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THE
CONSTITUTION
OF
Parliaments
IN
ENGLAND.


Deduced from the time of
King *Edward* the Second,

Illustrated by King *Charles* the Second
In His Parliament Summon'd the 18 of
February 166^o. And Dissolved the 24 of
January 167^o.

Observed by Sr. *John Pettus* of *Suffolk*, Knight.

LONDON,
Printed for *Thomas Basset*, at the *George*
in *Fleetstreet*, 1680.

The Epistle
 To the Generous
R E A D E R.

 Having the Honor of
 Consanguinity to
 some of the *House*
 of *Lords*, and free
 access to most of
 the Rest who make up the Harmo-
 ny of that Noble *Judicature*, I
 thought it not convenient (as well
 to prevent exceptions as dissatis-
 factions) to dedicate this to any one
 of their particular Lordships, well
 knowing that to offer any addi-
 tion to their Universal *Intuitions*
 had been needless.

But I devote it in General to
 such whose Youth, or diversions
 (by other Employments) have
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made them unknowing, or less knowing in this Subject, which I have brancht out into 16 parts, whereof 12 consist of *Precognita* or things fit to be known or done after Summons and before the sitting of any *Parliament*, the 13. 14. and 15. are of matters to be known or done only during the sitting of a *Parliament*, the 16th. hath a relation, and is a Supplement of such matters as could not well be Inserted to the foregoing 15 Parts.

'Tis true, this subject of *Parliaments* hath been treated on by many Learned writers, but because none of them have proceeded in such a due *Series* as they might have done (for they were more for the *Modus tenendi*, than *Inchoandi*) I have partly from them, and partly from my own observations (having been a member of the *House of Commons* about

To the Reade.

about 12 years, and thereby had intercourse with the *House of Lords*) and partly by the help of some worthy Friends) digested this Constitution into as clear a Method as my lesser abilities could perform.

First I shew the Gradations and Progresses to a *Parliament*, from the Fountain. *viz.* the Kings Warrant to the *Lord Chancellor* Impowering him to Summon it in Generals by *Writs*.

Next I shew his Lordships Warrant to the Clerks of the *Petibag*, for framing (according to former Precedents) *Writs of Summons* in Particulars.

Thirdly, I shew that these Clerks did Anciently and do still use a Method therein, which Method (being fairly ingroft on one large *Parchment*) is called a *Parliament Pawn*.

I doe not find that any writers before

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before me have made any mention of these *Pawns* (nor doe I put any weight on them, but in their Method whereby they are compos'd) because I find that the Clerks not conferring with the *Heralds* have committed many mistakes in Christian and Surnames, in Titles and Orthography.

However the Method therein hath continued for many Ages, as will be shewn, and though I have tried many ways to frame this Treatise, yet none pleased me so well as the Method used in the framing of a *Pawn*, which I have herein pursued.

The Writs which are contain'd and Methodiz'd in all *Pawns* have two Appellations *viz.* *Exemplars* and *Consimilars*, and from those do arise the Method of this Treatise. But as the *Pawn* doth only recite one Writ of one sort, (as an Example for *Consimilar Writs* of the

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the same sort to be issued, yet are not therein mentioned;) So I by that Method do take occasion only to Treat of the *Exemplars* (except in some few places (for to Treat of all the *Consimilars* had been too great a task) by which means I have here only five Writs, which gives me opportunity to treat of the *Blood Royal*, of the *Lords Spiritual*, of the State Officers, of the *Lords Temporal*, and of the most Eminent *Togati* as the Assistants in that noble *House*, the other seven concerning the *House of Commons* I shall treat of in a distinct Part.

And though my design is wholly to treat of what concerns that noble *House* in this part, yet I could not avoid the Intermixtures of some necessary hints of what properly concerns the *House of Commons*, which I intend (*af-vente Deo*) to publish by it self.

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It was scarce possible that a Subject, which spreads it self into such varieties, should be so collected as not to have Omissions, some of which were purposely done, First, that I might not injure the Reader nor my Method by two long diversions, and yet satisfy him in conclusion. 2^{ly}. I have been as careful as I could to prevent mistakes, but some will be, yet those which are necessary to be corrected (*viz.* my own oversights, or the Printers) I have added them to the end of this Epistle, but as for the Printers Omissions of Marginal Authorities, and distinctions of Sections, and observations (which were in my Copy) and for his not putting some words into *Italick* Letters, and for want of *Comma's*, *Points* &c. the Ingenious Reader, may Easily pardon them.

I have so order'd this Impression,

To the Reader.

tion, that you have a System or the Contents of an Introduction and of 20 subsequent *Chapters*, *Sections* and Observations which I thought fit to exhibit, that those who have not the Leisure to read all the *Chapters*, may turn to such parts as most suit with their Genius.

I begin the proper matter of this Treatise with the Kings Warrant in *Feb.* 166^o; for Summoning that *Parliament*, and I shall End all with His *Proclamation* for its Dissolution in 167^s.

In these discourses I take the liberty to look back into former Ages, but not forward beyond the Dissolution of that *Parliament*; Only as an *Appendix*, I shall speak of some things that are to be done with *Records*, *Leidger Books* &c. and Allowances to *Knights*, *Citizens* and *Burgesses* after any one *Parliament* is ended.

Cor-

Corrigenda.

Pag. 20 l. 25 d. are, read, or, P. 79 l. 23 after Seal, read till of Late years, P. 100 l. 17 r. *Hertford.* P. 124 l. 16. r. forgetting the Title of Knight P. 129 fill up the blank thus.

L. 15 Ric. 3	11	38	o	38
L. 16 Hen. 7	10	42	i	29
L. 17 Hen. 8	37	45	i	36 dele. 28 44

P. 137 d. son, r. Heir to Blanch the Wife of *John P.* 139 l. 6 d. and 6. P. 383 l. 7 read by this.

The Reader may also take notice that after the Contents, there are observations Printed, concerning the Names and Titles of our *English Kings*, especially of the Name *Carolus* or *Charles*, with some Prophetick Interpretations of it, which should have been plac'd next the 14 Page of this Treatise, but being omitted by an Accident he is desir'd to read them after that Page, if he please.

Errata.

IN the *Corrigenda* at the end of the Epistle line 5. for 11. read 1. and l. 6. for 10. r: 1. and In the *Contents* Chap. 10 l. 13. for Confies r. Concifenes, and in the *Titles of Kings* p. 2. l. 16. for first r. fixt. p. 5. l. 26. for given r. giving, and p. 9. l. 8. for England r. Angle-land, and in the *Appendix* p. 8. l. 20. blot out Acts Publick 10, Private 1d ; being eatred 4 lines before.

THE
CONTENTS
of this
TREATISE.

The Introduction.



Hewing the Original of Councils, and the several Names of Councils in other Nations and in this Kingdom, How and when the Name of Parliament began ; Of its Etymology and Definition ; That a Parliament is the Abstract, yet includes the whole Constitution and Fabrick of the Government of this Kingdom; That it Consists of a King and three Estates, and of three assisting Interests to those three Estates.

The rest is divided into twenty Chapters with several Sections and Observations in them, as followes.

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Observations

Observations on the Names and Titles of our English Kings.

The Learned Mr. Selden having bestowed an Excellent Addition to Libraries, by his book of the Titles of Honour, and Sr. Edward Cook thinking it a necessary part of his Institutes, for a Student to be well vers'd in the several Titles of our Kings, and knowing that the substance flowing from those Titles are the chief Subjects which are handled in Parliaments, I think fit to give a light touch (by way of Preface) to the several words of the Title in the Kings Warrant, as also in the Title of his Latin Writs, which are mentioned so often in the following discourses. viz.

Charles the Second by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c.

Carolus Secundus Dei Gratia Rex Angliæ, Scotiæ, Franciæ, & Hiberniæ, Defensor Fidei, &c.

First, It may be observed that all our Kings before, and since the coming in of the Normans, have been Usher'd into that Regal

Of the Names and Titles

Regal Dignity by their Christian Names, whereof from that time we have Ten several Appellations. viz.

One Stephen, 1 John, 1 Mary, 1 Elizabeth, 1 James. 2 Williams, 3 Richards, 6 Edwards, 8 Henrys, 2 Charles, but of all these Ten Names Charles must have the Honour of Priority given to it.

To prove this, I shall trace their Progresses through Empires, Kingdoms, Principalities, and States, under Secular Governours, (not meddling with Ecclesiastical) and first of the Name Carolus, or Charles, Concerning which, I shall not goe so far back as Charellus Prince of Lacedemon, but since Christianity was first, I find that the Name Charles or Carolus (for they are agreed to be the same) had its first splendor from Charles Surnam'd Martill (a French King) in Anno 714. (who was the first that had the Title of Most Christian King and from whom came Caroloman and Charlemain in Anno 778) and after viz. in Anno 800 the Name of Charles went into the Empire, and in Anno 1119 into Flanders, In Anno 1150 into Swethland, In Anno 1263 into Naples and Sicily, In Anno 1310 into Hungary, In Anno 1346 into Bohemia, In Anno 1601 into Scotland, (King Charles the first being there Born,) And in Anno 1625 into England, (the

Charles
I.

of Englands Kings.

(the same Charles being then King) so as our Present King Charles the 2d Immediate Heir to Charles the 1st. is the Second King of that Name in England, and Scotland, and that Name of Charles is the first of any of the aforesaid Ten Names affixt to any Diadem in Europe.

Edward II. Edwardus or Edward, began but in the time of Edward the Elder, who was the 24th. King of the Saxon Race and 25th. Monarch of England, And he in Anno 901. gave the first reputation to it, In Anno 1332 it went into Scotland, And in Anno 1334 Carried into France by our Edward the third (who laid Claim to that Crown) And in Anno 1433 it went into Portugal, continuing still in England (with some interpositions of other Names) till Queen Mary came to the Crown in Anno 1553.

Henry III. Henricus or Henry began in the Empire of the East, Anno 919, and in Anno 1101 came into England, from thence Anno 1192 it went into Bohemia, thence Anno 1206 to the Emperour then at Constantinople in Greece, In Anno 1214 to the Kingdoms of Leo, and Castile, In Anno 1271 to the Kingdom of Navarr, In Anno 1422 carried into France by our Henry the 6th. (who was then Crown'd in Paris King of France) And in Anno 1573 it went into Poland, so as this Regal Name of Henry

com

Of the Names and Titles

continued in England from Anno 1100 (with some interpositions) till Edward the 6th. Anno 1546.

Stephanus or Stephen the 1st. that made his Name famous was Stephen a Martyr for Christianity, but it was not annext to any Regal Title, till Anno 997 in Hungary, and thence in Anno 1135 it came into England, (yet never fixt there, but on one King) And in Anno 1576 it went into Poland.

Stephens IV.

Guilielmus or William began first as a Regal Title in Sicily and Naples, Anno 1023 and thence, and in Anno 1066 it came into England, where it never fixt but on two Kings.

William V.

Johannes or John, the first who made this Name famous was John the Baptist and John the Evangelist, but it was not a Regal Title till Anno 1118 and then the Emperour of the East assum'd it, And in Anno 1199 it came into England, (determining in one King) from thence in Anno 1222 it went to the Emperour at Adrianople, And thence in Anno 1303 into Scotland, In Anno 1310 into Bohemia, In Anno 1350 into France, In Anno 1379 Into Leon and Castile, In Anno 1383 into Aragon, In Anno 1387 into Portugal, In Anno 1405 into Flanders, In Anno 1418 to Navarr, In Anno 1478 to Denmark, and

John VI.

* 2 Norway,

of Englands Kings.

way, In Anno 1492 to Poland, And in Anno 1597 to Hungary.

Note, that there were 23 Popes of this Name John, and 10 Stephens, but I here speak only of the Regal Names of Secular, not Ecclesiastick Princes, and it may be observed, that none of the Popes have taken on them any of our 10 Regal Names Except John and Stephen.

Richard VII. Richardus or Richard, was not a Regal Title till Anno 1189 and then it came first into England, and continued (with some interpositions) till Anno 1485 when Hen. the 7th. came to the Crown, nor was the Name of Richard either before or after those years, fixt to any Regal Title in Europe, unless Ricarodos in Spanish do signifie Richard in English.

James VIII. Jacobus or James, (not medling with Jacob the father of the Twelve Patriarchs, or James the Apostle but upon a Regal account it was not fixt to any King till Anno 1213, then it began with the King of Aragon, Thence in Anno 1286 into Sicily, and Naples, In Anno 1423 to Scotland, In Anno 1603 to England, given a Title to that happy Union of England, and Scotland by King James.

Mary IX. Maria or Mary, had the suprem Honour to be Mother of our Saviour but it was not annext to any other Regal Title, till

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till Anno 1310 in Hungary, and from thence Anno 1476 to Flanders, Then in Anno 1542 to Scotland, And in Anno 1553 to England.

Elizabetha or Elizabeth, had the Honour to be Mother to John the Baptist, but was not annext to any Regal Title till Anno 1438 in Hungary and from thence Anno 1538 it came into England.

Elizabeth X.

Thus having trac'd the Perambulation of their Ten Names through most parts of Europe I shall pass to the next Epithet in the Kings Title, viz.

Secundus or Second, and see when a Numeral Appellation was first made Titular to our Kings, and here it may be observed that our Kings had Anciently Adjuncts to their Christian Names; to distinguish them from others of the same Name, as Edward the Elder, Edward the Confessor, in the Saxons time, and in the Normans, William the Conquerour, and William Rufus and after him (other Titles signifying their tempers) but not Numeral, till Henry (who was the 8th. of that Regal Name in England) and he in the 10th. year of his Reign did first begin to write himself Numerally Henricus Octavus: And after him Edward his Son did write himself Edwardus Sextus, and ever since in our Histories and Records, where there

Secund II.

of Englands Kings.

hath been since *William* the first, two or more Kings of the same *Christian* Names; the Numeral Appellation is added, and there upon our present King Stiles himself in all *Writs* and *Warrants*, as well *Parliamentary* as otherwise, *Carolus Secundus* or *Charles* the Second.

Grace of God. III. *Gratia Dei* by the Grace of God; Neither the Letters *D. G.* (denoting *Dei Gratia*) nor the words *Dei Gratia* (or the Grace of God) were used as Adjuncts to our Kings Titles, till *William Rufus* his time and after that, there were some intermixtures (as *Sr. Edward Coke* saith) but according to *Mr. Speeds Medals* and some others; the Letters *D. G.* and the words *Dei Gratia* were first us'd by *Edward* the Confessor, and constantly after *William Rufus* by every succeeding King without omission; King or Cuning according to the *British* or *Saxon* Dialect (signifying the same with *Rex*) and is not us'd in any *Parliamentary* Writs, nor in any Circumscription of our Coins, but *Rex* (being a word as Ancient as the Latine Tongue is us'd in all our *Writs*, as well *Parliamentary* as *Judicial*) and may be traced in our *Coines* from the begining of our *Saxon* Kings to the *Danes* with addition only of the *Christian* Name and then also *Canutus* the first of the *Danes* here, Stil'd himself only

King IV.

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only *Canutus Rex*; and others who succeeded him, and *Edward* the Confessor (the fourth *Danish* King) and 37 Monarchs of *England* sometimes wrot *Edwardus Rex*, sometimes *Edwardus Anglorum Rex*, and sometimes *Edwardus Anglorum Basilicus* (according to the Greek word for King) so as the word *Rex* did goe along from the *Britains* to the *Romans*, *Saxons*, and *Danes*: *Herald* the last of that Race, and those before him writing only *Rex* with their Names, and so when the *Normans* Entred. *William* the first Stiled himself only *Willielmus Rex*, and so did the succeeding Kings seldom using the word *Basilicus* till King *James* time.

As to the Etymologies and Originalls of these and other words in this Title I shall leave them to my Annotations, but sometime our Kings wrote *Rex Angliæ*, and some times *Rex Anglorum* (ever from *Edw.* the Confessors time) Now what *Anglia* or *England* contains, every *Geographer* tels us that it is surrounded by the sea Except towards *Scotland*, and as to the diversity of Names several *Chronologers* tell us that it was Anciently call'd *Albion* by the *Greeks*; *Iniswen* by the *Welch* Poets, *Insula Cæruly* & *Insula Florum* by other Poets, and *Britannia* by the *Greeks* and *Romans*, *Romania* & *Valentia* only by the *Romans*

England V.

of Englands Kings.

Angleand, England and Britain by the Saxons, but when the *Saxon Heptarchy* was United under King *Egbert*, he by his Edict *Anno 819* ordain'd it more solemnly to be call'd *Britain* (containing *England, Scotland, and Wales*, yet notwithstanding this Edict, it was sometimes call'd *Albion*, sometimes *Britain*, and sometimes *England*, and these various Appellations were us'd (as appears by *History*) under Ten successive Kings after that Edict, and then King *Canutus* the 10th. King from *Egbert*, and the first of the *Danish* Race, fixt the Name of *England* & that Name hath continued ever since, according to the *English* dialect; and *Anglia* according to the *Latine* (considered as disjoyned from *Scotland, and Wales*) but upon reduction of *Wales* by *Henry* the 8th. and by the happy Union with *Scotland* by King *James*: the Kings Title hath been more general, viz. *Rex Magnæ Britanniae*, comprehending *England, Scotland, and Wales*, but not to be so understood in our *Parliamentary Writs* for they are applicable only to *England and Wales*, and not to *Scotland* though *Scotland* be mentioned in the *Writs*, and it may be observed that this distinction of *England and Scotland* were united under the Name of *Britain* by King *Egbert Anno 819* but after that they were
again

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again disjoyned, and though both did continue so disjoyned neere 800 years yet now the Ancient Name of *Britain* is restor'd (being bound by one Ocean and Govern'd by one King as it was 800 years before) and though it is now thus intire, yet *England* hath a distinct *Parliament* for its *Laws*, and *Scotland* a distinct *Parliament* for its *Laws*, and both distinctly consisting of 3 Estates under one King, so as in all *Writs* for Summoning an *English Parliament*, though *Scotland* be mentioned yet the operation of the *Writs* can only be applied to *England*.

The addition of *Scotland* in the Title of our *Parliament Writs*, did begin with King *James* who happily united both Kingdoms as I said under one King, and so wrot himself *Rex Angliæ Scotiæ &c.* But they never send any Representative to our *Parliaments* nor we to theirs yet the King of *Scots* before the union had a Chair allotted for him in the House of Lords but never sat there yet he was sometimes Summon'd as Earl of *Huntington* and so by vertue of that *English* Title might have sat there but not by his Regal Title untill the said union.

Although we had several inlets to *France* by *Normandy, Anjoy Poictors Tourney Mayne &c.* yet the addition of King of *France* to the Title of *English* Kings was
not

Scotland
VI.

France
VII.

of Englands Kings.

not till *Edward* the 3^{ds}. time, who had a Just Title to it, and there upon did Quarter the Armies of *France*, But *Hen.* the 6th. was actually Crown'd King of *France* in *Paris*, and from these two, the Title and right hath continued ever since (though dispossess) and as I shall shew in the second Part of this Treatise that *Callis* did send Burgesses to our *English Parliaments*, for many years till it was Lost by *Qu. Mary.*

Ireland
VIII.

The Title of *Rex Hiberniæ* was as Ancient as our King *Hen.* the 2^d. who created his Son *John* the King thereof, yet for what reason of State (otherwise then what I shall mention) in the 7th. Chapter) that Title of the King of *Ireland* was never annex to the regal Title of the Kings of *England* till the 3^{3d}. of *Hen.* the 8th. and then to his other Titles he added *Rex Hiberniæ*, before it was only *Dominus*, and their *Parliaments*, are fram'd like our *English Parliaments*, yet Subject to the Kings pleasure in confirming of their *Laws* here in *England*, See more of this in Chap. 7th.

Defender
IX.

As to this part of the Kings Title *viz.* Defender of the Faith, I shall speak more fully of it in the 7th. Chapter, Or *Sc. id est* other Titles which were formerly, and may still be added as you may Read also in the 7th. Chapter, Section the 11 and 12.

Sc.
X.

Thus having past through the General words

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words of the Kings Titles in his *Warrants.* and *Writs*: now in observance to *Sr. Edward Coke*, I shall make a Summary of the particular Titles of our several Kings, from *William* the first Inclusive to this time, shewing what words were added or withdrawn.

When the *Normans* entred, *William* the first stil'd himself sometimes *Willielmus Rex*, and sometimes *Rex Angliæ & Anglorum*, (as other former Kings) Omitting *Dei Gratia* (as the Institutor saith though I am not satisfied therein) and not adding *Primus*.

William
I.

William surnamed *Rufus* had the same Title, yet sometimes adding *Dei Gratia*, not adding *Secundus*.

William
II.

Henry stil'd himself *Rex Anglorum*, and sometimes *Dei Gratia Rex*, not adding *Primus*.

Henry
I.

Stephen did the like.

Stephen
I.

Henry did the like but Omitted *Dei Gratia* (as *Sr. Edward Coke* saith) but in the Coins which *Mr. Speed* Exhibits to us his stile was *Dei Gratia Rex Angliæ Dux Normaniæ & Aquitaniæ & Comes Andegavia*, not adding *Secundus*.

Henry
II.

Richard not adding *primus* us'd the same sometimes Changing the Declension, and the singular Number into the plural, *viz.* *Dei Gratia, Rex Anglorum, Dux Normano-*

Richard
I.

rum

of Englands Kings.

rum & Aquitaniarum & Comes Andegavi- arum.

John John us'd the same with Addition of *Dominus Hiberniæ.*

Henry III. Henry stil'd himself like his Father King *John*, till the 44 of his Reign, and then he left out *Normaniæ & Andegaviæ*, and writ only *Dei Gratia, Rex Angliæ, & Dominus Hiberniæ, & Dux Aquitaniæ*, not adding *tertius.*

Edward I. *Edward* the 1st. and *Edward* the 2^d. stil'd themselves like *Henry* the 3^d.

Edward III. *Edward* us'd also the same stile till the 13 of his Reign, and then having, and Challenging a Just Title to all *France* he left out the parts of it (before mention'd) and stil'd himself *Dei Gratia Rex Angliæ, Franciæ, & Dominus Hiberniæ*, not adding *Tertius.*

Richard II. *Richard* and *Henry*, not adding *Secundus* or *Quartus* stil'd themselves like *Edward* the 3^d. from the 13 of his Reign.

Henry V. *Henry* not adding *Quintus* us'd the same stile till the 8th. of his Reign, and then writ himself *Dei Gratia Hæres & regens Franciæ & Dominus Hiberniæ.*

Henry VI. *Henry* not adding *Sextus* being Crown'd King of *France* in *Paris* wrote *Dei Gratia Rex Angliæ, Franciæ, & Dominus Hiberniæ.*

Edward IV. *Richard III.* *Henry VII.* *Edward*, *Richard* and *Henry* not adding *Quartus*,

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Quartus Tertius vel Septimus, stile themselves *Dei Gratia Rex Angliæ Franciæ & Dominus Hiberniæ.*

Henry writ also the same till the 10th. of his Reign (as I said) and then, and not before, he added a Numeral word to his Title and so made it, *Henricus Octavus Dei Gratia Rex Angliæ Franciæ & Dominus Hiberniæ*; Now as to the Additional Titles to *Henry* the 8th. after his 10 years they Consisted of so many varieties that I shall refer them to the 7th. Chapter of this Treatise Section the 11) As also the Titles of *Ed.* the 6th. *Q. Mary*, *Q. Elizabeth*, *K. James*, and *K. Charles* the first.

Henry VIII.

In which Chapter and Section I conclude with the Title of our present King *Charles* the 2^d. viz. *Carolus Secundus Dei Gratia, Rex Angliæ, Scotiæ, Franciæ, & Hiberniæ, Fidei Defensor.* viz. as in the *Warrant.*

And so having shown how the ten Names of our Kings from the *Normans* have been dignified by Kings, *Emperours* &c. Especially the Name of *Charles* by its Priority which is the more remarkable, because that by Transposition only of its Letters it doth Anagrammatise and render it

O C L A R U S } Anagram.
C A R O L U S }

This Anagram may be applyd generally to

0373

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to all of that Royal Name, and it may be one reason why so many Kings in *Europe* do at this day own that Name, and possibly another reason of assuming it, may be to amuse the World about *Grebners* Prophecy, viz. that *Carolus E stirpe Caroli, Erit Carolo Magno Major*, but none can pretend to a greater interest in that Prophecy, then our present King *Charles* the 2d. being so punctually and Signally *ex stirpe Caroli*.

How ever I am sure nothing can be more particularly Prognostical and Applicable to any Regal *Charles* (then this following Anagram) to him being made when he was born Prince of *Wales*, which I have ever since kept safe by me.

CHARLES PRINCE OF WALES.

Anagram.

ALFRANCE CRIES O HELP VS.

As to the uses which shall be made on these regal Names, their Progresses and Anagrams (being not the proper Subject of this place) I shall refer them to my Annotations and proceed to Observations on the *Warrant* of another Nature.

THE

I

THE INTRODUCTION

Shewing how a

Parliament

CONSISTS.



When Families increas^{Section} into Villages, Towns, I. Cities, large Countreys, Kingdoms, and Empires, under one Father or Conductor, (for all other Governments are collateral to Paternal and Monarchical) there was a necessity to Constitute a *Supream Council* of the chiefest and wisest men selected from the multitude, as might keep such extended Dominions in a perfect Unity and Obedience to their Original *Father* or *Monarch*.

The end of this *Constitution* was both for Conservation of the *Original Family* or *Potentate*, who did thus Constitute them, or for his own ease in managing the common interest of *Safety* and *Plenty*. B That

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II. That their proceedings in their Councils might have the more solemn Effects and Veneration, several Nations in imitation have since given distinct names to their *Supream Council* erected, as distinctions to those which were more *Subordinate*.

Thus the *Jews* (from whom we derive our most credible Memoires of Antiquity) had their *Supream Council* called the *Sanhedrim*, consisting of secular Persons, *viz.* One *Prince*, (as their chief Head) besides Seventy others of mixt natures, they had also another *great Council* altogether *Ecclesiastical*, called a *Synagogue*, and other lesser, in the nature of our *Convocations*, and sometimes all did meet at the great *Sanhedrim*, (which was only kept in *Jerusalem*) and this was the *Supream Council*, as may be seen in the 26th. ch. of *Jeremiah*, v. 8. who was condemned by the *Ecclesiastical Consistory* of *Priests*, and absolved by the *Temporal* or great *Sanhedrim* of *Princes*, or chief *Council*, as may be more fully seen in that Chapter and in the *Jew's* Antiquities.

And to pass the *Ariopagus* among the *Athenians*, we read that the *Old Romans* also had their *Great Council* called

a Se-

The Introduction.

a *Senate*, consisting of 300. Laicks chosen out of the *Nobiles Majores & Minores*, and their *Consistoriani*, where their *Senate* did sit: and their *Comites* and *Consistoriani* (as Members thereof) did somewhat resemble the *Constitution* of a *Parliament*: they had also a *Pontifical Colledge* consisting of *Ecclesiasticks*; but the name of *Senate* at *Rome*, hath been long since drown'd, since the fall of that old *Roman Empire*, for at *Rome* the name of *Senate* is now altered into that of *Consistory*, (and in the vacancy of the *Pope*, or *See* of *new Rome*, it is called a *Conclave*) and now the *Empire* of *Germany* (which did arise from the ashes of the *old Roman Empire*) being shiver'd into several *Proprietors* (lest it should grow again too great) was brought to a *Dyot*, for so the chief *Council* of that *Empire* is called.

Yet the old *State of Venice* still keeps the name of *Senate* for her *great Council*, and the chief *Council* in *France* is called an *Assembly of States*.

But here in *England* we have the name of our chief *Council* from *Romans*, *Saxons*, *Normans*, and lastly from the *French*, for it hath been called by those, *Senatus*, *Curia altissima*, *Michel Synoth*,

III.

B 2 Assisa

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Assisa Generalis, and many more names, some of which I think fit to render in English, viz. Senate, the great Synod (or meeting of the King, and of the Wise-men) the highest Judicatory, the General Pleas, the Great Court, the Common Council of the Kingdom, and the General Assize.

At last, in the time of Henry the Third, or Edward the Second, all these Names were reduced to the word Parliament, which was then borrowed from the Language and Name of the chief Councils in France (in many of which Provinces and Parliaments our Kings had then a considerable interest.)

IV. I do here mention, that the Original of this Name did begin with us in Henry the Third, or Edward the Second's time, but Sir Edward Coke, in his Institutes, is pleas'd to cite one Precedent before the Conquest: When (saith he) the word Parliament was here us'd, but it seems it did not continue a fix'd name of Parliament from thence; for at the great Council, held by Henry the First at Salisbury, consisting of the three Estates, viz. Lords Spiritual, Lords Temporal, and Commons, it is called by the Name of Council, and not Parliament, (as some other Writers have mistaken,)

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mistaken,) However, it was not us'd again, till once in Henry the Third's time, as some say; but we are certain, that it was us'd in the 15th of Edward the Second, (as I shall shew from safe Records) and after Edward the Third was Crowned King of France, then, and ever since, this great Council of the whole Kingdom hath, without variation, gone by the Name of Parliament.

V. And though, as that learned Institutor observes, That the French Parliaments were lesser Courts subject to the Assembly of Estates, yet that Assembly of Estates was but originally a grand Parliament, constituted of those lesser Estates or Parliaments, and those did anciently consist of Lords Temporal, Commons, and Clergy, (for in that rank they are cited by Comines, (an approved Author.) However, since the 15th of Edward the Second, we have not altered its name, only a little in Orthography (which hath made work for that learned Institutor and other grave Writers on this Subject about its Etymology) so by Example of those Worthies, I may venture to cull out one, (intending to speak of the rest in my Annotations,) viz. Parliament, i. e. a Parly of minds; and to this Etymology I may add this definition,

dition, That our Parliament consists of a certain number of Men, of certain Degrees and Qualities, Summoned by Writs from the King, to meet together in some place appointed by those Writs, to parly or confer their minds to each other for the good of the Publick.

VI.

This Definition will be more fully proved in this following Treatise; yet, before I confirm it at large, I think fit to give a brief and intelligible Explanation of it (in relation to a Parliament here in England.) To that end I shall first set down the Nature of our Monarchical Government, and then we shall more easily understand the Constitution of our Parliaments.

It is generally held, That the frame of this Monarchy consists of a King, and of three Estates subordinate to him.

The first Estate, mentioned in all our Acts of Parliament, is Spiritual and Ecclesiastical, govern'd by the Lords Spiritual; and this Estate hath Jurisdiction over the whole Kingdom, not only considering the effects upon our Souls, but in its civil latitude and dimensions, as having an influence and interest in every individual Man, Woman, and Child, and in most of the Products of the Earth from their first Being to their
Disso-

Dissolution; and this in all the fifty two Counties of England and Wales; but for the distinction of the Civil and Ecclesiastical Jurisdiction, these are comprised into a lesser number, viz. of twenty six, and are call'd Diocesses, as being given to them from God by the hands of the King, to whom they acknowledge a subordination.

The second Estate (and so mention'd in our Laws) is the Lords Temporal, or rather Militial, having the Lieutenancies of all the Counties of England and Wales comitted to their Trust, Care, and Charge; and to these belong the managing of Embassies, Treaties of War or Peace, and all honorary Actions, both Foreign and Domestick, as the King (who is the Fountain of Honour) does usually confer upon them.

The third Estate is the Commons, (also mentioned in our Laws) and this also subordinate to the King; and these consist of Gentry (Men of fixt and settled Fortunes, designed for things of Gallantry and Hospitality) and of the Teomanry, comprised under several appellations, viz. Husbandmen, Artificers, and Labourers, all driving on a Commutative Commerce, as well to supply themselves as others with what the Land or

Sea affords, either *necessary, convenient, ornamental, or superfluous.*

VII. Besides these three, there are three very great Interests, which are not call'd *Estates*, but *Assistances*, and in truth they are the very *Supporters* of these three *Estates*: *viz.*

The first, *Religion*, the second, *Law*, the third, *Trade*.

1. *Religion* is to be managed by the *Clergy* of several *Degrees* (as will be shewn) some neither *Freeholders*, nor *Freemen*) by their winning of men with a *persuasive* or *exemplary Power*, into all Pious and Virtuous Actions, whereby the Souls and Minds of Men may be united to Love and Obedience; and this is the cement of *Unity* (to the three *Estates*.)

2. The *Laws* are manag'd by *Lawyers* of several degrees (some neither *Freeholders*, nor *Freemen*) by instructing *Magistrates* in their compulsory Power, when occasion requires, so as both the *Laws* of *God* and *Man* may be duely observed, and that such whom the *Clergy* cannot invite to Piety, and Virtue, by Precept, and Example, may be compelled to it by the *Rigour* of the *Laws*, and this is the cement of *Severity* to the three *Estates*.

3. *Trade*

3. *Trade* is manag'd chiefly by *Merchants*, (some also neither *Freeholders*, nor *Freemen*) these give life to *Industry*, whereby the *Rich* do help the *Poor*, and the *Poor* the *Rich*, and thus *Trade, Commerce, and Industry*, are as necessary *Cements* to the Three *Estates*, as either *Religion* or *Law* (respecting only what morally concerns Justice and Obedience) and this is the *Cement* of *Prosperity* to the whole *Fabrick*.

So we see that as there are Three *Essential Estates*, so there are also Three *Essential Assistances* or *Supportations* of those *Estates*, and without which those *Estates* cannot well subsist.

Now out of these Three *Estates* in *general* the *King* doth abstract a *Parliament*. For when *He* gives notice of his intentions to have one, he orders *Writs* to *Archbishops* and *Bishops*, who are chiefly to manage the concerns of the *Clergy*.

At the same time *He* also orders *Writs* to such of the *Nobility* as *He* or *His Predecessors* have either by *Patent* created to that employment, or otherwise invested with some right thereunto, who are chiefly to manage the concerns of the *Nobility* and *Kingdom*. At the same time *He* also orders *Writs* for *Electing* such a
number

VII.

number of *Commons* out of *Counties*, *Shires*, *Cities*, and *Burroughs*, as may manage the concerns of the *Commonalty*, and yet these *three Estates* thus distinctly *Summoned*, are so admirably intermixt in this *Supream Council* or *Parliament*, that these *three Estates* in that *Council* seem to have an interchangeable power and check on each other, in the more Safe and Wise carrying on the Affairs of the whole *Kingdom*, considered either at *Home* or *Abroad*.

IX.

And as the Government of the *Kingdom* hath three sorts of Assistances, (as is before shewn) so those three sorts of Assistances are disposed into three sorts of Assistants. For the *Bishops* have a certain number of *Deans*, *Archdeacons*, and *Proctors*, cull'd out of *Prebends*, *Parsons*, *Vicars*, and the *Clergy* in general, as may be *Assistants* to the Episcopal Interest.

The *Nobility* have a certain number of *Lawyers*, (*viz.* *Justices* of the Respective *Benches* and Courts of Judicature in *Westminster-Hall*, (as will be shewn) cull'd out of the Profession of *Lawyers*, to be Assistants to them.

The *Commons* have the bulk of every *County* contracted into Two *Knights*, or one, for each *County*, and of Two *Merchants*

chants for each *City*, and of Two lesser *Traders* for each *Burrough*, and yet the *Electors* of them are not so confined to the Persons *Eligible*, but that such as they hold fit to manage such *Employment*, are capable to be *Elected*, though they be not *Knights*, *Merchants*, or *Traders*, yet they are confined to a set number, (as I said) and of *qualifi'd Persons*, as well to preserve the *Honor* of it, as to prevent a *surchage* of too great a concourse to this Assembling of a *Parliament*.

By this easie demonstration it is evident that the *Lords Spiritual* (consisting of *Archbishops* and *Bishops*, (*Successive* but not *Hereditary*) do Sit in the *Lords House*, and there Represent the whole *Clergy* of this *Kingdom*.

The *Lords Temporal* consisting of *Dukes*, *Marquesses*, *Earls*, *Viscounts*, and *Barons*, which Five *Degrees* by a *Nobilitated Interest*, *Hereditary* and *Successive*, do Sit there also, Representing all the *Nobility* of those *Degrees* in the *Kingdom*.

The *Commons* consisting of *Knights*, *Citizens* and *Burgesses*, (by an *Elective Interest*, neither *Hereditary* nor *Successive*) do Sit in the *House of Commons*, Representing all the *Commonalty* of this *Kingdom*.
Over

Over which Three Estates, the *King* for the time being ever was and still is esteemed by an *Hereditary* and *Successive* Right, the *Supream*, and in the *Eye* of the *Law*, the *Immortal Balance* of these Three *Essential* yet *Subordinate* *Parts*, *Interests* or *Estates* of this *Kingdom*; I say *Immortal*, because our *Laws* do say that *Rex nunquam moritur*, and thereby gives him a clear *distinction* from the Three Estates.

- X. Now to undeceive some that would have the Three Estates to consist of *King*, *Lords*, and *Commons*, because our *Government* seems to be framed of *Monarchy*, *Aristocracy*, and *Democracy*: To clear their Judgments, the *Monarchy* stands *single*, but the *Aristocracy* is *double*, viz. An *Aristocracy* of the *Lords Spiritual*, and an *Aristocracy* of the *Lords Temporal*, to which add the *Democracy* of the *Commons*, and all is reconciled into *Two Aristocratical Estates*, and one *Democratical*, and the *Monarchical* as *Superintendent* to those *Three*, and so this *Unity* with the *Triplicity*, is the due *constitution* of our *English Parliament*, and indeed of the *Kingdom* it self.

THE

THE
CONSTITUTION
OF
PARLIAMENTS.

CHAP. I.

The King's Warrant to the Lord Chancellor for Summoning the Parliament begun the 8th of May, 1661.

CHARLES the Second, by the CHAP. I.
Grace of God King of England,
Scotland, France, and Ireland,
Defender of the Faith, &c. To Our right
Trusty and well beloved Counsellor, Sir
Edward Hyde, Knight, Chancellour of
England, Greeting; Whereas We by our
Council for certain great and urgent Causes, concerning Us, the good Estate and Common-wealth of this our Realm, and of the Church of England, and for the good Order and Continuance of the same, have
appoint.

CHAP. appointed and ordain'd a Parliament to
 I. be holden at our City of Westminster the eighth day of May next ensuing; In which Case divers and sundry Writs are to be directed forth under our Great Seal of England, as well for the Nobility of this our Realm, as also for the Election of Knights, Citizens and Burgeses of the several Counties, Cities, and Burrough Towns of the same, to be present at the said Parliament at the Day and Place aforesaid. Wherefore We Will and Command you forthwith upon receipt hereof, and by Warrant of the same, to cause such, and so many Writs to be made and sealed under our great Seal, for accomplishment of the same, as in like Cases have been heretofore used and accustomed. And this Bill signed with our Hand shall be as well to you as to every Clerk or Clerks as shall make or pass the same, a sufficient Warrant in that behalf.

Given at Our Palace at White-hall this Eighteenth Day of February, in the Twelfth Year of Our Reign, and in the Year of our Lord One Thousand Six Hundred Sixty and One.

Obser^s

Observations and Proceedings on this Warrant.

I. The King of England by his undoubted Prerogative hath (and his Predecessors ever had) in himself the Power of *Summoning* (as also to appoint the times of beginning, continuing, discontinuing, or dissolving) of Parliaments.

II. This *Summoning* (for I shall speak of the rest in order) or *Uniting* the chiefest Parts of his Kingdom into a Parliament, (or *Representation* of the Kingdom in a less Body than it self) is performed by the King's Warrant, in his Name, and by his Authority only, as Supreme, not only of his Kingdom, but of its Representation; and from this Warrant all Writs of Summons for a Parliament are deriv'd.

III. The Warrant is in English, Sign'd by the King's own Hand, and Seal'd with his Privy Seal, or Signet; but the Writs are always in Latin (or anciently some few in French) and are Seal'd with the King's Great Seal in his Name, with a *Teste* of his Approbation (though not manually Sign'd or Seal'd by him.)

The

- CHAP. The *Warrant* is General, viz. for sum-
 I. moning the Nobility, as also for *Elections*
 IV. of *Knights*, *Citizens*, and *Burgesses*,
 but the *Writs* deriv'd from those *War-*
rants are to particular persons, of parti-
 cular degrees (as will be shewn.)
 V. The *Form* of this *Warrant* is ancient,
 and hath had little or no variation (ex-
 cept in the leaving out of *Abbots* and
Priors) ever since the 36 of *Henry* the
 8th, and except in leaving out *Prelates*
 and *Bishops* in this very *Warrant*, where-
 by the *Bishops* had no particular *Writs*,
 before the fitting of this *Parliament*,
 but within three Months after, for which
Omission Reasons will be given in the
 7th Chapter.
 VI. Before this *Warrant* was issued, the
King (and so former *Kings*) did advise
 with their *Privy Council* (which is ma-
 nifested by the Words of the *Warrant*,
 viz. *Whereas We, by our Council*) yet
 if these words had been omitted at any
 time, and not inserted in the *Warrant*,
 the *Warrant* was held good and sufficient
 for due *Summons*.
 VII. However, (for publick satisfaction)
 the words of every *Writ* are always
 (*Quia de advizamento & assensu Concilij*
nostri) and this *Council* is call'd the
King's Privy, or *Private Council*, (of
 which

which I shall speak more) and is the CHAP.
 King's constant or standing *Council*, as I.
 well in time of *Parliament* as when there
 is none sitting: so as before this *Mag-*
num Concilium, or *Parliament*, is sum-
 mon'd, this *Privy Council* consults and
deliberates concerning the Motives and
Reasons for calling it, and after such *de-*
liberations and *results*, doth advise the
 King to send out a *Warrant*.
 And therefore I conceive it useful to
 set down the Names of such as were of
 the *King's Privy Council*, when the cal-
 ling of this *Parliament* was advis'd and
 resolv'd upon.

At the Court of White-hall,
 Feb. 166^o.

The KING Present.

His Royal Highness the Duke of York.
 His Highness Prince Rupert.
 William, Lord Arch-Bishop of Canter-
 bury, (Fuxon.)
 Edward, Earl of Clarendon, Lord Chan-
 cellor of England, (Hide)
 Thomas, Earl of Southampton, Lord Trea-
 surer of England, (Wriothesley.)
 John, Lord Roberts, Lord Privy-Seal,
 (Baron of Truro.)
 C John,

- CHAP. I. *John*, Duke of *Latherdale*, (*Maitland*),
 Earl of *Guilford*.
James, Duke of *Ormond*, Lord Steward
 of the King's House, (*Butler*).
George, Duke of *Albemarle*, (*Monk*).
Henry, Marquess of *Dorchester*,
 (*Pierpoint*).
Montague, Earl of *Lindsey*, Lord great
 Chamberlain, (*Bertie*).
Edward, Earl of *Manchester*, the King's
 Chamberlain, (*Montague*).
Aldjernoone, Earl of *Northumberland*,
 (*Piercy*).
Robert, Earl of *Leicester*, (*Sydny*).
Charles, Earl of *Berkshire*, (*Howard*).
Thomas, Earl of *Cleveland*, (*Wentworth*).
George, Earl of *Norwich*, (*Goring*).
Henry, Earl of *St. Albans*, (*Fermin*).
Edward, Earl of *Sandwich*, (*Montague*).
Arthur, Earl of *Anglesey*, (*Annesly*).
Charles, Earl of *Carlile*, (*Howard*).
William, Viscount *Say and Seal*, (*Fiennes*).
Francis, Lord *Seymour*, (Baron of *Trou-*
bridge).
Frederick, Lord *Cornwallis*, (Baron of *Ai*).
Anthony, Lord *Ashley*, (*Cooper*).
Charles Berkley, Knight and Baronet.
Sir George Carteret, Knight, Vice-Cham-
 berlain.
Sir Edw. Nicholas, } Knights, } Secretaries
Sir Will. Morrice, } of State.
 After

CHAP. I. After the *Warrant* is sign'd and seal'd by the *King*, it is sent from the *Signet-Office* to the *Lord Chancellor*, or *Lord Keeper*, and Directions are given to the *Heralds*, to make *Proclamation* (at the *Court-gate*, and *Capital City of London*;) of the *King's Resolutions* (of which I shall speak more in the Chapter of *Proclamations*.)

The *Lord Chancellor*, &c. upon the receipt of this *Warrant*, doth issue out his *Warrant* also to the *Master of the Rolls*, as the chief Clerk of the *Pettibag-Office*, in this Form :

YOU are hereby requir'd forthwith to prepare for the great Seal of England the several Writs of Summons for the Lords Temporal ; As also for the Judges and others to appear at the Parliament, to be holden the 8th of May next, together with the several Writs of Election of the several Knights, Citizens, and Burgesles of the several Counties, Cities, Towns, and Burroughs within the Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed, as also of the several Barons of the Cinque-Ports to serve in the said Parliament, in such Method and Form, and directed to such persons as are and have
 C 2 been

CHAP. *been usual in such Cases, all which said*
 I. *Writs are to bear date this present eighteenth of February, 1661. and for the so doing, this shall be your Warrant.*
 Dated, &c.

Upon receipt of the *Lord Chancellor's Warrant*, the Clerks of the *Pettibag*, by the assistance of the former *Precedents of Writs* (and anciently by help of the *Masters of Chancery*) and by advice with the *Heralds* (as to *Titles and true Names of Persons*) do fix a *Schedule, or digest, or Forms of Writs* to be issued.

Which *Schedule, or digest*, they keep fairly ingroft in *Parchment*, as a *Record* in this *Office*, and this *Record* is then entituled the *Parliament Pawn*, and hath no other Name, which is, as they say, the *awarding of several Writs for a Parliament*. And this *methodical Record* is very ancient, (as may be collected, by comparing this with those which remain in the *Pettibag*.) And with the like *Endorsments* are the *Clause Rolls* in the *Tower*; but there are no more *Pawns* at present in this *Office*, than from the 21 of *Hen. 8.* to this of the 31 of *Car. 2.* making twenty in all.

Formerly these *Pawns, (or Records)* some time after the *dissolution* of every *Parlia-*

Parliament (as will be shewn) were carried to the *Inrolment Office*, and then among many other *Parliamentary Matters* (of weighty concern) transcrib'd into *Parchment Rolls*, and from thence (for more safety) carried to the *Tower of London*, where they lost the name of *Pawns*, and were and are still call'd *Parliament Clause (or Close) Rolls*: which I mention because I shall have often occasion in this *Treatise* to recite such *Clause-Rolls*, wherein the *Pawns* were for the most part inserted or *endors'd*. And in respect I do not find that any who have writ before me of *Parliaments*, have taken notice of *those Parliament Pawns*, (although they are *Recorded* and kept in the *Pettibag*, an ancient *Office of Record*) I have cull'd out one of the twenty, and made it the foundation of the whole *Scheme* of this *Treatise*.

That there are no more *Parliament Pawns* in the *Pettibag*, than (as I said) from the 21. of *Hen. the 8th.* to the 13. *Car. 2d.* this reason may be given, that when they were again *Enroll'd* and transmitted to the *Tower, or Rolls Chappel*, it might be thought needless to preserve them, in respect that from *Ed. the 2d.* to *Ed. the 4th. Inclusive*, they are safely kept inroll'd among the *Records* in the *Tower*, and from *Ed. the 4th.* to the 21 of *Hen.*

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CHAP. the 8. *Exclusive*, they are kept safe amongst
 I. the *Records* in the *Rolls Chappel*, and from
 the 21 of *Hen. the 8th.* to the 13 *Car. 2d.*
 they are preserved amongst the *Records*
 in the *Pettibag Office*, and of these which
 remain in the *Pettibag*, that of the 31 of
Hen. the 8th. is much defaced and inter-
 lin'd, but that of the 21 and all the rest
 from the 36 *Hen. 8.* are fairly ingross and
 Legible, and Tyed up in one great *Bundle*,
 the last of which made up for this *Parlia-*
ment of 13 *Car. 2d.* is here *Verbatim*
Transcribed. In which, for want of Ap-
 plication to the *Heraulds*, the *Clerks* have
 Committed many mistakes (I suppose
 (by long discontinuance of *Methodical*
Parliaments) not being well instructed
viz. In the Titles of the Lord *Stourton*,
 Lord *Vaux*, Lord *Wharton*, Lord *Pagit*,
 Lord *Shandois*, Lord *Stanhop*, Lord
Charles Howard, Ld. *Roberts*, Ld. *John*
Pawlet, Ld. *Coventry*, Ld. *Frances Seymour*,
 Ld. *Bruce*, Ld. *Newport*, Ld. *Colpeper*, Ld.
Gerrard, Ld. *Langdale*, Ld. *Hollis*, Ld.
Cornwallis, Ld. *Delamare*, Ld. *Townsend*,
 Ld. *Ashly*, Ld. *Crew*, and some others which
 shall be rectified in the 4th. part of this
Treatise. However I thought fit to follow
 the *Record Verbatim* (except in the *Mar-*
ginal Figures and *Notes* which I have ad-
 ded, with *Recommendation* of Care for the
 future. *viz.*

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of Parliaments.

23

viz. the 13. Car. 2d. is here *verbatim* transcrib'd. CHAP. II.

CHAP. II.

