before God from doing their part.

3. If the P. Prelate call resisting the king by lawful defensive wars, the destruction of the head, he speaketh with the mouth of one excommunicated and delivered up to Satan.

4. We endeavour nothing more than the safety and happiness of the king, as king; but his happiness is not to suffer him to destroy his subjects, subvert religion, arm papists who have slaughtered above two
hundred thousand innocent protestants, only for the profession of that true religion which the king hath sworn to maintain. Not to rise in arms to help the king against these were to gratify him as a man, but to be accessory to his soul's destruction as a king.

6. That the royal prerogative is the end of a monarchy ordained by God, neither Scripture, law, nor reason can admit.

6. The people are to intend the safety of other judges as well as the king's. If parliaments be destroyed, whose it is to make laws and kings, the people can neither be safe, free to serve Christ, nor happy.

7. It is a lie that people were necessitated at the beginning to commit themselves to a king; for we read of no king while Nimrod arose: fathers of families (who were not kings), and others, did govern till then.

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

9. The king shall better compass his end, to wit, the safety of the people, with limited power, (placent mediocria,) and with other judges added to help him, (Num. xi. 14, 16; Deut. i. 12—15,) than to put in one man's hand absolute power; for a sinful man's head cannot bear so much new wine, such as exorbitant power is.

10. He is a base flatterer who saith, The king cannot choose, but earnestly and carefully endeavour his own and the people's happiness; that is, the king is an angel, and cannot sin and decline from the duties of a king. Of the many kings of Judah and Israel, how many chose this? All the good kings that have been may be written in a gold ring.

11. The people's safety dependeth indeed on the king, as a king and a happy governor; but the people shall never be fattened to eat the wind of an imaginary prerogative royal.

12. Weak government, that is, a king with a limited power, who hath more power about his head than within his head, is a strong king, and far from anarchy.

13. I know not what he meaneth, but his master Arminius's way and words are here, for Arminians say, 1 "That being in the damned, eternally tormented, is no bene-

1 Jac. Arminii. Declar. Remonstrant. in suod. dordrac.

fit; it were better they never had being than to be eternally tormented;" and this they say to the defiance of the doctrine of eternal reprobation, in which we teach, that though by accident, and because of the damned's abuse of being and life, it were to them better not to be, as is said of Judas, yet simpliciter comparing being with non-being, and considering the eternity of miserable being in relation to the absolute liberty of the Formor of all things, who maketh use of the sinful being of clay-vessels for the illustration of the glory of his justice and power, (Rom. ix. 17, 22; 1 Pet. ii. 8; Jude v. 4,) it is a censuring of God and his unsearchable wisdom, and a condemning of the Almighty of cruelty, (God avert blasphemy of the unsotted and holy Majesty,) who, by Arminian grounds, keepeth the damned in life and being, to be huel eternally for Tophet, to declare the glory of his justice. But the Prelate behoved to go out of his way to salute and gratify a proclaimed enemy of free grace, Arminius, and hence he would infer that the king, wanting his prerogative royal and fulness of absolute power to do wickedly, is in a penal and miserable condition, and that it were better for the king to be a tyrant, with absolute liberty to destroy and save alive at his pleasure, as is said of a tyrant, (Dan. v. 19,) than to be no king at all. And here consider a principle of royalists' court faith:—

1. The king is no king, but a lame and miserable judge, if he have not irresistible power to waste and destroy. 2. The king cannot be happy, nor the people safe, nor can the king do good in saving the needy, except he have the uncontrollable and unlimited power of a tyrant to crush the poor and needy, and lay waste the mountain of the Lord's inheritance. Such court-ravens who feed upon the souls of living kings, are more cruel than ravens and vultures, who are but dead carcasses.

Williams, bishop of Ossory, answereth to the maxim, Salus populi, &c. "No wise king but will carefully provide for the people's safety, because his safety and honour is included in theirs, his destruction in theirs." And it is, saith Lipsius, egris animi proprium nihil divi pati. Absalom was persuaded there was no justice in the land when he intended rebellion; and the poor Prelate, following him, spendeth pages to prove that goods, life, chastity, and fame, dependeth on the safety of the king, as the breath of
our nostrils, our nurse-father, our head, corner-stone, and judge (c. 17, 6, 18, 1). The reason why all disorder was in church and state was not because there was no judge, no government; none can be so stupid as to imagine that. But because, 1. They wanted the most excellent of governments. 2. Because aristocracy was weakened so as there was no right. No doubt priests there were, but (Hos. iv.) either they would not serve, or were over-awed. No doubt in those days they had judges, but priests and judges were stoned by a rascally multitude, and they were not able to rule; therefore it is most consonant to Scripture to say, Satis regis superum populi salus, the safety of the king and his prerogative royal is the safest sanctuary for the people. So Hos. iii. 4; Lament. ii. 9.

Ans. 1.—The question is not of the wisdom, but of the power of the king, if it should be bounded by no law.

2. The flatterer may know, there be more foolish kings in the world than wise, and that kings misled by idolatrous queens, and by name Ahab ruined himself, and his posterity and kingdom.

3. The salvation and happiness of men standing in the exalting of Christ’s throne and the gospel, therefore every king and every man will exalt the throne; and so let them have an uncontrollable power, without constraint of law, to do what they list, and let no bounds be set to kings over subjects. By this argument their own wisdom is a law to lead them to heaven.

4. It is not Absalom’s mad malcontents in Britain, but there were really no justice to protestants,—all indulgence to papists, popery, Arminianism,—idolatry printed, preached, professed, rewarded by authority, parliaments and church assemblies; the bulwarks of justice and religion were denied, dissolved, crushed, &c.

5. That by a king he understandeth a monarch, (Judg. xvii.) and that such a one as Saul, of absolute power, and not a judge, cannot be proved, for there were no kings in Israel in the judges’ days,—the government not being changed till near the end of Samuel’s government.

6. And that they had no judges, he saith, it is not imaginary. But I rather believe God than the Prelate. Every one did what was right in his own eyes, because there was none to put ill-doers to shame. Possibly the estates of Israel governed some way for mere necessity, but wanting a supreme judge, which they should have, they were loose; but this was not because where there is no king, as P. P. would insinuate, there was no government, as is clear.

7. Of tempered and limited monarchy I think as honourably as the Prelate, but that absolute and unlimited monarchy is more excellent than aristocracy, I shall then believe when royalists shall prove such a government, in so far as it is absolute, to be of God. That aristocracy was now weakened I believe not, seeing God so highly commendeth it, and calleth it his own reigning over his people. (1 Sam. viii. 7.) The weakening of it through abuse is not to a purpose, more than the abuse of monarchy.

9. No doubt, saith he, (Hos. iv.) they were priests and judges, but they were over-awed, as they are now. I think he would say, (Hos. iii. 4,) otherwise he citeth Scripture sleeping, that the priests of Antichrist be not only over-awed, but out of the earth. I yield that the king be limited, not over-awed, I think God’s law and man’s law alloweth.

10. The safety of the king, as king, is not only safety, but a blessing to church and state, and therefore this P. Prelate and his fellows deserve to be hanged before the sun, who have led him on a war to destroy him and his protestant subjects. But the safety and flourishing of a king, in the exercises of an arbitrary unlimited power against law and religion, and to the destruction of his subjects, is not the safety of the people, nor the safety of the king’s soul, which these men, if they be the priests of the Lord, should care for.

The Prelate cometh to refute the learned and worthy Observer. The safety of the people is the supreme law, therefore the king is bound in duty to promote all and every one of his subjects to all happiness. The Observer hath no such inference, the king is bound to promote some of his subjects, even as king, to a gullows, especially Irish rebels, and many bloody malignants. But the Prelate will needs have God rigorous (hallowed be his name) if it be so; for it is impossible to the tenderest-hearted father to do so. Actual promotion of all is impossible. That the king intend it of all his subjects, as good subjects, by a throne established on righteousness and judgment is that which the worthy Observer meaneth. Other things here are answered.
The sum of his second answer is a repetition of what he hath said. I give my word, in a pamphlet of one hundred and ninety-four pages, I never saw more idle repetitions of one thing twenty times before said; but (p. 163) he saith, "The safety of the king and his subjects, in the moral notion, may be esteemed morally the same, no less than the soul and the body make one personal subsistence."

Ans.—This is strange logic. The king and his subjects are ens per aggregationem, and the king, as king, hath one moral subsistence, and the people another. Hath the father and the son, the master and the servant, one moral subsistence? But the man speaketh of their well-being, and then he must mean that our king's government—that was not long ago, and is yet, to wit, the popery, Arminianism, idolatry, cutting off men's ears and noses, banishing, imprisonment for speaking against popery, arming of papists to slay protestants, pardoning the blood of Ireland, that I fear, shall not be soon taken away, &c., is identically the same with the life, safety, and happiness of protestants. Then life and death, justice and injustice, idolatry and sincere worship, are identically one, as the soul of the Prelate and his body are one.

The third is but a repetition. The acts of royalty (saith the Observator) are acts of duty and obligation, therefore, not acts of grace properly so called; therefore we may not thank the king for a courtesy. This is no consequence. What fathers do to children are acts of nature and of natural grace, and yet children owe gratitude to parents, and subjects to good kings, in a legal sense. No, but in way of courtesy only. The Observator said, the king is not a father to the whole collective body, and it is well said he is son to them, and they his maker. Who made the king? Policy answered, The state made him, and divinity, God made him.

The Observator said well, the people's weakness is not the king's strength. The Prelate saith, Amen. He said, That that perisheth not to the king, which is granted to the people. The Prelate (p. 170) denieth, because, what the king hath in trust from God, the king cannot make away to another, nor can any take it from him without sacrilege.

Ans.—True indeed, if the king had royalty by immediate trust and infusion by God, as Elias had the spirit of prophecy, that he cannot make away. Royalists dream that God, immediately from heaven, now infuseth faculty and right to crowns without any word of God. It is enough to make an enthusiast leap up to the throne and kill kings. Judge if these fanatics be favourers of kings. But if the king have royalty medially, by the people's free consent, from God, there is no reason but people give as much power, even by ounce weights, (for power is strong wine and a great mocker,) as they know a weak man's head will bear, and no more. Power is not an immediate inheritance from heaven, but a birthright of the people borrowed from them; they may let it out for their good, and resume it when a man is drunk with it. The man will have it conscience on the king to fight and destroy his three kingdoms for a dream, his prerogative above law. But the truth is, prelates do engage the king, his house, honour, subjects, church, for their cursed mitres.

The Prelate (p. 172) vexeth the reader with repetitions, and saith, The king must proportion his government to the safety of the people on the one hand, and to his own safety and power on the other hand.

Ans.—What the king doth as king, he doeth it for the happiness of his people. The king is a relative; yes, even his own happiness that he seeketh, he is to refer to the good of God's people. He saith farther, The safety of the people includeth the safety of the king, because the word populus is so taken; which he proveth by a raw, sickly rabble of words, stolen out of Passerat's dictionary. His father, the schoolmaster, may whip him for frivolous etymologies.

This supreme law, saith the Prelate, (p. 175,) is not above the law of prerogative royal, the highest law, nor is rea above fea. The democracy of Rome had a supremacy above laws, to make and unmake laws; and will they force this power on a monarch, to the destruction of sovereignty?

Ans.—This, which is stolen from Spalato, Barclay, Grotius, and others, is easily answered. The supremacy of people is a law of nature's self-preservation, above all positive laws, and above the king, and is to regulate sovereignty, not to destroy it. If this supremacy of majesty was in people before they have a king, then, 1. They lose it not by a voluntary choice of a king; for a king is chosen for good, and not for the
people's loss, therefore, they must retain this power, in habit and potency, even when they have a king. 2. Then supremacy of majesty is not a beam of divinity proper to a king only. 3. Then the people, having royal sovereignty virtually in them, make, and so unmaketh, a king,—all which the Prelate denieth.

This supreme law, saith the Prelate (p. 176, begging it from Spalato, Arnisseus, Grotius) advances the king, not the people; and the sense is, the kingdom is really some time in such a case that the sovereign must exercise an arbitrary power, and not stand upon private men's interests, or transgressing of laws made for the private good of individuals, but for the preservation of itself, and the public, may break through all laws. This he may, in the case when sudden foreign invasion threateneth ruin inevitably to kingdom and kingdom: a physician may rather cut a gangrened member than suffer the whole body to perish. The dictator, in case of extreme dangers, (as Livy and Dion. Halicarnast show us,) had power according to his own arbitrament, had a sovereign commission in peace and war, of life, death, persons, &c., not co-ordinate, not subordinate to any.

Answ. 1.—It is not an arbitrary power, but naturally tied and fettered to this same supreme law, salus populi, the safety of the people, that a king break through not the law, but the letter of the law, for the safety of the people; as the chirurgeon, not by any prerogative that he hath above the art of chirurgery, but by necessity, cutteth off a gangrened member. Thus it is not arbitrary to the king to save his people from ruin, but by the strong and imperious law of the people's safety he doth it; for if he did it not, he were a murderer of his people. 2. He is to stand upon transgression of laws according to their genuine sense of the people's safety; for good laws are not contrary one to another, though, when he breaketh through the letter of the law, yet he breaketh not the law; for if twenty thousand rebels invade Scotland, he is to command all to rise, though the formality of a parliament cannot be had to indict the war, as our law provideth; but the king doth not command all to rise and defend themselves by prerogative royal, proper to him as king, and incommunicable to any but to himself.

1. There is no such din and noise to be made for a king and his incommunicable prerogative; for though the king were not at all, yea, though he command the contrary, (as he did when he came against Scotland with an English army,) the law of nature teacheth all to rise, without the king.

2. That the king command this, as king, is not a particular positive law; but he doth it as a man and a member of the kingdom. The law of nature (which knoweth no dream of such a prerogative) forceth him to it, as every member is, by nature's indictment, to care for the whole.

3. It is poor hungry skill in this new statist, (for so he nameth all Scotland,) to say that any laws are made for private interests, and the good of some individuals. Laws are not laws if they be not made for the safety of the people.

4. It is false that the king, in a public danger, is to care for himself as a man, with the ruin and loss of any; yea, in a public calamity, a good king, as David, is to desire he may die that the public may be saved, 2 Sam. xxiv. 17; Exod. xxxii. 32. It is commended of all, that the emperor Otho, yea, and Richard II. of England, as M. Speed saith, (Hist. of England, p. 757,) resigned their kingdoms to eschew the effusion of blood. The Prelate adviseth the king to pass over all laws of nature, and slay thousands of innocents, and destroy church and state of three kingdoms, for a straw, and supposed prerogative royal.

1. Now, certainly, prerogative and absoluteness to do good and ill, must be inferior to a law, the end whereof is the safety of the people. For David willeth the pestilence may take him away, and so his prerogative, that the people may be saved (2 Sam. xxiv. 17); for prerogative is cumulative to do good, not private to do ill; and so is but a mean to defend both the law and the people.

2. Prerogative is either a power to do good or ill, or both. If the first be said, it must be limited by the end and law for which it is ordained. A mean is no farther a mean, but in so far as it conduceth to the end, the safety of all. If the second be admitted, it is licence and tyranny, not power from God. If the third be said, both reasons plead against this, that prerogative should be the king's end in the present wars.

3. Prerogative being a power given by
the mediation of the people; yea, suppose (which is false) that it were given immedi-
ately of God, yet it is not a thing for which
the king should raise war against his sub-
jects; for God will ask no more of the king
than he giveth to him. The Lord reapeoth
not where he soweth not. If the militia,
and other things, be ordered hitherto for
the holding off Irish and Spanish invasion by
sea, and so for the good of the land, seeing
the king in his own person cannot make use
of the militia, he is to rejoice that his sub-
jects are defended. The king cannot an-
swer to God for the justice of war on his
part. It is not a case of conscience that the
king should shed blood for, to wit, because
the under-officers are such men, and not
others of his choosing, seeing the kingdom
is defended sufficiently except where cava-
liers destroy it. And to me this is an un-
answerable argument, that the cavaliers de-
stroy not the kingdoms for this prerogative
royal, as the principal ground, but for a
deeper design, even for that which was
working by prelates and malignant before
the late troubles in both kingdoms.

4. The king is to intend the safety of his
people, and the safety of the king as a go-
vernor; but not as this king, and this man
Charles,—that is a selfish end. A king Da-
vicd is not to look to that; for when the peo-
ple was seeking his life and crown, he saith,
(Psal. iii. 8,) "Thy blessing upon thy peo-
ple." He may care for, and intend that
the king and government be safe; for if the
kingdom be destroyed, there cannot be a
new kingdom and church on earth again to
serve God in that generation, (Psal.xxxix.
47,) but they may easily have a new king
again; and so the safety of the one cannot
in reason be intended as a collateral end
with the safety of the other; for there is no
imaginable comparison betwixt one man,
with all his accidents of prerogative and ab-
soluteness, and three national churches and
kingdoms. Better the king weep for a
childish trifle of a prerogative than that
popery be erected, and three kingdoms be
destroyed by cavaliers for their own ends.

5. The dictator’s power is. 1. A fact,
and proved not a point of conscience. 2.
His power was in an exigence of extreme
danger of the commonwealth. The P. Pre-
late pleadeth for a constant absoluteness
above laws to the king at all times, and
that \textit{jure divino}. 3. The dictator was the
people’s creature; therefore the creator,
the people, had that sovereignty over him.
4. The dictator was not above a king; but
the Romans ejected kings. 5. The dicta-
tor’s power was not to destroy a state: he
might be, and was resisted; he might be
deposed.

\textbf{P. Prelate (p. 177).—} The safety of the
people is people is a pretended as a law, that the Jews
must put Christ to death, and that Saul
spared Agag.

\textbf{Ans.} 1.—No shadow for either in the
word of God. Caiaphas prophesied, and
knew not what he said; but that the Jews
intended the salvation of the elect, in killing
Christ, or that Saul intended a public good
in sparing Agag, shall be the Prelate’s di-
vinity, not mine. 2. What, howbeit many
should abuse this law of the people’s safety,
to wrong good kings, it ceaseth not there-
fore to be a law, and licenceth not ill kings
to place a tyrannical prerogative above a
just dictate of nature.

In the last chapter (c. 16) the Prelate hath no reasons, only he would have kings
holy, and this he proveth from Apocrypha
books, because he is ebb in Holy Scripture;
but it is Romish holiness, as is clear,—1. He
must preach something to himself, that the
king adore a tree-altar. Thus kings must
be most reverend in their gestures (p. 182).
2. The king must hazard his sacred life and
three kingdoms, his crown, royal posterity,
to preserve sacred things, that is, anti-
christian Romish idols, images, altars, cere-
monies, idolatry, popery. 4. He must,
upon the same pain, maintain sacred per-
sons, that is, greasy apostate prelates. The
rest, I am weary to trouble the reader with-
all, but know \textit{ex ungue leonem}.

\textbf{QUESTION XXVI.}

\textbf{WHETHER THE KING BE ABOVE THE LAW
OR NO.}

We may consider the question of the
law’s supremacy over the king, either in the
supremacy of constitution of the king, or of
direction, or of limitation, or of co-action
and punishing. Those who maintain this,
"The king is not subject to the law," if their
meaning be, "The king as king is not subject
to the law’s direction," they say nothing; for
the king, as the king, is a living law; then
they say, "The law is not subject to the
law's direction:" a very improper speech; or, the king, as king, is not subject to the co-action of the law: that is true; for he who is a living law, as such, cannot punish himself, as the law saith.

Assert. 1.—The law hath a supremacy of constitution above the king:—

1. Because the king by nature is not king, as is proved; therefore, he must be king by a politic constitution and law; and so the law, in that consideration, is above the king, because it is from a civil law that there is a king rather than any other kind of governor. 2. It is by law, that amongst many hundred men, this man is king, not that man; and because, by which a thing is constituted, by the same thing it is, or may be dissolved; therefore, 3. As a community, finding such and such qualifications as the law requireth to be in a king, in this man, not in that man,—therefore upon law-ground they make him a king, and, upon law-grounds and just demerit, they may unmake him again; for what men voluntary do upon condition, the condition being removed, they may undo again.

Assert. 2.—It is denied by none but the king is under the directive power of the law, though many liberate the king from the co-active power of a civil law. But I see not what direction a civil law can give to the king if he be above all obedience, or disobedience, to a law, seeing all law-direction is in ordine ad obedientiam, in order to obey, except thus far, that the light that is in the civil law is a moral or natural guide to conduct a king in his walking; but this is the morality of the law which enlighteneth and informeth, not any obligation that swateth the king; and so the king is under God's and nature's law. This is nothing to the purpose.

Assert. 3.—The king is under the law, in regard of some coercive limitation; because, 1. There is no absolute power given to him to do what he listeth, as a man. And because, 2. God, in making Saul a king, doth not by any royal stamp give him a power to sin, or to play the tyrant; for which cause I expose these of the law, omnia sunt possibilita regi, imperator omnium potest. Baldus in sect. F. de no. for. fidel. in F. et in prima constitut. C. col. 2. Chassaneus in catalog. gloriae mundi. par. 5. considerat. 24. et tanta est ejus celstudo, ut non posset ei imponi lex in regno suo. Curt. in consol. 65. col. 6. ad. F. Petrus Rebuff. Notab. 3. repet. 1. unice. C. de sentent. quae pro eo

quod n. 17, p. 363. All these go no otherwise but thus. The king can do all things which by a law he can do, and that holdeth him, id possumus quod jure possumus; and, therefore, the king cannot be above the covenant and law made betwixt him and his people at his coronation-oath; for then the covenant and oath should bind him only by a natural obligation, as he is a man, not by a civil or politic obligation, as he is a king. So then, 1. It were sufficient that the king should swear that oath in his cabinet-chamber, and it is but a mocking of an oath that he swear it to the people. 2. That oath given by the representative-kings should also oblige the subjects naturally, in foro Dei, not politically, in foro humano, upon the same reason. 3. He may be resisted as a man.

Assert. 4.—The fourth case is, if the king be under the obliging politic co-action of civil laws, for that he, in foro Dei, be under the morality of civil laws, so as he cannot contra-vene any law in that notion but he must sin against God, is granted on all hands. (Deut. xvii. 20; Josh. i. 8; 1 Sam. xii. 15.) That the king bind himself to the same law that he doth bind others, is decent, and obligeth the king as he is a man; because, 1. (Matt. vii. 12.) It is said to be the law and the prophets, "All things whatsoever ye would men should do unto you, do ye even so to them." 2. It is the law, imperator l. 4. digna vox. C. de lege et t.t. Quod quisque juris in alium statuit, eodem et ipse utatur. Julius Cesar commanded the youth who had deflowered the emperor's daughter to be scourged above that which the law allowed. The youth said to the emperor, Divisti legem Caesar,—"You appointed the law, Cesar." The emperor was so offended with himself that he had failed against the law, that for the whole day he refused to taste meat.

Assert. 5.—The king cannot but be subject to the co-active power of fundamental laws. Because, 1. This is a fundamental law that the free estates lay upon the king, that all the power that they give to the king, as king, is for the good and safety of the people; and so what he doth to the hurt of his subjects, he doth it not as king. 2. The law saith, Qui habet potestatem constituen di etiam et jus adimend. 1. nemo. 37. 1. 21. de reg. jure. Those who have power to make have power to unmake kings. 3. Whatever the king doth as king, that he

1 Plutarch in Apotheg. lib. 4.
THE LAW AND THE PRINCE.

doth by a power borrowed from (or by a fiduciary power which is his by trust) the estates, who made him king. He must then be nothing but an eminent servant of the state, in the punishing of others. If, therefore, he be unpunishable, it is not so much because his royal power is above all law co-action, as because one and the same man cannot be both the punisher and the punished; and this is a physical incongruity rather than a moral absurdity. So the law of God layeth a duty on the inferior magistrate to use the sword against the murderer, and that by virtue of his office; but I much doubt, if for that he is to use the sword against himself in the case of murder, for this is a truth I purpose to make good, That suffering, as suffering, according to the substance and essence of passion, is not commanded by any law of God or nature to the sufferer, but only the manner of suffering. I doubt if it be not, by the law of nature, lawful even to the ill-doer, who hath deserved death by God's law, to fly from the sword of the lawful magistrate; only the manner of suffering with patience is commanded of God. I know the law saith here, That the magistrate is both judge and the executor of the sentence against himself, in his own cause, for the excellency of his office. Therefore these are to be distinguished, whether the king, ratine demeriti et jure, by law be punishable, or if the king can actually be punished corporally by a law of man, he remaining king; and since he must be a punisher himself, and that by virtue of his office. In matters of goods, the king may be both judge and punisher of himself, as our law provideth that any subject may plead his own heritage from the king before the inferior judges, and if the king be a violent possessor, and in mala fide for many years, by law he is obliged, upon a decree of the lords, to execute the sentence against himself, ex officio, and to restore the lands, and repay the damage to the just owner; and this the king is to do against himself, ex officio. I grant here the king, as king, punisheth himself as an unjust man, but because bodily suffering is mere violence to nature, I doubt if the king, ex officio, is to do or inflict any bodily punishment on himself. Nemo potest a scipsco cogi. l. ille a quo, sect. 13.

Assert. 6.—There be some laws made in favour of the king, as king, as to pay tribute. The king must be above this law as king. True, but if a nobleman of a great rent be elected king, I know not if he can be free from paying to himself, as king, tribute, seeing this is not allowed to the king by a divine law, (Rom. xiii. 6.) as a reward of his work; and Christ expressly maketh tribute a thing due to Caesar as a king, (Matt. xxii. 21.) There be some solemnities of the law from which the king may be free; Prickman (D. c. 3, n. 78) relateth what they are; they are not laws, but some circumstances belonging to laws, and he answereth to many places alleged out of the lawyers, to prove the king to be above the law. Malderus (in 12. Art. 4, 5, 9, 96,) will have the prince under that law, which concerneth all the commonwealth equally in regard of the matter, and that by the law of nature; but he will not have him subject to these laws which concerneth the subjects as subjects, as to pay tribute. He citeth Francis, a Vict. Covarruvias, and Turrerromarta. He also will have the prince under positive laws, such as not to transport victuals; not because the law bindeth him as a law, but because the making of the law bindeth him, tanquam conditio sine qua non, even "as he who teacheth another that he should not steal, he should not steal himself." (Rom. ii.) But the truth is, this is but a branch of the law of nature, that I should not commit adultery, and theft, and sacrilege, and such sins as nature condemneth, if I shall condemn them in others, and doth not prove that the king is under the co-active power of civil laws. Ulpianus (1. 31. F. de regibus) saith, "The prince is loosed from laws." Bodine (de Repub. l. 7, c. 8),—"Nemo imperat sibi," no man commandeth himself. Tholosanus saith, (de Rep. l. 7, c. 20,) "Ipsi est dare, non acceper e leges," the prince giveth laws, but receiveth none. Donellus (Lib. 1, Comment. c. 17) distinguisheth betwixt a law and a royal law proper to the king. Trentlerus (vol. i. 79, 80) saith, "The prince is freed from laws;" and that he obeyeth laws, de honestate, non de necessitate, upon honesty, not of necessity. Thomas P. (1. q. 96, art. 6;) and with him Soto Gregorius de Valenicia, and other schoolmen, subject the king to the directive power of the law, and liberate him of the co-active power of the law.

Assert. 7.—If a king turn a parricide, a lion, and a waster and destroyer of the

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1 Magistratus ipse est judex et executor contra scipsos, in propria causas, propter excellentiam sui officii, l. et hoc Tiberius Caesar, F. de Hered. hoc. jact.
people, as a man he is subject to the co-active power of the laws of the land. If any law should hinder that a tyrant should not be punished by law, it must be because he hath not a superior but God, for royalists build all upon this; but this ground is false:—

Arg. 1.—Because the estates of the kingdom, who gave him the crown, are above him, and they may take away what they gave him; as the law of nature and God saith, If they had known he would turn tyrant, they would never have given him the sword; and so, how much ignorance is in the contract they made with the king, as little of will is in it; and so it is not every way willing, but, being conditional, is supposed to be against their will. They gave the power to him only for their good, and that they may make the king, is clear. (2 Chron. xxii. 11; 1 Sam. x. 17, 24; Deut. xvii. 14—17; 2 Kings xi. 12; 1 Kings xvi. 21; 2 Kings x. 5; Judg. ix. 6.) Four-score valiant men of the priests withstood Uzziah with corporal violence, and thrust him out, and cut him off from the house of the Lord. (2 Chron. xxvi. 18.)

Arg. 2.—If the prince's place do not put him above the laws of church discipline, (Matt. xviii., for Christ excepteth none, and how can men except?) and if the rod of Christ's "lips smite the earth, and slay the wicked," (Isa. xi. 4,) and the prophets Elias, Nathan, Jeremiah, Isaiah, &c., and John Baptist, Jesus Christ, and his Apostles, have used this rod of censure and rebuke, as servants under God, against kings, this is a sort of spiritual co-action of laws put in execution by men; and by due proportion corporal co-action being the same ordinance of God, though of another nature, must have the like power over all, whom the law of God hath not excepted; but God's law excepteth none at all.

Arg. 3.—It is presumed that God hath not provided better for the safety of the part than of the whole, especially when he maketh the part a mean for the safety of the whole. But if God have provided that the king, who is a part of the commonwealth, shall be free of all punishment, though he be a habitual destroyer of the whole kingdom, seeing God hath given him to be a father, tutor, saviour, defender thereof, and destined him as a mean for their safety, then must God have worse, not better, provided for the safety of the whole than of the part. The proposition is clear, in that God (Rom. xiii. 4; 1 Tim. ii. 2) hath ordained the ruler, and given to him the sword to defend the whole kingdom and city; but we read nowhere that the Lord hath given the sword to the whole kingdom, to defend one man, a king, though a ruler, going on in a tyrannical way of destroying all his subjects. The assumption is evident: for then the king, turning tyrant, might set an army of Turks, Jews, or cruel Papists to destroy the church of God, without all fear of law or punishment. Yes, this is contrary to the doctrine of royalists: for Winzetus (adversus Buchanum, p. 275) saith of Nero, that he, seeking to destroy the senate and people of Rome, and seeking to make new laws for himself, exsistit jure regni, lost right to the kingdom. And Barclayus (Monarch. l. 3, c. ult. p. 213,) saith, a tyrant, such as Caligula, apotitae se jure regni, spoileth himself of the right to the crown. And in that same place, regem, si regnum suum alienos ditioni maneant, regno cadere. If the king sell his kingdom, he loseth the title to the crown. Gratiosus, (de jure belli et pacis, l. i. c. 4, n. 7,) Si rex hostiis animo in totius populi extirpator, amittit regnum, if he turn enemy to the kingdom, for their destruction, he loseth his kingdom, because (saith he) voluntas imperandi, et voluntas perdendi, simul consistere non possunt, a will or mind to govern and to destroy cannot consist together in one. Now, if this be true, that a king, turning tyrant, loseth title to the crown, this is either a falling from his royal title only in God's court, or it is a losing of it before men, and in the court of his subjects. If the former be said, 1. He is no king, having before God lost his royal title; and yet the people is to obey him as "the minister of God," and a power from God, when as he is no such thing. 2. In vain do these authors provide remedies to save the people from a tyrannous waster of the people, if they speak of a tyrant who is no king in God's court only, and yet remaineth a king to the people in regard of the law: for the places speak of remedies that God hath provided against tyrants sum titulu, such as are lawful kings, but turn tyrants. Now by this they provide no remedy at all, if only in God's court, and not in man's court also, a tyrant lose his title. As for tyrants sine titulo, such as usurp the throne, and have no just claim to it, Barclayus (adversus Monarch, l. iv. c. 10. p. 268) saith, "Any private man may kill him as a public enemy
of the state: but if he lose his title to the crown in the court of men, then is there a court on earth to judge the king, and so he is under the co-active power of a law;—then a king may be resisted, and yet those who resist him do not incur damnation; the contrary whereof royalists endeavour to prove from Rom. xiii. —then the people may unking one who was a king. But I would know who taketh that sine c from him, whereby he is a king, that beam of divine majesty? Not the people; because royalists say, they neither can give nor take away royal dignity, and so they cannot unking him.

Arg. 4.—The more will be in the consent, (saith Ferdi. Vasquez, l. i. c. 41,) the obligation is the stricter. So doubled words (saith the law, l. i. sect. 13, n.13) oblige more strictly. And all laws of kings, who are rational fathers, and so lead us by laws, as by rational means to peace and external happiness, are contracts of king and people. Omnis lex sponso et contractus Reip. sect. 1, Inst. de ver. relig. Now the king, at his coronation-covenant with the people, giveth a most intense consent, an oath, to be a keeper and preserver of all good laws: and so hardly he can be freed from the strictest obligation that law can impose. And if he keep laws by office, he is a mean to preserve laws; and no mean can be superior and above the end, but inferior thereunto.

Arg. 5.—Bodine proveneth, (de Rep. l. 2, c. 5, p. 221,) that emperors at first were but princes of the commonwealth, and that sovereignty remained still in the senate and people. Marius Salomonius, a learned Roman civilian, wrote six books de principatu, to refute the supremacy of emperors above the state. Ferd. Vasq. (illust. quest. part. l. l. 1, n. 21) proveth, that the prince, by royal dignity, leaveth not off to be a citizen, a member of the politic body, and not a king, but a keeper of laws.

Arg. 6.—Hence, the prince remaineth, even being a prince, a social creature, a man as well as a king; one who must buy, sell, promise, contract, dispose; therefore, he is not regula regulans, but under rule of law; for it is impossible, if the king can, in a political way, live as a member of a society, and do and perform acts of policy, and so perform them, as he may, by his office, but and not pay; promise, and vow, and swear to men, and not perform, nor be obliged to men to render a reckoning of his oath, and kill and destroy,—and yet in curia politice societatis, in the court of human policy, be free: and that he may give inheritances, as just rewards of virtue and well-doing, and take them away again. Yes, seeing these sins that are not punishable before men, are not sins before men, if all the sins and oppressions of a prince be so above the punishment that men can inflict, they are not sins before men; by which means the king is loosed from all guiltiness of the sins against the second table: for the ratio formalis, the formal reason, why the judge, by warrant from God, condemneth, in the court of men, the guilty man, is, that he hath sinned against human society through the scandal of blasphemy, or that through some other heinous sin he hath defiled the land. Now this is incident to the king as well as to some other sinful man.

To these, and the like, hear what the excommunicated Prelate hath to say, (c. 15, p. 146, 147,) "They say (he meaneth the Jesuits) every society of men is a perfect republic, and so must have within itself a power to preserve itself from ruin, and by that to punish a tyrant." He answereth, "A society without a head, is a disorderly rout, not a politic body; and so cannot have this power.

Ans. 1.—The Pope giveth to every society politic power to make away a tyrant, or heretical king, and to unking him, by his brethren, the Jesuits', way. And observe how papists (of which number I could easily prove the P. Prelate to be, by the popish doctrine that he delivered, while the iniquity of time, and dominion of prelates in Scotland, advanced him, against all worth of true learning and holiness, to be a preacher in Edinburgh) and Jesuits agree, as the builders of Babylon. It is the purpose of God to destroy Babylon.

2. This answer shall infer, that the aristocratical governors of any free state, and that the Duke of Venice, and the senate there, is above all law, and cannot be resisted, because without their heads they are a disorderly rout.

3. A political society, as by nature's instinct they may appoint a head, or heads, to themselves, so also if their head, or heads, become ravenous wolves, the God of nature hath not left a perfect society remediless; but they may both resist, and punish the head, or heads, to whom they gave all the power that they have, for their good, not for their destruction.
4. They are as orderly a body politic, to unmake a tyrannous commander, as they were to make a just governor. The Prelate saith, "It is alike to conceive a politic body without a governor, as to conceive the natural body without a head." He meaneth, none of them can be conceivable. I am not of his mind. When Saul was dead, Israel was a perfect politic body; and the Prelate, if he be not very obtuse in his head, (as this hungry piece, stolen from others, sheweth him to be,) may conceive a visible political society performing a political action, (2 Sam. v. 1—3,) making David king at a visible and conceivable place, at Hebron, and making a covenant with him. And that they wanted not all governors, is nothing to make them chimeras inconceivable. For when so many families, before Nimrod, were governed only by fathers of families, and they agreed to make either a king, or other governors, a head, or heads, over themselves, though the several families had government, yet these associated families had no government; and yet so conceivable a politic body, as if Maxwell would have appeared amongst them, and called them a disorderly rout, or an unconceivable chimeras, they should have made the Prelate know that chimerae can knock down prelates. Neither is a king the life of a politic body, as the soul is of the natural body. The body createth not the soul; but Israel created Saul king, and when he was dead, they made David king, and so, under God, many kings, as they succeeded, till the Messiah came. No natural body can make souls to itself by successor; nor can see create new prelates always.

P. Prelate.—Jesuits and puritans differ infinitely: we are hopeful God shall cast down this Babel. The Jesuits, for ought I know, seat the superintendant power in the community. Some sectaries follow them, and warrant any individual person to make away a king in case of defects, and the work is to be rewarded as when one killeth a ravenous wolf. Some will have it in a collective body; but how? Not met together by warrant, or writ of sovereign authority, but when fancy of reforming church and state calleth them. Some will have the power in the nobles and peers; some in the three estates assembled by the king's writ; some in the inferior judges. I know not where this power to curb sovereignty is, but in Almighty God.

Ans. 1. Jesuits and puritans differ infinitely; true. Jesuits deny the Pope to be antichrist, hold all Arminian doctrine, Christ's local descension to hell,—all which the Prelate did preach. We deny all this.

2. We hope also the Lord shall destroy the Jesuits' Babel; the suburbs whereof, and more, are the popish prelates in Scotland and England.

3. The Jesuits, for ought he knoweth, place all superintendant power in the community. The Prelate knoweth not all his brethren, the Jesuits', ways; but it is ignorance, not want of good-will. For Bellarmine, Bezaus, Suarez, Gregor, de Valentinus, and others, his dear fellows, say, that all superintendant power of policy, in ordine ad spiritualia is in the man, whose foot Maxwell would kiss for a cardinal's hat.

4. If these be all the differences, it is not much. The community is the remote and last subject, the representative body the nearest subject, the nobles a partial subject; the judges, as judges sent by the king, are so in the game, that when an arbitrary prince at his pleasure setteth them up, and at command that they judge for men, and not for the Lord, and accordingly obey, they are by this power to be punished, and others put in their place.

5. A true cause of convening parliaments the Prelate maketh a fancy at this time: it is as if the thieves and robbers should say a justice-court were a fancy; but if the Prelate might compear before the parliament of Scotland, (to which he is an outlaw like his father, 2 Thess. ii. 4,) such a fancy, I conceive, should hang him, and that deservedly.

P. Prelate (p. 147, 148).—The subject of this superintendant power must be secured from error in judgment and practice, and the community and states then should be infallible.

Ans.—The consequence is nought. No more than the king, the absolute independent, is infallible. It is sure the people are in less hazard of tyranny and self-destruction than the king is to subvert laws and make himself absolute; and for that cause there must be a superintendant power above the king, and God Almighty also must be above all.

P. Prelate.—The parliament may err, then God hath left the state remedies, except the king remedy it.

Ans.—There is no consequence here, except the king be impeccable. Posterior
parliaments may correct the former. A state is not remediless, because God's remedies, in sinful men's hands, may miscarry. But the question is now, Whether God hath given power to one man to destroy men, subvert laws and religion, without any power above him to coerce, restrain, or punish?

P. Prelate (c. 15, p. 148). — If, when the parliament erreth, the remedy is left to the wisdom of God, why not when the king erreth?

Ans. — Neither is antecedent true, nor the consequence valid, for the sounder part may resist; and it is easier to one to destroy many, having a power absolute, which God never gave him, than for many to destroy themselves. Then, if the king Uzziah intrude himself and sacrifice, the priests do sin in remedying thereof.

P. Prelate. — Why might not the people of Israel, peers or sanhedrim, have convened before them, judged and punished David for his adultery and murder? Romanists and new statistis acknowledge no case lawful, but heresy, apostacy, or tyranny; and tyranny, they say, must be universal, manifest as the sun, and with obstinacy, and invincible by prayers, as is recorded of Nero, whose wish was rather a transported passion, than a fixed resolution. This cannot fall in the attempts of any but a madman. Now this cannot be proved our king; but though we grant in the foresaid case, that the community may resume their power, and rectify what is amiss, which we cannot grant; but this will follow by their doctrine, in every case of male administration.¹

Ans. — The Prelate draweth me to speak of the case of the king's unjust murder, confessed (Psal. li.) to which I answer: He taketh it for confessed, that it had been treason in the sanhedrim or states of Israel to have taken on them to judge and punish David for his adultery and his murder; but he giveth no reason for this, nor any word of God; and truly, though I will not presume to go before others in this, God's law (Gen. ix. 6, compared with Num. xxxv. 30, 31) seemeth to say against them.

6. Nor can I think that God's law, or his deputy the judges, are to accept the persons of the great, because they are great; (Deut. i. 17; 2 Chron. xix. 6, 7;) and we say, we cannot distinguish where the law distinguisheth not. The Lord speaketh to under judges, (Lev. xix. 16,) “Thou shalt not respect the person of the poor, nor honour the person of the mighty,” or of the prince, for we know what these names רָוִי רְוִי and מֶאֶשׁ meaneth. I grant it is not God's meaning that the king should draw the sword against himself, but yet it followeth not, that if we speak of the demerit of blood, that the law of God accepteth any judge, great or small; and if the estates be above the king, as I conceive they are, though it be a human politic constitution, that the king be free of all co-action of law, because it conduceth for the peace of the commonwealth; yet if we make a matter of conscience, for my part I see no exception that God maketh it; if men make, I crave leave to say, a factum ad jus non sequitur; and I easily yield that in every case the estates may coerce the king, if we make it a case of conscience. And for the place, (Ps. li. 4,) “Against thee, thee only, have I sinned,” flatterers allege it to be a place proving that the king is above all earthly tribunals, and all laws, and that there was not on earth any who might punish king David; and so they cite Clemens Alexandrin. (Strom. i. 4.) Arnol., Psal. l., Dydimus, Hieronim.; but Calvin on the place, giveth the meaning that most of the fathers give, — Domine, etiam si me totus mundus absolvat, mihi tamen plusquam satie est, quod te solum judicem sentio. It is true, Beda, Euthymius, Ambrosius, (Apol. David, c. 4 and c. 10.) do all acknowledge from the place, de facto, there was none above David to judge him, and so doth Augustine, Basilius Theodoret, say, and Chrysostomus, and Cyrilus, and Hieronimus, (Epist. 22.) Ambrose (Sermon 16, in Psal. cxviii.) Gregorius, and Augustine (Joan 8.) saith, he meaneth no man durst judge or punish him, but God only. Lorinus, the Jesuit, observeth eleven interpretations of the fathers all to this sense: “Since (Lyra saith) he sinned only against God, because God only could pardon him;” Hugo Cardinallis, “Because God only could wash him,” which he asketh in the text. And Lorinus, “Solo Deo concesso peccavi.” But the simple meaning is, 1. Against thee only have I sinned, as my eye-witness and immediate beholder; and, therefore, he addeth—and have done this evil in thy sight. 2. Against thee only, as my judge, that thou mayest be justified when thou judgest, as clear from all unrighteousness,

¹ Stolen from Arnisseus, de authorit. prin. c. 4, n. 5, p. 73.
when thou shalt send the sword on my house. 3. Against thee, O Lord: only, who canst wash me, and pardon me (ver. 1, 2). And if this “thee only” exclude altogether Uriah, Bathsheba, and the law of the judges, as if he had sinned against none of those in their kind, then is the king, because a king, free, not only from a punishing law of man, but from the duties of the second table simply, and so a king cannot be under the best and largest half of the law. Thou shalt love thy neighbour as thyself. He shall not need to say, Forgive us our sins, as we forgive them that sin against us; for there is no reason, from the nature of sin, and the nature of the law of God, why we can say more the subjects and sons sin against the king and father, than to say the father and king sin against the sons and subjects. By this, the king killing his father Jesse, should sin against God, but not break the fifth command, nor sin against his father. God should in vain forbid fathers to provoke their children to wrath.

1. And kings to do injustice to their subjects, because by this the superior cannot sin against the inferior, forasmuch as kings can sin against none but those who have power to judge and punish them; but God only, and no inferiors, and no subjects, have power to punish the kings; therefore kings can sin against none of their subjects; and where there is no sin, how can there be a law? Neither major or minor can be denied by royalists.

2. We acknowledge tyranny must only unking a prince. The Prelate denieth it, but he is a green statist. Barclay, Grotius, Winzetus, as I have proved, granteth it.

3. He will excuse Nero, as of infirmity, wishing all Rome to have one neck, that he may cut it off. And is that charitable of kings, that they will not be so mad as to destroy their own kingdom? But when histories teach us there have been more tyrants than kings, the kings are more obliged to him for flattery than for state-wit, except we say that all kings eat the people of God, as they do bread, owe him little for making them all mad and frantic.

4. But let them be Neroes, and mad, and worse, there is no coercing of them, but all must give their necks to the sword, if the poor Prelate be heard; and yet kings cannot be so mad as to destroy their subjects. Mary of England was that mad. The Romish princes who have given (Rev. xvi. 13) their power and strength to the beast, and do make war with the Lamb; and kings inspired with the spirit of the beast, and drunk with the wine of the cup of Babes's fornications, are so mad; and the ten emperors are so mad, who wasted their faithfulest subjects.

P. Prelate.—If there be such a power in the peers, resumable in the exiguity of necessity, as the last necessary remedy for safety of church and state, God and nature not being deficient in things necessary, it must be proved out of the Scripture, and not taken on trust, for affirmati incumbit probabil.

Ans.—Mr Bishop, what better is your affirmati incumbit, &c., than mine? for you are the affirmer. 1. I can prove a power in the king, limited only to feed, govern, and save the people; and you affirm that God hath given to the king, not only a power official and royal to save, but also to destroy and cut off, so as no man may say, Why dost thou this? Shall we take this upon the word of an excommunicated prelate? Profer tabulas, John P. P., I believe you not, royal power is, Deut. xviii. 18; Rom. iii. 14. I am sure there is there a power given to the king to do good, and that from God. Let John P. P. prove a power to do ill, given of God to the king. 2. We shall quickly prove that the states may repres this power, and punish the tyrant—not the king, when he shall prove that a tyrannous power is an ordinance of God, and so may not be resisted; for the law of nature teacheth,—if I give my sword to my fellow to defend me from the murderer, if he shall fall to and murder me with my own sword, I may (if I have strength) take my sword from him.

P. Prelate.—1. It is infidelity to think that God cannot help us, and impatience that we will not wait on God. When a king oppresseth us, it is against God's wisdom that he hath not provided another mean for our safety than intrusion on God's right. 2. It is against God's power,—3. His holiness,—4. Christian religion, that we necessitate God to so weak a mean as to make use of sin, and we cast the asperion of treason on religion, and deter kings to profess reformed catholic religion;—5. We are not to justify God out of his right.

Ans. 1. I see nothing but what Dr Ferne, Grotius, Barclay, Blackwood, have said before, with some colour of proving the consequence. The P. Prelate giveth us other men's arguments, but without bones. All
were good, if the state’s coercing and curbing a power which God never gave to the king were a sin and an act of impatience and unbelief; and if it were proper to God only, by his immediate hand, to coerce tyranny. 2. He calleth it not protestant religion, either here or elsewhere, but cunningly gives a name that will agree to the Roman catholic religion. For the Dominicans, Franciscans, and the Parisian doctors and schoolmen, following Ocham, Gerson, Almain, and other papists, call themselves reformed catholics. He layeth this for a ground, in three or four pages,—where these same arguments are again and again repeated in terminus, as his second reason, (p. 149,) was handled ad nauseam (p. 148); his third reason is repeated in his sixth reason. (p. 151.)

He layeth down, I say, this ground, which is the begged conclusion, and makes the conclusion the assumption, in eight raw and often-repeated arguments,—to wit, That the parliament’s coercing and restraining of arbitrary power is rebellion, and resisting the ordinance of God. But he dare not look the place, Rom. xiii., on the face. Other royals have done it with bad success. This I desire to be weighed, and I retort the Prelate’s argument. But it is indeed the trivial argument of all royals, especially of Barclay,—obvious in his third book. If arbitrary and tyrannical power, above any law that the lawful magistrat commandeth under the pain of death,—Thou shalt not murder one man, Thou shalt not take away the vineyard of one Naboth violently,—be lawful and warrantable by God’s word, then an arbitrary power, above all divine laws, is given to the keeping of the civil magistrate. And it is no less lawful arbitrary, or rather tyrannical power, for David to kill all his subjects, and to plunder all Jerusalem, (as I believe prelates and malignants and papists would serve the three kingdoms, if the king should command them,) than to kill one Uriah, or for Ahab to sell one Naboth. The essence of sin must agree alike to all, though the degrees vary.

Of God’s remedy against arbitrary power hereafter, in the question of resistance; but the confused engine of the Prelate bringeth it in here, where there is no place for it.

7. His seventh argument is:—Before God would authorise rebellion, and give a bad precedent thereof for ever, he would rather work extraordinary and wonderful miracles; and therefore would not authorise the people to deliver themselves from under Pharaoh, but made Moses a prince, to bring them out of Egypt with a stretched-out arm. Nor did the Lord deliver his people by the wisdom of Moses, or strength of the people, or any act that way of theirs, but by his own immediate hand and power.

Ans.—I reduce the Prelate’s confused words to a few; for I speak not of his popish term of St. Steven, and others the like; because all that he hath said in a book of 149 pages might have been said in three sheets of paper. But, I pray you, what is this argument to the question in hand; which is, whether the king be so above all laws, as people and peers, in the case of arbitrary power, may resume their power and punish a tyrant? The Prelate draws not in the question of resistance by the hair. Israel’s not rising in arms against king Pharaoh proveth nothing against the power of a free kingdom against a tyrant.

1. Moses, who wrought miracles destructive to Pharaoh, might pray for vengeance against Pharaoh, God having revealed to Moses that Pharaoh was a reprobate; but may ministers and nobles pray so against king Charles? God forbid.

2. Pharaoh had not his crown from Israel.

3. Pharaoh had not sworn to defend Israel, nor became he their king upon condition he should maintain and profess the religion of the God of Israel; therefore Israel could not, as free estates, challenge him in their supreme court of parliament of breach of oath; and upon no terms could they unking Pharaoh: he held not his crown of them.

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

5. Israel had their lands by the mere gift of the king. I hope the king of Britain standeth to Scotland and England in a fourfold contrary relation.

All divines know that Pharaoh, his princes, and the Egyptians, were his peers and people, and that Israel were not his native subjects, but a number of strangers, who, by the laws of the king and princes, by the means of Joseph, had gotten the land of Goshen for their dwelling, and liberty to serve the God of Abraham, to whom they prayed in their bondage, (Exod. ii. 23, 24,) and they were not to serve the gods of Egypt, nor were they of the king’s reli-
gion. And therefore, his argument is thus: A number of poor exiled strangers under king Pharaoh, who were not Pharaoh's princes and peers, could not restrain the tyranny of king Pharaoh; therefore, the three estates in a free kingdom may not restrain the arbitrary power of a king.

1. The Prelate must prove that God gave a royal and kingly power to king Pharaoh, due to him by virtue of his kingly calling, (according as royalists explain 1 Sam. viii. 9, 11,) to kill all the male children of Israel, to make slaves of themselves, and compel them to work in brick and clay, while their lives were a burden to them; and that if a Roman catholic, Mary of England, should kill all the male children of protestants, by the hands of papists, at the queen's commandment, and make bond-servants of all the peers, judges, and three estates, who made her a free princess; yet, notwithstanding that Mary had sworn to maintain the protestant religion, they were to suffer and not to defend themselves. But if God give Pharaoh a power to kill all Israel, so as they could not control it, then God gave to a king a royal power by office to sin, only the royalist saveth God from being the author of sin in this, that God gave the power to sin; but yet with this limitation, that the subjects should not resist this power.

2. He must prove that Israel was to give their male children to Pharaoh's butchers,—for to hide them was to resist a royal power; and to disobey a royal power given of God, is to disobey God. 3. The subjects may not resist the king's butchers coming to kill them and their male children; for to resist the servant of the king in that wherein he is a servant, is to resist the king. (1 Sam. viii. 7; 1 Pet. ii. 14; Rom. xiii. 1.) 4. He must prove, that upon the supposition that Israel had been as strong as Pharaoh and his people; that without God's special commandment, (they then wanting the written word,) they should have fought with Pharaoh; and that we now, for all wars, must have a word from heaven, as if we had not God's perfect will in his word, as at that time Israel behaved to have in all wars, Judg. xviii. 5; 1 Sam. xiv. 37; Isa. xxx. 2; Jer. xxxviii. 37; 1 Kings xxii. 5; 1 Sam. xxx. 5; Judg. xx. 27; 1 Sam. xxii. 2; 2 Sam. xvi. 23; 1 Chron. x. 14. But because God gave not them an answer to fight against Pharaoh, therefore we have no warrant now to fight against a foreign nation invading us; the consequence is null, and therefore this is a vain argument. The prophets never reprove the people for not performing the duty of defensive wars against tyrannous kings; therefore, there is no such duty enjoined by any law of God to us. For the prophets never rebuke the people for non-performing the duty of offensive wars against their enemies, but where God gave a special command and response from his own oracle, that they should fight. And if God was pleased never to command the people to rise against a tyrannous king, they did not sin where they had no commandment of God; but I hope we have now a more sure word of prophecy to inform us.

6. The Prelate conjectureth Moses' miracles, and the deliverance of the people by dividing the Red Sea, was to forbid and condemn defensive wars of people against their king; but he hath neither Scripture nor reasons to do it. The end of these miracles was to seal to Pharaoh the truth of God's calling of Moses and Aaron to deliver the people, as is clear, Exod. iv. 1—4, compared with vii. 8—10. And that the Lord might get to himself a name on all the earth, Rom. ix. 17; Exod. ix. 16; xiii. 13, 14. But of the Prelate's conjectural end, the Scripture is silent, and we cannot take an excommunicated man's word. What I said of Pharaoh, who had not his crown from Israel, that I say of Nebuchadnezzar and the kings of Persia, keeping the people of God captive.

P. Prelate (p. 163).—So in the book of Judges, when the people were delivered over to the hand of their enemies, because of their sins, he never warranted the ordinary judges or community to be their own deliverers; but when they repented, God raised up a judge. The people had no hand in their own deliverance out of Babylon; God effected it by Cyrus, immediately and totally. Is not this a real proof God will not have inferior judges to rectify what is amiss; but we must wait in patience till God provide lawful means, some sovereign power immediately sent by himself, in which course of his ordinary providence, he will not be deficient.

Ans. 1.—All this is beside the question, and proveth nothing less than that peers and community may not resume their power to curb an arbitrary power. For, in the first case, their is neither arbitrary nor lawful supreme judge. 2. If the first prove any
thing, it proveth that it was rebellion in the inferior judges and community of Israel to fight against foreign kings, not set over them by God; and that offensive wars against any kings whatsoever, because they are kings, though strangers, are unlawful. Let Socimians and anabaptists consider if the P. Prelate help not them in this, and may prove all wars to be unlawful. 3. He is so malignant to all inferior judges, as if they were not powers sent of God, and to all governors that are not kings, and so upholders of prelates, and of himself as he conceiveth, that by his arguing he will have all deliverance of kings only, the only lawful means in ordinary providence; and so aristocracy and democracy, except in God's extraordinary providence, and by some divine dispensation, must be extraordinary and ordinarily unlawful. 1. The acts of a state, when a king is dead and they choose another, shall be an anticipating of God's providence. 2. If the king be a child, a captive, or distracted, and the kingdom oppressed with malignants, they are to wait, while God immediately from heaven create a king to them, as he did Saul long ago. But have we now kings immediately sent as Saul was? How is the spirit of prophecy and government infused in them, as in king Saul? or are they by prophetic inspiration, anointed as David was? I conceive their calling to the throne on God's part differs as much from the calling of Saul and David, in some respect, as the calling of ordinary pastors, who must be gifted by industry and learning and called by the church, and the calling of apostles. 3. God would deliver his people from Babylon by moving the heart of Cyrus immediately, the people having no hand in it, not so much as supplicating Cyrus; therefore, the people and peers who made the king cannot curb his tyrannical power, if he make captives and slaves of them, as the kings of Chaldea made slaves of the people of Israel. What? Because God useth another mean, therefore, this mean is not lawful. It followeth in no sort. If we must use no means but what the captive people did under Cyrus, we may not lawfully fly, nor supplicate, for the people did neither.

P. Prelate. — You read of no covenant in Scripture made without the king. (Exod. xxxiv.) Moses king of Jeshurun: neither tables nor parliament framed it. Joshua another, (Josh. xxiv.) and Ass, (2 Chron. xv.; 2 Chron. xxxiv.; Ezra x.) The covenant of Jehoiada in the monag of Joash, was the high priest's act, as the king's governor. There is a covenant with hell, made without the king, and a false covenant. (Hos. x. 3, 4.)

Ans.—We argue this negatively. 1. This is neither commanded, nor practised, nor warranted by promise; therefore, it is not lawful. But this is not practised in Scripture; therefore, it is not lawful. It followeth it. Show me in Scripture the killing of a goring ox who killed a man; the not making battlements on a house; the putting to death of a man lying with a beast; the killing of seducing prophets, who tempted the people to go a whoring, and serve another God than Jehovah: I mean, a god made by the hand of the baker, such a one as the excommunicated Prelate is known to be, who hath preached this idolatry in three kingdoms. (Deut. xiii.) This is written, and all the former laws are divine precepts. Shall the precept make them all unlawful, because they are not practised by some in Scripture? By this? I ask, Where read ye that the people entered in a covenant with God, not to worship the golden image, and the king; and those who pretended they are the priests of Jehovah, the churchmen and prelates, refused to enter in covenant with God? By this argument, the king and prelates, in non-practising with us, wanting the precedent of a like practised in Scripture, are in the fault. 2. This is nothing to prove the conclusion in question. 3. All these places prove it is the king's duty, when the people under him, and their fathers, have corrupted the worship of God, to renew a covenant with God, and to cause the people to do the like, as Moses, Ass, and Jehoshaphat did. 4. If the king refuse to do his duty, where is it written that the people ought also to omit their duty, and to love to have it so, because the rulers corrupt their ways? (Jer. v. 31.) To renew a covenant with God is a point of service due to God that the people are obliged unto, whether the king command it or no. What if the king command not his people to serve God; or, what if he forbid Daniel to pray to God? Shall the people in that case serve the King of kings, only at the nod and royal command of an earthly king? Clear this from Scripture. 5. Ezra (ch. v.) had no commandment in particular from artaxerxes, king of Persia, or from Darius, but a
general. (Ezra vii. 23.) "Whatsoever is commanded by the God of heaven, let it be diligently done for the house of the God of heaven." But the tables in Scotland, and the two parliaments of England and Scotland, who renewed the covenant, and entered in covenant not against the king, (as the P. P. saith,) but to restore religion to its ancient purity, have this express law both from king James and king Charles, in many acts of parliament, that religion be kept pure. Now, as Artaxerxes knew nothing of the covenant, and was unwilling to subscribe it, and yet gave to Ezra and the princes a warrant, in general, to do all that the God of heaven required to be done, for the religion and house of the God of heaven, and so a general warrant for a covenant, without the king; and yet Ezra and the people, in swearing that covenant, failed in no duty against their king, to whom, by the fifth commandment, they were no less subject than we are to our king: just so we are, and so have not failed. But they say, the king hath committed to no lieutenant and deputy under him, to do what they please in religion, without his royal consent in particular, and the direction of his clergy, seeing he is of that same religion with his people; whereas Artaxerxes was of another religion than were the Jews and their governor.—Ans. Nor can our king take on himself to do what he pleaseth, and what the prelates (amongst whom those who ruled all are known, before the world and the sun, to be of another religion than we are) pleaseth, in particular. But see what religion and worship the Lord our God, and the law of the land (which is the king's revealed will) alloweth to us, that we may swear, though the king should not swear it; otherwise, we are to be of no religion but of the king's, and to swear no covenant but the king's, which is to join with papists against protestants. 6. The strangers of Ephraim and Manasseh, and out of Simeon fell out of Israel in abundance to Ass, when they saw that the Lord his God was with him, (2 Chron. xv. 9, 10,) and swears that covenant without their own king's consent, their own king being against it. If a people swear a religious covenant, without their king, who is averse thereunto, far more may the nobles, peers, and estates of parliament do it without their king; and here is an example of a practice, which the P. Prelate requireth. 7. That Jehoiada was governor and viceroy during the nonage of Joash, and that by this royal authority the covenant was sworn, is a dream, to the end he may make the Pope, and the archpapal, now viceroy and kings, when the throne varieth. The nobles were authors of the making of that covenant, no less than Jehoiada was; yes, and the people of the land, when the king was but a child, went unto the house of Baal, and brake down his images, &c. Here is a reformation, made without the king, by the people. 8. Grave expositors say, that the covenant with death and hell (Isa. xxviii,) was the king's covenant with Egypt. 9. And the covenant (Hos. x.) is by none exposèd of a covenant made without the king. I have heard said, this Prelate, preaching on this text before the king, exposèd it so; but he spake words (as the text is) falsely. The P. Prelate, to the end of the chapter, giveth instance of the ill success of popular reformation, because the people caused Aaron to make a golden calf, and they revolted from Rehoboam to Jeroboam, and made two golden calves, and they conspired with Absalom against David.—Ans. If the first example make good any thing, neither the high priest, as was Aaron, nor the P. Prelate, who claimeth to be descended of Aaron's house, should have any hand in reformation at all; for Aaron erred in that. And to argue from the people's sins to deny their power, is no better than to prove Ahab, Jeroboam, and many kings in Israel and Judah, committed idolatry, therefore they had no royal power at all. In the rest of the chapter, for a whole page, he singeth over again his matins in a circle, and giveth us the same arguments we heard before; of which you have these three notes:—1. They are stolen, and not his own. 2. Repeated again and again to fill the field. 3. All hang on a false supposition, and a begging of the question. That the people, without the king, have no power at all.
esthetic power in the king. And I think
it not unlike to the question, Whether the
Bishops and Romish church have a sole and
exempt power of expounding laws, and
the word of God? We are to consider that
there is a twofold exposition of laws; 1.
One speculative in a school way, so exquisite
artists have a power to expound laws. 2.
Practical, in so far as the sense of the law
shibth under our practice; and this is two-
fold,—either private and common to all, or
judicial and proper to judges; and of this
last is the question.

For this public, the law hath one funda-
mental rule, salus populi, like the king of
planets, the sun, which lendeth star-light to
all laws, and by which they are exponed:
whatever interpretation swerveth either from
fundamental laws of policy, or from the law
of nature, and the law of nations, and espe-
cially from the safety of the public, is to be
rejected as a perverting of the law; and
therefore, conscientia humana generalis, the
natural conscience of all men, to which the
oppressed people may appeal unto when the
king exponeth a law unjustly, at his own
pleasure, is the last rule on earth for expon-
ing of laws. Nor ought laws to be made so
obscure, as an ordinary wit cannot see their
connexion with fundamental truths of policy,
and the safety of the people; and therefore
I see no inconvenience, to say, that the law
itself is norma et regulis judiciandi, the
rule and directory to square the judge, and
that the judge is the public practical inter-
preter of the law.

Assert. 1. The king is not the sole and
final interpreter of the law.

1. Because then inferior judges should
not be interpreters of the law; but inferior
judges are no less essentially judges than
the king, (Deut. i. 17; 2 Chron. xix. 6;
Isa. ii. 14; Rom. xiii. 1, 2;) and so by
office must interpret the law, else they can-
ot give sentence according to their con-
science and equity. Now, expounding of
the law judicially is an act of judging, and so a
personal and incommunicable act; so as I
can no more judge and expone the law ac-
cording to another man’s conscience, than I
can believe with another man’s soul, under-
stand with another man’s understanding, or
see with another man’s eye. The king’s
pleasure, therefore, cannot be the rule of
the inferior judge’s conscience, for he giveth
an immediate account to God, the Judge of
all, of a just or an unjust sentence. Suppose

Cæsar shall expone the law to Pilate, that
Christ deserveth to die the death, yet Pilate
is not in conscience to expone the law so.
If therefore inferior judges judge for the
king, they judge only by power borrowed
from the king, not by the pleasure, will, or
command of the king thus and thus expos-
ing the law, therefore the king cannot be the
sole interpreter of the law.

2. If the Lord say not to the king only,
also to other inferior judges, “Be wise,
understand, and the cause that you know
not, search out,” then the king is not the
only interpreter of the law. But the Lord
saith not to the king only, but to other judges
also, Be wise, understand, and the cause that
you know not, search out; therefore the king
is not the sole law-giver. The major is
clear from Psal. ii. 10, “Be wise now there-
fore, O ye kings, be instructed, ye judges of
the earth.” So are commands and rebukes
for unjust judgment given to others than to
kings. (Ps. lxxxi. 1–5; 111. 1, 2; Is. i. 17,
23, 25, 26; ii. 14; Job xxix. 12–15;
xxxi. 21, 22.)

3. The king is either the sole interpreter
of law, in respect he is to follow the law as
his rule, and so he is a ministerial inter-
preter of the law, or he is an interpreter of
the law according to that super-dominion of
absolute power that he hath above the law. If
the former be holden, then it is clear that
the king is not the only interpreter, for all
judges, as they are judges, have a ministerial
power to expone the law by the law: but the
second is the sense of royalists.

Assert. 2. Hence our second assertion is,
That the king’s power of expounding the law
is a mere ministerial power, and he hath no
domination of any absolute royal power to
expone the law as he will, and to put such a
sense and meaning of the law as he pleaseth.

1. Because Saul maketh a law, (1 Sam.
xiv. 24,) “Cursed be the man that tasteth
any food till night, that the king may be
avenged on his enemies,” the law, according
to the letter, was bloody; but, according to
the intent of the lawgiver and substance of
the law, profitable, for the end was that the
enemies should be pursued with all speed.
But king Saul’s expounding the law after a
tyrannical way, against the intent of the law,
which is the diamond and pearl of all laws—
the safety of the innocent people, was justly
resisted by the innocent people, who violently
hindered innocent Jonathan to be killed.
Whence it is clear, that the people and
princes put on the law its true sense and meaning; for Jonathan's tasting of a little honey, though as it was against that sinful and precipitate circumstance, a rash oath, yet it was not against the substance and true intent of the law, which was the people's speedy pursuit of the enemy. Whence it is clear, that the people, including the princes, hath a ministerial power to expone the law aight, and according to its genuine intent, and that the king, as king, hath no absolute power to expone the law as he pleaseth.

2. The king's absolute pleasure can no more be the genuine sense of a just law than his absolute pleasure can be a law; because the genuine sense of the law is the law itself, as the formal essence of a thing differeth not really, but in respect of reason, from the thing itself. The Pope and Romish church cannot put on the Scripture, ex plentitudine potestatis, whatever meaning they will, no more than they can, out of absolute power, make canonick scripture. Now so it is, that the king, by his absolute power, cannot make law no law. 1. Because he is king by, or according to, law, but he is not king of law. Rex est rex secundum legem, sed non est dominus et rex legis. 2. Because, although it have a good meaning, which Ulpian saith, "Quod principi placet legis vigorem habet,"—the will of the prince is the law; yet the meaning is not that anything is a just law, because it is the prince's will, for its rule formally; for it must be good and just before the prince can will it,—and then, he finding it so, he putteth the stamp of a human law on it.

3. This is the difference between God's will and the will of the king, or any mortal creature. Things are just and good, because God willeth them,—especially things positively good, (though I conceive it hold in all things,) and God doth not will things, because they are good and just; but the creature, be he king or any never so eminent, do will things, because they are good and just, and the king's willing of a thing maketh it not good and just; for only God's will—not the creature's—can be the cause why things are good and just. If, therefore, it be so, it must undeniably hence follow, that the king's will maketh not a just law to have an unjust and bloody sense; and he cannot, as king, by any absolute super-dominion over the law, put a just sense on a bloody and unjust law.

4. The advancing of any man to the throne and royal dignity putteth not the man above the number of rational men. No rational man can create, by any act of power never so transcendent or boundless, a sense to a law contrary to the law. Nay, give me leave to doubt if Omnipotence can make a just law to have an unjust and bloody sense, aut contra, because it involveth a contradiction;—the true meaning of a law being the essential form of the law. Hence judge what brutish, swinish flatterers they are who say, "That it is the true meaning of the law which the king, the only supreme and independent expositor of the law, saith is the true sense of the law." There was once an animal—a fool of the first magnitude—who said he could demonstrate, by invincible reasons, that the king's dung was more nourishing food than bread of the flour of the finest wheat. For my part I could wish it were the demonstrator's only food for seven days, and that should be the best demonstration he could make for his proof.

5. It must follow that there can be no necessity of written laws to the subjects, against Scripture and natural reason, and the law of nations, in which all accord: that laws not promulgated and published cannot oblige as law; yes, Adam, in his innocence, was not obliged to obey a law not written in his heart by nature, except God had made known the law; as is clear, Gen. iii. 11, "Hast thou eaten of the tree whereof I commanded thee that thou shouldst not eat?" But if the king's absolute will may put on the law what sense he pleaseth, out of his independent and irresistible supremacy, the laws promulgated and written to the subjects can declare nothing what is to be done by the subjects as just, and what is to be avoided as unjust; because the laws must signify to the subjects what is just and what is unjust, according to their genuine sense. Now, their genuine sense, according to royals, is not only uncertain and impossible to be known, but also contradictory; for the king obligeth us, without gainsaying, to believe that the just law hath this unjust sense. Hence this of flattering royals is more cruel to kings than ravens, (for these eat but dead men, while they devour living men,) When there is a controversy between the king and the estates of parliament, who shall expone the law and render its native meaning? Royals say, Not the estates of parliament, for they are subjects, not judges, to the king, and only counsellors and advisers.
of the king. The king, therefore, must be the only judicial and final expositor. “As for lawyers, (said Strafford,) the law is not enclosed in a lawyer's cap.” But I remember this was one of the articles laid to the charge of Richard II., that he said, “The law was in his head and breast.” And, indeed, it must follow, if the king, by the plenitude of absolute power, be the only supreme uncontrolable expositor of the law, that is not law which is written in the acts of parliament, but that is the law which is in the king's breast and head, which Josephus (lib. 19, Antiq. c. 2.) objected to Caius. And all justice and injustice should be finally and peremptorily resolved on the king's will and absolute pleasure.

6. The king either is to expone the law by the law itself; or by his absolute power, loosed from all law, he exponeth it; or according to the advise of his great senate. If the first be said, he is nothing more than other judges. If the second be said, he must be omnipotent, and more. If the third be said, he is not absolute, if the senate be only advisers, and he yet the only judicial expositor. The king often professeth his ignorance of the laws; and he must then both be absolute above the law, and ignorant of the law, and the sole and final judicial exponer of the law. And by this, all parliaments, and their power of making laws, and of judging, are cried down.

Obj. 1.—Prov. xvi. 10, “A divine sentence is in the lips of the king; his mouth transgresseth not in judgment;” therefore he only can expone the law.

Ans.—Lavater saith, (and I see no reason on the contrary,) “By a king he meaneth all magistrates.” Aben Ezra and Isidorus read the words imperatively. The Tigrine version, “They are oracles which proceed from his lips; let not therefore his mouth transgress in judgment.” Vatabulus, “When he is in his prophecies, he lieth not.” Jansenius, “Non facie erribit in judicando.” Mich. Jermine,—“If he pray.” Calvin,—“If he read in the book of the law, as God commandeth him,” Deut. xvii. But why stand we on the place? “He speaketh of good kings, (saith Cornel. a Lapide,) otherwise Jeroboam, Ahab, and Manasseh, erred in judgment.” “And except (as Mercerus exponeth it) we understand him to speak of kings according to their office, not their facts and practice, we make them popes, and men who cannot give out grievous and unjust sentences on the throne,”—against both the Word and experience.

Obj. 2.—Sometimes all is cast upon one man's voice; why may not the king be this one man?

Ans.—The antecedent is false; the last voter in a senate is not the sole judge, else why should others give suffrages with him? This were to take away inferior judges, contrary to God's word, Deut. i. 17; 2 Chron. xix. 6, 7; Rom. xiii. 1—3.

QUESTION XXVIII.

WHETHER OR NO WARS RAISED BY THE SUBJECTS AND ESTATES, FOR THEIR OWN JUST DEFENCE AGAINST THE KING'S BLOODY EMISSARIES, BE LAWFUL.

Arnisseus perverseth the question; he saith, “The question is, Whether or no the subjects may, according to their power, judge the king and dethrone him; that is, Whether or no it is lawful for the subjects in any case to take arms against their lawful prince, if he degenerate, and shall wickedly use his lawful power.”

