A DIALOGUE AT OXFORD

Between

A TUTOR

AND

A GENTLEMAN,

Formerly his PUPIL,

Concerning

Government,

LONDON,

Printed for *Rich. Janaway,* in *Queens-Head Alley* in *Pater-Noster Row.* 1681.

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Between

A TUTOR and a GENTLEMAN,

Formerly his PUPIL.

Tutor. MY Dear Pupil, you are welcome to *Oxford*, I am glad to ſee you remember your old Friends, and hope you have not forgot thoſe excellent Principles you learnt from your careful Mother the Univerſity.

Pupil. Sir, I can never forget my Friends, nor would willingly act contrary to ſuch Principles as would be for their Service, and the general good of Mankind.

Tu. Hum! that's well ſaid, if it be well intended; but I do not know what to make of that expreſſion; for methinks the good of Mankind ſounds a little odly in theſe Factious and Seditious Times, and I am a little jealous, that the Coffee-

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houſes and Clubs in *London*, have taught you to ſpeak another ſort of Language than you did here in the Univerſity.

Pu. I muſt confeſs, when I left *Oxford*, I preſently loſt the Art of diſputing about words, but I'le aſſure you Sir, I really intend what I ſpeak.

Tu. Prethee then ſpeak plain Engliſh, and tell me that you are for the King, and the Church, and let your Mankind alone.

Pu. Sir, I am very much for the King and the Chnrch, and a little alſo for the Reſt of the People; for if I ſhould *diſpoſe of them out of the way*, the Prince might call me to Account for his Subjects, and you for your hearers.

Tu. You know my meaning well enough; Are you for the Prerogative and Government in Church and State? As for the People, it's their buſineſs to obey their Superiors, to pay their Tythes, and their Taxes; and, if occaſion be, to Fight for the Glory and Honour of their Prince, and the Church of *England*.

Pu. And is this all that comes to their ſhare? Indeed a very conſcionable Reckoning; but I have no mind to diſturb you at preſent, and therefore ſhall onely tell you, that I am heartily for the Prerogative and Government as by Law Eſtabliſht.

Tu. As by Law Eſtabliſht; why, there's a Dry Bob again; What if there was no Law?

Pu. Then there wou'd be no Tranſgreſſion.

Tu. I ſay, Suppoſe there were no common or Statute Laws, (as you call them) yet Government ought to be ſubmitted to as its the Ordinance of God, and of Divine Right, and conſequently Obedience to our Governours is due from us, on pain of Damnation, without the help of an Act of Parliament.

Pu. Nay *Tutor!* if we muſt diſcourſe of theſe matters, pray let's ſit down and do it ſoberly; I will allow you that Government in general is the Ordinance of God, and of Divine Right, for

for without it, there could be no ſuch things, as humane Societies in the World, which makes St. *Paul* in the 13*th* to the *Romans*, affirm as much of all Powers, none excepted, but then as to the kinds or different ſpecies of Government, God Almighty has left no ſtanding Ordinance, whereby to prefer or command one kind above another, and its abſurd to think he ſhould, except we do Imagine that there ought to be exactly the ſame frame of Government throughout the whole World, notwithſtanding the variety and difference, of Climates, of Intereſts and Inclinations of People in particular Nations, and that all, who differ from us in their Policies, (as all do more or leſs) do therein violate God's Ordinance, which is equally ridiculous and uncharitable. Therefore the particular kinds of Government, muſt have another and lower Fountain to flow from, which can be no other than humane. In ſhort, the higher Power or Magiſtracy it ſelf, is God's Ordinance, that it Reſides in one or more, in this or that Family, in ſuch or ſuch a way, is purely from humane deſignment; which I conceive to be St. *Peter*'s meaning, when he calls Magiſtracy ἀνθρωπίνη Κτίσις, humane Creature: St. *Paul* calls it God's Ordinance, becauſe the Power is from God: St. *Peter* calls it humane, becauſe the ſpecification of it to this or that Form, is from the Societies of Mankind. And by this time Good Tutor, I ſuppoſe you perceive, that were it not for the particular Laws and Cuſtoms of *England*, your *Jus Divinum* would go near to leave our beſt Friends in the lurch; for though we ſhould all agree, there ought to be a Government, yet it's two to one we ſhould not agree, whom, in what, and how far to Obey. If you have any thing to object, pray let me hear it; for I would neither lead, nor be led into the leaſt Error in things of ſo high Concernment.

