
The Power of the Lords and Commons in Parliament in point of Judicature briefly discoursed. By H. Scobell. At the Request of a Worthy Member of the House of Commons.

Printed in the Year 1680.

The five popish lords, who were imprisoned in the Tower on account of the supposed plot, were anxious to shelter themselves under any forms of law which might be capable of preserving them, at least until the popular fury should be somewhat abated. Fortunately the jealousy between the houses of parliament gave them unexpected assistance. The lords addressed the king to name a lord high steward to preside in the trials, which the commons judged unnecessary; and another dispute arose between the houses, whether upon these trials, as being a case of blood, the lords spiritual ought to be absent during the whole trial, or only remove before pronouncing sentence. The latter arrangement, which of course gave the bishops a vote in all the proceedings, excepting the definitive judgment, was keenly opposed by the commons. These disputes gave rise to many pamphlets on both sides, and, among others, to this and the subsequent tract.

SIR,

To give you as short an account of your desires as I can, I must crave leave to lay you, as a foundation, the frame or first model of this state.

When, after the period of the Saxon time, Harald had advanced himself into the royal seat, the great men (to whom but lately he was no more than equal either in fortune or power) disdaining this act of arrogancy and ambition, called in William Duke of Normandy, (the most active prince of any in these western parts, and renowned for the victories that he had successfully achieved against the French king, then the most potent monarch in Europe.)

This duke led along with him to this work of glory many of the younger sons of the best families of Normandy, Picardy, and Flanders; who, as volunteers, accompanied the undertaking of this fortunate man.

The usurper being slain, and the crown, by war, gained, to secure certain to his posterity what he had so suddenly gotten, he shared out his purchase, retaining in each county a portion to support the sovereign dignity, which was stiled *Demenia Regni*; (now the ancient demesnes) and assigning to others his adventurers, such proportions as engaged to himself the dependency of their personal service, (such lands only excepted as in free alms were allotted to the church) these were termed *Barones Regis*, or the king's immediate free-holders, for the word *baro* imported then no more.

As the king to these, so these to their followers, subdivided part of their shares into knights-fees, and their tenants were called *Barones Comitis*, or the like; for we find, as in the king's writ, so in theirs, *Baronibus suis al Francois et Anglois*, to their barons, as well French as English; the royal gifts, for the most part, extending to the whole counties or hundreds; an earl being lord of the one, and a baron of the inferior donations to lords of townships or manors.

And as the land, so was also the course of judicature divided, even from the meanest to the highest portion; each several had his court of law, preserving still the custom of our ancestors the Saxons, who, *jura a per Pagos reddebant*, distributed justice throughout each village: And these were termed court-barons, or the freeholders court, (twelve usually in number) who, with the thame, or chief lord, were judges.

The hundred-court was next, where the *hundredus*, or *aldermannus*, (lord of the hundred) with the chief lord of each township within their limits, judged. God's people observed this form; in the public *centureonis et decam judicabant plebem omni tempore*, hundreds and decennaries administering justice to the people at all times.

The county-court, or General Placitum, was the next; this was to supply the defect, or remedy the corruption of the inferior: For *Ubi curiæ dominorum probantur defectisse, partinet ad vice-comitem provinciarum*, where the hundred-court was found defective, matters referred to the lord of the county. The judges here were *Comites et Barones comitatus, qui liberas, in hoc, terras habeant*; earls and barons of the county, that were free-holders in the same.

The last and supream court, and proper to our question, was *generale placitum apud London*, the general council at London; *universalis synodus*, the universal synod, in charters of the conqueror, *caiptalis curiæ*, the capital court, by Glanvil, *Magnum et commune concilium coram rege, et magnatibus suis*; the great and common council before the king and his nobles.

In the rolls of Henry the Third it is not stative, but summoned by proc amation. *Edictur Generale Placitum apud London*; (says the Book of Abingdon) whither *Duces, Principes, Satrapæ, Rectores, et Causidici ex omni parte confluerunt ad istam Curiam*, saith Glanvil, the General Assembly was called at London; whither dukes, princes, peers, rectors, and lawyers, resorted from all quarters: and causes were referred *propter aliquam dubitationem quæ emergit in Comitatu cum Comitatus nescit dijudicare*, upon any question or difficulty which the county-court was not able to solve. Thus did Ethelweld, Bishop of Winchester, transfer his suit against Leostine from the county *ad Generale Placitum*, or the General Assembly: In the time of King Etheldred, Queen Edgine against Goda, from the county appealed to King Etheldred at London, *Congregatis Principibus et Sapientibus Angliæ*, where the princes and wise men of the land were met together. A suit between the Bishops of Winchester and Durham, in the time of Sir Edward, *Coram Episcopis et Principibus Regni in præsentia Regis ventilata et finita*, was handled and determined by the bishops and princes of the realm in the presence of the king. In the tenth year of the Conqueror, *Episcopi, Comites et Barones Regni protestate adversis Provinciis, ad Universalem Synodum, pro causis audiendis et tractandis, convocati*; the bishops, earls and barons of the realm, &c. being assembled at the universal council to hear and determine controversies, (says the Book of Westminster.) And this continued all along in the succeeding king's reign, until toward the end of Henry the Third.

As this great court or council, (consisting of the king and barons) ruled the important affairs of state, and controlled all inferior courts; so were there certain officers, whose transcendant power seemed to be set for the circumscribing the execution of the prince's will; as the steward, constable, and marshal, fixed upon families in fee, for many ages. They (as tribunes of the people, or *Ephori* among the Lacedæmonians) growing by unmanly courage terrible to monarchy, fell at the feet and mercy of the king, when the daring Earl of Leicester was slain at Evesham.

This chance, and the dear experience Henry the Third himself had made at the parliament at Oxford, in the fortieth year of his reign, together with the memory of the many straits his father was driven unto, especially at Rumny-Mead near Stanes, brought this king to begin what his successors fortunately finished, in lessening the strength and power of his great lords. And this was effected by searching into the

regality they had usurped over their peculiar sovereigns, whereby they were found to be (as the Book of St Albans termeth them) *quot Domini, tot Tyranni*, how many lords, so many tyrants; and by weakening that influence and sway which they carried in the parliaments, by commanding the service of many knights, citizens, and burgesses, to the great council.

Now began the frequent sending of writs to the commons; their assent not only used in money, charge, and making laws, (for before, all ordinances passed by the king and peers,) but their consent also in judgments of all qualities whether civil or criminal. In proof whereof I will produce some few succeeding precedents out of record.

When Adamor (that proud prelate of Winchester, the king's half-brother) had agrieved the state by his formidable insolence, he was banished by the joint sentence of the king, the lords, and commons. And this appeareth expressly by the letter sent to Pope Alexander the Fourth, who expostulated a revocation of him from exile, because he was a church-man, and so not subject to any censure: In this the answer is *Si Dominus Rex aut Majores Regni hoc vellent* (meaning his revocation) *Communitas tamen, ipsius ingressum in Angliam jam nullatenus sustineret*; though the king and lords should consent to his revocation, yet would the commons never allow of it. The peers subscribe this answer with their names, and *Pertus de Mountford vice Totius Communitatis*, as speaker or proctor of the commons.

For by that stile Sir John Tiptoft (prolocutor) affirmeth under his arms the deed of entail of the crowns by King Henry the Fourth, in the eighth year of his reign, for all the commons.

The banishment of the two Spencers in the fifteenth of Edward Second, *Prelates, Comites, et Barones, et les autres Peeres de la Terre, et Communes de Royaulme*, the prelates, earls, and barons, and the rest of the peers of the realm, and commons of the land, do give consent and sentence to the revocation and reversement of the former sentence; the lords and commons accord; and so it is expressed in the roll.

In the first of Edward the Third, when Elizabeth, the widow of Sir John de Burgo, complained in parliament, that Hugh Spencer the younger, Robert Boldock, and William Cliffe his instrument, had by *duresse*, forced her to make a writing to the king, whereby she was despoiled of all her inheritance; sentence is given for her in these words; *Pur ceo que avis est al Evesques, Counts, et Barons, et autres Grandes, et a tout Cominalte de la Terre, que le dit script est fait contre Ley et tout manere de Reason, si faist le dit Escript per agard del Parliament dampue alloquens al livre a la dit Elizabeth*, forasmuch as it appeareth unto the bishops, earls, and barons, and all the commonalty of the land, that the said writing was made against all law and reason, it is adjudged by parliament, &c.

In an. 4. Ed. 3. it appeareth by a letter to the pope, that to the sentence given against the Earl of Kent, the commons were parties, as well as the lords and peers; for the king directed their proceedings in these words, *Comitibus Magnatibus, Baronibus, et aliis de Communitate dicti Regni ad Parliamentum illud congregatis injunximus, ut super his discernèrent et judicarent, quod Rationi et Justitie conveniret, habere præ oculis solum Deum, qui eum concordi unanimi sententia tanquam Reum criminis læsæ Majestatis morti adjudicarent ejus sententia, &c.* We have commanded the earls, peers, barons, and others of the commonalty of the said realm assembled in parliament, to determine in this matter according to reason and justice, having only God before their eyes; and by an unanimous consent they have sentenced him to death, as guilty of high treason.

When, in the 50th year of Edward III. the lords had pronounced the sentence against Richard Lions otherwise than the commons agreed, they appealed to the king, and had redress, and the sentence entered to their desires.

When, in the first year of King Richard the Second, William Weston, and John

Jennings, were arraigned in parliament for surrendering certain forts of the king's, the commons were parties to the sentence against them given, as appeareth by a memorandum annexed to that record. In the first of Henry the Fourth, although the commons refer, by protestation, the pronouncing of the sentence of deposition against King Richard the Second unto the Lords, yet are they equally interested in it, as appeareth by the record: For there are made proctors, or commissioners for the whole parliament, one bishop, one abbot, one earl, one baron, and two knights (Gray and Erpingham) for the commons. And to infer that because the lords pronounced the sentence, the point of judgment should be only theirs, were as absurd as to conclude that no authority was vested in any other commissioner of *oyer* and *terminer*, than in the person of that man only that speaketh the sentence.

In the Second of Henry V. the petition of the commons importeth no less than a right they had to act and assent to all things in parliament; and so it is answered by the king. And had not the adjourned roll of the higher house been left to the sole entry of the clerk of the upper house, (who, either out of neglect to observe due form, or on set purpose to obscure the commons right, and to flatter the power of those who he immediately served, omitted them,) there would have been frequent examples of all times to clear this doubt, and to preserve a just interest to the common-wealth. And how conveniently it suits with monarchy to maintain this form, lest others of that well-framed body, knit under one head, should swell too great and monstrous, may be seen with half an eye; it being (in my opinion) at least equally liable to suffer a-fresh under an aristocracy as a democracy.

Sir,

I am

Your most humble servant,
H. S.

Summus Angliæ Seneschallus: or, A Survey of the Lord High-Steward of England, his Office, Dignity, and Jurisdiction; particularly the Manner of Arraigning a Peer indicted of Treason or Felony. In a Letter to the Lords in the Tower, with Resolutions to certain Queries made by their Lordships, relating to trayterous and seditious Practices. Written at their Lordships Request.

Funesta Securis, Regni Securitas.

Printed in the Year 1680.

The five popish lords committed to the Tower on account of the popish plot, were for some time sheltered, as is noticed in the introduction to the last tract, by the difficulty of finding and adjusting a formulary. The lords had addressed the king to nominate a lord high steward to proceed in the trial, but the commons, deeming this formality unnecessary, proposed that a committee of both houses should be appointed "to consider of the most proper ways and methods for proceeding upon impeachment." This occasioned a sharp debate between the houses; "and thus," says Roger North, "the whole session was spent *re infecta*. The scaffolds in West-

minster Hall were prepared and stood useless, or rather a nuisance, many terms, to the shortening the promenade of the lawyers, and severe oppression of the shops." Examen. p. 217.
The author of the following tract, among others, seems to have been willing to clear up the scruples of the house of lords, with what intentions towards the accused peers the motto he has chosen sufficiently indicates.

The Nature of the Office of a Lord High-Steward, &c.

My Lords,

I SHALL not entertain your lordships with any preliminary discourse, but presently let you into the main building. As the royal power and sovereignty of the king of England is a repleat compacted body, and impartible, even so the attributes thereof are (as jurists speak) so indivisible in themselves, naturally and intrinsically inherent in the crown, that they cannot be made away, or so communicated to the subject, as to divest himself of them, to the lessening sovereign majesty; yet by trust, and delegate power, the execution may be transferred to others, to ease him of a troublesome burthen.

Now among those several ministers, or officers of law, that are by his most excellent majesty substituted to ease him of labour, (but not to deprive him of power) the Lord High-Steward of England is one of the first magnitude; the nature of whose office will the better be comprehended by your lordships, if you vouchsafe to consider the particulars following:

1. The etymology of the words, *Steward* and *Seneschallus*.
2. His lordship's stile, and the antiquity of his office.
3. How this great office was formerly holden, and how at this time.
4. The extent of his jurisdiction and power, and the rules he ought to judge by.
5. The order and manner of arraigning a peer of the realm before this great officer.

For the derivation of the words steward and seneschallus, some say that the first is derived from *stewe*, i. e. a place, and *ward*, which signifieth a keeper, warden, or governor. Cok. Litt. 61. a.

Others say that it comes from *steda*, a Saxon word, which signifies a place also, and *ward*, as it were the keeper or governor of that place: 'Tis a word diversely used in this kingdom; in the first acception, 'tis taken for the lord high-steward, out of which magistracy lower offices have their rise; *Seneschal de l'Hostel de Roy*, the steward of the king's most honourable household, anno 24. H. 8. c. 13. whose title was changed to that of great master, anno 32. H. 8. c. 39; but this state was repealed by that of 1 Mar. 2 Parl. c. 4, and the office of the lord steward revived. Lib. 9. Le Countess de Salop's Case, 48 b. Plomd. Com. f. 152.

There is also a steward of the Marshalsea, anno 53. H. 8. c. 12. and likewise a steward of a manor, whom Fleta fully describes. To be short, this word is of so great diversity, that there is no corporation of any account, or house of any honour, through the realm, but it shall have an officer belonging to it of this name. Lib. 2. c. 71.

But I proceed to the word seneschallus.

Seneschal is a French word, the Italians call it *Seniscalco*, dict. a *Schalk*, i. e. *Servus aut Officialis et gresind*, i. e. *Familia*; but here 'tis taken for the high-steward of England. Minshæus.

Some derive it of *sein*, a house or place, and *schale*, an officer; others say *sen* is an ancient word for justice, so that most naturally it signifies *Officiarius Justitiæ*, and this agreeth well with his authority and duty, to proceed *Secundum Leges et consuetudines Angliæ*.

In the next place, I am to consider his lordships stile, which in Latin is *Seneschal-*

lus Angliæ, and his court is intituled, *Placita Coronæ coram Seneschallo Angliæ*; and when he sitteth by force of his office, he sitteth under a cloth of state, and such as direct themselves to him, say, Please your grace, my lord high-steward of England.

Co. 4. Inst. 59.

As to the antiquity of the office, 'tis very ancient, and was before the conquest: For Sir Edward Coke tells us, that he himself hath read an authentical manuscript, intituled, *Authoritas Seneschalli Angliæ*; which, putting an example of his authority, saith, *Sicut accidit Godwino, Comiti Kancie, tempore Regis Edwardi, Antecessoris Wilhelmi Ducis Normandiæ, pro hujusmodi male gestis, et consiliis suis, per Seneschallum Angliæ adjudicatus, et foris fecit Comitum suam*. In the time of William the Conqueror, William Fitz-Eustace was steward of England.

Next come we to consider how this great office was formerly holden, and how at this time.

This magistracy was formerly of inheritance, and belonged to the earldome of Leicester, as appeareth by a record produced by Sir Edward Coke; *Seneschalcia Angliæ pertinet ad Comitum de Leicester, et pertinuit ab antiquo*.

Other records testify, that it belonged to the barony of Hinckley, and my Lord Coke tells us, that in the reign of William Rufus, and Henry I. Hugh Grantsemenel, baron of Hinckley, held that barony by the said office; so that there seems a diversity between these records, but we shall reconcile it thus: Hinckley was parcel of the possessions of the Earl of Leicester, for Robert Bellemont, Earl of Leicester, in the reign of Henry II. married with Petronel, daughter and heir of the said Hugh Grantsemenel, baron of Hinckley, and lord steward of England, and so it continued, till by the forfeiture of Simon Montford it came to King Henry III. who, in the fiftieth year of his reign, created Edmond, his second son, Earl of Leicester, Baron of Hinckley, and High-Steward of England, which continued in his line, until Henry of Bullinbrook, son and heir of John of Gaunt, Duke of Lancaster, who was the last that had any estate of inheritance in the office of the steward of England.

Since the time of Henry of Bullingbrook, this great office was never granted to any subject, but only *hac vice*; and the reason was, for that the power of this officer is so transcendent, that it was not holden fit to be in any subjects hands; for a record saith, *Et sciendum est quod ejus officium est supervidere et regnare sub Rege, et immediate post Regem totum Regnum Angliæ, et omnes Ministros Legum infra idem Regnum, temporibus pacis et guerrarum, &c.* and proceedeth particularly with divers high powers and authorities.

Ephori
Magistratus
quidam Lacedæ-
moniorum oppo-
siti Regibus,
qui inspiciebant
ea quæ ad Re-
pub. pertine-
bant.

It is a place of that transcendency and heighth, that it might in some sort match the Ephori among the Lacedemonians: The custom of our commonwealth hath, upon great consideration and policy, brought it to pass, that this officer is of no great duration, but only for the dispatch of some special business, as the arrainging of some nobleman in case of treason, &c. which once ended, his commission expireth, so that we may describe him thus: *Magistratus est excelsus, qui pro uno die, a Rege ordinatur, cum aliquis ex Proceribus Regni in Judicium vocatur de nova Capitali*.

Now we are to take a prospect of the extent of his lordship's jurisdiction and power, and the rules he ought to judge by.

Although the power and authority of the lord high-steward hath been since the reign of King Henry IV. but *hac vice*, yet is the *hoc vice* limited and appointed; as when a lord of parliament is indicted of treason or felony, then the grant of this office, under the great seal of England, is to a lord of parliament, reciting the indictment, *Nos considerantes quod Justitia est virtus Excellens, et Altissimo complacens, eaque præ omnibus uti volentes, a pro eo quod Officium Seneschalli Angliæ, cujus præsentia pro administratione Justitiæ, et Executione ejusdem in hac parte faciend. Requiritur, ut acceppimus jam valeat, de fidelitate Strenuitate, provida Circumspectione et Industria Vestris plurimum confidentis; Ordinavimus et Constituimus Vos ex hac causa*

et causis Seneschallum Nostrum Angliæ ad Officium illud cum omnibus eidem Officio in hac parte debitis, et pertinentibus hac vice gerend. accipiend. et exercend. Dantes et concedentes vobis tenore præsentium plenam et sufficientem Potestatem et Authoritatem ac Mandatum speciale Indictamentum prædict. &c. so that this great officer is wholly restrained to proceed only upon the recited indictment.

At every coronation he hath a commission under the great seal, *hac vice*, to hear and determine the claims for grand serjeanties, and other honourable services, to be done at the coronation, for the solemnizing thereof, for which purpose he holds his court some convenient time before the coronation.

Cok's Litt. 79.
a. b. 4 Inst. 59.

The first person that was created *hac vice* for solemnizing the coronation of Henry IV. was Thomas, his second son; and, upon the arraignment of Thomas Holland, Earl of Huntingdon, the first that was created Steward of England, *hac vice*, was Edward Earl of Devon.

Lastly, The order and manner of arraigning a peer of the realm before this great officer is to be considered.

As the peers of the realm, who are tryers, are not sworn, so the lord high-steward, being judge, is not sworn likewise, yet ought he to proceed according to his letters-patents, *Secundum Legem et consuetudinem Angliæ*: For all commissions and charters for execution of justice, are *facturi quod ad Justitiam pertinet, secundum Legem et consuetudinem Angliæ*.

Co. Litt. 142.
a. Inst. f. 60.

But admit the commission should be, *Secundum sanas Discretionem vestras*: How then?

I answer, *Discretio est discernere per Legem quid sit Justum*; that is, to discern by the right line of law, and not the warpt measure of private opinion: *Si a Jure discedas, vagus eris, et erunt omnia incerta*: 'tis certain, he that out-runs the law, hastens to his own destruction. Commissions then that authorise proceeding *secundum sanas discretionem*, &c. in sense are *secundum Legem*, &c.

The Earl of Huntingdon was indicted of high treason in London, by a commission before the mayor and justices, for that he, with other persons, agreed to go a mumm (which the French call masquerade) on the night of Epiphany, in which they intended to kill the king, then at Windsor; and after the king granted a commission to the Earl of Derby, reciting, that whereas George Earl of Huntingdon was indicted of high treason, and that he would that right should be done; and, because the office of the steward of England is now void, he grants it to the said Earl of Derby, to do justice to the said Earl of Huntingdon, commanding, by the same commission, all the lords to be attendant upon him; and precept was likewise given by the same to the constable of the Tower to be attendant on him, and to bring the prisoner, viz. the Earl of Huntingdon, before the said Earl of Derby on the day appointed; whereupon the Earl of Derby the same day sat in Westminster-Hall, under a cloth of state by himself, and the Earl of Westmoreland and the other earls and barons sat at a considerable distance, and all the justices and barons of the exchequer sat round a table, and after three *O Yes's* made, and the commission read, the justices delivered the indictment to the lord steward, which was delivered to the clerk of the crown, who read it to the said Earl of Huntingdon, which he confessed. Whereupon Hill, the king's serjeant, prayed judgment, which the lord steward (after he had rehearsed the whole matter) pronounced in this manner: That the Earl of Huntingdon should be taken back to the Tower of London, and from thence be drawn to the gallows, and there hanged, and, being yet alive, cut down, and his intrails drawn out of his body and burnt; and that he should be beheaded and quartered, *Et sic Deus propitiatur Animæ suæ*.

1 H. 4. f. 1. 2.

The justices then said, That if the Earl of Huntingdon had denied the treason, the lord steward should have demanded of every lord in open court, what they thought in

their consciences, beginning with the puisny lord; and if the greater number said *guilty*, then the judgment to be given as above.

I refer your lordships to Cambden's Annals of Queen Elizabeth for the manner of the tryal of Thomas Howard, Duke of Norfolk, before George Talbot, Earl of Shrewsbury, lord high-steward upon that occasion.

Sir Edward Coke describes the manner how a peer is to be tryed in case of treason, &c. before the lord high-steward of England.

He must be indicted before commissioners of oyer and terminer, or in the King's Bench, if the treason or misprision, felony or misprision of felony, be committed in that county where the King's-Bench sit. When he is indicted, then the king, by his commission under the great seal of England, constitutes some peer of the realm to be, *hac vice*, steward of England, who is judge in this case. The commission recites the judgment generally as 'tis found, and power given to the lord steward to receive the indictment, &c, and to proceed *secundum Legem et consuetudinem Angliæ*. A commandment is also given by the same to the peers of the realm to be attendant and obedient unto him, as also to the lieutenant of the Tower, to bring the prisoner before his lordship.

Then a *Certiorari* is awarded out of Chancery, to remove the indictment itself before the lord steward, which may either bear date the same day of the steward's commission, or any day after. The lord steward directs his precept under his seal to the commissioners, to certify the indictment such a day and place: he also makes two other precepts, one to the constable or lieutenant of the Tower, to bring the body of the prisoner before him at such a day and place; as also to a serjeant at arms to summon, *Tot et tales Dominos, Magnates, et Proceres hujus Regni Angliæ prædicti R. Comitibus E. Pares, per quos rei veritas melius sciri poterit, quod ipsi personaliter compareant coram prædicto. Seneschallo apud Westm. tali die et hora ad faciend. ea quæ ex parte Domini Regis forent faciend.*, &c.

In this summons four things are observable:

1. That all these precepts most commonly bear date in one day.
2. That no number of peers are named in the precept, and yet there must be twelve, or above.
3. That the precept is awarded for the return of the peers, before any arraignment or plea pleaded by the prisoner.
4. That the lords are not *de Vicineto*, and therefore the sitting and tryal may be in any county of England.

At the day, the lord high-steward, with six serjeants at arms before him, takes his place under a cloth of state, and then the clerk of the crown delivers to him his commission, who re-delivers it. After three O Yes's by a serjeant at arms, and command given in the name of the lord high-steward of England to keep silence, the commission is read; then the usher delivers to the steward a white rod, who re-delivers the same, which he holds before the lord high-steward. It was delivered, upon the like occasion, to the Earl of Shrewsbury, by garter king at arms.