The Copy of the Parliament Pawn of the 13. Car. 2d.

Anno tertiodecimo Caroli secundi Regis.

CAROLUS secundus Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex, Fidei Defensor, &c. Præcharissimo & dilecto Fratri suo Jacobo Duci Ebor'um & Albanæ magno Admirallo suo Angliæ Salutem. Quia de Advifamento & Affensu Concilii nostri pro quibusdam arduis & urgentibus negotiis nos statum & defensionem Regni nostri Angliæ & Ecclesiæ Anglicanæ concernent' quoddam Parliamentum nostrum apud Civitatem nostram Westm' octavo die Maii prox' futur' teneri ordinavimus & ibidem vobiscum ac cum Magnatibus & Proceribus dicti Regni nostri Colloquium habere & tractatum. Vobis sub fide & Ligeantia quibus nobis tenemini firmiter injungen'd mandamus quod consideratis dictorum Negociorum arduitate & periculis imminentibus ces-

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CHAP. fante excufatione quacunq; dictis die &
 II. loco personaliter interfitis nobifcum ac
 cum Magnatibus & Proceribus prædictis,
 fuper dictis Negociis tractatur' veftromq'
 Confilium impenfur' & hoc ficut nos
 & honorem noftrom ac Salvationem &
 defenfionem Regni & Ecclefie prædict'
 expeditionemq; dictorum negotiorum
Teftè Rege. diligitis nullatenus omittatis T. R. apud
 Weftm' decimo octavo die Februarii An-
 no Regni fui tertio decimo.

Confimile. CONSIMILE Breve dirigitur Præcha-
 riffimo Confanguineo fuo Ruperto
 Duci Cumbriæ T. ut fupra.

{ II. REX, &c. Archiepifcopo Cant' &c. }
 Confimilia Archi' Ebor' & Epifcop' }

III. REX prædilecto & perquam fideli
 Confiliario fuo Edro' Dno' Hyde
 Cancellar fuo Angliæ falutem Quia, &c.
 Ut fupra ufq' tractatum & tunc fic vo-
 bis mandamus firmiter injungen'd quod
 omnibus al' pretermiffis prædict die &
 loco personaliter interfitis nobifcum ac
 cum cæteris de Concilio noftro fuper
 dictis negotiis tractatur' veftromq' con-
 filium impenfur' & hoc nullatenus omit-
 tatis T. ut fupra.

REX

of Parliaments. 25

REX Præchariffimo confanguineo fuo CAP. II.
 Thomæ Comiti South'ton The-
 faurario Angliæ Salt'm Quia, &c. ut fu- IV.
 pra ufq; tractatum & tunc fic Vobis fub
 fide & Ligeancia quibus nobis tene-
 mini, &c. ut fupra. T. ut fupra.

CONSIMILIA Brevia diriguntur Per- *Confimi-*
 fonis fubfcript' fub eodem dat' Videlt' *lia.*
 Præchariffimo Confanguineo fuo.

Georgio Duci Bucks.
 G Carolo Duci Richmond. *Dukes*
 Georgio Duci Albermarl Exercituum *Three.*
 fuorum Generali.

Johanni Marchioni Winton'. *Marquesses*
 Edro' Marchioni Wigorn'. *Four.*
 Will'o Marchioni Novi Caftri.
 Henr' Marchioni Dorceft'r'.

Chariffimo Confanguineo fuo Mon- *Earls Fif-*
 tague Comiti Lindfey magno Ca- *tyfive.*
 merario fuo Angliæ.
 Jacobo Comiti Brecon' Senefcallo Hof-
 pitii.
 Edro' Comiti Manchester Camerario
 Hofpitii.
 Alberico Comiti Oxon'.
 Algernon' Comiti Northumbr'.
 Francisco Comiti Salop.

Ca-

CHAP. II. Carolo Comiti Derb'.
 Johanni Comiti Rotel'.
 Will'o Comiti Bedford'.
 Philippo Comiti Pembr' & Montgo-
 meri.
 Theophilo Comiti Lincoln'.
 Carolo Comiti Nott'.
 Jacobo Comiti Suff'.
 Ric'o Comiti Dors'.
 Will'o Comiti Sarum.
 Joh'i Comiti Exon'.
 Joh'i Comiti Bridgewater.
 Rob'to Comiti Leic'.
 Jacobo Comiti North'ton.
 Carolo Comiti Warr'.
 Will'o Comiti Devon'.
 Basil' Comiti Denbigh'.
 Georgio Comiti Bristol'.
 Lionell' Comiti Midd'.
 Henrico Comiti Holland.
 Joh'i Comiti Clare.
 Olivero Comiti Bullingbrooke.
 Mildmay Comiti Westmerland.
 Thomæ Comiti Berks.
 Thomæ Comiti Cleveland.
 Edr'o Comiti Mulgrave.
 Henr' Comiti Monmouth.
 Jacobo Comiti Marlborough.
 Thomæ Comiti Rivers.
 Henrico Comiti Dover.
 Henrico Comiti Stamford.

Henr'

Henr' Comiti Peterborough.
 Henr' Comiti Winchelsea.
 Carolo Comiti Carnarvan.
 Mountjoy Comiti Newport.
 Philippo Comiti Chesterfield.
 Joh'i Comiti Thanett.
 Jeronimo Comiti Portland.
 Will'o Comiti Strafford.
 Rob'to Comiti Sunderland.
 Georgio Comiti Norwic'.
 Nich'o Comiti Scarfsdale.
 Henrico Comiti sc'ti Albani.
 Edr'o Comiti Sandwici.
 Edr'o Comiti Clarendon Canc' Angliæ
 T. vicesimo nono Aprilis Anno præ-
 dicto.
 Arthuro Comiti Essex.
 Thomæ Comiti Cardigan.
 Arthuro Comiti Anglesey.
 Joh'i Comiti Bathon'.
 Carolo Comiti Carliol' T. vicesimo
 nono Aprilis Anno prædicto.

L Eicestr' Vicecomiti Hereford.
 Francisco Vicecomiti Montague.
 Will'o Vicecomiti Say & Seale.
 Edr'o Vicecomiti Conway.
 Baptist' Vicecomiti Campden.
 Will'o Vicecomiti Stafford.
 Thomæ Vicecomiti Falconberg'.
 Joh'i Vicecomiti Mordant.

*Viscounts
Eight.*

Præ-

CHAP.

II.

*Barons
Chevaliers
Sixty
eight.*

PRædilecto & fideli suo Joh'i Nevile
de Aburgavenny Chr'.
 Jacobo Tutchell de Awdley Chr'.
 Carolo West de la Warr Chr'.
 Georgio Berkley de Berkley Chr'.
 Thomæ Parker de Morley & Mont-
 egle Chr'.
 Francisco Dacres Chr'.
 Conyers Darcy de Darcy Chr'.
 Will'o Stourton de Stourton Chr'.
 Will'o Sandys de la Vyne Chr'.
 Edr'o Vaux de Harrowdon Chr'.
 Thomæ Windsor Chr'.
 Thomæ Wentworth Chr'.
 Wingfeild Cromwell Chr'.
 Georgio Eure Chr'.
 Phil' Wharton de Wharton Chr'.
 Francisco Willoughby de Parham Chr'.
 Will'o Pagit de Beau desert Chr'.
 Dudlee North Chr'.
 Will'o Shandos de Shudely Chr'.
 Joh'i Cary de Hunfdon Chr'.
 Will'o Petre Chr'.
 Dutton Gerrard de Gerrard Bromley
 Chr'.
 Carolo Stanhope de Harrington Chr'.
 Henr' Arundell de Wardour Chr'.
 Christophero Roper de Tenham Chr'.
 Rob'to Brooke Chr'.
 Edr'o Mountague de Boughton Chr'.

Carolo

CHAP.

II.

Carolo Howard de Charlton Chr'.
 Will'o Grey de Wark Chr'.
 Joh'i Roberts de Truro Chr'.
 Will'o Craven Chr'.
 Joh'i Lovelace Chr'.
 Joh'i Pawlet de Hinton St. George Chr'.
 Will'o Maynard Chr'.
 Thomæ Coventry de Alesborough
 Chr'.
 Edr'o Howard de Escrick Chr'.
 Warwic' Mohun Chr'.
 Percy Herbert de Powis Chr'.
 Edr'o Herbert de Cherbury Chr'.
 Fran'co Seymour de Trowbridge C. D.
 Lanc' Chr'.
 Thomæ Bruce de Wharleton Chr'.
 Fran'co Newport de Higharcall Chr'.
 Thomæ Leigh Chr'.
 Christophero Hatton Chr'.
 Henr' Hasting de Loughborough Chr'.
 Ri'co Byron Chr'.
 Ri'co Vaughan Chr'.
 Carolo Smith de Carrington Chr'.
 Will'o Widdrington Chr'.
 Humble Ward Chr'.
 Thomæ Culpepper de Thoresway Chr'.
 Isaaco Astley Chr'.
 Ri'do Boyle de Clifford Chr'.
 Joh'i Lucas Chr'.
 Joh'i Bellasis Chr'.
 Lodovico Watson de Rockingham Chr'.

Carolo

- CHAP. II. Carolo Gerrard de Brandon Chr'.
 Rob'to Sutton de Lexington Chr'.
 Carolo Kirkhoven de Wotton Chr'.
 Marmaduco Langdale de Holme Chr'.
 Will'o Crafts Chr'.
 Joh'i Berkley Chr'.
 Denzil Hollis de Ifeild Chr'.
 Frederic' Cornwallis de Eye Chr'.
 Georgio Delamere de Dunham Maffey Chr'.
 Horrario Townesend de Lynn Regis Chr'.
 Antonio Ashley Cooper de Winborne Sancti Egidij Chr'.
 Johanni Crew de Stene Chr'.

29 April, 1661.

V. **R**EX Dilecto & fideli suo Rob'to Foster mil' Capitali Justic' nostro ad pl'ita coram nobis tenend' assign' salt'm Quia de Advifamento & assensu Consilij nostri pro quibusdam arduis & urgentibus negocijs Nos statum & defensionem Regni nostri Angliæ & Ecclesiæ Anglicanæ concernen' quoddam Parliamentum nostrum apud Civitatem nostram Westm' octavo die Maij prox' futur' teneri ordinavimus & ib'm vobiscum ac cum Magnatibus & Proceribus dicti Regni nostri colloquium habere & tractatum Vobis mandamus firmiter injungend' quod omnibus alijs pretermiffis prædictis die & loco personalit' interfitis nobiscum

nobiscum ac cum cæteris de Concilio nostro super dictis negocijs tractatur' vestrumq; consilium impensur' Et hoc nullatenus omittatis Teste Rege apud Westm' decimo octavo die Februarij Anno prædicto.

CHAP. II.

CONSIMILIA Brevia diriguntur personis subscript' sub eodem dat' Videlt'.

- H**arbottel Grimston Baronet' Mag'ro Rotulorum Cancellar' suæ.
 Orlando Bridgeman Mil' Capitali Justic' de Banco suo.
 Mattheo Hale Capital' Baron' de fcc'io suo.
 Thomæ Mallett Mil' un' Justic' fuorum ad pl'ita coram ipso Rege, &c.
 Thomæ Twifden Mil' al' Justic' fuorum ad pl'ita coram ipso Rege, &c.
 Wadham Windham Mil' al' Justic' fuorum ad pl'ita coram ipso Rege, &c.
 Rob'to Hyde Mil' un' Justic' fuorum de Banco.
 Thomæ Terryl Mil' un' Justic' fuorum de Banco.
 Samueli Browne Mil' al' Justic' fuorum de Banco.
 Edr'o Atkins Militi.
 Christophero Turner Mil' Baronibus de fcc'io.

Gal-

CHAP. Galfrido Palmer Mil' Attorn' suo Ge-
II. nerali.

Johanni Glynn Militi.

Johanni Maynard Militi Servien' d'ni
Regis ad legem.

Edr'o Nicholas Militi un' Principal' Se-
cretar'.

VI. **C**AROLUS secundus Dei gratia
I. Angliæ Scotiæ Franciæ & Hiber-
niæ Rex fidei defensor, &c. Vic' Cor-
nub' salutem Quia de Advifamento &
affensu Concilij nostri pro quibusdam ar-
duis & urgentibus negocijs Nos statum
& Defensionem Regni nostri Angliæ &
Ecclesiæ Anglicanæ concernen' quoddam
Parliamentum nostrum apud Civitatem
nostram Westm' octavo die Maij prox'
futur' teneri ordinavimus & ibidem cum
Magnatibus & Proceribus dc'i Regni
n'ri colloquium habere & tractatum. Tibi
præcipimus firmit' injungend' quod facta
Proclamatione in prox' Com' tuo post re-
ception' hujus Brevis nostri tenend' de die
& loco prædict' duos Milites Gladijs cin-
ctos magis idoneos & discretos Com'
prædict' de qualibet Civitate Com' illius
duos Cives & de quolibet Burgo duos Bur-
geneses de discretioribus & magis sufficien'
libere & indifferenter super illos qui Pro-
clamatione hu'mo'i interfuerunt juxta
for-

formam statutorum inde edit' & provis'
Et nomina eorundem Militum Civium
& Burgens' sic eligend' in quibusdam In-
dentur' inter te & illos qui hu'modi E-
lectioni interfuerint inde conficiend' licet
hu'modi eligend' presentes fuerint vel ab-
sentes inferi eosq; ad dictos diem & locum
venire fac' Ita quod iidem Milites plenam
& sufficien' potestat' pro se & Communi-
tate Com' illius ac dicti Cives & Burgens'
pro se & Comitatus Civitatis & Burgo-
rum prædict' divisim ab ipsis habeant ad
faciend' & consentiend' hiis quæ tunc
ib'm de Communi Concilio dicti Reg-
ni nostri favente Domino contigerint or-
dinari super negocijs antedictis Ita quod
pro defectu potestat' hu'modi seu propter
improvidam Electionem Militum Civi-
um aut Burgens' prædictorum dicta negocia
infecta non remaneant quovismodo. Nos
lumus autem quod tu nec aliquis al' Vic'
dicti Regni nostri aliqualit' sit electus &
Electionem illam in pleno Com' tuo fac-
tam distincte & aperte sub sigillo tuo &
sigillis eorum qui Electioni interfuerint
nobis in Cancellariam nostram ad dictos
diem & locum certificates indilate remit-
ten' nobis alteram partem Indentur' præ-
dict' præsentibus confut' unacum hoc
brevis T. R. apud Westm' decimo octavo
die Februarii Anno Supradicti.

D

Con-

34 The Constitution

CHAP. II. Consimilia Brevia diriguntur Vicecomitibus separat' Com' sequen' subdat' prædict' Videlt'.

<i>Kant'.</i>	<i>Westmerl'.</i>	<i>Warr'.</i>
<i>Midd'.</i>	<i>Eborum.</i>	<i>Rotes'.</i>
<i>Surr'.</i>	<i>Wigorn'.</i>	<i>Bucks.</i>
<i>Suffex.</i>	<i>Essex.</i>	<i>Cumbr.</i>
<i>Southt'.</i>	<i>Heref'.</i>	<i>Berks.</i>
<i>Lincon'.</i>	<i>Devon.</i>	<i>Bedd'.</i>
<i>Staff'.</i>	<i>Hertf'.</i>	<i>Hunt'.</i>
<i>Suff'.</i>	<i>Wilts.</i>	<i>Monmouth de</i>
<i>Derb'.</i>	<i>Northt'.</i>	<i>duobus Mili-</i>
<i>Norff'.</i>	<i>Somers'.</i>	<i>tibus & uno</i>
<i>Nott'.</i>	<i>Glouc'.</i>	<i>Burgens, in</i>
<i>Salop.</i>	<i>Leic'.</i>	<i>Burgo de</i>
<i>Northumbr'.</i>	<i>Dors'.</i>	<i>Monmouth.</i>

R E X Vic' Cantabr' Salutem Quia &c. ut supra usq; tractatum & tunc sic Tibi præcipimus firmiter injungend' quod facta Proclamatione in prox' Com' tuo post receptionem hujus brevis nostri tenend' de die & loco prædictis duos Milites Gladiis cinctos magis idoneos & discretos Com' prædicti ac de Univerfitate Cantabr' duos Burgenses & de qual't Civitate Com' illius duos Cives & de quol't Burgo duos Burgenses de discretioribus & Magis sufficien' libere & indifferen'

of Parliaments.

different' per illos qui Proclamationi hu'modi interfuerint juxta formam Statutorum inde edit' & provi' eligi & nomina eorundem Militum Civium & Burgens' prædictorum sic eligend' in quibusdam Indentur' inter te & illos qui hu'modi Electioni interfuerint inde conficien'd licet hu'modi eligend' presentes fuerint vel absentes inferi eosq; ad dictos diem & locum venire fac' Ita quod iidem Milites plenam & sufficien' potestatem pro se & Coi'tate Com' illius ac dicti Cives & Burgens' pro se & Comitatus Univerfitate Civitatis & Burgorum prædict' divisim ab ipsis habeant ad faciend' & consentiend' hiis quæ tunc ib'm de Comun' Concilio dicti Regni nostri favente Domino Contigerint ordinari super negociis antedictis. Ita quod pro defectu potestatis hu'modi seu propter improvidam Electionem Militum Civium aut Burgens' prædict' dicta negocia infecta non remaneant quovismodo. Nolumus autem quod tu nec aliquis alius Vic' dicti Regni nostri aliqualit' sit electus & Electionem illam in pleno Com' tuo factam distincte & aperte sub sigillo tuo & sigillis eorum qui electioni illi interfuerint nobis in Cancellar' nostram ad dictos diem & locum certifies indilate remitten' nobis alteram partem Indentur' prædict,

CHAP. prædict' presentibus consut' unacum hoc
II. brevi Teste ut supra.

Consimile Breve dirigitur Vic' Oxon'
sub dat' prædict.

VIII. R E X Vicecomitibus London Sa-
III. lutem Quia &c. ut supra usq; tra-
ctatum & tunc Vobis præcipimus firmi-
ter injungentes quod facta proclamatione
in prox' Hustengo nostro post recepti-
onem hujus Brevis nostri tenend' de die
& loco prædict' quatuor Cives de discre-
tioribus & magis sufficien' Civitat' præ-
dict' libere & indifferent' per illos qui
proclamationi hu'modi interfuerint juxta
formam Statutorum inde edit' & provis'
eligi & nomina eorundem Civium sic
eligend' in quibusdam Indentur' inter-
vos & illos qui hu'modi Electioni interfu-
erint inde conficiend' licet hu'modi eli-
gend' presentes fuerint vel absentes inferi
eosq; ad dictos diem & locum venire fac'
Ita quod prædict' Cives plenam & suffi-
cien' potest' pro se & Co'itate Civita-
tis prædict' divisim ab ipsis habeant, &c.
ut supra mutatis mutandis, &c. & in
qual't Civitate sequen' facta proclama-
tione infra Com' Civitat' prædict', &c.
ut supra & in Villis sequen' infra Com'
Villæ prædict', &c. T. ut supra.

Con-

Consimilia Brevia diriguntur Viceco- CHAP.
mitibus sepeal' Civitat' & Vill' sequen' II.
sub eodem dat' Videlt'.

Vicecomiti- bus Civi- tatis suæ.	} Eborum Norwici Lincoln' Coventr' Glouc' }	} de duobus Civibus eligend'.
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Vicecomitibus Civitatis suæ Bristol, Vic' Civitat' suæ Cantuar' Vic' Civitat' suæ Exon' Vic' Civitat' suæ Lich' Vic' Civitat' suæ Wigorn'	} de duobus Civibus eligend'.
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Vicecomitibus Villæ suæ Nott' Vic' Villæ de Kingston super Hull Vic' Villæ suæ Southt' Vic' Villæ suæ Novi Castri super Tinam Vic' Villæ suæ de Poole	} de duobus Burgens' eligend'.
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Vicecomitibus Villæ suæ Haverford-west Vic' suæ Carmarthen'	} de uno Bur- gens' eli- gend'.
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D 3

Majori

CHAP.

II. Majori & Ballivis Villæ } de duobus
Berwici super Twedam } Burgens'
eligend'.

IX. **R**EX Constabular' Castri sui Dover
4. ac Custod' Quinq; Portuum vel
ejus locum tenenti ib'm sal'tem, Quia,
&c. usq; tractatum Et tunc Vobis in
fide & Ligeancia quibus nobis tenemini
firmit' injungend' mandamus Quod in
quolibet Portu Portuum prædict' duos
Barones de Melioribus & discretoribus
eligi & eos ad dictos diem & locum ve-
nire fac' Ita quod dicti Barones plenam
& sufficien' potestatem pro se & Co'itate
Port' suorum habeant ad consentiend'
hijs quæ tunc ib'm communi de Concilio
dicti Regni nostri Angliæ favente Domi-
no contigerint ordinari super negotijs
antedictis Ita quod pro defectu potestatis
hu'modi seu propter improvidam Ele-
ction' Baronum prædict' dicta negotia
infecta non remaneant quovismodo Et
habeatis ibi nomina prædict' Baronum
& hoc breve T. ut supra.

X. **R**EX Cancellar' suo in Com' Pala-
5. tino Lancastr' vel ejus locum te-
nenti ib'm sal'tem Quia, &c. ut supra
usq; tractatum Et tunc sic Vobis manda-
mus

mus firmiter injungentes quod per breve **CAP. II.**
nostrum sub sigillo nostro Com' prædict'
detis in mandatis Vic' nostro ejusdem
Com' quod idem Vic' facta proclama-
tione in prox' Com' suo post receptionem
dicti brevis nostri &c. in quibusdam In-
dentur' int' ipsum Vic' & illos &c. Nolu-
mus autem quod idem Vic' &c. Et Ele-
ctionem illam in pleno Com' prædict'
sic factam distincte aperte sub sigillo
Com' prædict' & sigillis eorum qui ele-
ctioni illi interfuerint nobis in Cancellar'
nostram Angliæ ad dictos diem & locum
certificetis indilate remitten' nobis &c.
ut supra.

REX Camerario suo Com' Palatini
sui Cestriæ vel ejus locum tenenti
ib'm salutem Quia, &c. usq; tractatum
Vobis mandamus firmiter injungend'
quod per seperalia brevia nostra sub si-
gillo nostro Com' prædict' debite confi-
ciend' detis in mandatis tam Vic' nostro
ejusdem Com' Cestr' quam Vic' nostris
Civitat' Cestr' quod facta proclamatione
in prox' Com' suis post receptionem eo-
rundem brevium nostrorum tenend' de
die & loco præd' dictus Vic' de'i Com'
Cestr' duos Milites gladio cinctos magis
idoneos & discretos Com' præd' & præd'
Vic' de'æ Civit' Cestr' duos Cives de'æ
D 4 Civit'

XI.
6.

CHAP. Civit' de discretioribus, &c. Et nomina eorundem Milit' sic eligend' in quibusdam Indentur' int' ipsum Vic' Civitat' & illos qui hujusmo'i Electioni interfuerint Ac nomina præd' Civium sic eligend' in quibusdam Indentur' int' ipsos Vic' Civitat' & illos qui, &c. Nolumus autem quod idem Vic' de'i Com' Cestr' nec præd' Vic' Civitat' præd' nec aliquis, &c. Et Electiones illas in plenis Com' & Civitat' præd' sic fact' distincte & aperte sub sigillo Com' Palatini præd' & sigillis eorum qui Electionibus illis interfuerint nobis in Cancellariam nostram Angliæ ad dictos diem & locum certifies indilate remitten' nobis alteras partes seperal' Indentur' præd' presentibus consut' unacum hoc brevi T. ut supra.

XII. REX Vic' Carnarvon salutem Quia, &c. usq; tractatum Tibi præcipimus firmiter injungend' quod facta proclamatione in prox' Com' tuo post receptionem hujus brevis nostri tenend' dedie & loco prædictis unum Militem Gladio cinctum magis idoneum & discretum Com' prædict' & de quolibet Burgo vocat' le shire Town ejusdem Com' unum Burgensem de discretioribus, &c. ut supra in Com' Cornub' mutatis mutandis T. ut supra.

Consimilia

CHAP. Consimilia Brevia diriguntur Vicecomitibus seperal' Com' sequen' sub dat' præd' videlt', II.

<i>Radnor.</i>	<i>Glamorgan.</i>	<i>Anglesey de</i>
<i>Brecon.</i>	<i>Pembroke.</i>	uno Milite
<i>Carmarthen.</i>	<i>Flint.</i>	tantum eligend'.
<i>Mountgomery</i>	<i>Merioneth.</i>	
<i>Cardigan.</i>	<i>Denbigh.</i>	

SECT. II.

Observations on this Pawn.

THIS is the full Transcript of the Pawn or Record of the Writs which were issued for the Summoning this Parliament; and that my Method in managing of them may be the clearer understood, I shall set down some Observations pursuant to it.

Obs.

In the Original of this Pawn, or Record, there are no Figures placed in the Margents of the respective Paragraphs of it (but I have thought fit, in respect of the several occasions referring to it, to add the Figures of I. II. III. IV. V. (being Paragraphs particularly relating to the House of Lords;) and then the Figures of VI. VII. VIII. IX. X. XI. XII. being

I.

CHAP. being Paragraphs particularly relating to
 II. the *House of Commons*,) for of all these I shall speak distinctly in this, and the Second Part of this Treatise.

II. All the Exemplar Writs are dated the 18th of *Feb.* 13 *Car.* 2. but there being several Creations of Lords (or at least their Patents not perfect) after the 18th, all the subsequent Writs for such Lords were dated the 29th of *April* following, and that is the reason of the different Dates of Writs in the *Pawn*, but all were before the Parliament sat.

III. The first Exemplars in this *Pawn* for the *Lords House* do begin with the words, *CAROLUS Secundus Dei Gratia Angliæ Scotiæ Franciæ & Hiberniæ Rex Fidei Defensor.* And so the first Exemplar in the *House of Commons*, Fig. 6. begins in the like words; yet, all the other Exemplars in the *Pawn* do begin only with the word *Rex*, omitting the other words, which must be understood that the single word *Rex*, &c. is so entered only for brevity, not that the Form of the other Exemplar or Consimilar Writs are so concise, either in the preamble or body of the Writs (for the same reason.)

IV. In respect I do make use of the words Exemplar Writs, and Consimilar Writs,
 it

it is fit I should speak of the Nature of CHAP.
 Writs in general. II.

The Common and Civil Law calls a Writ in *Latin*, *Breve*, *quia brevibus & paucis verbis intentionem Legis exponit.* And of these in the Common Law some are call'd Original, and others Judicial; the Original (if I do not miscount them, from the Register of Writs) are 727 in Number: and these are us'd in the respective Courts in *Westminster* before any appearance had, or other Process issued in all matters both real and personal, and are always in the King's Name, attested by the Chief Justice of the Court from whence they issue; the other, call'd Judicial Writs,) if I miscount not the number of them from the same Register) are 371, which are sent out by order of those Courts where the original Writ is recorded, and the Case depending; and these latter do also issue in the King's Name, and attested by the chief Justice of the respective Courts from whence they proceed, and seal'd with green Wax, with the Seals of the respective Courts.

But the Parliament Writs (of which I am to treat) are of another nature and quality, issued only by the King's immediate Command and Warrant, and seal'd with the great Seal of *England*; and these

CHAP. these have two appellations, viz. *Brevia*
II. *Clausula*, (or *operta*,) and *Brevia Patentia*, (or *Aperta*.)

The *Brevia Clausula* are Writs of Summons clos'd up in yellow Wax, and so seal'd with the great Seal of *England*, and then (as will be more fully shewn, after I have discours'd distinctly of the Writs) sent (with *Labells*) to every individual Prince of the Blood, Lords Spiritual, Lords Temporal, and Assistants, and to every Sheriff of the Kingdom, for Elections of Knights, Citizens, and Burgeses for the *Commons House*; and so do concern both *House of Lords*, and *House of Commons*, (as also the *Convocation Houses*, derivatively from the Arch-Bishops, and Bishops Writs,) of which last I shall speak more distinctly in this Treatise, concerning the *Convocation House*.)

But the *Brevia Patentia* do chiefly concern the *House of Lords*, viz. by Patents of *Creations*, (as also some Officers, as will be shewn) and all these are call'd *Patentia*, or *Letters Patents*, because they are not inclos'd, but open, with the Impression of the great Seal of *England* at large hanging to them, yet all the Created Patentees have their distinct Writs of Summons, but not the
Official

Official Patentees, viz. Clerk of the CHAP.
Crown, Clerk of the Parliament, Clerk II.
to the *House of Commons*, &c.

These Patent Writs have no other appellation than Literal, or Letters Patents, as I said. But the Parliamentary close Writs are divided into two Titles, viz. Exemplars and Consimilars, and though the word Exemplar is not us'd in the *Pawns*, yet the word Consimile is constantly us'd there, which doth imply an Exemplar. The Exemplars are Writs set down at large in the *Pawns*, and the Consimilars are Writs not inserted in the *Pawns*, and yet are to have a consimilitude with their Exemplars, the Exemplar being so made upon some extraordinary reason, as will be shewn hereafter.

As for those Writs which concern the
House of Lords (of which I only treat V.
in this first Part) as they are more in number than any of the other *Houses*, (not including derivative Writs, Precepts, or Citations) so they are of a more nice nature, in respect (as I said) they are personal; for a distinct Writ is to be provided for every individual Lord sitting in the *Lords House*, but not so in the *House of Commons*, or lower *Convocation*, (as will be shewn) and though the main body of the Writs in those concerning

CHAP. cerning the *Lords House* do differ but

II. little from the Writs of former Kings, or from those of the *House of Commons*, yet the Titles do very much vary in every Parliament, partly by the new Creation of Barons, partly in their Ascension from Barons to higher degrees, and partly by splitting of Titles upon extinction of Families, and for other causes they are in few years subject to variation in Titles, wherein every Lord is exact in having his due, and therefore some of the Heralds, (as I said, according to the several districts of the Kingdom under their managements) are, or ought to be consulted with, that the Clerks may commit no mistakes either in their Titles of Grace and Favour, or in their Titles of Rights and Concessions, before the Writs be sealed, and the not effectual doing this (which ought to be done) might occasion some mistakes and differences between the Exemplar and Consimilary Writs in point of Titles, (as will be shewn.)

VI. The other parts of the Writs, as well in Exemplars as Consimilars (which concern not the Titles of the Peers) are the same both in the declaratory and mandatory parts, except some few words, (of which I shall take notice in my proceedings)

ceedings) and herein I shall not trouble CHAP. my self with shewing what reasons were II. given in some Writs for summoning a Parliament, or what in others, or the reason of those Reasons, and why in some there were no Reasons given, only a short *Mandamus*.

All Writs at large recited in this and VII. all former *Pawns*, are the Exemplars of all other Writs of Summons for a Parliament which are not in the respective *Pawns*, whereby these in this *Pawn* (with the addition of the Bishops Exemplar Writs, (which are entred in all former *Pawns*) did and do now make 12 Exemplars, but the Writs which are not recited in this and former *Pawns* (which I term *Consimilars*) at the calling this Parliament, were in all 262.

Some of the 12 are Exemplars, and VIII. other Writs have a consimilitude to them, yet have no positive Consimilars appointed them, whereof there are but three, *viz.* One to the Lord Chancellor in the *Lords House*, and to the two Palatines in the *Commons*.

All Writs of Summons to the *House of IX. Lords* both Exemplars and Consimilars are Personal and Local, but all Writs of Summons for the *House of Commons* are only Local.

These

The Constitution

CHAP. These 12 Exemplars are in this following method stated, with their Consimilars, viz. those 5 for the Lords House are,

	<i>Exemplar.</i>	<i>Consimilar.</i>
I. To the Duke of York	I	I
II. To the Archbishop of Canterbury	I	25
III. To the Lord Chancellor	I	0
IV. To the Earl of Southampton, L. Treasurer	I	In this Parliament, 3 Dukes, 4 Marq; 55 Earls, 8 Visc. 68 Barons. } 138
V. To the Chief Justice of the Kings Bench	I	

So there was in the Lords House 5 Exemplar Writs, and 179 Consimilars. in all 184.

The remaining Exemplar Writs relating to the House of Commons are 7. (of which I shall speak more in the next part of this Treatise) viz.

VI. To Cornwall	I	4
VII. To Cambridge	I	I
VIII. To London	I	18
IX. To Dover	I	Cinqports 7
X. To Lancaster	I	0
XI. To Chester	I	0
XII. To Carmarthen	I	Wales 11

So there is for the Commons House 7 Exemplars, and 73 Consimilars, in all 80 Writs, in both Houses 264.

So

of Parliaments.

So many Exemplar and Consimilar CHAP. Writs were issued to Constitute this II. Parliament An. 1661. in the Lords House, to Counteys, Shires, and Comitated Cities and Towns, in the Commons House, (whereof some years after its Sitting, one Exemplar and one Consimilar was issued for the Bishoprick of Darham) all the rest of the Writs for Cities, Towns and Burroughs not Comitated, (of which I shall give an account) do lose their names of Consimilars, when the Exemplar Writs do come to the respective Sheriffs, for then they pass from the respective Sheriffs under the titles of Precepts, (or Derivative-Writs) as shall be more fully discours'd of in the second part, where I treat of the House of Commons.

Now I shall proceed to the Act of Precedencies, and give a short description of such as are to be Summon'd for the Lords-House only, before I speak more amply of their Individual-Writs whereby they are Summon'd.

HAVING shewn the Kings Warrant and the Lord Chancellors, and the Record made up in the Pettibag, call'd the *Parliament Pawn*, and given a touch of the nature of Writs in general, and in particular, of Parliamentary Writs of Summons, consisting of Writs Exemplar and Consimilar, as also an hint of Precepts or Derivative-Writs from those Exemplars, (which are to be more fully treated of in the 2d. part,) I shall proceed to the Act of 31. of *Hen. the 8th.* concerning Precedencies in the *Lords House*, occasion'd from the defect or long disusage of *Pawns*, or other State reasons; for there being no *Pawns* extant from the 24. of *Edw. the 4th.* to the 21. of *Hen. the 8th.* (as I said) (or at least neither *Pawns* or *Rolls* of Summons, extant in our Records for that space of time) and so in respect of the disorder of Records which happened by the same. Our King *Hen. the 8th.* did make this *Act of Precedencies*, (which hath its chief Reference to the time when

when a Parliament is Sitting, and so not proper to be inserted in this place, seeing my design in this first part is to treat of matters previous to a Parliament, before I speak of matters *Sedente Parlamento*) yet it may be allow'd in respect I make no other present use of it, than to enlighten the Readers with the Characters of such Persons and Degrees as are to have Writs of Summons to sit there according to that Act, and therefore I shall first shew a Transcript of that Act, then some Observations upon it, and then give some short discourses of the *Noble Degrees* therein mention'd, in order to their Writs which shall distinctly follow.

The Transcript of the *Act of Precedency*, 31. *Hen. 8. Cap. 10.*

The Act of Precedency, 31. *Hen. 8. Cap. 10.*

Forasmuch as in all great Councils and Congregations of men, having sundry Degrees and Offices in the Commonwealth, it is very requisite and convenient that an order should be had, and taken for the placing and sitting of such Persons as been bound to resort to the

E 2 same

CHAP. III. same, To the intent that they knowing their places may use the same without displeasure or let of the Council. Wherefore the Kings most Royal Majesty (although it appertaineth to his Prerogative Royal to give such Honors, Places, and Reputation to his Counsellors, and other his Subjects as shall seem best to his most Excellent Wisdom.) He is nevertheless pleas'd and contented for an Order to be had and taken in this his most High Court of Parliament, that it shall be Enacted by Authority of the same in manner as hereafter followeth.

First, It is Enacted by Authority aforesaid, That no Person or Persons of what Estate, Degree, or Condition soever he or they be of, (except only the Kings Children) shall at any time hereafter attempt, or presume to sit or have place at any side of the Cloth of State in the Parliament-Chamber, neither of the one hand of the Kings Highness nor of the other, whether the Kings Majesty be there Personally present or absent.

2. And forasmuch as the Kings Majesty is justly and lawfully Supream head in Earth, under God of the Church of England, and for the good exercise of the said most Royal Dignity and Office, hath made Thomas Lord Cromwel and Lord Privy

Privy Seal, his Vicegerent, for good and CAP. II. due ministration of Justice to be had in all Causes and Cases touching the Ecclesiastical Jurisdiction, and for the Godly reformation and redress of all Errors, Heresies, and Abuses in the said Church; It is therefore also Enacted by Authority aforesaid, That the said Lord Cromwel having the said Office of Vicegerent, and all other Persons which hereafter shall have the said Office of the grant of the Kings Highness, his Heirs or Successors, shall Sit and be plac't as well in this present Parliament as in all Parliaments to be holden hereafter, on the right side of the Parliament-Chamber, and on the same Form that the Archbishop of Canterbury sitteth on, and above the same Archbishop and his Successors, and shall have Voice in every Parliament to assent or dissent, as other the Lords of the Parliament.

3. And it is also Enacted, That next to the said Vicegerent, shall sit the Archbishop of Canterbury, and then next to him on the same Form and side, shall sit the Archbishop of York, and next to him on the same Form and side the Bishop of London, and next to him on the same side and Form the Bishop of Durelme, and next to him on the same side and Form the Bi-

CHAP. III. *shop of Winchester, and then all the other Bishops of both Provinces, of Canterbury and York, shall sit and be plac't on the same side after their Anciencies, as it hath been accustomed.*

4. *And forasmuch as such other Personages which now have or hereafter shall happen to have other great Offices of the Realm, that is to say, the Offices of the Lord Chancellor, the Lord Treasurer, the Lord President of the Kings Council, the Lord Privy Seal, the Great Chamberlain of England, the Constable of England, the Lord Marshal of England, the Lord Admiral, the Grand Master or Lord Steward of the Kings most Honourable Household, the Kings Chamberlain, and the Kings Secretary, have not heretofore been appointed and ordered for the placing and sitting in the Kings most High Court of Parliament, by reason of their Offices: It is therefore now Ordained and Enacted by Authority aforesaid, That the Lord Chancellor, the Lord Treasurer, the Lord President of the Kings Council, and the Lord Privy-Seal, being of the Degrees of Barons of the Parliament, or above, shall sit and be placed as well in this present Parliament as in all other Parliaments hereafter to be holden, on the left side of the said Parliament-Chamber on the higher part of the Form of the same side, above*

all

all Dukes, except only such as shall happen to be the Kings Son, the Kings Brother, the Kings Uncle, the Kings Nephew, or the Kings Brothers or Sisters Sons.

5. *And it is also Ordained and Enacted by Authority aforesaid, That the Great Chamberlain, the Constable, the Marshal, the Lord Admiral, the Great Master or Steward, and the Kings Chamberlain, shall sit and be placed after the Lord Privy-Seal, in manner and form following, that is to say, every of them shall sit and be placed above all other Personages being of the same Estates or Degrees that they shall happen to be of, that is to say, the Great Chamberlain first, the Constable next, the Marshal third, the Lord Admiral the fourth, the Grand Master or Lord Steward the fifth, and the Kings Chamberlain the sixth.*

6. *And it is also Enacted by the Authority aforesaid, That the Kings chief Secretary being of the Degree of a Baron of the Parliament, shall sit and be placed above all Barons not having any of the Offices aforesaid, and if he be a Bishop, that then he shall sit and be placed above all other Bishops not having any of the Offices before remembred.*

7. *And it is also Ordained and Enacted by Authority aforesaid, That all Dukes not afore mention'd, Marquesses, Earls, Vis-*

CHAP. counts, and Barons, not having any of the
III. Offices aforesaid, shall sit and be placed after their Ancientry as it hath been accustomed.

8. And it is further Enacted, That if any Person or Persons which at any time hereafter shall happen to have any of the said Offices, of Lord Chancellor; Lord Treasurer, Lord President of the Kings Council, Lord Privy-Seal, or chief Secretary, shall be under the Degree of a Baron of the Parliament, by reason whereof they can have no interest to give any assent or dissent in the said House, That then in every such case such of them as shall happen to be under the said Degree of a Baron, shall sit and be placed at the uppermost part of the Sack in the midst of the said Parliament-Chamber, either there to sit upon one Form or upon the uppermost Sack, the one of them above the other, in order as is above rehearsed.

9. Be it also Enacted by Authority aforesaid, That in all Tryals of Treason by Peers of this Realm, if any of the Peers that shall be called hereafter to be Tryers of such Treason shall happen to have any of the Offices aforesaid, that then they having such Offices, shall sit and be placed according to their Offices above all the other Peers that shall be call'd to such Tryals, in manner and form as is above mention'd and rehears'd.

10. And

CHAP. II.
10. And it is also Enacted by Authority aforesaid, That as well in all Parliaments as in the Star Chamber, and in all other Assemblies and Conferencies of Councils, the Lord Chancellor, the Lord Treasurer, the Lord President, the Lord Privy Seal, the Great Chamberlain, the Constable, the Marshal, the Lord Admiral, the Grand Master or Lord Steward, the Kings Chamberlain, and the Kings chief Secretary shall sit and be placed in such order and fashion as is before rehearsed, and not in any other place, by Authority of this Act.

SECT. I.

Observations.

1. **T**His Act is observable, being Enacted as it were by the King's single Authority, yet by the Preamble it seems to be only an Order, or Ordinance at most, and this upon Record in that House, for it doth not concern the Commons.

2. The Lords House is here call'd the High Court of Parliament, i. e. the highest Court of Judicature in Parliament, and so it is an Act by authority of the same, including the Kings.

3. It

CHAP. III. 3. It is also (Parag. 2.) call'd the Parliament Chamber; and (Parag. 8.) the said House, not the House of Lords, or House of Peers, as it is now call'd.

4. Though this Act doth contain the Rules for Places, as the several degrees do fit in their distinct degrees, yet it doth not contain the intermixt Precedencies of the several Degrees, both in calling over the House, and at other Solemnities, as will be more exactly shewn in the local part.

5. In the 8th Paragraph the Lord great Chamberlain, Constable, Marshal, Admiral, Steward, and King's Chamberlain are omitted, because it is presum'd, that those Titles were never given to any under the degree of a noble Baron.

6. Here the Seat for the State-Officers (being not Barons) is call'd a Sack, but in all Records, where those Seats are mention'd, they are call'd Wool-Sacks, being stuff'd with Wool, to mind them of the Staple Commodity of the Kingdom.

7. The use which I make of this Act is to shew the several Titles of the Degrees of such as are mention'd therein, 2dly, the ordering of those Degrees, and 3dly, how this Act doth agree or disagree with the Pawns before, and subsequent to it.

First, The Degrees mention'd therein are four, viz. first, Princes of the Blood, 2dly,

2dly, Lords Spiritual, 3dly, Ministers and Officers of State, 4thly, Lords Temporal. CHAP. III.

1st. The Princes of the Blood are said therein (Parag. 4.) to be, first, the King's Son, 2dly, the King's Brother, 3dly, the King's Uncle, 4thly, the King's Nephew, 5thly, the King's Brother's Son, 6thly, the King's Sister's Son, as in Paragraph the 1st and 4th.

2dly. The Lords Spiritual are said therein to be the Arch-Bishop of Canterbury and York, the Bishop of London, Duresm, and Winchester, and all the Bishops of both Provinces according to their Ancientries, Paragraph 2, & 3.

3dly. The Ministers and Officers of State Ecclesiastical and Civil, are (in the 2d and 4th Paragraphs) said to be the Vice-Gerent, and eleven more therein mention'd, of which I shall speak distinctly, Paragraphs 2, 4, 5, 6, 8, 9, 10.

4thly. The Lords Temporal are said to be those five Degrees mention'd in the seventh Paragraph, viz. Dukes, Marquesses, Earls, Viscounts, and Barons, of which I shall also speak more fully, and lower than to these Degrees the Act doth not extend.

5thly. This Act doth agree with the Method of the Pawns, in the placing of the

CHAP. II. the Princes of the Blood, as also of the Bishops, but the *Pawns* do differ from the Act concerning the Ministers and Officers of State, for they meddle with them no otherwise than they are annex to some Spiritual or Temporal Degrees, but if they are under the Degree of those Degrees they have then only particular Writs of Assistance, as shall be shewn.

6. The Act doth not take notice of the several Assistants of the *Long Robe*, viz. the Lords Chief Justices, &c. But the *Pawn* makes a Record of them also, and of their Writs, and of their Precedencies, in relation to each other, of whom I shall speak more particularly in the Thirteenth Chapter.

7. This Act was made upon the dissolution of the Abbots and Priors, and that there might be no more room for them in the *House of Lords*, whereas the two preceding *Pawns* remaining still in the *Pettibag*, (viz. of the 22 and 31 *Hen. 8.*) did place them next the Bishops, now (their Abbies, Monasteries, and Priories being dissolved) they in this Act were excluded, as in all future *Pawns* (only *Queen Mary* did venture to summon the Abbot of *Westminster*, and the Prior of *St. John's of Jerusalem*) but that being turn'd into a Deanry, and this dissolved, they were as useless, as all the

the others, the Ecclesiastical and Civil CHAP. IV. Estate of this Kingdom being thereby restor'd to its Primitive Constitution, as will be shewn.

C H A P. IV.

A Description of the Degrees concern'd in this Act of Precedency.

HAVING spoken of the *Pawns* (or *Digest of Writs*) of *Summons* in general) as also of the *Act of Precedency*, this having respect only to the *House of Lords* and other great Councils; those both to the *House of Lords* and *House of Commons*, this only to the Dignity of the Nobles, those not only to the Dignity and Degrees of Nobles, but also of the form and order of the Writs constantly enabling the Nobles to make a noble use of their distinct Degrees, that to the Places and Precedencies of such persons (whenever they meet in Parliament) (as by the King's favour may be summon'd) those to the persons actually summon'd, wherein these *Pawns* (much ancients than the Act) were doubtless a good Guide to the framing of this Act, I think it convenient, before I proceed to particularize their Writs (for the Titles must be

CHAP. be fix'd before the Writs can be perfected)
 IV. to take a view of the order of such Degrees as are mention'd in the *Pawns*, but better methodiz'd in the Act) *viz.* 1st, of the King's Counsellors, (comprehending all the following degrees and others) 2^{dly}, of the Princes of the Blood (consisting of seven Degrees) 3^{dly}, of the grand Officers and Ministers of Church and State, (consisting also of seven Degrees) some of them being of a mixt nature, *viz.* Spiritual, Ecclesiastical, and Civil,) and 4^{thly}, of the Temporal and Hereditary Nobility, (consisting of five intire Degrees,) and this I shall do by a distinct account of them, for the clearer understanding of the Writs and Persons concern'd in them.

And this I do to entertain the Readers time, whilst the Clerk and others are busied in Drawing, Writing, and Ingrossing the Writs, and carrying them to be Seal'd, and then disposing them to the several persons and places to whom and where they are to be deliver'd, which will admit of as much or more time than may be spent in reading these following Discourses, intended for the reviving of the memory of some, and improving the knowledge of others, concerning the Persons to be employ'd in the *House of Lords*, as also concerning the Writs for the *House*

of

of *Commons*, and herein (in this First Part, CHAP. as to the *House of Lords*) I shall be guided V. by the ancient Method of the King's Warrant, the *Pawns*, and the *Act of Precedency*; And first of the King's Counsellors.

S E C T. II.

Of the Kings Privy-Counsellor.

AS to the Original of this Officer and *Obs. I.* of the reason of its different Orthography: sometimes beginning the second Syllable with C. or S. and of its affinity to the old *Roman Comites Consiliarij*, I shall refer them to my annotations, and here only shew how that by the words in the Kings Warrant, by the *Pawns*, and by the said Act of 31. *Hen. 8.* (all which I have recited at large) we may clearly see that the word *Council*, doth consist of the Persons of the best Quality and Abilities, to give Counsel and Advice to the King. And when such a number as the King thinks fit to select for that purpose do meet in a Body Conjunctively,

This

CHAP. V.

2. This Council is called the *Kings Council*, and also the Persons therein are called the *Kings Council*, (yet more properly Counsellors) and to confirm this, the Kings Warrant saith: *To Our Right Trusty and well beloved Counsellor Sir Edward Hyde Knight Chancellor of England*, (here 'tis Personal) then follows, *Whereas We by Our Council*, this intimates a Body of Persons or Counsellors Congregated.

3. The Writs in the *Pawns* sometimes do add to the Person to whom the Writ is sent (*Conciliario suo*) and sometimes not, but these following words are constantly in every Writ, (*Quia de advizamento & assensu Concilij nostri*, which is more large than what is in the Kings Warrant by inserting the words (*Advice and Consent of Our Council*).

4. The said Act saith in the Preamble, *Forasmuch as in all great Councils and Congregations of men* (which explains Councils) *and then, that there may be no displeasure or let of the Council* (in respect of Precedency) *therefore* (for the better reputation of his Counsellors and other Subjects, doth Enact, &c. And in the 3d. Paragraph, the President of the Kings Council is there also named, by which we understand the Kings Privy-Council (of which he is President) to be a Council

CHAP. IV.

cil distinct from other Councils where there are Presidents; 2ly. And from Parliaments (where there are Speakers instead of Presidents) anciently called the Great Council, and so it is still, though the name is alter'd to Parliament) and 3ly. From other Assemblies and Conferences of Councils, (which are the words in the last Paragraph of that Act.)