Tu. My dear *Pupil*, we are now under the Roſe, and you ſhall be my Confeſſor, what you ſay, ſeems highly rational, but to tell you the truth, we ſeldom trouble our heads with

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with things of this nature, foreſeeing that an unlimited and naked *Jus Divinum*, is much more for our eaſe and convenience, and if it would but go down with the People, we promiſe our ſelves from it all the effects of whatſoever Policy.

Pu. To the honeſty of ſuch dealing I ſhall ſay nothing, nor can I deny, but ſuch a civil Superſtition, would for ſome time at leaſt, mightily advance that Order of men that manag'd it, and qualifie them for the ſame Grandeur and Power under all changes of Government; but certainly it leaves the reſt of the Community, both Magiſtrates and People, in a moſt precarious and miſerable Condition; for though Magiſtracy be God's Ordinance, yet if you lay aſide the particular Laws of the Country which determine it, the Exerciſe of it is no more confined to one man or Family than another, and whoever happens to get the Power, by your Rule would have the Right, and ſo you make no difference between an Uſurper and a lawful Prince, and equally oblige the People in Obedience to the one as to the other, a Doctrine odious to all good Subjects.

Tu. Pray Sir is there no ſuch thing as a Right of Conqueſt, and are no People bound in Conſcience to obey him that has that Title?

Pu. I will not put you out of Countenance, by applying your Queſtion to a caſe that happened within our own memory, but ſhall rather deſire you to conſider how its poſſible for force alone, to create a better Title over publick Societies, than it would do in the caſe of each private man? Suppoſe then a Stronger man meets me, and violently throws me upon the ground, is it not lawful for me to riſe again without asking him leave? ay and to trip up his heels too, whenever I ſee my opportunity. Apply this to publick matters, and then tell me, whether your mighty Conqueror be not in a hopeful condition, when Millions of men ſhall be at perfect Liberty

ty to ſhake off his Yoak, whenever they can take him at an advantage. And ſo long as nothing but bare force obliges men to a ſubmiſſion, ſo long will a Right of diſcharging themſelves of that force continue in the People to the end of the Chapter. But where the People are not bound by contract to any other Lawful Prince, its then in their choice, whether they will come into a moral Condition of Subjection to the Conqueror or no: If they will not, they dye or remain a Free People as to any moral Obligation. But if on the one ſide the People be unwilling any longer to ſuffer the miſeries they are under, or have no Ability to make reſiſtance, and the Conqueror on the other ſide, finds his forceable Dominion over them inſecure and uneaſie, I ſay, if upon ſuch Conſiderations as theſe, they mutually agree upon a Contract and Compoſition of Rule and Subjection upon ſuch and ſuch terms, the Conqueror now has loſt that name, and his Government thenceforward muſt be ſuch, as the fundamental Contract makes it to be, and the Rightful Dominion in the Prince, and Duty of Subjection in the People, will be ſo ſtated and limited, as was concluded upon in the Original Agreement. And I am perſuaded it will appear an uncontrollable Truth in Policy, that the Conſent of a People, either by themſelves, or their Anceſtors, is the only means (without ſpecial Revelation) whereby Magiſtracy is conferred on any Perſon or Family; neither can God's Ordinance be conveyed, and People engaged in Conſcience any other way.

Tu. I confeſs, I now begin to think that the Communities of Mankind, have more to do in theſe matters than I was aware of; and it's more than probable that all Government whatever is very much for their ſakes.

Pu. To me it ſeems plain, That the Common Good of Humane Societies, is the Firſt and Laſt End of all Government; for *nulla poteſtas datur ad malum*; ſo in effect ſaies St. *Paul*, in the 13th. to the *Romans* (ſpeaking of Rulers)

ϖὶ εἰς τὸ ἀγαθὸν, *He is the Minister of God to thee for good.* And *Salus Populi, &c.* has often been frownd upon, but never answered. And whoever shall Affirm, that the Absolute Monarchies in *Asia*, the many limited ones in *Europe*, together with multitudes of Aristocracies and Common-wealths now extant in the world, were constituted by God Almighty, purely out of a partial Regard to those Persons and Families (inconsiderable in the number to the Rest of Mankind) to whom the Administration of those Powers is committed, I believe he will find Few of his mind, and not many that can debase themselves to so mean a Flattery as to own so sensless a position.

Tu. You have satisfied me, that only Goverinment general is of Divine Right, and that the particular Forms and Limitations of it are from humane Compact, pray now inform me how you suppose our Government here in *England* first began, and particularly what you think to be the Form and Essence of it, whereby it differs from that of other Nations.