O Yes being again made, command is given in the name of the high-steward to all justices and commissioners, to certify all indictments and records; which being delivered into court, the clerk of the crown reads the return, and the serjeant at arms is commanded to return his precept, with the names of the earls and barons by him summoned, and the return of that is also read; then are the peers summoned to answer to their names, which are recorded.

When they have taken their places, and the prisoner set to the bar, then the lord high-steward declares unto them the cause of their assembly, and persuades the prisoner to answer without fear, assuring him that he shall be heard with patience, and that justice shall be done to him.

After this the clerk of the crown reads the indictment, and proceeds to the arraignment of the prisoner; and, if he plead Not Guilty, the entry is, *Et de hoc de bono et malo ponit se super pares suos*, &c. After which the lord high-steward gives a charge to the peers, exhorting them to try the prisoner indifferently, according to their evidence, which is opened by the king's learned counsel, who produce their proofs for the king against the prisoner. Some, or all of the judges, are ever attendant upon the lord high-steward, and take their places at the feet of the peers.

After the evidence is given for the king, and the prisoner's defence made, he is withdrawn from the bar under the custody of the lieutenant, whilst the tryers go to some place to consider of their evidence; upon debate of which, if they doubt of any matter, they cannot send to the high-steward to ask the judges any questions of law, but in the hearing of the prisoner, that he may know whether the case be rightly put, for, *de facto jus Oritur*; neither can they send for the judges to know their opinion, but the high steward ought to demand it in court in the presence of the prisoner.

When the lords are agreed they return into court, and the lord high-steward publicly, in open court, beginning with the puisny lord, says unto him, My lord A., is W. V. S. guilty of the treasons whereof he hath been indicted and arraigned, or any of them? And the lord standing up, says, Guilty, or Not Guilty; and so upward of the rest *seriatim*.

The peers having given their verdict in the absence of the prisoner, the prisoner is brought to the bar, whom the lord high-steward acquaints with the verdict of his peers, and gives judgment accordingly, either of condemnation or acquittal.

After the service is performed, and O Yes made for dissolving the commission, the white rod is taken by the lord high-steward in both his hands, and broken in pieces.

Thus have I presented to your lordships a scheme of that solemn order and manner how a peer of the realm is arraigned before the lord high-steward of England. I might amass several presidents of like nature, wherein the ax of death is borne before the prisoner, with the edge from him; and after being found guilty, with the edge to him. I wish your lordships may never know more of this point by a fatal experience.

Now it remains that I give solutions to those queries your lordships were pleased to put concerning tryals, treasons, &c.; by which I wish you may arrive at some reasonable satisfaction.

QUERY I.

How antient this Tryal by Peers may be?

SOLUTION.

Without doubt 'tis cœtaneous with the office of the lord high-steward, and how old that is hath been already shewn. However, I shall present one authority, which proves that trial by the peerage was in use in the reign of William the Conqueror, who, in the beginning of his reign, created William Fitz-Osborne, (Earl of Betrevil in Normandy) Earl of Hereford. His son Roger succeeded him, and was Earl of Hereford, who, under colour of his sister's marriage, near New-Market, in Cambridgeshire, where many of the nobility were assembled, conspired with them to receive the Danes into England, and depose William the Conqueror (who was then in Normandy) from his kingdom of England; to effect which, he with others rose. This treason was revealed by Walter, Earl of Huntingdon, who was one of the conspirators, and son to the great Syward, Earl of Northumberland; for which treason, Roger, Earl of Hereford, was apprehended by Urse Tiptof, then sheriff of Worcestershire, and after tried by his peers, and found guilty of the treason, *per Judicium Parium suorum*. But he ended his days in prison. A. S. W. 1.

QUERY II.

Whether a Peer can wave his Tryal by Peers?

SOLUTION.

3 Inst. 90.

He cannot wave his peers, and put himself upon the tryal of twelve freeholders, for the stat. of Mag. Chart. is, that he must be tryed by his peers; and so it was resolved in the Lord Dacre's case.

26 Hen. 8.

QUERY III.

What Lords shall be tryed by Peers, in Cases of Treason, &c.?

SOLUTION.

Every lord of parliament that hath voice therein, and called thereto by the king's writ, shall not be tryed by peers, but only such as sit *Patrone Nobilitatis*, as dukes, marquisses, earls, viscounts, and barons, and not such as are lords of parliament, by reason of their baronies which they hold in right of the church, as arch-bishops and bishops of this realm; for though they be lords of parliament, yet, upon an impeachment either of treason or felony, they shall not be tryed by the peers of the realm, but by a jury of knights, and other substantial persons upon their oaths; and one reason alledged by some, (how truly let others judge) is, forasmuch as arch-bishops and bishops cannot pass in like cases upon the tryal of any other of the peers, their lordships being prohibited by the common and ecclesiastical laws to be judges of life and death; and this trial ought to be mutual, since the performance of it is upon their honours, without any oath taken.

And here, by the way, your lordships may take notice, how great regard the law hath to the word of a peer, when spoken upon his honour. I need say no more upon this topic, since your lordships, in that excellent poem, *A Paradox against Liberty*, have expressed your thoughts so extremely well.

No temporal lord, but only lords of parliament, shall have this kind of tryal, and therefore the eldest son and heir-apparent of a duke, in the life of his father, though he be called an earl, is excluded; and this was the case of Henry Howard, Earl of Surry, son and heir-apparent of Thomas Duke of Suffolk, in the 38. of Henry VIII. Likewise the son and heir-apparent of an earl, though he be called lord or baron, and all the younger sons of kings are earls by birth, though they have no other creation, yet shall not they be partakers of this, or other privileges, incident to lords of parliament.

Cok. Litt. 16.

b. 3. Inst. f. 30.

2 Inst. f. 48.

Those that are barons of Ireland, or Scotland, committing treason, &c. in England, shall not have their tryal by peers, though they were born in England, for they receive their dignity from a king of their nations.

Co. L. 7. Calvin's Case.

If a duke, or other nobleman of France, Spain, &c. comes into England by the king's safe conduct, in which the king stiles him duke according to his creation, nevertheless in all proceedings in the king's courts he shall not be stiled by his name of dignity, much less a partaker of the privilege of this tryal by peers.

But if the King of England at this day create one of his subjects of Scotland to be viscount within England, or, by ordinary summons under his great seal, call him to the upper house of parliament, and assign him a place and to vote there in his great council, he shall be thereby a peer of this realm, and enjoy all their privileges.

QUERY IV.

What Witnesses are required in Indictments and Tryals of Treason, or Misprision of Treason?

SOLUTION.

By the antient common law, one witness or accuser was not sufficient to convict any person of high-treason; for, in that case, it was to be tried before the constable and marshal by combat, but they have no jurisdiction to hold plea of any thing which may be determined by common law; and that two witnesses are requisite appears by the books of law, and the common law herein is grounded upon the law of God, expressed both in the Old and New Testament, Deut. 17. v. 6., Numb. 35. v. 30., Deut. 19. v. 15., Matth. 18. v. 16., 2 Cor. 13. v. 1.; and this seemeth more clear in the tryal by peers, because they come not *de aliquo Vicineto*, whereby they may take notice of the fact, in respect of vicinity, as other jurors may do. By the state of 1 E. 6. c. 12. none shall be indicted, arraigned, condemned, convicted for any treason, &c. for which the offenders shall suffer pains of death, imprisonment, loss or forfeiture of his goods, chattels, lands, or tenements, unless he be accused by two sufficient and lawful witnesses, or shall willingly, without violence, confess the fact. The same provision is made by 5. E. 6.; wherein I must observe to your lordships, that two lawful accusers, in this act, are taken for two lawful witnesses; for by two lawful accusers, and accused by two lawful witnesses, (as 'tis in 1 E. 6.) are indential: which word (accusers) was used, because two witnesses ought directly to accuse, that is, charge the prisoner, for the common law respects none else; and, therefore, lawful accusers must be such as are allowed by laws.

Mira. cap. 3.
Ordin. de At-
tainment. Brad.
L. 5. f. 351.
48 Ed. 3. 30.
35 H. 6. 46.
Fortescue
c. 32.

And thus it was resolved by the justices in the case of the Lord Lumley; for if they should not be taken, according to the meaning aforesaid, then there must be two accusers, by 5. E. 6. and two witnesses, by 1 E. 6. and the strong conceit in 2 Mar. that one may be an accuser by hear-say, was utterly denied in Lord Lumley's case.

Hill. 14. El.

Dyer f. 99.
W. Thomas
his case.

And here, since your lordships did not make it a query, I shall not so strictly consider it, whether the testimony of a foreigner may be admitted in case of treason. The Duke of Norfolk at his arraignment said, that nothing which was yet produced was of any moment against him, save only the Bishop of Ross his testimony; and that (by opinion of Bracton) was not to be admitted, because he was a foreigner; to which Callin, lord chief justice, answered, that, in such causes as this, the testimony of foreigners is of force, and it lies in the peers to attribute to, or derogate from such testimony as they shall think fit.

Camb. El.
A. 1572.

Where Bracton saith, that an alien born cannot be a witness, it is to be understood of an alien infidel; for the Bishop of Ross being a Scot born, was admitted to be a witness, and sworn 14 El. by opinion of all the justices assistants.

If a person be accused by one witness touching one fact, and by another concerning another fact, the one committed in Middlesex, the other in Surry, he that swears the fact done in London, joined to the other witness that swears to the fact done in Surry, shall be esteemed two sufficient witnesses in case of treason; and so was it ruled by the judges at the Old-Bailey, upon the trial of the five jesuits, (Whitebread, Harcourt, Turner, Fenwick, and Gaven,) according to the resolution in Sir H. Vane's case, at the King's-B. bar, where one witness proved the levying war in one county, and the other proved the levying war in another county, and so though they were but single witnesses of single facts, yet both coming up to the indictment, they were adjudged two sufficient witnesses to maintain it.

QUERY V.

Whether a Nobleman being arraigned, can challenge his Peers?

SOLUTION.

If the party arraigned (says Coke) be a lord of parliament, and a peer of the realm, and is to be tried by his peers, he shall not challenge any of them, for they are not sworn as other jurors be, but find the party guilty, or not guilty, upon their faith, or allegiance, to the king; and there are judges of the fact, and every of them doth separately give his judgment, beginning at the lowest.

Again, he tells us, that the four knights, electors of the grand assize, are not to be challenged; for that in law they be judges to that purpose, and judges cannot be challenged; and that is the reason why noblemen cannot be challenged, for Magna Charta saith, *Per judicium parium suorum*, and not *veredictum*.

When the peers (that were to be tryers at the arraignment of the Earls of Essex and Southampton) were called by name, the Earl of Essex demanded whether it were not lawful for them (as the use is to private men) to except against some of their peers? The judges answered, that such was the credit and estimation of the peers of England, that they are neither compelled to an oath in arraignments, nor subjected to exceptions.

QUERY VI.

Whether the Lord High-Steward can collect the Evidence against the Prisoner, or confer with the Lords touching the same, in the Prisoner's Absence?

SOLUTION.

To this I answer negatively; for after the king's learned counsel have produced all their evidence, the prisoner ought to be present at all the conferences touching the same; and therefore it shall be necessary for all prisoners, after evidence given against them, before departure from the bar, to require justice of the lord high-steward, and of the other lords; and that no question be demanded, or conference had by any with the lords, but in open court in their own hearing, otherwise such prisoners shall take no advantage thereof after verdict and judgment given.

QUERY VII.

If the Lords be equally divided, between Guilty and not Guilty, whether the Party tryed shall be acquitted or condemned?

SOLUTION.

In an information in the court of Star-Chamber by the attorney, against Sir Stephen Proctor and others, for conspiracy against and scandal of the Earl of Northampton and Edward Lord Wootten, two of his majesty's most honourable privy council; at the hearing of which cause there sat eight in court, whereof four condemned the defendants, and the other four (viz.) the lord chancellor, two bishops, and the chancellor of the exchequer, acquitted them; the question was, according as your lordships have proposed it, whether the defendants should be condemned or not: and here it was moved by the king's learned counsel, that when the voices are equal, that in case of which part the lord chancellor was, on that side it should be determined, without regard either to plaintiff or defendant: And it was resolved, that regularly and *de communi jure*, in respect of the equality of voices, that no sentence could be given as it holdeth in the high court of parliament, and all other courts, according to the old rule, *paribus sententiis reus absolvitur*: And sentence was never given against Sir Stephen Proctor, agreeable to the general rule in other courts. In this point the civil law concurs with the common. *Inter pares numero judicis si dissonæ sententiæ proferantur, in*

Cok's Litt.
156. b.

Cok's Litt.
294. a.

Cap. 29.

Camb. Eliz.
A. 1601.

Co. 4. Inst.
c. 64.

liberalibus quidem causis (secundum quod a divo pio constitutum est) pro libertate statutum obtinet, in aliis autem (causis pro reo, quod et in judiciis publicis, obtinere oportet.

Reus sententiis paribus absolvitur, et semper quicquid dubium est, humanitas militat in melius.

Vide Grot.
lib. 2. c. 5.
un. 18. de
Jure Belli,
&c.

Alter judex damnat, alter absolvit, et inter dispares sententias melior vincit.

I shall here take leave to make a little digression from the query, and consider if a person that is forth-coming can by parliament be attainted of high-treason, and never called to answer? This seems as much worth the inquiry as other your lordships queries; and though omitted by you, I shall not let it pass without some notice.

By the 2 of Henry 6, we find a great peer condemned without arraignment, or answer; the like in 32 Henry 8, one attainted (though living and forth-coming) of high treason, without ever being called to judgment: The legality whereof was scrupled, and demanded of the judges, whether the act were void or not? with some pause they adjudged it perillous and of bad example to the inferior courts; but it was agreed, if condemned by parliament, to be indisputable, cap. 29. 5 E. 3. c. 9., 28 E. 3. c. 5. of Magna Charta affirms, that no man ought to be condemned without answer, without a *quid fecisti?* and all due proceedings at law. *Qui statuit aliquid parte inaudita altera, licet æquum statuerit haud æquus fuerit.*

Co. 4. Inst.
f. 37, 38.

With the municipal laws agree those of the Romans.

Divi severi et Antonini Magni rescriptum est, ne quis absens primatur, et hoc jure utimur, ne absentes damnentur, neque enim inaudita causa quenquam damnari æquitatis ratio patitur. It is not the manner of the Romans to deliver any man to death before the accused have his accusers face to face, and license to answer for himself.

Senec. in Loco.

D. 48. 17.

Acts 25. v. 16.

QUERY VIII.

Whether the King, and one of the Houses alone, or both without the King, can declare a Treason within the Stat. of 25 E. 3. cap. 2?

SOLUTION.

John Duke of Groyen and Lancaster, Steward of England, and Thomas Duke of Gloucester, Constable of England, the king's uncles, complained to the king, that Thomas Talbot, knight, with others his adherents, conspired the death of the said dukes, as the same was confessed and well known, and prayed that the parliament might judge of the fault, (which petition was just, and according to the branch of the stat. of 25 E. 3.) but the record saith further, that the king and lords in parliament adjudged the same fact to be high-treason, which judgment, wanting the assent of the commons, was no declaration within the said stat. which is attended with this restriction:—

That if any other case, supposed to be treason, should happen before any justices, the justices should tarry without going to judgment of the treason, till the case be shewed before the king and his parliament, (consisting of lords spiritual and temporal, and the commons,) whether it ought to be adjudged treason or felony.

QUERY IX.

Whether the Subjects of another Prince, confederate with the King of England, can be held for the King's Enemies?

SOLUTION.

It was objected against the D. of Norfolk, concerning his relieving of the Scots, the queen's enemies, which was proved by letters, and Bannister's confession, &c. whereupon the duke asked the judges, whether the subjects of another prince, confederate with the Queen of England, were to be holden for the queen's enemies? Callin, chief

Camb. Eliz.
A. 1572.

justice, answered, that they were, and that the Queen of England might make war with any Duke of France, and yet in the interim keep peace with the French King. And here it is to be noted, that the judges ought not to deliver their opinions before-hand, in any criminal case that may come before them judicially. In the case of Humphrey Stafford, that arch-traytor Hussey, chief justice, besought King Henry VII. that he would not desire to know their opinions before-hand for him, for they thought it should come before them in the King's-Bench judicially, and then they would do that which of right they ought, which the king approved of, besides the nature of their oath requires it, who are sworn that they shall well and lawfully serve our sovereign lord and king and his people, in the office of a justice, and that they shall do equal law and execution of right to all his subjects.

QUERY X.

Whether an Attainder of Treason may be falsified by the Plea of the Party?

SOLUTION.

A. 1. Mar. A commission of oyer and terminer in London, was directed to Sir Thomas White, lord-mayor, and to divers others, reciting, that where Sir Robert Dudley, knight, 9 Jan. 1 Mar. was indicted of high treason before Thomas Duke of Norfolk, and fourteen other commissioners in the county of Norfolk, (where in truth the commission was directed to so many, but the indictment was taken before eight of them only,) granting to them, or any four of them, authority to receive the indictment taken before fifteen commissioners, and to proceed thereupon as special justices of oyer and terminer; by pretext whereof they proceeded, and upon confession of the said Sir Robert Dudley, gave judgment against him.

In this case it was adjudged, that Sir Robert Dudley, then Earl of Leicester, might falsify the said attainder by plea, because it was void, and *coram non judice*; for that the latter commissioners had not power to proceed upon an indictment taken before eight, but before fifteen, and so void. The party is not driven to his writ of error, but may falsify the attainder by plea, shewing the special matter, which proveth it void *ut supra*. In which case the party forfeiteth neither lands nor goods.

It is holden by some, that if a person be attainted of high treason by the common law, that no writ of error should be brought for the reversal of that attainder, by reason of these words in the statute 33 Hen. 8. cap. 20. And if any person or persons shall be attainted of high treason by the course of the common law, &c. "That every such attainder by the common law shall be of as good strength, value, force, and effect, as if it had been done by authority of parliament." But the contrary hereof was resolved at a parliament holden *A. 25 Elizabeth*, that a writ of error should be maintained for the reversal of erroneous attainders of high treason by the common law; for that former stat. is to be intended of lawful attainders, and not where there is any error in the same; for, by that of the queen, it is provided, "That no record of attainder of any person or persons, of or for any high treason, where the party so attainted is or hath been executed for the same, shall be, &c. in any wise hereafter reversed, undone, avoided, or impeached, by any plea, or for any error whatsoever."

QUERY XI.

Whether Torture, in Case of Treason or Felony, may be used by our Law?

SOLUTION.

Sir John Fortescue, Chief Justice of England, who wrote in commendation of our common laws, preferreth the same for government before the civil law; and particularly, that all tortures were against the common law expressly; and he proceeds to

shew the inconveniencies and mischiefs thereof, by fearful examples, to which learned author I refer your lordships.

It is against Magna Charta, which says, *Nullus liber homo capiatur, vel imprisonetur, &c. aut aliquo modo destruatur, nec super eum ibimus nec super eum mittemus nisi per legale iudicium parium suorum vel per legem terræ.* And accordingly all the ancient authors are against the inflicting pains and tortures upon prisoners, before or after attainer, but such as answer the judgment. Cap. 22.
Cap. 29.
Co. 3, Inst.
f. 35.

John Holland, Earl of Huntingdon, was by King H. VI. created Duke of Exeter, and, A. 26. H. VI. the king granted to him the office of the constableness of the Tower of London. He and William de la Poole, Duke of Suffolk, with some others, intended to have brought in the civil laws; and, for a beginning of the same, the Duke of Exeter first brought into the Tower the rack, or brake, allowed in many cases by the civil law, and for that reason it was called the Duke of Exeter's daughter.

QUERY XII.

Whether the King, under the Great Seal, may command all Process in Criminal Causes to cease?

SOLUTION.

We find, says Coke, a discharge of further proceeding, directed to the judges of the court, &c. (not by way of pardoning the offence) but by the king's acknowledgment, under the great seal, of the party's innocence, with commandment to the judges, that in the former proceedings they shall altogether surcease; whereupon the court will award, that the party shall go *sine die*, and that there shall be no further proceedings against him. William de Melton, Archbishop of York, was accused in the King's Bench, *coram rege et concilio suo in anno 3. Ed. III.* for adherency to Edmund Earl of Kent in his treasons, whereunto the archbishop pleaded Not Guilty; and after two writs of *venire facias* awarded, the king directed his writ under the great seal to the judges of the King's-Bench, to this effect:

Licet Venerabilis Pater Willielmus Archiepiscopus Ebor. Stephanus London Episcopus per Diversa Brevia Nostra coram Nobis ad sectam Nostram Implacitentur de eo, quod ipsi Edmundo Comiti Cantie adhesisse debuerant, quia tamen predict. Archiepiscopus et Episcopus de adhesionem predictam omnino Immunes reputamus, Vobis Mandamus quod Placitis predictis coram Nobis ulterius tenend. omnino supersedeatis Teste meipso, &c. The award of the court hereupon is very observable, viz. *Cujus Brevis prætextu, consideratum est, quod predictus Archiepiscopus eat inde sine die, &c. et ulterius non procedatur versus eum.*

Stephen Gravesend, Bishop of London, was charged with the same offence in parliament, A. 3. E. 3. whence, by order of parliament, he was referred to the King's-Bench to be tryed, where he pleaded Not Guilty, and after was discharged, as the archbishop. It may be thought, that accepting the pardon might be an implication of their fault, and therefore it run in a new strain; but no man that is well advised, says the great oracle of the law, will refuse God's, or the king's, pardon; for in the king's displeasure there is death, says the holy writ; and who knows how often he offends, and consequently stands in need of it. But how far this branch of the prerogative may be extended, and what qualifications it may admit, belongs not to a private man to determine. Pasch. 4. E. 3.
Rol. 5. 3.

QUERY XIII.

Whether a Person can be attainted of High Treason by general Words?

SOLUTION.

Where, by due course of law, a man cannot be attainted of high treason, unless the law fore-judge the offence such, he ought not to be attainted by general words by authority of parliament, as sometime hath been used, but the treason ought to be specially expressed, seeing that the court of parliament is the highest and most honourable court of justice, and ought to give example to the inferior, *Magnis Exemplis quam præceptis ducimur.*

QUERY XIV.

Whether a Subject of one Kingdom guilty of Treason, flying into another Kingdom, ought to be remitted to his own Sovereign?

SOLUTION.

It is holden, and so it hath been resolved, that divided kingdoms, under several kings in league one with another, are sanctuaries for servants, or subjects, flying for safety, and upon demand, are not by the laws and liberties of kingdoms to be delivered; and this opinion seems grounded upon the law in Deut. c. 23. v. 15. "Thou shalt not deliver unto his master the servant which escaped from his master unto thee."

When the Lords Paget and Arundel came into France, Sir Edward Stafford, Queen Elizabeth's ambassador there, diligently observed them, yet could by no means discover what they attempted; he desired nevertheless of the French king, that they, with Morgan and other English, who were practising against their prince and country, might be removed out of France: To which he received this answer, "That if they attempted any thing in France, the king would punish them according to law; that all kingdoms were free for fugitives; and that it was the great concernment of kings to maintain every one the privileges of his own kingdom; that Queen Elizabeth had not long since received into her kingdom Montgomery, the Prince of Conde, and others of the French nation; and that Sagury, the King of Navarr's ambassador, was in England at this very time, practising to move new troubles against the French king."

King Henry Eight, in the 28th year of his reign, being in league with the French king, and in enmity with the pope, who was in league likewise with France, and had sent Cardinal Poole, ambassador to the French king, of whom King Henry Eight demanded the said cardinal, being his subject and attainted of treason, and to that end caused a treatise to be published, that it ought to be done *Jure Gentium, sed non prævaluit.*

Ferdinando, King of Spain, upon request made by Henry Seventh, to have Edmond de la Poole, Earl of Suffolk, attainted of high treason, by parliament, A. 19. Henry Seventh, at first intending to observe the privilege and liberty of kings, in protecting such as came to him for succour and protection, delivered him not; yet in the end, upon the earnest request of the king, and his promise not to put him to death, he caused the said earl to be delivered up to the king, who kept him in prison, and construing his promise to be but personal, commanded his son Henry after his death to execute him; which he caused to be done in the fifth year of his reign.

I shall add one more example of a remission out of Zauch. *Cum quidam Stywardus Scotus, qui Mariam Scotorum Reginam veneno tollere conatus est, in Anglia deprehenderetur, Ed. Sextus Rex Angliæ eum in manus Regis Gallicæ tradidit, ut debito supplicio Remitteretur, quod Nonnullis displicuit, quia etsi ratio suadeat, ut qui in Patria deliquit, in Patria Puniat, aliter tamen de consuetudine, quod Remissionem usurpatum est.*

Camb. El.
1554.

