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CONSIDERATIONS
UPON THE
UNION
OF THE
Two Kingdoms :
WITH AN
ACCOUNT
OF THE

Methods taken by Ancient and
Modern Governments, to ef-
fect an Union, without en-
dangering the Fundamental
Constitutions of the United
Countries.

Obsequium amicos, veritas odium parit. Terent.

Printed in the Year 1706.

TO THE

TO THE
NOBLEMEN,
BARONS,
AND
Burroughs of Scotland.

TIS in Vindication of that Inalienable Right of
Legislature and Judicature annex'd to your
Freeholds, by the Fundamental Constitution
of our Government, Most Noble and Illus-
trious Patriots, that the following Sheets are written; a
Right which your Ancestors have Gallantly Defended against
Tyrants at home, and Enemies abroad; and a Right, in
the Execution of which, no Nation in the World, since the
Fall of the Jewish Government, has given Nobler Proofs of
Liberty, Wisdom, and Justice; as is evident from our
Laws and Histories: This gave occasion to our Noble Histo-
rian and Poet Buchanan, to say truly of Our Nation,

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Artibus his, totum fremere cum bella per orbem,
Nullaque, non Leges, tellus mutaret avitas,
Externo subjecta jugo, gens una, vetustis
Sedibus, antiqua sub Libertate, refedit.

Which may be English'd,

Thus, when fierce Mars did the whole World subdue,
Subvert old Laws, and forc'd 'em to take new,
With Foreign Yokes the Scots alone were free,
And with old Lands, retain'd old Liberty.

It must be own'd however, that Our Country has, as well as others, had its ups and downs, with respect to Freedom: yet no Man can deny, but the Genius of Our Nation did constantly run that way; and when at any time they have been Injur'd on that head by Princes or Parliaments, they have recover'd themselves again. We have remarkable Instances of this in our Histories. The chief of Our Nobility, and some manag'd and over-aw'd Parliaments, agreed to make Scotland Homagers to England in the Reigns of William I. and John Baliol, but the Freeholders of Scotland soon made void these Agreements, knowing very well, That neither King nor Parliament could give away their Rights without their own Consent; so that if any one be offended at my advancing this Proposition, it's my Comfort, Most Illustrious Patriots, that I have the repeated Declarations and Practises of Our Glorious Ancestors on my side; besides the Matter is clear from the Nature of the thing, and universally agreed to by all People who retain any Sense of Freedom.

That Parliaments have betrayed the Liberties of Nations, as well as Princes have oppress'd them, is what no Man will offer to deny: Our Last Parliament, to their Eternal Honour, Branded with a Note of Impiety, the Bloody and Oppressive Laws made by former Parliaments, in some of our Late Reigns: Therefore no Man can justly charge me with Impugning the Authority of Parliaments, when I say they have no Power to do Ill, or to Subvert the Fundamental Li-

berties

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erties of the People whom they represent. Nor would I be understood so much as to suggest, That the present Parliament of Scotland, who have so Gloriously Establish'd Our Liberty, by making the Claim of Right Inviolable, is capable of Entertaining so base a Design: But since such a Power has, on the present Occasion, been allieg'd by some People to be in Our Parliaments, tho none of 'em did ever assume it to themselves; I hope, no Man can blame me to say, That Our Parliaments ought, with the Apostle in another Case, to own, That their Power is for Edification, and not for Destruction. No Man, or Society of Men, can Appoint any other End of Government, than what God has Appointed, which is the Safety of the People: Therefore it's not only the Consent of the Three Estates that is Requisite, when a Change in the Fundamental Constitution is intended, but the Consent of all those whom they Represent: The contrary would be a Violation of the Original Laws of Society, and an Injury not only to the present Proprietors of the Kingdom, but to their Successors, who have Reason to expect the Conveyance of the Property, with the same Freedom, from the present Generation, as it was handed down to them by their Ancestors: For the Original Value of the Kingdom must Sink, and that of every Freehold in it, if the Hereditary Right of Legislature and Judicature, annex'd to the Freeholds of Scotland, be so much Abridg'd, as to be absolutely in the Mercy of England: Should that be the Case, certainly no wise Man will make a Purchase in Scotland henceforward, according to the present Valuation, but will expect an Abatement of the Price, in Consideration of the Abatement that is made of the Rights belonging to the Freeholds.

I expect to meet with an Objection, That all this is against the Union; but I can sincerely reply, That no Man in either Kingdom is more for an Union than my self; yet I can't help thinking, That to deprive the Kingdom of Scotland of Our Parliament, and to allow us only 16 Lords, and 45 Commons, to join the Parliament of England, is a Subjection, and not an Union: To make this plain, Let's suppose, that Edinburgh and Aberdeen should come to an Agree-

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Agreement, to be United under one Hereditary Provost, or Lord Mayor, for ever, with some Reservations for particular Immunities in Each; but that thence-forward Aberdeen shall have no Town-Council, and only be allow'd to send One Deputy to the Town-Council of Edinburgh, where all Things relating to the Two Cities, must be Determin'd by Plurality of Votes; Could any Man in such a Case, say, That Aberdeen would not be Subjected to Edinburgh, and entirely in its Mercy: The Parallel is so plain, that there needs no Application.

I shall conclude, that if I be Mistaken in my Proposal of an Union, with a Reservation of the Parliament of Scotland, to be Guarantees for the Terms of the Union that shall be agreed on, and to take Care of our separate Concerns; I have the Satisfaction to be mistaken, not only with our Legislators in all the Treaties formerly set on Foot, but with all the Ancient and Modern Governments that we have any Account of in History, except sometimes where there has been a Conquest. Nor do I know or suggest, that our Late Treators have agreed to any such Scheme; I never heard there was any Article in the Treaty to deprive our Kingdom of its Parliament; so that when I make use of the Number of 16 Lords, and 45 Commons, it's only with reference to those People who talk without doors, of allowing us no other Parliament: As I make use of the Proposals of some that would have us be Subject to the Municipal Laws of England, in my Arguments against the Necessity of such a Subjection, tho I know that Our Municipal Laws are allow'd us by the Treaty; therefore I hope none will mistake me, as if I were writing against the Late Treaty; it's fit that should be left as it is to the Parliaments of Both Nations, (where the Heads agreed on will no doubt be debated:) But since it's the Privilege of every Subject, to offer his Opinion concerning any Law under Consideration of the Legislators, or for Repealing of those that may be thought Inconvenient; and that it's the Practice in our own Country, as it was among the wise Romans, to order Laws under Consideration, to be Publish'd before they were pass'd, that the Senators might have the Opinion of the People about them; No Man has any just

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just Cause of Offence, because I make use of my Native Liberty; in which, I protest, I have nothing in View, but the Good of the whole Island.

That the Great Lawgiver of Heav'n and Earth may Direct You, Most Illustrious Patriots, to such Measures as may Secure Our Liberties among Our Selves, and Cement a Lasting Union with Our Neighbours; That it may be Her Majesty's peculiar Glory, as she has Triumph'd over Our Enemies abroad, to Conquer Our Divisions at home, and that such a Solid Foundation of Union may be laid 'twixt the Two Nations; as to prevent their Dividing any more in Affection or Interest, is, and shall be, my Constant Prayer, as it ought to be that of all Good Subjects.

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The UNION of the Two Nations Consider'd.

CHAP. I.

That the first and chief step taken by ancient and modern Governments, towards uniting Nations that liv'd under the same Allegiance, was a General Act of Naturalization.

IT was a wise and judicious Observation of Sir Francis Bacon, that whatever Kingdoms have been united in Sovereignty, and that Union not fortify'd with a further Union, at one time or other those Kingdoms have broken, being on all occasions apt to relapse and return to their former Separation*.

Sir Francis urg'd this as an Inconvenience that would necessarily follow upon refusing Naturalization to the Scots, and the Event has shew'd that he took his View right, he back'd his Proposition with Instances from History, as became a Person of his Learning and Observation, to shew that he did not advance what he said, to serve a present turn, but that his Judgment in this matter was founded upon Universal Experience.

The Romans by denying this Naturalization to the Latins, notwithstanding the Union that had been betwixt them from the Battle of Regilla, to the Consulship, brought on that call'd the Social War, the most pernicious that ever their

* Speech in the House of Commons, 5 Jacobi, concerning the Article of Naturalizing the Scottish Nation, &c. London, 1641. p. 22. B State

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State was engag'd in; and therefore being convinc'd by dear bought Experience, that this was a false step, they ever after naturaliz'd presently, all those they subdued.

This Case has so much Resemblance to that now under Consideration betwixt the two Nations, that it may not be improper to give a succinct Account of it from that Learn'd and Industrious Antiquary *Rosinus* *. He informs us, that to be a Citizen of *Rome*, had so much Liberty and Dignity annex'd to it, that the Latins and Italians had a mighty Desire to be admitted to that Privilege. The Romans were very sparing of it, and granted it first to the *Acerani*, but without Right of Suffrage, and afterwards to the *Formiani*, *Fundani*, and *Arpinates*, with Right of Suffrage; after this they expell'd the Latins from *Rome*, for pretending to the Right of Citizens; and when *M. Fulvius Flaccus* the Consul, promulgated a Law for giving that Privilege to the *Italians*, the Senate oppos'd it, and sent him out of the City. About three Years after, *C. Grachus* renew'd that Law, and admitted the Latins into the Senate, alledging that it could not handsomly be refused to People that were of the same Blood: And to the rest of the Roman Associates, who had no Right of Suffrage, he granted that Privilege, at which the Senate was so incens'd, that they made a Five Mile Act; and banish'd all their Associates, who had no Right of Suffrage, so far off the Town. And when *L. Licinius Crassus*, and *Q. Mucius Scaevola*, did afterwards make a Law against those Pretensions of the *Italians*, it did so much alienate the Minds of the *Italian* Princes, that in three Years after, they broke out into a War, during which the *Romans* had several Defeats. *P. Lupus*, one of their Consuls was kill'd, and the *Etrusci Umbri*, and other neighbouring People, being also ready to revolt, a Law was made by *L. Julius Caesar* the Consul, that those People who had continued faithful, should have the Privilege of Citizens of *Rome*; by which Law the *Latins*, the *Hetrusci*, and *Umbri*, were taken in, and afterwards, the *Italians* being overcome in several Battles by *Cn. Pompeius Strabo* the Consul, and *L. Sulla* the Legate of the other Consul *L. Cato*, and reduc'd to a small Number, were included in that Law by the same Consuls, to take away all further occasion of

* Leyden Edit. 1663.

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War on that Head: That same Year a Law was made that those who were Citizens of the Confederate Cities, and domicil'd in *Italy*, should be accounted Citizens of *Rome*. Sometime after *L. Cornelius Sulla* enter'd into a League with the *Italians*, to prevent their Fears of his depriving them of the Right of Citizens, and of the * Suffrage newly granted them.

Sparta was very shy and nice in Naturalizing her Confederates, the Issue of which was a General Revolt of their Associates, and the irrecoverable Ruin of their State.

Arragon was united with *Castile* and the rest of *Spain*, under *Ferdinand* and *Isabella* many Years, but divided from the rest in Privileges, and particularly this of Naturalization, the Consequence of which was, That though they had been united an hundred Years, a condemn'd Man's crying out *Liberty* through the Grate of a Prison, occasion'd a dangerous Rebellion, which was not suppress'd without much Difficulty. But to prevent the like in time to come, that Kingdom was brought upon an equal footing with the rest of *Spain*, and allow'd their ancient Privileges. This Instance we shall give more at large from a Manuscript of Judge *Dodderidge* about the Union in 1604, thus; " *Don Antonio Perez*, one of the Secretaries of State to the King of *Spain*, falling into Disgrace, and being imprisoned in *Castile*, escaped from thence into *Arragon*, and being a Native of that Country, challeng'd the Benefit of their Laws, which were different from those of *Castile*, from whence he fled; but this was denied him, and he being shut up in Prison at *Saragossa*, he cried out *Liberty* through the Grate, as before-mentioned; Upon which the Country took Arms for maintaining their ancient Laws, Customs, and Jurisdctions. Now the Reason of this was, because the Union was imperfect at first, for that of *Arragon* being only by Marriage, the Natives of that Country, were in respect of Benefits, accounted Aliens in *Castile*, whereas those of *Navarre*, who were included in the same Union, had the Privileges of Natives, as may be seen by a Book describing the Nature of their Union, call'd, *Taurina Constitutiones*.

Pisa being united to *Florence*, but not naturaliz'd, they revolted upon the first View of Foreign Assistance; but to cut off all Occasion for such a Revolt afterwards, they had the Privilege of Naturalization.

* *Rosin. Antiquitat. Roman. Lib. 8. Cap. 2.*

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The Turks, when they subdued *Transylvania, Vallachia, and Moldavia*, did not naturalize, but retain them as *Homagers*; the Consequence of which was, that those Provinces revolted again from the *Turks*, under the Conduct of *Sigismund* Prince of *Transylvania*.

To those Instances of the bad Effects of denying Naturalization, *Sir Francis* added others of the good Effects of allowing that Privilege, viz. That the Provinces of *Guienne, Provence, Normandy, and Brittany*, formerly subject to the Crown of *England*, being once naturaliz'd by the Crown of *France*, never offer'd any more to break off from that Crown, notwithstanding the many Troubles of that Kingdom.

The *Saxon* Heptarchy being united, and all allow'd the same Privileges under the Name of *England*, never offer'd to disjoin afterwards, and it was the like as to the United Kingdoms of *Spain*, betwixt whom there was a mutual Naturalization.

To these Instances adduc'd by *Sir Francis*, there are many to be added from Ancient and Modern Histories.

Cyrus when he had conquer'd the *Assyrians*, said, they should be as free as before the Victory, and that they had only chang'd their King *.

When *Romulus* conquer'd the *Sabins*, he allow'd 'em the same Privileges with the *Romans*, and of two People made them one †. Hence *Tacitus*, an able Statesman as well as Historian, commends the Wisdom of their Founder *Romulus*, who on the same day that he conquer'd his Enemies, gave them equal Privileges with his former Subjects ||.

The *Romans* did the same to the *Albans, Latins, Tuscans*, and in general to all the other People of *Italy*, whom they subdued; upon which *Seneca* makes this Judicious Reflection, That the Roman Empire, which in his time was of such vast Extent, would have been very inconsiderable, had they not by political Prudence associated the Conquerours with the Conquered ‡.

To this purpose the Oration of *Cerealis* to the *Gauls* mention'd by *Tacitus*, is very remarkable: For the most part you command our Legions, You govern these and other Provinces,

* Xenoph. Cyroped. lib. 4. † Liv. lib. 1. || Annal. lib. 1. ‡ Lib. 2. de Ira, C. 34.

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We keep nothing separate from you, nor exclude you from any thing, Therefore keep the Peace, and enjoy the same Freedom of Living, though conquer'd, by the same Right that we your Conquerors enjoy it.

Envy it self cannot deny, but the *Scots* Commanders and Troops have added to the Glory of the *English* Arms, as the *Gauls* did to that of the *Romans*. It is own'd by *Speed*, That scarce any Action of note has been perform'd in *Europe*, where the *Scots* have not been with the first and last in the Field: It's known how readily they concurr'd with an Army, under the *Marquis*, afterwards *Duke of Hamilton*, for the relief of the *Elector Palatine*, afterwards *King of Bohemia*; for whom the *Commons of England* offer'd to venture their Lives and Fortunes. Nothing did ever exceed the Gallantry of the *Scots* under *Gustavus Adolphus*, who engag'd in that Cause, and had a great many *Scots* Regiments in his Service, with 3 *Scots* Generals, 1 *Field Marshal*, 1 *Lieutenant General*, 2 *Major Generals*, 30 *Collonels*, 52 *Lieutenant Collonels*, 14 *Majors*, besides *Captains* and *Subalterns*, whose Number is not known; So that their very Name was a Terror to the *Imperialists* on the Banks of the *Danube*, and beyond it, where they were chiefly instrumental in taking *Donawert, Ausburgh, Ingolstadt*, and the since famous *Hochstedt*; and were honoured to be Guards to the Person of that gallant Prince the *King of Bohemia*, at *Munich*, in 1623. * The Bravery of the *Scots* in defence of the Common Cause, since the Revolution, can never be forgot, so long as we have any Memory of the Battels of *Steenkirk* and *Landen*; and of the great Actions perform'd by their *Ulster-Collony* at *Derry*, and particularly by the famous *Inniskilling-Men*, under Conduct of *Lord George Hamilton*, now *Earl of Orkney*, &c. and by the other *Scots* Troops under *General Mackay*, at the Battels of the *Boyn* and *Agrim*, and taking of *Athlone*. But to come lower, the Victory of *Blenheim*, as was justly observed by the *States General* in their Letter to the *Duke of Marlborough*; is equal to any mention'd in Antiquity: And if the *Scots* have justice done them in History, the Memory of the *Earl of Orkney*, and the *Scots* Troops, will be immortal, as well as that of any of the *Comman-*

* Puffendorf on those Times; and Monro's Expedition

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ders and Troops of other Nations, who shar'd the Glory of that memorable Day. And while the stupendous Victory of *Budoigne* or *Rammellies* continues in History, the share which the Scots Brigade had in it, and the Gallantry of the Duke of *Argyle*, Major General *Murray*, and Lord *John Hay*, can never be forgot. But to return to our Subject.

From the same Consideration of aggrandizing the Roman Name and Empire, did the Emperor *Antonin* give the Right of being Citizens of *Rome*, to all the Subjects of the Empire*, and ever since that time to be part of the Roman Conquests, was enough to make them Citizens of *Rome*, *Civesque vocavit quos domuit*, says the Historian: Hence *Rome* was called the common Country of all the Subjects of the Empire †, and none were accounted Aliens or Foreigners there, but Barbarians and Slaves ††.

Rutilus Claudius Numantianus, has this remarkable Testraffick upon *Rome* on this account. *Itinerar*, lib. 1.

Fecisti Patriam diversis Gentibus unam,

Profuit injustis te dominante capi.

Dumque offers Vietis proprii consortia juris,

Urbem fecisti qua prius Orbis erat.

and *Claudian* says of *Antonin*,

Hujus pacificis debemus moribus omnes,

Quod cuncti Gens una sumus.

And *Tacitus* tells us in the Life of *Claudius*, that as granting Naturalization to all the Subjects of the Empire, was one of the principal Causes of the Grandeur of *Rome*, the contrary practice occasion'd the Ruin of the *Athenians* and *Lacedaemonians*; who, tho they were mighty in Arms, yet lost themselves, by treating those they conquer'd as Aliens. We have the same Eucorism of *Alexander* the Great by *Plutarch*, who says that mighty Conqueror did not behave himself as a Father to the *Grecians*, and a cruel Commander to the *Barbarians*, respecting some, and neglecting others, but made all one, mixing them by Laws, Names and Marriage; and would have none accounted Aliens and Strangers among his Subjects, but such as were ill Men. *Seneca*

* *Ulpian* Leg. 17. digest. de Statu Homin. † *Modestinus* Jurisconsult. leg. 33. digest. ad Municipal. †† *Sidon*. Lib. 1. Ep. 6. De fortuna *Alexandri*.

ca commends the same Prince, for taking nothing from *Porus* the Indian King, but the Glory of having conquer'd him: And *Polybius* speaks it to the praise of *Antigonus*, that when he had *Sparta* in his power, he left them their ancient Government and Liberty, by which he acquir'd great Honour through all *Greece*.

It is likewise agreeable to the Feudal Law, That those who are Fellow-Vassals and Subjects to the same Lord, should be equal in Privileges, tho they belong to several Lordships or Provinces*. They that have read the Roman Story, know that the War betwixt the *Romans* and *Latins* was occasioned, because the *Romans* would not allow the *Latins* the same Privileges with themselves; and particularly excluded them from the Consulship, which the *Latins* said, *Was only to bring them under Bondage and Slavery, on pretence of Union and Friendship; and the War ended at last, by granting the Latins what they demanded.*

The *Romans* and *Sabins* united on equal Terms, wherein the Interchange went so even, that the one gave the Name to the place, and the other to the people; and after the *Romans* were convinc'd of their mistake, as before mentioned, they became so liberal of their Naturalization, that they granted the Privilege of Citizens to whole Countries at a time, not excluding the wildest part of *Gallia*, call'd *Comata*, which in the Reign of the Emperour *Claudius* was allow'd that Privilege, as *Tacitus* tells us; and *Machiavel* owns, that the Roman Empire grew chiefly by incorporating Strangers.

To add some Modern Instances, The *French*, who are a people that value themselves as high as any Nation in *Europe*, and have been as successful in enlarging their Empire, made no scruple of naturalizing all such as came under their Subjection by Marriage or Arms. The first Instance I shall give of it, is their naturalizing all Scotsmen, upon the Marriage of their Dauphin with *Mary* of *Scotland*, *Parl. 8. Q. Mary, Act. 65.*

The next is, That upon a Question whether the *Lorrainers*, who after the Conquest of *Lorraine*, by the King's Troops, continu'd in *France*, ought to be reputed Foreigners, the Duke of *Lorraine* being restored to his Dominions after the Treaty of the *Pyrenees*.

* *Baldwin* in cap. 1. si Controversia. B 4

It was agreed, that those who came into *France* whilst *Lorain* was possess'd by the King, were to be reputed as natural born Subjects *. The *Savoyards* were allowed the like Privileges when conquer'd by *Francis* the First, who not only pretended a Right of Conquest, but a Right of Inheritance by his Mother *Louise*. The same Author tells us, that the *French* ever follow'd the Maxim of the *Romans*, in naturalizing all that were subject to them, and that their Name had never been known but on the Banks of the *Rhine*, had they not communicated their Name and Privileges to all the *Gauls* they conquer'd.

Agreeable to this, if we may believe the Lord Chief Justice *Coke* in *Calvin's Case*, are the Laws of *England*; and that no Man born under the Allegiance of a King or Queen of *England*, is an Alien; for this he quotes *Littleton's Description* of an Alien, thus, *Alienigena est aliena Gentis, seu aliena Ligeantia, qui etiam dicitur peregrinus, alienus, exoticus, Extraneus, &c. Extraneus est qui extra terram, i. e. potestatem Regis natus est.* To this Judge *Coke* adds, "The usual and right pleading of an Alien born, doth lively and truly describe what he is; and therein two things are to be observ'd. 1. That the most usual and best Pleading in this Case, is both exclusive and inclusive, viz. *Extra Ligeantiam Domini Regis, &c. & infra Ligeantiam alterius Regis*; as it appeareth in 9 *Ed. 4. 7 Book of Entries, fol. 244. &c.* which cannot possibly be pleaded in this Case, for two Causes: First, For that our King is Sovereign of both Kingdoms. Secondly, One Ligeance is due by both to one Sovereign; and in case of an Alien, there must of necessity be several Kings, and several Ligeances. 2dly, No pleading was ever *Extra Regnum*, or *Extra Legem*, which are circumscrib'd to place, but *Extra Ligeantiam*; which, as has been said, is not local, or tied to any place †.

We have several Instances from the same Author, of the Determination of this Case, by Decisions of Law; and by Acts of Parliament, in favour of those born in *Gascony*, *Aquitain*, and *Normandy*, when subject to the Kings of *England*, though inherited by different Titles; and gover-

* Journal du Palais, 1680. Tom. 1. p. 485. † *Coke's Reports*, Part. 7. Vol. 16. Edit. 1608.

ned by different Laws; of which the *Isles of Jersey* and *Guernsey*, Parcels of the Dukedom of *Normandy*, are remaining Instances to this very day.

But to come nearer to the Case in hand, let us take the following Quotations from the same Author, with relation to *Scotland*.