1. The state of the question is much perverted, for these be different questions, Whether the kingdom may dethrone a wicked and tyrannous prince, and whether the kingdom may take up arms against the man who is the king, in their own innocent defence. For the former is an act offensive, and of punishing; the latter is an act of defence.

2. The present question is not of subjects only, but of the estates, and parliamentary lords of a kingdom. I utterly deny these, as they are judges, to be subjects to the king; for the question is, Whether is the king or the representative kingdom greatest, and which of them be subject one to another? I affirm, amongst judges, as judges, not one is the commander or superior, and the other the commanded or subject. Indeed, one higher judge may correct and punish a judge, not as a judge, but as an erring man.

3. The question is not so much concerning the authoritative act of war, as concern-

1 Imperator se leges in scrino condere dicti. I. omium, C. de testam.
ing the power of natural defence, upon sup-
position, that the king be not now turned
an habitual tyrant; but that upon some
acts of misinformation, he come in arms
against his subjects.
Arnisseus maketh two sort of kings,—
"Some kings integra majestatis, of entire
power and sovereignty; some kings by pacts,
or voluntary agreement between king
and people." And I judge this a vain dis-
tinction; for the limited prince, so he be
limited to a power only of doing just and
right, by this is not a prince integra ma-
jestatis, of entire royal majesty, whereby he
may both do good and also play the tyrant;
but a power to do ill being no ways essen-
tial, yea, repugnant to the absolute majesty
of the King of kings, cannot be an essential
part of the majesty of a lawful king; and
therefore the prince, limited by voluntary
and positive pact, only to rule according
to law and equity, is the good, lawful, and
entire prince, only if he have not power to
do every thing just and good in that regard,
he is not an entire and complete prince. So
the man will have it lawful to resist the
limited prince, not the absolute prince; by
the contrary, it is more lawful to me to re-
sist the absolute prince than the limited,
insomuch as we may with safer consciences
resist the tyrant and the lion, than the just
prince and lamb. Nor can I assent to Cun-
erius (de officio principi. Christi. c. 5 and
17,) who holdeth, "that these voluntary
pactons betwixt king and people, in which
the power of the prince is diminished, ca-
not stand, because their power is given to
them by God's word, which cannot be taken
from them by any voluntary pact, law-
fully," and from the same ground, Winzetus
(in velt. contr. Buchan. p. 3) "will have
it unlawful to resist kings, because God hath
made them irresistible." I answer,—If
God, by a divine institution, make kings ab-
solete, and above all laws, (which is a blas-
phemous supposition—the holy Lord can give
to no man a power to sin, for God hath not
himself any such power,) then the covenant
betwixt the king and people cannot lawfully
remove and take away what God by insti-
tution has given; but because God (Deut.
xxvii.) hath limited the first lawful king, the
mould of all the rest, the people ought also
to limit him by a voluntary covenant; and
because the lawful power of a king to do
good is not by divine institution placed in an
indivisible point. It is not a sin for the people
to take some power, even of doing good, from
the king, that he solely, and by himself, shall
not have power to pardon an involuntary ho-
micide, without advice and the judicial suf-
frages of the council of the kingdom, least
he, instead of this, give pardons to robbers,
to abominable murderers; and in so doing,
the people robbeth not the king of the power
that God gave him as king, nor ought the
king to contend for a sole power in himself
of ministering justice to all; for God layeth
not upon kings burdens impossible; and God
by institution hath denied to the king all
power of doing all good; because it is his
will that other judges be sharers with the
king in that power, (Num. xiv. 16; Deut.
i. 14—17; 1 Pet. ii. 14; Rom. xiii. 1—4;) and
therefore the duke of Venice, to me, cometh
nearest to the king moulded by God,
(Deut. xvi.) in respect of power, de jure,
of any king I know in Europe. And in
point of conscience, the inferior judge dis-
cerning a murderer and bloody man to die,
may in foro conscientiae despise the king's
unjust pardon, and resist the king's force by
his co-active power that God hath given
him, and put to death the bloody murderer;
and he sinmeth if' he do not this; for to me
it is clear, that the king cannot judge so
justly and understandingly of a murderer in
Scotland, as a judge to whom God hath
committed the sword in Scotland. Nor
hath the Lord laid that impossible burden
on a king to judge so of a murder four hun-
dred miles removed from the king, as the
judge nearer to him, as is clear by Num.
xiv. 16; 1 Sam. vii. 16—17. The king
should go from place to place and judge;
and whereas it is impossible to him to go
through three kingdoms, he should appoint
faithful judges, who may not be resisted,—
no, not by the king.
1. The question is, If the king command
A. B. to kill his father or his pastor,—the
man neither being cited nor convicted of
any fault, he may lawfully be resisted.
2. Queritur,—If, in that case in which
the king is captivated, imprisoned, and not
sui iuris, and awed or overawed by bloody
papists, and so is forced to command a
barbarous and unjust war; and if, being
distracted physically or morally through
wicked counsel, he command that which no
father in his sober wits would command,
even against law and conscience,—that the
sons should yield obedience and subjection
to him in maintaining, with lives and goods,
a bloody religion and bloody papists: if in that case the king may not be resisted in his person, because the power lawful and the sinful person cannot be separated. We hold, that the king, using, contrary to the oath of God and his royal office, violence in killing, against law and conscience, his subjects, by bloody emissaries, may be resisted by defensive wars, at the commandment of the estates of the kingdom.

But before I produce arguments to prove the lawfulness of resistance, a little of the case of resistance. 1. Dr Ferne (part 3, sect. 5, p. 39) granteth resistance by force to the king to be lawful, when the assault is sudden, without colour of a law or reason, and inevitable. But if Nero burn Rome, he hath a colour of law and reason; yea, though all Rome, and his mother, in whose womb he lay, were one neck. A man who will with reason go mad, hath colour of reason, and so of law, to invade and kill the innocent. 2. Arminesus saith, (c. 2, n. 10,) "If the magistrate proceed extra-judicialiter, without order of law by violence, the laws giveth every private man power to resist, if the danger be irrecoverable; yea, though it be recoverable." (L. prohibitum, C. de jur. jusc. l. que madmodum, sect. 39, magistratus ad l. aquil. l. nec. magistratibus, 32, de injur.) Because, while the magistrate doth against his office, he is not a magistrate; for law and right, not injury, should come from the magistrate. (L. membrinit. 6, C. unde vi.) Yea, if the magistrate proceed judicially, and the loss be irrecoverable, jurists say that a private man hath the same law to resist. (Marantius. dis. 1, n. 35.) And in a recoverable loss they say, every man is holden to resist, si evidenter constet de iniuritate, if the iniquity be known to all. (D. D. Jason. n. 19, des. n. 26, ad l. ut vim de just. et jur.)

3. I would think it not fit easily to resist the king's unjust exectors of custom or tribute. (1.) Because Christ paid tribute to Tiberius Caesar, an unjust usurper, though he was free from that, by God's law, lest he should offend. (2.) Because we have a greater dominion over goods than over our lives and bodies; and it is better to yield in a matter of goods than to come to arms, for of sinless evil we may choose the least. 4. A tyrant, without a title, may be resisted by any private man. Quia licet vim et repellere, because we may repel violence by violence; yea, he may be killed. Ut l. et vim. F. de instit. et jure, uti plene per omnes. Vasquez, l. 1, c. 3, n. 33; Barclaius, contra Monarch. l. 4, c. 10, p. 268.

For the lawfulness of resistance in the matter of the king's unjust invasion of life and religion, we offer these arguments.

Arg. 1.—That power which is obliged to command and rule justly and religiously for the good of the subjects, and is only set over the people on these conditions, and not absolutely, cannot tie the people to subjection without resistance, when the power is abused to the destruction of laws, religion, and the subjects. But all power of the law is thus obliged, (Rom. xiii. 4; Deut. xvii. 18—20; 2 Chron. xix. 6; Ps. cxxxii. 11, 12; lxxxix. 30, 31; 2 Sam. vii. 12; Jer. xvii. 24, 25,) and hath, and may be, abused by kings, to the destruction of laws, religion, and subjects. The proposition is clear. 1. For the powers that tie us to subjection only are of God. 2. Because to resist them, is to resist the ordinance of God. 3. Because they are not a terror to good works, but to evil. 4. Because they are God's ministers for our good, but abused powers are not of God, but of men, or not ordinances of God; they are a terror to good works, not to evil; they are not God's ministers for our good.

Arg. 2.—That power which is contrary to law, and is evil and tyrannical, can tie none to subjection, but is a mere tyrannical power and unlawful; and if it tie not to subjection, it may lawfully be resisted. But the power of the king, abused to the destruction of laws, religion, and subjects, is a power contrary to law, evil, and tyrannical, and yet no man to subjection; wickedness by no imaginable reason can oblige any man. Obligation to suffer of wicked men falleth under no commandment of God, except in our Saviour. A passion, as such, is not formally commanded, I mean a physical passion, such as to be killed. God hath not said to me in any moral law, Be thou killed, tortured, beheaded; but only, Be thou patient, if God deliver thee to wicked men's hands, to suffer these things.

Arg. 3.—There is not a stricter obligation moral betwixt king and people than betwixt parents and children, master and servant, patron and clients, husband and wife, the lord and the vassal, between the pilot of a ship and the passengers, the physician and the sick, the doctor and the scholars, but the law granteth, (l. Minime 35, de Relig. et sumpt. funer.,) if these betray their trust
committed to them, they may be resisted: if the father turn distracted, and arise to kill his sons, his sons may violently apprehend him, and bind his hands, and spoil him of his weapons; for in that he is not a father.

Vasquez, (Lib. 1, Illust. quest. c. 8, n. 18.)—Si dominus subditum enormiter et atrociter oneraret, princeps superior vas-saltum posset ex toto estimare a sua juris-dictione, et etiam faciente subdito et nihil petente. Quid papa in suis decis. parliam. grat. decis. 62. Si quis Baro. abutente dominio privari possunt. The servant may resist the master if he attempts unjustly to kill him, so may the wife do to the husband; if the pilot should wilfully run the ship on a rock to destroy himself and his passengers, they might violently thrust him from the helm. Every tyrant is a furious man, and is morally distracted, as Althusius saith, Polit. c. 28, n. 30, and seq.

Arg. 4.—That which is given as a blessing, and a favour, and a screen, between the people’s liberty and their bondage, cannot be given of God as a bondage and slavery to the people. But the power of a king is given as a blessing and favour of God to defend the poor and needy, to preserve both tables of the law, and to keep the people in their liberties from oppressing and treading one upon another. But so it is, that if such a power be given of God to a king, by which, actu primo, he is invested of God to do acts of tyranny, and so to do them, that to resist him in the most innocent way, which is self-defence, must be a resisting of God, and rebellion against the king, his deputy; then hath God given a royal power as uncontrollable by mortal men, by any violence, as if God himself were immediately and personally resisted, when the king is resisted, and so this power shall be a power to waste and destroy irresistibly, and so in itself a plague and a curse; for it cannot be ordained both according to the intention and genuine formal effect and intrinsic operation of the power, to preserve the tables of the law, religion and liberty, subjects and laws, and also to destroy the same. But it is taught by royalists that this power is for tyranny, as well as for peaceable government; because to resist this royal power put forth in acts either ways, either in acts of tyranny or just government, is to resist the ordinance of God, as royalists say, from Rom. xiii. 1—3. And we know, to resist God’s or-
mortal man. Yea, no thanks (God avert blasphemy!) to God's ordinary providence, which (if royalists may be believed) puteth no bar upon the unlimited power of a man inclined to sin, and abuse his power to so much cruelty. Some may say, the same absurdity doth follow if the king should turn papist, and the parliament all were papists. In that case there might be so many martyrs for the truth put to death, and God should put no bar of providence upon this power, then more than now; and yet, in that case, the king and parliament should be judges given of God, actu primo, and by virtue of their office obliged to preserve the people in peace and godliness. But I answer, If God gave a lawful official power to king and parliament to work the same cruelty upon millions of martyrs, and it should be unlawful for them by arms to defend themselves, I should then think that king and parliament were both ex officio, by virtue of their office, and actu primo, judges and fathers, and also by that same office, murderers and butchers,— which were a grievous aspersion to the unspotted providence of God.

Arg. 6.—If the estates of a kingdom give the power to a king, it is its own power in the fountain; and if they give it for their own good, they have power to judge when it is used against themselves, and for their evil, and so power to limit and resist the power that they gave. Now, that they may take away this power, is clear in Athaliah's case. It is true she was a tyrant without a title, and had not the right of heaven to the crown, yet she had, in men's court, a title. For supposing all the royal seed to be killed, and the people consent, we cannot say that, for these six years or thereabouts, she was no magistrate: that there were none on the throne of David at this time: that she was not to be obeyed as God's deputy. But grant that she was no magistrate; yet when Jehoash is brought forth to be crowned, it was a controversy to the states to whom the crown should belong. 1. Athaliah was in possession. 2. Jehoash himself being but seven years old, could not be judge. 3. It might be doubted if Joash was the true son of Ahaziah, and if he was not killed with the rest of the blood royal.

Two great adversaries say with us; Hugo Grotius (de jur. belli et pace, l. 1, c. 4, n. 7,) saith he dare not condemn this, if the lesser part of the people, and every one of them indifferently, should defend themselves against a tyrant, ultimo necessitatis pressudio. The case of Scotland, when we were blocked up by sea and land with armies: the case of England, when the king, induced by prelates, first attempted to bring an army to cut off the parliament, and then gathered an army, and fortified York, and invaded Hull, to make the militia his own, sure is considerable. Barclay saith, the people hath jus su vendi adversus inmanem sevientem, (advers. Monarch. l. 3, c. 6,) a power to defend themselves against prodigious cruelty. The case of England and Ireland, now invaded by the bloody rebels of Ireland, is also worthy of consideration. I could cite hosts more.

QUESTION XXIX.


Before I can proceed to other Scripture proofs for the lawfulness of resistance, this distinction, rejected by royalists, must be cleared. This is an evident and sensible distinction:—The king in concreto, the man who is king, and the king in abstrato, the royal office of the king. The ground of this distinction we desire to be considered from Rom. xiii. We affirm with Buchanan, that Paul here speaketh of the office and duty of good magistrates, and that the text speaketh nothing of an absolute king, nothing of a tyrant; and the royalists distinguish where the law distinguisheth not, against the law, (l. pret. 10, gl. Bart. de pub. in Rem.) and therefore we move the question here, Whether or no to resist the illegal and tyrannical will of the man who is king, to resist the king and the ordinance of God; we say no. Nor do we deny the king, abusing his power in unjust acts, to remain king; and the minister of God, whose person for his royal office, and his royal office, are both to be honoured, revered, and obeyed. God forbid that we should do so as the sons of Belial, imputing to us the
doctrine of anabaptists, and the doctrine falsely imputed to Wicliffe,—that dominion is founded upon supernatural grace, and that a magistrate being in the state of mortal sin, cannot be a lawful magistrate,—we teach no such thing. The P. Prelate showeth us his sympathe with papists, and that he buildeth the monumets and sepulchres of the slain and murdered prophets, when he, refusing to open his mouth in the gates for the righteous, professeth he will not purge the witnesses of Christ, the Waldenses, and Wicliffe, and Huss, of these notes of disloyalty, but that these acts proceeding from this root of bitterness, the abused power of a king, should be acknowledged with obedience active or passive, in these unjust acts, we deny.

**Assert. 1.—It is evident from Rom. xiii. that all subjection and obedience to higher powers commanded there, is subjectjon to the power and office of the magistrate in abstracto, or, which is all one, to the person using the power lawfully, and that no subjection is due by that text, or any word of God, to the abused and tyrannical power of the king, which I evince from the text, and from other Scriptures.**

1. Because the text saith, "Let every soul be subject to the higher powers." But no powers commanding things unlawful, and killing the innocent people of God, can be higher powers, but in that lower powers. He that commandeth not what God commandeth, and punisheth and killeth where God, if personally and immediately present, would neither command nor punish, is not in these acts to be subjected unto, and obeyed as a superior power, though in habit he may remain a superior power; for all habitual, all actual superiority is a formal participation of the power of the Most High. Arnissus well saith, (c. 4, p. 96.) "That of Aristotle must be true, It is against nature, better and worthier men should be in subjection to unworthier and more wicked men;" but when magistrates command wickedness, and kill the innocent, the non-obeyers, in so far, are worthier than the commanders (whatever they be in habit and in office) actually, or in these wicked acts are unworthier and inferior, and the non-obeyers are in that worthier, as being zealous adherents to God's command and not to man's will. I desire not to be mistaken; if we speak of habitual excellency, godly and holy men, as the witnesses of Christ in things lawful, are to obey wicked and infidel kings and emperors, but in that these wicked kings have an excellency in respect of office above them; but when they command things unlawful, and kill the innocent, they do it not by virtue of any office, and so in that they are not higher powers, but lower and weak ones. Laertius doth explain Aristotle well, who defineth a tyrant by this, "That he commandeth his subjects by violence;" and Arnisseus condemneth Laertius for this, "Because one tyrannical action doth no more constitute a tyrant, than one unjust action doth constitute an unjust man." But he may condemn, as he doth indeed, (Ovavarrus pract. quest. c. 1, and Vasquez Illustr. quest. l. 1, c. 47, n. 1, 12,) for this is essential to a tyrant, to command and rule by violence. If a lawful prince do one or more acts of a tyrant, he is not a tyrant for that, yet his action in that is tyrannical, and he doth not that as a king, but in that act as a sinful man, having something of tyranny in him.

2. The powers (Rom. xiii. 1) that be, are ordained of God, as their author and efficient; but kings commanding unjust things, and killing the innocent, in these acts, are but men, and sinful men; and the power by which they do these acts, a sinful and an usurped power, and so far they are not powers ordained of God, according to his revealed will, which must rule us. Now the authority and official power, in abstracto, is ordained of God, as the text saith, and other Scriptures do evidence. And this politicians do clear, while they distinguish betwixt jus personae, and jus corone, the power of the person, and the power of the crown and royal office. They must then be two different things.

3. He that resisteth the power, that is, the official power, and the king, as king, and commanding in the Lord, resisteth the ordinance of God, and God's lawful constitution. But he who resisteth the man, who is the king, commanding that which is against God, and killing the innocent, resisteth no ordinance of God, but an ordinance of sin and Satan; for a man commanding unjustly, and ruling tyrannically, hath, in that, no power from God.

4. They that resist the power and royal office of the king in things just and right, shall receive to themselves damnation, but they that resist, that is, refuse, for conscience, to obey the man who is the king,
and choose to obey God rather than man, as all the martyrs did, shall receive to themselves salvation. And the eighty valiant men, the priests, who used bodily violence against king Uzziah's person, "and thrust him out of the house of the Lord," from offering incense to the Lord, which belonged to the priest only, received not damnation to themselves, but salvation in doing God's will, and in resisting the king's wicked will.

5. The lawful ruler, as a ruler, and in respect of his office, is not to be resisted, because he is not a terror to good works, but to evil; and no man who doth good is to be afraid of the office or the power, but to expect praise and a reward of the same. But the man who is a king may command an idolatrous and superstitions worship—send an army of cut-throats against them, because they refuse that worship, and may reward papists, prelates, and other corrupt men, and may advance them to places of state and honour because they kneel to a tree altar,—pray to the east,—adore the letters and sound of the word Jesus—teach and write Arminianism, and may imprison, deprive, confine, cut the ears, and slit the noses, and burn the faces of those who speak and preach and write the truth of God; and may send armies of cut-throats, Irish rebels, and other papists and malignant atheists, to destroy and murder the judges of the land, and innocent defenders of the reformed religion, &c,—the man, I say, in these acts is a terror to good works,—an encouragement to evil; and those that do good are to be afraid of the king, and to expect no praise, but punishment and vexation from him; therefore, this reason in the text will prove that the man who is the king, in so far as he doth those things that are against his office, may be resisted; and that in these we are not to be subject, but only we are to be subject to his power and royal authority, in abstracto, in so far as, according to his office, he is not a terror to good works, but to evil.

6. The lawful ruler is the minister of God, or the servant of God, for good to the commonwealth; and to resist the servant in that wherein he is a servant, and using the power that he hath from his master, is to resist the Lord his master. But the man who is the king, commanding unjust things, and killing the innocent, in these acts is not the minister of God for the good of the commonwealth;—he serveth himself, and papists, and prelates, for the destruction of religion, laws, and commonwealth; therefore the man may be resisted, by this text, when the office and power cannot be resisted.

7. The ruler, as the ruler, and the nature and intrinsical end of the office is, that he bear God's sword as an avenger to execute wrath on him that doth evil,—and so cannot be resisted without sin. But the man who is the ruler, and commandeth things unlawful, and killeth the innocent, carrieth the papist's and prelate's sword to execute, not the righteous judgment of the Lord upon the ill-doer, but his own private revenge upon him that doth well; therefore, the man may be resisted, the office may not be resisted; and they must be two different things.

8. We must needs be subject to the royal office for conscience, by reason of the fifth commandment; but we must not needs be subject to the man who is king, if he command things unlawful; for Dr Ferne warranteth us to resist, if the ruler invade us suddenly, without colour of law or reason, and unavoidably; and Winzetus, Barclay, and Grotius, as before I cited, give us leave to resist a king turning a cruel tyrant; but Paul (Rom. xiii.) forbiddeth us to resist the power, in abstracto; therefore, it must be the man, in concreto, that we must resist.

9. Those we may not resist to whom we owe tribute, as a reward of the onerous work on which they, as ministers of God, do attend continually. But we owe not tribute to the king as a man,—for then should we be indebted tribute to all men,—but as a king, to whom the wages of tribute is due, as to a princely workman,—a king as a king;—therefore, the man and the king are different.

10. We owe fear and honour as due to be rendered to the man who is king, because he is a king, not because he is a man; for it is the highest fear and honour due to any mortal man, which is due to the king, as king.

11. The man and the inferior judge are different; and we cannot, by this text, resist the inferior judge, as a judge, but we resist the ordinance of God, as the text proveth. But cavaliers resist the inferior judges as men, and have killed divers members of both houses of parliament; but they will not say that they killed them as
judges, but as rebels. If, therefore, to be a rebel, as a wicked man, and to be a judge, are differentiated thus, then, to be a man, and commit some acts of tyranny, and to be the supreme judge and king, are two different things.

12. The congregation, in a letter to the nobility, (Knox, Hist. of Scotland, l. 2.) say, “There is great difference between the authority, which is God’s ordinance, and the persons of those who are placed in authority. The authority and God’s ordinance can never do wrong, for it commandeth that vice and wicked men be punished, and virtue, with virtuous men and just, be maintained; but the corrupt person placed in this authority may offend, and most commonly do contrary to this authority. And is then the corruption of man to be followed, by reason that it is clothed with the name of authority?” And they give instance in Pharaoh and Saul, who were lawful kings and yet corrupt men. And certainly the man and the divine authority differ, as the subject and the accident,—as that which is under a law and can offend God, and that which is neither capable of law nor sin.

13. The king, as king, is a just creature, and by office a living and breathing law. His will, as he is king, is nothing but a just law; but the king, as a sinful man, is not a just creature, but one who can sin and play the tyrant; and his will, as a private sinful man, is a private will, and may be resisted. So the law saith, “The king, as king, can do no wrong,” but the king, as a man, may do a wrong. While as, then, the parliaments of both kingdoms resist the king’s private will, as a man, and fight against his illegal cut-throats, sent out by him to destroy his native subjects, they fight for him as a king, and obey his public legal will, which is his royal will, de jure; and while he is absent from his parliaments as a man, he is legally and in his law-power present, and so the parliaments are as legal as if he were personally present with them.

Let me answer royalists.—The P. Prelate saith it is Solomon’s word, “By me kings reign;”—kings, in concrete, with their sovereignty. He saith not, by me royalty or sovereignty reigneth. And elsewhere he saith that Barclay saith, “Paul, writing to the Romans, keepeth the usual Roman doctrine in this,—who express by powers, in abstracto, the persons authorised by power,—and it is the Scripture’s dialect: by him were created “thrones, dominions, principalities,” that is, angels; to say angels, in abstracto, were created, (2 Pet. ii. 10,) They “speak evil of dignities,” Jude viii., “despise dominion,” that is, they speak ill of Cæsars, Caligula, Nero. Our Levites rail against the Lord’s anointed,—the best of kings in the world. Nero, (Rom. xii. 4,) in concreteo, bereathed not the sword in vain. Arnissus saith it better than the Prelate, (he is a witless thief,) Rom. xiii. 4, “The royal power, in abstracto, doth not bear the sword, but the person; not the power, but the prince himself beareth the sword.” And the Prelate, poor man, following Dr Ferne, saith, “It is absurd to pursue the king’s person with a cannon bullet at Edgehill, and preserve his authority at London, or elsewhere.” So saith Ferne, (sect. 10, p. 64,) “The concrete powers here are purposed as objects of our obedience, which cannot be directed but upon power in some person; for it is said, al sive & quam. The powers that be are of God.” Now power cannot be sober existent but in some person; and, saith Ferne, “Can power in the abstract have praise? Or is tribute paid to the power in the abstract? Yea, the power is the reason why we yield obedience to the person,” &c.

The Prelate hath as much learning as to copy out of Ferne, Barclay, Arnissus, and others, these words and the like, but hath not wit to add the sinews of these authors’ reason; and with all this he can in his presence call it his own, and “provoke any to answer him if they dare;” whereas, while I answer this excommunicated pamphleteer, I answer these learned authors, from which he stealeth all he hath; and yet he must persuade the king he is the only man who can defend his Majesty’s cause, and “the importunity (forsooth) of friends extorted this piece,” as if it were a fault that this delphtic oracle (giving out railings and lies for responses) should be silent. 1 Not we only, but the Holy Ghost, in terminis, hath this distinction, Acts iv. 19; v. 29, “We ought to obey God rather than men.” Then rulers (for of rulers sitting in judgment is that speech uttered) commanding and tyrannising over the apostles, are men contradistinguished from God; and as they command and punish unjustly, they are but men, otherwise commanding for God, they are gods, and more than men. 2 From

1 Arnissus. de potest. princip. c. 2, 11, 17.
Theophylact also, or from Chrysostom on Rom. xiii. we have this,—The apostle speaketh not (say they) ἀντε ἡτοι ἡ κυριακὴ δύναμις, ἀλλὰ πρὸς τὸν τίτον τοῦ σιγάνου. 3. Sovereignty or royalty doth not properly reign or bear the sword, or receive praise, and this accident doth not bear a sword; nor do we think (or Paul speak, Rom. xiii.) of the abstracted due of power and royalty, subsisting out of its subject; nor dream we that the naked accident of royal authority is to be feared and honoured as the Lord's anointed; the person or man who is the king, and beareth the crown on his head, and holdeth the sceptre in his hand, is to be obeyed. Accidents are not persons; but they speak nonsense, and are like brute beasts who deny that all the kingly honour due to the king must be due to him as a king, and because of the royal dignity that God hath given to him, and not because he is a man; for a pursuivant's son is a man; and if a pursuivant's son would usurp the throne, and take the crown on his head, and the sceptre in his hand, and command that all souls be subject to such a superior power, because he is a man, the laws of Scotland would hang a man for a less fault, we know; and the P. Prelate was wont to edify women, and converted souls to Christ, with such a distinction as objectum quod and objectum quo, in the pulpits of Edin- burgh, and it hath good use here; we never took abstract royalty to be the king. The kings of Scotland of old were not second notions, and we exclude not the person of the king; yet we distinguish, with leave of the P. Prelate, betwixt the person in linea physica (we must take physica largely here) and in linea morali, obedience, fear, tribute, honour is due to the person of the king, and to the man who is king, not because of his person, or because he is a man, (the P. Prelate may know in what notion we take the name person,) but because God, by the people's election, hath exalted him to royal dignity; and for this cause ill-doers are to subject their throats and necks to the sword of the Lord's anointed's executioner or hangman, with patience, and willingly; because, in taking away the head of ill-doers, for ill-doing, he is acting the office of the Lord, by whom he reigneth; but if he take away their heads, and send out the long-tusked vultures and boars of Babylon, the Irish rebels, to execute his wrath, as he is in that act a misinformed man, and wanteth the authority of God's law and man's law, he may be resisted with arms. For, 1. If royalists say against this, then, if a king turn an habitual tyrant, and induce an hundred thousand Turks to destroy his subjects upon mere desire of revenge, they are not to resist, but to be subject, and suffer for conscience. I am sure Grotius saith, "If a king sell his subjects, he losest all title to the crown, and so may be resisted;" and Winzetus saith, "A tyrant may be resisted;" and Barclay, "It is lawful for the people, in case of tyranny, to defend themselves, adversus immanem saevitiam, against extreme cruelty." And I desire the Prelate to answer how people are subject in suffering such cruelty of the higher power, because he is God's ordinance, and a power from God, except he say, as he selleth his people, and barbarously destroyeth by the cut-throat Irishmen, his whole subjects refusing to worship idols, he is a man and a sinful man, eatenus, and an inferior power inspired by wicked counsel, not a king, eatenus, not a higher power; and that in resisting him thus, the subjects resist not the ordinance of God. Also suppose king David defend his kingdom and people against Jesse, his natural father, who we suppose cometh in against his son and prince, king David, with a huge army of the Philistines to destroy him and his kingdom, if he shall kill his own native father in that war, at some Edgehill, how shall he preserve at Jerusalem that honour and love that he oweth to his father, by virtue of the fifth commandment, "Honor thy father and thy mother," &c.; let them answer this; except king David consider Jesse in one relation, in abstracto, as his father, whom he is to obey, and as he is a wicked man, and a perfidious subject, in another relation; and except king David say, he is to subject himself to his father, as a father, according to the fifth commandment, and that in the act of his father's violent invasion, he is not to subject himself to him, as he is a violent invader, and as a man. Let the royalist see how he can answer the argument, and how Levi is not to know his father and mother, as they are sinful men, (Deut. xxxiii. 9,) and yet to know and honour them as parents; and how an Is-

1 Grot. de jur. et pacis, l. 1, c. 4, n. 7.
2 Winzetus Velittat. advers. Buchanan.
reel is not to pity the wife that lieth in his bosom, when she enticeth him "to go a whoring after strange gods," but is to kill her, (Deut. xiii. 6—9,) and yet the husband is to "love the wife, as Christ loved his church," Eph. v. 25. If the husband take away his wife's life in some mountain in the Holy Land, as God's law commandeth, let the royalists answer us, where is then the marital love he owes to her, and that respect due to her as she is a wife and a helper? 2. But let not the royalist infer that I am from these examples pleading for the killing of kings; for lawful resistance is one thing, and killing of kings is another,—the one defensive and lawful, the other offensive and unlawful, so long as he remaineth a king, and the Lord's anointed; but if he be a murderer of his father, who doth counsel his father to come to a place of danger where he may be killed, and where the king ought not to be; as Abner was worthy of death, who watched not carefully king Saul, but slept when David came to his bedside, and had opportunity to kill the king; they are traitors and murderers of the king, who either counselled his Majesty to come to Edgehill, where the danger was so great, or did not violently restrain him from coming thither, seeing kings' safety and lives are as much, yea, more, in the disposing of the people than in their own private will (2 Sam. xviii. 2, 3); for certainly the people might have violently restrained king Saul from killing himself; and the king is guilty of his own death, and sineth against his office and subjects, who cometh out in person to any such battles where he may be killed, and the contrary party free of his blood. And here our Prelate is blind, if he see not the clear difference between the king's person and his office as king, and between his private will and his public and royal will. 3. The angels may be named thrones and dominions in abstracto, and yet created in concreto, and we may say the angel and his power are both created at once; but David was not both born the son of Jesse and a king at once; and the Prelate by this may prove it is not lawful to resist the devil, (for he is of the number of these created angels, Col. i.,) as he is a devil; because in resisting the devil as a devil, we must resist an angel of God and a principality. 4. To speak evil of dignities, (2 Pet. ii.; Jude vii.) Fischatu insinuateth, is, to speak evil of the very office of rulers, as well as of their manners; and Theodat saith, on 2 Pet. ii., that "these railers speak evil of the place of governors and masters, as unbecoming believers." All our interpreters, as Beza, Calvin, Luther, Bucer, Mazarus, from the place, saith it is a special reproof of anabaptists and libertines, who in that time maintained that we are all free men in Christ, and that there should not be kings, masters, nor any magistrates. However the abstract is put for the concreto, it is true, and it saith we are not to rail upon Nero; but to say Nero was a persecutor of Christians, and yet obey him commanding what is just, are very consistent. 5. "The persons are proposed (Rom. xiii.) to be the object of our obedience," saith Dr. Ferne. This is very true: but he is ignorant of our mind in expounding the word person. We never meant that fear, tribute, and submission, must be the abstracted accident of kingly authority, and not to the man who is king; nor is it our meaning that royalty, in abstracto, is crowned king, and is anointed, but that the person is crowned and anointed. But, again, by a person, we mean nothing less than the man Nero wasting Rome, burning, crucifying Paul, and torturing Christians; and that we owe subjection to Nero, and to his person in concreto, as to God's ordinance, God's minister, God's sword-bearer, in that sense of a person, that is only that we deny. Nay, in that Nero, in concreto, to us is no power ordained of God, no minister of God, but a minister of the devil, and Satan's armour-bearer, and therefore we owe not fear, honour, subjection, or tribute to the person of Nero. But the person thus far is the object of our obedience, that fear, honour, subjection and tribute must be due to the man in concreto, to his person who is prince, but not because he is a man, or a person simply, or a sword-bearer of papists, but for his office,—for that eminent place of royal dignity that God hath conferred on his person. We know the light of the sun, the heat of fire, in abstracto, do not properly give light and heat, but the sun and fire in concreto; yet the principium quo, ratio quo, the principles of these operations in sun and fire be light and heat; and we ascribe illuminating of dark bodies, heating of cold bodies, to sun and fire in concreto, yet not to the subjects simply, but to them as affected with such accidents; so here we honour and submit to
the man who is king, not because he is a man, that were treason; not because he useth his sword against the church, that were impiety; but because of his royal dignity, and because he useth it for the Lord. It is true, Arminius, Barclay, and Ferne, say, "That kings leave not off to be kings when they use their power and sword against the church and religion. And also it is considerable, that when the worst of emperors, bloody Nero, did reign, the apostle preseth the duty of subjection to him, as to a power appointed of God, and condemneth the resisting of Nero, as the resisting of an ordinance of God. And certainly, if the cause and reason, in point of duty moral, and of conscience before God remain in kings, to wit, that while they are enemies and persecutors, as Nero was, their royal dignity, given them of God remaineth, then subjection upon that ground is lawful, and resistance unlawful."—Ans. It is true, so long as kings remain kings, subjection is due to them because kings; but that is not the question. The question is, if subjection be due to them, when they use their power unlawfully and tyrannically. Whatever David did, though he was a king, he did it not as king; he defflowered not Bathsheba as king, and Bathsheba might with bodily resistance and violence lawfully have resisted king David, though kingly power remained in him, while he should thus attempt to commit adultery; else David might have said to Bathsheba, "Because I am the Lord's anointed, it is rebellion in thee, a subject, to oppose any bodily violence to my act of forcing of thee; it is unlawful to thee to cry for help, for if any shall offer violently to rescue thee from me, he resisteth the ordinance of God." Subjection is due to Nero as an emperor, but not any subjection is due to him in the burning of Rome, and torturing of Christians, except you say that Nero's power abused in these acts of cruelty was, 1. A power from God. 2. An ordinance of God. 3. That in these he was the minister of God for the good of the commonwealth. Because some believed Christians were free from the yoke of magistracy, and that the dignity itself was unlawful; and because (c. 12) he had set down the lawful church rulers, and in this and the following chapter, the duties of brotherly love of one toward another; so here (c. 13) he teacheth that all magistrates, suppose heathen, are to be obeyed and submitted unto in all things, so far as they are ministers of God. Arminius objecteth to Buchanan, "If we be by this place to subject ourselves to every power, in abstracto, then also to a power contrary to the truth, and to a power of a king exceeding the limits of a king; for such a power is a power, and we are not to distinguish where the law distinguisheth not."

Ans. 1.—The law clearly distinguisheth we are to obey parents in the Lord, and if Nero command idolatry, this is an excessive power. Are we obliged to obey, because the law distinguisheth not? 2. The text saith we are to obey every power from God that is God's ordinance, by which the man is a minister of God for good; but an unjust and excessive power is none of these three. 3. The text in words distinguisheth not obedience active in things wicked and lawful, yet we are to distinguish.

Symmons.—Is authority subjected solely in the king's law, and no whit in his person, though put upon him both by God and man? Or, is authority only the subject, and the person exercising the authority, a bare accident to that, being in it only more separately, as pride and folly are in a man. Then, if one in authority command out of his own will, and not by law,—if I neither actively nor passively obey, I do not so much as resist abused authority; and then must the prince, by his disorderly will, have quite lost his authority and become like another man; and yet his authority has not fled from him.

Ans. 1.—If we speak accurately, neither the man solely, nor his power only, is resisted; but the man clothed with lawful habitual power, is resisted in such and such acts flowing from an abused power. 2. It is an ignorant speech to ask, Is authority subjected solely in the king's law, and no whit in his person, for the authority hath all its power by law, not from the man's person? The authority hath nothing from the person but a naked inheritance in the person, as in the subject; and the person is to be honoured for the authority, not the authority for the person. 3. Authority is not so separable from the person, as that for every act of lawless will the king loseth his royal authority and ceaseth to be king. No, but every act of a king, in so far, can claim subjection of the inferior, as the act of commanding and ruling hath law for it; and in so far as it is lawless, the person in
that act repugnant to law loseth all due claim of actual subjection in that act, and in that act power actual is lost, as is clear. Acts iv. 19; v. 29. The apostles say to rulers, It is safer to obey God than man. What! Were not these rulers lawful magistrates armed with power from God? I answer, habitually they were rulers and more than men, and to obey them in things lawful is to obey God. But, actually, in these unlawful commandments, especially being commanded to speak no more in the name of Jesus, the apostles do acknowledge them to be no more but men; and so their actual authority is as separable from the person, as pride and folly from men.

Symmons.—The distinction holdeth good of inferior magistrates, that they may be considered as magistrates and as men, because their authority is only sacred, and addeth veneration to their persons, and is separable from the person. The man may live when his authority is extinguished, but it holdeth not in kings. King Saul’s person is venerable as his authority, and his authority cometh by inheritance, and dieth, and liveth, inseparably with his person; and authority and person add honour, each one to another.

Ans. 1.—If this be true, Manasseh, a king, did not shed innocent blood and use sorcery. He did not these great wickednesses as a man, but as a king. Solomon played the apostate as a king, not as a man, if so, the man must make the king more invariable than the Pope; for the Pope, as a man, can err;—as a pope he cannot err, say papists. But prophets, in their persons, were anointed of God as Saul and David were, then must we say, Nathan and Samuel erred not as men, because their persons were sacred and anointed, and sure they erred not as prophets, therefore they erred not all. A king, as a king, is an holy ordinance of God, and so cannot do injustice, therefore they must do acts of justice as men. 1. The inferior judge is a power from God. 2. To resist him is to resist an ordinance of God. 3. He is not a terror to good works, but to evil. 4. He is a minister of God for good. 5. He is God’s sword-bearer. His official power to rule may by as good right come by birth as the crown; and the king’s person is sacred only for his office, and is anointed only for his office. For then the Chaldeans dishonoured not inferior judges (Lam. v. 12,) when they

“hanged the prince, and honoured not the faces of elders.” It is in question, if the king’s actual authority be not as separable from him, as the actual authority of the judge.

Symmons (p. 24).—The king himself may use this distinction. As a Christian he may forgive any that offendeth against his person, but as a judge, he must punish, in regard of his office.

Ans.—Well, then, flatterers will grant the distinction, when the king doth good and pardoneth the blood of protesters, shed by bloody rebels; but when the king doth acts of injustice, he is neither man nor king, but some independent absolute god.

Symmons (p. 27).—God’s word tysth me to every one of his personal commandments, as well as his legal commandments. Nor do I obey the king’s law, because it is established, or because of its known penalty, nor yet the king himself, because he ruleth according to law, but I obey the king’s law, because I obey the king; and I obey the king, because I obey God; I obey the king and his law, because I obey God and his law. Better obey the command for a reverent regard to the prince than for a penalty.

Ans.—It is hard to answer a sick man. It is blasphemy to seek this distinction of person and office in the King of kings, because by person in a mortal king, we understand a man that can sin. 1. I am not obliged to obey his personal commandment, except I were his domestic; nor his unlawful personal commandments, because they are sinful. 2. It is false that you obey the king’s law, because you obey the king; for then you say but this, I obey the king because I obey the king. The truth is, obedience is not formally terminated on the person of the king. Obedience is relative to a precept, and it is men-service to obey a law, not because it is good and just, but upon this formal motive, because it is the will of a mortal man to command it. And reverence, love, fear, being acts of the affection, are not terminated on a law, but properly on the person of the judge; and they are modifications, or laudable qualifications of acts of obedience, not motives, not the formal reason why I obey, but the manner how I obey. And the apostle maketh expressly (Rom. xiii. 4) fear of punishment a motive of obedience, while he saith, “He beareth not the sword in vain,” therefore be subject to
the king; and this hindereth not personal resistance to unjust commandments.

Symmons (p. 27—29).—"You say, 'To obey the prince's personal commandment against his legal will, is to obey himself against himself.' So say I, 'To obey his legal will against his personal will, is to obey himself against himself, for I take his person to be himself.'"

Ans.—1. To obey the king's personal will, when it is sinful, (as we now suppose,) against his legal will, is a sin, and a disobedience to God and the king also, seeing the law is the king's will as king; but to obey his legal will, against his sinful personal will, (as it must be sinful if contrary to a just law,) is obedience to the king as king, and so obedience to God. 2. You take the king's person to be himself, but you take quid pro quo; for his person here you must not take physically, for his suppost of soul and body, but morally: it is the king, as a sinful man doing his worst will against the law, which is his just and best will, and the rule of the subjects. And the king's personal will is so far just, and to regulate the subjects, in so far as it agreeeth with his legal will or his law, and this will can sin, and therefore may be crossed without breach of the fifth commandment; but his legal will cannot be crossed without disobedience both to God and the king.

Symmons (p. 28).—The king's personal will doth not always presuppose passion; and if it be attended with passion, yet we must bear it for conscience sake.—Ans. We are to obey the king's personal will, when the thing commanded is not sin; but his subjects, as subjects, have little to do with his personal will in that notion. It concerneth his domestic servant, and is the king's will as he is the master of servants, not as he is king in relation to subjects; but we speak of the king's personal will as repugnant to law, and contrary to the king's will as king, and so contrary to the fifth commandment; and this is attended often not only with passion, but also with prejudice; and we owe no subjection to prejudice and passions, or to actions commanded by these disordered powers, because they are not from God, nor his ordinances, but from men and the flesh, and we owe no subjection to the flesh.

Dr Ferne (sect. 9, p. 58).—The distinction of personal and legal will hath place in evil actions, but not in resistance, where we cannot sever the person and the dignity, or authority, because we cannot resist the power but we must resist the person who hath the power. Saul had lawfully the command of arms, but that power he used unjustly, against innocent David. I ask, When these emperors took away lives and goods at their pleasure, was that a power ordained of God? No, but an illegal will, a tyranny—but they might not resist; nay, but they cannot resist; for that power and sovereignty employed to compass these illegal commandments was ordained and settled in them. When Pilate condemned our Saviour, it was an illegal will, yet our Saviour acknowledged it in it, that Pilate's power was given him from above.

Ans.—1. Here we have the distinction denied by royalists, granted by Dr Ferne. But if, when the king commands us to do wickedness, we may resist that personal will, and when he commandeth us to suffer unjustly we cannot resist his will but we must resist also his royal person; what! is it not still the king, and his person sacred, as his power is sacred, when he commandeth the subjects to do unjustly, as when he commandeth them to suffer unjustly? It were fearful to say, when kings command any one act of idolatry, they are no longer kings. If, for conscience, I am to suffer unjustly, when Nero commandeth unjust punishment, because Nero commandeth so, remaineth God's minister, why, but when Nero commandeth me to worship a heathen god, I am upon the same ground to obey that unjust will in doing ill; for Nero, in commanding idolatry, remaineth the Lord's minister, his person is sacred in the one commandment of doing ill, as in inflicting ill of punishment. And do I not resist his person in the one as in the other? His power and his person are as inseparably conjoined by God in the one as in the other. 2. In bodily thrusting out of Uzziah from the temple, these fourscore valiant men did resist the king's person by bodily violence, as well as his power. 3. If the power of killing the martyrs in Nero was no power ordained of God, then the resisting of Nero, in his taking away the lives of the martyrs, was but the resisting of tyranny; and certainly, if that power in Nero was cæsarem a power ordained of God, and not to be resisted, as the place (Rom. xiii.) is alleged by royalists, then it must be a lawful power, and no tyranny; and if it cannot be re-
sisted, because it was a power ordained and settled in him, it is either settled by God, and so not tyranny, (except God be the author of tyranny,) or then settled by the devil, and so may well be resisted. But the text speaketh of no power but of that which is of God. 4. We are not to be subject to all powers in concreto, by the text; for we are not to be subject to powers lawful, yet commanding active obedience to things unlawful. Now subjection includeth active obedience of honour, love, fear, paying tribute, and therefore of need force, some powers must be excepted. 5. Pilate’s power is merely a power by divine permission, not a power ordained of God, as are the powers spoken of, Rom. xiii. Gregorius (mor. l. 3, c. 11) expressly saith,—“This was Satan’s power given to Pilate against Christ. Manibus Satanæ pro nostra redemptione se tradidit.” Lyra, “A principibus Romanorum et ulterius permittam a deo, qui est potestas, superior.” Calvin, Beza and Diodatus, saith the same; and that he cannot mean of legal power from God’s regulating will is evident. 1. Because Christ is answering Pilate, (John xix. 10,) “Knowest thou not that I have power to crucify thee?” This was an untruth. Pilate had a command to worship him, and believe in him; and whereas Ferne saith, (sect. 9, p. 59,) “Pilate had power to judge any accused before him;” it is true; but he being obliged to believe in Christ, he was obliged to believe in Christ’s innocency, and so neither to judge nor receive accusation against him; and the power he saith he had to crucify, was a law-power in Pilate’s meaning, but not in very deed any law power; because a law-power is from God’s regulating will in the fifth commandment, but no creature hath a lawful or a law-power to crucify Christ. 2. A law-power is for good, (Rom. xiii. 4,) a power to crucify Christ is for ill. 3. A law-power is a terror to ill works, and a praise to good: Pilate’s power to crucify Christ was the contrary. 4. A law-power is to execute wrath on ill-doing, a power to crucify Christ is no such. 5. A law-power conciliateth honour, fear, and veneration, to the person of the judge, a power to crucify Christ conciliateth no such thing, but a disgrace to Pilate. 6. The genuine acts of a lawful power are lawful acts; for such as is the fountain-power, such are the acts flowing therefrom. Good acts flow not from bad powers, neither hath God given a power to sin, except by way of permission.

QUESTION XXX.

WHETHER OR NO PASSIVE OBEDIENCE BE A MEAN TO WHICH WE ARE SUBJECTED IN CONSCIENCE, BY VIRTUE OF A DIVINE COMMANDMENT; AND WHAT A MEAN RESISTANCE IS. THAT FLYING IS RESISTANCE.

Much is built, to commend patient suffering of ill, and to condemn all resistance of superiors, by royalists, on the place, 1 Pet. ii. 18, where we are commanded, being servants, to suffer buffets not only for ill-doing of good masters, but also undeservedly; and when we do well, we are to suffer of those masters that are evil; and so much more are we patiently without resistance to suffer of kings. But it is clear, the place is nothing against resistance, as in these assertions I clear:—

Assert. 1.—Patient suffering of wicked men, and violent resisting are not incompatible, but they may well stand together; so this consequence is the basis of the argument, and it is just nothing; to wit, servants are to suffer unjustly wounds and buffeting of their wicked masters, and they are to bear it patiently; therefore, servants are in conscience obliged to non-resistance. Now, Scripture maketh this clear,—1. The church of God is to bear with all patience the indignation of the Lord, because she hath sinned, and to suffer of wicked enemies which were to be trodden as mire in the streets (Micah vii. 9—12); but withal, they were not obliged to non-resistance and not to fight against these enemies, yea, they were obliged to fight against them also. If these were Babylon, Judah might have resisted and fought if God had not given a special commandment of a positive law, that they should not fight; if these were the Assyrians and other enemies, or rather both, the people were to resist by fighting, and yet to endure patiently the indignation of the Lord. David did bear most patiently the wrong that his own son Absalom, and Ahithophel, and the people inflicted on him, in pursuing him to take his life and the kingdom from him, as is clear by his gracious expressions (2 Sam. xv. 25, 26; xvi. 10—12; Psal. iii. 1—3); yea, he prayeth
for a blessing on the people that conspired against him (Psal. iii. 8) ; yet did he lawfully resist Absalom and the conspirators, and sent out Joab and a huge army in open battle against them, (2 Sam. xviii. 1–4, &c.) and fought against them. And were not the people of God patient to endure the violence done to them in the wilderness by Og, king of Bashan; Sihon, king of Heshbon; by the Amorites, Moabites, &c.? I think God’s law tyeth all men, especially his people, to as patient a suffering in wars. (Deut. viii. 16.) God then trying and humbling his people, as the servant is to endure patiently, unjustly afflicted buffets (1 Pet. ii. 18); and yet God’s people at God’s command did resist these kings and people, and did fight and kill them, and possess their land, as the history is clear. See the like Josh. xi. 18, 19. 2. One act of grace and virtue is not contrary to another; resistance is in the children of God an innocent act of self-preservation, as is patient suffering, and therefore they may well subsist in one. And so saith Amasa by the Spirit of the Lord, 1 Chron. xii. 18, “Peace, peace be unto thee, and peace to thy helpers, for God helpeth thee.” Now, in that, David and all his helpers were resisters of king Saul. 3. The scope of the place (1 Pet. ii.) is not to forbid all violent resisting, as is clear he speaketh nothing of violent resisting either one way or other, but only he forbidst revengeful resisting of repaying one wrong with another, from the example of Christ, who, “when he was reviled, reviled not again; when he suffered, he threatened not;” therefore, the argument is a falacy, ab eo quod doctur ex e, ad illud quod dicitur ex eann. Though therefore the master should attempt to kill an innocent servant, and invade him with a weapon of death suddenly, without all reason or cause, or unavoidably, Dr Ferne, (p. 3, sect. 2, p. 10,) in that case, doth free a subject from guiltiness if he violently resist his prince; therefore, the servant who should violently resist his master in the aforesaid case should, and might patiently suffer and violently resist, notwithstanding anything that royalists can conclude on the contrary. 4. No prince hath a masterly or lordly dominion over his subjects, but only a free, ingenuous, paternal and tutorly oversight for the good of the people. (Rom. xii. 4.) The master, especially in the apostle Peter’s time, had a dominion over servants as over their proper goods.
Cesar in his own royal person—the high priest in person, came not out against Christ; yes, it is not lawful for the parliament to resist a Judas, who hath fled as a traitorous apostate from the truth and the temple of Christ. 4. It is not lawful for innocents to defend themselves by any violence against the invasion of superiors, in Dr Ferne’s three cases in which he alloweth resistance: (1.) When the invasion is sudden. (2.) Unavoidable. (3.) Without all colour of law and reason. In the two last cases, royalists defend the lawfulness of self-defence. 5. If the example be pressed,—Christ did not this and that, he resisted not with violence, to save his own life, therefore, we are to abstain from resistance and such and such means of self-preservation; then, because Christ appealed not from inferior judges to the emperor Cesar; who, no doubt, would have shown him more favour than the scribes and pharisees did, and because Christ conveyed not a humble supplication to his sovereign and father Cesar,—then because he proffered not a humble petition to prince Pilate for his life, he being an innocent man, and his cause just,—because he neither procured an orator to plead his own just cause, nor did he so plead for himself, and give in word and writ, all lawful and possible defences for his own safety, but answered many things with silence, to the admiration of the judge, (Mark xv. 3—5,) and was thrice pronounced by the judge to be innocent (Luke xxii. 23;) because, I say, Christ did not all these for his own life, therefore it is unlawful for Scotland and England to appeal to the king, to supplicate, to give in apologies, &c. I think royalists dare not say so. But if they say he would not resist, and yet might have done all these lawfully, because these be lawful means, and resistance with the sword unlawful,—because “He that taketh the sword, shall perish by the sword,”—let me answer then, 1. They leave the argument from Christ’s example, who was thus far subject to higher powers, that he would not resist, and plead from the unlawfulness of resistance; this is petitio principii. 2. He that taketh the sword without God’s warrant, which Peter had not, but the contrary, he was himself a Satan to Christ, who would but counsel him not to die; but there is no shadow of a word to prove that violent resisting is unlawful, when the king and his Irish cut-throats pursue us unjustly; only Christ saith, when God may deliver extraordinarily by his angels, except it be his absolute will that his Son should drink the cup of death, then to take the sword, when God hath declared his will on the contrary, is unlawful; and that is all; though I do not question but Christ’s asking for swords, and his arresting all his enemies to the ground (John xviii. 8) backward, is a justifying of self-defence. But hitherto it is clear, by Christ’s example, that he only was commanded to suffer. Now the second case in which suffering falleth under a commandment, is indirectly and comparatively, when it cometh to the election of the witness of Jesus, that it is referred to them, either to deny the truth of Christ and his name, or then to suffer death. The choice is apparently evident; and this choice that persecutors refer us unto, is to us a commandment of God, that we must choose suffering for Christ, and refuse sinning against Christ. But the suppression must stand, that this alternative is unavoidable, that is not in our power to decline either suffering for Christ, or denying of Christ before men; otherwise no man is to expect the reward of a witness of Jesus, who having a lawful possible means of eschewing suffering, doth yet cast himself into suffering needlessly. But I prove that suffering by men of this world falleth not formally and directly under any divine positive law; for the law of nature,—whatever Arminians in their declaration, or this Arminian excommunicate think with them, (for they teach that God gave a commandment to Adam, to abstain from such and such fruit, with pain and trouble to sinless nature,)—doth not command suffering, or anything contrary to nature, as nature is sinless: I prove it thus:—

1. Whatever falleth under a positive commandment of God, I may say here, under any commandment of God, is not a thing under the free will and power of others, from whom we are not descended necessarily by natural generation, but that men of the world kill me, even these from whom I am not descended by natural generation (which I speak to exclude Adam, who killed all his posterity) is not in my free will, either as if they had my common nature in that act, or as if I were accessory by counsel, consent, or approbation to that act, for this is under the free will and power of others, not under my own free will; therefore, that I suffer by others is not under my free will, and cannot
fall under a commandment of God; and certainly it is an irrational law (glorified be his name) that God should command Antipas either formally to suffer, or formally not to suffer death by these of the synagogue of Satan, (Rev. ii. 13,) because if they be pleased not to kill him, it is not in his free will to be killed by them; and if they shall have him in their power (except God extraordinarily deliver) it is not in his power, in an ordinary providence, not to be killed.

2. All these places of God’s word, that recommendeth suffering to the followers of Christ, do not command formally that we suffer; therefore, suffering falleth not formally under any commandment of God. I prove the antecedent, because if they be considered, they prove only that comparatively we are to choose rather to suffer than to deny Christ before men, (Mat. x. 28, 32; Rev. ii. 13; Mat. x. 37; xvi. 24; xix. 29,) or then they command not suffering according to the substance of the passion, but according to the manner that we suffer, willingly, cheerfully, and patiently. Hence Christ’s word to take up his cross, which is not a mere passion, but commendeth an act of the virtue of patience. Now no Christian virtue consisteth in a mere passion, but in landed habits, and good and gracious acts, and the text we are now on (1 Pet. ii. 18, 19) doth not recommend suffering from the example of Christ, but patient suffering; and to the word ἑαυτοῦ, not simply enjoined, but ἐκ τῆς φύσεως in all fear, (ver. 18,) and the words ἔρωτις and ἐρωτητη, to suffer with patience, as 2 Tim. iii. 11; 1 Cor. x. 13, and βραβίων: is to suffer patiently, 1 Cor. xiii. 7, love ἀγάπην χαῖρετ, suffereth all things; Heb. xii. 17, if you suffer correction; 1 Tim. v. 6, she continueth patiently in prayers; Heb. xii. 2, Christ endured the cross patiently (Rom. xv. 5; viii. 25; Luke viii. 16; xxi. 29). The derivations hence signify patience; so do all our interpreters, Beza, Calvin, Marloratus, and popish expositors, as Lorinus, Estius, Carthusian, Lyra, Hugo Cardinalis, expound it of patient suffering; and the text is clear, it is suffering like Christ, without rendering evil for evil, and reviling for reviling.

3. Suffering simply, according to substance of the passion, (I cannot say action,) is common to good and ill, and to the wicked, yes to the damned in hell, who suffer against their will, and that cannot be joined according to its substance as an act of formal obedi-ence and subjection to higher powers, kings, fathers, masters, by force of the fifth commandment, and of the place, Rom. xiii. 1, 2. Which, according to its substance, wicked men suffer, and the damned in hell also against their will.

4. Passive obedience to wicked emperors can but be enjoined (Rom. xiii.) but only in the manner, and upon supposition, that we must be subject to them, and must suffer against our wills all the ill of punishment that they can inflict; we must suffer patiently, and because it is God’s permissive will that they punish us unjustly; for it is not God’s ruling and approving will (called voluntas signi) that they should, against the law of God and man, kill us, and persecute us; and therefore neither Rom. xiii., nor 1 Pet. ii., nor any other place in God’s word, any common divine, natural, national or any municipal law, commandeth formally obedience passive, or subjection passive, or non-resistance under the notion of passive obedience; yes, to me, obedience passive (if we speak of obedience, properly called, as relative essentially to a law) is a chimera, a dream, and repugniantia in adjecto; and therefore I utterly deny that resistance passive, or subjection passive, doth formally fall under either commandment of God affirmative or negative; only the unlawful manner of resistance by way of revenge, or for defence of popery and false religion, and out of impatient toleration of monarchy or any tyranny, is forbidden in God’s word; and certainly all the words used Rom. xiii., as they fall under a formal commandment of God, are words of action, not of any chimerical passive obedience, as we are not to resist actively God’s ordinance, as his ordinance, (ver. 1, 2,) that is, to resist God actively. We are to do good works, not evil, if we would have the ruler no terror to us (ver. 3). We must not do ill if we would be free of vengeance’s sword (ver. 7); we are to pay tribute and to give fear and honour to the ruler, all which are evidently actions, not passive subjection; and if any passive subjection be commanded, it is not here, nor in the first commandment, commanded, but in the first commandment under the hand of patience and submission under God’s hand in sufferings, or in the third commandment under the hand of rather dying for Christ than denying his truth before men. Hence I argue here (Rom. xiii.; 1 Pet. ii.; Tit. iii.) is nothing else but an exposition of the fifth
commandment; but in the fifth commandment only active obedience is formally commanded, and the subordination of inferiors to superiors is ordained, and passive obedience is nowhere commanded, but only modus rei, the manner of suffering, and the occasion of the commandment, here it is thought that the Jews converted under this pretext, that they were God's people, believed that they should not be subject to the Romans. A certain Galilean made the Galileans believe that they should not pay tribute to strangers, and that they should call none lord, but the God of heaven; as Josephus saith, (Antiq. Judaic. l. 20, c. 2, and de bell. Judaic. i. 7, c. 29,) yea and Hieron. (Com. in Tit.,) saith, At this time the sect of the Galileans were on foot. It is like the Jews were thought to be Galileans, and that their liberty, purchased in Christ, could not consist with the order of master and servant, king and subject. And to remove this, Paul established magistracy, and commandeth obedience in the Lord; and he is more to prove the office of the magistrate to be of God than any other thing, and to show what is his due, than to establish absoluteness in Nero to be of God; yea, to me, every word in the text speaketh limitedness of princes, and crieth down absoluteness:—

(1) No power of God, (2) no ordinance of God, who is a terror to evil, but a praise to good works, (3) no minister of God for good, &c. can be a power to which we submit ourselves on earth, as next unto God, without controlment. That passive obedience falleth formally under no commandment of God, I prove thus: All obedience liable to a divine commandment, doth command morally the performer of obedience, as having a will conformed to God's moral law, and deformity betwixt the will of him who performeth not obedience, involveth the non-obedient in wrath and guiltiness. But non-passive subjection to the sword of the judge doth not morally command him that suffereth not punishment; for no man is formally a sinner against a moral law because he suffereth not the ill of punishment, nor is he morally good, or to be commanded, because he suffereth ill of punishment, but because he doth the ill of sin. And all evil of punishment unjustly inflicted hath God's voluntas beneplaciti, the instrumental and hidden decree of God, which ordeeth both good and ill, (Ephes. i. 11,) for its rule and cause, and hath not God's will or approba-

Assert. 3.—By the place, 1 Pet. ii., the servant unjustly buffeted is not to buffet his master again, but to bear patiently as Christ did, who, when he was reviled, did not revile again. Not because the place condemneth resistance for self-defence, but because buffeting again is formally re-offending—not defending: defending is properly a warding off a blow or stroke. If my neighbour come to kill me, and I can by no means save my life by flight, I may defend myself; and all divines say I may rather kill ere I be killed, because I am nearer, by the law of nature, and dearer to myself and my own life than to my brother;—but if I kill him, out of malice or hatred, the act of defending, by the unlawful manner of doing, becometh an act of offending and murder; whence the mind of the blood-shedder will vary the nature of the action from whence this corollary doth naturally issue, that the physical action of taking away the life maketh not murder nor homicide, and so the physical action of offending my neighbour is not murder. 1. Abraham may kill his son,—he for whom the cities of refuge were ordained, and did kill his brother, yet, not hating him, he was not, by God's law, judged a murderer; and, 2. It necessarily hence followeth, that an act which is physically an act of offending my brother, yea even to the taking away of his life, is often morally and legally an act of lawful self-defence; an offending of another, necessitated from the sole invention of self-defence, is no more but an act of innocent self-defence. If David, with his men, had killed any of Saul's men in a set battle, David and his men only intending self-defence, the war on David's part was mere defensive; for physical actions of killing, indifferent of themselves, yet imperated by a principle of natural self-defence, and clothed with this formal
end of self-defence, or according to the substance of the action, the act is of self-defence. If, therefore, one shall wound me deadly, and I know it is my death, after that, to kill the killer of myself, I being only a private man, must be no act of self-defence, but of homicide; because it cannot be impe- rated by a sinless dictate of a natural conscience, for this end of self-defence, after I know I am killed. Any mean not used for preventing death must be an act of revenge, not of self-defence, for it is physically unsuitable for the intended end of self-defence. And so, for a servant buffeted to buffet again, is of the same nature,—the second buffet not being a conducible mean to ward the first buffet, but a mean to procure heavier strokes, and, possibly, killing, it cannot be an act of self-defence; for an act of self-defence must be an act destined ex natura vet, only for defence; and if it be known to be an act of sole offending, without any known necessary relation of a mean to self-defence as the end, it cannot be properly an act of self-defence.

Assert. 4.—When the matter is lighter, as in paying tribute, or suffering a buffet of a rough master, though unjustly, we are not to use any act of re-offending. For, though I be not absolute lord of my own goods, and so may not at my sole pleasure give tribute and expend monies to the hurting of my children, where I am not, by God's law or man's law, obliged to pay tribute; and though I be not an absolute lord of my members, to expose face, and cheeks, and back, to stripes and whips at my own mere will, yet we have a comparative dominion given to us of God in matters of goods, and disposing of our members, (I think I may except the case of mutilation, which is a little death,) for buffets, because Christ, no doubt to teach us the like, would rather give of his goods, and pay tribute where it was not due, than that this scandal be in the way of Christ, that Christ was no loyal subject to lawful emperors and kings. And (1 Cor. ix.) Paul would rather not take stipend, though it was due to him, than hinder the course of the gospel. And the like is 1 Cor. vi., where the Corinthians were rather to suffer loss in their goods than to go to law before infidel judges, and by the like to prevent greater inconveniences, and mutilation, and death. The Christian servant had that dominion over his members, rather to suffer buffets than to ward off buffets with violent resis-

1 Populo quidem hoc casu restitendi ac tuendi se ab injuria potestas competit. sed tuendi se tantum, non autem principem invadendi, et restitendi injuriam il- late, non recedendi a debita reverentia—non vim prateritam ulciscendi jus habet.
these two; for to resist the cruelty of a king is but to hold off the injury by resistance. 2. If this Nero waste the commonwealth insufferably with his cruelty, and remain a lawful king, to be honoured as a king, who may resist him, according to the royalists’ way? But, from Rom. xiii., they resist the ordinance of God. Resisting is not a mere suffering, nor is it a moral resisting by alleging laws to be broken by him. We had never a question with royalists about such resisting. Nor is this resisting non-obedience to unjust commandments; that resisting was never yet in question by any except the papists, who in good earnest, by consequent, say, It is better to obey men than God. 3. It is then resisting by bodily violence. But if the king have such an absolute power given him by God, as royalists fancy, from Rom. xiii. 1, 2; 1 Sam. viii. 9—11, I know not how subjects have any power given them of God to resist the power from God, and God’s ordinance. And if this resisting extend not itself to defensive wars, how shall the people defend themselves from injuries, and the greatest injuries imaginably—from an army of cut-throats and idolators, in war coming to destroy religion, set up idolatry, and root out the name of God’s people, and lay waste the mountain of the Lord’s house? And if they may defend themselves by defensive wars, how can wars be without offending? 4. The law of nature teacheth to repel violence with violence, when one man is oppressed, no less than when the commonwealth is oppressed. Barclay should have given either Scripture or the law of nature for his warrant here. 5. Let us suppose a king can be perjured, how are the estates of the kingdom, who are his subjects, by Barclay’s way, not to challenge such a tyrant of his perjury? He did swear he should be meek and clement, and he is now become a furious lion. Shall the flock of God be committed to the keeping of a furious lion?

Dr Ferne (p. 3, sect. 2, p. 9,) addeth, “Personal defence is lawful against sudden and illegal invasion, such as Elisha practised, even if it were against the prince, to ward blows, and to hold the prince’s hand, but not to return blows; but general resistance by arms cannot be without many unjust violences, and doth immediately strike at the order, which is the life of the commonwealth.

Ans.—1. If it be natural to one man to defend himself against the personal invasion of a prince, then is it natural and warrantable to ten thousand, and to a whole kingdom; and what reason to defraud a kingdom of the benefit of self-defence more than one man? 2. Neither grace nor policy destroyeth nature; and how shall ten or twenty thousand be defended against cannons and muskets, that killeth afar off, except they keep towns against the king, (which Dr Ferne and others say had been treason in David, if he had kept Keilah against king Saul,) except they be armed to offend, with weapons of the like nature to kill rather than be killed, as the law of nature teacheth. 3. To hold the hands of the prince is no less resisting violence than to cut the skirt of his garment, which royalists think unlawful, and is an opposing of external force to the king’s person. 4. It is true, wars merely defensive cannot be but they must be offensive; but they are offensive by accident, and intended for mere defence, and they cannot be without wars sinfully offensive, nor can any wars be in rerum natura now, (I except the wars commanded by God, who only must have been sinful in the manner of doing,) but some innocent must be killed; but wars cannot for that be condemned. 5. Neither are offensive wars against those who are no powers and no ordinances of God, such as are cut-throat Irish, condemned prelates and papists now in arms, more destructive to the order established by God than acts of lawful war are, or the punishing of robbers. And by all this, protestants in Scotland and England should remain in their houses unarmed, while the papists and Irish come on them armed, and cut their throats, and spoil, and plunder at will.

Nor can we think that resistance to a king, in holding his hands, can be natural; if he be stronger, it is not a natural mean of self-preservation. Nature hath appointed innocent and offending violence, against unjust violence, as a means of self-preservation. Goliath’s sword is no natural means to hold Saul’s hands, for a sword hath no fingers; and if king Saul suddenly, without colour of law or reason, or inevitably, should make personal invasion on David to kill him, Dr Ferne saith he may resist; but resisting is essentially a re-action of violence. Show us Scripture or reason for violent holding a king’s hands in an unjust personal invasion, without any other re-action of offence. Walter Torrils killed king W. Rufus as he was
THE LAW AND THE PRINCE.

shooting at a deer; the Earl of Suffolk killed Henry VIII. at tilting; there is no treasonable intention here, and so no homicide. Defensive wars are offensive, ex eventu et effectu, not ex causa, or ex intendente.

But it may be asked, if no passive subjection at all be commanded as due to superiors. — Ans. None properly so called, that is, purely passive, only we are, for fear of the sword, to do our duty. We are to suffer ill of punishment of tyrants, ex hypothesi, that they inflict that ill on us some other way, and in some other notion than we are to suffer ill of equals; for we are to suffer of equals not for any paternal authority that they have over us, as certainly we are to suffer ill inflicted by superiors. I demand of royalists, If tyrants inflicting evil of punishment upon subjects unjustly be powers ordained of God: if to resist a power in tyrannical acts be to resist God. Since we are not to yield active obedience to all the commandments of superiors, whether they be good or ill, by virtue of this place, Rom. xiii. how is it that we may not deny passive subjection to all the acts of violence exercised, whether of injustice, whether in these acts of violence wherein the prince in actu exercito and formally, punisheth not in God's stead, or in these wherein he punisheth tyrannically, in no formal or actual subordination to God, we owe passive subjection? I desire an answer to these.

Assert. 5.—Flying from the tyranny of abused authority, is a plain resisting of rulers in their unlawful oppression and perverting of judgment.

All royalists grant it lawful, and ground it upon the law of nature, that those that are persecuted by tyrannous princes may flee, and it is evident from Christ's commandment, "If they persecute you in one city, flee to another," Matt. x. 23, and by Matt. xxiii. 34. Christ fled from the fury of the Jews till his hour was come; Elias, Uriah, (Jer. xxi. 20.) and Joseph and Mary fled; the martyrs did hide themselves in caves and dens of the earth (Heb. xi. 37, 38); Paul was let down through a window in a basket at Damascus. This certainly is resistance; for look, what legal power God hath given to a tyrannous ruler, remaining a power ordained of God, to summon legally, and set before his tribunal the servants of God, that he may kill them, and murder them unjustly, that same legal power he hath to murder them; for if it be a legal power to kill the innocent, and such a power as they are obliged in conscience to submit unto, they are obliged in conscience to submit to the legal power of citing; for it is one and the same power. 1. Now, if resistance to the one power be unlawful, resistance to the other must be unlawful also; and if the law of self-defence, or command of Christ, warrant me to disobey a tyrannous power commanding me to compear to receive the sentence of death, that same law far more shall warrant me to resist and deny passive subjection in submitting to the unjust sentence of death. 2. When a murderer, self-convicted, fleeth from the just power of a judge lawfully citing him, he resists the just power ordained of God (Rom. iii.); therefore, by the same reason, if we flee from a tyrannous power, we resist that tyrannous power, and so, by royalists' ground, we resist the ordinance of God by flying. Now, to be disobedient to a just power summoning a malefactor, is to hinder that lawful power to be put forth in lawful acts; for the judge cannot purge the land of blood if the murderer flees. 3. When the king of Israel senteth a captain and fifty lictors to fetch Elisha, these come instructed with legal power from the king; if I may lay fetters on their power by flight, upon the ground of self-preservation, the same warrant shall allow me to oppose harmless violence for my own safety. 4. Royalists hold it unlawful to keep a stronghold against the king, though the fort be not the king's house, and though that David should not have offended if he had kept Keilah against Saul: Dr Ferne and royalists say it had been unlawful resistance. What more resistance is made to royal power by walls interposed than by seas and miles of earth interposed? Both are physical resistance, and violent in their kind.

QUESTION XXXI.

WHETHER OR NO SELF-DEFENCE AGAINST ANY UNJUST VIOLENCE OFFERED TO THE LIFE, BE WARRANTED BY GOD'S LAW, AND THE LAW OF NATURE AND NATIONS.