Treat. de
Judicio inter
Gentes

Having now run thorough the several queries, which your lordships have thought fit to propose, I shall venture to set one step further, and start another of my own, with some offers toward the solution of which I will make an end, viz.

QUERY XV.

Whether in any Case it be lawful for Subjects to oppose their Prince?

SOLUTION.

It must be resolved in the negative: And that in any case, or upon any pretence whatsoever, it is utterly unlawful for subjects, jointly or singly, collectively or representatively, to make any violent opposition against their sovereign, or to resist him either in an offensive or a defensive way. This assertion you will find to be a truth, that is consonant to holy writ, reverend antiquity, sound reason, and to the municipal laws of the land, all the sophistries and argumentations that seditious and corrupted men are able to produce to the contrary notwithstanding.

I. To begin with Holy Scripture. It is clear from Deut. c. 17. v. 12. which commands the Israelites to put away evil from amongst them, by bringing to public justice all such mutinous and presumptuous persons, as refused to obey the high priest and the judge; that God imposed an obligation, even upon his own people, not to resist the supreme magistrate. And v. 13. makes the reason of this severity to be, to preserve the people from being poisoned in their allegiance by the malignity of such examples; that all the people, (under what nation or qualification soever,) may hear and fear, and do no more presumptuously. The same express warrant of the word, (and to the self-same purpose,) there is in Joshua, c. 1. v. 18. "Whosoever he be," says the Almighty, speaking to him, "that doth rebel against thy commandment, and will not hearken to thy words, in all that thou commandest him, he shall be put to death." Saul is generally condemned for persecuting David, and attempting upon his life: And yet though David had him twice at his mercy, he was not to be prevailed upon to do him any harm: "For who," says he, "can lay his hand upon (who can touch, who can stretch forth his hand against) the Lord's anointed, and be guiltless?" Now the signification of the scripture-phrase [touch, or stretch forth the hand against the Lord's anointed] is of a large extent: And the guilt of this horrid crime may be incurred either by lifting up our heels in scorn against our king; by taking up arms in our own defence, for whosoever resisteth the power, resisteth the ordinance of God; by not bringing to light such traiterous conspiracies as we know to be forming against him; by not endeavouring to defend him, when we see him in danger, for *Qui non vetat peccare, cum possit, jubet*; by striking at his crown, usurping upon his prerogative, or depriving him of his revenue; by speaking or even thinking evil of him; for as the tongue can strike without a hand, so the heart can curse without a tongue: Or (in a word) by any sort of indignity or out rage offered either to his authority or person. But to proceed.

Doth not St Paul injoin, that "Every soul be subject to the higher powers; for there is no power but of God; and they that resist shall receive to themselves damnation?" Nay, and doth not St Peter also inculcate a patient toleration of injuries, and recommend unto our imitation the example of our blessed Saviour, 1 Pet. 2. v. 19, 20, 21, 22. "Who, when he was reviled, reviled not again; when he suffered he threatened not, but referred the vengeance to him that judgeth righteously." If ever man had just cause to resist, then had he; yet would he not do it, but checked St Peter's forwardness, saying, (Mat. 26. v. 52.) "Whoso taketh up the sword, shall perish by the sword." We find in the Creed that Pontius Pilate is recorded by the Holy-Ghost, (which influenced the church in the composing of it,) this now was certainly done for our edification, and to insinuate, that as we tender our salvation by our faith in Christ, we must be careful of paying a chearful obedience to the lawful commands of the magistrate, and to submit humbly, and suffering, to those that are otherwise. And this

1 Sam. c. 24.
v. 6. and C.
26. v. 11.

Psal. 41. v. 9.

Rom. 13.

Lev. 5.

Jer. 19. v. 18.

obligation continues, even though the prince should be a heathen, and the cause we smart for, Christ and his church.

II. As to reverend antiquity, St Ambrose, upon the point of non-resistance, discourses to this effect; "I have not so learned Christ," says he, "as to seek by force to oppose authority; I can mourn and lament; but for other resistance I neither will nor ought to make any." St Cyprian speaks to the same purpose; "It is out of a principle of conscience," says he, "that none of us make any opposition when we are unjustly seized upon, or study a revenge upon our tormentors, for the numerousness of our party were otherwise sufficient to bear us out in such a design." And so does Tertulian: "We are not," says he, "deprived of our goods, they are only sequestered for our benefit, and intrusted in safe hands; God keeps them for our use, and will return them with ample increase. If you abstain from fighting, he will espouse your quarrel; and question not but your enemies will have the worst on't, for your wounds will save you, and if you fall martyrs you will rise saints. What cannot our sufferings bring about? They make even God himself our debtor; he owes us heaven for ourselves, and he owes hell for our enemies: But yet we breath our souls in prayer that he may be intreated not to pay this."

What example now can there be more glorious, or more instructive, than that of the Theban legion, recorded in ecclesiastical story? The Emperor Maximinian, commanding his army to offer sacrifice to false gods, this band, consisting of about 7000 men, removed their quarters, to the end that they might avoid giving offence; but yet he presses them to bear a part in this diabolical service, and, upon their humble refusal, puts them forthwith to a decimation, which they cheerfully submit unto, praying for their murderers: The tyrant would not yet be satisfied, but renewed his commands to the remainder of them; and finding them still to continue resolute, rather to die than to disobey God, he butchered them all, without the least resistance on their part. This was truly to confess him that was led as a sheep to the slaughter! Nay, so very fruitful are the ancient fathers in instances of this quality, that it would be but superfluous to recount any more of them; the general practice of the primitive Christians being so evident in this point, that the greatest sticklers for that sin of witchcraft, rebellion, have not the confidence to deny it.

III. That a liberty to resist those in whom the law has placed the power of the sword is repugnant to sound reason, I shall endeavour to make out by the following arguments:

1. Such a license to subjects against their rulers is destructive of the very nature of government, and of human society, for it dissolves the sinews of the state, and splits it into as many factions as it has enemies. And it is impossible to conceive two equal supremacies of power in the nation, and yet the kingdom to remain one. For this is it that distinguishes England, France, Spain, and all other independent kingdoms one from another. But then it is childish to fancy the policy of any monarchy, much less of our own, to be so grossly defective, as to be the author of its own ruin, by dividing the state legally against itself. So that to take up arms without or against authority, is downright rebellion, and the consequence, murder and rapine.

2. It is both reasonable and necessary that all governments should have a suprenient, coercive power over particular persons; for otherwise a city would immediately be hurried into an anarchy, and that which ought to be one entire body become so many independent men.

3. That which to one private person is due, as a man, the same is also due to another; and if I may assume to myself a power of judging when to resist my prince, every private man may do so too. Now, what peace, what society, can there be hoped for, where every one is at freedom to discharge himself from the obligation of all human laws, and to oppose them at pleasure? Or what obedience can consist with such

resistance? Nor will such libertines know where to stop, for it is usual for them to fall foul upon all such as have a deeper sense of honesty and allegiance than themselves. And what law of God or man was ever heard of that approved of my murdering a loyal man because I myself am a rebel? Beside that this lewd opinion equally wounds the very assertors of it; for any body may be allowed to do that to them which they have done to their rightful prince and his faithful subjects.

4. Now, touching the municipal laws of the land, that this resistance is against them, I shall make it evident. Bracton says, *Si ab eo (scil. rege) petatur; cum Breve non currat contra ipsum, locus erit supplicationi, quod factum suum corrigit et emendat; quod quidem si non fecerit, satis sufficit ei ad pœnam, quod Dominum expectet ultorem: Nemo quidem de factis suis presumat disputare, multo fortius contra factum suum venire.*

If a subject find himself aggrieved by the king, he is put to his petition (because no writ can lie against him) for redress; which if he will not vouchsafe, it is a sufficient penalty that he is to expect punishment from the Almighty. No man may presume to question what he does, much less to oppose him.

Fleta concurs with Bracton in this point; vid. lib. 1. c. 17. And Lombard writes thus, *Nemo dominum*, says he, *judicet, vel judicium proferat super eum cujus ligius sit.*

So likewise the statute of the 25th of Edward III. c. 2. *de prodicionibus*, makes it treason to compass the death of the king. And to what end should these or any other provisions against treason have been established, if resistance were in any case lawful? Or what does the oath of allegiance signify, if the people may take up arms against their prince at pleasure? The form of it runs thus:

"You shall swear, That from this day forward, you shall be true and faithful unto our sovereign lord, King Charles, and truth and faith shall bear of life and member, and terrene honour; and you shall neither know nor hear of any ill or damage intended unto him, that you shall not defend," &c.

My Lord Coke comments upon it, that the subject and effect of this oath is due by the law of nature, the form and addition is, *ex provisione hominis.*

To conclude, the famous Bishop Merks is positive, that a king by lineal succession, being lawfully invested, cannot, upon imputation either of negligence or tyranny, be opposed, or deposed, by his own subjects.

Thus having given your lordships a description of the lord high-steward's office, and the manner how a peer is to be arraigned before him, with such solutions to your several queries as I have collected out of the books of law and history, I shall conclude all with this advertisement:

That the surest way to escape both the guilt and punishment of high-treason, is to fear God, and honour the king. The counsel given us by the wisest of kings is worthy to be adverted to. Think not evil of the king in thy heart, neither utter it with thy lips, lest a bird of the air carry the voice, and that which hath wings discover the matter. Let us detest the principles believed and practised by those audacious violators of royal majesty, the spawn of Loyola, and keep fast to the doctrine of our own church, which positively asserts, That the sacred bond of subjects, in obedience to their sovereign, is inviolable, and cannot be dissolved either upon the account of supposed crimes in the person of the prince, as tyranny, infidelity, heresy, &c., or by any acts of the Bishops of Rome, as dispensations, excommunications, &c.

It was once said in Valonger's Gass, that he that is thoroughly popish, may be easily warped from his loyalty.

My Lords, I am your Lordships, in all justice,
Ed. S.

From my chamber in the Temple,
Jan. 17, 1680.

A Letter from Amsterdam to a Friend in England.

This is a Tory pamphlet, intimating the intention of the Whigs, in combination with the Dutch and with the discontented presbyterians of Scotland, to make an effort for overturning monarchical government in Britain.

My kind Co-operator,

THAT from you of the eighth instant I received, and am entirely yours. God speed the plow here, and in England. I hope in short time to give you a good account of my little embassy in this place. No body at the Hague knows any thing of it yet; nor shall they. Be sure no post to fail me; else I and my fellow-labourers here shall be to seek in our business. Tell our friends I cannot go quick and through with it, unless constant returns be made hither, to fill the bag and the bottle. These are the baits that I must fish with: The surest way to catch an Amsterdammer is by the belly.

We were last night no less than three nations together at supper, but all of a knot; nothing can untie us but want of money. My Scotch fugitive¹ was so sharp and quick upon sight of flesh-meat, that he laid aside his long grace, and without blessing God, or cursing the Duke of Lauderdale, he fell to and fed like a farmer; whilst I, snapping a bit now and then, fell to tunning up Old Hock in Min heer, the burgo-master; for our companion is of such a humour, that till he be top-full he never vents his oracles against the house of Orange and court of England. But in this pickle, the man is old dog at driving private trade and publick counsels: so, ere supper was done, we became ripe for business.

About half an hour after, came in two or three more of the magistrates, and with them some Scots of the common persecution; then the Romer having walkt a round or two more, and our letters of intelligence from all parts being read, your accounts from England pleased me best; other from France were not much inferior, and most welcome to Min heer, because as Monsieur Louvoy whistles, the Louvestein party dances. No wonder then that the influence from hence hath made such foul weather at the Hague. That king saw 'twas his best way to quit the Flemish campaign, and divert his army, when less than one quarter of the charge may save his stake in Flanders till another season, and perhaps, without the striking so much as one stroke, spoil the design of arms out of England and Holland.

He had intelligence the tide is turned in England; that whereas last year some of us were for war against him, we now are the men that cry it down; I perceive charging of pistols by a French hand may sometimes do more than all their cannon: The court some months ago were reviled as men against the war, and pensioners of France;

¹ The oppression exercised against the Scottish presbyterians, besides forcing them into the rebellions of Pentland Hills and Bothwell-Bridge, obliged many of them to emigrate to Holland, where they found tolerance, if not sympathy and protection.

now I hear the court ministers begin to retort the like jealousie upon you and your friends: Verily, the Dutch say, yours is either the floating-island, or founded upon quick-silver: and this part of the continent here, being a quake-mire, is moveable too, though not so quick; the French offer now as well as we to the shrine of de Witt, the martyr and saint of this republic; and his Louvestiners resolve that you and our Scotch friends shall not get all; for they, if they can, will do as much of his business as the best about a pretended project of peace betwixt France and England in favour of the Swede; the Nassauvians now at the Hague conclude it was but a French piece of gullery, to choak the current of the general confederacy: A meer state-stratagem to blow off the prohibition of French commodities in this country.

It was neatly done, and had like to have taken effect, thanks be to you (sir) and the rest of your friends, who gave the occasion of disputing it here, by yoking yourselves to the prohibition first, that this state might remain at liberty to lurch you afterwards, if they think it convenient. It was delicately done also to worry and hurry one another into resolutions for a war before you were ready; and now when it is resolved on, to clog and clap on weights to hinder it. At this rate things must needs very kindly operate: Your last hath given me and the rest of your friends here admirable satisfaction; go on and prosper in all the particulars of your contrivance; the day is your own: if we can but apply fresh leeches to the posteriors of the kingdom, we shall soon recover. Those that are here for the interest of republic will be forward enough too, if France be cordial (which we doubt not) to our party. He hath his end in it upon them, and us: However, our brains shall stretch hard but we will out-reach him. What a sight it is to see our friends in England, Holland, and Scotland, so well twisted! This three-fold cord is strong enough to hang, or hamper, all our adversaries.

Methinks I see your grandees lodged in truckle-beds already; it will soon be done, if we first handsomely divide the courtiers, and make use of the envy of some of them at their fellows; then put them like pellets to drive out one another.

The only way to wheedle them into it is, first, by round charges to endeavour a remove of the ministers in possession; it is the ready way to come at the master; the hope of their places will engage the rest of them to help on the work. Set but this wheel a going, and these are the cogs that will turn round the mill. What though you have hitherto had but ill luck in lifting at them, if one broadside do not sink a vessel another may; it was a wise providence that reserved our confessors last year for this purpose. The treating of such men with sugar-plums and sweat-meats to throw among the people did Strafford's business, and your's, and the king's too. It was thought the ready road to sweetning and quiet, but behold a troop of thousands! yielding in one point made way to ask all, and the multitude to believe all were guilty as well as one. A tacit court confession of guilt by one sacrifice, past for proof enough that all was true of the rest. If the same point can be gained again, be it but an unbloody piece of work, so it amount to a removal of any one principal man, it may perhaps take the more easily, and do the feat as well, if not better; shape your vengeance as it may not startle the nature of their master, so court-places may fall one after another, there is your reward upon earth, whatever else you may expect from heaven.

Ply his majesty with warm clothes if you can; tell him he is just and good, but his counsels are ill or weak, no matter which. Drive any peg that will go, sooth him in hope to smite the other; a dogged humour of no money will please the people and plunge him. Start up difficulties, promote his necessities, then work upon them, and make bold to tell him only new friends can remedy them. Read your lectures backward; say the war was most advisable last year when he had neither preparations nor moneys for it, but not now you have got him into it. Bring on new accounts of growth of popery and arbitrary government; charge them upon evil counsellors; be sure to lift them, at any hand lift them: noise may do it, ah, but tumult is wanting!

Then burn the pope again to fulfil the revelation ; that will draw together the rabble ; but forget not cakes and ale for them ; pot-valiant will do as much as press-money, if you bid defiance to a standing army, though it be but in the clouds.

If this will not do in the city, then once again press grand jurymen in the counties to petition for a new parliament. It was well and wisely done to send them down the late books to inspire and quicken them. The judges will not dare to hinder, if in the mean time you rattle them roundly for what they have done ; if you perceive them sturdy, then cast dirt at them ; it will stick, and spot too, it being upon scarlet. You have men of law now that have done you service who gape for their places ; it is fit their mouths should be stopt, that they may open with alacrity at prerogative and allegiance.

'Tis fine to see our Scottish friends trace the old method of 1640. And how every thing hits to improve the brotherly correspondence ; lords and grievances came then together out of Scotland ; God send us good luck, you know what followed. They then went to court one day, another day to conventicles and conclaves in London ; advise them to do so now. A new bustle against that government began *An. 1674*. We and our party at the same time began the like bustle at Westminster : they and we have walkt hand in hand like brethren ever since. What have we to do next, but to revive and rake that phoenix, the Covenant, out of his ashes ?

Be it your care to time the business ; my Scotch confidants here do say, No time so fit at home, as when the king is engaged abroad ; then it will do the French work and ours to.

Methinks it is fine musick when these four nations play in concert, and it is glorious for Scotland that it hath the honour to lead the dance.

What a dull brute of late is the subject of England ! Therefore (as the old song saith) blew cap for me. Our men of that nation write, preach, and fight too ; they have got likewise the right knack of distinction, and understand the way of supplicating the king's person against his authority. The sum of all is, get out the great loon there, and perhaps none else can saddle or mount them for his majesty's service. I like that course consulted by our good friends, that if he cannot be impeached in Scotland, it is but turning the table, and you may do it at Westminster. The pitcher hath two ears ; if you cannot lay hold on one side, take him by the other, and dash him to the ground ; remember his name is not only Lauderdale but Guilford too. The honest covenanters have been whetting their pens at him these five years, so have we our spleens in England ; we have spent the most part of our gall in ink-pots ; try what the rest will do in a round charge or two. Nevertheless, write on still : I am sorry we have lost the prime pen ; therefore make sure of Andrew ; he's a shrewed man against popery, though for his religion you may place him, as Pasquin at Rome placed Henry the Eighth, betwixt Moses, the Messiah, and Mahomet, with this motto in his mouth, *Quo me vertam nescio*. It is well he is now transposed into politicks ; they say he had much ado to live upon poetry. What a blunt tool the people's become ! no mutiny ? However, let him whet on till they take an edge, and be sure that you and the rest of our comrades whet him.

'Tis time now to say or print any thing that will sharpen. Blacken the whole undertaking : say in this marching army is couched a standing one. Rant roundly at adjournments : say, Neutrality is better now we are armed than it was when we were not : say all you can to befool the foreign confederacy and frustrate it ; for what was wisdom last summer is none now. Do all you can to spoil this meeting also ; then follows no money : urge that point long and loud ; it may force the court to do that

* See the articles of impeachment of Duke Lauderdale among the Miscellaneous Tracts.

for supply, which we may have occasion to rail at afterwards, and rouse men with a witness. Ply the northern supplicators, and let them ply you.

Gather the quakers and fanatics under the wing, and allow them now for protestants for all the act of uniformity; be kind and give them a little opium, so they may forget the tyranny of their elder brother, and be all one again; then the new cause may prove as good as the old one.

If you will hatch somewhat like a Remonstrance, I like it well; go back to forty-one, there is your perpetual pattern; matter enough to deal with any king in Europe; nothing in heaven can more fermentate and leaven the whole lump; but be sure you do not call it a Remonstrance; a new name will do better to cover the purpose; and for a new model of state and statesmen commend me to the Nineteen Propositions to begin with.

To crown the work, and make all things easy, only one thing is wanting to turn the world. Archimedes, to effect it, required but one point to stand on without the circumference: do you gain but one in the centre; and you will do it as readily; that is the king's point. If he move, and tread never so little aside it, the stoutest will stagger, no man will stand to it.

Just now letters are come hither from the Hague, where two twins are struggling in the womb of their business; many thanks to you (sir.) Whether the delivery will be now by the hand of a French midwife, or an English, is not to be understood yet. They are come to the birth: some would have the name of the first born to be Prohibition; others would have the second to be named Neutrality, because he laid hold on the heel of his brother; which, as our friends of Louvenstein imagine, must signify, that the younger is to trip up the heels of the elder.

Remember me to, &c. and let me be answered in the main of my former.

Amsterdam, 18th of April, 1678.

I am yours, &c.

English stile.

An Account of the bloody Massacre in Ireland, acted by the Instigation of the Jesuits, Friars and Priests, who were Promoters of those horrible Murders, prodigious Cruelties, barbarous Villanies, and inhuman Practices executed by the Irish Papists upon the English Protestants.

Felix quem faciunt aliena pericula cautum.

Licensed 23d December, 1678.

This recapitulation of the barbarities practised during the great popish rebellion in Ireland, seems to have been compiled for the purpose of strengthening the credit of the popish plot, and animating the people still more against the catholic religion, by an exhibition of the horrors for which it had been made the pretext.

WHEN their plots were ripe for execution, we find their first proceedings against the English various; some of the Irish only stripping and expelling them; others murdering men, women, and children without mercy; all resolving universally to root out all the protestants of Ireland: so deeply malicious were they against the English protestants, that they would not so much as endure the sound of their language.

The priests gave the sacrament unto diverse of the Irish, upon condition they should neither spare man, woman, nor child of the protestants. One Hulligan, a priest, read an excommunication against all those that from thenceforth should relieve or harbour any English, Scottish, or Welsh man, or give them alms, whereby many were famished to death. The friars exhorted them with tears not to spare any of the English.

The day before this massacre began, *anno* 1642, the priests gave the people a dismiss at mass, with liberty to go out and take possession of all their lands, as also to strip and rob, and dispoil them of all their goods and cattle.

The Irish, when the massacre began, perswaded many of their protestant neighbours to bring their goods to them, and they would secure them. And hereby they got abundance peaceably into their hands, whereof they cheated the protestants, refusing to restore them again; yet so confident were the protestants at first of them, that they gave them inventories of all they had, and digged up their best things that were hidden in the ground, and deposited them in their custody. They also got much into their hands by fair promises, deep oaths and engagements, and if they would deliver them their goods, they would suffer them, with their wives and children, quietly to depart the country, and when they had got what they could, they afterwards murdered them.

Having thus seized upon their goods and cattle, ransacked their houses, got their persons, stript man, woman, and child naked, and so turned them out of doors, strictly prohibiting the Irish, under great penalties, not to give them any relief; by means hereof many miserably perisht through cold, nakedness, and hunger.

In the town of Coleraine many of these poor people that fled thither for succour, many thousands died in two days, so that the living could not bury the dead, but laid their carcasses in ranks in waste and wide holes, piling them up as if they had been herrings.

One Magdalen Redman deposeth, that she, and diverse other protestants, amongst whom were two and twenty widows, were first robbed and then stript naked, and when they had covered themselves with straw, the bloody papists threw in burning straw among them, on purpose to burn them; then they drove them out into the woods in frost and snow, where many of them died with extreme cold, and those that survived live miserably by reason of their many wants.

Yet though these bloody villains exercised such inhuman cruelties towards the poor protestants, they would commonly boast, That these were but the beginning of their sorrow, for indeed they made it good; for, having disarmed the English, robbed them of their goods, stript them of their clothes, and having their persons in their power, they furiously broke out into all manner of abominable cruelties, horrid massacres, and execrable murders.

For there were multitudes murdered in cold blood, some as they were at plough, others in their houses, others in the highways; all without any provocation were suddenly destroyed.

In the castle of Lisgool were about one hundred and fifty men, women, and children consumed with fire. At the castle of Tullah, which was delivered to MacGuire, upon composition and faithful promises of fair quarter, as soon as he and his entered

they began to strip the people, and most cruelly put them to the sword, murdering them all without mercy.

At Lissenskeath they hanged and killed above one hundred of the Scottish protestants. In the counties of Armagh and Tyrone, where the protestants were more numerous, their murders were more multiplied and with greater cruelty.

Mac Guire coming to the castle of Lissenskeath, desired to speak with Mr Middleton, who admitted him in; he first burnt the records of the county, then demanded one thousand pounds, which was in his custody, of Sir William Balfore's, which as soon as he had, he caused Mr Middleton to hear mass, and to swear that he would never alter from it, and then hanged him up with his wife and children; hanging and murdering above one hundred persons besides in that place.

At Portendown bridge there were one thousand men, women, and children carried in several companies, and all unmercifully drowned in the river. Yea, in that county there were four thousand persons drowned in several places.

In one place an hundred and forty English were taken and driven like cattle for many miles together. Other companies they carried out to a place fit for execution, and then murdered them. One hundred and fifteen men, women, and children they sent with Sir Philem O'Neal's pass till they came to Portendown bridge, and there drowned them.

At another time one hundred and forty protestants being thrown in at the same place, as any of them swam to the shore, the bloody villains with the butt-ends of their muskets knocked out their brains.