5. And therefore this Council here meant in this *Warrant, Pawn, and Act*, is that which we now call the Kings Privy Council. Tis true the King hath several other Councils, (as that of *Wales*, and in the North, and others both here and in Foreign Plantations) but this *Privy-Council* is the Supream standing Council, out of which sometimes the King thinks fit to select some few for the more safe, secret and easie dispatch of Affairs.)

6. Which by the *Jews* were called *Cabala*, but by us properly Comitties. However this *Privy Council* is the standing Council of the Kingdom, giving Forms and Being to all other Councils, especially what concerns the Beginning, Continuing, and Ending of any Parliament, and yet this *Council or Parliament* is a greater Council than that, and of greater Authority when it is in being, and therefore anciently, as I said, call'd *Magnum & Publicum*

66 · The Constitution

CHAP. *cum Concilium*, and this *Privatum Con-*
IV. *cilium*.

7. This Great and publick Council consists of the King, Lords Spiritual, Lords Temporal, (*viz.* of such to whom the King sends Writs of Summons) and of Commons (*viz.* of such as the People think fit to Elect by vertue of the Kings Writs.) But this *Privatum* or *Privy Council* are of such only as the King Elects out of the Degrees next mentioned, or out of other Degrees, as he shall best judge of their Abilities for it. Yet very often Parliaments have perswaded Kings to make Alterations in *Privy Councils*, both as to Persons and Number.

8. The number of the Persons of this *Privy Council* are in a manner indefinite, because it depends upon the Kings pleasure. But anciently it consisted only of 12. since that they have increased and varied, and in the beginning of this Parliament they were 29. but before the end of it above 40. The number of the *Great Council* or *Parliament* is partly indefinite, (in the *Lords House*) and partly circumscrib'd, (and so in the *Commons House* (as will be shewn,) for these anciently had not above 2. or 300. but this Parliament had in both Houses above 700. (as will be shewn.)

9. This

of Parliaments.

67

CHAP.
IV.

9. This very name of *Council* and *Counsellors*, (as they are or ought to be) is much more ancient than the *Consuls* of *Rome*, which had their name *a Consulendo*, for their abilities in giving Counsel, and possibly borrow'd from the name of *Neptune* the God of the Sea, who was call'd also *Consiliorum Deus*, so as probably of their two yearly *Consuls*, one was chosen for the Affairs of the Sea, (as Admiral) the other for the Affairs of the Land, as General, however it is observable that the Title of *Consul* or *Counsellor* did continue 1046. years in that Empire, deducting three years interposition of the *Decemviri* (or 10 Governors,) and 4 years of *Tribunes* (or 3 Governors,) and 12 years of *Tribunes* consisting of 4 Governors, and 30 years by *Tribunes* consisting of six Governors, and 5 years under an *Anarchy*, and 2 years wherein *Tribunes* had a *Consulary* power, and then the Government again slid into *Consuls*, so as deducting these 56 years, they continued intire under that *Consulary Tutelage* 990 years: and as that way of Government was useful to *Rome* whilst it was a *Common-wealth*, so we see when *Julius Cæsar* took on him the *Roman Empire*, and turn'd it to a *Monarchy*, he did not discard the *Consulary* way of managing Affairs, nor did his

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Suc-

CHAP. IV. Successors; so as they continued full 540. years after *Julius Cæsar* in prosecution of that Monarchical Empire, till the Papal Interests had supplanted the Western Empire, and made General Councils, tending rather to the dis-uniting of Princes, than for uniting Religion, as was pretended, and instead of Consuls, erected a Consistory and Conclave, the last being only new names for a Council.

10. This is certain, that Councils or Counsellors or Consuls are of that nature, that no Government can subsist without them, though by different Appellations; and I read of few or none in all the *Roman Stories*, who had the Title of Consul conferr'd on him, but those who either by their Wisdom had given such good Counsel as prov'd prosperous to the Empire, or had done such eminent Services, that from such Heroick actions the Emperors and Senators derived Arguments of their Abilities to Counsel, as having actually done, and from that experience might Counsel what was fit to be done, and thereupon formerly call'd Consul, and now Counsel or Counsellor, and fit to sit both in *Privy Council* or *publick Parliament*.

11. This Honour was still founded in merit; by the estimation of Judgment, Experience, or Resolution; for what they had Advised,

Advised, Counsell'd, or Successfully acted, CHAP. IV. and therefore they were seldom made *Viri Consulares* till they were 43. years of age, and for such as had been thus Serviceable to the Empire, if a Consulship were not void, yet they had always some Offices or Rewards in store which they conferr'd proportionably to their Services; and such Rewards were purposely reserv'd for such as had either given good Counsel, or followed it, by venturing their Lives and Fortunes for preservation of the Empire, and some such Orders were made in our *Edw. the 3ds.* time, and confirmed by many Successive Councils, as may be read in *Sir Edw. Coke*, and *Judge Dodridge*.

12. There are also other lesser Councils, (besides what I mentioned before) as the Common Council of *London*, (and the like though not for number in other Cities) (which relate only to the Government of those Cities and Counsellors at Law, and the meeting (of such degrees as are qualified for that purpose) are called in some of the Inns of Court, Parliaments, which relate only to matters of Law and Government of their Societies, and Councils of War and Trade, and many of these are great Assistants and often employ'd both in the Privy and publick Council of the Kingdom.

CHAP. 13. I have been the longer on this subject
 IV. because all the Degrees hereafter mentioned are Members either of the Kings *Privy Council* or the *Parliament*, or both, yet their Writs of Summons are not singly *Conciliario*, but by annexation to those Degrees which are capacitated to be Counsellors, but the Degrees mentioned in the Act (of whom I treat next) are constantly of the *Privy Council* or *Parliament*; but there are only some of the *Parliament* which are of the *Privy Council*, by which means matters are more easily manag'd between the *King*, the *Privy Council*, and the *Parliament*, the one constantly Sitting, the other Summon'd only upon Emergencies of State, which latter being thus Constituted, it may well be call'd *Magnum Concilium Animarum*, or a Council of Souls rather than Bodies, so as the King may say with *Cicero*, *Conscientia conciliorum meorum me Conso-latur, i. e.* The knowledge and Conscientious concurrence of minds or Souls, (for so *Conscientia* sometimes signifies) *and integrity of my Counsellors are my Consolation.*

14. In the first Chapter I have shewn the List of the *Privy Council*, who gave their Advice (as tis said in the Warrant) for Summoning the Parliament to begin the 8th. of *May*, 1661. and all but one of them had Summons, and did sit in the
Lords

Lords House, or were Elected for the *Com- CHAP.*
mons House, yet it may be observed that IV.
Prince Rupert was Summon'd as Duke of *Cumberland*: The Duke of *Laderdale* (being a *Scotch Lord*) was not Summon'd till he was made Earl of *Gilford* some years after: The Duke of *Ormond* was Summon'd as Earl of *Brecknock* in *Wales*, the Lord *Anthony Ashly Cooper* was chosen a Burgefs of *Dorsetshire* for the *House* of *Commons*, but his Writ was time enough to sit in the *Lords House*, Sir *Charles Berkley* Knt. was chosen a Burgefs in *Somerfetshire*, and soon after made Lord *Fitz Harding*, (an *Irish Title*) and so continued in the *House of Commons* to his death, Sir *George Cartret* Knt. and Bar. was chosen Burgefs for *Portsmouth*, and continued in the *Commons House* to the end of that Parliament, Sir *Edward Nicholas* Knt. was Summon'd to the *Lords House*, but Sir *William Morrice* was chosen Burgefs for *Plymouth*, and continued with the *Commons* to his death. Now I proceed with the chief of such as are for the most part of the Kings *Privy Council*, (mention'd in the Act) and do with others of lesser Degrees Constitute both the *Privatum* and *Magnum concilium* or Parliament.

S E C T. III.

Of the Princes of the Bloud.

Obs. I. **I**N this Act the King by vertue of his Kingly Office (for so is the word in the Act) and Prerogative, having power to give such Honors, Places, and Reputation to his Counsellors, and other his Subjects as shall seem best to his most Excellent Wisdom, (especially to his Council or Parliament) gives the Priority of all Places and Precedings to these following seven Degrees of the Bloud-Royal, *viz.* (1.) to the Kings Son, (first entituled Prince of *Wales* in the 11. *Edw.* the 3^d.) (2.) to the Kings Children, (3.) to the Kings Brother, (4.) to the Kings Uncle, (5.) to the Kings Nephew, (6.) to the Kings Brothers Son, (7.) to the Kings Sisters Son, (all of these have Title of Earls or Dukes) and any one of these (where others in priority are wanting) are to be accounted the first in their own seven Degrees, and are Prior to the 5 following Degrees, which comprehend all the Lords Temporal, and these, as they happen to be more or less, have their distinct Writs, as also their proceedings to all

All that were Summon'd of this Degree to this Parliament, were only the Duke of *York*, the Kings Brother, and Prince *Rupert* his Sisters Son, *Sect. Cap. 2. Fig. 1. and 2.*

S E C T. III.

Of the Kings Vice-Gerent or Vicar-General.

THe words of the Act are, *That forasmuch as the Kings Majesty is justly and lawfully Supream Head on Earth under God of the Church of England, and for the good Exercise of that most Royal Dignity and Office (viz. of Supream Head of the Church) hath made Thomas Lord Cromwel (who was not only Lord Privy Seal (as in the Act is exprest) but Master of the Kings Jewel-House, Baron of Okham,* *Obs.*

CHAP. ham, Knight of the Garter, Earl of Essex
IV. and Lord Great Chamberlain,)

2. His *Vice-Gerent*, (for the good and due administration of Justice to be had in all Causes and Cafes touching the Ecclesiastical Jurisdiction, and for the Godly Reformation of all Errors, Heresies, and Abuses in the said Church, so as he enjoy'd Dignities and Offices of a mixt nature, Ecclesiastical and Civil, and thereby was placed above all the Lords Spiritual, and above all the Lords Temporal of the following Degrees, and not only in respect of his Temporal Dignities, but as *Vice-Gerent* in Ecclesiasticals) had power given him, and to his Successors in that Office, to sit above those Degrees in Parliament, and to have a Voice and Liberty to assent or dissent as other Lords.

3. But there hath been none employ'd in this Office since that time, (as needless I conceive) for the Archbishops of *Canterbury* and *York* in their Provinces, and the Bishops in their Diocesses have ever since in a manner suppli'd the Duty of that Office under their own Titles and by their own Jurisdictions, especially the Archbishop of *Canterbury*, who is rankt in the next place in this Act, and in all *Pawns* (except this) where some of the Bloud Royal are not exemplars.

SECT.

S E C T. V.

Of the Arch-Bishops and Bishops.

THE Title of *Bishop* is more ancient than the Title of *Christian*, as I shall shew in the seventh Chapter; however it became more general after Christianity spread it self.

The word comes from the *Greek*; *Επισκοπος*, *i. e.* one who is, in *Doctrinam & mores sacros gregis Inspector*, and when Bishops grew numerous it was thought fit to place one to look after them, and he had the addition of *Archos*, *i. e.* *principalis*, and so call'd *Archi-Episcopus*, or Arch-Bishop, having a certain number of Bishops and their Diocesses reduced to his Province or Care, so that the Arch-Bishop of *Canterbury* (with his own Diocess) hath twenty two Diocesses, or Bishopricks (of the twenty six) within his Province, and the Arch-Bishop of *York* hath with his own (four) which makes in all twenty six, (besides the Bishop of *Man*, who hath no Writ of Summons.) Anciently these Arch-Bishops and Bishops, with Abbots, Priors, Deans, Arch-Deacons and Proctors (making the two Convocation-houses) were summoned to appear two days before the Temporal Lords,

Obs.
I.

II.

III.

IV.

CHAP. Lords, but since *Henry* the Eighth's time, IV. (when Abbots and Priors were excluded) the Bishops are summon'd to meet the same day that the Parliament begins, but as Convocation-houses, they are not summon'd to meet at Parliament till two or three days after the Lords Spiritual and Temporal are met and sitting in Parliament, and those two Convocation-houses are seldom Adjourn'd, Prorogu'd, or Dissolv'd in three or four days, and sometimes longer, after the two *Houses of Lords* and *Commons* are Adjourn'd, Prorogu'd, or Dissolv'd.

V. These Arch-Bishops and Bishops (considering them upon a Baronial account distinct from the Convocations) are entred in all *Clause Rolls* and *Pawns* next the Blood Royal (except when there was a casual interposition (as this last of *Vice-gerent*) and their places distinctly set down, as in this Act: viz. the Arch-Bishop of *Canterbury*, then the Arch-Bishop of *York*, and the other according to Seniority, or *Antientry* (as the word of the Act is) till the Bishops of *London*, *Durham*, and *Winchester*, were (as by this Act) fix'd in their Precedencies to the other twenty one, and yet there is another method of Precedencies, us'd in the *Lords House*, and in all Solemnities, by way of counter-changing

changing of Precedencies between the Lords CHAP. Spiritual and Temporal, (as will be shewn.) IV.

These twenty six enjoy their Offices of Bishops upon a Spiritual and Ecclesiastical account, and therefore call'd *Lords Spiritual*, their *Ecclesiastical* serving in *ordine ad spiritualia*.

These, for many Ages, did manage the Offices of *Chancellor* and *Keeper* of the *Great Seal*, also of *Treasurer*, *President*, *Privy-Seal*, and *Secretary*, (of which I shall speak more) but since *Henry* the Eighth's time these five Offices have been distinctly manag'd by *Laicks*, of the chiefest quality and merit, and the Bishops in a manner circumscrib'd to the Jurisdiction of their respective *Diocesses*, which are of a kind of mixt nature, consisting of *Spiritualities* and *Temporalities*.

In the *Lords House* they have almost equal Priviledges with the Lords Temporal (except in matters of Blood, wherein, in respect of their Function, they think themselves unfitting Judges, and then withdraw) but these Priviledges are not Hereditary, (like the Temporal Lords) but meerly Successive, and their Writs are somewhat of a different Nature; from those to the Lords Temporal, (in point of extent concerning the Convocation-houses) which do make a kind of a Parliament

annext

VI.

VII.

VIII.

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CHAP. annex to a Parliament, (of which I shall
IV. speak more at large.) But how the Bishops
were Summon'd may be read in the seventh
Chapter.

S E C T. VI.

*Of the Lord Chancellor, or Lord
Keeper.*

Obs. **T**His great Officer being not only re-
cited in this Act, but having a pe-
culiar Writ of Assistance in this and other
Pawns which the next ten Officers follow-
ing have not (in respect of their Offi-
ces) I shall discourse more fully of him so
soon as I have given a short view of the
Ten remaining to be spoken of.

*Edward Hyde, Baron of Hyndon, and
Lord Chancellor, was Summon'd by Writ,
Feb. 18. 1661. See Chap. II.*

S E C T. VII.

Of the Lord Treasurer of England.

Obs. **T**His Officer being joyn'd also in this
Pawn to the Earl of *Southampton*,
(then Lord Treasurer) and in former
Pawns to other Degrees, and being intend-
ed to be discours'd of in the fourth *Exem-
plar*,

of Parliaments. 79

plar, and in the fifth *Section* of the Barons CHAP.
of the *Exchequer*, I shall defer its enlarge- IV.
ment to those Chapters.

*Thomas, Earl of Southampton, Lord
Treasurer of England, was Summon'd by
Writ, Feb. 18. 1661. See Chap. II.*

S E C T. VIII.

*Of the Lord President of the King's
Council.*

THis Officer from the time of King *Obs. I.*
John was call'd *Principalis* and *Ca-
pitalis Consiliarius*, and so continu'd till
Queen *Elizabeth's* time, and after not us'd,
till once in King *Charles* the firsts time, and
ever since, to the end of this Parliament,
the Lord Chancellor or Lord Keeper hath
supply'd the duty of that Place, though not
the Title; the difference of granting them
was, that one was always by Patent, and the
other only by delivery of the Great Seal.

2. There are also other Lord Presidents
which sit in the *Lords House*, viz. the
President of *Wales*, and President of the
North, but being not mention'd in this
Act, and the latter not sitting in this Par-
liament, I refer them to my *Annotations*,
as also other Presidents of lower Degrees,
as of Colleges, &c.

S E C T.

Of the Lord Privy-Seal.

Obs. **I**N Edward the Third's time, and long after, this Office was call'd Keeper of the Privy or Private Seal, distinguishing him from the other, call'd the Keeper of the Great Seal; afterward he was call'd Clerk of the Privy-Seal, (Clerk being then a Title of Eminency) and *Gardien del Privy-Seal*, and in 34 H. 8. Lord Privy-Seal.

2. He hath his Office by Patent; but the Keeper of the Great Seal (as I said) only by delivery of that Seal, and 'tis very probable that this Office was in imitation of that which was us'd by the *Romans*, the Officer whereof was call'd *Comes privatorum*, and as *Cassiodore* calls him, the Governour of the King's private Affairs.

3. Whilst the *Court of Requests* was in use he was also call'd the Master of it, being Master or Superiour to the Four Masters of *Requests*, who were to receive, peruse, and present all Petitions to the King, or to the Parliament in time of Parliament, and direct the Petitioners in the right way of proceeding in their business, and for want of this direction many men are ruin'd by

by crafty and unskilful directors, and the Parliament troubled with needless applications; for I conceive this Court was plac'd (as will be shewn) between the *House of Lords* and *House of Commons* for the Masters to sit there in time of Parliament, as Tryers of Petitions to either House, and were to judge, whether the matter was proper for either House, or any other Court, which doubtless did take off a great expence of time from both Houses, and from intangling them in matters which were properly relievable in other places.

4. There are three sorts of Seals which are chiefly us'd for publick Affairs; two of them pass under the names of Privy or Private, the other, the Great or Broad-Seal: yet for a clearer distinction, one of the two is call'd the Privy Signet, and hath four Clerks to attend its Office, the other the Privy-Seal and hath also four Clerks to attend its Office; and the third is call'd, (as I said) the Great Seal, and hath properly six Clerks to attend it, but increas'd to many more. The Privy Signet is under the Custody of the Chief Secretary of State; the Privy Seal, under the Custody of the Lord Privy Seal; and the Broad Seal under the Custody of the Lord Chancellor, or Lord Keeper, so as most matters which concern a declaration of the King's pleasure in writing, do

CHAP. IV. take their rise from the Privy Signet, and from thence transmitted to the Privy Seal, and from thence to the Great Seal, to receive its determination.

5. But to pass by all private or publick Matters about which these three Officers are concern'd, this is certain, that the Clerks of these three Offices (excluding none) in some form or other are concern'd in the Warrants and Writs, &c. for the Summoning every Parliament.

6. When the chief Officer of this Office did pass under the Title of Keeper, or Clerk of the Privy Seal, most of them were Ecclesiasticks, yet having this Office, he had his Writ of Summons and Place in the Lords House, as may be collected from the Rolls of 15 *Edw. 3.* when Sir *William Keldsly* was Keeper of the Privy Seal, and 20 *Edw. 3.* when Mr. *Jo. Thoresby* was call'd Clerk of the Privy Seal, and from 28 *Edw. 3.* when Sir *Michael of Northumberland* was Keeper of the Privy Seal, (*Sir* being an Epithite given in those days to the *Clergy*) and still in use in the Universities for Batchelors of Arts) and from 11 *R. 2.* and 1 & 2 *H. 4.* when Sir *Richard Clifford* was Keeper of the Privy Seal, and these had Writs, and from 3, & 4 *H. 6.* a Writ was expressly sent *Magistro Willielmo Alrevill Custodi privati sigilli,* and

and from that time (the *Rolls* and *Pawns* CHAP. IV. which speak of them are dormant or wanting) to the *Pawn* of 30 *H. 8.* when the Writ to *John, Earl of Bedford,* is there entred *Custos privati sigilli,* and he being so in 31 *H. 8.* (when the Act was made) his Precedency was settled (as is therein shewn) and there first intituled Lord Privy Seal, and so this Officer hath continued in that additional Title of Lord to this time. However in the *Latin* Writs he is styled only *Custos privati sigilli,* without the addition of *Domini-* *mus,* and so in the very *Pawn* of that year, and in 36 *H. 8.* and is no more mention'd in any of the *Pawns,* till 6 and 7 *Edw. 6.* when *John, Earl of Bedford,* was still *Custos privati sigilli,* and from that time those *Pawns* which are extant do not mention that Officer, till 1 *Car. 1.* when *Edward, Earl of Worcester,* was entred *Custos privati sigilli;* and 15 *Car. 1.* when *Henry, Earl of Manchester,* was *Custos privati sigilli,* and had their Writs; but in this *Pawn* of 13 *Car. 2.* none is mention'd, and yet the Lord *Roberts* was then Lord Privy Seal, so as it was an omission of the Clerks, as I conceive.

7. Most of the Keepers of the Privy Seal (as I have observ'd) were Ecclesiasticks before 30 *H. 8.* but since that time this Office hath been conferr'd only upon such

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CHAP. as were Temporal Lords, above the degree IV. of Barons, and not under.

8. This great Officer hath also an apartment near the Lords House, for his accommodations, and sometimes us'd for the Lords Committees, as will be shewn.

9. These four last mention'd are plac'd in this order in the *Lords House*, whether or not they be of any of the Noble Degrees. *John, Lord Roberts, of Truro*, Lord Privy Seal, was Summon'd by Writ of *Feb. 1661*. See Chap. 2.

SECT. X.

Of the Lord Great Chamberlain of England.

THE five foregoing Officers of State, viz. *Vice-Gerent, Chancellor, Treasurer, President, and Privy Seal*; were anciently chosen out of Ecclesiastick Degrees, but those which I am now to speak of (except the Secretaries, being for the most part also Clergy-men) were chosen out of Laicks, persons of the greatest Merit, Fortunes, or Families, and had their Places as they were annex't to the Degrees of the Nobility.

2. The learned *Institutor* saith, that if the King gave Lands to a man, to hold of him
to

of Parliaments. 85

to be Chancellor of *England*, Chamberlain CHAP. of *England*, Constable of *England*, Marshal of *England*, or High Steward of *England*, &c. these Tenures were call'd *Grand Sergeanties*, and these and such like *Grand Sergeanties* were of great and high Jurisdictions, some of them concerned matters Military in time of Wars, and some services of Honour in time of Peace.

3. This Officer ever was, and still is in great Veneration and Use, and I conceive, though now most of his Employments are about the King's Court, yet the word *Camerarius*, which we call Chamberlain, was like to that among the *Romans*, call'd *Comes Aerarij*, and had such relation to the Treasury of the Kingdom, as the Chamberlains of *London*, and the Chamberlains of the Palatines of *Lancaster* and *Chester* have to their distinct Treasuries (of which I shall speak more fully in order (as also in my Annotations) and I apprehend that these great Officers need not Writs, because it is requisite these should be always attending on the Kings Person; but when they are otherwise commanded to his Employments in their Offices, and there is scarce any of them, especially this, but are so glutinated to some Noble Person, that it cannot be said whether the Writ be more in respect of the Office, or

CHAP. Person that Manageth that Office.
IV.

4. This Office was enjoy'd for many Successions by the Earls of Oxford (till *Richard* the Second by violence took it away) the *House of Commons*, 1 *H.* 4. pray'd the King, that it might be restored to *Richard*, then Earl of *Oxford*, being (as it was then alledged) his due Inheritance, yet in 1 *H.* 6. that King granted it to the Duke of *Glocester*, the 36th of *Hen.* 8. the Writ was to *Edward*, Earl of *Hertford*, *Magno Camerario Angliæ*, and 1 *Edw.* 6. to *John*, Earl of *Warwick*, *Magno Camerario Angliæ*. Afterwards, by a Match, it was hereditated to the Family of the *Berties*, who, after some disputes about the Title, did sit in Parliament, in the time of *Charles* the First and this Parliament, as Earl of *Lindsey*, and Lord great Chamberlain of *England*, whereby one part which his Lordship is to act (as his Predecessors had done) is to take care, that all things be provided in the *House of Lords* that may suit with the Grandeur and Conveniencies of the Persons who are there to be employ'd, and for that and other purposes he hath also an Appartment near the Lords House, as will be shewn.

5. *Montague* (*Bertie*) Earl of *Lindsey*, Lord Great Chamberlain of *England*, was summon'd by Writ, *Feb.* 18. 1661. See *Cap.* 2.

SECT.

CHAP.
IV.

SECT. XI.

Of the High Constable of England.

IT may be well suppos'd, that *Constabularius Angliæ*, was instead of *Comes stabuli* amongst the old *Romans*, which was commonly taken for the Master of the Horse to the *Emperour*, and is a Place still of great Honour in most parts of *Europe*; but I conceive he was rather call'd *Comes stabuli*, as an Officer or Office of refuge, for so *stabulum* also signifies. However for many Ages this Office was held in *Grand Sergeanty* by those persons hereafter nam'd, but in 12 *H.* 8. it became forfeited to the Crown, and since that never granted to any Subject, but *pro hac vice*, at some Solemnities, as at the Coronation of King *Charles* the Second, in *April* 1661, a little before this Parliament, *Algernoone Piercy*, Earl of *Nortumberland*, was made High Constable of *England*, *pro hac vice*, for with the Ceremony of that day his Office ended; and *Henry* the Eighth, I conceive, did enter it in the Act of 31 of his Reign, that in case there should be any use of this Officer, when any such Solemnity happen'd, in time of Parliament, his place might be known without dispute.

G 4

Be-

CHAP. 3. Before the 13th. of *Henry* the 8th. in
IV. some respects it had a greater power than
the *Earl Marshal*, and in others equal to
it, and so the extravagant parts being
taken away, the rest fixt in the *Earl Mar-
shal*, (of whom I shall speak next) how-
ever it hath left a name of great honor
and use; those of Honor are the Constable
of *Dover*, &c. those of Use are the high
Constables and Constables disperst in all
parts of *England*.

4. Whilst this great Officer was of con-
stant use, he was constantly summon'd to
Parliaments, viz. 50. E. 3. *Thomas de
Woodstock*, Comes de *Buck*, *Constabularius
Angliæ*, and so that 1. 3. and 4. Ric. 2.
& *Thomas Dux Glostricæ*, *Constabularius
Angliæ*, 17. R. 2. and the 1st. of *Hen.*
the 4th *Henry Percy* Earl of *Northumber-
land* Constab. *Angliæ*, and the 2^d. of
Hen. the 5th. and 1. H. 6. Summons to
Humphrey Duke of *Gloster* Const. *Angliæ*,
and to *John* Duke of *Bedford* Const. *Ang-
liæ* 2. H. 6. and from thence again to
the Duke of *Buckingham* Const. *Angliæ*,
but from thence to the 20. of *Hen.* the 8.
there are no *Pawns*, as I said, to guide
us to the knowledge of such as were
summon'd to the intervening Parliaments,
but it appears by other Records that in
the 13th. of *Hen.* the 8. this Office of
Con-

Constable of *England* was turn'd into an CHAP.
hac vice, and so only granted upon the IV.
Solemnity of *Coronation*, and thereupon is
not mention'd in any following *Pawns* to
this time, or was of any use in this Par-
liament.

SECT. XII.

Of the Earle Marshal of England.

THIS great Officer hath not so great
a Latitude of power as the Con-
stable of *England* had, yet he hath un-
der his Jurisdiction the Care of the Com-
mon Peace of the Land, in deeds of Arms
and matters of War, (when it happens
in Forraign or Domestick parts) in most
of which he is guided by the Civil Laws,
and yet not to do any thing repugnant to
the Common Laws. In times of War he is
more absolute, in times of Peace less: this
mane of Marshal ('tis very probable) had
its Original from *Mars* the *Romans* God of
War, and was the same which they call'd
Comes Militum.

2. However with us this Great Offi-
cer had and hath several Courts under his
Jurisdiction, viz. the Court of *Chevalry*
(now almost forgotten) and the Court of
Honor

CHAP. Honor (now quiet layd aside) but the *Sedes*
 IV. *Mariscalli* or Court of *Marshalsee* is still in
 being (where he may sit in Judgment a-
 gainst *Criminals* offending within the verge
 of the Kings Court) and the chief Officer
 under him is call'd the *Knight Marshal*.

3. As also the Herald Office or Col-
 ledge, where when doubts arise, con-
 cerning Descents, Pedegrees, Escuchteons,
 &c. he determines them; this was Incor-
 porated by *Ric.* the 3d. and many prive-
 ledges added by *Philip*, and *Mary*, 4. and 5.

4. Heralds amongst the old *Romans*
 were a certain Order of Priests, (call'd
Fæciales) and so term'd because *Bello pa-*
ceq; faciendo apud eos jus erat pronuntiare,
 &c. they were also call'd *Caduceatores*,
 (from a little wand, which they carried)
 whereon was fixt two wings to represent
Mercury, (the nimble Messenger of War) &
quod Contentionem & Bella Cadere facerent.)

5. This Office or Colledge consists of 3
 Regulators of Arms, Ceremonies, Pede-
 grees, and Descents of Nobility and Gent-
 ry; the first is call'd *Garter Rex Armorum*
Principalis, chief King at Arms, and is al-
 so an Officer to the Sovereign, and Knights
 Companions of the most noble order of the
Garter; the 2d. call'd *Clarentius* also King
 of Arms, but his Jurisdiction is only on the
 Southside of *Trent*; The 3d. call'd *Norray*,
 also

also King of Arms for the Northside of CHAP.
Trent; these two being confin'd, but *Gar-* IV.
ter not confin'd.

6. Besides these, there are 6 more proper-
 ly call'd Heralds, *quasi Honorem tenentes,*
Hæredes Aulæ dicentes, such as are able to
 give an account to the Court, of *Heyres*
 to *Families*, and these have distinct Titles
 distinguishing their Employments, *viz.* 1.
Tork, 2. *Lancaster*, 3. *Somerset*, 4. *Rich-*
mond, 5. *Chester*, 6. *Windlefour*.

7. And there are also 4 Under Graduats
 call'd *Pursevants*, or such who with readi-
 ness do pursue the Commands of their Su-
 perior Officers, (properly in Marshal Cau-
 ses) and therefore call'd *Pursevants* at
 Arms, to distinguish them from other *Pur-*
sevants or Messengers from other Courts,
 and these 4 have also 4 distinct Titles. *viz.*
Blew mantle, 2. *Rougecross*, 3. *Rouge-Dragon*,
 4. *Portcullis*; but of the *Earl Marshal*, and
Heralds, I shall speak more as they are
 employed in Parliamentary Ceremonies.

8. There is no doubt but these Earls Mar-
 shals have for many ages sat in Parlia-
 ments, *viz.* the Duke of *Norfolk*, Marshal
 of *England*, was summon'd 15 *Ed. 2.* But 11
R. 2. the Title of Earl Marshal of *England*
 being by Patent granted to *Thomas de Mow-*
bray, Earl of *Nottingham*, and entail'd on
 the Heirs Males of his Body, which failing,
 yet

CHAP. yet the Title of *Mowbray* descending on
 IV. *Thomas Earl of Arundel*, *King James* did
 by *Pattent* make him *Earl Marshal* for
 life, and he was Summon'd to *Parliament*
 by both Titles, but he dying, *Thomas Earl*
of Arundel and *Mowbray* Grandson and
 Heir to the said *Thomas* had no *Writ* pro-
 vided for him, in *Feb.* 1660 when this
Pawn was made, being then suppos'd to
 be a *Lunatick*, and upon that account kept
 close at *Padua* in *Italy*; but soon after by
 the Solicitation of *Henry Howard* (next
Brother and Heir to the said suppos'd *Lu-*
natick) the Dukedom of *Norfolk* was re-
 stor'd after a long Attainder, and by Act of
 Parliament settled on the said *Thomas* the
 Grandson, and the said *Henry* being soon
 after created *Earl of Norwich*, did manage
 the Office of *Earl Marshal*, and had a
Patent for the same from this present *King*
Charles, therein settling this Office upon
 him and the Heirs Males of his Body, with
 a large Intaile for want of such Issue to the
 next Heir Male of that *Noble Family*. So
Henry was Summon'd about the middle of
 this *Parliament* as *Earl of Norwich*, with
 the Title also of *Earl Marshal*, and *Duke*
Thomas, dying at *Padua* about the end of
 this *Parliament*, *Henry* the Brother suc-
 ceeded in the *Dukedom*, and sat as *Duke* of
Norfolk, and *Henry* the *Eldest Son* of the
 said

CHAP. said *Duke Henry*, being then intituled *Earl*
 of *Arundel*, did sit as *Earl of Arundel* and
 Lord *Mowbray*, so as that Title of *Earl*
Marshal is in *Duke Henry*, and the Title
 of *Mowbray* in the *Earl of Arundel*, and
 that Title of *Earl Marshal* only impossibili-
 ty to come again into *Mowbray*. And this
 may be added, that during *Duke Thomas* his
 Life *James Earl of Suffolk* by Deputation
 did execute that Office for reasons which
 I leave to other Writers.

S E C T. XIII.

Of the Lord Admiral of England.

T H E Kings of *England* do constantly Obs. I.
 make Admirals of Squadrons of
 Ships, but the Admiral which I am here
 to speak of, is the highest of all, intituled
 the Lord Admiral of *England*, and may
 be well call'd Admirals, from their seeing
 and knowing the *mirabilia*, or Wonders of
 the Deep. The *Greeks* call'd this Officer
Thalassiarcha, from *Thalassa*, the Sea, and
Archos, the Chief at Sea, and from thence
 the *Romans* (according to the *Latin* Idiom)
 call'd him *Thalassiarchus*, and of later days
Admirallus (which is no *Latin* word) and
 in *English* Admiral.

CHAP. IV.

2. To him is committed the Government of the King of *England's* Navy, and Power to decide all causes *Maritim*, as well Civil as Criminal, and of all things done on, or beyond the Seas in any part of the World, and many other Jurisdictions on the Coasts, and in Ports, Havens, and Rivers, and of such Wrecks and Prizes as are call'd by the Lawyers, *Lagon*, *Jetson*, and *Flotson*, that is, Goods lying in the Sea, floating on the Sea, or cast by the Sea on the shore (admitting some few exceptions and Royalties granted to other Lords of Mannors.) And these and all other Cases dependant on this Jurisdiction are determin'd in his Courts of *Admiralty*, by such Rules of the Civil Law as do not invade the Common Laws of *England*.

3. And of these Civil Laws which concern Sea affairs there are two most eminent Guiders to *Civilians*, viz. Those made at *Rhodes* (in the *Mediterranean*) by the *Grecians*, and augmented by the *Romans*, call'd *Lex Rhodia*, or the *Rhodian Law*. The other made at *Oleron* (an Island anciently belonging to *England*, but lying on the borders of *France*) by our King *Richard* the First, both of which are still in great veneration.

4. So as well for the Laws by which he

go-

CHAP. IV.

governs the Maritim concerns, as for his great Jurisdiction, being as vast as the Ocean, he may be said to have *alterum Imperium, extra & intra Imperium*, and therefore this Honour and Care is intrusted to the hands of some one of the Blood Royal, or some one or more joyntly of the most eminent of the Nobility.

5. And in respect of this Power there is a constant Converse and Commerce with all parts of the World, especially where the Civil Laws are practis'd, and therefore it hath been the prudence of our former Kings (even to this day) to allot him a place in the Lords House, as to the Marshal of *England*, (for both of their concerns are chiefly manag'd (as I have shewn) by the Civil Laws) so as the Lord Marshal and Lord Admiral may be look'd on as the two Supporters to the learned Professors of those Laws, as the other Lords are to the Professors of the Common Laws, and possibly the greatest number of the Masters of *Chancery* (of whom I shall speak in order) (who sit in the Lords House) were originally contrived to be Doctors of the Civil Laws, upon this ground, That if there were at any time just occasion in that House to make use of any points in that Profession, they might give their advices or opinions therein.

6. This

CHAP. 6. This Dignity, as I said, was ever con-
 IV. ferr'd upon some of the chief Nobility,
 by vertue whereof they had their Writs of
 Summons, and their Place in the Lords
 House, and this long before the *Act of*
Precedency, for we find the Earl of *Arun-*
del, in 13 *Edw.* 3. and the Earl of *Nor-*
thumberland, in 7 *R.* 2. the Earl of *Devon*,
 and Marquess of *Dorset* in the same Kings
 time, and so the Earls of *Salisbury*, *Shrews-*
bury, *Worcester*, and *Wiltshire*, and others
 of the like Degrees recited in the *Clause*
Rolls, (needless to renumerate) being
 Admirals were summon'd, and in our ex-
 tant *Pawns*, in 36 *H.* 8. *Johanni Dudley*,
Vicecomiti Lisle, *Magno Admirallo*, and in
 1 *E.* 6. *Tho. Dom. Seymer*, *Magno Admirallo*,
 and in 7 *Edw.* 6. *Edw. Fenys*, *Domino Clinton*,
Magno Admirallo, and in 1, 2, 3, 4, *Mariae*, &
Phil. & *Mar. Gulielmo Howard de Effing-*
ham, *Magno Admirallo*, and in 4 & 5 *Phil.*
 & *Mar. Edw. Fenys* (again) and *Charles*,
 Earl of *Nottingham*, in *Queen Elizabeth's*
 time, and *George*, Duke of *Buckingham*, in
 King *James's* time and King *Charles the*
 First's time; were still summon'd to Par-
 liament with the Title of Admiral added
 to their hereditary Titles in their Writs,
 and to this Parliament, *Jacobo, Duci Ebor.*
Magno Admirallo, &c. And all these had
 their places in the Lords House according

to the *Act of Precedency*, as those before CHAP.
 the Act was made. IV.

This Office was conferr'd on the Duke
 of *Tork* for this Parliament. *Vid. Cap. 2.*

SECT. XIV.

Of the Lord Steward of the King's
House.

As for the Orthography and Etymology *Obs. I.*
 and Antiquity of this Title *Steward*, I
 shall refer them to my *Annotations*. However
 as it is sometimes writ with a *T*, and some-
 times a *D*, it is under four Considerations;
 the first, as it represents a Royal Name and
 Family, and therefore for distinction, this
 is writ *Stewart* with a *T*, and hath the su-
 perintendence, chief interest and influence
 in all Parliaments since that Name was of
 that use in *England*.

2. The other three are Titles official, and
 written *Steward* with a *D*: and as a fur-
 ther distinction from the first, in *Latin*
 they are call'd *Seneschalli*, and this, the
 chief of the three, is call'd *Seneschallus*
Angliæ, or Lord High Steward of *Eng-*
land, of whom I shall give a full account
 in the Chapter of the *Trials per*
Pares, and shew how this great Officer is
 employ'd either in or out of Parliaments.

3. The last and least Degree of the 3 is call'd also *Senescallus*, such as are the Stewards of Corporate Towns, or Mannors which are not concern'd in the Summons, or of use in Parliaments, otherwise than as considerable Assistants in Elections of Members to serve in Parliaments; But the Lord Steward of whom I now speak was call'd in *H.* the 8th. time, *Magnus Magister Hospitij Regis*, or the Great Master of the Kings Household, and ever since *Magnus Senescallus Hospitij Regis*, or the Lord high Steward of the Kings House, and he hath not only an eminent Employment, Trust, and Authority, in ordering the Kings Household, but an Authority above all Officers of that House, except the Chappel, Chamber, and Stables, but in all Parliaments is obliged to attend the Kings Person, to adjust their Parliamentary expences, (*Westminster* being anciently the Kings Court, and still within its Verge and his Lordships Jurisdiction.)

4. His place is appointed by the Act of *Precedency* in this order; not but that he was Summon'd to Parliaments before that Act, as may be seen in several Clause-Rolls of *Rich.* the 2d. &c. but after the said Act, viz. 36. *H.* 8. *Charles* Duke of *Suffolk* was Summon'd, and his Writs directed *Magno Magistro Hospitij sui*, but after

after that, as in this very Parliament 1661. the Writ to the Duke of *Ormond* was *Jacobo D'no Brecon*, (being his *English* Title by which he sits in Parliament) *Vid. Cap. 2. Senescallo Hospitij*, (*Magnus Magister & Senescallus*, being still the same Officer, though varying in Title.

SECT. XV.

Of the Lord Chamberlain of the Kings Household.

That High-Chamberlain before menti-
oned is called *Magnus Camerarius*, *Obs. I.* but this hath not that Epethite of *Magnus*, and yet his authority is very great within the Verge of the Kings Court; so that though there is some Subordination, yet in many great *Regalios* he hath an intire command, and even in some things which concern the conveniency of a Parliament, (and its places of Addresses to the King) that the furniture of the Rooms may be futable to the Majesty and Grandure of such as are imployed there.

2. He hath been anciently summon'd to sit there, as may be seen in the *Clause-Rolls* of the 25. and 27. and 28. of *Edw.* the 3d. in the Summons of Sir *Bartholomew*

CHAP. *Bergehurst Camerario Hospitij*, he being
 IV. also Guarden of the *Cinqueports*, and in
 1. *H. 4.* to Sir *Tho. Erpingham, Baneret,*
Camerario Hospitij, he being also Guarden
 of the *Cinqueports*, and so the 10. *H. 6.*
 to *Radulpho Cromwel Chevalier or Baron,*
Camerario Hospitij, I might instance ma-
 ny others, but I shall skip as the Records
 do to the Act of *Precedency*, 31. *H. 8.*
 where he is call'd the Kings Chamberlain,
 and in the Pawns of the 36. *H. 8.* the
 Writ was *Carolo Duci Suff. Magno Magistro*
Hospitij sui & Præsidenti Consilii sui, (and
 in the same *Pawn* which may be observa-
 ble, the Office of great Chamberlain of
England was supplied by *Edward Earl of*
Hereford, of a lesser Degree than a Duke)
 in the 6. and 7. *Edw. 6.* the Writ was *Tho.*
D'no Darcy Chevaleer Camerario Hospitij
sui, and in the 43. *Eliz.* to *Tho. Cary Lord*
Hunsden, Camerario Hospitij, and conti-
 nues in the same Office, he was Summon'd
 again *primo. Jacobi*, and in the 15. *Car. 1.*
Philip Earl of Penbrook was Summon'd,
Camerario Hospiti sui, and to this Par-
 liament, first *Edward Earl of Manchester,*
Camerario Hospitij, then *Henry Earl of St.*
Albans Camerario Hospitij, and after him
Hen. Earl of Arlington, Camerario Hospitij,
 who continued his place and precedency
 in this Parliament to the Dissolution of it.

Edward

3. *Edward Earl of Manchester Lord Cham-* CHAP.
 berlain of the Kings Houshold was Sum- V.
 mon'd so by Writ 18. *Feb. 1661. Vid. Cap. 2.*

SECT. XVI.

Of the Principal Secretary of State.

HE brings up the Honourable Rere to
 all the 12. Officers of State, both
 in this Act of *Precedency* and in the *Pawns*,
 and therefore I may the more justifiably
 defer my Discourse of him, till I come
 to his Writ of Summons, and past the
 method of the *Pawn*, as I have done the
 method us'd in the Act of *Precedency*, and
 so conclude these Sections with some few
 Observations.

Observations.

WHEN the Act of 31. *H. 8.* was
 made, the State Officers (though *Obs. I.*
 now but 9 in use, were then 12. a Number
 (as I shall shew) agreeable to the 12
 Judges, 12 Masters of Chancery, 12 Con-
 stituting a Jury, and much more of the
 efficacy of that number, (cited by the
 Learned Institutor and *Petrus Bongus de Sa-*
cris Numeris) and this number is thus used
 by us, as tis thought, in veneration, either

H 3

to.

CHAP. IV. to the 12 Tribes of the *Jews*, or 12 Tables Sacred among the Old *Romans*, or to the 12 Apostles of the Christian Religion, or 12 Signs in the *Zodiack* reverent in *Astrology*

2. That if the Writs to any of these Officers, be to any of the Lords Spiritual, or such Officers as have usually consisted of the Clergy, as the Lord Chancellor or Lord Keeper, the Lord Treasurer, Lord Privy Seal, then the Writs were like the Assistants Writs to the Judges, (of which I shall speak in order) but if any of these Offices be executed by any of the Temporal Lords, then the Writ is the same as to that noble Person to whom the Office is anext, or if any be Summon'd merely *virtute Officij* without annexation, to the Degree of some Lord Spiritual or Temporal Lord, then the Writ is only as an Assistant Writ, and they sit in the *Lords House* but as Assistants without Vote, &c. as will be shewn.

3. Sir *Edward Nicholas* Knight was summon'd by Writ dat. 18. *Feb.* 1661. *Vid. Cap. 2.* and now I proceed to the fixt Nobility, call'd Lords Temporal.

C H A P. V.

S E C T. I.

Of the Degrees of Nobles.

I Have given a short Character of the *Obs.* Grand Officers and Ministers of State, and now according to the *Act of Precedency*, I shall speak of the fixt Nobility, as they are consider'd in Distinct Degrees; and these are not mention'd distinctly in the Kings Warrant for Summoning a Parliament, but referr'd therein to the Lord Chancellor to distinguish them by their Writs.

1. As for the Nobility in general, most Authors derive the word *Nobiles* or *Nobles* in the Plural, from *Noscibiles*, viz. *Viri Nobiles* or Persons indu'd with great knowledge than other men, and so conceive it may admit of another *Etymology*, viz. *Nobilis, quasi Non-bilis, i. e.* men of such debonair and complacent tempers, and so much Masters of their passions, that they are not (in respect of their better Education) subject to choler, wrath, or fierceness, (for so the word *Bilis* is *Englisht*) but of even and serene tempers, which dispositions are
H 4 fittest

CHAP. fittest for Affairs relating to Government :

V. but to pass these niceties, the Question is amongst some.

2. How far the Degrees of Nobility do extend ? which is partly resolv'd by Sir *Tho. Smith* in his *Republica*, who saith there be two sorts of Nobles, viz. *Majores* and *Minores*, (and this was according to the Old *Romans*,) the *Majores* he calls the fixt Hereditary Nobles diversify'd into 6 Degrees, viz. Princes of the Bloud, (of whom I have spoken in *Cap. the 4th.*) Dukes, Marquesses, Earls, Viscounts and Barons, (not of the Bloud) and descend no lower, and these are capacitated by such Creations and Writs to sit in the *Lords House*. The *Minores* he begins at Knights, (for he wrote before Baronets were known) Esquires, and Gentlemen, and descended no lower; and out of these, the Knights, Citizens, and Burgeses for Parliaments are Elected and Compos'd, and thereby capacitated to sit therein, as the *Representatives* of the *Commons of England*: but of these *Nobiles Minores* I shall speak more in the second part of this Treatise; but of the *Majores* now in their Order, which consist of 5 Degrees, besides those of the Stem Royal, (of which I have spoke) and first of Dukes.

SECT.

SECT. II.

Of Dukes.

BEFORE I proceed to the Writs of Summons to the Individuals of these Degrees, I shall give a brief description of the nature of them; and first as for the word Duke, it is the same with *Dux* in *Latin*, (from *Duco* to lead) for they were antiently Leaders of Armies, and thereby gain'd that Title, (as might be shewn from *Histories*) and were it not for hindering my other intentions, I might recite most of the Learned *Seldens* Authorities, (which he hath rendred from other Authors concerning Dukes) but in short he tells us that *Comes i. e.* a Count or Earl was esteemed of an higher quality than Duke, and that Earl was chief in Matters Civil, and Duke in Matters Military; but in process of time the Sword got the upper hand, and priority of Earl; and further saith that both Dukes and Earls from Substitutes to their Princes, (in certain dependent Territories) became afterwards Sovereigns, (as the great Duke of *Tuscany*, &c. and the Earl of *Flanders*, &c. (still owning the Titles of Dukes or Earls, though they had

CHAP. had gain'd an intire and independent So-
V. veraignty.)

2. The diversity of Names attributed to Dukes, both in sacred, prophane, and modern stories, were according to the humour of the region where they sway'd; for in some Nations he was call'd *Princeps*, *Magnus*, *Illustrissimus*, *Robustus*, *Milkenarius*, (that is a Duke, or Leader of a Thousand Men) in other Countries, *Grave*, *Waiward*, and *Despot*, and still the words Duke and Earl, promiscuously us'd to one and the same Person: but whatever they were or are in foreign parts, Dukes are now in *England* accounted the chief and most honourable Subjects, and first Degree of Nobility (except Princes or Dukes of the Blood-Royal) and, as a distinction from the rest, is call'd *Grace*) given to no other Spiritual Lord, but the Arch-Bishops of *Canterbury* and *York*, and to no other Temporal Lord, (except to the Lord High Steward, *pro hac vice*, upon tryal of Peers) for the Princes and Dukes of the Blood, are intituled *Highness*, and all the other Temporal Lords, *Right Honourable*, but any of those being Admiral or General, *Excellence*.