Self-preservation in all creatures in which is nature, is in the creatures suitable to their nature. The bull defendeth itself by its horns, the eagle by her claws and bill, it will not follow that a lamb will defend itself.
against a wolf any other way than by flying.
So men, and Christian men, do naturally
defend themselves; but the manner of self-
defence in a rational creature is rational, and
not always merely natural; therefore, a po-
litic community, being a combination of many
natures, as neither grace, far less can policy,
destroy nature, then must these many natures
be allowed of God to use a natural self-de-
defence. If the king bring in an army of
foreigners, then a politic community must
defend itself in a rational way. Why?
Self-defence is natural to man, and natural
to a lamb, but not the same way. A lamb
or a dove naturally defend themselves against
beasts of another kind only by flight, not by
re-action and re-offending; but it followeth
not that a man defendeth himself from his
enemy only by flight. If a robber invade
me, to take away my life and my purse, I
may defend myself by re-action; for reason
and grace both may determine the way of
self-preservation. Hence royalists say,
a private man against his prince hath no way
to defend himself but by flight; therefore,
a community hath no other way to defend
themselves but by flight.
1. The antecedent is false. Dr Ferne
alloweth to a private man supplications, and
denying of subsidies and tribute to the
prince, when he employeth tribute to the
destruction of the commonwealth; which, by
the way, is a clear resistance, and an active
resistance made against the king (Rom. xiii.
6, 7) and against a commandment of God,
except royalists grant tyrannous powers may
be resisted. 2. The consequence is naught,
for a private man may defend himself
against unjust violence, but not any way he
pleaseth; the first way is by supplications
and apologies,—he may not presently use vio-
lence to the king's servants before he suppi-
cate, nor may he use re-offending, if flight
may save. David used all the three in order.
He made his defence by words, by the me-
diation of Jonathan; when that prevailed
not, he took himself to flight, as the next; but
because he knew flight was not safe every
way, and nature taught him self-preservation,
and reason and light of grace taught him
the means, and the religious order of
these means for self-preservation, there-
fore he addeth a third, "He took Goliath's
sword, and gathered six hundred armed
men," and after that made use of an host.
Now a sword and armour are not horing
and shipping for flight, but contrary to
flight; so re-offending is policy's last refuge.
A godly magistrate taketh not away the life
of a subject if other means can compass the
end of the law, and so he is compelled and
necessitated to take away the life; so the
private man, in his natural self-defence, is
not to use re-action, or violent re-offending,
in his self-defence against any man, far less
against the servants of a king, but in the
exigence of the last and most inexorable
necessity. And it is true that M. Symmons
smith, (sect. 11, p. 35,) "Self-defence is not
to be used where it cannot be without sin."
It is certain, necessity is but a hungry plea
for sin, (Luke xiv. 18,) but it is also true,
re-offending comparatively, that I kill rather
than I be killed, in the sinless court of
nature's spotless and harmless necessity, is law-
ful and necessary, except I be guilty of self-
murder, in the culpable omission of self-de-
defence. Now a private man may fly, and
and that is his second necessity, and violent
re-offending is the third mean of self-pres-
ervation; but, with leave, violent re-offend-
ing is necessary to a private man, when his
second mean, to wit, flight, is not possible,
and cannot attain the end, as in the case of
David: if flight do not prevail, Goliath's
sword and an host of armed men are lawful.
So, to a church and a community of prote-
tants, men, women, aged, sucking children,
sick, and diseased, who are pressed either
to be killed or forsake religion and Jesus
Christ, flight is not the second mean, nor a
mean at all, because not possible, and there-
fore not a natural mean of preservation;
for the aged, the sick, the sucking infants,
and sound religion in the posterity cannot
flee; flight here is physically, and by nature's
necessity, impossible, and therefore no lawful
mean. What is to nature physically impos-
sible is no lawful mean. If Christ have a
promise that the ends of the earth (Psalm ii.
8) and the isles shall be his possession, (Isa.
xlix. 1.) I see not how natural defence can
put us to flee, even all protestants and their
seed, and the weak and sick, whom we are
obliged to defend as ourselves, both by the
law of nature and grace. I read that seven
wicked nations and idolatrous were cast out
of their land to give place to the church of
God to dwell there, but show me a warrant
in nature's law and in God's word that three
kingdoms of protestants, their seed, aged,
sick, sucking children, should flee out of
England, Scotland, Ireland, and leave reli-
gion and the land to a king and to papists,
prelates, and bloody Irish, and atheists; and therefore to a church and community having God's right and man's law to the land, violent re-offending is their second mean (next to supplications and declarations, &c.) and flight is not required of them as of a private man; yea flight is not necessarily required of a private man, but where it is a possible mean of self-preservation; violent and unjust invasion of a private man, which is unavoidable, may be obviated with violent re-offending. Now the unjust invasion made on Scotland in 1640, for refusing the service-book, or rather the idolatry of the mass, therein intended, was unavoidable; it was impossible for the protestants, their old and sick, their women and sucking children to flee over sea, or to have shipping betwixt the king's bringing an army on them at Dunse Law, and the prelates' charging of the ministers to receive the mass book. Althusius saith well, (Polit. c. 38, n. 78.) Though private men may flee, yet the estates, if they flee, they do not do their duty, to commit a country, religion and all, to a lion. Let not any object, We may not devise a way to fulfill the prophecy, Psal. ii. 8, 9; Isa. xlix. 1; it is true, if the way be our own sinful way; nor let any object, a colony went to New England and fled the persecution. Answer, True, but if fleeing be the only mean after supplication, there was no more reason that one colony should go to New England than it is necessary, and by a divine law obligatory, that the whole protestants in the three kingdoms, according to royalists' doctrine, are to leave their native country and religion to one man, and to pish idolaters and atheists, willing to worship idols with them, and whither then shall the gospel be, which we are obliged to defend with our lives?

There is tutela vitæ proxima, et remota, a mere and immediate defence of our life, and a remote or mediate defence; when there is no actual invasion made by a man seeking our life, we are not to use violent re-offending. David might have killed Saul when he was sleeping, and when he cut off the lap of his garment, but it was unlawful for him to kill the Lord's anointed, because he is the Lord's anointed, as it is unlawful to kill a man, because he is the image of God, (Gen. ix. 6,) except in case of necessity. The magistrate in case of necessity may kill the malefactor, though his malefactor do not put him in that case, that he hath not now the image of God; now prudence and light of grace determineth, when we are to use violent re-offending for self-preservation, it is not left to our pleasure. In a remote posture of self-defence, we are not to use violent re-offending: David having Saul in his hand was in a remote posture of defence, the unjust invasion then was not actual, not unavoidable, not a necessity mean in human prudence for self-preservation, for king Saul was then in a habitual, not in an actual pursuit of the whole princes, elders, and judges of Israel, or of a whole community and church; Saul did but seek the life of one man, David, and that not for religion, or a national pretended offence, and therefore he could not in conscience put hands on the Lord's anointed; but if Saul had actually invaded David for his life, David might, in that case, make use of Goliath's sword, (for he took not that weapon with him as a cypher to boast Saul—it is no less unlawful to threaten a king than to put hands on him,) and rather kill or be killed by Saul's emissaries; because then he should have been in an immediate and nearest posture of actual self-defence. Now the case is far otherwise between the king and the two parliaments of England and Scotland, for the king is not sleeping in his emissaries, for he hath armies in two kingdoms, and now in three kingdoms, by sea and land, night and day, in actual pursuit, not of one David, but of the estates, and a Christian community in England and Scotland, and that for religions, laws, and liberties; for the question is now between papist and protestant, between arbitrary or tyrannical government, and law government, and therefore by both the laws of the politic societies of both kindoms, and by the law of God and nature, we are to use violent re-offending for self-preservation, and put to this necessity, when armies are in actual pursuit of all the protestant churches of the three kingdoms, to actual killing, rather than we be killed, and suffer laws and religion to be undone.

But, saith the royalist, David's argument, "God forbid that I stretch out my hand against the Lord's anointed, my master the king," concludest universally, that the king in his most tyrannous acts, still remaining the Lord's anointed, cannot be resisted. Ans.—1. David speaketh of stretching out his hand against the person of king Saul: no man in the three kingdoms did so much as
attempt to do violence to the king's person. But this argument is inconsequent, for a king invading, in his own royal person, the innocent subject, suddenly, without colour of law or reason, and unavoidably, may be personally resisted, and that with opposing a violence bodily, yet in that invasion he remaineth the Lord's anointed. 2. By this argument the life of a murderer cannot be taken away by a judge, for he remaineth one indued with God's image, and keepeth still the nature of a man under all the murders that he doth, but it followeth nowise, that because God hath endow'd his person with a sort of royalty, of a divine image, that his life cannot be taken; and certainly, if to be a man endued with God's image, (Gen. vi. 9, 10,) and to be an ill-doer worthy of evil punishment, are different, to be a king and an ill-doer may be distinguished.

1. The grounds of self-defence are these:—A woman or a young man may violently oppose a king, if he force the one to adultery and incest, and the other to sodomy, though court flatterers should say, the king, in regard of his absoluteness, is lord of life and death; yet no man ever said that the king is lord of chastity, faith, and oath that the wife hath made to her husband.

2. Particular nature yields to the good of universal nature, for which cause heavy bodies ascend, airy and light bodies descend. If, then, a wild bull or a going ox, may not be let loose in a great market-confluence of people, and if any man turn so distracted as he smite himself with stones and kill all that pass by him, or come at him, in that case the man is to be bound, and his hands fettered, and all whom he invadeth may resist him, were they his own sons, and may save their own lives with weapons, much more a king turning a Nero. King Saul, vexed with an evil spirit from the Lord, may be resisted; and far more if a king endued with use of reason, shall put violent hands on all his subjects, kill his son and heir; yea, and violently invaded, by nature's law, may defend themselves, and the violent restraining of such a one is but the hurting of one man, who cannot be virtually the commonwealth, but his destroying of the community of men sent out in wars, as his bloody emissaries, to the dissolution of the commonwealth.

3. The cutting off of a contagious mem-
bor, that by a gangrene, would corrupt the whole body, is well warranted by nature, be-
cause the safety of the whole is to be preferred to the safety of a part. Nor is it much that royalists say, The king being the head, destroy him, and the whole body of the commonwealth is dissolved; as cut off a man's head, and the life of the whole man is taken away. Because, 1. God cutteth off the spirits of tyrannous kings, and yet the commonwealth is not dissolved, no more than when a leopard or a wild boar, running through children, is killed, can be the destruction of all the children in the land. 2. A king indefinitely is referred to the commonwealth as an adequate head to a monarchical kingdom; and remove all kings and the politic body, as monarchical, in its frame, is not monarchical, but it leaveth not off to be a politic body, seeing it hath other judges; but the natural body without the head cannot live. 3. This or that tyrannous king, being a transient mortal thing, cannot be referred to the immortal commonwealth, as it is adequate correlate. They say, "the king never dieth," yet this king can die; an immortal politic body, such as the commonwealth, must have an immortal head, and that is a king as a king, not this or that man, possibly a tyrant, who is for the time (and eternal things abstract from time) only a king.

4. The reason of Fortunius Garcia's, a skilful lawyer in Spain, is considerable, (Comment. in l. ut vim vii f. de justit. et jure,) God hath implanted in every creature natural inclinations and motions to preserve itself, and we are to love ourselves for God, and have a love to preserve ourselves rather than our neighbour; and nature's law teacheth every man to love God best of all, and next ourselves more than our neighbour; for the law saith, "Thou shalt love thy neighbour as thyself." Then saith Malderius, (com. in 12, q. 28, tom. 2, c. 10, concl. 2,) "The love of ourselves is the measure of the love of our neighbour." But the rule and the measure is more perfect, simple, and more principal than the thing that is measured. It is true I am to love the salvation of the church, it cometh nearer to God's glory, more than my own salvation, as the wishes of Moses and Paul do prove; and I am to love the salvation of my brother more than my own temporal life; but I am to love my own temporal life more than the life of any other, and therefore, I am rather to kill than to be killed, the exigence of necessity so requiring.
ture without sin owneth this as a truth, in the case of loss of life, *Proximus sum ego met mihi,* (Ephes. v. 28, 29.) "He that loveth his wife, loveth himself; for no man ever yet hated his own flesh, but nourisheth it, and cherisheth it, even as the Lord the church." As then nature tyeth the dam to defend the young birds, and the lion her whelps, and the husband the wife, and that by a comparative re-offending, rather than the wife or children should be killed; yea, he that his wanting to his brother, (if a robber unjustly invade his brother,) and helpeth him not, is a murderer of his brother, so far God’s spiritual law requiring both conservation of it in our person, and preservation in others. The forced damsel was commanded to cry for help, and not the magistrate only, but the nearest private man or woman was to come, by an obligation of a divine law of the seventh commandment, to rescue the damsel with violence, even as a man is to save his enemy’s ox or his ass out of a pit. And if a private man may inflict bodily punishment of two degrees, to preserve the life and chastity of his neighbour, far rather than suffer his life and chastity to be taken away, then he may inflict violence of four degrees, even to killing, for his life, and much more for his own life. So when a robber, with deadly weapons, invadeth an innocent traveller to kill him for his goods, upon the supposition that if the robber be not killed, the innocent shall be killed. Now the question is, which of the two, by God’s moral law and revealed will, in point of conscience, ought to be killed by his fellow? For we speak not now of God’s eternal decree of permitting evil, according to the which murderers may crucify the innocent Lord of glory. By no moral law of God should the unjust robber kill the innocent traveller; therefore, in this exigeence of providence, the traveller should rather kill the robber. If any say, by God’s moral law not one should kill his fellow, and it is a sin against the moral law in either to kill the other, I answer,—If a third shall come in when the robber and the innocent are invading each other for his life, all acknowledge by the sixth commandment the third may cut off the robber’s arm to save the innocent; but by what law of God he may cut off his arm, he may take his life also to save the other; for it is murder to wound unjustly, and to dismember a man by private authority, as it is to take away his life; if, therefore, the third may take away the robber’s member, then also his life, so he do it without malice or appetite of revenge, and if he may do it out of this principle, "Thou shalt love thy neighbour as thyself;" because a man is obliged more to love his own flesh than his neighbour’s, (Ephes. v. 28,) and so more to defend himself than to defend his neighbour,—then may he oppose violence to the robber. As two men drowning in a water, the one is not obliged by God’s law to expose himself to drowning to save his neighbour; but by the contrary, he is obliged rather to save himself, though it were with the loss of his neighbour’s life. As in war, if soldiers in a strait passage be pursued on their life, nature teacheth them to flee; if one fall, his fellow in that exigence is not only not obliged to lift him up, but he and the rest flying, though they trample on him and kill him, they are not guilty of murder, seeing they hated him not before, (Deut. xix. 4, 6;) so Chemnit. (loc. com. de vindic. q. 3.) alloweth private defence. 1. When the violence is sudden. 2. And the violence manifestly inevitable. 3. When the magistrate is absent and cannot help. 4. When moderation is kept as lawyers require. 1. That it be done incontinent; if it be done after the injury, it is revenge, not defence. 2. Not of desire of revenge. 3. With proportion of armour. If the violent invader invade not with deadly weapons, you must not invade him with deadly weapons; and certainly the law (Exod. xxii.) of a man’s defending his house is clear. 1. If he come in the night, it is presumed he is a robber. 2. If he be taken with a weapon breaking the house, he cometh to kill, a man may defend himself, wife, and children. 3. But he is but to wound him, and if he die of the wound, the defender is free; so the defender is not to intend his death, but to save himself. 6. It were a mighty defect in providence to man, if dogs by nature may defend themselves against wolves, bulls against lions, doves against hawks, if man, in the absence of the lawful magistrate, should not defend himself against unjust violence; but one man might raise armies of papists, sick for blood, to destroy innocent men. They object, "When the king is present in his person, and his invaders, he is not absent, and so though you may rather kill a private man than suffer yourself to be killed, yet,
because prudence determineth the means of self-defence, you are to expose your life to hazard for justice of your king, and therefore not to do violence to the life of your king; nor can the body, in any self-defence, fight against the head, that must be the destruction of the whole."—Ans. 1. Though the king be present as an unjust invader in wars against his innocent subjects, he is absent as a king, and a father and defender, and present as an unjust conqueror, and therefore the innocent may defend themselves when the king neither can, nor will defend them. "Nature maketh a man, (saith the law, Gener. c. de decur. l. 10, l. si altius. sect. Bellissime ubique Glossa in vers. ea magis. not. per. illum. text. f. quod vi ait clam. l. ait prior. sect. si debitorem meum. f. de hisue in fraud. credito.,) even a private man, his own judge, magistrate, and defender, quando copiam judicia, qui sibi jus reddat, non habet, when he hath no judge to give him justice and law." The subjects are to give their lives for the king, as the king, because the safety of the king, as king, is the safety of the commonwealth. But the king, as offering unjust violence to his innocent subjects, is not king. Zoonnet. (part 3, defens. n. 44.,) Transgreedens notorie officium suum iudex, agit velit privatus alquis, non ut magistratus (f. de injur. est bonus in simili in. l. qui fundum. sect. si tutor. f. pro empiere). 3. If the politic body fight against this head in particular, not as head, but as an oppressor of the people, there is no fear of dissolution; if the body rise against all magistracy, as magistracy and laws, dissolution of all must follow. Parliament and inferior judges are heads (Num. i. 16; x. 4; Deut i. 16; Josh. xxii. 21; Mic. iii. 1, 9, 11; 1 Kings viii. 1; 1 Chron. v. 26; 2 Chron. v. 2,) no less than the king; and it is unlawful to offer violence to them, though I shall rather think a private man is to suffer the king to kill him rather than he kill the king, because he is to prefer the life of a private man to the life of a public man.

6. By the law of nature a ruler is appointed to defend the innocent. Now, by nature, an infant in the womb defendeth itself first, before the parents can defend it, then when parents and magistrates are not, (and violent invading magistrates are not in that magistracy,) nature hath commanded every man to self-defence.

7. The law of nature excepteth no violence, whether inflicted by a magistrate or any other. Unjust violence from a ruler is double injustice. 1. He doth unjustly as a man. 2. As a member of the commonwealth. 3. He committeth a special kind of sin of injustice against his office, but it is absurd to say we may lawfully defend ourselves from smaller injuries, by the law of nature, and not from the greater. "If the Pope, saith Fer. Vasquez (illust. quest. l. 1, c. 24, n. 24, 25) command to take away benefices from the just owner, those who are to execute his commandment are not to obey, but to write back that that mandate came not from his holiness, but from the avarice of his officers; but if the Pope still continue and press the same unjust mandate, the same should be written again to him: and though there be none above the Pope, yet there is natural self-defence patent for all." "Defensio vitce necessaria est, et a jure naturali profuit," (L. ut vim. f. de just. et juris 16,) "Nam quod quique ob tutelam corporis sui fecerit, jure fasciae videatur," (C. jus naturale, l. distinct. l. 1, f. de vi et vi armata, l. injuriarum, f. de in- juria : C. significationem. 2, de hom. l. scientiam, sect. qui non alter f. ad leg. Aquil.; C. si vero l. 1, de sent. excom. et l. sed etis f. ad leg. Aquil.) "Etiam sequatur hamicidium." Vasquez. (l. 1, c. 17, n. 5.4) "Etiam occidere licet ob defensionem rerum. Vim vi repellere omnia jura permittunt in C. significationem." Garcia Fortunius (Comment. in l. ut vim. f. de insit. et jur. n. 3.) "Defendere se est juris naturae et gentium. A jure civili juxta additum moderam inculpatas tutela." Novell (defens. n. 101.) "Occidens prsecipem vel altum tyrannim exercerantem, a poena homicidii excussatur." Grotius (de jure belli et pactis, l. 2, c. 1, n. 3.) "Si corpus impetatur vi presentem, cum periculo vitae non ali ter vitabili, tunc bellum est licitum etiam cum interfectione periculum inerentis, ratio, natura quemque sibi concedat." Barclais (advers. Monar. l. 3, c. 8.) "Est jus uti libid se tenendi adversus immanem sevitationem."

But what ground (saith the royalist) is there to take arms against the king? Jealousies and suspicions are not enough.

Ans.—1. The king sent first an army to Scotland, and blocked us up by sea, before we took arms. 2. Papists were armed in England. They have professed themselves in
their religion of Trent to be so much the holier, that they root out protestants. 3. The king declared we had broken loyalty to him since the last parliament. 4. He declared both kingdoms rebels. 5. Attempted in his emissaries to destroy the parliament; 6. And to bring in a foreign enemy. And the law saith, "An imminent danger, which is a sufficient warrant to take up arms, is not stokes, but either the terror of arming or threatening." Glossator. (in d. l. 1, C)—"Unde vi. ait non esse verbora expectanda, sed vel tereorum armorum sufficere, vel minas, et hoc esse immensus periculum." L. sed et si quernunque in princ. ff. ad leg. Aquil. l. 3, quod qui armati ff. de vi et vi armata est qui aggressorem C. ad legem Cornel. In most heinous sins, conatus, the endeavour and aim, etiam effici operationis sequatur, puniendi debet, is punishable. Bartol. in l. "Si quis non dicam raperere."

The king hath aimed at the destruction of his subjects, through the power of wicked counsellors, and we are to consider not the intention of the workers, but the nature and intention of the work. Papists are in arms,—their religion, the conspiracy of Trent, their conscience, (if they have any,) their malice against the covenant of Scotland, which abjureth their religion to the full, their ceremonies, their prelates,—lead and necessitate them to root out the name of protestant religion, yea, and to stab a king who is a protestant. Nor is our king, remaining a protestant, and adhering to his oath made at the Coronation in both kingdoms, lord of his own person, master of himself, nor able, as king, to be a king over protestant subjects, if the papists, now in arms under his standard, shall prevail.

The king hath been compelled to go against his own oath, and the laws which he did swear to maintain; the Pope sendeth to his papish armies both dispensations, bulls, mandates, and encouragements; the king hath made a cessation with the bloody Irish, and hath put arms in the hands of papists. Now, he being under the oath of God, tyed to maintain the protestant religion, he hath a metaphysically subtle, piercing faith of miracles, who believeth armed papists and prelates shall defend the religion of protestants; and those who have abjured prelates as the lawful sons of the Pope, that omissere and as the law saith, Quilibet in dubio prasumitur bonus. L. merito prasum. L. non omnes, sect. a Barbaris de re milit. Charity believeth not ill; so charity is not a fool to believe all things. So saith the law, Semel malus, semper prasumitur malus, in eodem gener. C. semel malus de jure gentium in 6. Once wicked, is always wicked in that kind. Marius Salamonius, l. C. in L. ut im atque injuriam ff. de jure et jure. We are not to wait on strokes, the terror of armour, omnium consensus, by consent of all is sufficient (n. 3). "If I see (saith he) the enemy take an arrow out of the quiver, before he bend the bow, it is lawful to prevent him with a blow—cunctatio est periculosa." The king's coming with armed men into the House of Commons to demand the five members, is very symbolical, and war was printed on that fact, "he that runneth may read." His coming to Hull with an army, saith not he had no errand there, but to ask what it was in the clock. Novellus, that learned Venetian lawyer, in a treatise for defence, maketh continuum rixam, a continued upbraiding, a sufficient ground of violent defence. He citeth Dr Committer. in L. ut vim. ff. de just et jure. Yea, he saith, drunkenness, (defens. n. 44,) error, (n. 46,) madness, (n. 49, 50,) ignorance, (n. 51, 52,) impudence, (n. 54,) necessity, (n. 56,) laciounis, (n. 58,) continual reproaches, (n. 59,) the fervour of anger, (n. 64,) threatening, (n. 66,) fear of imminent danger, (n. 67,) and just grief, do excuse a man from homicide, and that in these he ought to be more mildly punished, quia obnubilatum et mancium est consilium, reason in these being lame and clogged. (Ambros. 1. 1. offic.) Qui non repellit injuriam a socio, cum potest, tam est in vitio, quam ille qui factit. And as nature, so the law saith, "When the losses are such as can never be repaired, as death, mutilation, loss of chastity, quomiam maxis infecta fieri nequeunt, things of that kind once done, can never be undone, we are to prevent the enemy" (l. Zonat. tract. defens. par. 3, l. in bello sect. factae de cap. notat. Gloss. in l. si quis provocat). If the king send an Irish rebel to cast me over a bridge, and drown me in a water, I am to do nothing, while the king's emissary first cast me over, and then in the next room I am to defend myself; but nature and the law of self-defence warraneth me (if I know certainly his aim,) to horse him first over the bridge, and then consult how to defend myself at my own leisure.
Royalists object that David, in his defence, never invaded and persecuted Saul; yes, when he came upon Saul and his men sleeping, he would not kill any; but the Scottish and parliament's forces not only defend, but invade, offend, kill, and plunder; and this is clearly an offensive, not a defensive war.

Ans. 1.—There is no defensive war different in specie and nature from an offensive war; if we speak physically, they differ only in the event and intention of the heart: and it is most clear that the affection and intention doth make one and the same action of taking away the life, either homicide, or no homicide. 1. If a man, out of hatred, deliberately take away his brother's life, he is a murderer _cassus_, but if that same man had taken away that same brother's life, by the flying off of an axe-head off the staff, while he was hewing timber, he neither hating him before, nor intending to hurt his brother, he is no murderer, by God's express law, (Deut. iv. 42; xix. 4; Joshua xx. 6.) 2. The cause between the king and the two parliaments, and between Saul and David, are so different in this, as it is much for us. Royalists say, David might, if he had seen offending to conduce for self-preservation, have invaded Saul's men, and, say they, the case was extraordinary, and bindeth not us to self-defence; and thus they must say—for offensive weapons, such as Goliath's sword, and an host of armed men, cannot by any rational man be assumed (and David had the wisdom of God) but to offend, if providence should so dispose; and so was lawful to David, is lawful to us in self-defence; he might offend lawfully, and so may we.

2. If Saul and the Philistines, aiming (as under an oath) to set up dagon in the land of Israel, should invade David, and the princes and elders of Israel who made him king; and if David, with an host of armed men, he and the princes of Israel, should come in that case upon Saul and the Philistines sleeping, if in that case David might not lawfully have cut off the Philistines, and as he defended in that case God's church and true religion, if he might not then have lawfully killed, I say, the Philistines, I refer to the conscience of the reader. Now to us, papists and prelates under the king's banner, are Philistines, introducing the idolatry of bread-worship and popery, as hateful to God as dagon-worship.

3. Saul intended no arbitrary govern-
of Kish; and they were amongst the mighty men, helpers of the war;" and then so many mighty captains are reckoned out. "There came of the children of Benjamin and Judah to the hold of David." And there fell some of Manasseh to David,—"As he went to Ziklag there fell to him of Manasseh, Kehnah and Jozabad, Jediel and Michael, and Jozabad and Elihu, and Zilthai, captains of the thousands that were of Manasseh." "And they helped David against the band of the rovers." "At that time, day by day, there came to David, until it was a great host, like the host of God." Now the same expression that is in the first verse, where it is said they came to help David against Saul, is repeated in ver. 16, 19—23. 2. That they warrantably came, is evident; because, (1.) The Spirit of God commended them for their valor and skill in war, (ver. 2 &c.), which the Spirit of God doth not in unlawful wars. (2.) Because Amasaai, (ver. 18), the Spirit of the Lord coming on him, saith, "Thine are we, David, and on thy side, thou son of Jesse; peace, peace unto thee, and peace to thy helpers, for thy God helpeth thee." The Spirit of God inspireth no man to pray peace to those who are in an unlawful war. 3. That they came to David's side only to be sufferers, and to flee with David, and not to pursue and offend, is ridiculous. 1. It is said, (ver. 1), "They came to David to Ziklag, while he kept himself close, because of Saul the son of Kish. And they were amongst the mighty men, helpers of the war." It is a scorn to say, that their might, and their helping in war, consisted in being mere patients with David, and such as fled from Saul, for they had been on Saul's side before; and to come with armour to flee, is a mocking of the word of God. 2. It is clear, the scope of the Spirit of God is to show how God helped his innocent servant David against his persecuting prince and master, king Saul, in moving so many mighty men of war to come in such multitudes, all in arms, to help him in war. Now to what end would the Lord commend them as fit for war, "men of might, fit to handle shield and buckler, whose faces are as the faces of lions, as swift as the roes on the mountains," (ver. 8) and commend them as helpers of David, if it were unlawful for David, and all those mighty men, to carry arms to pursue Saul and his followers, and to do nothing with their armour but flee? Judge if the Spirit of God, in reason, could say, "All these men came armed with bows," (ver. 2) and could "handle both the right hand and the left in flinging stones, and shooting of arrows," and that (ver. 22) all these came to David, being mighty men of valor, and they came as captains over hundreds, and thousands, and they put to flight all them of the valleys, both toward the east and toward the west," (ver. 13, 15), and that "David received them, and made them captains of the band," if they did not come in a posture of war, and for hostile invasion, if need were? For if they came only to suffer and to flee, not to pursue, bowmen, captains, and captains of bands made by David, and David's helpers in the war, came not to help David by flying, that was a hurt to David, not a help. It is true, Mr Symmons saith, (1 Sam. xxii. 2), "Those that came out to David strengthened him, but he strengthened not them; and David might easily have revenged himself on the Ziphites, who did good will to betray him to the hands of Saul, if his conscience had served him.

Ans. 1.—This would infer that these armed men came to help David against his conscience, and that David was a patient in the business. The contrary is in the text, (1 Sam. xxxvi. 2), "David became a captain over them;" and (1 Chron. xii. 17, 18), "If ye come peaceably to help me, my heart shall be knit to you. Then David received them, and made them captains of the band." 2. David might have revenged himself upon the Ziphites, true; but that conscience hindered him cannot be proved. To pursue an enemy is an act of a council of war; and he saw it would create more enemies, not help his cause. 3. To David to kill Saul sleeping, and the people who, out of a misinformed conscience came out, many of them to help their lawful prince against a traitor (as was supposed) seeking to kill their king, and to usurp the throne, had not been wisdom nor justice; because to kill the enemy in a just self-defence, must be, when the enemy actually doth invade, and the life of the defendant cannot be otherwise saved. A sleeping enemy is not in the act of unjust pursuit of the innocent; but if an army of papists, Philistines, were in the fields sleeping, pursuing not one single David only for a supposed personal wrong to the king, but lying in the fields and camp against the whole kingdom and religion, and labouring to introduce arbitrary government, popery,
idolatry, and to destroy laws, and liberties, and parliaments, then David were obliged to kill these murderers in their sleep.

If any say, The case is all one in a natural self-defence, whatever be the cause, and whoever be the enemy, because the self-defender is not to offend, except the unjust invader be in actual pursuit,—now armies in their sleep are not in actual pursuit.

Ans. 1.—When one man with a multitude invadeth one man, that one man may pursue, as he seeth most conducive for self-defence. Now the law saith, "Threatenings and terror of armour maketh imminent danger," and the case of pursuit in self-defence lawful; if therefore an army of Irish rebels and Spaniards were sleeping in their camp, and our king in a deep sleep in the midst of them, and these rebels actually in the camp besieging the parliament, and the city of London, most unjustly to take away parliament, laws, and liberties of religion, it should follow that General Essex ought not to kill the king's majesty in his sleep, for he is the Lord's anointed; but will it follow that General Essex may not kill the Irish rebels sleeping about the king; and that he may not rescue the king's person out of the hands of the papists and rebels, ensnaring the king, and leading him on to popery, and to employ his authority to defend popery, and trample upon protestant parliaments and laws? Certainly from this example this cannot be concluded. For armies in actual pursuit of a whole parliament, kingdom, laws, and religion, (though sleeping in the camp,) because in actual pursuit, may be invaded, and killed, though sleeping. And David useth no argument, from conscience, why he might not kill Saul's army, (I conceive he had not arms to do that,) and should have created more enemies to himself, and hazard his own life, and the life of all his men, if he had of purpose killed so many sleeping men; yes, the inexpedience of that, for a private wrong to kill God's misled people, should have made all Israel enemies to David. But David useth an argument, from conscience only, to prove it was not lawful for him to stretch forth his hand against the king; and for my part, so long as he remained king, and is not dethroned by those who made him king at Hebron, to put hands on his person, I judge utterly unlawful. One man sleeping cannot be in actual pursuit of another man; so that the self-defender may lawfully kill him in his sleep; but the case is far otherwise in lawful wars; the Israelites might lawfully kill the Philistines encamping about Jerusalem to destroy it, and religion, and the church of God, though they were all sleeping; even though we suppose king Saul had brought them in by his authority, and though he were sleeping in the midst of the uncircumcised armies; and it is evident, that an host of armed enemies, though sleeping, by the law of self-defence, may be killed, lest they awake and kill us; whereas one single man, and that a king, cannot be killed. 2. I think, certainly, David had done unwisely, and hazarded his own life and all his men's, if he, and Abimelech, and Abishai, should have killed an host of their enemies sleeping: that had been a work as impossible to three, as hazardous to all his men.

Dr Ferne, as Arnisseus did before him, saith, "The example of David was extraordinary, because he was anointed and designed by God as successor to Saul, and so he must use an extraordinary way of guarding himself." Arnisseus (c. 2, n. 15) citeth Alberic. Gentilis, that David was now exempted from amongst the number of subjects.

Ans.—1. There were not two kings in Israel now, both David and Saul. 1. David acknowledgeth his subjection in naming Saul the Lord's anointed, and his master, lord and king; and, therefore, David was yet a subject. 2. If David would have proved his title to the crown by extraordinary ways, he who killed Goliath extraordinarily might have killed Saul by a miracle; but David goeth a most ordinary way to work for self-defence, and his coming to the kingdom was through persecution, want, eating shew-bread in case of necessity, defending himself with Goliath's sword. 3. How was anything extraordinary and above a law, seeing David might have killed his enemy Saul, and, according to God's law, he spared him? and he argueth from a moral duty, He is the Lord's anointed, therefore I will not kill him. Was this extraordinary above a law? then, according to God's law, he might have killed him. Royalists cannot say so. What ground to say one of David's acts in his department towards Saul was extraordinary, and not all? Was it extraordinary that David fled? No; or that David consulted the oracle of God what to do when Saul was coming against him? 4. In an ordinary fact something may be extraordinary,—as the dead sleep
from the Lord upon Saul and his men, (1 Sam. xxvi.) and yet the fact, according to its substance, ordinary. 5. Nor is this extraordinary,—that a distressed man, being an excellent warrior, as David was, may use the help of six hundred men, who, by the law of charity, are to help to deliver the innocent from death; yea, all Israel were obliged to defend him who killed Goliath. 6. Royalists make David's act of not putting hands on the Lord's anointed an ordinary moral reason against resistace, but his putting on of armour they will have extraordinary; and this, I confess, a short way to an adversary to cull out something that is for his cause and make it ordinary, and something that is against his cause must be extraordinary. 7. These men, by the law of nature, were obliged to join in arms with David; therefore, the non-helping of an oppressed man must be God's ordinary law,—a blasphemous tenet. 8. If David, by an extraordinary spirit, killed not king Saul, then the Jesuits' way of killing must be God's ordinary law.

2. David certainly intended to keep Keilah against king Saul, for the Lord would not have answered David in an unlawful fact; for that were all one as if God should teach David how to play the traitor to his king; for if God had answered, They will not deliver thee up, but they shall save thee from the hand of Saul,—as David believed he might say this, as well as its contradictory, then David behoved to keep the city; for certainly David's question pre-supposeth he was to keep the city.

The example of Elisha the prophet is considerable, (2 Kings vi. 32,) "But Elisha sat in his house, and the elders with him; and the king sent a man before him; but, ere the messengers came to him, he said to the elders, See now, the son of a murderer hath sent to take away mine head." 1. Here is unjust violence offered by king Joram to an innocent man. Elisha keepeth the house violently against the king's messenger, as we did keep castles against king Charles' unlawful messengers. "Look (saith he) when the messenger cometh,—shut the door." 2. There is violence also commanded, and resistance to be made, "Hold him fast at the door." In the Hebrew it is, "לְדֹרֶת הַדִּשְׁנָה וּלְהַלְטָה אָצְנֵי אֲנָשָׁן" Montan: Claude. ostium, et oppremetis eumin ostio, "Violently press him at the door." And so the Chaldee paraphrase, Ne...
vision. It is a vain thing to say, "Who shall be judge between the king and his subjects? The subject cannot judge the king, because none can be judge in his own cause, and an inferior or equal cannot judge a superior or equal." But I answer, 1. This is the king's own cause also, and he doth unjust violence as a man, and not as a king, and so he cannot be judge more than the subject. 2. Every one that doth unjust violence, as he is such, is inferior to the innocent, and so ought to be judged by some. 3. There is no need of the formality of a judge in things evident to nature's eye, such as are manifestly unjust violences. Nature, in acts natural of self-defence, is judge, party, accuser, witness, and all; for it is supposed the judge is absent when the judge doth wrong. And for the plea of Elisha's extraordinary spirit, it is nothing extraordinary to the prophet to call the king the son of a murderer, when he complained to the elders for justice of his oppression, no more than it is for a plaintiff to libel a true crime against a wicked person, and if Elisha's resistance came from an extraordinary spirit, then it is not natural for an oppressed man to close the door upon a murderer, then the taking away of the innocent prophet's head must be extraordinary, for this was but an ordinary and most natural remedy against this oppression; and though to name the king the son of a murderer be extraordinary, (and I should grant it without any hurt to this cause,) it followeth nowise that the self-defence was extraordinary. 4. (2 Chron. xxvi. 17.) Four score of priests, with Azariah, are commended as valiant men. LXX. אַשְׁמַם Hebrew: אֶשְׁמַם Aries Montan. Filii virtutis. Men of courage and valour, for that they resisted Uzziah the king, who would take on him to burn incense to the Lord, against the law. Mr Symmons, (p. 34, sect. 10.) They withstood him not with swords and weapons, but only by speaking, and one but spake. I answer, 1. It was a bodily resistance; for beside that, Jerome turneth it, Viri fortissimae, most violent men. And it is a speech in the Scriptures taken for men valorous for war; as 1 Sam. xvi. 25; 2 Sam. xvii. 10; 1 Chron. v. 18; and so doth the phrase הָעַשְׁדְּבַנֹּךְ Potent in valour; and the phrase, הָעַשְׁדְּבַנֹּךְ 2 Sam. xxiv. 9; xi. 16; 1 Sam. xxxi. 12; and therefore all the eighty, not only by words, but violently, expelled the king out of the temple. 2. סְדָרוֹנָרָא Ar. Mont. Et steterunt contra Huszi-Jahu; the LXX say, εἰς ὄρσεως they resisted the king. So Dan. xi. 17. The armies of the south shall not stand, Dan. viii. 25, it is a word of violence. 3. The text saith, (ver. 20,) and they thrust him out. Aries Mont. Et fecerunt eum festinare; Hieron. Festinatus expulerunt eum. The LXX. say, The priest sacerwor abin laish; so Vata- blus, 1 They cast him out. 4. It is said, (ver. 21,) "He was cut off from the house of the Lord," Dr Ferne saith, (sect. 4, p. 50,) "They are valiant men who dare withstand a king in an evil way, by a home reproof, and by withdrawing the holy things from him, especially since, by the law, the leper was to be put out of the congregation." Ans. 1.—He contradiceth the text. It was not a resistance by words, for the text saith, "They withstood him, and they thrust him out violently." 2. He yieldeth the cause, for to withdraw the holy things of God by corporal violence, and violently to pull the censer out of his hand, that he should not provoke God's wrath by offering incense to the Lord, is resistance; and the like violence may, by this example, be used when the king useth the sword and the militia to bring in an enemy to destroy the kingdom. It is no less injustice against the second table, that the king useth the sword to destroy the innocent than to usurp the censer against the first table. But Dr Ferne yieldeth, that the censer may be pulled out of his hand, lest he provoke God to wrath; therefore, by the same very reason, a fortiori, the sword, the castles, the sea-ports, the militia, may be violently pulled out of his hand; for if there was an express law that the leper should be put out of the congregation, and therefore the king also should be subject to his church-censor, then he subjecteth the king to a punishment to be inflicted by the subjects upon the king. 1. Therefore the king is obnoxious to the co-active power of the law. 2. Therefore subjects may judge him and punish him. 3. Therefore he is to be subject to all church-censors no less than the people. 4. There is an express law that the leper should be put out of the congregation. What then? Flattering court divines say.

1 Vata.—Deturbant eum ex illo loco, compul- suque ut egresseretur, in not. Festinanter egredi eum coegerunt, hoc est, extrusserunt eum.
"The king is above all these laws;" for there is an express law of God as express as that ceremonial law on touching lepers, and a more binding law, that the murderer should die the death. Will royalists put no exception upon a ceremonial law of expelling the leper, and yet put an exception upon a divine moral law, concerning the punishing of murderers given before the law on Mount Sinai. (Gen. vi. 9.) They so declare that they accept the persons of men. 5. If a leper king could not actually sit upon the throne, but must be cut off from the house of the Lord, because of an express law of God, these being inconsistent, that a king remaining amongst God's people, ruling and reigning, should keep company with the church of God, and yet be a leper, who was to be cut off, by a divine law, from the church. Now, I persuade myself, that far less can he actually reign in the full use of the power of the sword, if he use the sword to cut off thousands of innocent people; because, murdering the innocent and the fatherless, and royal governing in righteousness and godliness, are more inconsistent by God's law, being morally opposite, than remaining a governor of the people, and the disease of leprosy, are incompatible. 6. I think not much that Barclay saith, (cont. Monar. l. 5, c. 11.) "Uzziah remained king, after he was removed from the congregation for leprosy." 1. Because that toucheth the question of dethroning kings, this is an argument brought for violent resisting of kings, and that the people did resume all power from Uzziah, and put it in the "hand of Jotham his son, who was over the king's house, judging the people of the land" (ver 21). And by this same reason the parliaments of both kingdoms may resume the power once given to the king, when he hath proved more unfit to govern morally than Uzziah was ceremonially, that he ought not to judge the people of the land in this case. 2. If the priests did execute a ceremonial law upon king Uzziah, far more may the three estates of Scotland, and the two houses of parliament of England, execute the moral law of God on their king.

If the people may covenant by oath to rescue the innocent and unjustly-condemned from the sentence of death, notoriously known to be tyrannous and cruel, then may the people resist the king in his unlawful practices; but this the people did in the matter of Jonathan. Mr Symmons (p. 32) and Dr Ferne (sect. 9, 49) say, "That with no violence, but by prayers and tears, the people saved Jonathan; as Peter was rescued out of prison by the prayers of the church, king Saul might easily be entreated to break a rash vow to save the life of his eldest son."—Ans. 1. I say not the common people did it, but the people, including proceres regni, the princes of the land, and captains of thousands. 2. The text hath not one word or syllable of either prayers, supplications or tears; but by the contrary, they bound themselves by an oath, contrary to the oath of Saul, (1 Sam. xiv. 44, 45,) and swore, "God forbid: as the Lord liveth, there shall not one hair of his head fall to the ground. So the people rescued Jonathan." 1. The church prayed not to God for Peter's deliverance with an oath, that they must have Peter saved, whether God will or no. Though we read of no violence used by the people, yet an oath upon so reasonable a ground,—1. Without the king's consent. 2. Contrary to a standing law that they had agreed unto. (ver. 24.) 3. Contradictory to the king's sentence and unjust oath. 4. Spoken to the king in his face,—all these prove that the people meant, and that the oath ex conditiones operis, tended to a violent resisting of the king in a manifestly unjust sentence. Chrysostom, hom. 14, ad Pop., Antioch accuseth Saul as a murderer in this sentence, and praiseth the people: so Junius, Peter Martys* (whom royalists impudently cite); so Cornelius à Lapide, Zanchius, Lyra, and Hugo Cardinalis say, "It was tyranny in Saul, and laudable that the people resisted Saul;" and the same is asserted by Josephus (l. 6, antiquit. c. 7; so Althusius, Polit. c. 38, n. 109).

We see also, (2 Chron. xxxi. 10,) that Libnah revolted from under Jehoram, because he had forsaken the Lord God of his fathers. It hath no ground in the text that royalists say, that the defection of Libnah is not justified in the text, but the cause is from the demerit of wicked Jebooram, because he made defection from God. Libnah made defection from him, as the ten tribes revolted from Rehoboam for Solomon's

1 Chald. Par.—Manifestum est quod Jonathan peccavit per ignorantiam.
2 P. Mart. saith with a doubt, S i sta seditione fecerunt—nullo modo excusari possunt. Yea, he saith they might sufragis, with their suffrages free him.
idolatry, which, before the Lord, procured this defection, yet the ten tribes make defection for oppression. I answer, Where the literal meaning is simple and obvious, we are not to go from it. The text showeth what cause moved Libnah to revolt. It was a town of the Levites, and we know they were longer found in the truth than the ten tribes (2 Chron. xiii. 8—10; Hosea xi. 12). Lavater saith, Jehoram hath pressed them to idolatry, and therefore they revolted. Zanchius and Cornelius à Lapide say, This was the cause that moved them to revolt, and it is clear, (ver. 13,) he caused Judah and the inhabitants of Jerusalem to go a whoring from God, and no doubt tempted Libnah to the like.12

Yea, the city of Abel (2 Sam. xx.) did well to resist Joab, David’s general, for he came to destroy a whole city for a traitor’s sake, for Sheba; they resisted and defended themselves. The wise woman calletth the city a mother in Israel, and the inheritance of the Lord; (ver. 19;) and Joab professeth, (ver. 20,) far be it from him to swallow up and destroy Abel. The woman saith, (ver. 18,) “They said of old, they shall surely ask counsel at Abel; and so they ended the matter:” that is, the city of Abel was a place of prophets and oracles of old, where they asked responses of their doubts, and therefore peace should be first offered to the city before Joab should destroy it, as the law saith, Deut. xx. 10. From all which it is evident, that the city, in defending itself, did nothing against peace, so they should deliver Sheba, the traitor, to Joab’s hand, which they accordingly did; and Joab pursued them not as traitors for keeping the city against the king, but professeth in that they did no wrong.

QUESTION XXXIII.

WHETHER OR NO THE PLACE, ROM. XIII. 1, PROVE THAT IN NO CASE IT IS LAWFUL TO RESIST THE KING.

The special ground of royalists from Rom. xiii., against the lawfulness of defensive wars, is to make Paul (Rom. xiii.) speak only of kings. Hugo Grotius (de jure belli et pac. l. 1, c. 4, n. 6), and Barclay (cont. Monar. l. 3, c. 9) say, “Though Ambrose expound the place, Rom. xiii., de solis regibus, of kings only, (this is false of kings only, he doth not, but of kings principally,) yet it followeth not that all magistrates, by this place, are freed from all laws, because (saith he) there is no judge above a king on earth, and therefore he cannot be punished; but there is a judge above all inferior judges, and therefore they must be subject to laws.” So Dr Ferne followed him, (sect. p. 10,) and our poor Prelate must be an accident to them, (Sac. San. Maj. c. 2, p. 29,) for his learning cannot subsist per se.

Assert. 1. In a free monarchy (such as Scotland is known to be) by the higher power (Rom. xiii.) is the king principally in respect of dignity understood, but not solely and only, as if inferior judges were not higher powers. 1. I say in a free monarchy; for no man can say, that where there is not a king, but only aristocracy, and government by states, as in Holland, that there the people are obliged to obey the king; and yet this text, I hope, can reach the consciences of all Holland, that there every soul must be subject to the higher powers, and yet not a subject in Holland is to be subject to any king: for non entis nulla sunt accidentia. 2. I said the king, in a free monarchy, is here principally understood in regard of dignity, but not in regard of the essence of a magistrate, because the essence of a magistrate doth equally belong to all inferior magistrates, as to the king, as is already proved; (let the Prelate answer if he can;) for though some judges be sent by the king, and have from him authority to judge, yet this doth no more prove that inferior judges are improperly judges, and only such by analogy, and not essentially, than it will prove a citizen is not essentially a citizen, nor a church-officer essentially a church-officer, nor a son not essentially a living creature, because the former have authority from the incorporation of citizens, and of church-officers, and the latter hath his life by generation from his father, as God’s instrument. For though the citizen and the church-officers may be judged by their several incorporations that made them, yet are they also essentially citizens and church-officers, as those who made them such.

2 Vatab. in not.—Impulit Judæos ad idololatriam, aliqvi jam pronos ad cultum idololorum.
THE LAW AND THE PRINCE.

2. There is no reason to restrain the higher powers to monarchs only, or yet principally, as if they only were essentially powers ordained of God, 1. Because he calleth them ισχυσις επικρατεως higher powers. Now this will include all higher powers, as Piscator observeth on the place; and certainly Rome had never two or three kings to which every soul should be subject. If Paul had intended that they should have given obedience to one Nero, as the only essential judge, he would have designed him by the noun in the singular number. 2. All the reasons that the apostle bringeth to prove that submission is due, agreeeth to inferior judges as well as to emperors, for they are powers ordained of God, and they bear the sword, and we must obey them for conscience sake, and they are God’s deputies, and their judgment is not the judgment of men, but of the Lord (2 Chron. xix. 6, 7; Deut. i. 16; Numb. xi. 16, 17). Tribute and wages be no less due to them, as ministers and servants, for their work, than to the king, &c. 3. The apostle could not omit obedience to the good civil laws enacted by the senate, nor could he omit to command submission to rulers, if the Romans should change the government, and abolish monarchy, and erect their ancient form of government before they had kings. 4. This is canonical Scripture, and a clear exposition of the fifth commandment, and so must reach the consciences of all Christian republics, where there is no monarchy. 5. Parallel places of Scripture prove this. Paul (1 Tim. ii. 1, 2) will have prayers made to God for kings, and for all that are in authority, and the intrinsical end of all is a godly, honest, and peaceable life. And (1 Pet. ii. 13) “Submit to every ordinance of man for the Lord’s sake;” also, (Tit. iii. 1,) it is true, submission to Nero, of whom Tertullian said, (Apol. 5.) Nihil nisi grande bonum a Nerone damnatum, is commanded here, but to Nero as such a one as he is obliged, de jure, to be, (whether you speak of the office in abstracto, or of the emperor in concreto, in this notion, to me it is all one,) but that Paul commandeth submission to Nero, and that principally and solely, as he was such a man, de facto, I shall then believe, when antichristian prelates turn Paul’s bishops, (1 Tim. ii.,) which is a miracle. 6. Inferior judges are not necessarily sent by the king, by any divine law, but chosen by the people, as the king is; and, de facto, is the practice of creating all magistrates of cities in both kingdoms. 7. Augustine, (expos. prop. 72 on epist. Rom.,) Ireneus, (l. 5, c. 24;) Chrysostom, (in Psal. cxliv.ii., and on the place,) and Hieron. (epist. 53, advers. vigilant.,) expound it of masters, magistrates; so do Calvin, Beza, Pareus, Piscator, Roelcus, Marloratus; so do popish writers, Aquinas, Lyra, Hugo Cardinalis, Carthusius, Prierius, Toletus, Cornelius & Lapide, Salmeron, Etius, expound the place; and therefore there is no argument that royalists hence draw against resisting of the king by the parliaments, but they do strongly conclude against the cavaliers’ unlawful wars against the parliaments and estates of two kingdoms. Here what the P. Prelate saith to the contrary. 1. They are called eminent powers; therefore, kings only.—An. It followeth not, for these can be no other than τιμιος εις ιναρετος ιερον, (1 Tim. ii. 2.) But these are not kings, but in the text contradivided from βασιλειας kings, and they can be no other than τιμιος εις ιναρετος principalities and powers. 2. The reason of the apostle proveth clearly that ισχύς cannot mean king’s only, for Paul addeth of that same ισχύς “For there is no power but of God.” It must be there is no supereminent royal power, but it is of God, and the powers only (so he must mean) that be, are ordained of God. Now the latter is manifestly false, for inferior powers are of God. The powers of the Roman senate, of a master, of a father, are of God.

P. Prelate.—“Peter must expound Paul, and Paul’s higher powers must be (1 Pet. ii,) βασιλειας επικρατεως More reason that Paul expound Paul. Now (1 Tim. ii. 2) τιμιος εις ιναρετος. All in authority are not kings. P. Prelate.—“Are of God,” or “ordained of God,” cannot so properly be understood of subordinate powers, for that is not by immediate derivation from God, but immediately from the higher power the king, and mediate from God.

An. 1.—It is most false that king David is so immediately a king from God, as that he is not also by the mediation of the people, who made him king at Hebron. 2. The inferior magistrates are also immediate vi-

1 Vatab.—Hominis intelligit publica, juridicata, et praecepta.
cars and ministers of God as the king, for their throne and judgment is not the king’s, but the Lord’s (Deut. i. 16; 2 Chron. xxi. 6). 3. Though they were mediatey from man, it followeth not that they are not so properly from God, for wisdom (Prov. viii.) saith as properly, (ver. 16), “By me princes rule, and nobles, even all the judges of the earth;” as, (ver. 15), “By me kings reign;” and promotion is as properly from God, and not from the east and the west, (Psal. lxxv. 6, 7), though God promote Joseph by the thankful munificence of Pharaoh, and Mordecai by Ahasuerus, Daniel by Darius, as if he gave them power and honour immediately from heaven.

P. Prelate.—Learned interpreters expound it so.—Ans. It is an untruth, for none expound it only and principally of kings. Produce one Interpreter for that conceit. P. Prelate.—Paul wrote this when Nero was monarch.—Ans. 1. Then must the text be expounded of Nero only. 2. He wrote this when Nero played the tyrant and persecuted Christians, therefore we are not to obey Neroes now. 3. He wrote it when the senate of Rome had power to declare Nero an enemy, not a father, as they did. P. Prelate.—al must be referred to the antecedent ήμων η浴υνων, and this, “There is no power al but of God,” must undeniably infer there is no supreme power but of God; and so, sovereignty relates to God as his immediate author, so sectaries reason, Gal. ii. 16, “Not justified by works, (λεγεται) but by faith only.” Then ήμων ov ουν ητω must be a perfect exclusive, else their stronghold for justification is overthrown.—Ans. al hath a nearer antecedent, which is εστω, it is alone without ημων. And this grammar is not so good as Beza’s, which he rejected. 2. λεγεται will refer to God alone as the only cause, in genere causa prince. God alone giveth rain, but not for that immediately, but by the mediation of vapours and clouds. “God alone killeth and maketh alive,” Deut. xxxiii. 39, that is, excluding all strange gods, but not immediately; for, by his people’s fighting, he slew Og, king of Bashan, and cast out seven nations, yet they used bow and sword, as it is used in the book of Joshua; and, therefore, God killed not Og immediately. God hath an infinite, eminent, transcendent way of working, so that in his kind he only worketh his alone; Deus solus operatur solitudine prince cause.

non solus solitudine omnis causa, God only giveth learning and wisdom, yet not immediately always—often he doth it by teaching and industry. God only maketh rich, yet the prelates make themselves rich also with the fat of the flock; and God only maketh poor, yet the P. Prelate’s courts, mediatey also under God, made many men poor. 3. λεγεται is not such an exclusive particle when we ascribe it to God, as when we ascribe it to two created causes, works and faith; and the protestants’ form of arguing (Gal. ii.), to prove “we are justified by faith,” he calleth our stronghold, therefore it is not his stronghold. In this point, then, he must be a peast, and so he refuses to own protestant strongholds for justification by faith alone.

Dr Ferne (sect. 2, p. 10).—As many as have souls must be subject to the higher powers spoken of here; but all inferior judges have souls.

Ans.—1. If the word souls be thus pressed, none shall be understood by higher powers, but the king only. 2. Certainly he that commandeth as he commandeth must be excepted, except, because the king hath a soul, you must subject the king to himself and to his own commandments royal, and so to penal laws. 3. Inferior judges, as judges, by this text, must either be subject to themselves as judges, (and, by the same reason, the king must be subject to himself, as he is a judge,) or judges, as men, or as erring men are to be subject; which I would grant, but they are not subject as judges, no more than one, as he commandeth, can also obey as he commandeth. These are contradictory. I am not put off that opinion since I was at school, species subjicitbis qua subjicitbis non est probabilitis. 4. If Nero make fathers rulers over their mothers and children, and command them, by this public sword of justice, to kill their own children and mothers,—if a senate of such fathers disobey, and if, with the sword, they defend their own children and mothers, which some other Doegs, as judges, are to kill, in the name and commandment of Nero, then they, resisting Nero’s bastard commandment by this doctrine, resist the ordinance of God, and resist the minister of God. I have not a faith stretched out so far to the Prelate’s court-divinity. Yet Ferne saith, “There was never more cause to resist higher powers, for their wicked Nero was emperor, when
he now forbiddeth resistance, (Rom. xiii.) under the pain of damnation." I desire to be informed, whether to resist the king's servants, be to resist the king? Dr Ferne (p. 3, sect. 2, p. 10, and part 3, sect. 9, p. 59) allows us, in unavoidable assaults where death is imminent, personal defence without offending, as lawful, whether the king or his emissaries invade, without law or reason. Well, then, the resisting of the king's cut-throats, though they have a personal command of the king to kill the innocent, yet if they want a legal, is no resisting of the king, as king, for the servant hath no more than the master giveth; but the king, in lawless commandments, gave nothing royal to his cut-throats, and so nothing legal.

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QUESTION XXXIV.

WHETHER ROYALISTS BY COGENT REASONS DO PROVE THE UNLAWFULNESS OF DEFENSIVE WARS.

What reasons have already been discussed, I touch not.

Obj. 1.—Arnisceus (de authorit. princip. c. 2, n. 2). "If we are to obey our parents, not if they be good, but simply whether they be good or ill, (so Justin. saith of the king, Quamvis legum contemptor, quamvis impius, tamen poter, sect. si vero in f. v. 13,) then must we submit to wicked kings.”

Ans. — Valeat totum, we are to submit to wicked kings and wicked parents, because kings and parents; but when it cometh to actual submission, we are to submit to neither but in the Lord. The question is not touching subjection to a prince, let him be Nero, but if in acts of tyranny we may not deny subjection. There be great odds betwixt wicked rulers and rulers commanding or punishing unjustly.

Obj. 2. — Arnisceus (c. 3, n. 9). "We may resist an inferior magistrate, therefore we may resist the supreme. It followeth not; for an inferior judge hath a majesty in fiction only, not properly: treason is, or can only be committed against the king; the obligation to inferior judges is only for the prince, the person of none is sacred and inviolable but the king’s.

Ans. — We obey parents, masters, kings, upon this formal ground, because they are God’s deputys, and set over us not by man, but by God; so that not only are we to obey them because what they command is good and just, (such a sort of obedience an equal owes to the counsel of either equal or inferior,) but also by virtue of the fifth commandment, because of their place of dignity. Now this majesty, which is the formal reason of subjection, is one and the same in specie and nature in king and constable, and only different gradually in the king and in other judges; and it is denied that there is any incommunicable sanctity in the king’s person which is not in some degree in the inferior judge. All procedeth from this false ground, that the king and inferior judges differ in nature, which is denied; and treason inferior may be committed against an inferior judge, and it is a fiction that the inferior judge doth not resemble God as the king doth; yea, there is a sacred majesty in all inferior judges, in the aged, in every superior, wherefore they deserve honour, fear, and reverence. Suppose there were no king on earth, as is clear in Scripture, (Exod. xx. 12; Levit. xix. 32; Esther, i. 20; Psal. cxli. 9; Prov. iii. 16; Matt. xiii. 57; Heb. v. 4; Isa. iii. 3; Lam. v. 12; Mal. i. 6; Psal. viii. 5,) and this honour is but united in a special manner in the king, because of his high place.

Obj. 3. — A king elected upon conditions may be resisted.

Ans. — He is as essentially a king as a hereditary, yea, as an absolute prince, and no less the Lord’s anointed than another prince; if then one, also another may be resisted.

Obj. 4. — The oath of God bindeth the subjects; therefore, they must obey, not resist.

Ans. — Obedience and resistance are very consistent. No doubt the people gave their oath to Athaliah, but to her as the only heir of the crown, they not knowing that Joash, the lawful heir, was living; so may conditional oaths (all of this kind are conditional) in which there is interpretative and virtual ignorance, be broken; as the people swear loyalty to such a man conceived to be a father, he, after that, turneth tyrant, may they not resist his tyranny? They may. Also, no doubt, Israel gave their oath of loyalty to Jabin, (for when Nebuchadnezzar subdued Judah, he took an oath of loyalty of their king,) yet many of Zebulun, Naph- tali, and Issachar, Barak leading them, conspired against Jabin.
Obj. 5.—There is no law to take a king’s life if he turn a Nero,—we never read that subjects did it.

Ans.—The treatise of unlimited prerogative saith, (p. 7,) "We read not that a father, killing his children, was killed by them, the fact being abominable." The law (Gen. vi. 9; Levit. xxiv. 16) excepteth none. See Deut. xiii. 6, the dearest that nature knoweth are not excepted.

Obj. 6.—Vengeance pursued Korah, Dathan, and Abiram, who resisted Moses.

Ans.—From resisting of a lawful magistrate in a thing lawful, it followeth not it must be unlawful to resist kings in tyrannous acts.

Obj. 7.—Exod. xxii. 28, "Thou shalt not revile the gods, nor curse the Ruler of the people." Exod. x. 20, "Curse not the king, no not in thy thought, nor the rich in thy bed-chamber."

Ans.—The word ἐλθημι signifies all judges, and נזון, nasi signifies one lifted up above the people, saith Rivetus, (in loc.) whether a monarch, or many rulers. All cursing of any is unlawful, even of a private man, (Rom. xii. 14,) therefore we may not resist a private man by this; the other text readeth, contentm not the king, יִנְשֱׁבֶּן in scientia tua. Aria Mon., or in thy conscience or thought; and it may prove resisting any rich man to be unlawful. Nothing in word or deed tending to the dis-honour of the king may be done; now to resist him in self-defence, being a commandment of God in the law of nature, cannot fight with another commandment to honour the king, no more than the fifth commandment can fight with the sixth; for all resistance is against the judge, as a man exceeding the limits of his office, in that wherein he is resisted, not as a judge.

Obj. 8.—Eccles. viii. 3, 4, "Where the word of a king is, there is power; and who may say to him, What dost thou?" therefore, the king cannot be resisted.

Ans.—Tremelius saith well, That the scope is that a man go not from the king’s lawful command in passion and rebellion; Vatab.—"If thou go from the king in disgrace, strive to be reconciled to him quickly;" Cajetanus—"Use not kings too familiarly, by coming too quickly to them, or going too hastily from them;" Plutarch,—"Cum rege agendum ut cum rogo, neither too near this fire nor too far off." Those have smarted who have been too great in their favour.—Ahasuerus slew Haman, Alexander so served Citius and Tiberius Sejaunus, and Nero Seneca. But the sense is clear, rebellion is forbidden, not resistance, so the Hebrew does stand not in an evil matter, or in a rebellion, and he dehorteth from rebellion against the king by an argument taken from his power, for he doth whatsoever pleaseth him. Where the word of a king is, there is power, and who may say unto him, what doest thou? The meaning is, in way of justice, he is armed with power that cannot be resisted; otherwise Samuel said to king Saul, (1 Sam. xiii. 13,) "Thou hast done foolishly." Elijah said more to Ahab then What hast thou done? And the prophets were to rebuke sin in kings (2 Kings iii. 14; Jer. i. 28; xxii. 3; Hosea v. 1, 2); and though Solomon here give them a power, he speaketh of kings as they are de facto; but, de jure, they are under a law (D Mast. xvii. 18). If the meaning be, as royalists dream, he doth whatsoever he will or desireth, as a prince, by his royal, that is, his legal will, by which he is lea animata, a breathing law, we shall own that as truth, and it is nothing against us; but if the meaning be, that de jure, as king, he doth whatsoever he will, by the absolute supremacy of royal will, above all law and reason, then Joram should, by law, as king, take Elisha’s head away; and Elisha resisted God in saying, What doth the king? and he sinned in commanding to deal roughly with the king’s messenger, and hold him at the door; then the fourscore valiant priests, who said to king Uzziah, What dost thou? and resisted him, in burning incense, which he desired to do; sinned, then Phareah, who said, (Ezek. xxxix. 3,) "The river Niph is mine, I have made it for myself;" and the king of Tyrus, (Ezek. xxvii. 3,) "I am God, I sit in the seat of God," should not be controlled by the prophets; and no man should say to them, What saiest thou? Did Cyrus, as a king, with a royal power from God, and jure regio, be angry at the river Ganges, because it drowned one of his horses, and punish it by dividing it in one hundred and thirty channels? (Sen. i. 3, de tra, c. 21.) And did Xerxes, jure regio, by a royal power given of God, when Hellepondus had cast down his bridges, command that three hundred whips should be inflicted on that little sea, and that it should be cast in feters? And our royalists have these
mad fools, doing these acts of blasphemous insolence against heaven, to be honoured as kings, and to act those acts by a regal power. But hear flatterers,—a royal power is the good gift of God, a lawful and just power. A king acting and speaking as a king, speaketh and acteth law and justice. A power to blaspheme is not a lawful power; they did and spake those things with a human and a sinful will; if, therefore, this be the royalists’ meaning,—as kings, 1. They are absolute, and so the limited and elected king is no king. 2. The king, as king, is above God’s law put on him by God, Deut. xvii. 3. His will is the measure of good and ill. 4. It were unlawful to say to the king of Cyrus, What sayest thou? thou art not God, according to this vain sense of royalists.

Obj. 9.—Eliphai saith, (Job. xxxiv. 18.) “Is it fit to say to a king, Thou art wicked, and to princes, Ye are ungodly?” Therefore, you may not resist kings.

Ans. 1.—This text no more proveth that kings should not be resisted than it proveth that rich men, or liberal men, or other judges inferior, should not be resisted, for בָּּלֶּל יִּסְכָּה signifies all that, and it signifies liberal, Isa. xxxii. 5; and the same word is in ver. 8. 2. Deodatus and Calvin say, the meaning is, “Learn from the respect that is due to earthly princes the reverence due to the sovereign Lord,” Mal. i. 8; for it is not convenient to reproach earthly kings, and to say to a prince, בָּּלֶּל יִּסְכָּה Beliel, a word of reproach, signifying extreme wickedness. And you may not say to a man of place, בָּּלֶּּל יִּסְכָּה an extremely wicked man; so are the words taken, as signifying most vile and wicked men, 1 Sam. ii. 12; x. 27; 2 Sam. xxv. 6; Psal. i. 6; xi. 5, xii. 8; Prov. xiv. 4; Psal. cxliv. 9, and in infinite places. For בָּּלֶּּל יִּסְכָּה is a word of extreme reproach, coming from בָּּלֶּּל sine, non, and יִּסְכָּה proficet, (Jud. xix. 22.) a most naughty and a lewd man, or from יִּסְכָּה jugum, a lawless man, who hath cast off all yokes of God’s or man’s laws. So then the meaning is, It is unlawful to reproach earthly princes and men of place, far more is it unlawful to reproach the Judge of the whole earth with injustice. And what then? We may not reproach the king, as Shimei cursed king David; therefore it is unlawful to resist the king in any tyrannous acts. I shall deny the consequence; nay, as Pineda observeth, if the royalist press the words literally, it shall not be lawful for prophets to reprove kings of their sins. Christ called Herod a fox, Elias Ahab, one that troubled Israel.

Obj. 10.—Acts xxiii. Paul excuseth himself that he called Ananias, the high-priest, a whitened wall.

Ans.—Rivetus (Exod. xxiii.) learnedly discussing the place, thinketh Paul professing he knew him not to be the high-priest, speaketh ironically, that he could not acknowledge such a man for a judge. Piscator answereth, He could not then cite Scripture, “It is written,” &c. Ans. But they may well insist, in that act of smiting Paul unjustly, he might be reproached, otherwise it is not lawful to reproach him; and surely it is not like that Paul was ignorant that he was a judge; yes, it is certain he knew him to be a judge. 1. He appeared before him as a judge, to answer for himself. 2. Paul saith expressly he was a judge, (ver. 3.) “Sittest thou to judge me after the law,” &c. And therefore the place is for us, for even according to the mind of all, the fault was (if there were any) in calling him a whitened wall; and he resisted him in judgment, when he said, “Commandest thou me to be smitten against the law?” 3. Though royalists rather put a fault on the apostle Paul, (now in the act of prophesying judgment against Ananias, which after fell out,) than upon their god, the king, yet the consequence amounteth but to this, We may not revile the high-priest, therefore we may not resist the king in his illegal commandments. It followeth not; yes, it should prove, if a prelate come in open war to kill the innocent apostle Paul, the apostle might fly or hold his hands, but might not offend. Now the prelate is the high-priest’s successor, and so his base person is as sacred as the person of the Lord’s anointed, the king. Hence the cavaliers had in one of their colours, which was taken by the Scots at the battle of Marston, July 2, 1644, the crown and the Prelate’s mitre, painted with these words, “Nolite tangere Christos meos,” as if the antichristian mitre were as sacred as the lawful crown of the king of Britain.

Obj. 11.—Ferre, (sect. 9, 56.) “If the senate and people of Rome, who a little before had the supreme government over the then emperors, that of subjects had made them lords, might not resist their emperors, much less can the people of England have power of resistance against the succession of this crown, descending from the cor-
quoror, who by force of arms, but in justice, conquered the kingdom.

Ans. 1.—Though the Roman emperors were absolute, (of which I much doubt,) and though the senate had made them absolute, I deny that, therefore, they cannot be resisted. The unlawful resistance condemned by Paul (Rom. xiii.) is not upon the ground of absoluteness, which is in the court of God nothing, being never ordained of God, but upon reasons of conscience, because the powers are of God, and ordained of God. But some may say, Volenti non fit injuria, If a people totally resign their power, and swear non-resistance to a conqueror, by compact, they cannot resist. I answer, neither doth this follow, because it is an unlawful compact, and none is obliged to what is unlawful. For, (1.) It is no more lawful for me to resign to another my power of natural self-defence than I can resign my power to defend the innocent drawn to death, and the wives, children, and posterity that God had tyed me unto. (2.) The people can no more resign power of self-defence, which nature hath given them, than they can be guilty of self-murder, and be wanting in the lawful defence of kingdom and religion. (3.) Though you make one their king with absoluteness of power, yet when he use that transcendent power, not for the safety but for the destruction of the state, it is known they could not resign to another that power which neither God nor nature gave them, to wit, a power to destroy themselves. 2. I much doubt if the Roman emperor was absolute when Paul wrote this. Justinian saith so, (Digest. l. 2, tit. 2,) but he is partial in this case. Bodine (de repub. l. 2, c. 5, p. 221.) proveth that the Roman emperors were but princes of the commonwealth, and that the sovereignty remained still in the senate and people. Marius Salmon. writeth six books (De Principatu) on the contrary. How could they make their emperors absolute? Livy saith, “The name of a king was contrary to a senate liberty.” Florius, Nomen Regis invicissum, They instituted a yearly feast, Feb. 23, called Regalium. Cicero, as Augustine observeth, Regem Roman posthac nec Div, nec homines esse patiantur. The emperors might do something de facto, but Lex Regia was not before Vespasian’s time. Augustus took on him to be tribune of the people from ten years to ten. Suetonius andTacitus say, “The succeeding kings encroached by

degrees upon the people’s liberty.” For speedier execution of law, the kings in time of war were forced to do many things without the senate, and after the reign of emperors, though there were no Plebiscita, yet there were Senatus-consulta, and one great one is, that the senate declared Nero to be an enemy to the state. It is thought Julius Cesar, in the war against Pompey, subdued the Romans and the senate, and they were subdued again in the battle of Octavius against Cassius and Brutus. But Tacitus saith that was de facto, not de jure, (Anal. l. 1, s. 2,) Rbares ruere in servitium, Consules, Patres, Eques. Caligula intended to assume diadem, the ensign of a king, but his friends dissuaded him. 3. England is obliged to Dr Ferne, who maketh them a subdued nation; the contrary of which is known to the world.

Symonds (sect. 6, p. 19.)—God is not honoured by being resisted, no more is the king.

Ans.—1. I deny the consequence. Those who resist the king’s personal will, and will not suffer him to ruin his crown and posterity in following papists, against his oath at the coronation, do honour him, and his throne and race, as a king, though for the time they displease him. 2. Uzziah was not dishonourable that he was resisted. 3. Nor do we honour the king when we flee from him and his law; yet that resistance is lawful, according to the way of royalists, and in truth also.

Obj. 12.—Supreme power is not to be resisted by subordinate powers, because they are inferior to the supreme.

Ans.—1. The bloody Irish rebels, then, being inferior to the parliament, cannot resist the parliament. 2. Inferior judges, as judges, are immediately subordinate to God as the king, and must be guilty of blood before God if they use not the sword against bloody cavaliers and Irish cut-throats, except you say inferior judges are not obliged to execute judgment but at the king’s commandment.

Obj.—As the Irish rebels are armed with the king’s power, they are superior to the parliament.

Ans.—So an army of Turks and Spaniards, armed with the king’s power, and coming against the two kingdoms at the king’s commandment, though they be but licitors in a lawless cause, are superior to the highest courts of parliament in the two
THE LAW AND THE PRINCE.

Kingdoms. But the king and the law gave power to the parliament first to resist rebels, now he giveth power to rebels to resist the parliament. Here must be contradictory wills and contradictory powers in the king. Which of them is the king's will and his power? the former is legal and parliamentary; then, because law is not contrary to law, the latter cannot be legal also, nor can it be from God, and to resist it, then, is not to resist God.

Obj. 13.—If resistance be restrained to legal commandments, what shall we say to these arguments,—that Paul forbade resistance under these tyrannous governors, and that from the end of their government, which is for good, and which their subjects did in some sort enjoy under them?