At Armagh, O'Cane got together all the protestants thereabouts, pretending to conduct them to Coleraine, but before they were a day's journey they were all murdered, and so were many others, though they had protections from Sir Philem O'Neal. The aged people in Armagh were carried to Charlemont, and there murdered.

Presently after the town of Armagh was burnt, and five hundred persons murdered and drowned. In Kieloman were forty-eight families murdered. In one house twenty-two protestants were burned. In Kilmore all the inhabitants were stript and massacred, being two hundred families; the whole country was a common butchery; many thousands perished by sword, famine, fire, water, and all other cruel deaths that rage and malice could invent.

At Casel they put all the protestants into a loathsome dungeon, kept them twelve weeks in great misery. Some they barbarously mangled, and left them languishing; some they hanged up twice or thrice, others they buried alive.

In Queen's-County, an Englishman, his wife, five children, and a maid were all hanged together. At Clowns seventeen men were buried alive, some were wounded and hanged upon tenter-hooks.

In Castle-Cumber, two boys wounded and hung upon butchers tenters. Some hanged up and taken down to confess money, and then murdered. Some had their bellies ript up, and so left with their guts about their heels.

In Kilkenny, an English woman was beaten into a ditch where she died; her child about six years old, they ript up her belly and let out her guts. One they forced to mass, then they wounded him, ript his belly, took out his guts, and so left him alive.

A Scottishman they stript and hewed to pieces, ript up his wife's belly, so that her child dropt out; many other women they hung up with child, ript their bellies, and let their infants fall out; some of the children they gave to dogs.

In the county of Armagh they robbed, stripped, and murdered abundance of protestants, whereof some they burned, some they slew with the sword, some they hanged, some they starved to death; and meeting Mrs Howard and Mrs Frankland with six of their children, and themselves both with child, they murdered them all, ript open the gentlewomen's bellies, took out their children, and threw them into a ditch.

A young Scottishwoman's child they took by the heels and dashed out its brains against a tree ; the like they did to many other children.

Anne Hill, going with a young child on her back and four more by her side, they pulled the child off her back, trod on it till it died, stripped her and the other four children naked, whereby they died of cold.

Some others they met with, hanged them up upon a windmill, and before they were half dead cut them in pieces with their skeins.

Many other protestants, especially women and children, they pricked and stabbed with skeins, forks, and swords, slashing, cutting, and mangling them in their heads, faces, breasts, arms, and other parts, yet killed them not, but left them wallowing in their own blood to languish, starve, and pine to death.

The castle of Lisgoole being set on fire by these merciless papists, a woman leapt out at a window to save herself from burning, whom they presently murdered ; many fled to vaults and cellars, where they were all murdered. One Joan Addis they stabbed, and then put her child of a quarter old to her breast, and bid it suck English bastard, and so left it to perish.

One Mary Barlow had her husband hanged, herself with six children stript naked in frost and snow, after which, sheltering themselves in a cave, they had nothing to eat for three weeks but two old calve skins, which they beat with stones, and so eat them hair and all.

In the cold weather many thousands of protestants of all ranks, ages and sexes, being turned out naked, perished of cold and hunger ; thousands of others were drowned, cast into ditches, bogs, and turf-pits ; multitudes miserably burnt in houses ; some that lay sick of fevers they hanged up ; some men, women, and children they drove into boggy pits, and knocked them on the heads.

Some aged men and women these barbarous papists enforced their own children to drown them ; yea, some children were compelled unnaturally to execute their own parents ; wives forced to hang their own husbands, and mothers to cast their own children into the waters, after which themselves were murdered.

In Sligo they forced a young man to kill his father, and then hanged him up. In another place they forced a woman to kill her husband, then caused her son to kill her, and then hanged the son : yea, such was their malice against the English, that they taught their children to kill English children.

The Irish trulls that followed the camp, cried out, ' Kill them all, spare neither man, woman, nor child.' They took the child of Thomas Stratton, being about twelve years old, and boiled him in a caldron. One goodwife Lin and her daughter they carried into a wood, first hanged the mother, and then the daughter in the hair of her mother's head.

In some places they plucked out the eyes and cut off the hands of the protestants, and turned them into the fields, where they perished. The women in some places stoned the English women and children to death. One man they shot through his thighs, digged a hole in the ground, set him in upon his feet, filled up the hole, left out only his head, where he languished to death. Another man they held his feet in the fire till he was burnt to death.

In Munster they hanged up many ministers in a most barbarous manner. One minister they stripped naked, and drove him through the town, pricking him with darts and rapiers till he fell down dead.

These barbarous villains vowed, ' That if any parents digged graves to bury their children in they should be buried therein themselves.' They stripped one William Loverden naked, and then killed him before his wife and children. Diverse ministers bones that had been buried some years before they digged up, because they were, as they say, patrons of heresy.

Poor children that went out into the fields to eat weeds and grass they killed without all pity.

A poor woman, whose husband was taken by them, went to them with two children at her feet and one at her breast, hoping to beg her husband, but they slew her and her sucking child, brake the neck of another, and the third hardly escaped; and all this wickedness they exercised upon the English without any provocation given them. Alas! who can comprehend the fears, terrors, anguish, bitterness, and perplexity that seized upon the poor protestants, finding themselves so suddenly surprised without remedy, and wrapt up in all kind of outward miseries which could possibly by man be inflicted upon human creatures? What sighs and groans, trembling and astonishment? What shrieks, cries, and bitter lamentations of wives, children, servants, and friends, howling and weeping, finding themselves without all hope of deliverance from their present miseries. How inexorable were their barbarous tormentors, that compassed them in on every side without all bowels of compassion, or the least commiseration or pity, yet they boasted upon their success.

These merciless Irish papists having set a castle on fire, wherein were many protestants, they rejoicingly said, O how sweetly do they fry!

At Kilkenny, when they had committed many cruel murders, they brought seven protestants heads, one the head of a reverend minister, all which they set upon the market-cross on a market-day, triumphing, slashing, and mangling them; they put a gag in the minister's mouth, slit up his cheeks to his ears, and laid a leaf of a bible upon it, and bid him, Preach, for his mouth was wide enough.

At Kilmore they put many protestants, men, women, and children into a thatched house, and there burnt them. They threw Mrs Maxwell into the river when in labour, the child being half-born when the mother was drowned.

In one place they burnt two protestant bibles, and then said, It was hell fire they burnt. Other bibles they took, cut in pieces and burnt them, saying, They would do the like to all puritan bibles. They took the bible of a minister called Mr Slack, and opening it, they laid it in a puddle of water, and then stamped upon it saying, 'A plague on't, this bible hath bred all the quarrel.'

At Glastow, a priest and some others drew about forty English and Scottish protestants to be reconciled to the church of Rome, and then told them, They were in a good faith, and for fear they should fall from it and turn hereticks, he with his companions presently cut all their throats.

In the county of Tipperary, near the silver works, some of these barbarous papists met with eleven Englishmen, ten women and some children, whom they first stript, and then with stones, pole-axes, skeins, swords, &c. they most barbarously massacred them all.

In the county of Mayo, about sixty protestants, whereof fifteen were ministers, were upon covenant to be safely conveyed to Galway by one Edmond Burk and his soldiers, but by the way this Burk and his company began to massacre these poor protestants; some they shot to death, some they stabbed with their skeins, some they thrust through with their pikes, some they drowned; the women they stript naked, who, lying upon their husbands to save them, were run through with pikes, so that very few of them escaped with life.

In the town of Sligo, forty protestants were stript and locked up in a cellar, and about midnight a butcher, provided for the purpose, was sent in amongst them, who with his axe butchered them all.

In Tyrawley, thirty or forty English, who had yielded to go to mass, were put to their choice, Whether they would die by the sword or be drowned? They chose the latter, and so being driven to the sea-side, these barbarous villains with their naked swords forced them into the sea; the mothers, with their children in their arms, wading to their chin, were overcome by the waves, where they all perished.

The son of Mr Montgomery, a minister, aged about fifteen years, met with his schoolmaster, who drew his skein at him, whereupon the boy said, Good master, whip me as much as you will, but do not kill me. Yet this merciless tyger barbarously murdered him without all pity.

In the town of Sligo all the protestants were first robbed of their estates, then cast into gaol, and about midnight were all stript naked, and were there most cruelly and barbarously murdered with swords, axes, skeins, &c. some of them being women great with child, their infants thrust out their arms and legs at their wounds; after which execrable murders these hell-hounds laid the dead naked bodies of the men upon the naked bodies of the women in a most immodest posture, where they left them till next day to be looked upon by the Irish, who beheld it with great delight. Also Isabel Beard, great with child, hearing the lamentable cries of those that were murdering, ran out into the streets, where she was murdered, and the next day was found with the child's feet coming out of the wounds in her sides: many others were murdered in the houses and streets.

About Dungannon were three hundred and sixteen protestants in the like barbarous manner murdered; about Charlemont, above four hundred; about Tyrone, two hundred and six.

One Mac Crew murdered thirty one in one morning.

Two young villains murdered one hundred and forty poor women and children that could make no resistance. An Irish woman with her own hands murdered forty-five.

At Portendown Bridge were drowned above three hundred. At Lawgh were drowned above two hundred. In another place were drowned three hundred in one day. In the parish of Killmen, there were murdered one thousand two hundred protestants.

Many young children they cut in quarters; eighteen Scottish infants they hanged upon a clothier's tenter-hooks; one fat man they murdered, and made candles of his grease; another Scottish man they ript up his belly, took one end of his small guts, tied it to a tree, and forced him round about it, till they had drawn them all out of his body, saying, That they would try whether a dogs or a Scottish man's guts were the longer.

By the command of Sir Philem O'Neal, Master James Maxwell was drawn out of his bed, being sick of a fever, and murdered; his wife being in child-birth, the child being half-born, they stript naked, drove her about a flight shot, and drowned her in the Black Water: the like, or worse, they did to another English woman in the same town. One Mr Watson they roasted alive. A Scottish woman, great with child, they ript up her belly, cut the child out of her womb, and so left it crawling on her body.

Mr Starkey, schoolmaster at Armagh, being above one hundred years old, they stript him naked, then took his two daughters, being virgins, whom they also stript naked, and then forced them to lead their aged father to a turf-pit, where they drowned them all three.

To one Henry Cowel, a gallant gentleman, they proffered his life, if he would marry one of their trulls, or go to mass, but he chose death rather than to consent to either.

They brake the back-bone of a youth, and left him in the fields; some days after he was found, having eaten the grass round about him; neither then would they kill him outright, but removed him to better pasture, wherein was fulfilled that saying, The tender mercies of the wicked are cruelty.

In the county of Antrim, they murdered nine hundred fifty-four protestants in one morning, and afterwards about twelve hundred more in that county. Near Lisnegarry, they forced twenty-four protestants into a house, and burnt them all.

Sir Philem O'Neal boasted that he had slain above six hundred at Garvah, and that he had left neither man, woman, nor child alive in the barony of Munterlong. In other places he murdered above two thousand persons in their houses; so that many houses were filled with dead bodies.

Above twelve thousand were slain in the highways, as they fled towards Down. Many died of famine, many died for the want of clothes, being stript naked in a cold season, some thousands were drowned; so that in the province of Ulster there was about one hundred and fifty thousand murdered by sundry kinds of torments and death.

Anne Kinnard testified, That fifteen protestants being imprisoned, and their feet in the stocks, a popish boy, being not above fourteen years old, slew them all in one night with his skein.

An English woman, who was newly delivered of two children, some of the villains violently compelled her, in her great pain and sickness, to rise out of her bed, and took one of the infants that was living, and dashed his brains against the stones, and then threw him into the river Barrow. The like they did by many other infants; many others they hanged up without all pity.

The Lord Mont-Garret caused diverse English soldiers that he had taken about Kilkenny to be hanged, hardly suffering them to pray before their death.

One Fitzpatrick, an Irish papist, enticed a rich merchant, that was a protestant, to bring all his goods to his house, promising safely to keep them, and to re-deliver them to him, and when he had gotten them into his possession, he took the merchant and his wife and hanged them both. The like he did by diverse others.

Some Englishmen's heads they cut off, and carried them to Kilkenny, and on the market-day set them on the cross, where many, especially the women, stabbed, cut, and slashed them.

A poor protestant woman, with her two children, going to Kilkenny, these bloody miscreants baited them with dogs, stabbed them with skeins, and pulled out the guts of one of the children, whereby they died; and not far off they took diverse men, women, and children, and hanged them up; one of the woman being great with child, they ripped up her belly as she hanged, so that the child fell out in the cawl alive. Some, after they were hanged, they drew up and down till their bowels were torn out.

How many thousands of persons were there thus inhumanly butchered, by sundry kinds of death, we cannot ascertain.

In the province of Ulster we find vast numbers murdered as before; what the number of the slain was in the three provinces I find not upon record, but certainly it was very great, for you have these passages in a general remonstrance of the distressed protestants in the province of Munster: 'We may, (say they) compare our woe to the saddest parallel of any story. Our churches are prophaned by sacrifices to idols; our habitations are become ruinous heaps. No quality, age, or sex, privileged from massacres and lingering deaths, by being robbed, stript naked, and so exposed to cold and famine. The famished infants of murdered parents swarm in our streets, and for want of food perish before our faces, &c. And all this cruelty, that is exercised upon us, we know not for what cause, offence, or seeming provocation it is inflicted upon us, (sin excepted) saving that we were protestants, &c. We can make it manifest, that the depopulations in this province of Munster do well near equal those of the whole kingdom,' &c.

And thus in part you have heard of the merciless cruelties which the bloody Irish papists exercised toward the protestants. Let us now consider, at least some of God's judgments upon the Irish, whereby he hath not left the innocent blood of his servants to be altogether unrevenged.

The bloody hell hounds themselves confessed, 'That the ghost of diverse of the protestants, which they had drowned at Portendown Bridge, were daily seen to walk upon the river, sometimes singing of psalms, sometimes brandishing naked swords, sometimes shrieking in a most hideous and fearful manner.' So that many of the popish Irish, which dwelt near thereabouts, being affrighted therewith, were forced to remove their habitations farther off into the country.

Katherine Cook testified upon oath, That when the Irish had barbarously drowned

one hundred and eighty protestants, men, women, and children, at Portendown Bridge, about nine days after, she saw the apparition of a man bolt-upright in the river, standing breast-high, with his hands lifted up to Heaven, and continued in that posture from December to the end of Lent, at which time some of the English army passing that way, saw it also; after which it vanished away.

Elizabeth Price, testified upon oath that she and other women, whose husbands and children were drowned in that place, hearing of those apparitions, went thither one evening, at which time they saw one like a woman rise out of the river breast-high, her hair hanging down, which, with her skin, was as white as snow, often crying out, *Revenge, revenge, revenge!* which so affrighted them that they went away.

Diverse protestants were thrown into the river of Belterbert, and when any of them offered to swim to the land they were knocked on the head with poles, after which their bodies were not seen of six weeks, but after the end thereof, the murderers coming again that way, the bodies came floating up to the very bridge where they were.

Sir Con Mac Gennis, with his company, slew Mr Turge, minister of the Newry, with diverse other protestants; after which, the said Mac Gennis was so affrighted with the apparition of the said Mr Turge, his being continually in his presence, that he commanded his soldiers not to slay any more of them but such as should be slain in battle.

A young woman being stript almost naked, there came a rogue to her, bidding her give him her money, or he would run her through with his sword. Her answer was, 'You cannot kill me, except God give you leave:' whereupon he ran three times at her naked body with his drawn sword, and yet never pierced her skin; whereat he being confounded went his way and left her. This was attested by diverse women that were present and saw it.

As for the protestant ministers whom they surprized, their manner was first to strip them, and after bind them to a tree or post, where they pleased, and then to ravish their wives and daughters before their faces, (in sight of their merciless rabble) with the basest villains they could pick out; after they hanged up their husbands and parents before their faces, and then cut them down before they were half dead, then quartered them, after having dismembered them, and stopped their mouths therewith.

They basely abused one Mr Trafford, a minister in the north of Ireland, who being assaulted by these bloody wolves of Rome's brood, that knew not God nor any bowels of mercy, this distressed minister desired but so much time as to call upon God: before he went out of the world, but these merciless wretches would admit no time, but instantly fell upon him, hackt and hewed him to pieces.

Sir Patrick Dunstan's wife they ravished before him, slew his servants, spurned his children till they died, bound him with match to a board that his eyes burst out, cut off his ears and nose, teared off both his cheeks, after cut off his arms and legs, cut out his tongue, and after run a red-hot iron into him.

These particulars, with many more, were attested before the commissioners appointed for that purpose.

See more of such cruelties in Clark's Martyrology.

An Account of the Proceedings at the Sessions for the City of Westminster, against Thomas Whitfield, Scrivener; John Smallbones, Woodmonger; and William Laud, Painter; for tearing a Petition prepared to be presented to the King's Majesty, for the Sitting of the Parliament. With an Account of the said Petition presented on the 13th instant, and his Majesty's gracious Answer.

One of the most violent disputes of this busy period was that between the *petitioners* and *abhorrrers*, as they were called. The first comprehended the opposition party, who sedulously, and by every means in their power, promoted the practice of presenting petitions to the king, setting forth the danger to his person, and to the state, from the popish plot, and praying him to convoke his parliament. These petitions were often couched in violent language, of which the Tories taking advantage, promoted among their party the presenting of addresses, expressing their reliance on the wisdom of the king, and their *abhorrence* of the violent practices of their opponents about petitioning. Roger North tells us of many violences on the side of the opposition party, who scarcely refrained from insulting the abhorrrers in the streets; while, on the other hand, the subsequent tract shews that the Tories were no ways behind in retorting upon the petitioners similar insult and injury. At length the king, on the one hand, issued a proclamation against tumultuous petitions, and the house of commons, on the other, so soon as they assembled, began to proceed with great rigour against the abhorrrers, whom they summoned before them (whether members or not) and punished in a very arbitrary manner. At length Mr Stowell, foreman of the grand jury at Exeter, refused to obey the arrest of the serjeant at arms, and, by his firmness, put a stop to this unconstitutional exertion of authority.

It being the undoubted right of the subjects of England, and warranted by the law of the land,¹ and the general practice of all former times, in an humble manner to apply themselves to his majesty, in the absence of parliaments, by petition, for the redress of their grievances, and for the obtaining such things as they apprehend necessary or beneficial to the safety and well-being of the nation. And it being their duty, to which they are bound by the express words of the oath of allegiance,² to represent to him any danger which they apprehend threatening his royal person or his government; diverse persons, in and about the city of Westminster, considering the too apparent and unspeakable danger his majesty and his kingdoms are in, from the hellish plots and villainous conspiracies of the bloody papists and their adherents, and conceiving no sufficient (or at least so fit) remedy could be provided against it but by the parliament, by whom alone several persons accused of these accursed designs can be brought to trial, did prepare and sign a petition, humbly representing to his majesty

¹ Vide the Resolution of the Law, Cok. Jurisdict. of Courts, 79. Hobart 220 Vol. Magna Chart. Ex. l. Spencer 51. Vide the Proclamation of King Charles the First.

² I do swear from my heart, that I will bear faith and true allegiance to his majesty, his heirs and successors, and him and them will defend to the uttermost of my power against all conspiracies and attempts whatsoever, which shall be made against his or their persons, their crown and dignity: and will do my best endeavours to disclose and make known unto his majesty, his heirs and successors, all treasons and traitorous conspiracies, which I shall know, or hear of, to be against him or any of them.—*Orig. Notes.*

the imminent danger of his royal person, the protestant religion, and the government of this nation were in, from that most damnable and hellish popish plot, branched forth into several the most horrid villanies. For which several of the principal conspirators stand impeached by parliament, and thereby humbly praying that the parliament might sit upon the 26th of January, to try the offenders, and to redress the important grievances no other way to be redressed; of which Thomas Whitfield, John Smallbones, and William Laud, inhabitants in Westminster, taking notice: upon the 20th day of December last, they sent to Mr William Horsley, who had signed and promoted the petition, and in whose custody it was, to bring or send it to them, for that they desired to sign it. And thereupon Mr Horsley attended them, and, producing the petition, in which many persons had joined, he delivered it at their request to be by them read and signed, but Mr Whitfield immediately tore it in pieces, and threw it towards the fire, and Smallbones catching it up, said that he would not take ten shillings for the names, and then they declared that they sent for it for that very purpose, and owned themselves all concerned in the design.

Upon Mr Horsley's complaint hereof to a justice of the peace, a warrant was granted against them, and they being taken thereupon, after examination of the matter were bound to appear and answer it at the next quarter sessions of the peace for the city of Westminster, and upon Friday the 9th of January instant, the sessions being holden, and there being present several justices of the peace that are eminent lawyers, the matter was brought before them, and the grand jury indicted the said Whitfield, Smallbones, and Laud as followeth, viz.

The City, Borough and Town of Westminster, in the County of Middlesex.

“THE jurors for our sovereign lord the king upon their oath do present, that whereas the subjects and liege people of the kings and queens of this realm of England, by the laws and customs of the realm, have used and been accustomed to represent their public grievances by petition, or by any other submissive way, and that the 20th day of December, in the one and thirtieth year of the reign of our sovereign Lord Charles the Second, by the grace of God, of England, Scotland, France and Ireland, king, defender of the faith, &c. at the parish of St Martins in the Fields, within the liberty of the dean and chapter of the collegiate church of St Peter of the city, borough, and town of Westminster, in the county of Middlesex; a petition written in paper, was prepared and subscribed with the hands of diverse the said king's subjects and liege people (to the jury unknown) and to our said sovereign Lord King Charles the Second directed, and to our said lord the king to be presented and delivered, by which petition it was shewn, that, whereas there had been, and was a most damnable plot against the royal person of our said sovereign lord the king, the protestant religion, and well established government of this realm, for which plot several of the principal conspirators were impeached by parliament, and whereby it was humbly prayed, that the parliament, which was prorogued to the 26th of January next ensuing the said year, might then sit to try the offenders, and to redress the pressing grievances not otherwise to be redressed. And that Thomas Whitfield, late of the said parish of St Martins in the Fields, in the liberty aforesaid, in the county aforesaid, yeoman, John Smallbones, late of the said parish, within the liberty aforesaid, in the county aforesaid, woodmonger, and William Laud, late of the parish aforesaid, in the county aforesaid, yeoman, being persons ill effected and contriving, devising, and intending, as much as in them lay, to hinder the sitting of the said parliament, as was prayed by the said petition, and also to hinder the trial of the said offenders, and redressing the said grievances, the said 20th day of December, in the said one and thirtieth year of the reign of our said sovereign lord the king, as rioters and

disturbers of the peace of our sovereign lord the king, for the disturbing of the peace of our said sovereign lord the king, with force and arms, at the said parish, within the liberty aforesaid, in the county aforesaid, unlawfully and riotously did assemble themselves, and being so then and there assembled with force and arms, then and there unlawfully, riotously, and injuriously, the said petition being delivered by one William Horsley to them, the said Thomas Whitfield, John Smallbones, and William Laud, at their request, and for the subscribing their names thereunto if they should think fit, did tear in pieces, in contempt of our said sovereign lord the king, and of his laws, to the evil example of all others in the like cases offending, and against the peace of our said sovereign lord the king, his crown and dignity.

The Names of the Grand Jury that found the Bill are these:

William Jacob	John Weston	Edward Whitefoot	Cornelius Rickfield
Thomas Trevor	Martin Frogg	John Gentle	(George Wright,
Erasmus Browne	John Pierce	Thomas Harris	apothecary
Henry Dugley	Robert Pinke	William Fortune	(Waiter Wright
Richard Streete	Nathaniel Wilkin-	Roger Higdon	Adam Langley.
John Henly	son	James Harrold	

Upon Wednesday the 7th of this instant January, many gentlemen and eminent citizens, who had been concerned for managing the petition for the sitting of the parliament upon the 26th instant, met together, and agreed upon the method of finishing the same, and of nominating fit persons for the presenting it to his majesty, which being accordingly done, these gentlemen following, viz.

Sir Gilbert Gerrard, Baronet, son-in-law to the late bishop of Durham.

Francis Charlton Esq. John Smith Esq. Ellis Grispe Esq. Henry Ashurst Esq.
John Ellis Esq. Johnson of Stepney Esq. Anthony Selby Esq. Tho. Smith Esq.

Gentlemen of good worth and estates, and several of whom have been eminent sufferers for his majesty, did this 13th of January attend his majesty with it at Whitehall, when, being introduced to his royal presence, Sir Gilbert Gerrard kneeling, presented this petition;

"To the King's most excellent Majesty, the humble petition of your Majesty's most dutiful and loyal subjects, inhabitants in and about the city of London, whose names are here under subscribed,

" Sheweth,

" That, whereas there has been and still is a most damnable and hellish popish plot branched forth into the most horrid villanies against your majesty's most sacred person, the protestant religion, and the well established government of this your realm, for which several of the principal conspirators stand now impeached by parliament.