3. The Title of Duke was very probably us'd here in *England* before *Edward* the Third's time; for History tells us of *Asclepio-*

piodolus, Duke of *Cornwal*, in *Anno Christi*, CHAP.
232. (which was in the time of our old V.
Britains) and well might he be call'd Duke, for disgarrifoning of all the *Roman* Prideaux
Introduct.
to Hist.
Holds, and for his quick Marches to *London*, and killing the Governour thereof, and for many other Heroick Actions, in freeing his Country from their Servitude. However, there were many Dukes Created in *Germany* about that time. But our History tells us, That none was Created a Duke in *England*, till 11 *Edw.* 3. Selden.
Speed's
Acts.
An. Christi, 1344. when the King in Parliament Created his eldest Son, *Edward*, (being first made Earl of *Chester*) then Duke of *Cornwal*, and from thence that County was erected to a Dutchy or Dukedom, and many more Dukes, both in that King's time, and almost in every Kings Reign since that time, have been Created to that Title.

4. The Dukes of *England* are of two sorts, first, those of the Blood Royal, *i. e.* such as have a possibility to inherit the Crown upon a legal succession. 2dly, Those not of the Blood Royal, *i. e.* such as are not related to the Succession of the Crown, or at least so remote, that it is not visible to meer probability; and these two sorts have sat in former and in this Parliament, as will be shewn.

As

CHAP. 5. As they are distinguish'd in their Titles, V. so they are also in their Coronets, Robes, and Habits, &c. with which they are invested before they enter the *House of Lords*, (which will be in the third Part of this Treatise represented in Figures.)

6. Here I must not pass over one observable, That to this Parliament of 13 Car. 2. there were three Dukes summon'd by Writ, viz. *George, Duke of Buckingham, Charles, Duke of Richmond, and George, Duke of Albemarle*; the Duke of *Buckingham* was then Master of the Horse, the Duke of *Richmond* of the Blood Royal, by the *Scotish* Line, yet neither of those two appendant Titles were mention'd in their Writs; but *George, Duke of Albemarle*, in his Writ is intituled, *Generalis exercituum suorum*, and is plac'd the third in that Record, and the reason may be, because there was no provision for that great Office in the *Act of Precedency*, whereby to precede all of the same degree (as other degrees do) (being a Title not mention'd in the Act, though on some occasions he precedes by vertue of his Office the other grand Officers) and so being not in the Act he is named in this *Pawn* the last of the three Dukes, without respect to his Office of Generalship. Nor do I find in any *Clause Roll*, or *Pawn*, the Title of General

CHAP. V. neral annex in any Parliament Writ to any one of the Degrees (except this) though History does plentifully furnish us with several persons of those several Degrees who were Generals when Parliaments were summon'd; and yet, as I said, there is no provision in this Act, for the Place or Precedency of this great Officer, as there is for the Marshal, Admiral, &c. although his great merits might well have deserv'd an additional Clause to that Act for his precedence.

7. Three Dukes were summon'd 18 Feb. 1661. as in the *Pawn*, vide cap. 2. The next Degree to Dukes are Marquesses.

S E C T. III.

Of Marquesses.

THE third Degree of the Hereditary and fixt Nobility, is intituled, *Marquis*, (and *Marquess* in *English*) which began in *Germany*, Anno Christi, 925. when *Henry*, (Emperour of *Germany*) and the first of that Name in that Empire) Created *Sigefred* (then Earl of *Kinglesheim*) Marquess of *Brandenburgh*; who after, in the Year 1525. having the addition of Duke of *Prussia*, did exchange the Title of

Obs. I.

110 The Constitution

CHAP. V. of Marquess, to be call'd Duke of *Brandenburgh*: However, he was the first Marquess of that Empire, and probably the Emperour did fix this Title between the Dukes and Earls, that there might be no more disputes concerning them; for the two Titles of Duke and Earl were promiscuously us'd till this Title of Marquess was interpos'd; and the same reason might also occasion *Philip* the Fair, King of *France*, 425 years after, viz. *Anno Christi*, 1350. to insert into *John*, Duke of *Britain's* Patent: *Ut ne possit* (saith the Patent) *in dubium revocari Ducem ipsum (qui Comes fuit aliquando, &c.) ut Ducem in posterum deberet vocari, &c.* and the reason is therein given, *Quod Comitatus ejus potius debet duci & esse Ducatus, quam Comitatus, quoniam sub se habet decem & ultra Comitatus*, and 56 years after, viz. *Anno Christi*, 1386. This might occasion also our *Richard* the Second, to make *Robert d' Vere* the first Marquess of *England* by Creation, and hereby the dispute between the two Titles of Duke and Earl, or Comes, was settled both in the *Empire*, in *France*, and in *England*, by the interpos'd Title of Marquess.

Selden.

2. From whence this Title is derived, there are several conjectures, but most agree, That it comes from *Marken*, or *Mark*, or *March*,

of Parliaments. III

CHAP. V. *March*, (*High Dutch* words) signifying with them as with us, a *Mark* or *Limit*, and from thence he that was deputed Governour of that Limit or Mark which he was to take care of, and preserve, was call'd a *Marches*, or Marquess, and the Territory under his Jurisdiction, a *Marquisate*, and to this day the Marquisate of *Brandenburgh* is divided into three Marks, or *Marches*, viz. *Alte-Mark*, or old *March*, the middle *Mark*, and the new *Mark*, or *March*: and we in *England* do still call such kind of Limits by the name of *Marks*, or *Marches*, viz. the *Marches of Wales*, and the *Marches of Scotland*, which were Frontiers to be defended against the *Scots* and *Welch*; and some would derive Marquess from *Mare*, the *Sea*, because their *Marken* or *Limits* were *juxta Mare posita*, and the learned *Selden* (in his *Titles of Honour*) likes it well enough, that Marquess should be derived from *Marken*, but not *Marken* from *Mare*.

Heylin's Cosm.

3. But I must not ravel into Disputes of this Nature, and therefore shall refer them to his Book, and my Annotations, and conclude this Section with this, That as most *Sir-Names* are deriv'd from some significant word or words, so these noble Titles (without derogation to their other Titles) are from some signal Action,

CHAP. Action, as a Duke from leading an Army;
 V. a Marquess from *Maris acquisitio*, (a gaining something from the Sea, or preserving something against the Sea) and so of the other Titles (as will be shewn) and thereupon had condignal Honours conferr'd on them, to testify their Employments, which are since (as Memorials of their Merits) therein become hereditary.

4. Four Marquesses were summon'd, 18 Feb. 1661. as in the *Pawn*, vide *Cap. 2.*

SECT. IV.

Of Earls.

Obs. I. THE learned *Selden* tells us, (as I have shewn) That the Titles of Dukes, and Counts, or Earls, were promiscuously us'd as well in foreign parts as in *England*, till the Title of Marquess was interpos'd; and it is agreed, that *Comes* is the *Latin* word for Count, (in whatever Territory that word is us'd) and that Count is deriv'd from *Comitatus*, or County; and *Comitatus* from *Committo*, (denoting the particular County committed to his Care) and *vice versa*, *Committo* begets *Comitatus*, or County, and *Comitatus*, *Comes*, a Count, i. e. Earl.

Of

CHAP. Of these *Counts* the learned *Selden* reckons V. but 6 Sorts, viz. the *Single Count*, (who hath no addition but his Christian name) 2d. *Count Palatine* (from *Palatium* or some Palace in it,) 3d. *Count of the Empire*, 4th. *Count of Frontiers*, where the Title of *Marquess* is also us'd instead of *Count*, 5th. *Count of Provinces*, (or Counties joyn'd) which in Foreign parts are call'd *Landgraves*, (the word *Grave* and *Comes* signifying the same Title) and 6th. *Count of Cities or Towns*, and these latter, as in *England*, are call'd *Comites Castrenses* or *Burgraves*, or *Counts of Castles or Burroughs*, (all which are more fully describ'd in his second Book.) But I find that *Cassiodorus* in his 6th. Book mentions 22 Sorts more than Mr. *Selden*, of which 6 of Mr. *Seldens*, or 28 of *Cassiodorus*, we in *England* retain but few, viz. a *Count of a County*, (as *Algernonus, Comes Northumbriæ*; A *Count of a City*, (as *Albericus or Awbry, Comes Oxoniæ* (or *Oxford*), and *Guilelmus, Comes Novi Castri* or *New Castle upon Tine*, (being both a Castle and Burrough.)

3. All the curiosity lies in finding out how *Comes* or *Count* happens to be transmuted into the word *Earl*, so much different in Pronuntiation and Orthography from each other, and yet, as we say, are the same in Substance. I 4. Now

114 The Constitution

CHAP. IV. 4. Now it being no hard matter to believe (as I have shewn) that Duke is deriv'd from *Duco*, and Marquess from *Mare*, but Earl from *Comes* or *Count*, is not so intelligible; but this may be said, that the *Saxons* from whom we borrow this word Earl, did use it as a word of Honour, and in the same sense with *Comes*, for they did call their chiefest Governors of Shires, (of which many of our Counties still retain that name, as will be shewn) and of Cities and Burroughs, by the name of *Earldermen*, and for a more easie pronounciation *Ealderman*, and after *Alderman*, and for brevity *Earl*, and the *Danes* after them *Earlan*; and commonly the *Earlan* or *Earl* had a Shire or more for his *Earldom*, and the number of *Earls* increasing, some had part of a Shire, others some chief Town, of which he was made *Earl* or *Earldermanus*; and whatever other Etymologers say, (of which I can speak more freely in my Annotations) I conceive the Dominion of those *Earls* were allotted near some spreading Rivers, (in Fenny-Countries) which are to this day call'd *Eas*, and those *Inland Isles* (which we now write *Island*, and some corruptly calls *Eyes*) were anciently writ *Ealands*, as *Rumen-*ea**, (now *Rumney-Marshes* in *Kent*) and *Ely* an

Sir William Dugdale.

of Parliaments. 115

CHAP. IV. an *Island* in *Cambridgeshire* is anciently writ *Ealand*, and so *Worrel Island*, (near *Chester*) sometimes call'd *Ealand*, and sometimes *Island*, and I could reckon up what I have seen in *Cambridgeshire*, and *Lincolnshire*, at least 40 antient Cuts and Sewers of Water, which still are call'd and writ by the name of *Ea*, viz. *Boston Ea* in *Lincolnshire*, *Popham Ea* in *Northamptonshire*, (signifying great Waters in those places) and many more might be instanced to prove that as Marquess may safely be deriv'd from *Mare*, (as denoting one that had the guard of the inundations from Saltwaters) so *Earl* may as safely be deriv'd from *Ea*, (or one that had the guard and care against the *Inland* inundations of fresh waters) and some observe that this word *Ea* is still retain'd in most of those Counties which are intituled Shires, or bordering on those Shires (Shire being (a *Saxon* word) as will be shewn) but in other Counties which are not call'd Shires, the word *Ea* is scarce known, so as *Comes* or *Count* was us'd in such places as were call'd Counties, and *Earl* in such as were call'd Shires.

5. This Tutelage of grounds gain'd or preserv'd from waters, was so great an honour, that *Caius Marius*, (who was made seven times *Consul* or *Comes*, (for

CHAP. as *Selden* saith, *Comites dici possunt Consules a Consulendo*) which was render'd *Earl*, did by a Cut or Drain so secure the Inundation of Salt waters often overflowing a large Fenny County near *Arles* in *France*, that in memory of so beneficial a Work, it was called *Fossa Mariana*, (or the *Consul Marius* his Drain) and in *Pompeys* time the securing of the inundations of *Freshes* about 40 Miles from *Rome* was esteem'd to be so good Service, that one of the two *Consuls* were usually appointed to attend the *Gallick Enemy*, the other had the care of the *Ea* or *Watry Enemy*; and it is no small honour now to the *Earl of Bedford* to be Governour of 365000 Acres of Fenny Grounds, intituled by his name of *Bedford Level* subject to inundations, but by his vigilance preservs it.

6. And when this Title of *Earl* was first given in *England*, (as tis said) by *William* the first, to *Hugo de Aurank* or *de Ibrinks*, making him *Earl of Chester*, it was doubtless from some eminent Service done in preserving the Banks or Brinks of that County against the inundations of the River *Dee* upon the South-side of *Worrel Ealand* aforesaid, reaching from the Town of *Chester* to the *Hebrea*, for shortness call'd *Heber*, and so round that *Hundred*, (besides the Banks in other parts of that County.) Some

Some do question whether this *d' Aurank* or *d' Ibrink* was the first *Earl*, but tis likely he was so *Titularly*, and other the like *Earls* before him: but that which is agreed on is, that *Albericus* or *Aubry d' Vere*, was the first that was by *Charter* (or *Patent*) created *Earl* by *Henry* the 2d. who had the additional Title of *Earl of Oxford* or *Oxenford* in *Oxfordshire*, and continues in that Family to this day; but I cannot pass the word *Ford*, which doth imply a passable *Ea* or *Water*, which was necessarily to be preserved from the overflowing of at least 7 several Rivers in that little County, for the more safe passage of Men and Oxen.

7. To conclude, I hope I may be allow'd so much of the Art of *Tachygraphy* or short writing, as may render my application of this word more plausible, by writing *Earl* for *Ea Regalia*, so as whether *Ea* be consider'd as a *Saxon* word, or the plural of the pronoun *Ea*, it confirms my notion, and may serve as well to explain the word *Earl*, as *SPQR* the Senate and People of *Rome*, or *DNS* to signify a *Baron* of the Realm or *Chr. Chevalier*.

8. I have said sufficiently of the word; now as to the antiquity of it in *England*, it is Authentick from *History* and *Record*, that the word *Earl* and Honour of it, was

CHAP. V. in use in the *Saxons*, and *Danes* time, and continued with the *Normans*, and Earls had the like extensive power in Shires and Counties as they have had since their formal creation by Charter, which it seems was a mode and form not us'd till this to the Earl of *Oxford*, since which there hath been some variations in the Form, but especially in the time of *Henry* the eighth and King *James*, as will be seen when I come to recite so much of their Charters of Creation as relate to their interests in Parliament.

9. The learned *Selden* divides this Title into two sorts, a Local and a Personal Earl; by Local he means such Counties, Cities, Castles, Towns, or Burroughs, as are fix'd to the Title of Earl, (or Comes) as Earl of *Oxford*, Earl of *Kent*, &c. (being not County Palatines) or of such as are County Palatines, whereof there are five, viz. *Cheshire*, *Lancashire*, (which are in the Crown) *Pembrokeshire* (in the present Earl of *Pembroke*) *Durham* and *Ely*, (which two are County Palatines, belonging to the Bishops of those Counties, never granted to any Temporal Earls) so as the Bishops of *Ely* and *Durham* do sit in Parliament *Virtute Tenuræ*, and not *Virtute Comitatus Palatinæ*.

As

As for Personal Earls, there are but three remaining at this day, viz. the Earl or Lord Great Chamberlain, fix'd to the Name of *Berty*, Earl of *Lindsey*; and the Earl Marshal, fix'd to the Name of *Howard* (of both which I have already spoken) and the third is the Earl *Rivers*, fix'd to the Name of *Savage*, being made a Baron in 5 *Edw. 6.* and also Viscount of *Colchester* in 19 *Jacobi*, and in the 2d of *Charles* the first was made Viscount *Savage* of *Rock Savage* in *Cheshire*, whereby he is a double Viscount, and Earl *Rivers*, which is the Name of an illustrious Family, and not of a Place, but all the other Earls are intituled from some noted Place.

10. Forty nine Earls summon'd the 18th of *February*, 1661. and six more summon'd the 29th of *April*, 1661. See the *Pawn*, *Cap. 2.*

The next I am to treat of is the *Vicecomes*, *Vice Earl*, or Viscount.

Obs. I. **W**Hat hath been said of a Duke or a Count, whilst their Titles were interchangeably us'd, may be also appli'd to a Viscount; for when Dukes and Counts increas'd in their number, there was a kind of necessity to take in others to their assistance, who afterwards by merit and the favour of their Prince, arrived to an Interest of their own, and therefore the word *Vicecomes*, or Viscount, may properly here intend a Companion, (for the word *Comes* doth as well signifie a Companion or Associate, as a Count or Earl) and the addition of *Vice* (which signifies by course or turns (of which word *Turn* I shall speak more) did intimate, that when the Turn of this *Comes* came to Govern, he was for that time called *Vicecomes*, all other times *Comes* only, or, as I conceive, as the one was call'd *Comes*, because he commanded a County, the other was called *Vicecomes*, from the *Latin* word *Vicus*, because he commanded a Village, Street, or Structure, or some lesser Command than that of a County.

2. The

2. The dignal Title of *Vicecomes* is also ancienter in foreign parts, than in *England*, and is the same with *Vidame*, or *Vicedominus* (which are properly the foreign Titles of a Substitute to a Bishop) but as we take the Title in an official sence, it signifies the King's Deputy or Sheriff in every County, and so is as ancient as the *Saxons*, who made *Comes* to signifie Earl, and *Vicecomes*, or Viscount, to signifie the Office of *Shereeve*, or Sheriff, for we had the words Earl and Sheriff from the *Saxons*, and the Count and Viscount from the *Romans*, *Comes* and *Vicecomes*: and probably for the same reason, that Marquess was interpos'd to Duke and Earl in *Richard* the Second's time, so it was thought fit in *Henry* the Sixth's time (though some say in *Henry* the Fifth's time) to interpose the Title of Viscount to *Comes*, or Earl, and the Noble Baron, there having been the like promiscuous use of the Titles of *Comes*, or Earl, and Baron, as had been of Duke and *Comes*, and thereupon I conceive *John d' Beaumont* was Created the first Viscount of this interposing Dignity, it being, as *Mr. Camden* saith, an old Name of Office, but a new Name of Dignity, or a *Vicecomes*, or Sheriff, turn'd from an annual Office into a Dignity hereditary.

Yet

CHAP. V. 3. Yet this Office of *Vicecomes*, or *Sheriff*, was, and still is an Office of dignity; only the difference is, that the *Vicecomes* dignified, (as I said by *Hen. the 6th.* is a Parliamentary and Nobilitated Dignity and Place, (both in their Patent of Creation, and in the *Act of Precedency*) fixt between Earl and Baron, &c. made Hereditary, but the other *Viscountship* or *Sherifdom* is Official and Annual and not Hereditary, and hath no place in the *Lords House*; and particularly excepted to be chosen into the *House of Commons*, by the Writs of Elections, (as will be shewn) and the reason is, because the Official *Viscountship* is in the King, who gives only an annual Deputation to the Person who executes that Office in such County, of which he is made *Vicecomes* or *Deputy* to the King, and so is not the Noble *Viscount*, (who cannot be made Sheriff or return'd of a Jury) but hath his constant Writ of Summons to every Parliament, (as will be shewn;)

4. Seven Viscounts Summon'd by Writ 18. Feb. 1661. and One Viscount Summon'd by Writ 20th. Ap. 1661.

And now I come to the Barons, the last Degree of the Nobility, but anciently the First or Second.

SECT.

SECT. VI.

Of Barons.

I Shall refer the Etymology of this word Baron to my Annotations, (because the learned *Cambden*, *Selden*, and others have taken pains about it) but for many ages, as at present, it comprehends all such Prelates and Bishops as are Summon'd by vertue of their Baronies or Tenures to sit in the *House of Lords*.

As also all such Dukes, Marquesses, Earls and Viscounts, as did anciently mount to any of those 4 Degrees, by the proportion of their Baronies, which they obtain'd by gift from the King, or other acquisitions, so differing from the other 4 in Nominal gradations, rather than Essential. And though there were Nominal differences antiently in the Tenures of Dukes, Marquesses, Earls, Viscounts, and Barons, yet they were all subject to a general Contribution to the Kings affairs, according to their certain number of Knights Fees; for as Baronies made the other 4 Superior Degrees, so the increment of Knights Fees (whereupon I conceive *Sir Thomas Smith* made that Degree of *Nobiles Minores*) did capacitate a Baron to be made a Ba-

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CHAP. a Baron, and so a certain number of Bar-
 V. onies to be a Viscount and Earl, and of
Earledoms to be a Duke, as may be read
 in Sir *Edward Coke*, (and others more an-
 cient by him cited) and Mr. *Selden* (for-
 giving the Knight) saith that *Istud verbum*
Baro est caput & scala dignitatum Rega-
lium, i. e. Majoris Nobilitatis.)

2. In former times these proportions were
 observ'd amongst the Temporal Lords, but
 not with the Spiritual, for Mr. *Selden* tells
 us of a Bishop (pag. 580. Tit. Hon.)
 that had 220 Baronies, and did sit in Parlia-
 ment by vertue of his Baronies, yet was
 neither Duke nor Earl) so those were the
 computations of Honour and Contributi-
 ons, till the method of Creations were us'd,
 and at last by the late Act of Parliament
 all *Tenures in Capite* were Dissolved, and
 thereby the *Tenurial* Contributions, but
 not the Titles of Honour: yet for a little
 variety I may inform some, that in former
 times the Spiritual Barons had some ex-
 emptions from Contributions, unless there
 was (as the learned *Selden* calls it) *Tri-*
noda necessitas, viz. of War, of Repairs of
 Castles, or Bridges, but they were generally
 exempted from Personal Assistance in War;
 for though (as he saith) that in the 4th.
 year of *William* the First, that King made
 the Bishops, &c. subject to Knights Ser-
 vice

of Parliaments.

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vice in chief, by creation of their Tenures, CHAP.
 and so was the first King that turn'd their V.
 possessions by *Frankalmoine* (a *French*
 word signifying charitable Gifts, for so
 began their temporalities) into Baronies,
 and thereby made them Barons of the
 Kingdom by Tenure, yet when it was
 pray'd by them in the 5th. of *Hen.* the 3d.
Ut omnes Clerici tenentes Baronias, &c.
personaliter procederent contra Regis ad-
versarios, &c. it was answer'd by the Bi-
 shops (and their Answer allow'd) *Quod*
non debent pugnare cum gladio materiali
sed Spirituali, scilicet cum Lachrymis &
orationibus humilibus & devotis, & quod
propter beneficia sua manutenere debent
pacem non bellum, & Quod Baronie eorum ab
Eleemosynis puris stabiliuntur, &c. So as
 (he conceives that) the Baronies of the
 Clergy were made of such Lands as for-
 merly were, as I said, held in *Frankalmoine*,
 nor were they then, or at this day are to
 sit in Judgment where the matter con-
 cerns effusion of Blood.

3. But what ever exemptions the Spiritual
 Barons had, the Temporal Barons were
 oblig'd by their Baronial Tenures (of se-
 veral natures) to all defensive and offen-
 sive duties for the King and Kingdoms
 preservation, according to the proportion
 of their dependent tenures or territories
 and

CHAP. V. and so are yet in honor obliged to perform, and they all had and have equal Votes in Parliament by vertue of their Baronial Interest; for as to matters Parliamentary, the Title of Baron is more ancient, copious, and comprehensive, than any of the other Titles of Lords in Parliament.

4. This word Baron we see is applicable, not only to the two degrees of Lords Spiritual, viz. Archbishops and Bishops, but to the 5 degrees of Lords Temporal, so as the noble Barons and all the Degrees above them do set in the *Lords House*, *virtute Baroniae*, and by Writs of Summons, the Superior Titles to the Barons differing rather upon some *extrinsick order*, than any real *intrinsick distinction*.

5. As for those Titles of Barons which are given to Degrees equal, or under the noble Barons, they are of several sorts; 1st. Some noble Barons by Ancientry never Summon'd to Parliament, yet capable of Summons; 2^{ly}. The Barons of the Exchequer, (which are 4 in number, who are Summon'd by Writ *ad consulendum*, or to be Assistants in the *Lords House*, (as will be shewn;) 3^{ly}. Barons of the Cinqueports (out of whose number 16 are usually Elected) to sit in the *House of Commons*, (as will be shewn;) 4th. Barons

CHAP. V. rons of Court-Barons, who are also capable of being Elected to sit in the *House of Commons*; 5th. Barons in the Law-French call'd Baron, *i. e.* and Husband, (and Feme the Wife) but I here only speak of the *Nobiles Barones* distinct from these Titular Barons, though such of them as sit in the *Lords House* are in some sort thereby Nobilitated, of whom I shall speak more when I come to the Assistants; and such as sit in the *Commons House* are thereby Dignified though not Nobilitated, (of whom I shall speak when I come to the *House of Commons*.)

6. Now it may here be observed, that some Persons of merit have been Summon'd to sit in the *Lords House* as Barons, which were not Barons, or any otherwise capacitated to sit there but by Writs of Summons; upon this occasion Sir *Edward Coke* cites a Case where one Summon'd by Writ to sit in the *Lords House*, died before he sat there, and it was adjudged that if he had sat there, he had been Nobilitated thereby, but having not sat there, whereby that writ was not executed for want of his Personal attendance, it was adjudg'd that the direction or delivery of the Writ barely to the Person to whom the Writ was directed, (without Personal appearance and investiture of Robes and a possession

CHAP. V. session of place) was not sufficient to enable him, without a conjunction of those Circumstances and Ceremonies.

7. But Barons created by Letters Patents, (and made to them and their Heirs) are thereby Nobilitated, and to be esteem'd Nobles though they do not Sit, in respect of the power given them by Patent to Sit without restrictions or ceremonial qualifications; and therefore Sir Edward Coke saith, that though the Creation by Writ be ancients than by Patent, yet the Creation by Patent is the surer way, for that one may be sufficiently Created by Patent and made Noble, though he never sit in Parliament, and he gives this reason; That if issue be joyn'd whether one be a Baron or not, that point shall not be tried by a Jury of 12 men, but by the Records of the Parliament, and if he did not sit there, there can be no Record, but a Patent is a Record.

8. So there were 62 Barons Summon'd by Writs of the 18. of Feb. 1661. and 6 more by Writs of the 29. of Ap. 1661. whereby the number of Temporal Lords Summon'd to this Parliament began the 8th. of May 1661. were—140. viz.

- 1. Two Dukes of the Bloud.
- 2. Three Dukes not of the Bloud.
- 3. Four

- 3. Four Marquesses.
- 4. Fifty five Earls.
- 5. Eight Viscounts.
- 6. Sixty eight Barons.

In all of the 6 Degrees 140. as in the Pawn Cap. 2. which we may compare with former times, viz.

Regno.	Anno.	Num. Maj.	Anno.	Num. Mi.
Edwar.	3.	25°	62	4° 18
Richar.	2.	8°	63	18° 36
Henry	4.	1°	50	11° 39
Henry	5.	2°	44	3° 29
Henry	6.	38°	55	1° 23
Edwar.	4.	7°	47	12° 37
Henry	8.	37°	45	28° 44
Edwar.	6.	6°	59	1° 47
Marix		2°	56	1° 42
Elizabeth.		30°	60	43° 52
Jacobi		21°	98	1° 84
Caroli	1.	15°	109	1° 97
Caroli	2.	13°	140	

The biggest Number Summon'd in these Years.

The lowest Number Summon'd in these Years.

I do insert this observation, That the Ingenious Historian may see, whether the greater or lesser number of the Nobility in Parliament hath been most advantageous to its Constitution; and the like may be observed concerning the number of the House

CHAP. *House of Commons*, (of which I shall speak in the next part.)
V.

By which we may see that the highest Number was in 12. and 13. of *Car. 2d.* and the Lowest in the 4th. of *Edw. the 3d.* not troubling the Reader with the Numbers Summon'd to Intervening Parliaments.

Thus having given some short Illustrations of those Titles of Honour which are mentioned in the Parliamentary Writs and the *Act of Precedency*, for the clearer satisfaction of such as are not vers'd in matters of that nature; I may now with the more content to them and my self proceed to the particular Writs of Summons to those noble Degrees which I have regularly mention'd, according to their prescrib'd Order, both from the method of the Writs in the *Pawns* and *Act*; and these Writs of which I am particularly to speak (others falling in collaterally) are;

Sect. 1. The form of the Writs to any of the Bloud Royal.

2. The form of the Writs to Archbishops and Bishops.

3. The form of Writs to the Lord Chancellor or Lord Keeper.

4. The form of Writs to Dukes not of the Bloud, Marquesses, Earls, Viscounts, and Barons, wherein the Grand Official Titles beforementioned are inserted.

CHAP.

C H A P. VI.

Of Writs of Summons, and first of the Exemplar Writs for Summoning Princes, Dukes, and Earls of the Bloud-Royal to the Parliament.

S E C T. I.

I Have shewn in Chap. 2. how Parliament Writs are sort'd into Close Writs, and Open Writs or Patents, and those into Exemplars and Consimilars. I need not enlarge more therein; but proceed to the first Exemplar Writ of Summons, and so to other such Writs of Summons to other Degrees as concern the *Lords House*; for I shall speak of other Parliament-Writs of another nature, when I have dispatcht the Summoning Writs and Patents of Creation, according to the method of *Pawns* and *Clause-Rolls* made before the *Act of Precedency*, as also in all *Pawns* since that *Act*. Those of the Bloud-Royal are placed in the first Rank of those Records, and were still Exemplar to the rest, and therefore the Writ which I am now to speak of, *viz.* To the Duke of *York* (Brother to King *Charles the 2d.*)

K 2

is

CHAP. VI. is the Exemplar of the Consimilar Writ to Prince *Rupert Duke of Cumberland*, (being Son to the Sister of King *Charles the First*) and so pursuant not only to the said Act, but to the most ancient methods of Writs of Summons, (as will be more fully shewn in the following Chapters.)

But before I recite this Writ, methinks I hear some say, *Nolumus consuetudines Angliæ mutare*, therefore let us know what Writs of this nature were issued in former Ages by former Kings, which is a Question so pertinent to my own scruples, that (I hope) the same ease I gave to my self (after my inquiry) will serve to satisfie others; for having gone backward with as much safety (to the avouching of Records as I could,) and being not satisfied with what was delivered to us, concerning the Parliament Writs in the *Brittish, Romans, Danes, Saxons, or Norman* times, or by some of the *Plantagenets*, or those of *Hen. 3ds.* time, from whence most Writers of our *English* Parliaments take their Original; I fixt upon and took my Rise from the Writs in the *15th.* of *Edw. 2d.* which are clear and still extant in the Records of the Tower, which the other are not.

By these Records it is evident, that in *97.* Parliaments, as I account them, which were Summon'd from that *15th.* year to this

this Parliament, there is no material difference in this Exemplar Writ from those Antecedent; and therefore that this Writ to the Duke of *York* may be compar'd with that of *Edw. 2d.* I have here set them both down *verbatim*, so that upon *339.* years experience, *viz.* from the year *1322.* to the year *1661.* Inclusive, we may acquiesce, that we in this Age have not much trespass't or varied from the ancient and wise Form prescribed to us by so many former Kings, and continued to this time.

The Form of the Exemplar Writ to the Princes of the Bloud.

Tempore *Edw. 2.* 15.

Edwardus Dei Gratia Rex Angliæ Dominus Hiberniæ & Dux Aquitaniæ, Edwardo Comiti Cestriæ filio suo Charissimo

Salutem, Super diversis & arduis negotiis nos & statum Regni nostri specialiter tangentibus Parliamentum nostrum apud Eboracum a die Paschæ prox' futuro in tres septi'anas teneri & vobiscum & cum ceteris Prelatis Magnatibus & Proceribus dicti Regni habere proponimus colloquium & tractatum.

K 3

Vobis

CHAP. VI.

Vobis Mandamus in fide & dilectione quibus nobis tenemini firmiter injungentes.

Dictis die & loco omnibus aliis pretermiſſis personaliter interſitis ibidem nobiscum & cum ceteris prelatiſ & magnatibus & proceribus ſupradictis negotiis tractatur veſtrumq; Conſilium impenſur' Et hoc Nullatenus omittat' Teſte me ipſo apud Weſtm' decimo quarto die Martii Anno Regni noſtri decimo quinto.

Caroli 2. 13.

Carolus Secundus Dei Gratia Angliæ Scotiæ Franciæ & Hiberniæ Rex fidei deſenſor, &c. Præchariſſimo & dilecto fratri Jacobo Duci Eborum & Albanie magno Admirallo ſuo Angliæ Salt'm Quia de

Advifamento & aſſenſu Conſilii noſtri pro quibuſdam arduis & urgentibus negotiis nos ſtatim & deſenſionem Regni noſtri Angliæ & Eccleſiæ noſtræ concernentibus Quoddam Parliamentum noſtrum apud Civitatem noſtram Weſtm' octavo die Maii prox' futur' teneri ordinavimus & ibidem nobiſcum ac cum magnatibus & proceribus dicti Regni noſtri colloquium habere & tractatum.

Vobis Mandamus in fide & ligeantia quibus nobis

nobiſ tenemini firmiter injungentes quod CHAP. VI. conſideratis dictorum negotiorum arduitate & periculis imminentibus ceſſante excuſatione quacunque

Dictis die & loco personaliter interſitis nobiſcum ac cum magnatibus & proceribus predictis ſuper predictis negotiis tractatur' veſtrumque conſilium impenſur' Et hoc Sicut nos & honorem noſtrum ac Salvationem & deſenſionem Regni & Eccleſiæ predictæ expeditionemque dictorum negotiorum diligitis nullatenus omitatis Teſtame ipſo apud Weſtm' decimo octavo die Februarii Anno Regni noſtri Decimo tertio.

SECT. II.

Observations.

IN An. 12. Hen. 8. the words *fidei Deſenſor*, were then added before *Salutem*, inſtead of *Super diverſis cauſis*. The latter Writs are *Quia de adviſamento & aſſenſu concilii noſtri pro quibuſdam cauſis*, yet I find the word *Quia* uſ'd in the great Councils or Parliament Writs, before *Edw. 2ds.* time, and probably the words *aſſenſu Concilii noſtri* is added to ſhew the diſtinction of his *Privy-Council* and his *Publick Council* or *Parliament*.

CHAP. VI. 2. Instead of *Specialiter tangentibus*, the latter Writs are *concernentibus quoddam*.

3. Instead of *habere proponimus*, the latter Writ is *teneri ordinavimus*, and *habere* is put in between *Colloquium* and *Tractatum*.

4. *Ligeantia* is put in the latter Writs instead of *Dilectione*, this word *Dilectione* being for many Ages particularly apply'd to the Episcopal Writs.

5. The latter Writs do contain all that are in the more Ancient, (except the Insertions of some Causes of Summons, and some enlargements added upon Emergent occasions) *viz. quod consideratis dictorum negotiorum arduitate & periculis imminentibus cessante Excusatione quacunque*.

6. And also those words are added near the end of the latter Writ, *viz. Sicut nos & honorem nostrum ac Salvationem & Defensionem Regni & Ecclesie predicte expeditionemque dictorum negotiorum diligitis*, which additions are only more full Expressions to oblige the Attendances of the Grantees.

Thus having shewn the Exemplar Writs to the Blood Royal, Ancient and Modern, I shall set down such Earls, Dukes, or Princes of the Blood Royal to whom this Exemplar Writ was directed, even to this time, according as they are either in the Clause Rolls in the Tower, or in the *Pawns* in the Pettibag-Office, which I shall recite in

in *English*, though the Writs are in *Latin*. CHAP. VI.

S E C T. III.

THE Exemplar Writ was then to *Ed- Obs. I.*
ward Earl of *Chester*, Eldest Son
to King *Edw. 2d.* and by vertue of this *Exemplar.*
Writ, this Prince had his Exemplar Writ *15 Edw. 2.*
but for this one Parliament, and was soon
after King *Edw. 3d.*

2. To *Edward* Prince of *Wales* and Earl *3 Edw. 3.*
of *Chester*, Eldest Son to *Edw. 3d.* and this
Prince had Exemplar Writs for 9 Parlia-
ments, *viz. 3 Edw. 3. 4. Edw. 3. and 4.*
Edw. 3. 5. Edw. 3. 25. Edw. 3. 27. Edw.
3. 28. Edw. 3. 29. Edw. 3. 42. Edw. 3.

3. To *Thomas* Earl of *Norfolk*, soon after *4 Edw. 3.*
created Duke (Marshal of *England*, great
Uncle to *Edw. 3.* who had his Exemplar
Writ but for this one Parliament.

4. To *Henry* Earl of *Lancaster*, (soon *14 Edw. 3.*
after created Duke, (Son to *John* the 4.
Son of *Edw. 3.*) who had Exemplar
Writs in this Kings and *Richard 2.* and *H.*
4ths. time, for 7 Parliaments, *viz. 14. Edw.*
3. 17. Edw. 3. 18. Edw. 3. 22. Edw. 3. 25. Edw.
3. 23. Rich. 2. 1 Hen. 4. as Duke of
Lancaster.

5. To *John* Duke of *Lancaster*, (who then *37 Edw. 3.*
was

CHAP. VI. was King of Castile and Duke of Aquitaine) the 4th. Son to Edw. the 3. as aforesaid, and Uncle to Rich. the 2.) who had Exemplar Writs for 17. Parliaments in this and Rich. the 2ds. time, viz.

37 Edw. 3. 38 Edw. 3. 1 R. 2. 3 R. 2. 4 R. 2. 7 R. 2. & 7 R. 2. & 8 R. 2. and 8 R. 2. 9 R. 2. 13 R. 2. 14 R. 2. 15 R. 2.

Exemplar. 17 R. 2. 20 R. 2. and 20 R. 2. 21 R. 2.

50 Edw. 3. 6. To Richard Prince of Wales, (Duke of Cornwall and Earl of Chester, Grand-child to Edw. the 3d. and Son to Edw. the former Prince of Wales, and afterwards King Richard the 2d.) who had an Exemplar Writ but for this Parliament, and at the opening thereof he did sit in the Kings Chair.

10 Ric. 2. 7. To Edmund Earl of Cambridge, Duke of Clarence, and first Duke of York, (the 5. Son of Edw. the 3d.) who had Exemplar Writs for 3 Parliaments, viz. the 10. 11. 12. of Rich. 2. as Duke of York.

11 Ric. 2. 8. To Thomas Duke of Gloucester Uncle to the King, who had one Exemplar for one Parliament.

1 Hen. 4. 9. To Henry Prince of Wales and Duke of Cornwall, who had his Exemplar Writs for 9. Parliaments in his Fathers life time, and was after King Hen. the 5th. viz. 1 H. 4. 2 H. 4. 3 H. 4. 6 H. 4. 7 H. 4. and 7 H. 4. 9 H. 4. 11 H. 4. and 13 H. 4.

To

10. To Thomas the 2d. Son of Hen. the 4th. Duke of Clarence and Earl of Arundel, had Exemplar Writs for 7 Parliaments, in this and Hen. 6ths. Reign, viz. Exemplar. 1 Hen. 5.

1 H. 5. 3. 4. 5. of Hen. the 5th. and in the 1st. and 6. and 3 H. 6.

11. To John Duke of Bedford 3. Son to Hen. 4th. who had Exemplar Writs for 5 Parliaments in this and Hen. 6th. Reign, viz. 8 H. 5. 4. and 4. 11. 14 H. 6. 8 Hen. 5.

12. To Humphrey Duke of Gloucester, (the 4th. Son of Hen. 4.) he had Exemplar Writs for 10 Successive Parliaments, viz. 4. 6. 9. 10. 15. 18. 20. 21. 25. and 25 H. 6. 2 Hen. 6.

13. To Rich. Duke of York, (Grand-child to Hen. 4. and Eldest Son to Edw. the 4. when Duke of York) who had Exemplar Writs for 4 Parliaments, viz. 27. 29. 31. 33 H. 6. 27 Hen. 6.

14. To George Duke of Clarence, (3d. Brother to Edward the 4th.) who had Exemplar Writs for 3 Parliaments, viz. 7. 9. 12. Edw. 4. 7 Edw. 4.

15. To Edward Prince of Wales, (Eldest Son to Edward the 4th.) who had Exemplar Writs for Two Parliaments, and after was King Edward the 5th.) viz. 22. and 23. Edw. 4. 22 Edw. 4.

Note,

Note, That from this time to the 21. of *Hen.* the 8th. we are disappointed of the knowledge of any Exemplars, and from thence to the 21. of King *James* there are no Exemplar Writs to any of the Bloud Royal, only to other Lords Temporal, as will be shewn in its proper place; but in the 21. of King *James*

Exemplar.

21 *Jacob.*

16. An Exemplar Writ was to *Charles* Prince of *Wales*, Duke of *York*, for that one Parliament, who was afterwards King *Charles* the First.

15 *Car.* 1.

17. To *Charles* Prince of *Wales*, who had an Exemplar Writ for one Parliament, and after was King *Charles* the Second.

13 *Car.* 2.

18. To *James* Duke of *York*, who sat by vertue of the aforementioned Writ in the Parliament begun the 8th. of *May*, 1661. to the end thereof.

SECT. IV.

Observations on the Title of *York*.

There were other Dukes of *York* besides these which are mention'd in this Collection, viz. *Edward* the Son of *Edmund* Duke of *York*, and upon *Edward's* Death his Brother *Richard* was created Duke

Duke of *York*, and *Henry* the son of King *Henry* the 7th. was created Duke of *York*, who after was stiled King *Henry* the 8th. but these 3 Dukes of *York*, being not mention'd in any Clause Rolls to have Exemplar Writs, I have omitted them in the Register of Exemplars.

2. The City of *York* was dignified with the Title of an Arch-Bishoprick (in the year 180 as some say) but all agree that *Taurus* was Arch-Bishop there in the year 610.) and also with the Title of a Dukedom in the 10th. year of *Ric.* the 2d. whereas *London* the Metropolitan of *England* hath onely a Bishoprick, but no Dukedom, Earldom or Marquesate appropriate to it, and in *Anno* the Civil Government of the City was honour'd with the Title of a Lord Mayor, as it was at *London*, but how far the equivalency of that Title extends to those two Cities, will be further discours'd when I speak of *London* in its proper place, and in my Annotations.

3. Whilst the quarrel continued between the Dukes of *York* and *Lancaster*, which lasted for many Ages, *York* had the Title of *White-rose*, the *House* of *Lancaster* call'd the *Red-rose*, till both were inoculated into one Stock of *Hen.* 7th.

4. The Title of this *James* Duke of *York* and *Albany*, (in *Scotland* is the same which was

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CHAP. VI. was given by King James to Prince Charles (afterwards call'd King Charles the First) being first created Duke of Albany, &c. and at 4 Years of age Duke of York.

SECT. V.

Of Consimilar Writs to the Royal Exemplars.

NOW I should proceed to the Consimilars of these Exemplars, but in respect that they consist of a very great number, and it were too great a labour to treat of all Consimilars, I shall forbear to recite them. Especially being in hopes that my Learned Friend Sir William Dugdale will publish a particular Treatise of them, and ease me of that labour; so as I shall only take notice here of the Writ for this Parliament to Prince Rupert, (the Sisters Son to King Charles the First) and this is Consimilar in all parts to the Duke of Yorks Exemplar, (except in the Title) so I need not set it down at large, but by abbreviation shall thus render it, viz. Carolus, &c. Rex, &c. Præcharissimo Consanguineo Duci Cumbriæ Salutem, and so Verbatim with the Dukes Exemplar. Duke of Cumberland being his English Title.

SECT.

of Parliaments.

SECT. VI.

Observations on these Consimilars.

1. First in most of the Clause-Rolls and Pawns from the 15. of Edw. the 2. to this time, after the Exemplar Writs are set down, these words following are in the Clause-Rolls and Pawns, viz. Consimilia Brevia diriguntur Subscriptis, and in some, Consimiles Literæ (instead of Brevia) directæ Subscriptis, and in some, Consimiles Literæ directæ Conscriptis, thereby seeming to retain the ancient words of Patres Conscripti, which the Romans did usually apply to their Elected Senators. But here it is only Consimile Breve, in the singular, Dirigitur præcharissimo, &c. Ruperto, there being no other of the Bloud in England.

2. Princes of the Bloud have been Consimilars, when Princes of the Bloud have been Exemplars, as in the 25 Edw. 3d. Edward Prince of Wales was Consimilar to Henry Earl of Lancaster his Uncle, of the Bloud; but not where any were Exemplars who were not of the Bloud: and so many more might be cited, which may be seen in Cottons Collections of the Tower Records.

3. In

CHAP. VI. 3. In this Confimilar Writ, Prince *Ru-*
perts Foraign Titles are omitted, because
 none of the Peers do fit in the *Lords*
House but in respect of their *English*
 Titles; yet in the Proxy-writs which
 they allow to others, their Foraign Titles
 are recited without scruple, as will be
 shewn in the 10th. Section of the 12th.
 Chapter.

4. I cannot but take notice here, that
 till the Union with *Scotland*, there was a
 Chair plac'd in the *Lords House* on the
 right hand of the Kings Chair, for the
 King of *Scots*, and call'd the King of
Scots Chair. Yet I cannot find by any
 Records of the *House of Lords* or elsewhere,
 that the King of *Scots* did ever sit there,
 or was Summon'd, or had any proxy to
 sit there for him, by vertue of any Exem-
 plar or Confimilar Writ.

And now I shall proceed to the Exem-
 plar for Bishops.

T H E

CHAP. VII.

The second Exemplar,

viz.

To the Archbishop of Canterbury.

THE Exemplar for Bishops (of which
 I am now to speak) is not entred
 into this *Pawn* in the *Pettibag*, (which I
 have recited *verbatim*) as all the other
 Exemplars are, but it is entred in the
 Chancery Crown-Office, (an Office of
 Record also, as I have shewn) being issued
 after the Parliament was sitting; nor would
 I have entred it here (in respect my de-
 sign in this first part is to write only of
 such Writs as were previous to the sitting
 of this Parliament) had not I found that
 the Exemplar for Bishops is constantly
 entred in all the Clause-Rolls extant, (from
 the 15 of *Edw. 2d.*) and in all *Pawns*
 extant, (from the 21 of *Hen. 8.*) except
 in this of the 13. *Car. 2d.* which omission
 (proceeding from the reasons which will

Section I.

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be

CHAP. VII. be given in the following Chapter) was upon the first sitting of this Parliament rectified; and therefore I thought fit rather a little to deviate from my method, than to defer or puzzle the Reader with the discourse of it at too great a distance from all the other Writs of Summons, of which I intend to treat according to the order of the *Pawn*; and so I crave leave, as most suiting to all former precedents, to treat of this Exemplar in the second place, especially having the *Act of Precedency* unrepeal'd also to justify my proceedings.

2. Before I proceed to discourse of Archbishops or Bishops, it is convenient to look back to the several Titles which were given to those who were Managers of the Religion practis'd in this Island, before the name of Bishop was here known.

This Religion was by the *Jews* call'd *Paganism*, and the Professors thereof *Pagans*, *Panims*, *Ethnicks*, *Gentiles*, *Heathens* and *Infidels*, which Titles are all of the same nature. The word *Pagan* comprehending the other five, only the word *Infidel* was not used till after Christs time; and then those who did not believe the Christian Religion, were by the Christians called *Infidels* or *Unbelievers*; but the word in *Hebrew* for *Pagan* was used (after the building of *Jerusalem* by *Melchizedeck*,

zedeck, before call'd King of *Salem*) when those who did live in neighbouring Villages or more remote places, and not coming to partake in the Devotions offer'd to God in *Jerusalem*, were from *Pagus* a Village call'd *Pagani*, or refusers of that Religion which the *Hebrews* did practice there; and whoever afterwards were not of the *Hebrew* or *Jewish* Religion, were call'd *Pagans*, &c. (as *Plautus* calls all who were not *Grecians*, *Barbaros*, or *Barbarians*) So that the *Pagan* Religion is to be esteem'd, but as the *Hebrew* or *Jewish* Religion adulterated by the Progeny of *Noah*, who (growing numerous) spread themselves into many parts of the World, and by mixing with other Nations perverted their Primary Religion (which they had from *Noah*, (and afterward more methodically dictated from their High Priest *Melchizedeck*) into *Paganism*.

This mixt Religion was brought into this Island by *Mesech* the 6th. Son of *Japhet* the Son of *Noah*, who here call'd himself *Samothes*, and after *Samothes*, *Magus*, *Shanon*, *Druis*, *Bardus*, *Longobardus*, and *Celtes*, succeeded each other; (Seven in all) who being Priests were also call'd Princes of this Island: The *Hebrews* (and *Welsh* (who some say had most of their native Language from the *Hebrew*) using

CHAP. the same word for Prince and Priest.

VII. These Seven were men of great learning, gain'd partly by tradition from *Noah*, and partly by being contemporary with *Sibylla Samia*, and *Pythagoras*; from one they learned the Prophecies of Christs Incarnation and Sufferings; from the other, the high speculations of the Souls immortality and transmigration: of which I shall speak more in my Annotations.

Of these and the Founders of this Religion, and their Doctrines, I shall give a more large account in my Annotations, as well for the vindication of that discountenanced Book of *Berosus*, publisht by *Johannes Annius*, as to free this Island from the common imputation of a pitifull illiterate sort of People, which either the laziness of later Writers, (though otherwise deserving) inclin'd them to think it not worth their while to abstract the notions of what was true, from what was meerly fabulous; or the Maliciousness of others, whose interest it was to suppress the Records of the Ancient Renown of this Island; such as might have demonstrated their variety of knowledge in all kinds of Literature.

For the present I shall only select two of those 7 Wisemen of *Brittain*, as most eminent in Philosophy, Policy, and Mat-
ters

ters Divine, viz. *Druis* and *Bardus*.