Pa. Now you put it hard upon me *Tutor*, and I dare not undertake to give you full Satisfaction in so thoughtful a matter, but you shall have more than my Guess. And how I cannot choose but own the Goodness of Almighty God, in the Architecture of our Government, whereof I do declare my self so great an admiror, that whatever more than humane Wisdom had the contrivance of it, whether done at once, or by degrees found out and perfected, I conceive it unparallel'd for exactness of true Policy, in the whole world; Such care for the Authority of the Monarch; such provision for the Liberty and Property of the People, and that one may be justly allaid, the other upheld, and yet consist without Impeachment of each other, that I wonder how our fore-fathers in those esteemed rude and unpolisht times, could ever attain to such an accurate Composure.

First then, Suppose a People compelled to it by the necessity of Conquest, or agreeing to it by free consent, Nobles and Commons setting over themselves, by publick compact, one chief Magistrate, and resigning up themselves to him and his Heirs, to be governed by such and such fundamental Laws, whereby the chief Magistrates power is radically limited to one legal course of exercise.

Secondly, Because in all Governments after-causes will arise, not within the prospect of humane fore-sight, requiring additional Laws, *pro re natâ*; and also because the original frame it self may in some cases stand in need of an Authentick Interpretation, or would of course and by degrees moulder away and decay, if not carefully repaired and look't after; suppose them therefore covenanting with their Prince, that (if there be occasion in order to any of the aforesaid purposes) there should be conventions of all degrees of men amongst them, to provide suitable remedies and expedients for all the several exigencies and diseases of the State; and if at any time there should be need of new Laws, that the Prince himself should not have the sole power of making them, but they reserve at first (or afterwards it's granted them, which is all one) an hand of concurrence therein, and that they will be bound by no Laws but what they joyn with him in the making of.

Thirdly, Because, though the Nobles may personally convene, yet the Commons, being so many, cannot all of them come together; it's therefore agreed, that each County and Corporation shall have power to depute some particular persons to be instead of the whole, that so the Nobles being present in person, the Commons by their Deputies, there may be representatively the whole body of the Kingdom, having Commission by the original constitution to make new Laws, or to guard and repair the old ones.

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Fourthly,

Fourthly, Because the causes of their meeting would not be constant and perpetual, they therefore did not form these Estates to be constantly existent, but occasionally, yet intentionally, and virtually provided for their meeting whenever there should be occasion.

Fifthly, Because a Monarchy was intended, therefore as great power (as was consistent with other parts of the Government) was invested in the Prince, in order to his better discharging the executive part of the Law; and conculding, that he who was to govern by Law, and for the furtherance of whose Government for the good of the people, the new Laws were to be made, would thereby be engaged to see the convention of these Estates take place, as of right it ought to do whenever there is occasion; they therefore aptly plac't the formal part of nominating the time of Convention in the executive Power, to be made use of as the reason of its being lodged there should require.

Sixthly, It being found by experience in process of time, that Princes not caring to have the male-administration of their Ministers look't into, or to have any power in act but their own, did therefore take advantage of this their nomination of time when the Estates should meet, and made use of it seldomer than need required (an inconvenience, which had it not been provided for, would have beaten down the Government at once, and utterly defac't the whole frame of the Constitution); to prevent which, that *Tacit* principle of having frequent Parliaments, was litterally explain'd by subsequent Statutes made in the time of *Edward* the *3d*, and ascertain'd to the having Annual ones.

And now Sir! when you have made all these suppositions in your mind, I am confident you have very much of the model and platform of our Government.

Tu. If this he our Constitution, I cannot wonder at your being so much in love with it; for certainly it provides for all

all Interests with the greatest Justice and Equity in the world; and to me it seems evident, that though the convocating the Estates, and bringing them into existence, has such a formal dependance on the Kings Writ, as you have declared; yet existing, and when convocated, they work by an innate Authority, and by the priviledges of their original Institution, their Acts then being not Commissionated like those of other Courts, but proceeding in conjunction with the Kings, which makes me the better understand that usual clause in our Acts of Parliament which tells us, that such and such a thing is enacted, &c. not only by and with the advice of the Lords Spiritual and Temporal, and the Commons in Parliament Assembled, but also by the Authority of the same—— But you'l say, I ought not to comment upon a Text I have learnt so lately—therefore pray proceed, for I cannot doubt but you have yet more to say upon this Subject.