" Therefore, in such a time, when your majesty's royal person, as also the protestant religion, and the government of this nation are thus in most eminent danger,

" We, your majesty's most dutiful and obedient subjects, in the deepest sense of our duty and allegiance to your majesty, do most humbly and earnestly pray, that the parliament, which is prorogued until the 26th day of January, may then sit to try the offenders, and to redress all our most important grievances no otherwise to be redressed.

And your petitioners shall ever pray for your
majesty's long and prosperous reign."

And expressed himself to this effect; "Sir, I have a petition from many thousands of your majesty's dutiful and loyal subjects in and about the city of London, which I humbly present in their names, and desire your majesty would be pleased to read it."

To which his majesty gave this gracious answer: "I know the substance of it already; I am head of the government, and will take care of it;" and then received the petition, it being a great roll of above an hundred yards in length, and carried it away in his hand.

The Catholick Cause; or the horrid Practice of murdering Kings justified and commended by the Pope, in a Speech to his Cardinals, upon the barbarous Assassination of Henry the Third of France, who was stabbed by Jaques Clement, a Dominican Friar.

The true copy of which speech, both in Latin, and also faithfully rendered into English, you have in the following pages.

Anno 1678.

These collections are made with the purpose of bolstering the evidence of the Popish Plot, by an exposition of the doctrines of the church of Rome, at least of many of her divines, concerning the right of murdering heretic monarchs.

Sixti Quinti Pont. Max. de Henrici Tertii morte, Sermo, Romæ in Consistorio Patrum habitus, 11. Septem. 1589.

ANIMO meo sæpe ac serio revolvens, mentisque aciem intendens in ea, quæ nuper Dei voluntate acciderunt, videor mihi vere posse illud Prophetæ Habacuc usurpare: qui opus factum est in diebus vestris, quod nemo credet, cum narrabitur, (Habac. i. 5.) Mortuus est Rex Francorum per manus monachi.

Nam ad istud potest rectè applicari: licet de alia re, nempe de incarnatione Domini, quæ omnia mira, ac mirabilia superat, Prophetæ propriè locutus sit sicut et apostolus Paulus eadem verba (Actuum xiii. 41.) ad Christi resurrectionem verissimè refert. Quando propheta nominat opus, non vult innuere aliquid vulgare, vel ordinarium, sed rarum, insigne, ac memorabile facinus; quomodo de creatione mundi, "opera manuum tuarum sunt cæli. Item, requievit die septimo ab omni

An Oration of Pope Sixtus the Fifth, upon the Death of King Henry the Third, in Rome, in the full Assembly of the Cardinals.

CONSIDERING oftentimes and seriously with myself, and applying the utmost of my understanding unto these things which now of late by the will of God are come to pass, I think I may fitly use the words of the prophet Habakkuk, saying, "I have wrought a work in your days which no man will believe when it will be told him," Habak. i. 5. The French king is slain by the hands of a friar.

For unto this it may truly be compared, though the prophet spake of another thing, namely, of the incarnation of our Lord, which exceedeth all other wonders and miracles: as also, the apostle St Paul referreth the same words unto the resurrection of Christ, (Acts xiii. 41.) When the prophet says, "a work," he means not by it some common or ordinary thing, but a rare and notable matter, and worthy to be remembered as that of the creation of the world; "the heavens are the works of thy

opere quod patrarat." Cum verò factum ait, eo verbo tale aliquid in scripturis exprimi, quod non temere, casu, fortuna aut per accidens evenire dicitur; sed quod expressa die voluntate, providentia, dispositione, ac ordinatione obvenit. Ut cum dicit Salvator "opera quæ ego facio vos facietis, et majora horum facietis;" et similia in sacris litteris plurima. Quod autem loquatur in præterito factum esse, in more aliorum prophetarum facit, qui propter certitudinem eventus solent sæpe de futuris, ac si jam facta essent prædicere. Dicunt enim philosophi, res præteritas esse de necessitate, præsentis de inesse, futuras de possibili tantum; ita illi loquuntur.

Propter quam certitudinem Isaias propheta longè ante vaticinatus de morte Christi, sic dixit, sicut in Act. apostolorum cap. 8. etiam recitatur, "Tanquam ovis ad occisionem ductus est, et sicut agnus coram tondente se non aperuit os suum," &c.

Atque hoc, de quo nunc verba facimus, et quod hic diebus nostris evenit, verè insigne, memorabile, et pene incredibile opus est, nec sine Dei opt. Max. particulari providentia, et dispositione perpetratum. Occidit Monachus Regem, non pictum aut fictum in charta, aut pariete; sed Regem Francorum in medio exercitus sui, milite et custodia undique septum; quod re vera tale est, et eo modo effectum, ut nemo nunc credat, cum narrabitur et fortasse apud posteritatem pro fabula reputabitur.

Quod rex sit mortuus, vel etiam peremptus, facile creditur, sed cum sic sublatum, vix est credibile; sicut Christum natum ex foemina statim assentimur; sed si addas porro ex foemina virgine ortum esse, tunc secundum hominem non assentior: ita etiam quod mortuus sit Christus facile credimus, sed quod mortuus jam resurrexerit ad vitam, quia ex privatione ad habitum non fit regressio, redditur secundum intel-

hands; and again, he rested the seventh day from all the works which he had made. When he saith "I have wrought," with these words the scripture is wont to express things not to come to pass casually by fortune or accident, but things falling out by the determined counsel, will, providence, and ordinance of God, as our Saviour says, "the works that I do, shall ye do also, and greater works than these," (John xiv. 12.) and many more in holy writ to the like purpose. Now that he says, that is done in times past, herein he follows the use and manner of the other prophets, who, for the certainty of the event, are wont to predict things to come as if they were past already; for as the philosophers say, "things past are of necessity, things present of being, and things to come only of possibility." So do they speak. For which certainly the prophet Isaiah long before, prophesying of the death of Christ, hath thus spoken: "He was led as a sheep to the slaughter, and like a lamb dumb before his shearer, so opened he not his mouth," &c. as it is likewise repeated, Acts viii.

And this, of which we are now speaking, and which has happened in these our days, is a very famous, memorable, and well-nigh incredible thing, not done or accomplished without the particular providence and disposition of the Almighty. A friar has killed a king, not a painted one in paper, nor pictured out upon a wall, but the French king, in the middle of his armies, encompassed round about with his guard and soldiers, which truly is such an act, and done in such a manner, that none will believe when it shall be told them, and perhaps our posterity after us will account and esteem it but a fable.

That the king is dead, or else slain, it is easily to be believed; but that he is killed and taken away in such sort is hardly credible; even as we presently assent that Christ is born of a woman, but if we farther add of a virgin woman, then, according to human reason, we cannot assent unto it; and so we can readily believe that Christ died, but that he rose from the dead to life again, this, to man's natural

lectum humanum impossibile, propterea incredibile: quod homo ex somno, ex morbo, etiam ex syncope, vel extasi resuscitatur, quia id sæpe secundum naturam fit, humanitus credimus; sed resurrexisse a mortuis, ita secundum carnem videbatur incredibile ut Paulo apud Philosophos Athenienses de hac resurrectione disserenti, improperarent, quod esset novorum dæmoniorum annunciator; et alii, sicut D. Lucas narrat, irridebant; alii dicebant, "Audiemus te de hoc iterum." De talibus igitur, quæ secundum naturæ leges, et ordinarium cursum fieri non solent, dicit propheta, quod nemo credet, cum narrabitur; sed hujusmodi tantum fidem adhibemus ex consideratione omnipotentiae divinæ, et per subjectionem intellectus nostri in obedientiam fidei, et obsequium Christi. Nam hoc modo quod erat incredibile naturaliter, fit credibile. Igitur qui secundum hominem non credo Christum de virgine natum, tamen quando additur hoc factum esse supra naturæ terminos per operationem spiritus sancti, tunc vere assentior, et credo.

Ita quando dicitur Christum ex mortuis resurrexisse, humanitus non credo; sed cum id factum esse per divinam (quæ in ipso erat) naturam affirmatur, tunc omnino credit.

Eodem modo licet tantum regem in medio exercitus, tot stipatum militibus, ab uno simplici, et imbelli religioso occisum esse, secundum prudentiam carnis, et intellectum humanum sit incredibile, vel omnino improbabile; tamen considerando ex altera parte gravissima regis peccata, et specialem Dei omnipotentis in hac re providentiam, et quam inusitato, et mirabili modo justissimam voluntatem suam erga ipsum impleverit, omnino, et firmiter credo. Rem etenim istam, rem grandem et inusitatem alio referre, quam ad particularem Dei providentiam (sicut quosdam ad alias causas ordinarias, vel etiam ad fortunam et casum, aut similes acci-

understanding, is impossible, and therefore incredible, because there is no return from a privation to an habit; that one is awakened again out of a sleep, extasy, or a swoon, because it is not against nature, we naturally believe it; but to be risen again from the dead, it seemed so incredible a thing to nature, that St Paul, disputing with the Athenian philosophers about this very point, was disgusted for it, and accused to be a setter forth of new or strange gods; and some, as St Luke reports, mocked him, others said we will hear thee again of this matter. Of such things, therefore, which befall not according to the laws of nature and the ordinary course thereof, speaketh the prophet, viz. that none shall believe it when it shall be told them. But we give credit unto it, whilst we consider the omnipotency of God, and by submitting our own understandings to the obedience of faith and the commands of our Saviour Christ; and by these means what was incredible before by nature becometh credible by faith: we therefore, that as meer men cannot believe Christ to be born of a virgin, when this is further added, that it was wrought supernaturally by the operation of the Holy Ghost, then we truly assent to it. So likewise when it is said that Christ is risen again from the dead, naturally we believe it not, but when it is affirmed that this was done by the power of the divine nature (which was in him) then we readily and without any kind of doubting believe it.

In the same manner, though to natural reason and human capacity it may seem a thing incredible, or altogether improbable, that such a mighty king should be murdered in the midst of his army, environed round with his guards and soldiers, by a poor, simple, weak religionist, or friar: yet considering, on the other side, the great and grievous sins of this king, and special providence of the Almighty herein, and by what a strange and wonderful way he hath accomplished his most just will and judgment against him, then we fully and most firmly believe it; and therefore this great and miraculous work we are to ascribe to a particular providence of God

dentarios eventus perperam referre intelligimus,) prorsus non licet; sicut ii, qui totius facti seriem pressius observant, facile videre possunt, ubi plurima interveniunt, quæ ab homine nisi Dei speciali concurrent auxilio, expediri non quiverant. Et sane Regum ac Regnorum rationes, cæteraq. tam rara tintiq. momenti negotia a Deo temere administrari non est existimandum. Sunt in sacra historia nonnulla hujus generis, nec eorum quidquam potest alio, quam ad Deum Authorem referri: tamen nihil est, ubi magis claret superna operatio, quam in isto, de quo nunc agimus.

Libr. Maccab. 1. chap. vi. legimus, Eleazarum, ut Regem populi Dei persecutorem, ac hostem tolleret, seipsum certæ morti obtulisse. Nam in conflictu conspiciens elephantem cæteris eminentiorem, in quo videbatur rex esse, concito cursu in mediam hostium turmam se conjiciens; hinc inde viam vi sternens, ad belluam venit, atque sub eam intravit, subjectoque gladio peremit, quæ cadens oppressit Eleazarum et extinxit. Hic quoad zelum, et animi robur, rei que tentatæ exitum, aliquid hujus nostri simile cernimus, tamen in reliquis nihil est comparabile. Eleazarus erat miles, armis et pugna exercitatus, in ipso prælio constitutus, adoreque animi, et furore (ut fit) accensus: iste Monachus præliis ac pugnis non erat assuefactus, et a sanguine vitæ suæ inituto ita abhorrens, ut nec ex venæ incisione fusum cruorem forsitan serre potuerit.

Ille noverat genus mortis, simulque locum sepulture suæ, nempe quod ruina bellæ inclusus magis, quam oppressus, suo sepeliretur triumpho: iste mortem, ac tormenta crudeliora, et incognita expectabat, sepulchroque se cariturum non dubitabat.

only, not as those that erroneously refer all things unto some ordinary causes, or unto fortune, or such like accidental events, but as those who (more nearly observing and looking into the course of the whole matter) do easily see that there were many things intervening in it, which could not have been brought to pass and dispatched without the special help of God. And truly the state of kings and kingdoms, and all other such rare and weighty affairs, should not be thought to be governed by God, rashly and unadvisedly; there are some instances in holy writ of this nature, and none of them can be referred unto any other cause but God only, but yet there is none wherein the celestial operation more appeareth, than in this whereof we are now speaking.

We read in the first book of Maccabees, chap. vi. how Eleazar run himself upon a certain death, to kill the king that was an enemy and persecutor of the people and children of God; for in the battle, espying an elephant higher and more stately than the rest, whereon it was likely the king rode, with a swift pace casting himself into the midst of his enemies troops, here and there making his way by force, he came to the beast at last, and went under her, and thrust his sword into her belly, and slew her, who, falling with the great weight of her body pressed him to death, and killed him out of hand. Here, in this instance, we may see something not unlike to ours, viz. as to zeal, valiantness of mind, and the issue of the enterprize, but in the rest there is no comparison to be made. Eleazar was a soldier exercised in weapons and trained up in wars, set in battle, emboldened with courage, inflamed with rage and anger: This a friar not inured to fighting, and so abhorring blood by the order of his profession, that perhaps he could not abide the cutting of a vein.

He knew the kind of his death, as also the place of his burial; namely, that he should be entombed under the fall of the beast, and so buried in the midst of his triumph and victory. This man looked for a certain death, and expected nothing

Sed et alia multa dissimilia sunt. Nota quoq. est insignis illa historia sanctæ mulieris Judith quæ et ipsa, ut obsessam civitatem suam, ac populum Dei liberaret, cepit consilium, Deo sine controversia, suggestore, de interimendo Holopherne hostilis exercitus principe; quod et perfecit. In quo opere licet plurima, et apertissima supernæ directionis indicia appareant, tamen longe majora divinæ providentiæ argumenta, in istius regis occisione, ac civitatis Parisiensis liberatione conspiciere licebit, sicut certe quoad hominem, hoc fuit illo magis difficile, vel impossibile.

Nam illa sancta fœmina intentionem suam aliquibus urbis presbyteris aperuit, portamque civitatis, et custodiam pertransiit illis præsentibus, ac approbantibus ut proinde scrutationi, vel explorationi, quæ obsidionis tempore solet esse tam exacta, ut ne musca fere sine examine egredi queat, non potuerit esse subjecta.

Apud hostes vero, per quorum castra, et varias excubias transeundum erat, sapius explorata, et examinata cum fœmina esset, nec quidquam haberet vel literarum, vel armorum, unde suspicio oriri potuit, deque adventu in castra, et a suis, fugæ probabiles reddens rationes, facile dimittebatur.

Sicut tam propter easdem causas, quam propter sexum, et formæ excellentiam ad principem impudicum introduci, et in temulentum, facile quod designavit, perficere valuit. Ita illa.

Hic vero religiosus aggressus est, et confecit rem longe majorem, pluribusque impedimentis, ac tantis difficultatibus, periculisque obsitam, ut nulla prudentia, aut astutia humana, nec alio modo, nisi aperta Dei ordinatione, ac succursu confici potuerit. Debebant obtineri litteræ commendatiæ ab iis, qui erant contrariæ factionis; transeundum erat per eam urbis portam qua itur ad castra hostium; quæ ita sine

but unknown and most cruel torments, and did not doubt before but that he should want a grave to rest within. But there be many other things wherein these two instances can suffer no comparison. The famous history of the holy woman Judith is sufficiently known, who determined with herself, (God, no doubt, moving her to it) that she might deliver the city and the people of God, to murder Holophernes, the general and chief commander of the enemies forces, which she most effectually accomplished. Wherein although appear many and most manifest signs of heavenly direction, yet far greater arguments of God's providence are to be seen in killing of this king, and the delivering of the city of Paris, far more difficult and harder to be brought to pass than was the enterprize of Judith. For this holy woman discovered her intention to some of the governors of the city, and passed through in sight and presence of the elders and princes of that place; and by that means was not subject unto their examination and searching (which is always used so strictly in time of siege and war, that a fly can hardly without examination escape them.) She being come to the enemy, through whose company and watches she was to go, and oftentimes searched and examined, being a woman, and carrying no letters nor weapons about her, from whence any suspicion might arise, and with all yielding reasons of her coming thither, and abandoning relatives, was easily discharged, and not only upon the fore-mentioned causes, but also for her sex and exquisite beauty, being brought before this lewd and unchast prince, she might perform that which she had determined before. This is Judith's case.

But this religious man undertook and performed a matter of greater weight; encompassed with so many impediments, difficulties, and dangers, that no subtilty of man, no human policy, nor any worldly wisdom, but only the clear and visible providence of God, and his special aid, could bring it to pass. First letters commendatory were to be procured of the contrary party, then was he constrained to go through that gate

dubio in illis obsidionis angustiss custodiebatur, ut cuncta haberentur suspecta, nec cuiquam sine curiosissima exploratione de litteris, nunciis, negotiis, armis, pateret exitus.

Sed iste (res mira) vigiles pretransiit sine examine, etiam cum litteris credentiæ ad hostem, quæ si fuissent interceptæ a civibus, sine mora, ac sine ulteriori iudicio de vita fuisset actum, atque apertum hoc divinæ providentiæ argumentum: sed majus miraculum est illud, quod idem mox sine omni exploratione transierit quoq; castra hostium, varias militum excubias, ipsamqu; corporis regis custodiam, ac totum deniq; exercitum, qui fere erat conflatus ex hæreticis, ipse religiosus existens, et in habitu ordinis sui, qui ita erat exosus talibus, hominibus ut in illis locis, quæ paulo ante propte Parisios vi ceperant, monachos quosq; vel occiderint, vel pessime tractaverent.

Judith erat fœmina, minimeq; odiosa; tamen examinata sæpe, illa nihil secum tulit, unde sibi oriretur periculum. Iste monachus, et propterea odiosus, ac suspectissimus, etiam cum cultello ad hoc propositum præparato, non in yagina condito (unde poterat esse probabilis excusatio) sed nudo, ac in manica abscondito, quem si invenissent, mox fuisset in crucem actus.

Ista omnia clariora sunt particularis providentiæ divinæ argumenta, quam ut negari queat: nec aliter fieri potuit, quam ut a Deo occæcarentur oculis inimicorum ne agnoscerent illum.

Nam, ut antea diximus, licet quidam ista absurde tribuant fortunæ, aut casui, tamen nos hoc totum non alio referendum censemus, quam in divinam voluntatem.

Nec profecto aliter factum crederem, nisi captivarem intellectum in obsequium Christi, qui hoc modo admirabili, et liberare civitatem Parisiensem (quam variis viis intelleximus fuisse in summo discrimine, maximisque angustis constitutam) et istius

of the city that led to the enemies camp; the which without doubt was so narrowly kept and watched in the extremity of that siege, that every trifle bred suspicion, and none were suffered to go forth without narrow searching before, touching their letters, messages, business, and affairs they had. But he (a wonderful thing!) passed through the watch unexamined, yea with letters credential unto the enemy; which, if they had been intercepted by the citizens, without any delay and further tryal, he should have been executed presently. And therefore this is a manifest argument of God's providence. But this is a far greater miracle, that he without searching went also through the enemies camp, by divers watches and sentinels; and, which is more, through the king's guard du corps; and, finally, through the whole army, which was made up mostly of hereticks; he being a religious man, and clad in the habit of his order, which was so odious a garb to those men, that they either killed or severely treated all those fryars whom they found in those places, which not long before they had taken about Paris. Judith was a woman, and nothing odious, yet examined often; she carried nothing that might have turned to her danger and destruction. This man, a fryar, and therefore hated, and most suspected, having also a knife prepared for that purpose, not in a scabbard, (which might have made his excuse probable) but naked, and concealed in his sleeve; which, if it had been found about him, he would (questionless) have been put to death immediately. All these are such clear arguments of the particular providence of God, that they cannot be denied; neither could it otherwise be but that God blinded the eyes of the enemy, that they could not see nor know him. For (as we have said before) although some do absurdly ascribe this unto fortune, or chance, yet none can refer the whole matter to other cause but the will and holy purpose of God. And indeed I could not believe this to have been done otherwise, unless I should captive or submit my understanding to the obedience of Christ, who determined, by those miraculous means, to deliver and set at liberty

regis gravissima peccata punire, eumque tam infausta, et infami morte e medio tollere statuit. Atque nos, dolentes sane, aliquoties prædiximus fore, ut quemadmodum erat familiæ suæ ultimus, ita aliquem insuetum, et dedecorosum vitæ exitum esset habiturus. Quod me dixisse non solum cardinales Joiosa, Lenocortius, et Parisiensis, sed etiam, qui tunc apud nos residebat orator, testes esse possunt.

Neque enim hic mortuos, sed vivos in testimonium hujusmodi verborum nostrorum adhibemus, quorum isti omnes probe meminisse possunt. Quidquid tamen in hunc infœlicem regem hoc tempore dicere cogimur, nullo modo volumus, ut pertineat ad nobilissimum illud Galliæ regnum, quod nos imposterum, sicut hactenus semper omni paterno amore, ac honore prosequemur. De persona ergo regis tantum ista cum dolore diximus, cujus infaustus finis eximit quoque ipsum ab iis officiis, quæ solet hæc sancta sedes (quæ est pia mater omnium fidelium, et maxime christianorum principum) imperatoribus et regibus post mortem exhibere: quæ pro isto libenter quoque fecissemus, nisi id fieri in hoc casu sacræ scripturæ vetarent.

Est, inquit S. Joannes peccatum ad mortem, non pro illo dico ut roget quis: quod vel intelligi potest de peccato, vel pro remissione illius peccati nolo ut quisquam roget, quoniam non est remissibile: vel, quod in eundem sensum redit, pro illo homine, qui peccat peccatum ad mortem, non dico ut roget quis. De quo genere etiam Salvator apud Mat. quod illi, qui peccat in Spiritum Sanctum, non remittetur, neque in hoc sæculo, neque in futuro. Ubi facit tria genera peccatorum, nimirum in patrem, in filium, et in Spiritum Sanctum; atque priora duo esse minus gravia, et remissibilia, tertium vero irremissibile, quæ tota differentia, sicut ex scripturis scholæ traduntur, oritur ex distinctione at-

the city of Paris, (which, as we have heard, was in great danger and extremity) and to punish the notorious sins of that king, and to deprive him of this life by such an unhappy and infamous kind of death; and we truly (not without great inward grief) have oftentimes foretold, that as he was the last of his name and family, so was he like to have and make some strange and shameful end of his life. And that I have several times said this thing, not only the cardinals Joiosa, Lenocortius, and Parisiensis, but also the orator, at that time here resident, can sufficiently testify. For we mean not to call the dead to attest our words, but the living; some whereof at this very present do yet well remember them. But whatsoever we have been forced to speak against this unfortunate king, we would by no means have it thought to be intended against the noble realm of France; which we shall embrace and foster hereafter, as we have hitherto always done, with all fatherly love, honour, and affection. This therefore, which we with grief have spoken, concerns the king's person only, whose unhappy and unlucky end deprives him also of those honourable offices and respects, which this holy seat (the tender mother of all faithful, but especially of Christian princes) is wont to pay to emperors and kings; which we most willingly would likewise have bestowed on him, if the holy scriptures in this case had not altogether forbidden it.

There is, saith St John, a sin unto death; I say not that any should pray for it, which may be understood either of the sin itself, as if he should say, for that sin, or for the remission of that sin, I will that none should pray, because it is not pardonable: or else, which comes to the same sense, for that man who committeth such a sin unto death, I say not that any should pray for; of which sin our Saviour himself has spoken in St Matthew, saying, that he that sinneth against the Holy Ghost shall not be forgiven neither in this world, nor in the world to come; where he setteth down three sorts or kinds of sins, to wit, against the Father, against the Son, and against the Holy Ghost; and that the two first

tributorum, quæ singula singulis personis sanctissimæ Trinitatis appropriantur,

Licet enim, sicut eadem est essentia, sic eadem quoque est potentia, sapientia, et bonitas omnium personarum (sicut ex symbolo S. Athanasii didicimus, cum ait, Omnipotens Pater, Omnipotens Filius, Omnipotens Spiritus Sanctus;) tamen per attributionem, patri applicatur potentia, filio sapientia, spiritui Sancto Amor; quorum singula eo modo attributa dicuntur, ita sunt propria cuquo jusq. personæ, ut in aliam referri non queant; ex quorum attributorum contrariis, et distinctionem, et gravitatem peccatorum dignoscimus.