"Lastly, To conclude this Part with *Scotland* it self; In ancient time, part of *Scotland* (besides *Berwick*) was within the Power and Ligeance of the King of *England*, as appeareth by our Books, 42 *E. 3. 2.* The Lord *Beaumont's Case*, 11 *E. 3. c. 2, &c.* and by Presidents hereafter mention'd, and that part, (though it were under the King of *England's* Ligeance and Obedience) yet it was govern'd by the Laws of *Scotland*, *Ex Rot. Scotia, Ann. 11 E. 3.* among the Records of the Tower of *London*, *Rex, &c. constituimus Rich. Talbot Justiciarium nostrum, villa Bervici super Tuedam ac omnium aliarum terrarum nostrarum in partibus Scotia ad faciend' omnia & singula que ad officium Justiciarii pertinent secundum Legem & consuetudinem Regni Scotia.* And after, *An. 26 Ed. 3. ex eodem Rot' Rex Henrico de Percey & Richardo de Nevil, &c. Volumus & vobis & alteri vestrum tenore presentium comittimus & mandamus quod homines nostri de Scotia ad pacem & obedientiam nostram existentes quod ipsi legibus, libertatibus, & liberis consuetudinibus, quibus ipsi & antecessores sui tempore celebris memoriae Alexandri quondam Regis Scotiae rationabiliter usi fuerunt, uti & gaudere debent, prout in quibusdam Indenturis, &c. plenius dicitur contineri.* And there is a Writ in the Register, 295. *A dedimus potestatem recipiendi ad fidem & pacem nostram, homines de Galloway.* Now the Case in 42 *Ed. 3. 2.* (which was within 16 Years of the said Grant concerning the Laws of 26 *Ed. 3.*) ruleth it, that so many as were born in that part of *Scotland*, that was under the Ligeance of the King, were no Aliens, but Inheritable to Lands in *England*; yet was that part of *Scotland* in another Kingdom govern'd by several Laws, &c. and if they were natural Subjects in that case, when the King of *England* had but part of *Scotland*, what Reason should there be, why those that are born there, when the King hath all *Scotland*, should not be natural Subjects, and no Aliens.

A little lower he adds; "And yet in all these Cases and Examples, if this new-devised Plea had been sufficient, they

“ they should have been all Aliens, against so many Judg-
“ ments, Resolutions, Authorities and Judicial Presidents
“ in all Successions of Ages.

“ He illustrates this by the Instance of the Apostle Paul,
“ who being a Jew born at Tarsus in Cilicia in Asia minor,
“ yet being born under the Obedience of the Roman Em-
“ pire, he was by Birth a Citizen of Rome in Europe, that
“ is, capable of all the Privileges and Immunities of that
“ City. Otherwise such a Plea as is made use of against
“ Calvin, might have been rais'd against St. Paul, viz.
“ That he was *extra Ligeantiam Imperatoris Regni sui Italia,*
“ & *infra Ligeantiam Imperatoris Regni sui Cilicia, &c.*
“ But as St. Paul was *Judeus Patria & Romanus Privilegio,*
“ *Judeus Natione & Romanus jure Nationum,* so may Calvin
“ say, That he is *Scotus Patria, & Anglus Privilegio, Scotus*
“ *Natione, & Anglus jure Nationum.*

It would seem that the Government of England was of
the same Opinion when Edward the 6th offer'd, on condi-
tion of having Mary Queen of Scots to Wife, that the Scots
should without changing their own Laws or Customs, be
made one Realm with England, have an Intercourse of Mer-
chandize, an Abolition of all Laws prohibiting the same;
and that all Scottish Merchants or others should without
any Trouble or Vexation enter into any Port, Creek, or
Haven of England, and there use their Traffick of Mer-
chandize, buy and sell, bring in the Commodities of Scot-
land, and take and carry forth the Commodities of Eng-
land, as liberally and as freely, and with the same and none
other Customs therefore, than Englishmen and the King's
Subjects do at this present. *Holinshed's History, Vol. 3. p. 298.*

My Lord Chancellor Elsmore in his Speech in the Ex-
chequer-Chamber, concerning the *Postnati**, observes, That
the Parliament of England, had given their Judgment in the
Statut. 1 Jac. That there was an Unity in Allegiance be-
twixt the two Nations in one Royal Person. And that in
October, 1604. the King issued a Proclamation, in which
he assum'd to himself the Name and Stile of King of Great
Britain, and in the same Proclamation took notice, “ That
“ he had received Advice from those that were skilful in
“ the Laws of the Land, that upon his Succession, divers of

* Printed at London in 1609. from p. 7, to 12.

“ the

“ the ancient Laws of the Realm were *ipso facto* expir'd,
“ and particularly that of the Naturalization of the Sub-
“ jects.

The Lord Chancellor adds, “ That the Commissioners
“ of both Nations began their Treaty for the Union that
“ same 20th of October, and as to the point of Naturaliza-
“ tion, came to this Resolve, That it should be propounded to
“ both Parliaments at next Session, that an Act be made,
“ containing a Declaration as followeth; That all the Sub-
“ jects of both Realms born since the Decease of the late
“ Queen Elizabeth, of happy Memory, and all that shall
“ be born hereafter under the Obedience of his Majesty
“ and his Royal Progeny, are by the Common Laws of
“ both Realms, and shall be for ever inabled to obtain, suc-
“ ceed, and inherit, and possess all Land, Goods and Chat-
“ tels, &c. as fully and amply as the Subjects of either
“ Realm respectively might have done, or may do in any
“ sort within the Kingdom where they were born. This,
“ after long debating and grave and deliberate Considera-
“ tion, was in the end the Resolution of the greater part
“ of the Commissioners, not one openly gainsaying it, and
“ diverse of the principal Judges of the Realm were pre-
“ sent at all times when the Point was debated. And here-
“ in I note the wise and judicious Form of that Resolution,
“ which was not to be propounded to the Parliament, for
“ the making of a new Law, but as a Declaration of the
“ Common Laws of both the Realms in this Question.

“ Now if we consider who these Commissioners were,
“ what Lords of the Higher House, and what Persons of
“ the Common House, selected of all Degrees, most emi-
“ nent for their Learning and Judgment, as well in Civil
“ and Common Law, as in Knowledge and Experience
“ otherwise, being assisted by the Grave Judges of the
“ Realm; if this I say be well consider'd, then this Reso-
“ lution must be accounted and esteemed as a matter of
“ great and weighty Importance, and much to be regarded
“ in the deciding of this Question.

“ According to this Act of the Commissioners, the Case
“ was propounded in the next Session of Parliament. In
“ the Higher House, the Judges were required to deliver
“ their Opinions. There were then Eleven Judges pre-
“ sent, whereof Ten did with one Uniform Consent, af-
“ firm the Law to be, that the *Postnati* were not Aliens,
“ but

“ but natural Subjects, one only dissenting. After this the
 “ Question was debated in a solemn Conference, between
 “ both the Houses of Parliament at several times, and at
 “ great length, and with much Liberty. Nothing was
 “ omitted that Wit or Art could invent to object against
 “ this Opinion; and that was done by Men of great Lear-
 “ ning and singular Judgment in the Common Law, and
 “ by some other Gentlemen of the Common House, of
 “ rare Gifts, for their Learning, Knowledge, Elocution
 “ and Experience.
 “ At this Conference the Judges were present, who af-
 “ ter they had heard all that was or could be said, did con-
 “ firm their former Opinions, which they had before deli-
 “ vered in the Higher House: Three of the chief of ‘em
 “ declaring their Reasons, and all the rest saving one alone
 “ concurring in the same; So here was now a General Re-
 “ solution by all the Judges of the Realm, (one excepted)
 “ and that deliver’d not privately, but in Parliament,
 “ which without more ado had been sufficient to have deci-
 “ ded and determin’d this Question.
 “ My Lord *Ellismore* says, in the Conclusion of his Book,
 “ That if the *Scots* had not the Benefit of Naturalization by
 “ the Union of the Crowns, then are they in no better case
 “ than the King of *Spain*’s Subjects, and so by this Union they
 “ have gotten nothing, what they have lost *Justice Telverton*
 “ did well note:
 By these Instances it is plain that uniting of Nations was
 no such intricate and difficult Work in former times as we
 make it now, they did not trouble themselves about the
 modern Distinction of federal, incorporating, compleat,
 and intire Unions, they solv’d all those Difficulties, and cut
 the Gordian Knot by a General Act of Naturalization, to
 all those who became Subjects to the same Sovereign by
 Marriage, Conquest or Treaty, without breaking in upon
 the particular Constitution or distinct Forms of Administra-
 tion in Countries; They thought it an entire and com-
 pleat Union to all Intents and Purposes, which secur’d Al-
 legiance to the Sovereign with Liberty, Property, and E-
 quality of Privileges to the Subject, without making their
 Country their Crime, or a Bar to their Preferment, if their
 Merit deserv’d it. They were all by Allegiance natural
 Subjects to one and the same Sovereign or Father of their
 Country, and by Consequence all natural Brethren to one
 another,

another, and equally the Objects of their Princes Care to
 reward and punish ‘em as Justice requir’d.
 From the Instances above-mention’d, it is also evident,
 that from the time the *Scots* have been under the same Alle-
 giance with *England*, their Complaints of being deny’d the
 Privileges of Fellow-Subjects are justify’d by the Laws of
 Nations, and by the particular Customs and Constitution
 of *England*; therefore we are not to wonder at their being
 uneasie, with the Hardships put upon them by the Act of
 Navigation, in the 12th of *Car. 2.* by the 14th of the same
 King, prohibiting the Exportation of Wool, wherein they
 are reckon’d among Foreigners, by several Clauses of an
 Act of that same Year, for preventing Frauds, and regula-
 ting Abuses in his Majesty’s Customs, by several Clauses in
 the 15th of that King, for the Encouragement of Trade,
 by the 18th of that Reign, *cap. 5.* and by those of the 22d,
 23d, and 25th of *Car. 2.* for regulating and better securing
 the Plantation-Trade, by the Tax upon their Linnen, and
 by their Treatment in the Matter of their Affrican Compa-
 ny, and *Darien-Colony*, during King *William*’s Reign.
 The not proceeding with this Naturalization, and acting
 so directly against it, has verified what my Lord *Bacon* fore-
 told in his Speech, *That it would endanger the breaking and*
dividing again of the Realms; Excite all our Enemies at home
and abroad; and open the way to Disturbances. And as my
 Lord *Ellismore* said in the case of *Calvin*, would rent asunder
 the whole Frame of the Union, and cut in pieces all the
 Threads of Allegiance, p. 114.
 To this may be added, That it must needs heighten the
 Resentments of the *Scots*, that by the Union of the Crowns
 they have lost the Benefit of Naturalization in *France*, and
 have never been able to obtain it effectually in *England*.
 It was an Observation pleasant enough made by one of
 the Authors who wrote for the Union in 1604*, That it
 occasioned a mortal Quarrel among the Patriarchs, that a
 Younger Brother should have a finer Coat than any of the
 rest; but had that Author liv’d in our days, he might have
 found as melancholy a Subject for his Observation, to see a
 Younger Sifter not only have much a finer Coat than her

* *A Treatise of Union betwixt the Two Realms, by T. H. Lon-*
don, 1604. Elder,

Elder, to which she was adding new Ornaments every day, but likewise so unkind, that she would neither allow her Elder Sister a new Coat, nor to patch up her old one.

CH A P. II.

That the greatest Ancient and Modern Governments that have been, or are in the World, have united Nations under one Allegiance, without depriving lesser Nations so united, of their Municipal Laws, Parliaments, or any other Fundamental part of their Ecclesiastical or Civil Constitution.

IT was insisted upon in the Reign of King Charles 2d, as it is now by several People, That such a Naturalization is not to be granted, except the Scots submit to the Laws and Constitutions of England *. What has been said already from my Lord Chief Justice Coke, and King Edward the Sixth's Proposals to the Scots, might (one would think) be enough to satisfy any Englishman upon that head: But for the further Information of such as still insist upon this, I shall give them the Sense and Practice of Ancient and Modern Governments upon this, as I have done upon the former head.

To begin with Antiquity, and first with the sacred and un-exceptionable Records. The Egyptians, who were so famous for Wisdom and Learning, that the Scriptures make it a part of Moses's Character, that he was learn'd in all their Wisdom; and of Solomon's, that he excell'd it †; allow'd the Hebrews their own Laws and Customs in the Land of Goshen, tho' their ‡ Calling of Shepherds, as well as their Religion, was an Abomination to the Egyptians; nor was Joseph's dissent from the National Religion, any bar to

* Miscellanea auli, pag. 194. Reasons for an Union between the Kingdoms of England and Scotland, Introduction, and p. 17. † Acts 7. 22. ‡ Gen. 46. 34. Exod. 8. 26.

his

his being made Governour of Egypt. And when the Egyptians under a weak Prince, abandon'd those wise Maxims of Government, turn'd Oppressors, and would neither allow the Hebrew Colony their own Laws nor Religion, we all know the Issue. It is proper to observe here, what Herodotus says of the Religion of the Egyptians ‖, viz. That they had such a veneration for Female Cattle, as they would not kiss the Greeks who fed on them, nor make use of any Utensils in their Kitchin, or eat what was cut with their Knives; which explains to us the reason of their not eating with Joseph *. Yet their Principles of Government, were at this time wise and large, tho' their Principles of Religion were foolish and narrow, as we may perceive by this Instance, That Pharaoh and his Council made Joseph's Discretion and Wisdom in Civil Affairs, and not his Opinion in Matters of Religion, tho' to them abominable, the Test of his Fitness for Civil Trust.

It was the same under the wise Princes of the Assyrian Empire, they allow'd ev'n the Captive Jews to live among 'em according to their own Customs, as we find by Daniel, who begg'd, when he was brought to be educated at Court, that he might not defile himself with the Court Diet; which was allow'd him †; and upon his revealing and interpreting Nebuchadnezzar's Dream, he, and three more of his Countrymen, were advanc'd to chief Posts in the Government; notwithstanding their differing from the Religion and Laws of the Nation. It's true, that a Faction envying their Preferment, did cunningly procure an Act of Uniformity, that all People should worship the King's Idol; and upon their Nonconformity to the Religion of the Court, got them thrown into the fiery Furnace: But we all know the result; The same God who deliver'd them, order'd it so, that those Incendiaries were punish'd according to the Talion Law, and consum'd by the same Fire they had kindled for others. This Largeness of Principle is so much the more remarkable in Nebuchadnezzar, that he was the greatest Prince who ever sway'd the Scepter of that Empire, and therefore was represented by the golden Head of it in his Vision. Darius the Mede, who succeeded him, pursued the same Maxims, as is evident from the Instance of Da-

‖ Hist. lib. 2. * Gen. 43. 32. † Dan. 1.

niel,

niel, who was allow'd to live according to the Laws of his own Country, and made the chief Man in the Government ; and we likewise know the Fate of those who would have a-bridg'd him of his Liberty by an unjust Law.

Cyrus, who transferr'd the Empire to the Persians, employ'd Daniel in the same high Trusts ; and not only allow'd him the same Liberty, but restor'd the Jews to their Country, Religion and Constitution ; and that his Empire was as large as his Soul, is evident from Ezra 1. 2.

Antaxerxes and Ahasuerus continu'd the same Liberties and Favours to the Jews, as we find in Ezra, Nehemiah and Esther, where it is plain, that the Jews scatter'd thro' all the 127 Provinces of Ahasuerus's Empire, lived according to their own Laws, and not according to the King's : And Haman, who thought to have destroy'd them out of Malice, brought himself to the Gallows, by giving Ahasuerus such Counsel.

Alexander the Great, who destroyed the Persian Empire, and set up that of the Greeks, allow'd the Jews not only their own Religion and Customs in Palestina, but in all the other places of his Empire, nay even in his Armies, by which he encourag'd them to fight under his Standard, and he settled a Colony of 'em at Alexandria in Egypt, where they had equal Privileges with his Greek Subjects, as Josephus informs us ; || Any Man who will be at the pains to look upon that celebrated Historian, may find how Seleucus Nicator gave the Jews the Freedom of the City of Antioch ; how Ptolomy Lagi, Ptolomy Philomater, and his Queen Cleopatra, allow'd them to live after their own manner in Egypt, and trusted them in the chief Posts of the Army and State with great Success.

When the Romans succeeded to the Empire of the greatest part of the known World, Josephus acquaints us that they employed the Jews in the places of greatest Trust at Alexandria, confirm'd them in all the Privileges which Seleucus, and other Kings of Asia and Egypt, had given them ; and adds in Commendation of the Romans, That they did not force their Subjects to violate the Laws of their Country*. The truth of this is evident to any Man who reads the New

|| Antiq. XI. 8. & contra Appionem, Lib. 2. * Contra Ap. Lib. 2. Antiq. XII. 3.

Testa-

Testament, that the Jews, during the time of our Saviour, and long after, were left by the Romans in possession of their Religion and Laws ; which Chrysostom* expresses thus, They were Honour'd with the Name of Associates, in most things made use of their own Laws, and punish'd such of their Countrymen as were Criminals, according to their own Customs ; and Philo in his Embassy to Caius, says in Commendation of Augustus, That he took no less care to preserve the Laws of every Nation, than he did to preserve those of Rome : And Salust expresses himself thus of the Ancient Romans. Our Ancestors were most religious Persons, who took nothing from those they conquer'd, but the liberty of doing mischief † ; so that this Privilege was not confin'd to the Jews alone : This generous Principle of the Romans, was as extensive as their Empire ; hence it was, that when Flaminius restor'd Greece to its Liberty, many Speeches were made in praise of this generous Temper ; and the Greeks express'd themselves thus, That at last there was a People in the World born for the Safety of all others, that cross'd the Seas, and made War at their own Cost and Peril, to relieve the Oppressed, to establish Laws, and to maintain the publick Security thro' the whole Earth ||.

No People of the World have better answer'd this Character of the Romans, in places beyond Sea, than the English ; so that there's nothing wanting to compleat this Character, but their being as generous to their Neighbours, and Fellow-Subjects in the same Island : And this must needs be allowed to be so much the more reasonable, that the Scots have far better Pretentions to such Treatment than the Macedonians or Carthaginians, &c. had, since their Union under the same Sovereign with England, is the result of Marriage betwixt the Royal Families, without the expence or danger of a Conquest.

Livy † tells us this Story more at large, viz. The Romans order'd that the Macedonians and Illyrians should be free ; that all Nations might be convinc'd, That the Roman Arms did not bring Servitude upon Free People, but Liberty to those that were Slaves ; and that those Nations, which were already free, might know that their Liberty

* 11. De Eleemosyna. † Bello Jugurthino. || Eachard's Roman History, p. 220. † Lib. 5. Decad. 5. 18.

was

was in no danger, but would be for ever secure under the Guardianship of the Romans, with whom, if their Kings hap- pen'd to make War, they might see that the Victory of the Romans would bring Liberty to themselves. They likewise took off the Tax upon Macedonian Mettals; which was a vast Revenue; and order'd they should pay but half the Tribute to the Romans that formerly they paid to their Kings.

The same Author tells us, that when Scipio subdued the Carthaginians, the Roman Senate allow'd them to live free under their own Laws, and to have the same Cities, Lands, and Boundaries, as before the War*. The Emperour Honorius, and Theodosius the younger order'd Agricola, who was Prefectus Prætorii of the Gauls, to take care that the Assemblies of the States of the Seven Provinces, formerly interrupted by the Negligence of the Times, or the Slothfulness of Tyrants, should be held annually in the City of Ales from the first of August to the 19th of September †.

I would not be understood to argue against such an Union in Laws betwixt the two Nations as may secure Allegiance and Obedience to their Joint Sovereign, and Liberty and Property to the Subject, with respect to the Prince, and their Commerce with one another; in which there's a greater Union already than most imagine; and if any thing further be wanting, it may easily be provided for by the Parliaments of both Nations: But I think I may venture to say with Sir Francis Bacon, † That for those things we call Laws, it is a matter of Curiosity and Inconveniency, to seek either to extirpate all particular Customs, or to draw all Subjects to one place of Resort or Judicature and Session. It sufficeth there be an Uniformity in the principal and fundamental Laws, both Ecclesiastical and Civil; for in this point, the Rule holdeth that an ancient Father gave, concerning the diversity of Rites in the Church; *In Veste varietas sit scissura non sit.* That same great Man speaking upon this Subject in another place, says, that all our Laws since Poyning's Laws, are not in force in Ireland, yet the Irish are not deny'd the benefit of Natura-

* Lib. 10. Dec. 3. 37. † Critica Historico Theologica, &c. upon the Annals of Baronius, by Father Pagi, at Paris, 1706. † A Brief Discourse of the happy Union, p. 9.

lization;

lization; and 'tis the like with the Inhabitants of the Isles of Man, Jersey, and Jersey, where they have Laws different from those of England*. In another Speech at the same time, upon a motion for Union of Laws, he expressed himself thus, † Look into the Examples of foreign Countries, and take that next us of France, and there you shall find they have this Distribution, *Pais du droit Escript, & pais du droit Coustumier.* For Gascoigne, Languedoc, Provence, and Dauphine, are govern'd by the Letter or Text of the Civil Law; but the Isle of France, Tourain, Berry, Anjou, and the rest and most of all Britain and Normandy, are govern'd by Customs which amount unto a Municipal Law, and use the Civil Law only for Grounds, and to decide new and rare Cases; and yet nevertheless Naturalization passeth thro' all †. Elsewhere he speaks thus, † For the Laws, to make an entire and perfect Union, it is a matter of great difficulty and length, both in the collecting of them, and passing of them: For first as to the collecting of them, there must be made by the Lawyers of either Nation, a Digest under Titles, of their several Laws and Customs, as well Common Laws as Statutes, that they may be collated and compar'd, and that the Diversities may appear, and be discern'd of; and for the passing of them, we see by Experience, that *Patrius Mos* is dear to all Men, and that Men are bred and nourished up in the love of it, and therefore how harsh Changes and Innovations are; and we see likewise, what Disputation and Argument the alteration of some Law doth cause and bring forth; How much more the Alteration of the whole Corps of the Laws? Therefore the first Question will be, Whether it be not good to proceed by parts, and to take that that is most necessary, and leave the rest to Time: For Courts of Justice Trials, Process, and other Administration of Laws, to make any Alteration in either Nation, it will be a thing so new and unwonted to either People, that it may be doubted

* Speech in the House of Commons, 5 Jacob. concerning the Article of Naturalization of the Scottish Nation, 4to. London, 1641. † Reasons for an Union betwixt the Kingdoms of England and Scotland, p. 3. † Brief Discourse of the happy Union of the Kingdoms of England and Scotland, Edit. 1700. p. 23, & 24.

‘ whe-

whether it will make the Administration of Justice, which of all other things ought to be known and certain, as the beaten way, to become intricate and uncertain; and besides, I do not see that the severalty of Administrations of Justice, tho' it be by Court Sovereign of last resort, (I mean without Appeal or Error) is any impediment at all to the Union of a Kingdom; as we see by Experience in the several Courts of Parliament in the Kingdom of France, and I have always been of opinion, that the Subjects of England, do already fetch Justice somewhat far off, more than in any Nation I know, the largeness of the Kingdom consider'd; tho' it be holden in some parts by the Circuits of the Judges, and the 2 Councils at York, and the Marches of Wales establish'd.