Pu. What would you have more? does not this Scheme of our Government give you full satisfaction?

Tu. By no means, Sir! except it includes something that is not literally exprest; for though our Ancestors have taken care, that there shall be frequent meetings of the Estates, yet if they have not provided for the continuance of their Sessions when met, that so their coming together may possibly answer its end, what does all the rest signifie? and therefore pray tell me your opinion in that point.

Pu. Nay, hold a blow there, good Tutor! I had rather you had ask't me all the hard questions in *Euclid*; not so much for any difficulty in the solution, as because it's an ill time of the year to discourse of such matters; therefore I think we had best stop here——And yet I find I am a little like Sir *Martin*, now my hand is in, I can't forbear fumbling with the strings, though I don't care to play out; wherefore I will not promise you an Answer: but when I have said what I think convenient, if you please you may give your self one.——

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there are wise and learned men (and who upon a good occasion may be spoke with) that do conceive there is a Statute made in the time of *Richard* the Second, and now in being, though not in Print, which provides, that no Parliament shall be dismist till all the Petitions are answered, which I think comes home to the point; Bills in those days, many times appearing in the form of Petitions: as not long since we had an excellent Law made, called the Petition of Right, subsequent to this Statute: and particularly in the Reigns of *Henry* the 4*th*, *Henry* the 5*th*, and *Henry* the 6*th*, it was usual for Proclamations to be made in *Westminster-Hall* before the end of every Sessions, that all those that had any matter to present to the Parliament, should bring it in by such a day; for otherwise the Parliament at that day would determine. And all this being bare matter of fact, there can be no other Question about it, but whether it be so or no.

See the Statute verbatim, with the Clause Roll.

But for discourse sake, Let's suppose this Statute, and subsequent practise all out of doors, and that there is no memorial of Record extant of any such matter, and then it will be impossible in this or any other like case, to make a true Judgment, without having recourse to some fixed and standing Rule, which (in matters of Government, where positive Laws are silent) can be no other than the fundamental Architecture, and original frame of the Constitution, some particulars whereof relating to our present discourse, I must be forced to call over again upon this occasion: you must mind then, that our wise Ancestors in modelling our Government, had not only an eye to the Power and Authority of the Monarch, but also to the Liberties and Properties of the People (things easily consisting in themselves, and mutually aiding and assisting each other) and foreseeing that the most exact prudence could not make particular provision for all occurrences that might happen, and that if time (that great

great Innovator, as the Lord *Bacon* calls it) would of course, and knavery, and folly (by their influence) by degrees make things worse and worse; and if wisdom and counsel were not as constantly watchful to make them better and better, the best founded Government in the world must in tract of time infallibly come to ruin; they therefore laid it as the Basis of our Policy, that there should be frequent meetings of the States, to supply all defects, and stop up all Crannies, or violent Fractions, as they should happen, to the prejudice of the original Constitution. In the next place, consider what part the Monarch was to bear in these Conventions, not to have a sole power, but to go in conjunction with the Nobles and Commons, all acting by the principles and authority of the first Institution: and what that Learned Prince, King *Charles* the 1*st*, says of Royal Power in general, may be well applied to it in this particular, *viz.* the Law is the measure of the Kings Power: and if it be the measure of it, then is the Power limited by it; and the fundamental Law saying, There shall be Conventions of the Estates, to encounter and provide against publick and destructive mischiefs whenever they happen; By necessary consequence, a time for them to meet, and a convenient time of sitting to do something when they are met, are included, according to the known Rule in your Schools,—He that commands a thing to be done, does with the same breath command all such circumstances, as without which the thing commanded cannot take effect. And indeed common reason speaks the same: and because time of meeting, and a convenient time of sitting, are necessary to the very ends and beings of Parliaments, therefore must the Execution, or bringing them into Act, be lodged somewhere; and though with the best Decorum and convenience, it fell to the share of the chief Magistrate to be intrusted with the honorary and formal part of Summoning and pronouncing the Dissolutions of Parliaments, yet the Law (which is his rule as well as ours) has plainly enough determined how, and when he shall do it.