Contrarium potentiae, quæ attribuitur patri, est infirmitas; ut proinde id quod ex infirmitate, seu naturæ nostræ imbecillitate committimus, dicatur committi in patrem.

Oppositum sapientiæ est ignorantia, ex qua cum quis peccat, dicitur peccare in filium; ita ut ea, quæ vel ex humanâ infirmitate, vel ignorance peccamus, facilius nobis condonari soleant.

Tertium autem attributum, quod est Spiritus Sancti, nempe amor, habet pro contrario ingratitude, vitium maxime odibile: unde venit, ut homo non agnoscat Dei erga ipsum dilectionem, aut beneficia; sed obliviscatur, contemnat, ac odio etiam habeat. Ex quo tandem fit, ut obstinatus reddatur, atq; impenitens atq; his modis multo gravius et periculosius peccatur in Deum, quam ex ignorantia, aut imbecillitate; proinde huiusmodi vocantur peccata in Spiritum Sanctum.

Et quia rarius, ac difficilius, et non nisi abundantiori gratia condonantur, dicuntur, irremissibilia quodammodo; cum tamen sola impenitentia sit omnino et simpliciter irremissibilis: quicquid enim in vita committitur, licet contra Spiritum Sanctum, potest per pœnitentiam deleri ante mortem. Sed qui perseverat usq; ad mortem, nullum locum relinquit gratiæ ac

are less heinous and pardonable, but that the third is altogether unpardonable. All which difference proceedeth from the distinction of the attributes, (as the schools teach us out of the holy scriptures) which severally are appropriated to every several person of the holy Trinity. For although as the essence of all the three persons is but one, so also is their power, wisdom, and goodness (as we have learned out of St Athanasius's creed, when he says, "the Father almighty, the Son almighty, and the Holy Ghost almighty,") yet by the attribution, power is ascribed unto the Father, wisdom unto the Son, and love unto the Holy Ghost; whereof every several, as they are termed attributes, are so proper unto every several person, that they cannot be attributed and referred unto any other. By the contraries of which attributes, we come to discern the distinction and greatness of sin. The contrary to power, which is attributed to the Father, is weakness or infirmity, and therefore that which we do amiss, through infirmity or weakness of nature, is said to be committed against the Father; the opposite unto wisdom is ignorance, through which, when any man sinneth, he is said to sin against the Son, and therefore what we commit through natural infirmity, or ignorance, is more easily forgiven us. The third attribute, which is the Holy Ghost's, is love, and hath for its contrary ingratitude, a vice most detestable and odious, which causeth men not to acknowledge the love of God and his benefits bestowed upon them, but to forget, despise, yea, and to hate them, and from hence at last it comes to pass that they prove obstinate and impenitent. And thus to sin against God is far more dangerous and dreadful than if it were done either through ignorance or natural infirmity, and therefore it is termed a sin against the Holy Ghost; and because such sins are seldom and hardly, and not without great abundance of grace pardoned, in some sort they are said to be unpardonable. Whereas final impenitence only is really and simply unpardonable. For whatsoever is done amiss in this life, although it be against the Holy Ghost, yet by repentance it may be wiped out or done away before we die,

misericiordiæ: atq; pro tali peccato, seu pro homine sic peccante, noluit apostolus ut post mortem oraremus.

Jam ergo qui magno nostro dolore intelligimus, prædictum regem ex hac vita sine poenitentia, seu impoenitentem excessisse, nimirum in confortio hæreticorum; ex talibus enim hominibus confecerat exercitum suum; et quod commendaverat moriens regnum in successione Navarræ declarato hæreticorum; ex talibus enim hominibus confecerat exercitum suum: et quod commendaverat moriens regnum in successione Navarræ declarato hæretico, et excommunicato; necnon in extremis, ac in ultimo fere vitæ spiritu ab eodem, et similibus circumstantibus petierit, ut vindictam sumerent de iis, quos ipse judicabat fuisse causas mortis suæ. Propter hæc, et similia manifesta impoenitentiae indicia, decrevimus pro ipso non esse celebrandas exequias, non quod præsumamus quidquam ex hoc de occultis erga ipsum Dei judiciis, aut misericordiis, qui poterat secundum bene placitum suum in ipso exitu animæ suæ convertere cor ejus, et misericorditer cum illo agere; sed ista locuti sumus secundum ea, quæ nobis exterius patent. Faxit benignissimus Salvator noster, ut reliqui hoc horrendo justitiæ supernæ exemplo admoniti, in viam salutis redeant, et quod misericorditer hoc modo cœpit, benigne prosequatur, ac perficiat, sicut eum facturum speramus: ut de erepta ecclesia de tantis malis, et periculis, perennes illi gratias agamus.

In quam sententiam cum dixisset pontifex, dimisit consistorium cum benedictione.

This speech is taken from that printed at Paris, in the year 1589, the year of the king's death, by Nicholas Niuelle and Rollin Thierry; and set forth with approbation with three doctors of the faculty at Paris, as followeth:

Nous subsignez docteurs en theologie de la faculté de Paris certiffons avoir confere ceste harangue prononcée par sa sainteté avec l'exemplaire Latin envoyé de Rome, et avoir trouvé conforme l'un à l'autre.

BOUCHER.
DECRET.
ANCELIN.

but they that persevere therein till death are excluded from all grace and mercy hereafter. And therefore for such sins or sinners the apostle hath forbidden to pray after their decease. Now, therefore, because we understand, not without great grief, that the aforesaid king departed this life without repentance or impenitent, to wit, in the communion and fellowship of hereticks, (for all his army was made up almost of none other but of such men,) and by his last will he commended and made over his crown and kingdom to the succession of Navarre, long since declared an heretick, and excommunicated; as also in his extremity, and now ready to yield up the Ghost, desired of him, and such as he was then standing by, that they would revenge his death upon those whom he judged to be the cause thereof. For these, and such like manifest tokens of his impenitency, we have decreed not to solemnize his death with funerals; not that we presume any thing by these concerning God's secret judgment against him, or his mercies towards him, who could according to his good pleasure convert and turn his heart even when his soul was leaving the body, and deal mercifully with him; but this we have spoken, being thereunto moved by these external signs and tokens.

God grant that all, being admonished and warned by this fearful example of heavenly justice, may repent and amend, and that it may further please him to continue and accomplish that which he hath thus mercifully began for us (as we firmly hope he will) to the end we may give everlasting thanks to him that hath delivered his church from such great and imminent dangers.

When his holiness had thus ended his speech, he broke up the consistory, and dismissed them with his benediction.

A Letter to both Houses of Parliament, on the Subject of their present Proceedings against the Roman Catholics of England. Printed at Paris, 1679.

"The following shrewd, though bitter piece, is one of the many vigorous, but ineffectual efforts, made by the Roman Catholics of this kingdom, to purge themselves from the accusations of Oates and Bedloe, and thereby mitigate the severities which these accusations had drawn down upon them. There is, I think, no need to make any apology at this time of day for giving it a place in this collection. Those who would judge sensibly and uprightly, must hear the prisoner at the bar as well as the accuser; and for want of doing so in the instance before us, few people, out of the pale of the Roman church, believe that any thing material can be said to exculpate the accused. For justice sake, therefore, they ought to be heard, and, if that is allowed, I am absolved."

Thus far the first editor, who, even in his time, seems to have thought some apology necessary for questioning the popish plot, or inserting a piece which went to disapprove its authenticity. The present age hardly requires such a justification on his part.

May it please your Lordships, and you Gentlemen of the House of Commons,

I know the multitude of your affairs, and therefore this interruption shall be no longer than seemeth necessary.

I hope that, since, by permission of authority, Oates (the present infamy of our country) has taken on him the office of counsellor, or rather tutor, to his majesty, in the late publication of his fantastic depositions, it will not be needful to apologise for this little admonitory address unto you.

I confess you now receive it from one single hand, but you must likewise be assured, that it is the voice of the whole Christian world; which, because you stifle and suppress it in England, by most severe penalties, your best friends are obliged to import unto you from beyond sea.

You have raised a most violent persecution against the Roman Catholics; you have thrown many worthy gentlemen into gaols, and constrained others to quit their native country; you have taken away the lives of several honest men, as well by strict and uncharitable imprisonments, as by pretence of justice and form of law; you have aspersed the clearest and unblemished reputations with the foulest stains; you have dreadfully alarmed and inflamed the people, and, in a moment, changed a steady and fruitful peace into most restless and wasting distractions: And all this under colour of a hellish plot that was contrived, and is still carried on, against his majesty's life. This you say is discovered to you by Titus Oates and William Bedloe; and, on their testimony, you have proceeded to so much oppression and blood. And all this while you are not ignorant what reputation your informers have, (viz.) That they are men who, by cheats, robberies, and perjuries, had long since lost all manner of credit; and at this time were grown so indigent, that perhaps their wants had been a temptation strong enough to better consciences for such an advantageous forgery. You know, likewise, that as their former falsehoods and perjuries were notorious, so even their

present ones are manifest; and this not only by clouds of witnesses, both catholics and protestants, which, notwithstanding the care taken to prevent it by banishing the one and frightening the other, do yet appear against them; but also, (besides other absurdities) by plain disagreements and palpable contradictions in their own evidence. You know how differently this pretended information hath been given; and how, Proteus-like, it hath changed its shape being one thing before the privy-council, another before you, a third before the judges.¹ You know how many gross failings have been observed in it, not only by his majesty, but by many of yourselves: You know that the best of your two houses voted the queen innocent of such crimes, as these two villains were not afraid to swear against her,² which was no other in effect than to declare the accusation a perjury; you know that the king himself, who is the most concerned, and has had the best opportunity of examining this mock discovery, openly laughs at it;³ You know what protestations of innocency your humble victims have all hitherto made at their deaths; which (because you think few hearts hard enough to resist so moving and convincing a proof) all your narratives of their executions conceal, and your ordinary discourses find out such pitiful evasions, that I, even I, am ashamed to mention them; for how can any one believe that catholics have dispensations to attest lies (even to the professing themselves protestants, as was said in Bery's case) at their going out of the world, and being ready to appear before the dreadful and most exact tribunal of Almighty God; when every body knows that, in all ages, since your reformation, some of them have lost their employments, some their estates, others their lives, for not taking your oaths and tests; which such dispensations as you speak of would have made most easy for them to do, and consequently have frustrated the effect of the penal laws, and sheltered them from the numerous and heavy persecutions, which, from time to time, have been, and are at present, most thickly showered upon them? Lastly, you cannot but see how highly improbable it is that there should have been an army of forty or fifty thousand conspirators in readiness, and yet, on this discovery, no other sign or evidence should appear of so great a thing but the bare assertion of one or two infamous rogues; and you yourselves are so sensible hereof, that though, on the account of a plot, you kill and slay, yet you seem so far dissatisfied with any evidence you have of it hitherto, as still to keep fasts and days of humiliations, that God would help you to discover it farther; and what (I presume) you hold the most efficacious way of augmenting the number of your discoveries, you are ready to free any rascal out of the vilest prison, who has wit enough to frame a little tale on this subject, adding reward to his liberty; and from being beneath a beggar, raising him to the port and equipage of a lord. What shall I say of all this, or rather, what does the whole world say of it? But that you seem at once to have lost all prudence, honesty, and shame, there being nothing more imprudent than thus, by countenancing perjury and falsehood, to encourage the like (when occasion shall give way) against yourselves, nothing more unjust than by form of justice to wrong the innocent; and lastly, nothing more shameless than to act the most ridiculous, barbarous cruelties on the theatre of the world, and in the view of all man-

¹ One great art of Oates and his fellow-witnesses was, never to assert that their information comprehended all that they knew, but only all that they thought proper to discover as yet. Thus they had a secret reserve of evidence to bring forwards, as they saw the people disposed to swallow larger and grosser fictions. Such testimony and such language would have been endured in no other age and country.

² Oates had the insolence to impeach the queen as an accessory to the plot. "They think," said the good-natured Charles, when he heard this circumstance, "that I am weary of my wife, but I will not suffer an innocent woman to be oppressed." Accordingly he commanded Oates to be imprisoned, who speedily saw the necessity of softening down his evidence on this dangerous topic.

³ Sir John Kersey mentions having been present at the Duchess of Portsmouth's, where the king was very open as to the witnesses of the plot, arguing to demonstration, that their testimony was not only incredible but impossible.—*Memoirs*, p. 103.

kind? Are you not afraid, that not only Christians, for your violence to Christianity, but even Turks and infidels, will unite against you as the common enemy of human nature? And if your pride lift you above those fears, are you not at least apprehensive of divine vengeance? Have you so soon forgot in how many miseries, and what strange confusions, our poor nation was overwhelmed, by heats far less than these? God Almighty, it is true, has strangely restored us back our quiet and tranquillity: but, when he does any such favour, as well to nations as to particular persons, he always adds a *Noli amplius peccare*, &c. "Sin no more, lest a worse thing happen unto thee." We are now beginning to sin again; and, if we hold on the course, what can we expect, but that this worse thing, which is to come upon us, should be but even the total ruin of our country, and the extirpation of our people? I confess that some of you are so ingenuous as to acknowledge, that the accusations against us are calumnies and improbable falsehoods: but, say you, we have need of them. What hath need of them? your property or your religion? You will not say the first, (because, supposing those dangers real, which some treacherously feign, and others as inconsiderately fear) you ought to have so much (not to say of Christianity, but) gentility in you, as to use forgery as little, for the preserving, as you would for the procuring an estate; and then certainly you will easily grant, that religion must have less to do with any such thing; since, for it to stand in need of lies for its support and maintenance, is a strong evidence that it proceeds from the father of them, and is itself a most dangerous impostor. But the sufferers are priests, or at least papists, and though innocent of the crimes objected to them, yet the priesthood of the one being treason, and the religion of the other (if not in law, yet in our opinion) as criminal; we, for our parts, cannot think that they are wronged, when (though, on another score) they are put to death. —Such fancies as these are nothing else but slights and artifices of our subtle adversary, wherewith he endeavours to quiet that remorse of conscience which commonly is felt at the entrance of its wickedness. My design, however, is not to insist on the defence of our religion; give me leave only to propose, in few words, to your consideration, how inconsistent it is with your profession, and how unwarrantable by your own principles, to persecute on that account; pray reflect on this dilemma: either God Almighty hath left us some living guide or guides, here on earth, for the interpreting holy writ, and directing us in all other points of religion, and, under pain of damnation, hath obliged us to follow the same; or else he hath left this task to each of us in particular, imparting to us the authority of being our own guides, and freeing us from all necessity of submission to any other. The protestants will deny the former, not only because, in order to their pretended reformation, they assumed a liberty, (as every body knows) most opposite to the obligation of being guided by others, but, because, on the same account, they were forced to assert, that no guides on earth could be infallible; and, consequently, there could be none whom God had indispensably obliged us to obey; it being impossible God should bind us to an obedience, which might possibly (our director being fallible) engage us in error, and prove the cause of our eternal damnation. It follows then, that they must maintain the latter, viz. That (as protestants say) we are not bound to pin our faith on another's sleeve, but impowered by God Almighty to guide ourselves. Do you not perceive, therefore, that in men of your principles, there is not the least excuse for penalties on religion? What are dissenters in religion guilty of, but of presuming to guide themselves, and follow their own consciences, which you confess is nothing else but what they are authorized to do by God himself? So that really, when you punish for religion, you seem to deal no better with God Almighty than often you do with his majesty, whenever, in his presence, you correct that in his ministers, which you know is done, not only by his approbation, but command. I know not what arts you may use to lessen monarchy here on earth; but, I hope, you will allow the King of Heaven to be absolute. But, after all, if you

think that their religion deserves death, in God's name let them die for it; they own their religion, and you may ease yourselves of Mr Oates and Mr Bedloe; and cry out with Caiphas, What need have we of further witnesses? It is not lawful for you to murder their reputations, also, by traducing those who have no other crime, but their faith, as incendiaries and traitors. And though I should grant you, (contrary to what yourselves believe) that they have deserved all this, and whatever else they suffer, it does not follow, that, therefore, it is lawful for you to procure the punishment of their crimes, by committing others. I believe that many of you would scruple to take a false oath against them; and am confident that none of you would declare it lawful so to do. Now, that other opiate for the conscience of easing yourselves, that the whole weight of perjury lieth on Oates and Bedloe, is as frivolous and weak an excuse as what I have already mentioned. Are you not taught by reason and the common proverb, that the concealer is as bad as the thief? whosoever buyeth stolen goods, knowing them to be such, or conceals the felon, involves himself in the theft? It is true, the knights of the post are Oates and Bedloe; but you both purchase the false oaths and protect the swearers. And, I believe, in the last day, (for as much as concerns this matter) it will be more tolerable for Oates and Bedloe than for you, since your crime seems to be the same with theirs; yet their extreme want, and most desperate necessity, was a greater temptation, than any thing could be to you, who had no wants, but what your groundless apprehensions framed to yourselves. Nay, more than this, setting aside Mr Oates, you not only are those who countenance, but also have drawn on the rest, laying baits for them, and with large promises, and as effectual performances, even forcing them to come to your lure; and this to such a degree, that, considering your rewards, a false oath began to seem the most important piece of service which we could do for our country. Some of you say, 'tis true) you do not believe all that Oates and Bedloe tell you, viz. the design of killing the king, &c. But you cry there is somewhat in it. I beseech you, then, let not what is not in it be punished, but what is; and when it appears by better witnesses than Oates and Bedloe; since either all is true that they swear, or nothing can be guessed, much less credited, on their testimony. Will you, because they swear many great things falsely against us, the more easily believe the less; whereas, should they, to your knowledge, be guilty of perjury but in one single point, you ought in law and conscience to admit of no part of their evidence, but absolutely to reject the whole; and, if so, I presume it would be hard for you to tell me, on what the belief of this somewhat you speak of is grounded, unless you seriously consider thereof; and then, I am of opinion, that you will perceive it to have no other foundation, save only that through prejudice against the Roman catholics, wherein you have been bred, and the hidden desire, which is still nourished in your hearts, of finding somewhat to reproach them with; and, at the same time, appease those doubts which now and then perplex you about religion; and to satisfy your consciences, how little need there is of embracing one so troublesome in its exercise, and (as matters go) so disadvantageous in its profession, by representing it altogether as unholy and impious as it is inconvenient. They are (I say) your prejudice and your interest, which strongly (though, for the most part, imperceptibly) bias and incline your minds to these rash judgments, causing you to make conclusions for which you have no reason; and shewing us how true the maxim is, (whereof you ought to be aware,) viz. *Quod volumus, facile credimus.*

My lords and gentlemen, I trespass on your patience, and almost lose my own: I hope you will attribute to the irregularity of grief, what excess soever this short discourse may be guilty of. It grieves me here, amongst our neighbour-nations, to see our credit (hardly yet whole of its late wounds) to bleed a-fresh with such violence, that already it seems past cure. It grieves me to see the son almost fallen into those hands, which already so lately were embrewed in the blood of the father, and he him-

self (thanks to those papists you now pretend to conspire against him) so narrowly escaped : and if the view of a natural father, being in the like peril, caused a dumb son to break his silence, what wonder is it if the imminent dangers of our common father, yea of our brethren too, I mean all his subjects, should transport one who could speak before, somewhat beyond the ordinary decorum and formalities of custom ? The substance is in so much hazard, that, for the saving thereof, it is no great matter if a ceremony be now and then omitted ; he were not to be blamed, who, to save a drowning prince, should (without staying to make reverence) readily pull him out of the water by the arms.

What shall I say more ? I hope you will pardon me, and look after yourselves : be pleased to pause a little in the midst of this furious career, (though it be only to know how far you can master yourselves) and look, at least, whither it is that you are running so fast ; say to yourselves, let us consider what the whole world is now saying to us ? Let us examine how far these loud exclamations are reasonable. They who thus cry unto us are men as ourselves, and we may be mistaken as well as they. Let us then consider our own interest and security, the honour of our nation, our allegiance to our prince, and duty to God Almighty, and see how far they are hurt by this monstrous authority, which two or three rogues have gotten amongst us. Let us consider, whether, since the pillory could not free us wholly from the inconvenience of perjuries, an encouragement of them will not increase their number, to the ruin of our commonwealth, and, most deservedly, of ourselves in particular : and why do we talk of perjuries only, when there is neither robbery, sacrilege, murder, firing of houses, nor any other crime which (according to the course we take) may not now be securely committed, since all these things (whenever they happen) are laid on the papists ; and though the authors should be discovered, it is enough for them to say that some papists set them on work, and they are so far from punishment, that they are sure of being rewarded. Neither let this escape our thoughts, what it is to shed innocent blood, how deeply it stains, how loudly it cries, and how certainly it is heard : let us also weigh, whether it was the ambition of a few, and the foolish credulity of many, hanged us by the late rebellion ; and whether or no, (considering the posture of our neighbours) that present dissensions are not like to have a worse end. Let us, in spite of passion, prejudice, and popular mistakes, set straight, once more, the balance of justice, afford free and impartial hearing to both sides ; weighing the quality and credibility, as well as the number of witnesses, boldly declare what we shall find on a sincere enquiry, and, in conclusion, act accordingly. Let those who are any wise moved, either by their own serious reflection, or by this piece of paper, (which, perhaps, one day, will be produced against some, with more justice, than several letters have of late been urged for the evidence of a conspiracy) take courage ! God will assist those who are thoroughly resolved to be honest. Darius threw innocent Daniel into the lion's den, for fear of those who said to him, *aut trade nobis Daniele, aut interficiemus te*, and yet the next day, (Daniel's safety, most probably, having given him a greater confidence in God,) he was not afraid to cast all those into the same den, with their wives and children, who, but the day before, had terrified him, even to the wronging of his conscience, and destroying his best friends ; and they who then threatened him, and, by making him yield unto an impiety, were consequently his masters, as soon as he became resolved to do justice, dared not so much as to stir a finger against him.

My lords and gentlemen, there is a certain strength in honesty which nothing can vanquish. Virtue has not any opposite, but what is of the nature of the devil, who is so easily overcome, that barely to resist him (as our Lord assures us) is to put him to flight. I beseech the same Lord to take away these evil and malignant heats which are amongst you, and, instead thereof, to inspire you with a zeal for religion, which so essentially requireth an exact justice, that, in truth, it is nothing else ; and therefore you find

throughout the scripture, that justice, or (as you translate) righteousness, and the service of God (viz. religion) are terms equivalent; and, if so, I hope the earnestness that I have here shewn for justice, which is so necessary a qualification for one of God's servants, will not cause me to seem the less,

My Lords and Gentlemen,

Paris, June 17.

Your most faithful and most humble servant,

F. P.

A Postscript to the House of Commons.

Gentlemen,

Since the above was written, we are told of several strange votes lately passed your house, wherein (whilst we thought that there could be nothing more wonderful than what we had already heard of you) we are made to see, that you, at least, can outdo yourselves: One of your votes (want of time compelling me to leave the rest for another opportunity) is to this purpose:

"That in case his majesty (which God forbid) should come to any violent death, you will (at all adventures) charge the catholics with the treason, and revenge it on their whole body in England."

I beseech you, gentlemen, what other comment can be made of this loyal result of your deliberations, but that, in effect, it is to induce any one who is not a papist to kill the king, by telling him before hand, that his crime shall be laid on others? And the world is of opinion, (which God in his mercy prevent) that by this vote some of you design nothing else but to make the way easier to that abominable fact, which you pretend to hinder; and also to prepare and teach the people how to resent it when it is done: I must confess that your vote would have been just enough, had none but papists been capable of such a villainy; or had all the protestants, quitting the claim of being infallible in their general body, made themselves impeccable in their particular persons; or had it been necessary, that whatsoever some one or more of the papists should act, their whole communion should have contrived or approved: But the case is quite different: We have seen by experience, that in England the catholics are so far from being the only enemies to the life of the king, that there was so great a multitude of those enemies amongst the protestants, that they were strong enough to destroy it, when the opposite party, though assisted by the catholics, was not able to defend it: Is it not an absurd case to be considered, that poor catholics, who so unanimously and gallantly hazarded their lives for that of their prince, and

* Meaning the catholic world: For as yet the protestants were far from giving that sanction to any such uncharitable councils.

* This can never be allowed, unless it be first granted, that the rebellion in Ireland, and the massacre of the protestants there, was for the king's service, and undertaken by his authority. It appears also, that they sometimes relented in point of conscience, as well as loyalty; witness the following petition to the Rump-Parliament, which was printed in the year 1679. As it is said in the title page, by the care of M. M. for general satisfaction.