Ans.—This proveth nothing, but that we are to co-operate with these governors, though tyrannous, by subjecting to their laws, so far as they come up to this end, the moral good and peace of their government; but Paul nowhere commanded absolute subjection to tyrannous governors in tyrannous acts, which is still the question.

Obj. 14.—He that hath the supreme trust next to God, should have the greatest security to his person and power; but if resistance be lawful, he hath a poor security.

Ans.—1. He that hath the greatest trust should have the greatest security to his person and power in the keeping his power, and using it according to his trust for its own native end—for justice, peace, and godliness. God alloweth security to no man, nor that his angels shall guard them, but only when they are in their ways and the service of God; else, there is no peace to the wicked.

2. It is denied that one man, having the greatest trust, should have the greatest security; the church and people of God, for whose safety he hath the trust, as a means for the end, should have a greater security; the city ought to have greater security than the watchers, the army than the leaders,—The good shepherd giveth his life for his sheep.

3. A power to do ill, without resistance, is not security.

Obj. 15.—If God appoint ministers to preach, then the sheep cannot seek safety elsewhere.

Ans.—The wife is obliged to bed and board with her husband, but not if she fear he will kill her in the bed. The obedience of positive duties that subjects owe to princes cannot loose them from nature's law of self-preservation, nor from God's law of defending religion against papists in arms, nor are the sheep obliged to entrust themselves but to a saving shepherd.

Obj. 16.—If self-defence, and that by taking up arms against the king, be an unlawful duty, how is it that you have no practice, no precedent, no promise for it, in all the word of God? 1. You have no practice: Ahab sold himself to do evil,—he was an idolater,—and killed the prophets; and his queen, a bloody idolatress, stirred him up to great wickedness. Elias had as great power with the people as you have, yet he never stirred up the people to take arms against the king. Why did God at this time rather use extraordinary means of saving his church? Arnisseus, (de autho. prince. c. 8.)—"Elias only fled. Nebuchadnezzar, Ahab, Manasseh, and Julian, were tyrants and idolaters, yet the people never raised an army against them." Bishop Williams of Osory, (Deut. xiv.) "If brother, son, daughter, wife, or friend, entice thee to follow strange gods, kill them; not a word of the father. Children are to love their fathers, not to kill them."

"Christ (saith John P. P.), in the cradle, taught by practice to flee from Herod; and all Christ's acts and sufferings are full of mysteries and our instructions. He might have had legions of angels to defend him, but would rather work a miracle, in curing Malchus' ear, as use the sword against Cesar. If sectaries give us a new creed, it will concern them never with expunging Christ's descent into hell, and the communion of saints, to raze out this, He suffered under Pontius Pilate. My resolution is (for this sin of yours) to dissolve in tears and prayers, and, with my master, say, daily and hourly, Father, forgive them, &c. Christ thought it an uncouth spirit to call for fire from heaven to burn the Samaritans, because they refused him lodging. The prophets cried out against idolatry, blasphemy, murder, adultery, &c., and all sins; never against the sin of neglect, and murderous omission to defend church and religion against a tyrannous king. No promise is made to such a rebellious insurrection in God's word."

Ans.—It is a great non-consequence; this duty is not practised by any examples in God's word, therefore it is no duty. Practice in Scripture is a narrow rule of faith. Show a practice when a husband stoned his wife, because she enticed him to follow strange gods; yet it is commanded, (Deut. xiii. 6,)
when a man lying with a beast is put to death; yet it is a law (Exod. xxii. 19). Infinite more laws are, the practice of which we find not in Scripture. 2. Jehu and the elders of Israel rooted out Ahab's posterity for their idolatry; and if Jehu, out of sincerity, and for the zeal of God, had done what God commanded, he should have been rewarded; for, say that it was extraordinary to Jehu that he should kill Ahab, yet there was an express law for it, that he that stirreth up others to idolatry should die the death (Deut. xiii. 6); and there is no exception of king or father in the law; and to except father or mother in God's matter, is expressly against the zeal of God (Deut. xxxii. 9). And many grave divines think the people to be commended in making Jehu king, and in killing king Nabab, and smiting all the house of Jeroboam for his idolatry; they did that which was a part of their ordinary duty, according to God's express law (Deut. xiii. 6—9), though the facts of these men be extraordinary. 3. Ahab and Jezebel raised not an army of idolators and malignants, such as are papists, prelates, and cavaliers, against the three estates, to destroy parliaments, laws, and religion—and the people conspired with Ahab in the persecution and idolatry, to forsaake the covenant, throw down the altars of God, and slay his prophets—so as in the estimation of Elias, (1 King ix. 9—11,) there was not one man, but they were malignant cavaliers; and hath any Elias now power with the cavaliers, to exhort them to rise in arms against themselves, and to show them it is their duty to make war against the king and themselves, in the defence of religion? When the prophets had much ado to convince the people that they sinned in joining with the king, what place was there to show them their sin, in not using their own lawful defence? And in reason, any may judge it unreasonable for Elias to exhort, of thousands of thousands in Israel, poor seven thousand (of which many no doubt were women, aged, weak, and young,) to rise in arms against Ahab and all Israel, except God had given a positive and extraordinary commandment, and with all miraculous courage and strength in war against the whole land. And God worketh not always by miracles to save his church, and therefore the natural mandate of self-preservation in that case doth no more oblige a few weak ones to lawful resistance than it obliged one martyr to rise against a persecuting Nero and all his forces. Arnisseus should remember we are not to tie our Lord to miracles.

1. Elias did not only flee, but denounced wrath against the king and cavaliers who joined with them in idolatry; and when God gave opportunity, he showed himself, and stirred the people up to kill Baal's Jesuits and seducing idolaters, when the idolatrous king refused to do it; and Elias with his own hand took them not, but all Israel being gathered together, (1 Kings xviii. 19,) the princes and judges did apprehend them, (ver. 40,) which is a warrant, when the king refuseth to draw the sword of justice against armed papists, that other judges are to do it. 2. For Jeremiah, from the Lord, expressly forbade to fight against Nebuchadnezzar, show us the like for not defending ourselves against bloody papists and Irish cut-throats; for that example may as well prove, (if it be a binding law to us,) that our king should not raise his subjects to fight against a Spanish armada and a foreign prince; for before ever Nebuchadnezzar subdued the kingdom of Judah, (Jer. xxvii. 1,) in the beginning of the reign of Jehoiakim, (Jer. xxxvi. and xxxvii.ii.) the king of Judah is from the Lord commanded not to draw a sword against the king of Babylon. I hope this will not tie us and our king not to fight against foreign princes, or against the great Turk, if they shall unjustly invade us and our king; and this example is against the king's resisting of a foreign prince unjustly invading him, as much as against us, for Nebuchadnezzar was a tyrannous invader, and the king of Judah the Lord's anointed. 3. The people also conspired with Manasseh, as with Ahab. (Jer. xv. 4.) Of emperors persecuting Christians we shall hear anon. 5. Deut. xiii., None are excepted, by a synecdoche, the dearest are expressed, "son, daughter, brother, the friend that is as thine own soul;" therefore fathers also; "and husbands are to love their wives" (Ephes. v. 25); yet to execute judgment on them without pity (Deut. xiii. 8, 9;) the father is to love the son, yet if the son prophecy falsely in the name of the Lord, to kill him. (Zech. xiii. 3.) Hence love, fear, reverence toward the king, may be commanded, and defensive wars also. 6. Christ fled from Herod, and all his actions and sufferings are mysteries and instructions, saith the poor Prelate. Christ kissed the man that, to his knowledge, came to betray
him; Christ fled not, but knowing where and when his enemy should apprehend him, came willingly to the place; therefore we should not flee. His actions are so mysterious that John P. P., in imitation of Christ's forty days' fast, will fast from flesh in Lent, and the Prelate must walk on the sea and work miracles, if all Christ's actions be our instructions. 7. He might, with more than twelve legions of angels, defend himself, but he would not, not because resistance was unlawful—no shadow for that in the text—but because it was God's will that he should drink the cup his Father gave him, and because to take the sword without God's warrant, subjeceth the usurper of God's place to perish with the sword. Peter had God's revealed will that Christ behaved to suffer, (Matt. xxvi. 52, 53; xvi. 21–23, and God's positive command, that Christ should die for sinners, (John x. 24,) may well restrain an act of lawful self-preservation, hic et nunc, and such an act as Christ lawfully used at another time. (Luke iv. 29, 30; John xi. 7, 8.) We give no new creed; but this apostate hath forsaken his old creed, and the religion of the Church of Scotland, in which he was baptized. Nor do we expunge out of the creed Christ's descent into hell and the communion of saints, as the apostate saith; but the popish local descent of Christ, and the popish advancing of the church's power above the Scriptures, and the intercession and prayers to the saints, or of the saints for us, we deny; and this Prelate, though he did swear the doctrine of the Church of Scotland, preached expressly these, and many other points of popery, in the pulpit of Edinburgh. 10. We believe that Christ suffered under Pontius Pilate, but that Pilate had any legal power to condemn Christ—but only a power by a permissive decree, (Acts iv. 27, 28,) such as devils had by God's permission, (Luke xxii. 53,)—we utterly deny. 11. The Prelate saith it is his resolution, for our sin of natural self-defence, to dissolve in tears, because his bishopric, I conceive, by which he was wont to dissolve in cups, (being drunk on the Lord's day, after he, with other prelates, had been at the Lord's supper, while the chamber, wherein they were, was dissolved in vomiting,) was taken from him. 12. The prophets cry against all sins, but never against the sin of non-resistance; and yet they had very tyrannous and idolatrous kings. This is but a weak argument. 1. The prophets cry not out against all sins—they cry not out against men-stealers, and killers of father and mother, in express terms, yet do they, by consequence, condemn all these sins; and so do they condemn non-resistance in wars, by consequence, when they cry out, (Jer. v. 31,) "The prophets prophesy falsely, and the priests bear rule by their means, and my people love to have it so." And when they complain (Ezek. xxii. 26–28), "That the prophets and priests violate the law, her princes are like wolves ravening the prey, to shed blood, and the people use oppression, and exercise robbery, and vex the poor;" and when they say, (Jer. xxii. 2,) not to the king only, but also to his servants, and the people that enter in by the gates, "Execute judgment and righteousness, and deliver the spoiled out of the hand of the oppressor,"—I pray you, who are the oppressors? I answer, The murdering judges. (Isa. i. 21.) "As for my people, children are their oppressors, and women rule over them," (Isa. iii. 12,) and, (ver. 14, 15,) "the ancients of the people grind the faces of the poor;" and when they are not valiant for the truth upon the earth; and (Prov. xxxiv. 11) the Lord shall render to these men according to their works, which forbear to help men that are drawn to death, and those that be ready to be slain; if they shift the business, and say, Behold, we know not, doth not he that pondereth the heart consider it? When, therefore, the Lord's prophets complain that the people execute not judgment, relieve not the oppressed, help not and rescue not those that are drawn to death unjustly by the king, or his murdering judges, they expressly cry out against the sin of non-resistance. 2. The prophets cannot expressly and formally cry out against the judges for non-resisting the king, when they join, as raving wolves, with the king in these same acts of oppression, even as the judge cannot formally impaneal twenty-four men, sent out to guard the travellers from an arch-robbor, if these men join with the robber, and rob the travellers, and become cut-throats, as the arch-robbor is, he cannot accuse them for their omission in not guarding the innocent travellers, but for a more heinous crime, that not only they omitted what was their duty, in that they did not rescue the oppressed out of the hands of the wicked, but because they did rob and murder; and so the lesser sin is swallowed up
in the greater. The under-judges are watchmen, and a guard to the church of God; if the king turn a cheat robber, their part is, (Jer. xxii. 3, "To deliver the spoilt out of the hand of the oppressor," to watch against domestic and foreign enemies, and to defend the flock from wolves; "To let the oppressed go free, and to break every yoke," (Isa. lviii. 6, "To break the jaws of the wicked, and pluck the spoil out of his teeth." (Job. xxxix. 17.) Now if these judges turn lions and ravenous wolves, to prey upon the flock, and join with the king, as always they did when the king was an oppressor, "his princes made him glad with their lies," and joined with him, and the people with both, (Jer. i. 18; v. 1; ix. 1; Mic. vii. 1; Ezek. xxii. 24—31; Jer. xv. 1—3,) it is no wonder if the prophets condemn and cry out against the hugest and most bloody crime of positive oppression, formally and expressly, and in that their negative murders, in not relieving the oppressed, must also be cried out against. 13. The whole land cannot formally be accused for non-resistance when the whole land are oppressors, for then they should be accused for not resisting themselves. 14. The king ought to resist the inferior judges in their oppression of the people, by the confession of royalists, then this argument cometh with the like force of strength on themselves. Let them show us practice, precept, or promise in the Word, where the king raised an army for defence of religion, against princes and people who were subverting religion, and we shall make use of that same place of Scripture to prove that the estates and people, who are above the king, (as I have proved,) and made the king, may, and ought to resist the king, with the like force of scriptural truth in the like case. 15. Royalists desire the like precedent of practice and precept for defensive wars; but, I answer, let them show us a practice where any king of Israel or Judah raised an army of malignants, of Philistines, Sidonians, or Ammonites, against the princes of Israel and Judah, convened in an assembly to take course for bringing home the captivated ark of God, and vindicating the laws of the land, and raised an army contrary to the knowledge of the elders, princes, and judges, to set up Dagon, or tolerate the worship of the Sidonian gods; and yet princes, elders, judges, and the whole people, were obliged all to flee out of God's land, or then only to weep and request that the king would not destroy souls and bodies of them and their innocent posterities, because they could not, in conscience, embrace the worship of Dagon and the Sidonian gods. When the royalists can parallel this with a precedent, we can answer, There was as small apparence of precedence in Scripture, (except you flee to the law of nature,) that eighty priests, the subjects of king Uzziah, should put in execution a penal law against the Lord's anointed, and that the inferiors and subjects should resist the superior, and that these priests, with the princes of the land, should remove the king from actual government, all his days, and crown his son, at least make the father, their prince and superior, (as royalist say,) as good as a cyber? Is not this a punishment inflicted by inferiors upon a superior, according to the way of royalists? Now it is clear, a worshipping of bread and the mass commanded, and against law obtruded upon Scotland, by influence of the counsel of known papists, is to us, and in itself, as abominable as the worshipping of Dagon or the Sidonian gods; and when the kingdom of Scotland did but convene, supplicate, and protest against that obtruded idolatry, they were first declared rebels by the king, and then an army raised against them by prelates and malignants, inspired with the spirit of antichrist, to destroy the whole land, if they should not submit, soul and conscience, to that wicked service.

QUESTION XXXV.

WHETHER OR NO THE SUFFERINGS OF THE MARTYRS IN THE PRIMITIVE CHURCH MILITATE AGAINST THE LAWFULNESS OF DEFENSIVE WARS.

Obj. 1.—Royalists think they burden our cause much with hatred, when they bring the fathers and ancient martyrs against us; so the P. Prelate (p. 74—76,) extracted out of other authors testimonies for this, and from I. Armagh, in a sermon on Rom. xiii. (p. 20, 21;) so the doctors of Aberdeen. The Prelate proveth from Clem. Alexand. (I. 7, c. 17,) that the king is constituted by the Lord; so Ignatius.

Ans. 1.—Except he prove from these fathers that the king is from God only and immediately, he proveth nothing.
Obj. 2.—Iren. (l. 5, adv. haer. c. 20).—

prove that God giveth kingdoms, and that the devil lied, Luke iv.; and we make the people to make kings, and so to be the children of the devil.

Ans.—If we denied God to dispose of kingdoms, this man might allege the church of God in England and Scotland to be the sons of Satan; but God’s word, in Deut. xviii. 18, and many other places, makes the people to make kings, and yet not devils. But to say that prelates should crown kings, and with their foul fingers anoint him, and that as the Pope’s substitute, is to make him that is the son of perdition a donor of kingdoms; also to make a man, with his bloody sword, to ascend to a throne, is to deny God to be the disposer of kingdoms; and prelates teach both these.

Obj. 3.—Tertul. (Apol. c. 30).—Inde est imperator, unde et homo, antequam imperator, inde potestas illi, unde et spiritus. God is no less the creator of sovereignty than of the soul of man.

Ans.—God only maketh kings by his absolute sovereignty, as he only maketh high and low, and so only he maketh mayors, provosts, bailiffs, for there is no power but of him, (Rom xiii.), therefore provosts and bailiffs are not from men. The reader shall not be troubled with the rest of the testimonies of this poor plagiary, for they prove what never man denied but prelates and royalists, to wit, that kings are not from God’s approving and regulating will, which they oppose, when they say, sole conquest is a just title to the crown.

But they deserve rather an answer which Grotius, Barclay, Arminius, and Spalato, allege, as—

Obj. 1.—Cyprian (epist. 1).—Non est fas Christianis, armis, ac vi tueri se adversus impetum persecutorum, Christians cannot, by violence, defend themselves against persecutors.

Ans.—If these words be pressed literally, it were not lawful to defend ourselves against murderers; but Cyprian is expressly condemning in that place the seditious tumults of people against the lawful magistrate.

Obj. 2.—The ancients say he was justly punished who did rend and tear the edict of Dioclesian and Maximinus (Euseb. l. 7, Hist. Eccles. c. 5).

Ans.—To rend an edict is no act of natural self-defence, but a breach of a positive commandment of the emperor’s, and could not be lawfully done, especially by a private man.

Obj. 3.—Cyprian (epist. 56). Incumbamus gemitis assiduis et deprecationibus erebis, hae enim sunt munimenta spiritualia et tela divina quae protegent; and Rufinus; (l. 2, c. 6.) Ambrosius adversus regina (Justinae Arina) furorem non se manu defensabantur, sed jejunis continuatique vigiliis sub altari positus.

Ans.—It is true, Cyprian reputed prayers his armour, but not his only armour. Though Ambrose, de facto, used no other against Justina, the places say nothing against the lawfulness of self-defence. Ambrose speaketh of that armour and these means of defence that are proper to pastors, and these are prayers and tears, not the sword; because pastors carry the ark, that is their charge, not the sword, that is the magistrate’s place.

Obj. 4.—Tertullian (apolog. c. 37) saith expressly, that the Christians might, for strength and number, have defended themselves against their persecutors, but thought it unlawful. Quando vel una nos pauculis faculis largitatem ultionis poss et operari, si malum malo dispungi penes nos liceret, sed absit ut igni humano vindicaretur divina secta, aut dolet patti, in quod probetur. Si enim hostes extraneos, non tantum vindices occultos aegere vellemus, dессет nobis vis numerorum et coptarum?

Ans.—I will not go about to say that Tertullian thought it lawful to raise arms against the emperor: I ingenuously confess Tertullian was in that error. But, 1. something of the man; 2. Of the Christians. 1. Of the man—Tertullian after this turned a Montanist. 2. Pamuelius saith of him, in vit. Tertul. inter Apocrypha numeratur—excommunicatus. 3. It was Tertullian’s error in a fact, not in a question, that he believed Christians were so numerous as that they might have fought with the emperors. 4. M. Pryn doth judiciously observe, (part 3, Sovereign Power of Parl. p. 139, 140,) he not only thought it unlawful to resist, but also to flee, and therefore wrote a book de fuga; and therefore as some men are excessive in doing for Christ, so also in suffering for Christ. Hence infer, that Tertullian is neither ours nor theirs in this point; and we can cite Tertullian against them also, Jan. sumus ergo pares; yea, Fox, in his Monum., saith, “Christians ran to the stakes to be burnt, when they were nei-
 Assert. 1. The power of the sword, by
God's law, is not proper and peculiar to the
king only, but given by God to the inferior
judges. 1. Because the inferior judge is essen-
tially a judge no less than the king, as is
proved, therefore he must bear the sword.
(Rom. xiii. 4.) 2. Not Moses only, but the
congregation of Israel, had power of life and
death, and so of the sword; Num. xxxv. 12,
the man-slayer shall not die, "until he stand
before the congregation in judgment;" ver.
24, "Then the congregation shall judge
between the slayer and the avenger of
blood;" Deut. xxv. 18, "The elders of
the city shall take that man and chastise him;"
ver. 21, "The men of the city shall stone her
with stones;" Deut. xvii. 5; xix. 12, 13, v.
18—21; xxi. 19, "Then shall his father
and his mother bring him to the elders of
his city;" ver. 21, "And the men of the city
shall stone him with stones;" 1 Kings xxi.
11. The elders and nobles that were inhabi-
tants in his city stoned Naboth. 3. In-
ferior judges are condemned as murderers,
who have shed innocent blood, (Isa. i. 12;
Psal. xciv. 5, 6; Jer. xxi. 3; Ezek. xxii.
12, 27; Hosea vi. 8; Zeph. iii. 1—3,) there-
fore, they must have the power of the
sword, hence, upon the same grounds.

 Assert. 2. That the king only hath the
power of war, and raising armies must be
but a positive civil law. For, 1. By divine
right, if the inferior judges have the sword
given to them of God, then have they also
power of war, and raising armies. 2. All power
of war that the king hath is cumulative, not
private, and not destructive, but given for
the safety of the kingdom; as therefore
the king cannot take from one particular man
the power of the sword for natural self-pre-
servation, because it is the birthright of life,
neither can the king take from a community
and kingdom a power of rising in
arms for their own defence. If an army of
Turks shall suddenly invade the land, and
the king's express consent cannot be had,
(for it is essentially involved in the office of
the king, as king, that all the power of the
sword that he hath be for their safety,) or if
the king should, as a man, refuse his con-
sent, and interdict and discharge the land to
rise in arms, yet they have his royal con-
sent, though they want his personal consent,
in respect that his office obligeth him to
command them to rise in arms. 3. Because
no king, no civil power can take away
nature's birthright of self-defence from any

QUESTION XXXVI.
WHETHER THE POWER OF WAR BE ONLY IN
THE KING.

It is not hard to determine this question.
The sword in a constitute commonwealth is
given to the judge supreme or subordinate;
(Rom. xiii. 4.) "He beareth not the sword in
vain" in the empire. The use of armour is
restricted to the emperor by a positive law;
so the law saith, Armorum officia nisi jussum
principis sunt interdicta, (lib. de Cod. de
Leg. 1.) Imperat Valentinian nulli, nobis
inconsulitis, usus armorum tribuatur, (ad
1. Jul. Mai. l. 3.) War is a species and a
particular, the sword is a general.
man, or a community of men. 4. Because if a king should sell his kingdom, and invite a bloody conqueror to come in with an army of men to destroy his people, impose upon their conscience an idolatrous religion, they may lawfully rise against that army without the king's consent; for, though royalists say, they need not come in asinine patience, and offer their throats to cut-throats, but may flee, yet several things hindereth a flight. 1. They are obliged by virtue of the fifth commandment to remain, and, with their sword, defend the cities of the Lord and the king (2 Sam. x. 12; 1 Chron. xix. 13); for if to defend our country and children, and the church of God, from unjust invaders and cut-throats, by the sword, be an act of charity that God and the law of nature requireth of a people, as is evident, (Prov. xxiv. 11), and if the fifth commandment obligeth the land to defend their aged parents and young children from these invaders, and if the sixth commandment lay on us the like bond, all the land are to act works of mercy and charity, though the king unjustly command the contrary, except, royalists say, that we are not to perform the duties of the second table commanded by God, if an earthly king forbid us; and if we exercise not acts of mercy towards our brethren, when their life is in hazard, to save them, we are murderers; and so men may murder their neighbour if the king command them so to do; this is like the court-faith. 2. The king's power of wars is for the safety of his people; if he deny his consent to their raising of arms till they be destroyed, he playeth the tyrant, not the king, and the law of nature will necessitate them either to defend themselves, (seeing flight of all in that case is harder than death,) else they must be guilty of self-murder. Now, the king's commandment of not rising in arms, at best, is positive and against the nature of his office, and it floweth then from him as from a man, and so must be far inferior to the natural commandment of God, which commandeth self-preservation, if we would not be guilty of self-murder, and of obeying men rather than God; so Althusius (Polit. c. 26, n. 9), Halicarnas. (L. 4, Antiq. Rom.), Aristot. (Polit. l. 3, c. 3). 3. David took Goliath's sword and became a captain, a captain to an host of armed men in the battle, and fought the battles of the Lord, (1 Sam. xxv. 28,) and this Abigail by the spirit of prophecy, as I take it, saith, (ver. 29-31; 1 Sam. xxii. 2; 1 Chron. xii. 1-3; xvii. 18, 21, 22,) not only without Saul's consent, but against king Saul, as he was a man, but not against him as he was king of Israel. 4. If there be no king, or the king be minor, or an usurper, as Athaliah, be on the throne, the kingdom may lawfully make war without the king, as (Judg. xx.) the children of Israel,—four hundred thousand footmen that drew sword, went out to war against the children of Benjamin. Judah had the power of the sword when Josiah was but eight years old, in the beginning of his reign, (2 Kings xxii. 1, 2,) and before Jehoshah was crowned king, and while he was minor, (2 Kings xi,) there were captains of hundreds in arms raised by Jehoiada, and the people of Judah, to defend the young king. It cannot be said that this is more extraordinary than that it is extraordinary for kings to die, and in the interregnum, wars, in an ordinary providence, may fall out in these kingdoms, where kings go by election; and for kings to fall to be minors, captives, tyrannous. And 1 shall be of that opinion that Mr Symons, who holdeth that royal birth is equivalent to divine union, must also hold, that election is not equivalent to divine union; for both election and birth cannot be of the same validity, the one being natural, the other a matter of free choice, which shall infer that kings by election are less properly, and analogically only, kings; and so Saul was not properly a king, for he was king by election; but I conceive that rather kings by birth must be less properly kings, because the first king by God's institution, being the mould of all the rest, was by election (Deut. xvii. 18-20).

5. If the estates create the king, and make this man king, not that man, (as is clear from Deut. xvii. 18, and 2 Chron. v. 1-4,) they give to him the power of the sword, and the power of war, and the militia; and I shall judge it strange and reasonless, that the power given to the king, by the parliament or estates of a free kingdom, (such as Scotland is acknowledged by all to be,) should create, regulate, limit, abridge, yea, and annul that power that created itself. Hath-God ordained a parliamentary power to create a royal power of the sword and war, to be placed in the king, the parliament's creature, for the safety of parliament and kingdom, which yet is destructive of itself? Dr Ferne saith that "the king sum-
moneth a parliament, and giveth them power
to be a parliament, and to advise and coun-
sel him;' and, in the meantime, Scripture
saith (Deut. xvii. 18—20; 1 Sam. x. 20—
25; 2 Sam. v. 1—4) that the parliament
createsth the king. Here is admirable reci-
procation of creation in policy! Shall God
make the mother to destroy the daughter?
The parliamentary power that giveth crown,
militia, sword, and all to the king, must give
power to the king to use sword and war for
the destruction of the kingdom, and to an-
uul all the power of parliaments, to make,
unmake parliaments, and all parliamentary
power. What more absurd?

Obj. 1.—(Symons, p. 57). These
phrases, (1 Sam. ix. 1,) "When kings go
forth to war," and (Luke xiv. 31) "What
king going forth to war," speak to my con-
science, that both offensive and defensive war
are in the king's hand.

Ans.—It is not much to other men what
is spoken to any man's conscience by phrase
and customs; for by this no states, where there
be no kings, but government by the best, or
the people, as in Holland, or in other na-
tions, can have power of war; for what time
of year shall kings go to war who are not
kings? and because Christ saith, "A cer-
tain householder delivered talents to his
servants," will this infer to any conscience,
that none but a householder may take usury?
And when he saith, "If the good man of
the house knew at what hour the thief
would come, he would watch;" shall it fol-
low the son or servant may not watch the
house, but only the good man?

Obj. 2.—(Ferne, p. 95.) The natural
body cannot move but upon natural prin-
ciples; and so neither can the politic body
move in war, but upon politic reasons from
the prince, which must direct by law.

Ans. 1.—This may well be retorted, the
politic head cannot then move but upon politic reasons; and so the king cannot
move to wars but by the law, and that is
by consent of Parliament; and no law can
principle the head to destroy the members.

2. If an army of cut-throats rise to destroy
the kingdom, because the king is behind in his
place in doing his duty, how can the
other judges, the states and parliament, be
accessory to murder committed by them in
not raising armies to suppress such robbers?
Shall the inferior judges be guilty of in-
ocent blood because the king will not do
his duty? 3. The politic body ceaseth no
more to renounce the principles of sinless
nature in self-defence, because it is a politic
body, and subject to a king, than it can
leave off to sleep, eat, and drink; and there
is more need of politic principles to the one
than the other. 4. The parliaments and
estates of both kingdoms move in these
wars by the king's laws, and are a formal
politic body in themselves.

Obj. 2.—The ground of the present wars
against the king, saith Dr Ferne, (sect. 4,
p. 13,) is false, to wit, that the parliament
is co-ordinate with the king; but so the king
shall not be supreme, the parliament's con-
sent is required to an act of supremacy, but
not to a denial of that act. And there can
no more (saith Arnisius, de jure majes-
tatis, c. 3; in quo consistat essent. majest.
c. 3, n. 1; and an. jurs. majest. sopar., &c.
c. 2, n. 2) be two equal and co-ordinate
supreme powers than there can be two su-
preme Gods; and multitudo deorum est
nullitas deorum, many gods infer no gods.

Ans. 1.—If we consider the foun-
tain-power, the king is subordinate to the
parliament, and not co-ordinate; for the
constituent is above that which is constituted.
If we regard the derived and executive
power in parliamentary acts, they make
but a total and complete sovereign power;
yet so as the sovereign power of the parlia-
ment, being habitually and underived a
prime and fountain-power, (for I do not
here separate people and parliament,) is per-
fected without the king, for all parliamentary
acts, as is clear, in that the parliament make
kings, make laws, and raise armies, when
either the king is minor, captivated, tyran-
nous, or dead; but royal power parlia-
mentary without the parliament, is null,
because it is essentially but a part of the
parliament, and can work nothing separated
from the parliament, no more than a hand
cut off from the body can write; and so
here we see two supremes co-ordinate.
Amongst infinite things there cannot be
two, because it involveth a contradiction,
that an infinite thing can be created, for
then it should it be finite; but a royal
power is essentially a derived and created
power and supreme, secundum quid, only
in relation to single men, but not in rela-
tion to the community; it is always a crea-
ture of the community, with leave of the
royalist. 2. It is false, that to an act of
parliamentary supremacy the consent of the
king is required, for it is repugnant that
there can be any parliamentary judicial act without the parliament, but there may be without the king. 3. More false it is, that the king hath a negative voice in parliament; then be shall be sole judge, and the parliament, the king's creator and constituent, shall be a cypher.

Obj. 3.—{Armiseus, de jur. maj. de post. armorum, c. 8, n. 4.} The people are mad and furious, therefore supreme majesty cannot be secured, and rebels suppressed, and public peace kept, if the power of armour be not in the king's hand only.

Ans. 1.—To denude the people of armour, because they may abuse the prince, is to expose them to violence and oppression, unjustly; for one king may more easily abuse armour than all the people; one man may more easily fall than a community. 2. The safety of the people is far to be preferred before the safety of one man, though he were two emperors, one in the east, another in the west, because the emperor is ordained of God for the good and safety of the people. (1 Tim. ii. 2.) 3. There can be no inferior judges to bear the sword, as God requireth, (Rom. xiii. 4; Deut. i. 16, 16; Chron. xix. 6, 7,) and the king must be sole judge, if he only have the sword, and all armour monopolised to himself.

Obj. 4.—The causes of war, saith Mr Symmons, (sect. 4, p. 9,) should not be made known to the subjects, who are to look more to the lawful call to war from the prince than to the cause of the war.

Ans. 1.—The parliament and all the judges and nobles are subjects to royaltys, if they should make war and shed blood upon blind obedience to the king, not inquiring either in causes of law or fact, they must resign their consciences to the king. 2. The king cannot make unlawful war to be lawful by any authority royal, except he could rase out the second commandment; therefore subjects must look more to the causes of war than to the authority of the king; and this were a fair way to make parliaments of both kingdoms set up popery by the sword, and root out the reformed religion upon the king's authority, as the lawful call to war, not looking to the causes of war.

QUESTION XXXVII.

WHETHER OR NO IT BE LAWFUL THAT THE ESTATES OF SCOTLAND HELP THEIR OPPRESSED BRETHREN, THE PARLIAMENT AND PROTESTANTS IN ENGLAND, AGAINST PAPISTS AND PRELATES NOW IN ARMS AGAINST THEM, AND KILLING THEM, AND ENDEAVOURING THE ESTABLISHMENT OF POPERY, THOUGH THE KING OF SCOTLAND SHOULD INHIBIT THEM.

1. Marianus saith, one is obliged to help his brother, non vinculo efficaci, not with any efficacious bond; because in these, (saith he,) non est actio aut poena, one may not have action of law against his brother, who refused to help him; yet, (saith he) as man he is obliged to man, nexo civili societatis, by the bond of human society.

2. Others say, one nation may indirectly defend a neighbour nation against a common enemy, because it is a self-defence; and it is presumed that a foreign enemy, having overcome the neighbour nation, shall invade that nation itself who denieth help and succour to the neighbour nation. This is a self-opinion, and to me it looketh not like the spiritual law of God.

3. Some say it is lawful, but not always expedient, in which opinion there is this much truth, that if the neighbour nation have an evil cause, neque licet, neque expediet, it is neither lawful nor expedient. But what is lawful in the case of necessity so extreme, as is the loss of a brother's life, or of a nation, must be expedient; because necessity of non-sinning maketh any lawful thing expedient. As to help my brother in fire or water, requiring my present and speedy help, though to the loss of my goods, must be as expedient as a negative commandment, Thou shalt not murder.

4. Others think it lawful in the case that my brother seek my help only, otherwise I have no calling thereunto; to which opinion I cannot universally subscribe, it is held, both by reason and the soundest divines, that to rebuke my brother of sin is actus misericordiae et charitatis, an act of mercy and charity to his soul; yet I hold I am obliged to rebuke him by God's law (Levit. xix. 17,) otherwise I hate him. (Thes. v. 14; Col. iv. 17; Math. xviii. 15.)
Nor can I think in reason, that my duty of love to my brother doth not oblige me but upon dependency on his free consent; but as I am to help my neighbour’s ox out of a ditch, though my neighbour know not, and so I have only his implicit and virtual consent, so is the case here. I go not farther in this case of conscience,—if a neighbour nation be jealous of our help, and in an hostile way should oppose us in helping, (which, blessed be the Lord, the honourable houses of the parliament of England hath not done, though malignant spirits tempted them to such a course,) what, in that case, we should owe to the afflicted members of Christ’s body, is a case may be determined easily.

5. The fifth and last opinion is of those who think, if the king command poplists and prelates to rise against the parliament and our brethren in England in wars, that we are obliged in conscience, and by our oath and covenant, to help our native princes against them,—to which opinion, with hands and feet I should accord, if our king’s cause were just and lawful; but from this it followed, that we must thus far judge of the cause, as concerneth our consciences, in the matter of our necessary duty, leaving the judicial cognizance to the honourable parliament of England. But because I cannot return to all these opinions particularly, I see no reason but the civil law of a kingdom doth oblige any citizen to help an innocent man against a murdering robber, and that he may be judicially accused as a murderer, who faileth in his duty, and that Solon said well, Beatam remp. esse illam, in qua quisque injuriar alienor suam estiment, It is a blessed society in which every man is to repute an injury done against a brother, as an injury done against himself. As the Egyptians had a good law, by which he was accused upon his head who helped not one that suffered wrong; and if he was not able to help, he was held to accuse the injurer, if not, his punishment was whips or three days’ hunger; it may be upon this ground it was that Moses slew the Egyptian. Ambrose commended him for so doing.

Assert.—We are obliged, by many hands, to expose our lives, goods, children, &c., in this cause of religion and of the unjust oppression of enemies, for the safety and defence of our dear brethren and true religion in England; 1 Prov. xxiv. 11, 12, “If thou forbear to deliver them that are drawn to death, תַּנְמוּת לָמוֹן נָפָל (taken as captives to be killed,) and those that are ready to be slain. If thou sayest, Behold we knew it not, doth not he that pondereth the heart consider it? and he that keepeth thy soul, doth he not know it? and shall he not render to every man according to his work?” Mr Jermin is too narrow, who, commenting on the place, restricteth all to these two, that the priest should deliver by interceding for the innocent, and the king by pardoning only. But to deliver is a work of violence, as (1 Sam. xxx. 18) David by the sword rescued his wives; Hos. v. 14, “I will take away, and none shall rescue;,” 1 Sam. xvii. 36, “I rescued the lambs out of his mouth,” out of the lion’s mouth, which behaved to be done with great violence; 2 Kings xviii. 34, “They have not delivered בֵּית יְבָרָכָה Samaria out of my hand.” So Cornel. & Lapide, Charitias suedet, et vi et armis inunxi ducere ad mortem. Ambrose (lib. 1, offic. c. 36) citeth this same text, and commendeth Moses who killed the Egyptian in defending a Hebrew man. To deliver is an act of charity, and so to be done, though the judge forbid it, when the innocent is unjustly put to death.

Obj.—But in so doing, private men may offer violence to the lawful magistrate when he unjustly putteth an innocent man to death, and rescue him out of the hands of the magistrate; and this were to bring in anarchy and confusion; for if it be an act of charity to deliver the innocent out of the hands of the magistrate, it is homicide to a private man not to do it; for our obedience to the law of nature tyeth us absolutely, though the magistrate forbid these acts; for it is known that I must obey God rather than men.

Ans.—1. The law of nature tyeth us to obedience in acts of charity, yet not to perform these acts after any way and manner in a mere natural way, impetus nature; but I am to perform acts of natural charity in a rational and prudent way, and in looking to God’s law, else, if my brother or father were unjustly condemned to die, I might violently deliver him out of the magistrate’s hand, but, by the contrary, my hand should be first on him, without natural compassion. As, if my brother or my wife have been a blasphemer of God, (Deut. xiii. 6—8,) therefore, I am to do acts natural, as a wise man observing (as Solomon saith, Eccles. viii. 5)
"both time and judgment." Now, it were no wisdom for one private man to hazard his own life by attempting to rescue an innocent brother, because he hath not strength to do it, and the law of nature obligeth me not to acts of charity when I, in all reason, see them impossible; but a multitude who had strength did well to rescue innocent Jonathan out of the hands of the king, that he should not be put to death; yet one man was not tyed by the law of nature to rescue Jonathan if the king and prince had condemned him, though unjustly.

2. The host of men that helped David against king Saul (1 Sam. xxi. 2) entered in a lawful war, and (1 Chron. xii. 18) Amasa, by the Spirit of the Lord, blesseth his helpers,—"Peace, peace be unto thee, and peace be to thy helpers, for thy God helpeth thee." Therefore, peace must be to the parliament of England, and to their helpers, their brethren of Scotland.

3. Numb. xxxii. 1—3, &c.; Josh. i. 12—14, the children of Gad, and of Reuben, and the half tribe of Manasseh, though their inheritance fell to be on this side of Jordan, yet they were to go over the river armed, to fight for their brethren, while they had also possession of the land, at the commandment of Moses and Joshua.

4. So Saul and Israel helped the men of Jabesh-Gilead conjoined in blood with them, against Nahash the Ammonite, and his unjust conditions in plucking out their right eyes, 1 Sam. xi.

5. Jephtha (Judg. xii. 2) justly rebuketh the men of Ephraim because they would not help him and his people against the Ammonites.

6. If the communion of saints be any bond,—that England and we have "one Lord, one faith, one baptism, one head and Saviour, Jesus Christ," then are we obliged to help our bleeding sister-church against these same common enemies, papists and prelates; but the former is undeniable true, for we send help to the Rochelle, if there had not been a secret betraying of our brethren, we send help to the recovery of the palatinate, and the aid of the confederate princes against Babel's strength and power, and that lawfully, but we did it at great leisure and coldly. Queen Elizabeth helped Holland against the king of Spain; and, besides the union in religion, we sail in one ship together, being in one island, under one king; and now, by the mercy of God, have sworn one covenant, and so must stand or fall together.

7. We are obliged, by the union betwixt the kingdoms, concluded to be by the Convention of the Estates of Scotland, anno 1686, at the desire of the General Assembly, 1683, to join forces together at home, and enter in league with protestant princes and estates abroad, to maintain the protestant religion against the bloody confederacy of Trent; and, accordingly, this league between the two crowns was subscribed at Berwick, 1686, and the same renewed, 1687-8, as also the Confession of Faith subscribed, when the Spanish armada was on our coasts.

8. The law of God, commanding that we love our neighbour as ourselves, and therefore to defend one another against unjust violence, (l. ut vim. f. de just. et jur.,) obligethe us to the same, except we think God can be pleased with lip-love in word only, which the Spirit of God condemneth (1 John ii. 9, 10; iii. 16). And the sum of law and prophets is, that as we would not men should refuse to help us when we are unjustly oppressed, so neither would we so serve our afflicted brethren, (l. in facto f. de cond. et demonstr. sect. Si usor. Justit. de nupt.)

9. Every man is a keeper of his brother's life. There is a voluntary homicide when a man refuseth food or physic necessary for his own life, and refuseth food to his dying brother; and men are not born for themselves; and when the king defendeth not subjects against their enemies, all fellow-subjects, by the law of nature, of nations, the civil and cannon law, have a natural privilege to defend one another, and are mutual magistrates to one another when there be no other magistrates. If an army of Turks or pagans would come upon Britain, if the king were dead, as he is civilly dead in this juncture of time, when he refuseth to help his subjects, one part of Britain would help another; as Jehoshaphat, king of Judah, did right in helping Ahab and Israel, so the Lord had approved of the war. If the left hand be wounded, and the left eye put out, nature teacheth that the whole burden of natural acts is devolved on the other hand and eye, and so are they obliged to help one another.

10. As we are to bear one another's burdens, and to help our enemies to compassionate strangers, so far more those who make one body of Christ with us.
11. Mercur is under a curse, who helpeth not the Lord, so one part of a church another. A woe lieth on them that are at ease in Zion, and helpeth not afflicted Joseph so far as they are able.

12. The law of gratitude obligeth us to this. England sent an army to free both our souls and bodies from the bondage of popery and the fury of the French, upon which occasion a parliament at Leith (anno 1650) established peace and religion, and then after, they helped us against a faction of papists in our own bosom, for which we take God's name in a prayer, seeking grace never to forget that kindness.

13. When papists in arms had undone England, (if God give them victory,) they should next fall on us, and it should not be in the king's power to resist them. When our enemies, within two days' journey, are in arms, and have the person of our king and his judgment, and so the breathing-law of the two kingdoms, under their power, we should but sleep to be killed in our nest, if we did not arise and fight for king, church, country, and brethren.

Obj. By these and the like grounds, when the king's royal person and life is in danger, he may use papists as subjects, not as papists, in his own natural self-defence.

Ans. 1.—Hell and the devil cannot say that a thought was in any heart against the king's person. He slept in Scotland safe, and at Westminster in his own palace, when the estates of both kingdoms would not so much as take the water-pot from his bedside, and his spear; and Satan instilled this traitorously lie, first in prelates, then in papists. 2. The king professeth his maintenance of the true protestant religion in his declarations since he took arms, but if Saul had put arms in the hands of Baal's priests, and in an army of Sidonians, Philistines, Ammonites, professing their quarrel against Israel was not to defend the king, but their Dagon and false gods, clear it were, Saul's army should not stand in relation of helpers of the king's, but of advancers of their own religion. Now, Irish papists, and English, in arms, press the king to cancel all laws against popery, and make laws for the free liberty of mass, and the full power of papists, then the king must use papists, as papists, in these wars.

QUESTION XXXVIII.

WHETHER MONARCHY BE THE BEST OF GOVERNMENTS.

Nothing more unwillingly do I write than one word of this question. It is a dark way; circumstances in fallen nature may make things best to be, hic et nunc, evil, though to me it is probable, that monarchy in itself, monarchy de jure, that is, lawful and limited monarchy is best, even now, in a kingdom, under the fall of sin, if other circumstances be considered.

But observe, I pray you, that Mr Symmons and this poor Prelate, do so extol monarchy, that there is not a government save monarchy only, all other governments are deviations; and therefore Mr Symmons saith, (p. 8.) "If I should affect another government than monarchy, I should neither fear God nor the king, but associate myself with the seditious;" and so the question of monarchy is,—1. Which is the choicest government in itself, or which is the choicest government in policy, and in the condition of man fallen in the state of sin? 2. Which is the best government, that is, the most profitable, or the most pleasant, or the most honest? For we know that there be these three kinds of good things,—things useful and profitable, bona utilia; things pleasant, jucunda; things honest, honesta; and the question may be of every one of the three. 3. The question may be, Which of these governments be most agreeable to nature? That is, either to nature in itself, as it agreeth communiter to all natures of elements, birds, beasts, angels, men, to lead them, as a governor, doth to their last end; or, Which government is most agreeable to men, to sinful men, to sinful men of this or that nation? For some nations are more ambitious, some more factious; some are better ruled by one, some better ruled by many, some by most and by the people. 4. The question may be in regard of the facility or difficulty of loving, fearing, obeying, and serving; and so it may be thought easier to love, fear, and obey one monarch than many rulers, in respect that our Lord saith, it is difficult to serve two masters, and possibly more difficult to serve twenty or an hundred. 5. The question may be in regard of the power of commanding, or of the
justice and equity of commanding; hence from this last I shall set down the first thesis.

Assert. 1.—An absolute and unlimited monarchy is not only not the best form of government, but it is the worst, and this is against our petty Prelate and all royalists. My reasons are these:—1. Because it is an unlawful ordinance, and God never ordained it; and I cannot ascribe the superlative degree to anything of which I deny the positive. Absolute government in a sinful and peaceable man is a wicked government, and not a power from God, for God never gave a power to sin. *Plentitudo potestatis ad malum et injustum non extendetur.* Sozenus Junior (cons. 65) in *casus occurrent* (l. 2). Ferdinand. Loazes in *suo cons. pro March. de Veler.* (p. 54, n. 56), and so that learned senator, Ferd. Vasquez (p. 1, l. 1, c. 5, n. 17). 2. It was better for the state that Epimenondas could not sleep than that he could sleep, when the people were dancing; because, said he, “I wake that you may have leave to sleep and be secure;” for he was upon deep cogitations how to do good to the commonwealth when the people were upon their pleasures; because all kings, since the fall of the father, king Adam, are inclined to sin and injustice, and so had need to be guided by a law, even because they are kings, so they remain men. Omnipotency in one that can sin is a cursed power. With reason all our divines say, the state of saving grace in the second Adam, where there is *non posse defecere*, they cannot fall away from God, is better than the state of the first Adam, where there was *posse non defecere*, a power not to fall away; and that our free will is better in our country in heaven, where we cannot sin, than in the way to our country, on earth, where we have a power to sin; and so God’s people is in a better case, (Hosea, ii. 6, 7). “Where her power to overtake her lovers is closed up with an hedge of thorns that she cannot find her path;” then the condition of Ephraim, of whom God saith, (Hosea, iv. 17). “Ephraim is joined to idols, let him alone.” So cannot that be a good government when the supreme power is in a sinful man, as inclined to injustice by nature as any man, and more inclined to injustice by the condition of his place than any; and yet by office he is one that can do no injustice against his subjects; he is a king, and so may destroy Uriah, kill his subjects, but cannot sin; and this is, to flattering royalists, the best government in the world. As if an unchained lion were the best governor, because unchained, to all the beasts, sheep, and lambs, and all others, which with his teeth and paws he may reach, and that by virtue of an ordinance of God. 3. What is one man under no restraint, but made a god on earth, and so drunk with the grandeur of a sinning-god, here under the moon and clouds? who may hear good counsel from men of his own choosing, yet is under no restraint of law to follow it, being the supreme power absolute, high, mighty, and an impecunious god on earth. Certainly this man may more easily err, and break out in violent acts of injustice, than a number of rulers, grave, wise, under a law. One being a sinful man, shall sooner sin and turn a Nero (when he may go to hell, and lead thousands to hell with him gratis) than a multitude of sinful men, who have less power to do against law, and a tyrannous killing of innocents, and a subversion of laws, liberties, and religion, by one who may, by office, and without resistance of mortal men, do all ill, is more dangerous and hurtful than division and faction incident to aristocracy. 4. Caesar is great, but law and reason are greater; by an absolute monarchy all things are ruled by will and pleasure above law; then this government cannot be so good as law and reason in a government by the best, or by many. 5. Under absolute monarchy, a free people is, *actu primo*, and in themselves enslaved, because though the monarch, so absolute, should kill all, he cannot be controlled; there is no more but flight, prayers, and tears remaining; and what greater power hath a tyrant? None at all, so may we say. An absolute monarch is, *actu primo*, a sleeping lion, and a tyrant is a waking and a devouring lion, and they differ in accidents only. 6. This is the papists’ way. Bellarmine (de pontif., l. 1, c. 1), and Sanderus (de visiti Monarchia, l. 3, c. 3), Turrere (in sum de Eccles. l. 2, c. 2), prove that the government of the church is by an absolute monarch and pope, because that is the best government which yet is in question. So royalists prove commonwealths must be best governed by absolute monarchs, because that is the best government; but the law saith, it is contrary to nature, even though people should paction to make a king absolute: *Conventio procur-
latoria ad dilapidandum et dissipandum juri naturali contraria nulla est, l. filius 15, de cond. Just. l. Nepos. procult 125, de verb. signif. l. 188, ubi de jure Regni l. 85, d. tit.

**Assert. 2.**—Monarchy in its latitude—as heaven, and earth, and all the host therein, are citizens—is the best government absolutely, because God’s immediate government must be best; but that other governments are good or best so far as they come near to this, must prove that there is a monarchy in angels if there be a government and a monarchy amongst fishes, beasts, birds, &c.; and that, if Adam had never sinned, there should be one monarchy amongst all mankind. I profess I have no eye to see what government could be in that state, but paternal, or marital; and, by this reason, there should be one catholic emperor over all the kings of the earth; a position held by some papists and interpreters of the cannon law, which maketh all the princes of the earth to be usurpers, except those who acknowledge a catholic dominion of the whole earth in the emperor, to whom they submit themselves as vassals. If kings were gods and could not sin, and just, as Solomon in the beginning of his reign, and as David, I could say, monarchy so limited must be better than aristocracy or democracy, 1. Because it is farthest from injustice, nearest to peace and godliness. (M. l. 3, sect. aparet. ff. de administrat. tutor. 1. 2, sect. novissime, ff. de orig. jur. Aristot. pol. l. 8, c. 10, Bodin. de Rep. l. 6, c. 4.) 2. Because God ordained this government in his people. 3. By experience it is known to be less obnoxious to change, except that some think the Venetian commonwealth best; but, with reverence, I see small difference between a king and the Duke of Venice.

**Assert. 3.**—Every government hath something wherein it is best; monarchy is honourable and glorious-like before men; aristocracy, for counsel, is surest; democracy for liberty, and possibly for riches and gain, is best. Monarchy obtaineth its end with more conveniency, because the ship is easier brought to land when one sitteth at the helm, than when ten move the helm. We more easily fear, love, obey, and serve one than many. He can more easily execute the laws.

**Assert. 4.**—A limited and mixed monarchy, such as is in Scotland and England, seems to me the best government, when par-
luteness of a man. I see not how a monarchy is more opposite to anarchy and confusion than other governments. A monarch, as one, is more opposite to a multitude, as many, but there is no less order in aristocracy than in monarchy; for a government essentially includeth order of commanding and subjection. Now, one is not, for absoluteness, more contrary to anarchy than many; for that one now who can easily slip from a king to a tyrant, cannot have a negative voice in acts of justice, for then should he have a legal power to oppose justice, and so, for his absoluteness, he should be most contrary to order of justice; and a monarch, because absolute, should be a door-neighbour to disorder and confusion.

Obj.—But the parliament hath no power to deny their voices to things just, or to cross the law of God, more than the king.

Ans.—It is true neither of them hath a negative voice against law and reason, but if the monarch, by his exorbitant power, may deny justice, he may, by that same legal power, do all injustice; and so there is no absoluteness in either.

Obj.—Who should then punish and coerce the parliament in the case of exorbitance?

Ans.—Posterior parliaments.

Obj.—Posterior parliaments and people may both err.

Ans.—All is true; God must remedy that only.

QUESTION XXXIX.

WHETHER OR NO ANY PREROGATIVE AT ALL ABOVE THE LAW BE DUE TO THE KING, OR IF "JURA MAJESTATIS" BE ANY SUCH PREROGATIVE ROYAL.

I conceive kings are conceived to have a threefold supreme power. 1. Strictly absolute to do what they please, their will being simply a law. This is tyrannical. Some kings have it, de facto, ex consuetudine, but by a divine law none have it. I doubt if any have it by a human positive law, except the great Turk and the king of Spain, over his conquest without the borders of Europe, and some few other conquerors. 2. There is another power limited to God’s law, the due proper right of kings. (Deut. xvii. 18—20.) 3. There is, a potestas intermedia, a middle power, not so vast as that which is absolute and tyrannical, which yet is some way human. This I take what jurists call jus regium, lex regia, jura regalia regis; Cicero, jura majestatis; Livius, jura imperii, and these royal privileges are such common and high dignities as no one particular magistrate can have, seeing they are common to all the kingdom, as that Cesar only should coin money in his own name. Hence the penny given to Christ, because it had Cesar’s image and superscription, (Matt. xxii. 20, 21,) infers by way of argumentation, sedit vel, &c., give therefore tribute to Cesar as his due; so the magazine and armoury for the safety of the kingdom is in the king’s hand. The king hath the like of these privileges, because he is the common, supreme, public officer and minister of God for the good of all the kingdom; and, amongst these royal privileges, I reckon that power that is given to the king, when he is made king, to do many things without warrant of the letter of the law, without the express consent of his council, which he cannot always carry about with him, as the law saith. The king shall not raise armies without consent of the parliament; but if an army of Irish, or Danes, or Spaniards, should suddenly land in Scotland, he hath a power, without a formally-convened parliament, to command them all to rise in arms against these invaders and defend themselves,—this power no inferior magistrate hath as he is, but such a magistrate. And in many such exigencies, when the necessity of justice or grace requireth an extramoral exposition of laws, pro re nata, for present necessary execution, some say only the emperor,—others, all kings have these pleasures. I am of the mind of Arnisseus,1 that these privileges are not rewards given to princes for their great pains; for the king is not obliged to govern the commonwealth because he receiveth these royal privileges as his reward, but because by office he is obliged to govern the commonwealth; therefore these privileges are given to him, and without them he could not so easily govern. But I am utterly against Arnisseus, who saith, “These are not essential to a king, because (saith he) he createth marquises, dukes, nobles, &c., and constituteth magistrates, not because of his royal dignity, but by reason of his absolute

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1 Arnisseus de jure, 6 maj. c. 1, n. 3, p. 157, 158.
power; for many princes have supreme power and cannot make nobles, and therefore to him they are *jura majestatis, non jura potestatis*.

Ans. 1.—The king, suppose a limited king, may and ought to make nobles, for he may confer honours as a reward of virtue; none can say Pharaoh, by his absolute authority, and not as a king, advanced Joseph to be a noble ruler. We cannot say that, for there was merit and worth in him deserving that honour; and Darius by absolute authority, but on the ground of well-deserving, (the rule by which kings are obliged, in justice, to confer honours,) promoted Daniel to be the first president of all his kingdoms, because, (Dan. vi. 3,) “an excellent spirit was in him;” and in justice the king could ennable none rather than Daniel, except he should fail against the rule of conferring honours. It is acknowledged by all, that *honos est primum virtutis*, honour is founded upon virtue; and therefore Darius did not this out of his absolute majesty, but as king.

2. All kings as kings, and by a divine law of God, and so by no absoluteness of majesty, are to make men of wisdom, fearing God, hating covetousness, judges under them, Deut. i. 13; 2 Chron. xix. 6, 7; Psal. cx. 6–8.

3. If we suppose a king to be limited, as God’s king is, (Deut. xvii. 18–20,) yet is it his part to confer honours upon the worthiest. Now, if he have no absoluteness of majesty, he cannot confer honours out of a principle that is none at all, *unum quodque sicut est, et operatur*; and if the people confer honours, then must royalists grant that there is an absolute majesty in the people, why then may they not derive majesty to a king? and why then do royalists talk to us of God’s immediate creating of kings, without any intervening action of the people?

4. By this absoluteness of majesty, kings may play the tyrant, as Samuel (1 Sam. viii. 9–14) foetereleteth Saul would do. But I cannot believe that kings have the same very official absolute power, from whence they do both acts of grace, goodness, and justice, such as are to expone laws extramortally in extraordinary cases,—to confer honours upon good and excellent men of grace,—to pardon offenders upon good grounds, and also do acts of extreme tyranny; for out of the same fountain both not proceed both sweet water and bitter. Then by this absoluteness kings cannot do acts of goodness, justice, and grace, and so they must do good as kings, and they must do acts of tyranny as men, not from absoluteness of majesty.

5. Inferior magistrates, in whom there is no absoluteness of majesty, according to royalists, may expound laws also extramortally, and do acts of justice, without formalities of civil or municipal laws, so they keep the genuine intent of the law, as they may pardon one that goeth up to the wall of a city, and discovereth the approach of the enemy, when the watchmen are sleeping, though the law be, that any ascending to the wall of the city shall die. Also, the inferior judge may make judges and deputys under himself.

6. This distinction is neither grounded upon reason or laws, nor on any word of God. Not the former, as is proved before, for there is no absolute power in a king to do above or against law; all the official power that a king hath, is a royal power to do good, for the safety and good of his subjects, and that according to law and reason, and there is no other power given to a king as a king; and for Scripture, Armisius allegeth, 1 Sam. viii. the manner or law of the king, ver. 9, 11, and he saith, It cannot be the custom and manner of the king, but must be the law of absolute majesty. 1. Because it was the manner of inferior judges, as Tiberius said of his judges, to flay the people, when they were commanded to shear them only. 2. Samuel’s sons, who wrested judgment and perverted the law, had this manner and custom to oppress the people, as did the sons of Eli; and therefore, without reason it is called the law of kings, *jus regnum*, if it was the law of the judges; for if all this law be tyrannical, and but an abuse of kingly power, the same law may agree to all other magistrates, who, by the same unjust power, may abuse their power; but Samuel (as Brunius observeth, homi. 27, in 1 Sam. in princ.) doth mean here a greater license than kings can challenge, if at any time they would make use of their plentitude of absolute power; and therefore, *nomine juris*, by the word law here, he understandeth a power granted by law, *jure*, or right to the king, but pernicious to the people, which Gregory calleth *jus regium tyrannorum*, the royal law of tyrants.—So Seneca, 1 de
2. They were hereditary, but judges are not so.
3. They were made and chosen by the people, (Deut. xvii. 14, 15; 1 Sam. x. 17—20; 2 Sam. v. 1—3,) as were the kings of the nations; and the first king, (though a king be the lawful ordinance of God,) was sought from God in a sinful imitation of the nations, (1 Sam. viii. 19, 20,;) and therefore were not of God’s peculiar election, as the judges, and so they were wicked men, and many of them, yea, all for the most part, did evil in the sight of the Lord, and their law, הָעִבְדוּ, their manner and custom, was to oppress the people, and so were their inferior judges little tyrants, and lesser lions, leopards, evening wolves. (Ezek. xxii. 27; Mic. iii. 1—3; Isa. iii. 14, 15.) And the kings and inferior judges are only distinguished, de facto, that the king was a more catholic oppressor, and the old lion, and so had more art and power to catch the prey than the inferior judges, who were but whoels, and had less power, but all were oppressors, (some few excepted, and Samuel speaketh of that which Saul was to be, de facto, not de jure, and the most part of the kings after him,) and this tyranny is well called jus regis, the manner of the king, and not the manner of the judges, because it had not been the practice, custom, and הֲעִבְדוּ, of the believing judges, before Saul’s reign, and while God was his people’s king, (1 Sam. viii. 7,) to oppress. We grant that all other inferior judges, after the people cast off God’s government, and, in imitation of the nations, would have a king, were also lesser tyrants, as the king was a greater tyrant, and that was a punishment of their rejecting God and Samuel to be their King and judge. How shall Arnisseus prove that this manner or הֲעִבְדוּ of the king was, potestas concessa, a power granted, I hope, granted of God, and not an abuse of kingly power; for then he and royalists must say, that all the acts of tyranny ascribed to king Saul, (1 Sam. viii. 11—14,) by reason of which they did cry out, and complain to God because of their oppression, was no abuse of power given to Saul; therefore it was an use, and a lawful use of power given of God to their king, for there is no medium betwixt a lawful power used in moral acts, and a lawful power abused; and, indeed, Arnisseus so distinguishes a king and a tyrant, that he maketh them all one in nature and specie. He saith, a ty-
rant doth, quod licet, that which by law he may do, and a king doth not these things, quae licent, which by law he may do; but, so to me it is clear, a tyrant, acting as a tyrant, must act according to this law of the king, and that which is lawful, and a king, acting as a king, and not doing these things that are lawful, must sin against his office, and the power that God hath given to him, which were to commend and praise the tyrant, and to condemn and dispraise the king. If this law of the king be a permissive law of God, which the king may, out of his absoluteness, put in execution to oppress the people, such as a law of a bill of divorcement, as Aristeus, Barclay, and other royalists say, then must God have given a law to every king to play the tyrant, because of the hardness of the king’s heart; but we would gladly see some word of God for this. The law of a bill of divorcement is a mere positive law, permitted in a particular exigent, when a husband, out of levity of heart and affection, cannot love his wife; therefore God by a law permitted him out of indulgence to put her away, that both might have a seed, (the want whereof, because of the blessed Seed to be born of woman, was a reproach in Israel,) and though this was an affliction to some particular women, yet the intent of the law, and the soul thereof, was a public benefit to the Commonwealth of Israel, of which sort of laws I judge the hard usage permitted by God to his people—in the master toward the servant—and the people of God toward the stranger, of whom they might exact usury—though not toward their brethren. But that God should make a permissive law, that Jeroboam might press all Israel to sin and worship the golden calves; and that a king by law may kill, as a bloody Nero, all the people of God, by a divine permissive law, hath no warrant in God’s word. Judge, reader, if royalists make God to confer a benefit on a land, when he giveth a king, if by a law of God, such as the law for a bill of divorcement, the king may kill and devour, as a lawful absolute lion, six kingdoms of nations that profess Christ and believe in his name. For if the king have a divine law to kill an innocent Jonathan, so as it be unlawful to resist him, he may, by that same law, turn bloodier than either Nero, Julian, or any that ever sucked the paps of a lioness, or of whom it may be said, Quaeque dedit nutrix ubera, tigris erat, and he shall be given as a plague of God, ex conditione doni, to the people, and the people, inasmuch as they are gifted of God with a king, to feed them in a peaceable and godly life, must be made slaves; now, it wanteth reason, that God will have a permissive law of murdering the church of Christ, a law so contrary to the public good and intrinsic intention of a king, and to the immutable and eternal law of nature, that one man, because of his power, may, by God’s permissive law, murder millions of innocents. Some may say, “It is against the duty of love, that by nature and God’s law the husband owes to the wife, (Ephes. v. 25,) that the husband should put away his wife; for God hathet putting away, and yet God made a law, that a husband might give his wife a bill of divorce, and so put her away; and by the same reason, God may make a law, though against nature, that a king should kill and murder, without all resistance.”

Ans.—1. The question is not, if God may make permissive laws to oppress the innocent; I grant he may do it, as he may command Abraham to kill his son Isaac; and Abraham by law is obliged to kill him, except God retract his commandment, and whether God retract it or not, he may intend to kill his son, which is an act of love and obedience to God; but this were more than a permissive law. 2. We have a clear Scripture for a permissive law of divorce, and it was not a law tending to the universal destruction of a whole kingdom, or many kingdoms, but only to the grievance of some particular wives; but the law of divorce gave not power to all husbands to put away their wives, but only to the husband who could not command his affection to love his wife. But this law of the king is a catholic law to all kings, (for royalists will have all kings so absolute, as it is sin and disobedience to God to resist any,) that all kings have a divine law to kill all their subjects; surely, then, it were better for the church to want such nurse-fathers, as have absolute power to suck their blood; and for such a perpetual permissive law continuing to the end of the world, there is no word of God. Nor can we think that the hardness of one prince’s heart can be a ground for God to make a law, so destructive to his church and all mankind; such a permissive law, being a positive law of God, must have a word of Christ for it, else we are not to receive it. Aristeus, (cap. 4. distr. Tyran. et prin.)
n. 16,) thinketh a tyrant, in exercito, becoming a notorious tyrant, when there is no other remedy, may be removed from government, sine magno scelere, without great sin. But, I ask, how men can annul any divine law of God, though but a permissive law. For if God's permissive law warrant a tyrant to kill two innocent men, it is tyranny more or less, and the law distinguisheth not. 3. This permissive law is expressly contrary to God's law, limiting all kings. (Deut. xvii. 16—18.) How then are we to believe that God would make an universal law contrary to the law that he established before Israel had a king? 4. What Brentius saith is much for us, for he calleth this ἐν ἄδικοι law a licence, and so to use it, must be licentiousness. 5. Arminius desireth that kings may use sparingly the plentitude of their power for public good; there must be, saith he, necessity to make it lawful to use the plentitude of their power justly; therefore Ahab sinned, in that he unjustly possessed Naboth's vineyard, though he sinned specially in this, that he came to the possession by murder, and it was peculiar to the Jews that they could not transfer their possessions from one tribe to another. But if it be so, then this power of absoluteness is not given by permissive law, by which God permitted putting away of wives, for the object of a permissive law is sin; but this plentitude of power may be justly put forth in act, saith he, if the public good may be regarded. I would know what public good can legitimize tyranny and killing of the innocent,—the intentions of men can make nothing intrinsically evil to become good. 6. How can that be a permissive law of God, and not his approving law, by which kings create inferior judges? for this is done by God's approving will. 7. It is evident that Arminius' mind is, that kings may take their subjects' vineyards and their goods, so they err not in the manner and way of the act; so be like, if there had not been a peculiar law that Naboth should not sell his vineyard, and if the king had had any public use for it, he might have taken Naboth's vineyard from him; but he specially sinned, saith he, in eo maxime culpatur, &c., that he took away the man's vineyard by murdering of him; therefore, saith Arminius, (c. 1. de potest. maj. in bona privato, 2.) that by the king's law, (1 Sam. viii.,) "There is given to the king, a dominion over the people's sons, daughters, fields, vineyards, olive-yards, servants, and flocks." So he citeth that, that Daniel putteth all places, the rocks of the mountains, the birds of the heaven, (Dan. ii.,) under the king's power. So all is the king's in dominion, and the subjects in use only.

But 1. This law of the king, then, can be no ground for the king's absoluteness above law, and there can be no permissive law of God here; for that which asserteth the king's royal dominion over persons and things, that must be the law of God's approving, not his permitting evil; but this is such a law as Arminius saith.

2. The text speaketh of no law or lawful power, or of any absoluteness of king Saul, but of his wicked custom, and his rapine and tyranny, "He will take your sons, your daughters, your fields, and your vineyards from you." Saul took not these through any power of dominion by law, but by mere tyranny.

3. I have before cleared that the subjects have a propriety, and an use also, else how could we be obliged, by virtue of the fifth commandment, to pay tribute to the king, (Rom. xiii. 7,) for that which we pay was as much the king's before we paid as when we have paid it.

4. Arminius saith, all are the king's, in respect of the universal jurisdiction that the king hath in governing and ordering all to the universal end, the good of the commonwealth; for as universal nature careth for the conservation of the specie and kind, so doth particular nature care for the conservation of individuals, so do men care for their private goods, and the king is to refer every man's private goods to the good of the public. But the truth is, this taketh not away propriety of goods from private men, retaining only the use to private men, and giving the dominion to the king, because this power that the king hath of men's goods is not power of dominion, that the king hath over the goods of men, as if the king were dominus, lord and owner of the fields and monies of the private subject; but it is a power to regulate the goods for a public use, and supposeth the abuse of goods, when they are monopolised and for private ends. The power that the king hath over my bread is not a power of dominion, so as he may eat my bread as if it were his own bread, and he be lord of my bread as I was sometime myself, before I abused it, but it is a dominion improperly and abusively so called, and is a mere fidu-
ciary and dispensatory power, because he is set over my bread not to eat it, nor over my houses to dwell in them, but only with a ministerial power, as a public though honourable servant and watchman, appointed by the community as a mean for an end, to regulate my bread, houses, monies and fields, for the good of the public. Dominion is defined "a faculty to use a thing as you please, except you be hindered by force or by law;" (Justin. tit. c. de legibus in l. digna vox, &c.;) so have I a dominion over my own garments, house, money, to use them for uses not forbidden by the law of God and man, but I may not lay my corn-field waste, that it shall neither bear grass nor corn,—the king may hinder that, because it is a hurt to the public; but the king, as lord and sovereign, hath no such dominion over Naboth's vineyard. How the king is lord of all goods, ratione jurisdictionis, et tuitionis se. Anton. de poauprill. in l.; Altius. n. 5, c. de servit; Hotton. illust. quest. q. 1, ad fin., conc. 2; Lod. Molin. de just. et jur. dis. 25; Soto. de justitia et jur. l. 4, q. 4, art. 1.

QUESTION XL.

WHETHER OR NOT THE PEOPLE HAVE ANY POWER OVER THE KING, EITHER BY HIS OATH, COVENANT, OR ANY OTHER WAY.

Aristotle saith, (Ethic. 8, c. 12,) Ο μὲν γὰρ τιμεῖ τι λατονταυματεν ετερον, ο δὲ βασιλεὺς τι των ἄρχων, οὐ γὰρ τις βασιλεὺς, ο μὲν αὐτος καὶ συν των τῶν ἄρχων ὑπόγειας. "A tyrant seeketh his own, a king the good of the subjects; for he is no king who is not content and excelleth in goodness." The former part of these words distinguish essentially the king by his office from the tyrant. Now, every office requireth essentially a duty to be performed by him that is in office; and, where there is a duty required, there is some obligation;—if it be a politic duty, it is a politic obligation. 1. Now, amongst politic duties betwixt equal and equal, superior and inferior, that is not, de facto, required co-action for the performance thereof, but, de jure, there is; for two neighbour kings and two neighbour nations, both being equal and independent the one toward the other, the one owes a duty to the other; and if the Ammonites do a wrong to David and Israel, as they are equal, de facto, the one cannot punish the other, though the Ammonites do a disgrace to David's messengers, yet, de jure, David and Israel may compel them to politic duties of politic congression, (for betwixt independent kingdoms there must be some politic government, and some politic and civil laws, for two or three making a society cannot dwell together without some policy,) and David and Israel, as by the law of nature they may repel violence with violence; so, if the laws of neighbourhood and nations be broken, the one may punish the other, though there be no relation of superiority and inferiority betwixt them. 2. Wherever there is a covenant and oath betwixt equals, yea, or superiors and inferiors, the one hath some co-active power over the other; if the father give his bond to pay to his son ten thousand pounds, as his patrimony to him, though before the giving of the bond the father was not obliged but only by the law of nature to give a patrimony to his son; yet now, by a politic obligation of promise, covenant, and writ, he is obliged so to his son to pay ten thousand pounds, that, by the law of nations and the civil law, the son hath now a co-active power by law to compel his father, though his superior, to pay him no less than ten thousand pounds of patrimony. Though, therefore, the king should stand simply superior to his kingdom and estates, (which I shall never grant,) yet if the king come under covenant with his kingdom, as I have proved at length, (c. 13,) he must, by that same, come under some co-active power to fulfil his covenant; for omne promissum (sait the law) cadit in debitus, what any doth promise falleth under debt. If the covenant be politic and civil, as is the covenant between king David and all Israel, (2 Sam. v. 1—3,) and between king Jehoshah and the people, (2 Kings xi. 17, 18,) then the king must come under a civil obligation to perform the covenant; and, though there be none superior to king and the people on earth, to compel them both to perform what they have promised, yet, de jure, by the law of nations, each may compel the other to mutual performance. This is evident,—

1. By the law of nations, if one nation break covenant to another, though both be independent, yet hath the wronged nation a co-active power, de jure, (by accident, because they are weaker they want strength to
THE LAW AND THE PRINCE.

199

compel, yet they have right to compel them,) to force the other to keep covenant, or then to punish them, because nature teacheth to repel violence by violence, so it be done without desire of revenge and malice.

