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M THE *1* ***
C A S E
 OF THE
BANKERS
 And their
CREDITORS,
 STATED and EXAMINED.

Wherein the Property of the Subject in this, and the like Cases, is soberly asserted, by the *Common and Statute Laws of England*, His Majesties most gracious *Declarations*; By innumerable, great and Important *Records* of this Kingdom, from the time of the *Norman Conquest* to our own Times; By the *Civil Law, History, Polity, Morality, and common Reason*: and all *Objections* undeniably Refuted.

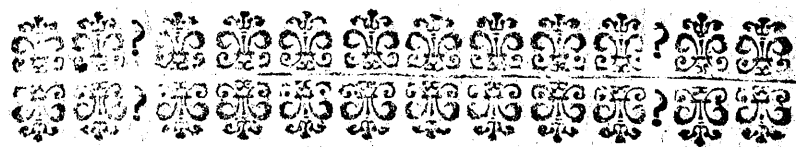
As it was inclosed in a Letter to a friend, By a true Lover of his King and Countrey, and Sufferer for Loyalty.

The *Third Impression*, with Additions amounting to a third part more than hath been at any time before Printed.

Ad Reges potestas omnium pertinet, ad singulos Proprietas, Seneca de Beneficiis, lib. 7. Cap. 4. & 5.

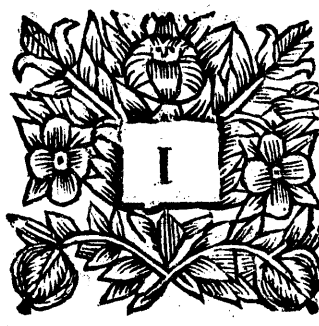
Rex Anglie neque per Se, aut Ministros suos, subsidia, aut alia quevis ONERA, imponit Ligeis suis sine Assensu totius Regni sui in PARLIAMENTO suo expresso. Lord Chancellor Fortescue, de laudibus Legum Anglie, Cap. 36.

6 London: Printed in the Year 1675.



The Letter.

S I R,



N Obedience to your Commands, I have inclosed herein some Notions I had conceived of the Bankers business, and the calamitous dependants thereon. I remember you thought me (though concern'd enough) pretty warm in this Argument

*last time I discourst it with you; and truly if Hard usages will make a wise man mad, the Effects they have upon a Fool (as I am) may well want a name. * I have I praise God in some measure weather'd out those dreadful Storms which fell some years since upon the Loyal party, (as you know) though with little less than the Shipwrack of my Person, and Estate; and this (if I may speak it without Ostentation) I did with Constancy and Joy: for though I could see then nothing but Tempests and Hurricanes without me, yet my mind was alwayes refresh'd with Serenities and Calmness, triumphing that I was thought worthy at any rate, to suffer for so glorious a Cause.*

After his Majesties Happy Restauration, though neglected and despised, as many of far greater pretensions than my self likewise were, we did All how-ever possess our souls with patience (though (a) wise Men tell us, that it was never accounted the best Policy, to dismiss well Deservers, with the satisfaction only of their Consciences, and the rewards of

* Filius est Pars patris

(a) Flin. in Panegyric. ad Trajanum imperat. Lipsii polit. Lib. 4. Cap. 11. Raleigh's Preog. of Parliament in fine.

the next World.) And now when we and our miserable Families had thought to have protracted (at least) a contemptible life with the poor Remainders, and broken pieces of our Fortunes, behold in one moment those also are ravish'd from some of us by our Friends. And was it for **This** Sir that we have sustain'd S questrations, Imprisonment, and Exile? Was it for **This** that we have given and received Wounds for the Crown of England? Was it for **This** that our dear Fathers, Husbands, Brothers, and Children have been Slaughtered in the day of Battel? Happy Natures! ye Triumph in Glory for your Loyalties, and yet (if Souls departed know any thing here) cannot perhaps but Sympathize with us. Pardon me Sir, pardon me while I do thus a little Bewail our Misfortunes; and let it not seem strange to you, if my following Discourses do now and then sound of Groans, Tragedy, and Lamentation: the Calamity of **Dur** Case when consider'd with all Circumstances will bear this, and much more. By what Name then shall I express this Treatment? shall I call it a violation of the Widows Mite? a Robbery of the Shipwrackt? or a breaking into the Alms basket? no Sir, these reach it not, all Nature cannot furnish me with a similitude.

Sir, mistake me not, I would not be thought here to lay so great a Calamity at the door of my dread Sovereign (a Prince in his own free nature, and unforc'd inclination, not to be parallel'd for all Royal Graces) no Sir, the Law teaches me to conceive more Honourably of the King's Justice (b) (by which his Throne is Establish'd) and tells me, that whatsoever wrong is done to the Subject, is effected by misinformations of his Majesty, and pernicious * Counsels.

(b) Pra. 16.
12
* Co. 2. Inst.
100
(c) Bracton,
lib. 2. cap. 9.

Nihil aliud potest Rex in terris (saith (c) Bracton) cum sit Dei minister & vicarius, nisi id solum quod

de jure potest. The King can do nothing seeing he is God's Vicegerent, but that which he may lawfully do. Rex hoc solum non potest facere, quod non potest injulle agere (say the (d) Judges in another Case) **This one thing only the King cannot do, that he cannot do injustice** (which yet is so far from impotency or imperfection, that it is a Character also of the Divinity). And therefore (e) Markham Chief Justice of England told King Edward the 4th, That he could not Arrest any man for a misdemeanour (as a Subject mought) because if the King did wrong, the party could not have his Action against him. We receive Life and Vigour from the Influences of Heaven, but Distempers proceed from the Vapours of the Earth; which vapours yet can convey no Infection into those Caestial Bodies: Even so sometimes the countenance of Princes may concur in the Execution of illegal Advices, without sharing in the Obliquity and Injustice of them.

The Poets have a witty Fable of Tiresias, the great Southsayer, that he foretold future Events by the flying of Birds; not that he did see the Birds (for he was blind) but (say they) he had always his Daughter Manto near at hand, who inform'd him of the manner of their flights, and according to her Advertisements, the Father evermore Divined: The Mythology or Moral of the Fable is oftentimes applicable to the best and most Virtuous Princes; they hear with other mens Ears, they see sometimes thorough the Spectacles of other mens Eyes, and according to the colour of the Glass, so is the Object represented to them; black or red, or perhaps white; whereas the true tincture of the thing may be clearly otherwise; and yet all this while the fault is not in the Eye, but in the deceptive Glass. If a false

(d) Cook II.
Rep. 72. a.
Magdalen
Col. cas.
(e) I Hen. 7.
4. b. per
Huffey Ct.
Justice d.
Angliter.

Light-house be erected near a dangerous Rock in the Sea, and in a dark and tempestuous night the Ship is steered that way, as to a safe Port, and thereupon suffereth Wrack, no body can with any reason impute this misfortune to the Error or Incogitancy of the Pilot, or governour of the Vessel, but rather to the malice and falsity of this wicked invention.

(f) Seneca de Beneficio, Lib. 3. c. 30.

Upon this ground it is that (f) Seneca (a wise man, Tutor to an Emperor, and one that well understood what he wrote) breaks forth into that passionate interrogation, Quid omnia possidentibus deest? ille qui verum dicat. **What thing only do they want which possess all things? Even** (answers he) **a person that will give them honest Advertisements.** And therefore the

(g) Cabala of Letters, fol. 41.

Lord Chancellor (g) Bacon (among many other his excellent Counsels to the late Duke of Buckingham) urgeth this following document to him with a warmer Zeal than ordinary. **In respect of the King your Master** (saith he) **you must be wary that you give him true information, and if the matter concern him in his Government, that you do not flatter him; if you do, you are as great a Traytor to him in the Court of Heaven, as he that draws his Sword against him.** King (h)

(h) In his Speech to the Parl. 1609. See his works fol. 531.

James gives these persons no better names than of **Vipers and Pests to their Prince and the Commonwealth.** And that glorious Martyr King (i) Charles the First, resembles them to **base Flies which hang upon prosperous Princes (as on Summer-Fruits, but Adversity (saith he) like cold weather drives them away.**

(i) ΕΙΣ ΤΗΝ ΒΑΣΙΛΕΥΣΤΙΚΗΝ ΜΕΔΙΤΑΙΟΝ 27. To the Prince of Wales.

This grievance of ours hath been represented to his Majesty under the pretence and umbrages of Royal Prerogative (which in truth he is obliged to maintain) and of publique Emolument and Advantage

vantage (which certainly are the most glorious Objects of Royal Prudence). With these and the like Blandishments, (Sir) this Chrystal and pure Fountain of Justice hath been poyson'd and contaminated. This is the Coloquintida with which so unspeakable a Sweetness hath been imbittered, these are the Paintings with which so deformed an Advice hath been Sophisticated. But let me tell you Sir, if in the sequel of this Discourse I shall not clearly wipe off all these Varnishes and false Colours, and effectively prove this Advice to be as mischievous to his Sacred Majesty as to his People, I shall think I have very meanly acquitted my self in this business.

I hope I shall not be thought to reflect herein, upon any person whatsoever, any farther than his own Conscience may scourge him in this particular. And I know there be many great and illustrious Hero's near His Majesty, (to whose service I could willingly Sacrifice an hundred Lives had I them) that do abominate so pernicious a Council: Sir, be assured these Worthies are not in the least measure concern'd in my Animadversions. 'Tis not for me rashly to touch heads irradiated with the Beams of Royal favour: For my part, I meddle not with the Person of any man, but with the Advice abstracted: Amo hominem, odi vitia, is a good Rule. And I praise God and the King, we live not now in an Age wherein it is more hazardous to discover an evil Action, than to commit it; or wherein the justly Accused shall take Revenge of the just Accuser.

Neither would I be understood here to erect my self into an Advocate for the Trade and Mystery of Banking; A God's name where the Usuries of those people are by the King found outrageous and illegal (which perhaps upon Examination will not be) let them be regulated, and reduced to just moderations.

All

All that I contend for is, That the Bankers (whose concernments are now apparently become the concernment of their Creditors) may by Opening the Exchequer be enabled to satisfie their just Debts, that so the good and bad, the nocent and innocent (if that happen to be the Case) may not thus be overwhelmed together in one and the common Ruine.

(k) Anna-
lium, Lib. 4

Sir, let us not flatter our selves, Posterity will assuredly discourse our Actions, with the same freedome that we do those of our Ancestors. Irridenda est eorum socordia (saith (k) Tacitus) qui praesenti potentia credunt extingui posse sequentis aevi memoriam. The improvidence of those persons (saith he) is ridiculous, who think by present power to extinguish the memory of future Ages. No, this cannot be; the Voluminous Histories of all Nations which we daily read and handle, prove this project altogether idle and impracticable. Certainly there abides in mankind an immortal Principle, a Ray of the Divinity, which naturally inclineth us to a desire of Glory, and to have our names guilded to all Ages in the Eternal Records of Fame.

Now Sir, because you shall see with what Candor and fairness I will prosecute this Argument. I shall deduce my following Observations from the wisest Historians and Statesmen, from the greatest and most glorious Princes that the World hath at any time afforded, from Justiciaries of the most profound Learning and chastest Integrity, nay from Bodies of the wisest men of this and other Nations in conjunction, from Parliaments and their Determinations remaining with us upon Record, (Evidences so Sacred in the Eye of Law, that no averment may be allowed against them, or Tryal of them, but by the Testimonies of their own native Grandeur) and (because I would take off all imaginable objection to the credit of my Authors) I shall produce

only

only such which have long since departed this Life, which for that reason (as a wise (l) King was used to say) were the most faithful Councillors. Such as these (as (m) Isocrates tells us) cannot be daunted with fear, or blinded with affection, or corrupted with preferments. These have indeed the character of true Councillors, which is, (n) Ut non modo ne quid falsi dicere audeant, sed etiam ne quid veri non audeant; that they will neither dare to tell a falsity, or conceal a truth; That would rather (as (o) Seneca tells Nero) Veris offendere, quam placere adulando. Offend by telling Truth, than please by destructive Adulations and Flattery. And lastly, such which (p) Demetrius Palereus advised King Ptolomy to converse with often; because, quoth he, ubi quæ Amici monere non audeant Reges, ea facile omnia possint reperire. There Kings may discover these matters themselves, which possibly their best friends sometimes dare not advise them to.

(l) Alphonsus King of Castile. Lipsii Epistola ad politic. (m) Ad Nicocolem.

(n) Castellanus de Officio Regi. Lib. 1. cap. 55

(o) De Clementia, lib. 2. cap. 2.

(p) Stobæus sermone 46.

I know yet there be those in the World will tell us, That Conversation with the Dead, and the Memoires of former Ages, are Exercises both Melancholy and unprofitable, and adapted only to the complections of contemplative Natures, Clerks and Book-Knights, and I know not what. Methinks these Gentlemen should be a little quickned with a Remarque (no way contemptible) of the subtil (q) Machiavil, whilst he admonisheth us, That there have seldom hapned any Misfortunes to particular Persons, States or Empires, but might have been prevented by a timely Reflection upon the Stories of their own or forreign Countries. And let these suite Objectors think what they please, Those are to us assuredly the cheapest Experiences, which we purchase at the peril and cost of other Persons and States: and in the vicissitudes of humane Affairs, it is twenty

(q) Machiavelli Principes. And Philip de Comines, Lib. 2. cap. 6. express in this matter.

to

to one, but the same Causes will to the Worlds end produce the same, or like Effects, as naturally as one Seed produceth another of the same kind. Sæcula & personæ intereunt (saith he) Causæ & Eventa eadem recurrunt. Ages and Persons may change, but the Causes and Events of things remain alwayes the same.

Sir, I have trespass'd too far upon your patience already by way of Letter, I shall therefore only tell you here, that I have search'd (as well as I could) into the most secret Recesses of my own Soul, and notwithstanding can find no Convictions within my self, that (when rightly understood) I may be suspected to have uttered in the following Discourses, any thing inconsistent either with the Allegiance of a dutiful Subject, or the Honesty of a true Englishman, that fears his God, honours his King, and loves his Countrymen; and upon that single Assurance do now without farther Disguisings subscribe my self

From my Chamber at
Grayes Inn, Octob. 3.
1675.

Sir,
Your most Faithful
Friend and Servant

Tho. Turnor.

T H E



T H E I N T R O D U C T I O N .



H E King's Debt to the Bankers, with the miserable consequences thereof, hath now for four years wanting less than three Months exercised the World with matter, not only of Discourse, but Astonishment. For indeed, who will not be startled to see the common Faith of a Nation violated, and a forcible breach made upon all that may be call'd Religious and binding, and this also in great measure, to the Ruine of Orphans and Widdows, and severall even of those who with unwearied constancy resisted unto blood, and loss of whatsoever was dear unto them, in defence of the Crown of England? I shall not here lanch out into the story of particular Cases; that Theme will be infinite, and of force to endue * stones with speech, and (by a contrariety of Miracle) to confound the most eloquent with silence. The Calamity hath filled all places with Lamentation, Mankind is over-whelmed with Instances thereof; what should I speak of the Sighes of the Decrepit and Labourer? The Groans of the Widdow, the Howlings of the Fatherless? Alas! even Babes of a * Span long feel the dismal Effects of this Advice; and though they cannot speak, yet expresse their sense thereof in *Out-cries*, and other the

* *Parvū lo-
quuntur Dolo-
res ingentes
stupent. Se-
neca.*

* *Lam. 2. 20.*

the inarticulate Languages of Nature! Nay the very Child unborn, that yet sleeps in the Loyns of its Ancestors, will have cause hereafter to prosecute this pernicious Council with Execration and Horror.

I doubt not but I have already Arrested my Reader with frequent Amusements, and he is by this time impatient to know what may be the reason of this unusual fervour and zeal; and wherefore a private Passenger in the Ship of the Common-wealth, should in this manner concern himself in the saying thereof.

I answer, *First*, that every Subject is obliged to vindicate, and propugne the Honour and Innocency of his Sovereign; and to cast the Envy and Malignancy of Pestilent Councils, upon the Donors and contrivers thereof. Men commonly burn Incense where evil Odours have been raised; and perhaps this duty could never be more seasonably exerted, than in this present Case. For I should be sorry that this *Advisor* (as a person of great Honour and worth, said not long since, of one of them openly) *should like a Rabbit start out of its Borrough, and look about him, and then run in again, and hide himself, and think no body observ'd him.* Certainly he is no good Minister or Servant, that will throw the odium of his own evil Actions upon his Lord and Master.

I answer, *Secondly*, that all men are interested in the safety of the Vessel they are imbarqued in, though all ought not to preside at the Helm: And pernicious Advices (like the falsities of the *Turkish Alchoran*) oftentimes gain strength by the prohibitions of disputing them. I know I shall be thought to broach a *Paradox*, if I should affirm that some moderate freedoms of this nature, have been sometimes Characters and marks of the happiest

piest and most peaceable Ages of the World; and yet if this assertion be not in some measure true, we must abandon Faith to all History: For (as the Lord (a) Bacon well notes) *such Liberties give vent and discharge oftentimes to popular discontentments, and besides, the Prince is thereby instructed in what part the Subject is pinch'd and griev'd, when perhaps he shall attain this information no other way.* And therefore *Augustus Caesar* (one of the (b) happiest and greatest Princes it may be that the Sun ever saw) when he was told at any time, that even his own Person and his Edicts were too boldly discours'd of in *Rome*, would say, (c) *Quod in Civitate libera, linguas quoque civium liberis esse oportere. That in a Free City, the Citizens discourse ought also to be free.* And this candid profession of his, might possibly be no mean ingredient in the composition of his own felicities. (d) *Thuanus* writing to the great *Henry the 4th. of France*, unto other Laudatives of that Princes Reign, adds this, as none of the meanest, *Ea est Domine rara tuorum temporum felicitas (saith he) in quibus unicuique sentire que velit, & que sentiat eloqui licet. Such (Great Sir) is the rare happiness of your times, that in them every man may think what he pleaseth, and speak what he thinketh.* And of the same complexion was that serene Age, in which the excellent Emperour *Trajan* Reign'd, as *Cornelius* (e) *Tacitus* (who was then living) affirms, from whom the said *Thuanus* seems to have borrowed the very individual words before recited. I write not this in countenance of Clamour, and Scurrilities against those things which I have always revered, and held Sacred; but under favour, in our present Case, where all Nature is big, and in Travel to be delivered of speech, I hope her voice shall not be stifled and suppress.

(a) *Essay of Sedition and Troubles.*

(b) *Eutropius, Lib. 8.*

(c) *Boterus de politia L. 7, cap. 8.*

(d) *Thuanus Epistola ante Historiam suam ad Hen. 4th. Francie.*

(e) *Tacit Hist. Lib. 1. in prooemio.*

Thirdly,

Thirdly, I shall redargue this Objector, with that principle (which the Advisers of this Calamity have thought so puissant) I mean Exigences, and invincible Necessity, a Necessity of no ordinary nature neither, but of near Allyance to that thing which we proverbially say breaks through stone-walls, that in hard winterly weather infuseth boldness even into *Birds* and *Beasts*; that also where Nature languisheth, and the means wherewith she should be supported are unjuly subtracted from her. The old Comick saith well * Τὸ ἀργυρεῖον ἐστὶν αἷμα καὶ ψυχὴ Βεργωτικὴ *Pecunia Anima & Sanguis est mortalibus. Money is the Life and Blood of mankind.* To deprive a man wrongfully then of that little money which he possesseth, what is it but to deprive him of his Blood, yea of his Life? I know, the great and opulent men of the World cannot descend so low as to conceive how much it importeth poor men and their Families to be in a moment despoil'd of all their Subsistence, and to be bereav'd perhaps of a few poor weather-beaten, water-drench'd Reliques, which they had rescued out of the wrecks of their Fortunes in the late dreadful storm of Rebellion: but yet they may please to believe, that *We* are as much pain'd with the Pressures of our little Fortunes, as *They* are with those of their great ones. I speak this not out of any pride I take in comparing great things with small, but only to dispose my Reader to a favourable construction of my words, if my Zeal may seem to transport me beyond the bounds of Decency.

Lastly, I am not altogether without hope, but that something possibly may happen to be said in this Scribble, that may conduce to the healing up this Wound again. For the Physitians have a good Aphorism, *Primus gradus sanitatis, est novisse morbum. The first degree of Health, is to know the nature of the Disease.*

* Lipsii po-
lit. Lib. 4.
Cap. II.

I know some men are apt enough to alledge, that this Case is the less considerable, because but a few persons are therein concern'd. In this place I shall say no more, but that this Assertion is a great mistake. For first, *this* Money being expended for the defence of the Kingdom, it was laid out upon the publick Utility; and certainly it will be very disproportionable, that the common Advantage should be maintained by a private Contribution: and upon this reason perhaps a *person of great Honour and Prudence* not long since in an Audience of the whole Kingdom doubted not to affirm, *That this concern was little less than National.*

But because this (though in it self unanswerable) may seem to many to be but a precarious Argument; and being founded upon a consideration of service and Emolument, some time since done, may (in this ungrateful Age) prove but of mean Regard: I shall therefore Secondly, demonstrate this matter to be of *Epidemical* and *Publick* concernment in point of continuing and *Permanent* Advantage. In order to this, I will suppose that the King owes a *Banker* 1000 *l.* this *Banker* owes me the like sum, I owe as much to a third, he to a fourth, and so in *infinitum*; and the *Banker*, my self, and the third person, have little else to satisfie our Creditors than this 1000 *l.* which is owing severally to us. (Which Case may be well supposed to have hapned since the stop of the *Exchequer*) In this Case then I say, it will be most evident, that if the King never payeth the *Banker*, the *Banker* can never pay me, or I the third person, or he the fourth; so that by a necessary chain of Consequences, the fourth person and his Creditors in *infinitum*, are as much grieved by the Kings non-payment of the *Banker*, as I my self, who am the *Bankers* immediate Creditor. For (as I said before)

before) *Money is the Blood of the Body Politick*; and we know, if the circulation thereof be stopt in one Member, that blood can never be transmitted to the neighbouring Veins; and thereupon not only that part, but the whole body in fine becomes Feavourish and languishant. The like may be said, more especially of *Merchandise*, and the *Universal Trade* of the Kingdom, of *Rents*, *Executorships*, *Legacies*, &c. And I doubt not but every man's consideration, and the particular Interests of most persons, will furnish them with infinite instances of the like nature, in a very short time.

But if this reason prove not sufficiently prevalent in this matter, I must be inforc'd to go one step higher, and to say, Thirdly, That if this proceeding fall out to be an *Invasion* of the Subjects *Property* (as I think I shall anon prove it is) then I say, every Individual Person will be Interest'd in the Fate of this Cause. For by the same reason that the Rights of * Ten thousand Families may be violated, the Rights of Twenty thousand may, and so in *infinitum*. We see men do usually take themselves to be concern'd, though the Fire be a Door or two from their own Houses. And I think it is obvious to every man, that the publique and Parliamentary Cares and Wisdom of this State, have been extended in point of redressing Grievances, not only to Bodies of men, in number much inferior to *These*; but oftentimes even to particular persons, where the Pressures have been Enormous. Certainly (a) the Laws of England, and especially those of *Propriety*, are the *Arteries* and *Ligaments* which hold together this *Body Politique*, which may not be cut asunder or loosned, without a manifest *Peril* to the whole. *Without Laws what are Kingdoms* (as the (b) Father said) but *Magna Latrocinia*, *Great and Powerful Robberies*? Or rather *Wildernesses*, where the

* The Principal Creditors of the Bankers have been computed to a number little inferior to this; the persons consequently concern'd are unnumerable.

(a) And so declared by King James and King Charles the first. See for this 1 Jac. Cap. 2. And the Exact Collection of Declarations 28. 29. 12 H. 6. 63. a per Fray express.

(b) St. Austin de Civitate Dei, lib. 4 cap. 4.

the strongest *Animals* always prevail over the weakest. By these Laws his Sacred Majesty is entituled to his *Regal Authority*, and the *Services* of his people; to his mighty *Revenues* of *Customs*, *Excise*, *Heart-mony*, &c. and to all his *Royal Prerogatives*. Take away these *Laws*, what will become of *Peerage*? *Ranks* or *Degrees* of men? What assurance of *Life*, *Liberty*, or *Estate*, to our selves or *Posterities*? What difference between *Good* or *Evil*? *Just*, or *unjust*? Every man will have equal *Right* to every thing; and in such *Confusion*, 'tis great odds but those which possess most, will sustain the greatest *Inconveniencies*. And yet (if I may speak a *Truth* freely) *this Debt to the Bankers is made good to the Subject, by Laws of the very same Parentage and Vigour; by Common Laws, Statute-Laws, yea and by that mighty Additional Security of the Royal gracious Declarations. I do not say this Debt (like * Paradise) was guarded with Cherubims, and a flaming Sword turning every way; but (under good favour of the Advisor) I do say, that no Subject of England had his Life or Property secured with stronger Humane Defences than this Debt was.*

* Gen. 3. 24

These things premiss'd, I shall now forthwith address my self to the main business. In the Argument whereof I shall observe these Gradations, or Steps.

1. First, I shall shortly put the Case (as it now stands) between the King and the Bankers.
2. Secondly, I shall prove, that by this Counsel of stopping payments in the Exchequer, the Subjects Property is invaded, or violated at Common Law.
3. Thirdly, That hereby it is invaded contrary to the Statute-Law.
4. Fourthly, That this Counsel is expressly contrary to his Majesties gracious Promises and Declarations,

tions, Printed and promulgated by his own especial Command.

5. Fifthly, I shall by undeniable Records prove that the Parliaments of Old, have solicited and effected the Opening of the Exchequer in Cases, for Nature, infinitely inferiour to our present Case of the Bankers, &c. I shall produce out of our own Authentique Histories, Instances of sundry Princes of this Realm, that have paid Old Debts even of their Predecessors; and this freely, and upon their own Native Impulses. As also of some of them which have restored Monies to their Subjects, exacted from them by illegal Courses. That Parliaments have been heretofore sometimes call'd only and singly for redressing Grievances of this, and other Natures; and sundry Important Presidents thereof vouch'd out of Records.

6. Sixthly, I shall at large answer the Grand Objection of Necessity, and National danger, (supposing too our fears to be at that time just) And shall prove by sundry Records from the Norman Conquest to our own Times, and otherwise, That the Subjects Property is not violable, or to be altered, but by his own Consent, in cases of far greater National Danger than this was. I shall enquire into the Decisions of the Civil Law in the like case. I shall answer the Rapines of Ed. 1. and 3d. upon the Subjects Money in the Churches and Abbies, and elsewhere. And because I would take up this Objection by the Roots, I shall then shew what courses the Law hath provided for preservation of the Kingdom, where the Danger is instant, and cannot stay for a Parliament.

7. Seventhly, I shall prove that this Counsel is contrary to the Policies hitherto used by the wisest Forrain States of the World, in far greater Exigencies than ours. I shall answer the Objection of some Princes not repaying Money lent them by their Subjects, to retain

retain them in better Obedience. I shall refute the Objection of Usury against the Bankers in our Case.

8. Eighthly, I shall prove this Counsel to be contrary to common Reason, and in some respects to violate the Rules of Humanity: That it is pernicious to the credit of his Majestie's Exchequer. Then I shall truly state the case between Philip the 2d. of Spain and the Bankers of Genoa, and shall prove that case essentially different from ours.

And Lastly, shall frame a Conclusion upon the whole matter. In the Debate whereof I must all along consider Brevity and my Readers patience, as I must much more consider the Dignity and Importance of my Subject and Argument.

S E C T. I.

The Case put between the King & the Bankers.

I Think it is now evident enough to every man that understands any thing, that the concernment of the Bankers is now become the concernment of their Creditors; and that both their Interests are common, and so inseparably twisted together, that the Prosperity of the latter, will depend altogether upon the Fate of the former. In somuch that if the Banker never receives his Debt, I do not in any probability see how he will be able to satisfie his Creditors: We are therefore by invincible necessity obliged to maintain the Right of the Banker: and in order thereunto I will now put his Case, which in short is no more but this.

A Banker lends to the King an hundred thousand pounds, more or less; this Money is secured to the said Banker upon the Customs, or any other Branch of

the King's Revenues, &c. by Order Registered in the Exchequer, or by Tally of Loan, or both, and then the King (upon the Warlike Preparations of our neighbour-Princes and States) is advised to make Stop of all Payments out of the Exchequer, which is executed accordingly; whether by this Counsel executed, the Subject's Property be invaded and violated: and I clearly conceive it is.

SECT. II.

That By this Counsel of stopping Payments out of the Exchequer, the Subject's Property is invaded at Common Law.

IT is an Essential principle of the Law of this Realm, *That the Subject hath an undoubted Property in his Goods and Possessions.* Otherwise there shall remain no more Industry, no more Justice, no more Valour, for who will labour? who will hazard his person in the day of Battle for that which is not his own? How can the Subject by any Act of Bounty ingratiate himself with his Sovereign? *The Kings of England (saith a great * Assertor of Prerogative) have alwaies claim'd a Monarchie Royal, and not a Monarchie Signioral: under the first (adds he) the Subjects are Free-men, and have propriety in their Goods, and freehold in their Lands; but under the latter they are Villains and Slaves, and can call nothing their own.* Neither was this Right of Property introduc'd here, by any Charter or Ediēt of Princes, but was the old Fundamental Law, springing from the Original Frame, and Architecture of the Kingdom. (a) There were manifest Footsteps of this Law in the *British, Roman,*

* Sir John Davis Rep. 40. b. (a) Lambards Archeion. Fortef. de laudibus Legum Anglie, cap. 17. Dugdales Origines Juridicales. Infinite Authorities there quoted to prove this. See there Fol. 5, 6.

Roman, Saxon, and Danish Governments here; nay it was of that vigour and puissance, to survive even the very Norman Conquest. To prove which, I shall crave leave to produce this following short memorable Record. *One Shirboorn a Saxon at the time of the Conquest, being seised of a Castle and Lands in Norfolk, William the Conquerour gave the same to one Warren a Norman of principal Quality. Sherboorn dying, his Heir shewed to the Conqueror that he was his Subject, and that he ought to Inherit the said Castle and Land, by vertue of that Law which he himself had established in England. In this Case the Conqueror gave judgement for Sherboorn against Warren, and pronounc'd his own former Gift void.* See for this Camden in his description of Norfolk. And Sir John Davis Rep. 41. a. The Case of Tanistry. And there it is said by Judge Calthrop, that he himself had seen an Authentique Copy of this Judgement.

For indeed the Common Law is not more solicitous of any one thing, than to preserve the Property of the Subject from the Inundation of the Prerogative. And therefore the King may not grant Commission to dig for Salt-peter in a Mantion-house, or Barn fill'd with Corn, without the Subjects consent, though for the publick Benefit. Resolved by all the Judges of England, 4 Jacobi (this point being refer'd to them by that King, upon a complaint then made in Parliament) Cook's 3. Inst. fol. 82, 83. Cook's 12. Rep. fol. 12. So the King cannot take Gravel (for the repairing of his Houses) in the Inheritance of the Subject, *Maugre son Soen* (saith the Book) against his will, 11 H. 4. 28. a. So likewise, where a custom is to pay Toll for all Cattle that shall be driven over a common Bridge, this Custom shall binde the Subject, but not the King: but where a Custom is to pay Toll

for all Cattle that shall be driven over a mans private Freehold, there the Custome shall prevail against the Prerogative : and what's the Reason of all these Cases? why, because the Law will not allow the King to Invade the Subjects Inheritance and Property without Consent and compensation. For this last Case, see the express Book of 46 of Ed. 3. cited in *Plowden* 236 a. The Lord Barkleys Case. Many other Cases of this nature are there recited, and in other Books of our Law, which for brevity I forbear to mention.

To come then to the Hinge upon which this point turns, I do lay this down for an indisputable ground, That the Law and Usages of the Exchequer are Branches of the Common Law of this Land; and so is the Lord Chancellor Egertons *Postnati*, pag. 33. and 38. *Plowden* 320. b. and 321. b. The Case of Mines, and Cook's second Report 16 b. Lane's Case adjudged. Now then by the Law of the Exchequer, when the King hath charged himself to the Subject by Tally (as in our Case) or by Liberate, (as in Case of Letters Patents) to pay a sum of Money out of his Customs, or any other branch of his Revenue, and his Receiver hath received this Revenue; this money though at first it appertains in property to the King, yet as soon as ever the day assign'd for payment comes, and the Kings Creditor resorts to this Receiver, and shews him his Tally or Liberate, and demands payment accordingly, the Property of this money (to the proportion of the Debt) by meer operation of * Law, is transferr'd out of the King into the Collector or Receiver, and in an instant becomes the proper and personal Money, (I say the Proper and Personal Money) of the said Receiver; in respect of his charge over to the party. And so it is clearly affirmed by all the Judges of both Benches. *Plowden* 186. a Lord Darcyes Case.