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In the laſt place, the deſign and wiſdom of the firſt Architects of our Government, is very apparent, in contriving a Monarchy in the Prince, mixed with *Ariſtocracy* in the Houſe of Peers, and *Democracy* in the Houſe of Commons, whereby all the advantages were ſecured, and inconveniences avoided, which are ordinarily to be found in ſimple and uncompounded States: for here is a ſingle perſon endued with a ſufficiency of Power for Diſpatch, and to diſcharge the executive part, without danger of a long laſting Tyranny; many Councellors (in whom the Scripture ſays there's ſafety) Nobles and Commons, coming from all quarters of the Land, as eye-witneſſes of the ſeveral Exigencies of the State, and tied up to all imaginable ſincerity by their own intereſt; I ſay, the Prince has theſe to aſſiſt and join with him in the Deliberative and Legiſlative part, without danger of ambitious Factions, too frequent in ſimple *Ariſtocracies*; or diſordered confuſions, which many times happen in ſimple *Democracies*: each of theſe Eſtates by the wiſdom of our Government moderating and reſtraining from exceſs the Power of the other. Now therefore whatever ſhall deſtroy this Coalition and Mixture, and place the whole ballance of all things in any one of the Powers, can you think it warranted by the Policy of our Conſtitution? And whether a ſingle Power chuſing whether ever a Parliament ſhall ſit or no; or if aſſembled, whether it ſhall continue a convenient time to do any thing or no, does not amount to as much, is highly worth your conſideration.

Tu. I remember you told me, that Statutes have been made for the Annual ſitting of Parliaments; ſuppoſe that heretofore thoſe Laws were litterally put into execution for ſeveral years ſucceſſively---Writs went out at the day, the Counties and Corporations (thinking to build up a Sanctuary for their hopes and fears) cheerfully neglected their Seeds-time and harveſt, and with great charge and trouble made their Elections, the elected members left their Families and Eſtates behind them,

them, and made long pilgrimages in order to attend upon the publick Service; but had ſcarce ever time to pull off their boots, before they were diſmiſt again by a Prorogation or Diſſolution; would the true intent of thoſe Statutes be thus ſatisfied? And did the Legiſlators intend nothing more by them, than that the Lords and Commons ſhould have an opportunity of coming up to the Parliament-houſe purely for the ſake of going down again?

Pu. Upon my word *Tutor* you are finely come on in a little time; me thinks you begin to ſpeak warmly of theſe matters: but a little exceſs of zeal is natural to a new-convert: or is it becauſe your *Pupils* are all gone into the Country, whereas a walk to *Heddington*, or *Shot-over hill*, might have ſerv'd the turn, as things fell out afterwards. Had a Towns-man made ſuch remarks, I ſhould have thought the cold meat ſtuck upon his hands, and that he had been out of humor for the loſs of his Boarders. But however the caſe be with you, good *Tutor* have a care of extreams, and by way of Antidote, let me adviſe you, to reſume your old temper a little, though it be but for diſcourſe-ſake and let's hear how you uſe to comfort your ſelves upon ſuch an occaſion.

Tu. Very well Sir! I'm very glad you can be ſo merry; and though your diſcourſe has made a greater impreſſion upon me than you are aware of, yet for once I'le comply with your humor, and tell you what we generally ſay in vindication of the late and former Diſſolutions. To begin therefore with the laſt Parliament but one; did it not open with all imaginable expreſſions of grace and favour from the King, that any good Subject could deſire, either for the preſervation of Religion, his liberty and property at home, or for ſupporting our Neighbours and Allies abroad? nay, did not the King invite the Houſes to uſe all means for their ſecurity (excepting only the matter of the Succeſſion) and when in order to theſe ends, and for the preſervation of *Tangier* a ſupply was ask't, not one penny would be granted.

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Pu. I

Pu. I have heard of ſome general Acts of Pardon, that at firſt ſight make a great ſhew of Grace and Indempnity, but when a Tranſgreſſor comes to look over the exceptions, he is commonly bilkt in his expectations; and you would do well to conſider, whether the preferring the ordinary courſe of Succeſſion to the ſecurity of Religion, *&c.* be not much of the ſame nature; and I would willingly learn how it's poſſible for a zealous Papiſt to be a good Defender of the Proteſtant Faith; but I reſerve my ſelf in this point till you give me farther occaſion. As to other matters, pray Sir conſider, that we have long laboured under a damnable Popiſh Plot, and that from *Coleman*'s Papers, and what witneſſes have ſworn, it plainly appears that the Conſpirators do chiefly rely upon the *French* King for the carrying it on to effect. Now *Tutor!* Money is a real thing, and will certainly do either good or hurt, expreſſions may do neither; and by Parliament-calculation (which by the way I think more authentick than the Cabals) we can tell the time when a great ſum of money raiſed to ſupply extraordinary occaſions, was imployed to make war upon a *Proteſtant* State, and to advance the Intereſt of this ſame *French* King; and that another round ſum was given for making an Actual War with *France*, and yet I have not heard of many men loſt in the quarrel; I am ſure the then Treaſurer *D.* muſt needs think the *Monſieur* a very ſweet-natur'd Gentleman, that was likely to lend a vaſt Treaſure to his Enemies *Flagrante Bello.* Therefore pray let's not run too hard upon the *Houſe of Commons*, now we know they cannot ſpeak for themſelves; for it's two to one but they ſaw cauſe to take care of old *England*, before they could come to provide for that hopeful Nurſery at *Tangier*; and to make our ſelves ſtand firm at home, before they could hope to ſupport our Friends abroad.