2. This is proved from the nature of a promise or covenant, for Solomon saith, (Prov. vi. 1, 2) “My son, if thou be surety for thy friend, if thou hast stricken thy hand with a stranger, thou art nared with the words of thy mouth, and art taken with the words of thy mouth.” But whences is it that a man free is now nared as a beast in a gin or trap? Certainly Solomon saith it is by a word and striking of hands, by a word of promise and covenant. Now, the creditor hath co-active power, though he be an equal or an inferior to the man who is surety, even by law to force him to pay, and the judge is obliged to give his co-active power to the creditor, that he may force the surety to pay. Hence it is clear, that a covenant maketh a free man under the co-active power of law to an equal or a weaker, and the stronger is by the law of fraternity to help the weaker with his co-active power, to cause the superior fulfill his covenant. If, then, the king (giving, and not granting, he were superior to his whole kingdom) come under a covenant to them to seek their good, not his own, to defend true protestant religion, they have power to compel him to keep his covenant, and Scotland (if the king be stronger than England, and break his covenant to them) is obliged, by God’s law, (Prov. xxiv. 11,) to add their forces and co-active power to help their brethren of England.

3. The law shall warrant to loose the vassal from the lord when the lord hath broken his covenant. Hippolitus in l., Si quis viduam col. 5. et dixit de gest. l. Si quis major. 41 et 161. Bartol. n. 41. The Magdeburg's. in libel. de offic. magistrat. Imperatores et reges esse primarios vassallos imperiti, et regni, et pronoie si feloniam contra imperium aut regnum committant, feudo privari, pronoie ut alios vassallos.

Arnisius (g. 6. An princeps qui jurat subditis, etc. n. 2) saith, “This occasioneth confusion and sedition.” “The Egyptians cast off Ptolemeus because he affected too much the name of a king of the Romans, his own friend,” Dion. (l. 9.) “The States punished Archidanius because he married a wife of a low stature,” Plutarch. (in Ages. in prisc.) “The ancient Burgundians thought it cause enough to expel their king, if matters went not well in the state,” Marcell. (l. 27.) “The Goths in Spain gave no other cause of expelling their king, nisi quod sibi dispiiceret, because he displeased them.” Aimon. (l. 2. c. 20, l. 4. c. 35.)

Ans.—All these are not to be excused in people, but neither every abuse of power in a king doth eneth a king, nor every abuse in people can make null their power.

Arnisseus maketh three kinds of oaths: The first is, when the king swears to defend true religion and the Pope; and he denieth that this is an oath of fidelity, or by pactio or covenant made to the Pope or clergy, he saith it is only on oath of protection, nor doth the king receive the crown from the Pope or clergy.

Ans. 1.—Arnisseus divideth oaths that are to be conjoined. We do not read that kings swear to defend religion in one oath, and to administer judgment and justice in another; for David made not two covenants, but one only, with all Israel. 2. The king was not king while he did swear this oath, and therefore is must be a pactional oath between him and the kingdom, and it is true the king receiveth not a crown from the church; yet David received a crown from the church, for this end, “to feed the Lord’s people,” and so conditionally. Papir. Masse (l. 3, Chron. Gal.) saith, the king was not a king before the oath, and that he swore to be a keeper not only of the first, but also of the second table of the law. Ego N. Dei gratia, nos futurus rer Francorum, in die ordinatis mea coram Deo, et sanctis ejus pellaeceor, quod servabo privilégia canonicà, justitiamque et jus unicum Prslato debitum, vosque defendam, Deo juvante, quantum potero, quemadmodum rer ex officio in suo regno defendere debet, unumqueque episcopum ac ecclesiam, et administrabo populo justitiam et leges, uti jus postulat. And so it is ordained in the council of Toledo: Quisquis deinceps regni sortitus fuerit apicum, non ante conscendat regiam sedem, quam inter religius conditiones sacramento policius fuerit, quod non sit in regno suo degere eum qui non sit catholicus. All these by Scripture are oaths of covenant, Deut. xvii. 17, 18; 2 Sam. v. 1—4; 2 Kings xi. 17, 18.

Arnisius maketh a second oath of absolute kings, who swear they shall reign according to equity and justice; and he saith,
There is no need of this oath, a promise is enough; for an oath increaseth not the obligation, (L. f. n. de non num. pec.) only it addeth the bound of religion; for there is no use of an oath where there is no pactio of law against him that sweareth; if he violate the oath, there followeth only the punishment of perjury. And the word of a prince is as good as his oath, only he condescendeth to swear to please the people, out of indulgence, not out of necessity. And the king doth not therefore swear because he is made king, but because he is made king he sweareth. And he is not king because he is crowned, but he is crowned because he is king. Where the crown goeth by succession, the king never dieth; and he is king by nature before he be crowned.

Ams. 1.—This oath is the very first oath spoken of before, included in the covenant that the king maketh with the people; (2 Sam. v. 2—4;) for absolute powers, by Arnisseus's grant, doth swear to do the duties of a king, as Bodinus maketh the oath of France, (de Rep. l. 1. c. 8,) Juro ego, per deum, ac promitto me juste regnatvrum judicium, equtatem, ac misericordiam facturum; and Papir. Masse (l. 3, Chron.) hath the same expressly in the particulars. And by this a king sweareth he shall not be absolute; and if he swear this oath, he bindeth himself not to govern by the law of the king, whereby he may play the tyrant, as Saul did, (1 Sam. viii. 9—12, &c.,) as all royals expound the place. 2. It is but a poor evasion to distinguish betwixt the king's promise and his oath; for the promise and covenant of any man, and so of the king, doth no less bring him under a civil obligation and politic co-action to keep his promise than an oath; for he that becometh surety for his friend doth by no civil law swear he shall be good for the son, or perform in lieu and place of the friend; what he is to perform he doth only covenant and promise, and in law and politic obligation he is taken and snared by that promise, no less than if he had sworn. Reuben offered to be caution to bring Benjamin safe home to his old father, (Gen. xlii. 37,) and Judah also, (Gen. xliii. 9,) but they do not swear any oath; and it is true that an oath addeth nothing to a contract and promise, but only it lays on a religious tie before God, yet so as consequently, if the contractor violate both promise and oath, he cometh under the guilt of perjury, which a law of men may punish. Now, that a covenant bringeth the king under a politic obligation as well as an oath, is already proved, and farther confirmed by Gal. iii. 15, "Though it be a man's testament or covenant, no man disannulleth and addeth thereunto." No man, even by man's law, can annul a confirmed covenant; and therefore the man that made the covenant bringeth himself under law to fulfil his own covenant, and so must the king put himself under men's law, by a covenant at his coronation; yea, and David is reputed by royals an absolute prince, yet he cometh under a covenant before he be made a king. 3. It is but a weak reason to say that an oath is needless, where no action of law can be against the king who sweareth, if it have any strength of reason. I retort it; a legal and solemn promise then is needless also, for there is no action of law against a king (as royals teach,) if he violate his promise. So then King David needlessly made a covenant with the people at his coronation; for though David should turn as bloody an enemy to the church as Nero or Julian, the people have no law-action against David; and why then did Jeremiah seek an oath of the king of Judah, that he would not kill him nor deliver him into the hands of his enemies? and why did David seek an oath of Jonathan? It is not like Jeremiah and David could have law-action against a king and a king's son, if they should violate the oath of God; and farther, it is a begging of the question to say that the states can have no action against the king if he should violate his oath. Hugo Grotius putted seven cases in which the people may have real action against the king to accuse and punish. (1.) They may punish the king to death, for matters capital, if so it be agreed on betwixt the king and the people, as in Lacedaemonia. (2.) He may be punished as a private man. (3.) If the king make away a kingdom given to him by succession, his act is null, and he may be resisted, because the kingdom is a life-rent only to him; yea, saith Barclay, he loseth the crown. (4.) He loseth his kingdom, if, with a hostile mind, he seek the destruction of the kingdom. (5.) If such a clause be put in, that if he commit felony, or do such oppressions, the subjects shall be loosed from the bonds of subjection; then the king, failing thus, turneth a private man. (6.) If the king have the
one-half or part of the kingdom, and the
people or senate the other half; if the king
prey upon that half which is not his own,
he may violently be resisted, for in so far
he hath not the empire. (7) If, when the
crown was given, this be declared, that in
some cases he may be resisted, then some
natural liberty is free from the king's power,
and reserved in the people's hand. 4. It
is then reason that the king swear an oath,
1. That the king's oath is but a ceremony
to please the people, and that because he is
king, and king by birth, therefore he swear-
eth, and is crowned, is in question, and de-
nied. No man is born a king, as no man is
born a subject; and because the people
maketh him king, therefore he is to swear.
The council of Toledo saith, non anteae con-
scedat regiam sedem quam juret. 2. An
oath is a religious obligation, no arbitrary
ceremony. 3. He may swear in his cabi-
net-chamber, not covenanting with the peo-
ple, as David and Jehoshah did. 4. So he
maketh promises that he may be king, not
because he is king; it were ridiculous he
should promise or swear to be a just king,
because he is a just king; and by the same
reason the estates swear the oath of loyalty
to the new king, not that they may be loyal
in all time coming, but because they are
loyal subjects already; for if the one-half of
the covenant on the king's part be a cere-
mony of indulgence, not of necessity, by
the same reason the other half of the cove-
nant must be a ceremony of indulgence also
to the people.

_Obj._—Armisaeus saith, A contract cannot
be dissolved in law, but by consent of two par-
ties contracting, because both are obliged;
(l. ab emptione 58, in pr. de pact. l. 3, de
rescind. vmd. l. 90, de solv.) therefore, if
the subjects go from the covenant that they
have made to be loyal to the king, they
ought to be punished.

_An._—A contract, the conditions whereof
are violated by neither side, cannot be dis-
solved but by the joint consent of both;
and in buying and selling, and in all con-
tracts unviolated, the sole will of neither
side can violate the contract: of this speak-
eth the law. But I ask the royalists, if
the contract betwixt the spies sent to view
Jericho, and Rahab the harlot, had not
been null, and the spies free from any obli-
gation, if Rahab had neglected to keep
within doors when Jericho was taken, though
Rahab and the spies had never consented
expressly to break the covenant? We hold
that the law saith with us, that vassals lose
their farm if they pay not what is due. 1
Now, what are kings but vassals to the
state, who, if they turn tyrants, fall from
their right?

Armisaeus saith in the council of Toledo,
(4. c. 47,) the subjects ask from the king,
that kings would be meek and just, not
upon the ground of a voluntary contract
and pactio, but because God shall rejoice
in king and people by so doing. 2

_An._—These two do no more fight with
one another than that two merchants should
keep faith one to another, both because God
hath said he shall dwell in God's mountain
who sweareth and covenanteth, and stand-
eth to his oath and covenant, though to his
loss and hurt, (Psal. xv.) and also because
they made their covenant and contract thus
and thus.

Armisaeus.—Every prince is subject to
God, but not as a vassal; for a master may
commit felony, and lose the propriety of his
farm. Can God do so? The master can-
thnot take the farm from the vassal without
an express cause legally deduced; but can-
ot God take what he hath given but by a
law process? A vassal can entitle to him-
self a farm against the master's will, as some
jurists say, but can a prince entitle a king-
dom to himself against the God of heaven's
will? Though we grant the comparison,
yet the subjects have no law over the kings,
because the coercive power of the vassal is
in the lord of the manor, the punishing of
kings belongeth to God.

_An._ 1.—We compare not the lord of a
manor and the Lord of heaven together;
all these dissimilitudes we grant, but as the
king is God's vassal, so is he a noble and
princely vassal to the estates of a kingdom
because they make him. 2. They make
him rather than another their noble serv-
ant. 3. They make him for themselves
and their own godly, quiet, and honest
life. 4. They, in their first election, limit
him to such a way, to govern by law, and
give to him so much power for their good,
no more; in these four actes hey are above
the prince, and so have a coercive power
over him.

Armisaeus.—It is to make the prince's
fidelity doubtful to put him to an oath.

1 Bartol. in l. 1, n. 4, de his qui not. infam.
2 Armis., c. 6, an princeps qui jurat subditus, &c.
Lawyers say there is no need of an oath, when a person is of approved fidelity.

Answ. 1.—Then we are not to seek an oath of an inferior magistrate, of a commander in wars, of a pastor, it is presumed these are of approved fidelity, and it maketh their integrity obnoxious to slander to put them on an oath. 2. David was of more approved fidelity than any king now a-days, and to put him to a covenant seemed to call his fidelity in question; Jonathan sought an oath of David to deal kindly with his seed when he came to the throne; Jeremiah sought an oath of the king of Judah. Did they put any note of falsehood on them therefore?

Arminius.—You cannot prove that ever any king gave an oath to his subjects in Scripture.

Answ. 1.—What more unbecoming kings is it to swear to do their duty, than to promise covenant-wise to do the same? And a covenant you cannot deny. 2. In a covenant for religious duties there was always an oath, (2 Chron. xv. 12—14,) hence the rite of cutting a call, and swearing in a covenant (Jer. xxxiv. 18). 3. There is an oath that the people giveth to the king to obey him, (Eccles. vii. 2,) and a covenant (2 Sam. v. 1—3) mutual between the king and people; I leave it to the judicious, if the people swear to the king obedience in a covenant mutual, and he swear not to them.

Arminius showeth to us a third sort of oath that limited princes do swear. This oath in Denmark, Sweden, Poland, Hungary, is sworn by the kings, who may do nothing without consent of the senate, and according to order of law; this is but the other two oaths specified, and a prince cannot contravene his own contract; the law saith, in that the prince is but as a private man (in l. digna vos C. de ll. Rom. cons. 426, n. 17); and it is known that the emperor is constituted and created by the prince's electors, subject to them, and by law may be dethroned by them.

The Bishop of Rochester (de potest. p. 1. 2, c. 20) saith from Barclay, "None can denude a king of his power, but he that gave him the power, or hath an express commandment so to do, from him that gave the power. But God only, and the people, gave the king his power; therefore God, with the people, having an express commandment from God, must denude the king of power.

Answ. 1.—This shall prove that God only, by an immediate action, or some having an express commandment from him, can deprive a preacher for scandals; Christ only, or those who have an express commandment from him, can excommunicate; God only, or the magistrate with him, can take away the life of man (Nmm. xi. 14—16); and no inferior magistrates, who also have their power from God immediately, (Rom. xiii. 1.) if we speak of the immediation of the office, can denude inferior judges of their power. God only, by the husbandman's pains, maketh a fruitful vineyard, therefore, the husbandman cannot make his vineyard grow over with nettles and briers. 2. The argument must run thus, else the assumption shall be false. God only by the action of the people as his instrument, and by no other action, makes a lawful king; God only by the action of the people, as his instrument, can make a king; God only by the action of the people, as his instrument, can dethrone a king; for as the people, making a king, are in that doing what God doth before them, and what God doth by them in that very act, so the people unmaking a king, doth that which God doth before the people; both the one and the other according to God's rule obligeth. (Deut. xvii. 14—20.)

The Prelate, whose tribe seldom saith truth, addeth,—"As a fatherly power, by God and nature's law, over a family, was in the father of a family before the children could either transfer their power, or consent to the translation of that power to him, so a kingly power (which succeedeth to a paternal or fatherly power) to govern many families, yea, and a kingdom, was in that same father, in relation to many families, before these many families can transfer their power. The kingly power floweth immediately from God, and the people doth not transfer that power, but doth only consent to the person of the king, or doth only choose his person at some time. And though this power were principally given to the people, it is not so given to the people as if it were the people's power, and not God's, for it is God's power; neither is it any otherwise given to the people, but as to a stream, a beam, and an instrument which may confer it to another." M. Antonius (de domini. l. 6, c. 2, n. 22, 23) doth more subtly illustrate the matter: "If the king should confer honour on
a subject, by the hand of a servant who had not power or freedom to confer that honour, or not to confer it, but by necessity of the king's commandment must confer it, nothing should hinder us to say, that such a subject had his honour immediately from the king; so the earth is immediately illuminated by the sun, although light be received on the earth, but by the intervening mediation of many inferior bodies and elements, because by no other thing but by the sun only, is the light as an efficient cause in a nearest capacity to give light; so the royal power in whomsoever it be, is immediately from God only, though it be applied by men to this or that person, because from God only, and from no other the kingly power is formally and effectually that which it is, and worketh that which it worketh; and if you ask by what cause is the tree immediately turned into fire, none sound in reason would say, it is made fire, not by the fire, but by him that laid the tree on the fire.” John P. P. would have stolen this argument also, if he had been capable thereof.

Ans. 1.—A fatherly power is in a father, not before he hath a child, but indeed before his children by an act of their free-will consent that he be their father; yea, and whether the children consent or no, from a physical act of generation, he must be the father; and let the father be the most wicked man, and let him be made by no moral requisite, yet is he made a father, nor can he ever leave off physically to be a father: he may leave off morally to do the duty of a father, and so be non pater officio, but he cannot but be pater naturae genus vi. So there never is, nor can be, any need that children's free consent intervene to make Kish the father of Saul, because he is by nature a father. To make Saul a king and a moral father by analogy and improperly,—a father by ruling, governing, guiding, defending Israel by good laws, in peace and godliness, I hope there is some act of the people's free-will required even by Spalato's way; the people must approve him to be king, yea, they must king him, or constitute him king, say we. No such act is required of natural sons to make a physical father, and so here is a great halt in the comparison, and it is most false that there is a kingly power to govern many families in the same father, before these many families can transfer their power to make him king. Put royalists to their logic, they have not found out a medium to make good that there is a formal kingly power whereby Saul is king and father morally over all Israel before Israel chose him and made him, as Kish was Saul's father formally, and had a fatherly power to be his father, before Saul had the use of free-will to consent that he should be his father. Royalists are here at a stand. The man may have royal gifts before the people make him king, but this is not regia potestas, a royal power, by which the man is formally king. Many have more royal gifts than the man that beareth the crown, yet are never kings, nor is there formally regia potestas, kingly power, in them. In this meaning Petrarca said, Plures sunt reges quam regna. 2. He saith, “The people doth not confer royal power, but only consent to the person of the man, or choice of his person.” This is nonsense, for the people's choosing of David at Hebron to be king, and their refusing of Saul's seed to be king, what was it but an act of God, by the free suffrages of the people, conferring royal power on David, and making him king? Whereas in former times, David even anointed by Samuel at Bethlehem, (1 Sam. xvi,) was only a private man, the subject of king Saul, and never termed by the Spirit of God a king; nor was he king till God, by the people's consent made him king at Hebron; for Samuel neither honoured him as king, nor bowed to him as king, nor did the people say, God save king David: but after this David acknowledged Saul as his master and king. Let royalists show us any act of God making David king, save this act of the people making him formally king at Hebron, and therefore the people, as God's instrument, transferred the power, and God by them in the same act transferred the power, and in the same they chose the person; the royalists affirm these to be different actions, affirmant incumebit probatio. 3. This power is the people's radically, naturally, as the bees (as some think) have a power natural to choose a king-bee, so hath a community a power naturally to defend and protect themselves; and God hath revealed in Deut. xvii. 14, 15, the way of regulating the act of choosing governors and kings, which is a special mean of defending and protecting themselves; and the people is as principally the subject and fountain of royal power, as a fountain is of water. I shall not
content, if you call a fountain God's instrument to give water, as all creatures are his instruments. 4. For Spalato's comparison, he is far out, for the people choosing one of ten to be their king, have free will to choose any, and are under a law (Deut. xvii. 14, 15) in the manner of their choosing, and though they err and make a sinful choice, yet the man is king, and God's king, whom they make king; but, if the king command a servant to make A. B. a knight, if the servant make C. D. a knight, I shall not think C. D. is a valid knight at all; and indeed the honour is immediately here from the king, because the king's servant by no innate power maketh the knight, but nations by a radical, natural, and innate power, maketh this man a king, not that man; and I conceive the man chosen by the people oweth thanks and grateful service to the people, who rejected others, that they had power to choose, and made him king.

5. The light immediately and formally is light from the sun, and so is the office of a king immediately instituted of God, Deut. xvii. 14. Whether the institution be natural or positive, it is no matter. 2. The man is not king, because of royal endowments, though we should say these were immediately from God, to which instruction and education may also confer not a little; but he is formally king, ratio in regard of the formal essence of a king, not immediately from God, as the light is from the sun, but by the mediation of the free consent of the people; (2 Sam. v. 1—3;) nor is the people in making a king, as the man who only casteth wood in the fire; the wood is not made fire, formally, but by the fire, not by the approach of fire to wood, or of wood to fire; for the people do not apply the royalty, which is immediately in and from God to the person. Explicate such an application; for to me it is a fiction inconceivable, because the people hath the royalty radically in themselves, as in the fountain and cause, and conferreth it on the man who is made king; yes, the people, by making David king, confer the royal power on the king. This is so true, that royalists, forgetting themselves, inculcate frequently in asserting their absolute monarch from Ulpian, but misunderstood that the people have resigned all their power, liberty, right of life, death, goods, chastity, a potency of rapine, homicides, unjust wars, &c., upon a creature called an absolute prince; even, saith Grocius, as a man may make himself a slave, by selling his liberty to a master. Now, if the people make away this power to the king, and this be nothing but the transcendent absoluteness of a king, certainly this power was in the people; for how can they give to a king that which they have not themselves? As a man cannot make away his liberty to a master, by becoming a slave to him, if his liberty were immediately in God, as royalists say, sovereignty is immediately in God, and people can exercise no act about sovereignty, to make it over to one man rather than to another. People only have an after-approbation, that this man to whom God hath given it immediately, shall have it. Furthermore, they say, people in making a king may make such conditions, as in seven cases a king may be dethroned, at least resisted, saith Hugo Grocius: therefore people may give more or less, half or whole, limited or absolute royal power to the prince; but if this power were immediately in God and from God, how could the people have the banding of it, at their need to expend it out in ounce weights, or pound weights, as they please? And that the people may be purveyors of it to sell or give it, is taught by Grocius (de jur. bel. et pac. l. 1, c. 4); Barclay (advers. monarch. l. 4, c. 6); Arnisseus (c. 6, de majest. an princeps qui jurat subditis, &c. n. 10, n. se Aventium Anal. l. 3); Chytres (l. 23, l. 28); Saxen Sleidan (lib. 1, in p.); yet Arnisseus is not ashamed to cite Aristotle, (polit. c. 12, l. 3), that he is not a true and absolute king who ruleth by laws. The point blank contrary of which Aristotle saith.

QUESTION XLI.

WHETHER DOETH THE P. PRELATE UPON GOOD GROUNDS ASCRIBE TO US THE DOCTRINE OF JESUITS IN THESE QUESTIONS OF LAWFUL DEFENSIVE WARS.

The P. Prelate, without all ground, will have us all Jesuits in this point, but if we make good that this truth was in Scripture before a Jesuit was in the earth, he falleth from his cause.

P. Prelate (c. 1, p. 1, 2).—The Begauml saith, There was no government, no law given to the just. It feareth me this age
fancioth to itself some such thing, and have learned of Korah, Dathan, &c.

Ans.—This calumniator, in the next words, believeth himself when he saith, We presuppose that those with whom we are to enter in lists, do willingly grant that government is not only lawful and just, but necessary both for church and commonwealth: then we fancy no such thing as he imputeth to us.

P. Prelate.—Some said that the right of dominion is founded on grace, whether the Waldenses and Huss held any such tenet, I cannot now insist to prove or disprove. Gerson and others held that there must be a new title and right to what men possess. Too many too confidently hold these or the like.

Ans.—1. That dominion is founded upon grace as its essential pillar, so as wicked men be no magistrates, because they are in mortal sin, was falsely imputed to ancient protestants, the Waldenses, Wicliff, and Huss, by papists; and this day by Jesuits, Suarez, Bellarmine, Beconus. The P. Prelate will leave them under this calumny, that he may offend papists and Jesuits as little as he can, but he would lay it on us; but if the P. Prelate think that dominion is not founded on grace, de jure, that rulers should have that spirit that God put on the seventy elders for their calling, and that they ought not to be “men fearing God and hating covetousness,” as Gerson and others did, he believeth the Scripture. 2. It is no error of Gerson that believers have a spiritual right to their civil possessions, but by Scripture, 1 Cor. iv. 21; Rev. xxxi. 7.

P. Prelate.—The Jesuits are ashamed of the error of casuists, who hold that, directum imperium, the direct and primary power, supreme, civil, and ecclesiastical, is in the Pope; and, therefore, they give an indirect directive and coercive power to him over kings and states, in ordine ad spiritualia, so may he king and unking princes at his pleasure. Our presbyterians, if they run not fully this way, are very near to it.

Ans.—1. The windy man would seem versed in schoolmen. He should have named some casuists, who hold any like thing. 2. The presbyterians must be popes, because they subject kings to the gospel, and Christ’s sceptre in church censures, and think Christian kings may be rebuked for blasphemy, bloodshed, &c., whereas prelates, in ordine ad diabolica, murder souls of kings. 3. Prelates do king princes. A popish archprelate, when our king was crowned, put the crown on king Charles’ head, the sword and sceptre in his hand, anointed him in his hands, crown, shoulders, arms, with sacred oil. The king must kiss the archbishop and bishops. Is not this to king princes in ordine ad spiritualia? And those that kingeth may unking, and judge what relation the popish archbishop Spotswood had, when he proffered to the king the oath that the popish kings sweareth to maintain the professed religion, (not one word of the true protestant religion,) and will carefully root out all heretics and enemies (that is protestants as they expone it) to the true worship of God, that shall be convicted by the church of God of the foresaid crimes. And when the prelates professed they held not their prelacies of the king, but of the Pope indeed: who are then nearest to the Pope’s power, in ordine ad spiritualia? 4. How will this black-mouthed calumniator make presbyterians to dethrone kings? He hath written a pamphlet of the inconsistency of monarchy and presbyterian government, consisting of lies, invented calumnies of his church in which he was baptized. But the truth is, all his arguments prove the inconsistency of monarchs and parliaments, and transform any king into a most absolute tyrant; for which treason he deserveth to suffer as a traitor.

P. Prelate (q. 1, c. 1). The puritan saith that all power civil is radically and originally seated in the community; he here joineth hands with the Jesuit.

Ans.—In six pages he repeateth the same things. 1. Is this such an heresy, that a colony cast into America by the tyranny of popish prelates, have power to choose their own government? All Israel was heretical in this; for David could not be their king, though designed and anointed by God, (1 Sam. xvi.) till the people (2 Sam. v.) put forth in act this power, and made David king in Hebron. 2. Let the Prelate make a syllogism, it is but ex utroque affirmante in secunda figura, logic like the bellies of the court, in which men of their own way is disgraced and cast out of grace and court; because in this controversy of the king with his two parliaments, they are like Erasmus in God’s matters, who said, Lutherum nec accuso, nec defendo. He is discarded, whoever he be, who is in shape like a puritan, and not fire and sword against religion and his country, and oath
and covenant with God; and so it is this: The Jesuit teacheth that power of government is in the community originally. The puritan teacheth, that power of government is in the community originally; therefore, the puritan is a Jesuit. But so the puritan is a Jesuit, because he and the Jesuit teacheth that there is one God and three persons. And if the Prelate like this reasoning, we shall make himself and the prelates, and court-divines, Jesuists upon surer grounds.

1. Jesuists teach, (1.) The Pope is not the antichrist. (2.) Christ locally descended to hell to free some out of that prison. (3.) It was sin to separate from Babylonish Rome. (4.) We are justified by works. (5.) The merit of fasting is not to be condemned. (6.) The mass is no idolatry. (7.) The Church is the judge of controversies. (8.) All the Arminian points are safer to be believed, than the contrary; yea, and all the substantial points of popery are true, and catholic doctrine to be preached and printed. 2. The prelates and court-divines, and this Prelate, conspireth in all these with the Jesuits, as is learnedly and invincibly proved in the treatise, called conspiciundum, the Canterbury self-conviction; to which no man of the prelatical and Romish faction durst ever make answer for their hearts; and see then who are Jesuists. 3. This doctrine was taught by lawyers, protestants, yielded to by papists, before any Jesuit was whelped in rerum natura. Never learned man wrote of policy, till of late, but he held power of government, by the light of nature, must be radically and originally in a community. The P. Prelate saith, Jesuists are not the fathers of this opinion (c. 1, p. 12). How then can the liar say, that the puritan conspireth with the Jesuit? Suarez, the Jesuit, (de primat. sum. pontif. l. 3, c. 2, n. 10.) Non est novum, aut a Cardinali Bellarmino inventum. The Jesuit Tanneus, will not have their family the mother of this opinion, (tom 2, disp. 5, de leg. q. 5, in 12, q. 95, 96; Dubi. 1, n. 7.) Sine dubio communis omnium Theologorum et Jurisprutorum sententia, &c. The JesuitToilet, (in Rom. xiii.,) taketh it for a ground, that the civil powers are from God, by the natural mediation of men, and civil societies. 4. Jesuists teach that there is no lawful Christian society, truly politic, that hath a near and formal power to choose and ordain their own magistrates, but that which acknowledged subjection, and the due regulation of their creating of magistrates, to be due and proper to the Pope of Rome. We acknowledge nowise the bishop of Rome, for a lawful bishop and pastor at all. But this popish Prelate doth acknowledge him, for he hath these words, (c. 5, p. 58.) "It is high presumption in the Pope to challenge to himself the title or right of Christ's universal vicar on earth, by divine right. The Pope, the bishop of Rome, hath no more by divine right, (what he may have by positive ecclesiastical right is not pertinent for us now to examine and discuss,) no higher privilege, (except it be in extent,) than the meanest bishop of the world in his diocese." And amongst all proofs, he passing by Scriptures, which should prove, or improve a divine right, he will content himself with one proof of Cyprian, (de unitat. Eccles.,) and endeth with these words,— "Would God, both sides in this, and other controversies, would submit to the judgment of the holy fathers."

1. Hence the P. Prelate, in his fourth article, (the other two I shall touch anon,) maketh puritans grosser than Jesuists, in dethroning kings; because if the king be deficient, the people may resume their power, and govern for him, and so dethrone the king. But Bellarmine (l. 3, q. de laic.) holdeth the people cannot dethrone the king, but, in certis casibus, in some cases, that is, (as Suarez saith,) si Rex sua potestate in manifestam, (Civitatis seu Regni,) perniciam abutatur. But I will demonstrate, that if papists hold that the Pope may dethrone kings, this Prelate is of their mind; for, 1. The words I cited make good that he is for the Pope's supremacy; (now it is a joint or part of his supremacy, to king and unking prince.) 2. They make good that he is a papist; for, 1. It is presumption in the Pope to challenge to himself that he is Christ's universal vicar on earth, by divine right. Why saith he not, by no right at all, but only he is not Christ's vicar by divine right; for it is evident, that papists make him Christ's vicar only by ecclesiastical right; for they profess succession of popes to this day cannot be proved but by tradition, not by Scripture. 2. The Pope's supremacy, by papists, is expressly reckoned amongst unwritten traditions, and so there is no necessity that the right of it be proved from Scripture. 3. The Prelate expressly saith, "He will
not discuss the ecclesiastical right that the Pope hath to be Christ's vicar;" and by that he clearly insinuateth that he hath a right to be Christ's vicar, besides a scriptural and divine right; only, for offending papists, he will not discuss it.

4. He hath no higher privilege, saith he, than other bishops, except in extent, by divine right. Now other bishops, as officers, in nature different from presbyters, (for of such the P. Prelate must speak in his own dialect,) have their office that divine right; and this the Prelate's word must include, else he saith nonsense to the matter in hand. And, in extent, the Pope hath, by divine right, more than other bishops have. Now what is the Pope of Rome's extent? All know it is the whole Catholic visible church on earth. If then, all bishops be particular ambassadors in Christ's stead, (2 Cor. v. 20,) and so legates and deputies of Christ, he who by divine right is a bishop in extent over the whole world, is as like one that calleth himself the universal vicar of Christ, as one egg is like another. The doctrine taught by this Prelate, so popish, and hints, yes, are more than evidences, of gross popery in this book, and his other pamphlet against presbyters. And his desire that the controversy, concerning the Pope's supremacy and others, were determined with submission to the judgment of the fathers, do cry that he is but a rotten papist. For why will he submit all other controversies to the judgment of the fathers? Why not to the prophets and apostles? Can fathers decide controversies better than the Word of God? A reason cannot be dreamed of why the fathers should be judges, and not the Scriptures, except that the Scriptures are obscure. Their authority and light cannot determine and judge controversies, except in so far as they have authority from fathers and the church; and we know this to be proprium quarto modo, proper to Jesuits and papists, to cry, Fathers, fathers, in all controversies, though the fathers be more for us than for them, except two things:—1. What fathers speak for us, are corrupted by them. 2. What were but errors in fathers, when children add contumacy to error, becomes the heresies of the sons.

And it is most false that we join with Jesuits. 1. We teach no more against tyrants, in exercitio, than Grotius, Barclay, and Wintzetus, in the matter of deposing kings; and in this, royalists conspire with Jesuits. 2. We deny that the Pope may loose subjects from the oath of fidelity when a king turneth heretical. 3. That people, at the Pope's commandment, are to dethrone kings for heresy; so do the prelates, and their fellows, the papists, teach; so Gregory VII. practised; so Aquinas taught, (22 q. 12. ar. 2.) Antonin, (sum. par. 3. t. 22. c. 3, sect. 7.) "Thou hast put all things under the Pope's feet," 22 v. 15, Christianos: boves. Judaeos et hereticos; pecora, Paganos; so Navar. (l. 1, c. 13.) Pagans have no jurisdiction. Jacc. Symoncan, (de Catho. Instit. tit. 45. n. 25.) "Catholica uxor hereticorum, viro debito reddere non tenetur." Item, Constat. hereticum privatum esse omni dominio, naturali, civili, politico, naturali quod habet in filios, nam propter hæresin patris, ecclesiæ, fili sui juris, civilii, quod habet in servos, ab eo enim servit libertari et politico, quod rerum dominii habent in subditos, ita Bannes, (22. q. 12. art. 10.) Gregor. (de valent. 22. dis. 1, q. 12, p. 2, lod. Mol. to. 1. de ust. et jur. tract. 2, dis. 29, v. 3.) Papists hold that generatio clericorum est corruptum subditis, churchmen are not subjects under the king's law. It is a canonical privilege of the clergy, that they are not subject to the king's civil laws. Now this Prelate and his fellows made the king swear, at his coronation, to maintain all canonical privileges of the prelatical clergy, the very oath and words sworn by all the popish kings.

P. Prelate.—Power is given by the multitude to the king immediately, and by God mediatelly, not so much by collation, as by approbation, how the Jesuit and puritan walk all along in equal pace. See Bellarmini, l. 1. de iuris. c. 6. Suarez cont. sect. Angl. l. 2. c. 3.

Ans.—It is a calumny that we teach that the power of the king is from God mediatelly, by mere approbation; indeed, a fellow of his, a papist, writing against the king's supremacy, Anthony Capell saith, 1 Saul was made king, and others also, by God's permission, and Deo invito et irato, God being angry, that is not our doctrine; but with what real efficiency God hath made men and communities rational and social men with the same hath he made them by instinct of nature, by the mediation of reason, to create a king; and Bellarmin and Suarez say not God maketh kings by approbation only.

1 Tract. contra primatum Regis Anglie.
P. Prelate.—The people may change monarchy into aristocracy or democracy, or aristocracy into monarchy; for aught I know, they differ not in this neither.

Ans. 1.—The P. Prelate knoweth not all things—the two Jesuits, Bellarmine and Suarez are produced only, as if they were all Jesuits; and Suarez saith, (De prim. po. l. 3, n. 4) "Donationem absolutam semel valide factam revocari non poss, neque in total, neque ex parte, maxime quando onerosa fuit." If the people once give their power to the king, they cannot resume it without cause; and laying down the grounds of Suarez and other Jesuits, that our religion is heresy, they do soundly collect this consequence, "That no king can be lord of the consciences of their subjects, to compel them to an heretical religion." We teach that the king of Spain hath no power over the consciences of protestant subjects to force them to idolatry, and that their souls are not his subjects, but only their persons, and in the Lord. 2. It is no great crime, that if a king degenerate in a tyranny, or if the royal line fail, that we think the people have liberty to change monarchy into aristocracy, aut contra. Jesuits deny that the people can make this change without the Pope's consent. We judge neither the great bishop, the Pope, nor the little popes, ought to have hand in making kings.

P. Prelate.—They say the power is derived to the king from the people, cumulativa or communicative, non privative, by way of communication, not by way of privation, so as the people denude not themselves of this sovereignty. As the king maketh a lieutenant in Ireland, not to denude himself of his royal power, but to put him in trust for his service. If this be their mind, the king is in a poor case. The principal authority is in the delegate, and so the people is still judge, and the king their deputy.

Ans.—The P. Prelate taketh on him to write, he knoweth not what, this is not our opinion. The king is king, and hath the people's power, not as their deputy.

1. Because the people is not principal judge, and the king subordinate. The king, in the executive power of laws, is really a sovereign above the people; a deputy is not so.

2. The people have irrevocably made over to the king their power of governing, defending, and protecting themselves, except the power of self-preservation, which people can no more make away, it being sinless nature's birthright, than the liberty of eating, drinking, sleeping; and this the people cannot resume, except in case of the king's tyranny; there is no power by the king so irrevocably resigned to his servant or deputy, but he may use it himself.

3. A delegate is accountable for all he doth to those that put him in trust, whether he do ill or well. The king, in acts of justice, is not accountable to any; for if his acts be not liable to high suspicions of tyranny, no man may say to him, What dost thou? only in acts of injustice; and those so tyrannous, that they be inconsistent with the habitual fiduciary repose and trust put on him, he is to render accounts to the parliament, which representeth the people.

4. A delegate in esse, in ferei, both that he may be a delegate, and that he may continue a delegate, whether he do ill or well, dependeth on his pleasure who delegateth him; but though a king depend in ferei, in regard of his call to the crown, upon the suffrages of his people, yet that he may be continued king, he dependeth not on the people simply, but only in case of tyrannical administration, and in this sense Suarez and Bellarmine spake with no more honesty than we do, but with more than prelates do, for they profess any emissary of hell may stab a Protestant king. We know the prelates profess the contrary, but their judgment is the same with Jesuits in all points; and since they will have the Pope Christ's vicar, by such a divine right as they themselves are bishops, and have the king under oath to maintain the clergy, bishops, and all their canonical privileges, (amongst which the bishops of Rome's indirect power in ordine ad spiritualia, and to dethrone kings who turn heretics, is one principal right,) I see not how prelates are not as deep in treason against kings as the Pope himself, and therefore, P. Prelate, take the beam out of your own eye.

The P. Prelate taketh unlearned pains to prove that Gerson, Occam, Jac. de Almaine, and the Paraisian doctors, maintained these same grounds anent the people's power over kings in the case of tyranny, and that before Luther and Calvin were in the world; and this is to give himself the lie, that Luther, Calvin, and we, have not this doctrine from Jesuits; and what is Calvin's mind is evident, (Instit. l. 4, c. 4) all that the estates may coerce, and reduce in order a tyrant,
else they are deficient in their trust that God hath given them over the common-wealth and church; and this is the doctrine for which royalists cry out against Knox of blessed memory, Buchanan, Junius Brutus, Bouchier, Rosseus, and Althusius. Luther, _in scripto ad pastorem_, (tom. 7, German, fol. 386,) bringeth two examples for resistance; the people resisted Saul, when he was willing to kill Jonathan his son, and Ahikam and other princes rescued Jeremiah out of the hands of the king of Judah; and Gerardus citeth many divines who second Luther in this, as Bugensiagius, Justus Jonas, Nicholas Ambederrhus, George Spalatinus, Justus Menius, Christopher Hofmanus. It is known what is the mind of Protestant divines, as Beza, Pareus, Melanchthon, Bucanus, Polanus, Chamier, and all the divines of France, of Germany, and of Holland. No wonder than prelates were upon the plot of betraying the city of Rochelle, and of the protestant church there, when they then will have the protestants of France, for their defensive wars, to be rebels, and siders with Jesuits, when, in these wars, Jesuits sought their blood and ruin. The P. Prelate having shown his mind concerning the deposing of Childrick by the Pope, (of which I say nothing, but the Pope was an antichristian usurper, and the poor man never fit to bear a crown,) he goeth on to set down an opinion of some mute authors; he might devise a thousand opinions that way, to make men believe he had been in a world of learned men's secrets, and that never man saw the bottom of the controversy, while he, seeing the escapes of many pens, (as supercilious Bubo praiseth,) was forced to appear a star new risen in the firmament of pursuivants, and reveal all dreams, and teach all the new statists, the Gamsielis, Buchanan, Junius Brutus, and a world who were all sleeping, while this Lucifer, the son of the night, did appear, this new way of laws, divinity, and casuists' theology.

_P. Prelate._—They hold sovereign power is primarily and naturally in the multitude. Virtually (it may be) sovereignty is in the multitude, but primarily and naturally, as heat is in the fire, light in the sun, I think the P. Prelate dreamed it; no man said it but himself; for what attribute is naturally in a subject, I conceive may directly and naturally be predicated thereof. Now the P. Prelate hath taught us this very natural prediction. "Our dreadful and sovereign lord, the multitude, commandeth this and that."

2. This is no more reason for a monarchy than for a democracy, for we can reap the fruits of no government except we submit to it.

3. We must submit in monarchy (saith he) to some possible and accidental inconveniences. Here be soft words, but is subversion of religion, laws, and liberties of church and state. Introducing of popery, Arminianism, of idolatry, altar-worship, the mass, (proved by a learned treatise, "the Canterbury self-conviction," printed 1641, third ed., never answered, couched under the name of inconveniency,) the pardoning of the innocent blood of hundreds of thousand protestants in Ireland, the killing of many thousand nobles, barons, commons, by the hands of papists in arms against the law of the land, the making of England a field of blood, the obtruding of an idolatrous service-book, with armies of men, by sea and land, to block up the kingdom of Scotland, are all these inconveniences only?

4. Are they only possible and accidental? But make a monarch absolute, as the P. Prelate doth, and tyranny is as necessary and as much intended by a sinful man, inclined to make a god of himself, as it is natural to men to sin, when they are tempted, and to be drunken and giddy with honour and greatness. Witness the kings of Israel and Judah, though _de jure_ they were not absolute. Is it accidental to Nero, Julian, to the ten horns that grew out of the woman's head, who sat upon the scarlet coloured beast, to make war against the Lamb and his followers, especially the spirit of Satan being in them?

_P. Prelate._—They infer, 1. They cannot, without violation of a divine ordinance and breach of faith, resume the authority they have placed in the king. 2. It were high sin to rob authority of its essentials. 3. This ordinance is not _de facto_ but _in facta_ and hath urgent reasons.
Ans. 1.—These nameless authors cannot infer that an oath is broken which is made conditionally; all authority given by the people to the king is conditional, that he use it for the safety of the people; if it be used for their destruction, they break no faith to resume it, for they never made faith to give up their power to the king upon such terms, and so they cannot be said to resume what they never gave.

2. So the P. Prelate maketh power to act all the former mischiefs, the essentials of a king. Balaam is not worthy his wages for prophesying thus, that the king's essentials is a power of blood, and destructive to people, law, religion, and liberties of church and state, for otherwise we teach not, that people may resume from the king authority and power to disarm papists, to root out the bloody Irish, and in justice serve them as they have served us.

3. This ordinance of the people, giving lawful power to a king for the governing of the people in peace and godliness, is God's good pleasure, and hath just reasons and causes. But that the people make over a power to one man, to act all the inconveniences above named, I mean the bloody and destructive inconveniences, hath nothing of God or reason in it.

P. Prelate.—The reasons of this opinion are:—1. If power sovereign were not in one, he could not have strength enough to act all necessary parts and acts of government. 2. Nor to prevent divisions which attend multitudes, or many endowed with equal power; and the authors say, they must part with their native right entirely for a greater good, and to prevent greater evils. 3. To resume any part of this power, of which the people have totally divested themselves, or to limit it, is to disable sovereignty from government, loose the sinews of all society, &c.

Ans. 1.—I know none for this opinion, but the P. Prelate himself. The first reason may be made rhyme, but never reason: for though there be not absolute power to good and ill, there may be strength of limited power in abundance in the king, and sufficient for all acts of just government, and the adequate end of government, which is, salus populi, the safety of the people. But the royalist will have strength to be a tyrant, and act all the tyrannical and bloody inconveniences of which we spake, an essential part of the power of a king; as if weakness were essential to strength, and a king could not be powerful as a king, to do good, and save and protect, except he had power also as a tyrant to do evil, and to destroy and waste his people. This power is weakness, and no part of the image of the greatness of the King of kings, whom a king representeth.

2. The second reason condemneth democracy and aristocracy as unlawful, and maketh monarchy the only physic to cure these; as if there were no government an ordinance of God save only absolute monarchy, which indeed is no ordinance of God at all, but contrary to the nature of a lawful king. (Deut. xvii. 3.)

3. That people must part with their native right totally to make an absolute monarch, is as if the whole members of the body would part with their whole nutritive power, to cause the milk to swell, which would be the destruction of the body.

4. The people cannot divest themselves of power of defensive wars more than they can part with nature, and put themselves in a condition inferior to a slave, who, if his master, who hath power to sell him, invade him unjustly, to take away his life, may oppose violence to unjust violence. And the other consequences are null.

QUESTION XLII.

WHETHER ALL CHRISTIAN KINGS ARE DEPENDENT FROM CHRIST, AND MAY BE CALLED HIS VICEROYENTS.

The P. Prelate taketh on him to prove the truth of this; but the question is not pertinent, it belongeth to another head, to the king's power in church matters. I therefore only examine what he saith, and follow him.

P. Prelate.—Sectaries have found a query of late, that kings are God's, not Christ's lieutenants on earth. Romanists and puritans erect two sovereigns in every state,—the Jesuit in the Pope, the puritan in the presbytery.

Ans. 1.—We give a reason why God hath a lieutenant, as God; because kings are gods, bearing the sword of vengeance against seditious and bloody prelates, and other ill doers. But Christ, God-man, the Mediator and head of the body—the church, hath neither pope nor king to be head under him.
The sword is communicable to men; but the headship of Christ is communicable to no king, nor to any created shoulders. 2. The Jesuit maketh the Pope a king; and so this P. Prelate maketh him, in extent, the bishop of bishops, and so king, as I have proved. But we place no sovereignty in presbyteries, but a mere ministerial power of servants, who do not take on them to make laws and religious ceremonies, as prelates do, who indeed make themselves kings and lawgivers in God's house.

**P. Prelate.**—We speak of Christ as head of the church. Some think that Christ was king by his resurrection, *jure acquisito*, by a new title, right of merit. I think he was a king from his conception.

**Ans.**—1. You declare hereby, that the king is a ministerial head of the church, under the head Christ. All our divines, disputing against the Pope's headship, say, No mortal man hath shoulders for so glorious a head. You give the king such shoulders. But why are not the kings, even Nero, Julian, Nebuchadnezzar, and Belshazzar, vicegerents of Christ, as mediator, as priest, as redeemer, as prophet, as advocate, presenting our prayers to God his father? What action, I pray you, have Christian kings, by office, under Christ, in dying and rising from the dead for us, in sending down the Holy Ghost, preparing mansions for us? Now, it is as proper and incommunicably reciprocal with the mediator to be the only head of the body, the church, (Col. i. 18,) as to be the only redeemer and advocate of his church.

2. That Christ was king from his conception, as man born of the Virgin Mary, suiteth well with papists, who will have Christ, as man, the visible head of the church; that so as Christ-man is now in heaven, he may have a visible pope to be head in all ecclesiastical matters. And that is the reason why this P. Prelate maketh him head of the church by an ecclesiastical right, as we heard; and so he followeth Beccanus the Jesuit in this, and others of his fellows.

**P. Prelate.**—1. Proof. If kings reign by *per in* and through Christ, as the wisdom of God and the mediator, then are kings the vicegerents of Christ as mediator; but the former is said, Prov. viii. 15, 18; so Dr Andrews, of blessed memory.

**Ans.**—1. I deny the major. All believers living the life of God, engraven in Christ as branches in the tree, (John xv. 1, 2,) should, by the same reason, be vicegerents of the Mediator; so should the angels to whom Christ is a head, (Col. ii. 10,) be his vicegerents; and all the judges and constables on earth should be under-mediators, for they live and act in Christ; yes, all the creatures, in the Mediator, are made new, (Rev. xxi. 5; Rom. viii. 20—22.) 2. Dr Andrew's name is a curse on the earth, his writings prove him to be a popish apostate.

**P. Prelate.**—2. Christ is not only king of his church, but in order to his church, King over the kings and kingdoms of the earth. (Psal. ii. 5, 8.) 3. Matt. xxii. 18, "To him is given all power in heaven and earth;" therefore, all sovereignty over kings.

**Ans.**—1. If all these be Christ's vicegerents, over whom he hath obtained power, then, because the Father hath given him power over all flesh, to give them life eternal, (John xvi. 1, 2,) then are all believers his vicegerents, yes, and all the damned men and devils, and death and hell, are his vicegerents; for Christ, as mediator, hath all power given to him as king of the church, and so power knsly over all his enemies, "to reign until he make them his footstool," (Psal. cx. 1, 2,) "to break them with a rod of iron." (Psal. ii. 9; 1 Cor. xv. 24—27; Rev. i. 18, 20; v. 10—15.) And, by that same reason, the P. Prelate's fourth and fifth arguments fall to the ground, He is heir of all things; therefore, all things are his vicegerents. What more vain? He is Prince of the kings of the earth, and King of Ogs, of kings, of his enemies; therefore, sea and land are his vicegerents.

**P. Prelate** (p. 58).—Kings are nurse-fathers of the church, therefore they hold their crowns of Christ. Divines say, that by men in sacred orders Christ doth rule his church mediately in those things which primarily concern salvation, and that by kings' sceptres and power he doth protect his church, and what concerneth external pomp, order, and decency. Then, in this latter sense, kings are no less the immediate vicegerents of Christ than bishops, priests, and deacons, in the former.

**Ans.**—1. Because kings hold their crowns of Christ as mediator and redeemer, it followeth, by as good consequence, kings are sub-mediators, and under-priests, and redeemers, as vicegerents. Christ, as king, hath no visible royal vicegerents under him.

2. Men in holy orders, sprinkled with one
of the papists' five blessed sacraments, such as antichristian prelates, unwashed priests to offer sacrifices, and popish deacons, are no more admitted by Christ to enter into his sanctuary as governors, than the leper into the camp of old, and the Moabite and Ammonite were to enter into the congregation of the Lord (Deut. xxiii. 3); therefore, we have excommunicated this P. Prelate and such Moabites out of the Lord's house. What be the things that do not primely concern salvation, the P. Prelate knoweth, to wit, images in the church, altar-worship, antichristian ceremonies, which primely concern damnation.

3. I understand not what the P. Prelate meaneth, That the king preserveth external government in order and decency. In Scotland, in our parliament, 1633, he prescried the surplice, and he commanded the service-book, and the mass-worship. The Prelate degraddeth the king here, to make him only keep or preserve the prelates' mass-clothes; they intended, indeed, to make the king but the Pope's servant, for all they say and do for him now.

4. If the king be vicegerent of Christ in prescribing laws for the external ordering of the worship, and all their decent symbolical ceremonies, what more doth the Pope and the Prelate in that kind? He may, with as good warrant, preach and administer the sacraments.

P. Prelate.—Kings have the sign of the cross on their crowns.

Ans.—Therefore, boculus est in angulo, prelates have put a cross in the king's heart, and crossed crown and throne too. Some knights, some ships, some cities and boroughs do carry a cross; are they made Christ's vicegerents of late? By what antiquity doth the cross signify Christ? Of old it was a badge of Christians, no religious ceremony. And is this all; the king is the vicegerent of Christians. The prelates, we know, adore the cross with religious worship; so must they adore the crown.

P. Prelate.—Grant that the Pope were the vicar of Christ in spiritual things, it followeth not—therefore, kings' crowns are subject to the Pope; for papists teach that all power that was in Christ, as man, as power to work miracles, to institute sacraments, was not transmitted to Peter and his successors.

Ans.—This is a base consequence; make the Pope head of the church, the king, if he be a mixed person, that is, half a churchman and Christ's vicegerent, both he and prelates must be members of the head. Papists teach that all in Christ, as man, cannot be transmitted to Peter; but a ministerial catholic headship (say Bucanis and his fellows) was transmitted from Christ, as man and visible head, to Peter and the Pope.

P. Prelate.—I wish the Pope, who claimeth so near alliance with Christ, would learn of him to be meek and humble in heart, so should he find rest to his own soul, to church and state.

Ans. 1.—The same was the wish of Gerson, Occam, the doctors of Paris, the fathers of the councils of Constance and Basil, yet all make him head of the church.

2. The excommunicate Prelate is turned chaplain to preach to the Pope; the soul-rest that protestants wish to the Pope is, "That the Lord would destroy him by the Spirit of his mouth." (2 Thes. ii. 8.) But to popish prelates this wish is a reformation of accidents, with the safety of the subject, the Pope, and as good as a wish, that the devil, remaining a devil, may find rest for his soul: all we are to pray for as having place in the church, are supposed members of the church. The Prelate would not pray so for the presbytery by which he was ordained a pastor, (1 Tim. iv. 14,) though he be now an apostate; it is gratitude to pray for his lucky father, the Pope. Whatever the Prelate wish, we pray for and believe that desolation shall be his soul-rest, and that the vengeance of the Lord and of his temple shall fall upon him and the prelates, his sons.

P. Prelate.—That which they purpose, by denying kings to be Christ's vicegerents, is to set up a sovereignty ecclesiastical in presbyteries, to constrain kings, repeal his laws, correct his statutes, reverse his judgments, to cite, conven, and censure kings; and, if there be not power to execute what presbyteries decree, they may call and command the help of the people, in whom is the underived majesty, and promise, and swear, and covenant to defend their fancies against all mortal men, with their goods, lands, fortunes, to admit no devise motion; and this sovereign association maketh every private man an armed magistrate.

Ans.—You see the excommunicate apostate strives against the presbytery of a reformed church, from which he had his baptism, faith, and ministry.
1. We deny the king to be the head of the church.

2. We assert, that in the pastors, doctors, and elders of the church, there is a ministerial power, as servants under Christ, in his authority and name to rebuke and censure kings; that there is revenge in the gospel against all disobedience (2 Cor. ii. 6; x. 8); —the rod of God (1 Cor. iv. 21); the rod of Christ’s lips (Isa. xi. 4); the sceptre and sword of Christ (Rev. i. 16; xix. 15); the keys of his kingdom, to bind and loose, open and shut (Matt. xviii. 17, 18; xvi. 19; 1 Cor. v. 1–3; 2 Thess. iii. 14, 15; 1 Tim. i. 19; v. 22; v. 17); and that this power is committed to the officers of Christ’s house, call them as you will.

3. For reversing of laws made for the establishing of popery, we think the church of Christ did well to declare all these unjust, grievous decrees, and that woe is due to the judges, even the queen, if they should not repent. (Isa. x. 1.) And this Prelate must show his teeth in this against our reformation in Scotland, which he once commended in pulpit as a glorious work of God’s right arm; and the Assembly of Glasgow, 1638, declared, That bishops, though established by acts of parliament, procured by prelates only, commissioners and agents for the church, who betrayed their trust, were unlawful; and did supplicate that the ensuing parliament would annul those wicked acts. They think God privilege neither king nor others from church-censures. The popish prelates imprisoned and silenced the ministers of Christ, who preached against the public sins, the blood, oppressions, injustice, open swearing, and blasphemy of the holy name of God, the countenancing of idolators, &c., in king and court.

4. They never sought the help of the people against the most unjust standing law of authority.

5. They did never swear and covenant to defend their own fancies; for the confession and covenant of the protestant religion, translated in Latin to all the protestants in Europe and America, being termed a fancy, is a clear evidence that this P. Prelate was justly excommunicated for popery.

6. This covenant was sworn by king James and his house, by the whole land, by the prelates themselves; and to this fancy this P. Prelate, by the law of our land, was obliged to swear when he received degrees in the university.

7. There is reason our covenant should provide against divisive motions. The prelates moved the king to command all the land to swear our covenant, in the prelatical sense, against the intent thereof, and only to divide and so command. Judge what religion prelates are of, who will have the name of God profaned by a whole nation, by swearing fancies.

8. Of making private men magistrates in defending themselves against cut-throats, enough already. Let the P. Prelate answer if he can.

P. Prelate.—Let no man imagine me to privilege a king from the direction and just power of the church, or that, like Uzziah, he should intrude upon sacred actions, ex vi ordinis, in foro interno conscientiae, to preach or administrate sacraments, &c.

Ans.—Uzziah did not burn incense, ex vi ordinis, as if he had been a priest, but because he was a king and God’s anointed. Prelates sit not in council and parliament, ex vi ordinis, as temporal lords. The pope is no temporal monarch, ex vi ordinis, yet all are intruders. So the P. Prelate will license kings to administer sacraments, so they do it not ex vi ordinis.

P. Prelate.—Men in sacred orders, in things intrinsically spiritual, have immediately a directive and authoritative power, in order to all whatsoever, although ministerial only as related to Christ; but that gives them no coercive civil power over the prince, per se, or per accidentem, directly or indirectly, that either the one way or the other, any or many in sacred order, pope or presbytery, can cite and censure kings, associate, covenant or swear to resist him, and force him to submit to the sceptre of Christ. This power over man God Almighty useth not, much less hath he given it to man. (Psalm. cx.) His people are a willing people. Suadenda non cogenda religio.

Ans. 1.—Pastors have a ministerial power (saith he) in spiritual things, but in order to Christ; therefore, in order to others it is not ministerial, but lordly. So here a lordly power pastors have over kings, by the P. Prelate’s way. We teach it is ministerial in relation to all, because ministers can make no laws as kings can do, but only, as heralds, declare Christ’s laws.

2. None of us give any coercive civil power to the church over either kings or any other—it is ecclesiastical; a power to rebuke and censure was never civil.
3. A religious covenant to swear to resist, that is, to defend ourselves, is one thing, and a lawful oath, as is clear in those of Israel that did swear Ass's covenant, without the authority of their own king, (2 Chron. xv. 9—12,) and to swear to force the king to submit to Christ's sceptre, is another thing. The presbytery never did swear or covenant any such thing; nor do we take sacrament upon it, to force the king. Prelates have made the king swear, and take his sacrament upon it, that he shall root out puritans, that is, protestants, whereas, he did swear at his coronation to root out heretics, that is, (if prelates were not traitorous in administering the oath,) Arminians and papists, such as this P. Prelate is known to be; but I hold that the estates of Scotland have power to punish the king, if he labour to subvert religion and laws.

4. If this argument, that religion is to be persuaded, not forced, which the P. Prelate useth, be good, it will make much against the king; for the king, then, can force no man to the external profession and use of the ordinances of God, and not only kings, but all the people should be willing.

P. Prelate.—Though the king may not preach, &c., yet the exercise of these things freely within his kingdom, what concerneth the decent and orderly doing of all, and the external man, in the external government of the church, in appointing things arbitrary and indifferent, and what else is of this strain, are so due to the prerogative of the crown, as that the priests, without highest rebellion, may not usurp upon him; a king in the state and church is a mixed person, not simply civil, but sacred too. They are not only professors of truth, that they have in the capacity of Christians, but they are defenders of the faith as kings; they are not sons only, but nurse-fathers; they serve God, as Augustine saith, as men, and as kings also.

Ans. 1.—If ye give the king power of the exercises of word and sacraments in his kingdom, this is deprivation of ministers in his kingdom, (for he sure cannot hinder them in another kingdom,) you may make him to give a ministerial calling, if he may take it away. By what word of God can the king close the mouth of the man of God, whom Christ hath commanded to speak in his name? 2. If the king may externally govern the church, why may he not excommunicate; for this is one of the special acts of church government, especially seeing he is a mixed person, that is, half a churchman, and if he may prescribe arbitrary-teaching ceremonies, and instruct men in the duties of holiness required of pastors, I see not but he may teach the Word. 3. Dr Ferne, and other royalists, deny arbitrary government to the king in the state, and with reason, because it is tyranny over the people; but prelates are not ashamed of commanding a thing arbitrary and indifferent in God's worship; shall not arbitrary government in the church be tyranny over the conscience? But, say they, "Churchmen teacheth the king what is decent and orderly in God's worship, and he commandeth it."

Ans.—1. Solomon by no teaching of churchmen deposed Abiathar; David by no teaching of churchmen appointed the form of the temple. 2. Hath God given a prerogative royal to kings, whereby they may govern the church, and as kings, they shall not know how to use it, but in so far as they are taught by churchmen? 3. Certainly, we shall once be informed by God's word, what is this prerogative, if according to it, all the external worship of God may be ordered. Lawyers and royalists teach, that it is an absoluteness of power to do above or against a law, as they say from 1 Sam. viii., 8—11, and whereby the king may oppress, and no man may say, What dost thou? Now, good P. Prelate, if, by a plentitude of tyranny, the king prescribe what he will in the external worship and government of God's house, who can rebuke the king though he command all the antichristian ceremonies of Rome, and of Turkey, yea, and the sacrificing of children to Molech? (for absoluteness royal will amount to shedding of innocent blood,) for, if any oppose the king, or say, Sir, what do you? he opposeth the prerogative royal, and that is highest rebellion, saith our P. Prelate. 4. I see not how the king is a mixed person, because he is defender of the faith, as the Pope named the king of England, Henry VIII.; he defendeth it by his sword, as he is a nurse-father, not by the sword that cometh out of his mouth. 5. I would know how Julian, Nebuchadnezzar, Og, and Sihon, were mixed persons, and did all in the external government of the church, and that by their office, they were kings. 6. All the instances that Augustine bringeth to prove that the king is a mixed person, proveth nothing but civil acts in kings; as Hezekiah
cast down the high places, the king of Nineveh compelled to obey the prophet Jonah, Darius cast Daniel's enemies to the lions.

P. Prelate.—If you make two sovereigns and two independents, there is no more peace in the state, than in Rebecca's womb, while Jacob and Esau strove for the prerogative.

Ans. 1.—What need Israel strive, when Moses and Aaron are two independents? If Aaron make a golden calf, may not Moses punish him? If Moses turn an Ahab, and sell himself to do wickedly, ought not eighty valiant priests and Aarons both rebuke, censure, and resist?

2. The P. Prelate said, (p. 65), “Let no man imagine we privilege the king from the direction and power of the church, so he be not intruding Uzziah.” I ask, P. Prelate, what is this church power? Is it not supreme in its kind of church power? or is it subordinate to the king? If it be supreme, see how P. Prelate maketh two supremes, and two sovereigns. If it be subordinate to the king, as he is a mixed person, the king is privileged from this power, and he may intrude as Uzziah; and by his prerogative, as a mixed person, he may say mass, and offer a sacrifice, if there be no power above his prerogative to curb him. If there be none, the P. Prelate's imagination is real; the king is privileged from all church power. Let the P. Prelate see to it. I see no inconvenience for reciprocations of subjections in two supremes; and that they may mutually censure and judge one another.

Obj.—Not in the same cause, that is impossible. If the king say mass, shall the church judge and censure the king for intrusion? and because the king is also sovereign and supreme in his kind, he may judge and punish the church for their act of judging and censuring the king; it being an intrusion on his prerogative, that any should judge the highest judge.

Ans.—The one is not subject to the other, but in the case of mal-administration; the innocent, as innocent, is subject to no higher punishing; he may be subject to a higher, as accusing, citing, &c. Now, the royalist must give instance in the same case, where the church faileth against the king and his civil law; and the king, in the same cause, faileth against the church canon; and then it shall be easy to answer.

P. Prelate.—Religion is the bottom of all happiness, if you make the king only to execute what a presbytery commandeth, he is in a hard case, and you take from him the chiefest in government. Ecclesiastical power hath the soul in subjection; the civil sovereignty holdeth a dead dominion over the body. Then the Pope and presbytery shall be in a better condition than the king. Cic. in ver. omnes religione moventur: superstition is furious, and maddeneth people, that they spare neither crown nor mitre.

Ans.—Cold and dry is the P. Prelate when he spendeth four pages in declamation for the excellency of religion: the madness of superstition is nothing to the purpose.

1. The king hath a chief hand in church affairs, when he is a nurse-father, and beareth the royal sword to defend both the tables of the law, though he do not spin and weave surplices, and other base mass-clothes to prelates, and such priests of Baal: they dishonour his majesty, who bring his prerogative so low.

2. The king doth not execute with blind obedience, with us, what the Pope commandeth, and the prelates, but with light of knowledge what synods discern; and he is no more made the servant of the church by this, than the king of Judah and Nebuchadnezzar are servants to Jeremiah and Daniel, because they are to obey the word of the Lord in their mouth. Let them show a reason of this, why they are servants in executing God's will in discipline, and in punishing what the Holy Ghost, by his apostles and elders, decrees, when any contemn the decree concerning the abstinence from blood, things strangled, &c., (Acts xiv.) rather than when they punish murder, idolatry, blasphemy, which are condemned in the Word, preached by pastors of Christ; and farther, this objection would have some more colour, (in reality it hath not,) if kings were only to execute what the church ministerially, in Christ's name, commandeth to be done in synods; but kings may, and do command synods to convene, and do their duty, and command many duties, never synodically decreed; as they are to cast out of their court apostate prelates, sleeping many years in the devil's arms, and are to command trencher-divines, neglecting their flock, and lying at court attending the falling of a dead bishop, as ravens do an old dying horse, to go and attend the flock, and not the court, as this P. Prelate did.

3. A king hath greater outward glory, and may do much more service to Christ,
in respect of extension, and is more excellent than the pastor, who yet, in regard of intention, is busied about nobler things, to wit, the soul, the gospel, and eternity, than the king.

4. Superstition maddeneth men; but it followeth not that true religion may not set them on work to defend soul and body against tyranny of the crown, and antichristian mitres.

P. Prelate.—The kingdom had peace and plenty in the prelates' time.

Ans.—1. A belly-argument. We had plenty, when we sacrificed to the queen of heaven. If the traveller contend to have his purse again, shall the robber say, Robbery was blessed with peace? The rest, to the end, are lies, and answered already. Only his invectives against ruling elders, falsely called lay-el^ders, are not to purpose. Parliament-priests, and lay and court-pastors, are lay-prophets.

2. That presbyteries meddle with civil business, is a slander. They meddle with public scandals that offendeth in Christ's kingdom. But the prelates, by office, were more in two elements, in church and state, than any frogs, even in the king's leavetubs, ordinarily.

3. Something he saith of popes usurping over kings, but only of one of his fathers, a great unclean spirit, Gregory the Great. But if he had refuted him by God's word, he should have thrown stones at his own tribe; for prelates, like him, do ex officio trample upon the neck of kings.

4. His testimonies of one council and one father for all antiquity proveth nothing. Athanasius said, "God hath given David's throne to kings." What, to be head of the church? No; to be minister of God, without us, to tutor the church. And, because "Kings reign by Christ," as the council of Armin saith; therefore, it may follow, a bailie is also head of the church. It is taken from Prov. viii., and answered.

5. That presbyteries have usurped over kings more than popes, since Hildebrand, is a lie. All stories are full of the usurpation of prelates, his own tribe. The Pope is but a swelled fat prelate; and what he saith of popes, he saith of his own house.

6. The ministers of Christ in Scotland had never a contest with king James but for his sins, and his conniving with papists, and his introducing bishops, the ushers of the Pope.

QUESTION XLIII.


The negative part of this I hold in these assertions.

Assert. 1.—The kings of Scotland have not any prerogative distinct from supremacy above the laws. If the people must be governed by no laws but by the king's own laws, that is, the laws and statutes of the realm, acted in parliament under pain of disobedience, then must the king govern by no other laws, and so by no prerogative above law. But the former is an evident truth by our acts of parliament; therefore, so is the latter. The proposition is confirmed. 1. Because whatever law enjoineth passive obedience no way but by laws, that must enjoin also the king actively to command no other way but by law; for to be governed by law essentially includeth to be governed by the supreme governor only by law. 2. An act of regal governing is an act of law, and essentially an act of law; an act of absolute prerogative is no act of law, but an act above law, or of pleasure loosed from law; and so they are opposed as acts of law, and non-acts of law. If the subjects, by command of the king and parliament, cannot be governed but by law, how can the king but be under his own and the parliament's law, to govern only by law? I prove the assumption from Parl. 3 of king James I. act 48, which ordains "That all and sundry the king's lieges be governed under the king's laws and statutes of the realm allenerly, and under no particular laws or special privileges, nor by any laws of other countries or realms." Privileges do exclude laws. Absolute pleasure of the king as a man, and the law of the king as king, are opposed by way of contradiction; and so in Parl. 6, James IV. act 79, ratifed Parl. 8, James VI. act 131.

2. The king, at his coronation, (Parl. 1, James VI. act 8,) sweareth "to maintain the true kirk of God, and religion now presently professed, in purity, and to rule the people according to the laws and constitu-
tions received in the realm, causing justice and equity to be ministered without partiality. This did king Charles swear at his coronation, and was ratified, Parl. 7, James VI. act 99. Hence he who, by the oath of God, is limited to govern by law, can have no prerogative above the law. If, then, the king change the religion and confession of faith, authorised by many parliaments, (especially by Parl. 1, Charles, 1633,) he goeth against his oath. The king's royal prerogative, or rather supremacy, (enacted Parl. 8, James VI. act 129; Parl. 18, act 1; Parl. 21, act 1, James; and Parl. 1, Charles, act 3,) cannot be contrary to the oath that king Charles did swear at his coronation, which bringeth down the prerogative to governing according to the standing laws of the realm. It cannot be contrary to these former parliaments and acts, declaring that "the lieges are to be governed by the laws of the realm, and by no particular laws and special privileges;" (but absolute prerogative is a special privilege above, or without law;) which acts stand unrepealed to this day; and these acts of parliaments stand ratified by Parl. 1, Charles, 1633.

3. Parl. 8, James VI. in the first three acts thereof, the king's supremacy, and the power and authority of parliaments are equally ratified under the same pain:—"Their jurisdictions, power, and judgments in spiritual or temporal causes, not ratified by his Majesty, and the three estates convened in parliament, are discharged." But the absolute prerogative of the king above law, equity, and justice, was never ratified in any parliament of Scotland to this day.

4. By Parl. 12, James VI. act 114, all former acts in favour of the true church and religion being ratified, their power of making constitutions concerning vi solvam, order and decency, the privileges that God hath given to spiritual office-bearers, as well of doctrine and discipline, in matters of heresy, excommunication, collation, deprivation, and such like, warranted by the word of God, and also to assemblies and presbyteries, are ratified. Now in that parliament, in acts so contiguous, we are not to think that the king and three estates would make acts for establishing the church's power in all the former heads of government, in which royalists say, "the soul of the king's absolute prerogative doth consist;" and therefore it must be the true intent of our parliament to give the king a supremacy and a prerogative royal, (which we also give,) but without any absoluteness of boundless and transcendent power above law, and not to obtrude a service-book, and all the superstitious rites of the church of Rome, without God's word, upon us.

5. The former act of parliament ratified the true religion, according to the word of God, then could it never have been the intent of our parliament to ratify an absolute supremacy, according to which a king might govern his people, as a tyrannous lion, contrary to Deut. xvii. 18—20. And it is true, Parl. 18, James VI. acts 1 and 2, upon personal qualifications, giveth a royal prerogative to king James over all causes, persons, and estates within his Majesty's dominion, whom they humbly acknowledge to be "sovereign monarch, absolute prince, judge and governor over all estates, persons, and causes."

These two acts, for my part I acknowledge, are spoken rather in court expressions than in law terms.

1. Because personal virtues cannot advance a limited prince (such as the kings of Scotland, post hominum memoriam, ever were) to be an absolute prince. Personal graces make not David absolutely supreme judge over all persons and causes; nor can king James, advanced to be king of England, be for that made more king of Scotland, and more supreme judge, than he was while he was only king of Scotland. A wicked prince is as essentially supreme judge as a godly king.

2. If this parliamentary figure of speech, which is to be imputed to the times, exalted king James to be absolute in Scotland, for his personal endowments, there was no ground to put the same on king Charles. Personal virtues are not always hereditary, though to me the present king be the best.

3. There is not any absoluteness above law in act 1,—the parliament must be more absolute in themselves. King James VI. had been divers years, before this 18th parliament, king of Scotland; then, if they gave him by law an absoluteness, which he had not before, then they were more absolute. Those who can add absoluteness must have it in themselves, Nemo dat quod non habet. If it be said king James had that before the act; the parliament legally declared it to be his power, which, before the declaration, was his power, I answer, all he had before
this declaration was, to govern the people according to law and conscience, and no more; and if they declare no other prerogative royal to be due to him, there is an end,—we grant all. But, then, this which they call prerogative royal, is no more than a power to govern according to law, and so you had nothing to add to king James upon the ground of his personal virtues, only you make an oration to his praise in the acts of parliament.

4. If this absoluteness of prerogative be given to the king, the subjects, swearing obedience, swear that he hath power from themselves to destroy themselves: this is neither a lawful oath, nor though they should swear it, doth it oblige them.