* Fortior est dispositio Legis, quam hominis.

Again

Again, the Law (which never design'd that this Money should abide always in the Receiver, whom it used only as a Conduit-Pipe, or mean of Conveyance) hath no sooner altered the property of the Kings money into the Receiver, but the property of the very same money when it becomes due to the Creditor, in the same Instant upon shewing of the Tally, is altered once more, out of the Receiver into the Kings Creditor; which is the Reason, that in such Case, as soon as ever the Receiver hath Assets in his hands, the Law gives an Action of Debt to the Kings Creditor, against the said Receiver. And wheresoever the Law gives a man an Action of Debt, it doth evermore first give him the Duty or Right, or Property in that thing for which that Action is brought. And this most evidently appears from the constant Pleading in this Action, which is, That the Defendant render unto the Plaintiff such and such sums of Money [Quas ei debet & injuste detinet, saith the Writ] which the Defendant oweth to the Plaintiff, and unjustly detineth or keeps from him. Now if the Defendant owe, and yet unjustly or wrongfully detein, why then he deteins that which is not his own, but that which is the Right or Property of the Plaintiff. F. N. B. 119. G. *Termes de Ley*, verbo Det. and all our Books. Besides, the common and known practice of the Exchequer is, That from the very point of Time in which any Tally is struck, the Kings Receiver is ipso facto discharged upon his Accounts in the Kings Books, to the value of that money secured by the same Tally, And thereupon becomes Debter to the owner of that Tally, when the Day of Payment happens, and he hath Assets in his hands. So then (as I have said) the Kings Money is altered in point of Right and property: First, out of the King into the Receiver; and Secondly, out of the Receiver into the Creditor. I shall now proceed to corroborate

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rate the Foundations I have here laid, by sundry undeniable Authorities in Law.

And therefore if the King grant a sum of Money to J. S. to be received out of his Customs of London, I say, that by the delivery of the Talley, Liberate, and Assets in the hands of the Customer, the Customer is become a Debtor to J. S. and he may bring his Action of Debt upon this matter against the Customer. *Coke's 4 Institutes 116. F. N. B. 121. F. 21 H. 6. Fitzb. Debt. 43. 27 H. 6. 9. Fitzb. Bar. 314. Brook Talley d' Exchequer 1. 37 H. 6. 15. Brooke ibid. 3. Rolles 599. title Debt.*

Nay in such case, if the Receiver dye, the Action will lye against his Executor. And therefore where the King had granted a Fee by Patent to the Clerk of the Parliament to be received out of the profits of the Hanaper, and the Clerk of the Hanaper dyed, yet adjudged that Debt would well lye against his Executor, because so much of the Kings Money was altered in property in the hands of the Testator, and yet here was no Contract, Privy in Word, Suit, or Execution of Law between the King and Testator, or Executor, *2 Hen. 7. 8. b. &c. Fitzb. Bar. 124. Plowden 36. b. and 186. a.* So if the King Assign Talleys upon the * *Dismes* to his Creditors, and they shew them to the Collectors of the *Dismes*, the King is hereby discharged, and the Collectors are charg'd, and the King cannot Pardon the Collectors, or the Clergy which granted the *Dismes*. *1 Hen. 7. 8. a. Brook Charter de pardon, 37.* Nay, so careful is the Law of the Subjects Property in such case, that if after a like grant of the *Dismes*, the King should dye, yet the Collectors are chargeable to the King's Grantée, and not to his Successor. *1 Hen. 7. 8. a. per omnes Justituarios. Brooke Quinzime 7. Fitzb. Quinzime 2. Brook Tally d' Exchequer 5.*

* A certain antient Taxe imposed by Parliament.

Nay

Nay, I shall yet go one step higher. If a King Usurper do make a like Assignment, and then is deposed, yet the rightful King is bound by this Assignment [*pur ceo* (saith the Book) *a chescun Roy appartenant al faire Justice, & d'executer les Leyes*] Because every King is obliged to do Justice, and to execute the Laws. For this, see Judge *Jenkins Centuria 4ta. Casus 21. 9 Ed. 4. Brook patents 21. 1 H. 7. 8. a. express per omnes Justituarios.*

Object. If it be Objected, Ay but this Security by Talleys is now become *Obsolete & antiquated*, and you cannot shew me any late Presidents where Debt hath been brought in this nature upon a Talley.

Answer. I shall not here demand of the Objector to what End Talleys at this day are stricken to the Subject for the Kings Debt, (though we know yet, that *Nature and the Law do nothing in vain*) neither shall I tell him that in the Reign of Queen Elizabeth and after, this security was reputed Sacred, and so never violated, Or that by the same reason of Arguing several other old ways of prosecuting mens Rights (as *Writs of Tresaire, De Recto Recti, De Odio & Atia, &c.*) must be likewise distinguished (*which are not*) Or that of late times Orders Registred have had the preference, as being National Securities. But that which I rely upon is this, That it is most evident from the Cases above cited, that this course of grounding Debts upon Talleys was in those times undeniable Common Law: then I must challenge my Objector to shew me by what Statute-Law this was repeal'd (the which I am sure he can never do) and therefore I must tell him, that our * Books

* Littleton Sect. 170. Cokes 1. Inst. 115. b.

say, it is a Maxime, *That the Common Law of England hath no Controller but the High Court of Parliament; and that if it be not abrogated by Statute, it can never be lost by Desuetude, & non Uter.*

Object. Now if any man shall farther say to me. Sir,

Sir, you have abundantly prov'd the stopping of the Exchequer, to be an Invasion of Property as to the Receiver and Customer, and the like by the Common-Law ; but not so clearly as to the Banker or his Creditor, which was the Position you also undertook to maintain.

Ans^w. To this Objection, I give this plain Answer : That the stop of the Exchequer to the Receiver, Customers, &c. is by inevitable Consequence a stop to the Bankers and their Creditors, (and so likewise Their Property violat^ed) because by this Obstruction the Receiver, &c. is disabled to satisfie the Banker, and the Banker his Creditor, and that Creditor His Creditor, and so in an infinite rotation throughout the Kingdom ; just as where the Grandfather or Father (some years past) were dispoil'd of a great Estate for their Loyalty to the Crown of England, this was an injury and damage to the Son also, and all their miserable Line to the Worlds end will feel the Anguish and Effects thereof. Or (because I would make it still plainer) I will suppose twenty Mills to be built upon one River, each of them in sequence one below the other ; a person comes and Dams up this River, or diverts the Current thereof into a new Channel ; I do say that by this Diversion or Obstruction of the Stream, the Twentieth Mill is injured as well as the first, because (if there were no Impediment) that water which comes to the first Mill would at the long Run arrive to the twentieth.

In so plain a Case I need not make any Application, or indeed, use any farther Argument as to the Common-Law part of this Discourse. However, because I would not leave the least colour of evasion to my Object^r, I will (with my Readers Patience) a little farther explain the *Modus* or *Manner* how the Subjects property is in this Case violat^ed. In order to that, I will put this plain Case : *The King before the stop of the Exchequer borrows of me One thousand*

*thousand pounds, and then secures to me this Money by Talley upon the Customs; then comes the fatal Stop, and presently after happens the day Assign'd for Payment of my Debt : At which time the Receiver of the Customs hath a Thousand pounds of the King's money in his hands ; I come and shew my Talley to the Receiver, and demand payment ; The Receiver denies it. I insist, and tell him, that he hath Assets and Effects in his hands ; and that therefore by the Common Law of England immediately upon shewing my Talley to him he is become my Debtor. Sir (answers the Receiver) what your Common Law may be in this point I do not pretend to know ; but this I well know, That the Kings Will and Pleasure exprest both in his * Declaration in Council of the 2 Jan. 71. and his Letters Patents of the same Date, have suspended and restrained the payment of your Debt, and all other of that nature ; To the which Royal Pleasure I am commanded there to be obedient at my Peril : And farther the said Letters Patents exprest, that they will be my sufficient Warrant and Discharge for so Doing, which is the Rule I must and shall walk by. And yet this Receiver all this while would think it a strange thing, (and so should I too) if a Merchant should deny paying his Customs ; and yet the Customs and my Debt are payable only by the same Law of England. Take away this Law (as I said * before, and there will remain no further Right of any thing, or Property, either to King or People.*

Having thus premised this Case, I shall now tell my Reader, That it is most evident from the numerous Authorities by me before cited, that the Common Law saith, That this 1000 l. in the Receivers hands, is first the Receivers, and then mine : And it is as evident, that the said Declaration and Letters Patents say, It is neither the Receivers nor Mine ; so then
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* Printed in the end of this Treatise

* In the end of the Introduction

the Declaration and Letters Patents have manifestly Ravish'd and forc'd that Money from the Receiver, and my self, which the Common Law of England hath given to us both. And so the Property of the Subject (by the Counsel of stopping payments in the Exchequer) plainly invaded contrary to the Common Law of England; which was the Position I undertook to maintain in this Section.

I shall now cite but one other Case, and that a far stronger one than Ours, and then discharge my self of this Section.

The Case is Mich. 1. Hen. 7. Fol. 3. b. and a-bridg'd by Fitzherbert Bar. 122. [Touts les Justices fueront al White Fryars pur leur Fees, &c. saith the Book] All the Judges were assembled at White Fryars to consult about the payment of their Salleries which were behinde: And their Case was this.

*Rot. parl. 18 H. 6. num. 27.

By a * Statute made 18 Hen. 6. it is Enacted that the Customers shall pay the Judges their Salleries out of the first Moneys arising out of the Customes of London. And then Richard the third grants License to certain Merchants to carry Woolls, and to retain the Customes thereof in their own hands. (which was as it were a little diminutive stopping of the Exchequer as to the Judges in this Case.) And the question was, whether the Customers shall be chargeable to the Judges for those Retainments of the Merchants; and after mature debate, Resolved by them all, that the Customers were chargeable even for those Retainments, though they never came to their hands; and in the end of that case, it is said, that the Judges design'd each of them to bring his Action against the Customers; which they perceiving, they forthwith agreed with the Judges to pay them their Salleries.

Now any man that shall well consider this Case, will finde the reason thereof to be, because though the

the King had granted the priviledge of reteining the Customes to these Merchants, yet in contemplation of Law, the Customers did still actually receive those Customes, and so were chargeable to the Judges; (like the Case I put before of 1 Hen. 7. 8. a. where the King remitted the Dismes to the Collector or Clergy) and the rather in this Case, because this private License of the Kings shall not prevail over an Act of Parliament, which had secured unto them their Salaries out of the Customes: which leads me to the next Position which I have proposed to assert, which is,

SECT. III.

That by this Counsel of stopping Payments in the Exchequer, the Subject's Property is invaded against Statute-Law.

Our (a) Books tell us (and not without Reason) That the Parliament, (Est un Court de tresgrand honor & Justice, de que nul doyt imaginer chose dishonourable) is a Court of thrice great Honour, and Justice, of which no man may presume to think a dishonourable thing. (b) Crompton calls it (Le treshaut Court d'Anglitterre) the thrice High Court of England, per Excellentiam. And we cannot but suppose (saith the Lord Chancellor (c) Fortescue) that Statute-Laws carry with them no mean force, as well as Wisdom, Dum non unius aut centum solum consultorum prudentia, sed plusquam trecentorum electorum, &c.) When they are the results, not of the Prudence of one, or two, or three hundred onely

(a) Plowden. 398. b. Earl of Leicester's case.

(b) Crompt. Jurisdit. pag. 1. a.

(c) Fortescue de laudibus legum. Angliæ. cap. 8. Dyer; 60. a.

(d) Crompt. Jurisd. 10. b.

of the Select men of the Kingdom, but of a far greater number. In this (d) Orb the King (like the Sun) shines in the Exaltation of Majesty and Grandeur, environed by the Illustrious Members of both Houses; and from the Conjunction of this Great, and Lesser Lights, propitious and refreshing Influences are derived to the whole Kingdom. The Acts of this Court are the highest

(e) Hobart, 256. Duncomb's Case. 21 Hen. 7. 4. a. & 1. b. per Vavasor. & Butler.

(e) Securities this Nation can give, and such Securities that do in themselves comprehend the Universal Consent of all Mankind in this Realm, as well future as present. And (which is the greatest Ensigne of Sublimity) no Appeal lieth from this Court, nor can the Judgements thereof be Reversed by any other Humane legal power, than by Parliament. The publick Faith (saith King * Charles the first) is indeed as great an Earnest as the State can give, and engages the Honour, Reputation, and Honesty of the Nation, and is the Act of the Kingdom; 'tis the security of the King, Lords and Commons, which can never need an Executor, can never die, never be Bankrupt, &c. And a whole * Parliament (which should best know its own Energy and puissance) affirms, That the Court of Parliament is of such Authority, and the People of this Land of such a Nature and Disposition, as Experience teacheth, that Declaration of any Truth or Right made by the three Estates of this Realm assembled in Parliament, and by Authority of the same, maketh, before all other things, most Faith, and certain quieting of Mens Minds, and removeth the occasion of Doubts.

* Exact Collection of Declarations, &c. pag. 770.

* Rot. parl. 1. Ri. 3. in Cotton's Abridgement of the Records. fol. 713. 714.

Having premised thus much concerning the Sanctimony and vigour of our English Statute-Laws, in point of Assurance and Security, I shall now

now with better advantage expose to my Reader's view, a Statute-Law of fresh date and memory, designed to prevent the present calamitous Stop of the Exchequer, and to relieve this particular Case of the Bankers and their Creditors. And that is the * Statute of the 19th of his now Majesty, chap. 12. which I shall here recite (so far as it concerns my purpose) verbatim.

* Printed in the book of Statutes.

Whereas it hath been found by experience upon the late Act for twelve hundred and fifty thousand pounds, made at Oxford, and other Acts of Parliament since that time, that the power of Assigning of Orders in the Exchequer upon those Acts, without Revocation, hath been of great use and advantage to the persons concerned in them, and to the Trade of this Kingdom, and given great Credit to his Majesties Exchequer: Be it Enacted, and it is hereby Enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, That every person or persons, Native, or Forreigner, Bodies Politick or Corporate, to whom any Moneys shall be due in your Majesty's Exchequer, and shall have any Order Registered in the Office of the Auditor of the Receipt, for the payment thereof out of any branch of your Majesties Revenue: That such person or persons, Native or Forreigner, Bodies Politick or Corporate, their Successors, Executors, Administrators or Assignes, respectively, by Endorsement of their Order, may Assigne and transfer their Right, Title,

tle, Interest and Benefit of such Order, or any part thereof, to any other; which being notified in the Office of the Auditor of the Receipt aforesaid, and an Entry and Memorial thereof also made in the Book of Registry aforesaid for such Orders (which the Officers shall on request accordingly make) shall Entitle such Assignee, his Executors, Administrators and Assignes, or Successors respectively, **TO THE BENEFIT THEREOF, AND PAYMENT THEREON.** Now it will be plain to any man that shall consider this Statute, that the Parliament doth therein admit an unquestionable duty of the Money, to the Lenders in the *Exchequer*. (for so are the words, *Every person to whom any Money shall be due in your Majesties Exchequer, &c.*) And the makers of this Act could never mean that nothing should be transfer'd to the Assignee: For indeed all the powers of the Universe can never make me * Donor of that which never appertained to me, nor I never had in me to give: And therefore this Money must first of necessity vest radically in my self in point of Property, before I can transfer it to another person. So then if this Law secure this Money to my Assignee, *a multo fortiori* to my self. Now that this statute secures this Money to my Assignee, I shall prove by three unanswerable Reasons, (as I suppose) all drawn out of the Bowels of this very Law it self.

* Nil dat
quod non habet.

First, the Inducements of this Statute appear in the Preamble thereof to be, **Advantage to the persons concern'd, To the Trade of the Kingdom, And also great credit to the Exchequer.** Therefore the makers of this Law could never designe a transferring of the *Husk* or *Sbell* onely, that is, of the *Order* or *Paper*, but even of

of the *Fruit* it self, I mean the Money in *specie*; for that is it which carries the *Advantage*, the *Trade*, and the *Credit* with it, and not the *Order* or *Writing*, as all men concern'd finde by woful experience.

Secondly, there is no man doubts but that the Moneys lent upon the *Oxford-Act* of 17 *Car. 2. cap. 1.* for 1250000*l.* and upon the *Pole-Money-Bill*, 18 *Car. 2. cap. 1.* and upon the *Act* of 19 *Car. 2. cap. 8.* for 1256000*l.* were unquestionably secured to the Assignees of the Lenders by those several Acts: why then I say, that all Moneys since that time Lent into the *Exchequer*, and charg'd upon any branch of the King's Revenue, are equally secur'd to them by this Act. And that not only, *First*, because this Act in the Preamble thereof refers expressly to those other Acts, and therefore must necessarily intend a Security of the same Vigor and strength to the Persons concern'd in this Act, as to those in the other Acts; But *Secondly*, (than which I think nothing can be plainer) *Because the Moneys secured by this Act to the Assignees, are secured with the same numerical, identical words, with which the Moneys Lent upon the three other Acts are secured.* The Ensuring Words in each of the Four Acts being, *Viz. That the Assignee of such Money-Order, his Executors, &c. shall be entitled to the Benefit of such Order, and Payment thereon.* Also the Moneys since lent upon the Act of 22 and 23 *Car. 2.* (for granting a Subsidy to his Majesty for supply of his extraordinary Occasions) are Secured to the *Lenders Assignees* by the very same words *in terminis*, and no other. And these things will be obvious to any person that shall curiously compare all these Acts together; to the which, for Brevities sake, I am inforc'd to refer my Reader,

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and do accordingly request him to resort thereunto. So then if the Moneys lent upon the *Guaranty* of the Three former Acts, and of the latter of 22 and 23. were thereby secured to the *Lenders* and their *Assignees* (which no Man hath hitherto been so frontless or impudent to deny) I would fain know why the Moneys lent upon the *Guaranty* of this Act which I have here recited at large, are not thereby for the same Reason secured to the *Bankers*, and their *Assignees*, when the *Ensuring Words* in this Act, are numerically, and to a Syllable the same, with those in the other Acts. A Reason certainly so plain and refulgent, that it seems to be wrote with a Beam of the *Sun*, and is invisible only to that Man which designedly shuts his Eyes.

However, if I may supererogate a little in so clear a Point, I will add *Thirdly*, That it is most evident from the very words of this Statute, **That every Person to whom any Moneys are due in his Majesties Exchequer, and that hath there any Order Registered for the Payment thereof out of any Branch of his Majesties Revenue, that such Person, his Executors &c. may Assigne their Right, Title, Interest, and Benefit of such Order, and thereupon the Assignee, his Executors, &c. shall be entitled to (or have) the Benefit of such Order, and Payment thereon.** Now let's see how these Qualifications are applicable to our present Case. *First*, then, it's plain that the *Banker is a person to whom Moneys are due in his Majesties Exchequer, and such person that hath an Order Registered there, for the Payment thereof out of the Customs, Excise, or other Branches of his Majesties Revenue.* *Secondly*, it is as plain, that (since the stop of the Exchequer) such *Banker, his Executors, &c. cannot Assign their Right, Title,*

Title, Interest, and Benefit of such Order, especially in such Nature that the Assignee, his Executors, &c. shall have the benefit of such Order, and Payment thereon, as this Law punctually, and in the very Letter thereof requires. So then the Case is no more but this: *The King, Lords and Commons of England (the great and wise collective Body of this State) Enact in the Affirmative, That upon the Bankers Assignment of his Money-Order, the Assignee shall have the Benefit of such Order, and Payment thereon; then come the King's Letters Patents, and the single Royal * Declaration, and Pleasure (as it is there stiled) of 2 Jan. 1671 and say in the Negative, That no Payments shall be made upon the said Order; and consequently that the said Assignee shall have no Benefit of such Order, nor Payment thereon.* So then the Act of Parliament saith, *That the Subject shall have the Money; and the Declarations and Pleasure say, That the Subject shall not have the Money:* an express Contrariety. And in this particular consists the Grievance of the Subject, and the Invasion of his Property against Statute-Law: which was the Point I at first undertook to prove in this Section.

If any man shall yet say (as I find all is objected that the Wit of Man can invent) That the Stop made by the same *Declarations* is but *temporary*, and express there to endure only for a *Twelvemonth*: I shall then Reply, That by the same Reason the *Declarations* may stop for one Year, they may for twenty, and so for ever. Again, it is palpable to all Mankind, that the said Stop (though limited at first for a *Twelvemonth*) hath yet endured now, *Four Years* wanting less then *Three Moneths.* And how far the *Continuation of the Stop* may amount to an *Affirmance and Vindication of the first Wrong and Injury done to the Subject, I must leave to wiser Heads to debate more fully, and determine.*

* Printed in the End of this Treatise

All that I shall say is this; That I will *pro ha^e vice* admit (which yet hath not the least Colour of Pretence of Law) *That the King by his Letters Patents under the Great Seal, and Declarations in Council, might Lawfully put a Stop, in our Case, to Payments in the Exchequer.* And then I hope it will be admitted to me (which yet is no extraordinary favour) *That Letters Patents, and Declarations of this nature, do oblige and binde no longer than for the Times in the said Letters Patents and Declarations, limited and exprest.* These Things being premised, and granted, it will be now proper for me to Examine to what *Duration or Time* our present Stop is restrain'd by any *Letters Patents, or Declarations.* The first *Letters Patents* then, and *Declaration* which restrain Payments to the *Bankers*, are both Dated *2 Jan. 1671.* and exprest there to continue in force only to the last of *December 72* (being a Twelve-moneth wanting one Day). And the said *Declaration* enlarges farther too in the *Negative*, in these remarkable Words following; *Nor shall this Restraint which his Majesty hath been compell'd to lay upon such Moneys as are or shall be Pay'd into the Exchequer, continue longer than the aforesaid last Day of December: And then no new Warrants, Orders or Securities shall intervene to break the Course of such Payments.* But notwithstanding, (the same inevitable Necessities continuing, as it is there recited) by second *Letters Patents*, and another *Declaration* dated *11 Dec. 72.* the former Stop is yet prolonged to the first day of *May* next ensuing, (which was in the Year *73*). At what time the *Vertue and Influences* of all the said *Letters Patents, and Declarations* totally and undeniably expired; and were never after reinforc'd by any *New Publish'd Royal Pleasure, or Private* (that we ever heard of). *So that from the said*
first

first of *May 1673.* to this present time (which is now almost *Two Years and an half*, and being a *Time of Peace* also for the most part) the *Exchequer* hath been shut up, without the *Colour or Pretence* of so much as *Letters Patents, or Declaration, publike or private* (that we know) to warrant the same: And yet nevertheless no part of the *Bankers* principal Debt paid, or indeed any thing very considerable of their Interest. So the present *Stop of Payments*, in most miraculous manner (like the *Globe of the Earth, or Mahomet's Tomb*) hangs in the *Ayre*, without *Support or Foundation; And the Exchequer is Shut, and not Shut; Open, and not Open; A Riddle or Mystery* which many *Thousand Loyal Subjects* do *Passionately* long to have read, and unfolded; As also to see this *Gordian-knot* dissolved and cut with the *Alexandrian Sword of Justice.*

 S E C T. IV.

That this Counsel of stopping up the Exchequer, is expressly contrary to His Majesty's gracious Promises and Declarations, Printed and Publish'd by his own especial Command.

MY designe all along in this Discourse, being to discover the Pestilence and mischief of this Counsel, in relation as well to his Majesty as his People; I cannot with better advantage discharge my self of the Province I have undertaken in this Section, and manifest how unhandsonely his Majesty hath been treated by this Advisor, than

by considering a while the Sanctimony of promises among Princes.

Nothing then I say is more sacred or tremendous among Princes, than their publick Faiths and Declarations; because in these Cases the Prince evermore stakes down his Honour and * Divinity, as Hostages or Pledges for just performance; and in all Breaches of Stipulation and Compact, the Hostage or Pledge usually is lost and Forfeited. This the Emperour Tiberius understood well, when he said,

* Reges sunt Dii terrestres.

(a) Tacit. Ann. lib. 4.

(b) Cambd. and Baker vita Elizab. Reginz.

(c) Εὐκαὶ βασιλικὴ Meditation 55.

(d) Psal. 15.

(e) Xenocarus vita Caroli 5.

(a) *Ceteris mortalibus in eo stant consilia quod sibi conducere putant, Principum vero, &c.* Inferiour persons (saith he) may order their Counsels as they best sort with their Advantages, but the condition of Potentates is different, whose Actions are principally to be directed to Fame and Glory. And for this reason Q. (b) Elizabeth in her private Letters to K. James, was used to admonish him, that a Prince must be such a lover of Truth, that more credit may be given to his bare Word, than to anothers Oath. I can more willingly lose my Crowns (saith that glorious King and Martyr (c) Charles the First) than my Credit; Nor are my Kingdoms so dear to me, as my Reputation and Honour: those must have a period with my Life, (continues he) but these may survive to a glorious kinde of Immortality, when I am dead and gone. A good Name being the Embalming of Princes, and a sweet Consecrating of them to an Eternity of Love and Gratitude among Posterity.

And we know, that the man after God's own heart, and a King too, writes, (d) He that promisseth to his Neighbour, and disappointeth him not though it be to his own hindrance, &c. I do never without Admiration think of that great saying of Charles the 5th, (Emperour) when he was prest to break his Word with Luther, for his safe return from Wormes, (e) *Fides rerum promissarum* (quoth he)

etsi

etsi toto mundo exulet, tamen apud Imperatorum eam consistere oportet] Though the Faith of Promises should be banish'd out of the world, yet it ought alway to finde Sanctuary in an Emperour's breast. And to this vertue even (f) Campanella the Jesuite doth vigorously advise Philip the 2d of Spain: For nothing (saith he) doth more effectually oblige the Subject to the Prince, than Fidelity of Promises. By this means (continues he) Alexander Farnese Duke of Parma, contain'd the Netherlands in Obedience to Spain, whereas the Duke of Alva by the contrary course lost them. And this will not seem strange to a man that shall consider, that [*Fides* (as (g) Tully saith) *est justitiae fundamentum.*] Faith is the Foundation upon which Justice is built, [*Justicia vero nulla esse potest* (saith (h) Boterus) *nisi conventionum fuerit, & promissorum certa fides, ac necessaria solutio rerum creditarum*] But there can be no Justice without performance of Promises, and fair satisfaction of Debts. And this most of all in the Case of Princes: For, (as (i) Bodine affirms) [*Cum summus Princeps mutuae fidei inter privatos ac Legum omnium ultor & vindex est, quanto magis datam a se fidem ac promissa servare tenetur?*] When a Prince is himself to avenge the violations of Faith and Laws among his Subjects, how much more then ought he himself to observe his own Faith and Promises? And in this very point he voucheth there a Judgement of the Court of Paris against Charles the 9th of France, and a little after adds, [*Itaque in Judiciis cum Fides Principis agitur, &c.*] Therefore (saith he) when the Faith of a Prince happens to be debated in Judicature, we are rather to consult the benefit of the Subject, and in such case to treat the Prince more severely. *Regum est* (saith the Illustrious (k) Grotius) *religiöse Fidem*

(f) Spanisla Monarchy, Chap. 27.

(g) Cicero 1 Offic.

(h) Boterus de politia, lib. 2. c. 6.

(i) De Re- pu. Lib. 1. c. 3. Fortescue c. 37.

(k) De Ju- re Belli & pacis, Lib. 2. cap. ult.

dem colere, primum Conscientia, deinde & Fame causa, qua stat Regni Autoritas. Ne dubitent igitur eos, qui Iplis fallendi Artes instillant, id ipsum facere quod docent. Non potest diu prodesse Doctrinae quae hominem hominibus insociabilem facit, adde & Deo invisum. Itaque Fide sublata Principes Feris erunt similes, quarum vim omnes exhorrent (saith (1) Tully). Certainly Kings are as Gods upon Earth, *Et cum Deus semel locutus est. And when God hath once spoken the word, this Promise is not to be altered. Ego sum Deus, & non mutor.*

(1) Cicero pro Q. Roscio.

(m) Cooks II Rep. Magdalen Colledge Case.

* Cowels Interpreter, verbo King.

And this indeed is no more than what the Municipal Laws of this Kingdom (m) warrant, which say, that the Grants of the King are to be Expounded liberally, and with all imaginable favour to the Subject, for the Honour and Dignity of the King: as also, that the King's * *Ceste Mese ipso* is *Recordum Superlativum*, a Record of the highest Puissance and Grandeur. I have the more largely here dilated upon this Subject, that I might with a greater clearness disclose the Poyson of this Advice, it being so apparently contrary to his Majesty's most gracious Promises and Declarations, Printed and promulgated by his own immediate Order; and particularly that of the 18th of June 1667. (of which several Copies then Printed were preserv'd by my self and others, as the highest Moniments and Securities for our Moneys in the Bankers hands.)

* See this Declaration in the end of this Treatise.

This is stiled, *His Majesties * Declaration to all his loving Subjects, to preserve inviolable the Securities by him given for Moneys, and the due course of payments thereon in the Receipt of the Exchequer.* In this Declaration (about the middle) these very numerical words following are inserted: *And that We will not upon any occasion whatsoever, permit or suffer any Alteration, Anticipation, or Interruption*

ruption to be made of our said Subjects (that is, of the Bankers) Securities, but that they shall from time to time receive the Moneys so secured unto them (upon several branches of the Royal Revenue, and other late Acts of Parliament, saith the Preamble) in the same course and method, as they were charged and ought to be satisfied. Immediately after follow these remarkable words: Which Resolution we shall likewise hold firm and sacred in all Future Assignments and Securities to be by Us granted upon any Other advance of Money by any of our Subjects, (note this is general) upon any Future Occasion for Our service. And we cannot doubt, upon the publishing of this Our Royal Word and Declaration of Our Sincere Intention, but that all reasonable persons will rest satisfied, &c.

I would now desire my Reader to fancy a General Council of Angels and Men call'd and assembled, and the point propos'd to their Debate to be no other, than by what Care and and Vigilancy of Words and Language so great a Calamity might have been prevented; I demand then whether the Providence and Jealousies of so wise and numerous a Convention could have devised Expressions more adequate and full to this purpose, than those I have already recited?

Neither will it be an Observation perhaps altogether immaterial and impertinent, that in the very next Session of Parliament, viz. in the October immediately following, the Statute of the 19th of his now Majesty, cap. 12. (which I have before recited) was made, as it were in Buttress and support of this Royal Edict and Declaration.

These things standing thus, as I have represented them, however the King's Honour and Justice (like a Rock of Diamonds) remains still Impenetrable; neither is his sacred Majesty in this case any

any more to be accused of the breaches of *Fidelity*, than the chaste *Lucretia* was guilty of *Incontinence*, when wearied out and forc'd by the Adulterer. [*Duo fuerunt*, (saith the holy (m) Father) *at unus commisit Adulterium*] Two they were, yet but one of them committed Sin.

(m) St. Avg.
de Civitate
Dei.

When Judge *Thorp* was Condemned to Death in Parliament for *Bribery*, The reason of the Judgment is given, [*Quia* (saith the (n) Record) *praedictus Willielmus Thorpe sacramentum domini Regis quod erga populum suum habuit custodiendum, maliciose, false, & rebelliter fregit, &c.* Because the said *William Thorp* had broken the **Kings Coronation Oath** (it doth not say his own Oath, but the **Kings Oath**, that solemn and grand Obligation, which is the Security of the whole Kingdom, and the Knot of the Diadem). As the Kings Oath, then may be broken by others, (his own unspotted Honour and Justice unviolated) so likewise may his Royal Faith, and Gracious Promises, as in our Case.

(n) Rot. Fat.
24 Ed. 3. pars
3. Memb. 2.
in Dorso. Et
Rot. 25 Ed.
3. Par. Num.
10. Cooks 3.
Institut. 145.
and 223.

The summe total then of that which hitherto hath been said, amounts to this; That this Debt hath been secured to the Subject, First, by the positive *Common Law of this Land*. Secondly, by express *Act of Parliament*. Thirdly, by the *Royal Publick gracious Declarations*. And now if so puissant an Union of *Guaranties*, so Sacred a *Triumvirate* of Securities, have received no Reverence, no Devotion, from this Advisor; but if (like another *Sampson*) he hath broken a *three-fold Cord* of this strength, I would be glad to know that *Sublunary* Obligation which would have been proof against the Batteries of this Persons *Counsels*. And I think all men will conclude, that we are more obliged to his *Majesties Grace and Goodness*, than to this Advisors *Insufions*, that there is yet any Property remaining in *England*. Sect.