Druis is set forth in History to be Master of *Pythagoras*, (from whom tis also said that *Timagoras* brought the Greek Letters to *Athens*) He took upon him to be Judge in Causes Ecclesiastical and Civil; and performed all the Rites and Ceremonies of that Religion in *Groves*, (imitating the Idolatrous *Jews*) which *Groves* chiefly consisted of Oaks, (as a Tree sacred to *Jupiter*) and from thence (say they) he took his name *Druis*, ($\Delta\rho\upsilon\varsigma$ signifying an Oak) however he was Founder of the Sects called *Druids* in this Island.

The other was *Bardus* the Founder of the Sect of the *Bards*, Learned also in Magick-Philosophy, (in the best sence, as Studiers of Wisdom and Inquirers into the energy and activity of natural Agents) and Politicks; but they were more Famed for their skill in Poetry and Musick; and thereby did cheerfully Sing Rime, and so (like *Orpheus*) charm men into Civil Religion, and Heroick Actions.

From these did spring (as I said) the two Sects of *Druids* and *Bards*; which our *Brittish-Welsh*, *Roman* and *Saxon* Histories do so often mention, that there is no doubt concerning them.

CHAP. VII. The *Bards* continue even to this day in some parts of *Wales*, (of which I shall speak more) but the *Druids* being afterwards more imployed in the Priestly Functions, and growing numerous when the *Romans* were Possessors of this Island, (and had divided its Government into Three Provinces) they also committed the charge of the Religious Duties within these 3 Provinces, to Three of the chiefest *Druids*, (altering their Title from *Druids* into *Archflamins*, and the lesser *Druids* into the Title of *Flamins*, (for so was the Ecclesiastical constitution among the Old *Romans*) the chief of the Three *Archflamins* being there called *Flamen Dialis*, or *Jupiters Archflamin* or High Priest; and as those there, were Subject to the Senate, or Empire of *Rome*; so now these here, were Subject to the Emperors, Kings, or Governours of this Island, not disputing their power to alter, put in or out, as they saw just cause.

These *Archflamins* and *Flamins* continued till some time after the coming of Christ; but when they perceived that the Oracles of the *Sibylys* (which they had so long adored) were fulfill'd by the coming and passion of Christ) and that all Oracles were ceased, these *Flamins*, *Druids* and *Bards*, did give way to the Christian Institutions, (as will be shewn.)

But

CHAP. VII. But to reduce this Section to the subject in hand, it doth appear by our most Ancient Histories, that these *Druids* and *Bards* were consulted with both in Peace and War, both in the *Brittish*, *Romans*, and *Saxons* time, even to the coming of Christ; though the form of their Councils and mixing with the Laicks, do not appear (for reasons before alledged) now. I shall proceed to shew the Institution of Christianity instead of *Paganism*, and then the Titles of such as did manage it in this Island, and how they were still mixt in Civil Councils.

3. The Religion which succeeded *Paganism* in this Island, was the Christian, which had its denomination from Christ; who may be said to have been before his death in this Island, Prophetically, Personally, and Nominally; but lest I should divert the Reader too much from the method intended in this Treatise, I shall refer the discourse of those 3 points to my Annotations.

But concerning the introducing of Christianity into this Island of *Brittain*, what is most credited in our Histories, is, that *Joseph* of *Arimathea*, (the same who beg'd the Body of Christ after his Crucifixion) with 12 Disciples more, are said to plant it here within Thirty Years

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CHAP. VII. after Christs Resurrection; and *Aristobulus* (being, before his coming, Ordained Bishop of *Brittain*) was one of the 12 which were sent with *Joseph* to take care of his charge here: and this is that *Aristobulus* mentioned by *St. Paul* in his Epistle to the *Romans*, *Cap. 16. Verse 10.* who was the first Bishop we in these parts hear of, (being 5 years before any was made Bishop of *Rome*) which brings me to the discourse of the several Titles of such as were the first Managers of Christian Religion.

4. The first Titles which were given to the Managers of Christianity, were to Christ himself, who by *St. Paul*, *Matth. 21. 4.* is called the Prophet of *Nazareth*, and by *St. Paul*, *Heb. 3. 1.* High Priest and Apostle, and He by his Divine Authority did constitute 12 Apostles (*Matth. 10. 1.* and *Luk. 6. 13.*) by particular names) who were called both Disciples and Apostles: but the Selected 12. were of an higher nature; for some of them were also called Evangelists, (and none of the Disciples had that Title, except *St. Luke*, one of the 4. nor any call'd an Apostle, (except those 12.) but *St. Paul*, *Gal. 1. v. 1.* And these 12 Apostles were of so eminent a Degree, that it is said in the *Revelations Cap. 21. and 14.* that the names of the
Twelve

of Parliaments.

Twelve Apostles were writ on the 12 Foundations of the Heavenly *Jerusalem*. CHAP. VII.

After these 12. Christ did Constitute 70. other Disciples of a lesser Degree; but the names of these 70. are no where certainly to be found; however we have the Scripture to justify the number of Seventy; and there were also those who were called *Presbyteri*, also Deacons, of which Deacons the Ecclesiastical Stories tell us of 7. by name, but no number of the names of the *Presbyteri*; however these remaining Apostles, Disciples, Presbyters and Deacons, were soon reduced into the Title of Bishops, (in all places) not by ordinary Institution, but by an higher and a more extraordinary Function; and these Bishops among themselves had also several eminent Titles of distinction, (within few years after Christs death, according as their charge of Souls did extend) viz. *Episcopus*, *Patriarcha*, *Archiepiscopus*, *Papa*, *Presbyter*, *Inspector*, *Pastor*, *Curator*, *Observator*, *Minister*, & *Custos animarum*, which 7 last Titles being but descriptions of the Office of the 4 chiefest, viz. Bishops, Patriarchs, Archbishops and Popes: I shall speak first of these 4.

5. It is evident that the first eminent Title in the Ecclesiastical affairs of Christianity, was

CHAP. VII. was the Title of Bishop; the *Presbyteri* still submitting to the Bishop whenever he was placed over them.)

This Title of Bishop (as I said) was placed on some of the Original Apostles and Disciples; as *St. James*, *St. Mark*, &c. for the word *Episcopus* doth properly signifie one that doth Inspect or Circumspect all the concerns of Christian Religion; so as those who live under him may be instructed to a Good and Pious Life suitable to the Rules of Christianity, (whose duty is more particularly exprest in *St. Pauls* First Epistle to *Tim. Cap. 3.*) so that the word *Episcopus*, as the Superior Order, was more generally used than any other Title wherever Christianity was practised; Yet other Titles were also used in several parts of the World, as they did agree with the Idiom of their native Language, viz. The *Hebrews* called their Bishop *Princeps*, *Sacerdos*, *Patriarcha*. (*Patriarcha* was also apply'd to the Fathers or chief of every one of the 12 Tribes as upon a Civil account, so also upon the Ecclesiastick) The *Syrians*, *Presbyter*, *Pastor*, *Minister*, and *Curator animarum*: The *Arabians*, *Pastor*, and *Observator animarum*: The *Aethiopians*, *Papa*, *Pastor*, and *Custos animarum*: The *Græcians*, *Patriarcha*, & *Archiepiscopus*, &

& *Pastor animarum*, (all which are thus so rendred into *Latine* by *Dr. Walton's Polyglotta* from the Oriental tongues;) so as the 4 chief Titles and the others having but one signification, and those Titles dispersed into several Regions, every one using what they thought fit in their own Territories, I shall only betake my self to *Episcopus* and *Papa*, as having been used not only in *Brittain* and *Rome*, but more universally in most parts of the World, (unless we admit *Presbyter* from *Presbyter-Johns* Country to be an Ecclesiastical Title) So having shewn the meaning of the word Bishop in general, the Antiquity of it is not to be past over. The *Jewish Græcians* did use it in their Old-Testament, for in *Psal. the 109. 28.* they read *Episcopatum ejus accipiet alter*, (which very Text *St. Luke* cites in the First of the *Acts v. 20.* upon the Election of *Matthias* to be an Apostle, (instead of *Judas*) viz. *Let another take his Bishoprick*, which shew that the word was in use among the *Græcians* before Christs time, and was no new imposed word upon the Christians, but a compliance with *Jewish* Titles to win the circumciz'd *Jews* in *Greece*; and this may be said, that though *Rome* did change the name from Bishop to *Patriarck*, *Archbishop*, and *Pope*, which signifies

CHAP. VII. signifies no more than Father or chief Father, yet *Brittain* hath been very constant to the name of Bishop, and did not take upon it Archbishop till the Emperor *Constantius Chlorus* or the Pope, thought it worthy of that Title.

6. In this Section I place *Brittain* before *Rome*, because our Histories tell us that *Aristobulus* was ordained Bishop of *Brittain*, (and *Joseph* of *Arimathea* there with him) 5 years before *Linus*, (the first Bishop of *Rome* was made Bishop of *Rome*) and so now I shall take a short view of the Priority and Successions in both places, relating to the subject of this Treatise.

Aristobulus is affirmed, as I said, to be the first Bishop of *Brittain*, and some few years before any Bishop was Constituted at *Rome*; but what the names were of such Bishops as succeeded him, is uncertain; (for the reasons before given) but the Story relates, That about an 100. years after Christ, one *Lucius* was King of *Brittain*, and was the first King of this Island who embraced the Christian Religion. Whereupon he sent *Damianus* and *Fugatius* to *Eleutherius*, then Pope of *Rome*; so it is very probable they were Bishops and Successors to *Aristobulus*, and Instruments of the Kings Conversion; for none else could be supposed to make attempts on the

the King, but such whose eminent Titles and Employments did give them the more opportune admission; and doubtless these were very considerable Persons, especially *Damianus*, whose very name continues at *Rome* even to this day in great renown; for we find that at one time, a Bishop was of that name, and at another time a Bishop Cardinal, and a Church is still in *Rome*, (dedicated *Sancto Cosmo*, and *Damiano*) belonging to one of the 14 Deacon-Cardinals. These two Bishops, or at least eminent Persons, were sent to *Eleutherius*, to confer about the ordering of the Church-Affairs, and it seems they did acquaint the Pope, (as appears by that Letter) that King *Lucius* had the Old Testament, and the Writings of the Apostles, called the New Testament; so that the Christian Doctrine being fixt here, there seemed nothing more to be done, than to settle the Discipline, and the means for its support; wherein it may be justly collected, that the King desired such concurrence with the Pope of *Rome*, as might not disoblige him or the *Roman* Emperour *Commodus*, to whom he was a Tributary, and with whom in all Civil matters this King stood then more fair and quiet than his Predecessors had done before him.

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7. I have given a brief account of the Managers of the Christian Religion in *Brittain*, from *Aristobulus* to *Damianus* and *Fugatius*, in the time of King *Lucius*. I will now see what was done at *Rome* in that time, concerning which their Histories tell us that *Linus* was the first Bishop, (who according to computation, was 5 years after *Aristobulus* was Bishop of *Brittain*) but *St. Jerome* is as zealous to have *St. Peter* the first Bishop of *Rome* before *Linus*, as *Ireneus* to have *Linus* the First, (two great Fathers of that Church) so that if *St. Peter* be first, then we must account 13 to *Eleutherius*, (before named) if *Linus*, then *Eleutherius* is the 12th. (and with this computation of *Ireneus*, most Histories do agree) The first Eight of these Twelve had no other Title than Bishop; till *Eugenius* the Ninth of that See, took upon him the name of *Papa* or *Pope*, (and afterwards *Hildebrand* call'd *Gregory* the 7th. challenged it as his sole right to be called *Pope*) and so *Eleutherius* being the 4th. *Pope* from *Eugenius*, and the 9th. in Succession from *Linus*, did return a kind Answer to King *Lucius*, by two eminent Persons which the *Pope* also sent, viz. *Helvanus* and *Meduanus*, and with them a Letter, which may be read at large, where-
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in the *Pope* takes notice that the Old and New Testament were then in *Brittain*, and in that Letter (leaving the ordering of Ecclesiastical affairs in *Brittain* to the King) declared him to be Christs Vicar in his own Kingdom: which made King *Lucius* go cheerfully on, and (as History tells us) that whereas the *Archflamins* had been the chief Managers of the *Pagan* Religion in this Isle, (each having one Province) the King reduced those Three Provinces to Two, and placed Two Archbishops therein, and instead of the *Flamins* did constitute Bishops, and so there was an amity between the Archbishops and Bishops of *Brittain*, and the Archbishops or Popes of *Rome*, neither of them struggling for Priority, but still carrying on the work of Christianity. But the Emperours of *Rome* declining in their power, and the *Pope* still taking advantage of their declinations, grew at last so considerable with the Emperours, that they could not safely deny them any thing; so that whereas the Emperours of *Rome* formerly had the disposal of their Popes, and the Kings of *Brittain* of their Bishops, (and so other Princes in their Territories) the Popes by degrees did take the power to themselves, to make what Bishops they pleased, to summon Councils, make De-
crees,

CHAP. VII. crees, distribute them, and enjoy'd obedience to their Universal Jurisdiction, that the name of Pope might be the more authentick.

It was used in many parts of the World besides Rome; for (it is said) that about 300. years after Christ, Nestorius the Heretick had 6000. Bishops appeared against him, which were under the Government of several Popes, and this was above 300. years before Boniface the 3d. (Popes increasing as well as Bishops) who obtained of Phocas then Emperor of Rome, that none should be called Pope, but the Pope of Rome; and though Gregory (the first) his immediate Predecessor, (but one) declared against it, and many Popes before him, yet Boniface having obtained this Supremacy (what he did in other Kingdoms I shall omit) in Brittain, to make sure that none should be placed there, but such as should be dependent on Rome; he confirm'd Augustin a Monk the Archbishop of Canterbury, (being made so by his said Predecessor Gregory) and soon after, he and 4 succeeding Bonifaces filled up all the rest of the Bishopricks, with such Foraigners or others as had a clear dependance on Rome, by Promotions, Stipends, or Forraign Interests, (amongst the rest, Felix a Burgundian was

was made Bishop of Dunwich, in Suffolk, (the fifth Bishoprick then in rank, of which I shall speak more) and so in a few years after, all the Bishopricks which were then, and soon after added, were filled up with his dependents, as also all Abbies, Priors, Monasteries, &c. and so continued to be supplied according to his appointment from Rome without any material opposition by the Kings of this Island, (but such as hereafter mentioned.) And having this Power, it was no hard matter to fix themselves into all Councils within this Kingdom; for in all Histories we find them as Actors therein, and in respect of their Ecclesiastical Interests, one of the Estates; and when the name of Parliament was given to our chief Council, they were methodically fix'd in the second rank of the Pawns, and so in the Clause Rolls: and this place in Parliament was never denied them whilst they continued here. But the Pope's Power and Supremacy over this Island was ever disgusted by our successive Kings; yet being back'd by so great a Temporal Prince (as the Pope of Rome) joyned with the Interest which by long continuance they had gained from the Emperours, the Kings of this Island had little success in their struglings. For we see King John tried it, to his cost, by

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single

CHAP. VII. single oppositions, without the Kingdom's unanimous Conjunctions. Afterwards *Henry the Third* began again, and other succeeding Kings did try what Parliamentary or Municipal Laws could effect, and to that end these following Laws were Enacted.

H. 3. 7. *Henry the Third, Anno 9. cap. 33.* (being part of the great Charter) that Parliament did grant, That all Patrons of Abbies which have the Kings Charters of *England* of Advowson, or have old Tenure, or possession of the same, shall have the custody of them when they fell void, as it hath been accustomed, and as it is before declared. See *Coke Inst. 2.*

Henry the Third, Anno 9. cap. 36. (being also part of the great Charter) the Parliament did grant, That if any Man should hereafter give Lands to a Religious House, the Grant shall be void, and the Land forfeit to the Lord of the Fee, and in corroboration and Inlarging of this Statute many other Laws were made 7 *Ed. 1.* and by 18 *Ed. 3.* § 15 *R. 2.* and 23 *H. 4.* called the Statute of *Mortmain.*

Ed. 1. *Edward the First, Anno 35. cap. 1.* made the Statute *de Asportatis Religiosorum*, wherein it is declared, That the Monasteries, Priories and Religious Houses in this Realm were founded by the King and his Pro-

CHAP. VII. Progenitors, and by the Noblemen and their Ancestors; and that no Abbot, &c. shall lay any Tax on any Religious House, to send the same beyond Sea, or carry any Goods with them out of the Kingdom; and that no Abbots (being Aliens) shall impose any Tax, &c.

Edward the Second, Anno 9. Enacted, Edw. 2. That the King by his Letters may absolve Excommunications, where they were made in prejudice of his Liberty or Prerogative; (to shew the King's Power above Ecclesiastick Censures of the Pope; and this may be of great Use.)

Edward the Third, Anno 25. That the King went on further by Act of Parliament, forbidding (under a *Præmunire*) all applications to *Rome* for obtaining any Ecclesiastick Preferments, or in Suing to the Court of *Rome* for Reversing any Judgments.

Richard the Second did back this Statute with several other Statutes, viz. in *Anno 3. cap. 3.* and *Anno 7. cap. 12.* § 15. and *Anno 13. cap. 2.* § 3. and *Anno 16. cap. 2.* § 5. and in these same Parliaments the Archbishop protested against the Pope's Authority in *England*: And good reason for it, as *Sir Richard Baker* in his History tells us, That about this time the Abbots, Bishops, &c. which were placed here

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CHAP. VII. by the Pope, were so numerous, that it was proposed to him by the *Commons*, that he would please with their Revenues to make 150 Earls, 1500 Knights, 6200 Esquires, and Erect 200 Hospitals for maintaining of maimed Soldiers, &c. But it seems he had not that Courage which *Henry* the Eighth did after assume, and it was needless for one or two to oppose his Power. H. 4. However, *Henry* the Fourth went on, and in the Second and Seventh Years of his Reign, made Acts against Purchasing of Bulls from the Pope, for Exemptions or Benefices.

H. 5. Also *Henry* the Fifth, *Anno* 5. cap. 4. made Acts against Provisors from the Pope; and all these subject to a *Præmunire*.

H. 6. In *Henry* the Sixth's time, the Bishop of *Winchester*, being made Cardinal, was admitted of the King's Council, with this Protestation, That he should absent himself in all Affairs and Councils wherein the Pope or See of *Rome* were concerned, (which he assented to:) and also he Enacted, That no Alien should be a Broker.

That Priors and Aliens Lands should be seiz'd in time of War.

That no Advowson, Presentation, Collation, or Induction, be made to any Alien

of Parliaments. 165

CHAP. VII. lien of any Benefice or Ecclesiastick Dignity.

That Aliens attending the Queen or King be removed and banished (except those allowed by the Council.)

That Aliens should lodge only in *Englishmens* Houses; and to serve in War, if able.

That no Priors be Collectors of Disms.

He also confirmed the Statutes against Provisions by the See of *Rome*.

In *Edward* the Fourth, *Richard* the Third, and *Henry* the Seventh's time, there was a Calm to that See; none of the Laws repealed, but so slenderly used, that they made no great impression at *Rome*; and though these and former Kings did strive to make their respective Supremacies in Ecclesiastick Matters within their Dominions, and to lessen the Pope's Power and Profit, yet none could substantially effect it, till *Henry* the 8th, who seeing there was no other remedy, and that all Laws against the *Roman* See were evaded, and other Essays fruitless, he fell to't with right down Blows (which is the only way to master a good Fencer) as will appear in this next Section.

Ed. 4.
R. 3.
H. 7.

CHAP. VII. H. 8. 8. Henry the Eighth did so contrive his matters, that he did first ingratiate himself with the Pope by writing (in defence of the Church of Rome) a Book against Luther; which so affected the Pope, that he immediately sent him a Bull; (which is in the same nature of a Patent with us) and therein gave him the Title of *Defensor Fidei*; which he accepted, and for three years, viz. in the 21, 22, and 23 years of his Reign went plausibly on, by making several Acts about Wills and Testaments, Mortuaries, and against Pluralities, and Sanctuaries, and Deeds to Churches; but in the 24th he began to discover his Opinion, that though he was for the Doctrine of the Church of Rome, against Luther, yet he had no mind to suffer his Kingdom to be exhausted for the Support of the Court of Rome: whereupon an Act of Parliament was made against all Appeals to Rome; and the next year, Anno 25. That no *First Fruits* should be paid (as formerly, out of this Kingdom) to Rome: And in another Act, That not any Imposition should be laid on his Subjects by colour of any Power from the Pope; and then, to secure himself, and rivet his Subjects to him, an Act was made, declaring his Title and his Successor's to the Crown: That being done, an Act of Parliament

liament was made, Anno 26. to intitle CHAP. VII. him *Supream Head* of the Church of England; and in the same year a positive Act, Anno 26. That no *First Fruits* or *Tenths* should be paid out of any Promotions in England, to the Pope of Rome.

In this time the King makes Archbishops, Bishops, and Suffragans; and in the 27th year chuseth sixteen Spiritual and Anno 27. 16 Temporal Lords to settle the Canons for the Church of England, and erect an Office of Augmentation: so, as having gained the two points of his Supremacy, in opposition to the Church and Court of Rome, viz. *Defensor Fidei* & *Supremum Caput*, one from the Pope himself, the other from the Parliament; and settled an Office for his purpose: In the same year all Monasteries, &c. under 200 l. per Annum, and all the Ornaments, Goods and Jewels belonging to those Houses, were settled on him and his Heirs by Acts of Parliament. And four years after, viz. Anno 31. 31 H. 8. it was Enacted, That the King and his Heirs should have all Monasteries, Abbies, Priories, and other Religious Houses dissolved, or to be dissolved, with their Mannors, Lands, &c. And yet it is observable, That in this very Parliament of 31 H. 8. there were twenty Roman Bishops, twenty four Abbots, and two Priors,

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CHAP. VII. in all forty six, and but forty four Temporal Lords, the Act for Precedency in the House of Lords made the same year, being not (as I conceive) altogether for regulating Precedencies, but for purging the Abbots, &c. by that Act of Parliament; so as doubtless they lost their Interest more by the King's resolution for expunging them, than by Vote of Parliament.

9. However, the Abbots, Priors, &c. being thus dissolved (their Baronies, by which they did formerly there sit, being disposed of to other persons,) they had no foundation to sit in the Lords House, which caus'd the first great Alteration in the Method of the following Writs, for such as were to sit there, (as will be further shewn.)

And in this great Alteration, doubtless, there was also a Divine Hand; for as Pope *Boniface* the Third (before mentioned) did put out all the *English* Bishops, and placed Foreigners (his creatures) in their rooms, and made many more Bishopricks than he found; so now, by the *Lex Talionis* (Like for Like) *Henry* the Eighth did put out all the Pope's dependents, and placed such Bishops in their rooms as would justify the King's Supremacy here, and renounce the Pope's. And accordingly Bishop *Bonner*,
Cranmer

of Parliaments.

CHAP. VII. *Cranmer*, *Gardiner*, and others, (who wrote against the Pope's Supremacy) were made, one an Archbishop, and the others Bishops. And he also did erect six new Bishopricks, viz. *Chester*, *Gloucester*, *Peterborough*, *Bristol*, *Oxford*, and *Westminster*, (which last, (after one Bishop,) was turned to a Deanary, as now it is) and such of the Nobility and Gentry that stuck to his Resolutions, wanted not Lands and Mannors to gratifie them.

So that, now he had the Lords Spiritual and Temporal and Commons in Parliament, and the Kingdom it self on his side, and even the Nobility and Gentry of *England*, who formerly were almost entire for the Popes Authority, their Judgments were now split in two, some for the Court and some for the Church of *Rome*; and so even the King and many of his Council did live and die in that Persuasion. But he did not think himself safe in carrying on so great an opposition as was like to be, (well knowing how the Papal Interest was dispers'd in all Kingdoms and States of *Europe*) till he had encouraged the offspring of the *Waldenses*, and other opposers of *Rome* in *France*, *Germany*, and in other Kingdoms and States, to revive their Doctrines, as also to imbrace the *Lutherans Centum Gravamina*, and the *Calvinian Insti-*

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CHAP. VII. Institutions, and others less remarkable, (yet all serving to his purpose) whereby, in a few years after, almost all Christendom was brought into a Papal and Antipapal Ballance, or rather consisted of Professors of the Roman Religion, and Protestors against both the Court and Church of Rome, as Usurping and Antichristian.

10. But on the other side, the Pope seeing that he could not by forcible ways withstand this almost universal desertion of him, he made his Applications to several Kings and Princes for his assistance; And at last, by a more plausible way, he did obtain a Council of Trent, wherein it is observable, That he did not think fit to move in his Point of Supremacy, till after eighteen years, that That Council had been sitting by Adjournments and Prorogations, and then the Question was, That *Episcopus Locum principalem teneret à Pontifice Romano dependentem*; to which the opposers did so far comply, that they allowed, *principalem Locum sub Romano Pontifice*, but not *dependentem*; so, after that Council had sate nineteen years, (in the sixth of Queen Elizabeth) it was dissolved by 4 Legats, 20 Cardinals, 3 Patriarchs, 25 Archbishops, 168 Bishops, 7 Abbots, 39 Proctors, and 7 Regulars of General Orders, without Determining that Point (to the

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the satisfaction either of England or other Kingdoms and States) the Dispute of which begot 7 Civil Wars in France (which lasted near 40 years, till within 3 years of Queen Elizabeth's Death) also Inquisitions in Spain and Flanders, Tumults and Wars in Germany, and near 40 years Wars in the Netherlands between them and Spain, and for some few years, Fire, Fagots and Insurrections in England.

11. In this Hurly Burly about Supremacy, H. 8. left his Crown to an Infant, Edward the 6th; who had the Laws against Rome corroborated, and his Revenues augmented by Chappels, Chantries, &c. enjoying them but few years; and then the Pope revived fresh experiments by Queen, Mary to reverse all, especially after she was Married to King Philip, compelling a submission to the Popes Supremacy by Fire and Fagots, so as, in H. 8. time and even till now (upon the suddain Changes of Religion it might be said by the Historian) *Deus bone hic suspenduntur Papistæ, illic comburuntur Antipapistæ*: but her time being short, the Supremacy was once more revert, and taken up by Queen Elizabeth, who managed it with such dexterity (considering the conjuncture of Affairs in this and other Kingdoms and States) that it was needless for the

CHAP. VII.

Ed. 6.

Mary.

Eliz.

CHAP. VII. the Pope to make any open Attempts, but by Mariages, Foreign Negotiations, and the assurances given by some of the chiefest Nobility and Gentry of the *Roman* persuasion in this Kingdom (who were, as they pretended, for the Church, and not for the Court of *Romes* Supremacy) of their peaceable resolutions; the Billows of penal Laws seem'd to be calmed, and this Kingdom thought it self as secure, as the pretty *Halcion* in her Nest.

But those who kept to *Calvins* Institutions in *England* and *Scotland*, were finely yoak't together to a disturbance; for it being insinuated to them That the Title of *Supream Head of the Church* (given by Act of Parliament) was declined and dwindled into an *&c.* and that the Title of *Defender of the Faith* (given by the Pope) did only remain with an *&c.* made them call to mind what was alledged in the Council of *Trent*, That the original of Church-Government was Aristocratical, and Governed by a certain number of the Presbytery, and afterwards it was thought fit to put it into a Monarchical way, *viz.* by a Bishop (as Superintendent;) and finding that the Popes and Kings of *England* and other Princes, had long disputed about this Ecclesiastical Monarchy, without determination (only in a connivance) they

they thought it convenient to return to the Primitive way of Aristocracy, and set up Presbytery (that original Government as was pretended,) and thereupon one & all cried against Bishops (which bravely workt for the Papal interest;) & the clamour proved so geat that the Learned King *James* did what he could by Writing to quiet them, & his unfortunate, though Blessed Son, King *Charles* the First tried it by Action, but without Success. For the *Independent*, *Anabaptist*, *Fifth Monarchy-Men* and others, coming into the *Presbyters* assistance, he was necessitated after the Wars with *Scotland* upon the same grounds, amongst other condescentions to yield (with the Consent of the Lords Temporal, and Commons) and pass an Act for Abolishing the Bishops temporal Jurisdiction in this Kingdom.

Now see what followed; instead of making of Earls, Knights and Squires, and maintaining of Hospitals, as was proposed to *Richard* the 2d. (as I said) the Bishops were not only put out of the House of Lords, but the Temporal Lords soon after, and the Knights and Squires seclued from the House of Commons, and the Hospitals, (and all) ruined by an intestine Bloody War, the King Sacrificed, and every one of the Machineers disappointed of their original plausible intentions;

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CHAP. VII. tions; and in conclusion, by most miraculous Turns in Affairs, there was a total submission to a Reestablishment of that Form of Church and State, which they had before so zealously overthrown, and the Bishops again brought into the Lords House.

12. I should now proceed to the Writs, which impowred the Bishops to sit in the Lords House: but first I think it pertinent to shew how these two Titles, of *Fidei Defensor*, & *Caput Ecclesiae Anglicanae*, were used, disused, and altered in theirs and other Writs.

Though all the Kings of *England*, at their Coronation, are Sworn to defend the Christian Faith, and the words *defensionem Ecclesiae Anglicanae*, having been in most Parliament-Writs since the 11th of *Edward* the 3d. Yet the Pope (as I said, for the good Service which *Henry* the 8. had done, in Writing against *Luther*) sent him a Bull, and therein intituled him *Defensor Fidei*, with this Caution, that it should be placed next his Title to *France*, and before his Title to *Ireland*; and it may be observed, That in the same year he sent the like Bull to the Emperor *Charles* the 5th. intituling him also *Defensor Fidei*; upon which the Emperor took an Oath, not only to be *Defensor Fidei*,
but

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but *Defensor Pontificiae dignitatis, & Romanæ Ecclesiae, i. e.* Defender of the Court and Church of *Rome*. But *Henry* the 8th, though he accepted the Title, did not think fit to be bound by an Oath; nor do I find that he stiled himself in any publick Acts *Defensor Fidei*, till the 21 of his Reign, and then in a Decree made in the *Star-Chamber* (which is Printed in *Poltons* Abridgment) he is Stiled *Defensor Fidei, & in terra Ecclesiae Anglicanae & Hiberniae Supremum Caput*, which was 5 years before the *Supremum Caput* was settled by Act of Parliament; but as a preparative to it in the 22 of his Reign he is stiled *Præpotentissimus & Metuentissimus Angliæ & Franciæ Rex*, and only *Fidei Defensor* is added, and no mention of *Supremum Caput*. Then, in the 30 year of his Reign he is Stiled, *Defender of the Faith, and Lord of Ireland, and on Earth Supream Head, immediately, under Christ, of the Church of England*. In the 32. year he left out the word *immediately*, and the next year the words *under Christ*. So that, in the 33 of his Reign the Title was *Hen. by the Grace of God King of England, France, and Ireland, Defender of the Faith, and of the Church of England, and also of Ireland, on Earth Supream Head*. And thus by making himself King of *Ireland*, he disobeyed

beyed the Pope, in placing *Defender* after *Ireland*; and this Title continued thus all his Life, and the Circumscription on his Great Seal wrot accordingly; and so did his Son, *Edward* the sixth, on His Great Seal, and in Publick Acts. And the like did *Queen Mary* in the first year of her Reign; but upon her Marriage with King *Philip*, in the second year of her Reign, (and first of both) their Title was *King and Queen of England and France, Naples, Jerusalem and Ireland, Defenders of the Faith, Princes of Spain and Sicily, Arch-Dukes of Austria, Duke of Milan, Burgundy and Brabant, Countess of Hasburgh, Flanders and Tyroll*, quite jostling out *Supream Head* during their Reigns.

When *Queen Elizabeth* came to the Crown, the Circumscription of her Great Seal was *Elizabetha Dei gratia Angliae, Franciae & Hiberniae Regina, Fidei Defensor*, yet she maintained both Titles of *Defensor* and *Supream* during her Reign.

When King *James* came to the Crown, the Circumscription of his Broad Seal was also *Jacobus Dei gratia Angliae, Scotiae, Franciae & Hiberniae Rex, Fidei Defensor*, and no more; yet he maintained the other Point both in his Government and Writings, as may be read in his *Præmonition to*
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all Christian Monarchs, and his *Declaration against Vorstius*, and his *Defence of the Right of Kings against Cardinal Perrone*, and in several of his Speeches in Parliament, leaving men at liberty, as *Queen Elizabeth* did, to use the Title of *Supream Head* in their Pulpits and Evidences as they thought fit; so as the learned *Cambden* in his Dedication of his *Britannia* to King *James*, instead of *Defensor*, writes him *Propugnator Fidei*.

When King *Charles* the First came to his Crown, the Circumscription of his Great Seal was *Carolus Dei gratia Rex Angliae, Scotiae, Franciae & Hiberniae, Fidei Defensor*, and no more; yet to justify both Titles, in the seventeenth year of his Reign he caused the 39 *Articles* (which were agreed on in the fourth of *Queen Elizabeth*) to be reprinted, and in the Front did publish his own Declaration in these words: *Being by God's Ordinance, according to our just Titles, Defender of the Faith, and Supream Governour of the Church within these Our Dominions, He therein declares, That the Articles of the Church of England, allowed and authorized heretofore, do contain the Doctrine of the Church of England, and requires his Subjects to continue in the uniform profession thereof. And then, as to the Discipline he further declares himself Su-*
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pream

CHAP. VII. *pream Governor of the Church of England, and that if any difference arise about the external Policy concerning Injunctions, Canons, or other Constitutions whatsoever thereunto belonging, the Clergy in their Convocations is to order and settle them, (having first obtained leave under his Majesties Broad Seal so to do) and be approving their said Ordinances and Constitutions. So here the word Supream Head is changed into Supream Governour.*

When King Charles the Second came to the Crown, the Circumscription of his Broad Seal was *Carolus Secundus Dei gratia Angliæ, Scotiæ, Franciæ & Hiberniæ Rex, Fidei Defensor*, and no more; yet to justify both Titles, the very same year of his Return, Anno 1660. he publish'd a Declaration to all his loving Subjects (well worth the reading) concerning Ecclesiastical Affairs, which shews both his Christian condescension to his Subjects, and Justifications to those two Titles for which he is styl'd by Writers *Supream Moderator*.

Now though in all Parliament-Writs which have come to my view, and in other publick Acts, and Writings since the first of Queen Elizabeth to this time, after the words *Defender of the Faith* (except in their Broad Seals) there is added only

CHAP. VII. only one &c. which I conceive was done for brevity, and must be understood in relation to the Act of 36 Hen. 8. never yet repealed, and every man had then and hath still liberty in their Deeds or Pulpits to mention the full Titles, but by degrees, about the year 1640. it began to cease in Pulpits, and soon after in Pens, contenting themselves with the &c.

These and other matters (seeming trivial, though proving dangerous in the consequences) were yielded to as condescensions to gratifie a dissenting party in England, who, very probably, were incited thereunto, by underworking Papal Contrivers, (being excellent Artists in spurring on the least humour of Schism in this Church) and so dealing in little things till greater were ripen'd, in which latter they often made Attempts, as may be read in Queen Elizabeth, King James, King Charles the First, and this present King's time (yet without success) except in the Assassination of King Charles the first, which was manag'd with such dexterity, that it was made difficult to judge whether some of the English Dissenters in those times, or the Romish Incensors were the chief Actors. And after that it was carried on by a subtil way of redeeming their credits in this King's Preservation at Worcester, yet still

CHAP. VII. underhand endeavouring to subvert the whole Fabrick of this Kingdom, as was discovered about the end of this Parliament, 1678. (which determin'd my publick Employments, and therefore shall leave that Subject to other Pens.)

Thus the new Empire of *Rome* and the old Empire of *England* have strugled through many Ages for Supremacy.

It is the Interest of *England* to be quiet within its own liquid Arms, and so increase it self, with other Kingdoms and States, by a real mutual Traffick and Commerce. But it is the Interest of *Rome* to be troublesome, and increase it self in all Kingdoms and States, without any real commutation or advantage to any but it self.

Yet it is difficult to make the *Dissenters* to the Church of *England* believe that the way which they take in opposing *Rome* will in time be destructive to their own Designs and Opinions. Some of the *Dissenters* to the Church of *England* see and know this, yet are so inveigled by such *Dissenters* to the Court of *Rome* (who pretend to be for that Church, but not for that Court) under a plausible notion of Liberty, as may destroy that which they ought to maintain, *viz.* to prevent the Inundation of *Rome*, whereby they bring it to this Question, Whether they had better com-

comply with a Foreign Interest, which they pretend to hate, or their Native Interest, which they pretend to love; and whether they are not like (by concurring with those pretended half *Romanists*, which they do in effect, by opposing the *English* Constitutions) to fall into that which they pretend to avoid. For these admitting one Error, are subject by those delusions to strike upon greater, because they who now are only for the Church of *Rome* against the Court, will undoubtedly (when they have gain'd their Profelytes) be both for the Church and Court of *Rome*, when they have once the Dissenters of the Church of *England* to be its Opposers; for Dissention mounts as naturally to violent Opposition, as Conspiracies to Rebellion.

And now, craving pardon for this long digression, I shall proceed to the Writs by which the Bishops have been anciently and still are Summon'd to sit in Parliament *Cum Prælatibus Magnatibus & Proceribus*, giving this Hint, That their Summons to Parliament were still in relation to their Baronies, and their advancements to other Dignities as well Ecclesiastical as Civil, was and is in respect of their great Learning, Knowledge, Fidelity and Experience in Affairs.

CHAP. VII. And now I shall set down the Form of their Writs of Summons both Ancient and Modern.

SECT. XIII.

The Form of the Exemplar Writ to the Arch-Bishop of Canterbury, 15 Edw. 2.

Edwardus Dei gratiâ Rex Angliæ, Dominus Hiberniæ, & Dux Aquitaniæ, venerabili in Christo Patri Waltero eadem gratiâ Cantuarii Archiepiscopo, totius Angliæ Primati, Salutem. Quia super diversis arduis negotiis nos, Itatum Regni nostri specialiter tangentibus, Parliamentum nostrum apud Eborum à die Paschæ proximo futuro in tres septimanas teneri, & vobiscum & cum cæteris Prælatibus magnatibus & proceribus dicti Regni habere proponimus Colloquium tractatum Vobis Mandamus in fide & dilectione quibus nobis tenement firmiter injungentes, quod dictis die & loco omnibus aliis prætermissis personaliter interfitis ibidem nobiscum & cum cæteris Prælatibus Magnatibus & Proceribus supra dictis negotiis tractaturi vestrumq; Consilium impensuri, Præmonentes Priorem & Capellanum Ecclesiæ vestræ Cantuariæ Archidiaconos totumq; Clerum

CHAP. VII. Clerum vestræ Diocesi quod iidem Prior & Archidiaconus in propriis personis suis dictum Capellanum per unum idemq; clerum per duos procuratores idoneos plenam & sufficientem potestatem ab ipsis Capellano & Clero habentes unâ vobiscum interfitis modis omnibus tunc & ibidem ad faciendum & consentiendum hiis quæ tunc & ibidem de communi consilio (favente deo) ordinari contigerint super negotiis antedictis. Et hoc nullatenus omittatis. Teste meipso apud Derby 10 Martii Anno Regni nostri quintodecimo.

Observations.

THE same reasons which guided me in the 3^d. Chapter, to begin with a Writ in Ed. 2^d. time to a Prince of the Blood, induced me here also to begin with a Writ of the same Date, from the same King to the Bishops; and here it may be observ'd, that this is the first Writ in the Tower-Record, wherein the *Præmonentes* are added to the Writ, for before this Writ (in respect of the Bishops Baronies) their Writs were in the same Form, as to the Temporal Barons (of which some are Cited by Mr. *Pryn* and others) but here such of the Clergy as are therein mentioned, *viz.* Priors, Archdeacons, &c. were

CHAP. VII. to be Forwarn'd, Cited, or Summon'd by the Bishops; and yet this Clause of the *Præmonentes* in their Writs was not constantly us'd in after-times; for in some subsequent Kings Reigns since this of *Ed. 2.* it is omitted; but very rarely. And so in some Clause Rolls there are Exemplars to the Archbishop, but no Consimilars mentioned; and likewise an Exemplar to some Temporal Lord, but no Consimilars named, which doubtless was the Error of Clerks, for there are Seal'd Writs of both sorts, extant at such times as they were omitted in the Rolls. But from *Hen. 8.* to this time, there is no material alteration from this Ancient Form; Except in some few particulars, which will be shewn in the following Writs.

S E C T. XV.

The First Writ in the Pettibag amongst the Pawns 21. Hen. 8. is to Cardinal Wolsey Archbishop of York, viz.

Henicus octavus Dei gratiâ Angliæ & Franciæ Rex Fidei Defensor & Dominus Hiberniæ. Reverendissimo in Christo Patri Thomæ miseratione divina tituli sanctæ Cicilliæ Trans-Tyburinæ Sacrosanctæ

CHAP. VII. sacrosanctæ Romanæ Ecclesiæ Presbytero Cardinali Archiepiscopo Eborum, Angliæ Primati & Apostolicæ ac etiam de Latere Episcopo Wintoniensi nec non exempti Monasterii Sancti Albani Commendatorio perpetuo Salutem. Quia de advisamento & assensu Concilii nostri pro quibusdam arduis & urgentibus negotiis nos statum & defensionem Regni nostri Angliæ & Ecclesiæ Anglicanæ concernentibus quoddam Parliamentum nostrum apud Civitatem nostram Londini tertio die Novembris proximo futuro teneri ordinavimus, ac ibidem vobiscum ac cum cæteris Prelatis Magnatibus & Proceribus dicti Regni nostri Colloquium habere & tractatum. Vobis sub fide & dilectione quibus nobis tenemini firmiter injungendo mandamus quod consideratis dictorum negotiorum arduitate & periculis imminetibus cessante excusatione quacunque, dictis die & loco personaliter interfitis nobiscum & cum Prelatis Magnatibus & Proceribus prædictis super dictis negotiis tractaturum vestrumque Concilium impensur' & hoc sicut nos & honorem nostrum & salvationem & defensionem Regni & Ecclesiæ supra prædictorum expeditionemque dictorum negotiorum diligentis nullatenus omittatis Præmonentes tam Decanum & Capitulum Ecclesiæ vestræ Ebor'

CHAP. VII. Ebor' quam Prior' & Capit' Ecclesiæ vestræ Wintoniæ nec non Archidiaconum totumq; Clerum vestrarum diocesum prædictarum quod iidem Diaconus & Prior nec non Archidiaconi in propriis personis suis ac utrumque Capitulum prædictorum per unum idemque Clerum per duos procuratores Idoneos plenam & sufficiens potestatem ab ipsis Capitulis & Clero divisim habentes prædicto die & loco personaliter interserint ad consentiendum hijs quæ tunc ibidem de Communi Concilio dicti Regni nostri (divina favente Clementia) contigerint ordinari. Teste meipso apud Westm' nono die Augusti Anno Regni nostri vicesimo primo.

Consimilia brevia dirigenda Archiepiscopo Cantuariensi & Episcopis subscriptis sub eadem dat' viz.

Reverendissimo in Christo Patri Gulielmo eadem gratiâ Archiepiscopo Cantuariensi totius Angliæ Primati.

Cutberto Episcopo *Londin.* D.
Johanni Episcopo *Exon.* D.
Nicolao Episcopo *Elien.* D.
Johanni Episcopo *Lincoln.* D.
Laurentio Episcopo *Sarum.* D.
Johanni Episcopo *Carlilin.* P.
Johanni Episcopo *Roffensi.* P.

Roulan-

Roulando Episcopo *Coventry & Lich-* CHAP. VII.
feldiæ.

Henrico Episcopo *Assanensis.* D.
Georgio Episcopo *Landavensis.* D.
Thomæ Episcopo *Bangorensis.* P.
Gulielmo Episcopo *Norwicæ.* P.
Johanni Episcopo *Herefordiæ.* D.
Roberto Episcopo *Wintoniensis.* D.
Gulielmo Episcopo *Bathon. & Wellen.*
Roberto Episcopo *Cecestriæ.* D.
Custodi *Spiritualitatis* Episcopatus *Wigorn.* ipso Episcopo in Remotis agente.
Custodi *Spiritualitatis* Episcopatus *Dun-*
elmensis ipsa sede vacante.
 XX. in all.

 SECT. XVI.

Observations on this Writ to Cardinal Wolsey.

THis Writ, except the Title of it, is like that of *Ed. 2d.* yet I have thought fit to enter it for some reasons particularly.

1st. For the Eminent nature of the Titles which this Cardinal ascrib'd to himself, who had also tryed several experiments to have been made Pope: and probably the Passions of *Hen. 8.* and the
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CHAP. VII. Cardinals disappointments therein, might hasten the dissolution of the Abbots, and other proceedings in order to the lessening the Popes interest here; and this refusal of the Cardinal, may justly give an occasion to say that the *English* have always had hard measure in their Attempts therein; for though the Conclave have admitted above 50. *English* men to be Cardinals, yet (it seems) their Policy hath been not to admit of any *English* man to be Pope (except one in our *Henry 2.* time) called *Nicolas Brakespear*, who being Pope, Intituled himself *Adrian the 4th.*) so that from *Higynus's* time there hath been but one *English* man made Pope (unless *Johannes natione Anglicus, officio Papa, Sexu Fœmina quæ sedet in Papatu An. 20. Mens. 6.* who in *English* we call *Pope Joane*) be allow'd for one of the 246. Popes to this time, yet the Pope hath exercised the highest Jurisdiction here that *England* could afford, which is a very Partial and unequal way of dealing.

Guffarus.

2. The 2d. reason of Entering this Writ, is to shew that the Archbishop of *Tork*, was herein the Exemplar to the Archbishop of *Canterbury*, of which there is no Precedent before; for the three Cardinals which were Archbishops, viz. in the time of King *John*, *Edward the 3d.* and

and *Hen. the 6th.* were all three Archbishops of *Canterbury*, so as this precedence must be attributed to the Cardinals Dignity above all Archbishops, and not to any irregularity in placing the Exemplar. And here it may be observed, that as the Title of Archbishop did long since leap over the Title of Bishop, and the Titles of Patriarch and Pope, over Archbishops, afterwards, viz. *Anno Christi 1099.* when the Title of Cardinal first began (by Pope *Pascal the 2d.* his institution) the Title being rais'd by him, of certain Parochial Priests in *Rome* (of whom he had more confidence) did in effect leap over all the Four other Degrees, and by it had the sole power of Electing Popes, being under their management; so as the Pope hath only the Title left, and the 70 Cardinals the power of Electing him, in which they are unwilling to admit of any *English* man, although if they did, he would be so overballanc'd, that there were no great hazard of his Election. In the mean time, the Conclave is so kind to its own Interest, as to appoint one of those Cardinals to be Protector of *England*, he being at this day Stiled, *Eminentissimus Dominus Franciscus Cardinalis Barbarinus Angliæ Protector.*

3. It may be observed that amongst many other Titles he Intituled himself *Presbytery,*

CHAP. *byter*, to gratifie all interests.

VII.

4. Though *H. 8.* might intitule himself *Fidei Defensor* 8 years before this Writ, yet this is the first Writ on Record wherein this Title is given; and this also is the last Writ, that I find was sent to any Cardinal to sit in Parliament; for though Cardinal *Pool* was Cardinal, and Archbishop of *Canterbury* in *Queen Mary's* time; yet he had no Writ, either as Cardinal, or Archbishop, or both; but the Exemplar was in that Parliament, to the Bishop of *Winchester*, and no Writs to the Bishops of *Canterbury*, *Tork*, *London*, or *Durham*.

5. When this Writ was made, he was Lord Chancellor, yet it is not inserted in the Writ, possibly because *Sir Thomas More* was in Prospect to be Lord Chancellor, and was actually so before the Parliament met. And now having shewn the first Writ among the *Pawns*, I shall proceed to the Writs in the subsequent *Pawns*, and then shew the alteration of them.

The second *Pawn* or bundle of Writs extant in the Pettibag is of the 31 of *Hen. 8th.* wherein the first Writ is to *Thomas* Archbishop of *Canterbury*; and this Writ also agrees with the former (except in the Titles) and with all the Writs to Archbishops, from *Edward* the 2ds. time to this, as they are in the Clause Rolls.