The Lord Chancellour *Ellismore* in his Discourse of the *Post Nati*, declares himself also to be of that mind*; and expresses himself thus;

But now I will ask this Question, How long shall this Suspicion and Doubt continue; shall there be a Disunion for ever? If it be said no, but until the Laws and Customs of both Kingdoms be made one and the same; then I ask, When shall that be done? And it may be, that the Constitutions of the Countries be such, as there can hardly in all things be such an absolute and perfect reconciling or uniting of Laws as is fancied: Is it yet so between *England* and *Wales*, or between *Kent* and *Cornwall*, or between many other parts of this Kingdom? I say no; and I speak it confidently and truly, it is not so, nor well can be so. Therefore, Let *England* and *Scotland* be in like degree now, as *England* and *Wales* were for many hundred Years, and in many things are yet still; and yet let Union and Love increase among us for ever; and let us no longer make question, whether several Laws and Customs be marks of Separation and Disunion, or of several Allegiances, for certainly they are not.

Judge *Dodderidge* in his Manuscript abovementioned, expresses himself concerning this Matter thus;

Laws were never totally alter'd in any Kingdom without danger of subverting the whole State; and therefore it's said well by the Interpreters of *Aristotle*, That Laws

* P. 115.

are

are not to be chang'd but with these Cautions: 1. Seldom, least an Inconveniency happen by it. 2. For the better, least danger ensue from it. 3. Prudently, and by degrees, lest the overthrow of the State follow such Innovation. No Nation willingly suffers their Laws to be alter'd; as the *Netherlands* may witness, which waged War so many Years with the King of *Spain*, for maintaining their Privileges.

Wales was united with *England* by Act of Parliament, at *Rutland*, in the 11th of *Edward* I. yet not totally brought under the Laws of *England* till the 27th of *Henry* the 8th.

Tho' the Kingdoms of *Navarre* and *Aragon* were united to the Crown of *Castile*, those Kingdoms were not subjected to the Crown; but their ancient Constitutions remain'd in full strength, they retain'd their own Laws, and where they were deficient, made use of the Civil and Canon Law, without taking notice of the Laws of *Castile*.

Sir Thomas Craig, another great Man of that time, one of the Commissioners for *Scotland*, as *Sir Francis Bacon* was for *England*, and who had study'd the point of the Union beyond any Man that has yet appear'd in Print, has a long Chapter upon this Subject; which is the 8th in his Manuscript, *De Unione Regnorum*.

He observes very justly, That the Swasory Letter abovementioned from King *Edward* the 6th and the Parliament of *England*, to the *Scots*, cuts this Knot at once; for there they protest, that they had no design to abolish the Ancient Laws of *Scotland*, but to leave them entire; for the difference of the Laws and Customs of *Scotland*, ought no more to obstruct this Union, than the different Laws and Customs in several parts of *England* hinder'd the Union of that Kingdom; adding, That the several parts of *France* are govern'd by different Laws, that *Normandy*, *Acquitain* and *Brittany*, had each their own Laws and Customs: That it was the like in the several Provinces of the *Netherlands*, and in the several Countries which made up the Empire. *Sir Thomas* enlarges upon this, and takes notice of, The different Laws in *Normandy*, *Burgundy*, *Champaign*, *Brittany*, the Province of *Main* and *Dauphiny* in *France*; the latter being conveyed by Prince *Imbertus* to *Charles* King of *France*, on condition, that the first Son of *France*

France should always be call'd the *Dauphin*, and the People should enjoy their own Laws. In the *Netherlands*, *Naples*, *Sicily*, *Arragon* and *Castile*, the People were govern'd by their own Laws, without prejudice to their Union under one Sovereign.

And in the Union of the 17 Provinces, it was expressly provided, that each Province should have the Liberty to enjoy their own Laws and Customs; tho' it be well known that they differ very much from one another. In *Germany* it's certain that the *Saxons*, *Bavarians*, *Austrians*, &c. have each of them their own Laws and Customs.

To what is here said by *Sir Thomas*, we may add, That the *Saxons* in particular, had larger Privileges allow'd them by *Charlemain* than the rest; of which they have ever since been very jealous; and hence, when any general Law for the Empire is made in the Diet, the Elector of *Saxony* always enters a Protestation or Salvo, that it shall not trench upon the Privileges of the *Saxons*.

Charlemain being Master of all the People of *Germany*, united them with *France* and *Italy* into one Empire, leaving however every Nation at liberty to make use of their own Laws and Customs.

But to return to *Sir Thomas*; In *Scotland*, the *Orkney* Men still made use of the Law of *Norway*, till by Act of Parliament all the Subjects were order'd to be govern'd by the same Laws; yet such was the strange prevalency of Custom, that this Act could not influence those People to quit easily with their ancient Laws, tho' much severer than those of *Scotland*, because they punish every little Crime with Confiscation.

If these be not sufficient, says *Sir Thomas*, I will instance in Three or Four Unions more, in which 'twas expressly provided, that every Province united to another, tho' greater, should have their own Laws and Customs left intire.

In the Union of the Three Northern Crowns; to wit, Of *Denmark*, *Sweden*, and *Norway*, under *John I. Chy-*

Tractatus de Jure Statuum Imperii Legislatorio, Auctore Johanne Henrico Ehrenfr. Mayero Magdeburg, 1705. + Volum Dissertation. Academicarum, Johannis Georgii de Culpis, Straßburg, 1705.

trous tells us, It was expressly provided, that each Kingdom should be govern'd by their own Laws and Customs, That they should retain their own Magistrates and Constitutions, That no Edict or Law should be impos'd but by Consent and Authority of the Estates of that Kingdom on which it was impos'd; That no Tribute or Duty should be levied, no War declared, nor Peace made, without the Consent of the said Estates; and, That no Man should be condemn'd or kept in Prison, but by the Judgment of his Peers, in the Kingdom where he liv'd, or at least where the Crime was committed. These Articles were observ'd so long as those Kingdoms were united, and are (says *Sir Thomas*) observ'd to this day betwixt *Sweden* and *Denmark*; for the *Swedes* broke off from the Union, and erected a separate Kingdom again.

The next Instance is, the Union of *Poland*, and the great Dutchy of *Lithuania*, under *Jagello*, about 1386, upon whose Marriage with *Heddig*, Heiress of *Poland*, it was expressly provided, That the great Dutchy of *Lithuania*, should be perpetually united and conjoin'd with *Poland*; so that one and the same Person, should always be Sovereign of both, yet so as the *Lithuanians* should be govern'd by their ancient Laws and Customs; nor should there lie any appeal from the Dutchy to the Kingdom, but that *Vilna* should continue the Metropolis of *Lithuania*, as *Cracovia* of *Poland*; and each of them have their supream Senate to enquire into the Miscarriages of inferior Magistrates without appeal.

But what is full to our purpose, is the Agreement made by *Philip 2d* of *Spain* with the *Portuguese*, when he demanded their Crown as his Right of Succession; viz. That he would take a solemn Oath to preserve all the Customs, Privileges and Liberties, granted to the Kingdom of *Portugal* by former Kings; That the States should meet in *Portugal* for things relating to that Kingdom; That nothing belonging to that Kingdom, might be propos'd in any other meeting of Estates, all Controversies whatever should be finally decided and executed according to the *Portuguese* Law; That the King should admit the *Portuguese* to all Places at Court according to the Custom of *Burgundy*, without any difference betwixt them and the *Castilians*; That his Majesty should abolish Imposts laid on both sides, that there might be a free Commerce and

Trade betwixt them, as was before those Imposts were laid on. All this the King was willing to grant; and that he might answer the Affection and Loyalty of the Portuguese to their Kings, he said, He wish'd from his very Heart, that he could always keep his Court in Portugal: But since the Administration of the Affairs of the other Kingdoms, committed by God to his charge, would not allow that, he would take care to be as often, and as long in Portugal as he could; and, if nothing interven'd to prevent it, he would leave one of his Sons in his stead among them, that he might be acquainted with them, and accustom'd to love and esteem them. These Articles were publish'd in all the principal Towns of Portugal, with a promise, That if the Portuguese demanded more, the King would grant them all they demanded, not doubting but they would keep themselves within the bounds of Christianity and Equity.

I shall enlarge what is here said by Sir Thomas, from Ferrnand's History of Portugal, Printed at Madrid in 1591. as I find it in Judge Dodderidge's Manuscript above mentioned. This Union consisted of 24 Articles, in substance as follows.

1. That the King shall be sworn according to the Ancient Form, to preserve the Ancient Laws, Liberties, and Privileges of that Kingdom, granted by his Predecessors.
2. That no Parliament or Treaty of State concerning Portugal should be holden out of that Kingdom.
3. That if the King should go out of that Kingdom, and make a Vice-Roy, the Vice-Roy should be a Portuguese of the Blood Royal, Son, Brother, or Kinsman of the King.
4. That all Offices relating to Justice and the Treasury should be executed by Portuguese, and not by Strangers.
5. That all former Offices in Court and Kingdom should continue as they were, and be exercis'd by the Portuguese.
6. That it should be the same as to all other Offices, great and small, within the Kingdom; and the Garrisons should be Portuguese.
7. That the Traffick and Navigation of India and Guinea, as well then discover'd, as hereafter to be discover'd, appertaining to Portugal, should be in no other manner than was then, and had been formerly us'd; and that

- that the Officers in those Matters should be Portuguese, and navigate in Portuguese Ships.
8. That all Money to be coin'd in Portugal, should be stamp'd only with the Arms of Portugal without any other.
9. That all Prelacies, Benefices, Pensions and Offices Ecclesiastical within the Realm, should be conferr'd on Portuguese only.
10. That the King should not enjoy the Goods of the Churches, nor lay Taxes or Subsidies upon the same; and that no Bulls should after be obtain'd to any such purpose.
11. That the Jurisdiction of no City, Town, or Place, within the Kingdom, should be committed to any but a Portuguese.
12. That the King prefer to all Escheats, which he purposeth of new to grant, Portuguese of Merit, of the Kindred of those by whom such Escheats have happen'd; and yet not to exclude Spaniards which then were in Portugal, and had serv'd former Kings.
13. That the State of the Military Orders of the Realm be in no case alter'd.
14. That when the King or his Successors shall come into Portugal, they don't take up Lodgings for their Train after the manner of Castile, but after the ancient manner of the Portuguese.
15. That the King or his Successors being out of the Realm, shall take with him one Person Ecclesiastical, a Treasurer, a Secretary, a Chancellour, and Two Portuguese, which shall be the Council of Portugal, also his Clerks of the Treasury, and two Clerks of the Chamber; and the King by them, and with them, shall dispatch all Matters of the Kingdom of Portugal, and that in the Language of Portugal.
16. That all Corrigedors and others, having charge of Justice, shall be, and stand in the Realm in the absence of the King, as has been formerly us'd, and the like in all Offices of the Treasury.
17. That all Matters relating to Justice and the Treasury, shall be finally determin'd in the Realm of Portugal.
18. That the King and his Successors shall keep his Chapel residing in Lisbon, as the former Kings have done, except

except when the King in Person, his Vice-roy, or Governour, shall be in any other place within the Realm; where then also, the same Chappel may be.

19. That the King shall receive and advance to Offices in Court, Portuguese, as well as Spaniards, equally.

20. That the Queen shall admit about her Person, Ladies and Maids of Honour, as well Portuguese as Spanish, and seek to advance them equally.

21. That there shall be free Passage for both People; and the Wares and Merchandizes in and through the Borders and Frontiers of both Kingdoms without any Impeachment, Taxes, or Imposition.

22. That there shall be extended all Favour possible for bringing Bread out of Spain into Portugal.

23. That the King shall bestow yearly upon the Portuguese the Benevolence of 300 Thousand Crusados, to be disposed after this manner, viz. 120000 for the Redemption of Portugal-Captives, to be distributed at the Discretion of the Brethren of the Misericordia of Lisbon; and 150 Thousand to be laid out and dispos'd in such Places necessary, as the Chamber of Lisbon should ordain; and 30 Thousand remaining for the relief of the Country, then visited with the Plague, to be distributed by order of the Archbishop and Chamber of Lisbon.

24. That for the Provision of the Armado's of the Indies, and especially, for the Defence of the Realm, and Chastisement of Pirates, and the Conservation of the Frontiers of Africa, the King should take such Advice with the Kingdom of Portugal as should be thought fit, altho it were with the help of his other Estates, and much expence of his Royal Treasury.

For the Love the Portuguese bore to the King, they desir'd among them his perpetual Residence, but, where as the Government of his other Dominions would not permit the same, they desir'd that he would be resident as long time as he might; and that in his absence, he would appoint over them such an one as would tender them, esteem them, and love them, as his Majesty did!

These Favours were granted and publish'd, says our Author, in the Town of Tomar, in 1580. and afterwards imprinted, and order'd to be kept in the Records of that Kingdom, in the Chamber of Lisbon, for a perpetual Memory.

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From this Treaty, it is plain, that the lesser Kingdom had the advantage of the greater in respect of the Union, and put an Exclusion upon Spain as to their foreign Trade, &c. and yet the Spaniards agreed to it; whereas there are no such unreasonable Terms demanded by the Scots, who only desire the Preservation of their Constitution for their own Security. But we go on with our Instances.

In the time of King Henry the Third of England, upon a Peace concluded betwixt the King of France and him, it was agreed, that the Dutchy of Normandy should remain to the French King and his Heirs for ever, except the Isles of Guersy and Jernsey, and other Isles, formerly being parts, and belonging to the said Dutchy; thus that Dutchy was annex'd to the Crown of France, yet the ancient Customs, Laws, and Privileges of the said Dutchy, have ever remain'd inviolate, and were confirm'd to the 3 Estates of the said Dutchy, as well by King Lewis the 10th, as by the other succeeding Kings of that Kingdom, as appears by the Charters thereof, published under the Title of, La Charter aux Normans, in that Treatise, intituled, Customier de pais de Normandy, Printed at Auranch in 1593.

When Henry the 5th of England demanded the Crown of France as his due by Right of Succession, and had, by the Assistance of Philip Duke of Burgundy, obtain'd a great Victory over the French at Agincourt, and had Charles the 6th King of France, with his Queen and Daughter, in his hands. It was agreed at Troyes in Champagne, to unite the Two Kingdoms of England and France for ever; and the King of England took a solemn Oath, when he receiv'd Homage from the Duke of Burgundy, and the rest of the French Peers, that he would govern the Kingdom of France according to their own Laws and Institutions, that the Privileges of the Nobility should be inviolably preserv'd; and that the Parliament of Paris, and others, should be maintain'd in full Authority: This Sir Thomas Craig quotes from Hollinshed; but we have the Articles at large in Mr. Goodwin's Life of Henry the Vth †, Printed at London in 1704. where the Articles relating to the Union are thus;

That, to preserve Peace and Concord between England and France, and to prevent any causes of difference

† P. 26. 4. Sc.

for

for the future, our Son King *Henry* shall take effectual care, that by the Advice and Consent of the Three Estates of both Kingdoms, it be ordain'd, That when ever our Son *K. Henry*, or any of his Heirs, shall come to wear the Crown of *France*, the Two Kingdoms shall be united for ever under one King, that is, Under King *Henry* as long as he lives; and after his Death, under his Heirs in a continued Succession; and shall not at the same time be govern'd by two Kings; and yet the Rights, Liberties, Customs, Usages, and Laws, of each Kingdom, shall be kept distinct and inviolable, without subjecting one to another.

That from this present moment, all Hatred, Animosity, Division, and Wars, shall cease between the Two Nations, and the People fix'd in this settled Concord, be mutually united in Affections, Councils, Joint Assistance, and Defence, against all Enemies; and shall converse, and traffick with one another, paying the usual Customs in both Kingdoms.

It deserves our Observation, that in the preceding Articles it was agreed, that King *Henry* should so make use of his Power, That the Parliaments of *France* be preserved both now and for the future, in all their entire Authority and Sovereignty.

That every noble Peer, City, Town, Community, and every private Person, be preserv'd and maintain'd in their Rights, Privileges, Dignities, Liberties and Freedoms, belonging to them.

That he shall diligently, loyally, and with all his power, endeavour that Justice be administred in *France*, according to their ancient Laws, Customs, and Rights, without Partiality, uphold all the Subjects in Tranquility and Peace, and to his utmost ability, defend *France* from all Violence and Oppression. That he should take care, that the Offices of Justice, and other Places of Trust in the Government, be conferred on Persons qualified, fit for the just and quiet Administration of Affairs in the Kingdom, and that they be such as the Laws authorize and appoint to be in those Offices, and such as ought to be employed to be serviceable to the Good of the Prince, and Prosperity of the Nation.

These Articles were sworn at the High Altar; and King *Henry* proclaim'd Regent of *France*; upon which he made

a Speech, wherein he has these remarkable words, ' Look not on me as *English*, as a Stranger to your Nation; but account me wholly *French*, since I am declar'd Heir to the Crown of *France*: Think me intirely your own; and that I am oblig'd to espouse heartily the Interests of a People whom I am to govern, and who are as well my Subjects as those born in my Native Country: Be assur'd, that I will make no difference between *English* and *French*, but both People shall have an equal part in my Affection and Care.

This Agreement was afterwards proclaimed throughout *France* and *England*, and agreed to by the Parliaments of both Nations; which is the more remarkable on the part of *England*, that by one of the Articles, the Dutchy of *Normandy*, and all other places conquer'd by him in *France*, [from the *Dauphin* and his Party who stood out against this Agreement] should be under the Jurisdiction, Obedience and Monarchy, of the Crown of *France*.

To return to Sir *Thomas Craig*, his next Instance is in *Francis* the First of *France*; ' When *Brittany* was united, or, as they say, incorporated with the Kingdom of *France*, it was expressly provided that the *Bretons* should enjoy their own Laws and Customs; and that they might suffer no Diminution, there was to lie no appeal from their Parliament or supreme Court of Judicature, to any Jurisdiction in *France*: The Nobility and Gentry of *Brittany* were to be promiscuously admitted to Dignities, Posts and Offices, in the Kingdom of *France*; That if any Imposts were laid upon their Commodities heavier than those of *France*, it should be taken off; and if they enjoyed any Privilege in the matter of Imposts, it should be left to them entire. More Instances of this nature might perhaps be found, says Sir *Thomas*, where lesser Nations, tho united to greater, were left in the Enjoyment of their own Laws and Customs; but that of the King of *Spain* is one for all, who, tho he was possess'd of 12 or more Kingdoms in *Spain*, which by Marriage and otherwise, came at last to be united into one most potent Kingdom; and altho, besides *Spain* and the *Baleares* Islands, he possesses, united and incorporated into one Government, the Kingdoms of *Sicily*, *Sardinia*, *Naples*, *Corfica*, *Milan*, and the Provinces of the *Netherlands*, which are equal to a potent Kingdom, yet hitherto he has suffer'd all those Kingdoms and Provin-

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ces to enjoy their own Laws, knowing very well that he could not otherwise possess them in Peace; for all the Troubles and Wars which have afflicted the *Netherlands* for 30 or 40 Years past, were occasioned merely by Intrenchments upon the Laws and Liberties of their Country. From hence it is clearer than Sun-shine, that in order to accomplish this Union of the Two Kingdoms, it is not absolutely necessary that they should have the same Laws and Customs. It's certain, that a change of ancient Laws, which have taken deep rooting in Mens Minds, does frequently occasion great Commotions and Revolutions in Countries.

In the rest of this Chapter, Sir *Thomas* goes on to show that there's a very great Agreement betwixt the Laws of the Two Nations, concerning which he says (and all Men must allow him to have been a very good Judge) That there are no Nations who differ less in Statutes and Customs than the *English* and *Scots*; they agree in the principal Foundations and Heads of Law, tho they differ in their Forms; but in Criminal Matters there's scarce any difference, either in Law or Form; especially as to *Treason*, *Murther*, *Theft*, or *Felony of any sorts*. The very points wherein Sir *Francis Bacon* thought an Agreement necessary in order to an Union *

In Capital Crimes, continues Sir *Thomas*, the *Scots* Laws are as severe as the *English*; but in those which are not Capital the *Scots* are milder. Criminal Cases are submitted to the Cognisance of a Jury in both Nations, according to the ancient Roman Custom; and the Criminal has liberty to make just Exceptions against any of the Jurors; but the *Scots* allow 15 on a Jury, and the Majority carries it, whereas the *English* allow but 12, who must all agree.

In Causes concerning things moveable and unmoveable, he says, he finds little or no difference betwixt the Laws of the Two Nations; and that the Forms of Investiture, or Feudal Charters, Printed at *London* in 1546. were exactly the same in both Nations; and their Books of Presidents did also very much agree; but we shall take this Matter in short, from this Great Man's Epistle Dedicatory, of his Book *De Feudis*, to King *James*, thus;

* *Brief Discourse of the happy Union, reprinted at London 1700. p. 23.*
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Most Men having imbib'd a false Opinion, and endeavoured to impose it upon others, that the Laws and Customs of the two Kingdoms were diametrically opposite, I resolv'd in order to confute this Error, to make a diligent Enquiry into the Origine and Fundamentals of the Laws of both Nations; and besides the Knowledge I had acquir'd of our own Laws by 40 Years Practice in our Courts, I began also to inquire into the Laws and Customs of our Neighbours, as far as they were to be found in the Writings of the Learned in the Law, and at last I perceived by their Commentaries, &c. that the Foundations of the Law used at this day in both Nations are the same; and by comparing them together, I found there was a manifest Affinity in pleading and determining Causes, I know their Forms and way of Proceeding differ from ours, but with the good leave of our Neighbours, I think I may say without being guilty of Rashness, that our Forms of Action and Proceeding to Judgment are preferable to those of any Nation I ever saw.

It is here also proper to observe, that our ancient Laws and Customs to be found in the Book called *Regiam Majestatem*, agreed so much with those of *England*, that Antiquaries have been in doubt whether *Glanvilles* Treatise of the Laws and Customs of *England* was the Copy or Original; but be that how it will, since the Book was receiv'd in *Scotland* by publick Authority, it demonstrates the then Agreement of Laws betwixt the two Kingdoms; but this I may offer by the way, that the Ingenious Mr. *James Anderson* has in his Defence of *Scotland's* Independency, bid fair to prove that *Regiam Majestatem* was not the Copy.

They that have a mind to be further satisfy'd of the Fundamental Agreement betwixt the *English* and *Scots* Law, may find much to their purpose in Sir *Thomas Craig's* Book *de Feudis*.

To this may be added, that since that time it cannot be supposed that the Difference is greater, but it must be own'd that in what relates to the Liberty of the Subject, the *Scots* have since the Revolution had the better, as will appear by their Claim of Right, their Act of Peace and War, and that of their *Habeas Corpus*, &c. and in Church-Matters there's no Canon or Constitution can be made, or Discipline exercis'd without the Consent and Approbation of the Peoples Representatives.

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It's hoped the Authorities and Presidents here quoted, are sufficient to shew, that it has been the General Sense of Europe on all occasions, as well in former as in latter Ages, That in order to an Union betwixt Nations, an intire Union of Laws and Customs, or that a lesser People should surrender their Constitution to a greater, has neither been thought necessary nor expedient; and in this as the Legislature of France and England agreed in the Reign of King Henry V. the Legislature of England and Scotland agreed in that of King James the First, as may be seen by the Acts of Parliament of both Kingdoms for the Union, wherein both Nations made a Reserve for their Fundamental Laws and Rights. And to the Authorities already adduc'd, I shall add this wise Observation of Judge Dodderidge, in his Manuscript above-mention'd.

There can be no perfect Union, except there be a common Parliament or Assembly for the General Causes which shall equally concern both People, such have all the Cantons for their General Causes, although every State particularly has nevertheless their proper and peculiar Parliament, in the constituting of which General Parliament great care must be used in appointing what Persons shall be call'd together, lest the one exceed the other in Number of Suffrage or Votes, and so the greater part overcome the better.