S E C T. V.

THAT no man is chargeable here, with Impositions but by his own Consent. The Felicities of this State in all Ages under the Influence of this Maxime. The Zeal of Antient Parliaments in opening the Exchequer, though the Kings Debt to the Subject secured but upon a single Talley, and though the Debt of his Predecessors. Instances hereof produc'd out of the Rolles of Parliament in several Kings Reigns. An Application of the said Instances to our Present Case of the Bankers. Presidents of several Princes of this Realm which made Voluntary Payments, not only of their own, but even of their Predecessors Debts; and others that restored Monys to the Subject Extorted by evil Counsels. Some Ancient Forms of Stopping the Exchequer produced, and the great Disparities between those and our Stop demonstrated. That the redress of Grievances of this, and other Natures, is one of the Prime Ends of Parliaments. That the Kings of England have invited the Subjects to repair to their Parliaments to that End; and divers Instances thereof. That

That some Parliaments have been called only for Redress of Grievances; and sundry Instances thereof.

(a) 1 Jac. cap. 1. Smith's Commenwealth, Lib. 2. cap. 2. Doctor & Student, 146. a. b.

(b) De laudebus legum Angliz ca. 36

* Judge Jenkins Works, pag. 120.

(c) 25 Ed. 1. cap. 6. in Cok. 2 injit. 529.

(d) Cokes 2d injit. 532.

* Other Statutes made 14 Ed. 3. c. 1. in Poulton.

THE (a) Laws of England suppose every Subject to be present in Parliament, either in his own Person, or in that of his Repr. sentative by himself freely chosen. And therefore among other Politique Constitutions of this Realm, it is not the least, That the King may not alter the Property of his People by way of Imposition, or like Burthens, but by their Consent in the said Court. Rex Anglie (saith (b) Fortescue) neque per se aut Ministros suos Tallagia aut alia quevis ONERA imponit Legeis suis, sine Assensu totius Regni in PARLIAMENTO. That this was the Original Common Law of England, doth * appear (among other Evidences I could produce) by the last Chapter of Magna Charta, where (for the Concession of those Liberties) the Prelates, Lords, and Commonalty gave the King the Fifteenth part of their Moveables. And to this purpose several likewise of our Printed Statute-Laws are most expresse. Moreover (saith King Edward the first in his (c) Statute of 25th. We have granted for us, and our Heirs, to all the Subjects of our Realm, that for no Business we shall take Aydes, Tasks or Prizes, but by the Common Assent of the Realm, and for the common Profit thereof. And the Statute de (d) Tallagio non concedendo, is, That no Tallage or Ayd shall be Set or Levied by us or our Heires in our Realme, without the Good Will and Assent of Archbishops, Bishops, Earls, Barons Knights, Burgeses, and other Freemen of the Land. And King Edward the 3d. * Grants for himself and his Heirs, that his People shall not be changed nor grieved to make any Ayde, or to sustain Charge, if it be not by the com-

mon

mon Assent of the Prelates, Earls, Barons, and other great men, and Commons of the said Realm of England, and that in Parliament. And these Statutes were confirm'd also in 30 Caroli in the * Petition of Right. Now what can be more reasonable or just, than for a man to be bound by Laws devised by himself, or at leastwise by prudent and faithful Procurators of his own choosing? That this Maxime hath been fortunate to the English Nation, will be most evident, if we shall consider, that under the sweet Influences thereof, Peace and Loyalty have been here always cherished, Industry (the Spring of Wealth) encouraged, because the Subject was secure of reaping the benefit of his own Labour, and Valour also in all Ages enkindled: For without peradventure, no people prest with involuntary Tributes can be (at all) great, or fit for Empire. They may indeed have the Sediment and Dregs of Courage (Sullenness and Contumacy, disposing them to Mutinies and Discontent). But for those Heroick, and brave Passions which inflame Mankind to the Conservation or Inlargement of Dominion, they are not easily capable thereof. To which I shall onely add, what one of the best * Princes that any Age ever afforded, hath publish'd to the World, That no King is so great, as he that is King of a Rich and Free people; and if (saith he) they have not Property of Goods, and Liberty of Person, they can be neither Rich nor Free.

* Poulton's Statutes 3. Caroli 1.

* King Char. 1. in the great Volume of his Works, among the Declarations fol. 40.

This vital Law of Property hath sometimes laboured under sinister Counsels, and as often hath been relieved by the Parliaments of those Ages: and when the Prerogative hath at any time broke through its Banks, and so endangered the publick Liberty, the Baronage, and Commons of England, (the true Conservators of these Sea-walls) have constantly hastened in to the repair of the Breaches. And

And as their care of the Common Property hath been great and Invincible in the general, so more particularly in Cases of the *Sovereign's Debts* to the Subject. The Court of *Parliament* was the *Sanctuary* whither the distressed Subject in this Exigence fled for *Shelter* and *Refuge*, and always found it. Into the sacred *Bosome* of *Parliaments* it was, that they poured out their *Sighs* and *Groans* with constant success: and when in cases of this nature the *Common Law* was arrested and stopt in her Proceedings, *Parliaments* evermore ran into the *Rescue*, and in dutiful ways discharged those Locks and Bars which had been unjustly fastned on the *Exchequer*. And that not where there were publique *Declarations* of the Prince, and *National Tyes* (for I think those were never before infring'd) but even where the Subjects Debt was founded upon the bare security of a *Tally* or *Debenture*, or the like. Instances of this kinde, I have seen not a few; insomuch that the plenty of them hath rendred me indigent in this particular, and I shall perhaps be more incumbred herein to omit, then to recite *Precedents*.

* Rotulo
Parl. 4 Ri. 2.
numero 45.

The first * Record I produce then, shall be that of 4 *Rich. 2.* The *Commons* Petition that King *Edward's* Debts, by *Talleys* or otherwise, and more especially of certain sums of Money, which the said King *Edward* had borrowed of divers of his Subjects in several parts of this Realm. And truly they ground their Petition upon a reason so brisk and pungent, that I mean to recite it in the very words of the Record. [*Pur bone Ensamble* (saith the Roll) *as Leiges nostre seignior le Roy, destre le plus prestes, a aprestes a nostre dit seignior le Roy que ore est, en Ayde de luy, et tout le Kealme, si suddaine Case de Necessity avenist*] For good *Examples* sake
(say

(say they) and encouragement to your *Majesties Leiges and Subjects*, to lend your *Majestie Money*, in aid of your *Majestie* and the whole *Kingdom*, if a suddain case of *Necessity* should chance to come. The King (it should seem) did well approve of their Petition and Reason: for he makes answer, *That their request is in good measure fulfilled already, and for the remainder, it shall be done according to the Petition.*

In the * Parliament of 6 *H. 4.* the *Commons* pray the King, That all *Talleys* given by his Majesty for money lent to him by his Subjects, may be satisfied according to the true purport of the said securities. [*Et que Tresorer d' Anglitter soit charge de ceo (saith the Roll) & auri de changer les dits Talles sil d'unholoigne, pur cause de changer les Ministers & Officers du Roy, non obstant aucun Breife ou Maundment al contrary, ou autrement plusors de vos Leiges, sont distreints pur tous Jours.*] And that the *Treasurer* of England be charg'd therewith, and also to renew the said *Talleys* if there be cause by reason of any change made of the King's *Officers and Ministers*, notwithstanding any *Writ* or *Command* to the contrary, or otherwise many of your poor *Leiges* will be utterly undone. The King's Answer there is very gracious, *That good Payment shall be forthwith made of the said Debts.*

* Rot. Parl.
6 H. 4. nu-
mero 53.

The next * Roll that I open, shall be that of 50 *Ed. 3.* Entituled, [*Des Lettres du Tresorer, countremaundants les Maundments du Roy.*] Of the *Letters* of the *Treasurer*, counterminding the *Commands* of the King. The Record is rare and short, and contains within it somewhat that is singular as to the Shutting and Opening of the *Exchequer* in that Age. And therefore I shall crave leave to translate

* Rot. Parl.
50 Ed. 3 num.
176 vel 185.
Cotton's A-
bridgment of
the Records,
fol. 138.

translate it *verbatim* from the old French. Item, the Commons pray that a fit Remedy may be Ordained to a *grand mischief*, done to the Lords, and other of the Commons of this Realme, that whereas they had accounted with the Treasurer for their Salaries and Fees, and the King had been found indebted to the said Lords, to some in One Thousand pounds, to others in Two thousand pounds, more or less, and that *Talleys* and *Letters of Privy Seal* had been thereupon delivered unto the said Lords, for Payment as aforesaid, at Ports and Days certain; and that (confiding in these Assignations) they had oblig'd themselves to Pay such and such sums to their Creditors, at the same mentioned days of Payment: *But now of late, in Avoydance of the Premises, the Treasurers have used to send Letters under their own Seals, to countermand the Moneys Assigned by the said Privy Seals;* whereupon the said Lords, and their Creditors are deceived, unto their great Damage and Loss; and therefore they Pray Remedy to be Obtain'd. [*Que nul Tresorer (saith the Roll) neit poyer de surmountre per sa Lettre, la Lettre le Roy*] That no Treasurer have power to *Surmount*, or *over-Rule* with his own Letter, the Letter of the King. The Kings Answer there is short, and very Gracious, viz. *Le Roy le Voet*, The King Willeth that the Petition be granted.

(i) Rot. Parl. 2 H. 6. Num. 22. It is (i) Enacted that the Executors of H. 4. and H. 5. shall pay all the Debts of those Kings due by *Talleys* or *Debenters*.

(k) Rot. Parl. 13. & 14. Ed. 4. Num. 56. At the Petition of the Commons (k) Enacted. That all Moneys owing by King Edward the 4th, from the Tenth Year of his Reign, upon *Patent*, *Talley*, or *Bill*, made, reared, or assigned for the Kings Household, Chamber, Wardrobe, Warks, or Money lent to him by the Subject for vittailing of Callice, or for any other cause, and due in the Times of di-
vers

vers persons late Treasurers of England; be justly paid and satisfied. And Proclamation is there ordered to be made of this matter throughout the whole Kingdom, that the Subject might repair to the *Exchequer*, to have his Debt stated, and paid. And every Sheriff that made default in Proclaiming, was (by express provision of this Act) to forfeit no less than 100*l.* A true Copy of which Proclamation (for the *Rarity* of the *President*, and that Posterity may perceive the *Honour* and *Justice* of that Age) I have thought fit to Transcribe *verbatim* in the end of this Treatise.

(l) Enacted that the Bishop of *Winchester*, (then the Kings Uncle, and commonly called the *Rich Cardinal*) shall have Letters Patents to be Pay'd out of the *Customes* Twenty thousand Marks, which he had lent to the Kings Father, King Henry the Fifth. (l) Rot. Parl. 2 H. 6. Num. 26.

Thomas (m) *Chaucer* chief Butler to the King, prayeth that the Executors of King Henry the 4th. may pay to him 868*l.* for *Wines* taken up for that King, and due to the said Thomas upon *Talleys*; whereto the King granteth. (m) Rot. Parl. 2 H. 5. Num. 18.

And afterwards, in the same Parliament (n) *Marke le Faire* petitions the Lords and Commons that he my be paid 447*l.* due for *Cloath* and *Wines*, by him sold and delivered to the Treasurer of the Household of King H. 4. for the use of the same King, secured upon *Talleys*, and to be paid by the Executors of the said King Henry the 4th: and this he prays may be done (according to the Religion of those times) *in discharge of the Soul of the said late King, which otherwisc* (saith the Petition) [*ser-ra en grand Perill*] *would be in great peril;* and in preservation of the poor Estate of the said Petitioner. The which is granted by the said King Henry the fifth. (n) Rot. Parl. 2 H. 5. Num. 22.

(o) Rot. Parl. 3 H. 5. pars secunda Num. 22.

(p) Ibid Num. 23.

(o) The Commons deliver a Petition to the King for *John Shadworth* Citizen and Mercer of London, to be paid 53 l. owing to him for certain *Spicery* delivered into the King's Household: the which is granted. And in the very next (p) *Numero*, the like Petition and Answer is made to *Henry Barton* for 383 l. upon *Talleys*, for certain *Furrs* delivered by him into the Wardrobe.

I shall no farther engage my Reader in *Presidents* of this Nature, but will now make an *Inference* or two from the premised Records.

Did these Parliaments of old then *Sympathize* so far with their Fellow-Subjects in Cases of *voluntary Loans of Money*? In matters of *Sallary*, and *Wages*? and these secured onely upon a *single Talley* or *Debenture*? Did they (thus in dutiful ways) wrestle with their Sovereigns for payment even of their *Predecessors Debts*? Did they thus open their Arms so wide to relieve *Particular Persons*? A *Bishop*? A *Butler* of the King's? Nay, a *Poor single Tradesman*? A *Mercer*? A *Draper*? A *Vintner*? or the like? What then would they have done, if these Moneys had by evil Counsels been *Ravish'd* from the poor Subject, and taken *without his Consent*? If they had been secur'd not onely upon a bare *Talley*, but upon their *Prince's Publick Declarations*, and their own *National Establishments*? If the *Debt* had been owing by their *present Sovereign*? and the *Non-payment* thereof would have turned to the *Ruine* of some *thousands of Families*, consisting in great measure of *Widows*, *Orphans*, *Infants*, *Helpless Decrepit Persons*? Nay, of those which before that time had been *Ruined* in their *Estates*, for the *Fidelity* of themselves, or their *Ancestors to the Crown* of England? I suppose it would be no hard matter to guess what *Determinations* these Parliaments would have made in so

so passionate a *Calamity*; neither shall we need to resort to an *Oracle* to know whether in probability, they would have endeavoured the *Opening* of the *Exchequer* or not.

And as I have thus already produced Instances of *Crown-Debts* paid by the *Sollicitation* and *Importunity* of Parliaments, so I will now shew *Presidents*, where sundry *Princes of this Realm* have upon their own *Royal Compunctions*, and natural *free Graces*, satisfied not only their own *personal Debts*, but even those of their *Predecessors*. Nay, where they have *restored* those very *Moneys* to their poor Subjects, which had been *extorted* from them by *sinister waies and Advices*,

Edward the Confessor restored the *Dane-gueld* Money (a grievous Tax, formerly in use here) to the persons from whom it was *Exacted*; it seeming to that pious Prince (as no mean (1) Authors write) that he saw the *Devil dancing and Triumphant* for joy upon that vast heap of *Treasure*, when he was conducted by his Officers to view the same. And (by the way) this * Act of singular Piety he did, when his people laboured under a *dreadful Famine*, with which God Almighty hath lately threatned us in this Realm, neither are the Footsteps thereof yet altogether defaced.

(1) Polydore Virgil. Riba-dinira, Cop-grave, Surin.

* Seldens Mare Clausum, Lib. 2. Fol. 172. Spelm. Glossary in titulo Dane-gueld.

I finde in the Clause (2) Rolls of King Edward the Second, that he directed his Writs to his Collectors of his Customs, requiring them to pay certain vast Sums of Money to the Creditors of his Father (King Ed. 1.) out of the said Customs, and 100000 l. besides [pro damnis occasione retardationis solutionis Debiti, &c.] for the Damage, by reason of the late and slow payment.

(2) Claus. 3 Ed. 2. Membrana. 16. in Turri London.

King Henry the 7th often borrowed Money of his Subjects, but (saith (3) Bacon) most duely and orderly paid it back at the day, This wise King (adds he)

(3) H. H. 7. fol. 77.

ever choosing rather to Borrow too soon, than to Pay too late, and so keeping up his Credit.

(4) Vita Elizabethæ A. D. 1590.

* Judge Crook's Argument of Ship-Money, p. 57. And Judge Hutton's there, p. 43. express.

(5) Cambden Vita Elizabethæ A. D. 1573. Regni 15.

Queen Elizabeth (saith (4) Cambden) [*A-versata est acerbitates in vestigalibus, &c.*] She abhorred those harsh and illegal Tributes which some of her Predecessors [*edulcarunt*] had sweetned with the soft and sugred Names of Benevolence, and amicable Loans. * And therefore when in the 42 year of her Reign, she had required a Benevolence towards her Irish Wars, and some Money was thereupon Collected: as soon as ever some of the Judges of that time had informed her that the Imposition was illegal, she was thereupon highly offended with the Advisors, and commanded that no more Money should be Collected upon it, and that full Restitution should forthwith be made to those which had paid; which accordingly was effected. And Judge Hutton saith there, that the Money he gave was repaid to Him. [*Quodq; gloriosus & subditis longe gratius* (saith the same (5) Author elsewhere) *& magna cum Londinensium Letitia, sub hoc tempus Patris & Fratris Debita liberavit.*] And that which was more glorious (saith he) and to her Subjects most comfortable, and to the more especial Joy of the Londoners, about this time she made Honourable payment even of her Father's and Brother's Debts. If we talk of Old Debts of the Crown, some of these I am sure were Old Debts, with a Witness; for they were of near thirty years of Age, (it being near so long from the last years of King Henry the eighth, to the 15th of this Queens Reign, at which time she paid the same Debts of her Father.) And was she any looser hereby? certainly No: For by Actions of this nature, she gain'd an Inexhaustible Mine of Treasure in the Hearts of her people, who never denied her any thing, and thereby rendred her self formidable to the Enemies of this State, and

and her Fame commensurate with all-devouring Time.

And King James in his fourth year, (saith (6) Baker) repaid threescore thousand pounds to the Citizens of London, which they had lent to Queen Elizabeth a little before her Death. An Act (saith the same Author) by which the King gained more in Love, than he paid in Money.

And to the Immortal Renown of the glorious King Charles the First: It is yet fresh in the Memories of many persons living, that though upon Just Apprehensions of the Scotch-Invasion in the Year 39, He did suddainly stop the Subjects Moneys in the Mint of the Tower; He did yet forthwith secure the same upon the Customs, and at the end of the six Moneths repaid the Principal and Interest even to a very Farthing. An Action so full of Glory, that I would illustrate it with a Quill drawn from the Wing of a Cherubin, if I were able!

I could proceed in Examples of this Nature, but being desirous to spare my Reader, I shall now forthwith expose to his view one or two Antient Forms or Presidents of Shutting the Exchequer, that so he may the better perceive the Parallels or Disparities between these, and our modern Stop.

Stopping of the Payments in the Exchequer was in former Ages very rare, and never but upon Invincible Necessities; and yet then also bounded with such Modifications and Restraints, that I dare say our present Stop would not willingly be tryed thereby. I have hitherto discovered but two Presidents of this nature any way considerable; The first, in 12 H. 6. the Form whereof I shall here Transcribe Verbatim, as I find it entred both upon the * Roll of Parliament of that year: And likewise as it is recited a little after in the (a) Writ directed to the Treasurer and Barons for Proclaiming the said Stop in the

Rot. Parl. 11. and 12. H. 6. Nu. 12. Restrictio Assignationum ad Summam MMl. faciend. p^r The-saur. (a) Communit de Termino Mich. 12. H. 6. in Officio Remem. Regis in Sc. de primo.

Court of Exchequer. The words then to a sillable are these,

For as much as the King hath not within his Treasury for th' Expences of his Household, nor other charges necessary for his Person, betwix this and the Quinzisme of St. Michael next, It is agreed and assented the Thirteenth day of August by Authoritee of this present Parliament, that the Threasorer of England for the time being, have Power and Authoritee for the Causes above said to Restraigne of all manner of Assignments made by the Threasorer of England, afore the Twentieth day of * Jayll last passed to the sum of Two thousand pounds after his Discretion: Th' Assignments made before this time for the Kings Household, and for Money lent to the King, only except.

(* The old English word for July.

* See for this the Year-book of 37 H. 6. fol. 15. a.

Another like * Restraint of Payments I finde some years after in the same Kings Reign; the which was made only upon one single Branch of the Royal Revenue, viz. upon the Disme and Quinzisme. It was but for Ten thousand Marks, and that too for Repayment of the Mayor and Constables of the Staple, for the like sum by them lent to that King for paying off the Soldiers of Callice. It was with an Exception of Moneys lent to the King, and it was also done by express Act of Parliament. From which two Presidents, I shall crave leave to make these following short Inferences.

First, the said Stops were made upon manifest and palpable Exigences, viz. For the very Expenses of the Kings Household, and other Charges necessary for his Royal Person (to the supply whereof, the English Nation was oblig'd in point of Honour and Justice). Again, for the Payment of the Souldiers of Callice who'

who upon neglects therein, did often Mutiny (as our Chronicles relate) to the manifest Peril of our Interests in France.

Secondly, these Stops were but for mean inconsiderable sums, viz. 2000 l. one, and 10000 m. the other; The first sum amounting at our modern Valuation to less than Four thousand pounds, and the other short of Thirteen thousand; (the Ounce of Silver being at that * time Two and thirty pence, and now Five shillings): But (to avoid Cavil and Dispute in point of Valuations) I will admit it (for once) to be Ten Times as much, yet still it falls short of Twelve hundred thousand pounds.

(* Sr. John Davis Rep. 24. a. b. Le Case de mixt Moneys and other Authorities there cited. Hakewil's Apology Printed at Oxford 1635. J. 159.

Thirdly, these sums were to be restrained after the Treasurers Discretion, perhaps that he might be enabled to favour a poor Orphan, or Widdow; Or it may be to prefer in point of Payment an Old Cavalier, that had been faithful to the Crown of England, to the Ruine of Himself, and his Posterity.

And yet Fourthly, (because Discretion proves sometimes but a wild and vagous Justice, and the Frailties of humane Nature are to be obviated) the Parliament would not trust Discretion with any greater, than the said mentioned, Sums.

Fifthly, the said Debts Stop'd do not appear to be secured by Statute-Laws, and Royal-Declarations; And the last sum of 10000 m. was chargeable also only upon one single branch of the Royal Revenue, the other Branches remain'd still liable to the Subjects Debt.

Sixthly, here is an express Exception of Moneys lent to the King, in the Repayment whereof (upon that Reason) the Kings Honour and Justice was so deeply concern'd.

And Lastly, (which takes off all the possible subterfuges and Cavil of Mankind) the said Moneys (though most pitiful and wretched Sums, yet) were

not Restrain'd without the Pomp, Solemnity and Grandeur even of a very Act of Parliament; and therefore done by the Universal Accord of the Kingdom, and so by the Consent of the very Individual Persons therein concern'd, who could never pretend any wrong done to themselves herein, when they had before bound up their own wills, in the Deeds and Concession of their Representatives.

I shall not so far distrust my Readers Ingenuity, as here to make any industrious, or set Application of the Premises to our present Case of the Bankers, &c. The Disparities in each of my said Inferences I think will be obvious enough to the meanest Understanding. I shall therefore now hasten to produce certain Presidents where Parliaments have been purposely Summoned to relieve Pressures of these and like Natures.

The Lord Chief Justice (q) Cook tells us, That one of the Principal Ends of calling Parliaments, is for the Redress of Grievances. And the Mirror of Justices (An Ancient and Learned (r) Treatise of the Law) saith, that Parliaments were Instituted [Pur Oyer & terminer les (s) Plaints de Torts de le Roy, de la Roigne, & de leur Infans, & de eux especialment de queux Torts lun ne poiet aver autrement common Droit.] To hear and determine the Complaints of the wrongful Acts of the King, the Queen, and their Children; and especially of those Persons against whom the Subject otherwise could not have common Justice. And the same Author in another (t) place reckons it among the Abusions of the Law, that this Court should be assembled. [Fortisque pur Aydes & Cuilets de Treasure] Only (saith he) for Subsidies and Levies of Money. Item, (saith the * Statute of 36 Ed. 3). For maintenance of Magna Charta and other Statutes, and Redress of divers Mischiefs and Grievances which daily happen, a Parliament shall be holden every Year, &c. And

(q) 4th. Institutes. Fol. II

(r) Cokes Preface to the 9th. Rep. of Justices, Chap. I. pag. 9.

(t) Chap. 5. pag. 282.

36 Ed. 4. up. 10.

And * Knyghton (one of our exactest Historians) doth notably disclose the antient Ends of calling Parliaments, in the Speeches made by Tho. de Woodstock Duke of Gloucester the Kings Uncle, and Tho. de Arundel Bishop of Ely, to King Richard the 2d. at Eltham in the Twelfth of his Reign, in the name of the whole Parliament then sitting at Westminster, wherein the said Delegates do put that King in mind, Quod ex antiquo Statuto, & Consuetudine laudabili & approbata, &c. (saith the Historian) That by antient Statute, and Custome laudable and approved, which no man could deny, the King may once in the Year convene his Lords and Commons to his Court of Parliament, as to the highest Court of the whole Realm. [In qua omnis Aequitas relucere deberet, absque qualibet scrupulositate vel nota, tanquam Sol in ascensu Meridiei; ubi pauperes & divites, pro Refrigerio tranquillitatis & pacis, & Repulsione Injuriarum, refugium infallibile querere possent, ac etiam Errata Regni reformare, & de Statu & Gubernatione Regis & Regni cum sapientiori Concilio Tractare; ut Inimici Regis & Regni intrinseci, & Hostes extrinseci destruantur & repellantur, qualiter quoque Onera incumbentia Regi & Regno levius ad Ediam Communitatis supportari poterunt]. In which Court (say they) all Equity ought to shine forth, without the least Cloud or Shadow, like the Sun in its Meridian Glory; where Poor and Rich, refresh'd with Peace and Ease of their Oppressions, may always find infallible and sure Refuge and Succour; the Grievances of the Kingdom Redress'd; and the State of the King, and Government of the Realm Debated with wiser Counsels; the Domestick and Forreign Enemies of the King and Kingdom destroy'd and repell'd, and to consider how the Charges and Burthens of both may be sustain'd with more Ease to the People. And

(*) De Eventibus Anglie, Lib. 5. fol. 268r. Col. 1. 2

* 25 Ed. 3. of Provisors printed in Poulton. Cook's 4 Inst. Fol. II.

* In the beginning of the Chapter De partitione Parliamenti.

* 17 Ed. 1. Dorso memb. 2. Quod vicecomes scire faciat illis, qui de Ministris Regis se conqueri voluerint, quod veniant apud Westm. &c.

And (if I may winde up this Pin one Note higher) I could tell my Reader, that a certain printed * Statute-Law Enacted by no meaner a Prince than King Edward the Third, contains these very words following, viz. **That the Right of the Crown of England, and the Law of the said Realm is such, that upon the Mischiefs and Damages which happen to the Realm, the King ought, and is bound by his Oath, with the Accord of his People in his Parliament, to make Remedy and Law, in removing the Mischiefs and Damages which thereof ensue.** Which Clause is notably explain'd by the ancient * *Modus tenendi Parliamentum*, in these numerical words: *Parliamentum departiri non debet, dummodo aliqua Petitio pendeat indiscussa, vel ad minus ad quam non sit determinatum Responsum; Et si Rex contrarium permittat, perjurus est,* (saith that Treatise.) And we are not wanting in Presidents even of this said King Edward, and some other of our Greatest Princes, which have accordingly encourag'd and invited the poor Subject to resort to the Courts of Parliament, and there to expose their Injuries and Oppressions, in order to speedy Relief.

I finde among the Clause * Rolls of Edward the first, that this King did appoint certain select Persons of the Clergy and Laity, to examine the wrongs done to his People [per Ministros nostros.] by any of his Ministers, in order to the Redrels thereof in the Parliament then approaching. And thereupon (by his Writs directed to all the Sheriffs of England) commands them openly to publish the same to all his people, that they may resort to the said Commissioners. [Sibi sua gravamina fideliter ostensuri & prosecuturi, &c.] to expose their Grievances faithfully to them, and to prosecute their Oppressors. And

And in the like manner King Ed. 3. did * command all his Sheriffs to make speedy Proclamation all over the Kingdom, That such of his people which had been opprest or grieved, not onely by his Ordinary Ministers; but (saith the Roll) [Auxilium per ascens Grantz de nostre Realm, auxilien noz Counsellors, come autres, a damage et Dishonneur de Nous.] But even by our Grandees, as well our Councillors as others, to our Damage and Dishonour, should forthwith repair to his Parliament then near at hand, and there to receive from his Royal Hands speedy help and Consolation.

Nay, Declaration was openly made in the * Parliament of the 15th of the same King (by his especial Command) [Que chescun (saith the Roll) que se sente grevez per le Roy, ou ses Ministres, ou Autres que ils metroient leur Petitions avant, & ils averont bone & convenable Remedy] That all people which found themselves agrieved in any matter, even by the very King himself, his Officers or Others, should bring forth their Petitions, and thereupon should have good and convenient Remedy to them Ordained.

In the * Writs of 21 of the same King, directed to all the Sheriffs of England, to choose Knights and Burgeses for the ensuing Parliament, I finde inserted this following Clause (which for the Dignity thereof I would Transcribe with a Beam of the Sun, were I able) [Et scire vos volumus, quod dictum Parliamentum, non ad Auxilia seu Tallagia à populo dicti Regni nostri petenda, vel alia Onera eidem populo imponenda, sed duntaxat pro Justitiâ, ipsi Populo nostro super Damnis & Gravaminibus sibi illatis faciend. fecimus summoneri.] And we will you to know (saith the King) that we have not Summoned the said Parliament in Order to the Demand of Subsidies and Taxes from

* Claus. 4. Ed. 3. M. 18. Dorso De conqueri volentibus ad Parliamentum veniendum.

* Rot. Parl. 15 Ed. 3. Numero 5.

* In Claus. 21 Ed. 3. pars 2. da. Dorso Memb. 9.

from the People of our said Realm, or to impose other Burthens upon our said People, but onely and singly for the Administration of Justice to our said People in relation to any Oppressions and Grievances to them done.

* Rot. Parl.
37 Ed. 3.
Num. 2.

I shall now draw towards a Conclusion of this Section, with a notable * Record of the Parliament of the 37th of the very same King, as I finde it entred upon the Roll. *Simon de Langham* (Bishop of Ely, and Lord-Chancellor) in the presence of the King, Lords, and Commons, declares the onely cause of Summoning this Parliament to be, for the Redress of Grievances, viz. That the King having well considered the great Goodness of God, eminently vouchsafed unto him in all his Mighty and Important Affairs; as also the extraordinary Aids given to him by his Nobles and Commonalty, and the manifold perils by them sustained in his Wars; He did now therefore call them together (as it were out of the Sentiment of his Obligations, First, to God, and then to his Subjects) in order to the firmer establishment of the Franchises of Holy Church, and to the Redress of the Grievances, Outrages and Mischietts, done as well to his Nobles as Commonalty, against the Laws of the Land: And thereupon the King willetth (saith the Chancellor) [*Qui si ul se sente greivez, mette avant sa Petition en ce Parliament, & il en avera covenable Response*] That if any person finds himself agrieved, let him but Exhibit his Petition in this Parliament, and he shall speedily receive convenient Remedy: And thereupon Receivers and Tryers of Petitions were assigned, and all the Grievances of the Kingdom redressed, to the unspeakable Joy and Consolation thereof.

And for the like Reasons, the same King about five

five years after Summoned another Parliament, where the Arch-Bishop of Cant. (saith the * Roll) in presence of the King, Prelates, Dukes, Earls, Barons, and Commons assembled in the Chamber de * Pinct, declares, That his Majesty did render hearty thanks to Almighty God for his Victories over his Enemies, for the peaceable Government of his people, and also for the great Aids and Succours which his Lords and Commons had in all his Affairs administered unto him, both in Body and Goods; and that for these Causes, the King desiring to nourish and improve the peace and happiness of his people, and to Reform and Redress whatsoever might obstruct the same, he had convened the present Parliament: whereupon the King Wills and Commands (saith the Arch-Bishop) [*Adeprimes que tous ces que se sentent greivez de riens, mettont avant leur Petitions en ce Parliament a ces que sont assignez de les rescieure, & ferront bonement resceux & responduz*] That in the first place, all Those who found themselves agrieved in any matter, should forthwith in this Parliament prefer their Petitions to the persons appointed to take them, and they should be well received, and answered: And it appears they were so, by the following Rolls of that Parliament.