Tu. I don't well underſtand you; but I ſay, inſtead of giving the King money, they ply'd him with ſtrange Addreſſes, ſome ſay rather like Remonſtrances than Anſwers to his demands, which no man could think would be as currant as money, nor likely to give the King half ſo much ſatisfaction. Really

Pu. Really *Tutor*, if by the Conſtitution of our Government, a Parliament had only been deſigned to be a Conduit-Pipe for the Peoples purſes to run out at, your laſt Objection would be unanſwerable, but as the caſe ſtands, they are to give the King Advice as well as Money; ay and to make that Advice Authoritative and obligatory to the People. And though it's certainly the Duty of all good Subjects, to conſult the King's pleaſure in all things that are really for his Service and the common good of the Nation, yet under Favour I think the houſe of Commons (having a Fundamental ſhare in the legiſlative part, & Guardianſhip of the Government) are bound in Conſcience to make the publick good their chiefeſt aim, and if for that end they were forc'd modeſtly to remember the ſurreptitious gaining of Orders for the continuance of Popiſh Officers, the procuring new Commiſſions for known Papiſts, the aſſaſſinating of ſome, & procuring the turning out of other Proteſtant Magiſtrates for doing their duties, the corrupting of Witneſſes, and forging fatal crimes againſt Proteſtant Diſſenters, the preſſing and Admiſſion of the Romiſh Religion upon a Proteſtant State, by perſons under a publick Character from *England*; and as the Summ of all, A popiſh Influence upon the continuance or Prorogations of Parliaments. And all this even during the malignity and helliſh operation of a Popiſh Plot upon us. I ſay I cannot ſee, how the neceſſary remembrance of theſe things (eſpecially when done with all poſſible decency and reſpect to the King) ſhould deſerve an hard thought, or jealous and ſuſpected name, except you do believe, that our Lay-Title to our own throats, ought to give way to the *Jus Divinum* of the Papiſts.

Tu. Well! but were there not Arbitrary Orders made, for taking Perſons into Cuſtody, for matters that had no Relation to priviledges of Parliament, and ſtrange illegal Votes, declaring divers eminent perſons to be enemies to the State, without proceſs of Law, or hearing their defence, or having any proofs made againſt them.

Pu. I think it's agreed on all hands, that the House of Commons have Power to commit and censure such as shall offer any Violence or Injury but to one of their mœnial Servants; so tender is the genius of our Government, of the Priviledges of Parliament, that it puts the punishment of so small and remote an offence as this into their own hands, without having Recourse to the ordinary Courts of Justice: And can you imagine, that they have not authority to punish Crimes, that strike at the very Root and Being of Parliaments themselves? And whether obstructing, violating and abhorring our undoubted Rights of Petitioning for a Parliament (at a time when, if ever, there was need of one) did not directly look that way, I will leave it to your self to judge.

And as to the illegal Votes (as you are pleased to call them) against some eminent Persons, *&c.* I pray God those eminent persons themselves have not drawn you in to such an Objection; for pray Sir how shall it be tried, whether a Vote of either House be Legal or Illegal in the course of it? Certainly by nothing but the Law and Course of Parliaments, which under Favour, I think cannot be determined, designed, or judged of by any other Court or Person out of Parliament whatever. And if it should, there would be a Circulation in our Policy, publick Justice would run in a wheel, and no cause whatever of this nature could receive a final and ultimate determination, which I take to be more than an Answer to all your Objections. Besides in this particular case, the House of Commons declared their Opinion of these great men, in order to farther proceedings, had they had time, and herein their Vote was but a Ground-work for an Impeachment, which would regularly have brought their Opinion into Judgment, and I would willingly hear a reason, why this first step of the Process might not be made without forein proof, the House of Commons, in cases of Impeachment being in nature of a Grand-Jury of the Kingdom, which may have a self Evidence, and present and proceed upon matters within their own Knowledge.