C H A P. III.

Of Union in Religion.

IT has been found in all Ages, that Unanimity in Religion is the greatest Cement of Friendship among Men, and that nothing exasperates Mankind so much as a Force put upon them in Matters of Conscience; The Scots, tho so much inferior to England in Power and Riches, when engag'd by Pressures of this Nature in the Reign of King Charles the First, resolv'd to venture all, rather than submit to it; and it's known they made their Party good against that Prince with a mighty Army from England, and all the Court-Faction in Scotland: This together with the constant

constant Uneasiness of the Nation under Episcopal Government, the care they have taken at the late Revolution, and since by their Claim of Right, and several Acts of Parliament, to ratify Presbytery as a fundamental part of their Constitution, and the resolute Adherence of so great a part of the Nation to it, under the cruellest Sufferings, is an unanswerable Argument, that they must be left to their own Laws, as to Church-Government, Form of Worship and Discipline.

And since there's a perfect Harmony in all other things in the Religion establish'd in both Nations, there's no shadow of Reason why this should be denied, since it's plain that the Refusal of it will be an invincible Bar to the so much desired Union. The best way to keep Peace in Matters of Religion, is, to leave the Two Nations to their respective Constitutions, and particular Persons to their own Choice and Judgment, and to put it out of the Power of any one Party to impose upon another, for that has ever been destructive to Union, and both Nations have felt so much of the dismal Effects of it, that except they be given up to a Judicial Infatuation, they can never again fall into that Error. We have reason to bless God, that Moderation is in this Reign (as it ought to have been in all others) the prevailing Doctrine at Court, and therefore Heaven has bless'd us with an Opportunity as favourable as can be desir'd, to do all that's possible to be done by Man, in order to bury Persecution with Infamy, so as it shall never revive; for since all Parties of Christians profess that they espouse their own way, because they think it best accommodated to the promoting of Piety, there's no more Reason why different Forms of Worship, Church-Polity and Discipline, should hinder an Union betwixt the Nations, or Unity in either of them, than the different Forms of Proceeding in the several Law-Courts of both, or either Nation, should hinder such Union and Unanimity among the Subjects, since all those Courts think their own Methods best accommodated for doing Justice in their own way.

But since my Design at present is to give Authority rather than Argument, I shall consider what has been the Sense of the Great Governments of the World, both ancient and modern, as to Uniformity of Religion, when Nations of different Sentiments in those Matters, have come to be united under one Civil Government.

We have heard already, under the former Head of leaving different Nations to their own Laws, tho' united under one and the same Sovereign, That the Hebrews enjoy'd the free Exercise of their Religion in Egypt, tho' it was an Abomination to the Egyptians, the native Subjects of that Crown. We have also heard that the Jews were allowed the same Liberty under the Assyrian, Persian, and Roman Monarchies, which is so much the more remarkable, That the Church being then confin'd to the Jews, and such as they admitted for Profelytes, the rest of the World being ignorant of their Constitution, and Enemies to it, had a general Prejudice against them, as a narrow soul'd uncharitable People, who hated all Mankind but themselves. Thus Haman accus'd them, *That their Laws were different from all People, and that they did not keep the King's Laws, therefore it was not for the King's Profit to suffer them**. Thus Tacitus charges them with a Religion, *contrary to that of all other Men; That those things were by them counted profane, which other Nations held sacred; That they accounted those things lawful, which other People esteem'd to be unlawful; That they were very charitable and true to one another, but mortally hated all other People, would not so much as eat with them at the same Table, nor sleep with them in the same Chamber; Their Profelytes, he says, were of the same Temper, and the first thing they taught 'em was to despise the Gods, to abandon their Country and Relations, and to account them all vile †.*

Juvenal's Satyr against the Jews; *Non monstrare vias eadem nisi sacra colenti*; That they would not so much as show the way to those that were not of their own Religion, is very well known. Appollonius Molo objected against the Jews, *That they would have no Conversation with those who dissented from them in Religion, and Antiochus's Friends accus'd them of being the only People of the World that were unsociable to Strangers, and reckon'd all other People their Enemies, so that they went under the Name of Man-haters.*

Yet notwithstanding this odious Character of the Jewish Religion, we find both by sacred and profane History, that the Romans left them in the free Exercise of it, till their obstinate Rebellion brought on their appointed Ruin, and thus both Titus the Roman General, and Josephus their

* Esther 3. 8.

† Lib. 5.

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own Countryman, *upbraided them with their Ungratitude towards the Romans, who indulg'd them so fully in the Exercise of their Religion, that they were allowed to forbid Strangers to enter their Temple on pain of Death.* And that to leave ev'n a conquer'd People in Possession of the Religion of their Ancestors, is not only very acceptable to the Conquer'd, but safe for the Conqueror, is excellently argued by Agrippa in his Oration to Cajus, which Philo gives an account of in his Embassy.

Nay, the very Goths who generally have the Character of a Barbarous People, boasted, according to Procopius, Goth. II. That in their Conquests they forc'd no Man to embrace their Religion.

It would seem unnecessary to insist any more upon this Point, since it's evident that in all the Treaties of Union hitherto set on foot, the Scots have ever insisted upon having their own Ecclesiastical Constitution left entire to themselves, and the English have done the like as to theirs, so that this Matter would seem to be determin'd already, since both Kingdoms in their Acts for the present Treaty have made a Reserve on that Head.

It may be proper here to observe, That two of the greatest Men of their time, when the Treaty of Union was set on foot in 1604, were both of Opinion, that the Agreement then betwixt the Establish'd Religion of both Nations (which continues the same still) was sufficient for an Union; the one was Sir Francis Bacon, who in his Brief Discourse above-mentioned, pag. 15. reckons Religion one of the Points wherein the Nations were already united; and p. 17. owns, that the Union in Points of Doctrine was perfect; The next is Sir Thomas Craig, who in his Manuscript about the Union affirms truly, That both Nations were fully agreed in all things relating to true Piety and Religion, that were requisite to make a perfect and compleat Union.

I shall conclude this Head with observing, that it would seem to be a very good Method to make the Scots easie in this matter, to make it a Fundamental Article of the Union, when it comes to be treated in the United Parliament, that no Innovation be made in the Doctrine, Discipline or Government of that Church, without the previous Consent of their General Assembly and Parliament lawfully

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call'd, and left to act with full Freedom; this was their ancient Constitution, the invading of which by late Courts laid the Foundation of those Calamitous Wars which overturn'd the Government of both Nations.

C H A P. IV.

Containing Reasons for Reserving the Parliament of Scotland.

THE Ordinary Objection against leaving the Scots to have their own Parliament for regulating their own Affairs, is, that this is only a federal Union, and that such Unions are not durable, but liable to be broke at pleasure, as all other Leagues and Confederacies are; and therefore they are for letting the Scots have no other Parliament, but the number agreed on to represent them in the Parliament of Great Britain, in like manner as Wales has had since 'twas United to the Crown of England.

This Objection of a Federal Union was raised when the first Treaty was set on foot in 1504. and is judiciously answer'd by Sir Tho. Craig in his Manuscript, cap. 5. He takes notice of the three sorts of Leagues among the Ancients; The first betwixt the Conqueror and the Conquered, wherein the latter agrees with the former to have the same Friends and Enemies, to make no War without the Conqueror's Consent, to surrender all things Sacred and Civil to the Conqueror's Disposal, to give Hostages for Performance, to receive Garisons, and to pay the demanded Tribute; such were the Leagues of the Romans with the Latins, Sammites, Macedonians, Gentius King of Illyrii, the Numidians and Antiochus. The Second was a League betwixt different Kings and People that were equal in War without any Diminution of Dignity on either side, the Liberty and Laws of both being left entire as before the League, but they had a common Friendship, had the same Friends and Enemies, and granted mutual Hospitality, Freedom of Commerce and Passage to one another's Subjects, which tho the most strict of all Societies, yet was dissolvable at pleasure, and neither of 'em could

could be compell'd to continue longer in such a League than they thought fit: Such was the League the Romans had with the Carthaginians, before the first Punic War, with Hiero King of Sicily, and with all those who were call'd their Neighbours.

The third League was betwixt those who never were at War together, but contracted Friendship, and neither gave nor received Laws from one another, but by Agreement, were to have the same Friends and Foës; such was the League formerly betwixt the Scots and Picts, against the Britains and Romans, but was frequently broke; and at last the Picts were utterly subdu'd by the Scots.

To these three sorts of Leagues mentioned by Sir Thomas according to Menippus in Livy, we may add those mentioned by Grotius*, viz. Such as appoint the same thing which the Law of Nature has appointed before-hand, viz. That one Man or People should not hurt another, and such as add something to the Law of Nature; and these are either equal or unequal. But none of those comes up to the Union under Consideration, because it supposes an Union of two Nations, with equal Privileges and Freedom, under the same Sovereign for ever; and therefore, tho it be by Agreement of the Representatives of both Nations, and in that sense may be call'd Federal, yet it is that they may be incorporated, as Members of the same Political Body, under the same Hereditary Head, in order to prevent, as far as Man can do it, all future Separation; and therefore, as Sir Thomas says well, Is a more strict and sacred Tie than can be obtain'd by any federal League or Union. For this reason it was, that the Union betwixt the Poles and Lithuanians, under one Elective Prince for ever, was by themselves call'd not only an Incorporating but an Inviscerating Union; which is a stronger word, and implies their being imbowell'd, as well as imbodyed under one Head; tho, as we heard before, each Nation retain'd its own Parliament and Independency.

To Sir Thomas's Instance of Poland and Lithuania, we may add those of the greatest Governments now in Being in Europe, which are made up of several distinct Dominions

* De Jure belli & pacis, Lib. 2. 15.

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retaining their respective Sovereignties, Constitutions and Diets, without prejudice to their being Incorporated under one Political Head, Elective or Hereditary. To begin with the *German* or *Roman* Empire, every one knows that it is compos'd of a great number of Sovereign Princes and States, and some of its Princes too Elective, and others Hereditary, and that they are all represented in one Diet, and govern'd by one common Elective Head, without prejudice to the Sovereignties and Diets of the particular States which compose this great Body; and this Government has continu'd for many Ages without the voluntary dismembring of any one part from the rest, all of 'em counting it their Glory to be Members of that august Body, and endeavouring to preserve their Common Union under one Head.

The second Instance is that of *Spain*, which consists of an Incorporation of several Monarchies and Principalities, each of them allowed their own Cortes or Diet, and their particular Privileges; and since they have been all treated after the same manner, we don't find any of them willing to be dismembred from that Monarchy, tho they have been tempted to it by powerful Invasions and Treaties of Partition, &c.

The third Instance is that of *France*, which, as we have heard already, consists of many incorporated Sovereignties which retain'd their own particular Parliaments and Constitutions, until the late Tyranny of their Princes swallowed up all; however, since they are all treated alike, we don't find any of them inclinable to be dismembred from that Crown; nay, it appears even by English History, that *Normandy* and other Provinces, formerly subject to the Crown of *England*, would never again break off from the Crown of *France* after they were united to it, with the Reservation of their Ancient Freedom, tho the English Government must be allowed to have been generally more mild than that of *France*, even in those times.

We might also alledge the Union that has continu'd so firm betwixt the United Provinces of the *Netherlands* and the Cantons of *Switzerland*, tho they retain their respective Sovereignties and Diets, or Assemblies, without the Benefit of one Common Head or Sovereign to cement that Union; so that we find by the Practice and Experience of all the great Governments that have been, or are still in being in

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Europe, that there's no truth in that part of the Objection, that an Union of two or more Independent Sovereign Nations, under one Common Sovereign, with a Reservation of their particular Parliaments and Constitutions, cannot be durable or lasting.

As to the Instance of *Wales*, there's no manner of parallel; that Principality was subdued by Force of Arms, and therefore oblig'd to submit to the Will of the Conqueror, and annex'd to the Crown of *England* by Act of Parliament, at *Rutland*, in the 11th of *Edward* the 1st; and yet, if we look into History, we shall find that Union far from being firm or durable, for in the 23d of that Reign they chose themselves Rulers, and broke out into a Rebellion, which was not quash'd without a great deal of Trouble and Loss: They rebelled likewise in the Reign of *Edward* II. under their Captain *Griffin Loitis*: They rebell'd also in the Reign of *Henry* the IV. under *Owen Glendower*: It appears also by History, that they were very apt to join with any Faction that had a mind to disturb the Government of *England*; One main reason of which seems to have been, that tho they were annex'd to the Crown of *England*, they had not all the Privileges of Englishmen until the 27th of King *Henry* VIII. and therefore that Prince, in order to take away the causes of Discord, Variance, Debate and Sedition, which had been betwixt the *Welsh* and *English*, allow'd them the same Privileges; as may be seen by that Act.

Besides, When *Wales* was thus annex'd to the Crown of *England*, there was no difference betwixt the two People in their Ecclesiastical Constitutions, as there is between the *Scots* and *English*; and since it is known, that the Endeavours of the late Courts of *England* to bereave the *Scots* of their Ecclesiastical Constitution, and the Struggles of the *Scots* against it, laid the Foundation of all those Differences that have been betwixt the Two Nations, since the Union of the Crowns. It's but reasonable, that the *Scots* should have a Security in their own hands, for the Preservation of their Church Government, and Municipal Laws; and it will be hard to assign such a Security any other way, than by their own Parliament, and allowing them the Liberty, according to their old Constitution, to chuse their own *Ministers of State*, *Privy Councillors*, and *Judges*; or in fewer words, to leave them their own Government, to take care of their own particular Affairs; but referring all things relating to the Ar-

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titles of the Union, to the Common Parliament of *Great Britain*.

There's a great Objection made against this Scheme, which it's proper to consider here, *viz.*

That the Two Parliaments may happen to disagree, which in time may come to break the Union.

To this it's answer'd; 1. That it's not easie to conceive how they should disagree, since the subject matter of their Determination can scarce have any thing Common. Joint Allegiance to the same Sovereign, Joint Peace and War, a Communication of Trade, and mutual Support of it, with equality of Freedom and Privilege, and securing the Joint Property of the Subjects of *Great Britain*, seem to be the peculiar province of the Common Parliament; in which the Parliament of *Scotland* is not to meddle, except by way of Representation, as occasion requires, to the United Parliament; which, with the Joint Sovereign, is only to have the Legislative Power in things relating to the Union; so that it's improbable the separate Parliaments should disagree, except the Nations do so; and if that happen to be the Case, upon any Injury done by the one to the other, it will be impossible for the united Parliament to prevent it without a Redress, tho' their were no separate Parliaments to take care of the Interest of the Nation aggriev'd.

This is plain from the Practice of *Scotland* in the Reign of King *Charles* the First; They were not allow'd a Parliament to apply to for a Redress of the Wrongs they suffer'd; but we know their *Tables*, as the voluntary Meetings of their Lords, Barons and Burgeses, were then call'd, supplied that defect, and brought the King to Reason: And if the Country be oppress'd after the Union, they will naturally have recourse to the same Methods again; so that to deprive them of their Parliament on that Apprehension, will signifie nothing, if they ben't also depriv'd of their Freeholders; for the Proprietors of a Country will always think they have a Right to meet for the Defence of their Property when invaded; and have ever practis'd it on all pressing Occasions.

2. All that's propos'd to fall under the Determination of the Parliament of *Scotland*, may be reduceable to these few Heads.

1. To make, amend or explain, their own Municipal Laws, which relate to the Property of the Inhabitants of that

that part of the Island which Englishmen don't understand; and therefore are not capable of doing Justice to the *Scots* in those Respects.

2. To determine Appeals from the Lords of the Session or Judges, which is so much the more requisite in *Scotland*, because, except in Criminal Cases, Matters are not tried there by Juries. And it's well enough known by fatal Experience in both Nations, how Judgment has been turned into Hemlock, and Justice perverted, to serve or depress such Parties as Courts have thought fit to encourage or keep down; and for appeals to *England*, to the Joint House of Lords, the Majority of them being *English*, are incapable to judge according to our Laws, which they don't understand; and besides it would be utterly subversive of the Constitution of *Scotland*, where the Commons sit with the Lords in the same House, and have a power of determining Appeals as well as they; but were there none of these Objections, it would lay a Foundation to ruin poor Men in their Suits, who are not able to bear the Expence of the Journey, and much less the Charge of Prosecution, so far from home; which would encourage their rich Adversaries to appeal, on purpose to oppress them.

3. To keep not only Judges, but others concern'd in the Administration of the Government there, in awe, and to call them to an account upon Complaint; otherwise those in great Posts, may be apt, as in other Countries remote from the Court of the Sovereign, to make it their chief business to enrich themselves by oppressing the Subjects, and perverting or denying Justice; as has been frequently complain'd of in the remote Dominions of the Spanish Monarchy, and in the *English West Indies*; nay, sometimes in *England* it self, when Parliaments became the Aversion of the Court, who prevailed so far over an infatuated part of the Subjects, by means of the *Laudean* Faction, as to engage them in Addresses of Abhorrence against Petitions for calling them: And in *Scotland*, the Influence of the Courtiers has for the most part been very grievous to the Subject, ever since the Union of the Crowns.

4. To be Guarantees for the People of *Scotland*, to see the Articles of the Union faithfully perform'd to them, and that their Municipal Laws, and Ecclesiastical Constitution be not invaded; for since an Union in those two Heads, is not so much as pretended, and can never be effected,

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sted, without a Conquest, or intollerable Oppression; and since a Foreign Guarantee is inconsistent with an Union of Two Nations incorporated under one hereditary Sovereign, it would seem to be the least that can be allow'd us, to have our own Parliament for our Trustees, which is their natural Province, and the original Cause of their Institution; and for *England* to deny us this, when they made such a Reservation for themselves upon their Union with *France*, in the Reign of *Henry V.* is not to do as they would be done by.

There's an Objection made against this, *viz.* That being then all one Nation, we can have no more reason to doubt of Justice from *England*, than *Wales*, the Northern Provinces, or any other part of *England*; for no Nation will go to oppress any part of it self.

To this it's answer'd, That no part of *England* differs from another in Municipal or Ecclesiastical Laws; but it is not so with us, for, as has been said already, we neither are nor can be one in those respects without Conquest or Oppression; and it's undeniable, that those of our Church way in *England*, are so far denied the common Privileges of Englishmen, that they are made incapable to serve their Sovereign or their Country by the Sacramental Test. Nor is it less evident, That instead of taking off that Test since the Revolution in *England*, it has been very lately impos'd in *Ireland*, to the great Dishonour and Damage of our Countrymen there; who, in a course of about 50 Years, were twice the main Instruments of preserving the English Government in that Kingdom. Nor were the Designs of the High Church party levell'd with less Fury against their own Countrymen in the *West India* Plantations; by which those People must have been thrown into unavoidable Confusions, and made liable to intollerable Oppression, had not Her Majesty and the House of Lords seasonably interpos'd. To this we may add, That the principal handle for all the Oppression our Country has met with from the Courts of *England* since the Union of the Crowns, was our differing from them in our Church Constitution; and since the late House of Commons, did, in Three successive Sessions, discover so much aversion to those of our Way by the Occasional Bill, and that it once very narrowly mis'd passing the House of Lords, it will be hard to perswade the Presbyterians of *Scotland*, to entrust the Constitution of our Church

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to a Vote in the Parliament of *Great Britain*, where the Church of *England* must ever have an extraordinary Majority. Could we always indeed be sure of a Prince of Her Majesty's Piety and Moderation, of so many Bishops of such large and Catholick Principles, as makes them abhor Imposition and Persecution; of so many Temporal Lords, who have just Notions of Liberty, and are true Patriots of their Country; and of such a House of Commons as the present, who are for promoting Peace at home, and carrying on a vigorous War against Oppressors abroad; we might safely venture it. But all humane Affairs are subject to Vicissitude; there may come a King who knows not *Joseph*; Men of Arbitrary and Persecuting Principles, may at one time or other recover the ascendant in Court and Parliament; and therefore it's the part of wise Men to provide against future Contingencies, as far as humane foresight can do it.

No Man, who knows the different Constitution of the Two Nations, can blame the Church of *Scotland* to be jealous on this head. In a Parliament of *Great Britain*, the Church of *England* must have infinitely the advantage of the Church of *Scotland*; as will appear by the following Reasons; 1. The Church of *England* has her Bishops in the House of Lords, who are engag'd by Principle and Interest to take care of her. 2. All the Temporal Lords, a very few excepted, are of her Communion, and most of them engag'd by Interest, as well as Principle, to support her. 3. We are not sure but most of the *Scots* Lords, who shall be admitted to the House, may be of the Episcopal Way. 4. In the House of Commons, the Church of *England* cannot fail of having always a vast Majority of the *English* Members; and we are not certain, but she may likewise have the Majority of those that are sent from *Scotland*; since it's possible for a Court, when ever they think fit to attempt it, to influence the Election of the 45 *Scottish* Members so far as to have a Majority of the Episcopal Party return'd, and those too as much High Church as any that come from *Cornwal*, *Dorset* or *Devon*. 5. It is not so much in the power of the Church of *Scotland* to influence Elections among them, as it is in the power of the Church of *England*, to influence Elections in their Country; because the benefic'd Clergy in *England* have Votes in choosing Parliament-Men; and the Bishops, by virtue of their Temporal Baro-

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nies, their Interest at Court and in Council, and the Obligations they are able to put upon Freeholders, by advancing their Sons or other Relations to Church Preferments, &c. have a mighty Influence in the Country. In a word, the Church of *England* is so imbody'd in the State, and makes so considerable a part of it, that her Influence is able to turn the scale almost which way she pleases: Hence it came to pass, that the Kingdom of *Scotland* was not able to preserve their own Constitution, either in Church or State, against her Influence, when seconded by the Two *James's*, and Two *Charles's*; and it was not without struggling that they kept their Ecclesiastical Constitution in the Reign of the late King *William*. It can scarce be denied, that the Interest of the Church is so great in *England*, that she can make and un-make Kings, and maintain or subvert the English Constitution at pleasure: It was by her Influence and Concurrence, that the Constitution was over-turn'd in the late arbitrary Reigns; and it being reasonable that those who made the breach should stand in the Gap, it was chiefly by her Concurrence that the late Revolution was effected, and the Constitution restor'd by King *William*, and it's by her Interest principally that it's still maintain'd; for if the Moderate Church-men did not cordially join with Dissenters to support the Government, we have reason enough, from the late Ferment rais'd in the Nation, to believe, that the Out-cry of the Church's imaginary Danger, might have been as fatal to Her Majesty, as that of its real Danger was to her Father.