And who was it do we think that Treated his People with all this Clemency and Sweetness? was he a Prince deficient either in Courage or Wisdom? I think no man will be of that mind, when I shall have told my Reader, It was no other than that Great Edward the 3d, the Arbitrator, and Ballanceholder of Christendom! to whose Court (as to a Sanctuary) all injur'd Princes fled for Succour, and constantly found it! That Great Edward * Vicar General of the Empire! at whose Royal Feet the King-ship of the Romans lay prostrate, begging for acceptance, and yet He would not stoop to take it up! That

* Rot. Parl.
42 Ed. 3.
Num. 2.

* Painted-
Chamber.

(*) Consi-
tutiones Im-
periales, To-
mus 3. Fo l.
411.

Great

Great Edward, who had subjugated the Warlike Scots! That with his tremendous Sword had cropt the Lilies of France! And that had

(*) John of France. David of Scotland. led Captive after his Triumphal Chariot the * Two Mighty Princes of both those puissant Nations.

I could yet proceed in Instances of this kind, during the Regiment of other Kings of this Realm, but that I do here (as all along in this Discourse, for so far as the Dignity of my Subject will bear it) consult Brevity. I shall only tell my Reader, that I have thought fit to lay my Scene, of the Redress of Grievances, in the Reign of this Mighty and Triumphant

(*) Postea Sect. 8th.

Prince King Edward the Third; Partly to perfume the way a little before I come to * Answer the Rapines Objected against this great Prince. Partly because his Title to the Crown of England was most unquestionable; and therefore no Man may pretend that these were the Fawnings or Brocade of an Usurper (as * Bacon stiles the popular Laws of our Richard the Third). And lastly, to shew that these sweet and Fatherly ways of treating the Subject, are not at all inconsistent with the Grandeur and Felicities of an English Monarchy; Which puts me in mind, That the Wise Men of Old, did stile Kings, the Fathers, Husbands, and Shepherds of their People; Names intimating (as they conceived) the most passionate Care, Love, and Commiseration that any Mortal Nature could possibly exert, or express). Unto which I shall add that Divine Saying of * Seneca (Tutor to a Roman Emperor, and with which I conclude this Section.) [Optime hoc Exemplum Principi constituo, ut se talem esse Civibus, quales sibi Deos velit.] I do (saith he) propose it to my Prince, as the best President for him to follow; That he would Treat his Subjects with the very same Dulceur and Tendernesses, with the

(*) His Henry 7. Fol. 3.

* De Clementia Lib. 1 Cap. 7.

which

which he desires the Immortal Gods should handle his own Royal Person.

SECT. VI.

The grand Objection of Necessity National and Danger (supposing also our Fears to be at that time just) considered at large, and Answered. That the Subjects Property is not alterable in this State, but by his own Consent, in Cases of National Danger: proved by sundry important Records in several of our Kings Reigns; From the time of the Norman Conquest, down to our own Times, and otherwise. The unspeakable Care and Zeal of Antient Parliaments in securing the Common Liberties, and Property. Certain Venimous Doctrines contrariant to my Positions in this Section, and lately Publish'd, Considered, and Refuted.

I Am now at length arrived to the grand Objection of this Case, the validity of which I am necessitated (though with Reluctancy in my self) to consider, because if this Objection prove impregnable, the Counsel of stopping the Exchequer, may seem to be built upon a good, or at leastwise an excusable Foundation, and so in all that I have hitherto said, I shall seem to have trifled with, and eluded my Reader. And herein (because I pretend not to any Arcana's of State) I shall handle this point by way of Admittance,

mittance, and shall suppose that the *Fears* and *Jealousies* which at the time of shutting the *Exchequer*, did possess this *State*, were just, and such as might well fall upon constant and deliberating *Minds*. The Objection then will run thus.

Object. *That our Neighbour Princes and States were making vast preparations for War, both by Sea and Land; that the Heavens about us were Black, and Cloudy, and where the Storm might fall no man could Divine. [That Necessitas est Lex temporis, Quæ non habet Legem]. That Necessity and self-preservation superintend all Laws. That Salus Populi, or Safety of the People, is to be preferred before any other Consideration whatsoever. That it is more eligible to lop off one Member from the Body Politique, or at leastwise to let an Arm, or perhaps a finger thereof Bloud, than that the whole should be endangered. That the Subjects Money, stop'd in the Exchequer, was taken to Arm and Equip Fleets, for the defence of the Realm, in a great and National Danger.*

Sol. The *Objection* I must confess is Important and Weighty, and will deserve a substantial *Answer*. In order thereunto, I must in the first place mind my *Reader*, that I have in the former Sections, (as I suppose) by *Irrefragable* Argument proved the *Propriety* of the Subject in this Case violated. I will then add, that it is a Fundamental *Law* of this Realm, That the Subjects *property* is not violable, no not in Cases of *National Danger*, or even then to be Altered without his own free and voluntary Consent, and that either, First by the consent of his own *Individual Person*; or Secondly, by that of his *Representatives* in Parliament, to whom he hath delegated his Consent. To prove this,

I could produce innumerable *Records* of *Parliament*, and other *Courts*, but (for brevities sake) shall content my self with some few; doing herein like one that chooseth a few full *Ears* of *Wheat* out of a select *Sheaf*, who must necessarily leave behinde him as good as he takes. Let us then a *Gods Name* (as the * *Scriptures* direct) enquire ^{* Job 8. ver. 8, 9.} of the former *Ages*, for we are but of *Yesterday*; And lets consider what our *Forefathers* have done in Cases of *Common Peril*. Without doubt (whatsoever some may now think of them) they were no vain or futile *Persons*; and they acted also under *Princes* that were wanting neither in *Courage*, *Prudence*, or *subtile Councils*; and besides; that were *Jealous* and tender enough of their *Prerogatives*.

To say nothing then of more ancient Time, I shall begin my Evidence and Observations from the time of the *Norman-Conquest*.

William the First (commonly stiled the *Conquerour*) had for some time revolved in his Great ^{William the Conqueror.} Minde the Acquest of this *Island*, partly out of his innate desire of *Dominion* and *Glory*, but chiefly that he might possess himself of a *Country* ennobled with all the *Dowries* of *Nature*, to which likewise he had a *Title* by the *Donation* of his *Kinsman King Edward* the Confessor. This *Design* he Completed afterwards at the fatal *Battle of Hastings*, as all our *Chroniclers* relate at large. It's true indeed, he subdued the people; but the good *Old Laws* of *England* vanquish't, and (if I may so say) gave *Law* to the *Conquerour*, to which (after some *Struglings* and *Conflicts* with the people) he was fain to yield and submit himself. To this purpose writes *Matthew * Paris* (an *Historian* of ^{* In Vita Fretherici Abbatis, fol. 48. N. 30.} great Credit, and *Chronologer* to *King Hen. the 3*) *Post multas disceptationes, &c.* After many *Disputes*, (saith he) in the presence of *Lanfrank Arch-Bishop* of *Canterbury*

Canterbury, King William at length, for quieting the People, Swore upon all the precious Reliques in the Church of St. Alban, laying his Hands upon the Holy Evangelists, Fretherick then Abbot Ministering the Oath to him [Quod inviolabiliter observaret bonas & approbatas antiquas Leges Regni, quas sancti & pii Angliæ Reges ejus Antecessores, & maxime Rex Edwardus Statuit.] That he would inviolably observe the good and approved Old Laws of the Kingdom, which had been establish'd by the Devout and Pious Kings of England his Ancestors, and chiefly those of King Edward the Confessor; among which the Laws of Property were none of the least.

* Ingulph
Hist. p. 519.
t. De Legibus
Will. Conq.
Seldeni Jan.
Ang. Lib. 2.
pag. 123.

And * Ingulphus (the Learned and famous Abbot of Croyland, and sometime Secretary to the Conquerour) saith thus. Attuli mecum Londoniis in Monasterium (Croylandia) Leges æquissimi Regis Edwardi, &c. I brought with me from London (saith he) unto the Abby (of Croyland) the Laws of King Edward the just in the same Language wherein they were made; which my Renowned Lord King William having ratified, and made Authentique, did by Proclamation throughout the whole Realm of England, command under grievous penalties to be inviolably observed, and so recommended the same to his Judges. I think no man will say, this Prince was deficient either in Courage or subtile Reaches: Let's see then how the Law of Property stood in his Time in Cases of National Danger. To prove this, I shall resort but to one Law, Enacted by this very King himself, and * Enrolled in (no less an Archive than) the Red Book in the Exchequer. The words are as followeth.

* See also
Lambard's
Acolition,
p. 125. d.
Leges Gul-
l. Regis.

Volumus etiam & firmiter precipimus, & concedimus, Quod omnes liberi homines totius Monarchie Regni nostri prædicti, habeant & teneant Terras suas

& Possessiones suas bene & in Pace, liberas ab omni Exactione injusta, & ab omni Tallagio, Ita quod Nihil ab eis exigatur, vel capiatur, nisi Servitium suum liberum quod de jure nobis facere debent, & facere tenentur, & prout Statutum est eis, & illis à Nobis datum & concessum Jure Hereditario imperpetuum, per Commune Concilium Regni nostri.

These words are plain and full, That all men shall be free from all Taxes; And the words & ab omni Tallagio, &c. are so general, that they extend to all Impositions whatsoever, as well those for Defence of the Kingdom, as others: As so the words are Negative, That Nothing else shall be demanded, &c. And for the Exception here of Servitium Liberum or Free Service, some few Lines after, it is clearly explain'd to be meant only of that Service [Quod Nobis de Feodis debent & Tenementis suis de Jure facere] saith this Law, Which they ought of Right to do for their Lands and Tenements, which was by their Tenures in Knights Service, Those being the only Provisions the Conquerour made for Defence of the Realm in time of Danger, which yet were (as this Law saith) establish'd also by the Common Council of the whole Realm.

His great Grandson King Hen. 2d. was so far from the pretensions of violating Property in National Dangers, that (if we may believe our own * Historians) he never so much as demanded Subsidy, or Ayd upon any Occasion whatsoever; during his whole Reign: And the People of that Age knew not what the meaning of a Tax was. And yet let me tell you Reader, the said King Govern'd this Land Thirty four Years and upwards; was exercised with restless Hostilities either from Wales, Scotland, France, Ireland, or his own Rebellious Sons. And notwithstanding, after all this, his Treas-

* Hayward's
H. 4. Part 1.
pag. 56. And
others.

sure upon his Death was found to be Nine hundred thousand pounds, besides his Jewels and Plate (no small sum in that Age). And our Chronicles do with one Voice Proclaim him the greatest Christian Prince of the whole World in that Time; For he had United in his own Person, the Kingdom of England, Dominion of Ireland, and the three Mighty Duchies of Normandy, Aquitain, and Anjou.

King John That the Law of Property continued the same in the time of his Son King John, I shall prove (omitting others I have seen) from this following short Record, wherein the King doth earnestly pray and intreat (for such is the import of the Words * Rogamus attentius) the Clergy of the Province of Cant. that they (after the Example of the Prelacy and great Men of the Kingdom) would supply him with such Aids towards the Defence of his Kingdom, that he might have reason to give them Thanks therefore. The Record followeth.

* 1 Thef. 4. r.
Rogamus
Frates, &c.
We Beseech
you Bre-
thren, &c.

* Pa. 8. fe-
ban. Rs. M. 1.

* Rex, &c. Archiepiscopo, Officiali, & toti Clero Archiepiscopatus Cantuar. salutem. Notum satis quod Archiepiscopi, Episcopi, Abbates, Priores, & Magnates Regni nostri Auxilium Nobis fecerunt, ad Defensionem Regni nostri, & recuperationem Terrarum nostrarum. Verum quia de Vobis confidimus quod Nos & honorem nostrum diligitis, & Defensionem Regni nostri, & recuperationem Terrarum nostrarum affectatis; Vos Rogamus attentius, quatenus tale Auxilium Nobis, exemplo accepto, ex parte vestra faciatis, ut inde vobis Grantias dare debeamus, &c. Teste meipso apud Eborum, 26 die Maii.

I shall only observe here, that it is no usual complement with Princes to earnestly pray and intreat that from the poor Subject, which they might lawfully take at their Pleasure, without his Consent. But if any man shall say, that perhaps this was done by King John in the time of his Impuissance and Infortu-
nities,

nities; I must then Reply, that the Objector doth not observe, that I vouch the said Record in point of time to be in Octavo of the said King; at what time, all our Chroniclers affirm, the same King Reign'd in Grandeur and Glory: and that his surrender of the Crown of England to the Pope, and his unhappy Contests with his Barons, hapned not for several years afterward.

That this Law continued Inviolat, and with-
out Alteration in the Reign of his Son and Successor King Henry the 3d, I shall make plain from Two Important Records.

The First in 19 of this King, in which he doth recognise, that his Prelacy, Baronage and Tenants by Knights service, had of their own free Wills and without Custome granted to him an ample Supply towards the Expedition of his great Affairs, in these words following.

* Rex Vic. Suffex salutem. Scias quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & Omnes alii de Regno nostro Anglia qui de Nobis tenent in Capite, Spontanea Voluntate sua, & sine Consuetudine concesserunt Nobis efficac Auxilium, ad magna Negotia nostra expedienda, &c.

* Claus. 19.
H. 3. M. 8.
Dorso.

The Second is, a * Record of 48 of the same King; which coming up so full to my purpose, I must crave leave to recite at large.

* Rot. Pat. 48
H. 3. Mem. 20

Rex omnibus, &c. cum Venerabilis Pater * G. Eborum Archiepiscopus, & alii Prelati, Magnates, Milites, libere Tenentes, ac Omnes alii Tenentes, ac Omnes alii de Regno nostro, Nobis nuper in Articula Necessitatis, ad Defensionem ejusdem Regni contra hostilem adventum Alienigenarum Serbitium fecerint & Subsidium ultra quam temporibus retroactis in aliis Summonicionibus Exercitus nostri facere consueverint,

* Godfry de Kynton.

perint, Nos ob Fidelitatem & promptitudinem dicti Archiepiscopi, & Aliorum indemnitatem sua prospicere Volentes, Concedimus eidem Archiep. Prelatis, ac omnibus Aliis predictis pro Nobis & Heredibus nostris, Quod id, quod Nobis in Articulo Necessitatis predictæ fecerint, sibi non cedat in prejudicium, nec in posterum trahatur in Consuetudinem, vel consequentiam, nec ad huiusmodi Servitium vel Subsidium faciendi compellantur. Ita tamen quod Servitium suum quod Nobis debent, faciant temporibus futuris, cum super hoc à Nobis fuerint requisiti. In cuius, &c. T. R. apud Westm. 18 Die Octob. &c.

It appears by this Record, that the Kingdom was then in the very Article or Instant of Necessity, that it laboured under a Forreign Invasion, and that it stood upon the vertical Point of Ruine and Destruction. Now was the Crisis or Punctilio of Time surely, one would have thought, (if ever) for a Bold Advisor to have resorted to the King and told him, Sir, the Occasion is pressing, and will admit of no Delay; now you are Absolv'd from all Laws, and become absolute Master, and Grand Seigneur of all your Subjects Possessions. The Enemy may yet (we doubt not) be Repell'd. Let not then so fair an Opportunity of enriching your Self and Favourites slip out of your hands, &c. But it should seem there was then no Person so hardy to instil this Venome into the Royal Mind; but the King betakes himself, we see, to the Legal and justifiable courses of Defending the Kingdom, Viz. By the Voluntary Supplies and Ayds of his loving People. And because in this Case the said Supplies were more generous and bountiful than at some other times; the King grants by the aforesaid Charter, that their present kindnesses to him, shall not be drawn into Custome and President. With an Exception only of the Services which they

they owed to him by the Tenures of their Lands.

I am now arrived to his Son and Successor, the Glorious King Edward the First, that terrible Thunderbolt of War; and (if we may rely upon the Judgment of a famous * Chief Justice that served him, and knew his Person) the wisest Prince that ever was in the World. Upon perusal of the Records of that Kings Reign I find, That when upon Wars or Invasions hapning in the Intervals of Parliaments, Ayds or Contributions were granted, they were always done of the meer Courtesie and Free * Grace of the Subject, who evermore indented with that King, That he should by his Letters Patents (and so he constantly did) make Recognitions thereof accordingly. Presidents of this nature, in this Kings time, I have seen not a few; some of them modified with these or the like Provisions, viz. That the said Ayds were given Ex mera (a) Curialitate [Curtesie] or (b) Gratanter & liberaliter, or Spontè & Gratiore, hac Vice tantum, &c. Others in the Negative, (c) Non Ratione alicujus Servicii nobis debiti, Et quod per hoc Nihil novi Juris, Nobis vel Heredibus nostris accrescat. To give my Reader some farther Taite hereof, I shall (among many others that I have seen) produce but this one short Record, containing that said Kings Letter of Thanks and Indempnity to the Commons of Flintshire, for their Ayds given towards his Scotch Wars.

(d) Rex Communitati Comitatus de Flynt, Salutem. De illa Subventione Pecunie quam Nobis ex Vera Curialitate vestra in Sublidium Guerre Nostræ Scotiæ jam tecistis, Vobis referimus Multas Gratias, Et ne Subventio illa Vobis cedat aliquo modo in Prejudicium in futurum, Vobis super hoc nostras Patentes Literas destinamus. Teste Rege apud la Rose 21 Die Septembris. Letters of the very same Form and Date were then directed also to the whole Prelacy and Commonalty of Wales. Now

Edward 1.

* Sr. William Hestle Chief Justice de C. B. See Co. 2. Inst. fol. 536.

* What's the English of Gratiore, Spontè, Liberaliter?

(a) Pat. 23. Ed. 1. M. 6. Pro Episcopo Abbatibus & tota Communitate Northwallie, & Westwallie.

(b) Ibid. Pro Communitatibus terrarum de Bowelt, Montis Gomeri, & Powis Griflyn.

(c) Pat. 5. Ed. 1. M. 22. De Communitate Com. Sallop & Hereford.

(d) Pat. 28. Ed. 1. M. 6. Littera de recognitião Communitati de Flynt. de Subventione Regi per eos facta.

Now it is not perhaps unreasonable to believe, That if in these Cases of *Necessity*, Moneys in that Age, mought have been legally leavied without **Consent** of the People, that the *Great Edward the First* would not so easily have been drawn to make the aforesaid solemn *Disclaimers* under the *Great Seal of England*. And I cannot then at all excuse his *Councillors*, that would suffer him to declare thus to all Futurity, that the said Supplies were grounded upon the mere *Curiality*, and *Benevolence* of his *Vassals*. And (by the way) I would fain have any man shew me some Authentique *History* or *Record* of this Kingdom, wherein the like *Confessions* of the King's Right in this Case, to charge the People without **Consent**, have been made by the *Subjects*, even when their *Liberties* were at the lowest Ebb.

And (which yet puts this Matter beyond all possible Exception) these *Acknowledgements* which I have recited, were made by this King to the *Welch*, whom (though a magnanimous and Warlike People) about 16 years before this very Prince had Conquered with his own Omnipotent Sword, and that (as the Statute of ** Ruthland* saith) had submitted themselves to his Royal pleasure *de + Alto & Basso*. And if the *Welch*, who had been so lately by him ** Endowed* with the English Immunities, were not thus impeachable in their Estates without their free **Consents**, I suppose no Man will imagine that the *English* themselves could be in worse Condition, to whom *that* King and his Royal *Progenitors*, long before, had granted, and so often confirm'd their *Magna Charta*, and Fortified the *Common Proprieties* with the Great Statute *De Tallagio non concedendo*, and many other *Laws* of the same Nature.

The next Record that I shall insist upon, will be that

* In Veteri Magna Charta. † Of High and Low, as Villains were formerly to their Lords. * Davis Rep. 42. a.

that memorable one of 14 *Ed. 2.*, in a Writ of *Edward 2.* Error upon Judgement given in *Durham*, in *Trespas*, by *Heyburn* against *Keylow*, for entering his House, breaking his Chest, and taking away 70 *l.* in Money, upon a special *Verdict*: The Case was this.

* The Scots had entred the Bishoprick with a formidable Army, making great *Burnings* and *Spoil*: the Commonalty of *Durham* (whereof the Plaintiff was one) apprehensive of the Common Danger, consulted together, and at length agreed to send their Agents to compound with the Scots for Money to depart, and were all Sworn (the Plaintiff being one) to perform such Composition, and also what Ordinance should be made in that behalf: thereupon they compounded with the *Scots* for 1600 Marks; but because this Money was to be paid without the least delay, they all consented that *Keylow* the Defendant, and others, should go into every mans House, to search for ready Money to make up the said Sum, and that it should be repaid by the same Commonalty: and thereupon the Defendant entred the Plaintiff's House, and took the said 70 *l.* which was paid toward that Fine. The Jury were demanded whether the Plaintiff was present, and **consented** to the taking of the Money? they said *No*. Whereupon the Plaintiff had Judgement to recover the 70 *l.* Upon this Judgement the Defendant brings his Writ of Error in the Kings Bench, and assigns error in point of Law; and there the Judgement was revers'd, because *Heyburn* (whose Money it was) had agreed to this Ordinance, and was Sworn to perform it, and *Keylow* had done nothing but by the express **Consent** of *Heyburn*, and therefore was no *Tresspassor*; and that *Heyburn* had no other remedy for his Money, but against the Commonalty of *Durham*. By which

* Mich. 14 Ed. B. R. Rot. 60.

which is appeareth, that if the owner of the Money had not particularly Consented, such Ordinance could not have bound him; and yet this was in a Case of imminent danger, and for publick Defence.

Edward 3.
* Rot. Parl.
21 Ed. 3.
Num. 16. &
17. Et ibid.
Num. 44.

The * Parliament of 21 Ed. 3. (whose Reign was a continual Warfare, and of whose Prowess and Wisdom I have said enough in the end of my Fifth Section) exhibit a Petition that no Levies or Impositions should be made upon the People, but by their Consent in full Parliament. The King's Answer is, That if any such Impositions were laid, they were done in times of great and palpable Necessity, and also by the Assent of the Prelates, Barons, great Men, and Some of the Commons then present: yet he willeth that such Impositions Not duly Made, be not drawn into Example, but clearly abolished. And do we think he would not have given the same Answer if these Levies had been made by Himself alone? I think no man will doubt thereof.

* Rot. Parl.
50 Ed. 3.
Num. 24.

In the * Parliament of 50 of the same King, the Lord Latimer (Lord-Chamberlain and Privy Councillor) was (amongst other Crimes) impeach'd, For that he without Consent in Parliament had Levied Impositions upon the Merchants. He excused himself upon the King's express Command, upon the Exigence of his Masters Wars, and (which was more) upon the good liking of the Merchants; and yet, notwithstanding all these fair and specious Defences, Let's see what Judgement was given upon him. It was (saith the * Roll) no less than Imprisonment, Fine, and Ransome, at the King's pleasure, loss of all his Offices, and more especially to be expell'd the Privy-Council. And his procuring the said Impositions is express'd there in the Entry of the Judgement, to be one principal cause of

* Rot. Parl.
50 Ed. 3.
Num. 28.

of the said Censure. Nay, so great was the Zeal and Indignation of the Subject against these Extra-Parliamentary Charges, that in the end of this last recited Parliament they Petitioned, That Offences of this Nature might be made Capital, and that the procurers of such Impositions might have Judgement of Life, and Member, and Forfeiture of Estate. The Record is very short, and therefore I will Translate it out of the Old French, *verbatim*.

* ITEM, The said Commons pray, that it may be ordained by Statute in this present Parliament; That all those which hereafter shall lay or procure for their singular profit, New Impositions, by their own Authority (Accrocheants) in-croaching, or Usurping to themselves Royal Power, over that which is establish'd by Parliament, without Assent of Parliament, that they may receive Judgement of Life, and Member, and Forfeiture. To this brisk Petition the King however gave this soft and milde Answer: Courge la Common Ley come estoit al avant usee. Let the Common Law run in this Case as it hath been accustomed.

* Rot. Parl.
50 Ed. 3.
Num. 133. or
191. Cottons
Abridgement
of the Records
Fol. 138. in
fine.

The next, is a Record of the * Parliament of 2 Rich. 2. Some little time before this Session, the French had actually invaded this Realm; they had burnt Portsmouth, Dartmouth, Plymouth, Rye, and Hastings; they had possess'd themselves of the Isle of Wight, Besieged Winchelsey, and at length entering the Thames with their Victorious Fleet, came up to Gravesend, and burnt most part of that Town. And (which was yet worfe) in the North the Scots had burnt Roxborough, and were ready to over-run all the North of England. The Realm being thus beset both by Sea and Land with the united

Richard 2.
* Rot. Parl.
2 Ri. 2. pars
prima, Num.
32 45 5.

united *Puissance* of two mighty *Kingdoms*, and like a Candle burning at both ends, the *Publick Treasure* also Exhaust; a great *Council* was forthwith call'd, of the *Prelacy*, *Baronage*, and other *Great Men*, and *Sages* (or *Judges*) of the Nation, to consult about these *Difficulties*: they came at length to a final Resolution, the which *Scroop* (then *Lord-Chancellor*) delivered to all the *Lords* in the ensuing *Parliament*, which (as the *Roll* above-quoted saith) was thus. *That since the last Parliament, the said Council met, and considering the great danger the Kingdom was in, and how Money might be raised for the Common Defence, which could not wait the delay of a Parliament, and how the King's Coffers had not sufficient in them; They all concluded, That Money could not be had for such defence without laying a Charge upon the Commonalty, Quel Charge (saith the Roll) ne poit estre fait sans Parliament. Which Charge could not be imposed or granted WITHOUT A PARLIAMENT,* And the *Lords* thereupon, together with the *Citizens of London, &c.* and other persons, supplied the present *Necessity* with their own *Money*, and advised a *Parliament* for farther supply, and *Repayment* of themselves; which was accordingly done. Neither is it to be neglected, that in the ** Commission of Array*, which in that *Exigence* was issued forth, the *King* doth expressly command the *Commissioners* to publish and declare to his *People*, *That it is not his Intent, nor the Intent of his Council, that the said Ordinance and Accord of Loane, which was then made onely for Necessity, and the Defence of the whole Realm, should in anywise turn to their prejudice by way of Example, or President in future Time.*

*Rot. Pat.
2 Ri. 2. p. 1.
Mem. 9.
Dorso.

* Walsingh.
and other our
Chronicles.

* About three Years after, this State sustain'd a *Convulsion* hardly to be parallel'd in *Story*. Two hundred

hundred thousand of the *Dregs* of the *People* had settled together, under the *Conduct* of a certain profligate *Villain*, which our *Chronicles* stile *Mat Tyler*. Their *Designes* were *Barbarous*, and *trulent*, nothing less then to *Violate the Sacred Person of the King, to take up by the Roots the Prelacy, Baronage, and Gentry of England; and in fine, to over-whelm all in one Common Ruine*: and pursuant thereto, they had already chopt off the *Heads* of the (a) *Archbishop of Cant.* (then *Lord Chancellor*); of the *Lord* (b) *Treasurer*, *Lord* (c) *Chief Justice of England*, and of several others of the *Nobles* and *Gentlemen*, and had committed other *unspeakable Ravages* likewise in all places. The *King*, to quench, and allay this *Wildfire* which had now grazed almost throughout the whole *Realm* (amongst other things) by his *Charters* infranchiseth all the *Bondmen* of *England*. (Here was now an altering of the *Subjects Property* without *Consent* in a great *Exigence*; it will be worth while then to observe what was the *Issue* thereof.) In the next *Parliament*, *Scroope Lord Chancellor*, demands in the presence of the whole *Kingdom*, whether the said *Charters* should be *Repeal'd*, or not? Unto whom aswel all the *Prelates*, and *Barons*, as the *Knights*, *Citizens* and *Burgesses* answered, [a une voice] *with one voice*, (saith the (b) *Record*), *that they would have them repeal'd, not so much because they were founded upon Coersion, and Duress, as because (say they) [Tiel Infranchisement ne poit estre, sans nostre Consent, que avoumus le greinder Interest]. Such Infranchisement may not be made, without our Consent, who have the greater Interest therein.*

(a) Simon de Sudbury.
b Sir Robert Hales Prior of St. John's, &c.
* Sr. John Cavendish.

(b) Rot. Parl.
5 Ri. 2. Num.
8. & 12.

Two Years after, this *Realm* was again threaten'd with a dreadful *French Invasion*; the *King* thereupon (by the Advice of his *Council*, the same for the most part with that of his *Invincible Grandfather King Edward*

* Claus. 7
Ri. 2. Memb.
33. De Clero
convocando.

Edward the 3d,) dispatches forth * *Writs* to his loving Subjects, for supplies of Money to defend the Kingdom: In which it is recited, *That the Rancor and Malice of the Invaders was so mortal, that they design'd not only his Royal Person* [Sed totam Linguam Anglicanam subvertere & destrueret; *saiith the Record,*] *But also the whole English Tongue to subvert and destroy.* Then follows this material Clause [Verum quia ad horum Onerum & sumptuum supportationem absq; Juvamine Fidelium nostrorum non sufficimus, *Sicut scitis, Ideo vos rogamus quod Subsidium in hoc Casu competens & necessarium Nobis concedatis, &c.*] *But because we are not able our selves to sustain the said Charges and Burthens without the Ayd and Assistance of our faithful Subjects, As you know: therefore we desire you to grant us in this Case a competent and necessary supply, &c. Sicut scitis, As you know.* It should seem then in that Age this Point of Law was so clear, that it fell under the knowledge of the whole Kingdom, to which this Prince here (as we see) doth appeal therein. For it's plain, if the Law of that Time had been, that in such Danger of the Nation, the King might have committed what *Ravages and Spoil* he had pleased upon the Subjects, he had had then but little Reason to say here, *He could not Defend the Kingdom without their kind Supplies of Money.*

I think no man will pretend that our *Late Danger* (to say no more) was greater than *These*; and yet because there was no other course in those times thought lawful for the raising Treasure upon the Subjects Goods, or alteration of their Property, than by their *own Assent* either in, or out of Parliament, only that course was then thought fittest to be practis'd; which was such as ought to be obeyed.

The (i) Parliament of the 13 of King Henry the 4th.

Henry 4th.
(i) Rot.
Parl. 13 H. 4.
Num. 10.
Et Rot. Parl.
ii. h. 4.
Num. 45.

4th, granted unto him for one Year a Subsidy of *Wools, Tonnage and Poundage*, and other things there mentioned, for the safeguard of the Marches of *Callice, &c.* And for the Defence of the Realm, and the Seas. But it was (saith that Roll) with this express Proviso, *viz. Provided always that this present Grant in time to come shall not be taken into Example to charge the Lords or Commons of this Realm, with any manner of Subsidy for the safeguard of Callice, &c. Nor for the Defence of the Realm or the Seas, unless it be by the express good wills of the Lords and Commons of this Realm by a new Graunt to be made, and that (en pleine Parliament) in full Parliament.* Nay farther, when the Parliament of the 5th of this King (for repelling of the *Welch, Irish, Scotch and French* Hostilities) had granted [Taxam insolitam & valde gravem, as (k) *Walshingham* stiles it.] an unusual and heavy Tax, it was given (saith he) [Ea conditione, ut nec servarentur ejus Evidentia in Thesauraria Regia, aut Scaccario, sed Scriptura & Recordationes ejusdem, protinus post datum Computum cremarentur]. Upon condition that no Evidence or footstep thereof should appear to future Ages; and that upon finishing the Accounts the very Records of that Grant should be forthwith utterly consumed with Fire.

So great we see were the *Cautions* of the Subject in that Age, even in their very *Parliamentary Grants*, where the Ayds were Extraordinary, though in Cases too of *National Danger*.

The Statute of 1 Ri. 3. cap. 2. recites, *That the Commons of this Realm by new and unlawful Inventions had been put to great Thraldome and Importable Charges; and especially, by a new Imposition call'd a Benevolence, whereby they had paid great Sums of Money against their wills and freedoms; by reason of*

(k) In Vita
Henrici 4.
fol. 269.

of which, divers of them were compell'd of Necessity to break up their Households, and to live in great penury and wretchedness, their Debts unpaid, and their Children unprefer'd, &c. almost to their final undoings; (Mischiefs, if I am not mistaken, applicable enough to our Case of the Bankers, &c.) And then Enacts that the Subjects from henceforth shall in nowise be charged by any such Exaction or Imposition, called a Benevolence, Nor by such like Charge, &c. The words are general, and include all Charges, as well those as are for the Defence of the Kingdom, as such which are for the King: This Statute speaking generally of Exactions, Charges, and Benevolences, which Men pay against their Wills. But if it be alledged that this Act was assented to by an Usurper, on purpose to ingratiate himself with the People; then I answer, that this Law was never yet Repeal'd. And besides, in 3 Caroli it was consolidated, and embodied into the *Petition of Right*.