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The third *Pawn*, or Record of Writs in the Pettibag, is of the 36 of *Hen. 8th.* which is the remarkable Writ, because it differs from all the former Writs since *Ed. 2ds.* time, both in the Titles and the Præmonition; for in this Writ he is intituled King of *Ireland*, and Supream Head; but before this, only Lord of *Ireland*. Now as to the Title of King of *Ireland*, *Hen. the 2d.* did give the same to his Son King *John*, but the Pope would not let him enjoy it; nor did any of his Successors assume it, till *Hen. the 8th.* resolved to reassume it in defiance of the Pope, and writ himself King of *Ireland*, instead of Lord of *Ireland*; because, as I said in the former Section, he would not place the Title of *Defender*, before *Ireland*, as the Pope had directed him in his Bull; or it may be in respect the Pope pretended a Title under King *John* to *Ireland*; and as for the other Title of *Supream Head*, though it was given him by the Parliament 12 years before, yet I find it not in any Parliament Writ till this year of the 36. *H. 8.* So that the Preamble, or Titular part of the Writ is thus, *Henricus Dei gratiâ Angliæ Franciæ & Hiberniæ Rex, fidei Defensor, & Ecclesiæ Anglicanæ & Hiberniæ Supremum Caput.* Then for the Premonition, whereas the words *Priorem Capel-*

CHAP. VII. *Capellanus* or *Capitulum* were plac'd next unto *Præmonentes*; in this Writ the words were *Præmonentes Decanum & Capitulum*, because Abbies and Priories were newly dissolv'd, and Deanaries Constituted and so the Writs thus alter'd have continued till this Writ for the year 1661. But before I set down the Writ for 1661, I must a little repeat some short progresses and methods ushering in that Writ, for though the Bishops were in the year 1641. by an Act of King *Charles* the First, with the Consent of the Lords Temporal, and Commons, disabled from Exercising any Temporal Jurisdiction or Authority; and thereupon, soon after put out of the Lords House (as I have shewn) yet there was no occasion of new Writs to them till the year 1661, and then there could be no new Writs made for their Restauration, till they were restor'd by the same power of King, Lords Temporal, and Commons, by repealing that Act; in order to which the remnant of the Parliament of 1640 (which still continued in several shapes) was by the Kings Consent dissolv'd, his Majesty appointing another to begin in *April* 1660. So the 29th. of *May* 1660. he came successfully from beyond Seas to confirm it, and this Parliament lasted till *December* following, in which time, as Preparatory

CHAP. VII. tories to the Bishops Introduction, provisions were made for restoring Ministers who had been outed of their Livings, and also Commissioners were appointed (who did sit accordingly) to compose the differences which might arise between the Purchasers of the Bishops Lands and the Bishop, wherein they us'd so great Lenity, that the Bishops did come into their Temporalities; (with some satisfaction to both Interests) (after they had been enjoy'd by the Purchasers near Twenty Years) and in the same Month his Majesty did also set out a Declaration before mention'd, concerning Ecclesiastical Affairs; and after these Preparatory, that Parliament consisting of the King, Lords Temporal, and Commons, being also Dissolv'd, as I said, in *Decemb.* His Majesty was pleas'd in *February* following, to Summon another Parliament of the Lords Temporal, and Commons, to begin the Eighth of *May* 1661. before which time, his Coronation was Solemniz'd, viz. the Twenty third of *April* 1661. yet before the Ceremony was perform'd, he thought himself oblig'd to take Care for the Bishops, (for many Ceremonies essential to his Coronation were to be perform'd by them) and thereupon

CHAP. upon at a full Council in *Whitehall*, the
VII. Tenth of *April*, this Order was made :

Ordered by his Majesty, That the Lord Chancellor do forthwith give directions to the Clerk of the Crown, to draw up Writs of Summons to pass his Majesties Great Seal, directed to the most Reverend Father in God, William Lord Archbishop of Canterbury, and Accepted Lord Bishop of York, for Convocation of the Lords, Bishops, Deans, Archdeacons, and the Clergy of their respective Provinces in usual Form.

Accordingly, the Parliament met the said Eighth of *May* 1661. and did sit till the Thirtieth of *July*, where amongst other Acts, one did pass for Repealing the Act of Abolishing Bishops, and Restoring them to their Estates, Dignities, and Places; and so the Parliament Adjourned to the Twentieth of *November* following; after which Adjournment, upon the Twentieth ninth of *August* following, the Writs which were ordered the Tenth of *April* aforesaid, did pass under the Great Seal, and were distributed, so as the Twentieth of *November* 1661. they did take their places in the House of Lords, and have continued

CHAP. VII.
tinued so to do during this Parliament; and notwithstanding this long deprivation, (wherein the King himself, the Temporal Lords, and the chief of the Commons were Sharers) they may be said to be in the House of Lords upon an Interest of Right, though the Interest of Form in their Introduction was wanting, that Act of Abolition being partly Authentick; and partly not, (for Acts of Parliament are good *Absente Clero*, though not *Excluso Clero*,) and so next I shall shew the Exemplar Writ, as it is entered in the Crown Office, (for it was too late to enter it amongst the *Deposits* or *Pawns* in the Pettibag.)

S E C T. XX.

The Form of the Writ to the Archbishop of Canterbury the 29th. of Aug. 1661.

REX Reverendissimo in Christo Patri prædilecto & fideli Conciliario nostro Gulielmo eadem gratia Archiepiscopo Cantuariensi totius Angliæ Primat' & Metropolitanano Salutem. Quia de Advifamento & Assensu Concilii nostri pro quibusdam arduis & urgentibus negotiis nos Statum & defensionem Regni nostri Angliæ & Ecclesiæ Anglicanæ concernen' quoddam Parliamentum nostrum apud Civitatem nostram

O 2 Westm'

CHAP. VII. Westm' octavo die Maii præterito teneri ordinavimus & ibidem nobiscum cum cæteris Prælat' Magnatibus & proceribus dicti Regni nostri Colloquium habere & tractare Vobis in fide & dilectione quibus nobis tenemini rogando Mandamus quod consideratis dictorum negotiorum arduitate & periculis imminentibus Cessante excusatione quacunq' dictis die & loco personalit' interfitis nobiscum ac cum Prælat' Magnatibus & Proceribus prædictis super dictis negotiis tractatur' vestrumque Concilium impensur' & hoc sicut nos & honorem nostrum ac Salvationem & defensionem Regni & Ecclesiæ prædict' Expeditionemque dictorum negotiorum diligetis nullatenus omittatis Præmontes Decanum & Capitulum Ecclesiæ vestræ Cantuariæ ac Archidiaconos totumq; Clerum vestræ Diocesis quod idem Decan' & Archidiaconi in propriis personis suis ac dictum Capitulum per unum idemq' Clerum per duos procuratores idoneos plenam & sufficientem potestatem ab ipsis Capitulis & Clero divisim habentes prædictis die & loco personaliter interfuerint ad consentiendum hiis quæ tunc ibidem de Communi Concilio dicti Regni nostri divina favente Clementia contigerint ordinari Teste meipso apud Westm' vicesimo nono Augusti Anno Regni nostri 13. Annoque Dom. 1661.

S E C T. XXI.

Consimilia Brevia dirigenda.

TO the Archbishop of York; Reverendissimo Accepted Archiepiscopo Eborum Angliæ Primati, (leaving out Totius before Angliæ) as in the former. To each of the other Bishops Reverendo, &c. as they are entred in the Memorials of the Chancery Crown Office in this following order.

Reverendo	Episcopo	Gilberto	Londini	} All these Writs dated 29. Aug. 1661. except the last.	
		Johanni	Dunelmensis		
		Briano	Wincestriæ		Vulgo Durham
		Gulielmo	Bathon & Wells		
		Roberto	Oxoniz		
		Gulielmo	Bangor		
		Johanni	Ruffensis		Rocheſter
		Mattheo	Elienſis		
		Henrico	Ciceſtriæ		Chicheſter
		Humphrido	Sarum		Salisbury
		Georgio	Worceſtriæ		
		Roberto	Lincolniz		
		Georgio	St. Afaph		
		Gulielmo	St. Davids		Minuenſis
		Benjamino	Burgi Petri		Peterborough
		Hugoni	Llandaff		
Richardo	Carlioniæ	Carlile			
Briano	Ceſtriæ				
Johanni	Exoniæ	Excter			
Gilberto	Briſtoll				
Edwardo	Norwici				
Gulielmo	Gloceſtriæ				
Nicolao	Herefordiæ				

Johanni Episcopo Lichfeldiæ & Coventriæ Jan. 30. 1662.

CHAP. VII. There is also the Bishop of *Man Island*, but in respect he hath no Writ to sit in the Lords House, I have not entered him.

Note, That except the two Archbishops and the Bishops of *London*, *Durham*, and *Winchester*, whose Precedencies are settled by the Act of 33. *H. 8.* all the other Bishops are entred into the *Pawns* according to the dates of their Consecrations.

S E C T. XXII.

Observations on the Writ.

UPON comparing the Writ of *Edw.* the Second, with the middle Writ of 21th. of *Hen.* the Eighth, and the Writ of the 13. *Car. Secundi*, these following Particulars may be observ'd.

First, The Titles of several Kings in their Writs, as well to the Lords Temporal as Spiritual, have varied according to the Successive Kings Increase or Decrease of their Dominions, but more remarkably in *Hen.* the Eighth's time, relating to the Clergy (as I have shewn.)

Secondly, All Writs concerning Bishops, from *Edward* the Second's time and before, to the 13. of *Car. Secundi* inclusive, were directed to the Archbishop of *Canterbury*, as the Exemplar Writ, in

CHAP. VII. in respect of his Dignity, except where any Cardinal was a Bishop of *England*, or the Popes Vicar-General, or that the See of *Canterbury* was void, or that a Bishop was Chancellor; and then the Exemplar Writ was directed to that Bishop, and to neither of the Archbishops; or if both Archbishopricks were void, then to the Bishop of *London*.

Thirdly, The Exemplar and Consimilar Writs to Bishops, have been generally plac't in the Clause-Rolls, and in all the *Pawns* extant before any Degrees, except Princes of the Blood, though their places in the Lords House are otherwise.

Fourthly, Sometimes the Writ to the Archbishop was without any Epethit to his Christian name; but the Epithet of the most constant Application was *Venerabili Archiepiscopo*, and the like to Bishops; but in *Hen.* the Eighth's time it was alter'd, *Reverendissimo* to Archbishops, and *Reverendo* to Bishops.

Fifthly, Also an other Title is usually in the Bishops Writs; as in the Writs to the Lords Temporal, viz. *Prædilecto & fideli Conciliario*, which is not in the ancient Writ; but of late it is entred as an addition to such as are of the Kings Privy Council, whereof the Bishop of *Canterbury* is for the most part one.

CHAP. VI. Sixthly, In the 36. of *Henry the Eighth*, the Writ is, *Primates & Metropolitanos*, which latter word was not extant till that Writ.

Seventhly, In the latter Writs, the words *de advisamento & assensu Concilii nostri*, are entred, which are not in the old Writs, and some other words which are in the Dukes Writ, and not in the old Writs, as may be observed in the Figures which I have placed in that Writ.

Eighthly, And in the *Mandamus*, instead of *Firmiter injungentes* to the Temporal Lords, the Writs to the Bishops are *Rogando Mandamus*; and instead of *Fide & ligeantia* to the Temporal Lords, it is, *In fide & dilectione* to the Lords Spiritual; so that to the word *Præmonentes*, the Writs both to the Lords Spiritual and Temporal do agree, as well in the Originals, as Alterations, except in those particulars before nam'd.

Ninthly, From the word *Præmonentes* in the Writ, there is a greater Latitude of power granted to the Lords Spiritual, than to the Lords Temporal; for the Lords Temporal are not impowred by their Writs to Summon the Laity, (who sit in the House of Commons as Representatives of the Commonalty) but the Lords Spiritu-

CHAP. VII. tual are impowred by their Writs, to Summon Deacons, Archdeacons, and Proctors to attend the Parliament, (as Representatives of the Clergy) who being met at places appointed, (distinct from the House of Lords, or House of Commons) those places where they meet, have the Titles of Convocations; the Bishops making the upper Convocation, the Representatives of the Clergy, the lower; Suting to those two of the Laity; one called sometimes, the House of Lords or Peers, or upper House, the other sometimes the House of Commons, or lower House.

The General Writs for this Parliament were dated (as I have shewn) the 18th. of *Febr.* 1661. to meet the 8th. of *May* 1661. but the Writs to the Bishops were not dated, till the 29. of *August* following; yet by these Writs they are appointed to meet (*die & loco*) at the day and place, *viz.* on the Eighth of *May*, and at *Westminster*, as in the General Writs; so as the latter Writs seem to command an Impossibility; but this is to be understood in a Parliament-sence, *viz.* That the first day of the Meeting of a Parliament, continues to the end of a Session, or Prorogation, and is accounted but as one day, for an Adjournment is

CHAP. VII. but the continuance of that day; and a passing of Acts upon an Adjournment (as in this case) was not a determining the Session, because they were passed by way of Proviso, That it should not thereby discontinue the Parliament; so that the Bishops being admitted before any Session of determining the Parliament, or before any Prorogation of it; it is to be esteem'd in a Parliament-sence, (as I said) as one day. And so it is in Law; where a Sum is due the Eighth of *May*, payable at *Westminster*, and not paid till the 29. of *August*, and then paid in *London*, and then accepted by the Creditor; it doth bar all breaches or punctilios in Law or Equity, between the Creditor and Debtor.

Besides, If a Parliament continues some Months without Adjournments or Prorogations, in which time many Members of both Houses Dye, so as there is a necessity to send out Writs for a Supply of Members; if the Writs should not issue in a certain Form, with respect to a certain day, though past, it would produce many inconveniencies, attending the Discretion or Indiscretion of Clerks who are to form such Writs; and therefore all Writs though after Prorogations, though many years subsequent, have still reference to the first day of the Parliament, as will be further shewn;

CHAP. VII. shewn; for it hath been the Wisdom of Parliaments to admit of no variation in that point.

Next, As to the place of Meeting; the Bishops are Summon'd to meet *Cum Prælati Magnatibus & proceribus*, at *Westminster*, which the Bishops do as to their Co-Interest in the House of Lords; but in relation to the inferior Clergy, the Bishops do meet at *Westminster*, and sometimes Adjourn to such places out of *Westminster*, as the Archbishop or his Vicar appoints; which before the Fire in 1666. was at the *Convocation-House* on the South-side of *St. Pauls Church* in *London*, but since, in *Westminster-Abby*. The Bishops in all this Parliament sit in *Henry the Seventh's Chappel*, (as the upper Convocation) the Deans, &c. in *St. Benedicts Chappel*, on the North-side of the *Abby*; (as the lower Convocation) so as they have distinct Houses or Places from the House of Lords, and House of Commons, as also distinct days of meeting; but always after the Parliament first meets; and so of sitting some days after any Adjournment, or Prorogation, or Dissolution, which is appointed beyond the Lords or Commons, as will be shewn in the Chapter of *Convocations*.

CHAP. VII. 11. Concerning the alteration of *Prior* into *Decanum*, I have given an account.

12. Instead of *favente deo* the later Writs say, *favente divina clementia*.

13. In the old Writs the year of Christ is not added, for it was more than 300 years after Christ, before the Computation was us'd; but in the later Writs it is not omitted.

14. Till about the year 855. there was not above 16 Bishopricks, and then they increas'd to 19 and 21, and in *Hen. 8.* time to 26, and so they have continued ever since; but in all times there have been several Transplacings, and Transmutations; so as the names of the Bishopricks of *Dorchester, Dunwich, Haglested, Synacester, and Leicester, Landasfirm, Selsy, Sherborn, Chester in Durham, Crediton,* and *St. Petrocks*, 10 in all, are utterly lost and drown'd in the now remaining 26 Bishopricks.

15. The Bishops being men well Educated, in all Sciences Divine and humane, were stil employed by our Successive Kings, as well in matters Temporal, as Spiritual; for I find that of 153 Chancellors, and Keepers of the Great-Seal (from *William the Conquerours* time) there have been 62 Archbishops, and Bishops employ'd in these Offices; and from the first Institution of
Treasu-

Treasurer (in *William the 2d's.* time to *Ed. the 4th's.* time) there have been 42. CHAP. VII.
Archbishops and Bishops, Treasurers, but from *Ed. the 4th's.* to this time, no Bishop hath been Treasurer, except *William* Archbishop of *Canterbury*, in *Charles the 1st's.* time, then Bishop of *London*; they have been also Chief Justices, &c. But for other Offices, in respect I find them not mention'd in any of their Writs of Summons to Parliaments, as additional Titles: I shall not make any further inquiries; but indeed anciently most of the Judicial Offices in the Kingdom or State, were under the Care, and Management of the Clergy; and therefore the Chancellor, Treasurer, Privy-Seal, &c. were called *Clerici*, or Clerks, as a distinction from the Laity. And being men generally of the greatest Knowledge and Learning, were thereupon chosen into Offices of the highest nature.

16. That though for many Ages before the end of *Hen. the 8th's.* Reign) the Bishops were then of the *Roman* Religion, yet whenever they had the least encouragement from the present Kings of *England* (and sometimes without it) they still oppos'd the Superintendency, and Supremacy both of the Church and Court of *Rome* (as to the Dominions of the respective

CHAP. VII. spective Kings of *England*) protesting that the same was a destruction of the Realm, and Crown of *England*, which hath always (said they) been Free, and hath no earthly Sovereignty, but onely God in all Regalities, as may be seen in the Parliament Rolls of *Rich. 2d*, *Hen. the 6th*. and in other Kings Reigns, and since *Hen. the 8th*. the Bishops and Clergy under them, have been almost the only Bulwark against the Storms, and Incroachments of *Rome* upon us.

17. It appears by a long concatenation of Records that they have had these various Titles of Honour, *viz.* in the Latin Records *Archiepiscopi, & Episcopi, Prælati, Pares*, and in such Records as are writ in *French* or *English*, *Archevesq; & Evesq;* Archbishops, Bishops, Prelates, Peers, Grantz, Grandees, or Great ones, in distinction of the Lesser Peers, or House of Commons (of which I shall speak more) also *Seigniors* singly, and *Signiors du Parlement*, also Lords, and Lords Spiritual, and Barons claiming onely a Vital Feudal, Tenurial, and not Nobilitated Peerage, in distinction of the Lords Temporal, whose Peerage is Personal, Hereditary, and Nobilitated.

18. Though they absent themselves from the House of Lords upon Tryals of blood,

CHAP. VII. blood, yet it was, and is still in obedience to the morality of the Canon-Laws; for though those Canon-Laws were practised in times of *Popery*, yet the reasonableness, and conscientiousness of that Law still continues; and now we are free from the bondage of *Popery*, the *Protestant* Bishops still think themselves obliged to it, as the *Papal* Bishops were before, like the 4th. Commandment, which still morally obligeth Us, as formerly it did the *Jews*; yet where they do absent themselves in Cases of blood, it is done by leaving Proxy, or protestation of their Right of Sitting, &c.

19. And lastly it may be very well observed, though their influence and Interest (upon a Spiritual, and Temporal account) is spread over this whole Kingdom, their Revenues great; and thereby their Tenants, Officiates, and Dependents very numerous; yet I do not find in Histories, that the Bishops of *England* did ever raise an Army, to justify their interest against any of our Kings, or against the other two Estates, of Lords Temporal, or Commons, by Sword, or Force; but still supported it by their Pen, or Prayers.

20. Thus I have given an account of the Managers of Religion in this Island; and

CHAP. VII. and of the Writs, whereby they were Summon'd to Parliaments; and of other great employments wherein they have been intrusted, of a mixt nature, part Civil, and part Ecclesiastick; and both tending to Religious Duties. I should now proceed to the Writs which concern Abbots and Priors, which till the 36. Hen. 8. were ever entred next the Bishops in the Clause-Rolls, and *Pawns*; but there having been no Writs directed to them since the said 36. of H. the 8th. (except two in Queen Mary's time; one to the Abbot of *Westminster*, the other to the Prior of *St. John's of Jerusalem*.) I shall follow the Method of the *Pawns*, since the said 36th. year, referring the Discourse of them to the Chapter of Dissolutions; and here proceed to the third Exemplar Writ, viz. to the Lord Chancellor, being the first Officer of State, and Principal Assistant, and now annext to a Barony, and after to his Title of Earl, as will be shewn.

CHAP.

CHAP. VIII.

The Third Exemplar of the Lord Chancellor, or Lord Keeper.

AMONGST the Romans this great Officer was called *Actuarius*, *Scriba*, *Notarius*, *Principis præsentis Vicarius*, & *Cancellarius*; and so it came into France, and amongst the Saxons it had the name of *Referendarius*; but in England we do not find this Title of Chancellor, till the first of King John An. 1199 (though Lambert, and others derive it from Edward the Confessors time. This Officer continued in so high an esteem, that in the 5th. of Richard the 2d. The Commons in Parliament in their Exhibits to the King, desired that the most wise and able man in the Realm might be chosen Chancellor, which made Budæus (one of Hen. the 8ths. Orators) to give this Description, *Hunc (saith he) rerum omnium cognitione, omni Doctrinarum virtutumq; genere instructissimum & ornatissimum, ingenioq; ad omnia versatili, omnia in numerato habere oportere fatendum est.*

This Description is also to be applyed to the Keeper of the Great Seal, which in-

P

vention

CHAP. VIII. vention of a publick Seal, as it was more ancient with the *Romans*, so it seems to be very ancient with us in *England*, (that Office being Constituted by *William* the Conquerer in the Year 1067.) and for the honour of both, (as it is shewn in this Section) *Geffrey* a Natural Son to *Hen.* the Second was Chancellor, and the Queen to *Henry* the Third was Keeper of the Seal.

2. These two Offices were sometimes kept distinct, and sometimes united in one Person, till the Fifth of *Queen Eliz.* and then it was Enacted, That both those Offices should be accounted but as one and the same, and that hereafter both should not be used at one time by distinct Persons.

3. Whilst they were distinct, they had two Seals; the Chancellors was of Gold, and the Keepers of Silver; the Court esteemed *Officina Regis*, and the Seal, *Clavis Regni*; but whenever they were either united, or distinctly executed, still this high Office was managed by Archbishops or Bishops, or by the most eminent Laicks for Learning, Integrity, and Abilities, as may be seen by comparing the History of them with their Catalogues.

4. To manifest their Eminency, it is evident from the Rolls, that in the opening of

of all Parliaments, the Lord Chancellor or Lord Keeper, did constantly, by the Command of the King, shew them the reasons of Summoning them, (unless in a Vacancy, or on a special account of Absence, and then it was performed by one of the Chief Justices.

5. But to pass these, (being more fully shewn in my Annotations) I do not find in any of the Clause-Rolls, or in the *Pettibag-Pawns*, that a Chancellor or Keeper had any distinct Writs of Summons to a Parliament, till the 28. of *Eliz.* (when *Sir Tho. Bromley* Knt. being the Queens Sollicitor, was made Lord Chancellor, and Summoned by a distinct Writ, in the same Form as is hereafter set down, which very Form hath continued ever since. And in the 35. of *Eliz.* *Sir John Puckering* being but Serjeant at Law, was made *Custos Sigilli*, and had a particular Writ of Summons to that Parliament; and in the 39. of *Eliz.* *Sir Tho. Egerton* Knt. being then Master of the Rolls, was made *Custos Sigilli*, and had this assisting Writ of Summons for that Parliament; and the like in the 43. of her Reign; and so in the 21. of King *James*; and in the First of *Caroli Primi*, particular assisting Writs were sent to the Bishop of *Lincoln*, in these words: *Reverendo in Christo Patri*
P 2 *predi-*

CHAP. *prædilecto & fideli Consiliario nostro Jo-*
VIII. *anni Episcopo Lincolnæ magni sigilli Ang-*
liæ Custodi: So as he had this Writ as an
assisting Writ, and another Writ *virtute*
Baroniæ.

6. It may here be observed, that this was
the only Bishop that was either Keeper or
Chancellor, from the First of *Eliz.* to this
time; whereas before *Queen Eliz.* for the
most part Bishops or Ecclesiasticks did exe-
cute those Offices; but whenever it was
conferred upon the Laicks, choice was
made out of the most eminent Families;
as in the 26. of *Hen. the Second*, (as I
said) *Geffrey*, Natural Son to *Henry the*
Second, was made Chancellor; and in
the 15th. of *King John*, *Ralph de Nevile*
was made Keeper of the Great Seal; and
in 22. of *Henry the Third*, *Geffrey a*
Templer, and *John de Lexington*, were
made Keepers of the Great Seal; and in
the 37. of his Reign, his *Queen*, upon the
Kings, going into *Gascoine*, (which is re-
markable, as I said) had the Custody of
the Great Seal; and in the 45. of that
King, *Walter de Merton* was made Chan-
cellor; and in the 49. of that King, *Tho-*
mas de Cantilupe was made Chancellor;
and in the 53. *Richard de Middleton* made
Custos Sigilli; and in the 56. *John de Kirk-*
ley, and *Peter de Winton*, made Keepers
of

of the Seal; and in the 2. of *Edward the*
Third, *Henry de Bughersh* made Chancel-
lor. In the 14. of *Edw. the Third*, *John*
de St. Paul made Keeper of the Seal; in
the same year, *Sir Robert Burgtheire Knt.*
made Chancellor and Keeper of the Seals;
and the like in the 15th. to *Robert Parning*,
and in the 17th. to *Robert de Sadington*,
and in the 19th. to *John de Offord*, and in
the 20. to *John de Thoresby*. In the Re-
cords of the same year, it is said that *Sir*
Lionel Duke of Clarence, the Kings Son,
(then Lord Keeper of *England*) gave
Command by Proclamation, That no Arms
should be worn sitting that Parliament;
(whose name is omitted in the Catalogue
of the Lord Keepers, by *Mr. Selden* in his
Discourse of the Office of Chancellor and
Keeper) and in the 45. to *Sir Robert*
Thorpe, and in the 46. to *John Knivet*;
and in the 2. of *Rich. the Second*, to *Sir*
Le Scroop; and in the 6. of *Rich. 2.* to
Sir Michael de la Pool; and in the 11. of
Hen. 4. to *Sir Thomas Beaufort*; and in
the 32. *H. 6. Richard Earl of Salisbury*
was made Chancellor singly; and in the
21. of *Hen. the Eighth*, *Sir Thomas Moor*
Knt. made Chancellor and Keeper; and in
the 24. of *Hen. the Eighth*, *Thomas Aud-*
ley made Chancellor and Keeper; and in
the 36. *Hen. 8. Thomas Lord Wriothesly*
made

CHAP. VIII. made Chancellor and Keeper; and in the First of *Edw. the Sixth*, Sir *William Pawlet* Knt. Lord *St. John of Basing*, made Keeper; and in the same year, Sir *Richard Rich* made Chancellor; and in the First of *Eliz.* Sir *Nicholas Bacon* Keeper; and the 21. *Thomas Bromley* Chancellor, who continued so to the 28. of her Reign, and was the first that I find, (as is before mentioned) that had a particular Writ of Assistance; and though in the Fourteenth of King *James*, Sir *Francis Bacon* was Keeper, (in the Eighteenth of *Jac. Henry Viscount Mandevile*, Lord President of the Council, and *Lodowick Duke of Richmond*, *William Earl of Pembroke*, Sir *Julius Cæsar*, had jointly the Custody of the Great Seal; and in the first *Car. 1.* Sir *Thomas Coventry*; and in the 16. *Car. 1.* Sir *Edw. Littleton*; and 21. *Car. 1.* Sir *Rich. Lane*, were Keepers of the Great Seal) yet we find no particular Writs in the Pettibag directed to any, but such as I have before mentioned, and to these which follow, viz. in 15. *Car. 1.* Sir *John Finch* Knt. Chief Justice of the *Common-Pleas* was made *Custos Sigilli*, and had a particular Writ of Summons to attend that Parliament.

7. As to this Writ of 13. *Car. 2.* of which I am to treat, it is to be observed that the

the Warrant (before mentioned) sent CHAP. VIII. to Sir *Edward Hyde* Knt. and Chancellor, to empower him to send out Writs, was directed in these words, *To our Right Trusty and Well-beloved Counsellor, Sir Edward Hyde Knt. Chancellor of England*; but in his *Latine* Writ of Assistance, the words are, *Prædilecto & perquam fideli Consiliario suo Edwardo Domino Hyde Cancellario suo Angliæ*: leaving out *Militi* or *Equiti aurato*, and putting in *Domino*; and the reason of this variation (as I conceive) was, That the Warrant was agreed on by the King and Council before the Third of *November*, at which time he was Baron of *Hindon*; and therefore in the Warrant he is named only Sir *Edward Hyde* Knt. but in the Writ, *Domino Hyde*, which is the Adjunct Title of a Baron, as he then was; and I find before the Parliament met, he was created Viscount *Cornbury* and Earl of *Clarendon*, and thereupon had another Writ in relation to those Dignities, which was entered in the *Pawn*, and the entry dated the 12th. of *April* before the Parliament met, and in the latter Writ he had also his additional Titles; so that I observe, that if the Chancellor or Keeper be above the Degree of a Baron, he hath his Writ according to his Degree, and therein only

CHAP. VIII. intimating his Chancellorship or Keepership, (as is before shewn in the 36. of Hen. the Eighth. 1 Mariae, &c. But if he be not a Baron, then he hath this Assisting Writ, *Quatenus* Chancellor or Keeper, as may be seen in the former Precedents, from the 28. of Eliz. to this Writ of 13. Car. 2. If he be a Baron, as I said, he hath or may require a Baronial Writ besides this Assisting Writ; The form of his Assisting Exemplar Writ is as follows: the other will be seen among the Barons.

SECT. VIII.

The Form of the Assisting Writ to the Lord Chancellor or Lord Keeper.

C*Arolus Secundus Dei Gratia Angliæ Scotiæ Franciæ & Hiberniæ Rex fidei defensor, &c. Prædilecto & perquam fideli Conciliario suo Edwardo Domino Hinc Cancellario suo Angliæ salutem Quia de advisamento & Assensu Concilii nostri pro quibusdam arduis & urgentibus negotiis nos statum & defensionem regni nostri Angliæ & Ecclesiæ Anglicanæ concernentibus quoddam Parliamentum nostrum apud Civitatem nostram Westmonasterium octavo die Maii proximè futuro teneri ordinavimus &*
 ibidem

ibidem voibscum ac cum Magnatibus & Proceribus dicti Regni nostri Colloquium habere & tractatum. *Vobis Mandamus firmitur injungend' quod omnibus aliis prætermittis prædictis die & loco personaliter intersitis nobiscum ac cum cæteris de Concilio nostro super dictis negotiis tractatur' vestrumque Consilium impensur' & hoc nullatenus omitatis Teste apud Westmonasterium decimo octavo die Februarii Anno Regni suo decimo tertio.*

Grimston.

SECT. IX.

Observations on this Writ.

First I shew how it differs from the Writs to the Nobles; Secondly, How it differs from the Writs to the other Assistants. First, It differs from the Writs to Dukes, Marquesses, Earls, Viscounts, in these particulars.

First, To Dukes and Marquesses, the Writ is directed *Præcharissimo Consanguineo*, to Earls and Viscounts, *Charissimo Consanguineo*, to Barons, *Prædilecto & fideli*; and to Assistants only *dilecto & fideli*, but this Writ is directed as to a Baron, *viz. Prædilecto & perquam fideli*, yet the body of the Writ differs from the Barons; the

CHAP. the word *perquam* is added to *fideli*,
VIII. being in no other former Writs, but
is a proper word to express our *English*
Right Trusty; and here it may not be
improperly hinted, that in *English* Super-
scriptions, *Right Trusty* is placed before
Well-beloved, but in *Latine Well-beloved*,
(or *Prædilecto*) is before *Right Trusty*, or
Perquam Fideli.

Secondly, The words *Sub fide & li-
geantia*, are in the Lords Writs next to
Vobis Mandamus, but in all the Assisting
Writs, those words are omitted; probably
because in former times, the Assistants
had not Tenures, but only knowledge
of the Laws which occasioned them to
be sent for by Writ *Pro Concilio*.

Thirdly, The words (*Consideratis di-
ctorum negotiorum arduitate & periculis
imminentibus cessante excusatione quacun-
que*) in the Lords Writs) are left out in
the Assistants Writs, and instead thereof,
(*omnibus aliis prætermisissis*) are inserted.
In the Mandatory part of the Writ, the
words in the Writ are (*ac cum cæteris
de Concilio nostro*) instead of (*ac cum Mag-
natibus prædictis*) which is the chief
distinction between the Peers and the
Assistants.

Fourthly, In this part also of the Writ,
the Words are only in short, *& hoc nulla-
tenu*

tenu omittatis, but in the Lords Writs, CHAP.
(*& hoc sicut nos & honorem nostrum ac* VIII.
*Salvationem regni & Ecclesie prædictæ
expeditionemque dictorum negotiorum dili-
gitis*) their Lordships being more eminent-
ly concerned in the Kingdoms Interests.

Fifthly, In all the *Pawns* extant, and
in most of the Clause-Rolls, (after the
Exemplar Writ of every Degree or Quali-
ty is named,) these words are added, *Con-
similia dirigenda*; but there is no Consi-
milar directed to this Writ, and although
the Master of the Rolls is an Officer very
little differing in many things from the
Office of the Chancellor or Keeper, yet
his Writ is made a Consimilar to the chief
Justice of the Kings Bench his Writ, and
not to the Lord Chancellor; the Lord
Chancellor standing Exemplar without
any Consimilar, (and there are but Two
of the same nature in all the *Pawns*, from
the 36. of *Hen.* the Eighth to this time,
viz. That to *Chester* and to *Lancashire*, as
will be shewn in their order) the true
reasons thereof are (as I conceive;)

1st. That this Officer is of so transcen-
dent a nature, that a Consimilar there-
unto were improper, because the Original
Warrant for issuing out Writs (as is before
recited) is made from the King only to
the Lord Chancellor or Lord Keeper, and
the

CHAP. the like Warrant not to any others of the
VIII. Assisting Degrees.

2dly. His Lordship usually, and in most Cases, is necessarily the chief Minister of State.

3dly. He is the Supream Assistant of all the Assistants in the House of Lords; for he is not only Lord Chancellor and Assistant, but of late years constantly Speaker of that House.

4thly. His Grandeur is such that he hath four places in the Lords House, one behind the King of Scots-Chair, the other next to the Dukes of the Blood, the third on the first Woolfack, 4thly. at the Table (as will be shewn) whereas each of the other Assistants have but one single place, different from those provided for the fixt Nobility (as will be shewn in the Local part.)

6. I cannot conclude this Chapter better, than from Sir John Davy (an Eminent Lawyer, in his Epistle to his *Excellent Reports*) who Describes a Chancellor in these words, Saith he, *Is he not ad Latus Principis, to attend him? Auricularius Principis, to advise him? Doth not the King make him the Conduit of his Wisdom, when he useth his Voice, and Tongue to declare his Royal pleasure? Doth he not make him the Organ of his goodness, when he trusteth him*

him with his Mercy, and Conscience in sweetening the bitter waters of summum jus, and in mitigating the rigour of Law to his people? Doth he not represent Reverentiam Principis in the Power and Authority of his Office? In a word, if the greatest honours do belong to the greatest vertues (for what is honour but a reflection and reward of vertues) How vertuous a person must he be, with what Gifts and Graces, with what Abilities, with what Ornaments, both of Art and Nature must he be indowed and furnished? viz. with all Learning, Law, Policy, Morality, and especially Eloquence to impart and Communicate all the rest: he must withall have a long, and universal experience in all the Affairs of the Commonwealth; he must be acceptable and absolute in all points of Gravity, Constancy, Wisdom, Temperance, Courage, Justice, Piety, Integrity, and all other vertues fit for Magistracy and Government; yet so as the same be seasoned with Affability, Gentleness, Humanity, Courtesie, without descending or diminishing himself, but still retaining his Dignity, State, and Honour. Briefly, he must be a person of such vertue and worthiness (that not only his Writ may be exemplar to other Assistants) but his Life, and Conversation a Mirrour, and Example to all Magistrates.

He

CHAP. VII. 7. He performs all matters which appertains to a Speaker of that House, whereby he may be said to be the Eye, Ear and Tongue of that great Assembly.

8. He is the Inlarger, Explainer, Interpreter, or Pronouncer of the Kings Commands or Pleasure; and that which is further observable, of 72. Officers under his Jurisdiction, more than 44. of them are employed in Parliament concerns; either upon its Summoning, or during its Sitting; (as will be shewn in my Annotations) And as his Warrant is the second Warrant that gives life to a Parliament, and vivacity to its continuance by Sessions and Recesses; so he gives the second Fiat to its Dissolution: he hath also an apartment near the Lords House (as will be shewn) for himself to retire to, and for his Serjeant at Arms and others of his Attendants.

Thus having considered the Lord Bishops and Lord Chancellors Writs, I must observe how exquisitely and harmoniously these two Degrees are interpos'd; (both in their sitting in the Lords House, and in the method of their Writs in Pawns, and in the Act of Precedency) being placed in all of them between the first and second Rank of the Lords Temporal: (as it were) to shew that the Lords Temporal are always to embrace and maintain Religion and

and Equity, as the two chief Supporters of a Parliament. CHAP. IX.

I have spoken of the first Supporters to Religion and Equity, viz. Princes of the Bloud: and now I shall speak of the other Supporters, (viz. the Nobles not of the Bloud, distinctly five Titles, viz. Dukes, Marquesses, Earls, Viscounts, and Barons) but more especially of their Writs which Summon them to sit in Parliament, which will guide me into several observations.

CHAP. IX.

Of the Fourth Exemplar Writ to the Nobles not of the Bloud-Royal; To the Lord-Treasurer, &c.

IN the Eighth Chapter I shewed the Exemplar Writs to Princes, Dukes, and Earls of the Bloud-Royal; I am now according to the method of this Pawn, to shew the Exemplar Writs to Dukes, Marquesses, Earls, and Barons not of the Bloud. I shall begin with that in Anno 1661. being agreeable to that Exemplar (before recited) to the Dukes of the Bloud, from the word (Salutem) to the end of the Writ; but the Preambles to that word do afford variety almost in all Writs,

224 *The Constitution*

CHAP. Writs, and therefore before I make the
IX. Observation upon it, I shall give a view of
the Writ at large (being only abbreviated
in the *Pawn.*)

CAROLUS Secundus Dei Gratia Angliæ
Scotiæ Franciæ & Hiberniæ Rex
fidei defensor, &c. Præcharissimo Confan-
guineo suo Thomæ Comiti Southampton
Thesaurario Angliæ Salutem Quia de Ad-
visamento & assensu Concilii nostri pro
quibusdam arduis & urgentibus negotiis
nos statum & defensionem regni nostri
Angliæ & Ecclesiæ Anglicanæ concernen'
Quoddam Parliamentum nostrum apud
Civitatem nostram Westm' 8. die Maii
prox futur' teneri ordinavimus ac ibidem
vobiscum ac cum Magnatibus & Proceri-
bus dicti Regni nostri, Colloquium habere
& tractatum, vobis sub fide & ligeantia
quibus nobis tenemini firmiter injungendo
mandamus Quod consideratis dictorum ne-
gotiorum arduitate & periculis imminen-
tibus cessante excusatione quacunque dictis
die & loco personaliter interfitis nobiscum
ac cum Magnatibus & Proceribus præ-
dictis supra dictis negotiis tractatur'
vestrumque Concilium impensur' Et
hoc sicut Nos & honorem nostrum ac
Salvationem & defensionem Regni & Ec-
clesiæ prædictæ expeditionem; dictorum
negotiorum

of Parliaments. 225

negotiorum diligitis nullatenus omittatis. CHAP.
Teste Rege apud Westm' 18. die Febr. IX.
Anno Regni nostri 13.

S E C T. II.

Observations.

I. ALL Parliamentary Exemplar Writs
of this nature which are extant
from the 15. of *Edward* the Second, to
the 21. of *Henry* the Eighth, if they were
not directed to some one of the Heirs of
the Crown, or to Princes, Dukes, or
Earls of the Bloud, were still directed to
an Earl not of the Bloud, (except Three
to Three Dukes in *Henry* the Sixths, and
Edward the Fourths time) it being evi-
dent from what hath been said, That
Earls, called in *Latin* *Comites*, was a more
ancient Title in this Kingdom, than
Dukes; (*Richard* the Eldest Son to *Edw.*
the Third, being the first that was so
created) but Earls long before; and
though *Edward* the Third did create ma-
ny Dukes more than his Son, which were
of the Bloud; yet still to keep the old Title
of Earl, and in veneration thereof, (as may
be supposed) he in the Fourty Seventh of
his Reign did think fit, (as the King usually
appoints the Sword to such a Person as he
directs

CHAP. IX. directs to carry it before him) to grant the Exemplar Writ to an Earl not of the Bloud, for the Parliament to be holden that year, and so did his Successor, as may be seen in this following Table, viz.

47. *Edw. 3. Richardo Comiti Arundel*, who sat one Parliament.

18. *Rich. 2. Henrico Comiti Darby*, who sat one Parliament.

3. *Hen. 5. Radulpho Nevile Comiti Westmerland*, and the like Writ in the same year, so he sat two Parliaments.

7. *Hen. 5. Henrico Percey, Comiti Northumbr.* and the like in the same year, and in the Eighth and Ninth of this King, and Twelfth of *Hen. 6.* so he sat five Parliaments; (note that the Christian names and Surnames of *Nevile* and *Percey* are in this Writ, which is not usual to Earls, only the Christian names.

The three Exemplars to Dukes not of the Bloud are in time subsequent to Earls; for the first Exemplar to a Duke was not till,

28 *H. 6. Gulielmo Duci Suffolciæ*, who sat one Parliament.

38 *H. 6. Henrico Duci Oxoniæ*, who sat one Parliament.

1 *Edw. 4. The third Johanni Norfolciæ*, and the like in the same year, so he sat two Parliaments. And

And then after these Three Dukes, a gain to an Earl, viz. CHAP. IX.

3 *Edw. 4. Richardo Comiti Warwick*, who sat one Parliament; so from the 47. of *Edw. 3.* to *Rich. the 3.* there was Eight not of the Bloud, viz. Five Earls and Three Dukes, who had Exemplars.

From *Richard the Third* to the 21. of *Hen. 8.* there is (as I have shewn) a want of Records in the *Tower*; so as the first Exemplar that appears to us in the *Pettibag*, of such as had Exemplar Writs being not of the Bloud, do begin at the 36. of *H. 8.* viz.

36 *Hen. 8. Thomæ Wriothsley Militi Domino Wriothsley Cancellario*, he sat one Parliament, and was the year before made Baron of *Titchfield*, and in the first of *Edw. 6.* Earl of *Southampton*.

1 *Edw. 6. Gulielmo Pawlet Militi Domino Senescallo magni hospitii nostri ac Præsidenti Concilii nec non Custodi magni Sigilli*. He was then Lord *St. John of Basing*, and afterwards created Marquess of *Winchester*.

6 *Edw. 6. Gulielmo Marchioni Winchester, Thesaurario Angliæ*, (*Thomas Goodrick* Bishop of *Ely* being Chancellor, and had his distinct Writ) this Marquess had his several Writs, viz. in the 6 of *Edw. 6.* and 7 of *Edw. 6.* and 1 *Mariæ*, and 1 *M. 1.* and 2 *Phil.* and *M.* and 2 and 3 *P.* and *M.* and 4 and 5 *P.* and *M.* (in which time the Bi-
Q 2 thops

CHAP. IX. shops of *Ely*, *Winchester*, and Archbishop of *Tork* were Lord Chancellors and had distinct Writs, it being not proper for them, being Lords Spiritual, to be Exemplars to the Lords Temporal;) besides he was Exemplar in the 28. 30. 35. 39. and 43. of *Eliz.* and *Primo Jacobi*, (in which time Sir *Thomas Bromley*, and Sir *Christopher Hatton* were Lord Chancellors, and Sir *John Puckering*, and Sir *Thomas Egerton* LordKeepers, and each of them had distinct Writs) so as it is remarkable, that this *William* Lord *Pawlet* Marquess of *Winchester* was Exemplar in all the Parliament *Pawns* which are extant in the *Pettibag*, from the first of *Edw.* the Sixth, to the first of King *James* inclusive, which is 55. years, and was in that time Lord Treasurer 22. years, which was longer than any of his Predecessors continued in that Office, except *Cicil*, who continued 27. years.)

1 Car. 1. *Georgio Duci Buckingham*, for one Parliament, (Sir *Thomas Coventry* being then Lord Keeper, and had a distinct Writ, and Sir *Richard Weston* Treasurer, who was then in *Scotland*.)

15 Car. 1. *Johanni Marchioni Winchester*, for one Parliament (Sir *John Finch* being then Lord Keeper of the Great Seal, and had a distinct Writ) also *Will.* Bishop of *London* was Lord Treasurer, and had his Writ.

13 Car.

13 Car. 2. *Thomæ Comiti Southampton*, CHAP. IX. for this Parliament, (Sir *Edward Hyde* being then Lord Chancellor, and had his distinct Writ) this Earl was Grandchild to that *Wriothesly* mentioned in the 36. of *Hen.* 8. and died without Issue Anno. 166---

So from the 36. of *H.* 8. to this Parliament of the 13. of *Car.* 2. there were three Exemplars, to Three Barons, (Two of them being Chancellors, and one Lord Keeper) and to Two Marquesses, to one Duke, and to one Earl; (and all these not of the Blood) Now as to the three Barons having Exemplars, (which Degree had not any before the 36. *H.* 8.) it may be presumed that the Exemplars were given them in relation to their Offices, as Lord Chancellor, or Lord Keeper, or President of the Kings Council.

And as to the two Marquesses having Exemplars, (who had not any till the 6. of *Edw.* 6.) one was as he was Treasurer, and the other in the 15. of *Car.* 1. only as Marquess, because there was no Duke Summon'd to that Parliament; (and Sir *John Finch* was then Lord Keeper, and *William* Bishop of *London* Lord Treasurer, and both had distinct Writs;) so there was none of the three great Officers of State remaining to be Exemplars, except *Henry* Earl of *Manchester*, then Lord Privy-Seal, who

Q 3

CHAP. IX. who according to the fore-mentioned *Act of Precedency* is placed in the Lords House before all Dukes, Marquesses, &c. (not of the Blood) but I suppose, because there was no President wherein the Lord Privy-Seal had been Exemplar since its first Institution in the 11. of *Hen. 4.* and being not called Lord Privy-Seal, nor that place in the Lords House allotted to him, till the 31. *H. 8.* possibly for those reasons it was not given to the Lord Privy-Seal, but to the Marquess singly, or else it was an omission in not minding the *Act of Precedency.*

These latter Writs from the 36. of *Hen. 8.* did seem to break the method of the former; for before that *Pawn* of that year, no Dukes or Marquesses were made Consimilars, where an Earl was made Exemplar; but in the Exemplar of the 36. *H. 8.* *Wriothesly* Earl of *Southampton* was made Exemplar, and the Duke of *Norfolk* then Lord Treasurer of *England*, (and *Charles* Duke of *Suffolk* the Great Master of the Kings Household, and President of the Council, were (besides the Marquess of *Dorchester*, and Thirteen Earls, and Twenty eight Barons) made his Consimilars, so as the precedency of his Exemplarity must be ascribed to his Chancellorship, which according to the *Act of Precedency* was

CHAP. IX. was to be before all Dukes, &c. (not of the Blood;) and upon the same reason, *Pawlet* Lord *St. John* in the first *Edw. 6.* being then Lord Keeper, had the Exemplar Writ, and the Duke of *Somerset* (though the Kings Uncle) Governor of the Kings Person, and Protector of *England*, (as also the Marquess of *Dorchester*, and Marquess of *Northampton*, and Thirteen Earls and Thirty Barons) were his Consimilars, which is the only President (which I know of) where the Lord Chancellor or Lord Keeper had the Exemplar to a Duke of the Blood; and upon the like reason, as (I conceive in the 6 of *Ed. the 6.* *William* Marquess of *Winchester*, being Lord Treasurer, (the next in Precedency to the Lord Chancellor, by the Act of 31. *H. 8.*) had the Exemplar to two Dukes, one Marquess, Fourteen Earls, One Viscount, and Thirty one Barons, all which were his Consimilars: and it is probable the reason why this Exemplar was given to the Treasurer and not to the Chancellor, was, because *Thomas Goodrick* Bishop of *Ely* was then Lord Chancellor; and so it was not proper for that Bishop to be Exemplar, for the reasons before alledged.

Now in the first *Car. primi*, *Thomas Coventry* being Lord Keeper, and having a distinct Writ, the Duke of *Buckingham* had

CHAP. IX. had the Exemplar, who had one Marquess, Thirty seven Earls, Eleven Viscounts, and Fourty seven Barons to his Consimilars.

Also in the 15. *Car. 1.* *John* Marquess of *Winchester* (Son to the former Marquess of *Winchester*) was made Exemplar, (Sir *John Finch* being Lord Keeper, who had a distinct Writ, (and *William* Bishop of *London* being in *Scotland*) but he had no Duke or other Marquess, but Fifty eight Earls, Five Viscounts, and Forty four Barons his Consimilars, and so reduced the proper Consimilars to its former method.

But the 14. *Car. 2.* *Thomas* *Wriothesly* Earl of *Southampton* Lord Treasurer (Grandchild to the former Earl of *Southampton*) altered it again: (there being now also a distinct Writ to Sir *Edward Hyde* Lord Chancellor) for this Earl had three Dukes, (one being General) Four Marquesses, Fifty five Earls, Eight Viscounts, and Sixty eigth Barons his Consimilars; (I conceive as Lord Treasurer) for according to ancient Practice, (as I have shewn) an Earl had not any Dukes entred as his Consimilars.

The number of all the Exemplar Writs extant, from the 15. of *Edw. the 2d.* in *An. 1322.* to the 13. of *Car. 2di. An. 1661.* are but Twenty, and but Fourteen Kings from whom they were granted; The num-

number of the Parliaments in which the Nobles did Sit, to whom such Exemplars were issued, were 107. and these 107. Parliaments were in the space of 341. Years. CHAP. IX.