It being evident then, beyond Contradiction, that the Church of *England* is so considerable a part of the State, and has such a mighty Influence upon it, that she has her Bishops in the House of Lords, and near 10000 Clergymens Votes for Members in the House of Commons; whereas the Church of *Scotland* neither has, nor can have a Vote for Members, nor any Representative in Parliament or Council; the Church of *England*, all these things being consider'd, must have twenty to one odds against the Church of *Scotland*, in a Parliament of *Great Britain*; which is enough to silence those Scotsmen, who of late have so industriously advanc'd a Proposition, *That the Church of Scotland is in more danger by their own Parliament, than by the united Parliament of both Nations.*

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Their Argument for it, is proper to be consider'd here, which is thus; *The Whiggs in the Parliament of England will always have Power enough in conjunction with the Scots Members, to prevent the Subversion of the present Church-Government in Scotland, whereas it is in the Power of a Court at any time to get such a Parliament in Scotland, as will establish Episcopacy there.*

To shew the Weakness of this Argument, we need only consider, that the far greater part of the Whiggs in the English Parliament are zealous Sons of the Church of *England*, and it's natural for all Men to endeavour the propagation of their own Principles, so that all the Difference betwixt a Moderate and High Churchman in this matter, lies here, that the former is against promoting his Principles by Persecution, and the other is for promoting them at any rate. But if it should happen that it be put to the Vote in the Parliament of *Great Britain*, by the Interest of a Court, and the Intercession of our Episcopal Party in *Scotland* (some of whom by late Pieces about the Union express their Inclinations that way already) to make Episcopacy the National Establishment in our Kingdom, and allow the Presbyterians such a Toleration as in *England*, we can scarcely expect that Church-men will vote against this; and it's certain that Dissenters can never bear such a Proportion in an English Parliament, as to carry a Vote in favour of the Church of *Scotland* without them. And since the Moderate Church-men, with the Assistance of the Dissenters, have hitherto been either unwilling, or not able to take the Sacramental Test from off their Brethren in *England*, or to prevent its being very lately impos'd upon their own Brethren and ours in *Ireland*, their Influence in the Parliament of *Great Britain* seems to be too weak a Reed for the Church of *Scotland* to lean on. Besides, when any future Court enters upon a design of restoring Prelacy in *Scotland*, to be sure they'll take care to have as few Moderate Church-men as possible in the Parliament of *England*, for no Princee will attempt to put a Force upon the Consciences of any part of his Subjects, but such an one as is engag'd in Arbitrary Designs, and it's known Moderate Church-men are not proper Tools for such Work.

For the other part of the Proposition, *That it may be in the Power of a Court at any time to get such a Parliament in Scotland, as will establish Episcopacy there.* There's this to be

be said, that the Act of Her Majesty's Reign making it Treason to impugn any Article of the Claim of Right, wherein Prelacy is condemn'd, makes it dangerous to attempt it in a Parliament of *Scotland*; Nor would it be so easie to model a Parliament in that Nation to restore Episcopacy, as those Gentlemen imagine. The Nobility and Gentry of *Scotland* are too sensible of the Calamities formerly brought upon the Nation, and suffer'd too much by it, many of them in their Persons, or Relations, and all of 'em more or less in their Estates, to offer at embroiling the Nation again upon that account. Even those who complain of what they call the impertinent and unmannerly Behaviour of some Ministers, who reprove them for their Irregularities, will rather endure that suppos'd Impertinence, than venture having their Tenants dragoon'd, and their Lands laid waste, by restoring Prelacy, for that the Presbyterians will ever submit to it without Force, there's no Man will imagine, that knows any thing of *Scotland*, and the Burroughs that groan under a Decay of Trade, know too well from past Experience, that Persecution will ruine them intirely.

We may add to this, that the Episcopal Party was full of hopes upon the calling of a New Parliament after King *William's* Death, to have had Prelacy re-establish'd; and tho it must be own'd that there were more High Churchmen elected then, than in any Scots Parliament since that which was held on the Restoration of King *Charles II.* yet they were so far from offering to restore Episcopacy, that they would not allow such a Toleration as the Episcopal Clergy petitioned for, to make 'em capable of Benefices without owning the Civil or Ecclesiastical Government, but ratify'd Presbytery, and made it Treason to impugn the Claim of Right which abrogates Prelacy, as has been already mention'd. This is a strong proof, that except a Force be put upon the Nation, it will not be easie to get a Parliament in *Scotland* to restore Episcopacy.

A design of that nature can't be form'd of a sudden, and if once it took air, the Presbyterians would give such Instructions to their Members, or make such Remonstrances if it were attempted by Surprise in the House, as would soon convince the Promoters of such a Design, that they are not to be bubb'd or hector'd out of their Establishment, as they were at the time of the Restoration, they smarted too

too severely for their Easiness then to be catch'd in the same Trap again.

By what's here said, it seems to be pretty plain, that a Parliament of *Scotland* cannot easily be brought to subvert Presbytery, and so much the less, if what these Gentlemen say be true, that it's more secure in the Parliament of *Great Britain*, for then the Scots will be under no Tentation to comply in that matter with any Court, if they know that the United Parliament be not for it, so that by this means Presbytery will have a double Security, and if the Scots could once be sure of that, one of the greatest Objections against the Union on their part is certainly remov'd.

It may be further argued against abrogating the Parliament of *Scotland*, and allowing them only a minc'd Representative to joyn the entire Parliament of *England*, that it's contrary to that Fundamental Principle of Liberty, that *Dominion's* founded on Property, and therefore it's hop'd the Revolution-party, who have the Ascendant in *England*, will not act so much contrary to their own Principles, as to insist upon it.

Can any Man in cool Thought, find it reasonable that a free and independent Nation, who have now an uncontrollable Right to make, amend, and execute their own Laws from time to time, as occasion requires, should surrender Nine parts in Ten of that Power to another Nation, which has not only no Property in *Scotland*, but Seven parts in Ten of 'em are of opposite Principles to the Church of *Scotland*, and none of 'em understand the Municipal Laws of our Nation. Is not this diametrically opposite to the Principles of the Revolution, according to which the Convention of both Kingdoms justify'd the Dethronement of the late King *James*, because he invaded the Property of his Subjects by extending his Prerogative beyond its due Bounds, and impos'd unqualify'd Judges upon both Nations. Then why should it be thought that *England* will seek, or that *Scotland* will grant the *English* a superiour Power of Dominion where they have no Property, and a Power of decisive Judgment in things they don't understand, and by Consequence are unqualify'd to determine. This were for the Scots voluntarily to submit to that which God has threatned as the greatest Judgment upon Nations, and positively forbid his peculiar People of *Israel* to make their Choice. He prohibited them to set a Stranger over them

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them that was none of their Brethren *; and threatned it as a Curse, That Strangers should get up above them very high, and that they should come down very low †; That he would deliver them into the hands of Strangers †; And give up their Beauty to them †. Accordingly it is taken notice of as an Accomplishment of those Threatnings, That Strangers devour'd their Strength and Land in their Presence, and laid it desolate *.*

We likewise find the Israelites so sensible of this Judgment, at what time soever it befel them, that they justly accounted it their Reproach to have their Inheritance turn'd to Strangers, that they had given the hand to the Egyptians and Assyrians to be satisfy'd with Bread, they heavily mourn'd under that Judgment, and pray'd heartily to God to deliver them from it †.

It is also evident, that when the Almighty was mov'd with Compassion toward his People, in such a calamitous State, He promis'd to break the Yoke of Foreigners from off their Necks, and that Strangers should no more serve themselves of them; and accordingly perform'd it †††.

Have not the People of Scotland loudly complain'd in Parliament, that their Princes have been govern'd by English Influence for 100 Years past, to the devouring of the Strength, and laying desolate the Kingdom of Scotland, and can it be reasonably expected that the Scots should also surrender their Parliament to be overvoted by any Faction in England, in every thing wherein the Interest of the Two Nations shall be supposed to differ. Is this to act like a People who have maintain'd their Sovereignty and Independence longer than any other Nation in Europe. Or is it to be imagin'd that the Scots Presbyterians, who have gloried in suffering so much for their Ecclesiastical Constitution, as most agreeable to the Scripture of any National Establishment in the World, do now value it at so low a rate as to subject it to the hazard of being voted down by a Parliament wherein the Church of England must unavoidably have a Majority. Have they complain'd with the Israelites,

* Deut. 17. 15. † Deut. 28. 43. † Ezek. 11. 9. † Ezek. 7. 21. *.* Isa. 1. 7. Hos. 7. 9. † Lam. 5. 1, 2, 6, 8. Book of Judges throughout. ††† Jer. 30. 80. The Books of Judges, Kings, Chronicles, and Prophets throughout.

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that they that hated them rul'd over them *, as they did when the English Laudean or High-Church Faction impos'd so much upon them in Spirituals and Temporals in four successive Reigns, and is it to be supposed they will run the like risk again by a Faction who still bastardize all the Presbyterians and other Dissenters in England, and who so lately attempted their Ruin by the Occasional Bill, and other Measures. Have the Scots frequently complain'd during the last 100 Years, with Israel, That Servants have rul'd over them, and that there was none to deliver them out of their hands †; till their own Estates deliver'd them in the Reigns of King Charles I. and King James VII. from the unjust Tyranny and Oppression of the Ministers of those Princes, and is it reasonable to think that they will part with that natural and native Guardian to their Constitution. It had been as wise in Aesop's Sheep to have deliver'd up to the Wolves the Dogs that guarded their Folds.

Have the Scots since the Revolution endeavour'd to deliver themselves from the Oppression of their own and a foreign Ministry by their Claim of Right, by their Proceedings in the Matter of Darien, by their Habeas Corpus Act, their Act of Peace and War, their Act of Security, and their Limitations upon the next Successor, and is it to be supposed they will now voluntarily subject themselves to a foreign Government, and leave the Nation without Redress or Appeal in case of being ill us'd by a foreign Majority. Can any Man think that the Parliament of Scotland will, or if they should, that the Freeholders of that Kingdom which include all the three Estates, will ever agree to have their Inheritance turn'd to Strangers, viz. their Hereditary Right of Legislature and Judicature abridged as to themselves, and Nine parts in Ten of it transferr'd to England. What have the Nobility, Barons and Burgeses of Scotland done to possess the World with so mean an Opinion of them, have they lost their Senses, or are they become incapable of governing themselves: If it be so, the People of Scotland, whose Guardians they are, have certainly a better Right to chuse new ones, and to a Commission of Lunacy to take care of their old ones, than the People of England.

* Psal. 106. 41. † Lam. 5. 8.

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Have the Courts in *Westminster-Hall*, and both Houses of Parliament, thought it worth their while solemnly to debate, and by Declarations on both sides to appeal to the People of *England*, as to their respective Care of securing the Right of English Freeholders to vote for Parliament-men, and have the Commons of *England* shew'd such a tender regard to their Constitution, that they will not so much as allow one guilty and inconsiderable Burrough to be disfranchis'd, and shall the People of *Scotland* have so little regard to that Sovereignty and Liberty deriv'd from their Ancestors, and which they have maintain'd with so much Glory for so many Ages, as to suffer their whole Nobility, Barons, and Burgeses, to be disfranchis'd at once, and their Right of governing themselves transferr'd to another Nation. Who can have so mean an Opinion of the Justice of Englishmen, as to think they will desire this? And who can have so mean an Opinion of the Wisdom and Courage of Scotsmen, as to think they will grant it. If this be insist'd on, it would give those who are against the Union, a handle to object in the Parliament of *Scotland*, that this is Subjection and not Union; and that there's not so much regard shew'd to the Rights of the whole Kingdom of *Scotland*, as to those of two or three English Freeholders, which favours too much of Partiality and separate Interest, to be the Ground-work of an inseparable Union betwixt the two Nations.

It must be own'd on all sides, that Equality in Privileges and Freedom, is the best Foundation for such a Design, and therefore it can never be thought that an Union will be durable, founded on so much Inequality as to abridge *Scotland* thus in its Representative, while every County and Burrough in *England* is left in the full Enjoyment of theirs; this would make void at once all the fair Pretences of *England's* having offer'd to make us as happy as themselves by an Union, if the only Condition of it must be the utter Subversion of our Constitution, whilst theirs continues entire.

It's in vain to object, that by this Scheme they let us in to a share of their Government, since it's plain that such an unequal Representation deprives us of the Power of Governing our selves, and can give us no Influence at all in governing them. Nor indeed is it reasonable that either Nation should intrench upon the Government of the other; for

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for, instead of uniting us, that would certainly divide us, and therefore all Schemes tending that way, must necessarily be destructive of the Union they pretend to advance. This was wisely foreseen by our Countrymen who were commission'd to treat of an Union in King *Charles* the Second's time, therefore they would not abate one Parliament-man; they acquainted his Majesty, *That it was not to be done, but if he pleas'd he might call the Parliaments of both Kingdoms together, when the Affairs of the Union requir'd it.*

Against this it's objected by some of our own Countrymen, that it would put *Scotland* to too much Charge, and the Nation is not able to bear it: But we may easily reply, That it's very improbable the occasion of their meeting together should be frequent, for the ordinary Affairs of the Union might easily be manag'd by Deputations from the one Parliament to the other by turns, as was done during the late Parliament-War; and in Intervals, by a Council of Trade compos'd of both Nations, as was then by a Committee of both. So that there could be no occasion for the meeting of both Parliaments, but to adjust some great Difficulty relating to the Union, which the Deputation to the separate Parliaments, or Council of Trade could not do, and in that case if the Benefit we have by a Communication of Trade with *England*, do not over-balance the Expence of such of our Scots Members as are not willing or able to bear their own Charges to meet the English Parliament at *York* or at *London* upon occasion, the Communication of Trade so much talk'd of, is neither worth their giving or our receiving.

Besides why should the same Privilege be denied to all *Scotland* upon an Union, that is allow'd to one Town they took from us by Conquest, viz. *Berwick upon Tweed*, which tho the Laws as well as Inhabitants be a Mixture of English and Scots, has always been allow'd their full Representative with other English Burroughs; and we may venture to say, that generally speaking, *Berwick* sends as good Members as any other Town in *England*.

But further, why should the same Privilege be denied to *Scotland* that was granted to *Wales*? Is there any Comparison betwixt the two Countries, either as to Extent, People or Importance? Yet we find they were allow'd Two for the County of *Monmouth*, and One for *Monmouth* Town, One for each of the Twelve other Counties, and One for

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each County-Town, which is Twenty seven in all, besides the share of Representation which other Parts of *Wales* have with the English Counties to which they were annex'd, as may be seen in the 27th of *Hen. VIII.*

It is proper in this place to take notice, that an English Author who wrote about the Union in 1604. spoke by way of Comparison of the Unions of *Wales* and *Scotland* as follows:

“ *Wales* is English'd, a Country whose Riches did not woe us, nor her Power, nor the Fertility of her Soil, but the Discommodities that we might receive by them, whilst they were held as Aliens, being Matter to feed discontented or ambitious Plots. This was the furthest and only Advantage we expected. *Scotland* is more like us than *Wales*; we differ not in Language (a sign that God ever meant to have us one Kingdom) and for the other Conveniencies, as Power, Wealth, Largeness of Territories, Reputation of a Kingdom, and Ability in Men, there's no Comparison*.

Now were *Scotland*, with which *Wales* ought not to be nam'd in one day, treated with the same Kindness as that conquer'd Principality, they could have no less than 66 Commons, that is one for each County, and another for each County-Town, besides all their Lords, without any Diminution, for we don't find any Welch Lords excluded.

To this we may add, that *Cornwall*, another County to which the Conquer'd *Britains* made their Retreat, is allow'd 44 Representatives in Parliament, besides the Right of Suffrage, which all *Welch* and *Cornish* Lords have in the Upper House; so that *Scotland*, which is a free and Independent Nation, has no reason to think her self kindly us'd, if denied the same Privilege, or a greater, than was allow'd to a Conquered, and in all respects a far less considerable People.

All that can be said in Justification of this is, that *Scotland* being more considerable, their Influence upon the English Government, if allow'd their full Representative, would also be more considerable, therefore they are not to

* The miraculous and happy Union of England and Scotland, Printed at London for Edward Blunt, in 1604.

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be allow'd the same Privilege in that Matter as *Wales* and *Cornwall*, lest they should carry the Ballance in the Parliament of *Great Britain*, which might endanger the English Constitution both in Church and State, especially considering that the Scots Lords are so numerous, that they might cast the Ballance in the House of Lords when ever they would.

To this we answer, by retorting their own Argument upon them, That an Union removes all Distinctions, and it was never known that any Nation would go to oppress a part of it self; besides, the Church and State of *England* is secur'd by way of Preliminary; and if they will not allow this Argument to be conclusive with respect to them, we have much less reason to allow it to be so with respect to us, because their Lords are 185, and ours but 145; their Commons 513, and ours but 152; then again, of our 145 Lords 7 are incapable to sit at present, being Papifts, and 15 are Englishmen that are only Titular, which reduces our sitting Lords to 123, from which Number we may deduct, on the account of Age and Minority, one time with another, at least the odd 23, which makes them but 100; and we may very well deduct 20 more for voluntary or necessary Absence, there being 25 such mark'd in the List of the present Parliament of *Scotland*, Printed in 1703. so that we can scarce reckon above 80 sitting Lords in a Scots Parliament at any time, there not having been 60 in the House upon the great Occasion of proposing the *Hannover* Succession. It's plain then, we could not expect above 40 or 50 at any Parliament of *Great Britain* held at *London* or *York*; tho all that would come had the Privilege, so that allowing all Deductions upon these or any other accounts from the 185 English Peers, they must always have a vast Majority in that House; and the Church of *England* has 26 Spiritual Lords to take care of her Constitution, whereas the Church of *Scotland* has not, nor can't, according to her Principles, have one Deputy of the Clergy in either House to take care of her's. All this demonstrates that it's morally impossible for the Parliament of *Scotland*, tho entirely join'd to that of *England*, to carry any thing against the real or supposed Interest of *England* by Vote, whereas it were easie for the Parliament of *England* to out-vote the Parliament of *Scotland*.

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Besides, we are not only to dread the Disproportion of 186 Lords to 16, and of 513 Commoners to 45, as propos'd at present, but have reason to fear an increase of that Disproportion in time to come; for the Sovereign being constantly in *England*, and under the Influence of Natural Affection, as well as of a superiour Influence otherwise, to favour that Nation: It's in their power, when they please, to create more English Lords and Burroughs, which, according to their Constitution, must all come to Parliament; whereas, there would seem to be a *Ne plus ultra* set upon *Scotland*, whose Number of Representatives may never perhaps be allow'd to increase.

It's plain then from what has been said, that *England* has no reason to be jealous of our Number, tho' allow'd our full Representative; and the same Arguments hold good against any Jealousy they may have of our Inclinations, since the number of Votes must carry it; besides, we may fairly prove at any time, That since the Union of the Crowns, we never offer'd to impose upon them either in Church or State; whereas they have several times impos'd upon us, and forc'd us to the dangerous and unpleasant necessity of standing upon our own Defence against them, with our Natural Prince at their head, tho' he ow'd Protection to us as much as to *England*.

There are other Arguments against our surrendering the Parliament of *Scotland*, which I shall dispatch as briefly as possible; and

The difficulty of doing it. The Parliament it self cannot do it, that being no part of the Trust they have from the People; but on the contrary, they are intrusted with the Preservation of the Government, and the Property of the Subject; both which are concern'd in this surrender, since the Legislature of *Scotland* must thereby be transferr'd to another Nation, together with the Property of the Free-holders and Burroughs, who have a Right to chuse their own Legislators, but lose the Effects of their Choice entirely, when it is thrown into the Gulph of a Foreign Majority. Some will perhaps object, that the Lords come to Parliament in their own Right, and any Man may dispose of his own Property: To which it's answer'd, That creating of Lords without Estates, or without communicating the causes of their Merit to Parliament, is an In-croachment upon our Constitution, and for those that had Free-

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Freeholds, as all our ancient Lords had; it's plain from the Records of the Parliament of *Scotland*, that they had a Right to come there before they were made Lords, so that their Patents gave them no new power of Legislature, tho' it intitled them to a more honourable Seat in the House; from which it's plain, that those Lords who have Freeholds, are oblig'd by their tenure to attend in Parliament by themselves or their Representatives; and what they hold of the Crown of *Scotland*, either by Freehold or Patent, they can't transfer to another Nation, especially Legislature, and decisive Judicature, which are Rights of Sovereignty; so that the surrender of 'em to another Nation, appears by the very nature of the thing to be no less than High Treason. It's the Opinion of all the great Lawyers, such as *Alexander Cardinalis*, *Jason*, *Imola*, *Baldus*, *Bodinus*, *Hottomannus*, &c. That Sovereign Princes cannot transfer their Sovereignty to a foreign Prince; and we know that *Baliol* and his Posterity, were for ever excluded from our Crown, for transferring our Sovereignty to the King of *England*. Our Ancestors in Parliament in 1488, adjudg'd it to be a sufficient Cause to justify King *James III's* being kill'd in the Field of Battel; and that he brought it justly upon himself, for endeavouring to bring in Englishmen, to the perpetual Subjection of the Realm. Then certainly, if transferring the Rights of Majesty to a foreign Prince or People, did by our Constitution infer Death and Forfeiture to a Sovereign Prince, it can be no less than High Treason in Subjects of any sort.

Besides, the Lords being but one Estate, can't (if they were so inclin'd) dispose of those Rights, which are the Trust of all the three; but we cannot suspect them to be so much degenerated from their Noble Ancestors; many of them possess the same Estates and Honours that their gallant Fore-fathers enjoyed; who sign'd that Letter to the Pope, that they would never suffer the Crown of *Scotland* to be subject to that of *England*, so long as their were 100 Scotmen alive: And we can't suppose, but the Successors will shew as much Zeal for preserving the Liberty of the Kingdom, as their Ancestors did for saving the Independency of the Crown, which are one and the same in thing, tho' they differ in Name.

Then for the Commissioners of Shires and Boroughs, it's evident, that they are Representatives of others, and can't dispose of the Rights of those whom they represent, without an

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express Commission so to do: This our Treators in 1670. were fully convinc'd of, and therefore refus'd to abate one Parliament-Man: Sir *John Nisbet*, the King's Advocate, who understood our Law as well as any Man, having argued from the 13th Act, Parl. 8. Ja. 6. that it was Treason to attempt to alter the Constitution of Parliament; and it's plain by the express Words of the Act, *That it is Treason to seek or procure the Innovation or Diminution of the Power and Authority of the same three Estates, or any of them in time to come.* Now to reduce our Parliament from 145 Peers to 16, and from 152 Commoners to 45, and to subject those also to a foreign Majority, is an Innovation and Diminution of their Power and Authority with a Vengeance.

Besides, the *Act salvo jure cujuslibet*, is a plain Demonstration that the Parliament of *Scotland* can't take away any private Man's Right, except forfeited by Law; much less can they take or give away the Rights of the whole Nation. Tho' by their Election they have a Commission, *cum libera potestate*, with a free or full Power, it is to be understood only that they may *superstruere*, build upon the Foundation; but they cannot subvert or alter the Foundation and the Constitution of the Government, either in Church or State, without special Authority from their Constituents or Electors; as Sir *John Nisbet* has observ'd in his Doubts and Questions in Law, p. 17. To this we may add what Sir *George Mackenzie* has said in his *Observations upon the Act of King James the VI. about the Union*, and in his *Right of the Succession defended*, viz. 'That our Members for Shires and Boroughs, are the same with the *Procuratores Universitatis* in the Civil Law, who could not alienate the Rights of their Constituents whom they represent, without a special Commission for that Effect; for the Power of making Laws, and resigning of Privileges, are two different things; the one is a Legislative Power regulated by Plurality of Voices, but the other is founded upon Dominion and Property, and is not subject to Suffrage no more than other Properties are. Which perfectly agrees with my Observation above, from our *Act Salvo Jure*, which is enacted at the close of every Scots Parliament: And it is agreed likewise by the Parliament of *England*, That no English Freeholder can be deprav'd or abridg'd of his Right of Electing Parliament-Men,

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no more than he can be depriv'd of his Freehold to which that Privilege is annex'd; and tho' he may forfeit his Freehold by a Crime, yet the Freehold never loses that Privilege, but it is convey'd with it to the next Possessor.