The next * Record, is the Statute of 31 Hen. 8. cap. 8. Some years before, this King had dissolved the Lesser, and in the year of this Statute the Greater Monasteries; which being a new Precedent, made no small noise, and the Event thereof was apprehended with terrour and * Amazement all over the Christian World; this admittred secret seeds of Discontent to many of the People, which after broke out into open Rebellions (as our Chronicles declare) in several parts of this Kingdom. This King (who was too Big to Intreat, and too Mettle some to Lose his Right) that he might provide against the like suddain Eruptions of this Torrent, which would not stay for Parliaments, procures with some difficulty a Statute to be made, That the King for the time being, with the advice of his Council, two Bishops, two Chief-Justices, and divers others, might by his Proclamation, make Ordinances for punishing Offences,

Henry 8.
* Old Book
of Statutes
31 Hen. 8.
cap. 8.

* Camb. Brit.
pag. 163.

Offences, and Imposing Penalties, which should have the force of a Law, but with this Proviso, [That thereby no man's Life, or Property, Land, or Goods, should be touch'd, or impeach'd, Nor the Common, or Statute-Laws of this Realm Infringed.] So then, though the Royal Power was thus corroborated by this Statute, yet the Parliament took Care, that no Mans Life, or Property, should be Ravish'd from him. However (notwithstanding the said Restriction) this Statute was thought inconvenient to the *Meum* and *Tuum* of the Subject, and thereupon Repealed soon after, in 1 Ed. 6. cap. 12.

This Kingdom never laboured under a juster Fear than in the Year 88. when it was assailed by that invincible Armada, or Sea-Giant (as the Lord * Bacon calls it) and yet every mans Right was then preserved inviolable. Nay, the Queen was so tender in that particular, that (as our * Historians say) She gave express Order, that not so much as an Ear of Corn should be burnt, or other Goods of her Subjects devastated, until the Enemy had actually Landed, and was even upon the very point of Possessing them himself. And therefore where * 8 Edw. 4. saith, That I may justifie to make Bulwarks and Trenches upon another man's Ground, without his Consent; this must be in a Time of impending Danger. [*Et lou les Enemies viendront*] (saith the Book) and where the Enemies are already arrived. And (by the way) I shall make bold to observe, that (upon citing this very Case) all the * Judges of England in 4^o Jacobi held, That as soon as the Danger was over, the said Trenches and Bulwarks ought to be removed at the Publick Charge; that so the Owner (say they) might not be prejudiced in his Inheritance. So where the Case of * 13 H. 8. of pulling down the Suburbs of a City without the

Queen Elizabeth.

* His War
with Spain.

* Cambden
in Vita Elizabeth.
1588.

* 8 Edw. 4. 23. d. 4.

* Rep. Fol. 13.

* 13 H. 16. b.
per Shelly.

Consent of the Owners, in time of War, is Law, it must be understood of an *Actual Invasion* of the Enemy, when the Danger is in *Potentia proxima*, and the Fire ready to take. And this manifestly appears by the * Record of 11 Ed. 2. where the Mayor and Citizens of *Dublin* pull'd down the Suburbs of that City; but it was (saith the Record) *Super imminentem hostilem Irruptionem Scottorum Inimicorum infra Hiberniam, & pro Salvatione Civitatis predictae, & ne dictis Inimicis ad Civitatem predictam facilior pateret Ingressus, &c.* And yet this Corporation neither, would not trust to this point of Law, but for their better security procured the King's Pardon, which yet was cautiously enough drawn: For it was [*Pardonamus eis & cuilibet de communitate Civitatis predictae, id quod ad nos pertinet, de prostratione predictae, &c.*] We Pardon as much as in us lies, &c. as appears by *Pat. de Anno 12 Edw. 2. Memb. 30. Intus de pardonatione pro Majore & Civibus Dublin.*

* Claus. 11. Ed. 2. Memb. 19. Dorfo Pro Majore & Civibus Dublin.

* Mich. 6 Jac. Cook's 12. Rep. 63.

And so of the * Case of *Gravesend-Barge*. If the *Ferry-man* may justifie to throw my Goods over-board to lighten the Vessel, it must be upon an *Instant Tempest*, and *Inevitable Peril*; but if the *Ferry-man* shall say, I see a Cloud yonder, (my Masters) it's like to be a great *Storm*, and thereupon shall throw them over, I doubt that is not at all justifiable in Law.

R. James.

That this *Right of Property* remain'd without Alteration in King *James* his Reign, I shall prove (among many others) from one remarkable Instance in 8° of that King, in *Dr. Cowel's Case* a *Civilian*, the which I shall report in the words of * *Sir William Jones*, (an honest and Learned Judge of this Realm, and contemporary to the Action.) *Dr. Cowel* (saith he) was *Sentenc'd in the Parliament of 7° Jacobi*, for that he in a *Book of his* (call'd the

* In his Argument of Ship-money.

the *Interpreter*) under the Words *King, Parliament, Prerogative, Subsidy, &c.* had affirm'd, *That the King of England might make Laws, and Impose Taxes without Consent in Parliament, and thereupon he was justly Sentenc'd; and I gave my Voice* (saith he) for it, being a Member of that Parliament. And in 8° of the said King, the same Book was call'd in, and solemnly Burnt by * *Proclamation*, for these Reasons therein exprest. First, because it contain'd matter derogatory to the true State, *Fundamental Constitutions, and Priviledges of the Parliament of England.* And Secondly, because the Author had therein spoken irreverently of the *Common Law*, It being a thing utterly unlawful for any Subject to speak or write against the Law under which he liveth. And which We are Sworn, and Resolve (saith the King in the said Proclamation) to maintain.

* See the Proclamation on, and Rushw. Hist. Collect. 4 Caroli.

I shall now draw nearer our own Times, and present you with no less than five Presidents in one and the self-same Parliament, (no other than that which attain'd the Name of *Parliamentum* * *Benedictum*, or *Bless'd Parliament*) I mean that of 3° *Caroli Primi.*

R. Charles the first.

* Cook's 3d Inst. 3d

First, The Judgement of the two Houses in that Parliament in *Dr. Manwaring's* * Case, who was Sentenc'd by them principally, for Declaring in a Sermon (which he afterwards Printed) *That the King in cases of imminent Danger to the Kingdom, might without Parliament Levy Money upon the Subject.* There were other collateral Charges against him it's true, but this was the * Principal, and to this he chiefly applied his Defence, and would have excused this Assertion, by limiting it onely to Cases of *National Extremity*; but that would not serve his turn, he himself submitting, and the Sentence afterwards affirm'd by the King's *Proclamation*

* Rushw. Hist. Collecta 3d Caroli 1o

* Journal of both Houses.

For suppressing the Book. The Judgment given upon him was no less then Imprisonment during the Pleasure of the House, Fine of 1000 l. to the King, to make Submission at the Bar of the Commons House, to be Suspended for three Years *ab Officio & Beneficio*; To be disabled for ever from Ecclesiastical Dignity, Secular Office, or Preaching at Court. And Lastly, the King to be moved, that this Venomous Book might be Suppress'd by Proclamation, and openly Burn'd in London, and both the Universities. And twenty to one it had gone worse with Mr. Doctor, if he had not had some Fautors and Patrons at Court.

*Rushworth's
Hist. Collect.
3 Caroli.

The Second is the Commission for * Loan, to carry on the War for the Palatinate, in which was suggested the Safety, and very Subsistence of King, People, and Religion to be in Instant Danger; that his Majestie's Coffers were Exhausted; that the Supply could not stay for a Parliament; that the King upon his Accession to the Crown, found himself engaged in this War, and that by Advice in Parliament (which I think may deserve some remark) and only lending a little Money for prevention required. Now I would fain know, what Suggestions could have possibly been more Substantial or Perswasive. But because this Course was Compulsary, and without Consent, these Commissions in the same Parliament were Resolved to be Illegal, and so agreed to be by his Majesty, and so Declared a little after in the same Parliament

(1) Poulton's in the (1) Petition of Right.

Statutes 3.
Car. I. cap. I.
(u) Rushw.
Hist. Collect.
3 Car.

The Third is the Commission of (u) Excise Issued to Thirty three Lords, and others of the Privy Council, In which they are commanded to raise Moneys by Impositions, or otherwise, as in their Judgments they shall find to be most convenient. The Suggestions here, were for the most part the same, and of as Grand and Invincible Necessity, as those in the above

above mentioned Commission of Loane; and yet (because here was no Consent of the People) Adjudged by both Houses contrary to Law: and the Lords desired his Majesty that this Commission of Excise might be Cancel'd: and shortly after it was Cancel'd by the King, and thereupon brought so Cancel'd into the Lord's House, by the Lord Keeper, and by the Lords so sent to the Commons.

The 4th is the * Saving offered to be added to the Petition of Right before the Passing thereof, in these words following. [We humbly present this Petition to your Majesty, not only with a Care of preserving our own Liberties, but with a due Regard to leave entire that Sovereign Power wherewith your Majesty is intrusted for the Protection, Safety and Happiness of your People].

* Rushw.
Hist. Collect.
3. Caroli.

This Saving was well ventilated and sifted by the Commons, and after mature Debate, Resolved that it ought to be reprobated; and after sundry Conferences had with the Lords about it, they agreed with them: The Reason of which Reprobation was, Because if it had been added, the Petition would have been plainly Felo de se, and destructive of it his self; for it would have admitted, That the King by Sovereign Power (wherewith the Law had entrusted him for the Protection, Safety and Happiness of his People) might impose any Ayd, Taxe, Tallage, or Charge upon the Subject without Consent, although by his Ordinary Power he could not do it. And so this Saving had left the Subject in worse Condition than it found him.

The 5th, is the * Petition of Right it self, * Printed in the Preamble wherof several Statutes are recited, before that time, made for preservation of the Publick Liberties and Property; By which (saith the Petition) the Subjects have inherited this Freedome, that they should not be compelled to Contribute to any

* Printed in
Poul. 3 Ca-
roli.

Taxe, Tallage, Ayd, or other like Charge not set by common Consent in Parliament. And then the Lords and Commons pray (as their Rights and Liberties, and not as any new Priviledge); That no man hereafter be compeld to make or yeild any Gift, Loane, Benevolence, Taxe, or such like Charge without Common Consent by Act of Parliament. To which Petition the King gave this gracious Answer; Soit Droit fait come est desire; Let Right be done as is desired. By the which Royal Assent it became an Act of Parliament.

* Printed in Poulton's Statutes.

See Judge Jenkins Works Printed for J. Giles 1648. pag. 40. 119. 120. where the Judge saith thus, We of the Kings Party did, and do detest Ship-money. And that Imposition wis justly condemned by Parliament, &c.

I shall now Cite the * Statute of 17 Car. 1. cap. 14. For the Reversal of the Judgment in the Case of the Shipmoney. *This Act recites, that divers Writs had Issued to charge the several Counties of this Realm, to provide Ships for his Majesties Service; Proceſs went out of the Exchequer against John Hampden Esquire, to appear and shew cause why he should not be charged with a Sum of Money Assessed upon him, for that cause; he Demur'd, the Case was adjourn'd into the Exchequer-Chamber, and the greater part of the Judges agreed, that the said John Hampden should be charged, the main grounds being (I recite the Act Verbatim); That when the Good and Safety of the Kingdom in general is concern'd, and the whole Kingdom in danger, the King might by Writ under the Great Seal of England, command all the Subjects of this his Kingdom at their Charge, to provide and furnish such number of Ships with Men, Victuals, and Munition, and for such time as the King should think fit, for Defence of the Kingdom from such Danger; And that by Law the King might compel the doing thereof in Case of Refu-*

sal or refractoriness, and that the King was sole Judge of the Danger, and when and how the same was to be prevented. According to which grounds and Reasons all the Judges of England had bin advised with by his Majesties Command, who did subscribe an extra-judicial Opinion to that purpose; which Opinion, with their Names that subscribed it, was Enrolled in several Courts at Westminster, and Judgement given against Mr. Hampden accordingly. But the said Charge, Writs, Opinion of Judges, and Judgement, are all Enacted there to be against the Laws and Statutes of this Realm, the Right of Property, Liberty of the Subject, former Resolutions in Parliament, and the Petition of Right.

So that I am sure no man can read this Law, but must say, It is a most Express and Invincible Judgement in the point, against the Violation or Invasion of Property in Case of National Danger, which is the point I have all along asserted in this Section. But if any person shall, for Reasons best known to himself, Arraign or Impeach this Act of Parliament, I shall say no more but this, *If it be Law, why may I not vouch it? If it be not, why is it not repeal'd? Why doth it still cumber our Statute-Books, and delude the unwary Readers?*

Now for a Corollary to this Section, and in farther Evidence of the Ancient Care of Publick Property, I might here add, That where * Subsidies of a New or extraordinary Nature, have been heretofore agitated in Parliament, though for the Necessary Defence of the Realm; yet the Commons of that Age have answered [*Que Nosseront assentir,* for those are the words of the Roll] *That*

* Rot. Parl. 13 Ed. 3. num. 8. Claus. 13. Ed. 3. pars 2. Membr. 1. Dors.

they durst not agree thereto, till they had confer'd with the Counties and Boroughs for which they served; which Sir * Edward Cook also saith is a Law and Custome of Parliament.

* 4th Institues fol. 14, and 34.

Nay, where the *Point* debated hath been of concernment onely to one particular Body of Men in the Kingdom, as the *Merchants*, &c. the * *Commons* would determine nothing therein till they had first consulted the *Merchants* themselves, how far the matter might stand with the Profit and Convenience of the said *Merchants*. What shall I say more of their Zeal against those which have presumed to procure or advise any Breaches upon the Publick *Propriety*, of which kinde yet (in my **Second Part of the Bankers Case**) I may hereafter produce fundry Calamitous *Examples*. The time would fail me should I enlarge upon that inviolable Bulwark of our *Liberties* and *Property*, the (a) **Magna Charta, or Great Charter of England**, A *Charter* purchast with the (b) *Treasure*, and seal'd with the (b) *Bloud* of our Ancestors. A Law promulg'd and establish't to the English, with a (d) *Terrour* and (d) *Solemnity*, inferiour onely to that of the *Holy Commandments* by God himself (f) to the *Jews*. (There was here no *Thunder* or *Lightning*, it's true; but there was so dreadful a *Fulmination* of Curses upon the Violaters thereof, that no man ever yet considered them without *Horror* and *Astonishment*.) A Law rever'd by former *Parliaments*, to that Degree, that they Enacted (g) *Transcripts* thereof to be carefully preserved in all the *Cathedrals* of the Realm.

* Rot. Parl. 36 Ed. 3. Numero 7.

(a) Preface to Cook's 2 In.

(b) Moore's Rep. 797. per Popham

Chief-Justice

(d) Mat. Paris 839. Daniels Chron. 169. Mat. West. Speed, &c. in 37 H.

(f) Exod. 19. 16.

(g) Cook's 2 Inft. fol. 525, 526, 527. 25 Ed. 1. cap.

(h) 28 Ed. 1. cap. 1.

(i) 25 Ed. 1. cap. 4.

That it should be (h) *Four times* a year publickly read before the People. That twice in the year the *Prelacy* (*Pontificalibus induti, & Candelis accensis*) should thunder out the greater (i) *Excommunication* against the Infringers thereof, though but in

Word

Word or *Council* (saith the Statute.) That the Lord (k) *Chancellor*, and all the great *Ministers of State* upon entry into their *Offices*, should constantly be (sworn to the observation thereof. That it should be (l) *Allowed* as the *Common Law* by all Officers of Justice. That all (m) *Statute-Laws*, or (m) *Judgments* in Opposition thereto should be *Null and Void*. Nay, that the very *Priests* and (o) *Confessors* should frame the *Consciencs* of the People to the observance thereof. And lastly, a Law (p) confirmed by no less than 32 several *Acts of Parliament*. And what was the Reason of all this *Veneration* and *Diligence*? Was this **Charter** of that *Sanctity* and *Importance*? Yes surely, The *Presence* thereof was then thought as necessary to the *English*, as that of the *Palladium* to the *Trojans*, the *Holy Ark* to the *Hebrews*, the *Sea-Banks* to the *State of Holland*. In *Company* of this *Tutelar*, there was no possible *Danger*; in the *Absence* thereof no possible *Safety*. Such then was the Care of our *Ancestors* (*Wise men perhaps, though not so great Clerks*) in the *Munition* and *Fencing* about of their Rights and *Properties*! And so invincible was their *Zeal* to transmit these *Jewels* to their *Posterities*, with the same *Lustre* and *Beauty* that they themselves had received them from their *Predecessors*. These Old English *Heroes* seeming to me to bear always in minde that gallant saying of (our Countryman and Great Captain) * *Galgacus*, when his Army was in the Instant of joyning Battle here with the *Roman Invaders*. *Et Majores vestros, & Posterios cogitate*. Fellow-Souldiers (saith he) **Remember your Ancestors, and your Posterities**. A short Speech, but containing more of *Argument* and *Perswasion* than can be exprest in ten Reams of Paper.

(k) Rot Parl. 15 Ed. 3. Numero 10, & 37.

(l) 25 Ed. 1. cap. 1.

(m) 42 Ed. 3. cap. 1. & 25 Ed. 1. cap. 2.

(o) Pupilla Oculi, fol.

50. cap. 22.

De Sententia lata super Magnam

Chartam.

(p) Cook's 1 Inft. 81. a.

Preface to the 2d Institues.

* Tacitus in Vita Agricola.

Thus I have trac'd the Footsteps of *Property* in this Kingdom, in Cases of *National Danger*, from the

the time of the Norman Conquest, to 17^o Caroli primi, a succession of time containing little less than six Centuries, viz. Five hundred threescore and fourteen years. And during the Regiments too of sundry of our Kings, Renowned all the World over for their *Wisdom, Policies, and Courage*: And it is more than probable, that Princes thus qualified would not easily have departed with such a *Jewel* of their Crowns, if they had been at any time in just Possession thereof. I do not say yet, but this Law by pernicious *Councils* hath been often violated, and this fair *Helen* of *Property* thereupon Ravish'd away sometimes, and Forc'd. But then I must add, that the *Great and Publick Councils* of those Ages, have constantly made fresh pursuits after her, brought her home again in *Triumph*, munited her with stronger *Guards* for the future; and in fine, severely *Swindg'd* and punish't her *Ravishers*. For that familiar saying of *Sir Edward Cook*, will remain a *Maxime* of *Eternal Truth* in this *State*: **That no Subject (though never so potent and subtle) ever confronted, or jussled with the Law of England, but the same Law in the end infallibly broke his Neck.** Let the *Hee-Goat* (as the * *Poet* saith) by browling upon the *Vines*, think to destroy the very *Species* and *Kinde* of that *Tree*; yet notwithstanding there will be ever *Wine* enough found to pour into his *Horns* when he comes to be *Sacrificed*.

* *Ro. de Caper Vites tamen hic cum stabis ad Aras. In tua quod fundi Cornua possit, erit.*

I am not ignorant, there be those in the World, who as well in *Latine* as *English*, have, not long since, publish'd *Doctrines*, *ex diametro* opposite to those I have asserted in this, and my other *Sections*, viz. *That the Kings of England are absolved or loos'd from all Laws: That they may change the Laws: That they have an unlimited power of Imposing Taxes, without consent of the Subject,*

either

either in *Individuo*, or of his *Representatives in Parliament*: And that several of our *Princes* have accordingly of *Right* exerted this power. **That the same Power is in no wise restrain'd, or limited by the Sanctions or Statute-Laws of their Predecessors, No, nor by those made and Enacted by themselves.** *That Magna Charta* (or *Chartula*, as he styles it) and all other the like *Muniments* of *Common Property* (though they were a hundred times longer) are yet of little *Value* or *consideration* in his *Opinion*. *That the King* (as it seems to another *Gentleman*) may by *Law*, and in *Right* of his *Soveraignty*, at this day *Demand* and *Extort Loans* of *Money* from his *Subjects* upon pain of *Imprisonment*, and *Confiscation* of *Goods*, &c. The *Positions* (I must needs say) are bold and daring; and if they had been as soundly proved as they have been confidently affirm'd, the *Advice* of stopping the *Erchequer* had been a good and wholesome *Council*. But when these *Doctrines* are well examined by deliberating *Mindes*, I doubt not but it will appear, that these *Authors* have *Either* obtruded their own *Conceptions* upon the *World* without the least colour of *Warrant* from the *Records* and *Memoires* of this *Nation*, Or they have argued *a Facto ad Jus*, never considering that the *Violations* and *Exorbitances* of this nature, when ever they happened, have been always complain'd of in *Parliament*, and constantly redress'd. Or else (as *King James* hath well observed) they distinguish not between the *State* of *Kings* in their first *Original*, whereof some were by *Conquest*, others by *Election*; and the present settled *State* of *Kings* bound up by their *Coronation-Oaths*, and other *Pactions* with their *People*, to observe the *Laws* and *Customs* of the *Countries* over which they preside. Or *Lastly*, they consider not that each particular *State* is founded upon its own

* In his Speech in Parliament 1609. See his Works, fol. 531.

own proper and individual *Laws* and *Constitutions*. I suppose the People of *Constantinople* and *Mosco* would take it for no ordinary Over-reach in *Logick*, if an *Englishman* should argue thus with them, *viz.* Our King *Harry the Eight* could not have done this or the other thing by the *Laws* of *England*: Ergo, your *Emperours* his Contemporaries, could not have done the same thing by the *Constitutions* of your Government.

It is most plain that King *William* the first (who yet had the best colour to do otherwise of all Others) made no Claim to that *Arbitrary Power* these Gentlemen do fancy, as I have in good measure proved in the beginning both of my *Second*, and this present *Section*. For though, it's true, his *Victorious Sword* gave him the *Hope*, yet the *Assurance* and *Possession* of the *Crown*, he obtained by *Composition* and *Pact* with the People, by which he oblig'd himself to an *inviolable Observance* of the *Antient Laws* and *Liberties* of this Kingdom; for so do (p) *Simeon Dunelmensis*, (q) *Florentius Wygorniensis*, (r) *Roger de Howeden*, (s) *Thomas Stubs*, and all other our old *Chroniclers* proclaim with one Voice. He was Crowned by *Aldred Archbishop* of *York* at *Westminster*: Eodem Rege *Wilielmo Prius* (say they) ante *Altare Sancti Petri Apostoli*, coram *Clero & Populo*, *Jurejurando promittente*, se velle cunctum *Populum* sibi *subjectum* *juste & Regali providentia* regere; *Rectam Legem* statuere, & tenere; *Rapinas*, *injustaq;* *Juditia* penitus amovere]. The said King *William* (say they) having *First* before the *Altar* of *St. Peter the Apostle*, in the presence of the *whole Clergy* and *Populace*, promised by *Solemn Oath* that he would justly and with *Kingly Providence* govern his *People*; make and keep *right Laws*, and clearly abolish all *Rapines*, and *unjust Judgments*. And *William* of * *Malmsbury*, (one of our exactest *Historians*)

(p) De Gestis Regum Anglorum. Col. 195.
(q) Chronicon, pag. 422.
(r) Annal. pars prior, pag. 450.
(s) Acta pontif. Ebor. Col. 1702. See prefacio Rogeri Twisden ad Leges Wilielmi primi, in Archaionomia Abrahami Wellochi, pag. 155, 156.

* De Gestis Pontif. Anglorum, Lib. 3 pag. 271.

Historians), living in, or near that time, saith, That the said *Aldred Crown'd King William* [*Exacto prius coram omni populo Juramento, quod se modeste erga subditos ageret, & æquo Jure tam Anglos quam Francos tractaret*], having first before all the *People* exacted from him an *Oath*, that he would behave himself with *modesty* towards his *Subjects*, and that he would *Treat as well* the *English* as *French* with *Just Law*.

The *Chronicle* of * *Brompton*, and *Gulielmus* (a) *Nubrigensis* relate more fully the *Story* of his *Coronation* and *Oath* in this manner. Cumq; *Wilielmus Dux Normannie, &c.* Now when *William Duke* of *Normandy* (say they) *Conqueror* of *England*, fearing much the *Name* of *Tyrant*, and *Sollicitous* to be stiled a *Lawful Prince*, had earnestly desired of *Stigand* (then *Archbishop* of *Cant.*) that he would *Crown* him *King*, but *Stigand* fearing to impose his hands upon an *Invader* of another's *Right*, and a man yet reeking with *Blood*, refused; Thereupon *Aldred Archbishop* of *York*, a good and prudent man, was call'd, who wisely considering that he was to give place to *Time* and *Fate*, and that the *Divine Ordinances* were not to be resisted, hoping also that he might thereby lenise the *Asperities* and *harshness* of this fierce *Prince*, undertook the *Office*. [*Prius ipsum Regem Wilielmum* (say the same *Historians*) *ad Jura Ecclesie Anglicane* tuenda & conservanda, *Populumq;* suum recte regendum, & *Leges* rectas statuendum, *Sacramento solemniter astringens*. First binding up the same King *William* solemnly by *Oath* that he should defend and keep the *Rights* of the *Church* of *England*, and Govern his *People* justly, and Establish *Righteous Laws*.

* Col. 962.
(a) Lib. 1. cap. 1. pag. 1, 2.

* *Kelway's Rep.* 143. b. *In Itinere Temps Ed. 3. Seldeni ad Eadmerum Notæ* pa. 211.

To which I shall add the words of * *Shardelow* (a great *Lawyer* in the *Reign* of King *Edward* the 3d).

3.) who when the Kings Council in a *Quo Warranto* against the Abbot of *Peterborough* would have made a *Charter* of King *Edgar* void, because they alledged *That all Franchises were devolved to the Crown by the Conquest, replied thereto, Le Conqueror ne vient pas, &c. The Conqueror came not at all (saith he) to put any who had lawful possession out of their Rights, but to dispossess those who by their wrong had seized upon any Land in Disemberison of the King and his Crown.* And lastly, * *Daniel* (a Judicious Historian) tells us in the Life of this Prince, *That he did never claim any power by Conquest, but as a Regular Prince submitted himself to the Orders of the Kingdom, desiring to have his Testamentary Title (howsoever weak) to make good his Succession, rather than his Sword: And though the stile of Conqueror, by the Flattery of the Time, was after given him, he shewed by all the course of his Government he assumed it not, introducing none of those Alterations which followed, by Violence, but by a milde gathering upon the Disposition of the State, and the Occasions offered, and that by way of Reformation.*

* In the Life of William the first, pag. 36, 37.

* 8 Hen. 1. Seldeni ad Eadmerum Notæ p. 211.

It is most evident then from the Premises, that this King *William the Great* (as some of our * Records stile him) disclaimed in all the said Despotical and *Arbitrary* courses of Government, and therefore his Successors had the less reason certainly to assume those Powers to themselves. I shall be thought here perhaps to have dealt in an *High* and *tender* Point. But yet I hope it may be as lawful for Me to prescribe *Antidotes*, as for other Persons openly to Administer *Poysons*. And we have Reason to praise God that we live under a *Just* and *Gracious* Prince, that is no ways disposed to imbibe and drink in *Doctrines* of this Nature.

And now I cannot but condole and bewail my self, that I have had so invincible an occasion administred

to me here, of disturbing the rest of these sleeping *Muniments* of *Propriety*; but this *Presumption* also must be added to the *Black Train* of those *Calamities* which follow this *Pernicious Council*. It is but natural to Mankind, to bring in what Arguments they can to preserve their undoubted Rights, especially when irritated by that unhappy Thing, which renders men not onely *Miserable*, but (as the (a) Poet saith) *Ridicule* and *contemn'd*: Neither have I here (I hope) invaded the just *Regalities* of his sacred *Majesty* (for which no person hath a higher Veneration than my self) but rather confirm'd them: For (as Sir *Francis* (b) *Bacon* then *Attorney-General* said) *Whilst the Prerogative runs within its Ancient and proper Banks, the main Channel thereof is so much the stronger; for Overflows* (he adds) *evermore hurt the River*. Certainly it was no ill saying of * *Plinius Junior* to the Emperor *Trajan*. [*Felicitatis est posse quantum velis, magnitudinis velle quantum possis*] Sir, quoth he, *It is an happiness for your Majesty to be able to do what you will, but Greatness for you to do what you justly may*. And (c) *Comines* (that honest French Statesman) Notes, *That it is more Honourable for a King to say [J'ay des Subjects si bone & loyaux, &c.] My Subjects are so good and Loyal as to deny me Nothing, than to say, I take what I please, and I will keep it. And those Courtiers* (adds he) *that preach any other Doctrine, do not a little mistake the Interest of their Masters, and are so far from* (d) *Exalting their Grandeur and Prerogative, that they make them indeed no Kings*. For, as (e) *Bracton* saith, [*Non est Rex ubi dominatur voluntas.*] *It is not a King, where Will and Pleasure bear the Sway, but rather some * Cyclopick Monster, which eats and drinks the Flesh and Blood of Mankind.*

(a) Juvenal: Satyr 3.

(b) Resuscitatio fol. 65.

* In Panegyrico ad Trajanum.

(c) Lib. 5. cap. 18.

(d) Fortescue de laud. leg. Ang. cap. 14. in fine.

(e) Lib. 1. cap. 8. & Lib. 3. cap. 9. fol. 107. a. b.

* King James in his Speech to his Parliament 1609. See his Works fol. 531.

SECT.

SECT. VII.

The Decisions of the Civil Law in Cases of National Danger. That the Normans and French did formerly enjoy Parliaments in the height of Freedom; and that they were neither Taxable or otherwise Chargeable, but by their own Consents. When, and by what Wiles the said People were decoy'd out of their said Parliaments and Immunities, prov'd by most Authentique Histories and Records. Farther Proof, That the Property of the English Subject is not alterable without his Consent, in Cases of National Danger.

And (as the Laws of England, so likewise) the Imperial and Civil Laws are plainly with us in this point. In time of War, saith (a) Grotius, The Subjects Property may not be Infringed, [Nisi gravissima & summa Necessitate] Unless in the very Extream, and last Necessity. [Talia non pro-cedunt (saith (b) Ulpian, treating upon this subject) Nisi ex magna & satis necessaria Causa] These things may not be done, but upon great and palpable Exigences. And it is not unworthy of Note, that the Civilians do evermore chain up this voracious Lyon of Necessity, with the hardest and most strong Restrictions imaginable. For (c) First, say they, Trial must be made whether the Necessity of Violation may not be evaded by some less Injurious Ex-

(a) De Jure Belli & Pacis, Lib. 2. cap. 2.

(b) Ulp. l. si alius D. quod vi aut clam.

(c) Less. Lib. 2. cap. 12. sub. 12. Nu. 70.

pedients. (i) Secondly, this is not to be allowed, where the Possessors are prett with an equal Want. (k) Thirdly, that an assured Restitution, or Compensation be made, when the Necessity shall be blown over. And therefore as it's true, that (l) Xenophon (a great Philosopher as well as a General) having in his Wars an irresistible Occasion for Ships, Embargo'd all the Vessels he could meet with: so it is As true, that (in this Interval) he preserv'd the Lading safe for the Merchants, gave Food and Wages to the Mariners; and when the Exigence was over, restored the Ships to the Proprietors. But how well these three above-mentioned conditions have been observed in our present Case, all Mankind I think hath seen, or heard; and those who are concern'd with the Bankers do to their Cost, and some to their utter Ruine, I am sure, feel.

If any man after all this Evidence be yet unsatisfy'd in this Point, I will send him to France (for I would rather find a President there) and advise him to consider the Case of Normandy. That Dutchy had been (saith my (m) Author) for some time rak'd with Exactions contrary to their Franchise and Customs, and thereupon complain to Lewis the 10th, the then French King: he by his Charter in the Year 1314, Recognizing the Right and Priviledges of these People, and the Injustice of their Grievances, grants, that from that time forward, they shall be discharged from all Subsidies and Impositions to be laid upon them by Him, or his Successors, without their free Consents in Parliament: yet with this deadly Sting in the Tail of all [Si Necessitie grand ne le requirer]. Unless in cases of great Necessity: which Minute and almost intensible Exception, we see, hath eaten up (upon the matter) all their Immunities: for though these States may seem to Assemble, yet their Convention is little

(k) Grotius ib. (k) Adrian quod lib. Art. 2. cap. 3.

(l) De exped. Cyris

(m) Commentaires de Guillaume Terrien sur le Customier de Normandie. Print at Paris 1574. cum Privilegio. Lieure 2. Cap. 7. Fol. 26 & 27. Des Gens de Trois Estates.