5. A supreme judge is a supreme father of all his children and all their causes; and to be a supreme father cannot be contrary to a supreme judge; but contrary it must be, if this supremacy make over to the prince a power of devouring as a lion, and that by a regal privilege, and by office, whereas he should be a father to save; or if a judge kill an evil-doer, though that be an act destructive to one man, yet is it an act of a father to the commonwealth. An act of supreme and absolute royalty is often an act of destruction to one particular man, and to the whole commonwealth. For example, when the king, out of his absolute prerogative, pardoned a murderer, and he killed another innocent man, and out of the same ground the king pardoned him again, and so till he kill twenty, (for by what reason the prerogative giveth one pardon, he may give twenty, there is a like reason above law for all,) this act of absolute royalty is such an act of murder, as if a shepherd would keep a wolf in the fold with the sheep, he were guilty of the loss of these sheep. Now an act of destroying cannot be an act of judging, far less of a supreme judge, but of a supreme murderer.

6. Whereas he is called "absolute prince and supreme judge, in all causes, ecclesiastical and civil," it is to be considered, 1. That the estates profess not in these acts to give any new prerogative, but only to continue the old power, and that only with that amplitude and freedom which the king and his predecessors did enjoy and exercise before: the extent whereof is best known from the acts of parliament, histories of the time, and the oaths of the kings of Scotland. 2. That he is called absolute prince, not in any relation of freedom from law, or prerogative above law, whereunto, as unto the norma regula ac mensura potestatis suae, ac subjectinis mea, he is tyed by the fundamental law and his own oath, but in opposition to all foreign jurisdiction or principality above him, as is evident by the oath of supremacy set down for acknowledging of his power in the first act of parliament 21, king James VI. 3. They are but the same expression, giving only the same power before acknowledged in the 129th act, Parl. 8, king James VI., and that only over persons or estates, considered separatum, and over causes; but neither at all over the laws nor over the estates, taken conjunctum, and as convened in parliament, as is clear, both by the two immediately subsequent acts of that parliament, 8, James VI., establishing the authority of parliaments equally with the kings, and discharging all jurisdictions (albeit granted by the king) without their warrant, as also by the narrative depository words, and certification of the act itself; otherwise the estates convened in parliament might, by virtue of that act, be summoned before and censured by the king's majesty or his council, a judicatory substitute, be subordinate to, and censured by themselves, which were contrary to sense and reason. 4. The very terms of supreme judge, and in all causes, according to the nature of correlates, presupposeth courts and judicial proceedings and laws, as the ground-work and rule of all, not a freedom from them. 5. Act 6, Parl. 20, James VI. clearly interpreteth what is meant by the king's jurisdiction in all spiritual and ecclesiastical causes; to wit, to be only in the consistorial causes of matrimony, testaments, bastardy, adulteries, abusively called spiritual causes, because handled in commissary courts, wherein the king appoints the commissary, his deputies, and makes the lords of the session his great consistory in all ecclesiastical causes, with reservation of his supremacy and prerogative therein.

7. Supreme judge in all causes, cannot be taken guad actus elicitus, as if the king were to judge between two seamen, or two husbandmen, or two tradesmen, in that which is proper to their art; or between two painters. Certainly the king is not to judge which of the two draweth the fairest picture, but which of the two wasteth most gold on his picture, and so doth interest most of the commonwealth. So the king cannot judge.
in all ecclesiastical causes, that is, he cannot, *quo ad actos elicitos*, prescribe this worship, for example, the mass, not the sacrament of the Lord's supper. Therefore the king hath but *actus imperator*, some royal political acts about the worship of God, to command God to be worshipped according to his word, to punish the superstitions or neglectors of divine worship; therefore, cannot the king be sole judge in matters that belong to the college of judges by the laws of Scotland, the lords, of session only may judge these matters, (Parl. 2, James I., act 45; Parl. 8, James III., act 62; Parl. 4, James III., act 105; Parl. 6, James I., act 83; Parl. 6, James I., act 86; Parl. 7, James V., act 104,) and that only according to law, without any remedy of appellation to king or the parliament (Parl. 14, James II., act 62 and 63). And the king is by act of parliament inhibited to send any private letter to stay the acts of justice; or if any such letter be procured, the judges are not to acknowledge it as the king's will, for they are to proceed impartially according to justice, and are to make the law, which is the king and parliament's public revealed will, their rule (Parl. 5, James V., act 68; Parl. 8, James VI., act 139; Parl. 6, James VI., act 92). Nor may the lords suspend the course of justice, or the sentence or execution of decrees upon the king's private letter (Parl. 11, James VI., act 79, and Parl. 11, James VI., act 47). And so, if the king's will or desire, as he is a man, be opposite to his law and his will as king, it is not to be regarded. This is a strong argument, that the parliaments never made the king supreme judge, *quo ad actos elicitos*, in all causes, nay not if the king have a cause of his own that concerneth lands of the crown, far less can the king have a will of prerogative above the law by our laws of Scotland. And, therefore, when in Parl. 8, James VI., the king's royal power is established in the first act, the very next act immediately subjoined thereunto declar eth the authority of the supreme court of parliament continued past all memory of man unto this day, and constitute of the free voices of the three estates of this ancient kingdom, which, in the parliament 1606, is called, "the ancient and fundamental policy of this kingdom;" and so fundamental, as if it should be innovated, such confusion would ensue, as it could no more be a free monarchy, as is expressed in the parliament's printed commission, 1604, by whom the same, under God, hath been upheld, rebellious and traitorous subjects punished, the good and faithful preserved and maintained, and the laws and acts of parliament (by which all men are governed) made and established, and appointeth the honour, authority, and dignity of the estates of parliament to stand in their own integrity, according to the ancient and laudable custom by-past, without alteration or diminution, and therefore dischargeth any to presume or take in hand, "to impugn the dignity and the authority of the said estates, or to seek or procure the innovation or diminution of their power or authority, under the pain of treason;" and, therefore, in the next act, they discharge all jurisdictions, or judicatories, (albeit appointed by the king's majesty, as the high commission was,) without their warrant and approbation; and that, as contrary to the fundamental laws above titled, (Parl. 3, James I., act 48 and Parl. 6, James IV., act 79,) whereby the lieges should only be ruled by laws or acts passed in the parliament of this kingdom. Now, what was the ancient dignity, authority, and power of the parliaments of Scotland, which is to stand without diminution, that will be easily and best known from the subsequent passages, or historians, which can also be very easily verified by the old registers, whosoever they should be produced. In the meantime, remember that in parliament and by act of Parl. James VI., for observing the due order of parliament, promiseth, never to do or command any thing which may directly or indirectly prejudice the liberty of free reasoning or voting of parliament (Parl. 11, James VI., act 40). And withal, to evidence the freedom of the parliament of Scotland, from that absolute unlimited prerogative of the prince, and their liberty to resist his breaking of covenant with them, or treaties with foreign nations, ye shall consider—1. That the kings of Scotland are obliged, before they be inaugurated, to swear and make their faithful covenant to the true kirk of God, that they shall maintain, defend, and set forward the true religion confessed and established within this realm; even as they are obliged and restricted by the law of God, as well in Deuteronomy as in 2 Kings xi., and as they crave obedience of their subjects. So that the bond and contract shall be mutual and reciprocal, in all time coming, between the
prince and the people, according to the word of God, as is fully expressed in the register of the convention of estates, July 1567. 2. That important acts and sentences at home, (whereof one is printed, Parl. 14, James III., act 112,) and in treaties with foreign princes, the estates of parliament did append their several seals with the king's great seal, (which to Grotius, Barcelaus, and Arnisseus, is an undeniable argument of a limited prince, as well as the style of our parliament, that the estates, with the king, ordain, ratify, rescind, &c.) as also they were obliged, in case of the king's breaking these treaties, to resist him therein, even by arms, and that without any breach of their allegiance, or of his prerogative, as is yet extant in the records of our old treaties with England and France, &c. But to go on, and leave some high mysteries unto a rejoinder.

And to the end I may make good, 1. That nothing is here taught in this treatise but the very doctrine of the Church of Scotland, I desire that the reader may take notice of the larger Confession of the Church of Scotland, printed with the body of the confessions at Geneva, anno 1612, and authorised by James VI. and the three estates in parliament, and printed in our acts of parliament (Parl. 16, James VI., anno 1567). Amongst good works of the second table, saith our Confession, (art. 14,) are these:—

To honour father, mother, princes, rulers, and superior powers. To love them, to support them, yea, to obey their charge, (not repugning to the commandment of God,) to save the lives of innocents, to repress tyranny, to defend the oppressed, to keep our bodies clean and holy, &c. The contrary whereof is, to disobey or resist any that God hath placed in authority, (while they pass not over the bounds of their office,) to murder, or to consent thereunto, to bear hatred, or to let innocent blood be shed, if we may withstand it, &c. Now the Confession citeth in the margin, Eph. i. 1, 7 and Ezek. xxi. 1—4, &c., where it is evident, by the name of father and mother, all inferior judges as well as the king, and especially the princes, rulers, and lords of parliament are understood. 2. The bloody city is to be judged, because they relieved not the oppressed out of the hand of the bloody princes, (v. 6,) who every one of them did to their power shed innocent blood (Ezek. xxi. 6). 3. To resist superior powers, and so the estates of parliament, as the cavaliers of Scotland do, is resistance forbidden (Rom. xiii. 1). The place is also cited in the Confession, and the Confession exponeth the place (Rom. xiii.) according to the interpretation of all sound expositors, as is evident in these words, art. 24. "And therefore we confess and avouch, that such as resist the supreme power, doing that thing which appertaineth to his charge, do resist God's ordinance, and therefore cannot be guiltless. And farther, we affirm, that whosoever denieth unto them aid, their counsel and support, while as the princes and rulers vigilantly travel in execution of their office, that the same men deny their help, support, and counsel to God, who, by the presence of his lieutenant, craves it of them." From which words we have clear:

1. That to resist the king or parliament, is to resist them while as they are doing the thing that appertaineth to their charge, and while they vigilantly travel in the execution of their office. But while king and parliament do acts of tyranny against God's law, and all good laws of men, they do not the things that appertain to their charge and the execution of their office; therefore, by our Confession, to resist them in tyrannical acts is not to resist the ordinance of God.

2. To resist princes and rulers, and so inferior judges, and to deny them counsel and comfort, is to deny help, counsel, and comfort to God. Let then cavaliers, and such as refuse to help the princes of the land against papists, prelates and malignants, know, that they resist God's ordinance, which rebellion they unjustly impute to us.

3. Whereas it is added in our Confession, that God, by the presence of his lieutenant, craveth support and counsel of the people, it is not so to be taken, as if then only we are to aid and help inferior judges and parliaments, when the king personally requireth it, and not otherwise. 1. Because the king requireth help, when, by his office, he is obliged to require our help and counsel against papists and malignants, though as misled, he should command the contrary: so if the law require our help, the king requireth it ex officio. 2. This should expressly contradict our Confession, if none were obliged to give help and counsel to the parliaments and estates, except the king in his own person should require it, because (art. 14) it is expressly said, That to save the lives of innocents, or repress tyranny, to
defend the oppressed,—not to suffer innocent blood to be shed, are works pleasing to God, which he rewardeth. Now we are not to think in reason, if the king shall be induced by wicked counsel to do tyrannical works, and to raise papists in arms against protestants, that God doth by him, as by his lieutenant, require our help, comfort, and counsel in assisting the king in acts of tyranny, and in oppression, and in shedding innocent blood; yea, our Confession tyeth us to deny help and comfort to the king in these wicked acts, and therefore our help must be in the things that pertaineth to his royal office and duty only, otherwise we are to repress all tyranny (art. 14).

4. To save the lives of innocents, to repress tyranny, to defend the oppressed, are, by our Confession, good works, well pleasing to God, and so is this a good work, not to suffer innocent blood to be shed, if we may withstand it. Hence it is clear as the sun, that our Confession, according to the word of God, to which king Charles did swear at his coronation, doth oblige and tie us in the presence of God and his holy angels, to rise in arms to save the innocent, to repress tyranny, to defend the oppressed. When the king, by ill counsel, sent armies by sea and land to kill and destroy the whole kingdom who should refuse such a service-book as they could not in conscience receive, except they would disobey God, renounce the Confession of Faith, which the king and they had sworn unto, and prove pernicious apostates to Christ and his church, what could we do, and that the same Confession, considering our bonds to our dear brethren in England, layeth bonds on us to this, as a good work also, not to suffer their innocent blood to be shed, but to defend them, when they, against all law of God, of men, of state, of nations, are destroyed and killed. For my part, I judge it had been a guiltiness of blood upon Scotland, if we had not helped them, and risen in arms to defend ourselves and our innocent brethren against bloody cavaliers. Add to this what is in the 24th article of the same Confession:—

"We confess, whosoever goeth about to take away, or to confound the whole state of civil polity, now long established, we affirm the same men not only to be enemies to mankind, but also wickedly to fight against God's will." But those who have taken arms against the estates of Scotland, and the princes and rulers of the land, have laboured to take away parliaments, and the fundamental laws of this kingdom, therefore, the Confession addeth, (art. 16,) "We farther confess and acknowledge, that such persons as are placed in authority are to be loved, honoured, feared, and held in most reverent estimation, because that they are lieutenants of God, in whose sessions God himself doth sit and judge; yea, even the judges and princes themselves, to whom, by God, is given the sword, to the praise and defence of good men, and to revenge and punish all open malefactors." Therefore, the parliament, and princes, and rulers of the land, are God's lieutenants on earth no less than the king, by our Confession of Faith; and those who resist them, resist the ordinance of God. Royalists say, they are but the deputies of the king, and when they do contrary to his royal will, they may be resisted, yea, and be killed, for in so far they are private men, though they are to be honoured as judges when they act according to the king's will, whose deputies they are. But, I answer:—

1. It is a wonder that inferior judges should be formally judges, in so far as they act conform to the will of a mortal king, and not in so far as they act conform to the will of the King of kings, seeing the judgment they execute is the King of kings', and not the judgment of a mortal king. (2 Chron. xix. 6.)

2. Royalists cannot endure the former distinction as it is applied to the king, but they receive it with both hands as it is applied to inferior judges; and yet, certain it is, that it is as ordinary for a king, being a sinful man, to act sometimes as the lieutenant of God, and sometimes as an erring and misled man, no less than the inferior judge acteth sometimes according to the king's will and law, and sometimes according to his own private way; and if we are to obey the inferior judge as the deputy of the king, what shall become of his person, when cavaliers may kill him at some Edgehill? for so they mock this distinction, as applied to the king in regard of his person and of his royal office; and for this point our Confession citeth in the margin Rom. xiii. 7; 1 Pet. ii. 17; Psal. lixxii. 1, which places do clearly prove that inferior magistrates are, 1. God's ordinances; 2. Gods on earth, (Psal. lixxxii. 6); 3. Such as bear the Lord's sword; 4. "That they are not only (as the Confession saith) ap-
pointed for civil policy, but also for maintaining of true religion, and for suppressing of idolatry and superstition." Then, it is evident, to resist inferior magistrates is to resist God himself, and to labour to throw the sword out of God's hand. 5. Our Confession useth the same Scriptures cited by Junius Brutus, to wit, Ezek. xxii. 1—7; Jer. xxxii. 3, where we are, no less than the Jews, commanded to "execute judgment and righteousness, and deliver the spoiled out of the hands of the oppressor;" for both the law of God and the civil law saith, Qui non impedit homicidium, quum potest, is homicidii reus est. I will cast in a word of other Confessions, lest we seem to be Jesuits alone.

The Confession of Helvetia saith, (c. 30,) de Magistratu. Vidimus, pu pillors, affictos asserrat, every magistrate is to defend the widow, the orphan, and the oppressed. The French Confession saith, (art. 40,) Affirma- mus ergo pœrendum esse legibus et statutis, solvenda tributa, subjectio denique jura- gum voluntarie tolerandum, etiam insti- delightes fuerint magistratus, dummodo Dei summum imperium integrum et illibatum maneat. So clear it is that all active obedience is due to all magistrates, and that that yoke of passive obedience is to be tolerated but conditionally, with a dummodo, so as the magistrate violate not the supreme commandment of the King of kings; and we know, accordingly, protestants of that church have taken defensive arms against their king. But our P. Prelate can say, the Confessions of Scotland, Helvetia, France, and all the reformed churches, are Jesuiti- cal, when as it was the doctrine of the Waldenses, the protestants, Luther, Calvin, and others, while as there was no Jesuit on earth.

The thirty-seventh article of the Church of England's Confession1 is so far from erecting an absolute power in the king, that they expressly bring down the royal prerogative from the high seat and transcendent supel- lative power above the law, and expose the prerogative to be nothing but mere law- power. "We only (say they) ascribe that prerogative to the king which the Scripture doth ascribe to all godly princes; that is, that they cause all committed to their trust, whether ecclesiastical or civil persons, to do their duty, and punish with the civil sword all disobedient offenders." In syntag. Confess. "And this they say in answer to some who believed the Church of England made the king the head of the church." The Prelates' Convocation must be Jesuits to this P. Prelate also.

So the thirty-sixth article of the Belgic Confession saith of all magistrates, no less than of a king, (we know, for tyranny of soul and body, they justly revolted from their king,) Idcirco magistratus epos gladio armavit, ut malos quidem plebem paenit, probos vero succurrit. Horum por- ro est, non modo de civit politia conservan- duum esse solicitos, verum etiam dare operam ut sacrum ministerium conservetur, omnii idololatria et adulterinos Dei cultus e medio tollatur, regnum antichristi diru- atur, &c. Then, all magistrates, though in- ferior, must do their duty that the law of God hath laid on them, though the king forbid them; but, by the Belgic Confession and the Scripture, it is their duty to relieve the oppressed, to use the sword against murdering papists and Irish rebels and destroying cavaliers; for, shall it be a good plea in the day of Christ to say, "Lord Jesus, we would have used thy sword against bloody murderers if thou anointed, the king, had not commanded us to obey a mortal king rather than the King of ages, and to execute no judgment for the oppressed, because he judged them faithful catholic subjects." Let all Oxford and cavalier doctors in the three kingdoms satisfy the consciences of men in this, that inferior judges are to obey a divine law, with a proviso that the king command them so to do, and otherwise they are to obey men rather than God. This is evidently holden forth in the Argentine Confession, exhibited by four cities to the emperor Charles V., 1530, in the very same cause of innocent defence that we are now in the three kingdoms of Scotland, England, and Ireland.

The Saxon Confession, exhibited to the Council of Trent, (1551, art. 23,) maketh the magistrate's office essentially to consist in keeping of the two tables of God's law; and so, what can follow hence, but in so far as he defendeth murderers,—or, if he be a king, and shall with the sword or arms in-

1 Angl. Conf. art. 37. Sed eam tantum preroga- tivam sqnam in sacris Scripturis a Deo ipso omni- bus diplibus principibus semper pisus tributam, hoc est, ut omnes status atque ordines fidem, sum commissos, fixe iii ecclesiastici sint, aive civiles, in officio con- tinentque se delinquentes gladio civili coercent.
pede inferior magistrates (for the Confession speaketh of all) to defend God’s law and true religion against papists, murderers, and bloody cavaliers, and hinder them to execute the judgment of the Lord against evil doers.—he is not, in that, a magistrate; and the denying of obedience, active or passive, to him in that, is no resistance to the ordinance of God; but, by the contrary, the king himself must resist, by the ordinance of God.

The Confession of Bohemia is clear, (art. 16,) *Qui publico munere magistratusque funguntur, quemcumque, gradum tenent, se non suum, sed Dei opus agere sciant.* Hence, all inferior or the supreme magistrate, whatever be their place, they do not their own work, nor the work of the king, but the work of God, in the use of the sword; therefore, they are to use the sword against bloody cavaliers, as doing God’s work—suppose the king should forbidd them to do God’s work; and if saith of all magistrates, *Sunt autem magistratuum partes ac munus, omnibus ex aequo jus dicere, in communem omnium usum, sine personaum acceptatione, pacem ac tranquillitatem publicam tueri ac procurare de malis ac facinoribus, hanc inter turbantibus penas sumere, aliosque, omnes ab eorum vi et injuria vindicare.* Now, this confession was the faith of the barons and nobles of Bohemia who were magistrates, and exhibited to the emperor, anno 1555, in the cause not unlike unto ours now, and the emperor was their sovereign; yet they profess they are obliged, in conscience, to defend all under them from all violence and injuries, that the emperor, or any other, could bring on them; and that this is their office before God, which they are obliged to perform as a work of God, and the Christian magistrate is not to do that work which is not his own but God’s, upon condition that the king shall not inhibit him. What if the king shall inhibit parliaments, princes, and rulers, to relieve the oppressed, to defend the orphan, the widow, the stranger, from unjust violence? Shall they obey man rather than God?

To say no more of this: prelates in Scotland did what they could, 1. To hinder his Majesty to indict a parliament. 2. When it was indicted, to have its freedom destroyed by prelimitations. 3. When it was sitting, their care was to divide, impede, and annul the course of justice. 4. All in the P. Prelate’s book tendeth to abolish parliaments, and to enervate their power. 5. There were many ways used to break up parliaments in England; and to command judges not to judge at all, but to interrupt the course of justice, is all one as to command unrighteous judgment (Jer. xxii. 3). 6. Many ways have been used by cavaliers to cut off parliaments, and the present parliament in England.

The paper found in William Laud’s study, touching fears and hopes of the parliament of England, evidenceth that cavaliers hate the supreme seat of justice, and would it were not in the world; which is the highest rebellion and resistance made against superior powers.

1. He feareth this parliament shall begin where the last left.

*Ans.—* Whatever ungrateful courtier had hand in the death of king James deserved to come under trial.

2. He feareth they sacrifice some man.

*Ans.—* 1. If parliaments have not power to cut off rebels, and corrupt judges, the root of their being is undone. 2. If they be lawful courts, none need fear them, but the guilty.

3. He feareth their consultations be long, and the supply must be present.

*Ans.—* 1. Then cavaliers intend parliaments for subsidies to the king, to foment and promote the war against Scotland, not for justice. 2. He that feareth long and serious consultations, to rip up and lance the wounds of church and state, is afraid that the wounds be cured.

4. He feareth they deny subsidies, which are due by the law of God, nature, and nations, whereas parliaments have but their deliberation and consent for the manner of giving, otherwise this is to sell subsidies, not to give them.

*Ans.—* Tribute, and the standing revenues of the king, are due by the law of God and nations; but subsidies are occasional rents given upon occasion of war, or some extraordinary necessity; and they are not given to the king as tribute and standing revenues, which the king may bestow for his house, family, and royal honour, but they are given by the kingdom, rather to the kingdom than to the king, for the present war, or some other necessity of the kingdom, and therefore are not due to the king as king, by any law of nature or nations, and so should not be given but by deliberation and judicial sentence of the states; and they are
not sold to the king, but given out by the kingdom by statute of parliament, to be bestowed on the kingdom, and the king should sell no acts of justice for subsidies.

5. He dare not speak of the consequences, if the king grant bills of grace, and part with the flowerets of the crown.

Ans.—He dare not say, the people shall vindicate their liberty by selling subsidies to buy branches of the prerogative royal, and diminishing the king’s fancied absolventes; so would prelates have the king absolute, that they may ride over the souls, purses, persons, estates, and religion of men, upon the horse of pretended absolventes.

6. He feareth the parliament fall upon church business; but, 1. The church is too weak already; if it had more power, the king might have more both of obedience and service. 2. The houses can be no competent judges in point of doctrine. 3. For the king, clergy, and convocation are judges in all causes ecclesiastical.

Ans. 1.—This striketh at the root of all parliamentary power. 1. The P. Prelate giveth them but a poor deliberative power in subsidies; and that is, to make the king’s will a law, in taking all the subjects’ goods from them, to foment war against the subjects. 2. He taketh all jurisdiction from them over persons, though they were as black traitors as breathe. 3. And spoileth them of all power in church matters; to make all judges, yes, and the king himself yield blind obedience to the Pope and Prelate, and their illuminated clergy. Sure I am, P. Maxwell imputeth this, but most unjustly, to presbyteries. What essential and fundamental privileges are left to parliaments? David and the parliament of Israel are impertinent judges in the matter of bringing home the ark of God. And for the church’s weakness, that is, the weakness of the damned prelates, shall this be the king’s weakness? Yes; the P. Prelate must make it true, no bishop, no king.

7. He feareth factious spirits will take heart to themselves, if the king yield to them without any submission of theirs.

Ans.—The princes and judges of the land are a company of factious men, and so no parliament, no court, but at best some good advisers of a king to break up the parliament, because they refuse subsidies, that he may, by a lawless way, extort subsidies.

8. He desireth the parliament may sit a short time, that they may not well understand one another.

Ans.—He loveth short or no justice from the parliament; he feareth they reform God’s house, and execute justice on men like himself. But I return to the Scottish parliament.

Assert. 2.—The parliament is to regulate the power of the king. The heritable sheriffs complain that the king granteth commissions to others in cases pertaining to their office; whereupon the estates (Parl. 6, James VI., act 62) dischargeth all such commissions, as also appointeth that all murderers be judged by the justice general only. And in several acts the king is inhibited to grant pardons to malefactors, Parl. 11, James VI., act 75. It is to be considered that king James in his Basilikon Doren, layeth down an unsound ground, that Fergus the first, father of one hundred and seven kings of Scotland, conquered this kingdom. The contrary whereof is asserted by Fordome, Major, Boethius, Buchanan, Hollanshed, who run all upon this principle, that the estates of the kingdom did, 1. Choose a monarchy, and freely, and no other government. 2. That they freely elected Fergus to be their king. 3. King Fergus frequently convened the parliament called Insulanorum duces, tribuum rectores, majorum consessus, conventus ordinum, conventus statuum, communitatum regni, phylarchi, primores, principes, patres; and, as Hollanshed saith, they made Fergus king, therefore a parliament must be before the king; yes, and after the death of king Fergus, phylarchi coeunt concione advocata, the estates convened without any king, and made that fundamental law regni elective, that when the king’s children were minors, any of the Fergusian race might be chosen to reign, and this endured to the days of Kenneth; and Redatha, the seventh king, resigned and maketh over the government into the hands of the parliament, and Phylarchi Tribuum Gubernatores ordained Thereus the eighth king. Buchanan, (l. 4, rer. Scot.) calleth him Reuntha, and said he did this, populo egre permittente, then the royal power recurred to the fountain. Thereus, the eighth king, a wicked man, filled the kingdom with robbers, and fearing the parliament should punish him, fled to the Britons, and thereupon the parliament
choose Conanus to be prorex and protector of the kingdom.

Finnanus, the tenth king, decreed,—Ne quid reges, quod majoris esset momenti, nisi de publici consiliis authoritative juventate, et ne domesticiso consilio remp. administrarent, regia publicaque negotia non sine patrum consultatione ductuque tractarentur, nec bellum pacem aut fadera reges per se patrum, tribuumve, rectorum injustu facerent, deemerentus; then it is clear that parliaments were consorts imperii, and had the authority with and above the king. When a law is made that the kings should do nothing injustu rectorum tribuum, without commandment of the parliament, a cabinet-council was not lawful to the kings of Scotland. So Durstus, the eleventh king, swarreth to the parliament, "Se nihil nisi de primorul consilio acturus," that he shall do nothing but by counsel of the rulers and heads of the kingdom.

The parliament, rejecting the lawful son of Cor bredus, the nineteenth king, because he was young, created Dardanus, the nephew of Metellanus, king, which is a great argument of the power of the Scottish parliament of old for elective rather than hereditary kings.

Corbredus II., called Galdus, the twenty-first king, at his coronation, renouncing all negative voices, did swear, Se majorum consilis acquiescurum, that he should be ruled by the parliament; and it is said, Leges quasadam tollere non potuit, adversante multitudine.

Luctatus, the twenty-second king, is censured by a parliament, "Quod sprote majorum consilio," he appointed base men to public offices.

Mogaldus, the twenty-third king, "Ad consilia seniorum omnia ex prisco more revocavit," did all by the parliament, as the ancient custom was.

Conarus, the twenty-fourth king, was cast into prison by the parliament, "Quod non expectato decreto patrum, quod summo et patestatis, privatis consilii administrasset," because he did these weightiest business that concerned the kingdom, by private advice, without the judicial ordinance of parliament, that was of greatest authority. Where is the negative voice of the king here?

Ethodius II. (son of Ethodius I.) the twenty-eighth king, (the parliament passing him by on account of his age, and electing

Srael, his father's brother, king before him,) was a simple ignorant man, yet for reverence to the race of Fergus, kept the name of a king, but the estates appointed tutors to him.

Nathalous, the thirtieth king, corrupting the nobles with buds and fair promises, obtained the crown.

Romachus, Fethelmachus, and Angusius, or as Buchanan calleth him, Æneas, contended for the crown, the parliament convened to judge the matter was dissolved by tumult, and Romachus chosen king, doing all, non adhibito, de more, consilio majorum, was censured by the parliament.

Fergus II. was created king by the states, de more.

Constantine, the forty-third king, a most wicked man, was punished by the states.

Aidanus, the forty-ninth king, by the counsel of St Columba, governed all in peace, by three parliaments every year.

Farhard I., the fifty-second king, and Farhard II., the fifty-fourth king, were both censured by parliaments.

Eugenis VII., the fifty-ninth king, was judicially accused, and absolved by the states, of killing his wife Spondana.

Eugenis VIII., the sixty-second king, a wicked prince, was put to death by the parliament, omnibus in ejus extitum, consentiuntibus.

Donaldus, the seventieth king, is censured by a parliament, which convened, pro salute republucce, for the good of the land. So Ethus, the seventy-second king, Ne unus culpa, regnum perire.

Gregory, the seventy-third king, swarreth to maintain kirk and state in their liberties; the oath is ordained to be sworn by all kings at their coronation.

The estates complain of Duff, the seventy-eighth king, because contermining the counsel of the nobles, Sacrifeclorum consilii, abducere, that and that either the nobility must depart the kingdom, or another king must be made.

Culen, the seventieth king, was summoned before the estates, so before him, Constantine III., the seventy-fifth king, did, by oath, resign the kingdom to the states, and entered in a monastery at St Andrews.

Kenneth III., the eightieth king, procured almost, per vim, saith Buchanan, that the parliament should change the elec-
tive kings into hereditary; observe the power of parliaments.

After this Grim, and then Macbeth, the eighty-fifth king, is rebuked for governing by private counsel; in his time, the king is ordained by the states to swear to maintain the community of the kingdom.

When Malcolm IV., the ninety-second king, would have admitted a treaty to the hurt of the kingdom, the nobles said, Non jure esse regi, the king had no right to take anything from the kingdom, Nisi omnibus ordinibus consentiendibus. In the time of Alexander, the ninty-fourth king, is ordained, Acta regis oporterit confirmari decreto ordinem regni, quia ordinibus regni non consultis, aut adversantibus, nihil quod ad totius regni statum attinet, regi agere licet; so all our historians observe; by which it is clear, that the parliament, not the king, hath a negative voice.

The states' answer to king Edward's leagues, concerning Balzee's conditions in his contest with Bruce is, that these conditions were made a solo rege, by the king only, without the estates of the kingdom, and therefore they did not oblige the kingdom.

In Robert the Bruce's reign, the ninety-seventh king, the succession to the crown is appointed by act of parliament, and twice changed; and in the league with France, Quod quando de successuro rege ambige-retur apud Scottos, ea controversia ab ordinem de creto decidereetur.

Robert, the hundredth king, in a parliament at Scoon, moved the states to appoint the earl of Carrick, his eldest son of the second marriage, to the crown, passing his children of the first marriage; and when he would have made a treaty, he was told, that he could not inducas facere nisi ex sententia conventus publicis, he could not make truces but with the consent of the estates of parliament.

James I. could not do anything in his oath in England. The parliament's approbation of the battle at Stirling against king James III. is set down in the printed acts, because he had not the consent of the states.

To come to our first reformation, the queen regent, breaking her promise to the states, said, "Faith of promise should not be sought from princes;" the states answered, that they then were not obliged to obey, and suspended her government as inconsistent with the duty of princes, by the articles of pacification at Leith, June 16,

1560. No peace or war can be without the states.

In the parliament thereafter, (1560,) the nobility say frequently to the queen, Regum Scotorum limitatum esse imperium, nec unquam ad unius libidinem, sed ad legum praeceptum et nobilitatis consensum regi solutum.

So it is declared, parliament at Stirling, 1578, and parl. 1567, concerning queen Mary, I need not insist here. James VI. July 21, 1567, was crowned, the earl of Morton and Hume, jurarunt pro eo, et ejus nomine, in leges, sum doctrinam et ritus religionis, quas tuis docebatur, public quaerat possit, servatumur, et contrarios oppugnaturum. (Buch. Her. Scot. Hist. 1. 16.) The three estates revoke all alienations made by the king without consent of the parliament. Parl. 2, James VI. c. 2, 4, 5, 6.

Three parliaments of James II. are held without any mention of the king, as 1437, 1438, and 1440, and act 5 and 6 of Parl. 1440, the estates ordain the king to do such and such things, to ride through the country for doing of justice; and Parl. 1, James I. act 23, the estates ordained the king to mend his money; but show any parliament where ever the king doth prescribe laws to the states, or censure the states.

In Parl. 1, James VI., the Confession of Faith being ratified, in acts made by the three estates, that the kings must swear at their coronation, "In the presence of the eternal God, that they shall maintain the true religion, right preaching, and administration of the sacraments now received and preached within this realm, and shall abolish and gain-stand all false religions contrary to the same, and shall rule the people committed to their charge, according to the will of God, laudable laws, and constitutions of the realm." &c.

The Parl. 1, James VI., 1567, approveth the acts of parliament 1560, conceived only in name of the states, without the king and queen, who had deserted the same; so saith the act 2, 4, 5, 20, 28. And so this parliament, wanting the king and queen's authority, is confirmed, Parl. 1572, act 51, king James VI.; Parl. 1581, act 1; and Parl. 1581, act 115, in which it is declared, "That they have been common laws from their first date," and are all ratified, Parl. 1587, and 1592, act 1; and stand ratified to this day by king Charles' parliament,
1633. The act of the Assembly, 1566, commendeth that parliament, 1660, as the “most lawful and free parliament that ever was in the kingdom.”

Yes, even Earl 1641, king Charles himself being present, an act was passed upon the occasion of the king’s illegal imprisonment of the laird of Langton: that the king hath no power to imprison any member of the parliament without consent of the parliament. Which act, to the great prejudice of the liberty of the subject, should not have been left unprinted; for, by what law the king may imprison one member of the parliament, by that same reason he may imprison two, twenty, and a hundred; and so may he clap up the whole free estates, and where shall then the highest court of the kingdom be?

All politicians say, the king is a limited prince, not absolute; where the king giveth out laws, not in his own name, but in the name of himself and the estates judicially convened.

In p. 33 of the old acts of parliament, members are summoned to treat and conclude.

The duty of parliaments, and their power, according to the laws of Scotland, may be seen in the history of Knox, now printed at London (an. 1643), in the nobles’ proceeding with the queen, who killed her husband and married Bothwell, and was arraigned in parliament, and by a great part condemned to death; by many, to perpetual imprisonment.

King Charles received not crown, sword, and sceptre, until first he did swear the oath that king James his father did swear. He was not crowned, till one of every one of the three estates came and offered to him the crown, with an express condition of his duty, before he be crowned.

After king Charles said, “I will by God’s assistance bestow my life for your defence, wishing to live no longer than that I may see this kingdom flourish in happiness,” thereafter, the king showing himself on a stage to the people, the popish archbishop said; “Sirs, I do present unto you king Charles, the right descended inheritor,—the crown and dignity of this realm, appointed by the peers of the kingdom. And are you willing to have him for your king, and become subject to him?” The king turning himself on the stage, to be seen of the people, they declared willingness, by crying, God save king Charles! Let the king live!

QUESTION XLIV.

GENERAL RESULTS OF THE FORMER DOCTRINE, IN SOME FEW COROLLARIES, OR STRAYING QUESTIONS, FALLEN OFF THE ROADWAY, ANSWERED BRIEFLY.

Quest. 1.—Whether all governments be but broken governments and deviations from monarchy.

Ans.—1. It is denied: there is no less somewhat of God’s authority in government by many, or some of the choicest of the people, than in monarchy; nor can we judge any ordinance of man unlawful, for we are to be subject to all for the Lord’s sake. (1 Pet. ii. 13; Tit. iii. 1; 1 Tim. ii. 1—3.) 2. Though monarchy should seem the rule of all other governments, in regard of resemblance of the Supreme Monarch of all, yet it is not the moral rule from which, if other governments shall err, they are to be judged sinful deviations.

Quest. 2.—Whether royalty is an immediate issue and spring of nature.

Ans.—No; for a man, fallen in sin, knowing naturally he hath need of a law and a government, could have, by reason, devised governors, one or more; and the supervenient institution of God, coming upon this ordinance, doth more fully assure us, that God, for man’s good, hath appointed governors; but, if we consult with nature, many judges and governors, to fallen nature, seem nearer of blood to nature than one only; for two, because of man’s weakness, are better than one. Now, nature seemeth to me not to teach that only one sinful man should be the sole and only ruler of a whole kingdom; God, in his word, ever joined with the supreme ruler many rulers, who, as touching the essence of a judge, (which is, to rule for God,) were all equally judges: some reserved acts, or a longer cubit of power in regard of extent, being due to the king.

Quest. 3.—Whether magistrates, as magistrates, be natural.

Ans.—Nature is considered as whole and sinless, or as fallen and broken. In the former consideration, that man should stand in need of some one to compel him with
the sword to do his duty, and not oppress, was no more natural to man than to stand in need of lictors and hangmen, or physicians for the body, which in this state was not in a capacity of sickness or death; and so government by parents and husbands was only natural in the latter consideration. Magistrates, as magistrates, are two ways considered,—1. According to the knowledge of such an ordinance; 2. According to the actual erection of the practice of the office of magistrates. In the former notion, I humbly conceive, that by nature’s light, man now fallen and broken, even under all the fractions of the powers and faculties of the soul, doth know, that promises of reward, fear of punishment, and the co-active power of the sword, as Plato said, are natural means to move us, and wings to promote obedience and to do our duty; and that government by magistrates is natural. But, in the second relation, it is hard to determine that kings, rather than other governors, are more natural.

Quest. 4.—Whether nature hath determined that there should be one supreme ruler, a king, or many rulers, in a free community.

Ans.—It is denied.

Quest. 6.—Whether every free commonwealth hath not in it a supremacy of majesty, which it may formally place in one or many.

Ans.—It is affirmed.

Quest 6.—Whether absolute and unlimited power of royalty be a ray and beam of divine majesty immediately derived from God?

Ans.—Not at all. Such a creature is not in the world of God’s creation. Royalists and flatterers of kings are parents to this prodigious birth. There is no shadow of power to do ill in God. An absolute power is essentially a power to do without or above law, and a power to do ill, to destroy; and so it cannot come from God as a moral power by institution, though it come from God by a flux of permissive providence; but so things unlawful and sinful come from God.

Quest. 7.—Whether the king may in his actions intend his own prerogative and absoluteness.

Ans.—He can neither intend it as his nearest end, nor as his remote end. Not the former, for if he fight and destroy his people for a prerogative, he destroyeth his people that he may have a power to destroy them, which must be mere tyranny, nor can it be his remote end; for, granting that his supposed absolute prerogative were lawful, he is to refer all lawful power and all his actions to a more noble end, to wit, to the safety and good of the people.

Quest. 8.—Do not they that resist the parliament’s power, resist the parliament; and they that resist the king’s power, resist the king; God hath joined king and power, who dare separate them?

Ans.—1. If the parliament abuse their power, we may resist their abused power, and not their power parliamentary. Mr Bridges doth well distinguish (in his Annotations on the “Loyal Convert”) betwixt the king’s power, and the king’s will. 2. The resisters do not separate king and power, but the king himself doth separate his lawful power from his will, if he work and act tyrannically out of this principle, will, passion, lust; not out of the royal principle of kingly power. So far we may resist the one, and not the other.

Quest. 9.—Why, if God might work a miracle in the three children’s resistance active, why doth he evidence omnipotence in the passive obedience of these witnesses? The kingdom of Judah was Christ’s birthright, as man and David’s son. Why did he not, by legions of men and angels, rather vindicate his own flesh and blood, than triumph by non-resistance, and the omnipotence of glory to shine in his mere suffering?

Ans.—Who art thou that disputest with God? He that killeth with the jaw-bone of an ass, thousands, and he that destroyed the numberless Midianites by only three hundred, should no more put the three children to an unlawful act in the one, if they had by three men killed Nebuchadnezzar and all his subjects, than in the other. But nothing is said against us in a sophism a non causa pro causa; except it be proved, God would neither deliver his three children, nor Christ from death, and the Jews from bondage, by miraculous resistance, because resistance is unlawful. And if patient suffering is lawful, therefore, is resistance unlawful? It is a poor consequence, and a begging of the question: both must be lawful to us; and so we hold, of ten lawful means, fit to compass God’s blessed end, he may choose one and let go nine. Shall any infer, therefore, these other
nine means are unlawful, because God chose a mean different from those nine, and refused them? So may I answer by retortation. The three hundred sinned in resisting Midian, and defeating them. Why? Because it should be more honour to God, if they had, by suffering patiently the sword of Midian, glorified God in martyrdom. So Christ and the apostles, who could have wrought miracles, might have wrought reformation by the sword, and destroyed kings and emperors, the oppressors of the Lamb; and they did reform by suffering; therefore, the sword is unlawful in reformation. It followeth not. The mean Christ used, is lawful; therefore, all other means that he used not, are unlawful. It is vain logic.

Quest. 10.—Whether the coronation of a king is any other thing but a ceremony.

Ans.—In the coronation there is, and may be, the ceremony of a shout and an acclamation, and the placing of a sceptre in his right hand who is made king, and the like; but the coronation, in concreto, according to the act, is no ceremony, nor any accidental ingredient in the constitution of a king. 1. Because Israel should have performed a mere ceremonial action on Saul when they made him king, which we cannot say; for as the people's act of coronation is distinctive, so is it constitutive: it distinguished Saul from all Israel, and did constitute him in a new relation, that he was changed from no king to be a king. 2. The people cannot, by a ceremony, make a king; they must really put some honour on him, that was not put on him before. Now this ceremony, which royalists do fancy coronation to be, is only symbolical and declarative, not really dative. It placeth nothing in the king.

Quest. 11.—Whether subjects may limit the power that they gave not to the king, it being the immediate result (without intervening of law or any act of man) issuing from God only.

Ans.—1. Though we should allow (which in reason we cannot grant) that royal power were a result of the immediate bounty of God, without any act of man, yet it may be limited by men, that it over-swell not its banks. Though God immediately make Peter an apostle, without any act of men, yet Paul, by a sharp rebuke, (Gal. ii.) curbeth and limiteth his power, that he abuse it not to Judaising. Royalists deny not, but they teach, that the eighty priests that restrained Uzziah's power "from burning incense to the Lord," gave no royal power to Uzziah. Do not subjects, by flight, lay restraint upon a king's power, that he kill not the subjects without cause? yet they teach that subjects gave no power to the king. Certainly this is a proof of the immediate power of the King of kings, that none can fly from his pursuing hand, (Psal. cxxxix. 1—3; Amos ix. 1—4,) whereas men may fly from earthly kings. Nebuchadnezzar, as royalists teach, might justly conquer some kingdom, for conquest is a just title to the crown, say they. Now, the conqueror then justly not only limited the royal power of the conquered king, but wholly removeth his royalty and unkingeth him; yet, we know, the conqueror gave no royal power to the conquered king. Joshua and David took away royal power which they never gave, and therefore this is no good reason,—the people gave not to the king royal power, therefore they could not lawfully limit it and take it away. 2. We cannot admit that God giveth royal power immediately, without the intervention of any act of law; for it is an act of law, that (Deut. xvii.) the people chooseth such a king, not such a king; that the people, by a legal covenant, make Saul, David, and Josiah, kings, and that God exerciseth any political action of making a king over such subjects, upon such a condition, is absurd and inconceivable; for how can God make Saul and David kings of Israel upon this political and legal condition, that they rule in justice and judgment, but there must intervene a political action and so they are not made kings immediately. If God feed Moses by bread and manna, the Lord's act of feeding is mediate, by the mediation of second causes; if he feed Moses forty days without eating anything, the act of feeding is immediate; if God made David king, as he made him a prophet, I should think God immediately made him king; for God asked consent of no man, of no people, of David himself, before he infused in him the spirit of prophecy; but he made him formally king, by the political and legal covenant betwixt him and the people. I shall not think that a covenant and oath of God is a ceremony, especially a law-covenant, or a political action between David and the people, the contents whereof behoved to be de materia gravi et onerosa, concerning a great part of obedience to the fifth command-
ment of God’s moral law, the duties moral concerning religion, and mercy, and justice, to be performed reciprocally between king and people. Oaths, I hope, are more than ceremonies.

Quest. 12.—Whether or no the commonwealth is not ever a pupil, never growing to age, as a minor under nonage doth come not to need a tutor, but the commonwealth being still in need of a tutor, a governor, or king, must always be a tutor, and so the kingdom can never come to that condition as to accuse the king, it always being minor.

Ans.—1. Then can they never accuse inferior judges, for a kingdom is perpetually in such a nonage, as it cannot want them, when sometimes it wanteth a king. 2. Can the commonwealth, under democracy and aristocracy, being perpetually under nonage, ever then quarrel at these governments and never seek a king? By this reason they cannot. 3. The king, in all respects, is not a tutor—every comparison in something beareth a leg; for the commonwealth, in their own persons, do choose a king, complain of a king, and resist an Uzziah, and tie their elective prince to a law. A pupil cannot choose his tutor, either his dying father, or the living law doth that service for him; he cannot resist his tutor, he cannot tie his tutor to a law, nor limit him, when first he chooseth him. *Pupillo non licet postulare tutorem suspecti, quamdiu sub tutela est, et manet impubes.* (l. Pictatis 6, in sin. C. de susp. Tutor. 1. impuberem. 7, and sect. impuberes. Just. cod.)

Quest. 13.—Whether or no subjects are more obnoxious to a king than clients to patrons, and servants to masters, because the patron cannot be the client’s judge, but some superior magistrate must judge both, and the slave had no refuge against his master, but only flight; and the king doth confer infinite greater benefits on the subjects, than the master doth on the slave, because he expossath his life, pleasure, ease, credit, and all for the safety of his subjects.¹

Ans.—1. It is denied, for to draw the case to fathers and lords, in respect of children and vassals, the reason why sons, clients, vassals, can neither formally judge, nor judicially punish, fathers, patrons, lords, and masters, though never so tyranous, is a moral impotency, or a political incongruity, because these relations of patron and client, fathers and children, are supposed to be in a community, in which are rulers and judges above the father and son, the patron and the client; but there is no physical incongruity that the politic inferior punish the superior, if we suppose there were no judges on the earth, and no relation but patron and client; and, because, for the father to destroy the children, is a troubling of the harmony of nature, and the highest degree of violence, therefore one violence of self-defence, and that most just, though contrary to nature, must be a remedy against another violence; but in a kingdom there is no political ruler above both king and people, and therefore, though nature have not formally appointed the political relation of a king rather than many governors and subjects, yet hath nature appointed a court and tribunal of necessity, in which the people may, by innocent violence, repress the unjust violence of an injuring prince, so as the people injured in the matter of self-defence may be their own judge. 2. I wonder that any should teach, That oppressed slaves had of old no refuge against the tyranny of masters, but only flight; for, (1.) The law expressly saith that they might not only fly but also change masters, which we all know was a great damage to the master, to whom the servant was as good as money in the purse.¹ (2.) I have demonstrated before, by the law of nature, and out of divers learned jurists, that all inferiors may defend themselves by opposing violence against unjust violence; to say nothing that unanswerably I have proved that the kingdom is superior to the king. 3. It is true, *Qui plus dat, plus obligat*, as the Scripture saith, (Luke vii.) He that giveth a greater benefit layeth a foundation of a greater obligation. But, 1. If benefit be compared with benefit, it is disputable if a king give a greater benefit than an earthly father, to whom, under God, the son is debtor for life and being, if we regard the compensation of eminency of honour and riches, that the people putteth upon the king; but I utterly deny that a power to act tyrannous acts, is any benefit or obligation, that the people in reason can lay upon their prince, as a compensation or hire for his great pains be taketh in his royal watchtower. I judge it no benefit, but a great hurt, damage, and an ill of nature, both to

¹ Arnulfus de authorit. princip., c. 3, n. 6.

¹ Servi indigne habitu confugiendi ad status, et dominum mutandis copiam habent, l. 2. De bis qui sunt sui. Item, C. de lat. Hered. toll.
king and people, that the people should give to their prince any power to destroy themselves, and therefore that people do reverence and honour the prince most, who lay strongest chains and iron fetters on him, that he cannot tyrannise.

Quest. 14.—But are not subjects more subject to their prince, (seeing the subjection is natural, as we see bees and cranes,) to obey him, than servants to their Lord? 2

(C. in Apib. 7, 9, 1, ex Hiero. 4, ad Rustic. Monach. Plin. n. 17.) For jurists teach, that servitude is beside or against nature, (l. 5, de stat. homi. sect. 2, just. et jur. pers. c. 3, sect. et sicut Nov. 89, quib. med. nat. eff. sui.)

Ans.—There is no question, in active subjection to princes and fathers commanding in the Lord, we shall grant as high a measure as you desire. But the question is, if either active subjection to ill and unjust mandates, or passive subjection to penal inflections of tyranny and abused power, be natural or most natural; or if subjects do renounce natural subjection to their prince, when they oppose violence to unjust violence. This is to beg the question. And for the commonwealth of bees and cranes, and crown and sceptre amongst them, give me leave to doubt of it. To be subject to kings, is a divine moral law of God; but not properly natural to be subject to coaction of the sword. Government and subjection to parents, is natural; but that a king is juris natura strictior, I must crave leave to doubt. I hold him to be a divine moral ordinance, to which, in conscience, we are to submit in the Lord.

Quest. 15.—Whether king Uzziah was dethroned by the people?

Ans.—Though we should say he was not formally unkinged and dethroned, yet if the royal power consist in an indivisible point, as some royalists say, and if Uzziah was removed to a private house, and could not reign, being a leper; certainly much royal power was taken from it. It is true, Arnisseus saith, 3 he neither could be compelled to resign his power, nor was he compelled to resign his royal authority; but he willingly resigned actual government, and remained king, as tutors and curators are put upon kings that are mad or stupid, and children, who yet govern all by the authority of lawful kings. But that Uzziah did not denude himself of the royal power voluntarily, is clear. The reason (2 Chron. xxvi. 21) why he dwelt in a house apart, and did not actually reign, is, because he was a leper; for, “He was cut off (saith the text) from the house of the Lord; and Jotham, his son, was over the king’s house, judging the people of the land.” Whereby it is clear, by the express law of God, he being a leper, and so not by law to enter into the congregation, he was cut off from the house of the Lord; and he being passive, is said to be cut off from the Lord’s house. Whether, then, Uzziah turned necessity to a virtue, I know not: it is evident, that God’s law removed the actual exercise of his power. If we obtain this, which God’s word doth give us, we have enough for our purpose, though Uzziah kept the naked title of a king, as indeed he took but up room in the catalogue of kings. Now, if by law he was cut off from actual governing, whether he was willing or not willing to denude himself of reigning, is all one. And to say, that furious men, idiots, stupid men, and children, who must do all royal acts by curators and tutors, are kings jure, with correction, is petitio principii; for then hath God infused immediately from heaven (as royalists teach us) a royal power to govern a kingdom, on those who are as capable of royalty as blocks. I conceive that the Lord (Deut. xvii. 14—17) commandeth the people to make no blocks kings; and that the Lord hath not done that himself in a binding law to us, which we have no commandment from him to do. I conceive that God made Josiah and Josiah kings typical, and in destination, for his promise sake to David, while they were children, as well as he made them kings; but not actu completo ratione officii, to be a rule to us now, to make a child of six years of age a king by office. I conceive children are to us only kings in destination and appointment; and for idiots and fools, I shall not believe (let royalists break their faith upon so rocky and stony a point, at their pleasure) that God hath made them governors of others, by royal office, who can scarce number their own fingers; or that God tyeth a people to acknowledge stupid blocks for royal governors of a kingdom, who cannot govern themselves. But far be it from me to argue with Bellarmine, (de pezzit. l. 3, c. 2,) from Uzziah’s bodily leprosy to

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1 Arnisseus de authorit. princip. in populi c. 3, n. 7.
2 Arnisseus de jure Pontif. Rom. in Regna et Princ. c. 5, n. 30.
infer that any prince who is spiritually leprous and turned heretical, is presently to be dethroned. Nothing can dethrone a king but such tyranny as is inconsistent with his royal office. Nor durst I infer that kings, now a-days, may be removed from actual government for one single transgression. It is true, eighty priests, and the whole kingdom, so serving king Uzziah (their motives, I know, were divine) proveth well that the subjects may punish the transgression of God's express law in the king, in some cases even to remove him from the throne; but as from God's commanding to stone the man that gathered sticks on the Sabbath-day, we cannot infer that Sabbath-breakers are now to be punished with death; yet we may well argue, Sabbath-breakers may be punished, and Sabbath-breakers are not unpunishable, and above all law; so may we argue here, Uzziah, though a king, was punished; therefore kings are punishable by subjects.

Quest. 16.—Whether or no, as the denial of active obedience in things unlawful is not dishonourable to the king, as king, he being obliged to command in the Lord only, so the denial of passive subjection to the king using unjust violence, be also no dishonouring of the king.

Ans.—As the king is under God's law both in commanding and in exacting active obedience, so is he under the same regulating law of God, in punishing or demanding of us passive subjection, and he may not command what he will, but what the King of kings warranteth him to command, so may he not punish as he will, but by warrant also of the Supreme Judge of all the earth; and therefore it is not dishonourable to the majesty of the ruler, that we deny passive subjection to him when he punisheth beside his warrant, more than it is against his majesty and honour that we deny active obedience when he commandeth illegally; else I see not how it is lawful to fly from a tyrannous king, as Elias, Christ, and other of the witnesses of our Lord have done; and, therefore, what royalists say here is a great untruth, namely, that in things lawful we must be subject actively, in things unlawful passively. For as we are in things lawful to be subject actively, so there is no duty in point of conscience, laying on us to be subject passively, because I may lawfully fly, and so lawfully deny passive subjection to the king's will, punishing unjustly.

Quest. 17.—Whether the prince may make away any part of his dominions, as an island, or a kingdom, for the safety of the whole kingdoms he hath; as if goods be like to sink an over-burthened ship, the seamen cast away a part of the goods in the sea, to save the lives of the whole passengers; and if three thousand passengers being in one ship, and the ship in a storm like to be lost, it would seem that a thousand may be cast over board, to save the lives of the whole passengers.

Ans.—The kingdom being not the king's proper heritage, it would seem he cannot make away any part of his kingdom to save the whole, without the express consent of that part, though they be made away to save the whole. In things of this kind, men are not as the commodities of merchants, nor is the case alike; as when one thousand, of three thousand, are to be cast into the sea to save all the rest, and that either by common consent, or by lots, or some other way; for it is one thing, when destruction is evidently inevitable, as in the casting so many men into the sea to save the whole and many passengers, and when a king for peace, or for help from another king, maketh away part of his dominion. The Lord is here to be waited on in his good providence, and events are to be committed to him; but far less, can it be imaginably lawful for a king to make away a part of his dominions without their consent, that he may have help from a foreign prince to destroy the rest: this were to make merchandise of the lives of men.1

Quest. 18.—Whether or no the convening of the subjects, without the king's will, be unlawful.

Ans.—The convention of men, of itself, is an indifferent thing, and taketh its specification from its causes, and manner of convening, though some convention of the subjects without the king, be forbidden; yet ratio legis est anima legis, the reason and intent of the law, is the soul of the law. Convention of the subjects, in a tumultuary way, for a seditions end, to make war without warrant of law, is forbidden; but not when religion, laws, liberties, invasion of foreign enemies, necessitate the subjects to

1 Ferdinand Vasquez illust. quest. 1. 1. c. 3. n. 8. juri alieno quisquam nec in minima parte obesse potest. 1. id quod nostrum. F. de reg. jur. 1. jur. natu. cod. titul. 1.
THE LAW AND THE PRINCE.

convene, though the king and ordinary judicatures, going a corrupt way to pervert judgment, shall refuse to consent to their conventions. Upon which ground, no convention of tables at Edinburgh, or any other place, (an. 1687, 1693, 1699,) can be judged there unlawful; for if these be unlawful, because they are conventions of the leagues, without express act of parliament, then the convention of the leagues to quench a house on fire, and the convention of the country to pursue a wolf entered in the land to destroy women and children, which are warranted by the law of nature, should be lawless, or against acts of parliament.

**Quest. 19.**—Whether the subjects be obliged to pay the debts of the king.

**Ans.**—These debts which the king contracts as king, in *throne regali*, the people are to pay. For the law of nature and the divine law doth prove, that to every servant and minister wages is due. (Rom. xiii. 5, 6, compared with verse 4, and 1 Cor. ix. 9—12; I Tim. v. 18.) If the prince be taken in a war, for the defence of the people, it is just that he be redeemed by them: so the law saith, (tit. F. et C. de negotiis gestis, et F. et C. Manda.) But, Ferdinandus Vasquez (illustr. quest. l. 1, c. 7, n. 6, *Vicesimo tertio apparat, &c.) saith, if the prince was not doing the business of the public, and did make war without advice and consent of the people, then are they not to redeem him. Now certain it is, when the king raiseth war, and saith, "God do so to me and mine, if I intend any thing but peace," yet maketh war not only against his oath, but also without consent of the parliament, and a parliament at that time convened by his own royal writ, and not raised, and dissolved at all, but still sitting formally a parliament; if he borrow money from his own subjects, and from foreign princes, to raise war against his subjects and parliament, then the people are not obliged to pay his debts. 1. Because they are obliged to the king only as a king, and not as an enemy; but in so raising war he cannot be considered as a king. 2. Though the people agree with him, and still acknowledge him king; it is impossible, *physice*, he can be their king, and they not pay his debts; yet they sin not, but may, ex *decertis, non ex debito legali,* pay his debts, yet are they not obliged by any law of God or man to pay his debts. But though it be true, by all law the king is obliged to pay his debt, (except we say, that all the people’s goods are the king’s: a compendious way, I confess, to pay all that any voluble Heliogabalus shall contract,) yet it may easily be proved, that what his subjects and foreign princes lent him to the raising of an unjust war are not properly debts, but expenses unjustly given out under the reduplication of formal enemies to the country, and so not payable by the subjects; and this is evident by law, because one may give most unjustly monies to his neighbour, under the notion of loan, which yet hath nothing of the essence of loan and debt, but is mere delapidation, and cannot properly be debt by God’s law; for the law regulateth a man in borrowing and lending, as in other politic actions. If I, out of desire of revenge, should lend monies to a robber to buy powder and fuel to burn an innocent city, or to buy armour to kill innocent men, I deny that that is legally debt. I dispute not whether A. B., borrowing money formally, that thereby he may waste it on debauchery, shall be obliged to repay it to C. D. under the reduplication of debt; or if the borrower be obliged to pay what the lender hath unjustly lent. I dare not pray to God that all our king’s debts may be paid; I have scarce faith so to do.

**Quest. 20.**—Whether subsidies be due to the king as king.

**Ans.**—There is a twofold subsidy; one *debitum,* of debt; another, *charitativum,* by way of charity. A subsidy of debt is rather the kingdom’s due for their necessity than the king’s due, as a part of his rent. We read of customs due to the king as king, and for conscience sake, (Rom. xiii. 5, 6,) never of a subsidy or taxation to the kings of Israel and Judah, at any convention of the states. Augustus Caesar’s taxing of all the world (Luke ii,) for the maintenance of wars, cannot be the proper rent of Augustus, as emperor, but the rent of the Roman empire; and it is but the act of a man. Charitative subsidies to the king, of indulgence, because, through bad husbanding of the king’s rents, he hath contracted debts, I judge no better than royal and princely begging. Yet lawful they are, as I owe charity to my brother, so to my father, so to my politic father the king. See Ferd. Vasq. (illustr. quest. l. 1, c. 8) who desires that superiors, under the name of charity, hide not rapine, and citeth Cicero, gravely saying, (offic. l. 1,) "*Nulla generi humano et justitiae major pestis est, quam corum, qui*
vem maxime fallunt, id agunt, ut boni viri esse videantur," &c.

Quæst. 21.—Whether the seas, floods, roadways, castles, ports, public magazine, militia, armour, forts, and strongholds be the king's.

Ans.—All these may be understood to be the king's in divers notions. 1. They are the king's, quoad custodiam, et publicam possessionem, as a pawn is the man's in whose hand the pawn is laid down. 2. They are the king's, quoad jurisdictionem cumulativam, non privatam. The king is to direct, and royally to command, that the castles, forts, ports, strongholds, armour, magazine, militia, be employed for the safety of the kingdom. All the ways, bridges, and public roadways, are the king's, in so far as he, as a public and royal watchman, is to secure the subject from robbers, and to cognosce of unknown murders, by himself and the inferior judges; yet may not the king employ any of these against the kingdom. 3. They are the kings, as he is king, quoad officialem, et regalem, et publicam proprietatem; for he hath a royal and princely propriety to all these, as his own, in so far as he useth them according to law. 4. And thus they are the king's also, quoad usum, in regard of official use. But, 1. They are the kingdom's, quoad fructum, in regard of the effect and fruit. 2. They are the kingdom's, finaliter, being destined for the safety and security of the kingdom. 3. They are the kingdom's, quoad proprietatem propriam, et legalem strictè sumptam, according to the proper and legal propriety; and are not the king's proper heritage as he is a man: 1. Because he may not sell these forts, strongholds, ports, magazine, bridges, &c. to a stranger, or a foreign prince. 2. When the king is dead, and his heirs and royal line interrupted, these all remain proper to the kingdom; yet so as the state cannot, as they are men, make them away, or sell them, more than the king; for no public persons, yeà the multitude cannot make away the security, safety, and that which necessarily conduceth to the security of the posterity. "The Lord build his own Zion, and appoint salvation for walls and bulwarks!"
DE JURE REGNI APUD SCOTOS;

A DIALOGUE

CONCERNING

THE RIGHTS OF THE CROWN IN SCOTLAND.

BY GEORGE BUCHANAN.

TRANSLATED INTO ENGLISH

BY ROBERT MACFARLAN, A.M.
Reprinted from the Edition of 1799.
GEORGE BUCHANAN

WISHES MUCH GOOD HEALTH TO

JAMES THE SIXTH, KING OF THE SCOTS.

Several years ago, when public affairs were in the greatest confusion, I wrote on the prerogative of the Scottish crown a Dialogue, in which I endeavoured to explain from their very cradle, if I may use the expression, the mutual rights of our kings and of their subjects. Though that book seemed to have been serviceable at the time, by shutting the mouths of certain persons, who with importunate clamours rather inveighed against the existing state of things than weighed what was right in the scale of reason, yet influenced by the return of a little tranquillity, I also laid down my arms with pleasure on the altar of public concord. But having lately by accident lighted on this composition among my papers, and thought it interspersed with many remarks necessary to a person raised like you to an eminence so interesting to mankind, I have judged its publication expedient, that it might both testify my zeal for your service and also remind you of your duty to the community. Many circumstances also assure me that my endeavour on this occasion will not be fruitless; especially your age not yet corrupted by wrong opinions; and a genius above your years spontaneously urging you to everything noble; and an easy flexibility in obeying not only your preceptors, but also all wise monitors; and that judgment and sagacity in disquisition, which prevent you from allowing great weight to authority, when it is not supported by solid arguments. I see also that, by a kind of natural instinct, you so abhor flattery, the vile nurse of tyranny and the very pest of legal sovereignty, that you hate the solemnisms and barbarisms of courtiers no less than they are relished and affected by those who in their own eyes appear connoisseurs in every species of elegance, and, as if they were delicate seasonings to conversation, interlard every sentence with majesties, lordships, excellencies, and, if it be possible, with other expressions of a still more offensive savour. Though you be at present secured from this error, both by the goodness of your natural disposition and by the instructions of your governors, yet I cannot help being somewhat afraid that the blandishments of that pander of vice, evil communication, should give a wrong bias to a mind that is yet so pliant and tender; especially as I am not ignorant with what facility our other senses yield to seduction. This treatise, therefore, I have sent you not only as a monitor, but also as an importunate and even impudent dun; that in this critical turn of life it may guide you beyond the rocks of flattery, and not only give you advice, but also keep you in the road which you so happily entered, and, in case of any deviation, replace you in the line of your duty. If you obey its directions, you will insure to yourself and to your family in the present life temporal tranquillity, and in the future, eternal glory. Farewell.

At Stirling on the 10th of January in the year of the Christian Era 1679.
When, upon Thomas Maitland's return lately from the continent, I had questioned him minutely about the state of affairs in France, I began, out of my attachment to his person, to recommend to him a perseverance in that career to glory which he had so happily begun, and to inspire him with the best hopes of the progress and result of his studies. For, if I, with moderate talents, with hardly any fortune, and in an illiterate age, had still maintained such a conflict with the iniquity of the times, as to be thought to have achieved something, assuredly those who were born in happier days, and possess time, wealth and genius in abundance, ought not to be deterred from so honourable a purpose by its labour; and, when aided by so many resources, cannot reasonably yield to despair. They should therefore proceed to use every effort in communicating splendour to literature, and in recommending themselves and their countrymen to the notice of posterity. If they continued for a little their joint exertions, the consequence would be, that they would eradicate from the minds of men an opinion, that in the frigid regions of the globe the learning, politeness and ingenuity of the inhabitants diminish in proportion to their distance from the sun; for, though nature may have favoured the Africans, Egyptians, and most other nations with quicker conceptions and greater keenness of intellect, yet she has been so unkind to no tribe as to have entirely precluded it from all access to virtue and glory.

Here, when, according to his usual modesty, he had spoken of himself with diffidence, but of me with more affection than truth, the course of conversation at last led us so far, that, when he had questioned me concerning the convulsed state of our country, and I had made him such an answer as I thought calculated for the time, I began, in my turn, to ask him what sentiments either the French, or any strangers that he met in France, entertained concerning Scottish affairs; for I had no doubt that the novelty of the events would, as is usual, have furnished occasion and matter for political discussions.

"Why," says he, "do you address to me such a question? For, since you know the whole train of events, and are not acquainted with what most people say, and almost all think, you may easily conjecture, from the internal conviction of your own mind, what is, or at least what ought to be, the opinion of all mankind."

B.—But the more distant foreign nations are, and the fewer causes they have from that distance for anger, for hatred, for love, and for other passions likely to make the mind swerve from truth, the more ingenuous and open they commonly are in judging, and the more freely they speak what they think; and this very freedom of speech and mutual interchange of thought removes much obscurity, disentangles many knotty points, converts doubts into certainties, and may shut the mouths of the dishonest and designing, and instruct the weak and unenlightened.
M.—Would you have me be ingenuous in my answer?

B.—Why not?

M.—Though I was strongly actuated by a desire of revisiting, after a long absence, my country, my parents, my relations and friends, yet nothing inflamed this passion so much as the language of the untutored multitude. For, however firm I had thought the temper of my mind, rendered either by the effects of habit or by the precepts of philosophy, yet, when the event now under consideration occurred, I could not, by some fatality, conceal its softness and effeminacy. For, as the shocking enormity here lately exhibited was unanimously detested by all orders of men, and the perpetrator still uncertain, the vulgar, always swayed rather by momentary impulse than by sound discretion, imputed a fault of a few to the many; and the common hatred to the misdeed of private individuals so overwhelmed the whole nation, that even those who stood most remote from suspicion laboured under the infamy of other men's crimes. Therefore, till this storm of calumny should subside into a calm, I readily took shelter in this port, where, however, I fear that I have struck against a rock.

B.—For what reason, I beseech you?

M.—Because the minds of all men, being already heated, seem to me likely to be so much inflamed by the atrocity of the late crime as to leave no room for defence. For how can I resist the attack not only of the uninformed multitude, but even of those who assume the character of politicians, while both will declare that our ferocious rage was not satiated by murdering, with unparalleled cruelty, an innocent youth, but exhibited a new example of barbarity in the persecution of women, a sex that is spared even by hostile armies at the capture of cities? From what horror, indeed, will any dignity or any majesty deter men who are guilty of such outrage to their princes? After these enormities, whom will justice, morality, law, respect for sovereignty or reverence for legal magistracy, restrain through shame or check through fear? When the exercise of the supreme executive power is become the ridicule of the lowest rabble, when trampling upon every distinction between right and wrong, between honour and dishonour, men degenerate, almost by common consent, into savage barbarity. To these and still more atrocious charges I know that I shall be forced, upon my return to France, to listen, as the ears of all have in the meantime been so thoroughly shut as to be susceptible of no apology, nor even of a satisfactory defence.

B.—But I will easily relieve you from this apprehension, and clear our nation from so false an imputation. For, if foreigners so heartily execrate the heinousness of the antecedent crime, where is the propriety of reproving the severity of the subsequent punishment? Or, if they are vexed at the degradation of the queen, the former must necessarily meet with their approbation. Do you, therefore, choose to which of the two cases you wish to attach guilt; for neither they nor you, if you mean to be consistent, can either praise or disapprove both.

M.—The murder of the king I certainly detest and abominate, and am glad that the odium of conscious guilt does not fall upon the public, but is attributable to the villany of a few desperadoes; but the latter act I cannot either wholly approve or disapprove. The detection by sagacity and industry of the most nefarious deed mentioned in any history, and the vengeance awaiting the wicked perpetrators from open hostilities, appear to me glorious and memorable achievements. But with the degradation of the chief magistrate, and with the contempt brought upon the royal name, which has been among all nations constantly held sacred and inviolable, I know not how all the nations of Europe will be effected, especially those that live under a regal government. As for myself, though not ignorant of the adverse pretences and allegations, I feel violent emotions either from the magnitude or novelty of the event; and the more so that some of its authors are connected with me by the closest intimacy.

B.—Now, methinks, I can nearly discern what it is that affects you, but not perhaps so much as it touches those iniquitous estimators of other men's merit, to whom you think satisfaction is due. Of those who will violently condemn the forcible seizure of the queen, I reckon three principal divisions. One is peculiarly pernicious, as it comprehends the panders to the lusts of tyrants, wretches who think no act unjust or dishonourable by which they conceive that kings may be gratified, and who measure every thing not by its intrinsic value, but by the passions of their masters. These are
such venal devotees to the desires of another that they have retained freedom neither of speech nor of action. From this band proceeded the banditti, who, without any cause of enmity, and merely with the hopes of preferment and power at court, sacrificed, in the most cruel manner, an innocent youth to another’s lust. While these hypocrites pretend to lament the fate of the queen, and to sigh and groan over her miseries, they mean only to provide for their own security, and really grieve at seeing the enormous reward for their execrable villany, which they had devoured in imagination, snatched out of their jaws. This sort of people ought, therefore, in my opinion, to be chastised not so much by words as by the severity of the laws and by the force of arms. Others look totally to their own affairs. These, though in other respects by no means bad men, are not vexed, as they would wish us to think, at the injury done to the public, but at their own domestic losses; and therefore seem to me to need consolation rather than any remedy derivable from reason or from law. The remainder consist of the rude and undistinguishing multitude, who wonder and gape at every novelty, who censure almost every occurrence, and think hardly anything right but what is either their own act or what is done under their own eye. For every departure from the practice of their ancestors they think a proportionate deviation from justice and equity. These being swayed neither by malice nor by envy, nor by any regard to self-interest, are generally susceptible of instruction and of being reclaimed from error, and commonly yield to the force of reasoning and conviction; a truth of which we now have, and formerly often had, experience in the case of religion; for

Where’s the savage we to tame should fear,
If he to culture lend a patient ear?

M.—That remark we have more than once found to be perfectly just.

B.—What if, in order to silence this multitude, you should ask the most clamorous and importunate their opinion concerning the fate of Caligula, of Nero and of Domitian; I presume that none of them would be so servilely attached to the regal name as not to acknowledge that they were justly punished?

M.—Possibly what you say may be true. But the same persons will immediately ex-
may be certain dissimilarities very apt to lead the inadvertent into error.

M.—That may indisputably be the case, and particularly when an inferior character finds it easy to assume the appearance of a superior, and studies nothing so much as to impose upon ignorance.

B.—Have you in your mind any distinct picture of a king and a tyrant, for, if you have, you will ease me of much labour?

M.—The figure of both, which I have in my mind, I could certainly delineate with ease; but it would appear to your eyes, I fear, rude and misshapen. Therefore, lest, by forcing you to rectify my errors, the conversation should exceed the due bounds, I choose rather to hear the sentiments adopted by you, who have the advantage of me both in age and experience, and not only know the opinions of others, but have also visited in person many states, and noted their manners and customs.