As concerning the years when these Exemplars were first issued to the respective degrees of Nobles before mentioned, they are in this order of time.

15 *Edw. 2.* This first Exemplar Writ, as I have shewn, was to an Earl, and he was of the Bloud, viz. to *Edward* Earl of *Chester*, Eldest Son to *Edw. 2.* and after King *Edw. the 3d.* for there was then no Duke in *England*.

3 *Edw. 3.* The first Exemplar Writ to a Prince of the Bloud, was to the same Earl being then made Prince of *Wales*.

37 *Edw. 3.* The first Exemplar Writ to a Duke of the Blood was not till this year, though the first Duke in *England* (distinct from that of Earl, (as Mr. *Selden* saith) was the Eleventh of *Edw. 3d.* and then *Edward* the Kings Eldest Son was in Parliament created Duke of *Cornwall*; (yet *Speed* in his Chronicle of *Edw. 3d.* makes this Creation in the 3d of *Edw. 3d.* when (saith he) he was created Prince of *Wales*, Duke of *Aquitain* and *Cornwall*, which agrees with the Records of the *Tower*, and therefore I conceive there is some mistake in Mr. *Selden*) but however the mistake be,

• CHAP. IX. be, the first Exemplar Writ to a Duke was not till this year; for though *Edward* Prince of *Wales* was Duke in the Third or Eleventh year of his Father, and *Thomas* Earl of *Norfolk* soon after was created Duke of *Norfolk*, and *Henry* Earl of *Lancaster* soon after created Duke of *Lancaster*, yet they had not any Exemplar Writs as Dukes, but before as Earls; so as *John* Duke of *Lancaster* in this Parliament of the 37. *Edw.* the 3d. was the first Duke which had an Exemplar Writ.

47 *Edw.* 3. As I have shewn the first Exemplar to an Earl of the Blood, so this shews the first Exemplar to an Earl not of the Blood, which was this year to *Richard* Earl of *Arundel*; for though there were many Earls before not of the Blood, yet they had only Consimilar Writs, but no Exemplars extant to any of them till this Year.

28 *H.* 6. And though there were many Dukes not of the Blood since the first Creation of that Title, yet the first Duke not of the Blood who was thought fit to be an Exemplar, was not till this Parliament, and the Predecessor of this Duke was an Earl in *Edw.* 3ds. time, and even this Duke was Earl in the time of his Predecessors, before any Duke was created.

6 *Edw.* 6. Though the first Marquess
(created

(created in *England*) was in the 9th. of CHAP. IX. *Rich.* 2d. yet none were thought fit to be Exemplars, till this 6. of *Edw.* the 6th. that *William* Marquess of *Winchester* was made the first Exemplar in Parliament of that Dignity, but his Exemplar had the additional Title of Lord Treasurer, who is the second Officer of State.

36 *H.* 8. Although a Baron is a more ancient Title with us in *England*, than any of the other Degrees of the Nobles, yet we find no Record now extant, wherein a Baron, singly as Baron, had the Exemplar Writ; for (as I said) *Thomas* Writobesly Baron of *Tichfield* being Chancellor, *William* Pawlet Baron of *Bazing* being Lord Keeper, were Exemplars in those Parliaments, and had Consimilar appointed them; but *Edward* Hyde Baron of *Hindon* having a distinct Assisting Writ, had no Consimilar allotted him, either in respect of his Barony or Assistency.

Thus we find that Earls, Dukes, Marquesses and Barons have been Exemplars, but we do not find any Viscounts to be so in any Parliament since the creation of that Dignity, which was (as I said) in *Hen.* 6ths. time to *John* de *Beaumont*.

And the reason is, because the word *Viccomes* doth imply a Consimilar to *Comes*, so it were improper for *Comites* to be Consimilar to a *Viccomiti*. Con-

CHAP. IX. Concerning the additional of the Titles to those Nobles mentioned in their Exemplars, it may be observed, That in all those Writs to *Hen.* the 8ths. time, the words *Consanguineo Charissimo Prædilecto Dilecto & Fideli*, were not so positively fixt to the severall Degrees in their Writs, but since that time they have past in a more constant method, *viz.* to Dukes and Marquesses, *Præcharissimo Consanguineo*; to Earls and Viscounts, *Charissimo Consanguineo*; to Barons, *Prædilecto & Fideli*; and to the Lord Chancellor as chief Assistant, *Prædilecto & perquam Fideli*; but to all the other Assistants, of which I shall speak more, only *Dilecto & Fideli*.

S E C T. III.

Observations on the Consimilars to the former Exemplars.

WHEN Princes of the Blood were made Exemplars, there was ever some Prince of the Blood in the Consimilars, and then followed in the same Register in every Clause-Roll or *Pawn*, the other Dukes, Marquesses, Earls, Viscounts and Barons, without interposition of the Lords Spiritual and Ecclesiastical, to the Princes of the Blood, and the Temporal Lords

Lords not of the Blood; so it continued CHAP. IX. in that method till the 21. of King *James*, but then the Exemplar (being to the Prince of *Wales*, and no Consimilar to him, there follows the Exemplar and Consimilars to the Lords Spiritual, (of which I have spoken) and after them follows the particular Writ to *John* Bishop of *Lincoln*, as Lord Keeper, and after that, the Exemplar to *Lodowick* Duke of *Richmond*, who had one Duke, one Marquess, Thirty eight Earls, nine Viscounts, and Fourty seven Chevaliers his Consimilars, and ever since the 21. *Jac.* there hath been an interposition either of the Lords Spiritual or Lord Chancellor between the Dukes of the Blood and the Nobles that were not of the Blood; and so in the 13 *Car.* 2. though the Bishops were deprived from that Roll, (as I have shewn) yet the Lord Chancellors Writ did interpose; and it may further be observed, That when Princes or Dukes of the Blood, or not of the Blood, were Exemplars, other Dukes, Marquesses, Earls, Viscounts and Barons were Consimilars; but when Earls were Exemplars, there were no other Consimilars admitted of Degrees above them, but still under them, *viz.* of Earls, Viscounts and Barons; and yet when the three Dukes beforementioned were made Exemplars, 'tis true the

CHAP. the Duke of *Suffolk* and *Oxford* had Dukes
IX. to their Consimulars, as formerly; (being *pari gradu*) but the Duke of *Norfolk* had no Duke to his Consimilar, for he had only four Earls, one Viscount, and Thirty one Barons, of which there is no other precedent that I can find.

2. As to the different Titles of these six Degrees, viz. Princes of the Blood, Dukes, Marquesses, Earls, Viscounts and Barons, of whom I have spoke more in the Fifth Chapter; it is fit to be hinted here, that Prince in *English*, and *Principi* in the *Latin* Writ, Duke and *Duci*, Marquess and *Marchioni*, Viscount and *Vicomiti*, have little difference in their Orthography; but *Comiti* in all their *Latin* Writs, and Earl (which is their general appellation in *English*) have very great difference; concerning which and the other Degrees I have writ more at large before, and in my Annotations, to which I refer the Reader; and so Baron and *Baro* have but little variation, yet this may be observed here of this Title *Baro*, that in all the Consimilar Writs in Clause Rolls or *Pawns* wherein those of that Degree are enumerated from the 15th. of *Edw. 2d.* to the 13. of *Car. 2.* neither the Titles or words *Baro*, nor of *Banerettus* are mentioned in the Writs; but either the Articles *De* or
Le

CHAP. *Le* or *La*, or the words *Dominus*, *Miles*,
Equies Auratus, or *Chevalier* are added to IX.
the Barons name, viz. *Hugo de Spencer*,
Johanni de Bello Campo, *Johanni de St. John*
de Bazing, *Roberto de Monte albo*, *Johanni*
de Sancto amando, *Willielmo de la Souch*
de mortuo mare, *Nicolao de Cantilupo le*
Quint, *Johanni de Insula de rubro monte*,
Nicolao de Sancto Mauro, *Michaeli de la Pool*,
(who was then Banneret) *Admirallo Maris*,
Johanni de Moubray Mariscallo.

Petro de malo lacu le Quint, *Hugo de le*
Spencer, *Willielmo la Zouch de mortuo mare*,
Johanni le Strange, *Johanni le Shelton*, and
many more, and some only in their Christian names and Surnames, viz. *Richardo*
Gray, *Richardo Talbot*, *Gulielmo Aincourt*,
Richardo Percey, *Johanni Fitzwater*, *Ra-*
dulpho Dacres, yet these were all Barons
or Bannerets, though the Title of *Baroni*
was not in their respective Writs.

3. Thus they continued without any other adjuncts to their names (than what I have mentioned) till the first of *Richard* the Second, and then *Willielmo de Morley*, *Willielmo de Alborough*, *Hugo de Dacres* were writ *Chevaliers*; (amongst 48. others that were intituled as before) After, in the 7th. of *Rich. the 2d.* *William Botereaux* was brought in, and with the other Three written *Chevaliers*; and in the second Parliament

CHAP. IX. liament of that year, that Title of *Chevalier* increas'd to three more, viz. *Johanni Falsty*, *Henry le Scroop*, and *Thomæ Camois Chevaliers*; so there were then seven *Chevaliers* in all, the rest of the Barons being then Forty five, were Intituled as before, and so they continued, not exceeding nine *Chevaliers*, till the third of *H. 6.* and for that Parliament there were but twenty Barons Summoned, whereof eleven were Stil'd *Chevaliers*; and in the fourth of his Reign, all the Barons but two were Stil'd *Chevaliers*; and in the sixth year, all the Barons were Stil'd *Chevaliers*; and so to the Twenty third, wherein all the Barons were written *Chevaliers* except *Thomas de Scales Miles*, (who was then Lord Scalds) and *Dominus de Molins*, so here came in *Dominus* for a Baron; and in the Twenty fifth, there were Twenty six *Chevaliers*, whereof two Stil'd *Milites*, and three *Domini*; in the Twenty seventh *Henry Percy* is Writ *Militi & Domino*, and some others, which shews that the words *Militi*, *Domino*, and *Chevalier*, having Writs to Sit in the Lords House, had one Denotation of a Baron; and in the third of *Edw. 4.* almost all the Barons are written *Domini* and *Chevaliers* jointly, yet in the end of these Consimulars, it is writ in the Record, *Milites omnes*, except
Audley

Audley and Clinton, and so in the 3d. of CHAP. IX. *Ed. 4.* all are *Chevaliers*, but in the Postscript is, *Equites aurati omnes præter Dominum Scales*, by which must be understood, that all the rest which were Summoned to those Parliaments, and their names not entred in those Rolls, were *Milites* or *Equites Aurati*: Except *Audley*, *Clinton*, and *Scales*, which latter in the Record of the 23d. of *Hen. 6.* before mentioned, is written *Miles*, which shews there was a distinction then between *Miles* and *Eques Auratus* (as may be seen in Mr. *Seldens* Titles of Honour) and so in the 7th. and 12. 22. and 23d. of *Ed. 4.* all *Chevaliers*, but two *Milites*, which do argue some distinction, though all intended to signifie a *Baron*.

Then passing over other Records to the 21. of *Hen. 8.* all the Barons are stil'd *Chevaliers*; but in the 36. *Hen. 8.* the words *Domini*, and *Chevaliers* are mixt, and so they continued to the 28. of *Eliz.* and then all the Barons are writ *Chevaliers*, and so have continued to this time singly, with that Title of *Chevaliers* in all their Writs, without adding *Dominus miles*, or *Eques Auratus*.

Though the Title of *Baro* for *Baron* is not us'd in these Parliament Writs, no more is *Bannerettus* or *Banneret*; yet it is

CHAP. IX. as evident, that as *Dominus* does signifie a *Baron*, so the word *Miles* and *Chevalier* did signifie a *Knight Banneret*, and so I presume it was originally intended. For by comparing the Writ in the 8th. of *Rich. 2d.* to *William Botereaux*, with the Writ to him in the 15th. of *Rich. 2d.* where in one he is called *Chevalier*, in the other *Miles*; it may be presumed that the Titles are one and the same, the words *Chevalier* and *Miles* being so interchangeably used, and sometimes joyntly, yet either being applicable to Denote a *Baron* or *Banneret*.

8. This Identity of *Chevalier* and *Banneret*, may be evident from the Writ to the Sheriff of *Surry* (hereafter transcribed) Cited by the Learned Mr. *Selden*, where *Thomas Camois* (beforementioned) sometimes Stil'd *Chevalier*, sometimes *Miles* (for brevity omitting *Bannerettus* (being then Lord *Camois* or *Baron*) and being chosen Knight of the Shire for that County to serve in Parliament in the 8th. of *Rich. 2.* the Sheriff was commanded by this Writ, to make an Election of another Knight for that County, because his place was in the *Lords-House* as a *Banneret*; which Writ he sets down in these following words.

The

The Writ to the Sheriff of Surry 8. Rich. the 2d. concerning Thomas Camois Banneret, his being Elected Knight of the Shire.

R Ex Vic' Surr' Salutem Quia ut accepimus tu Thomam Camois *Chevalier* qui *Bannerettus* est sicut quam plures Antecessorum suorum extiterint ad essendum unum militem venientium ad proximum Parliamentum nostrum pro Comitatus predicti de assensu ejusdem Comitatus Elegisti Nos advertentes quod hujusmodi Banneretti ante hæc tempora in militis Comitatus ratione alicujus Parliamenti eligi minime consueverunt ipsum de Officio Militis ad dictum Parliamentum pro Communitate Comitatus predicti ventur' Exonerari volumus Et Ideo tibi precipimus quod quendam alium militem idoneum & discretum gladio cinctum loco ipsius Thomæ eligi & eum ad diem & Locum Parliamenti predicti venire facias cum plena & sufficien' potestate ad consentiend' hijs quæ in Parlamento predicto sient juxta tenorem primi Brevis nostri tibi pro electione hujusmodi milit' directi & nomen ejus nobis scire facias. Teste Rege apud Westm' octavo die Octobris septimo Regis.

R. 2

Accord-

Accordingly the Parliament did sit the 3d. of March, and Thomas Camois in the Lords House: but that which Mr. Selden observes in this Writ is, that this is not to be understood of any other Banneret than a Parliament Baron, or a Banneret of that time. The expressing of hujusmodi Bannoretti shews, that it is not meant of all Bannerets, but such only as have the Title, either by inheritance, or in such a kind, that an inheritance might be of it, which is apparent also by the precedent words in the Writ; Bannerettus est sicut quam plures Antecessorum suorum extiterint, for it was never conceived, that the Title of Banneret as it denotes a Knight-Banneret was ever hereditary.

However, another Knight for Surry was Chosen; and this Thomas Camois being Lord Thomas Camois, did sit that Parliament in the Lords House, as his Ancestors had done; for I find, that in the 15th. of Ed. 2d, and 4th. of Ed. 3d. Radulphus Camois was Summon'd by Writs, and did sit in those two Parliaments; but I find none in 54 years after, viz. till the 7th. of Rich. 2d. and then that name continued in 37 successive Parliaments, viz. to the 8th. of Hen. 6. as may be seen in the Records. I shall make no further use of this Writ here, than that

that of the words, *Thomas Camois Chevalier qui est Bannerettus*, doe make it clear, that Banneret was denoted by the word *Chevalier*, and that that word *Chevalier* amongst the Lords did shew the difference between *Banneret* and an Ancient or Hereditary *Baron*. Now in respect it is evident that the Title of *Banneret* was first brought into use for some meritorious action, in bearing, preserving, or retaking the Kings *Banner* in time of War; whereupon he received the honour of Knight *Banneret*, and thereupon as an additional honour was also thought worthy to sit amongst the hereditary *Barons*; and in respect many Martial exploits were about that time done in *France* (the word *Chevalier* being borrowed from the *French Tongue*) came into so great repute, that such as did merit it, did justly Challenge it, and those of less merit did Covet it, and by meer interest and favour obtain'd it, and so by degrees (as I have formerly shewn) the word *Chevalier* upon the account of merit or favour, did swallow up the other Titles; and in process of time, and favour of Kings, it grew to be fixt and hereditary, which was intended at first but Titulary and Temporary, which hath been the fate of most of our Titles of Honour.

CHAP. X. Thus having dispatcht the *Brevia Clausa*, or Close Writs of Summons, to the Lords Spiritual and Temporal before the Parliament is sitting (for these are different from the Writs which are sent out whilst a Parliament is sitting, as will be shewn.) I shall proceed to the *Brevia aperta* or open Writs, commonly called Patents, by which (such as are Created) are enabled to sit there; yet even those Lords, which by their Creations are so priviledg'd, have also Close Writs of Summons sent them *pro forma*, lest they should fail of their duties for want of intimation, and the Writ is and hath been anciently Clos'd, least (as I conceive) the Writ should contain such private matter, or causes of Summons as are not fit to be known by the conveyor of them to their Lordships.

CHAP. X.

Of Patents of Creation Impowring the Lords Patentees to sit in Parliament.

Sect. I. HAVING shewn the Form of the Close Writs of Summons, for such as are to sit in the Lords House, either *Ratione sanguinis regalis*, or *Ratione tenuræ*, or *Ratione Nobilitatis & Honoris*, I am now
to

to shew how some of these sit there *Ratione Creationis* (not Exclusive of the others) CHAP. X. *viz.* by vertue of their Open Writs or Patents of Creation; for though Close Writs of Summoning to a Parliament were thought sufficient to Nobilitate the persons and their Heirs, who had the benefit of them; yet since Tenures and Prescriptions, and Writs only, were not found so safe and convenient, the way of Creation by Patent hath much increased.

2. These Lords Patentees having Writs of Summons, as Memoirs of their Duty to the publick, their Patents do not only intitle them to sit in Parliament, but direct them where they shall sit, which their Writs of Summons do not expresse; for the Writs do only appoint a place, and time where and when to meet, but not their distinct places where to sit, both in respect to their own, and to the other degrees of Nobility.

3. These are called Patents of Creation, signifying something which was not before; now it is evident by what I have shewn, that there were persons called *Dukes, Marquesses, Earls, Viscounts, and Barons*, both in Foreign parts, and in this Kingdom, long before those Degrees were Erected by Patent; but till then (as *Mr. Selden* saith) they were to be esteemed

R 4 rather

CHAP. rather Official than Nobilitated Dignities,
X. and therefore it must be understood that
the Form of making them *Earls, Dukes,*
&c. by these Letters Patents, were not
in use here in *England*, till *Dukes, Mar-*
quesses, Earls, &c. did accept of this in-
strument or Form; and thereupon call'd
Dukes, Earls, &c. by Creation.

4. I find these Patents to be of three sorts.
First, of Titles Confirm'd (*viz.* such as
were before their Patents.) Secondly, of
Titles Reviv'd (*viz.* which were before,
but were extinct for want of Issue, or
Escheated to the Crown for Treason, &c.
(which often happened in the Barons-wars,
and at other times) Thirdly, Titles Created
or given where none was before. As to
the first, *viz.* of such Titles as were be-
fore their Patents of Creation, it appears
that *Awbry de Vere* (as Mr. *Cambden*
saith) had the choice of four Earldoms,
viz. Dorset, Wilts, Berks, and Oxford-
shire, of which four Shires (there having
been Official Earls both in the *Saxons*,
and afterwards in the *Normans* time) he
chose *Oxfordshire*, which being granted
to him by *Henry the 1st.* it was confirm'd
to him by Patent of Creation by *Hen. the*
2d. according to this following Patent.

The

The Patent to *Awbry de Vere, Confirm-*
ing him Earl of Oxford.

HENRICUS Secundus Rex Angliæ & 5. H. 2.
Dux Normaniæ & Aquitaniæ &
Comes Andigaviæ Archiepiscopis Episco-
pis Abbatibus Comitibus Baronibus Justi-
carijs Vicecomitibus Ministris & omni-
bus Fidelibus suis totius Angliæ Franciæ
& Angliæ Salutem. Sciatis me dedisse &
concessisse Comiti Comitatus *Drenford-*
scire ut sit inde Comes quare volo & Fir-
miter præcipio quop ipse & hæredes sui
habeant inde Comitatum suum ita libere
& quiete & honorifice sicut aliquis Comi-
tum Angliæ liberius & quietius & hono-
rificentius habet Test. Attested by the
Chancellor, three Earls, and ten others
of Quality.

Mr. *Selden* observes, that this Patent
was rather a Confirmation than a Crea- Selden 1.
H. p. 539.
tion; and further saith, that in a *Chancery-*
style, a Creation and Confirmation signi-
fie the same; however though the words
in the Patent are not *Confirmasse*, but only
Dedisse, and *Concessisse*, yet I conceive it
plainly appears to be a Confirmation from
the words in the Patent, *viz. habeant inde*
Comitatum suum, which implies that that
County

CHAP. County was his before this Confirmatory
X. Creation.

The second sort of Creation Patents, are the reviving of a Title which had been before, but lay Dorment as in this following Patent, of Creating *Edward* call'd *Edward* the Black-Prince, Son to *Edward* the 3d. to be Duke of *Cornwal*, there being Official Dukes of *Cornwal* before.

The Preamble to the Creation of Edward, Son to Edward the 3d. Duke of Cornwall.

Sect. 6. **E**Dwardus Dei gratia, &c. inter cætera
11. Ed. 3. Regni insignia illud arbitramur fore potissimum ut ipsum ordinum dignitatum & Officiorum distributione, congrue vallatum sanis fulciatur consilijs & robustorum potentijs teneatur, plurimis itaq; gradibus hæreditarijs in regno nostro cum per descensum hæredetatum secundum legem regni ejusdem ad cohæredes & participes tunc deficiente exitu, & alijs eventibus varijs ad manus regias devolutis passum est a diu in nominibus honoribus & graduum dignitate defectum multiplicem dictum regnum Nos igitur ea per quæ regnum nostrum decorari idemq; regnum ac Sancta ejusdem Ecclesiæ aliæ etiam terræ nostro subjectæ Dominio contra hostium & ad-

versa-

versariorum conatus securius & decentius CHAP.
defensari paxq; nostra inter nostros ubiq; X.

subditos conservari illæsa poterint meditatione sollicita intuentes ac loca ejusdem Regni insignia pristinis insigniri honoribus Cupientes nostræ considerationes intuitus ad personam Dilecti & Fidelis nostri Edwardi Comitum Cestriæ filij nostri primogeniti intimius convertentes volentesq; personam ejusdem honorare eidem filio nostro nomen & honorem Ducis Cornubiæ de Communi assensu & Consilio Prælatorum Comitum Baronum & aliorum de Consilio nostro in presenti Parlamento nostro apud Westmonasterium die Lunæ proxime post festum Sancti Matthæi Apostoli proxime preterit' convocato existentium dedimus ipsumq; in Ducem Cornubiæ prefecimus & Gladio cinximus sicut decet &c. Dedimus itaq; &c. Castra &c. juxta generis sui nobilitatem valeat continere & onera in hac parte incumbencia facilius supportare, viz. ut faciat Vicecomites predicti Comitatus.

7. It is affirm'd by our History, that there were Dukes of *Cornwal* (as I have shewn in the *Brittish* times) but afterwards intituled Earls, but both the Titles of Dukes, and Earls of that County being long extinct, *William* the 1st. rais'd it to an Earl.

CHAP. Earldom, and after *Edward* the 3^d. Erect-
 X. ed it to a Dukedom, and thereupon had a
 preamble, and this was done also by assent
 and consent of the Prelates, Earls, Barons,
 and others of his Council (which I pre-
 sume doth include the Commons) but it
 may be observed, that here was no other
 Investiture mention'd than *Gladio cinximus*,
 which is the same Ceremony of a Knight
 Batchelor; but many great Royalties and
 priviledges were herein granted, as may
 be seen in the Patent at large.

That to the Earl of *Oxford* needed no
 preamble, or Consent of the Earls and
 Commons, or mention of the Form of
 Investitures, or of particulars of Lands and
 Castles granted, being only a Confirma-
 tion of that honour which he enjoyed; but
 it was convenient, that this to the Duke
 of *Cornwal* should have a preamble, in
 respect the Title had lain dead for a long
 time in the Crown, as may be Collected
 from the words, *ad manus Regias devo-*
latis.

The like Patent of Reviver, was of the
 Barony of *Abergaveny* by *Richard* the 2^d.
 to *John de Beauchamp* second Son to the
 Earl of *Warwick*, from whom by Mar-
 riage of the Daughter and Heir, it came
 into the Family of the *Nevils*, where it
 yet continues; but this was a Barony long
 before,

before, for in the time of King *William* CHAP.
 the 2^d. call'd *Rufus*, *Hamelius de Balon* X
 was Baron of *Abergaveny*, and from him
 it descended to *Brian de Insula*, then to
 the *Bruce's*, *Cante Lupes*, and *Hastings*,
 in which last name it continued many de-
 scents, till *John Hastings* then Earl of
Pembroke, and Baron of *Abergaveny* died
 without Issue; and then as I said, *Richard*
 the 2^d. Conferr'd it *John Beauchamp* ac-
 cording to this following Patent.

6. *Richardus Secundus, &c. Sciatis quod* 11. R. 2.
pro bonis & gratuitis servitijs quæ Dilectus
& Fidelis Miles noster Johannes de Beau-
champ de Holt Senescallus Hospitij nostri
nobis impendit ac loco per ipsum tempore
creationis nostræ huc usq; impenso & quem
pro Nobis tenere poterit in futurum in nostris
Consiliis & Parliamentis nec non pro nobili
& Fideli genere unde descendit ac pro suis
magnificis sensu & Circumspectione ipsum Jo-
hannem in unum Parium ac Baronum Regni
Angliæ nostri præfecimus volentes quod idem
Johannes & hæredes masculi de corpore suo
Exeuntes statum Baronis obtineant ac Do-
mini de Beauchamp & Barones de Kider-
minster nuncupentur in cuius rei, &c. Teste,
&c.

10. Thus having given instances of Con-
 firming,

CHAP. firming, and Reviving of Titles by Pa-
X. tents of Creation, I shall speak of the third
sort of Creating, or Erecting of new Ti-
tles by Patent of Creation also.

The third sort of Creation Patents, is
more properly call'd a Creation than the
other; and for this, I instance the Patent
to the Prince of *Wales*. 11. *Ed.* the 3d.
for though *Wales* had been an ancient
Principality in it self, and their Natives
were Princes thereof; and this being the
first time that that Title was transferr'd to
an *English* man, and a Patent granted by
an *English* King which had never been done
before; it might properly be call'd a Crea-
tion, the Preamble of the Patent is Tran-
scrib'd *Verbatim*; but the *Habendum* (be-
ing very long) I have only given a short
abstract of it.

*The Preamble to the Creation of Edward
Prince of Wales.*

Sect. 11. **R**EX &c. Archiepiscopis &c. salutem
17. *Ed.* 3. de serenitate regalis præminentie
velut ex Sole radii sic inferiores prodeunt
principatus ut regie claritatis integritas
de Luce Lucem proferens Ex Lucis distri-
butione minoratæ Lucis non sentiat detri-
menta Immo tanto magis Regale Sceptum
extollitur & Solium Regium sublimatur
quanto

quanto tribunali suo plures subsunt Proce- CHAP.
res eminentie clarioris Hæc autem con- X.
sideratio condigna Nos qui nominis & ho-
noris Edwardi ducis Cornubiæ & Comitum
Cestriæ primogeniti nostri charissimi in-
crementum appetimus (in quo potius
Nos ipsos conspiciamus honorari &
domum nostram Regiam & subditum
nobis populum nostrum speramus per
Dei gratiam sumpta de gloriosis suis
auspiciis conjectura honorifice roborari)
allicit & inducit ut ipsum qui reputatione
juris censetur eadem persona nobiscum dig-
no proveniamus honore & facunda gratia
persequamur de Consilio itaq; & Consen-
su Prælatorum Comitum Baronum &
Communitatum Regni nostri Angliæ in Ge-
nerali Parlamento nostro apud Westmo-
nasterium die Lunæ in Quindena Pasche
proxime præterita Convocato ipsum Edwar-
dum Principem Walliæ fecimus & creavimus
& dictum principatum sibi dedimus & con-
cessimus & per Chartam nostram confir-
mavimus ac ipsum de dicto principatu ut
ibidem præficiendo præsideat & præside-
do dictas partes derigat & defendat per
sertum in Capite & annulum in digito
aureum ac virgam argenteam investivimus
juxta morem, habend' & tenend' de nobis
sibi & hæredibus suis Regibus Angliæ in
perpetuum cum omnibus Dominijs & ter-
ris

CHAP. ris nostris Northwalliæ Westwalliæ &
X. Southwalliæ, &c.

The like was in *Richard* the 2^{ds}. time, when the Earldom or County of *Lancashire* was Erected into a Dutchy Palatine, which was not so before, the Preamble of which Patent, I shall here insert; aswell to shew the Latin Style of the Age, as for other reasons, which I shall hereafter have occasion to mention.

The Patent of Creation to John Duke of Lancaster. Anno 1389.

Sect. 12. **I**nter Gloriosæ Reipublicæ curas & sollicitudines varias. Regiis humeris incumbentes firmat potissime Regale folium effluens à justitia condigna premiatio meritorum ibinamque continue virtus crescit & colitur ubi a debito sibi præmio non frustratur. Cum igitur honor sit virtutis præmium constat quod virtuosus & strenuis ex Regali justitia debentur fasces honorum & præmia dignitatum quæ utiq; si dignis conferantur non debent simpliciter æstimari donum seu exhibitio favorum sed potius debita compensatio meritorum Quid enim in retroactis sæculis & felicium Principum temporibus Rempublicam amplius provexisse comperimusquam quod

quod pie regnantes virtuosos & strenuos sub se habebant oneris ijs injuncti participes, quos postmodum juxta Exigentiam meritorum honore & distributionibus dignitatum successive fecerunt ex debito Regalis Justitiæ gloriosos. Quia quod soli non poterant, provida virtuosorum hujusmodi provisione supplebant.

Hijis igitur considerationibus inducti ad te præcharissimum patrum nostrum mentis nostræ aciem dirigentes actusq; tuos virtuosos & præclaria merita quibus te virtutum Dominus insignivit in profunda discussionis liberamine ponderantes, de assensu Prelatorum Ducum Magnatum & aliorum Procerum & Communitatis Regni nostri Angliæ in instanti Parlamento nostro apud Westmonasterium convocato existentium Te predilectissimum patrum nostrum in Ducem Aquitaniæ cum titulo stilo & nomine & honore eidem debitis præfecimus ac inde præsentialiter per appositionem Capæ tuo Capiti ac traditionem virgæ aureæ investimus in præmium eximie virtutis tuæ & attinentiæ predictarum toto vitæ tuæ possidendum, &c. Et, &c. Donamus tibi Ducatum, &c. tenendum de nobis ut de Rege Franciæ, &c. ad totum vitæ tuæ.

S

Here

CHAP. X. Here was a great Merit express'd, and magnificently rewarded, yet not to his Heirs, but to himself only for life, which he took as a sufficient Recompence for his Services; and this was *Assensu & consensu Prælatorum Ducum Magnat'. Et aliorum Procerum & Communitatis Regni nostri Angliæ.* And I observe, That when the Patents were only for Confirmation, the Assent and Consent of the Parliament was not inserted, but where they were to Revive, or meerly to Create, then the Assent and Consent was express'd.

The like Patent of meer Creation was that of the Ninth of *Richard the Second*, when *Robert de Vere*, then *Earl of Oxford*, was Created *Marquess of Dublin*; (which, saith *Mr. Selden*, was in him an *English Title*:) however, it was the first that any was Created of that Title here in *England*.

And also the like Patent of meer Creation was that of 18 *H. 6.* whereby *John de Beaumont* was created *Viscount de Beaumont*, the Title of *Viscount* being before an Official Dignity, but never till this Creation nobilitated. All which may be more fully seen in the *Rolls Chappel*, or *Patent Office*.

13. As I have shewn three sorts of Patents of Creation, so, for the clearing of some

CHAP. X. some subsequent matters, I must shew, That these Patents usually consisted of four parts, (yet subject to variations) First, *The King's Stile and Preamble.* Secondly, *Of Investitures.* Thirdly, *Of Places in Parliament.* Fourthly, *Grants of Lands, Annuities, &c.*

As to the Preambles upon New Creations or Revivals, they were usually long, expressing the Merits of the Person, but commonly they were couch'd in few words; and those, *viz.* in generals, *Pro bono & laudabili servitio quod dilectus & fidelis noster A. B. nobis nuper impendit, &c.* particularly *Pro rebelles nostros debellando*, (according to the particular Services) and in others, *Pro gratia nostra speciali & certa scientia & mero motu.*

As for the Second I shall have occasion to speak of them in the Chapter of *Investitures.*

For the Fourth, concerning *Grants, Annuities, &c.* I shall have little use of them.

But for the Third, concerning *The distinct Places of the Degrees of Nobles*, I can find nothing in ancient Patents, but generals, *viz.* That his place should be in *loco quem teneri poterit in futurum in nostris Consilijs & Parliamentis*; and so they were generally set down (except in such as I shall

CHAP. shall mention) till *Edward* the Sixth's
IX. time (which was soon after that the Act
of 31 *H. 8.* concerning *Precedencies* was
made) and then the whole frame of the
Patents for all the Degrees, from the *Ha-*
bend' or *Sciatis*, were settled in this follow-
ing Method, and have ever since so conti-
nued with very little alterations. I begin
first with *Dukes*.

*The Sciatis to a Duke's Patent of Creation,
and his Place in Parliament.*

14. **S**CIATIS pro consideratione prædicta de
certa scientia & mero motu nostris Præfa-
tum A. in Ducem C. nec non ad statum,
gradum, stylum, titulum, dignitatem, no-
men & honorem Ducis C. ereximus, præfe-
cimus, insignivimus, constituimus & crea-
vimus ipsumq; A. in Ducem C. nec non ad
statum, gradum, stylum, titulum, digni-
tatem, nomen & honorem Ducis C. tenore
præsentium erigimus præficimus insigni-
mus constituimus & creavimus per præ-
sentes eidemq; A. nomen, stylum, titulum,
statum, gradum, dignitatem & honorem
Ducis C. imposuimus dedimus & præbui-
mus ac per præsentes imponimus damus &
præbemus ac ipsum A. hujusmodi nomine
stilo, titulo, statu, gradu, dignitate &
hono-

honore Ducis (per Gladij Cincturum, CHAP.
Capæ & Circuli aurei impositionem in X.
Capite & traditionem aureæ virgæ) insigni-
mus investimus & realiter nobilitamus
per præsentes. Habend' & tenend' nomen
stylum, titulum, statum, gradum, digni-
tatem & honorem Ducis C. prædict' cum
omnibus singulis præ eminentijs, honori-
bus, cæterisq; hujusmodi nomini, stilo, ti-
tulo, statui, gradui, dignitati & honori
Ducis pertinentibus sive spectantibus præ-
fat' A. & heredibus masculis de Corpore
suo exeuntibus in perpetuum Volentes &
per presentes concedentes pro nobis here-
dibus & successoribus nostris quod prædi-
ctus A. & heredes sui Masculi prædicti no-
men, stylum, titulum, statum, gradum,
dignitatem & honorem prædict' successive
gerant & habeant & eorum quilibet gerat
& habeat & per nomen Ducis C. successive
vocitenter & nuncupenter & eorum quili-
bet vocitetur & nuncupetur, & quod idem
A. & heredes Masculi sui prædicti, successive
ut Duces C. teneantur tractentur & repu-
tentur, et eorum quilibet teneatur tra-
ctetur et reputetur habeantq; teneant et
possideant, &c. (*Then as to Parliaments,*)
Et quod dictus A. et heredes sui Masculi
prædicti et eorum quilibet habeat teneat et
possideat Sedem locum et vocem in Par-
liamentis Comitij et Consilij nostris he-
redum

CHAP. X. redum et successor' nostror' infra regnum nostrum Angliæ ut Dux C. Nec non dictus A. et heredes sui Masculi predicti gaudeant & utantur et eorum quilibet gaudeat et utatur per nomen Ducis C. omnibus et singulis juribus privilegijs præminentijs et immunitatibus statui Ducis in omnibus rite et de jure pertinentibus quibus Duces hujus Regni Angl' antea hæc tempor' melius, honorificentius et quietius usu sunt et gavisi seu in presenti gaudeant et utuntur.

There is an addition of most of the latter Patents concerning *Annuities* granted, which I shall speak of so soon as I have recited so much as concern the Places appointed to the several Degrees of Nobles to sit in Parliament suitable to what is inserted in the Dukes Patent at the Figure B.

Of the Marquess his Place in Parliament by his Patent.

15. **A**fter the King's Title and Preamble, in the *Sciatis*, these words are in the Marquess his Patent: viz. *Prefat' R. in Marchionem D. creavimus, &c. per Gladij cincturam & circuli aurei quo Capiti impositionem investivimus, &c. Habendum;*

bendum, &c. honorem Marchionis D. &c. CHAP. X. prefat' R. & heredibus masculis de corpore suo exeuntibus, &c. (Then as to Parliaments,) Et quod dictus R. & heredes sui masculi predicti & eorum quilibet habeat teneat & possideat sedem locum & vocem in Parliamentis Comitij & Consilij nostris heredum & successorum nostrorum infra Regnum nostrum Angliæ, inter Pares Parliament' in gradu celsiori videl't inter Duces & Comites ut Marchio.

Of the Earls Place in Parliament by his Patent.

16. **A**fter the Kings Title and the Preamble in the *Sciatis*, these words are also in the Earls Patents, viz. *Prefat' N. in Comitem A. &c. creavimus per gladij cincturam & Capæ honoris & Circuli aurei impositionem investimus Habendum, &c. honorem Comitij A. &c. prefat' N. & heredibus masculis de Corpore suo exeuntibus, &c. (Then as to Parliaments,) Et quod dictus N. & heredes sui Masculi predicti & eorum quilibet habeat teneat & possideat sedem locum & vocem in Parliamentis & Consilij nostris heredum & successorum nostrorum infra regnum nostrum Angl' inter alios Comites ut Comes A.*

Note, It is not here said *inter Marchiones* & *Vicecomites*, because they were Degrees erected after the Earls.

*Of the Viscounts Place in Parliament
by his Patent.*

17. **A**fter the Kings Title and the Preamble, and the *Sciatis*, these words are also in the Viscounts Patents, viz. *Prefat' A. in Vicecomitem N. &c. creavimus ac ipsum insignijs Vicecomitis investimus, &c. Habendum, &c. honorem Vicecomitis N. &c. Et quod idem A. & heredes sui Masculi gerant titulum Vicecomitis N. &c. Et heredes sui Masculi predicti.* (Then as to Parliaments,) *Et eorum quilibet habeat teneat & possideat successive sedem locum & vocem in Parliamentis & publicis Comitijs (in the first Patent to Beaumont it is Congregationibus nostris) heredum & successorum nostrorum infra Regnum nostrum Angliæ inter alios Vicecomites & ante omnes Barones ut Vicecomes.*

of

*Of the Barons Place in Parliament
by his Patent.*

18. **A**fter the Kings Title and the Preamble in the *Sciatis*, these words are in the Barons Patent, *Prefat' A. B. &c. ad honorem Baronis B. &c. creavimus ipsum; A. B. Baronem B. Creavimus, &c.* (no mention of Investitures) *Habendum, &c. honorem A. B. heredibus suis Masculis, &c. per nomen Baronis B. de C. & heredes sui Masculi predicti.* (Then as to Parliaments) *Et eorum quilibet habeat teneat & possideat sedem locum & vocem in Parliamentis publicis Comitijs & Concilijs nostris heredum & successorum nostrorum infra Regnum nostrum Angliæ inter alios Barones ut Barones Parliamentorum publicorum Comitiorum & Consiliorum.*

Note, That the word *Chevalier* is in his Writ, but not in his Patent, nor the word *Dominus*, which was us'd in ancient Patents, is also disus'd in the latter Patents.

of

Of the Conciseness of ancient Patents.

19. **H**ere I must observe how wanton the Penmen of these Patents have been in latter days, by multiplying words in them, which former ages thought superfluous, and even the Sages of the Law, who are the most knowing in what is sufficient, have anciently and do still reject them (as may be seen in the Thirteenth Chapter) and yet the Jurisdiction and Priviledges which are granted to those Sages are little inferiour to what is granted in these, whereas those Patents do not contain (besides the names from the *Sciatis* to the *Teste*) above twelve words, and these by the redundancy of Sentences, at least one Thousand two Hundred words.

Of Creation-Money.

20. **I**N the recital of the *Sciatis* (in Sect. 8.) I did omit the extravagant flourishes, which are us'd in many of these Patents about *Creation-Money* and *Annuities* given to the Patentees.

Con-

Concerning an Annuity of twenty Marks granted in the Patent of Creation.

21. **I**mmediately after the words *gaudent* and *utuntur* (in the *Sciatis* at large, a little before mention'd) these words follow: *viz.*

Et quoniam aucta status & dignitatis celsitudine necessario crescunt sumptus & accedunt onera grandiora: ut predictus A. & heredes masculi sui predicti melius decentius & honorificentius statum honorem & dignitatem predictam Vicecomiti N. ac Onera ipsi A. & heredibus suis masculis predictis incumbentia manutenere & supportare valeat, Ideo de uberiori gratia nostra dedimus & concessimus eidem A. & heredibus masculis de Corpore exeuntibus feodum sive annualem redditum tresdecim librarum sex solidorum & octo denariorum legalis monet' Angliæ. Habendum & percipiendum annuatim dictum feodum sive annualem redditum tresdecim librarum sex solidorum & octo denariorum eidem A. & heredibus suis masculis de Corpore Exeuntibus de exitibus profuitis, et reventionibus magnæ & parvæ customæ et subsidijs nostris nobis concessis sive debitis seu imposterum nobis heredibus seu successoribus nostris concedendis sive debendis

CHAP. *bendis provenientibus crescentibus sive emergentibus infra portum Civitatis nostræ Londini per manus Custumariorum sive Collectorum nostrorum heredum et successorum nostrorum custumarum et subsidiorum nostrorum heredum et successorum nostrorum ibidem pro tempore existentium ad festum Pasche et Sancti Michaelis Archangeli per equales portiones volumus, &c. absq; sine hanaperio, &c. et per Expressamentio, &c.* and so concludes, *in cujus, &c. Teste, &c.* (too tedious to recite) making above one Hundred words more: and almost the like is to an *Earl* for 20 *l. per annum*, so as the Money given will scarce pay for the words written, or but little left to support such a Dignity, unless the meer expression of the uberious munificence of the Donor be sufficient.

Sure it was less chargeable, and as effectual when the words of the whole Patent of Creating the *Earl of Essex*, *tempore H. 2.* and others in other Kings Reigns was only thus: *viz.*

Do & concedo G. de M. pro servitio suo, & heredibus suis post eum hereditabiliter ut sit Comes de Essexia, & habeat tertium denariorum Vicecomitatus de placitis, sicut Comes habere debet in Comitatu suo. So here was both the Honor, the Service, and the Reward mention'd in less then thirty words.

There

There is nothing alledged for the length of these Patents, but that the latter Ages (as 'tis said) are more cautious than the former, and that *abundans cantela* (say we) *non nocet*, which occasions an abundance of words more than anciently were in use.

As to the smalness of the *Creation-Money*, those who have taken pains in Writing about raising of the price of Money, both *Gold* and *Silver*, since *Edward* the Third's time, tell us, That there are three ways of raising it; First, By *encreasing the Value* of it, that is by giving more parts to it than originally it had, as by ordaining an *Angel of Gold* to be valued at 2 *11 s.* which was Coin'd for 10 *s.* or a *Shilling*, to be valued at 14 *d.* The Second, By *diminishing the Matter*, but leaving the same Name and Value to the Money which it had before, as when *Angels* or *Shillings* are Coin'd by the same Name and Value as before, but diminished some Grains in the weight; or if new Names be given to them, and the same Value retain'd, but the weight diminished, for in this case there being really less *Gold* or *Silver* in weight in the price than was before, and the value remaining the same, this *Silver* and *Gold* which remains hath an high price set upon it. The Third is, When the Value

CHAP. X. Money, and the Weight the same, the fineness is abated by putting more Allay to it, so as really then there is less Gold or Silver in fineness (for it is supply'd by Copper (which is usually the Allay to either) whereby the Weight is made the same as before, but the Fineness so much less. They further tell us, That the Causes of these Allays, are first the Gain which the *States* make by it, the better to supply themselves in their necessities for Money; the other Cause is an Art which all States do frequently use (as it were) to rob one another of their Money, *by vying* one upon another, who shall raise their Money highest; and this occasions the raise and fall of Exchanges of Money among our Merchants, which is a Mystery worth the knowing, by every one that serves in Parliament, thereby to prevent Injuries, and to maintain the Honour and Profit of our Kingdom.

But whatever uncertainties are in the raise or fall of Money, this is certain, That 20 *l. per Annum*, in those days, did go as far (if not farther) in managing Mens occasions (where Money was to be us'd) as 200 *l. per Annum* now; and one great Reason was, Because in almost all matters of Wars or Peace, the Tenants were

CHAP. X. were obliged by their Tenures, to supply their Lords, especially in Provisions for Hospitality and Labour, without Wages, or very little, so as a little Money was lookt on as a great Reward, as may be seen in the Tenure of the Lord of the Mannor of *Carlton* in *Norfolk*, who is oblig'd every year, with himself and his Servants, to present to the King a certain number of Herrings from the City of *Norwich*, (with which the Town of *Tarmouth* are oblig'd by their Patent to supply that City for that purpose) and after three days stay, upon delivery of the Herrings to the King, the Lord of *Carlton* is to be presented by the Master of the Green-Cloth with a Groat, to buy him a pair of Gloves, as a full Recompence of his Trouble, and this continues to this day.

So as if we look upon the gift of 20 *Mark*, or 20 *l.* according to the present Adequation of Money, to the rates of other things, it may seem a Sum derogatory to the Honour of the King that gives it, as to him that receives it, and therefore it must be considered as the Groat, a Gift of Antiquity, Noble and Liberal in its first Intention; but had the large *Encomium* to it (before recited) been as ancient as the Gift, I should not at this time have taken notice of its exuberancy. However (in pur-

CHAP. X. purfuance of my Design) these Patents of Creations do intitle them where to fit in the Lords House, &c.

Thus having done with the Patents which concern the Lords Spiritual and Temporal, I intended to have writ something here concerning the Antiquity and present Use of Seals and Labels to Patents and Writs, and of various Supercriptions to the Lords and Commons, &c. as also of Wax, Parchment, &c. (as necessary Utensils for carrying on the Constitution of a Parliament) but I shall reserve the Discourse of them till I have past through the Parliament-Writs, as well concerning the House of Lords as House of Commons, and Convocation-Houses, and so now proceed to the General Titles given to the Grandees of the House of Lords, viz. Nobles, Lords, and Peers.

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CHAP. XI.

Of Nobles, Lords, and Peers.

I Have past through the four first Exemplar Writs in the Pawn, concerning the Lords Spiritual and Lords Temporal, and given an account also of so much of their Patents of Creations as relate to Parliaments. But in respect these Nobles are sometimes call'd Lords, and sometimes Peers, and thereupon the very place where they sit in their High Judicatory is call'd the House of Lords or House of Peers. I think fit to hint some few Memorials before I proceed to the Fifth Exemplar of Assistant Writs.

1. It is agreed by all Inspectors of Words, that Lords and Peers are of the same signification with us, that Domini and Pares had with the old Romans, so as we and the French are equally beholding to the Latin for them: but when the word Dominus was chang'd into the word Lord, (having no more affinity of sound or Orthography than Comes and Earl) or when Pares into Proceres (of a nearer sound) may be a question, but it may be sufficiently evident, that the word Lord was the Abbreviation of

CHAP. of *Louerd*, which the *Saxons* at their first
XI. coming, about the year 448. used here
instead of *Dominus*.

2. As for the word *Peer*, we commonly use it as signifying a Defence, as *Dover-Peer* and *Tarmouth-Peer*, &c. which is from *Petra*, a *Rock*, which the *French* write *Pierre*, and we *Peer*, these Artificial Peers being made in imitation of Rocks, to defend the Land against Inundations, and it may very aptly allude to the Noble Peers in Parliament, who are the Rocks or Peers of our Safety.

3. To pass this, it is allow'd, That *Pares* in *Latin*, *Paires* in *French*, and *Peers* in our *English* Dialect, are all three words of the same sence, signifying *Parity* or *Equality*, and as the *French* had it from the *Romans*, by whom they were call'd *Pares Curiaë*, viz. *Qui ab eodem domino feudum retinent*, so we had it from the *French*, who in the year 778. when *Charles* the Great (being then King of *France*, and soon after Emperour of the *West*) did put all the Government of *France* into the hands of Twelve of the most eminent Nobles, who thereupon were call'd by the Title of the *Twelve Peers of France*, being *Pares Gubernatores Franciaë*, or in their Language *Paires d' France*, whereof six were Lords Spiritual, viz. the Archbishop
of

of *Reims*, the Bishops of *Laon* and *Langres*,
(who also were stil'd Dukes) the Bishops
of *Beauvois*, *Chalois* and *Noyon*, which
three latter were also stil'd *Comtes* or Earls,
and six were Lords Temporal, viz. the
Dukes of *Burgundy*, *Normandy*, and *Gui-
enne*, the Earls of *Flanders*, *Champaigne*,
and *Tholose*; the six Ecclesiasticks do con-
tinue to this day, but the Territories of
the other six being either united to, or
alienated from the Crown, do now con-
sist of such Princes of the Blood or Fa-
vorits (without limitation by number of
six) as the King thinks fit; but those
who are, do enjoy the Privileges of the
Original Peers constituted by *Charles* the
Great.