To return to Sir *George Mackenzie*; he adds, 'That in all Societies and Governments, where there's an Association of Powers, as in our Parliaments, there are certain Fundamentals, which like the noble parts in the Body, are absolutely necessary for its Preservation; for without these, there would be no Ballance or Certainty; and thus with us, if the King, and each of the Estates of Parliament, had not distinct and known Limits, each of them would be ready to invade one anothers Privileges: And thus I conceive, that if the Parliament should consent to alienate half of the Kingdom, or to subject the whole to a Stranger, as in King *John's* Case in *England*, and *Baliol's* in *Scotland*; it has been found by the respective Parliaments of both Kingdoms, that that Statute would not oblige the Successor; or if the House of Commons in *England*, or the Boroughs of *Scotland*, should consent to any Act excluding their Estate and Representatives from the Parliament, doubtless that Statute excluding them, would not prejudice their Successors, because that Act were contrary to one of the fundamental Laws of the Nation.

With this *Grotius* agrees, *De jure Belli & Pacis*, Lib. 2. Cap. 6. Artic. 4. 'In the Alienation of a part of Government, says he, there's this further requir'd, viz. That the Part which is to be alienated give consent, for those who form themselves into a City or Community, contract a sort of perpetual or immortal Society in respect of the constituent Parts; whence it follows, that those Parts are not subject to their Body, as the Parts of a Natural Body, which cannot live except the Body live, and therefore they are justly cut off for the Safety of the Body; for this Body of which we speak, is of another sort, it is form'd by the Will of those who compose it, and therefore the Right of that Body over its Parts, is to be measur'd according to the original Design of the constituent Parts, which can't be suppos'd to have given this Body or Society a power to cut off those Parts, and subject them to a Foreign Jurisdiction.

We may justly say, It is as plain that it was never the design of the People of *Scotland*, to give their Parliament a power to subject all or any part of the Kingdom to a foreign

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Jurisdiction; and that tho' the Majority of the Kingdom should entirely consent to such a Subjection, the rest is not oblig'd to follow their Example, nor have they any Right to constrain them to it, because it is contrary to the Original Laws of the Society.

To apply all this, It is plain from our History, and from the thing it self, that the Proprietors of the Country, had from the beginning, a Sovereign Right of Legislature and Judicature invested in them for the Security and Government of that Property, but finding that such a Multitude of Proprietors (who had Descendants, Servants and Tenants, which in those little Tribes or Principalities were in the nature of Subjects) could not without Confusion have a Joint Government and Administration of their Common Property: They agreed upon a Common Head and Form of Government, and this Common Head was their General in War, and Sovereign Administrator in time of Peace; and those Proprietors of the Country, call'd anciently Heads of Families, Tribes and Clans, were the Sovereign's Common Council or Parliament, as we now call it, who advis'd and agreed to the Laws by which they were to be govern'd, and without whom he could do nothing in Peace or War, the Original Power as well as the Original Property being in them; and these in process of time, when the Distinction of Nobility and Commons, Clergy and Laity, came in use; and when Trade came to be manag'd by incorporated Societies in Towns, were divided into distinct Estates, tho' originally but one, *viz.* Proprietors, who either possess'd Estates before this Association into one Government, or afterwards came to possess Estates or Corporations that depended upon the Crown, or the said associated Government; as will be evident to any Man that peruses our Histories, and compares them with our old Laws and Acts of Parliament; from whence it's plain, that none of those Proprietors, or their Successors, could be depriv'd of their Share in the Common Legislature and Supream Judicature, without committing such Crimes against the Society as inferr'd a Forfeiture; and hence it came to pass, that all our great Forfeitures, Remissions, and Restorations to Blood, Honour and Estate, and the Creations of Noblemen and Corporations, were ever submitted to the Cognizance of Parliament, till our Constitution was overturned by Arbitrary Princes: Hence also it was, that all those

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those Proprietors had a Right of coming to Parliament, or General Councils in person, and had a share with the Sovereign in all the Rights of Majesty, particularly in Legislature and Supream Judicature; but Controversies about *meum & tuum*, coming to multiply with the Proprietors, it became a Grievance to the small Freeholders to attend so frequently from the remote parts of the Kingdom upon determination of Causes, therefore the greater Barons, who were able to bear the charge of constant Attendance, came to be call'd Lords of Parliament, and the lesser Barons were allow'd to send Representatives as well as the Burroughs: From all which it is plain, That our Parliament being either the Great Freeholders themselves, now call'd Lords, or the Representatives of the lesser ones, now call'd Barons, and of Communities now call'd Burroughs, they cannot deprive any of themselves or their Electors of their share of Legislature and Judicature, or lessen the Number of their Representatives without the Consent of the whole, except they would make themselves guilty of betraying the Society, who can never lose their Privilege, but by Tyranny, Treachery, or Conquest; in any of which Cases they have a Right to repossess themselves of their Property when ever they have power; and our History is full of Instances of their having frequently done so in such Events.

It would therefore seem not to be the Interest of *England* to insist upon an Union with *Scotland* on such Terms, lest it should endanger their own Constitution, for it's known that Arbitrary Princes can never love Parliaments; and if any such in time to come should have a mind to lessen the Number, and by Consequence the Power and Authority of the English Parliament, and for that end propose to leave out the poorer Lords, and to lessen the Representatives of Shires and Burroughs, they may be sure of the Concurrence of the *Scots*, who, out of Revengē, as well as for their own Security, will be for reducing the Parliament of *England* to a nearer equality to their own Number; and in this Case 61 Votes, with such as it is always in the power of a Prince, to make, will, in all probability, go a great way. Our Neighbours may remember the time when the Parliament of *England* was very near destroying themselves, by concurring to a Design of enabling the King to levy Money without them; but the very Pensioners, when they consider'd

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der'd that in such a Case there would be no more occasion for their Service, and by Consequence for their Pensions, oppos'd it; perhaps some of our Countrymen may know how to apply this.

But to go on; Our Ancestors took so much Care of the Dignity and Freedom of Parliament, that they tied up the King *from doing or commanding any thing that may directly or indirectly prejudice the Liberty of free Voting and Reasoning of the said Estates, or any of them in time coming*, Parl. 11. Jac. 6. Cap. 40. Now certainly to drown their Votes in a Disproportion of 16 to 186, and of 45 to 513, absolutely destroys their Votes, by making them of no more effect than that Majority pleases; shall a King then be tied up from doing this, and Subjects be left to such a Liberty.

The Scots were so sensible of the Incroachments made upon the Power and Privilege of their Parliaments in the late Arbitrary Reigns, that they provided for, and re-asserted the Power, Authority, and Frequency of Parliaments, by their Claim of Right at the late Revolution, and since by an Act in her present Majesty's Reign, it is made Treason to impugne any Article in the Claim of Right, this is a new, as well as a strong Argument, against surrendring or lessening our Parliament, especially, since the Estates were so far from lessening it, that they thought it necessary to enlarge the Number of their Representatives, by adding 26 Barons or Knights of Shires to their former Number, by the 11th Act of King William's Parliament in 1690.

And since by the same Claim of Right, they took care to restore the Burroughs to their Ancient Privilege of chusing their own Magistrates and Town-Councils, to prevent its being in the power of the Prince, by usurping that Right, to nominate that one Estate of Parliament: It is not to be suppos'd that the Freeholders of Scotland will agree to such a Diminution of their Representative, as may put it in the power of any future Prince not only to name or bribe all the Three Estates, but likewise to subject them entirely to any prevailing Faction in another Nation.

We have smarted enough already by a voluntary lessening of the Number of our Barons, upon the account of the Charge and Trouble of Attendance upon Parliaments, which then were usually twice a year, to agree to a further Diminution of our Representative: Constitutions are more easily invaded and demolish'd than preserv'd and erected:

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The People of *Scotland* have been too much oppress'd by a disproportionable Increase of Parchment-Nobility, without enobling Vertues, and by the Diminution of their ancient and truly noble State of Barons, to whom with much Difficulty they got 26 added since the Revolution, as above mentioned; and such of our true Patriots as propos'd an Addition to the Barons upon the creating of any new Nobleman, have met with too much Opposition to that reasonable Proposal, to agree to any further Diminution of the Number of our Representatives of Shires, and to the subjecting of the whole to an English Majority.

Besides it ought to be considered, that the Presbyterians who think the solemn League and Covenant obliging, cannot in Conscience agree to the Surrender of the Parliament, since that Oath obliges them to endeavour, with their Estates and Lives, to preserve the Rights and Privileges of the Parliament, and Liberties of the Kingdom, which is absolutely inconsistent with curtailing our Parliament, and subjecting it entirely to a foreign Majority. Therefore we have no reason to fear that in such a moderate Reign as this, any thing that may be uneasy to the Consciences of so great a Body of People as the Generality of the Presbyterians of *Scotland*, will be requir'd of our Nation as a condition of coming into the Union, when it's fairly laid before Her Majesty.

In a Matter of this Consequence, the Kingdom ought to be left to its entire Liberty; for if the bulk of the People be dissatisfied, it is not carrying things in a Treaty or Parliament, that will make the Union firm and lasting. What the *Privermates* said to the *Romans* is what all Men think, tho it may not always be convenient to speak it, *viz.* That no Man or People will continue any longer in a Condition under which they are uneasy, than they are forc'd to it by invincible necessity; and that a good Treaty would be lasting, but a bad Treaty could never be long liv'd. This generous and noble Answer prevail'd so much upon the wise *Romans*, that they applauded the *Privermates* for it, own'd it was Language becoming a Free People, and accordingly granted them good Conditions, tho they were subdued by their Arms. The Result of all this is, that the Surrender of the Parliament being a thing wherein the whole Nation is concern'd, it is not this or that Party that ought to be consulted in the Matter, but the whole Kingdom; and we may venture

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ture to say, that if all the Freeholders in *Scotland* were poll'd upon this account, it would be found that the Majority will never agree to it. The Gentry of *Scotland* are Men of better Sense and Spirit, than voluntarily to surrender that Power of Legislature and Judicature, which is annex'd to their Freeholds. This is an Entail of a higher nature than that of Estates upon particular Families, for they may be extinguish'd, but Freeholds can never die. Besides, it is plain from the nature of the thing, that there ought to be no Abridgment upon this account in our Representative, for since *Scotland's* All is concern'd in the Union, as well as the All of *England*, then all *Scotland* ought to be admitted to take care of their Concern as well as all *England*. The Trust is too sacred to be deposited in the hands of 45 Commons, and 16 Lords only. Our Neighbours may remember when the greatest part of 513 of their own Commons were Pensioners, and when their Lords went almost in a shoal, with the Designs of an Arbitrary Court, and since *what has been may be*, it's not for the Safety of *England* no more than for that of *Scotland*, to give any future Court such an easie Opportunity of bringing the Representatives of *Scotland* into such Measures, as the bribing of the Majority of 16 Lords and 45 Commons, may afford them; for in this Case the divine Maxim holds remarkably good, *That in the Multitude of Councillors there's Safety.*

To this we may add, that there's so much the less reason to abridge or curtail the Great Council of *Scotland*, that it is more refined in its Choice already, than that of *England*, for (*Edinburgh* excepted, which is allow'd two Members) the rest of our Burroughs send only one Member each to Parliament, whereas every Burrough in *England* sends two, though many of them be far less considerable than the meanest Burrough in *Scotland*, which enjoys that Privilege, and the Choice of our Representative for Burroughs is likewise more refined, since the Parliament Men for our Burroughs are chosen by the Magistrates and Town-Council, whereas in many places in *England* all House-keepers in Burroughs have a Vote. Besides, it is proper to observe here, that none are admitted to elect Barons or Knights of Shires in *Scotland*, who don't hold of the Crown a Forty Shilling Land of old Extent, which is equal to 10 *l. Sterl. per Ann.* now; or where the Extent appears not, that hold Lands of the Crown worth 33 *l. 6 s. 8 d. Sterl.* yearly Rent, which

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which shews also that our Elections for Knights of Shires is much more refined than those of *England*. This makes it still the more unreasonable to refine our Constitution so high, as in effect to abolish it while *England* retains all the Dregs of theirs; and may at any time, when they please, thrust them down our Throats, if we be not allow'd our own Parliament as a Guardian for our separate Concerns.

There's no Man can doubt of this, if he allow himself to consider, that all the antiquated and ruin'd Burroughs in *England*, continue still to send Two Members each to Parliament, though they have little or no Interest in the Nation, and by consequence the Cause of their having that Privilege be ceas'd; and if he likewise consider, that all the Bishops, Temporal Lords, Knights of Shires and Burroughs in *England*, must have a Vote, if a Question ever be put in the Parliament of *Great Britain*, whether Episcopacy or Presbytery shall be the National Constitution in *Scotland*, or whether any Branch of the Scots Trade that may seem to interfere with the Trade of any part of *England*, shall be encourag'd or suppress'd. It's certain that *England* would never allow us a Majority over them in such Cases; and there can be no good Reason assign'd why we should allow it them over us.

The best way to make the Union firm and durable, is to proceed with Candour on both sides, for if that be wanting, though an Union may be patch'd up by Management, neither of the Kingdoms will find their Account in it, but it will prove like an unhappy Match, into which Persons are brought by Force, Trick or Surprize, which instead of Conjugal Affection lays a Foundation of perpetual Discord, and makes both Parties unhappy.

If any thing like this should be the Case, the discontented Parties in both Nations will be sure to improve it, and may in all probability occasion a greater and more fatal Rupture betwixt the Kingdoms, or at least a greater Comotion and Disorder in both, than ever happen'd in their separate State. *Wales* is a pregnant Instance of this, for that People, tho united to *England* by Act of Parliament in *Edward* the First's time, always join'd with any Party that disturb'd the English Government, until they were made perfectly easie, as to the Terms of the Union in the Reign of *Hen. VIII.*

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There is no more reason for admitting *England* to a Management of our separate Concerns, because of our Union in Allegiance, Trade, War, Privilege, &c. than there is that when two Persons of unequal Stocks are united in Trade and Friendship, that he who has the greater Stock should have the Management of the other Man's Domestick Concerns absolutely at his Disposal. And here we may give a further Answer to that plausible Objection, That no Nation did ever oppress or injure any part of it self; That it is no new thing in *England* for one part of the Kingdom to differ from another about Points of Interest. Any Man may be convinc'd of this, who does but look into the Votes and Proceedings of Parliament, and consider the frequent Debates that have happen'd 'twixt County and County, or one Corporation and another, about Points of Trade, making Rivers navigable, making new Harbours, or repairing old ones, or about some particular Manufacture, wherein those who can procure most Votes, do certainly carry it, though perhaps to the Detriment of the Publick. The Prohibition of *Flanders-Lace* in favour of the West-Country-Lace-makers, though to the general Damage of the Woollen Manufacture, which is the Staple Commodity of *England*, and was thereupon prohibited in *Flanders*, is one plain proof of this: And the Division that happen'd in Parliament about the Importation of Irish Cattle, wherein the Grazing Counties carried it against the rest, to the general Damage of the Kingdom, is another.

Now supposing that in a Parliament of *Great Britain* so constituted as above-mention'd, a Motion should be made for Incouraging the Herring-Fishery in *Scotland*, by raising a Fund for that end, and that at the same time another should be made for giving the Pilchard Fishery in *Cornwall* the Preference, or that it were objected that the one would obstruct the other, we may be sure that in such a Case the 44 Cornish Members would carry it against the 45 Scots, and so in every thing else wherein the Interest of any part of *England* should seem to interfere with the Interest of *Scotland*; and the Reason is plain, *Scotland* has but 45 Members to defend her Property, whereas *England* has 513 to defend hers.

It's in vain to say that the Difference will be forgot after the Union, and that there will be then no more *English* or *Scots*, but all will be *Britains*. The different Interests will still

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still keep up a Difference in Measures, and we have no reason to think that Englishmen will have the same Concern for *Scotland*, where they have no Property, as for *England* where they have their All, ev'n tho the different Names were buried in Oblivion; which is not to be expected neither for some Ages, tho the Union were establish'd. *Wales* has now been united to *England* above 400 Years, yet the Distinction of Names continues, and there's no Man but knows the Affronts put upon that People by the rude Mob in *London* and elsewhere once per *Ann.* to this very day; and were it not that time has now blended the Interest of *England* and *Wales*, and mix'd their Property so much together, that they cannot be separated; we may easily perceive from these foolish Marks of Distinction and Resentment still kept up, that *Wales* must succumb in every thing in Parliament that should interfere with any part of *England*.

The Consequence of all this is, that to allow the Scots a Parliament for their separate Concerns, and to be a Guardian for their Interest in the Union, must instead of being a handle for a Separation, be a strong Barrier against it. Whereas the very Offer to deprive them of it, must needs create an incurable Jealousy, that they may not only be oppress'd, but likewise cut off from all hopes of Redress, which is a sorry Inducement to an Union.

That a Parliament is necessary for Redress of Grievances, there's no Nation of the World more sensible, and none have asserted it more bravely than *England*, therefore if the Matter be fairly laid before them, we have no Reason to doubt but they will allow it us; for as has been said already, a designing Court may much more easily manage by Bribery or otherwise, 61 Men, than the whole Parliament of *Scotland*, and by Consequence not only keep the Grievances of that part of the Island from being truly laid before the Parliament of *Great Britain*, but bring those few Members to concur with them in their Designs upon the whole; whereas if the Scots Parliament be left entire, Grievances upon that part of the Island must needs be more easily prevented; and if any should happen, they can't fail of being fully represented to the United Parliament, in order to a Redress, and by Consequence any Rupture prevented, that might otherwise happen in the Union. Whereas if the Parliament of *Scotland* be abrogated, it may be easie for an

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Arbitrary Court to work up the Grievances of that part of the Island to such a height, as may endanger the Peace of the whole, and give them an Opportunity to raise an Army on pretence of bringing the Scots to Reason, which may be afterwards made use of against the English Liberties. This one would think should have weight with the Revolution-party in *England*, considering how seasonably the Parliament of *Scotland* came in to the Relief of the expiring English Liberties, when High-Church arm'd King *Charles I.* against them: And considering that the Scots Parliament did likewise in their turn, declare for the Maintenance of the English Monarchy and Constitution against the Anarchical Sectaries; It would seem neither to be the Interest of the Court nor Parliament of *England*, to deprive themselves of such a necessary Ballance as the Parliament of *Scotland* may prove upon any such occasion. For while Men are Men, those in Power will be apt to think they themselves have too little; and those who are not, will be apt to think they have too much. And this cannot fail of producing Conteſts betwixt Prerogative and Liberty in time to come, as it has done in times past. Besides, to deprive the Scots of their Parliament, will not answer the Design of those who at any time may oppress our Nation. This is plain from the Reign of King *Charles I.* as above-mention'd, for when he oppress'd our Country, and would allow us no Parliament to redress our Grievances, the Nobility, Gentry, and Boroughs supply'd that want by their meeting together, of their own Accord, at *their Tables*, as those Meetings were then call'd. It being natural for the Proprietors of a Country to think they have a Right to meet together for the Defence of their Property when invaded.

It has been mention'd already, that for either Nation to meddle with the particular Affairs of the other, is so far from being like to cultivate an Union and good Correspondence between 'em, that it's the ready way to lay a Foundation of perpetual Discord, and must needs end at last in the utter Ruine of the Scots Constitution, as well as endanger that of *England*. To make this plain, let's suppose that such Controversies may again happen in *England*, as there have been for many Years betwixt Whigg and Tory. The Scots Members in both Houses must take t' one side or t' other; and which side soever it be, the opposite side will be sure to revenge it upon the Kingdom of *Scotland*, by seeking

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ing Opportunities to divide the two People in some Point of Interest or Principle, and then joyn with that Party who oppose the Scots. We have had too much proof of this, to call it in Question. Our saving those by our Arms who stood up for the Liberties of *England* in the Reign of King *Charles I.* was not able to atone for our adhering to the Royal Family, and endeavouring to support the just Rights of the Crown, but the very Party we rescued affronted our Army and Commissioners while in *England*, contrary to the Law of Nations; and afterwards invaded and made a bloody War upon *Scotland*: And on the other hand, all our Sufferings for the Royal Family, all our Endeavours to support the old Constitution of *England* by King, Lords and Commons, and our early and effectual Concurrence to restore them afterwards, could not atone for our having formerly joyn'd the Parliament against the Court, and helping to overturn the Bishops in *England*, who had first overturn'd Presbytery in *Scotland*, so that the Court and Cavaleers overturn'd our Constitution afresh, took from us the Privileges of Trade we had till then enjoy'd, according to the Common Laws of *England*, and laid the Foundation of all that Poverty we still groan under.

Besides, what Reason is there that our Quota of Lords and Commons should meddle in the particular Affairs of *England*, of which they are ignorant, and by consequence incapable to judge. What could any of them have said in the Controversy between the Two Houses about *Ashby and White*, in the Great Question, whether an *Action lies at Common Law, for an Elector who is denied his Vote for Members of Parliament*. All that they can say in such Cases, must be by implicate Faith, and to give their Yea or No according as their Party would have them; and it must be just the same when English Lords or Commons come to vote in Scots Affairs, that they don't understand, which is to act below the Dignity of humane Nature, and contrary to Justice; for that Saying of *Tully* holds eternally true, *ad Consilium de Republica dandum, Caput esse, nosse Rempublicam*. The chief thing requir'd to enable a Man to give Advice concerning the Affairs of a Commonwealth, is to understand the Commonwealth.

What could Scots Members say in such Cases as making the Rivers *Wey* and *Lugg* Navigable, or in advancing or lessening

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sening Imposts upon such and such English Commodities? What do they know of the Difference betwixt the Silk-weavers and the *East-India* Company, or other Particulars of that sort? or how can English Members determine an Appeal in the Scots Law, of which they understand not one word, or decide controverted Election in any of our Boroughs or Counties? Besides it would be a pretty step to bring People from *Orkney* and *Schetland*, and other remote places of *Scotland*, to prove the old Extent, or the present Valuation of the Lands they hold of the Crown of that Kingdom, or to prosecute an Appeal before the House of Lords at *Westminster*; or suppose that the People of *Scotland* have occasion for a Sum of Money to advance a particular Branch of their languishing Trade, or to encourage some new Manufactory for which they have very good Materials, must they stay till the Parliament of *Great Britain* think fit to grant it, and give those who are Enemies to our Country, or may be concern'd in Interest to oppose such a Manufacture, time to run the Rounds of an Inquiry into all the Corporations and Manufactories of *England*, for Objections against it. We know well enough how several Manufactures in *England* clash with one another, and how their Trading Companies have turn'd the Debates of Parliament sometimes into a Party-War, then what Favour is *Scotland* to expect in such a Case? Is this a likely way to promote their Trade, for the want of which the Country is ruin'd.

Here I expect to meet with the old Objection, That after the Union, the Nations become one, and have no more any separate Interests; but I must answer those Gentlemen, that the Old and New Companies, Whiggs and Tories, Churchmen and Dissenters, *Cornwall* and *Yorkshire*, are all Englishmen, yet have many times drawn different ways; and though it were allow'd that *England* and *Scotland* became entirely one Nation by the Union, yet national Prejudices can't be soon laid aside; and so long as Englishmen and Scotsmen have their Properties lying in distinct Parts of the Island, those distinct Properties will still keep up the Difference, and be the peculiar Objects of their distinguishing Care, and considering that the Scheme we talk of lays the Scots under such an Infinite Disadvantage, as to the Legislature, they are in no Condition to maintain a Ballance for the Security of their separate Interest. *England* has been united in one Community ever since the Fall of the

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Heptarchy, and their Representatives have been accustom'd to act accordingly for the most part; their Interest and Estates being so blended and mix'd that they cannot well be separated; but it is not so with *England* and *Scotland*, nor can it be expected for Ages to come; very few Englishmen have any Property there, nor are they like to be fond of purchasing Lands in that Kingdom, whereas many of the great English Lords and Commoners, have Estates not only in one, but in several Quarters of *England*, which recommends the whole to their Care; and it is not at all to be doubted, but they would insist upon a larger Representative for *Scotland*, had they Estates also there; so that it were to be wish'd, that, in order to establish a firm and lasting Union, Methods were found out, and Laws enacted, to encourage mutual Purchases and Joint Stocks for Trade in both Kingdoms; that would be as effectual to allay Animosities, and unite the Nations in Affection, as Joint Subscriptions to Funds for Support of the Government, have been to unite a great many people in *England*, who formerly differ'd both in Principle and Practice; so that such a Design well laid, might contribute as much to the Maintenance of the Union, as the other hath done to the Maintenance of the Revolution.