B.—That I shall do, and with pleasure; nor shall I expound so much my own as the opinion of the ancients, that more weight and authority may accompany my words, as not being framed for the present occasion, but extracted from the doctrines of those who were entirely unconnected with this controversy, and delivered their sentiments with no less eloquence than brevity, without hatred, without favour or envy, for which they could not have the most distant motive; and I shall adopt principally the opinions not of those who grew old in the shades of inactivity, but of men who were in well-regulated states distinguished at home and abroad for wisdom and virtue. But, before I produce their testimony, I wish to ask you a few questions, that, when we have agreed upon some points of no small importance, I may not be compelled to deviate from my intended course, and to dwell either upon the explanation or confirmation of matters that are evident, and almost acknowledged truths.

M.—Your plan I approve; and, therefore, if you have any question to ask, proceed?

B.—Is it your opinion that there was a time when men lived in huts and even in caves, and strolled at random, without laws, without settled habitations, like mere vagrants, uniting in herds as they were led by fancy and caprice, or invited by some convenience and common advantage?

M.—That is certainly my firm belief; for it is not only consonant to the order of nature, but also sanctioned by almost all the histories of all nations. Of that rude and uncultivated life we have, from Homer's pen, a picturesque description soon after the Trojan war among the Sicilians:—

"By them no statute and no right was known, No council held, no monarch fills the throne; But high on hills or airy cliffs they dwell, Or deep in caverns or some rocky cell; Each rules his race, his neighbour not his care, Heedless of others, to his own severe."

At the same period, too, Italy is said to have been equally uncultivated; so that, from the state of the most fertile regions of the globe, it is easy to form a conjecture that the rest were nothing but wild and desolate wastes.

B.—But which of the two do you think most conformable to nature; that vagrant and solitary life, or the social and unanimous assemblage of men?

M.—Undoubtedly the unanimous assemblage of men, whom

"Utility herself, from whom, on earth, Justice and equity derive their birth,"

first collected into masses and taught,

"Fenced by one wall, and by one key and bar, From open'd gates to pour the tide of war."

B.—What do you imagine that utility was the first and principal cause of human union?

M.—Why not? since the lesson inculcated by the greatest sages is, that men were made by nature for men.

B.—To certain individuals, indeed, utility seems to have great influence, both in the formation and in the maintenance of society. But, if I am not mistaken, their assemblage claims a much higher origin, and the bond of their union is of a much earlier and more venerable date. For, if every individual were to pay attention only to his own interest, there is ground for suspecting, I fear, that this very utility would rather dissolve than unite society.

M.—That observation may, perhaps, be true. But I should be glad to hear what is your other source of human association.

B.—It is a certain innate propensity, not only in men, but also in other animals of the gentler tribes, to associate readily, even without the allurements of utility, with beings of their own species. But of the brute creation it is not our present business to
treat. Men we certainly find so deeply impressed, and so forcibly swayed by this natural principle, that, if any of them were to enjoy, in abundance, everything that is calculated either for the preservation and health of the body, or for the pleasure and amusement of the mind, he must, without human intercourse, experience life to be a burden. This is such a notorious truth that even the persons who, from a love of science and a desire of investigating truth, have retired from the bustle of the world and lived recluse in sequestered retreats, have neither been able, for a length of time, to bear a perpetual exertion of mind, nor, upon discovering the necessity of relaxation, to remain immured in solitude, but readily produced the very result of their studies; and, as if they had laboured for the common good, added the fruit of their labours to the common stock. Hence it is my opinion, that if any person be so attached to solitude as to shun and fly the society of men, he is actuated rather by a disease of the mind than a principle of nature. Such, according to report, was Timon of Athens, and Bellerophon of Corinth,

"A wretch, who, preying in corrosive pain
On his own vitals, roam'd the Aelian plain
With comfortless and solitary pace,
Shunning the commerce of the human race."

M.—Here our sentiments are not far from coincidence. But the term nature, adopted by you, is an expression, which, from habit, I often use rather than understand; and it is applied by others so variously, and to such a multitude of objects, that I am generally at a loss about the idea which it conveys.

B.—At present I certainly wish nothing else to be understood by it but the light infused into our minds by the divinity; for, since God created this dignified animal

"Erect, of deeper reach of thought possess'd,
And fit to be the lord of all the rest,"

he not only bestowed upon his body eyes, by whose guidance he might shun what is adverse, and pursue what is adapted to his condition, but also presented to his mind a kind of light, by which he might distinguish vice and infamy from virtue and honour. This power some call nature, some the law of nature: I certainly hold it to be divine, and am thoroughly persuaded that

"Nature and wisdom's voices are the same."

Of this law, too, we have from God a kind of abridgement, comprehending the whole in a few words, when he commands us to love him with all our heart, and our neighbours as ourselves. The sacred volumes, in all the books which relate to the formation of mortals, contain hardly anything else but an explanation of this law.

M.—Do you then conceive that human society derives its origin not from any orator or lawyer that collected the dispersed tribes of men, but from God himself?

B.—That is positively my opinion; and, in the words of Cicero, I think that nothing done upon earth is more acceptable to the sovereign Diety, that rules this world, than assemblages of men called states, and united upon principles of justice. The different members of these states politicians wish to have connected by ties similar to the coherence subsisting between all the limbs of our body, to be cemented by mutual good offices, to labour for the general interest, to repel dangers and secure advantages in common, and, by a reciprocation of benefits, to conciliate the affections of the whole community.

M.—You do not then assign utility as the cause of men's union in society, but the law implanted in our minds by God at our birth, which you hold to be a much higher and more divine origin?

B.—I admit of utility as one cause, but not as the absolute mother of justice and equity, as some would have her; but rather as her handmaid, and one of the guardians of a well-regulated community.

M.—Here also I have no difficulty in expressing my concurrence and assent.

B.—Now as our bodies, which consist of repugnant principles, are liable to diseases, that is, to passions and certain internal commotions; so in like manner must those larger bodies called states, as they are composed of different, and in some measure, of incompatible ranks, conditions, and dispositions of men, and of men, too,

"Who cannot, with a fixed and steady view,
Even for an hour a single plan pursue."

Hence, the latter must certainly, like the former, come to a speedy dissolution, unless their tumults are calmed by a kind of physician, who, adopting an equable and salutary temperament, braces the weaker parts by fomentations, checks the redundant humours, and provides for the several mem-
bers, so that neither the feeblest parts may waste through want, nor the stronger grow too luxuriant through excess.

M.—These would be the consequences that must inevitably ensue.

B.—By what name shall we qualify him who shall perform the part of physician to the body politic?

M.—About the name I am not very anxious; but such a personage, whatever his name may be, I hold to be of the first excellence, and to have the strongest resemblance to the divinity. In this respect much forecast seems discovered in the wisdom of our ancestors, who distinguished an office so honourable in its own nature by a very splendid name. For you mean, I suppose, a king, a term, of which the import is such, that it renders a thing of the most excellent and transcendent nature almost visible to our eyes.

B.—You judge rightly, for by that appellation we address the Deity; since we have not a more magnificent title to express the pre-eminence of his excellent nature, nor one better adapted for expressing his paternal care and affection. Why should I collect other words that are metaphorically used to signify the office of a king, such as father, shepherd of the people, guide, prince, and governor? The latent intention of all these expressions is to show that kings were made not for themselves but for the people. And, now that we seem agreed about the name, let us, if you please, discuss the office, still treading the path which we have hitherto pursued.

M.—What path I beseech you?

B.—You recollect what has been just said, that states have a great resemblance to the human body, civil commotions to diseases, and kings to physicians. If therefore we understand the business of a physician, we shall not be far, I presume, from comprehending the duty of a king.

M.—It may be so; for, by the comparative view which you have exhibited, they appear to have not only a great resemblance, but even a strong affinity.

B.—Do not expect that I should here discuss every minute particular; for it is what is neither allowed by the limits of our time, nor required by the nature of the subject. But, if I show you that there is a striking similarity in the most prominent features, your own imagination will readily suggest what is omitted, and complete the picture.

M.—Proceed, as you have begun.

B.—Each seems also to have the same object in view.

M.—What object?

B.—The preservation of the body committed to his care.

M.—I understand. For the one ought, as far as the nature of the case will admit, to maintain the human body, and the other the body politic, in a sound state; and, when they happen to be affected with a disease, to restore them to good health.

B.—Your conception of the matter is just; for the office of each is twofold,—the maintenance of a sound, and the recovery of a distempered constitution.

M.—Such is my idea.

B.—For in both cases the diseases are similar.

M.—So they seem.

B.—For both are injured by a certain redundance of what is noxious, and by a deficiency of what is salutary; and they are both cured nearly by a similar process, either by nursing, or gently cherishing the body when emaciated, or relieving it when full and overburdened by the discharge of superfluities, and by moderate exercise and labour.

M.—Such is the fact. But there seems to be this difference, that in the one the humours, in the other the morals, must be duly tempered.

B.—You are perfect master of the subject; for the body politic, like the natural, has its peculiar kind of temperament, which I think we may, with the greatest propriety, denominate justice; since it is she that provides for its distinct members, and makes them perform their duties with uniformity. Sometimes by the operation of bleeding, sometimes by the discharge of noxious matter, she, by a kind of evacuation, expels redundancies; sometimes she rouses despondence and pusillanimity, and administers consolation to diffidence, and reduces the whole body to the temper mentioned above, and exercises it, when thus reduced, by suitable labours; so that, by a regular and due intermixture of labour and rest, she preserves, as far as the thing is possible, the renovated constitution.

M.—To all your positions I would readily assent, had you not made justice the temperament of the body politic; for, by its very name and profession, temperance seems rightfully entitled to that office.
B.—I think it of no great moment on which of the two you confer this honour. For, as all the virtues, of which the energy is visible in action, consist in the observation of a due and uniform medium, they are so mutually interwoven and connected, that they seem all to have but one object, the moderation of the passions. Under whatever general head it may be classed, it is of little importance which of the two names you adopt; and yet that moderation, which is exerted in common affairs and in the ordinary commerce of life, may, in my opinion, be with the greatest propriety denominated justice.

M.—Here I have no difficulty in yielding my assent.

B.—Now, I imagine that the intention of the ancients in creating a king was, according to what we are told of bees in their hives, spontaneously to bestow the sovereignty on him who was most distinguished among his countrymen for singular merit, and who seemed to surpass all his fellows in wisdom and equity.

M.—That is probably the fact.

B.—But what must be done, if no such person can be found in the community?

M.—By the law of nature mentioned before, an equal has neither the power nor right of assuming authority over his equals; for I think it but justice that among persons in other respects equal, the returns of command and obedience should also be equal.

B.—But, if the people, from a dislike to an ambitious canvass every year, should choose to elect as king an individual not possessed indeed of every regal virtue, but still eminent for nobility, for wealth or military glory, might not he, with the greatest justice, be deemed a king?

M.—Undoubtedly; for the people have a right of investing whom they please with the sovereign power.

B.—Suppose that we should employ, for the cure of diseases, a man of considerable acuteness, but still not possessed of extraordinary skill in the medical art, must we directly, upon his election by the generality, consider him as a physician?

M.—By no means. For learning and experience in many arts, and not votes, constitute a physician.

B.—What do you think of the artists in the other professions?

M.—I think that the same reasoning is applicable to them all.

B.—Do you believe that it requires any art to discharge the functions of a king?

M.—Why should I not?

B.—Can you give any reason for your belief?

M.—I think I can; and it is that which is peculiar to all the arts.

B.—What reason do you mean?

M.—All the arts certainly originated in experience. For, while most people proceeded at random and without method in the performance of many actions, which others completed with superior skill and address, men of discernment, having remarked the results on both sides, and weighed the causes of these results, arranged several classes of precepts, and called each class an art.

B.—By the means, therefore, of similar remarks, the art of sovereignty may be described as well as that of medicine?

M.—That I think possible.

B.—On what precepts then must it be founded?

M.—I am not prepared to give you a satisfactory answer.

B.—Perhaps its comparison with other arts may lead to its comprehension.

M.—In what manner?

B.—Thus. There are certain precepts peculiar to grammar, to medicine, and to agriculture.

M.—I comprehend.

B.—May we not call these precepts of grammar and medicine also arts and laws, and so on in other cases?

M.—So I certainly think.

B.—What do you think of the civil law? Is it not a system of precepts calculated for sovereigns?

M.—So it seems.

B.—Ought it not then to be understood by him who would be created a king?

M.—The inference appears to be unavoidable.

B.—What shall we then say of him who does not understand it? Do you conceive that, even after his nomination by the people, he shall not be called king?

M.—Here you reduce me to a dilemma; for, to make my answer compatible with the preceding concessions, I must affirm that the suffrages of the people can no more make a king than any other artist.

B.—What, then, do you think ought to be done in this case? For, if the person elected by common suffrage is not a king,
I fear that we are not likely to have any legal sovereign.
M.—I also am not without the same fear.
B.—Is it your pleasure, then, that the position just laid down in comparing the arts should be discussed with greater minuteness?
M.—Be it so, if you think it necessary.
B.—Did we not, in the several arts, call the precepts of the several artists laws?
M.—We did.
B.—But I fear that we did not then use sufficient circumcision.
M.—Why so?
B.—Because it seems an absurdity to suppose that he who understands any art should not be an artist.
M.—It is an absurdity.
B.—Ought we not therefore to consider him, who can perform what belongs to art, an artist, whether it proceeds from the spontaneous impulse of nature, or from an habitual facility acquired by a constant repetition of similar acts?
M.—I think so.
B.—Him, then, who possesses either the method or the skill to do anything rightly, we may term an artist, if he has by practice acquired the requisite power?
M.—With more propriety, undoubtedly, than the other who understands only the bare precepts, without practice and experience.
B.—The precepts, then, are not to be considered as the art?
M.—By no means; but rather the semblance of art, or, more nearly still, its shadow.
B.—What then is that directing power in states that we are to call either the art or science of politics?
M.—I suppose that you mean the providential wisdom, from which, as a fountain, all laws calculated for the benefit of human society must flow.
B.—You have hit the mark. Therefore, if any man should possess this wisdom in the highest degree of perfection, we might call him a king by nature, not by suffrage, and invest him with unlimited power. But, if no such person can be found, we must be satisfied with the nearest approach to this excellency of nature, and, in its possessor grasping a certain resemblance of the desired reality, call him king.
M.—Let us honour him with that title, if you please.
B.—And, because there is reason to fear that he may not have sufficient firmness of mind to resist those affections which may, and often do, cause deviations from rectitude, we shall give him the additional assistance of law, as a colleague, or rather as a regulator of his passions.
M.—It is not, then, your opinion, that a king should in all matters be invested with arbitrary power?
B.—By no means; for I recollect that he is not only a king, but also a man erring much through ignorance, offending much through inclination, and much almost against his will; as he is an animal readily yielding to every breath of favour or hatred. This imperfection of nature too is generally increased by the possession of office; so that here, if anywhere, I recognise the force of the sentiment in the comedy, when it says, that “by unrestrained authority we all become worse.” For this reason legislative sages supplied their king with law, either to instruct his ignorance or to rectify his mistakes. From these remarks you may, I presume, conceive, as in a typical representation, what my idea is of a genuine king’s duty.
M.—In whatever regards the creation of kings, their name and their office, you have given me entire satisfaction; and yet, if you wish to make any additions, I am ready to listen. But, though my imagination hurries on with eagerness to the remainder of your discussion, one circumstance, which through your whole discourse gave me some offence, must not pass in silence; and it is this, that you seemed to be a little too hard upon kings; an act of injustice of which I have before frequently suspected you, when I heard the ancient republics and the modern state of Venice become in your mouth the subjects of extravagant encomiums.
B.—In this case you did not form a just idea of my sentiments; for, among the Romans, the Massilians, the Venetians, and others who held the directions of the laws to be more sacred than the commands of their kings, it is not so much the diversity as the equity of their civil administration that I admire; nor do I think it of much consequence whether the supreme magistrate be called king, duke, emperor, or consul, if it be observed as an invariable maxim, that it was for the express purpose of maintaining justice and equity that he was invested with the magistracy. For, if the plan of govern-
ment be founded on law, there is no just reason for disputing about its name. The person whom we call the Doge of Venice is nothing else but a legal sovereign; and the first Roman consuls retained not only the ensigns but also the powers of the ancient kings. The only difference was that, as to your knowledge, was the case with the perpetual kings of the Lacedæmonians, the presiding magistrates were two, and established not for a perpetuity, but for a single year. Hence, we must still adhere steadily to what was asserted at the commencement, that kings were at first constituted for the maintenance of justice and equity. Had they been able to abide inviolably by this rule, they might have secured perpetual possession of the sovereignty, such as they had received it, that is, free and unshackled by laws. But, as the state of human affairs has, according to the usual progress of every created existence, a constant tendency to deterioration, regal government, which was originally instituted for the purposes of public utility, degenerated gradually into impotent tyranny. For, when kings observed no laws but their capricious passions, and finding their power unincircumscribed and immoderate, set no bounds to their lusts, and were swayed much by favour, much by hatred, and much by private interest, their domineering insolence excited an universal desire for laws. On this account, statutes were enacted by the people, and kings were, in their judicial decisions, obliged to adopt, not what their own licentious fancies dictated, but what the laws, sanctioned by the people, ordained. For they had been taught, by many experiments, that it was much safer to trust their liberties to laws than to kings; since many causes might induce the latter, to deviate from rectitude; and the former, being equally deaf to prayers and to threats, always maintained an even and invariable tenor. Kings being accordingly left, in other respects, free, found their power confined to prescribed limits only by the necessity of squaring their words and actions by the directions of law, and by inflicting punishments and bestowing rewards, the two strongest ties of human society, according to its ordinances; so that, in conformity to the expressions of a distinguished adept in political science, a king became a speaking law, and law a dumb king.

M.—At the first outset of your discourse, you were so lavish in praise of kings, that the veneration due to their august majesty seemed to render them almost sacred and inviolable. But now, as if actuated by repentance, you confine them to narrow bounds, and thrust them, as it were, into the cells of law, so as not to leave them even the common freedoms of speech. Me you have egregiously disappointed; for I was in great hopes that, in the progress of your discourse, you would, either of your own accord or at my suggestion, restore what an illustrious historian calls the most glorious spectacle in the eyes of gods and men to its original splendour; but, by spoiling of every ornament, and circumscribing within a close prison the majesty first known in the world, you have so debased it, that to any person in his sober senses it must be an object of contempt rather than of desire. For can there be a man, whose brain is not deranged, that would not choose rather to rest satisfied with a moderate fortune in a private station, than, while he is intent upon other men's business and insatiable to his own, to be obliged, in the midst of perpetual vexations, to regulate the whole course of his life by the caprice of the multitude? Hence, if it be proposed that this should everywhere be the condition of royalty, I fear that there will soon be a greater scarcity of kings than in the first infancy of our religion there was of bishops. Indeed, if this be the criterion by which we are to estimate kings, I am not surprised that the persons who formerly accepted of such an illustrious dignity, were found only among shepherds and ploughmen.

B.—Mark, I beseech you, the egregious mistake which you commit, in supposing that nations created kings not for the maintenance of justice, but for the enjoyment of pleasure. Consider how much, by this plan, you retrench and narrow their greatness. And, that you may the more easily comprehend what I mean, compare any of the kings whom you have seen, and whose resemblance you wish to find in the king that I describe, when he appears at his levee dressed, for idle show, like a girl's doll, in all the colours of the rainbow, and surrounded with vast parade by an immense crowd; compare, I say, any of these with the renowned princes of antiquity, whose memory still lives and flourishes, and will be celebrated among the latest posterity, and you will perceive that they were the originals of the picture that I have just sketched. Have you never heard
in conversation, that Philip of Macedon, upon answering an old woman that begged of him to enquire into a grievance of which she complained, "That he was not at leisure," and upon receiving this reply, "Cease, then, to be a king!"—have you heard, I say, that this king, the conqueror of so many states, and the lord of so many nations, when reminded of his functions by a poor old woman, complied and recognised the official duty of a king? Compare this Philip, then, not only with the greatest kings that now exist in Europe, but also with the most renowned in ancient story, and you will find none his match in prudence, fortitude, and patience of labour, and few his equals in extent of dominion. Leonidas, Agesilaus, and other Spartan kings, all great men, I forbear to mention, lest I should be thought to produce obsolete examples. One saying, however, of Gorgo, a Spartan maid, and the daughter of king Cleomedes, I cannot pass unnoticed. Seeing his slave pulling off the slipper of an Asiatic guest, she exclaimed, in running up to her father, "Father, your guest has no hands." From these expressions, you may easily form an estimate of the whole discipline of Sparta, and of the domestic economy of its kings. Yet, to this rustic, but manly, discipline, we owe our present acquisitions, such as they are; while the Asiatic school has only furnished sluggards, by whom the fairest inheritance, the fruit of ancestral virtue, has been lost through luxury and effeminacy. And, without mentioning the ancients, such not long ago among the Gallicians was Pelagius, who gave the first shock to the power of the Saracens in Spain. Though

"Beneath one humble roof, their common shade,
His sheep, his shepherds, and his gods were laid;"

yet the Spanish kings are so far from being ashamed of him, that they reckon it their greatest glory to find their branch of the genealogic tree terminate in his trunk. But, as this topic requires a more ample discussion, let us return to the point at which the digression began. For I wish, with all possible speed, to evolve what I first promised, that this representation of royalty is not a fiction of my brain, but its express image, as conceived by the most illustrious statesmen in all ages; and, therefore, I shall briefly enumerate the originals from which it has been copied. Marcus Tullius Cicero's volume concerning moral duties is in universal esteem, and in the second book of it you will find these expressions:—"In my opinion, not only the Medes, as Herodotus says, but also our ancestors, selected men of good morals as kings, for the purpose of enjoying the benefit of justice. For, when the needy multitude happened to be oppressed by the wealthy, they had recourse to some person of eminent merit, who might secure the weak from injury, and, with a steady arm, hold the balance of law even between the high and low. And the same cause, which rendered kings necessary, occasioned the institution of laws. For the constant object of pursuit was uniform justice, since otherwise it would not be justice. When this advantage could be derived from one just and good man, they were satisfied; but, when that was not the case, they enacted laws that should at all times, and to all persons, speak the same language. Hence the deduction is evident, that those were usually selected for supreme magistrates of whose justice the multitude entertained a high opinion; and, if besides they had the additional recommendation of wisdom, there was nothing which they thought themselves incapable of acquiring under their auspices." From these words you understand, I presume, what, in Cicero's opinion, induced nations to wish both for kings and for laws. Here I might recommend to your perusal the works of Xenophon, who was no less distinguished for military achievements than for attachment to philosophy, did I not know your familiarity with him to be such that you can repeat almost all his sentences. Of Plato, however, and Aristotle, though I know how much you prize their opinions, I say nothing at present; because I choose rather to have men illustrious for real action, than for their name in the shades of academies, for my auxiliaries. The stoical king, such as he is described by Seneca in his Thyestes, I am still less disposed to offer to your consideration, not so much because he is not a perfect image of a good king, because that pattern of a good prince is solely an ideal conception of the mind, calculated for admiration rather than a well-grounded hope ever likely to be gratified. Besides, that there might be no room for malevolent insinuations against the examples which I have produced, I have not travelled into the desert of the Scythians for men who either carried their own horses, or performed any other servile work incompatible with our
manner, but into the heart of Greece, and for those men who, at the very time when the Greeks were most distinguished for the liberal and polite arts, presided over the greatest nations and the best-regulated communities, and presided over them in such a manner, that, when alive, they acquired the highest veneration among their countrymen, and left, when dead, their memory glorious to posterity.

M.—Here, if you should insist upon a declaration of my sentiments, I must say that I dare hardly confess either my inconsistency, or timidity, or other anonymous mental infirmity. For, whenever I read in the most excellent historians, the passages which you have either quoted or indicated, or hear their doctrines commended by sages whose authority I have not the confidence to question, and praised by all good men, they appear to me not only true, just, and sound, but even noble and splendid. Again, when I direct my eye to the elegancies and niceties of our times, the sanctity and sobriety of the ancients seem rather uncouth and destitute of the requisite polish. But this subject we may, perhaps, discuss some other time at our leisure. Now proceed, if you please, to finish the plan which you have begun.

B.—Will you allow me, then, to make a brief abstract of what has been said? Thus we shall best gain a simultaneous view of what has passed, and have it in our power to retract any inconsiderate or rash concession.

M.—By all means.

B.—First of all, then, we ascertained that the human species was, by nature, made for society, and for living in a community?

M.—We did so.

B.—We also agreed that a king, for being a man of consummate virtue, was chosen as a guardian to the society.

M.—That is true.

B.—And, as the mutual quarrels of the people had introduced the necessity of creating kings, so the injuries done by kings to their subjects occasioned the desire of laws.

M.—I own it.

B.—Laws, therefore, we judged a specimen of the regal art, as the precepts of medicine are of the medical art.

M.—We did so.

B.—As we could not allow to either a singular and exact knowledge of his art, we judged it safer that each should, in his method of cure, follow the prescribed rules of his art, than act at random.

M.—It is safer undoubtedly.

B.—But the precepts of the medical art seemed not of one single kind.

M.—How?

B.—Some we found calculated for preserving, and others for restoring health.

M.—The division is just.

B.—How is it with the regal art?

M.—It contains, I think, as many species.

B.—The next point to be considered is, what answer ought to be given to the following question—"Can you think that physicians are so thoroughly acquainted with all diseases and their remedies that nothing farther can be desired for their cure?"

M.—By no means. For many new kinds of diseases start up almost every age; and likewise new remedies for each are, almost every year, either discovered by the industry of men or imported from distant regions.

B.—What do you think of the civil laws of society?

M.—They seem, in their nature, to be similar, if not the same.

B.—The written precepts of their arts then will not enable either physicians or kings to prevent or to cure all the diseases of individuals or of communities.

M.—I deem the thing impossible.

B.—Why, then, should we not investigate as well the articles which can, as those which cannot, come within the purview of laws?

M.—Our labour will not be fruitless.

B.—The matters which it is impossible to comprehend within laws seem to me numerous and important; and first of all comes whatever admits of deliberation concerning the future.

M.—That is certainly one head of exception.

B.—The next is a multitude of past events; such as those where truth is investigated by conjectures, or confirmed by witnesses, or wrung from criminals by tortures.

M.—Nothing can be clearer.

B.—In elucidating these questions, then, what will be the duty of a king?

M.—Here I think that there is no great occasion for long discussion, since, in what regards provision for the future, kings are so far from arrogating supreme power, that they readily invite to their assistance counsel learned in the law.

B.—What do you think of matters which are collected from conjectures, or cleared
up by witnesses, such as are the crimes of murder, of adultery, and imprisonment?
M.—These points, after they have been discussed by the ingenuity, and cleared up by the address of lawyers, I see generally left to the determination of judges.
B.—And, perhaps, with propriety; for if the king should take it into his head to hear the causes of individuals, when will he have leisure to think of war, of peace, and of those important affairs which involve the safety and existence of the community? When, in a word, will he have time to recur nature by doing nothing?
M.—The cognisance of every question I do not wish to see devolved upon the king alone; because, if it were devolved, he, a single man, would never be equal to the task of canvassing all the causes of all his subjects. I therefore highly approve the advice no less wise than necessary given to Moses, by his father-in-law, "To divide among numbers the burden of judicature;" upon which I forbear to enlarge, because the story is universally known.
B.—But even these judges, I suppose, are to administer justice according to the directions of the laws?
M.—They are, undoubtedly. But, from what you have said, I see that there are but few things for which the laws can, in comparison of those for which they cannot, provide.
B.—There is another additional difficulty of no less magnitude, that all the cases, for which laws may be enacted, cannot be comprised within any prescribed and determinate form of words.
M.—How so?
B.—The lawyers, who greatly magnify their art, and would be thought the highpriests of justice, allege, That the multitude of cases is so great, that they may be deemed almost infinite, and that every day there arise in states new crimes, like new kinds of ulcers. What is to be done here by the legislator, who must adapt his laws to what is present and past?
M.—Not much, if he should not be some divinity dropped from heaven.
B.—To these inconveniences add another, and that not a small difficulty, that, from the great mutability of human affairs, hardly any art can furnish precepts that ought to be universally permanent and invariably applicable.
M.—Nothing can be truer.
B.—The safest plan then seems to be, to entrust a skilful physician with the health of his patient, and a king with the preservation of his people: for the physician, by venturing beyond the rules of his art, will often cure the diseased, either with their consent, or sometimes against their will; and the king will impose a new but still a salutary law upon his subjects, by persuasion, or even by compulsion.
M.—I can see no obstacle to prevent him.
B.—When both are engaged in these acts, do they not seem each to exert a vigour beyond his own law?
M.—To me each appears to adhere to his art. For it was one of our preliminary positions, that it is not precepts that constitute art, but the mental powers employed by the artist in treating the subject-matter of art. At one thing, however, if you really speak from your heart, I am in raptures—that, compelled by a kind of injunction from truth, you restored kings to the dignified rank from which they had been violently degraded.
B.—Come not so hastily to a conclusion, for you have not yet heard all. The empire of law is attended with another inconvenience. For the law, like an obstinate and unskillful task-master, thinks nothing right but what itself commands; while a king may perhaps excuse weakness and temerity, and find reason to pardon even detected error. Law is deaf, unfeeling, and inexorable. A youth may allege the slippery ground which he treads, as the cause of his fall, and a woman the infirmity of her sex; one may plead poverty, a second drunkenness, and a third friendship. To all these subterfuges what does the law say? Go, executioner, chain his hands, cover his head, and hang him, when scourged, upon the accursed tree. Now, you cannot be ignorant how dangerous it is, in the midst of so much human frailty, to depend for safety on innocence alone.
M.—What you mention is undoubtedly pregnant with danger.
B.—I observe, that, on recollecting these circumstances, certain persons are somewhat alarmed.
M.—Somewhat, do you say?
B.—Hence, when I carefully revolve in my own mind the preceding positions, I fear that my comparison of a physician and a king may, in this particular, appear to have been improperly introduced.
M.—In what particular?
B.—In releasing both from all bondage to precepts, and in leaving them the power of curing at their will.
M.—What do you find here most offensive?
B.—When you have heard me, I shall leave yourself to judge. For the expediency of exempting kings from the shackles of laws we assigned two causes, love and hatred, which, in judging, lead the minds of men astray. In the case of a physician, there is no reason to fear that he should act amiss through love, as from restoring the health of his patient he may even expect a reward. And again, if a sick person should suspect that his physician is solicited by prayers, promises, and bribes, to aim at his life, he will be at liberty to call in another; or, if another be not within his reach, he will naturally have recourse for a remedy to dumb books, rather than to a bribed member of the faculty. As to our complaint concerning the inflexible nature of laws, we ought to consider whether it is not chargeable with inconsistency.
M.—In what manner?
B.—A king of superior excellence, such as is visible rather to the mind than to the eye, we thought proper to subject to no law.
M.—To none.
B.—For what reason?
M.—Because, I suppose, he would, according to the words of Paul, be a law to himself and to others; as his life would be a just expression of what the law ordains.
B.—Your judgment is correct; and, what may perhaps surprise you, some ages before Paul, the same discovery had been made by Aristotle, through the mere light of nature. This remark I make solely for the purpose of showing the more clearly that the voice of God and of nature is the same. But, that we may complete the plan which has been sketched, will you tell me what object the original founders of laws had principally in view?
M.—Equity, I presume, as was before observed.
B.—What I now inquire is not what end, but rather what pattern, they kept before their eyes.
M.—Though, perhaps, I understand your meaning; yet I wish to hear it explained, that, if I am right, you may corroborate my opinion; and, if not, that you may correct my error.
B.—You know, I apprehend, the nature of the mind’s power over the body.
M.—Some conception of it I can certainly form.
B.—You must also know, that of whatever is not thoughtlessly done by men they have previously a certain picture in their mind, and that it is far more perfect than the works which even the greatest artists fashion and express by that model.
M.—Of the truth of that observation I have myself, both in speaking and writing, frequently an experimental proof; for I am sensible that my words are no less inadequate to my thoughts than my thoughts to their objects. For neither can our mind, when confined in this dark and turbid prison of the body, clearly discern the subtle essence of all things; nor can we, by language, convey to others our ideas, however preconceived, so as not to be greatly inferior to those formed by our own intellects.
B.—What then shall we say was the object of legislators in their institutions?
M.—Your meaning, I think myself not far from comprehending; and, if I mistake not, it is that they called to their aid the picture of a perfect king; and by it expressed the figure, not of his person but of his thoughts, and ordered that to be law which he should deem good and equitable.
B.—Your conception of the matter is just; for that is the very sentiment which I meant to communicate. Now, I wish that you would consider what were the qualities which we originally gave to our ideal king. Did we not suppose him unmoved by love, by hatred, by anger, by envy, and by the other passions?
M.—Such we certainly made his effigy, or even believed him to have actually been in the days of ancient virtue.
B.—But do not the laws seem to have been, in some measure, framed according to his image.
M.—Nothing is more likely.
B.—A good king then will be no less unfeeling and inexorable than a good law.
M.—He will be equally relentless; and yet, though I neither can effect, nor ought to desire, a change in either, I may still wish, if it be possible, to render both a little flexible.
B.—But in judicial proceedings God does not desire us to pity even the poor, but commands us to look solely to what is right and
equitable, and according to that rule alone to pronounce sentence.

M.—I acknowledge the soundness of the doctrine, and submit to the force of truth. Since then we must not exempt the king from a dependence on law, who is to be the legislator that we are to give him as an instructor?

B.—Whom do you think most fit for the superintendence of this office?

M.—If you ask my opinion, I answer, the king himself. For in most other arts the artists themselves deliver the precepts, which serve as memorandums to aid their own recollection, and to remind others of their duty.

B.—I, on the contrary, can see no difference between leaving a king free and at large, and granting him the power of enacting laws: as no man will spontaneously put on shackles. Indeed, I know not whether it is not better to leave him quite loose, than to vex him with unavailing chains which he may shake off at pleasure.

B.—But, since you trust the helm of state to laws rather than to kings, take care, I beseech you, that you do not subject the person, whom you verbally term king, to a tyrant

"With chains and jails his actions to control,
And thwart each liberal purpose of his soul;"

and that you do not expose him, when loaded with fetters, to the indignity of toiling with slaves in the field, or with malefactors in the house of correction.

B.—Forbear harsh words, I pray; for I subject him to no master, but desire that the people, from whom he derived his power, should have the liberty of prescribing its bounds; and I require that he should exercise over the people only those rights which he has received from their hands. Nor do I wish, as you conceive, to impose these laws upon him by force; but declare it as my opinion, that, after an interchange of counsels with the king, the community should make that a general statute which is conducive to the general good.

M.—Would you then assign this province to the people?

B.—To the people, undoubtedly, if you should not chance to alter my opinion.

M.—Nothing, in my conception, can be more improper.

B.—For what reason?

M.—You know the proverb, "the people is a monster of many heads." You are sensible, undoubtedly, of their great rashness and great inconstancy.

B.—It was never my idea that this business should be left to the sole decision of all the people; but that, nearly in conformity to our practice, representatives selected from all orders should assemble as council to the king, and that, when they had previously discussed and passed a conditional act, it should be ultimately referred to the people for their sanction.

M.—Your plan I perfectly understand; but I think that you gain nothing by your circumstantial caution. You do not choose to leave a king above the laws. And, for what? Because there are in human nature two savage monsters, cupiditiy and irascibility, that wage perpetual war with reason. Laws, therefore, become an object of desire, that they might check their licentiousness, and reclaim their excessive extravagance to a due respect for legal authority. What purpose does it answer to assign him these councillors selected from the people? Are they not equally the victims of the same intestine war? Do they not suffer as much as kings from the same evils? Therefore, the more assessors you attach to a king, the greater will be the number of fools; and what is to be expected from them is obvious.

B.—What you imagine is totally different from the result which I expect; and, why I expect it, I will now unfold. First of all, it is not absolutely true, as you suppose, that there is no advantage in a multitude of counsellors, though none of them, perhaps, should be a man of eminent wisdom. For numbers of men not only see farther, and with more discriminating eyes than any one of them separately, but also than any man that surpasses any single individual among them in understanding and sagacity; for individuals possess certain portions of the virtues, which, being accumulated into one mass, constitute one transcendent virtue. In medical preparations, and particularly in the antidote called mithridatic, this truth is evident; for though most of its ingredients are separately noxious, they afford, when mixed, a sovereign remedy against poisons. After a similar manner, slowness and hesitation prove injurious in some men, as precipitate rashness does in others; but diffused among a multitude, they yield a certain temperament, or
that golden mean, for which we look in every species of virtue.

M.—Well, since you press the matter, let the people have the right of proposing and of enacting laws, and let kings be in some measure only keepers of the records. Yet when these laws shall happen to be contradictory, or to contain clauses insensibly or obscurely worded, is the king to act no part, especially since, if you insist upon the strict interpretation of them according to the written letter, many absurdities must inevitably ensue? And here, if I produce as an example the hackneyed law of the schools, “If a stranger mount the wall, let him forfeit his head,” what can be more absurd than that a country’s saviour, the man who overturned the enemies on their scaling-ladders, should himself be dragged as a criminal to execution?

M.—You approve then of the old saying, “The extremity of law is the extremity of injustice.”

B.—I certainly do.

M.—If any question of this kind should come into a court of justice, a necessity arises for a merciful interpreter to mitigate the severity of the law, and to prevent what was intended for the general good from proving ruinous to worthy and innocent men.

B.—Your sentiments are just; and, if you had been sufficiently attentive, you would have perceived that in the whole of this disquisition I have aimed at nothing else but at preserving sacred and inviolate Cicero’s maxim—“Let the safety of the people be the supreme law.” Therefore, if any case should occur in a court of justice of such a complexion, that there can be no question about what is good and equitable, it will be part of the king’s prospective duty to see the law squared by the forementioned rule. But you seem to me, in the name of kings, to demand more than what the most imperious of them ever arrogate. For you know that, when the law seems to dictate one thing, and its author to have meant another, such questions, as well as controversies grounded upon ambiguous or contradictory laws, are generally referred to the judges. Hence arise the numerous cases solemnly argued by grave counsellors at the bar, and the minute precepts applicable to them in the works of ingenious rhetoricians.

M.—I know what you assert to be fact.

But I think that, in this point, no less injury is done to the laws than to kings. For I judge it better, by the immediate decision of one good man, to end a suit, than to allow ingenious, and sometimes knavish, casuists, the power of obscuring, rather than of explaining the law. For, while the barristers contend not only for the cause of their clients, but also for the glory of ingenuity, discord is in the meantime cherished, religion and irreligion, right and wrong, are confounded; and what we deny to a king, we grant to persons of inferior rank, less studious, in general, of truth than of litigation.

B.—You have forgotten, I suspect, a point which we just now ascertained.

M.—What may that be?

B.—That to the perfect king, whom we at first delineated, such unlimited power ought to be granted, that he can have no occasion for any laws; but that, when this honour is conferred on one of the multitude, not greatly superior, and perhaps even inferior to others, it is dangerous to leave him at large and unfettered by laws.

M.—But what is all this to the interpretation of the laws?

B.—A great deal; you would find, had you not overlooked a material circumstance, that now we restore in other words to the king, what we had before denied him, the undefined and immoderate power of acting at pleasure, and of unhinging and deranging every thing.

M.—If I am guilty of any such thing, it is the guilt of inadvertence.

B.—I shall, therefore, endeavour to express my ideas more perspicuously, that there be no misconception. When you grant to the king the interpretation of the law, you allow him the power of making the law speak, not what the legislator intends, or what is for the general good of the community, but what is for the advantage of the interpreter, and, for his own interest, of squaring all proceedings by it, as by an unerring rule. Appius Claudius had, in his decemvirate, enacted a very equitable law, “That in a litigation concerning freedom, the claim of freedom should be favoured.”

What language could be clearer? But the very author of this law, by his interpretation, made it useless. You see, I presume, how much you contribute, in one line, to the licentiousness of your king, by enabling him to make the law utter what he wishes, and not utter what he does not wish. If this
doctrine be once admitted, it will avail nothing to pass good laws to remind a good king of his duty, and to confine a bad one within due bounds. Nay, (for I will speak my sentiments openly and without disguise,) it would be better to have no laws at all, than, under the cloak of law, to tolerate unrestrained and even honourable robbery.

M.—Do you imagine that any king will be so impudent as to pay no regard to his reputation and character among the people, or so forgetful of himself and of his family, as to degenerate into the depravity of those whom he overawes and coerces by ignominity, by prison, by confiscation of goods, and by the heaviest punishments?

B.—Let us not believe such events possible, if they are not already historical facts, known by the unspeakable mischiefs which they have occasioned to the whole world.

M.—Where, I beseech you, are these facts to be traced?

B.—Where! do you ask? As if all the European nations had not only seen, but also felt, the incalculable mischiefs done to humanity by, I will not say, the immoderate power, but by the unbridled licentiousness of the Roman pontiff. From what moderate, and apparently honourable, motives it first arose, with what little ground for apprehension it furnished the improvident, none can be ignorant. The laws originally proposed for our direction had not only been derived from the inmost recesses of nature, but also ordained by God, explained by his inspired prophets, confirmed by the Son of God, himself also God, recommended in the writings, and expressed in the lives, and sealed by the blood, of the most approved and sanctified personages. Nor was there, in the whole law, a chapter more carefully penned, more clearly explained, or more strongly enforced, than that which describes the duty of bishops. Hence, as it is an impiety to add, to re-trench, to repeal, or alter, a single article in those laws, nothing remained for episcopal ingenuity but the interpretation. The bishop of Rome having assumed this privilege, not only oppressed the other churches, but exercised the most enormous tyranny that ever was seen in the world; for having the audacity to assume authority not only over men, but even over angels, he absolutely degraded Christ; except it be not degradation, that in heaven, on earth and in hell, the Pope's will should be law; and that Christ's will should be law only if the Pope pleases. For, if the law should appear rather adverse to his interest, he might, by his interpretation, mould it so as to compel Christ to speak, not only through his mouth, but also according to his mind. Hence, when Christ spoke by the mouth of the Roman pontiff, Pepin seized the crown of Chilperic, and Ferdinand of Arragon de-throned Joan of Navarre; sons took up impious arms against their father, and subjects against their king; and Christ being himself poisoned, was obliged afterwards to become a poisoner, that he might, by poison, destroy Henry of Luxemburg.

M.—This is the first time that I ever heard of these enormities. I wish, however, to see what you have advanced concerning the interpretation of laws a little more elucidated.

B.—I will produce one single example, from which you may conceive the whole force and tendency of this general argument. "There is a law, that a bishop should be the husband of one wife;" and what can be more plain or less perplexed? But "this one wife the Pope interprets to be one church," as if the law was ordained for not repressing the lust, but the avarice of bishops. This explanation, however, though nothing at all to the purpose, bearing on its face the specious appearance of piety and decorum, might pass muster, had not vitiated the whole by a second interpretation. What then does this pontiff contrive? "The interpretation," says he, "must vary with persons, causes, places, and times." Such is the distinguished nobility of some men, that no number of churches can be sufficient for their pride. Some churches, again, are so miserably poor, that they cannot afford even to a monk, lately a beggar, now a mitred prelate, an adequate livelihood, if he would maintain the character and dignity of a bishop. By this knavish interpretation of the law there was devised a form, by which those who were called the bishops of single churches held others in commendam, and enjoyed the spoils of all. The day would fail me should I attempt to enumerate the frauds which are daily contrived to evade this single ordinance. But, though these practices are disgraceful to the pontifical name and to the Christian character, the tyranny of the popes did not stop at this limit. For such is the nature of all things, that, when they once begin to slide
down the precipice, they never stop till they reach the bottom. Do you wish to have this point elucidated by a splendid example? Do you recollect, among the emperors of Roman blood, any that was either more cruel or more abandoned than Caius Caligula?

M.—None that I can remember.

B.—Among his enormities which do you think the most infamous action? I do not mean those actions which clerical casuists class among reserved cases, but such as occur in the rest of his life.

M.—I cannot recollect.

B.—What do you think of his conduct in inviting his horse, called Incitatus, to supper, of laying before him barley of gold, and in naming him consul elect?

M.—It was certainly the act of an abandoned wretch.

B.—What then is your opinion of his conduct, when he chose him as his colleague in the pontificate?

M.—Are you serious in these stories?

B.—Serious, undoubtedly; and yet I do not wonder that these facts seem to you fictitious. But our modern Roman Jupiter has acted in such a manner as to justify posterity in deeming these events no longer incredibles but realities. Here I speak of the pontiff, Julius the third, who seems to me to have entered into a contest for superiority in infancy with that infamous monster, Caius Caligula.

M.—What enormity of this kind did he commit?

B.—He chose for his colleague in the priesthood his ape’s keeper, a fellow more detestable than that vile beast.

M.—There was, perhaps, another reason for his choice.

B.—Another is assigned; but I have selected the least dishonourable. Therefore, since not only so great a contempt for the priesthood, but so total a forgetfulness of human dignity, arose from the licentiousness of interpreting the law, I hope that you will no longer reckon that power inconsiderable.

M.—But the ancients do not seem to me to have thought this office of interpretation so very important as you wish to make it appear. The truth of this observation may be collected from a single circumstance, that the Roman emperors granted the privilege to counsellors; a fact which overturns the whole of your verbose dissertation, and refutes not only what you asserted concerning the magnitude of that power, but, in opposition to your earnest wish, clearly demonstrates that the liberty of answering legal questions, which they granted to others, was not denied to themselves, if their inclination prompted, or their occupation permitted its exercise.

B.—The Roman emperors, whom the soldiers placed at their head, without any discrimination, or the least regard to the public good, do not stand in the predicament of the kings that we have been describing; as they were generally chosen by the most abandoned class of men for their abandoned character, or forced their way to the purple by open violence. Their conduct in granting to counsellors the power of answering legal questions, I find not at all reprehensible; for, though it is of very great importance, it is, with some degree of safety, entrusted to men to whom it cannot be an instrument of tyranny. Besides, as it was entrusted to numbers, they were kept to their duty by mutual reverence; since, if any of them deviated from rectitude, he was refuted by the answer of another. Nay, if a knot of counsellors entered into a knavish conspiracy, recourse might be had for relief to the judge, who was not under the necessity of holding their answers law. Recourse might also be had to the emperor, who had the power of inflicting punishment on every violator of the laws. Since these men were thus bound by so many chains, and more in dread of penalties for malversation than in expectation of rewards for fraud, you see, I apprehend, that the danger from them could not be very formidable.

M.—Have you any further remarks to make about your king?

B.—First of all, if you please, let us collect in a few words what has been said; for thus we shall most easily discover whether we have been guilty of any omission.

M.—Your plan has my approbation.

B.—We seemed to be pretty well agreed about the origin and cause of creating kings, and of establishing laws, but to differ a little about the author of the law. Compelled, however, at last by the evidence of truth, you appeared, though with some reluctance, to yield your assent.

M.—Though, as an advocate, I made the most strenuous exertions, you certainly wrested from the king not only the power of ordaining, but even of interpreting the laws;
and here I fear that, if the matter should become public, I may be charged with prevarication; since I allowed a cause, which, at the outset, I thought so good, to be so easily wrested out of my hands.

B.—Be not alarmed; for, if any one should, in this case, charge you with prevarication, I promise you my counsel gratis.

M.—Of that promise, perhaps, we shall soon have a trial.

B.—We discovered also many sorts of business, that seemed incapable of being included in any laws; and of these we referred, with the king’s consent, part to the ordinary judges, and part to his council.

M.—That we did so, I recollect. And, in the interim, what do you think came into my head?

B.—How can I, unless you tell me?

M.—I thought you carved out kings in some degree similar to those figures of stone that seem generally to lean upon the heads of columns, as if they supported the whole structure, while, in reality, they bear no more of the weight than any other stone.

B.—What an excellent advocate for kings! You complain that I impose upon them too light a burden, while their sole business, night and day, is hardly any thing else but to discover associates, with whom they may either divide the burden of government, or upon whom they may lay its whole weight! And yet you seem, at the same time, to be enraged that I administer some relief to their distress.

M.—These auxiliaries I also embrace with cordiality; but wish them, as servants, not as masters; as guides to point out the way, not to lead where they please, or rather to drag and impel a king as a machine, and leave him nothing else but the mere power of giving his assent. I have, therefore, been for some time in expectation of seeing you, after closing your discourse upon royalty, make a digression to tyranny or to any other subject. For so narrow are the limits to which you have confined your king, that, I fear, if we should dwell longer upon that topic, you will, in addition to the loss of his high estate and sovereign power, banish him to some desert island, where, shorn of all his honours, he may drag a comfortless old age in penury and wretchedness.

B.—You dread, as you allege, the charge of prevarication. Now I, on the other hand, fear that the king, whom you attempt to defend, will be injured by your chicanery.

For, in the first place, why do you wish to see him idle, if you would not encourage idleness in architects; and in the next, to rob him of the good ministers and faithful counsellors that I gave him, not as guardians to superintend his conduct, but as associates to relieve him from part of his labour? By their removal you leave him surrounded by a legion of knaves, who render him a terror to his subjects; and you do not think his power sufficiently formidable, unless we leave him at liberty to do much harm. I wish to see him beloved by his subjects; and guarded, not by terror, but by affection; the only armour that can render kings perfectly secure. And, if you do not act with obstinacy, this is what I trust, I shall soon effect. For I shall bring him out of what you call a narrow dungeon into broad daylight, and, by one law, invest him with such additional power and majesty, that, if he should wish for more, you will not hesitate yourself to charge him with effrontery.

M.—That is a topic which I long to see elucidated.

B.—That I may, therefore, satisfy your eagerness with all possible speed, I shall proceed directly to the essential point. One of our late and uncontroverted deductions was, that no law can be so clearly and explicitly worded as to leave no room for fraud by a knavish interpretation. This matter you will best understand by the production of an example. It was provided by law, that an illegitimate son should not succeed his father in an ecclesiastical benefice. Even in this affair, which one would imagine could admit of no fraud, an evasion was found practicable; for the father substituted another in his son’s place, and that other resigned the benefice to the bastard. When, after this subterfuge, it was expressly provided, by an additional clause, that the benefice which the father had at any time held should never be held by the son, nothing was gained even by this provision; for, to render it ineffectual, the priests agreed mutually to substitute one another’s sons. When this practice also was forbidden, the law was eluded by a fresh kind of fraud. There starts up against the father a supposititious claimant, who pretends a right to the benefice; and, while the father is engaged in a sham fight with the supposititious sycophant, the son requests the benefice, by petition, of the Roman pontiff, if the right of neither litigant should
be found valid. Thus both parties are, by their voluntary and spontaneous cession, worsted, and the son possesses the benefice of the father by the father's prevarication. In one law, then, you see what various kinds of frauds are practised.

M.—I do.

B.—Do not legislators, in this case, appear to you to act entirely like the medical practitioners, who, in attempting by the application of plasters, to check the eruptions of the scurvy, or of any other distemper, force the repelled humours to burst out at once through various channels, and, for one head amputated to exhibit numbers sprouting up like the hydra's?

M.—There cannot be a more apt comparison.

B.—As the physician of the body ought at first to have expelled entirely all noxious humours, ought not the physician of the state to imitate him, and to exterminate universally all corrupt morals?

M.—That, though I think it difficult, I hold to be the only genuine method of cure.

B.—And, if this object can be attained, I think there will be occasion but for few laws.

M.—That is certainly matter of fact.

B.—Does it not appear likely to you, that the person who can make a proper application of this medicine, will contribute more to the public good than all the assemblies of all the orders collected for the enactment of laws?

M.—Infinitely more, without doubt. But let me ask, in the words of the comic poet, "Where is the person mighty enough to confer so great a favour?"

B.—What do you think of entrusting the king with this charge?

M.—An admirable contrivance truly! What was a pleasant and a smooth down-hill path you have left the people in a mass to tread; but the laborious, rugged, and arduous departments you make the sole province of the king, as if it were not enough to confine him chained within a close prison, unless you also imposed upon him so heavy a burden that he must sink.

B.—You mistake the case. I ask nothing of him that is unreasonable or difficult. I do not insist, but request, that he would listen to entreaty.

M.—To what do you allude?

B.—To the natural behaviour of a good father to his children, judging that a king should, through his whole life, behave in the same manner to his subjects, whom he ought to consider as his children.

M.—What is that remark to the present purpose?

B.—This is certainly the only, at least a very powerful, antidote against the poison of corrupt morals; and, that you may not think it a fiction of my brain, listen to Claudian's advice to a king:

"Of citizen and father you should act the part, The general interest wearing next your heart. O'er one great body, you, as head, preside, And from its good can never your own divide. To your own laws, if you should think them fit, Others to bind, be foremost to submit. To laws the people willing homage pay, Whene'er their author can himself obey. The king's example as a model serves, As a hive none from the sov'reign swerves. An ear to edict when no man will lend, The prince's life the human mind can bend. The vulgar herd, a changeful servile race, Still ape their better's, even in clothes and face."

Do not imagine that a poet possessed of such distinguished genius and learning was mistaken in thinking that this circumstance had so mighty an influence; for the populace is so much inclined to follow, and so eager to imitate the manners of those who are eminently conspicuous for probity and worth, that they attempt in their conversation, dress, and gait, to copy even some of their imperfections. In their exertions, however, to resemble kings in habit, manner, and language, they are not actuated solely by the love of imitation, but also by the hopes of insinuating themselves into the favour of the great, and of acquiring, by wheedling arts, fortune, preferment, and power; as they know that man is by nature formed not only for loving himself and his connexions, but also for embracing, with cordiality, in others, his own likeness, however imperfect and vicious. This homage, though not demanded with pride and effrontery, but courted as a precurious favour, has a far greater effect than what the threats of the laws, the engines of punishment, and files of musketeers can produce. This propensity recalls the people without violence to moderation, procures to the king the affection of his subjects, gives permanence to the tranquillity of the public, and solidity to the property of individuals. Let a king, therefore, constantly revolve in his own mind, that, as he stands in a public theatre, exhibited as a spectacle to every beholder, all his words and actions must be noted and subject to comments; and that
"To regal vice no secrecy is known,
Exposé aloft upon a splendid throne:
Whatever shape it takes, or new disguise,
All is exposed by fame's quick prying eyes."

With what great caution, then, ought princes,
in both cases, to act; since neither their
virtues nor their vices can remain concealed,
nor come to light, without effecting num-
berless changes. If you should still doubt
the great influence of the king's life upon
the public discipline, take a retrospective
view of infant Rome in its nascent state,
and in its first cradle. When this rude and
uncivilised people, composed (for I will use no
harsher terms) of shepherds and strangers,
ferocious itself by nature, with a most fero-
cious king at its head, had formed a kind of
camp, to disturb the peace, and to provoke
the arms of the surrounding nations, how
great must have been the hatred, how vio-
 lent the alarm of its neighbours! That very
people, having chosen for its head a pious
and upright king, was thought so suddenly
changed, that any violence offered to it, in
the service of the gods, and in the exercise
of justice, was reckoned almost impiety by
those very neighbours whose lands it had
ravaged, whose cities it had burnt, and
whose relations and children it had dragged
into slavery. Now, if in the midst of such
brutal manners and uncultivated times,
Numa Pompilius, a king lately fetched from
a hostile nation, could effect such a mighty
alteration, what may we expect, or rather,
what may we not expect, from those princes
who have been born and bred to the hopes
of royalty, and who receive an empire sup-
ported by relations, by dependents, and by
ancient connexions? How much ought their
minds to be inflamed with the love of vir-
tue, by considering that they may not only
hope for the praise of a single day, like
actors who have performed their part well,
but also presume that they secure the love
and admiration of their own age, and per-
petual renown, and honours nearly divine
among posterity. The picture of this ho-
nour, which I have conceived in my mind,
I wish I could express to you in words.
But that I may, in some measure, delineate
to you a faint sketch, figure to yourself the
brazen serpent erected by Moses in the de-
sert of Arabia, and curing solely by its pre-
sence the wounds inflicted by other serpents;
conceive some of the numerous host stung
by the serpents, and crowding to the infa-
lible remedy; others looking astonished at

the novelty of the unprecedented miracle;
and all with every species of praise celebra-
ting the unbounded and incredible benefi-
cience of God in removing the pains of a
deadly wound,—not by medicines, with tor-
ture to the patient, with labour to the phy-
sician, and constant anxiety to friends, but
restoring the part to a sound state, not by
the slow operation of time, but in a single
moment. Now compare to this serpent a
king; but so compare him, as to reckon a
good king among the greatest blessings of
God, since he alone, without expense, with-
out trouble to you, relieves all the distresses,
and quiets all the commotions of the realm,
and soon happily cures, by consolatory ad-
dress, even ancient animosities, and proves
salutary, not only to those who behold him
personally, but also to those who are so far
distant as not to have the least hope of ever
seeing him; and has, by his very effigy,
when presented to the mind, such power as
easily to effect what neither the learning of
lawyers, nor the knowledge of philosophers,
nor the experience of so many ages em-
ployed in the formation of the arts, was
ever able to attain. In fact, what honour,
what dignity, what greatness or majesty can
be expressed or conceived superior to that
of the man, who, by his language, his con-
versation, his look, his name, and even by
the presence of his image in the mind, can
bring back dissolve profligates to moderate
expenses, violent oppressors to equitable
practices, and furious madmen to their so-er senses? This, if I mistake not, is the
true picture of a king, not indeed of a king
hedged round with arms, always in fear, or
causing fear, and, from his hatred of the
people, measuring their hatred to himself.
This portrait, which I have just exhibited,
has been expressed in the most beautiful
colours by Seneca, in his Thyestes; and, as
it is a very elegant piece of poetry, it must
undoubtedly occur to your recollection.
Now do you think that I still entertain
mean and contemptible notions of a king,
and that, as you lately said, I thrust him,
with a load of fetters, into a legal dungeon?
Have I not rather brought him forward
into day-light, into the communities of men,
and into the public theatre of the human
race, thronged, indeed, not by a haughty
circle of spearmen and swordsman, and silk-
clad profligates, but guarded by his own in-
ocence, and protected, not by the terror
of arms, but by the love of the people; and
not only free and erect, but honoured, venerable, sacred, and august, hailed by every species of good omens and felicitating acclamations, and attracting in his whole progress the looks, the eyes, and souls of all spectators? What ovation, what triumph, can be compared to such a daily procession? Were a God in human shape to drop down upon earth, what greater honour could be shown him than what would be paid to a genuine king, that is, to the living image of God? A greater honour than this neither love could bestow, nor fear extort, nor flattery invent. What think you of this picture of a king?

M.—It is truly splendid, and so magnificent, that it seems impossible to conceive anything more noble. But during the corrupt morals of our times, it is difficult to conceive the existence of such magnanimity, unless a happy liberality of mind and natural goodness of disposition be aided by the diligence of education. For the mind, if once formed by good instructions and arts, will, when confirmed by age and experience, pursue true glory through the paths of virtue, be in vain tempted by the allurements of pleasure, and remain unshaken by the assaults of adverse fortune. For so much

"To native power does discipline impart,
And proper culture steel the human heart,"

that in the very avocations of pleasure, it meets with opportunities for the exercise of virtue, and considers the difficulties, which usually terrify weak minds, as casual materials for the acquisition of just renown. Hence, as a liberal education is in every point of view so momentous, what prospective care and anxious precaution ought to be used, that the tender minds of kings may be properly seasoned from their very cradle! For, as the blessings conferred by good kings on their subjects are so numerous, and the calamities originating with bad princes are, on the other hand, equally numerous, nothing appears to me to have, in every respect, a greater weight than the moral characters and political dispositions of kings themselves, and of those who enjoy with them a share of the supreme power. For the good or bad conduct of individuals generally escapes the notice of the multitude, or the obscurity of its author allows the example to reach but a few; but all the words and deeds of those who direct the helm of state being written, as Horace says, in a kind of votive tablet, cannot remain concealed, but lie open to general imitation. Nor is it merely by a fondness for pleasing, but by the inviting blandishments of interest, that ministers attach the minds of courtiers, and make the public discipline veer with the veering inclinations of kings. I fear, however, that we shall not be able to prevail upon our princes to discharge those functions, of which you have just given a detail. For they are so corrupted by the allurements of pleasure, and so much deceived by a false idea of honour, that I think them likely to experience nearly the same misfortune which, as we are told by some poets, befell the Trojans in their voyage under Paris. Having left the real Helen in Egypt with Proteus, a man of uncommon sanctity, and indeed of a godlike character, they sought, during ten years, for her image with such obstinacy, that the same moment proved the end of the most destructive of wars, and of the most opulent kingdom then in existence. This false idol of royalty, when once possessed by right or by wrong, impotent tyrants embrace with fondness, and can neither retain without a crime, nor relinquish without ruin. If any man were to hint that the true Helen, for whom they believe themselves contending, is concealed in some remote and sequestered region, they would declare him insane.

B.—It is with much pleasure I find, that if you have not really seen the daughter of Jove, you have, from my description, at least formed some idea of her beauty. For, if those who, to their own great detriment, are in love with the representation of the imaginary Helen, were to see a perfect likeness of the real one, painted by some Protogenes or Apelles, I doubt not but they would feel for it the greatest admiration, and the most violent passion; and that, if they did not immediately bid adieu to the other, they would justly incur the cruel punishment denounced against tyrants in the imprecation of the satirist Persius—

"Great Father of the gods, when, for our crimes,
Thou send'st some heavy judgment on the times,
Some barbarous king, the terror of the age,
The type and true vicegerent of thy rage,
Thus punish him;—set virtue in his sight,
Grac'd with each charm that can the eye invite:
But set her distant, that he thus may see
His gains outweigh'd by lost felicity."

And, since tyrants have been incidentally
mentioned, what do you think of proceeding directly to the consideration of them?

M.—I have no objection, if you think that no other subject claims a preference.

B.—In my opinion we shall not be in the least danger of going astray, if, in the investigation of a tyrant, we follow the steps which we trod in our search after a king.

M.—That is likewise my opinion. For we shall most easily comprehend their difference, if we survey them contrasted.

B.—And first, if we begin with the name tyrant, we shall find it uncertain to what language it belongs. Accordingly, to inquire whether its etymology be Greek or Latin will be superfluous. But what the ancients called tyranny can, I think, be no mystery to any person who is a little familiar with polite literature. For both the Greeks and Latins called those tyrants whose power was in every respect unlimited, restrained by no legal ties, and subject to the cognizance of no judicature. And therefore, in both languages, as you well know, not only heroes and the most excellent men, but also the greatest of the gods, and even Jupiter himself, are styled tyrants, and that by those who both thought and spoke of the gods with the greatest reverence and honour.

M.—Of that I am by no means ignorant; and, therefore, I am the more surprised that the name should be, for so many ages, held odious and even highly reproachful.

B.—This term has certainly met with the fate of most others; for words, if duly considered, will be found in their own nature totally innocent. Though they strike the ear, some with a smooth, some with a harsh sound, yet they have no intrinsic power of exciting in the mind anger, hatred, or mirth, or in any way of creating pleasure or pain. If ever we experience any such thing, it generally proceeds, not from the word, but from human custom, and from the idea conceived in the mind. Hence, a word, that to some is a mark of respect, cannot be uttered before others without a prefatory apology.

M.—I recollect that something of a similar nature has happened in the case of Nero and Judas; for the former of these names among the Romans, and the latter among the Jews, was reckoned by the highest families eminently splendid and honourable. Afterwards, however, through no defect in the names, but from the fault of two individuals, it happened that the most abandoned would not give them to their children; into so much obscurity had they fallen through infamy.

B.—That tyrant stands in the same predicament is evident. For, that the first magistrates who received that name were good men, is probable from this circumstance that the name was for some time so honourable, that men applied it even to the gods. Their successors, by their crimes, rendered it so detestable, that all shunned it as contagious and pestilential, and deemed it a lighter reproach to be called hangman than tyrant.

M.—Here the same thing happened as to the kings at Rome after the expulsion of the Tarquins, and to the name of dictator after the consulship of Antony and Dolsbella.

B.—You perfectly comprehend the matter. On the other hand, again, humble and plebeian names became, through the merit of the persons to whom they belonged, illustrious, as among the Romans, Camillus, Metellus, Scropla; and, among the Germans, Henry, Geneseric, and Charles. This observation you will the more easily understand, if you consider that, after the name of tyrant became extinct, the substance of the thing remained, and this species of magistracy still retained its pristine dignity among a variety of illustrious nations, as the Eosynmetes among the Greeks and dictators among the Romans. For both were legal tyrants; tyrants indeed, because they were superior to the laws,—and legal, because elected by the consent of the people.

M.—What do I hear! that there are even legal tyrants? From you, at least, I expected to have heard a quite different doctrine. For now you seem to confound every distinction between kings and tyrants.

B.—Among the ancients, kings and tyrants seem undoubtedly to have conveyed the same idea, but, I conceive, at different periods of time. For the name of tyrants was, I presume, the more ancient; and, when nations became tired of them, kings succeeded in their place under a more soothing title, and with a milder sway. When these also degenerated, men had recourse to the moderating power of laws, that might limit the extent of their authority, and set bounds to their boundless desires. But, as the variations of times and manners required new remedies, and old governments became odious, new forms were invented. The subjects, however, which we have at present
undertaken to discuss, are the two species of government; that in which the power of the laws is superior to the king’s, and, what is the worst species of tyranny, that in which everything is diametrically opposite to royalty; and to compare them one with the other.

M.—It is so; and I long much to hear you upon that topic.

B.—The first point, then, which we ascertained was, that kings were created for the maintenance of civil society; and we established it as an axiom, that it was their duty to administer justice to every man according to the directions of the law.

M.—I recollect it.

B.—First, then, by what name shall he, who does not receive that office by the people’s voluntary consent, but seizes it by violence, or intercepts it by fraud, be qualified?

M.—By that of tyrant, I conceive.

B.—There are, besides, many other distinctions, which, as they may be easily collected from Aristotle, I shall lightly skim. Regal government is conformable, and tyranny contrary, to nature; a king rules over a willing, a tyrant over a reluctant people; royalty is a Freeman’s authority over freemen—tyranny a master’s over his slaves; citizens act as sentinels to a king, for the security of his person; foreigners to a tyrant for the oppression of the citizens. For the one exercises his power for the benefit of the people, and the other for his own.

M.—What, then, shall we say of those who, by violence and without the people’s consent, obtained supreme power, and governed their respective states for many years in such a manner as to leave the public no reason to be dissatisfied with their administration? For, except a legal election, how little was there wanted in Hiero of Syracuse, and in the Medicean Cosmo of Florence, to constitute a just and accomplished king?

B.—These we can by no means help inserting in the catalogue of tyrants. For, as an excellent historian has finely remarked, “By force to rule your country or parents, though you should have the power, and should rectify their errors, is still offensive and vexatious.” In the next place, such men seem to me to act like robbers, who, by artfully dividing their ill-gotten booty, expect from iniquity the reputation of justice, and from rapine the praise of liberality, and yet never attain the object of their desire. For, by the hatred arising from one misdeed, they lose all gratitude for their ostentatious beneficence, and gain the less credit for moderation among their fellow-citizens, that their view is not the public good, but their own private power, that they may the more securely enjoy their pleasures, and, by mollifying a little the general hatred, transmit their authority the more easily to their descendants. When this has been once effected, they resume their natural character; for what fruit is likely to be collected in harvest may be easily conceived from the seed that has been sown in spring. For to make everything bend to your own nod, and to centre in your own person the whole force of the laws, has the same effect as if you should abrogate all the laws. But this kind of tyrants ought, perhaps, to be tolerated, if they cannot be removed without general ruin; as we choose to submit to certain bodily distempers rather than to expose our life to the hazardous experiment of a doubtful cure. But those who openly exercise their power, not for their country, but for themselves, and pay no regard to the public interest, but to their own gratification; who reckon the weakness of their fellow-citizens the establishment of their own authority, and who imagine royalty to be, not a charge entrusted to them by God, but a prey offered to their rapacity, are not connected with us by any civil or human tie, but ought to be put under an interdict, as open enemies to God and man. For all the actions of kings ought to keep in view, not their own private emolument, but the general safety of the state; and the more they are exalted above the most eminent citizens, the more they ought to imitate those celestial bodies that, without any act of conciliation on our side, pour upon mankind the vital and beneficent streams of their light and heat. Even the very titles with which we decorated kings (and perhaps they are within your recollection,) might remind them of this munificence.

M.—I think I recollect that, towards their subjects, they were to practise the indulgence of fathers to their children, to use the diligence of shepherds in promoting their interest, to behave as generals for the security of their persons, as chief-justices in displaying a pre-eminence of virtue, and as emperors in issuing salutary edicts.

B.—Can he, then, be called a father, who
treat his subjects as slaves? or be a shepherd, who does not feed but slay his flock? or he a pilot, whose constant study it is to throw the goods overboard; and who, according to the nautical adage, scuttles the vessel in which he sails?

M.—By no means.

B.—What do you think of the king who governs, not for the benefit of the people, but for the gratification of his own appetites and passions, and is manifestly engaged in an insidious conspiracy against his subjects?

M.—I shall certainly deem him neither a general, an emperor, nor a supreme judge.

B.—Should you, then, observe a man usurping the name of king who excels none of the multitude in any species of virtue, and is even inferior to many, who discovers no paternal affection for his subjects, but crushes them under his proud sway; who considers them as a flock entrusted to him, not for their preservation but for his own emolument; will you reckon him truly a king, though he should stalk along, crowded by a numerous train of guards, and make an ostentatious display of a magnificent dress, and dazzle the eye by exhibiting the sword of the law, and conciliate the favour and applause of the vulgar by prizes, games, processions, mad piles of buildings, and other popular signs of grandeur? Will you, I say, deem him a king?

M.—Not at all, if I mean to be consistent; I must consider him as an outcast from human society.

B.—By what bounds do you circumscribe this human society?

M.—By the very same to which you seemed to me, in your preceding dissertation, to wish it confined to the fences of law; for I see that robbers, thieves, and adulterers, who transgress them, are punished by the public, and that their transgression of the limits prescribed by human society is thought a just cause for their punishment.

B.—What will you say of those who never would come within the pale of human society?

M.—I should consider them as enemies to God and man, and entitled to the treatment, not of men, but of wolves and other noxious animals, which, if bred by any person, are bred to the destruction of himself and of others, and, if killed, are killed to the advantage, not only of the individual, but of the public.

Nay, were I empowered to enact a law, I would adopt the Roman method of treating monsters, and order such a race of men to be exposed on some desolate island, or to be sunk in the deep at a distance from the sight of land, lest they should, even when dead, injure the living by their contagion; and publish a decree, that whoever despatched them should be rewarded, not only by the whole people, but by private persons, as is generally done to those who have killed wolves or bears, or seized their cubes. For, if any such monster were to arise, and to utter human accents, and to have the appearance of a man's face, and his likeness in every other part, I could never think myself connected with him by any social tie. Or, if any one, divesting himself of humanity, should degenerate into savage barbarity, and refuse to unite with other men, but for men's destruction, I do not think him entitled to the appellation of man any more than satyrs, apes, or bears, though in his look, gesture, and language, he should counterfeit man.

B.—Now you comprehend, if I mistake not, what notion the wisest of the ancients entertained of a king's, as well as of a tyrant's, character. Is it your pleasure then, that the rule adopted by us, in forming an idea of a king, should be followed in exhibiting the portrait of a tyrant?

M.—Certainly; and, if it is not too troublesome, I am eager to hear you proceed.

B.—You have not forgotten, I imagine, what is said by the poets of the furies, and by the populace of devils, that they are spirits hostile to the human race, and, in the midst of their own eternal torments, delighting in the torture of men. This is certainly a true picture of tyranny. But, since this picture is discernible only to the mind, and without sensation, I shall offer you another, which will impress not only your mind, but your senses, and rush upon your eyes almost palpably visible. Imagine yourself viewing a ship at sea, tossed by storms, and all the shores around not only destitute of harbours, but full of inveterate enemies. Imagine also the master of that ship engaged in a mutual contest of hatred with the passengers, and yet having no hopes of safety but in the fidelity of the sailors, and even those not certain, as he cannot be ignorant that his life is in the hands of a barbarous class of men, strangers to all humanity, retained in their duty solely by proffers of money, and easily tempted to his
destruction by the prospect of greater hire. Such, positively, is the life embraced by tyrants as a state of beastitude. Abroad they dread open enemies, at home their subjects; and not only their subjects, but their domestics, their relations, their brothers, their wives, their children, and their parents. Accordingly, they always either wage or dread an external war with foreigners, a civil war with their subjects, or a domestic war with their relations, and never expect any assistance but from hirelings, and dare not hire the good nor trust the bad. What enjoyment then can life be to such men? Dionysius, dreading the application of a razor to his throat, would not permit his daughters, ladies of adult age, to supply the place of a barber. His brother was murdered by Timoleon, the Phrygian Alexander by his wife, and Spurius Cassius by his father. What racks must the man, who has these examples constantly before his eyes, carry in his breast, when he considers himself erected as a mark at which all mankind are to shoot their arrows? when he is tormented by the stings of conscience, not only when awake, but is roused even in his sleep by the terrific images of the living and the dead, and pursued by the furies shaking their torches? For the time assigned by nature to all animals for repose, and to men as a relief from cares, becomes to him all horror and despair?