(n) Comines
History of
France, Lib. 5
Fortescue ca.
35.

better than the (n) carcases of a Parliament, and they are become but the necessary Executioners of the Royal Pleasure. And this Charter of the Normans (as it was commonly stiled) stands at this Day like the Old Ruines of some demolish'd Fortrefs, or like a Sea-Mark, to warn all succeeding Merchants, that upon that Rock, a Ship of the Second Rate had been formerly Split and Destroyed.

And if I should say that the French themselves were Wheedl'd and Decoyed out of their Parliaments, by the very same Engine of La Grande Necessite; I should not perhaps affirm the thing without Authority. James * Howel, our late chief Historiographer Royal, tells us, That during the Fury of our English Wars in France (in the Reign of our Henry the 6th), The Necessity of the Time cast the Power of the French Three Estates, (as to the leaving of Taxes, &c.) Solely upon their Charles the 7th; and He (upon the Expulsion of the English) and his Successors constantly after him, (saith that Author), have made a Vertue and Advantage of the same Necessitie.

* His Dodona's Grove, in the Chap. of Ampelona. Andrew Favine his Theatre of Honour, Lib. 2. Cap. 12.

* His Observations (in his Travails) on the State of France, in the Year One thousand six hundred and nine, Under Henry 4th, pag. 13. Printed 1626.

And the most ingenious Sir Tho. * Overbury informs us (they are his own words), That the Occasion that first procured to the French King that Supremacy, that his Edicts (for imposing Taxes at pleasure, &c.) should be Laws, was the last Invasion of the English. For at that time they possessing two parts of France, the Three Estates could not assemble, whereupon they did then grant that power to Charles the 7th, during that War; And that which made it easie for Lewis the 11th, and his Successors to continue the same, (the Occasion ceasing) was, That the Clergy and Gentry did not run the same Fortune with the People there, as in England; for most of the Taxes falling upon the People, the Clergy and Gentry being forborn, were easily induced to leave them to the King's Mercy,

cy. But the King (continues he) having got strength upon the Peasants, hath been since the bolder to invade part of Both their Liberties. And for the Assembly of the three Estates, it is there grown now as extraordinary as a General Council, with the loss of which the French Liberty fell. (So far he).

Upon these Reasons Sir Thomas Smith (to say no more of him, a Queen Elizabeth-Counsellor, and that had been sundry times our Ambassador in France) doubts not to rank that State among the Despotique and Tyrannical Governments, because (saith * he) those Kings make and abrogate Laws and Edicts, lay on Tributes and Impositions of their own Will, or by the private Council and Advice of their Friends and Favourites only, without the consent of the People. Which Enormities (adds he) were much improved by Lewis the 11th, who would often boast and say, That he had brought the Crown of France, Hors de page, as one would say, out of Wardship. Now for the Advantages this freedom of Wardship hath brought to the Crown of France, let's hear Sir Walter * Raleigh. Since this freedom from Wardship (they so much crack of, saith he) and raising Moneys by Letters and Edicts only, if you mark it, France was never free in effect from Civil Wars. And lately (adds he) it was endangered either to be Conquered by the Spaniard, or to be Cantonized by the Rebellious French themselves. And here (by the way) perhaps we have found out one Reason of a Secret in that Government, which is to discharge their turbulent and fermenting Blood upon their Neighbours; That so while their People are amused with Conquests and Acquisitions abroad, they may have the less leisure to meditate and contrive Mischief and Seditiou at Home.

* His Commonwealth, Lib. 1. cap. 7.

* Prerogative of Parliament, in Principis

Nay, Philip de Comines (of the Cabal, or most secret Councils to * two French Kings, and a Man living

* Lewis 11th Charles 8th

* Lib. 6. cap. 7. living about a Century and a half ago) tells * us, **That their Charles the 7th** (the Father of the said *Comines* his Master *Lewis*) was the first that gain'd, and began that *Seignioral* way of *Imposing Taxes*, [*Sans le Consentement des Estates de son Royaume*] without the good will of the *Estates* of his *Realm*; which was done at first upon great *Necessities*, and (among other *Reasons*) to secure his new *Conquests* upon *Expulsion* of the *English*; and the *Great Lords* of *France* (saith he) agreed thereto, [*Pour certain Pensions qui leur furent promise, &c.*] Upon promise of certain * *Pensions* in lieu of what should be levied upon their *Lands*. But by this *Encroachment* (continues he) the said *King* had grievously burthened his own, as also the *Souls* of his *Successors*; and by keeping up a *Standing Army* there, had given [*Un cruel Plage*] a cruel *Wound* to *France*, of which it was like a long time to bleed. And the very same *Comines* (who was not at all ignorant of the *Constitutions* of the *French Government*) when in * another place he had for some time in most *pathetique* manner bewail'd the *Misery* and *Vassalage* of the *French people*, he can no longer contain himself, but gives vent to his *Passion* in these very words: [*Nul Roy ne Seigneur sur terre, ait Pouvoir de mettre un Denier sur ses Sujets, sans Oütoy & Consentement de ceux qui doivent payer, si non par Tyrannie ou violence*] **No King, or Potentate upon earth** (saith he) hath power to levy one *Penny* upon the poor *Subject* without *Consent* and *Permission*, unless by downright *Tyranny* and *Rapine*.

* Note the omnipotent Vertue of Pensions.

* Lib. 5. cap. 18.

* De Repub. Lib. 1. cap. 8. Le Jure Majestatis, fol. 90.

And of the same Opinion is *John Bodin* (the late famous *Lawyer* and *Statesman* of the *French Nation*) who after he hath inform'd his *Reader*, **That the English are not Chargeable by their Princes with**

with *Impositions*, but by *Consent* of their *Three Estates*, presently adds, [*Ego vero ceteris Regibus non plus in eo genere quam Regibus Anglorum licere puto; cum Nemo sit tam improbus Tyrannus, qui aliena Bona diripere sibi fas esse putet*] For my part (saith he) it is my *Judgement*, that no other *Prince* whatsoever may lawfully do any more in this kinde than the *Kings* of *England* may, seeing there can be no *Tyrant* so *Wicked* or *Impudent*, as to think he may justly take away another mans *Goods* from him without his free leave and good will.

Stephanus Pasquirius (*Councillor* and *Advocate-General* of the *King* in the *Chamber of Accounts* at *Paris*) hath about 80 years ago (as far as he durst) disclosed the ancient *Grandeur* and *Freedom* of the *French Parliaments* in point of *Taxes*, *Subsidies*, and other high *Matters*; as also by what *Intrigues* and *Gradations* his *Country-men* were *beguiled* of those *Immunities*. And for their *Assemblies* of later *Time*, he (at length) takes the *Courage* to confess, that they served onely for a certain *Engine* [*Per la quel sans Escandye sont veresfees les Voluntez de nostre Prince*] By the which (saith he) the *Wills* of our *Princes* are with the less *Slaunder* and *Scandal* confirm'd and swallowed down. And a little after [*Reduire leurs Voluntez sous la Civillite de la Loy, Et que leurs Edits & Decrets passassent par l'Alambic de Ordre Public*] To reduce the good *Pleasures* of our *Kings* under the *Civility* or *Complement* of a *Law*, and that their *Edicts* and *Decrees* may pass through the *Alambick* of *Publick Ordinance*.

And *Andrew du Chesne* (*Historiographer* *Royal* to *Lewis* the 13th) sets down the 27th Article

* Les Recherches la Franc Livre 2. 4. Impr. a Orlea 1665. a. Privileg. Louis 14.

* Histoire d'Anglittere, &c. fol. 835. Dedicated to Lewis the 13. and Printed 1641 cum Privilegio of the said King.

of the Peace accorded between their Charles the sixth, and our Henry the fifth, in these words. *Item que Nostre dit Fils n'imposera aucunes Impositions ou Exactions, a nos Sujets sans cause raisonnable, & necessaire, Ne autrement que pour le Bien public du dit Royaume de France, & selon l'ordonnance & exigence des Loix & Costumes raisonnables & approuvees du dict Royaume.* Also that our said Son (viz. the said King Henry, who had bin lately affianced to the Daughter of France) shall not impose, or cause to be imposed any Impositions, or Exactions, upon our Subjects, without reasonable and necessary Cause, nor otherwise but for the Common Good of the said Realm of France, and according as the reasonable and approved Laws and Customs of the said Realm, do ordain and require. Now if the Government of this Kingdom had been at that time Seignioral and Arbitrary, why was this cautelous provision made against Impositions not founded upon reasonable and necessary Causes? Why is our King so curiously butted and bounded here in all Exactions, excepting those which were for the Common Advantage? And why do they make such a clutter about the reasonable Customs, and approved Laws of the said Realm? I am sure no man can properly call that a Custom, which is but of a Nights growth; or that a Law approved, which hath not had some tolerable pre-existence, and undergone some former Trial and Experiments with Approbation.

* Anno Dom. 1420.

* Rot. Parl. 9^o H. 5. pars prima, Num. 14. Approuvee Pacis inter Regna Anglia & Francie, ut per continet.

It is most evident, that in the * Eighth year of our King Henry the fifth, (at what time he had compleated his Conquest of France) that the French Nation did then actually enjoy their Three Estates, in the Height and Exaltation of Power. And that no man may think I Write this without good Warrant, in proof thereof I do vouch our own Parliament * Roll of 9^o of the said King, wherein

the

the Peace and Accord, between the two Crowns, was solemnly ratified by our Parliament, in the which Record is recited this following Clause verbatim, [*Quod Carolus (sextus) Rex Francie in Regali solio sedens, Tres Status Regni sui, videlicet Prelati & Cleri, necnon Proceres & Nobiles, ac etiam Cives, Burgenses, Civitatum, Villarum, ac Communitas dicti Regni, Pacem predictam, ac Omnia & singula contenta in eadem, Approbarunt, Laudarunt, Acceptarunt, & Autorizarunt*] That Charles (the sixth) King of the French, sitting upon his Royal Throne, the Three Estates of his Kingdom, viz. The Prelates and Clergy, as also the Nobles and Grandees, together with the Citizens, Burgeses of Cities and Towns, and the Commonalty of the said Kingdom of France, the said Peace, &c. did Approve, Allow, Accept, and Authorize, (Words (if I mistake not) sufficiently evidencing the Ancient Energy and Vigour of Parliaments among the French, in the most sublime and Superlative point of Jurisdiction too, that can possibly be imagined.) So that, I think, it will be plain enough from the Premises, that * *Car tel est nostre Plaisir*, So usual in the modern Edicts of those Kings, hath not always been a Law there; neither have the Peasants of France evermore gone to Church on Sundays with *Wooden Shoos*, and *Canvas-Breeches*; Nor, in a Country so fertile of generous Liquors, always deluded their miserable Thirsts with cold Water. And those people may now sing (or cry rather) with the Poet, *Fuimus Troes! Fuit Ilium! Sed jam Seges est ubi Troja fuit.*

* Such is our Pleasure.

To that which hath been before alledged, viz. That the Property of the English Subject is not violable without Consent in Parliament, in Case of Na-

onal Danger; I would only add these two following short Notes. First, that this appears to be a Fundamental Law of this Kingdom, from the very

* *Writs of Summons* in all Ages to choose *Knights and Burgeses* for *Parliament*, Wherein the *King* first shews his Resolution to call a *Parliament pro Arduis & Argentibus Negotiis, Nos Statum, & Defensionem Regni concernentibus* (saith the Writ.) Then he commands the *Sheriff* to cause to be chosen the said *Knights and Burgeses*, invested with power to do and consent for their Countries *Super Negotiis antedictis*. And then proceeds, *Ita quod pro Defectu Potestatis huiusmodi dicta Negotia infecta non remaneant quovismodo, &c.* So then it's plain by the said *Writs*, That if no *Knights and Burgeses* chosen and return'd, no *Parliament*; If no *Parliament*, no *Defence* of the Kingdom ordinarily, or *Dispatch* of the *Arduous Affairs* thereof. Which is the Reason why our prudent *Ancestors* did so carefully provide for the frequent *Convention* of *Parliaments*, that the Kingdom might at no time want the means of its own *Defence* in Legal and Justifiable Ways. King * *Alfred* (the 6th sole Saxon King of this Island) Ordain'd for a perpetual Usage [Que a deux foits per l'an (saith the (a) *Mirror*) ou plus sovent pur mistier &c.] That twice in the year, or ofiner if need be, in time of *Peace*, *Parliaments* should be assembled at London. In the

(b) 2 *Inst.* *Reign* of *Edw. 1.* (saith *Sir Edward* (b) *Coke*) *Parliaments* were very frequent, and often holden, &c.

(c) 4 *Ed. 3.* And in (c) *Edward 3d* his time, no less than two several *Laws* were made, that *Parliaments* should be held once a year, or more often if need be. And therefore * *Tacitus* (not without Reason) notes it as a *Defect* in our antient *Brittish* Policies, and that did not a little (saith he) facilitate the *Romane* Conquests

* *Cromptons Jurisdic. des Courts, pag. 1*

* *Cokes Preface to his 9th Rep. in Principio. (a) Mirror of Justices, ca. i Sect. 3.*

(b) 2 *Inst.* 408.

(c) 4 *Ed. 3.* cap. 14. 36 *Ed. 3.* c. 10.

* *In vita Agricolas, cap. 12.*

Conquests here, that our *Ancestors* did not then hold common and publick *Councils*. Nec aliud (saith that * *Historian*) adversus *Validissimas Gentes nobis utilis, quam quod in Commune non consulunt. Ita dum singuli pugnant, universi vincuntur.* * *Ibid.*

Secondly, *No Parliament, No Penny*, hath been always taken notice of as a principal *Foundation* of this *Government* even by our very *Neighbour Princes, and States*; who have in all Ages made their *Approaches* upon this *Realm*, and evermore valued Us in proportion to the *Correspondency* they observed between our *Kings* and their *Parliaments*; For (seeing the power of every *Prince* is computed from his *Treasure* and *Martial Men*, and those again by the *Love* of his people), they well enough knew, that as long as a good understanding was maintain'd there, our *Princes* could never want the *Sinews* either of the *Purse*, or of *Valiant Mens Arms*. But on the other side, when these great *Wheels* hapned to be out of *Order*, then the *Royal Chariot*, (they knew), would move heavily; and then (like *Sampson* bereav'd of his *Hair*) they look'd upon the *Prince* as under a *State of Weakness*; And at that *Time* commonly it was that these *Philistines* assail'd us with *Success*. That this is no trivial *Remark*, will be evident to any *Man* that shall turn over the antient or modern *Histories* of this Kingdom, and particularly (to descend no lower) the *Lives* of two of our great *Kings*, wrote by * two most learned *Lords*, and great *Statesmen* of our own *Nation*. * *Lord Bacon's H. 7. Lord Herbert's H. 8.*

I shall now draw the *Arrow* to the *Head*, and conclude this *Section* with a certain remarkable *Clause* contain'd in the *Answer* of his Late *Majesty* of glorious *Memory*, to the 19 *Propositions* presented to him in (o) *June* 42. The *Words* to a (o) 2 *June*, 42.

* *Again*

* See the great Volume of the Works of King Charles the first (Printed cum Privilegio) among the Declarations there, Fol. 97.

* Again (saith his Majesty) that the Prince may not make use of his High and perpetual Power, to the hurt of those, for whose good he hath it, and make use of the Name of Publique Necessity, for the gain of his Private Favourites and Followers, to the Detriment of his People, The House of Commons, (an excellent conserber of Liberty, but never intended for any share in Government, or the choosing of them that should Govern), is solely intrusted with the first propositions concerning the Levies of Moneys, (which is the sinews as well of Peace as War), and the Impeaching of those who, for their own Ends, though countenanced by any Surreptitiously-gotten Command of the King, have violated that Law, WHICH HE IS BOUND (WHEN HE KNOWS IT) TO PROTECT; AND TO THE PROTECTION OF WHICH, THEY WERE BOUND TO ADVISE HIM, AT LEAST NOT TO SERVE HIM IN THE CONTRARY.

SECT. VIII.

The Rapines of Ed. 1. and Ed. 3. upon the Subjects Moneys, in the Churches, and Monasteries, and other places of the Kingdom, considered at large, and Answered. What courses the Law hath provided

vided for the Defence of the Land, and Seas, where the Danger is instant, and cannot stay for a Parliament. The Passionate care and zeal of this State, for the Bankers and their Creditors, upon the Dutch Invasion in the Year--67.

AY, But did not our Edw. 1. and Edw. 3. (saith the Advisor) do greater things than stopping the Exchequer? are not our Chronicles full, of their Rapines upon the People, and their breaking even into the Churches and Abbies, and ravishing from thence the Treasure of the Subject, for Supply of their Wars?

Object.

Admitting this Allegation to be true, I Answer.

First, we Discourse not here what hath been done, de facto, but what may be done de Jure. And to counterbalance these, we may put other Ancient and Late Princes of this Realm of a contrary complexion into the other Scale.

Sol.

Canutus (the first Danish King of this Island) commanded by severe * Edict, that his Councillors of Estate, should not presume to suggest to him, any sinister Projects of levying Money upon his Subjects, [Quia nulla mihi Necessitas est, ut iniqua Exactione pecunia mihi congeretur.] For I have no need, saith he, to supply my self with money by such wicked Exactions.

*Malmsbury de Gestis Reg. Angl. L. 2. C. 11.

It is notorious also, that Queen (b) Mary did by her Letters Patents, of her meer Grace and great Clemency, for the Succour and Relief of her Loving Subjects (saith the Record) Pardon and remit a whole Subsidy given by them to her Predecessor; which release was afterward confirmed by Parliament. And Queen

(b) Old Statutes 1. Marie, Sessio 2. Cap. 17.

(c) Camden
vita Elizabe-
thæ.

(d) Posthu-
ma, pag. 176.

Queen (c) Elizabeth also remitted one Subsidy of four granted to her, saying, *It was all one to her, whether the Money were in Her Subjects Coffers, or her own.* The same Queen, (saith (d) Cotton) for the ease of her People pawn'd the Jewells in the Tower; besides the often Mortgage of her Lands.

I could yet go on in Examples of this Nature, but because I have in good measure fill'd this Scale before in my fifth Section, with Princes of a like Pious Temper, I shall think fit at present to desist.

Secondly, these Depredations begot many good Laws for the firmer muniton of Property for future time; and particularly, this violence of Edw. I. was executed in the 25th Year of his Reign, and in that very Year (and not in 34, as our Printed Statute-Books say) was made the Statute *de Tallagio non concedendo*, with which the English defend themselves (saith Bodine) quasi Clypeo, as with a Buckler, against their Prince.

* De Repub.
lib. I. cap. 8.

* Ligneus
Gradus.

(e) Lib. 3.
Cap. 9. Co-
lunna 2510

(f) Math.
Westminster
Pag. 409, 410

Thirdly, this King (as our Chronicles affirm) laid this Outrage much to heart, and that before his Royal Palace at Westminster, environed with infinite numbers of his People, thither by him purposely summoned; and being rais'd upon an * Ascend or Pedestal, the better to be heard and seen (the Prince, Arch-bishop of Canterbury, and the Earl of Warwick also standing with him) [*Rogavit populum accepta licentia* (saith (e) Knighton) *ut omnia condonarentur ei, & orarent pro eo*]. He earnestly intreated the People that they would forgive him, and pray for him.

And (f) Matthew Westminster goes yet farther [*Rex erumpentibus lacrymis, (saith he) veniam de Commissis humillime postulavit.*] The King bursting forth into Tears, did most humbly ask pardon for what he had done,

(a

(a passionate transport of a Prince that before that time had rendred himself redoubtable among the Saracens as well as the French, and that had Triumpht over Scotland and Wales!) [*Dicens, saith the same Historian, se minus bene & tranquille quam Regem deceret, ipsos rexisse, &c.*] Adding, that he had not (he confess) Governed them with that Tranquillity and Tenderness which became a King and Father of his Country: That the Ayds which they had granted him, or that his Officers without his knowledge, had extorted from them, were all expended in repelling the Hostilities and Malice of those which thirsted after English Blood. Behold! (saith he) I am even now also going to expose my own Person to the hazards of War for your safety and Advantage, &c. And after he had excused himself to them, with all the sweetness of Expression, adds, (g) [*Et omnia ablata reddam vobis*]. And I will restore all that I have forced from you. And in pursuance of this Promise, forthwith makes an * Ordination of Council, to issue forth Commissions of Oyer and Terminer, into all the Counties of England, To enquire what things had been forcibly taken by his Officers, out of the Churches or elsewhere, from the Clergy or Laytie, either to guard the Seas, or for any other purpose, with Warrants or without, during his Wars with France, and to determine those matters. Farther arming his Commissioners with these Instructions. First, if the things were taken by the Sheriff or other Officer of the King, without Warrant, there the Officer to Restore and be Punish'd for the Trespass. Secondly, if the Warrant good, yet if the Bounds thereof Exceeded, then the Officer to make Satisfaction. Thirdly, were the Warrant good, and Executed according to the purport thereof, there upon Certificate, [Le Roy, (saith the Record,) *enterra tant qe il se fiendra a faire par Re-*

(g) Matth.
West. *ibid.*

* *Bundela Brevium de privato Sigillo in Tur-re London, Anno 25 Ed. I. & Pat. 26 Ed. I. Mem. 21.*

son,]

son] The King would thereupon make reasonable Satisfaction to the parties wrong'd. which *Commissions were accordingly executed, (some of which I have seen) in which are contained many excellent particulars, too long here to be recited.

* Pat. 26 Ed. 1. Memb. 21. De inquirendo super gravaminibus populo Regni factis, &c.

Now to compleat the Constellation of this Prince's Glories, I shall briefly add, First, that (*Ad Exonerationem Animæ H. Regis patris nostri*, as our * Records say) To discharge the Soul of his Father King Henry, he made Honourable Payment even of his said Father's Debts. Secondly, That though as to the above-mentioned Rapines, he might in some measure have Shifted himself upon the Evil Councils of his * Lord-Treasurer William de Marchia, and by this so fine an Artifice, have with the less Scandal drunk up the Tears of the Widow, and Sanguinated himself with the * Bloud of the Orphan; yet be thought such Act far beneath the Grandeur of a King of England, and to savour of an Exility and Narrowness, not at all Compatible with his own great and Stupendious Soul. And Lastly, when he was about to surrender this his Mighty Soul into the Bosome of the King of Kings, and had sent for the young Prince, to intill into his tender Minde no less than 34 years Experience in the King-craft; In the first place, (saith * Walsingham) he admonisht him [*Justum fore & affabilem universis, Constantem in Dictis & Factis, familiarem bonis, & præcipue Miseris misericordiam impertiri*] To be just and affable to all men, To be constant to his Word and Deed. To be familiar with good men; But above all, to be compassionate to the Distressed. So that upon the whole matter, notwithstanding this Objection, I think we may concur well enough with Sir William Herle Chief-Justice of the Common Pleas, who in

* Pat. 4 Ed. 1. 19. Intm.

* Math. West. Polydore Virgil vita Ed. 1

* Pecunia est Sanguis.

* Vita Ed. 1 Fol. 23.

in + 5 Edw. 3. saith of this Edw. 1. (in whose time he lived, and served him) [*Que fuit plus sage Roy que unques fuit*] That he was the wisest King that ever was in the World. And (* Bacon adds) the best Law giver to this Nation.

† Pasch. 3. Ed. casus 5. Cook's 21st. 535.

* Bacon's H. 7. fol.

For Edw. 3. his Rapines likewise produc'd very beneficial Laws to the Subject, as will be manifest to any man that shall peruse the Statutes of that time. It was an Action which he never justified, but Excused with singular Resentments, as appears by his Elegant Letter (extant upon * Record) to John Stratford then Arch-Bishop of Canterbury, In the which he recounts the Tallages, and Exactions, with which he had burdened his People, which (he saith) he could not mention without inexpressible grief of Minde; and there excuseth himself upon the inevitable Necessity of his Wars; and desires the Arch-Bishop to pacifie the people by Grant of Indulgences, Godly Exhortations, and to stir them up to pray for him, hoping ere long he should [*Beneficiis Compensativis Populum suum visitare & consolari*] make them Compensation, and give them Comfort.

* Rot. Almanniz 12 Ed. 3. Mem. 22. in Dorso, De excusando Rege Populum versus.

And was this Promise of his nought else but a thin Air, and Delusion? Nothing less, I'll assure you: For (to omit other Evidence) I finde by the Printed * Statutes of that time, That this Prince (the better to enable his poor Commonalty to pay their Subsidies, for carrying on his Wars) did frequently grant to them, the Amercements, and Forfeitures of all Labourers, Artificers, Reagrators, Vitailors, Hostlers, and other Malefactors throughout England. (a Matter of no despicable value.) Nay, (which is far more) for the Alleviation and Ease of his People in this kinde, he did not spare the several Times, (* *Invadiare magnam Coronam Anglie* (say our Records) to Pawn even the very Imperial Crown of England, once for 4000 l. to certain

* Old Book of Statutes 23 Ed. 3. cap. 8. 25 Ed. 3. cap. ult. 36 Ed. 3. cap. 14.

* Pat. pars 1. a. 17. Ed 3. Pat. 24 Ed. 3. Memb. 21. Claus. 30 Ed. 3. Com. de Term. Hill. 38 Ed. 3. ex parte Ken. Reg. gr.

certain Merchants of Florence, and twice after to Sir John Wessenham his own Merchant, in whose Custody it remained eight years together.

Object. There remains yet one Objection, with which I am enforc'd to encounter, *Se defendendo*, because I perceive it ready to assail me. And that is, that the Parliament is a great Body, (I speak it with all due Reverence) and moves slowly; and therefore if the Law allow not some other course (as this of Stopping the Exchequer, or the like) in raising Money in case of suddain Danger, the Kingdom may be Lost before the Parliament can supply; And like Archimedes, we may be plodding upon our Schetnes and Figures, when the Enemy is entring our very Harbours.

Sol. To this I answer, That all Wars are either Offensive or Defensive. If it be an Offensive War, it cannot be suddain; for it is the King's own Act, and supposed to be the result of Mature Deliberation, and so there may be time enough to call a Parliament, if it stand with his Majesty's good Will and Pleasure. For as the Law hath prescribed this Course alone, in such Case to supply the King with the Subjects Treasure; so it hath plac'd in him likewise the Power of using this Course as often as he thinks fit. And a War begun by the Consent and concurrence of the People (we see) is more vigorously prosecuted, and the Prince thereby becomes constantly more formidable to the Enemy. If it be a Defensive War by Forrain Invasion, which I shall (to avoid Cavil) agree may be suddain (though a Great * Statesman tells us, That these Clouds are commonly visible afar off, before the Tempest fall; to foretell which, hath been always conceived the Business and Care of standing Councils.) I say, if Forrain Invasion, then first, the Impulse of Self-preservation (an indelible Character wrote on every Man's minde by the very hand of Nature) will encline

* Comines
Lib. 5. cap.
ult.

all

all Mankinde to expose their Lives and Estates, which otherwise they must inevitably lose. And this seems to be the Case of this Kingdom, in the year 88. for there was then no Parliament sitting; but many of the Worthies of that time, (some of whose Names are * Transmitted to Posterity) at their own private Charges, brought in Men and Ships to the Common Defence.

* Cambden
vii. Elizab.
1588.

But Secondly, If we are to suppose that Men must be Drag'd and Hal'd to their own Preservation; I say then the Law hath provided, That in case of Forrain Invasion, every Subject within the Land, High or Low, whether he hold of the King, or not, may be compell'd at his own Charge, to serve the King in person. To prove this, I can vouch Authorities from Common Law, Statutes, and Records, which for brevity I will not quote at large; but (lest any man should doubt hereof) will only point where they may be found. For Common Law, see 7 H. 4. Brook Tenures 44 & 73. Fitzb. Protection 100. Cook 7 Rep. 7. b. Calvin's Case 2 Rolls Title Imposition 165. &c. 1 Inst. 69. b. in fine. 2 Inst. 528.

For Statute-Laws, see (among many others) 1 Ed. 3. cap. 5. 4 H. 4. cap. 13. 11 H. 7. cap. 1. 11 H. 7. cap. 18. 14 Car. 2. cap. 3. in principio.

For Records, (among many others that I have seen) I will crave leave to vouch two for Land-service.

* The First is 14 Johannis Regis, where (upon an imminent French Invasion) King John issues out Writs, in which he summons all his Subjects, High and Low, to repair forthwith to Dover, Ad Defendendum Caput nostrum (saith the Record) & Capita sua & terram Angliæ, & quod nullus remaneat qui Arma portare possit, sub nomine * Culvertagii, & perpetuæ Servitutis, &c.

* Math. Paris 234.
Math. West.
92.

The other is upon a French Invasion too, design'd against

* Base Cowardif., or Turntail; so the Glossaries.

H

against

* Rot. Francie, Anno 26. Ed. 3. Memb. 5.

against this Kingdom, in 26 Edw. 3. The which being a * Record so apposite to my purpose, I shall recite somewhat more at large.

Rex dilecto consanguineo & fideli suo Henrico Duci Lancatritz, salutem. Quia Adversarii nostri Francie Nos, & Regnum nostrum Anglie invadere machinantes, ad nos & Dominum nostrum, & totam Nationem Anglicanam pro viribus destruend. Nos considerantes Omnes Incolas dicti Regni cujuscunque conditionis extiterint, cum versetur commune periculum teneri de jure pro Patria pugnare, & eam contra Hostiles Aggressus defendere. --- vobis mandamus quod omnes homines defensabiles, tam Milites & Armigeros, quam alios quoscunque de dicto Ducatu cujuscunque status seu conditiones fuerint arraiari, & quemlibet eorum juxta statum & facultates suas, Equitaturis & Armis competentibus muniri, &c.

The like Provisions also hath the Law made for Sea-services. And therefore in Case of Imminent Invasion, the Kings of England have frequently Commanded, not only their Admirals, but the Warden and Barons of the Cinqueports, and others, to Arrest Ships of War, or other Vessels of Merchants, and to Impress and Provide Masters of Ships, Seamen, Arms, and all other Necessary Ship-tackle, for repression of the Common Danger. I shall not tire my Reader with Presidents, but shall rather choose to refer him to Mr. Prynne's Animadversions upon the Lord Cook's 4th Institutes, Fol. 127, 128. where he will finde quoted at least a Sack-full of Records, to that purpose.

I shall decline also here to enlarge upon sundry great Regalities and Flowers of the Crown, given purposely by the Law for the Defence of the Realm in times of Necessity and Danger, (As among many others) (a) Wrecks of the Sea, (b) Treasure Trove, (c) Mines of Gold and Silver, The Grand and Ancient

(a) Cook's 2 Inst. 167.
(b) Cook's 11 Rep. 91. b.
(c) Plowden 315. In case de Mines.

Ancient (d) Customs, and heretofore (e) Wardships, and the Dependances thereupon. (though by a late (f) Statute, it's true, now abolished, yet by the very same (f) Statute Liberally compensated). Neither shall I insist upon that vast Revenue of Tonnage and (g) Poundage, which was at first, and hath been all along, and is now still granted for the Defence of the Realm, and safeguard of the Seas in time of Necessity and Invasion; and so in terminis is expressed to be, in those (b) Statute-Laws whereby it hath been given, and particularly in the (i) Statute of 12 of his Majesty that now is, and accordingly recognized sometimes in the Royal (k) Declarations themselves. I shall onely observe, that the Law, in all probability, hath made these mighty provisions which I have recited, that the Crown might have no pretence upon any Occasion whatsoever, to alter the Subjects Property without his free Consent; or at leastwise these involuntary Phlebotomies to be forborn, except where the very Life of the Body politique, can by no other Applications be preserved.

I shall draw towards a conclusion of this Section, with a Case of very recent Memory, and of singular Notoriety, throughout the whole Kingdom; I mean that of the * Conflagration of our Ships by the Dutch, not many Years past in the River of Chatham. There prevail'd at that time an universal Jealousie among the people, that upon this Occasion some suddain Stop might be put upon the Exchequer; and thereupon the Bankers were exercised with restless Sollicitations for the speedy Payment of their Debts. The King for the sedation of these Fears and Apprehensions, is advised (And to the Eternal Honour of the Persons who gave the Advice, I write it) to issue forthwith his * Declaration, to preserve inviolable the course of

(d) Davis Rep. 9. v. Case de Customs.
(e) Cook's 1 Inst. 75. b. 35 H. 6. 41. a. 14 Ed. 3. Parl. 2. cap. 1. 7 Ed. 1. Stat de Morimain.
(f) 12 Car. 2. cap. 24.
(g) Cooks 4 Inst. fol. 32, & 33. Rush. Collect. 628.
(h) 1 Jacobi cap. ult.
(i) 12 Car. 2. cap. 4.
(k) Rushworths Collect. in the Appendix fol. 4 & 10. Declaration of K. Charles the first.