There's an Objection made to a great deal of what I have said, of the necessity of retaining the Parliament of *Scotland* for the Security of our Church-Constitution and Municipal Laws, viz. That they may be secur'd by way of Preliminary, and made the Ground-work of the Union, so as that upon an Invasion of either of these, the Union dissolves; and the Scots are at liberty again to return to their separate State, if their Grievances be not redress'd.

I must allow that such a Proposal seems very fair at first view, but upon considering the Matter closely, my former Answers shew that this Proposal carries no Security along with it to the Scots, except they be allow'd such a Ballance in the United Government, as may enable them to support their distinct Interest against those who shall think fit to attack it: But that 45 Commons and 16 Lords is no such Ballance appears plain to every Man; and therefore we cannot think but the English, who justly value themselves as having the best pois'd Government in *Europe*, must be convinc'd of the Validity of this Objection when fairly laid before them. The three Constituent Parts of their Government,

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vernment, viz. The Sovereign, the Lords, and the Commons, are allow'd a Negative upon each other, in order to keep the ballance even, to oblige one another to a mutual Concurrence for the Support of their Common Concerns, and to forbear invading one another's Privileges; so that when ever any part of this Ballance is broke, all runs to Confusion, and that makes them careful to keep it intire, and upon any Difference, either to accommodate Matters, or to drop the Controversy, with a Salvo for each of their Pretentions. Now here is no such thing allow'd the Scots by the Scheme propos'd, their Quota must be concluded by the Majority; and the Weakness of Mankind is such, that it's hard for those who have a commanding Power over others not to abuse it, in things wherein they differ from those who are thus subjected to their power.

Experience has taught us, that in such Cases, Communities, as well as single Persons, have broke thro' Treaties, Oaths, and Laws, to the manifest Oppression of those with whom they differ'd. We need not go abroad for Instances; the Breach of the Solemn League and Covenant between the Nations, by a prevailing Faction in *England*, who hated the Royal Family, and the Old English Constitution, is a fatal Proof of it: They were so far from remembering that they courted the *Scots* into this League, when they themselves were in distress, and that it was enjoin'd and taken by the Authority of the Parliament, in as solemn a manner as ever Oath was; that when the *Scots* stood in the way of their Anarchical Designs, they call'd it an Almanack out of date; and, contrary to the Tenor of that Oath, not only destroy'd the Monarchy, but murder'd the King, subvert'd the Parliament of *England*, invaded *Scotland*, and over-turn'd the Government in all the Three Nations; and would have effected it with much more speed and ease, had not the Parliament of *Scotland* stood in their way: This, one would think, should be a prevailing Argument with those who love the Monarchy and English Constitution, against abolishing the Parliament of *Scotland*.

For the Breach of Coronation Oaths, Solemn Leagues and Covenants, and *Breda*-Declarations, by a single Person; none who know any thing of King *Charles II's* Reign, can be to seek for an Instance; and how well the Scots Claim of Right, which was made the Basis of our Government at the time of the Revolution, secur'd us from Invasi-

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ons upon both Church and State since that time: Let the illegal Adjournments and Dissolutions of General Assemblies, and the unreasonable Delay and Adjournments of Parliament, contrary to National Petitions, and the Treatment of our *East India* and *Affrican* Company, and *Darien* Colony, bear witness to the World.

These are a few of the many Instances we could bring to prove, That no preliminary Conditions, how Sacred and Solemn soever, can be sufficient to secure the *Scots* in the Possession of their Church-Government, Municipal Laws, and Liberty to advance their Trade, without a Ballance of Power in their own hands; this is as necessary and just for them, as a separate Ballance of Power in the hands of each of the Three constituent Parts of the English Government; for as without that Ballance the Commons would be able to swallow up the Sovereign, and the Sovereign might swallow both them and the Lords; in like manner must *Scotland*, without such a Ballance, be swallow'd up by *England*, under the Notion of being united with it.

The Natural Inference from all this is, That the *Scots* can have no probably lasting Security for their separate Concerns against the much greater Power of *England*, without having their own Parliament as a Ballance to that Power, which being in effect granted by those who would allow them to be separate in case the Terms of Union be not kept with them, is an Argument from their own Mouths for the Equity of the Demand; and why it should not be allow'd to prevent such a Breach, as well as to redress it, there's scarce any reason to be given.

Some object, That to allow the *Scots* such a Ballance, is to make it a Federal instead of an Incorporating Union; but this short Answer may serve, That to call the Union betwixt the three constituent parts of their own Government a Federal Union, because each of them has a Ballance and Negative upon the other, would be accounted absurd, since every one knows that the three Parts incorporated together make up the Body of the English Monarchy; and it would be equally absurd, to call the Conjunction of *Scotland* and *England* in the manner propos'd, a Federal Union, since it's plain to every body, that the Two Nations, so incorporated under one Hereditary Head for ever, must compose the Body of the *British* Monarchy: Nor is there any more reason to fear a Separation betwixt the Two United

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Kingdoms, if the due Ballance be preserv'd betwixt both, than to dread the Separation of the three Constituent Parts of the English Monarchy, when the Natural Ballance of each is preserv'd.

If it be demanded what Ballance of Power we would propose to be left in the Scots Parliament for securing their separate Concerns; it is humbly propos'd, That they should have not only a negative Power to controll what may be attempted to the Damage of the Nation, but a positive Power to act what may be necessary for it's Advantage, without entrenching in either Case, upon the Articles of the Union: To instance in both, They must not only be possess'd of a Power to put a Negative upon any Proposal for altering the Constitution of their Church, and Municipal Laws, or obstructing any Branch of their Trade, but they must have a positive Power to make, amend, or explain Laws, for the better Security or Advancement of Religion and good Morals in the Nation, for securing and ascertaining the Property of their People against the Oppression of Great Men, and the Fraud of others, and particularly against the Corruption of Judges and Ministers concern'd in their Administration: Nor ought they to be denied a Power to make Laws for regulating and advancing their own particular Trade, and of raising Money for that End, to be applied to the Uses design'd, by Persons of their own Appointment; but not by any means to raise Money for the Use of the Government, that must be left to the Common Parliament.

If it be still objected, That at this rate the Parliament of *Scotland* may make Acts to damnify the Trade of *England*, or such as in effect may break the Union: It's answer'd, 1. That since the Duties on Import and Export are to be the same in both Kingdoms, there's no reason to lay a restraint upon the *Scots* to improve their own Manufacture or Native Commodities, no more than to lay the like restraint on any County of *England*. 2. That the *English* have the same Liberty to raise Money for encouraging any particular Branch of their own Trade, without any regard to *Scotland*. 3. For preventing any thing to pass in the Parliament of *Scotland* that may damnify *England*, with relation to the Union, or that may tend to break it: The *English* have a treble Security; 1. They may send Deputies to the Parliament of *Scotland*, to take care of the Affairs of the

the Union. 2. They have the Sovereign continually among 'em; and as they have had Influence enough upon 'em, to deny the Royal Assent to Acts in *Scotland* which have been thought prejudicial to *England* in their separate State, they can't fail of having the same Influence upon them in their United State; whereas *Scotland* can't pretend to have any such Influence upon the Sovereign, to pass any Act there that may be oppos'd by *England*. But, 3. The greatest Security of all is, that it can never be for the Interest of *Scotland* to make any Act tending to the Breach of the Union, if the Terms agreed on be advantageous, for that were at once to ruin all their Hopes from a Communication of Trade with *England*, which they have so long desir'd, and the Refusal of which has work'd up their Discontents to such a height: Besides it would endanger a War betwixt the Two Nations; and every body knows, that it's *Scotland's* Interest to avoid that, but in case of invincible Necessity.

So that upon the whole, All those Jealousies which some Men conceive at retaining the Parliament of *Scotland*, seem to be ill founded, and it's well, if secret Agents don't foment them, on purpose to prevent such an Union as is absolutely necessary betwixt these Two Nations, for the Preservation of their Common Liberty and Religion, against Popery and Arbitrary Power, and for maintaining a Balance in *Europe*.

Certainly any Man who considers the Matter right, will find that *Scotland* has ten times more cause to be jealous of the Union than *England*, considering the vast Superiority *England* has in Power and Riches, and the mighty Advantage they have by the constant Presence and Education of the Sovereign, which turns all the Objections against the *English* now, that were made against the *Scots* in the time of King *James VI*, viz. That having the King's Favour, as being his Countrymen, they would get all the great and profitable Posts into their hand, &c. for it's scarce to be suppos'd when the Union is effected, that a *Scotsman* should be prefer'd to any Post in the Dominions of *England* where an *Englishman* is his Competitor, and equally qualified.

There's another Argument against abolishing the Parliament of *Scotland*, and allowing the *Scots* no more but the scanty Representative above-mentioned in the Parliament of *Great*

Great Britain, which it's hop'd may have weight with the Revolution-party in *England*; and it is thus,

It has been said already, That considering the Inclinations of most of the Gentry of *Scotland* on the North of *Tay*, and the Influence which a Court must always have in the choice of such of the 45 Commons as are to be sent from the Country on the South of that River; it may be possible for any Court, that has an Inclination to do it, to form such a Tory-balance in the Parliament of *Great Britain*, as the Whiggs shall be in no condition to vie with; whereas if the Parliament of *Scotland* be left entire, and have the Choice of their own Deputies to the Parliament of *Great Britain*, with power to give them Instructions when the Case requires it: It will, humanely speaking, be impossible to have a Majority of Tories from thence; therefore if the English Whiggs consult their own Interest, they can never be prevail'd with, upon any Consideration whatever, to countenance the Designs of those who would have the Parliament of *Scotland* abolish'd: But if by any Mistake, or private Views, they be brought into contrary Measures, they may find as much cause, tho' too late, to wish the 45 Scots Commons left out of the Parliament of *Great Britain*, as of late Years they have had to wish a great many of their own Western Burroughs to be disfranchis'd.

Whoever has reason to dread the Influence of the Kingdom of *Scotland* in an United State, the Revolution-party have certainly none, since the Parliament of *Scotland* have, by an Act in this present Reign, establish'd the Principles of the Revolution as the Basis of their Government, and made it no less than High Treason to impugne any Article of their Claim of Right, upon which the Revolution was founded; therefore we have reason to think, that nothing but private Views, or gross Misrepresentations, can induce any English Whig to be instrumental in depriving themselves of so great a Security, as a Parliament of *Scotland*, legally call'd, and left to act with due Freedom, will alwise prove to the Revolution Interest.

I shall conclude this Head with one Argument more against abolishing the Parliament of *Scotland*, which is thus, Such a Scheme must needs occasion Discord betwixt the Two Nations, and Divisions in each; which will appear thus;

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When it comes to be enquir'd in a Parliament of *Scotland*, Why their Parliament should be abolish'd, and reduc'd only to 15 Lords and 45 Commoners, while the Parliament of *England* continues entire; the only plausible Answer that can be made, is, That the Number is greater than the Proportion we are to pay to the Charge of the United Government; but then it's probable some of the Scots Members will reply to this effect, Is not our All concern'd, as well as the All of *England*, then why should not our whole Parliament be admitted to take care of our Concerns, as well as their whole Parliament is continued to take care of theirs. If our Neighbours of *England* design'd to treat us upon a foot of Equality, why should not each of our Counties and Burroughs be allow'd as many Representatives as those of *England*; if this were granted, the Disproportion at present betwixt the Representatives of our Burroughs and theirs, would make up the Disproportion betwixt the Number of our Peers and theirs, for as we have the advantage of the one, they have the advantage of the other: Besides, Why should a Proportion of publick Taxes be a Medium for adjusting our Representatives, when it is not so of their own. Is it equal, that the County of *Cornwall* should have as many Representatives in a House of Commons as the whole Kingdom of *Scotland*, or was that their Medium of adjusting Representatives, when they united the Heptarchy. How comes it to pass then, that by their present List the *West Saxon* Kingdom, which reduc'd the 7 into one, has little above one Third of the Representative; nay, we have reason to think it had no more than the Kingdom of *Mercia*, until *Richard* Earl of *Cornwall* multiply'd the Number of Parliament-Towns in that Country, some Hundreds of Years after the Union of the Heptarchy. Why has not the County and City of *London*, the City of *Westminster*, and Burrough of *Southwark*, a Representative in Parliament according to their share of the publick Taxes; will they refine our Constitution, and retain all the Dreggs of their own? Why should they insist upon a surrender of our Parliament, more than the Governments of the Empire, *France* and *Spain*, demanded the surrender of those of the Countries united to their respective Crowns? Why should they insist upon that from us which they themselves would not grant to *France* upon their Union with them? Or why should they insist upon harder Terms

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Terms of Union now, than they offer'd us in the Reigns of *Edward I.* and *VI.* In short, Why should they insist upon a new and unheard of way of Union with us, attended with so many Difficulties and Dangers, and leave the easie and common way of Union, practis'd by all Ancient and Modern Governments that we have any Knowledge of in History: They left the Constitutions and Privileges of the United Countries entire, as the best Method to cement an Union, and it dissolving of Constitutions, become a proper Method of uniting Nations now? Why should our Parliament-Lords be reduc'd to 16, and theirs continue 186? Are our Peers less ancient than theirs, or have they upon any occasion behav'd themselves with less Honour at home or abroad? Have not ours deserv'd as well of the Crown of *Scotland*, as theirs have deserv'd of the Crown of *England*? Or have they been less faithful to the Sovereign or Liberties of *Great Britain* since the Union of the Crowns? Have our Barons, or Knights of Shires, and Commissioners for Burroughs, deserv'd less of their Country than theirs? Or have they been less faithful or capable to serve the Common Interest of the Island since both Crowns center'd on King *James VI.* that they should be reduc'd to 45, while theirs continue 186? Or are they jealous that if our whole Number should meet in a Common Parliament of *Great Britain*, that we should be less zealous for the Support of the Union than they? If it be so, have we not as much reason to be jealous of them, as they have to be jealous of us: This is not the way to effect an Union, for where there is such Diffidence and Jealousie on both sides, the Match can never be happy. Besides, how can we answer it to our Electors when we return home? what Entertainment can we expect from them, when they hear we have surrender'd the Parliament of *Scotland*, and that there shall be no more held in this Kingdom? Will they not tell us they never gave us any such Power, that we have betray'd the Trust reposed in us, that they will meet of themselves in every County and Burrough, and protest against our Proceedings, that they will afterwards meet in a general Convention, and acquaint Her Majesty and the Parliament of *England* with our Treachery, that they will at the same time represent their Willingness to come into such an Union with *England*, as is among the several Provinces and States of the Empire, or as is among the several Governments of *France* and *Spain*, that they will come

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come under the same hereditary Successor with *England*, have the same Friends and Foes, make no Peace or War without them, agree to the same Imposts on Goods exported and imported, that they will contribute their share of Men and Money to any War by Sea or Land, on condition of a Communication of Trade and Privileges, and that they will make no difference betwixt Englishmen and Scotsmen in any respect; only they desire, That as they don't meddle with the particular Affairs of *England*, that the English would not meddle with the particular Affairs of *Scotland*; and that the Constitutions of both Nations may be left entire. Now since it's reasonable to think that some Speeches of this nature will be made in the Parliament of *Scotland*, and that all Scotsmen who are not byas'd by private Views, must needs resent the Difference made by the Scheme of abolishing our Parliament, betwixt Englishmen and Scotsmen: Will not this lay a Foundation of unavoidable Jealousy and Discord betwixt the Two Nations, and betwixt Scotsmen that agree to the Abolition of their Parliament, and to those that do not? And is this a likely way to promote an Union?

Besides it lays a Foundation of perpetual Discord among the People of *Scotland*, for when the 16 Lords come to be elected, the Families of greatest Interest will certainly carry it, and by that means be establish'd as constant Legislators; which will make the rest of the Nobility contemptible in the eyes of the People, and sink their Interest so much, that they will be less esteem'd in *Scotland*, than Scots or Irish Titular Lords in *England*; because the latter are frequently chosen to be Members of the House of Commons, whereas the former can't expect it, our Barons and Burroughs having too many of their own rank to make up their 45, and besides if they could, it will scarcely go down with them who are real Peers of *Scotland* to be plac'd so much below those of their own rank in the Parliament of *Great Britain*, as to come up with Obedience to their Bar, and stand there with their Bills and Messages before such as were their Equals in the Parliament of *Scotland*: This cannot fail of creating Emulation amongst our Peers, and giving our Families of Interest so much the ascendant over the rest of our Nobles of the same rank, as will occasion perpetual Quarrels, and may induce them in time to get into the House of Commons, where, by joining with the Scots and Irish Titular

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tular Peers, they may lay such a Foundation of Discord betwixt the Two Houses as will not be easily remov'd, especially considering that the 45 Scots Commoners that formerly sat in the same House with their Peers, who had no Negative upon them either in Legislature or Judicature, will be ready to join them. This may in time raise such a Spirit in a bold House of Commons, as to make them demand to have their ancient Privilege of sitting in the same House with the Lords, from whom they separated voluntarily to preserve their Freedom of Speech, &c. * and may perhaps think it necessary to come together in one House again, for the same or the like Reasons; and if that happen to be the Case, the present ballance in the English Government so much boasted of, may come to be lost; so dangerous a thing is it to break in upon Constitutions.

In the next place, it ought to be consider'd that this Scheme lays also a Foundation of Discord betwixt our Scots Barons and Boroughs, and betwixt the Electors of each. It will be hard for them to agree how to proportion the 45 Members betwixt the Barons and Boroughs. And as this must certainly occasion sharp Debates in Parliament, it will in all probability raise Jealousies and Divisions betwixt our Three Estates, and after the Parliament of *Scotland* is laid aside, and the 45 Members come to be chosen in the respective Counties and Boroughs, who must then joyn two, three, or more together for the Choice of a Representative, whereas now every one chuses for themselves, Contentions will unavoidably happen about preferring the Persons propos'd by the several Counties and Boroughs, so that to the Party-Quarrels of Tory and Whigg, &c. new Quarrels of separate Interest will be added, which must wofully increase the Ferments in the Nation, and communicate new Flames of Discord to the Parliament of *Great Britain*, by deciding the controverted Elections. It will also put *Scotland* to an intollerable Charge by the Expenses of the contending Parties, or oblige those who are poorest to submit to the richest, which lays a Foundation for horrid Partiality and Oppression; and gives any Court that's so minded an Opportunity by their Money, to bring such Members from *Scotland* as they please.

* *Sir Simon D' Ewes Journal*, p. 515, 516.

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If *Oliver's* Scheme be propos'd for adjusting the Election of Barons and Boroughs, it will be objected against, as that of an Usurper, who dar'd not to trust a Free Parliament; and besides, he kept a Standing Army in the Kingdom to make his Scheme go down, an Expedient as provoking to *Scotland*, as unsafe for *England*, and therefore not likely to be agreed to by an English Parliament.

C H A P. V.

Containing Answers by Eminent English Authors to some Common Objections against an Union with Scotland; with Characters of the Scots by those Authors, and an Account of the Advantages which they foresaw England would reap by an Union.

BECAUSE many People are fill'd with Prejudices against the Scots, and therefore oppose an Union with them, it may be proper here to take notice of what has been formerly said by English Authors, of great Note, for removing those Prejudices.

It was a mighty Objection against the Union in 1606. That the Number of Scots who wou'd come into *England* upon the Union, wou'd be a Surcharge upon the Nation. This was judiciously answer'd by the Lord Chancellor *Bacon*, ' That there was more of Fancy than Truth in that Objection, which he prov'd thus; King *James* the VI's first coming in, was the great Spring Tyde, yet except some Persons of Quality about his Majesty, and others who depended upon them, the Return and Certificate would be extream small, were a Survey made of those that came in in those 4 Years.

It was added by that Great Man, ' That *England* was not peopled to the full, nor in proportion to some Parts of *France*, *Italy*, *Flanders* and *Germany*, though the Kingdom was not so much Inferiour to them in Fruitfulness as in number of People, of which though there was an Over swelling about *London*, it was not so in the Body of the

the Nation, as was manifest by their drown'd Grounds, Commons and Wastes; and that if we compared the Ruines and Decays of ancient Towns with the Building and Encrease of new, there was Reason to think that the Kingdom had formerly been better peopled, of which there needed no further Proof than to consider how many serv'd in Parliament for decay'd and desolate Boroughs, Midland Countries, continues he, and not Maritime, ought to fear a Surcharge of People, because the latter have another Element to maintain them besides the Earth, and can employ them in Fishing, and Merchandise *.

To this we may add, that the Great Wars which England has been engaged in for the Liberties of Europe since the Revolution, and the great Supplies of Men they have had for their Armies and Fleets from Scotland, is a new and compleat Answer to that Objection. Besides, were the Fishery and Manufactures of Scotland encourag'd, it is evident to a Demonstration, that they may find Employment enough at home for all their People, of which England may reap the principal Benefit, considering that they have most Money to lay out in those Improvements. And the Dominions of England being enlarg'd in the West Indies, which the Scots have contributed so much to enrich and defend, by many thousands of their People, is an unanswerable Argument that England stands in need of more People than Scotland can spare them.

Another Objection made in those times against the Union was, the Inequality of Riches betwixt the two Kingdoms, so that the Scots wou'd, like Cattle that find a Gap open, leave the more barren Pasture, and come into the more rich.

Sir Francis answer'd, That the Argument was superficial, Cattle feed immediately where they come, but Families cannot, except they have Stock or Friends, and so might starve in the midst of Plenty †.

Another English Author of those Times answer'd the Objection thus; If they object the Poverty of Scotland, let us examine if our Wealth shall not come from the Ad-

* Sir Francis Bacon's Speech in the House of Commons, 5 Jac. concerning the Article of Naturalization of the Scottish Nation. 4to. Lond. 1641. from pag. 1 to 13.

† Pag. 7. ut supra.

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dition of their Kingdom, for at once we receive from them the stopping of our unnecessary Wars, and the use of Traffick. How infinitely have we been consumed in upholding the Low Countries, which we were forc'd to use as a Stilt to uphold the Body of our State. Shall not a natural Limb, nay, another Body that doth not only relieve us, but become us, be thought worthy of entertaining? If they brought Men without a Kingdom, or Men that brought nothing but a Petition, it were an Objection, but their Country yieldeth all Necessaries for Man's Life *.

Experience has sufficiently confirm'd what this Gentleman did then but surmise, for how contemptuously soever some People may speak of the Poverty of Scotland, and how little Account soever they may make of the Benefit England has receiv'd by the Union of the Crowns, it is as certain that England has been enrich'd by the Impoverishment of Scotland, as ever Rome was augmented by the Ruines of Alba. Were it possible to retrieve the Account of what Money the Nobility and Gentry of Scotland have spent in England since that time, it would amount to a prodigious Sum. To this if we should add what England has gain'd by Trade with Scotland, and by the Ballance of that Trade, by the Industry of the Natives of Scotland in the English West India Plantations, and at home by the saving of her own Men, and by the exposing of ours in her Fleets and Armies, within these last hundred Years, it would appear to be such a vast Gain to England, and such a vast Loss to Scotland, as must needs surprize any thinking Man.