Tu.

Tu. But what can you say to the Votes against Anticipations of the Revenue?

Pu. Much more than I think fit to say at present, and therefore I shall only put you in mind of the real War with *Holland*, and statute War with *France*, and desire you to consider what Mr. *Coleman* saies upon this Subject, as to the Occasions of our having or not having Parliaments: But pray *Tutor* remember, that you have tied your self up to urge all these things, as causes of the Dissolutions, and I will appeal to all men of Conversation then in *London*, whether the succeeding Dissolution was not generally discours'd of, and believed through the whole Town, before the passing those Votes, which were chiefly intended (as an Argument) to persuade the sitting of a Parliament, during the Distress and Hazards of the Kingdom.

Tu. But how can you justifie their Votes, against putting the penal Laws in Execution against the Protestant Dissenters, whenas the Judges are bound by their Oaths to execute the Laws, did they not hereby assume to themselves a Power of suspending Acts of Parliament?

Pu. Very well Sir! by this, and by *Dangerfield*'s Evidence I dare lay Eight Pounds a Week, I can spell out your meaning, And---

Tu. Why, how now *Pupil*, sure you don't think I'm in Earnest.

Pu. I know it, and yet the bare mentioning such an Objection, during our present circumstances: does naturally make me a little serious; and therefore pray consider that the sole End of all our Laws, is the publick good, which chiefly consists in the Enjoyment and Preservation of our Government, our Religion and Properties, and that there has been, and yet is an hellish and damnable Plot contrived, and carryed on by Papists for the subversion of them all. If then it does appear the Protestant Dissenters are a numerous Party in the Nation, and have all along made Head against the Conspirators to the Envy of their

 Neighbours

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Neighbours, and teſtified their zeal to the Proteſtant Religion and Deteſtation of the Plot, at leaſt equally to any other ſort of men (for the truth of which, I dare appeal to the Common Ingenuity of all ſober Church-men, and to the malice of the Conſpirators themſelves, who have put a particular mark of Honour upon their Integrity, by forging Sham plots and ſuborning falſe Witneſſes againſt them) I ſay if this be their caſe, where then is their Crime, or rather how great was the wiſdom, I had almoſt ſaid Gratitude, of the Houſe of Commons in Voting---That it is their Opinion, that the proſecuting Proteſtant Diſſenters upon the pœnal Statutes, is at this time grievous to the Subject, an Encouragement to Popery, and Dangerous to the Peace of the Kingdom. And we all know, that moſt of theſe cutting Laws, were either new made, or ſcour'd up and furbiſhed at a time when it was natural to paſs from one extream to another; but however the Reaſon of a Law ceaſing, is vertually a Repeal of the Law itſelf, & yet the Houſe of Commons were ſo modeſt as barely to declare their Opinion *pro Tempore*, till a legal Proviſion might be made for Proteſtant Diſſenters in a Regular and Formal way: its plain they did not pretend by their ſingle Vote to alter the Laws, for if they had, why then did they bring in a Bill for Repealing the 35th of *Elizabeth*, which paſſing both Houſes, was afterwards carefully loſt, leſt ſo precious a Jewel might be wanting upon occaſion? But if State-Oaths do critically oblige all that have taken them, officiouſly to execute whatever Laws are in being, and at all times, without any regard to the good or evil that may enſue, I can neither ſee how Proclamations to put particular Laws in Execution came firſt in uſe, nor ſufficiently admire the good Fortune of perſons Reconciled to the Church of *Rome*, and of *Engliſh* Prieſts and Jeſuits amongſt ſo many Laws that call them Traitors.

Tu. No more of that I beſeech you; let's now come to the ſhort Liv'd Parliament here at *Oxford*, at the beginning of which, the Houſes were Adviſed, to make the Laws of the Land their

their Rule, as the King was Reſolved they ſhould be His; and Liberty was given them to put the Adminiſtration of the Government into proteſtant hands, in caſe the Crown ſhould deſcend upon a Popiſh Prince; and yet the Commons could not forbear, falling upon the Succeſſion, though the King had told them his pleaſure in that matter beforehand.