* See the Declaration at the end of this Treatise.

Payments in the Exchequer; which was accordingly done. Now let's see what were the grounds of this Declaration. Why truly they are exprest there to be, First, *Lest the Credit of the Bankers (who had been so useful to the King) might be weakned.* Secondly, *Lest the King's Securities might be undervalued.* Lastly, *Lest in consequence the Publick Safety might be endangered.* Now all that I shall say is this; That (of what value in Reason of State it may be, I know not, but) to men of vulgar Negotiation it seems a Riddle, and no small Myſterie, that these Considerations which at that time appear'd to have been of so Politique and Valuable Regard (as in truth they were) within the space of two or three Years, upon a like Occasion, should be thought by this Advisor clearly Obsolete, and altogether void of Prudence, And the Credits of the Bankers, Royal Securities, and the Publick Safety so little by him consulted. *Idem manens idem, semper facit idem.*

(1) Cabala of Letters, Fol. 43.

(m) Stat. de Alerton in Cokes 2 Inst. fol. 96, 97. &c.

* K. Charles the 1. Upon his Signing the Petition of Right. See Foultons Statutes in 2 Carols Primi.

In fine (as the Lord Chancellor (1) Bacon tells us) *The People of this Kingdom love the Laws thereof, and nothing will oblige them more than a confidence of the free enjoying of them. What the Nobles of this Land upon an Occasion once said with one Voice in Parliament. [(m) Nolumus Leges Anglia mutari], We will not have the Laws of England Altered, is Imprinted upon the Hearts of all English Men, who take themselves to have as good a Title to their Laws, as to the common Ayr they breath in.* And one of the best * Kings, perhaps, that ever was, once told his Parliament, his Maxime was this, **That the Kings Prerogative is to Defend the Peoples Liberties, And that the Peoples Libertie, strengthens the Kings Prerogative.** For if the Foundations be destroyed, I am sure the Pinnacles are not out of Danger. And

And therefore Sir *Walter Rawleigh* (a Man of no vulgar Observations) tells us a great Thing, and in no wise to be neglected, which is; *That the Kings of England have evermore sustained more loss by one Rebellion, than by a hundred years Observance of Magna Charta.* For therein (continues he) *our Kings have been forc'd to compound with Rogues and Rebels, and to pardon them; yea the State of the King, Monarchy, and Nobility have been endangered by them.* * His Prerogative of Parliament, circa Principium.

I have at length discharged my self of all the Grand and Colossus Objections in Law of this Case (unless that of Usury be accounted in that number, which I shall consider in the following Section) but in how tolerable measure I have done it, that I must leave to the Justice of my intelligent and impartial Reader. But if the said Answers, upon wise and honest examinations, prove substantial and effective (as I have no great Reason to doubt but they will) then I dare affirm, that this audacious Council of Stopping the Exchequer hath no farther support by the Laws of England, &c, but must of Necessity fall to the ground.

How this Case then stands in point of Common, Statute, Civil Laws, as also of the Records, and other Memoires of this Kingdom, we have seen in the preceding Sections. How it stands in point of Politie, Humanity, and Common Reason, comes in the next place to be considered.

SECT. IX.

That this Council is contrary to the Politie that have been practised heretofore by the Wisest Forreign States of the World, in far greater Exigences than Ours. The Objection (of Princes not repaying Money lent them by their Subjects, to keep them in better Obedience) Answered. The inconvenience that hapned at Rome upon an Impeachment of the Bankers and Usurers. The Objection of Usury against the Bankers, in our Case, considered, and answered. That Persons concern'd in the Stop of the Exchequer, will be Losers by loss of Opportunities for Bargains, &c. In this Interval.

ALL men agree that Rome (whether Monarchical or Republicque) was a State founded upon the choicest Politie that ever were practised in the World. And, (as (a) Florus saith) *he that Reads their Atchievements, contemplates not the Gests and Actions of one single People, but even of all Mankind.* Let us then consider, what Expedients this so prudent a Nation Exercised in Cases of like Nature.

It is plain, this State was never under a streighter Duress or Pinch, than after their dismal Defeat at the Battail of *Canne*; for then had *Hannibal* broke into *Italy* like a *Deluge* of the Sea, bearing down

(a) In Proemio ad Historiam.

down all before him; and at length this *Tempest* of War had begirt the very Walls even of *Rome*, with his *Triumphant Army*; and, which was yet worse, the *Roman Treasury* was totally exhaust.

In this Extremity *Levinus* and *Marcellus* the Consuls declare forthwith by *Edict*, That each private Person of such an Estate (and so others proportionably) should furnish out a Souldier at their own charge for Thirty Days. *Ad id Edictum*, saith (b) *Livy*, *tantus fremitus hominum, tantaq; Indignatio fuit, ut magis Dux, quam materia Seditiois, de esset.* Upon this *Edict* so hot was the rage and petulancy of the People, that there wanted nothing but a Leader, to have put all into a Combustion: The Commonalty crying out that they had now for many Years been loaded with Tributes, that their Lands lay Fresh and Devastated; and that they could not by any force be compel'd to give that, which they had not to give: And this and much more they spake, not in Corners, but even in the Market-place, and in the hearing of the very Consuls themselves. In so great an Agony of the Body Politique, the Lords of the Senate Assembled, to consult how they might with more security Levy Money, and string themselves afresh with new *Sinews* of War: after many temerarious Courses propos'd, and rejected, they thus reasoned, as (c) *Livy* and *Florus* relate, amongst themselves, *Omne Aurum, say they, Argentum, Aes signatum, ad Triumviros Mensarios deferamus, nullo ante Senatusconsulto facto, ut voluntaria Oblatio, &c.* Let us our selves that be Senators, first bring into the publique Treasury all our Gold, Silver, and Honey, and this too without any formal Decree, that is this voluntary Oblation of ours may excite an Emulation of supplying the Commonwealth,

(b) Livii Lib. 26.

(c) Livii Lib. 26. Flori, Lib. 2.

wealth, first in those of the Equestrian Order, and then of the Commonalty. In pursuance of this proposal, the Lords of the Senate brought in all their *Treasure* accordingly: Now see what the consequence hereof was. Hereupon (say the same (d) Historians) the Knights and Gentlemen followed the Example of the Senators, and the Commoners that of the Knights and Gentlemen; And the Contributions were so large, and the Conflicts so sharp for priority of Registering Names, that the Exchequer had hardly Books and Clerks enough to enter the particulars. (e) Bodine commenting upon this prosperous Council, hath these very words. *Cum Annibal Italiam quateret, Urbemque ipsum obsideret, Senatus diruto arario nova Tributa Subditis aut Sociis imperari noluit, Nihil enim prementibus hostibus tam periculosum.* When Hannibal had made Italy to Tremble, and had Besieged Rome it self, the Senate, though the Publick Treasure were spent, would not impose new Tributes upon their Subjects and Colleagues; For nothing, saith he, can be more hazardous upon an instant Impression of an Enemy. Neither is it to be forgotten, that the same (f) Historians add, that *Parta Victoria, &c.* That after Victory obtain'd, and the Carthaginians discomfited, the Senate had decreed the Repayment of every Lenders Money justly and Honourably, which was Executed accordingly.

(d) Livii lib. 26. Flori, lib. 2.

(e) Bodin de Repub. lib. 6. ca. 2. de Anno.

(f) Livii lib. 26. Flori, lib. 21. Bodin. lib. 6. cap. 2.

(g) Boterus de politica Illustri, &c. lib. 7. cap. 2.

The Learned (g) Boterus Relates a Story very apposite to this purpose. [*Ladislaus Dux Neopolitanus victus, (saith he) fugatusque ab hoste, &c.*] *Ladislaus* Duke of Naples being vanquish'd of the Enemy flies to Naples, and there consults about raising Money for the reinforcing of his Army, and had resolv'd (by the Advice of Persons more factious than

than *Wise*, saith that Author) to effect this, by Imposition of new and unusual Taxes: this being intimated to one *Gorellus*, (a person of singular Prudence and Gravity) he forthwith repairs to the Duke, and bespeaks him after this manner: I am afraid (GREAT SIR) that whilst you are solicitous of repelling the Enemy, you take no care of falling into the hatred and Malevolence of your own Subjects, by this imposition of a new Tribute: I beseech you Sir, what can your greatest Enemies breath after with a warmer zeal, than that you should follow a Council, that will assuredly dispoil you of the Love and fidelity of your People? Banish then, GREAT SIR, out of your Royal Breast so pernicious a Determination; for that Money which you want, my self with some other of your servants (who are to run the same Adventures of Fortune with your Majesty) will presently supply you. And taking a Pen in his hand, he put down what each Person (himself principally) was to pay, and the Money was in a moment brought in. *Prudentissimum sane pro re & tempore, &c.* saith Boterus. A most prudent Council for the matter and occasion, given by *Gorellus*, and approved by the Duke, by which, saith he, the wiles of the Enemy were prevented, and the Popular Quiet and Contentment consulted.

Now (because Contraries appear best by Opposition) I will produce one Instance or two, a little Diverse from These. *Augustus Caesar* had suddain News brought him of a vast Army in the raising by *Mark Anthony*, to encounter with him; The Prize to be fought for, was no less than the Empire of the World. *Augustus* (being young, and intigated by evil Counsels) squeezes the People with Taxes towards

* In Vita Antonii.

towards the support of this War. The people hereupon began to Mutiny, Inſomuch that (as * Plutarch Reports) the Wiſeſt men of that Time took it for granted, that if Antony in this Conjunction had approach'd nearer with his Army, the Romans would have aſſuredly revolted, and delivered up Cæſar into the hands of his Enemies. But, as he ſaith, the imprudent Delays of Antony gave time to the people of concocting their Diſcontents, and of the Sedation of their Paſſions. Neither is it to be neglected, that this Illuſtrious Perſon, after the defeat of Antony, and his own Acceſs to the Empire, took ſuch warning by this hazardous Miſtake, that ever after he abandoned all Councils of this Nature, And unto that degree, that in the laſt twenty years of his Reign, he laid out upon the Publick Benefits and Emoluments of the Commonwealth (as (a Suetonius Writes) little leſs than [Quater decies Millies * Sertertium,] That is, Eleven Millions eighty thouſand five hundred thirty three Pounds ſix Shillings eight Pence Sterling : Beſides his two paternal Patrimonies, and other his Inheritances. * Others report, thirty five Millions of Gold, beſides the two aforeſaid Patrimonies.

(a) Vita Octavii, cap. ultimo.
 * See for this valuation Budæus de Aſſi. Hackwel's Apology, and Savil's Notes on Tacitus Hiſtory, Lib. I. cap. 6.
 * Life of Auguſtus bound up with Plutarch's Lives.
 * In his Preface to his Notes on Tacitus.

And the Learned * Sir Henry Savile, imputes the immediate Cauſe of the Ruine of the Emperour Nero, to his unſeaſonable Exactions of Moneys, upon the firſt Tidings of Galba's Revolt. And therefore, (ſaith he) a Wiſe Prince will leaſt grieve the Subject with new Impoſitions in time of Civil and Publick Dangers, as ſeeming then (adds he) in ſome ſort to ſtand to his Peoples Courteſie; and having beſide Occaſion at that time, to employ their Bodies in his Service.

Many other Examples of the like Nature I could produce out of Hiſtory and Policy, which yet (for brevity ſake) I forbear to do, and haſten to

Object.

to Answer an Objection, viz. That as certain Authors affirm, ſome Princes have by great Uſuries Decoyed vaſt ſums of their Subjects Moneys into their Exchequers, and forborn afterwards to repay them, on purpoſe to Oblige their People to a ſtricter Obedience, and Fidelity to the Crown; And this Artifice (as Bodine Reports) was recommended as a ſubtile Project, to the French Kings, and accordingly practiſed by them.

Sol. I ſhall answer this Objection in the very words of the ſame * Bodine, in another place. [Hæc quidem tolerabilia viderentur, (ſaith he) ſi quod Regibus noſtris perſuaſum erat, Civitates, obſequio & fide majore, acceptis mutuo pecuniis, devincire potuiſſent; ſed nullis temporibus gravioreſ in Gallia tumultus, aut plures Civitatum defectiones, extiterunt.] Theſe Councils had been tolerable, (ſaith he) if as theſe State-Mountebanks would perſwade our Kings, the People by this Deteiner of their Money, would have been contain'd in better Obedience; but Alas! there were never more dangerous Tumults in France, or more frequent Revolts of Cities known, than in thoſe times.

* De republ. Lib. 6. cap. 2.

All States have tolerated Uſuries in one kinde, or Rate, or other; And it is impoſſible (ſaith the Lord * Bacon) to conceive the Inconveniencies that will enſue, not onely to Merchants, but to all other perſons, if the Borrowing of Moneys ſhould be cramp'd, and diſcouraged: Therefore conſideration for Moneys lent, hath been entertain'd (as the Scripture ſaith of the Judaical Divorces) for the Hardneſs of Mens Hearts. And the Endeavours of abolishing thereof have proved ſometimes Inconvenient, and Dangerous to the States where it hath been attempted. To prove which, I ſhall produce but one Example reported by Cornelius * Tacitus, who tells us, that in the Reign of Tiberius Cæſar [Migna viſ accuſatorum

* Eſſays.

* Annalium, Lib. 6.

torum in eos irrupit qui pecunias fœnore auclitabant, &c.] That a great *Rabble of Informers* rose up against those *Persons* which took excessive *Usury*, and thereupon every man calling in his *Debts*, on a suddain ensued a great Want and Scarcity of Money, and an *Universal Discontent*, and the Aspect of Affairs seem'd not very propitious; which being perceived by that *prudent Emperour*, he forthwith caus'd an Hundred Millions of * *Sesterces* of his own, to be put into the *Bank*, to be lent to all men that had Occasion, for three Years without *Interest*; and thereupon all things became calm and sedate again.

* 791466 l.
13 s. 4 d.
Sterling.

Having said this, I shall now with more advantage consider an *Objection*, which some few men I perceive are very fond on, and do not a little glory therein.

Object.

These *Bankers* (say they) are *Extortioners* and *Usurers*, and have taken greater *Interest* from the King for their Moneys to him lent, than the * *Statute-Law* allows; and thereupon by Force of that Statute they have forfeited all the Money they lent, not onely to the Ruine of *Themselves*, but also of their *Creditors*, who intrusted them, &c.

* 12 Car. 2.
cap. 13.

Answer.

In Answer hereunto, First, I must observe, that this *Objection* is built upon *common Fames* and *Reports*, and not upon legal *Convictions*, as the *Law of England* requires in this very Case, which saith, * *That Unlawful Usury shall never be presum'd, unless it be expressly found by the Verdict of twelve Men*, which hath not yet been done in our Case. And if the *Common Fame* of Crimes shall become forthwith a *Conviction* of those Crimes, - it is twenty to one but other men may be Sufferers in such an *Establishment*, as well as the *Bankers*, &c.

* Co. S. Rep.
16. b. Love-
day's Case.
Bridgman's
Rep. 112.
Web and
Jucks v.
Worfield.

But supposing (which yet I do not admit till it be proved) that these Men have received somewhat more than six per Cent. by way of *Bounty* and *Gratuity*

tuity from the King, for the Loans of their Money to his Majesty; yet (under favour) this *Objection* will still receive a sound and undeniable Answer.

And for that, I shall not insist, that *Other* men have been *Offenders* in the very same nature, and for the same Reasons, as well as the *Bankers*. Nor shall I consider how agreeable it will be either to *common Humanity* or *Justice*, that this Offence (if yet so it be) of the *Bankers* shall, like *Original Sin*, cleave to their *Creditors*, or that so many thousand *Widows*, *Orphans*, *Babes*, *Aged*, *Sufferers for Loyalty*, *Cripples*, *Blinde*, *Distracted*, &c. (for of such miserable persons is this Ragged *Regiment* for the most part compos'd) which were not in the least *Privy* or *Consenting* to this Crime, shall yet be *All* mingled together, without the least *distinction*, in one Common Ruine. *NO* shall I enlarge upon the Advantages which accrewed to the King in our late *Dutch Wars*, by buying *Necessaries* for the *Navy* with ready Money, and paying off the *Seamen* immediately upon the Ships coming into *Port*, and this in the time too of a great *Plague*, and other National *Exigences*; which (if we may speak a Truth) could not have been so readily effected without these *Mens* Supplies. *NO* Lastly, shall I debate how far this *Nation* may be concern'd in point of *Honour* and *Credit*, if men shall be invited and encouraged to lend Money by *Privy-Seal*, and *Publick Orders of Council*, with the Allurements of a little more than six per Cent. and yet after all, to take advantage thereof by way of *Forfeiture*; Ina much as in unlawful *Compacts* and *Bargains* all the *Parties* concerned are usually conceived to be *Criminis Participes*, or *Sharers* in the Offence. These are *Considerations* which I do not altogether abandon, and that (in so passionate and extensive a *Calamity* as this is) may perhaps deserve a due *Re-*
gard,

gard: And I doubt not but many sober, and true Englishmen, which are solicitous of the Honour and Justice of their Country, and that cannot but retain a generous Sympathy for their Relations and fellow-Subjects, will not slightly pass over them.

But because the said severe Objectors, will allow nothing to their Countrymen in so calamitous a Case, but that which we call *Summum Jus*, or the extremities of the Law, I shall encounter these Gentlemen at their own Weapon, and shall joyn Issue with them in this Case upon the point even of their very own *down-right Law*, if that will satisfie them; which (for brevity) I shall not here argue at large, but shall rather choose at present to propose it to their consideration in these Three following *Queries* (upon which yet when they have well ruminated, I suppose we shall hear no more of this *Objection*).

1. First, *Whether Talleys of Loan struck in the Kings Exchequer, and Orders Registred upon any Branch of his Majesties Revenue, for Moneys lent to his Majesty, are not Contracts and Securities, out of the meaning, as well as out of the Letter of the Statute against Usury? As also, whether the King may not gratifie and reward a Subject upon Loan of Money to what value he pleaseth, notwithstanding the Statute of Usury; though one Subject may not do so to another Subject?*

* Entitled an Act for granting to his Majesty a Subsidy for supply of his extraordinary Occasions.

2. Secondly, Whether when the * Act of 22 and 23 of his now Majesty hath taken Notice of these Persons by the very name of *Bankers*, and as of Men borrowing and lending great sums of Money for extraordinary Lucre and Profit (for those are the words of the Act), and for that Reason charges them and their Creditors with 15 s. to the King for every 100 l. to them owing: And farther Enacts in these very Words, *That all Moneys lent to his Majesty for which above 6 l. per Cent. shall be*

owing

owing or payable by his Majesty upon the first of May 1671. either as Interest, Consideration, Gratuity or Otherwise, shall pay 15 s. per Cent. to the King. Whether (I say) this Act hath not plainly and undeniably dispensed with, and control'd the said Act against Usury, so far as it relates to the Bankers, and their Creditors, for so much Money as was at that Time owing to the Bankers by his Majesty? And that First, because where ever a Statute-Law charges a mans Estate with a sum of Money, that very Law doth always necessarily suppose and admit a legal and durable Right to that Man, in the Estate so charged. Secondly, because (our * Books say,) *That by the Law of God and Man, no person ought to be punish'd or mulct twice for one and the same Offence, as the Bankers and their Creditors will be, if they be mulct a second time upon the said Statute of Usury.*

3. Thirdly (which some Men call a blow with a Brown Bill) *Whether this Usury (if so it be) of the Bankers, be not absolutely and undeniably discharged by the late * Act of general Pardon of the Twentieth of his now Majesty?* for if that happen to be the Case, (as without doubt it doth, and will appear to be so, to any man that shall peruse the said Act of Pardon); then this their mighty *Objection* is clearly out of Doors. For whereas two things are only considerable in the Offence of Usury, (as in all other Offences,) viz. The *Reatus* or Guilt, and the *Pena* or Punishment; An Act of general Pardon (say our * Books) expunges and wipes out both these Contaminations (as to this World) as if they had never been: And the Party offending, in an Instant becomes thereupon a *Novus Terra Filius*, or an absolute new born-Creature.

These are *Notions* I could easily enlarge upon, and if they be questioned, I doubt not (under favour) but to inforce them by undeniable Proof in Law and Reason. I shall now then shut up this Section

with

* Co. 8. Rep. 118. b. Dr. Bonham's Case.

* Entitled an Act of general Pardon. See the Act.

* Latches 1 Rep. 22. Bostons Case. Ibid. 141. Davys's Case. Co. 6. Rep. 13 b. Le Parson de Isbock's Case. All express in the Point.

with this *Observation*: That though the *Exchequer* here be again *Opened*, (as in good time I hope it will) yet the Persons therein concern'd will notwithstanding sustain *Infinite Damage*, in point of irreparable loss of those Opportunities of advantageous *Bargains, Marriages, and sundry other particulars, which in this Interval* have been offered unto them.

S E C T. X.

That this Council is contrary to the Common Reason of Mankind, and in some respects against the Rules of Humanity. That it is pernicious to the Credit of his Majesties Exchequer in particular; And may prove Mischievous to the whole Kingdom in general. The Case between Philip the Second of Spain, and the Bankers of Genoa, truly stated, and demonstrated to be essentially different from our Case. Campanella's Advice to King Philip, to make speedy Payment of that Debt.

IT is a Rule that hath prevailed among all Nations (as well *Barbarous* as *Civil*) That *Quod Omnes tangit, ab omnibus debet supportari*. And again, *Qui sentit Commodum, sentire debet & Onus*. Where the *Utility* and *Peril* is common, there the *Charge* and *Contribution* ought to be common also. But I doubt, if this *Council* happen to be weighed in this *Balance*, it will prove light; for as it is plain, that the *Defence* of the

the Kingdom was at that time an *Utility* to the whole, so it is as evident that the *Charge* thereof was fastned upon a *Part*. What is this, but as if the *States* of *Holland* should impose the *Expence* of *Defending* their *Country* from the *Sea*, upon a *parcel* of their *People*? Or (if we may compare great things with small) as if the *Banks* and *Walls* of the great *Level of the Fennes*, should be maintained by a *small* Number of the *Proprietors*? And yet this seems to be the present *Case*; and how far this Proceeding is agreeable to the *Common Reason* of *Mankind*, I leave to the *World* to Judge.

But this is not all neither; For this *Charge* is not laid only upon a *Part*, but in great measure upon the *most Impotent* and *Necessitous* part of the Kingdom, and upon many of those *Glorious Worthies* which (maugre all the *Temptations* and *Menaces* of *Wicked men*) preserved their *Virgin-Loyalty Chast, and Undeveloped*.

I have observed that some persons in *Parliament* have used it as a *Motive* to supply our *Kings* with *Money*; because, say they, *That which you give, is but like a Vapour exhaled by the Sun, which gathereth into a Cloud, and in short time Distils again upon the Earth in gentle Dew, and fructifying Showers*. But this *Advice*, what was it, but to draw up the *Tears* of *Orphans* and *Widows*? the *Milk* of *helpless Babes*? the *Sweat* of the *Labourers* *Brow*? and the *Heart-Bloud* of several poor *Loyalists* (among others) to fertilitate the *Lands* of many *Persons* which (not to say worse) wallow in all *Affluence* and *Riches*? Or (if I may use a (a) *Scripture-Metaphor*) to take two *Legs*, or a piece of an *Ear* of a *Lamb*, which we had rescued out of the *Jaws* of the * *Lion*, and the * *Wolves*, and give them to the *Rich men* that have many *Flocks* and *Herd*s. For nothing is more *Evident*, than that many of those poor *Creatures*

(a) Amos 3:
12. compo 21
wub 2 Sarat
12. 2.
* Council
Sequestra-
tors, Com-
mittee in eng
Decimators
that
w. c.

that had but one hundred Pound in all the World, had that All taken from them towards the Defence of the Kingdom, when many Others that were worth hundred thousands, expended not a Farthing at that time. An Advice which hath reduced into Practice that * Barbarity, which one heretofore did onely wish; that hath at one dismal Blow (as if they had all had but one Common Neck) Beheaded so many thousand poor innocent Persons. If yet it be not less Cruelty still, to take Men off at one single Stroke, than to let them Languish, and feel themselves die! than to bleed out their Souls by Drops! than to let their Eyes behold their own Bread torn out of the Mouths of their Starving Wives, Children and Families! And now what shall I say?

* Suetonius
in Vita Caligulae, cap. 30.

Quis talia fando
Temperet à Lacrimis?
Pudet hæc Opprobria Nobis
Et dici potuisse, & non potuisse refelli?

Who can hear
This Tragedy without a Tear?
Is't not a shame
This should be prov'd, yet none redress the Blame?

Now for the Influences this Council may have upon his Majesty's Exchequer, in all likelihood they cannot prove very Propitious and Benigne. Few things have been more dear to Princes than the Reputation and Glory of their Exchequers: And Queen Elizabeth was so punctual in this particular, that in her time (they say) it went for a Proverb, **As sure as Check.** For (as a great * Author Writes) *Outward Esteem and Reputation is the same to Great Persons and Things, which the Skin is to the Fruit, which*

* Lord Herbert H. 8.

which though it is but a slight and delicate Cover, yet without it, the Fruit will be subject to discolour and Rot. He that hath a minde to contemplate the Consequences of a discredited Treasury, let him but consider the Cases of Henry the second of France Reported by * Bodine, and of our King Henry the 8th, by the Lord * Herbert (for I would rather they should declare them than I.)

And as this Advice hath no benevolent aspect upon the Exchequer in particular, so (if it be not redrest) it may prove equally mischievous also to the whole Kingdom in general. To explain myself herein, I will suppose that some National Exigence or Danger (which God of his Mercy avert) may possibly hereafter happen unto this State. It is plain, this Danger cannot be repell'd or encounter'd without Men; these Men cannot be had without Money; this Money cannot be rais'd (as I have before effectively prov'd in this Discourse) without Parliament. I will then farther suppose, that the Parliament of that Age doth give unto the King a sum proportionable to the said Danger; this sum will yet require a considerable time (as we finde by Experience) in the Collection and returning thereof; and still the Danger is urgent, and presseth forward: So then there remains no other Expedient, for present supply in the said Exigence, but to Borrow Money from the Subject upon the Credit of the Exchequer. (Hereupon in an instant come the former Credits and Justice of the Exchequer into debate, and, let us flatter our selves as we please, Men will be satisfied in their * Securities before they part with their Money) I will appeal to any man then, whether if a Loan of Money should be desired from him in such an Exigence, he would not naturally be apt to glide into such Discourse within himself: *That which has been done, may be done*

* Bodine
Lib. 2. caps.
4. in fine.
* Lord Herbert's Hen.
8. last leaf
but one.

* The Adviser perhaps design'd no more Borrowing, but Taking

again: Other men had their Moneys secured by Royal Declarations, Great Seals, Common Law, Acts of Parliament; and yet after all these, the Faith of the Exchequer broken, and the Lenders (with many thousand Families under them concern'd) irreparably Ruin'd and Beggar'd. If they can (continues he) give me Securities more sacred and binding than these, I will adventure once more to lend; otherwise, &c. And in this part (in this part, I say, Reader) lurks the pernicious and Mortal Venome of this Council; for here by the Royal Securities (which next to those of the great King of Kings, ought to contain the highest Sanctimony and Assurance) are vilified, and prophan'd, and rendred cheap in the Eyes of the Populace; and consequently the Defence and Preservation of the whole Kingdom in time of Danger and Necessity, thereupon debilitated and undermined: And I may well cry out of this Advice, as Laocoon did of the destructive Stratagem of the Trojan-Horse.

* Virgil's
Æneids, Lib.
2.

* *Aut hoc inclusi Ligno occultantur Achivi,
Aut hæc in nostros fabricata est Machina muros.
Inspectura domos, venturæq; desuper Urbis,
Aut aliquis latet Error, Equo ne credite Teucris.*

Now (because Black is best distinguished by the opposition of White) I will produce one short Instance (and I shall not go many years back to finde it) where the Credit and Faith of his Majesty's Exchequer was of infinite Advantage to the whole Realm of England. We all know, that in June 65. (under the Conduct and Courage of that gallant and thrice Renowned Prince JAMES DUKE OF YORK) this Nation obtained a Naval Victory against the Dutch, for Glory and Advantage not to be parallel'd in all our Histories. The * Parliament,

* By Act of
16 & 17 Car.
2. cap. 1.

it's

it's true, before, had given his Majesty a sum of Money proportionable to so great an Achievement; but yet they had limited the said Sum to be raised by twelve quarterly Payments, and no sooner; the first payment to begin from the 25th of Dec. 64. Now it is plain the said Victory could never have been obtained without setting forth a Fleet; and it is as plain, this Fleet could not have been set forth without Money; and it is yet plainer, that this Fleet could never have been set forth with that Money, which (by the express limitation of the said Parliament) was to be six and thirty Months in the Collecting and Paying. It will be worth our enquiry then, to know how the said Victorious Fleet came to be set forth. Why truly the Answer is very ready and obvious: *The Fleet was set forth with the Money which sundry Private * Persons lent unto his Majesty upon the Inviolable, Sacred and Divine Credit of his Exchequer: This Credit was the Primum mobile which put all those lesser Wheels in motion.* And now Behold a Miracle in an instant wrought by the Vertue and Sanctimony of the said Royal Credit! The Dutch were discomfited, their Fleet ruined, and the said glorious Victory by our Nation obtain'd, before the very first quarterly Payment of the said Money given by the Parliament, was Collected and brought in! Of such Moment and Importance to the whole Kingdom was the Faith of his Majesty's Exchequer in those days! Neither is it altogether to be forgotten, that One particular Person supplied his Majesty with a moiety or one half of the Money that was at that time expended in the paying and equipping of the said Fleet. Not to say any any thing that He proceeded in Loans of the same nature, during the Fury of the most dismal Plague that this Nation ever felt;

* Those a-
gainst
whom some
few men
now so
much Ex-
claim.

which

which Person notwithstanding is now the deepest sharer in the Calamity of the present *Stop* of the *Exchequer*; and under him, his numerous *Creditors*.

I shall no farther pursue the Pestilence of this *Council* in this particular (it being so obvious to the meanest Understanding) but shall now State the Case between *Philip* the Second of *Spain*, and the *Bankers of Genoa*, as I have extracted it out of the best * *Authors* I could find, which treat upon that Subject.

Thuanus Hist. Lib. 61. Anno Dom. 1575. Metarani Hist. Belgica Lib. 5. Bodine de Repu. Lib. 6 Campanella's Spanish Monarchy, c. 21. Heylin's Cosmography in Genoa. Lafitau's Voyage into Italy, 1 Part pa. 99. cum multis aliis.

Charles the Fifth, Emperour of *Germany*, had for a long season revolved in his mind, how he might render the *State of Genoa* obsequious, and dependant upon himself; and this he did (among other Reasons) that he might, as occasion served, with the greater facility Transport his Armies out of *Spain*, thorough this Territory into *Italy*. In Order to this, sundry Experiments had he made, which yet by the Jealousies of that People, were always rendred *Improperous*. *Charles* (being as he was, a Prince of prodigious *Subtility*) falls upon new *Councils*; he considered he had to do with a People that dealt much in *Money*, and were generally great *Bankers*, and *Merchants*; and therefore concluded, that if by extraordinary *Usuries* he could allure their *Money* into his *Exchequer*, he should then be in possession of the best *Hottages* they could give him for their *Fidelity* and *Observance*. This Emperour dying, *Philip* his Son, after his *Fathers* Example (to make the *Birds* more Confident, and less Jealous of the Snare) proceeds for some time to feed these unhappy *Money-Changers* with excessive *Usury*, till by this fine *Dexterity* he had conveyed into his hands no less than Four hundred and twenty Dutch *Tunn of Gold*; some say Eleven, others Eighteen *Millions of Gold*; and then secures this Debt to them very fairly upon the *Tributes of Spain*, and the *Indies*.

Indies. The silly *Birds* were now very secure, and Sate fair, and there wanted nothing but the drawing the Net. Thereupon King *Philip* (being exhausted with his *Low-Country Wars*, and withal) sensible of the *Weight* of so ponderous a *Debt*, takes occasion at first, to cavil at some little *Misreckonings* in the *Accounts*, and a while after insisted that he had heretofore paid them more *Interest-Money* than they ought to have received; and therefore (quoth he) that *Overplus* ought, in all Reason, to be deducted out of the *Principal*: and thereupon by *Publique Edict* (taking the *Opportunity* likewise of some *Civil Discords*, which at that time raged among them) forthwith stops their *Pensions*, issuable out of the said *Tributes*. And then to fortifie this *Act*, by secret *Combination* with the *Pope* (to render the *Action* more specious) procures a *Bull* from his *Holiness* to confirm all that he had done: however, for so much *Principal Money* as was afterward agreed to be due (which in the Year 1600 I find was One *Million and half of Gold*) the *Crown of Spain* hath ever since to this day, *Justly* and *Honourably* satisfied the *Interest*.