Let's suppose the Nobility, Gentry, and Traders of Scotland to have spent one Year with another in England 50000 l. Sterl. In a 100 Years time that amounts to 5000000 l.

In the next place, let's consider what England may have gain'd by Trade with Scotland in 100 Years, if we compute it with some Eminent Traders at 100000 l. per Ann. and the Profits of that Trade at 5 per Cent. that is 5000 l. per Ann. and by Consequence since the Union 500000 l.

* The Miraculous and Happy Union of England and Scotland. Printed at London for Edward Blount, 1604.

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Let's suppose also with these Traders, that *England* has gain'd annually by Balance of Trade 300000 *l. Sterl. per Ann.* that the Scots have exported more than they have imported, in an hundred Years time that amounts to 3000000 *l.*

Allow 2000 Men *per Ann.* drain'd out of *Scotland* by their Armies, Fleets and Plantations, &c. that makes 300000 Men; and let's suppose that each of those Men cost *Scotland* 100 *l.* for Education and Maintenance, which is the least can be suppos'd, being not above 5 *l.* a Man *per Ann.* for 20 Years time; that amounts to 20000000 *l.*

Suppose the Annual Profits of each Man's Industry to be 10 *l. per Ann.* to *England*, that amounts to 20000000 *l.*

This in the whole amounts to Thirty Millions and Five hundred thousand Pounds, which by a modest Computation *England* has gain'd by *Scotland* since the Union of the Crowns, without computing any thing of *Scotland's* Loss or *England's* Gain by the Offspring of such a Number of Men, and of the Interest which *Scotland* has lost, and *England* has gain'd by such a Capital Sum. This may serve as a brief Specimen to exercise the Talents of those who are skilled in Political Arithmetick, and to shew how much *Scotland* has lost, and *England* has gain'd by the Union of the Crowns.

It must be own'd that there lies an Objection against part of what is here said, *viz.* That *England* did us a Kindness in taking off these Men for whom we could not provide.

To which we may answer, 1. Allowing it to be so, our Loss has certainly been their Gain: For had they not been supplied with our Men, whose Education and Maintenance cost them nothing, they must either have employ'd so many of their own, or have purchased them from others, as they did the Danes in King *William's* time, which wou'd have taken so many useful hands from their own Husbandry and Manufacture, or have cost them considerable Sums in Levy-Money, and purchasing Slaves for their Plantations, where an able-bodied Negroe costs them about 20 *l. Sterl.* a Man. Then what must it have cost them for the many Thousands of Scots that have serv'd, and do still serve, in their Armies, Fleets, and Plantations, had they paid for them as the French King does for the Swissers; or what would not that Monarch have given for that gallant Body of Scots Troops which perform'd such Wonders at *Schellenberg* and

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Hochstedt, and contributed so much to the late glorious Victory of *Ramellies*.

2. Had it not been for the Pressures our Nation has lain under from their Government within these last 100 Years, upon the account of our Differences in Church-matters, &c. it is evident we might have kept our Men at home, and employ'd them usefully in advancing Domestick and Foreign Trade, as well as the English and other neighbouring Nations have done in that Period. And instead of employing 40000 Hands by our Navigation as before the Union, might have employ'd double the Number.

To make this plain, we shall touch upon a few Historical Instances to prove it.

In 1607. King *James* gave Liberty to the English to new-plant *Virginia*, which the first Colony had abandon'd; and to encourage them gave the Planters very great Privileges; upon which the Citizens of *London*, *Bristol*, *Exeter*, &c. and many private Persons, laid out great Sums for improving the *West-India* Plantations, which since that time have turn'd to such vast Account to *England*, and advanc'd its Trade above that of most Nations in the World. And it deserves our particular notice, that these Plantations were carried on and encourag'd, and protected by the Government, though the Spaniards made louder Complaints against them by their Embassadors, &c. than ever they did against our *Darien* Colony.

But whilst his Majesty was thus encouraging the Trade of *England*, by the Advice of Archbishop *Bancroft* and other High-Church-men, he us'd all his Endeavours to overturn the Ecclesiastical Constitution in *Scotland*, by forcing constant Moderators on the Presbyteries, and depriving the General Assemblies and other Church-Judicatories of their Freedom, contrary to the Laws of the Land, and his own Solemn Oath. His Commissioner the Lord *Scoon* blasphem'd the Name of God publickly in the Assembly at *Perth*, and threw down the Table upon the Moderator when he began to open the Assembly with Prayer. Many of the Ministers were imprison'd, and others of them sent for to *England*, where they were confin'd and vex'd by the King and his English Bishops. And at the same time his Majesty set on foot the High Commission, a thing formerly unknown in *Scotland*, and which he afterward made use of to overturn their Civil as well as their Religious Liberty.

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Nor is it to be omitted, that at the same time the Union with *Scotland* was ridiculed, and our whole Nation scandalously treated by some leading Men in the English House of Commons.

In 1609. The English were encourag'd by King *James* to carry on the Allum Works in *Yorkshire*, and to promote Manufactures of Tapestry, &c. And he confirm'd the Privileges of the *East-India* Company, upon which many of the Nobility and Gentry subscrib'd to it, which mightily advanc'd that Trade. At the same time he encourag'd the *Londoners* to rebuild the Town of *Derry* in *Ireland*, and allow'd them great Privileges for promoting the Fishery of the *Ban*, and enlarg'd the Privileges of the Planters in *Virginia* and *Bermudas*, whilst Popery encreas'd in *Scotland*, and the chief Buifness of the Court was to establish the Hierarchy there, to perplex the Kingdom, and persecute all that oppos'd it: For which end High-Commission Courts were erected in several places of the Kingdom, which was oppress'd by the Power and Tyrannical Administration of *Hume* Earl of *Dumbar*.

In 1610. King *James* order'd a New Colony under the Conduct of the Earl of *Northampton*, to be settled in *Newfoundland*, for the Protection and Encouragement of the English Fishery there, while at the same time he attempted to settle the Hierarchy in *Scotland* by a Synod at *Glasgow*, in an illegal and arbitrary Method, and advanc'd Bishop *Spotswood* to be a Lord of the Session. After which he establish'd the High Commission, which he had begun before, and by that means acquir'd an absolute Power over the Bodies and Estates of his Scots Subjects at pleasure, without any Trial and due Form of Law.

In 1611. His Majesty took care to confirm the New English Colony in *Ulster*, under the Conduct of the Lord *Carey*; and the Lord *Delamar* rais'd Fortifications, and improv'd the *American* Colonies in *Virginia* and *Bermudas*, which were plentifully supplied with all Necessaries, and then the Tobacco-Trade began to flourish, which has since been of so much Advantage to *England*.

At the same time *Best*, who was Commodore for the *East-India* Company, open'd a Trade with the *Great Mogull*, and enter'd into a League with him, to the great Advantage of the Company, while *Scotland* was all in Confusion and Disorder, Papists encourag'd, and the best of the Prote-

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Protestant Ministers banish'd; and such of our People oppress'd, as oppos'd the King's arbitrary Methods in Church and State.

In 1612. A Lottery was set up in *London* for the Advantage of the *Virginia* Company; and *Hudson* discover'd a new Way to the *East-Indies* by the *Streights*, afterwards called by his Name. And Sir *Robert Shirley*, a great Traveller, came as Embassador from the King of *Persia*, and discovered a further way of Trading into the *Mogull's* Dominions, to the great advantage of *England*; while *Scotland* labour'd under it's former Pressures, and the Court got the illegal Proceedings of the Synod of *Glasgow* confirm'd by a pack'd Parliament, and the best Preachers banish'd or confin'd.

In 1613. The English Trade to *Muscovy*, and the *Greenland*-Fishery was open'd, their Colony in *Ulster* further taken care of, *Derry* and *Colrain* fortify'd, and their Privileges enlarg'd; while the Scots were plagu'd with Innovations in Church Matters, and their Ministers and People oppress'd.

In 1614. The English East India-Trade was enlarg'd, and a free Trade with the *Mogul* obtain'd; while the Presbyterians in *Scotland* were oppress'd, the Number of their Privy Councillors reduc'd, and many of those who had hereditary Shrivalties settled on their Families by Act of Parliament for their Merits to their Country, were, *vis & modis*, oblig'd by the Court to part with them, that they might have them at their own disposal, and by Consequence enlarge their Power in the Kingdom.

In 1615. *London* was beautified; and the King order'd the Citizens to build with Brick and Stone, for the better preventing of Fire.— And the East India-Company, supported by the King, sent out a Fleet; while *Edinburgh* was neglected, the Trade of *Scotland* decay'd, and their best Ministers imprison'd and banish'd.

Sir *Thomas Craig* in his Manuscript concerning the Union, *Cap. 11.* takes notice, That by the Absence of the Court the Inhabitants of *Edinburgh* decreased in number every day, while *England* enjoyed all the Profit as well as Pleasure of the Union, and that they had Ten times more Profit by the Presence of our King, than they could have lost by the Naturalization which they were then so shy of granting us. He takes notice in the same place, of the intollerable Ex-

pence and Trouble the Scots might be put to by Journies of 6 or 700 Miles, to make Application to their own Prince about their particular Affairs; the Difficulty they might find in getting access to him; and being oblig'd not only to solicit the English, but to give them Money for representing their Case to the King; whereas at home, they had not only easie access, but might have expected an Answer to their Petition, &c. in 24 hours time; and as the natural Consequence of all this, he observes the Decay of Palaces, Noblemen and Gentlemens Houses, Gardens, Inns, and other things for the Profit and Ornament of the Country; he took notice also of the Decay of Merchants and Mechanicks by the Absence of the Court, and of the Decay of our Shipping, by which we employ'd above 40000 Men *per An.* and of the loss of our Advantage by our League with *France*, where we had a Body of Horse continually maintain'd at the King's Charge, who employ'd an equal Number of our Countrymen as their Servants, besides the French King's *Guard du Corps*, and their Servants, who were all Scots, and together form'd a Body of as well disciplin'd Troops as any in *Europe*; and made so great a figure at the *French* Court, that they were taken notice of by all Foreign Ministers and others, as one of its chief Ornaments; and accordingly Cardinal *Woolsey* represented them to his Master King *Henry VIII.* when he return'd from *France*, insisting particularly on the Comeliness of the Men, which exceeded all that he saw in that Country.

If *Sir Thomas* observ'd so early the Decay of our Towns, Trade, and Shipping, by the Removal of the Court, we may easily conjecture how much that Decay has increas'd since, and how much more *Edinburgh*, and all the Country must suffer, if the Parliament of *Scotland* should be abolish'd.

In 1617. The *London*-Woollen-Drapers had their Privileges and Immunities restor'd; and the East India Company sent out a new Fleet, while *Scotland* was oppress'd, and the English Ceremonies introduc'd among 'em by Arbitrary and Illegal Methods. Any Man who will be at the pains to consult and compare the Histories of those Times; particularly *Johnston's Historia rerum Britannicarum*, and *Spotswood's* and *Calderwood's* History of the Church of *Scotland*, upon the respective Years here mention'd, may find these things to be true.

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From all this it's plain, without any necessity of coming lower, That the Trade of *Scotland* was not only neglected, while that of *England* had its chief Foundations laid soon after the Union of the Crowns; but that the Scots were oppress'd, and made incapable of supporting or promoting their languishing Trade, because of their differing from *England* in Ecclesiastical Matters. Then since the Scots differ as much now as they did at the Union of the Crowns from the Church of *England*, and since that Union was then made use of to force them to a Conformity, and their Aversion to it, made a handle for oppressing them in their Religion and Liberty; Can any Man blame the Scots for retaining their Parliament, as a Security in their own hands to prevent their being oppress'd in like manner, by the Union of the Nations? Who can assure us, that Men of *Bancroft* and *Laud's* Principles shall never re-obtain the ascendancy in future Courts and Parliaments of *England*? And what change have we seen in the Principles and Practices of High Church, to induce us to think they will not make use of that Power when ever they have it, to oppress *Scotland* as formerly upon that account. Their violent Proceedings about the Occasional Bill, their Prefaces to *Clarendon's* History, which libels our whole Nation, and belies our greatest Families, with their virulent Pamphlets and Sermons, are sufficient proofs that they have not chang'd their Nature; nor is their Party so much dispirited and broke, but they may rally again, and make up a formidable Power, if countenanc'd by any future Government.

And if this should ever happen to be the Case, as they begun with *Scotland* before, we may be sure they will follow the same Measures again, and can't well miss being join'd by such Whiggs as lose all Patience, when they hear any talk of allowing the Scots a share in the West India or other Trade of *England*. The Rancour discover'd against the Scots by a great many Men, who call themselves by that Name, upon the account of their *Darien* Colony, tho they offer'd to admit the English as Sharers of the Privileges of their Company, is such a Proof of this as cannot be denied.

Let's suppose then, that by a Concurrence of such Humours, and the Designs of an Arbitrary Court, the Scots are attack'd, and have no Parliament to stand in their Defence, but a Rump of their own annex'd to that of *England*, any

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any Man may foresee, without a Spirit of Prophecie, that Scotland must sink under the Weight, and their Church must be demolish'd; and of what Consequence this may be to the Toleration, and whole Revolution-Party in England, is left to themselves to conjecture.

They may wish then, but in vain, that there were a Parliament in Scotland, to be a Ballance against High Church, and a towering Prerogative; and to save England from both, as they did in the time of Archbishop Laud and Earl of Strafford: Nor is it impossible but such Measures may prove fatal to the Court again, as they did then, for the English Nation will never be easie under Oppression; and then the Court may wish in their turn, that there were a Parliament in Scotland, to be a curb upon those that in such a Case may attempt the ruin of the Monarchy, and the Extirpation of the Royal Family; so dangerous a thing is it to break in upon the Constitution of a Nation; which, like a Breach in the Banks of the Sea, exposes all the Neighbouring Countries to the danger of being overflow'd; for those who are once depriv'd of their own Liberty, will always be ready to concur with an Arbitrary Court to deprive others of theirs; of which the French Nation is a pregnant and undeniable Instance, who being made Slave themselves, have attempted to bring all Europe into the same Condition.

We come next to consider the Contempt which those who are Enemies to the Union with Scotland, express'd of our Country in 1604. because of their being so much inferior to England in Power and Wealth, and the Answer given to it by the Lord Chancellor Bacon, which may serve to stop the Mouths of those who express the like Contempt of us now, viz. 'All the Monarchies of the World were founded in Poverty; so Persia in respect of Media, which they subdu'd. Macedonia was an ignoble and mercenary Kingdom, until the time of Philip the Son of Amyntas, Rome had a poor and pastoral Beginning. The Turks were a Band of Sarmatian Scyths, that in a vagabond manner invaded Turcomania. The Goths, Vandals, Allans, Huns, Lombards, Normans, invaded and settled themselves in fruitful Provinces. The Swisses, who possess a barren Country, were the first who ruin'd the Duke of Burgundy, that had almost ruin'd the Kingdom of France; when after the Battle of Granson, the rich Jewel of Burgundy, valued at many Thousand Pounds, was sold by a

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common Switz for a few Pence; and the Switzers in revenge of Lewis XII. saying, *Will the Villains of the Mountain put a Task upon me,* ruin'd his Affairs in Italy, and lost him the Dutchy of Milan*. To this we may add, that the inconsiderable Canton of Switz, which gave Name to the whole, was the first who asserted their Liberty, and begun the Revolt against the House of Austria in 1308. because of the Oppression of Duke Albert. And it's well enough known to what a low Ebb Scotland was reduc'd, when they took Arms for the Recovery of their Liberty against Edward I. who would have annex'd them to England by an oppressive Union and Conquest.

Sir Francis says further of the Scots, that the Inequality of Riches betwixt England and Scotland, is but an external Disparity; but for the Goods of the Mind, they are alteri nos; we know they are ingenious, industrious, valiant, hardy, active, and comely; more might be said, but in commending them we do but in effect commend ourselves, for we partake both of their Vertues and Vices.

Another English Author of that time, speaks of our Country thus, 'Scotland, if not plentiful, yet furnishes not only Necessaries, but things for the moderate Pleasures of Life, and those who are bred there, will never grieve to live there. The People are numerous, resolute, apt for Service, faithful, tractable, and willing to adventure their Lives for the Safety and Glory of their Country †.

Let's next consider the Advantages which those Authors own'd they did then enjoy, and others which they foresaw would redound to England from an Union 'twixt the Nations.

The first Advantage taken notice of by Sir Francis Bacon, was England's Surety, concerning which he expresses himself thus, 'Titus Quintus the Roman said wisely of the State of Peloponesus, *Testudo inter tegumen tuta est,* the Snail is safe within her Shell; but if any parts lie open, they endanger all the rest. Ireland and Scotland have been Posterns to our ancient Enemies of Spain and France: Scotland is now shut up, and by that means Ireland, by the convenient Situation of the

* Sir Francis Bacon ut supra. † *A Treatise of Union 'twixt the Two Realms*, by I. H. Printed at London, 1604.

West of Scotland toward the North of Ireland, where the Sore was.

The next Advantage taken notice of by Sir Francis, was England's Greatness, which he expresses thus, Scotland united, Ireland reduc'd, and the Netherlands in League, make one of the greatest Forces, truly esteem'd, that hath been seen in the World.

I. H. above-mention'd, treating of the Benefits of the Union, takes notice of, The extinguishing of the great Wars which had formerly been 'twixt the Two Nations, by which the course of the English Victories and Conquests in France were hinder'd, Invasions from Scotland occasion'd, the Borders laid waste, and Inland Counties distress'd; whereas by the Union of Scotland, England was more capable of resisting and denying the publick Enemy, and of bearing the Charge of publick Wars.

Another Author of the same Times*, spoke of the Union thus, Our Union with Scotland hath concluded the Wars with that Kingdom without miserable Conditions, hath forc'd Ireland to lay down Arms, and made us capable of Foreign Leagues, without buying them. France always held Correspondence with Scotland, as the only Refuge to escape the English Preparations; so that if we close this Postern-Entrance, we take away their first and safest Defence. He adds, England by the Union of the Crowns, found her other half, so that she is now double furnish'd with the Strength of a Kingdom. And then subjoins, Doth a Nation, not differing in any part from our selves, full of Strength and able Men, of so important a Situation, offer her self with open Arms to embrace us, and can we think of another Entertainment besides a loving and even Embracement. This Island is happily come within the Circle of one Diadem, not by Conquest, nor by Weakness, nor for Protection, but are drawn together by virttie of an united Blood. Since our Industry hath ever an Eye upon our own Good, we must either interest them in the Gains, or must expect cold Endeavours; our Peace is theirs, our Flou-

* The miraculous and happy Union of England and Scotland, Printed at London for Edward Blount, 1604.

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rishing theirs, our Successes of all kinds theirs; so that if they be not so far interested in these, and their Love so fastened to us, as to overcome all Tempations, we must expect none of these. And lower he adds, That for want of Love betwixt Countries, it has been in the power of private Men to shake an Empire, and for want of this Empires have been inforc'd to hold Countries subject by Garrisons, and such cruel Methods, as made their Authority to depend meerly upon Fortune, which can never be of long Duration; All forc'd Governments must be momentary, since they leave out the Will and Desire of Man, which only can beget a Continuance.

These things being writ by English Authors, and evident from matter of fact, it's hop'd they may have some weight, to convince those who will hear of no Union with Scotland; except they surrender their Parliament, that the Demand is unjust.

I shall conclude with answering an Objection by some of my Countrymen, That England will admit of an Union upon no other Terms, and therefore we must submit to it, since we are in no Condition to resist them.

To this we may answer, 1. That we have not yet had the sense of the English Nation in Parliament upon this Subject. 2. Nor the Sense of the Parliament of Scotland, with their Reasons against it; so that to alledge the English Nation will agree to no other Scheme of Union, is to judge the Cause before it be heard. 3. We have ground to hope, when the Matter comes to be thoroughly debated in a Parliament of England, where Justice has so often triumph'd over private Views and Party-designs, Methods for establishing a firm Union will be maturely consider'd, and the Equity of the Scheme for obliging the Scots to surrender their Parliament, and the Consequences of it, impartially examin'd. We have no reason to doubt but the Parliament of England will consider the Advantages which their Nation has enjoyed already by the Union of the Crowns, and what they may further enjoy by a perpetual Union of the Nations; and therefore will not probably reject an Union with Scotland, upon that single point of allowing them to retain their Parliament, for that would put the English in the wrong in the Eyes of all Europe, and

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and be construed a Demand of Subjection, instead of an Union, being perfectly what the Romans call'd *diminutio Capitis*, which no Nation ever submitted to, but in case of a Conquest; and therefore can never be a proper Method to cement an Union.

Besides, an English Parliament will probably consider it, as a much safer Expedient to try how the Scots will behave themselves in their separate Parliament after the Union, than expose both Nations to Danger, by continuing their separate State, upon denying such a reasonable Demand, especially considering, that if the Scots, after the Union, shall in their separate Parliament insist upon any thing that's inconsistent with it, then they will put themselves in the wrong in the Eyes of all *Europe*, and *England* will be justify'd in taking other Measures.

To that part of the Objection, That we are in no Condition to resist *England*, considering their late Successes, and our present low Circumstances, we may easily reply, That there's no probability of there being any occasion for it. The Parliament of *England* will consider it once and again, before they agree to a War with *Scotland*, upon such a nice point, as our demanding to have our Constitution left entire, as well as theirs: The Nation is more generous and grateful, whatever some Parties may be, than to make use of those Victories to which we have contributed so much by our Blood and Valour, to oppress us: But if they should, which bless'd be God there's no ground to fear, it becomes no Scotsman to be so forgetful of the Deliverances which God has formerly vouchsaf'd our Country, in Defence of their oppressed Liberty, as to despair of the like Favour in the like Case for the future. We were never a Match for them since the Union of the Heptarchy, yet all they have been able to retain of their Conquests upon us, is but the small Town of *Berwick*; whereas, if we believe *Mr. Atwood*, and the rest of the Homage-Advocates, we have kept most of the Country on this side *Forth*, and the Islands of *Orkney*, from them. A Spirit of Slavery is a certain Fore-runner of Oppression and Tyranny, which is the just Punishment that Heaven has in all Ages inflict'd upon it; but no People has reason to despair of the Divine Assistance, who stand in Defence of their just Liberty; and no Nation in the World has had more frequent Experience of it than *Scotland*.

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But to conclude, We have no reason to suspect the Justice of *England* in this Matter, if we be not wanting to ourselves, and suffer our Constitution to be wrested from us by the false Representations of Parties, or the Intrigues of such Men as will do any thing for private Advantage.

England has been at too much Expence of Blood and Treasure to recover her own Liberty, and that of *Europe*, and is too sensible of the just Judgment of God, in bringing down the great Oppressor of Christendom, wherein they themselves are the prime Instruments, to be guilty of oppressing their Neighbours; and we have had too late an Instance of their Generous Temper, in repealing the prohibitory Clauses which they enacted against our Trade, when they found our Parliament resent'd that Treatment, to doubt of their agreeing that we should retain our Parliament, if we insist upon it on reasonable Conditions, since it is but just, that they should put as much Trust in the Parliament of *Scotland*, as they would have our Parliament to put in them. I shall conclude with my hearty Wishes, that God may direct Her Majesty, and the Parliaments of Both Kingdoms, to proper Measures for establishing such an Union betwixt the Two Nations, as may secure them against Invasions from abroad, and against Tyranny and Discord at home.

FINIS.

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In the name of the Lord Amen
 This is the first part of the
 book of the prophet Isaiah
 which contains the first
 chapter of the book
 which is divided into
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