Pu. If Parliaments in their Legiſlative capacity, were ſo Tyed up to the Laws in being, as not to have power to Repeal any Old, or make any New ones, how came we to have any Acts of Parliament at all? or how could they provide ſuitable Remedies for the Occurrences that happen in every Age, which was one main end of their Inſtitution? It's true indeed, the executive power of the King is Reſtrained to Laws already made, as is evident *Vi Termini*; for there cannot be an execution of what has not an Actual Exiſtence, and I am confident this Legal courſe will at long Run be moſt for His Majeſties ſervice, whatever ſome Bankers may have ſuggeſted to the contrary, ſince the ſhutting up of the Exchequer. As to the matter of the Succeſſion, I ſhall ſay the leſs, becauſe more has been ſaid already both within and without doors, than any one hitherto has been pleaſed to anſwer; and if upon juſt grounds, the Parliament has power in a Legiſlative way, to Attaint any Subject whatſoever of Treaſon (which cuts off the Man and Inheritance at one blow) their mercy ſure in ſparing you Life, cannot be thought an exceſs of their power; and that the D. *Y.* ſucceeding to the Crown in an ordinary way, is inconſiſtent with the welfare of the Nation, is even confeſt by the Oppoſers of the Bill, by their pretending to an *Expedient*, which as it was propoſed, in my poor Opinion, is the greateſt Riddle in the world. For the giving a ſolitary and empty Name of King to one man, and placing the Execution of the Kingly Power in the hands of another, does not only divide the Office from the perſon, and conſequently Revive that decryed deſtinction, between the Natural and Politick Capacity, but ſtrikes at the very Being of Monarchy it ſelf. For if the naked Sti'e

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Stile and Title of a King, will satisfie the Notion of being a Monarch, and all the Authority and Power may be translated to one other hand, by consequence they may to more than one, or to many hands, whereby you may have a Monarchy in Name, but in Effect and Reality an Aristocracy or Common-wealth, and so the Expedient becomes *Felo de se*, and supplants that Government it pretends to support.

Tu. Alas poor Monsieur Expedient! why, hark you Pupil, a By-stander would think you hired me to make objections on purpose that you might answer them; but what say you to the business of *Fitz Harris*, and disagreement of the Houses about it?

Pu. Ay, the business of *Fitz Harris*, Tutor! *hinc illæ Lachrimæ*, now you touch a sore part indeed, which gives me just occasion to observe and adore the boundless mercy and goodness of Almighty God, not only in giving warning to this sinful and ingrateful Nation, of a Damnable Popish Plot against it, but also in carrying on the Discovery from Time to Time, to the conviction of Infidelity it self, and eternal Reproach of all that Power and Artifice, that have been made use of to conceal and suppress it. And now at last in this business of *Fitz Harris*, we have (as it were) one Risen from the Dead, to Preach Belief to Infidels. A known Papist comes in, and tells us he can no longer bear the Burden of his own Guilty Knowledge, and is therefore forc'd to confess, that what the Protestant Witnesses have said, is True, and that Sir *Edmund-Bury Godfrey* was Murdered by Papists. That the *Dutch* War, and *Black heath* Army had an ill aspect upon the Protestant Interest: He tells us of great preparations of men and money in Forein parts, to carry on this cursed Design: And that Ambassadors from abroad, and Persons of the first Rank of Subjects here at home, are engaged in the Conspiracy; and who knows but a prudent management of such a Witness, might produce a Discovery of yet higher Importance; therefore the House of Commons thought fit to take the Cause of *Fitz Harris* into

into their own hands, and to be Eye-witnesses of his Innocency or Guilt, as to the Crimes objected against him, that so they might satisfie themselves, and all the world, in the matter of his Evidence. And if such a Cause as this (during our present Circumstances) be not fit to be heard in the Highest Judicatory of the Nation, I shall despair of ever hearing of any that will not be too little for its cognizance. As to the *Debitum Justitiæ*, or Right of the Matter, I shall say the less, because some of the Noble Lords themselves in their late Protestation, have said so much on the Commons side. But pray consider that the Lords were first in the disagreement; for they Rejected the Impeachment, without any previous Conference to give or receive any Reasons (which manner of proceeding in common conversation, is very unusual amongst good Neighbours) and what followed after in the House of Commons, I conceive did not in the least exclude them from giving or receiving satisfaction in the matter in difference, but rather made way for a Conference in order to it; the good effects whereof would no doubt have been suitable to the wisdom of both Houses, had they continued longer together.

And now good Tutor, if this be all you have to object, I hope you will not take Advantage of the Dead, nor make the Venerable Ghost of an House of Commons stand up in a Sheet, and do Pennance in your Churches.

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