This is the true *State of this Case* (according to my *Discovery* thereof). Now it will be evident to any person that shall compare these two Cases together, that they differ each from other in sundry *Essential Circumstances*. For

First, this *Severity* of King *Philip*, was not exerted upon *Children* and *Subjects*, but upon a *Forreign State*, of which *Spain* had then just causes of *Apprehension* and *Jealousie*; and so the *Action* well enough consistent with the *Rules of Policy*.

Secondly, the *Envy* and *Enormity* of this *Feat*, was by a curious *Legerdemain* juggled upon his *Holiness*, and King *Philip* to all outward appearance rendred innocent thereof: This *Debt* (saith Peter

(d) Heylin's Cosmograph.

(e) Metarani Hist. Belg. Lib. 5.

(f) Bodin de Rep. Lib. 6. cap. 2.

(d) Heylin) was cut off by the Pope's Authority, that so King Philip might be obliged to that See. Hoc debitum (saith (e) Metaranus) per Pontificis decretum propter ingentes Usuras, fuit diminutum, & moderatum. This Debt by the Pope's Decree was moderated, upon pretence of excessive Usury. And (f) Bodine Drolling facetiously upon the Proceeding, [Sed risu digni res est, (saith he), quod non modo Genuensibus, verum etiam ipsi Philippo, &c.] It was thought very pleasant, and Ridicule (saith he) that not only the Genoeses, but Philip also should be Interdicted; He, because he took Money to Usury; They, because they lent it. However they were Both (this being done only by Compact, and to give the better grace to this neat Emundure or Wipe) in a little time Absolved again.

Thirdly, in this Case the Interest-Money was, and is punctually satisfied, and I wish I could affirm as much in Ours.

Fourthly, I do not find that this Debt of the Genoeses was secured unto them, by any Act of the Cortes, or Parliament of Spain; and so the Common Faith of that Nation inviolate. But in our Case, our Debt is secured to the Bankers, and their Assignees, by National Obligation, as I have, I think, above most evidently proved.

(g) Campanella Span. Mon. Cap. 21

Lastly, (g) Campanella the Jesuite (a man of infinite Subtilty, and one that seems to be even anxious, and eaten up with zeal for the Grandeur and Prosperity of Spain, the which he cultivates with so singular a diligence in his Discourse of that Monarchy; This very Man (I say) doth with all his vigor, not only Advise, but Importune King Philip, with all speed to pay this Debt to the Genoeses: Lest, saith he, (among other Reasons there given) if there should happen any Rising in Italy to the prejudice of that King, the Genoan Banners might march also along with them for Company. So

So that then Upon the Whole Matter, I shall not much doubt to Marshal our present Case of the Bankers, &c. among the Anomala, or Cases without President; And may well use the words of the Roman * Cryers, (when they publish'd their Ludi seculares, or Sports shew'd but once in a Century, or Age), Venite, & videte, quod nemo mortalium antequam vidit, neque postea visurus est. Come away (good People) and behold that which no Mortal man hath seen before, or shall I suppose, ever (here) see again.

* Godwin's Roman Antiquities, lib. 2. Sect. 3. Cap. 8.

The

The Conclusion.

I Shall (I hope *Auspiciously*) take the rise of my *Conclusion* from two or three memorable *Records*. The one relating to *Widows* and *Orphans*, the other to those *Worthies* who with their *Lives* and *Fortunes* had many Years ago, *propugn'd* the *Rights* of the *English Crown*.

That which concerns the former, I shall for the *Excellency* thereof (so far as concerns my purpose) *Transcribe Verbatim*.

* Inter Com-
munia termi-
no Mic. 35
Hen. 2. in Offi-
cio Kemem.
Thes. in Scac.
Rot. 2. Intus.
Præceptum
Domini Regis

* *Die Veneris proximo ante Festum beati Edwardi, Anno Regni Regis Henrici tertii 34, venit Dominus Rex cum suo Concilio ad Scaccarium, & ibidem proprio Die, præcepit omnibus Vicecomitibus Angliæ, tunc ibidem existentibus, Imprimis, quod modis omnibus observarent & manutenerent libertates sanctæ Ecclesiæ, & similiter manutenerent Pupillos, Orphanos, & Viduas, & celerem eis Justiciam Exhiberent, &c.* Here we have it *Registred* to all *Futurity*, That the glorious King Henry the third, came in his own Royal person into his Court of *Exchequer*, environ'd with his *Illustrious* Councillors, and there with his own Mouth gave it in charge to all the *Sheriffs* of England, That in the first place (next after Holy Church) they should defend the * *Orphans* and *Widows*, and do unto them *speedy Justice*.

* Prov. 29.
14.

In the next place, for the *Loyal Worthies*.
The

The great King Edward the first did * *grant to his Loyal Subjects, Gentlemen, Clerks, Souldiers, and others of Gascoigne, their Heirs and Successors* [Per le Reson de lour services, Et Rents, Terres, & Benefices qil ont perau per le guerre qe adeste entre le Roy de France, e Nous] (saith the Record) *In consideration of their Services, and the loss of their Estates, and Benefices, by reason of their Loyalty to him during his Wars with France, All the Moneys arising out of the Dismes, lately granted to him by the thrice Holy Father Pope Boniface the 8th. And (the better to secure the Performance hereof) the King doth there binde his Heirs and Successors, and all his Goods and Chattels thereto. The Prince of Wales, and some of the Bishops there promising, and several also of the Nobles there Swearing upon the Holy Evangelists, that (to their power) they would see this Grant accomplished. And by another * Patent, he assigns likewise to the same Persons, for the same Reason, All the Profits of the Religious Aliens within the Realm of England, which he had then seized into his own hands by reason of the French Wars (Two Boons or Donatives in those days of no inconsiderable value.)*

* Pat. 30
Ed. 1. Memb.
12. pro Ho-
minibus de
Vafcon. de
Decima
R. concessa,
eis assign.

Among several * *Articles* exhibited by the Lords of the Council in the Parliament of 8^o of H. 6. and confirmed there by the Three Estates, and sworn there immediately by the said Council to be observed, the Eleventh is this, *Verbatim*. ITEM, That in *Benefices* and *Offices* belonging to the Kings *Disposition*, when that *voiden* thoo that hath ben *Servants* to the Kings *Fader*, or his *Grandfire*, or be to the King that now is, shall be preferred thereto, so that that there be found among hem *Persons* able thereto. And

* Pa. 30 Ed.
1. Memb. 12.
De Exitibus
terr. Alieni
genarum in
Anglia a-
sign. Homi-
bus de Vaf-
con. per Re-
gem.

* Rot Parl.
8 H. 6. Num.
27. Coke's
4th Inst. 56.

three

*Rot. Parl.
11 & 12 H.
6 Num. 18.
Cokes 4th
Inst. Fol. 56.

*Reward.

*John de
Serres in Vi-
ta H. 4.
Franciz.
(c) 7 July
1606.

three year after, among the * Articles (*pro Regni Commodo, for the Profit of the Kingdom*) brought by John Duke of Bedford the King's first Uncle into Parliament, and there solemnly confirmed: this was one, viz. *That a Book be forthwith made of such Old Servants, and Feeble, which had dispended their youths in the service of the King's Grandfather, his Father, or himself, to the Intent that such of them, (I shall give you the very words of the Record) Which are without any Livelyhood or * Guerdon, and so now in great Mischief and Necessity, and some but easily guerdoned, and not like to their Desert and Service, may when Offices, and Corrodies fall, have them confer'd upon them, having Consideration to the hability of them, and to the time that they have served. And in the same wise of Benefices unto Clackes.* And (if I may borrow an Example from a Neighbour-State) the great * Henry the 4th of France (his Majesties Grandfather) did by irrevocable (a) *Edict, grant large Donatives and Pensions to those Faithful Worthies which had been Wounded, or Beggared in his Service.* It seems to me these Mighty Princes did consider Loyalty as a Plant that would not prosper so well, unless it were Watered a little at the Roots. For, let us flatter our selves as we please, the Frailties of Humane Nature are not altogether to be neglected, Seeing the great Empires of the World have been, and ever will be, gain'd and conserv'd by the just Applications of Reward and Punishment. And it often fareth with Vertue abandon'd of Recompence, as with an Un-endowed Beauty; she may perhaps finde those which will Flatter and Complement Her, but few that will Esponse, or abide by Her in Extremities. Not to say, what yet I finde advised by

by a most Excellent * King to his Illustrious Son, viz. *That with an equal Eye, and Impartial Hand, he distribute Favours and Rewards to all men, as he findes them for their real Goodness, both in Abilities and Fidelity, worthy and capable of them: This will be sure (saith he) to gain you the Hearts of the Best, and the most too, who, though they be not Good themselves, yet are glad to see the severer ways of Vertue at any time sweetned by temporal Rewards.* Nay, do not the sacred Scriptures tell us, that the Heaven-Familiar Moses, Did choose rather to suffer Affliction, &c. But why? For he had respect to the Recompence of the Reward (saith the Holy * Apo-
stle). And (which is yet infinitely more, and I write it with that Reverence which becomes me) even the most Blessed Jesus himself, * For the joy that was set before him, endured the Cross, &c. (they are the very words of the Text) he endured the Cross then, but it was for the Joy, &c. And the Holy Scriptures (we know) were wrote for our Instruction, and Example; and (as * some have observed) every word thereof contains either *Mystery or Document.*

I hope no Body will think me so *Presumptuous or vain*, as here to prescribe *Examples and Presidents.* I know well, that when we have served God and the King with our Lives and Fortunes, we are notwithstanding unprofitable servants, and have still done but our Duties; And accursed be he that will not Dye at his Princes Feet, when Need may require, without Reservations. Onely this I shall say (and I write it with an humble Modesty) *That I hope We that have espoused (a fair and Vertuous, but yet) an Unendowed Loyalty, shall not be forc'd to Compound once more under our Friends; but that we shall be thought Now as worthy of enjoying our*
poor

*ΕΙΧΩΝ Βα-
σιλική Με-
ditation 27.
Advice to the
Prince of
Wales.

*Heb. 11. 25,
26.

*Heb. 12. 2.

*Marquest
of Malvezzi
on Tacitus
Discourse 19.

poor Remnants and Scraps of Estate which the **Squeezers**, &c. have left Us, as the said **Loyalists** of former Ages were, of receiving their **Guerdons, Donatives and Rewards.**

I do never without a secret Exultation of Mind consider this following *Memoire*, that I find of *Augustus Caesar*: Upon the Defeat (saith my * Author) of *Mark Anthony* at the Famous Battail of *Actium*, *Augustus* commenc'd *Emperor* of the *World*. Some few Years after, a certain *Old Soldier* (that in this Battail had done *Caesar* good service) hapned to be impleaded for his *Life* before his *Imperial Majesty* and the *Senate*. The *Soldier* implores *Caesar* (then present) to help him in this *Distress*. *Caesar* recommended him to an able *Advocate*: the rough *Soldier* not contented with this, forthwith rips open his *Bosome*, and exposing to the view of the whole *Court*, the Marks of the *Wounds* which he had received at the said Battail of *Actium*; **These Wounds** (quoth he) **O Caesar, have I received on my mangled Body in thy Defence, and substituted no Deputy in my Place!** *Augustus* hereupon (overwhelm'd with the *Passionateness* of the *Adventure*) presently stood up, and pleaded the *Soldiers Cause* himself, and carried it. An *Action* certainly well befitting an *Emperor* of the *World!* And are there not many wretched *Persons* concerned now with the *Bankers*, whose *Fathers, Husbands, Children*, and other *Relations* have asserted the *Crown* of *England* with their dearest *Lives* and *Fortunes*? Nay, are not several of that kind surviving, which do yet bear in their *Miserable Bodies*, the *Scars* and glorious *Remarks* of their *Loyalty*, received in the *Battails* (I do not say of *Actium*, but) of *Edge-Hill, Newberry, Nusby, Worcester, Marston-Moor*, and indeed where not? And shall we imagine that our *Caesar* (a *Prince* of such eminent

* *Vita Octavii Augusti*, bound up in *Plutarch's Lives*.

eminent *Clemency* and *Justice*) will suffer these *Persons* and their *Families* to languish and starve for want of that which is their *Duety*? and not be a *Patron* and *Advocate* for them in so *Just a Cause*?

I dare be confident his *Majesty* is inexpressibly sensible of this *Calamity* which is fallen upon Us, and his *Royal Bowels* yern with *Compassion* towards us. Neither is the *Delay* of *Payment* hitherto (in pursuance of his * two latter *Printed Declarations*) any *Defect* in His *Majesties* innate *Justice*, but an *Excrescence* and unhappy *Superfetation* of the first pernicious *Council* of *Shutting the Exchequer*. To think otherwise, were to blaspheme the greatest *Sweetness* of *Nature* in the *World*; And to prophane that *Illustrious Prince*, of whom no man ever yet form'd a *Thought*, but his *Mind* was presently fill'd with the *Idea* of all that is *Great* and *Just*.

There be some things which possibly I have forgot, and other things which I have, perhaps, industriously *Omitted*. If any *Matter* have fallen from me *inconsiderately*, (as in so long a *Discourse* may easily happen) I do with unspeakable *Humility* and *Prostration* beg *Pardon*; requesting this one *Favour*, That no *Person* would hastily *censure* me, or those *Worthy Persons* in my *Condition*, until they have first with all *Circumstances* Represented Our *Cases* to themselves, as their *Own*; and then let them *censure* on, and spare Us not.

Farther offering this short *Argument* or *Dilemma* to their consideration: *Either that which I have Asserted in this Discourse is Law and Reason, or it is not.* If it be *Law and Reason*, I hope there is no *Englishman* but will be of *Opinion*, that this *Crying Debt* ought to be satisfied, **Either by OPENING THE EXCHEQUER,** (by which I mean a *Restoring* of all *Mens Securities*

* *Declarations* of 2. Jan. 71. And the 11th of December 72.

ties to their Right of *Primogeniture*, and Priority of Payment, in pursuance of the *good Laws* of this Kingdom, and of his *Majesties* Publique gracious and inviolable *Promises*, from which *Right* the said Securities have been now for almost four years wrongfully *Disenherited* (to say no more) by Debts and Charges of a *younger Birth*; Nay, and for twenty nine *Kalendar-Moneths* stop'd without any Warrant, whatsoever * *Publiquely* declared), Or by some other *fiting and Just Expedients*. If it be not *Law and Reason*, It will be but *Charity* in some Body (that hath a better Opinion of this Advice than I have at present) to rectifie my Errors and Mistakes, and in a *sober and generous* Way (for *Raillery* and *Quibling*, upon this Subject will do no wonders) to refute my Arguments.

* De non ap-
parentibus,
& non exi-
stentibus ea-
dem est Ratio

In the last place, I do here (with that Submission that becomes me) solemnly enter my *Protestation*, That I have written *Nothing* in this *Treatise* but with a *Mind* at all times ready to *sacrifice* the *Body* it dwells in, to the *Honour, Happiness, and Safety* of my Gracious *Sovereign*, and my Dear *Countrey-Men*; Nay, upon that *Glorious Account*, prepared always to suffer *More*, than He or They deserve, That advised His Majesty to the *Stopping* the *Exchequer*.

Illud omnium maxime tenendum erit a Principe, ut Fortunis alienis temperatum fuisse cognoscatur: Nam citius PARENTUM CÆDEM Oblivioni dant Homines, quam Fortunarum suarum Direptionem. Nic. Machiavelli Princeps, Cap. 17.

Concilia callida, & audacia, primo fronte Leta, Tractatu Dura, Eventu Tristia. Erasimus in Epistolis.

His

His Majesty's Declaration to all His Loving Subjects, to preserve Inviolable the Securities by him given for Moneys, and the due Course of Payments thereupon in the Receipt of the EXCHEQUER.

WHEREAS We are given to understand, That divers of Our Good and Loyal *Subjects, Goldsmiths, and Others*, who have Advanced to Us great Sums of *Money* for the *Publick Service*, which are sufficiently secured unto them upon several *Branches* of Our *Revenue*, and other *Moneys* arising by several late *Acts* of *Parliament*, have upon occasion taken from the late Attempt of the *Dutch Fleet*, and the false *Reports* spread thereof, been prest in an unusual manner, with many suddain *Demands* by their *Creditors*, for present *Payment*, through *Fears* and *Apprehensions*; Which may weaken the *Credit* of Our said *Subjects*, who have been so useful to Us, Bring an *undervalue* on Our said *Securities*, And in consequence endanger the *Publick Safety* in this present *Conjuncture*: We have therefore thought fit (as well for satisfying the *Mindes* of Our good *Subjects*, whose *Fears* so transported them to

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call for their *Moneys* in such a manner, as for the allaying such Jealousies and misapprehensions as may be taken up by those concern'd in the said *securities*) to Declare, as We do hereby Declare, That as the *Course of Payments* in our *Exchequer* hath hitherto been punctual, and according to the due Order, even in this time of disturbance and interruption of Payments amongst Our *Subjects*; so Our stedfast resolution for preserving inviolable to all such Our good Subjects, who have Lent or Advanced any Moneys for Our Service as aforesaid, All and every the *securities* and *Assignments* any ways made by Us for, and towards the Repayment and Satisfaction of the said several sums of Money. *And that We will not Upon any Occasion whatsoever permit or suffer any Alteration, Anticipation, or Interruption to be made of our said Subjects Securities; but that they shall from time to time receive the Moneys so secured unto them, in the same Course and Method, as they were charged, and ought to be satisfied.* Which Resolution We shall likewise hold firm and Sacred, in all future Assignments and Securities, to be by Us Granted upon any other Advance of Money, by any of Our Subjects, upon any future Occasion for Our Service. And We cannot doubt upon the publishing this Our Royal Word and Declaration of
Our

Our Sincere Intention, but that all reasonable persons will rest satisfied that their Fears were causeless, and their respective Interests in no Danger at all; and that no evil can happen to them on this Occasion, since the Securities by Us to them given being inviolable, We doubt not but that Our said Subjects will satisfy every Person both their *Principal* and *Interest*, as they have formerly done with untainted Reputation. And of this Our Declaration We straitly Charge and Command Our High-Chancellor of *England*, the Lords Commissioners of Our Treasury, the Chancellor, and Under-Treasurer of Our *Exchequer*, and all other Our Officers and Ministers whatsoever, whom it doth or may concern, to take notice, and duely to observe the same, as they will be Answerable to Us at their utmost Perils.

Given at our Court at White-hall, this
18th day of June 1667. and in the
Nineteenth Year of Our Reign.

At the Court at *WHITEHALL*
January 2. 167 $\frac{1}{2}$.

His Majesties Declaration in Council concerning the *Stop* of Payments out of the *Exchequer*, &c.

HIS Majesty having this day Ordered the Lords, and others of His Privy Council to attend Him in Council, is pleased to declare, That seeing all the *Princes*, and *States*, His Neighbours, were making great preparations for *War*, both by *Sea* and *Land*; His Majesty, for the safety of His Government and People, look'd upon Himself as obliged to make such Preparations as might be proportionable for the Protection both of the one and the other; And to that end he has already given Orders for the fitting and preparing a very considerable Fleet, to be ready against the Spring.

By this inevitable necessity, His Majesty considering the great Charges that must attend such Preparations, and after His serious debates and best considerations, not finding any possibility to defray such unusual Expences by the usual ways and means of borrowing Moneys, by reason His Revenues were so anticipated and engaged, He was necessitated (contrary to His own inclinations

inclinations) upon these Emergencies, and for the *Publick Safety*, at the present, to cause a *Stop* to be made of the payment of any Moneys, now being, or to be brought into His *Exchequer*, for the space of one whole Year, ending the last day of *December* next, unto any Person or Persons whatsoever, by vertue of any Warrant, Securities, or Orders, whether Registered, or not Registered therein, and payable within that time; Excepting only such payments as shall grow due upon Orders on the *Subsidy*, according to the Act of Parliament, and Orders and Securities upon the *Fee-Farm Rents*; both which are to be proceeded upon as if this *Stop* had never been made.

And that His Majesties Pleasure and Declaration may be speedily and effectually put in Execution, His Majesty doth Order, and doth thereby require and command Sir *Heneage Finch* Knight and Baronet, His Attorney General, forthwith to prepare a Bill for His Royal Signature, and so to pass the Great Seal; thereby requiring and commanding the Lords Commissioners of His Treasury, immediately to order and direct all and every the Officers of His Majesties *Exchequer*, to *Post-pone* all Warrants and Orders, whether Registered or not Registered, and other Securities and Payments whatsoever (except as before excepted)

ted) until the last day of *December* next.

And in the mean time, the Lords Commissioners of his Treasury to be Required and Authorized, to cause payment to be made of the Interest that is or shall grow due, at the rate of Six pounds *per Cent.* unto every person that shall have Money due to him or them upon such Warrants, Orders, or Securities, so *Post-pon'd* and *deferr'd*; and that the payment of such Interest may be justly made, the Lords Commissioners of His Treasury are to be Authorized and Required, to cause the Debt of every particular person, and the said Interest thereof, to be truly stated.

And the Lords of His Majesties Treasury are farther to be Ordered and Required, to employ and dispose of all the said Moneys, so stop'd and detain'd, for the preparing, setting forth, and payment of His Majesties Fleet, and other Publick Services, in order to the preservation and safety of His Majesties Government, and defence of His People, as His Majesty shall from time to time Order and Direct.

And His Majesty, as far as in him lies, to take away all apprehensions or terrour, that might possess any of His Subjects spirits, doth declare, That no person whatsoever shall be defrauded of any thing that is justly due to him, nor shall this restraint, which his Majesty has been compelled

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(not being able for the present to find any other expedient) to lay upon such Monies, as are or shall be paid into His Exchequer, continue longer than the aforesaid last day of *December*: and that then no new Warrants, Orders, or Securities shall intervene, to break the course of such Payments.

And His Majesty is graciously pleased farther to declare, That nothing could have urged His Majesty to an Act of this Nature, but such a conjuncture of Affairs, when all the Neighbouring Princes and States were making such Threatning preparations, that his Government could not be safe without appearing in the same posture.

EDWARD WALKER.

A true Copy of a Proclamation sent all over England by King Edm. 4th, for the Payment of all Debts by Him owing to His Subjects; as it is entred upon Record in Clause de An. 13. Edm. 4th. M. 3. Dorso. in the Tower of LONDON.

De Proclamacionibus.

REX Vic. Norff. & Suff. Salutem. Precipimus tibi firmiter injungentes quod ante festum Pasche prox. futur. in qual. villa Mercatoria infra Ballivam tuam, utriusq; Com. prædicti Publicas Proclamationes ex parte nostra fieri fac. in forma sequenti. The Kyng our Sovereigne Lord, wyllyng and entending to satisfie and content all such somes of Honey as of right he oweth to any of his Subgietts, chargeth and Commandeth, that everi Person and Persones, hauyng any Patent, Caille, or Bille, made, rered, or Assigned before the first day of December in the 10th. Year of his Reign, for any some of somes of Honey conteyned or specified in any of the same, appear before the Barons of the Kyngs Eschequer at Westminster in his propre persone, or by his Attourney or Serbaunt hauyng sufficient auctorite of hym, afore the XV^e. of Elur, which shall be in the Vere of our Lord God MCCCCLXXV^e, there to shewe and

Quinzisme.

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prove, that the somes of Honey conteyned and specified in his or their Patent, Caille, or Bille was by or upon any true ground, or cause due by the Kyng, at the time of the making, reryng, or assignment of the saide Patent, Caille, or Bille, made, rered, or assigned to the same persone or persones named in the same Patent, Caille, or Bille, accordyng to an Ordinance by auctorite of this Present Parliament thereof made, as in the same Ordinance more pleyndly is conteigned. Et quando qualiter & quomodo Execucoem. presentis Mandati nostri feceris, Nos inde in Cancellar. nra. in quindena Pasche prox. futur. ubicunq; tunc fuer. reddas certiores, hoc Bre. nob. remittens. Et hoc sub pena Centum librarum per te juxta dictam Ordinationem, si in premissis defeceris forisfiend. nullatenus omittas. T. Rege apud Westm. xxvii. die Februarii, per ipsum Regem, & de Dat. &c.

Rot. Parl. 13 or 14. Edm. 4. num. 56.

Consimilia Bria. direct. Vicecomitibus, subscr. in Com. subscr. sub eadem Dat. videl.

Midd.	Devon	Derb.	Villa Subt
Essex	Co. nub	Ebor	Coventr
Herts.	Wigorn	Cantebr	Bristol
Surre.	Glouc.	Hunt.	Cantuar
Suffex	SALOP	Linc.	Norwic
Kant	Hereford	Bed.	Douorr
Oxon	Staff.	Buk.	Lincoln
Berk.	Warw.	LONDON	Lanc.
Subt	Leyc.	Civit. Ebor.	
Wiltes	Northt	Newcastel	
Somers.	Rotel.	Kyngelton	
Dors.	Notyngb	sup. Hull	

The

The Postscript to the Letter.

THus (Sir) I have (as you see, for the *Model* of my weak *Talent*) discovered the *Enormity*, and pernicious *Influences* of this *Advice*. And according to the *Meanness* of my *Opticks*, have taken the *Height* and *Dimensions* of this dreadful *Comet*, so *Portentous* in its *Tail* of *Consequences*. I take *God* to witness, I have done this without the least *Malice* or *Design* against any man's Person, of what *Degree* or *Quality* soever. Indeed if any one shall come from behinde the *Curtain*, and with a *Bare* and open *Face* shall say, **I am the Man that gave this Advice**, That person I must confess (and only that person) hath not escap'd my *Animadversions*, and from *Him* onely, and no Body else, I hope I can (with any reason) expect *Reproof*. And then let all *Mankind* judge, whether of the two is more to be blamed, and whether hath shewed greater *Loyalty* to his *Sovereign*, **He** that hath led his *Prince* out of the *Old Via Regia*, or King's Highway, into *By* and *untroden Paths*, unknown to the *Law*, and to walk upon *Precipices*; or **He** that hath given an honest *Alarm*, or *Outcry* of this evil *Dealing*. Surely (saith * *Rawleigh*) that *State* is in no good condition, where the *Justly Accused* shall take *Revenge* upon the *Just Accuser*, And where **He** that would save his *Prince*, must *Ruine* himself.

The Lord-Treasurer *Burleigh* (under whose *Old English Councils* this *Kingdom* flourish'd, and became *Formidable* to all the World, and One perhaps that better understood the *Genius* and *Temper* of this *Nation* than this *Adviser*) was used to tell his *Queen*, * *Madam* (saith he) **Win Hearts**

* His Prerogative of Parliament.

* Cottoni posthumus, p. 313.

Hearts, and you'll be sure of *Hands* and *Purses*. And *Dion* (in (a) *Plutarch*) doth admonish the Son of King *Dionysius*, **That the Love of the Subject** (obtained by *Vertue* and *Justice*) is the strongest *Guard* and *Security* of a *Prince*. And to this accords a far greater Author, even that glorious *King* and *Martyr*, *Charles* the first of immortal *Memory*, who tells us in his incomparable * *Meditations*, **That the Hearts of Subjects are the best Ammunition, and greatest Treasure of a King**. Other *Revenues* of the *Crown*, consisting of goodly *Demeans*, *Customs*, and the like, may be impair'd by *Pensions*, and *Annuities*, and clearly alienated by *Grants*; but this *Revenue* alone of the *Subjects Love*, is obnoxious to no *Charge*, or *Incumbrance*; this *Treasure* can never be anticipated, this *Mine* never *Exhausted*. It is this *Love* (Sir) which *Obeys*, which *Suffers*, which *Gives*, which *Sticks* at *Nothing*; And which hath always proved a stronger *Wall* and *Defence* to the *Kings* of *England*, than the *Sea* is to the *Kingdom*. How to preserve and encrease it, no man knows better than his most *Gracious Majesty*; how to lose it all men know, and know it is lost by nothing sooner than by the countenancing of *Illegal Advices*. He was a *Wise* * *King* that said, **That the Throne was establish'd by Justice!** And † He was not inferior to him, who not long since Admonish'd his most *Illustrious Son*, **That one of the main Hinges** or which the *Prosperity* of a *King* moves, is the *Administration* of *Civil Justice*, to do which, there needs no other *Artifice* or *Labour* than (saith he) to allow the poor *Subjects* to enjoy the *Fruits* of their own *Industry*, and the benefit of those *Laws* to which themselves have *Consented*.

The Great *God* of *Heaven* and *Earth*, and my own *Conscience* will be my *Compurgators* and *Witnesses*

(a) Vita Dionis.

* Εὐσεβίου Βε-
σικωνίου Με-
δitation 10.
in fine.

* Solomon
Prov. 16. 13.
† Εὐσεβίου Βε-
σικωνίου Με-
ditation 27.
to the Prince
of Wales.

nesses, that whatever I have said in **This Discourse**, I have done it with a most *Ardent* and *Passionate Desire* of the Honour and Prosperity of my dread *Sovereign*, and an unfeined Love to my dear *Countrymen*; and to raise and Enkindle (as well as I could) an *Universal Disposition* in this *Kingdome* to finde out some fitting Expedient for the Satisfaction of this *Crying Debt*: That thereupon so considerable a part of this Nation (as are concern'd with the *Bankers*) may not be overwhelm'd with an inevitable *Ruine*, *And that the Present and Future Ages may have no colour to say, That In such a Year so many thousand English Families were Shipwrackt and destroyed, under the protection of the Common and Statute-Laws of their Countrey, and the Guaranty of three Publick Royal Declarations, and two Great Seals.*

I shall, probably, be thought (by some persons) to have prosecuted this *Argument* with a warmer *Zeal* than became me, and to have Sallied out sometimes, perhaps, into *Extravagancy* and *Inconsideration*: I can onely reply, **That** my ** Vouchers*, and ** Authorities* are generally so *Sacred* and *Inviolable*, that nothing (less than *Heaven*) can be more, *And by me truly, and carefully quoted.* That (as a *Royal and Learned † Judge* affirmeth) to *Publish the Law is no Sediton, or Offence.* **That** after my nearest *Relations* have *Devoted*, and *Sacrificed* their *Persons* and *Estates* to their *Allegeance* (part of which *Sufferings* I may with very good *Reason* call my *Own*) no *Body*, I hope, can with the least *Colour* suppose, that I should now *Degenerate* into a *Wilde* and *Sowre Fruit.* **That** the *Necessity* and *Want* of a *Man's Own*, are *Spurs* sharp and *Invincible.* *And Lastly*, that I have been *actuaded* all along in this *Discourse*, with no other *Impulses* of *Minde*, than those which loosen'd the

*RECORDS of Parliament, &c. The Deeds, and Councils of Mighty Princes, and States, Lord-Chancellors, Judges, Politicians, &c.
† Judge Jenkins in his Works, pag. 195.

the *Tongue* of the *Dumb Son* of *King Crasus*, when he saw a *Souldier* ready to offer *Violence*, to his *Father*, crying out, **It is the King!** At whose *Royal Feet* I am always ready upon *Occasion* to lay down my *Life*, together with that poor *Mite*, or *Fragment* of *Estate*, which the *Sequestrators*, &c. and this *Advisor*, have left me: Praying (in the *Scripture-Language*) **That God would strike thorough the Loins** of all them that hate His *Majesty*, but that upon his own *Royal Head* his *Crown* may for ever flourish. I am,

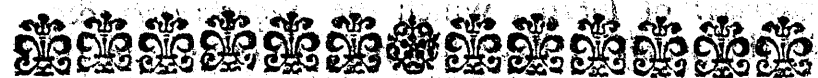
Sir,

Your most Affectionate

Servant,

THO. TURNOR.

FINIS.



E R R A T A .

IN the Letter, p. 2. in *Margin* 1. *Coke's* 2. *Inft.* 158. *ibid.* p. 6. l. 7. add *same*. The *Date* of the first Letters Patents for Stopping the *Exchequer*, was 20th *January* 71. mistaken here pag. 17 and 26. In pag. 53. l. 3. r. *Necessity and National Danger*. p. 104. l. 7. r. *Dominium*.

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