To the supreme Authority of this Nation, the Parliament of the Commonwealth of England.

The humble Petition of the Roman Catholics,

Sheweth,

That your petitioners have long waited some happy leisure, when there might be a hearing allowed them of their many sad pressures, the weight whereof hath sunk them so ruinously low, that they are utterly disabled to discharge their many debts, make the least provision for their children, or relieve themselves, reduced to extreme necessities.

That even such of your petitioners as are sequestered for delinquency, have still comforted their sorrows with this hope, that at last they should certainly be received to mercy; since the general votes for composition of the 17th of March, 1648, seem clearly to imply them capable thereof, when the rules concerning them should be agreed upon.

are always ready to do the same, should now (right or wrong) be marked out for the only sufferers, if ever (which God forbid) their prince should happen to be killed, when there are still so many of the old regicides not only alive, but in vogue and authority, and so many of their sons who have double portions of their fathers spirits. How many over-heated presbyterians, fifth-monarchymen, and other fanatics, are there in England, who have conveniencies fit enough for such an exploit, and, with wresting a text or two in scripture, are able to perform ten times more than what you pretend the papists do with dispensations from the pope? You may perceive by the late barbarous murder of the Archbishop of St Andrews, (Sharp) Primate of Scotland, what regard they have to your sacred dignities. And here give me leave to tell you, that it is more than highly probable, that these Scottish gospel-braves were encouraged to such a horrid fact, by the present mode (which preceded your vote) of casting all things of this nature on the papists; and I know not but ere now they may have found a trick of throwing this also upon their shoulders, in imitation of what was most inhumanly done on the accident of Justice Godfrey's death, wherein they not only lost the benefit of a very good friend, but were supposed, most unreasonably, and without the least hope of other advantage, to have murdered him themselves. Who can apprehend, that the whole body of catholics, who are in jeopardy of having their throats cut, on every less murder that happens, should contrive or agree to such an attempt against his majesty, which, should it come to pass, by unknown authors, would (whenever you are pleased to vote) expose them to the danger of being torn in pieces by the rabble: What is truly to be feared is, that some *ex vobis ipsis*, infected with the old itch, as well of plunder as of domineering, should use means (especially, should your claim to omnipotency urge you to think of disinheriting the heir apparent) to assassinate the king, and thereupon massacre and spoil the papists, and then set up your beloved twins, presbytery and a commonwealth; wherein (if God interposeth not) you will effectually accomplish what you falsely pretended the catholics have designed, viz. The murder of the king, the change of the government, and the subversion of the protestant religion. And then, perhaps, many, who were big with this feigned plot, and expected great exaltations from it, will find their mistake, and perceive that the young viper has eaten through that wherein it was conceived. And amongst others, let my lords the bishops (some of whom, on pretence of ensuring their gospel, thought fit to preach up Oates and Bedloe) that those assassins of Scotland are only the extreme parts (viz. the nails and claws) of that great body, who, though they now breakfast on us, will not fail to dine on their lordships, and so (that they may have somewhat to think of as well as the rest) fat themselves up likewise for them, whom God in his just anger shall appoint to devour them.

Discite Justitiam moniti.

That now the wisdom of the parliament, applying itself to establish the people of this commonwealth in a quiet and settled condition, your petitioners take up an humble confidence that they alone shall not be excluded from so universal a benefit.

And therefore humbly pray, That the laws and proceedings concerning them may be taken into consideration, and such clemency and compassion used towards them by composition, or otherwise, as, in the judgment of this honourable house, may consist with the public peace, and your petitioners comfortable living in their native country.

And they further humbly pray, That it would please the parliament to vouchsafe them the permission of their declaring their religion, from whatsoever may be inconsistent with government; which will assuredly be done to full satisfaction, if there may be a committee appointed by this honourable house, whom they may have the privilege to attend.

And your petitioners shall ever pray, &c.

The present great Interest both of King and People : In a Letter written to one of the Lords of the Privy-Council.

By a Lover of his King and Country.

This tract was also the growth of the year 1679, and exhibits the most lively picture of the old cavaliers, at this remarkable crisis, that can any where be met with, alike zealous against protestants and papist nonconformists, and ever giving the church the upper hand of the crown. Who the writer was it is scarce possible to guess : But whoever he was, his knowledge of the public distempers was only exceeded by his ardour to remove them : And the violence of that ardour hurries him sometimes into as flagrant fanaticisms as the fanatics themselves (as they were called) could be guilty of.

My Lord,

I have so often resolved to wait on your lordship, and as often been disappointed of those resolutions, by such public concerns as did intervene, that I now resolve, what should then have been the subject of my discourse with your lordship, had my occasions permitted me to come to London, shall be now comprised in this short epistle ; and I hope your lordship will not despise the well meant offering of your lordship's old acquaintance.

My lord, among the rest of other matters, (during twenty years last past) I have particularly taken notice of the most remarkable public occurrences that have been in this nation ; and when I review them, to me they seem strange. I will only observe, with your lordship's leave, these things: First, my lord, you cannot but remember with what an universal joy did all parties amongst us, even as one man, receive the king at his return. England looked like the most peaceable paradise in the world : We began to entertain the old English spirit again of love and loyalty. But behold ! how soon our growing hopes were blasted, and all hands at work to hinder any settlement either in church or state.

First, The old enemy of our religion, the papist, attempts the greatest personages with their nicknacks of religion, and had an excellent harvest ; especially among a sort of religious women, who, when they had thrown off all sense of modesty and honesty, sheltered themselves under the priests shroud of confession and absolution : A rare way to find out the intrigues of protestant princes !

Secondly, The sectarian he immediately steps in too, with disputes about the garments of religion, and must needs have long conferences at the Savoy, whether was most apostolical, a short cloak, or a Holland surplice, &c. And yet these zealots pretend, the articles of religion in the church of England are sound. But King James, I remember, told us, he knew that sort of men very well, that they would be always demanding alterations in religious establishments ; but could never agree among themselves, what 'twas they would have and be quiet.

Thirdly, A sort of wild fantastic men, called fifth-monarchy-men, arose to disturb our peace, which would have neither church nor monarchy, as established; but overturn all, to bring down our Saviour to reign personally amongst them: and no doubt he would have had admirable subjects!

Fourthly, With these, in comes a torrent of atheism and debauchery, as if all sense of good and evil were quite obliterated out of their minds. What cursing, swearing, whoring, blaspheming, even in the face of the sun! all manner of filthiness, even to a prodigy! and he was no gentleman, nor person of any honour, that had not, in two hours sitting at wine, invented some new modish oath, or found out the late intrigue between the L. B. and the L. P.; laughed at the fopperies of priests, and made lampoons and drolleries on the sacred scriptures themselves: this was and is the practice of our young nobility and gentry, to the great scandal and reproach of their families.

Fifthly, The old, cunning statesman observing this, steps forth, and appears vigorous too, on behalf of the discontented; sets up green-ribband clubs,* and lets fall doubtful intelligence at each coffee-house, that it may look two ways, and neither of them true nor understood; has his emissaries every where, to whisper treason and sedition, smite the king through the duke's side, libel and lampoon him, make him the author of the present miseries; cry out daily of property and liberty, that it is like to be invaded; when, quite contrary, their designs are absolutely bent to invade the prerogative of their prince, and render him only the bare compliment of a king, and no more. Yea, they have of late made our citizens statesmen too, whose business lies quite another way (one would think;) every little ale-draper now can tell what the privy-council intend to do a month hence, and what the king ought to do, &c. &c. Very fine by my troth!—Well, but the statesman goes farther yet, for in the country he appears for all the discontented at elections for parliament-men; there he recommends godliness in such a man, courage in another against popish and episcopal plotters; when a man might have heard of some of them thirty years ago, violent against king-plotters; that is, those loyal persons that endeavoured the king's restoration. And now, my lord, we have brought ourselves to so very fine a pass, let me but a little animadvert on what I have observed, and then propose some remedies for the cure of our present misery.

My lord, methinks it should have been impossible, that these things should come to pass in our days as we now see, when we had groaned twenty years under the several tyrannies of mechanic princes, reformation-workmen, sanctified-covenanters, preaching-cobblers, and what not? That our great ones should so far forget themselves, as to hearken to the secret whispers of those anti-christian traders, to endeavour a return to that slavery, under which most of the princes of Europe have lain many years; to countenance a religion so full of wickedness of all sorts; and to plot and contrive the death

* "This was the club originally called the King's Head Club. The gentlemen of that worthy society held their evening sessions continually at the King's Head Tavern, over against the Inner-Temple Gate. But upon occasion of the signal of a green ribbon agreed to be worn in their hats, in the days of street-engagements, like the coats of arms of valiant knights of old, whereby all the warriors of that society might be distinguished, and not mistake friends for enemies; they were called also the Green Ribbon Club. Their seat was in a sort of car-four at Chancery-Lane-End, a centre of business and company most proper for such anglers of fools. The house was double balconied in the front, as may be yet seen, for the clubsters to issue forth in fresco, with hats and no perukes; pipes in their mouths, merry faces, and diluted throats for vocal encouragement of the canaglia below, at bonfires, on usual and unusual occasions. They admitted all strangers that were confidently introduced; for it was a main end of their institution to make proselytes, especially of the raw estated youths newly come to town. This copious society were, to the faction in and about London, a sort of executive power, and, by correspondence, all over England. The resolves of the more-retired councils and ministry of the faction were brought in here, and orally insinuated to the company whether it were lyes, defumations, commendations, projects, &c. and so, like water diffused, spread all over the town; whereby that which was digested at the club over night was like nourishment at every assembly, male or female, the next day. And thus the younglings tasted of political administration, and took themselves for notable counsellors."—NORTH'S *Examen*. 1740. 4. p. 572.

of princes, in order to their design : surely the protestant religion was never well grounded in these persons, or, if it had, they have sinned away all sense of it ; that teaches other things in Christianity. Indeed, as for the female sort, that have departed from our church to that of Rome of late years, they were a dishonour to our church, and no protection or allowance is to be found in it to those adulteries and fornications which are their daily practice : so that no wonder they are departed since into that church, where they can sin and repent, &c. and yet be as innocent as the late saints departed at Tyburn. [Meaning those executed for the popish plot.]

And again, methinks the ill success our discontented brethren had in their former enterprizes for reformation, the miseries, murders, ruin both to church and state, and the loss of one of the best of kings, by the hands of their leaders, should deter them from attempting the like again. But, my lord, I have observed among those sort of men, a spirit full of trouble and discontent, let the times be good or bad ; for they are and must be even as they fancy. Truly if laws wisely contrived to keep us all quiet be put in execution against them, oh then, the beloved doctrine of persecution is held forth powerfully, to untie the purse-strings of the good women of the congregation ; and, to say truth, they have the best harvest. Well, but if no law be put in execution against them, and they are permitted to say and do what they please, truly then one or other of the bishops is suspected popishly inclined, and sometimes they are all so but two. Then again, if a sound able preacher of the church of England, or two, appear against their foppish way of preaching and canting, (as the worthy Sherlock and Falkner have done) so that thereby their congregations begin to grow thin, oh then a hue and cry goes against them, seize the Arminian ! he is departed from the church of England's articles, and its homilies ! Seize the Socinian, that denies the satisfaction of Christ ! so that, were not Mr Sherlock a very tall stout man, Mr Falkner at Lynn, and Dr Jane, under the protestant bishops protection, 'tis ten to one but they had been delivered up to the rabble, as a great man was about 1643, for being charged with the same crimes.* And then they are admirable too at recommending public magistrates ; if they were but the sons of some of the old rebellion, and have never so little tincture of their father's crime, but especially if they hunt jesuits day and night, and appear at a conventicle at least once a Lord's day ; that's the man all the rabble shall be possessed with ; he is a precious man to sit in parliament, to defend us, and promote our cause against popery and prelacy.†

Now, my lord, for the other sort of monsters that have principally given their helping hand to bring ruin and destruction on us, I mean the debauchees and the atheists, I know not what to say to them : I would only ask the justices of peace and other public magistrates these two questions :

1. Whether, if they had observed to put in execution the laws established in this nation, against these sons of Belial, (who thus bid defiance to God and all things sacred) or had not been frightened from their duty by great examples, we had seen the present misery of this age ? Is it not a shame, in a christian kingdom, to permit such monsters amongst us ? I cannot forget‡ one of this sort, that is, one of David's fools, that said

* Archbishop Laud.

† This was Sir William Waller, a Middlesex justice of peace, son of the celebrated parliamentary general. He is thus characterised by North :—" He was the busy justice that was spoke of about the meal-tub, and preached the doctrine of confession to Mrs Celier in Newgate. He was a great inquisitor of priests and jesuits, and gutter (as the term was for stripping) of popish chapels. In which he proceeded with that scandalous rigor as to bring forth the pictures and other furniture of great value, and burn them publicly ; which gave occasion to suspect, and some said positively, that under this pretence he kept good things for himself. In a word, he was called the priestcatcher."—*NORTH'S EXAMEN*, p. 277.

‡ Perhaps Wilnot Earl of Rochester, alluding to this famous satire against mankind :—

Were I (who, to my cost, already am
One of those strange, prodigious creatures, man)

in his heart, &c. and is mighty angry first with himself, for being punished severely for his ill life, then with all mankind; proving they are in a worse condition than beasts, because he himself has suffered like one. A rod for that fool's back!

2. Whether if the magistrates had put in execution the laws made against popish recusants and other sectaries, we had heard of so many plots and contrivances against our king, government, and religion? Then, I say, my lord, let not the king be evil spoken of, that these things are come upon us, but charge it on the careless magistrate, that has forgot God and his duty; and as long as we have such magistracy, we shall wax worse and worse, till we are beyond recovery, and must of necessary consequence be so.

In all ages, the sanction of laws, duly executed, were the best defensatives for any kingdom or commonwealth. 'Twas debauchery, and not observing the laws, brought to nothing the Roman empire. Had our laws been duly executed, should we have heard the cries of the fatherless and widow in our streets so much as we do? Should not cursing, swearing, and blasphemy have been out of fashion, and esteemed dishonourable in the highest, and abandoned by the meanest? Would not adulteries and fornications, and the lewdness of the present times, have crept into the dark, and not appeared so outdaring the laws of modesty, as well as the laws of our land? Judge you that are the magistrates of the land!

My lord, surely it is high time for some of the most prudent among the nobility and gentry, to arise on behalf of God, religion, and the laws, that our king and we perish not together; for if there be not a hook put into the nostrils of these unruly and ungodly persons, 'tis impossible but we shall come to confusion, and every evil work; and also that we in the lower sphere should carry ourselves humbly and loyally to our king, and endeavour to put to silence the turbulent hotspurs of the age, that gape after change in the government: but I hope the Lord will disappoint their expectations, and blast their designs. In order to which I only will, with your lordship's leave, propose these eight things to the consideration of the king, lords and commons; and so shall bid your lordship good-night:

1. Would it not much conduce to the rooting out and destroying the present ill manners of the age, if his sacred majesty would be pleased to appoint fit persons of unquestionable integrity, sobriety, and loyalty, to enquire into the lives of all his officers and servants, from the highest to the lowest; and find out the most expedient way by the law, to reforme the swearer, the blasphemers, the whoremaster, the flatterer, and the lyer, the neglectors of God and his worship, or to remove them from his person and service? then would virtue be in fashion at court.

2. That great care be taken to admit none to be justices of peace, but such as are of very unquestionable loyalty, and firm to the church of England, of sober conversation and piety, that would mind an oath: then should our laws be put in execution against offenders, and justice not perverted, to the destruction of our peace and happiness.

3. That since of late, through the wickedness of the times, there hath been indulgence given to dissenters, that some persons be appointed very often to hear them, in order to put an awe upon them, lest they preach against the established government; and that reward be given to such persons employed in that service.

4. That the nurseries of sedition and rebellion (coffee-houses) be forthwith put down,

A spirit free, to chuse for my own share,
What case of flesh and blood I pleas'd to wear,
I'd be a dog, a monkey, or a bear;
Or any thing, but that vain animal,
Who is so proud of being rational.

and some reasonable compensation given to the persons of that profession, who shall suffer thereby.*

5. That an exact register of all the popish families in England be returned to the exchequer, and with them their children also; that care be taken they may have no St Omers-education, in the several counties by the justices thereof; and to make return of such as dare send their children beyond sea for education in religion.

6. That, to take off the scandal and contempt from the clergy of the church of England, the bishops in their several dioceses would visit in person, and not by their chancellors; and would not superficially, but strictly and severely enquire into the lives and manners of their clergy, and take all care to discard them from their exercise of the sacred office, till they become as they ought to be: and further, that they would by no means admit so many into holy orders, before they be thirty years of age, and well qualified with learning and parts to exercise their office; then should not our universities spew out so many every year of sizers or servitors, with a little learning and less money, to take upon them the curateship of some doctor's pluralities, which with a present marriage, and a small stipend, (let the living be what it will) he becomes the scandal of the parish, poverty being so esteemed every where in this degenerate age. And farther, that 'twould hugely conduce to the encouraging of learning, if the great preferments of the church were given to the most learned and deserving men, such as are sound for the church of England; and that no pluralities be admitted to any person whatsoever, unless to a poor vicar, whose vicarage cannot maintain his family in bread.

7. That some of the most noble personages of the kingdom, men of integrity and learning, and reputed loyalty, together with some of our worthy and pious bishops, would, by way of humble address to his royal highness, represent the present jealousies and fears which are upon the minds of the people of this nation, by his being inclined to the Romish religion; and to represent to his highness the mischievous consequences of altering the religion his father died for, and he himself is obliged to by the obligation of baptism, and the dying advice and command of his royal father the Martyr; and earnestly to press him to make a public satisfaction to the nation in that respect; otherwise the mischiefs that will inevitably follow may, too late, be lamented.

8. To conclude, That all honest and loyal hearts would join unanimously together, to support the interest of the king and the church, against all those that have set their hands to work to pull them down: their several characters you have before in this epistle, and it is no hard matter to meet with them in all places of converse, where they assert and maintain their democratical principles. I say, let us stand up in behalf of our king and church, as stoutly as they are enemies to them, and God will no doubt save us from the destruction and misery, devastation and ruin, that threatens us at this time.

My Lord, I will ever subscribe

Your Lordship's most devoted Servant,

Plymouth, Sept.
16, 1679.

F. K.

* This was complied with, for a proclamation shortly afterwards shut up the coffeehouses.

The Declaration of Lord Petre upon his Death, touching the Plot. In a Letter to his most sacred Majesty.

Lord Petre was one of the five lords committed to the Tower on account of the Popish Plot, and died there in the course of his long confinement, without being brought to a trial. His dying declaration, like those of all the catholics executed during this sanguinary period, disavowed any knowledge of the conspiracy for which they were persecuted. Yet the distrust of the equivocations, said to be permitted by their religion, was so great, that even the testimony of dying men, so weighty in every case, only served, on that occasion, to excite further abhorrence of the religion, which, it was imagined, permitted or called upon persons in such extremity to aver any falsehood which might advance the cause of Rome.

May it please your Majesty,

I give myself the hopes that your majesty will pardon this presumption of a dying but dutiful subject, in giving you the trouble of this short account and declaration of myself, by which, in the first place, I offer to God my hearty prayers for your majesty's long life and happy reign, with all the blessings of this life, and eternal happiness of the next. I having been now above five years in prison, and, what is more grievous to me, lain so long under a false and injurious calumny of a horrid plot and design against your majesty's person and government, and am now, by the disposition of God's providence, called into another world, before I could, by a public trial, make my innocence appear, I conceived it necessary for me, as an incumbent duty I owe to truth and my own innocency, to make this ensuing protestation to your majesty and the whole world. That, whereas, one Titus Oates hath maliciously and falsely sworn that he saw me receive a commission directed to me from Joannes Paulus de Olivia, constituting me lieutenant-general of an army, which he pretended was to come into England, I declare in the presence of the all-seeing God, before whose just tribunal I am shortly to appear, that I never saw any such commission directed to me, or any other person whatsoever, and do firmly believe there never was any such: but of the folly as well as the falsehood of the information the sober part of mankind, as I conceive, sufficiently are thus convinced.

And as for those aspersions which the ignorant and malicious have thrown upon the Roman Catholic church (of which I am, and, by the grace of God, do die a member) as if murdering of kings, and taking up arms against our sovereigns, were an authorised principle of that religion, I do knowingly affirm there is nothing with more horror detested by the Catholic church, as being expressly contrary to the command of our Saviour and christian doctrine, and as such I renounce and detest it, as I do all plots and conspiracies against your sacred person. Having thus briefly, and with all sincerity of a dying man, discharged my conscience, I shall end where I began, and

with my last breath beg of God to defend your majesty from all your enemies, and to forgive those who, by their perjuries, have endeavoured to make me appear to be one, who, living and dying, am, (as in duty bound, &c.)

Your most obedient, and loyal subject,

W. PETRE.

The Judges Opinions concerning Petitions to the King in Publick Matters.

See Moore's Reports, p. 755. Crook's Reports, p. 37. 2 Jacobi.

With a Clause of a late Act of Parliament concerning the same Subject.

The court, in the beginning of winter 1679, began to be alarmed by the various petitions brought in from all quarters, for convoking parliament, and used various attempts to discourage a practice, by which a few active and busy persons were enabled to put themselves, in appearance at least, at the head of great numbers. The following opinions of the judges were made public *in terrorem*.

FEB. 13. 2 Jac. In the Star-Chamber, all the justices in England were assembled, with many of the nobility, viz. the Lord Ellesmore, lord-chancellor; the Earl of Dorset, lord-treasurer; the Lord Viscount Cranborn, principal secretary; the Earl of Nottingham, lord admiral; the Earls of Northumberland, Worcester, Devon, and Northampton; the Lords Zouch, Burleigh, and Knolls; the Chancellor of the Dutchy; the Archbishop of Canterbury, the Bishop of London, Popham, Chief Justice, Bruce, Master of the Rolls, Anderson, Gawdy, Walmesley, Fenner, Kingsmil, Warburton, Savile, Daniel, Yelverton, and Snigg. And there the Chancellor of England, by the king's command, after he had made a long speech concerning the justices of peace, and an exhortation to the justices of assize, and a discourse of papists and puritans, declaring that they were both the disturbers of the state, and that the king intended to suppress them, and to have the laws put in execution against them, demanded of the judges their resolution of three things.

Whereof one was,

If it were an offence punishable, and what punishment is due by the law, to those who frame petitions and collect multitudes of hands thereto to prefer to the king in publick causes, as the puritans have done, with intimation to the king, that if he denies their suit, that many thousands of his subjects would be discontented?

To which all the justices answered, that this was an offence finable by discretion, and very near to treason and felony in desert of punishment; for this tends to raise sedition, rebellion, and discontent among the people.

To which resolution all the lords agreed. And then many of the lords declared, that some of the puritans had raised a false rumour of the king, that he intended to grant a toleration to papists, the which offence seemed to the justices grievously finable by the rules of common law, in the King's Bench, or by the king and his coun-

oil, or now since the statute of 3 H. VII. in the Star-chamber. And the lords, each by themselves, publicly declared, that the king was discontented with this false rumour; and the day before had made a protestation unto them, that he never intended it, and that he would lose the last drop of blood in his body before he would do it. And that he prayed to God, that before his issue should maintain any other religion than this that himself maintains, that he would take them out of the world.

Anno 13 Caro li II. Reg.

In an act, entituled, "An Act against Tumults and Disorders, upon Pretence of preparing or presenting publick Petitions, or other Addresses, to his Majesty, or the Parliament,"

There is this preamble and clause.

WHEREAS, it hath been found, by sad experience, that tumultuous and other disorderly solliciting and procuring of hands, by private persons, to petitions, complaints, remonstrances, and declarations, and other addresses to the king; or to both or either houses of parliament, for alteration of matters established by law, redress of pretended grievances in church or state, or other publick concernments, have been made use of to serve the ends of factious and seditious persons, gotten in power, to the violation of the publick peace, and have been a great means of the late unhappy wars, confusions, and calamities in this nation: for preventing the like mischief in future,

Be it enacted, &c. That no person or persons whatsoever shall, from and after the 1st of August, 1661, sollicite, labour, or procure the getting of hands, or other consent, of any persons, above the number of twenty or more, to any petition, complaint, remonstrance, declaration, or other address to the king, or both or either houses of parliament, for alterations of matters established by law in church or state, unless the matter thereof have been first consented unto, and ordered by three or more justices of that county, or by the major part of the grand jury of the county, or division of the county, where the same matter shall arise, at their publick assizes, or general quarter-sessions, or, if arising in London, by the lord-mayor, aldermen, and commons, in common council assembled: and that no person or persons whatsoever shall repair to his majesty, or both or either of the houses of parliament, upon pretence of presenting or delivering any petition, complaint, remonstrance, or declaration, or other addresses, accompanied with excessive number of people, nor at any one time with above the number of ten persons, upon pain of incurring a penalty not exceeding the sum of one hundred pounds in money, and three months imprisonment, without bail or main-prize, for every offence, which offence to be prosecuted, &c.—*See the act at large.*

Anno 13 Caroli II.