M.—These topics you have unfolded with no inconsiderable art, and, perhaps, with equal truth; but, if I am not mistaken, with little subserviency to our plan. For nations, who have the power of electing kings, have also the power of binding them, when elected, by laws. But you know that ours are not kings by election but by birth; and I have always been of opinion that the crown was not more an hereditary right than the power of making their will the law. Nor have I lightly adopted this opinion, but deliberately, and under the sanction of great statesmen, with whom, if I have erred, I need not be ashamed of my error. For, without mentioning others, the lawyers affirm that, by the imperial law enacted concerning their authority, the whole power of the people was transferred to them, so that their pleasure should stand as law. Hence arose a certain emperor’s threats, that he would, by one edict, wrest from all the lawyers, all the power in which they so much gloried.

B.—While you were quoting the very worst authority in so important a case, you acted with prudence in suppressing all names, as it would be the name of Caius Caligula, who, for the gratification of his savage cruelty, wished that the Roman people had but one neck, and possessed nothing that belongs, I will not say to a king, but to a man, but the form. You cannot, therefore, be ignorant what little credit is due to his words. As to the imperial law, lawyers themselves can neither explain its nature, nor ascertain when, by whom, or in what words, it was passed. For the Roman kings never professed that power, as an appeal lay from them to the people. The act by which Lucius Flaccus, after the extinction of Roman liberty, established, through the silence of the other laws, the tyranny of Lucius Sylla, no man ever recognised as a law; for the purport of that act was, that whatever Lucius Sylla did, should be valid in law. Of such a power over itself, no free people was ever so mad as to make a voluntary grant; or, if there was, it certainly deserved to live in perpetual slavery to tyrants, and to suffer the punishment due to its folly. However, if any such law really existed, we ought to consider it as an example for caution, not for imitation.

M.—Your admonition, though well founded, is applicable only to those who have the power of creating kings of specific qualities; but not at all to us, who, by our suffrages, do not elect the best, but accept the gift of chance. This remark, made by our lawyers, peculiarly affects us, who bestowed upon the ancestors of our kings such a right to bind us and our posterity, that they and their descendants hold perpetual sovereignty over us. I wish, therefore, that this advice had been suggested to them, I mean to our ancestors, as they were entirely at liberty to adopt what kings they pleased. Your counsel coming now too late, has certainly no other tendency, but to make us deplore the folly of our ancestors, and feel the misery of our condition. For, sold into bondage as we are, what remains for us but to suffer punishment for the folly of others, and to alleviate its weight by the meanness of our patience; and not to exasperate, by unseasonable murmurs, the rage of those whose yoke we cannot shake off, whose power we cannot diminish, and whose violence and tyranny we cannot escape? The imperial law, however, to which you are such a deter-
mined foe, was not, as you wish to insinuate, invented in favour of tyrants; for it was sanctioned by the justest of princes, by Justinian, with whom such open flattery could never have prevailed; for Horace’s maxim is applicable even to a foolish prince:

“Whom does false honour please, or lying fame
None but the wretches who in vice and lies delight.”

B.—However cruelly ungrateful to Belisarius some historians paint Justinian, he is certainly allowed to have been, in general, a great prince. Let him, therefore, be such as you wish him to appear; you ought still to recollect, that most of his contemporaries have characterised Scribonian, the principal compiler of the laws in question, as a most abandoned man, who might have easily been induced to go any lengths for the gratification of the worst of sovereigns. For,

“All wish the dire prerogative to kill;
Even they would have the pow’r who want the will.”

And,

“Nothing so monstrous can be said or feigned,
But with belief and joy is entertained,
When to his face the worthless wretch is praised,
Whom venal courtiers to a god have raised.”

But let us return to our own princes, to whom you say that the crown belongs by inheritance, not by suffrage. Now I here speak only of our own; for, were I to make a digression to foreign princes, I fear that the discussion would embrace too wide a field.

M.—That is, in my opinion, the best mode of proceeding; as foreign transactions are not very intimately connected with the present subject.

B.—If then we trace the history of our nation from its first origin, it will be found a settled point, that the princes invested with sovereign power owed their election to the opinion generally entertained of their merit.

M.—Such is the account contained in our historical records.

B.—Nor is it a less settled point, that many princes, who made a cruel or flagitious use of their office, were called to an account by their subjects; that some were, in certain cases, banished, and in others executed; and that though either their sons or relations were chosen in their place, yet no inquiry was ever instituted against the authors of their punishment; but that violence offered to good kings has, in no part of the world, been punished with more exemplary severity. And, since it would be tedious to enumerate individuals, a few only of a late date, and still fresh in the nation’s memory, shall be here mentioned. The murder of James I., who left behind him a male heir, six years of age, was so inexorably revenged by the nobility, that persons sprung from the most illustrious families, and of the first distinction for riches and connexions, were destroyed by a new and exquisite kind of punishment. But, on the other hand, who lamented, for I will not say revenged, the death of James III., a man noted for flagitiousness and cruelty? On the death, however, of his son, James IV., even the suspicion of murder could not escape the severest destiny. Nor did our ancestors discover a pious affection only to good kings, but also treated bad princes with lenity and mercy. For Cullen being, as he was coming to plead his cause, murdered on the road by an enemy, was revenged in an extraordinary manner by a decree of the states; and Ewen, who had been condemned to perpetual imprisonment, having been similarly killed in confinement by an enemy, was similarly revenged; and the violent death of the man, whose nefarious life all detested, was punished as parricide.

M.—The present subject of our inquiry is, not so much what has been sometimes done, as what are the legal rights of our sovereigns.

B.—Returning then to that question, and considering the state of our kings down to Kenneth III., who first established his race permanently upon the throne, we shall find it a clear case, that as the people, till that period, exercised the right of creating and correcting their kings, he must have procured this right to his family either by force or by persuasion.

M.—The inference is undeniable just.

B.—Besides, if he exerted obedience from the people by force, the people, upon the first prospect of superiority in the contest, may shake off so grievous a yoke; since the received laws and the imperative voice of nature proclaim, both to kings and to nations, that every system upheld by violence may, by the like violence, be overturned.

M.—But what will follow, if the people, either circumvented by fraud, or compelled by fear, should submit to slavery? What
reason can be alleged why they should not for ever adhere to a convention once solemnly ratified?

B.—If you talk to me of a convention, what reason is there that I should not, in opposition, produce those causes which may effect the dissolution of compacts and conventions? And first, with regard to agreements founded on violence and fear, their is in all communities an established law, derived from the pure fountains of nature. Even to such as have been overreached by fraud, the laws grant an entire restitution to their former state, and order this rule to be scrupulously observed in the case of minors, and other persons, whose interest they wish particularly to consult. Who then can have a juster claim to restitution than the whole body of the people, since an injury offered to it affects not only a single part of the community, but is widely diffused through all the members of the body politic.

M.—I know that in the causes of private persons this law is adopted, and that it is in no case iniquitous. But upon this topic we need not enter into any violent contest; since, as we are informed by our historians, it is extremely probable that the right in question was bestowed upon our kings by the people’s consent.

B.—It is likewise probable, that so important a right was not granted without some important cause.

M.—That position I readily admit.

B.—What then, do you think, was the principal cause?

M.—What other causes can I assign but those recorded in history? The people’s impatience, under the pressure of ambition, of anarchy, of murder, and of intestine war, frequently terminating in the utter ruin of one of the parties, and always with infinite mischief to both. For those who obtained the sovereign power, endeavoured to leave their children in undisturbed possession, by the total extinction of their brothers and nearest relations; a species of policy, which, we hear, is adopted among the Turks, and which, we see, is practised by the chieftains in our own islands, as well as in Ireland.

B.—To which of the two, then, do you think the contest proved more dangerous, to the people or to the princes?

M.—To the princes indisputably; for the people, though ultimately doomed to become the prey of the victors, may, during the contest, live in perfect security.

B.—Princes then, it seems, have wished, rather on their own account than for the public benefit, to make the crown permanent and hereditary in their family.

M.—The supposition appears probable.

B.—Now, in order to gain a point so essential to the lasting honour, to the wealth and security of their family, it is reasonable to suppose that, in return, they relinquished some part of their right, and that to retain the good-will and affection of the people, and to procure their consent, they granted, on their side, some equivalent boon.

M.—I believe so.

B.—You will certainly allow it to be an incredible supposition, that, in return for so important a concession to their kings, they should suffer their condition to be altered for the worse?

M.—Absolutely incredible.

B.—Nor would kings, had they known this to be an injurious institution, disadvantageous both to their children and to the people, have solicited its adoption with such ambitious zeal.

M.—By no means.

B.—Suppose then any individual, in the mixed throng of a free people, freely to ask the king, “What is to be done, if any of our kings should have a son that is an idiot; or, what is worse still, a son that is insane? Will you grant the power of regulating our conduct, to a man who cannot regulate his own?”

M.—There was no occasion, I think, for suggesting this exception, since, whenever this class of men occurs, there is sufficient provision made by the laws.

B.—An honest, as well as sound opinion. Let us, therefore, inquire, whether, if kings had obtained from the people unlimited power over the laws, it would not have been injurious, especially to those who wished to provide for the welfare of their posterity?

M.—Why, I beseech you, should we think that it would prove injurious?

B.—Because nothing contributes so much to the perpetuity of sovereign authority as a due temperament, no less honourable to kings than equitable and salutary to the people. For nature has implanted in the human mind an elevated and generous principle, which makes it unwilling to obey unjust mandates; and there is nothing so efficacious in consolidating societies of men, as a reciprocity of benefits. The answer, therefore, of Theopompous to his wife, who up-
braided him with having, by the introduction of the Ephori into power, impaired the energy of regal government, and with transmitting to his children the crown less than he had received it, seems not to have been unwise, when he said, "I have left it so much the firmer round their head."

M.—What you say concerning the perpetuity of the sovereign power, I see to be perfectly true. For the kingdoms of the Scots and Danes are, I think, by far the most ancient in Europe; and this distinction they seem to me to have secured by nothing so much as by the moderate use of the supreme power; while, at the same time, the crowns of France, of England, and of Spain, have passed from family to family. Yet I know not whether our kings were as wise as Theopompos.

B.—Though they should not have been so provident, do you think that the people were so foolish as to neglect an opportunity so seasonably offered, or so struck with fear, or so seduced by flattery, as to submit spontaneously to slavery?

M.—They were not, perehaps. But let them, as the thing is possible, have been so blind as not to see what was for their own benefit; or let them have been, with their eyes open, so regardless of their own interest as to have despised it, will they not be justly punished for their folly?

B.—It is not likely that any of these suppositions was ever realised, since in our times their conduct has been constantly the reverse. For beside the constant punishment of bad kings, whenever they became tyrants to their subjects, there still remain, even in old families, some vestiges of the ancient practice. For the ancient Scots or Highlanders continue, down to our days, to elect their own chieftains, and to assign them a council of elders; and those who do not obey this council are deprived of the honourable office. Could then what is still partially observed with the greatest scrupulousness in certain districts be neglected in providing for the general good? or would those become voluntary slaves to the man, who would deem the grant of royalty, under legal restraints, a favour? Can it be supposed that the liberty, which they had secured by valour, defended by arms, and enjoyed uninterrupted for ages, should, without violence, and without war, be resigned to him as an unexpected prey? That such power was never possessed by our kings is, without mentioning the punishments so often inflicted on them for mal-administration, sufficiently evident from the misfortune of John Baliol, who was, about 269 years ago, rejected by the nobility, because he had subjected himself and his kingdom to Edward I. of England; and Robert I. was substituted in his place. The same truth is evinced also by that uninterrupted practice, which has descended from the earliest times to ours.

M.—What practice do you mean?

B.—Our kings, at their public inauguration, solemnly promise to the whole people to observe the statutes, customs, and institutions of our ancestors, and to adhere strictly to that system of jurisprudence handed down by antiquity. This fact is proved by the whole tenor of the ceremonies at their coronation, and by their first arrival in our cities. From all these circumstances it may be easily conceived what sort of power they received from our ancestors, and that it was clearly such as magistrates, elected by suffrage, are bound by oath not to exceed. Upon such terms God offered the crown to David and to his posterity, promising that they should be kings as long as they obeyed the laws which he had ordained. All this evidence makes it probable that the authority conferred by our ancestors on their kings was not unbounded and immense, but circumscribed and confined to fixed limits. In favour of this right in the people add, besides, immemorial prescription and long use, never contravened by any public decree.

M.—But I fear that kings will not be easily persuaded, by the consideration of these probabilities, to submit to such laws, however much sanctioned by royal oaths, or justified by popular prescription.

B.—In like manner, it is my belief that the people will not be easily prevailed upon to relinquish a right received from their ancestors, approved by the concurring voice of all, and practised for an uninterrupted series of ages; nor do I think it necessary to form conjectures about what they will do, when I see what they have done. But, if from the obstinate perverseness of both parties, recourse should be had to arms, the conqueror will certainly impose what laws he pleases on the conquered; but he will impose them only till he, that has had the worst of the contest, can resume his arms with recollected strength. These struggles end al-
THE RIGHTS OF THE CROWN IN SCOTLAND.

WAYS WITH MISCHIEF TO THE PEOPLE, BUT GENERALLY WITH UTTER RUIN TO THEIR KINGS; AND IN THESE CAUSES ALL THE DISASTERS OF ALL KINGDOMS ORIGINATE.

M.—Such must necessarily be the result.

B.—Here, perhaps, I have entered into a minuter investigation than the subject required; but my design was to elucidate, more completely, the limits of regal power among us in ancient times. For, if I had insisted upon the full extent of my legal claims, I might have taken a much shorter road to the object of my pursuit.

M.—Though you have nearly satisfied me already, yet I shall be glad to hear you explain the nature of this compendious road.

B.—First, then, I wish you to answer, whether you approve of the definition of a law given by lawyers, when they say that a law is a decree made by the people, at the instance of the legal magistrate.

M.—Undoubtedly it has my approbation.

B.—It was also ascertained that, when laws were found to be defective, they might, by the same legislators, be either amended or repealed.

M.—It was so.

B.—You see besides, I suppose, that the persons, who become our kings by birth, become so both by the laws and by the suffrages of the people, no less than those constituted such originally by election; and that the people, who made the laws, will not be in want of remedies, not only against violence and fraud, but also against neglect in acknowledging the acceptance of them.

M.—I see it clearly.

B.—There is only this difference, that the law relative to our kings was passed some ages ago; and that, when a new reign commences, it is not usual to make a new law, but to approve the old. But among nations who hold assemblies for the election of their several kings successively, the same time usually serves for passing the law, for making and approving the king, and for the commencement of the reign.

M.—It is so.

B.—Now, if you please, let us briefly collect the substance of what has been ascertained; that, if we have anywhere been too rash in our conclusions, there may be room for recantation.

M.—With all my heart.

B.—First of all, it was our opinion that a king is created for the benefit of the people, and that nothing derived from heaven can be a greater blessing than a good, or a greater curse than a bad king.

M.—Right.

B.—We also said that a bad king is called a tyrant.

M.—We did so.

B.—And because the crop of good men is not so abundant as to supply us constantly with a succession of worthy persons for our selection, or hereditary right so fortunate in its line of succession as to furnish us always, by accident, with a series of good princes, we accept, as kings, not such as we could wish, but such as either public consent has sanctioned, or chance offered. The hazard, however, incurred either in electing new dynasties, or in approving the casual claimants by hereditary right, occasioned a general wish for laws that should limit the extent of regal power. Now, these laws ought to be nothing else but the express image, as far as it can be attained, of a good king.

M.—That deduction also we acknowledged to be legitimate.

B.—What now remains to be discussed is the punishment due to tyrants.

M.—That seems the only topic not yet thoroughly examined.

B.—If a king then should break through every restraint of law, and behave absolutely as a public enemy, what conduct ought, in your opinion, to be adopted?

M.—Here I own myself at a nonplus. For, though the arguments advanced by you seem to evince that we cannot have any natural connexion with such a king, yet the power of long habit is so great, that with me it has the force of law; and, indeed, it takes such deep and firm root in the minds of men, that, if it should ever be productive of error, it is better to bear it, than, by endeavouring to cure the disease, to endanger the constitution of the whole body. For such is the nature of some remedies, that it is more eligible to bear the pain which they occasion, than to search for doubtful remedies, in the trial of which, though everything should ultimately succeed, the pains resulting from their application are so acute, that the disease itself is less pernicious than its cure. In the next place, what has still more weight with me is, that I see what you call tyranny sanctioned by the oracle of God; and what you execrate as the ruin of law, called, by the Deity, the law of the realm. My judgment is more decisively swayed by that single passage, than by all the argu-
ments of all the philosophers. If you do not extricate me from this dilemma, no human reasoning can, with all its subtlety, prevent me from deserting at once to the enemy.

B.—You are involved, I see, in a common, but enormous cloud of error, by endeavouring to sanction tyranny by tyranny. For how great the tyranny of custom is, when it has once got thorough hold of the human mind, we have too often experienced in the present age, and learned sufficiently from ancient examples in the father of history, Herodotus. But ancient examples I need not produce, since the authors are open for your inspection. Consider in your own mind what multitudes of things, and those not unimportant, there are, in which the suggestions of reason have made you deviate from customs that ages had rendered inveterate; and you will be soon taught by domestic examples, that, of all others, the highway, which is here so much recommended, is the most dangerous to follow. Examine it, therefore, with cautious circumspection; and you will see it strewed with carnage, and choked with ruins. But, if this truth be, according to the usual phrase, clearer than the light itself, I need not dwell longer either on the proof or on the illustration of so evident a proposition. As to the passage, however, quoted by you from the book of Kings, and which you rather notice than explain, beware, I beseech you, of imagining that what God execrates in the life of tyrants he should approve in the conduct of kings. That you may draw no such inference, I desire you to consider first, what the people requested of God; next, what their reasons were for a new request; and, lastly, what was God’s answer? First, they request a king. And of what sort? A king circumscribed by laws. Such they had; for Samuel had been appointed by God to preside over them; and he had for many years administered justice in a legal manner, according to the directions of the divine law. But his sons, who sat as judges during his old age, were guilty of many flagitious acts, and in their decisions violated the laws. Hitherto I cannot see that they had any just reason for desiring a change, but rather a reform of the government, which they might certainly have expected from the beneficence of that God, who had not long before, and for a reason nearly similar, extirpated the whole family of Heli. What then do they request? A king, who might, as among the neighbouring nations, be their judge at home and their general abroad. Now, these were, in reality, tyrants. For, as the nations of Asia discover greater servility of mind than the Europeans, so they will submit with greater facility to the commands of tyrants; and, hence there is not, as far as I know, mention any where made in historians of a king subject to laws in Asia. Besides, that a tyrant, and not a king, is here described, is readily deducible even from this circumstance, that in Deuteronomy God had beforehand prescribed to them a form of government, not only different, but perfectly the reverse. According to this form, Samuel, and the rest of the judges, had, for a series of years, administered justice; and, when they rejected it, God complained that they had rejected him.

M.—Yet God everywhere styles him king, and not tyrant.

B.—He does, indeed, style him king; for it is peculiar to God, in addressing a popular assembly, to adopt popular language. Accordingly, in speaking to the commonality, he uses a common word; but that none might be deceived by its ambiguity, he explains here distinctly, in what sense it was taken among the neighbouring nations.

M.—Though we should admit the justness of your reasonings upon that ancient example, we are still more closely pressed by a more modern instance in Paul, who commands us to pray for the life of sovereigns, and is far from allowing us to renounce their authority, much less to dethrone, and, when dethroned, to murder them. And what princes does he thus recommend to our prayers? Of all that ever existed the most cruel, Tiberius, Caligula, Claudius, and Nero; for these were co-eval with the epistles of Paul.

B.—In comparing the writings of all the philosophers and lawyers with Paul’s, you seem to me to act rightly, in allowing to his authority so much preponderance in the balance. But you should consider whether you have sufficiently weighed his opinions; for you ought to examine, not only his words, but also at what times, to what persons, and for what purposes, he wrote. First, then, let us see what Paul wrote. In the third chapter of his letter to Titus, he writes, “Put subjects in mind to be obedient to
principalities and powers, and to be ready for every good work." Here you see, I presume, what end he assigns to obedience. In the second chapter of his epistle to Timothy, the same apostle writes, "That we should pray for all men, even for kings and and other magistrates, that we may lead a peaceable life, in all godliness and purity." Here, also, you see that he proposes, as the end of prayer, not the security of kings, but the tranquillity of the church; and, hence, it will be no difficult matter to comprehend his form of prayer. In his epistle to the Romans, his definition of a king is accurate, even to logical subtlety; for he says that "a king is God's minister, wielding the sword of the law for the punishment of the bad, and for the support and aid of the good." "For these passages of Paul's," says Chrysostom, "relate not to a tyrant, but to a real and legitimate sovereign, who personates a genuine god upon earth, and to whom resistance is certainly resistance to the ordinance of God." Yet, though we should pray for bad princes, we ought not, therefore, to infer directly that their vices should not be punished like the crimes of robbers, for whom also we are ordered to pray; nor, if we are bound to obey a good, does it follow that we should not resist a bad prince? Besides, if you attend to the cause which induced Paul to commit these ideas to writing, you will find, I fear, that this passage is greatly against you; since he wrote them to chastise the temerity of certain persons, who maintained that Christians ought not to be under the control of magistrates. For, since the magistrates were invested with authority on purpose to restrain wicked men, to enable us all to live under equal laws, and to exhibit a living example of divine justice, they contended that he was of no use among persons so contaminated by the contagion of vice as to be a law to themselves. Paul, therefore, does not here treat of the magistrate, but of the magistracy—that is, of the function and duty of the person who presides over others, nor of this nor of that species of magistracy, but of every possible form of government. Nor does he contend against those who maintained that bad magistrates ought not to be punished, but against persons who renounced every kind of authority; who, by an absurd interpretation of Christian liberty, affirmed that it was an indignity to men emancipated by the Son of God, and directed by God's Spirit, to be controlled by any human power. To refute this erroneous opinion, Paul shows that magistracy is not only a good, but a sacred and divine ordinance, and instituted expressly for connecting assemblages and communities of men, and to enable them, conjointly, to acknowledge God's blessings, and to abstain from mutual injuries. Persons raised to the rank of magistrates God has ordered to be the conservators of his laws; and, therefore, if we acknowledge laws to be, as they certainly are, good things, we must also acknowledge that their conservators are entitled to honour, and that their office is a good and useful institution. But the magistrate is terrible. To whom, I beseech you? To the good, or to the bad? To the good he cannot be a terror, as he secures them from injury; but, if he is a terror to the bad, it is nothing to you, who are directed by the Spirit of God. What occasion, then, is there, you will say, for subjecting me to the magistrate, since I am God's freeman? Much. To prove yourself God's freeman, obey his laws; for the Spirit of God, of whose direction you boast, framed the laws, approves of magistracy and authorises obedience to the magistrate. On this head, therefore, we shall easily come to an agreement, that a magistrate is necessary in the best-constituted societies, and that he ought to be treated with every kind of respect. Hence, if any person entertains contrary sentiments, we deem him insane, intangible, and worthy of the severest punishment; since he openly resists God's will communicated to us in the Scriptures. For, supposing that no punishment for the violation of all laws, human and divine, should be inflicted on a Caligula, a Nero, a Domitian, and other tyrants of that sort, you have here no countenance from Paul, who is discoursing of the power of magistrates and of bad men by whom it is badly exercised. Indeed, if you examine that kind of tyrants by Paul's rule, they will not at all be magistrates. Again, if you should contend that even bad princes are ordained by God, take care lest your language should be charged with capriciousness. For God, to counteract poison by poison, as an antidote, sometimes sets a bad man over bad men for their punishment; and yet, that God is the author of human wickedness, no man in his senses will dare to affirm, as none can be ignorant that the same God is the author of the punishments inflicted on the wicked. Even a good magistrate generally chooses a bad man to be
the executioner in punishing the guilty. This executioner, though thus appointed by the magistrate to that office, is not, in consequence, indulged with impunity for every crime, nor raised so high as not to be amenable to the laws. On this comparison I shall dwell no longer, lest the sycophants of the court should cry out that I speak with too little reverence of the supreme magistrate. But, let their outcries be ever so loud, certainly they will never be able to deny that the function of the executioner is a part of public, and perhaps also of kingly duty, even by the confession of kings themselves; since, when violence is offered to any public minister, they complain that their own person and majesty are violated. Now, if any thing can, certainly the punishment of the wicked must constitute a part of the king’s executive duty. In what predicament stand the governors of cities, the commandants of camps, the mayors of corporations, and other superior officers? Does Paul order us to be obedient also to them? or does he hold them private persons? But not only all inferior magistrates, but even those who are upon an equality with kings, it is customary to call to an account for mal-administration. I could wish, therefore, that those who dream of this mighty power conferred on kings by Paul’s words would either show, from the same Paul, that kings alone are to be understood in the name powers, and, therefore, to be alone exempted from legal animadversion; or, if the word powers mean also other magistrates appointed by the authority of the same God for the same purpose, that they would also show where all magistrates are pronounced to be independent of law, and released from the fear of punishment; or, where that immunity has been granted only to kings, and denied to others invested with public authority.

M.—But to the higher powers he commands all to be obedient.

B.—He does so; but under the name of powers he must necessarily comprehend other magistrates also, unless you should, perhaps, imagine that he thought states not under a regal government to be without powers, and therefore mere anarchies.

M.—That is not my belief, nor is the thing likely; and I am the more steadfastly of this opinion, that your interpretation of this passage is confirmed by the agreement of all the more learned commentators, who think Paul’s dissertation here intended against those that contended for a total exemption from the control of all laws and magistrates.

B.—What then do you think of what I lately said? Is it your belief that the most cruel of all tyrants are not included in Paul’s form of words?

M.—Yes. For what do you allege to alter my belief? especially as Jeremiah earnestly admonishes the Jews, and that by divine command, to obey the king of the Assyrians, and by no means to contravene his authority. And hence the inference is, by a similar mode of reasoning, drawn, that other tyrants also, however barbarous, ought to be obeyed.

B.—Meaning to answer first what you advanced last, I must desire you to remark that the prophet does not command the Jews to obey all tyrants, but only the king of the Assyrians. Therefore if, from a single and particular command, you should be inclined to collect the form of a general law, you cannot be ignorant, in the first place, as logic has taught you better, of what an absurdity you will be guilty; and that you will, in the next place, be in danger of an attack, with similar arms, from the enemies of tyranny. For you must either show in what the singularity of this instance consists, that you offer it as a fit object of imitation to all men on all occasions; or, if that should be impossible, you must acknowledge that, among all the special commands of God, whatever is ordered in the case of any single individual, extends to all mankind. If you once admit this inference, and admit it you must, it will be directly objected, that by God’s order also Ahab was slain, and that a reward was both promised and paid by divine command to his murderer. Therefore, when you take refuge under the shelter of the obedience supposed to be due to all tyrants, because God, by his prophet, commanded his own people to obey a single tyrant, your ears will immediately ring with an opposite cant, that all tyrants ought to be slain by their own subjects, because Ahab was, by divine command, murdered by the general of his own forces. Therefore I advise you either to provide from Scripture some stronger bulwark for your tyrants, or to set it aside for the present, and to return to the schools of philosophers.

M.—That hint I shall certainly take into consideration. But, in the meantime, let us return to the point from which we di-
gressed, and examine where the Scripture grants us a licence to murder princes with impunity.

B.—My first argument is, that, as there is in Holy Writ, an express command for the extirpation of crimes and criminals, without any exception of degree or rank, there is nowhere any peculiar privilege granted, in that respect, to tyrants, more than to private persons; and my next is, that the definition of powers furnished by Paul does not, in the least, refer to tyrants; as they accommodate the whole plan of their government, not to the utility of the people, but to the gratification of their own lusts. Besides, you must note, with particular attention, of what vast consequence Paul has made bishops, bestowing upon their office the highest encomiums, and making them, in the opposite scale of comparison, correspond, in some measure, to kings, at least as far as the nature of their respective functions will admit. For the former are physicians for internal, and the latter for external maladies; and yet he has not directed that the one class should be free and loose from the other’s jurisdiction; but that, as bishops are, in the exercise of the common duties of civil life, subject to kings, so kings also should obey the spiritual admonitions of bishops. Now these bishops, though exalted to such a height of majesty and grandeur, are not exempted by any law, human or divine, from punishment for their crimes. And, without mentioning others, the Pope himself, who is in some measure deemed a bishop of bishops, and who rises so far above the eminence of all kings, that he would be reckoned a kind of god among mortals, is not even, by his own friends, the canonists, the class of men most devoted to his will, exempted from legal punishment. For judging it absurd for a god, a name which they do not hesitate to give him, to be subject to human animadversion, and thinking it unjust that the greatest crimes, and most flagitious enormities, should remain unpunished, they devised a method by which both the crimes might be punished, and the Pope be still held sacred and inviolable. For they declared the right of the Pope to be one thing, and the right of the person who should be Pope, another; and, while they exempt the Pope, whom they invest with the attribute of infallibility, from the cognizance of the laws, they still acknowledge the person, who is Pope, to be liable to vices, and punishable for his vices; and to this doctrine they have given their unequivocal sanction, not more by the subtilty of their reasonings, than by the severity of their punishments. It would be tedious to enumerate the pontiffs, or, in their language, the men who bore the character of pontiffs, and were during their lives not only forced to forswear the office, but, even after their death, dug from their tombs and cast into the Tiber. Without recurring to ancient examples, we need only refer to the late instance of Paul IV., whose fate is still fresh in our memories, and against whom his favourite Rome expressed the common hatred by a new kind of decree. For the vengeance from which he had escaped was wreaked upon his relations, upon his statues, and upon his portraits. Nor ought you to imagine that excessive subtilty is couched under this interpretation, by which we separate the person from the power; since it is acknowledged even by philosophy, and approved by the ancient commentators, and it is not unknown to the untutored vulgar, however little accustomed to the refinements of disputation. Mechanics do not consider it as a disgrace to their trade, that either a carpenter or baker is punished for an act of robbery; but rejoice rather that their company is purged from the stain of such infamous malefactors. If any of them should entertain a contrary sentiment, there is, I think, reason to fear that he grieves more at the punishment of men with whom he is connected by a consciousness of guilt, than at the infamy of his company. Indeed, if kings did not form their councils of miscreants and flatterers, and measure their own importance by the gratitude due to their virtues rather than by the impunity of their crimes, they would, in my opinion, not be vexed at the punishment of tyrants, or think that their fate, however grievous, was any diminution of regal dignity; but rather be pleased to see its honour cleared from a stain of so foul a nature, especially since they use to be violently angry, and with great justice, with those who cloak their own misdeeds under the regal name.

M.—And not without reason, assuredly. But I wish that you would quit this topic, and proceed to the other subjects, which you proposed to handle.

B.—What subjects, pray, do you mean?

M.—The periods in which Paul composed his writings, and the persons to whom he addressed them; for I am eager to know
of what advantage the knowledge of these circumstances can be to your argument.

B.—Here, too, you shall be humoured. And first, in treating of the time, let me observe that Paul wrote these passages when the infant church was still in her cradle; a time that made it necessary for her not only to be free from guilt, but also not to afford even an unjust cause of accusation to persons in active search of a handle for calumny; and, in the next place, that he wrote to men collected from various nations, and indeed from the whole extent of the Roman empire, into one blended mass. Among these there were but few distinguished for opulence; hardly any that were, or had been, magistrates; not many that held the rank of citizens, and these mostly lodgers, or even mere freed-men; and the rest almost all mechanics and slaves. Among these, however, there were not wanted men who extended Christian liberty farther than the simplicity of the gospel would admit. Accordingly, this multitude, composed of a promiscuous crowd of plebeians, that, with great labour, gained a scanty livelihood, had not so much reason to be anxious about the form of the government, the majesty of the empire, and the life and duty of kings, as about public tranquillity and domestic repose, and could hardly claim any other blessing but the happiness of being any how sheltered under the shade of the empire. If such men attempted to grasp any part of the public administration, they deserved to be considered not only as foolish, but absolutely insane; and they would deserve it still more, if they issued from their cells, and proved troublesome to the ministers who managed the helm of government. There was a necessity, too, for checking premature luxury, that ill-omened interpreter of Christian liberty. What then did Paul write? No new precepts, certainly, but those common maxims, that subjects should be obedient to the magistrates, servants to their masters, wives to their husbands, and not imagine that the yoke of the Lord, though light, releases us from the ties of morality; but ought rather to make us more conscientious in the observance of them, so that, in all the gradations of duty, we might omit nothing that could help us to conciliate the good will of all men by honest practices. The ultimate consequence would thus be, that the name of God would, to all nations, sound more pleasing, and the glory of the gospel would be more widely diffused. To effect these purposes, there was a necessity for public peace, of which princes and magistrates, though, perhaps, bad men, were the conservators. Do you wish to have this matter set before your eyes in a lively picture? Figure to yourself any of our doctors to be writing to the Christians now living under the Turks; to men, I say, of slender fortune, of humble mind, without arms, few in number, and exposed to every injury from every man; what other advice, I pray, could he give, but the advice of Paul to the church at Rome, and of Jeremiah to the exiles in Assyria? Now, a most conclusive argument, that Paul’s attention was here directed solely to those persons to whom he was then writing, and not to the whole body of the citizens, is, that though he minutely explains the mutual duties of husbands to their wives, of wives to their husbands, of parents to their children, of children to their parents, of masters to their slaves, and of slaves to their masters, he does not, in describing the duty of a magistrate, address, as in the preceding parts, them expressly by name. For what reason then must we suppose that Paul gave no directions to kings and to other magistrates, especially as their passions required much more than those of private persons the coercive restraints of law? What other reason can we imagine, but that, at the time in question, there were neither kings nor other magistrates to whom he could write. Conceive Paul to be living in our times, when not only the people, but the sovereigns adopt the name of Christians. At the same period, let there be a prince, who thinks that not only human, but also divine laws, ought to be subservient to his capricious lusts; who would have not only his decrees, but even his nods, held as laws; who, as Paul says in the gospel, “neither fears God nor revere-nces men;” who, not to say anything worse, squanders the revenues of the church upon parasites and buffoons; who derides the sincere observers of religion, and deems them fools and madmen; what, do you think, would Paul write concerning such a man? If he should wish to be thought consistent, he will declare him unworthy of being reckoned a magistrate; he will put all Christians under an interdict to abstain from all familiarity, all conversation, and all communion with him; his punishment by the civil laws he will leave to the citizens, and
will not think them stepping beyond their duty, when they announce that the man, with whom the divine law will allow them no commerce, can no longer be their king. But the servile herd of courtiers, finding every honourable resource fail, will have the impudence to say, that God, in his wrath, lets tyrants loose upon nations, as public executioners, to wreak their vengeance. Now, though I should acknowledge the truth of this assertion, yet it is equally true, that God generally excites some poor and almost unknown individuals of the lowest vulgar to check the extravagant pride and lawless career of tyrants. For God, as was said before, commands the wicked to be exterminated, and excepts neither rank, nor sex, nor condition, nor even person; since to him kings are not more acceptable than beggars. It may, therefore, be truly affirmed, that God, who is equally the father of all, from whose eye nothing can be hid, and whose power nothing can resist, will leave no crime unpunished. Besides, another parasite may perhaps start up, and ask me to produce, from Holy Writ, an example of a king punished by his subjects; and yet, if no such instance should immediately occur, it will not directly follow that what we do not there read should be held wicked and nefarious. I can enumerate, from the codes of many nations, numerous and most wholesome laws, of which there is not the least trace in the sacred Scriptures. For, as it has been established by the unanimous consent of all men, that what the law commands should be deemed just, and what it forbids, unjust, so we find no human records which forbid us ever to do what is not contained in the law. For such servility has never been recognised; nor will the nature of human affairs, so fruitful in new examples, allow it to be recognised to such a degree, that whatever is not ordained by some law, or evidenced by some illustrious record, should be instantly reckoned wicked and nefarious. Therefore, if any man should require of me to show him, in the books of the sacred volumes, an instance in which the punishment of kings is approved, I shall reciprocally ask where it is disapproved. Indeed, if it should be a rule that nothing ought to be done without a precedent, only a small remnant of our civil constitutions, and even of our laws, will continue standing; for the greatest part of them is founded, not upon ancient precedents, but established in opposition to new and unprecedented encroachments. But now we have given a fuller answer than the case required to the sticklers for precedents. For, though the kings of the Jews should not have been punished by their subjects, it does not greatly affect our reasoning; as they were not originally created by the people, but assigned to them by God. With very good reason, therefore, he who conferred the honour also exacted the punishment. But we contend that the people, from whom our kings derive whatever power they claim, is paramount to our kings; and that the commonalty has the same jurisdiction over them which they have over any individual of the commonalty. The usages of all nations, that live under legal kings, are in our favour; and all states, that obey kings of their own election, in common adopt the opinion that whatever right the people may have granted to an individual, it may, for just reasons, also re-demand. For this is an inalienable privilege which all communities must have always retained. Accordingly, Lentulus, for having conspired with Cataline to overturn the republic, was forced to resign the pretorship; and the decemvirs, the founders of the laws, though invested with supreme magistracy, were degraded; and some Venetian doges, and Chilperic, king of the Franks, after being stripped of every imperial badge, grew old, as private persons, in monasteries; and, not long ago, Christian, king of the Danes, ended his life in prison twenty years after he had been dethroned. Nay, even the dictatorship, which was a species of despotism, was still subordinate to the power of the people. And it has been everywhere an invariable usage, that public favours, improperly bestowed, might be reclaimed; and that even liberty, the favourite object of law, might be taken from ungrateful freed-men. These observations, which, I hope, will be sufficient, I have made, that we may not seem to be the only people who have adopted what is called a new practice towards our kings. Everything, that properly relates to us, might have been despatched in few words.

M.—In what manner? This is an argument which I should be much pleased to hear discussed.

B.—I could enumerate twelve or more of our kings, who, for their villany of flagitiousness, were either condemned to perpetual imprisonment, or escaped the punishment due to their crimes, by exile or by death.
But, that none may allege that I produce antique and obsolete precedents, if I should mention the Calens, Ewens, and Ferchars, I shall go back for a few examples no farther than the memory of our fathers. James III. was, in a public assembly of all the orders, declared to have been justly slain for his extreme cruelty to his relations, and for the enormous turpitude of his life; and in the act there was inserted a clause, providing that those who had projected the conspiracy, or aided by their person or their purse, should never, on that account, be injured or molested.

What they declared, after the event, to have been a just and regular act, they undoubtedly meant to propose as an example to posterity, and that certainly with no less propriety than Quinticus acted, when he delivered, from the tribunal, a panegyric on Servilius Ahala, for having, in the forum, slain Spurius Maelius, who hesitated and refused to plead his cause in a court of law; and gave it as his opinion, that he was not polluted with the blood of a citizen, but enabled by the death of a tyrant, and found his opinion confirmed by the applauding voice of succeeding generations. When he thus approved the assassination of a man who only aimed at tyranny, what do you think he would do to a tyrant, who, upon the goods of his fellow-citizens, practises robbery, and upon their persons the trade of a butcher? What was the conduct of our countrymen? In granting, by a public decree, impunity to a perpetrated deed, they certainly enacted a law including any similar event that might occur in future. For, in the result, it makes no difference whether you pass sentence upon what is past, or enact a statute for what is to come; for in either way you give judgment concerning the nature of the fact, and concerning the punishment or reward of its author.

M.—These arguments, perhaps, will, among our people, be deemed valid; but abroad, among other nations, I know not how they will be relished. You see that I must satisfy them, not as in a court of justice, agitating a criminal question, but, before the public eye, a question of reputation, affecting, indeed, not myself, as I am far beyond the reach of suspicion, but my countrymen. For I am afraid that the decrees, by which you think yourself sufficiently justified, will be blamed by foreign nations more than the deed itself, however pregnant with odium and atrocity. With respect to the precedents which you have produced, you know, if I mistake not, what is usually said by every man according to his particular disposition and discernment. Therefore, since you seemed to me to have derived your explanation of other topics, not so much from the decrees of men, as from the fountains of nature, I wish that you would, in a few words, unfold what you have to say for the equity of that law.

B.—Though to plead in a foreign court, in defence of a law adopted from the first origin of the Scottish monarchy, justified by the experience of so many ages, necessary to the people, neither severe nor dishonourable to their kings, and not till now accused of inconsistency with natural law, may seem unreasonable; yet, on your account, I shall make the trial. And, as if I were arguing with the very persons who may be disposed to give you trouble, first I ask, What is it that you find here worthy of censure? Is it the cause which gave rise to the law, or the law itself? The cause was a desire to restrain the unbridled passions of kings; and he who condemns this purpose must condemn all the laws of all nations, as they were all enacted for the same reason. Is it the law itself that you censure, and do you think it reasonable that kings should be freed from every restraint of law? Let us also examine whether such a plan is expedient. To prove that it cannot be expedient for the people, we need not waste many words. For if, in the preceding part of our conversation, we were right in comparing a king to a physician, it is evident that, as it was there proved not to be expedient for the people that a physician should be allowed to kill any man at pleasure, so it cannot be advantageous to the public to grant to a king a license to commit promiscuous havoc among the whole community. With the people, therefore, who possess the sovereign power in making the law, we ought not to be angry, if, as they wish to be governed by a good king, they should also wish that a king, who is not the very best of men, should be governed by the law. Now, if this law be not advantageous to the king, let us see whether he ought to propose to the people to relinquish some part of their right, and let us appoint the meeting of parliament for the consideration of its repeal, not at the third market, but, according to our custom, on the fortieth day. In the meantime, in order to discuss here between ourselves the
propriety of the measure, allow me to ask you, Whether you think that he, who releases a man in a state of insanity from a strait-waistcoat, consults the true interest of the insane person?

M.—By no means.

B.—What do you say of him, who, at his constant request, gives to a man, labouring under such a paroxysm of fever as not to be far from insanity, cold water? Do you conceive him to deserve well of his patient?

M.—But I speak of kings in their sound senses; and deny that men in full health have any occasion for medicines, or kings, in their sound senses, for laws. But you would have all kings be thought bad, for upon all you impose laws.

B.—Not all bad, by any means; but neither do I look upon the whole people as bad; and yet the law addresses the whole with one voice. That voice the bad dread, and the good, being not concerned, hear at their ease. Thus neither good kings have any reason for feeling indignant at this law; nor would bad kings, if they had wisdom, fail to return thanks to the legislator for ordaining that which he conceived likely to be in the event prejudicial, should in the act be illegal. If ever they recover a sound state of mind, they will certainly come to this resolution, like persons relieved from distemper, and expressing their gratitude to the physician whom they hated for not gratifying the calls of their sickly appetites. But, if they should continue in their state of insanity, he who humours them most should be deemed most their enemy. In this class we must rank flatterers, who, by cherishing their vices with blandishments, exasperate their disease, and generally fall headlong at last in one common ruin with their kings.

M.—Certainly I cannot deny that such princes deserved, and still deserve, to be fettered by laws; for no monster is more outrageous, or more pernicious than man, when, as in the fables of the poets, he has once degenerated into a brute.

B.—On this assertion you would insist still more if you had remarked what a complicated animal man is, and of what various monsters he is composed. This truth the ancient poets discerned with great acuteness, and expressed with no less elegance, when they record that, in the formation of man, Prometheus borrowed from the several animals certain particles with which he constituted his mingled frame. To recount the natures of all separately would be endless; but, undoubtedly, there appear evidently in man two abominable monsters, anger and lust. And what else is the effect, or the object of laws, but to render these monsters obedient to reason, and to coerce them, while not obedient, by the power of their mandates. He, therefore, who releases either a king, or any other man, from the shackles of law, releases not only a single man, but sets loose against reason two of the most cruel monsters, and arms them for breaking through the barriers of order; so that truth and rectitude seem to have guided the tongue of Aristotle, when he said that “He who obeys the laws, obeys God and the law; and that he who obeys man, obeys man and a wild beast.”

M.—Though these doctrines seem to be expressed with much neatness and elegance, yet I think that we have fallen into a double error; first, because our last inferences do not seem to be perfectly correspondent to the premises; and next, because, though we should, in other respects, be found consistent, yet we have not, in my opinion, made any considerable progress towards the end of our investigation. In the preceding part, we agreed that the voice of the king and of the law should be the law; but here we have made it dependent on the law. Now, though we should grant all this reasoning to be ever so just, what great advantage do we derive from the concession? Who will call a king that has become a tyrant to an account? For I fear that justice, unsupported by physical strength, will not, of itself, be sufficiently powerful to coerce a king that has forgotten his duty, or to drag him by violence to plead his cause.

B.—I suspect that you have not sufficiently considered the conclusions founded on our preceding debate about the regal power. For, if you had sufficiently considered them, you would have easily seen that the observations which you have just advanced are not in the least repugnant. That you may the more readily comprehend my meaning, first give me an answer to this question: “When a magistrate or secretary, puts words into the mouth of the public crier, is not the voice of both the same; the voice, I mean, of the crier and of the secretary?”

M.—The same entirely.

B.—Which of the two appears to you to be the superior?
M.—He that dictates the words.
B.—What do you think of the king, the author of the edict?
M.—That he is greater than either.
B.—According to this representation, then, let us compare the king, the law, and the people. Hence we shall find the voice of the king and of the law to be the same. But whence is their authority derived? The king’s from the law or the law’s from the king?
M.—The king’s from the law.
B.—How do you come at that conclusion?
M.—By considering that a king is not intended for restraining the law, but the law for restraining the king; and it is from the law that a king derives his quality of royalty; since without it he would be a tyrant.
B.—The law then is paramount to the king, and serves to direct and moderate his passions and actions.
M.—That is a concession already made.
B.—Is not then the voice of the people and of the law the same?
M.—The same.
B.—Which is the more powerful, the people or the law?
M.—The whole people, I imagine.
B.—Why do you entertain that idea?
M.—Because the people is the parent, or at least the author of the law, and has the power of its enactment or repeal at pleasure.
B.—Since the people, then, is more powerful than the king, let us see whether it is not before the people that he must be called to account. And here let us inquire, whether what has been instituted for the sake of another is not of less value than the object of its institution.
M.—That proposition I wish to hear more distinctly explained.
B.—Attend to the following line of argument.—Is not the bridle made for the horse?
M.—For the horse undoubtedly.
B.—What do you say of the saddle, the harness and spurs?
M.—That they were intended for the same purpose.
B.—Therefore, if there was no horse, they would be of no use?
M.—Of none.
B.—A horse then takes the lead of them all?
M.—Certainly.
B.—What do you think of the horse? For what use is he so much in request?
M.—For many; and particularly for gaining victory in war.
B.—Victory then we value more than horses, arms, and other preparatory instruments of war.
M.—Much more, indisputably.
B.—In the creation of a king, what had men principally in view?
M.—The interest of the people, I believe.
B.—Therefore, if there were no society of men, there would be no occasion for kings.
M.—None at all.
B.—The people, therefore, take the lead of the king.
M.—The conclusion is unavoidable.
B.—If the people take the lead, they are entitled to the superiority. Hence, when the king is called before the tribunal of the people, an inferior is summoned to appear before a superior.
M.—But when can we hope for the felicity of seeing the whole people unanimously agree to what is right?
B.—That is indeed a blessing, of which we can scarcely have any hope, and of which we need not certainly wait in expectation; since, otherwise, no law could be passed, nor magistrate created. For there is hardly any law so equitable to all, or any man so much in possession of popular favour, as not to be somewhere the object either of enmity, or of envy, or of detraction. The only question is, whether the law is advantageous to the majority, and whether the majority has a good opinion of the candidate? Therefore, if the people can ordain a law, and create a magistrate, what hinders it to pass sentence upon him, and to appoint judges for his trial? Or, if the tribunes of the people at Rome, or the Ephori at Sparta, were appointed to mitigate the rigour of kingly government, why should any man think it iniquitous, in a free people, to adopt in a similar, or even a different manner, prospective remedies for checking the enormities of tyranny?
M.—Here, I think, I nearly see how far the power of the people extends; but what its will may be, what laws it may pass, it is difficult to judge. For the majority is commonly attached to ancient usages, and abhors novelty; a circumstance the more surprising, that its inconstancy in food, raiment, building, and every species of furniture, is notorious.
B.—Do not imagine that I have made these remarks, because I wish here to introduce any novelty. No; my sole object was to show that it was an ancient practice to
make kings plead their cause before a court of justice; a thing which you conceived to be not only a novelty, but almost an incredibility. For, without mentioning the numerous instances of it among our forefathers, as we have before observed, and as you may yourself easily learn from history, have you never heard that candidates for the crown referred their dispute to arbitrators?

M.—That such a mode of decision was adopted once by the Persians, I have certainly heard.

B.—Our historians record, that our Gruine, and our Malcolm II., followed the same plan. But, that you may not allege that it is not by their own consent that the litigants submit to this kind of arbitrators, let us come to the ordinary judges.

M.—Hear I fear that you will be reduced to the same dilemma with those who should spread a net in the ocean to catch whales.

B.—How so?

M.—Because arrest, coercion, and animadversion, must always descend from the superior to the inferior. Now, before what judges will you order the king to appear? Before those on whom he is invested with supreme power to pass sentence, and whose proceedings he is empowered to quash by a mere prohibition?

B.—But what will you say, were we able to discover a superior power that has the same claim of jurisdiction over kings, that kings have over others?

M.—That topic I wish to hear argued.

B.—This very jurisdiction, if you recollect, we found to be vested in the people.

M.—In the whole people, I own, or in the greater part. Nay, I grant you still more, that it is vested in those to whom the people, or a majority, may have transferred that power.

B.—You are obliging in relieving me from that labour.

M.—But you are not ignorant that the greater part of the people is, either through fear or rewards, or from the hope of bribes, or of impunity, so corrupt as to prefer their own interests or pleasures to the public utility, and even to personal safety. Besides, those who are not influenced by these considerations are not very many; for

"The good are rare, and can in numbers scarce pretend.
With Nile in mouths, or Thebes in portals, to contend."

All the remaining dregs of the sink, those that are fattened with blood and slaughter, envy other men's liberty, and sell their own. But, forbearing to mention persons to whom the very name even of bad kings is sacred, I omit also those, who, though not ignorant of the extent of law and equity, still prefer peaceable sloth to honourable danger, and, in suspense of mind, adapt all their schemes to their expectations of the event, or follow the fortune, not the cause of the parties. How numerous this class of people is likely to be cannot escape your notice.

B.—Numerous, undoubtedly, they will be; but not the most numerous class. For the injuries of tyrants extend to multitudes, and their favours but to few. For the desires of the vulgar are insatiable, and, like fires, require a constant supply of fresh fuel; for what is forcibly extorted from multitude, supports a few in a starving condition, in stead of satisfying their hunger. Besides, the attachment of such men is variable,—

"And still with fortune's smiles both stands and falls."

But, if they were ever so consistent in their plan of politics, yet they do not deserve to be ranked among citizens; for they infringe, or rather betray, the rights of human society; a vice, which, if intolerable in a king, is much more so in a private individual. Who then are to be reckoned citizens? Those who obey the laws and uphold the social compact, who choose rather to undergo all labours and all dangers for the common safety than, dishonourably, to grow old in ease and sloth, who always keep before their eyes, not the enjoyments of the present hour, but the need of eternal fame among posterity. Hence, if any persons should be deterred from incurring danger through fear or regard to their property, yet still the splendour of a glorious action, and the beauty of virtue, will rouse desponding minds; and those who will not have the courage to be the original authors or leading actors will not refuse to be companions. Therefore, if citizens be estimated, not by their number, but by their worth, not only the better, but also the greater part will take their stand in the ranks of liberty, of honour, and of national defence. For that reason, if the whole body of the populace should be of a different sentiment, it cannot in the least affect the present argument; because the question is not what is likely to happen, but
what may be legally done. But now let us come to the ordinary judges.

M.—Of that discussion I have been long in expectation.

B.—If a private person should urge that the king, in violation of all equity, keeps possession of the whole, or any part of his landed estate, how do you think this person is to act? Shall he resign his land, because he cannot appoint a person to sit in judgment on the king?

M.—By no means. But he will call not upon the king, but upon his attorney to appear in court.

B.—Now mark the force and tendency of the subterfuge which you use. For it makes no difference to me, whether the king shall appear, or his attorney; since, either way, the litigation must proceed at the risk of the king, and the loss or gain from the issue of the suit will be his, and not his attorney's. In a word, he is himself the culprit, or the person whose interest is in dispute. Now, I wish that you would consider, not only how absurd, but also how iniquitous it is to permit a suit to be commenced against a king for a paltry piece of land, for a skylight or for a gutter, and to refuse all justice in a case of parricide, empoisonment, or murder; in small matters to use the utmost severity of law, and on the commission of the most flagitious crimes to allow every license and impunity, so as to make the old saying appear an absolute truth, "that the laws are, mere cobwebs, which entangle flies, and leave a free passage to large insects." Nor is there any justice in the complaint and indignation of those who say that it is neither decent nor equitable that a man of an inferior order should pass sentence upon a king, since it is a known and received practice in a question of money or land, and the most elevated persons after the king generally plead their cause before judges, that are neither in riches, nor in nobility, nor in merit, their equals, nor indeed much superior in eminence to the vulgar, and are much farther below the defendants in the scale of citizenship than men of the highest rank are below kings. And yet kings and men of the first quality think this circumstance no degradation from their dignity. Indeed, if we should once acknowledge it as a received maxim that the judge must always be, in every respect, superior to the defendant, the poor must wait in patient expectation till the king has either inclination or leisure to enquire into any charge of injustice preferred against a noble culprit. Besides, their complaint is not only unjust, but false; for none that comes before a judge comes before an inferior; especially as God himself honours the tribe of judges so far as to call them, not only kings, but even gods, and thus to communicate to them, as far as the thing is possible, his own dignity. Accordingly, the popes of Rome, who graciously indulged kings with leave to kiss their toes, who, on their approach, sent their own mules to meet them, as a mark of honour, who trod upon the necks of emperors, were all obedience when summoned into a court of justice; and, when ordered by their judges, resigned the pontifical office. John the Twenty-Second having, after his flight, been dragged back in chains, and released at last, with difficulty, for money, prostrated himself before another that was substituted in his place, and by that prostration sanctioned the decree of his judges. What was the conduct of the synod of Bâle? Did it not, by the common consent of all the elders, determine and ordain that the Pope is subject to a council of priests? By what means those fathers were persuaded to come to this resolution you may learn from the acts of the councils. I know not, then, how kings, who allow the majesty of the popes to exceed theirs so much in eminence as to overshadow them all with the height of its exaltation, can think it any diminution of their dignity to stand in that place to which a pope, who sat upon a much higher throne, thought it no indignity to descend; namely, to plead his cause before a council of cardinals. Why should I mention the falsehood chargeable upon the complaint of those who express indignation at seeing kings summoned before the tribunal of an inferior? For he that condemns or acquits in judicial questions is not a Titius, or a Sempronius, or a Stichus, but the law itself; to which obedience in kings is declared to be honourable by two illustrious emperors, Theodosius and Valentinian. Their very words, as they richly deserve to be remembered in every age, I shall here quote:—"It is an expression," say they, "worthy of the sovereign's majesty, to confess that the prince is bound by the laws. And, in reality, the imperial dignity is exalted by subjecting the prince's power to the laws; and that we announce, by the oracle of the present edict, which
specifies what license we do not allow to another.” These sentiments were sanctioned by the best of princes, and cannot but be obvious to the worst. For Nero, when dressed like a musical performer, is said to have been observant, not only of their motions and gesture, but also to have, at the trial of skill, stood suspended between hope and fear, in anxiety for victory; for, though he knew that he should be declared victorious, yet he thought the victory would be more honourable, if he obtained it, not from courtly adulation, but by a regular contest; and he imagined that the observation of its rules tended not to the diminution of his authority, but to the splendour of his victory.

M.—Your language, I see, is not so extravagant as I first had thought, when you wished to subject kings to the laws; for it is founded, not so much upon the authority of philosophers, as of kings, and emperors, and ecclesiastical councils. But I do not thoroughly comprehend what you mean by saying that, in this case, the judge is not the man, but the law.

B.—Refresh your memory a little with a review of our former deductions. Did we not say that the voice of the king and of the law was the same?

M.—We did.

B.—What is the voice of the secretary and of the crier when the law is proclaimed?

M.—The same.

B.—What is that of the judge when he grounds his decisions on the law?

M.—The same.

B.—But whence is their authority derived,—the judge’s from the law, or the law’s from the judge?

M.—The judge’s from the law.

B.—The efficacy of the sentence then arises from the law, and the pronunciation of the words only from the judge?

M.—So it seems.

B.—Nay, what can be more certain, since the sentence of a judge, if conformable to law, is valid; and, if otherwise, is null?

M.—Nothing can be more true.

B.—You see, then, that the judge derives his authority from the law, and not the law from the judge.

M.—I do.

B.—Nor does the humble condition of the publisher impair the dignity of the law; but its dignity, whether it be published by a king, or by a judge, or by a crier, is always the same?

M.—Completely so.

B.—The law, therefore, when once ordained, is first the voice of the king, and next of others.

M.—It is so.

B.—A king, therefore, when condemned by a judge, seems to be condemned by the law.

M.—Clearly.

B.—If he is condemned by the law, he is condemned by his own voice; since the voice of the law and of the king is the same.

M.—By his own voice it should seem, as much as if he were convicted by letters written with his own hand.

B.—Why then should we be so much puzzled by scruples about the judge, when we have the king’s own confession, that is, the law, in our possession? Nay, let us also examine an idea that has just come into my head, whether a king, when he sits as judge in a cause, ought not to divest himself of every character,—of a brother’s, a father’s, a relation’s, a friend’s, and an enemy’s, and to consider only his function as a judge?

M.—He ought.

B.—And to attend solely to that character which is peculiarly adapted to the cause?

M.—I wish that you would here speak with more perspicuity.

B.—Attend then,—When any man clandestinely seizes another’s property, what name do we give to the deed?

M.—We call it theft.

B.—And by what appellation do we qualify the actor?

M.—By the appellation of thief.

B.—What do we say of him who uses another man’s wife as his own?

M.—That he commits adultery.

B.—What do we call him?

M.—An adulterer.

B.—How do we denominate him who sits to judge?

M.—We style him judge.

B.—In the same manner, also, names may be given to others from the actions in which they are employed.

M.—They may.

B.—A king, therefore, in administering justice, ought to divest himself of every character but a judge’s.

M. He certainly ought, and particularly of every character that can, in his judicial capacity, be prejudicial to either of the litigants.

B.—What do you say of him who is the
subject of the judicial inquiry? What name shall we give him from the legal action?

M.—We may call him culprit.

B.—And is it not reasonable that he should lay aside every character likely to impede the legal course of justice?

M.—If he should stand in any other predicament but a culprit's, it is certainly nothing to the judge; since in a judicial question, God orders no respect to be paid even to the poor.

B.—Therefore, if any man, who is both a painter and a grammarian, should be engaged in a law-suit about painting with another who is a painter but no grammarian, ought he, in this case, to derive any advantage from his skill in grammar?

M.—None.

B.—Nor from his skill in painting, if he should be contending for superiority in grammar?

M.—Just as little.

B.—In a judicial trial, therefore, the judge will recognise only one name; to wit, that of the crime, of which the plaintiff accuses the defendant.

M.—One only.

B.—Therefore, if the king be accused of parricide, is the name of king of any consequence to the judge?

M.—Of none; for the controversy hinges, not upon royalty, but upon parricide.

B.—What do you say, if two parricides should be summoned before a court of justice, the one a king and the other a beggar? Ought not the judge to observe the same rule in taking cognizance of both?

M.—The same, undoubtedly; and here Lucan seems to me to have spoken with no less truth than elegance, when he says,

"Caesar, my captain on the German plains,
Is here my mate.—Guilt equals whom is stains."

B.—With truth, certainly. Sentence, therefore, is here to be pronounced, not upon a king and a pauper, but upon parricides. For the sentence would then concern a king, if the question were, which of two persons ought to be a king? or if it were inquired, whether Hiero be a king or a tyrant? or if the controversy were about anything else belonging properly to the office of king, as a painter becomes the subject of judicial disquisition, when the question is, whether he knows the art of paining?

M.—What is to be the result, if the king should refuse, of his own accord, and cannot be dragged by force, to appear in a court of justice?

B.—Here he stands in the same predicament with all malefactors; for no robber or murderer will spontaneously submit to justice. But you know, I presume, the extent of the law, and that it allows a thief in the night to be killed any how, and a thief in the day to be killed if he uses a weapon in his defence. If nothing but force can drag him before a court of judicature, you collect what then is the usual practice. For robbers, too powerful to be reduced to order by the regular course of law, we master by war and arms. And there are hardly any other pretexes for any war between nations, between kings and their subjects, but injuries, which, being incapable of a legal decision, are decided by the sword.

M.—Against open enemies, indeed, these are usually the causes of waging war; but we must observe a different process with kings, whom we are, by the pledge of a most solemn oath, bound to obey.

B.—Bound, indeed, we are; but, on the other hand, they were the first to promise that they would administer justice with equity and benevolence.

M.—Such is the fact.

B.—A mutual compact then subsists between a king and his subjects?

M.—So it should appear.

B.—Does not he then, who deviates from conventions, and acts in opposition to compacts, dissolve those compacts and conventions?

M.—He does.

B.—Upon the dissolution then of the tie which connected the king with his people, whatever right belonged by agreement to him who dissolves the compact, is, I presume, forfeited?

M.—It is.

B.—He also, with whom the agreement was made, becomes as free as he was before the stipulation.

M.—He clearly enjoys the same right and the same liberty.

B.—If a king be guilty of acts tending to the dissolution of that society, for the preservation of which he was created, what do we call him?

M.—A tyrant, I suppose.

B.—But a tyrant is so far from being entitled to any just authority over a people, that he is the people's open enemy.

M.—Their open enemy, undoubtedly.
THE RIGHTS OF THE CROWN IN SCOTLAND.

281

B.—Grievous and intolerable injuries render a war with an open enemy just and necessary.
M.—Undeniably just.
B.—What do you call a war undertaken against the public enemy of all mankind,—a tyrant?
M.—The justest of all wars.
B.—But when war is, for a just cause, once proclaimed against an open enemy, not only the whole people, but also each individual, has a right to kill that enemy.
M.—I own it.
B.—What say you of a tyrant, that public enemy, with whom all good men are perpetually at war,—Have not all the individuals of the whole mass of mankind, indiscriminately, a right to exercise upon him all the severities of war?
M.—I see that almost all nations entertained that opinion. For even her husband's death is generally applauded in Thebe, his brother's in Timoleon, and his son's in Cassius. Fulvius too is praised for killing his son, as he was on his way to Cataline; and Brutus for condemning his sons and relations to the gallows, when he learned their plan to restore the tyrants. Nay, many states of Greece voted public rewards and honours to tyrannicides; so much did they think, as was before observed, that with tyrants every tie of humanity is dissolved. But why do I collect the assent of single persons or states, when I can produce the testimony of almost all the world? For who does not severely censure Domitius Corbulo for having so far neglected the interest of the human race, as not have hurled, when the deed was easy, Nero from his throne? Nor was he censured only by the Romans, but even by Tiridates, king of the Persians, who feared nothing less than that the contagion of the example should eventually reach his own person. The minds even of the worst men, who have become savage through acts of cruelty, are not so totally divested of this public hatred to tyranny, that it does not, on some occasions, burst forth involuntarily, and reduce them, by the contemplation of truth and honour, to a state of torpor and stupefaction. When, upon the assassination of that cruel tyrant Caius Caligula, his ministers, who were no less cruel, tumultuously insisted upon the punishment of the assassins, vociferating occasionally, "Who had killed the Emperor?" Valerius Asiaticus, a man of consular distinction, exclaimed from a conspicuous place, whence he might be heard and seen, "I wish that I had killed him." At this expression, these men, who were destitute of almost all humanity, forbore, as if thunderstruck, all riotous tumult. For so great is the power of virtue, that, when its picture, however imperfectly sketched, is presented to the mind, its most impetuous ebullitions subside; the violence of its fury languishes; and madness, in spite of all resistance, acknowledges the empire of reason. Nor do those who now move heaven and earth with their clamours, harbour other sentiments. The truth of this observation may be evinced even by this consideration, that, though they censure the late events, the same, or similar transactions, and even of a more atrocious nature, when quoted from ancient history, receive their approbation and applause, and, by that circumstance, demonstrate that they are more swayed by private affections than by public injuries. But why should we look for surer witness of what tyrants deserve than their own conscience? Hence springs their perpetual fear of all, and particularly of good men; and, hence, they behold the sword, which they keep always drawn for others, constantly hanging over their own necks; and, by their own hatred to others, measure the attachment of others to themselves. But good men, on the other hand, reversing this order, and fearing nothing, frequently incur danger by estimating the benevolent disposition of mankind, not by its vicious nature, but by their own meritorious conduct.

B.—You are, then, of opinion, that tyrants ought to be ranked among the most ferocious beasts, and that tyrannic violence is more against nature than poverty, than disease, than death, and every other evil that the decrees of nature have entailed upon mankind?
M.—Truly, when I estimate within myself the weights of different arguments, I cannot deny the truth of these positions; but, when I reflect on the dangers and inconveniences which attend this opinion, my mind, as if checked at once with a bridle, falls somehow in mettle, and, bending towards utility from the excessive rectitude of stoical severity, falls almost into a swoon. For, if any one be at liberty to kill a tyrant, mark what a wide field you open to the villany of the wicked, to what danger you expose the good, what licence you allow to the
bad, and what disorder you introduce into every department. For who, after killing a good, or at least not the worst king, may not palliate his crime under the specious appearance of virtue? Or, if even a good man should unsuccessfully attempt the assassination of a detestable prince, or successfully execute the intended deed, what great confusion must necessarily ensue in every quarter! While the bad tumultuously express their indignation at the loss of a leader, the good will not all approve of the deed; and even those who approve will not all defend the author against a wicked faction; and the generality will cloak their own sloth under the honourable pretext of peace, and rather calumniate the valour of others than confess their own cowardice. Assuredly, though this recollective attention to private interest, though this mean excuse for deserting the public cause, and this fear of incurring danger, should not entirely break, they undoubtedly weaken the spirits of most men, and cause a preference of tranquillity, though not very certain, to the expectation of uncertain liberty.

B.—If you attend to the antecedent reasons, your present apprehensions will be easily removed. For we remarked that some nations have, by their free suffrages, sanctioned tyrants, whom, for the lenity of their administration, we dignify with regal names. None will, by my advice, offer violence to any of these, or even of those who have by force or fraud become sovereigns, if their government be but tempered by a civic disposition of mind. Such, among the Romans, were Vespasian, Titus, and Pertinax, Alexander among the Greeks, and Hiero at Syracuse; for, though they obtained the imperial power by violence and arms, yet they deserved, by their justice and equity, to be numbered among legitimate kings. Besides, I here explain, under this head, how far our power and duty extend by law, but do not advise the enforcement of either. Of the former, a distinct knowledge and clear explanation are sufficient; of the latter, the plan requires wisdom, the attempt prudence, and the execution valour. Though these preparatives may, in the case of a rash attempt, be aided or frustrated by times, persons, places, and other instruments of action, I shall merit blame for any errors no more than the physician who properly describes the various remedies for diseases, ought to be censured for the folly of another, who administers them at an improper time.

M.—One thing seems still wanted to complete this disquisition, and, if you make that addition, I must acknowledge that your favours have reached their utmost possible limit. What I mean to ask is, whether tyrants ought to be liable to ecclesiastical censures?

B.—Whenever you please, you may see that kind of censure justified in the first epistle of Paul to the Corinthians, where the apostle forbids us to have any convivial or familiar converse with persons notoriously wicked or flagitious. Were this precept observed among Christians, the wicked must either repent or perish with hunger, cold, and nakedness.

M.—That opinion has certainly great weight; but yet I know not whether the people that uses everywhere to pay so much respect to magistrates, will believe that this rule comprehends kings.

B.—The ancient ecclesiastical writers, to a man, certainly understood, in this manner, Paul's expressions. For, even the emperor Theodosius was excluded by Ambrose from the congregation of Christians, and Theodosius obeyed the bishop. Nor, as far as I know, is any bishop's conduct more highly extolled by antiquity, nor any emperor's modesty more loudly applauded. But, as to the main point, what great difference does it make, whether you be expelled from the communion of Christians or be forbid fire and water? For, against those who refuse to obey their orders, all magistrates use, for their most formidable engine, the latter decree, and all ecclesiastics the former. Now, the punishment inflicted by both, for a contempt of their authority, is death; but the one denounces the destruction of the body, and the other the destruction of the whole man. Will not the church, then, which considers much lighter crimes punishable with death, think death justly due to him whom alive it excommunicates from the congregation of the godly, and whom dead it dooms to the company of devils?—For the justice of my country's cause, I think that I have said enough; and if still some foreigners should not be satisfied, I beg that they would consider how injudiciously they treat us. For, as there are in Europe numbers of great and opulent nations, having each its own distinct laws, it is arrogance in them to prescribe to all their own peculiar form
of government. The Swiss live in a republic; the Germans, under the name of empire, enjoy a legitimate monarchy; some states in Germany, indeed, are, I hear, subject to a nobility; the Venetians have a government that is a due mixture of all these forms; and Muscovy is attached to a despotism. We possess a kingdom that is, indeed, small, but that has now for above two thousand years remained free from a foreign yoke. Originally, we created kings limited by laws, just to ourselves and to others. These laws, length of time has proved to be advantageous; as it is by the observance of them, more than by the force of arms, that the kingdom still remains unshaken. What injustice, then, it is to desire that we should either repeal or disregard laws, of which we have, for so many ages, experienced the utility! Or, rather, what impudence it is in men, who can scarcely maintain their own government, to attempt an alteration in the policy of another country? Why should I mention that our institutions are beneficial, not only to ourselves, but also to our neighbours? For what can contribute more to the maintenance of peace with neighbours than moderation in kings? For, in general, it is through the effervescence of their unruly passions that unjust wars are rashly undertaken, wickedly waged, and dishonourably concluded. Besides, what can be more prejudicial to any state than bad laws among its neighbours, as their contagion uses frequently to spread wide? Or why do they molest us alone, when different laws and institutions are used by so many surrounding nations, and the same, entirely, by none? Or why do they now at last molest us, when we do not hazard any novelty, but adhere to our old system; when we are not the only, nor the first people that adopted this practice, and do not now adopt it for the first time? But some are not pleased with our laws; perhaps, also, not with their own. We do not inquire curiously into other men's institutions; and, therefore, they should leave us ours, that have been for so many years experimentally approved. Do we disturb their councils? or do we, in any respect, molest them? But, say they, you are seditious. To this charge I could freely answer, What is that to them? If we are disorderly, it is at our own risk, and to our own loss. Yet I could enumerate not a few seditions, that both commonwealths and monarchies found not prejudicial. But that species of defence I shall not use. I deny that any nation was less seditious; I deny that any was ever in its seditions more temperate. Many contests have occurred concerning the laws, concerning the right to the crown, concerning the administration of the government, but still without danger to the general weal; nor was the conflict, as among nations in general, continued to the ruin of the populace,—nor from hatred to our princes, but from a patriotic zeal and a steady attachment to the laws. How often, in our memory, have large armies stood opposed in battle array, and parted, not only without a wound, but without a fray—without a reproach? How often have private quarrels been quashed by public utility? How often has the report of a public enemy's approach extinguished domestic broils? Nor have our seditions been quieted with more temperance than good fortune; since the party that had justice on its side generally commanded success; and, as our civil disputes were conducted with moderation, they were amicably adjusted on the basis of utility. These are the arguments which occur to me at present; and they seem calculated for checking the loquacity of the malevolent, for refuting the dogmatism of the obstinate, and for satisfying the doubts of the equitable. The right to the crown among other nations I did not think of much consequence to us. Our own practice I have explained in a few words; but yet in more than I intended, or than the subject required; because this was a labour which I undertook on your account only; and, if I have your approbation, I am satisfied.

M.—As far as I am concerned, the satisfaction which you have given is complete; and, if I shall be able to give others the same satisfaction, I shall think myself not only much benefited by your discourse, but relieved from a great deal of trouble.