In an act, entituled, "An Act for Safety and Preservation of his Majesty's Person and Government, against treasonable and seditious Practices and Attempts,"

There is this clause.

Be it enacted, &c. That if any person or persons whatsoever, after the 24th day of June, 1661, during his majesty's life, shall maliciously and advisedly publish or affirm the king to be an heretick or a papist, or that he endeavours to introduce popery;

or shall maliciously and advisedly, by writing, printing, preaching, or other speaking express, publish, utter, or declare, any words, sentences, or other thing or things, to incite or stir up the people to hatred or dislike of the person of his majesty, or the established government, then every such person and persons, being thereof legally convicted, shall be disabled to have or enjoy, and is hereby disabled, and made incapable of having, holding, enjoying, or exercising any place, office, or promotion ecclesiastical, civil, or military, or any other employment in church or state, other than that of his peerage; and shall likewise be liable to such further and other punishments, as by the common laws or statutes of this realm may be inflicted in such cases, &c.—*See the statute at large.*

An Answer to a Letter written by a Member of Parliament in the Country, upon the Occasion of his Reading of the Gazette of the 11th of December, 1679.

This is a very bold attempt to maintain the legality of petitioning for the sitting of parliament, in opposition to the following active measures of the court:—"At length a resolution was taken to send for the lord mayor and court of aldermen, and, by intimidating them from countenancing the practice by their example, to strike the like awe through all the corporations of England. Accordingly his lordship (Sir Robert Clayton,) with his brethren, and the recorder, Sir George Jeffries, making their appearance before the privy council, the lord chancellor, by his majesty's command, acquainted them, That his majesty was more than ordinarily concerned at present for the peace of the kingdom, which there were endeavours using to disturb, by procuring hands to tumultuous petitions tending to sedition and rebellion, which were framed and sent for that purpose likewise into the country; and that letters had been intercepted, wherein the persons to whom they were addressed were bid to get as many hands as they could to the said petitions, saying, that it mattered not though they were neither gentlemen nor freeholders. Which illegal and seditious practices his majesty was resolved by no means to suffer; and that, therefore, his majesty expected that they, the lord mayor and aldermen, would, in their several stations, take care of his majesty's honour, and of the peace and safety of the city; and not suffer such persons as should sign such petitions, or go about to procure hands to them, to go unpunished; but that they should proceed against them, or cause them to be brought before the council-board to be punished as they deserved, according to a judgment of all the judges of England, *2do Jacobi.*"—RALPH'S *History of England*, 1754. fol. p. 490.

The chancellor's speech was supported by a royal proclamation against tumultuous petitions, which was chiefly drawn up by the lord chief justice North; in which it is set forth, that, to collect and procure subscriptions to petitions framed for specious ends and purposes relating to the public, are proceedings contrary to the common and known laws of the land, as tending to excite discontents among the people, and to raise sedition and rebellion. This proclamation, with the chancellor's speech to the lord mayor and his brethren, were published in the Gazette, 11th December, 1679; and the object of the following tract is, to confute the reasoning of both, although, out of reverence to the royal proclamation, the argument is ostensibly confined to the speech of the chancellor.

SIR,

I received your letter when I was engaged in much other business, which will excuse me that I have not returned an answer sooner, and that it is done no better now. You desire me to let you know what that judgment is which my lord chancellor ac-

acquainted my lord mayor and his brethren with, and what my thoughts are upon it; and that I may obey you in both, I will first transcribe that case, as it is reported by justice Crook, that being already put into English, whereas the case in Moor is in French.

Memorandum. That, by command from the king, all the justices of England, with diverse of the nobility, viz. the Lord Ellesmere, lord chancellor; the Earl of Dorset, lord treasurer; vicount Cranbourn, principal secretary; the Earl of Nottingham, lord admiral; the Earls of Northumberland, Worcester, Devon, and Northampton; the Lords Zouch, Burghley and Knowles; the Chancellor of the Dutchy; the Archbishop of Canterbury; the Bishop of London; Popham, chief justice; Bruce, master of the rolls; Anderson, Gawdy, Walmesley, Fenner, Kingsmil, Warburton, Savel, Daniel, Yelverton and Snigg, were assembled in the Star-chamber, where the lord chancellor, after a long speech made by him concerning justices of the peace, and his exhortation to the justices of assize, and a discourse concerning papists and puritans, declaring how they both were disturbers of the state, and that the king, intending to suppress them, and to have the laws put in execution against them, demanded of the justices their resolutions in three things: First, Whether the deprivation of puritan ministers by the high commissioners, for refusing to conform themselves to the ceremonies appointed by the last canons, was lawful? Whereunto all the justices answered, that they had conferred thereof before, and held it to be lawful; because the king hath the supreme ecclesiastical power, which he hath delegated to the commissioners, whereby they had the power of deprivation by the canon-law of the realm. And the statute of 1. Elizabeth, which appoints commissioners to be made by the queen, doth not confer any new power, but explain and declare the ancient power. And, therefore, they held it clear, that the king, without parliament, might make orders and constitutions for the government of the clergy, and might deprive them if they obeyed not. And so the commissioners might deprive them. But they could not make any constitutions without the king: the divulging of such ordinances, by proclamation, is a most gracious admonition; for as much as they have refused to obey, they are lawfully deprived by the commissioners *ex officio*, without libel *et ore tenus convocati*. Secondly, Whether a prohibition be grantable against the commissioners upon the statute of 2 H. V. if they do not deliver the copy of the libel to the party? Whereunto they all answered, that statute is intended where the ecclesiastical judges proceed *ex officio et ore tenus*. Thirdly, Whether it were an offence punishable, and what punishment they deserved who framed petitions, and collected a number of hands thereto, to prefer to the king, in a publick cause, as the puritans had done with an intimation to the king, that, if he denied their suit, many thousands of his subjects would be discontented? Whereunto all the justices answered, that it was an offence finable at discretion, and very near to treason and felony in the punishment, for they tended to the raising of sedition, rebellion, and discontent among the people; to which resolution all the lords agreed. And then many of the lords declared, that some of the puritans had raised a false rumour of the king, how he intended to grant a toleration to papists: which offence the justices conceived to be heinously finable by the rules of the common law, either in the King's Bench, or by the king and his council, or now, since the statute of 3 H. VII., in the Star-chamber. And the lords severally declared how the king was discontented with the said false rumour, and had made but the day before a protestation unto them, that he never intended it, and that he would spend the last drop of blood in his body before he would do it; and prayed, that before any of his issue should maintain any other religion than what he truly professed and maintained, that God would take them out of the world.

I doubt not but yourself, and every English protestant, will joyn with this royal petitioner, and will heartily say Amen.

But you desire to know if I think the resolution of the judges in this case ought to deter us from humbly petitioning his majesty, that this parliament may effectually sit on the 26th day of January next. In order to this, give me leave to observe to you, as it is most certain that a great reverence is due to the unanimous opinion of all judges, so there is a great difference to be put between the authority of their judgments, when solemnly given in cases depending before them, and their sudden and extrajudicial opinions. The case of ship-money itself is not a better proof of this than that which you have now read, as you will now see, if you consider distinctly what they say to the several questions proposed to them.

As to their answer to the first question, it much concerns the reverend clergy to enquire whether they did not mistake in it? And whether the king, by his proclamation, can make new constitutions, and oblige them to obedience under the penalty of deprivation? Should it be so, and should this unhappy kingdom ever suffer under the reign of a popish prince, he might easily rid himself of such obstinate hereticks, and leave his ecclesiastical preferments open for men of better principles: He will need only to publish a proclamation, that spittle and salt should be used in baptism, that holy water should be used, and images set up in churches, and a few more such things as these, and the business were effectually done. But if you will believe my lord chief justice Cook,¹ he will tell you, that it was agreed by all the judges upon debate, Hill, 4th Jacobi, that the king cannot change his ecclesiastical law; and you may easily remember since the whole parliament declared, that he could not alter or suspend them.

² I have the uniform opinion of all the judges, given upon great deliberation, Mic. 4 Jac. to justify me, if I say that our judges here were utterly mistaken in the answer which they gave to the second question. I will not cite the numerous subsequent authorities, since every man knows that it is the constant practice of Westminster Hall, at this day, to grant prohibitions, upon refusal to give a copy of articles, where the proceedings in the ecclesiastical courts are *ex officio*.

You see there was a kind of ill fate upon the judges this day, as usually there was when met in the Star-chamber, and that they were very unfortunate in answering two of the three questions proposed to them; let us go on to consider what does principally concern us at present—their answer to the last question.

You have just done reading it, and therefore I need not repeat to you either the doubt or the solution of it; but one may be allowed to say modestly, that it was a sudden answer: 'Tis possible the lords then present were well enough informed, when they were told, that such kind of petitioning was an offence next to treason and felony; but I dare be so bold as to say, that, at this day, not a lawyer in England would be the wiser for such an answer; they would be confounded, and not know whether it were misprision of treason, which seems an offence nearest to treason, or petty-larceny, which seems nearest to felony.

You will be apt to tell me that I mistake my lords the judges, and they spoke not of the nature of the crime, but the manner of the punishment; but this will mend the matter but little; for, since the punishments of those two crimes are so very different, you are still as much in the dark as ever what these ambiguous words mean.

Well, but we will agree, that the crime, about which the enquiry was made, was a very great one. When men arrive to such insolence as to threaten their prince, it will be but little excuse to them to call their menaces by the soft and gentle name of petitions.

But you would know for what, and in what manner, we are at present to petition; and I will give you a plain and infallible rule. ³ It is the statute 13 Car. II. c. 5.

Be it enacted, &c. That no person or persons whatsoever shall solicit, labour, or pre-

¹ 12. Co. 19.

12. Co. 9. 4.

² Co. Mag. Char. 615.

³ 13. Car. II. c. 5.

cure the getting of hands, or other consent, of any persons above the number of twenty, or more, to any petition, complaint, or remonstrance, declaration, or other addresses to the king, or both or either house of parliament, for alteration of matters established by law in church or state, unless the matter thereof have been first consented to, and ordered by three or more justices of the county, or by the major part of the grand jury of the county, or division of the county where the same matter shall arise, at their publick assizes, or general quarter-sessions; or, if arising in London, by the lord mayor, aldermen, and commons in common council assembled; and that no person or persons whatsoever shall repair to his majesty, or both or either of the houses of parliament, upon pretence of presenting or delivering any petition, complaint, remonstrance, or declaration, or other addresses, accompanied with excessive number of people, not at any one time with above the number of ten persons, upon the pain of incurring a penalty not exceeding the sum of one hundred pounds in money, and three months imprisonment, without bail or mainprize, for every offence; which offence to be prosecuted at the court of King's Bench, or at the assizes, or general quarter-sessions, within six months after the offence committed, and proved by two or more credible witnesses.

Here you observe the parliament, who set themselves directly to obviate all the inconveniencies which might arise to the government from tumultuous petitioning, will not allow that great numbers should join in petitions for alteration of the laws (because it is possible ill men might abuse such a liberty,) unless the matter of the petition be consented to in such a manner as the act directs; but in all other cases, they leave the subjects to their undoubted liberty, as well knowing that from thence there could arise no possible inconvenience; but, on the contrary, that, to bar the people of that humble way of making their wants known, might force them upon worse ways of doing it.

And, therefore, I must tell you, that you do my lord chancellor great injustice, if you think his speech tends to deter men from all manner of petitioning: No, that wise and eloquent lord, who receives every day so many petitions, will, I suppose, be content the king should receive some too. It never yet was thought seditious or tumultuous in any government, for the subjects in a humble manner to beg, that he who has the only power to do it would redress their grievances: 'Tis the way by which we apply ourselves to the King of Heaven, who knows all our wants, and yet expects from us that we should daily express them to him in humble petitions. And the wisdom of the church, which has appointed liturgies and forms of common-prayer, seems to instruct us, that God is pleased when huge numbers join in the same petition. Why should not then suppliant subjects, with like humility, and in like manner, address themselves to the god on earth, especially since kings cannot know our desires or our grievances, till we ourselves inform them what they are? I remember some wicked counsellors of Darius did once obtain a law to be made, ¹ that none should petition any one but the king for thirty days; but there never yet was found so absurd a statesman as to advise a law, that subjects should not supplicate their prince. 'Tis probable it would be well for some favourites, who are near a king, if such a right could be taken from the people, for then all their false suggestions and informations might pass undiscovered; but 'tis impossible that a king should long be safe in such a condition. I will suppose a malicious statesman, intending to raise a jealousy in the mind of the sovereign, should inform him, in dangerous times, that he was not beloved by his people, and that he was not to trust them: How could the subjects in such a case recover the prince's good opinion, in the absence of a legal representative, but by humble and affectionate addresses? or suppose some good protestant prince should be so unfortunate as to have some counsellors near him who are concealed; and others, whose crimes make them fear parliaments; it is easy to suppose, that the one sort will be filling his

¹ Dan. ch. 6.

ears with stories, that a great part of his kingdom are inclined to popery; and the other sort, that the best of his subjects are quite out of love with parliaments, as factious and seditious assemblies. Into what unfortunate circumstances would such a prince be apt to fall, if his people were precluded from addressing themselves and opening their desires to him!

I might go on to trouble you with infinite instances of this nature, but there is no want of any in so plain a case: 'Tis the doctrine of our church, that the only arms of subjects are prayers, petitions, supplications, and tears; and they are no friends either to the king or church who would disarm us of these.

¹ My Lord Chief Justice Hobbart tells us, that it is lawful for any subject to petition to the king for redress in a humble and modest manner; for (says he) access to the sovereign must not be shut up in case of the subjects distresses.² It was one of the crimes for which the Spencers were banished by parliament, that they hindered the king from receiving and answering petitions from great men and others.

And as it is our unquestionable right, so in all ages the usage has been by petition to inform our king of our grievances. In the reign of King Ed. II. and Ed. III. petitions were frequent for redress of publick grievances, and for parliaments, especially out of Ireland (though that is a conquer'd nation,) as may be seen in the close rolls of the reigns of those two kings. One instance I will give you for your satisfaction, but I will tire you with no more, for that would be endless.

³ 'Tis claus. 10. Ed. II. M. 28. *intus pro communitate Hiberniæ. Rex. Dilect. et fidelibus suis Justa Cancell. et Thesaur. suis Hib. salutem ex parte populi nostri terræ prædict. per petitionem suam coram nobis et concilio nostro exhibitum nobis est cum instantia supplicatum, quod cum, &c.*

In the 5th year of King Richard II. the whole body of the realm petitioned, that the most wise and able men within the realm might be chosen chancellors.

King Henry VIII. told his subjects, then in arms against him in Yorkshire, that they ought not to have rebelled, but to have applied themselves to him by petition.

King James, by a proclamation published in the 12th year of his reign, begins thus: "The complaints lately exhibited to us by certain noblemen, and others of our kingdom of Ireland, suggesting disorders and abuses, as well in the proceedings of the late begun parliament, as in the martial and civil government of the kingdom, we did receive with extraordinary grace and favour."

⁴ And by another proclamation in the 13th year of his reign, he declares, that it was the right of his subjects to make their immediate addresses to him by petition; and in the 19th year of his reign he invites his subjects to it.

⁵ And in the 20th year of his reign he tells his people, that his own and the ears of his privy-council did still continue open to the just complaints of his people; and that they were not confined to times and meetings in parliament, nor restrained to particular grievances; not doubting but that his loving subjects would apply themselves to his majesty for relief; to the utter abolishing of all those private whisperings and causeless rumours, which, without giving his majesty any opportunity of reformation by particular knowledge of any fault, serve to no other purpose but to occasion and blow abroad discontentment.

⁶ It appears, that the house of lords, both spiritual and temporal, *nemine contradicente*, voted thanks to those lords who petitioned the king at York to call a parliament.

⁷ And the king, by his declaration printed in the same year, declares his royal will and pleasure, that all his loving subjects, who have any just cause to present or com-

¹ Hob. 220. Wrenham's Case.

² Vet. Magn. Chart. Exil. Hugl. De Spencer 51.

³ Claus. 10. E. II. M. 28, *intus Pro communitate Hiberniæ.*

⁴ Coke, Jurisdiction of Courts, p. 79. Burart's History of the Reformation, pag. 231. Procl. Dat. 7. Feb. 11. Jac.

⁵ Procl. 12 Jac.

⁶ Procl. dat. 18th July 10. Jac. Procl. dat. 14 Feb. 20. Jac.

⁷ Lords Journal, An. 1640.

plain of any grievances or oppressions, may freely address themselves by their humble petitions to his sacred majesty, who will graciously hear their complaints.

¹ Since his majesty's happy restoration, the inhabitants of the county of Bucks made a petition, that their county might not be over-run by the king's deer; and the same was done by the county of Surry on the same occasion.

'Tis time for me to conclude your trouble: I suppose you do no longer doubt, but that you may join in petition for a parliament, since you see it has been often done heretofore: nor need you fear how many of your honest countrymen join with you, since you hear of petitions by the whole body of the realm; and since you see both by the opinion of our lawyers, by the doctrine of our church, and by the declarations of our kings, that it is our undoubted right to petition. Nothing can be more absurd than to say, that the number of the supplicants makes an innocent petition an offence; on the contrary, if, in a thing of this publick concernment, a few only should address themselves to the king, it would be a thing in itself ridiculous; the great end of such addresses being to acquaint him with the general desires of his people, which can never be done unless multitudes join. How can the complaints of the diffusive body of the realm reach his majesty's ears in the absence of parliament, but in the actual concurrence of every individual person in petition? for the personal application of multitudes is indeed unlawful and dangerous.

² Give me leave, since the Gazette runs so much in your mind, to tell you (as I may modestly enough do, since the statute directs me) what answer the judges would now give if such another case were put to them as was put to the judges 2 Jacobi.

Suppose the nonconformists at this day (as the puritans then did) should solicit the getting of the hands of multitudes to a petition to the king for suspending the execution of the penal laws against themselves, the present judges would not tell you, that this was an offence next to treason or felony, nor that the offenders were to be brought to the council-board to be punished; but they would tell you plainly and distinctly, that if the hands of more persons than twenty were solicited or procured to such a petition, and the offenders were convicted upon the evidence of two more credible witnesses upon a prosecution in the King's-Bench, or at the assizes, or quarter sessions, within six months, they would incur a penalty not exceeding one hundred pounds and three months imprisonment, because their petition was to change a matter established by law. But I am sure you are a better logician than not to see the difference which the statute makes between such a petition, which is to alter a thing established by law, and an innocent and humble petition, that a parliament may meet according to law, in a time when the greatest dangers hang over the king, the church, and the state.

The Romanists best Doctor, who, by one infallible Remedy, perfectly cures all Popish Diseases whatsoever in a Quarter of an Hour's Time, or Half an Hour at utmost, by an approved Dose, which never yet failed his Patients. Which approved Remedy may once a Month be had, at Tyburn, near Paddington, of that eminent Physician of long Practice, John Keich, Esq. Physician in Ordinary to the Pope: A small Dose whereof being rightly applied, and compounded with a Grain or two of his Holiness's Absolu-

¹ Declar. 1640.

² Temp. Car. II.

tion, and free Pardon, cordially administred, sends the Patient bolt-upright to Heaven in a String, without calling at Purgatory by the Way. It likewise perfectly cures these Popish Distempers following, though of never so long Continuance: viz. Treason, Murder, and Rebellion, and all other Popish Contrivances whatsoever, with the utmost Speed imaginable, and without the least Hindrance to Christian Honesty. The aforesaid Remedy takes immediately away the Popish Clap, known by these following Symptoms, viz. Treasonable Contrivances against the King, Kingdom's, and Country's Good, which it cures with Speed beyond Imagination. It likewise quenches all Popish Zeal to the Roman-Catholick Cause, not got by Innocency, as is by some conceived. This Remedy will be delivered to any Patient at Thirteen-pence Half-penny the Dose, provided they be legally condemned, but to Roman Catholicks, gratis, provided they can bring his Holiness's Hand and Seal to certify they have been Actors in the late treasonable Designs on Foot, in that horrid blood-thirsty Plot. Together with a Letter testimonial from his Holiness to St Peter to admit you without Scruple, yet the Hand being old Roman, St Peter himself does not well understand it. To prevent your Mistake, you may certainly find the Doctor every Execution-Day, at the Sign of the Jesuits-Cap at Tyburn, between the Hours of Eleven and Twelve at Noon, ready to afford you his Remedies aforesaid, in order to your immediate and speedy Cure.

The purpose of this squib requires no comment. It supplies little information, besides the regular descent of the office of public executioner from Gregory and Dunn to Jack Ketch, whose name, like that of Pharaoh, has distinguished all his successors.

Remarkable Cures performed by this eminent Physician, and his Predecessors, since Queen Mary's Days last, of fiery Memory.

Gentlemen,

To the intent I may no way deceive your expectations, I shall here give you a particular of some several persons cured by me and my predecessors, and refer you to your own judgment, whether I speak more than we have performed.

In the year 1582, my grandfather cured Mr Babington and the rest of his accomplices, for attempting the murder of Queen Elizabeth, of happy memory, being fourteen in number: He cured them in two days time, with only one dose to each person administered. These persons having been in Spain, Italy, and France, where, meeting with no cure, their malignity raging worse than ever, upon their first coming hither they were freely discharged of the same. Their distemper being a blood-thirsty attempt upon the queen majesty's person; which was perfectly dissolved with the first hempen doze. I could give you an account of some more cured by my aforesaid grandfather, but hope these suffice.

In the year 1605, my father cured Guido Faux of a malignant fever, which was so wonderfully strong, that it had like to have blown up both king and parliament: He no sooner came into his clutches, but of roaring lions he made them as tame as lambs, and sent them to Pluto's territories without bail or mainprize.

At the same time he not only cured him, but the rest of his accomplices, beyond expectation.

In the year 1660, my father Gregory cured Major-General Harrison, Hugh Peters, Oliver's jester, and several more, of a violent madness; which frenzy attained to so high a pitch, as made them destroy their father, the most gracious king living, and

turned religion and episcopacy out of doors; they were cured with one swing on the high-rope.

Since which, my father Dunn hath cured several fifth-monarchy-men under Captain Venner, who stunk so much of popery, that he could hardly distinguish at the hour of death what they were, yet they were perfectly cured by my first dose; which had likewise the singular operation, that it not only cured them, but some scores, if not hundreds besides; upon whom my medicine so far operated, as through fear they never since durst attempt the like rebellion.

Since that, he cured one Hubert, a Frenchman, of a scald head, miserably scorched by the fire in 66, yet he is forced to sing *Lacrimy*, in respect only one poor foreigner should partake of his physic, whereas many of his countrymen deserve the like. Thus much for cures performed by my father and grandfather; now to my own.

First, I cured Mr Stayly, living in Covent-Garden, London, of a bloody design against his present majesty.

Secondly, Five remarkable jesuits, Gaven and his fellows, who, though they died as innocent as the child unborn, have reason to bless me for sending them to heaven before their time.

Next, I perfectly cured Ireland and Groves, who were so well satisfied with my cure, that they gave me fee with considerable interest.

Gentlemen,

These are but a touch for a taste of my cures; I hope in my next to make an addition of some persons now in custody, and then I hope to render myself eminent. I hope it is not only my desire, but the request of all true protestants, to put a final period to treason; and then I shall have work enough.

You may speak with me at the hour, time, and place aforesaid.

The Bishop of Carlisle's Speech in Parliament, concerning deposing of Princes. Thought seasonable to be published to this murmuring Age. 1679.

— *Neutrum modo mas modo Vulgus.*

Both parties, during the collision of their principles and opinions, endeavoured to search for authorities and precedents in English history. Some favourer of non-resistance lighted upon the speech of Thomas Merks, Bishop of Hereford, against the usurpation of Henry IV., and expanded it into its present shape, as an apology for the principles of the Tories; Dryden, long afterwards, when modernizing Chaucer's Parish Priest, assigned to him the principles and character of the Bishop of Carlisle, and represented him as a nonjuror of his time, who had lost his benefice by the revolution, in which Richard II. was dethroned. This must be considered, not as a regular historical document of the 14th century, but as a prolusion of the seventeenth.

THIS question, (right honourable lords,) concerneth a matter of great consequence and weight: the determining whereof will assuredly procure either safe, quiet, or dangerous disturbance, both to our particular consciences, and also to the common