4. From this Constitution it is concei-
ved, we in *England*, (upon the *Normans*
coming) did make use of something of
that method, and did then also first make
use of the word *Peers*, although in truth,
as I said, both of us had it from the *Ro-
mans*; we also made use of their number
Twelve, as may be observed in the Eccle-
siastical Parliamentary Degrees, viz. first
Archbishops, secondly Bishops, thirdly
Archdeacons, fourthly Deans of Chap-
ters, fifthly Proctors of Chapters, and
sixthly Proctors of the Clergy; and six
also are of the Temporal Degrees, viz.
T 2 first

CHAP. XI. first Princes of the Blood, secondly Dukes not of the Blood, thirdly Marquesses, fourthly Earls, fifthly Viscounts, and sixthly Barons. These being so proportion'd into twelve Degrees, but not into twelve Persons, I shall pass to what others have spoken concerning the number of our Peers.

5. In respect the Peers of *France* were anciently confin'd to a certain number of six and six, some of our *English* Writers would also confine ours to a certain number, some to five and some to fifty. But herein we may trust that learned *Selden*, who saith, That *the number of Peers with us, was never confin'd to any more certainty than the Lords of the Parliament are; for* (saith he) *whereas only the number of five Peers are mentioned in some Records, that can be no Rule of certainty; because at this day the number Five doth legally express Seven; (as it doth in the Parliament Writ to the Warden of the Cingqueports or five Ports; There being in truth* (saith he) *Seven of them, and so consequently returned; whereas there are eight Ports called Cingqueports, and so returned; (as will be shewn in the second Part) but however the mistake be in that Grave Author, yet with submission to his great Learning, I conceive this might have been better re-*
concil'd;

CHAP. XI. concil'd: for the old Writers who mention- ed five, might intend the five Degrees of Nobility under the Princes of the Blood, viz. Dukes, Marquesses, Earls, Viscounts and Barons, which makes the compleat Temporal Degrees in Parliaments.

And what others write of Fifty, that number without doubt did relate to the number of which those five Degrees did in those days consist; which were now increast to Eighty eight, (as may be seen in this *Pawn*) besides those of the Blood Royal, and the Lords Spiritual, and Assistants, and have varied in number almost in every Kings Reign. But I rather believe, that there was some mistake in making use of this number Five, by applying it *Personally* and not *Virtually*; for anciently, and even to this day, the number five, that is five Lords, do with that number Constitute the House of Lords for the dispatch of lesser Affairs, till a greater number come, fit for greater Affairs; and so the number of fourty Members, whether Knights, Citizens, or Burgesses, or some of either, do Constitute an House of Commons, yet these also do not proceed to weightier matters, till they be supplied with a greater number; so as the number five may be well thought to have its relation to the House of Lords, and the number

T 3

CHAP. ber of fifty to the House of Commons.

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6. But not to insist further about the definite number of Lords or Peers, or about the derivation of the words Lords and Peers; I shall give a touch of the words *Prælati*, *Magnates* and *Proceres* us'd in the *Latin* Writs and Patents; and herein, if we consider the first Institution of this House, it did and still doth consist of Lords Spiritual and Lords Temporal, (diversified into several Degrees) as Archbishops, Dukes, &c. yet the Lords Spiritual were known only by the Title *Archiepiscopi* & *Episcopi*, *i. e.* Archbishops and Bishops; and the Temporal only by the Titles of *Comites* and *Barones*, *i. e.* Earls and Barons; in general terms the Lords Spiritual were called *Prælati*, *i. e.* Prelates; (in relation to matters which concern the Soul, which hath preference or prelation to that of the Body) and the Lords Temporal were called in general *Magnates* & *Proceres*, *i. e.* Lords and Peers, (intimating Persons of the greatest Power and Domination) and being the chiefest Peers and Supports (as I said) of the King and Kingdom.

7. But in *Henry* the thirds time, certain Persons called Abbots and Priors, (who were the Fathers, Heads and chief Governors of Monasteries, or of such Houses as were

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were possess'd by Monks and Canons living in those Houses, with an intent or pretence of weaning themselves from the World, and disposing their minds to a contemplative life) and these being of a mixt nature, partly Regular and partly Secular, and (in respect of their great access of Territories given by the charity of others to support them) Baronial did step in between the Lords Spiritual and the Lords Temporal, and so were called *Prælati* with the Bishops, and *Magnates* & *Proceres* with the Lords Temporal. But *Hen.* the Eighth (as I have shewn) did dissolve them, so that the Bishops have now the single Title of *Prælati*; and the Temporal Lords, of *Magnates* & *Proceres*, for we see in the Summoning of this Parliament, (when Bishops were excluded, the words *Cum Prælati* was left out, but being restored, then they were equally Summon'd to sit, *inter Prælatos*, *Magnates* & *Proceres*, and the preposition *Inter*, is properly inserted; for however their sitting is, yet the Bishops are called over, between Viscounts and Barons.

8. Now as Abbots and Priors were thus interposed in *Henry* the Thirds time; so in the time of *Edw.* the Third (as I have shewn) Dukes began, and as they increased, did step in before Earls and

CHAP. XI. Barons; and in *Rich.* the Seconds time also stept in between Dukes and Earls; and in *Hen.* the 6^{ths.} time Viscounts began, and as they increast did step in between Earls and Barons; so as Originally, according to the dates of their Admissions, these Lords Spiritual and Temporal were all Peers, *i. e. Pares, pari gradu*, the Bishops were *Pares inter seipsos pari gradu Episcopali*, (the Abbots, &c. in their time, were *Pares inter seipsos*, and both of those Degrees were also *Pares* upon a Baronial account; (so the Dukes and Marquesses being Earls or Barons before they were created Dukes or Marquesses, in respect of their Earldoms or Baronies were Peers to the Earls and Barons; and the Viscounts also, (most of them being Barons before they were created Viscounts) in respect of their Baronies were Peers also to the Barons; so also upon a Baronial account they were *Pares pari gradu Baroniali*: Till Patents of Creation did more exactly distinguish them, without relation to Baronies; so as now to speak properly, each Degree are *Pares* or *Prees* to their distinct Degrees.

9. I must here again make use of my former observation, *viz.* That in the Writs to Dukes they were Summon'd to be present

CHAP. XI. sent in Parliament, *Cum Magnatibus & Proceribus*; and so are the Marquesses, Earls, Viscounts and Barons, yet the Patents to the Dukes do place them *inter Proceres & Magnates*, putting *Proceres* or *Peers* before *Magnates* or Lords; and in the Patents to Marquesses, they are placed *inter alios Marchiones*; and the Earls *inter alios Comites*; and the Viscounts *inter alios Vicecomites*; and the Barons *inter alios Barones*. But none of the Lords Patentees (except the Dukes in relation to their places) do take any notice of the position of the words *inter Proceres & Magnates*; for the Earls and Barons Patents have reference only to their own Degrees and not to the three other Degrees; so as *Proceres* or *Peers* is applied only to the Dukes in their Patents of Creation.

10. This is all that I can satisfy myself in concerning the use of the words Lords and Peers, *Prælati, Magnates, & Proceres*; and that this may be the more satisfactory to others, I shall recite the words of the learned *Selden*, (in his Titles of Honour) whose lasting Credit is beyond exception; (saith he,) *Though there be a distinction of Degrees in our Nobility, yet in all publick actions they are Peers or Equals; (as in the Tryals of Noblemen, &c. in which the Spiritual Lords never did*
or

CHAP. XI. *or do concern themselves Personally, because it is against their Canons to act in any matters which relate to Blood*) yet whatever Acts pass, these words are inserted, viz. *We the Lords Spiritual and Temporal, &c. with the Kings Assent, &c. for though the Lords Spiritual consist of Archbishops and Bishops, and the Lords Temporal of Princes of the Blood, Dukes, Marquesses, Earls, Viscounts and Barons, yet they are all included as Peers in the words Lords Spiritual and Temporal, and so in many cases the word Peers is also generally applied; so that, as the words Lords and Peers have been of latter times intermixedly used, we cannot well make a difference between them otherwise than is before exprest.*

II. That the words Lords and Peers have been used promiscuously, in relation to the five Degrees of the Lords Temporal, is evident from the Commissions issued for the Trials of the Earl of *Strafford*, 1640. the Lord *Morley*, Anno 1665. the Lord *Cornwallis*, Anno 1676. the Earl of *Pembroke*, Anno 1678. wherein the words are, *Damus autem Universis & singulis Ducibus, Marchionibus, Comitibus, Vicecomitibus & Baronibus, &c.* (without mentioning *Prælatibus*, for reasons before mentioned) and though the Earl of *Strafford* and

and Earl of *Pembroke* were Earls, yet by the CHAP. XI. Comission they were triable, *per Barones, Vicecomites, Comites Marchiones, & Duces*, and not by Earls only; and so though the Lord *Morley* and Lord *Cornwallis* were only Barons, yet they were triable by Dukes, Marquesses, Earls and Viscounts, and not by Barons only, whereby the word Peers seems to be a word of eminency, giving no real distinction to those five Degrees of Nobility; so as all the Degrees of the Temporal Lords are Peers, and the Peers Lords; to confirm this, I shall cite one passage more from Mr. *Selden*, who saith, *That though we borrowed the word Peers from the twelve Peers in France, yet here we apply it to all the Lords in Parliament, and not to any set number of them; because (saith he) the number of our Nobles may be more or less, as the King pleaseth: and as Marquesses and Viscounts were (as I said) interpos'd to Dukes, Earls and Barons, so he may abstract less, or add more, as he thinks most fit, for the support of Nobility, for he is Dominus Nobilitatis & Honoris, or the Fountain of Honour; and that this Prerogative may be more fully seen herein, in the 21. of Jacobi (it being needless to quote former precedents) five several Writs were issued after the Pawn was settled;*

CHAP. XI. fetled; yet entred in the Margent of the *Pawn* for that year, to five several persons, viz. to the Lord Grandison, Sir Robert Chichester, Sir John Sucklin, Knight, Comptroller of the Kings House, to Sir Thomas Edmunds, Knight, Treasurer of the Kings Household, and to Sir Richard Weston, Knight, Chancellor of the Exchequer, to summon and impower them to sit in the Lords House, who otherwise had no right of *Tenure, Prescription* or *Creation*. So in the first of *Caroli primi*, six several Writs were issued (and also entred in the Margent of the *Pawn* for that year) viz. to Oliver Lord St. John, and again to Sir Thomas Edmunds, Sir John Sucklin, Sir Richard Weston, and to Sir Robert Nanton, Knight, one of the Kings Privy-Council, and to Sir Humphry May, Chancellor of the Dutchy of Lancaster; and so in 15 *Car. primi*, two Writs were issued and also entred in the Margent of the *Pawn* for that year, viz. to Charles Viscount Wilmot, of the Kings Privy-Council, and to Edward Newburgh, Knight, then Chancellor of the Dutchy of Lancaster, and also of the Kings Privy-Council.

12. To sum up all, I apprehend, That those Lords Spiritual which are summon'd by Writ to sit in Parliament are Vital Peers, and the Lords Temporal so summon'd are

are hereditary Peers, for there are other *English* Lords, which may be, but are not summon'd, and thereby are no Parliament Peers, yet are Lords, and upon an hereditary account also; for the King (as I said) can summon or not summon any of them when he thinks fit, unless any Lord claims a right by Patent of Creation, or otherwise, and then upon that right he demands his Writ, and it is seldom denied, if the grounds of their demands be right, if dubious, the Case is debated in the Lords House, as in the Case of the Lord *Abergaveny*, &c.

Some are of opinion, That the Lords Temporal are only to be accounted Peers, and not the Lords Spiritual, first, Because they sit there rather by their Writs of Summons than Tenures, as anciently they did; secondly, Their Titles of Lord is but vital at most; thirdly, In case of Treason or Felony committed by a Spiritual Lord or Lord Temporal, the manner of trying them upon Indictment and Judgment upon Conviction are clearly different, as will be shewn in the Chapter of *Trial by Peers*.

13. Notwithstanding these Allegations, it is evident, That the Lords Spiritual are *Pares* or Peers, but *inter seipos gradu Episcopali & vitali*, but not *Pares* to the Tem-

CHAP. XI. Temporal Lords, who are *Pares gradu hæreditario Nobilitatis & honoris*, either Descendent or Created, so that though all the Lords in the Lords House may be said to be Peers, yet the Lords Temporal being in *gradu celsioris Nobilitatis*, are more properly to be accounted so than any other Degree; in respect that as their Interest is greater than any other Degree, so they cannot be said to be *Pares* to any lesser than themselves, and therefore it may aptly be said, that none but such Dukes, Marquesses, Earls, Viscounts, and Barons as are summon'd by Writ to sit in Parliament, are to be accounted Peers of the Realm, or of Parliament. All other Degrees of Nobility, or Degrees under these five Degrees, are only *Pares sui cujusq; ordinis*, and not *Pares Regni*, and so the House of Commons, in time of Parliament, are *Pares minoris Nobilitatis*, and the Lords of the Lords House, *Pares majoris Nobilitatis*.

The next subject that I am guided to treat of, is concerning Proxies to the Lords Spiritual and Temporal, which may be made either of Lords or Peers, or of neither Lords nor Peers, yet by this Proximation are, *pro hac vice*, nobilitated.

CHAP. XII.

Of Proxies.

I Am now to speak of such as are substituted by the Lords Spiritual or Lords Temporal, to sit in the Lords House, and these are called by the name of *Proxies*.

1. The *Latin* word for *Proxy* is *Procurator*, which is sometimes English'd *Proxy*, and sometimes *Proctor*, according to the Employment of the Person to whom it is apply'd.

Proxy in a Parliamentary sense is constantly apply'd to such a Deputy or Substitute as is chosen by any Lord Spiritual or Lord Temporal (by Licence first had from the King, in case of just occasion alledged for absence) to supply his Deputy in the Lords House, and thereupon his Vote to be as significant to all purposes, as if the absent Lord were present; and therefore the word *Proxy* may well be thought to be only the *Tachygraphy* or short writing of *Proxime*, signifying the next in Judgment, Opinion, Degree, or Quality to the Lord who chooeth him for his *Proxy*.

CHAP. XI. But *Proctor*, which is the most literal abbreviation of *Procurator*, hath several applications, first to such as are in some sort a Limb or Branch of Parliaments, viz. such as are chosen by the Chapters and Clergy, together with Archdeacons and Deans, to represent the whole Clergy, as Knights, Citizens and Burgeses do the Laity or whole Commons of *England*; but these are more usually call'd Representatives, the other constantly Proctors, both being deputed by distinct Degrees to distinct Purposes, as will be more fully shewn.

Secondly, There are also Proctors for the two Universities of *Cambridge* and *Oxford*.

And Thirdly, Proctors of Ecclesiastical Courts, which have no other relation to Parliaments than according as they are concern'd in Elections.

The *Proxees* which are admitted to the Lords House are like those in the old *Roman* Empire, call'd *Procuratores Cæsaris*, (which were the chief of four sorts of *Procuratores* amongst them) because that first and chief of the four were only employ'd *ad Res publicas administrandas*, (the other three for lesser matters) and so the *Proxees* of the Lords House being the chief of all other *Proxees*, are to be esteemed *Publi-*

carum

carum rerum administratores, as fully as the absent Lords (except in some particulars as to Place, Continuance, &c.)

CHAP. XII.

2. These Noble *Proxees* are (as I said) licensed by the King, upon the Petition or Request of some Lord Spiritual or Lord Temporal, and are not usually made of Strangers, (who are not Members of the Lords House) nor of the Assistants of that House.

When the absent Lords occasions of absence have not been just, or his absence inconvenient to the Publick, the King hath often deny'd to License their *Proxees*; but when the Allegations have been just, the *Proxee* hath been sometimes allow'd without the Kings License.

Sometimes it hath been allow'd to the absent Lord, to make a *Proxee* of such a person as is otherwise incapacitated to sit in the Lords House, (for by this he is nobilitated) but there hath been none such allow'd in this Parliament.

3. Generally the absent Lord doth fix upon such a Lord as (I said) doth sit in the Lords House, by his own Right and Writ of Summons, whereby the *Proxee*-fitting Lord hath a double Voice, one for himself, the other for the absent Lord to whom he is *Proxee*.

V

4. These

4. These Noble *Proxees* are made sometimes before the sitting of a Parliament, (after the Writs are issued) and sometimes in the time of their sitting, and their Deputations both before and after the sitting have several Forms, as will be shewn.

5. In former times the Lords Spiritual had the privilege to make two or three *Proxees*, but since the dissolution of Abbies, and that Abbots, &c. were excluded, no *Proxor*, or absent Lord, doth make but one *Proxee*.

6. The Licenses for *Proxees* (as I said) were granted by the King, upon the absent Lords Petition; which Petition from Edward the Third's time was in this Form:

Serenissimo Principi Domino Edwardo Dei gratia Regi Angliæ, Franciæ & Hiberniæ Domino, &c. Quia impedimentis varijs & arduis negotijs, &c. sumus multipliciter impediti quo instante Parlamento vestro apud Westmonasterium in Quind', &c. proximo futur' personaliter esse non valentes. (And so others, for other reasons) pray that he may be allow'd his *Proxee*; whereupon License was granted, as may be seen in ancient Journals, but more lately in Queen Elizabeth's time, thus:

Right.

Right-trusty and well-beloved, We greet you well. Whereas we are inform'd, That by reason of Sickness, you are not able to make repair hither to this our Parliament, to be holden at Westminster, We have thought good, by these our Letters, to dispense with you for your absence, and to License you to remain still at home for this time, so nevertheless that you send up your Proxee, of such Personage as may be for you in your Name, to give his Voice and Assent, or Denial, to such Matters as shall be concluded on in our said Parliament. And this our Letter shall be your Warrant.

Given under our Signet at our Palace at Westminster, the 20th of November, in the Eighth Year of Our Reign.

8. These Licenses are usually entred in the Signet or Privy-Seal-Offices, (and pass no further) but are certified to the Lords when sitting.

9. This regular Method of Licenses continued till about the end of Queen Elizabeth's Reign; but by the kindness (or connivance of her Successors to the Nobles) there hath been of late no more Ceremony us'd than a Verbal Motion to the King; and some Nobles by that Indulgence have constituted *Proxees* without application

CHAP. XII. to the King, only adding in their Deputations to their *Proxees* (viz. *per Licentiam Domini Nostri Regis*) conceiving that the very mentioning of the Kings License was a sufficient acknowledgment of his Prerogative herein; however these following *Proxee-Deputations*, or derivative Writs (which I cite as *Precedents*) were regularly obtain'd.

The Form of a Proxee-Licence from one Lord Temporal to another before the sitting of a Parliament.

10. **O**Mnibus Christi Fidelibus ad quos hoc præsens scriptum pervenerit, Rupertus Palatinus Rheni, Dux Bavarix & Cumbrix, Comes Holdernes in regno Anglix salutem Noveritis me præfatum principem (per Licentiam Serenissimi Domini nostri Regis) a suo Parlamento tenendo & inchoando apud Westmonasterium in dicto regno Octavo die Mensis Maij proximo futuro sufficienter excusatum abesse; Nominare ordinare & constituere dilectum mihi in Christo prænobilem & honoratissimum virum Jacobum Ducem, Marchionem & Comitem Ormondix, Comitem Osorix, Carrickix & Breconix Dominum Thurles Baronem,
meum

CHAP. XII. meum verum certum & indubitatum Factorem, Attornatum & Procuratorem, eidemq; Procuratori meo dare & concedere plenam Authoritatem & Potestatem pro me & nomine meo, & de super quibuscunq; causis exponendis seu declarandis tractandis, tractatibusq; hujusmodi mihi factis seu faciendis, Concilium nomine meo impendendum. Statutisq; etiam & ordinationibus quæ ex maturo & deliberato Judicio Dominorum in eodem Parlamento Congregatorum, inactitari seu ordinari contigerint nomine meo consentiendum, eidemq; (si opus fuerit) subscribendum, Cæteraq; omnia & singula quæ in præmissis necessaria fuerint, aut quomolibet requisita facienda & exercenda, in tam amplo modo & forma prout ego ipse facere possem, aut deberem si præsens personaliter interessem, ratum & gratum habens & habiturus totum & quicquid dictus Procurator meus statuerit & fecerit, in præmissis. In cujus rei testimonium præsentibus subscripsi, Sigillumq; meum apposui datum apud Westmonasterium decimo sexto die Aprilis Anno Regni dicti Domini nostri Caroli Secundi Dei gratia Anglix, Scotix, Francix & Hibernix Regis fidei defensoris, &c. decimo tertio Annoq; salutis nostræ 1661.

CHAP. II. This was subscribed (*Rupert*) and
 XII. sealed with his Seal at large upon an an-
 next *Label*.

12. All *Proxee-Writs* of this nature are given into the Clerks of the Parliament before the *Proxeees* are admitted, and their Licenses either produced to the Lords (if written) or affirm'd by some other Lords that the Kings consent was thereto.

13. This was the only derivative *Proxee-Writ* which was made by a Lord Temporal of this Parliament, 1661. before the Sessions, and though the Foreign Titles of the *Proxor* and of his *Proxee* are mention'd in the Writ *Honoris Gratia*, yet it operates nothing in this Case; for as the *Proxor* could not make a *Proxee* without the Kings License, written or verbal, so he could not be a *Proxee* by virtue of his Foreign Titles, but only by their *English* or *Welsh* Titles, viz. as Duke of *Cumberland* he was *Proxor*, not as Palatine of the *Rhine*, or Duke of *Bavaria*, and the Earl of *Brecknock* was his *Proxee*, as Earl of *Brecknock*, not as Duke of *Ormond*.

14. Had there been more of these Derivatives before the Sessions, they must have been in the same words, differing only in the Titles of the *Proxor* and *Proxee*; and those that were made the Parliament sitting,

fitting, viz. the 10th of *May*, the Earl of *Holland* (before any Prorogation) made the Earl of *Suffolk* his *Proxee*, and are also in the same words with the other Form, *mutato nomine*, and by changing the future to the present, viz. *Tenendo* & *Inchoando*, to *tento* & *inchoato*, but after a Prorogation the words are as in the next Writ (at *inde prorogato*, &c.) And these two Derivatives are sufficient to shew the difference between Writs made before the Parliament, or before any Prorogation, and the Writs made after a Prorogation.

15. The recital of Prorogation or Prorogations are not only so in Derivatives, but in all original Writs which are issu'd after a Prorogation, by reason of the death of any Lord, to summon another.

I have entred this Writ to the Archbishop here, though I shall speak more of it when I come to treat of Writs made in time of Parliament, because it contains many Clauses different from the Derivatives to the Lords Temporal, especially in the last Paragraph more observable.

The Form of the Archbishop of Canterbury's derivative Proxee-Writ to the Bishop of London after a Prorogation.

16. **O**Mnibus in Christo Fidelibus ad quos hoc præfens Scriptum pervenerit Gulielmus providentia divina Cantuariensis Archiepiscopus totius Angliæ Primas & Metropolitanus Salutem in Domino sempiternam, Cum Serenissimus Dominus noster Rex, quibusdam de causis sublimitati suæ intimatis licentiam a præfenti hoc suo Parlamento tento & inchoato apud Westmonasterium octavo die Maij Anno regni sui decimo tertio & continuato ad decimum nonum diem Maij Anno decimo quarto dicti Domini Regis & inde prorogato ad decimum octavum diem Februarij proximè inde sequentem nobis absentandi ex suo speciali gratia & favore nuper concesserit dummodo fidelem aliquem Procuratorem, vice locoq; meis ponerem ordinarem & constituerem, Noveritis Igitur me præfatum Archiepiscopum dilectum mihi in Christo Reverendum in Christo Patrem Gilbertum eadem divina providentia Dominum London Episcopum meum verum certum & indubitatum Factorem, Actorem, Procuratorem, Attornatum, nego-

negotiorumq; nostrorum Gestorum & Nuntium specialem, nominare ordinare facere & constituere per p'sentes, dando & concedendo eidem Procuratori meo plenam auctoritatem & potestatem de & super quibuscunq; causis & negotijs statum & utilitatem dicti Domini nostri Regis Republicæ incolumitatem & Ecclesiæ Anglicanæ quietem concernentibus, quæ in præfato Parlamento qualibet ejusdem sessione per dicti domini Regis statum agitari contigerint tractandi, tractibusq; hujusmodi mihi factis seu faciendis concilium & auxilium nomine meo imponendis etiam & ordinationibus quæ Communi statu prædicta ordinatione ibidem fieri & ordinari contigerint nomine meo consentiendi, & iisdem si opus fuerit subscribendi vel dissentiendi, Cæteraq; omnia & singula quæ in præmissis aut in aliquo præmissorum necessaria fuerint seu quomodolibet requisita faciendi expediendi & exercendi in tam amplis modo & forma prout ego ipse facere possem & deberem si præfens personaliter interessem, Promittoq; me ratum gratum & firmum perpetuo habiturum totum & quicquid dictus meus Procurator statuerit aut fecerit in præmissis, & sub Hypotheca & obligatione omnium & singulorum bonorum meorum in ea parte cautionem expono per presentes, In cujus rei Testimonium

CHAP. nium manum & sigillum meum Apposui.
XII. Dat apud Lambeth' vicesimo primo Novembris Anno regni dicti Domini nostri Caroli Secundi Dei gratia Angliæ, Scotiæ, Franciæ & Hiberniæ Regis fidei defensoris, &c. Annoq; Dom. 1662.

17. All derivative *Proxee-Writs* made either from a Lord Spiritual or Temporal, to any of their own Degrees, or of other Degrees, do not continue longer than one Session, without a new Derivative License, or *Proxee-Instrument*.

18. As to the places of the *Proxeees* in the Lords House, they are not mention'd in the Act of Precedency, so I shall conclude with Mr. *Elfing*, That surely they did not sit in the Lords Seat whose *Proxee* he was, yet in all Councils and Dyets beyond the Seas he does.

19. Though they are Nobilitated by sitting as *Proxeees*, yet they are not to be accounted Peers, unless they were Peers before they were *Proxeees*.

Thus having said as much as I think fit of Writs to the Lords Spiritual and Temporal, both Original and Derivative, I am come to the Fifth Exemplar, concerning the Assistants to those Lords, Peers, and *Proxeees*.

CHAP. XIII.

Of the Assistants to the House of Peers, comprized in the Fifth Exemplar of the Pawn.

1. **H**AVING done with all the Degrees which are mention'd in the Act of Precedencies, and given an account by four *Exemplars* of the Writs to the Princes of the Blood, of the Writs to the Archbishops and Bishops, of the Writ to the Lord Chancellor, of the Writs to the Hereditary Nobles of Parliament, (*viz.* *Dukes, Marquesses, Earls, Viscounts, and Barons*) as they are mention'd in the *Pawn*, and also given an Abstract of such Patents of Creation as Intitle some of them to be the more capable of Summons, as also of Peers and their Proxies, I come now to the Degrees which are not mention'd in the Act of Precedency, but are compriz'd under the fifth *Exemplar-Writ*, recited in the foremention'd *Pawn*, *viz.* to the Lord Chief Justice of *England*, and of the *Consimilars* to his Writ; and these are different from all the former (except the Lord Chancellors, of which I have spoken) because these do not sit in the Lords House by vertue of any Tenure or Patent of
Crea-

CHAP. Creation, or according to the Act of Precedency, but only by Writs, as Assistants, (for none do sit there without Original Writs, except Proxies, and Masters of Chancery, &c.) as will be shewn. But before I treat of them distinctly, I shall set down some Observations on their Professions.

1. These Assistants do all profess the Study and Knowledge of Laws, and therefore have their Places allotted in the very heart of the Lords House, that they may with the more ease give their Advice to that Noble Body, in all Matters which concern either the Theory or Practice of what is just or fit to be done.

2. Now there are certain Faculties and Vertues springing from the Profession of these Assistants (*viz.* *Jus*, or Right; *Justitia*, or Justice; *Judicium*, or Judgment; *Ratio*, or Reason; *Prudentia*, or Prudence; *Æquitas*, or Equity; *Discretio*, or Discretion; *Sapientia*, or Wisdom; and *Scientia Legum*, or Knowledge of the Laws:) to which (it is presum'd) they have attain'd, and are thereby made fit for Assistants; yet that these Vertues may be the more distinctly discern'd, I shall take the freedom to explain them.

Jus, (the *Latin* for Right) is the foundation on which *Justitia*, or Justice, is built.

Justitia

Justitia is *status*, or *statio Juris*, quia *Jus stat vel exercetur per Justitiam*. So that *Jus* is the principal, *Justitia* the Efflux of it. CHAP. XIII.

Judicium, or Judgment, is the fix'd resolution, determination, or sentence of what is true, or false, good, or evil, just, or unjust.

Reason is a Ray of Divine Light, which guides a man to judge what is Just or Justice.

Prudence is in the nature of Providence, (from *Providere*) to foresee the conveniencies or inconveniencies of so doing or not doing right to one man, that it may do good to one, and not hurt another.

Discretion is also to discern the nature or difference of things represented, and to manage them to their right end, and by this

Equity is usher'd in, which is a conscientious care that all things may be equally and proportionably done towards those who expect Justice, when the matter concerns distinct persons, or interests, and then

Sapientia or Wisdom advanceth it self, and includes the *Scientia Legum*, or Knowledge of the Laws, and that imployes all the Faculties of the Soul, and hath a particular

CHAP. XIII. particular Intellect and Inspiration to see, improve and manage all things to a just and right end, and teacheth the Professors to instruct others in the principal Rules of perfect Conversation with each other, viz *Honeste vivere, neminem lædere, & suum cuiq; tribuere*, which is to live soberly, and temperately, to offend no man wilfully, and to give tribute to whom tribute belongs, and to every man what is their right to enjoy, or in our power to perform.

All these do constitute a wise man, and the Professors of Laws have more opportunities to demonstrate them to others, and by these Vertues they become Accomplish'd Assistants to a Parliament both in Divine and Human Matters.

3. But the Imbecility of our Human Nature is such, that no man is so universally knowing in all things, as to give a true Judgment of all particulars, without a light or information from others, whereby to judge of what is just, right, or fit to be done; especially in the contentions arising from the Mechanick Arts, or Trades, and some other Sciences, which are a significant part of the Fabrick of any Kingdom, or State; for supposing two Artificers, professing different Arts, are both employed to the perfecting of some Publick Work, wherein their

CHAP. XII. their joint Skills are necessarily required, in which they are at variance upon some mystical parts in their Trades, and without determination of their differences and concerns, neither of them can proceed in the joynt Design; and thereupon they refer themselves to one of the Professors of the Law, to settle the matter between them.

But it is vulgarly thought beneath one of these eminent Professors to dive into Mechanick Trades or lesser Sciences; yet both of these Artists informing him of the true state of the mysteries of their respective Trades, the Judge from thence makes a rational determination of what is fit to be done, as well for the support of their Trades, as for the common good to others, by preventing fallacies, or circumventions, or the like contests; and this he gains from the impartments and arguments of these Artists, and so weighing their alternate allegations in one balance, and the common good in another, he makes so peculiar a determination and Sentence, as to convince both parties, and this from the ground of their different Arts and Impartments.

Now the Judge or Justice, even by these daily accidents, and references, doth daily gain Knowledge, and by justly managing

CHAP. XIII. naging this Knowledge grows to be generally esteem'd a *wise Man*, not only from these lower particulars (upon which the Opinion of the Vulgar is founded but from his insight and transacting in matters of a more transcendent nature, which dayly also come before him (either of Publick or Private Concerns.)

But in all Transactions in this World there is a Right and a Wrong, which latter is term'd Unjust, and sometimes it may be positively judg'd to be so; yet it may so happen that *summum jus* may do injury, whereupon there is a necessity of interposing Equity, lest the Wrong by Custom should prove an esteem'd Right, or that Right by necessary fix'd Rules, (which may be safe at one time and not at another) or an unlimited use or power, should slide into Wrong; so as the due and critical time of applying this Equity to *summum jus* (which is gain'd by reading Law and Precedents) doth still improve and exalt the Character of a *wise Man*.

4. But because most men are either negligently or wilfully ignorant in the way of attaining these excellent Vertues, the wisdom of all Governours hath (by the help of these learned Professors) establish'd certain Rules to direct men (which the *Latin* call *Regulæ*, from *Regere*) intimating

CHAP. XIII. ting the care of Governours in Exhibiting such Rules for the good of those who are under Tuition, but generally such Rules are called Laws (which the *Latins* term *Leges*, from *Legere*, to Read) so as every man, who is not careless of his own Felicity or Justice towards others, may thereby be instructed to what he ought to perform.

5. In ancient times when People were not dispers'd into various Regions, nor into great Societies of Towns, Cities and Kingdoms, but consisted of some few Families, or Villages, it was no hard matter to transmit those Rules or Laws to one another, by singing them in Meeter, or some other ways of Tradition; but when those lesser Societies grew into the greater forms of Government, their Legislators invented a more certain way or art of communicating their just Rules or Laws, by legible Characters, Words, and Sentences, either Writ or Printed, (containing those Rules) which (as I said) were originally, only certain tunable unwritten Instructions; and after, when mens dispositions grew more and more deprav'd, there was something of Coertion added to those Laws, which Coertions (or inflicting of Penalties for disobedience to those Laws) increas'd with the increase of un-

X conformable

CHAP. conformable tempers: and herein there is
 XIII. nothing so great an argument of a wise and good disposition, as when he makes it his study to satisfy himself (and thereby able to inform others) in the knowledge of such Laws or Rules as may make our Lives in this World happy and conscientious, which can no ways be obtain'd, but by knowing and obeying good Laws.

6. For these are they (as the learned Sir John Davies says) to which all Kingdoms and Common-wealths are indebted for all their temporal blessings of Peace, Plenty, Civility, and all moral parts of honesty. By these (saith he) we enjoy our Relations, Lands, Goods, good Names, or what ever is sweet or dear unto us, for *quid sunt Regna nisi magna latrocinia sine Justitia & Legibus*; the Land would be full of Thieves, the Sea of Pyrats, the Commons would rise up against the Nobility, the Nobility against the Crown; without these there would be nothing certain, no Contracts, no Commerce, no Conversation, but Confusion, and even Dissolution of Human Society: for good Laws are Comforts to the Griev'd, Counsels to the Perplex'd, Reliefs to the Circumvented, Preventions of Ruin to the Improvident, Preservations to the Innocent, Supports to the Impotent; they Relieve the Oppress'd,

Oppress'd, protect the Orphan, Widow, and Strangers, they are *Oculi Cæcis, & Pedes Claudis*; (Cures for lame and blind) To sum up all, they are the Secular Arms to defend both the Church, True Religion, and the Common-Weal of the Kingdom or State.

CHAP. XIII.

7. For these reasons, the Successive Kings of this Island have constantly (as rewards) set such a mark upon those who are Professors of the Laws, and whose study and experience in Laws have attain'd to so great a sagacity, (as to know how to apply them to the publick good) that the chief of them is made Lord Chancellor, or Lord Keeper of the Great Seal of *England*; (of whom I have spoken, who for the most part hath been a Professor of Divinity, Law, or Equity) the next (of whom I am now to treat) is made Chief Justice of *England*; his very Title *Justice* rendring him in one sense even Superior to the Law it self; (for the Law it self is but *Lex tacens*, but he that distributes that Law, is *Lex loquens*.)

8. This Title of *Justice* (given also to every one of the twelve Judges or chief Dispensers of Laws) is so ancient, that in former times they were call'd *Justitiæ*, (as containing that vertue not only in the singular, but in the plural number) and

CHAP. afterwards they were call'd *Justitiarum*
 XIII. *Angliæ*, and *Justitiarum*, (without addition of *Angliæ*) and after *Justitiarum Regis*, which last Title was to the four Justices of the *Kings Bench*; the chief of which four was anciently called *Summus*, and at this day *Capitalis Justitarius Angliæ*; (which generally we term in *English*, the Lord Chief Justice of *England*) there was also anciently another sort of *Justitiarum ad placita*, (applyed only to the four Justices of the *Common Pleas*, (the chief of which was, and is to this day also called *Capitalis Justitarius*, (omitting *Angliæ*) and which we in *English* term, the Lord Chief Justice of the *Common Pleas*.)

And to ease the People from going for Justice to them, these Justices did go to the People, to distribute Justice.

These Motions in process of time were call'd their Circuits, because they did in a manner go round the Kingdom; and for these Motions they were called *Justitiarum Itinerantes*, & *Justitiarum ad Assisas*, *Juratas* & *Certificationes*. There were also anciently another sort of *Justitiarum*, (which it may be for distinction sake were called *Barones Scaccarii*) consisting also of four; and this Title is applied only to the Exchequer, where their Justice was to be shewn

CHAP. shewn in the management of the Revenue
 XIII. of the Crown; and these four also were and are constantly mixt with the other Eight, in their *Itineranciis*: in all making Twelve.

9. And for further Honor to these Eminent Professors, as well out of Parliament as in Parliament, they have peculiar Courts, (as *Regalias* allotted to them) wherein they have daily opportunities to manifest their Wisdom.

These Professors I divide into three Orbs, and their Courts accordingly, viz. to the Lord Chancellor or Lord Keeper, the Court of *Chancery*; to the Lord Chief Justice of *England*, the Court call'd the *Kings Bench*; to the Master of the Rolls (or Keeper of the most eminent Office of Records) the *Rolls Chappel*; (in the nature of a Court) to the other Lord Chief Justice, the Court of *Common Pleas*; to the Lord Chief Baron, the Court of *Exchequer*; and these are the five Courts or *Regalias* belonging to five of the first Orb of that Profession; yet not excluding the other Nine: so as,

The second Orb consists of Nine more, viz. three Justices of the *Kings Bench*, three of the *Common Pleas*, and three other Barons of the *Exchequer*; and these have gradual interests in those three Courts, (as will

CHAP. XIII. be shewn) and with the other five do make fourteen, of the first and second Orb; and as a further addition of Honor, twelve of these fourteen (in their Circuits twice every year) have Courts also provided for them, almost in every County of *England* (as will be shewn.)

The third Orb of the Professors of Law, are not usually above six in number; (yet sometimes more, sometimes fewer (as will be shewn) I mean of such only as have Summons to sit in Parliament,) and these have Courts also allotted for them, *viz.* the Kings Serjeants at Law, the Kings Attorney General, the Kings Solicitor General, have the Inns of Courts, (though common also to under Graduates and Students) and the two principal Secretaries of State have the Kings Court or Palace for their *Regalias*; so as the before mentioned five of the first Orb, and nine of the second Orb, and six of the third Orb, (these three Orbs being the most eminent of that Profession) have not only the Jurisdiction and an Interest in the said Courts, but as a higher mark of Honour and Esteem, though they were no Lords, or Barons of the Realm, yet they were and are usually Summon'd by Writs to the High Court of Parliament, when ever it Assembled, and there they

are

are also dignifi'd with peculiar Places appointed for them, and many Priviledges of which, with their Number, and the Causes of Variation of that Number, I shall give an Account in the ensuing Sections. CHAP. XIII.

10. These (as I said) are imploy'd in the Lords House to be Assistants with their sage advices, who are perfect knowers both of general and particular Laws, *viz.* in the Laws of God and Nature, the Civil Laws, (practis'd in most parts of *Europe*) the Ecclesiastick Laws of other Nations, but more particularly of our own, of our Common Statute, Municipal, and Customary, (and By-Laws, which are *alteræ Leges*) and many others of other Titles, which we derive and still retain from the old *Roman Empire*, *Saxons*, &c. And thus fraught with knowledge of Laws, they bring them for the most part into the Hive, or compass of our Common and Statute Law, and their universal knowledge makes them esteem'd Learned, their Learning indues them with Wisdom, their Wisdom enables them to be Justices or Judges out of Parliament, and in Parliament to be Assistants there, for the better carrying on of Publick Actions and Consultations; so as the present Laws may be preserved, or such new ones made

X 4

as

CHAP. XIII. as their Wifdoms shall think fit to advise; there being sometimes as much necessity of making new, or correcting, altering, explaining, or inlarging the old, as in poffitively preserving them; for when a Butrefs hath sustain'd an House many years, and is it self decayed by time, it is to the safety of the House, to have another Supporter in its room; for *tempora mutant mores*, and *mores* may justly *mutare leges*, (considered according to the diversity of circumstances) and herein consists the great Master-piece of advice, by turning a *nolumus mutare*, into a rational *volumus*.

II. Having now given a short discourse of Law, and the Professors of it in general, occasioning just grounds for their Assistance, I shall proceed to the particular Titles of the chiefest Professors of it, and according to my first propos'd Method, go on with the fifth *Exemplar*, mention'd in the aforesaid Parliament *Pawn*, viz. to the Lord chief Justice of *England*.

The

The Form of the Fifth *Exemplar-Writ* to the Lord chief Justice of *England*.

CAROLUS Secundus Dei gratia Angl' Scot' Franc' & Hibern' Rex fidei defensor', &c. Dilecto & fideli suo Roberto Foster Militi Capitali Justiciario nostro ad placita coram nobis tenend' assign' salutem. Quia de advisamento & assensu Consilij nostri pro quibusdam arduis & urgentibus negotijs nos, statum, & defensionem Regni nostri Angliæ & Ecclesiæ Anglicanæ concernen' quoddam Parliamentum nostrum apud Civitatem nostram Westm' octavo die Maij prox' futur' teneri ordinavimus, & ibidem vobiscum & cum magnatibus & proceribus dicti Regni nostri Colloquium habere & tractatum, vobis mandamus firmiter injungend', quod omnibus alijs pretermisissis predictis die, & loco personaliter intersitis nobiscum, ac cum cæteris de Concilio nostro super dictis negotijs tractatur', vestrum Consilium impensur'. Et hoc nullatenus omittatis Teste me ipso apud Westm' decimo octavo die Februarij Anno regni nostri tertio decimo.

The next words in the foremention'd *Pawn* are *Consimilia Brevia diriguntur personis subscriptis*.

But

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CHAP. XIII. But before I speak of those *Consimilars*, I shall add some few Observations on this *Exemplar*.

Observations on the Exemplar and its Consimilars.

I Did think to have made distinct Observations on this and the following *Consimilars*, but finding how curiously they, in their Jurisdictions, Power, Authorities, and Operations are intermix'd, separated, and yet united, I shall speak of them as they spring up from my Recollections, on which others may graft more, as best suiting to theirs.

1. Neither this chief Assistant, nor any of the following Assistants (which are call'd *Consimilars* in the *Pawns*) are mention'd in the Kings Warrant to the Lord Chancellor for summoning a Parliament, otherwise than in these words:

Wherefore We Will and Command you forthwith, upon receipt hereof, and by warrant of the same, to cause such and so many Writs to be made and seal'd under our great Seal, for the accomplishment of the same, as in like cases hath been us'd and accustom'd, as may be seen in the first Chapter.

And

of Parliaments. 315

CHAP. XIII. And thereupon the Lord Chancellor (according to the ancient Custom, and such Precedents as I have and shall set down) sends his Warrant to the Clerks of the Pettibag (*in hæc verba*) as in the first Chapter.

You are hereby required forthwith to prepare for the great Seal of England the several Writs of Summons for the Lords Spiritual and Temporal, as also for the Judges and others, to appear at the Parliament to be holden, &c. in such method and form, and directed to such persons as are and have been usual in such cases, &c.

Now that the Lord Chief Justice (and the *Consimilars*, of which I am to speak) have been anciently and usually summon'd, I have and shall shew in their following order.

2. In the Act of Precedency there is no mention made of the Places of these Assistants, but there having never been any dispute among themselves of their Places or Precedencies (for they are perfect in their own Regularities and Seniorities, &c.) it had been but expense of time and Paper to insert them, and therefore according to the constant order by which they have sat anciently in the Lords House

CHAP. I shall treat distinctly of them, so soon as I
XIII. have ruin through some few mix'd Observations.

3. This great Minister of Justice was anciently made by Letters Patents, with the Clause of *Quam diu nobis placuerit*, and so it continued till about the end of Henry the Third, and then, and ever since, he hath not been constituted by Commission or Patent, (as all the other Judges are) but by Writ only, in this form.

Rex, &c. R. F. Militi salutem Sciatis quod constituimus vos Justitiarium nostrum Capitem ad placita coram nobis tenend' durante bene placito, &c. Teste, &c. And this Writ makes him capable of his Parliament-Writ before recited.

4. The Lord Chancellor or Lord Keeper of the Great Seal (as I said) is admitted Chancellor or Keeper by delivery only of the Great Seal to him, and taking his Oath, without Patent or Writ; but this Lord Chief Justice is admitted to his Office by Writ only, and all the other Assistants (of whom I shall speak) do enjoy their Offices in their respective Courts by Patent only, and all of them *durante bene placito* (except the Master of the Rolls, whose Patent is *durante vita*) as will be shewn.

5. But

5. But neither the delivery of the Great Seal to the Lord Chancellor, or Lord Keeper, nor the aforesaid Official Writ to the Lord Chief Justice of the *Kings Bench*, nor the respective Patents by which the other Justices enjoy their respective Offices, do intitle them to sit in the Lords House, without such an especial Parliament Writ of Assistance, as is shewn in the Exemplar before recited, (to which all the other Assisting Writs have a Consimilitude.)

5. This Parliament, or Assisting Exemplar Writ to the Lord Chief Justice of the *Kings Bench*, and all the Consimilars to it (*mutato nomine & titulo Officii*) agrees in all parts with the Writ to the Lord Chancellor, (as I have before shewn) except the alteration of the words, *Prædilecto & perquam Fideli*, into *Dilecto & Fideli*, which are in this and in all the Writs to the following Assistants.

6. The differences between this Writ and that to the Hereditary Lords in Parliament, are partly shewn in the Observations on the Lord Chancellors Writ, the rest will be shewn.

7. This Parliament writ differs but in few words from the form of the writ issued in the 15th. of *Edw. 2d.* (from whence I take my rise (nor from the Successive

CHAP. XIII. Successive Writs to this time) which for the satisfaction of others, (whereby they may see that no new form is obtruded on them) I have set here down *Verbatim*.

Rex Dilecto & Fideli suo Willielmo de Bereford salutem Quia super diversis & arduis negotiis nos & statum Regni nostri specialiter tangentibus in instante Parlamento nostro die Dominicâ prox' futur' ante Festum sancti Laurentii prox' futur' fecimus summoneri, vobiscum & cum cæteris de Concilio nostro colloquium habere volumus, & tractatum, vobis mandamus firmiter injungentes quod omnibus aliis pretermiſſis dictis die & loco personaliter interfitis nobiscum, & cum ceteris de Consilio nostro super premissis tractatur' vestrumque Consilium impensuri Et hoc nullatenus omitat' Teste, &c.

In this Writ the words after *Regni nostri*, (viz. & *Ecclesiæ Anglicanæ* are omitted;) for the Church in those days was almost wholly manag'd by Ecclesiastick Persons, who were Conversant in the Civil, and Canon Laws, &c. but in the 26th. of *Henry* the Eighth, when the power of the Pope was here abridg'd, those words, & *Ecclesiæ Anglicanæ* were entred and continued to this day.

Also

CHAP. XIII. Also after the word *Vobiscum* these words, *ac cum Prælatiſ Magnatibus & Proceribus* are omitted; but (as near as I can collect) some of the most eminent of the Professors of the Law, (as the Lord Chief Justice, and Lord Chief Baron, &c.) were sometimes Summon'd by Peeral Writs, that is by such Writs that were sent to the Nobles, and then the words *ac cum Prælatiſ, &c.* (as in *Richard* the Seconds time to *Jo. Cavendish Capital' Justic'*; and in *Henry* the Fifths time, to *William Hauckford* and many more) were inserted; but when ever they were Summon'd meerly as Assistants, the words *cum Prælatiſ, &c.* were left out, and so have been ever since *Edward* the Fourth's time.

8. This Parliament Writ is directed, *Capitali Justituario nostro ad placita, &c.* and so is his Writ by which he enjoys that great Office, yet his common and general appellation is, *Capitali Justituario Angliæ*, which we call Lord Chief Justice of *England*, and sometimes, Lord Chief Justice of the *Kings Bench*, and by some one of those Titles; he is called so in several Acts of Parliament, and ancient Records; (as I have hinted) and though the word Lord be added to his appellation, both in his Assistancies and Office, (and so to some other

CHAP. XIII. other of the Assistants) yet neither he nor they are to be counted Lords of Parliament; for his Writ by which he enjoys his Office (which is the Inducement to his Assisting Writ) is but *durante Placito*, (& *honore Officii*) and his Assistance being but *durante Parlamento*, neither of them can fix the Title further than the continuance of his Office or Assistance.

And here it may be observed, that the word *Vos* (a word of great eminency, always signifying a plural, though sometimes apply'd to a single Person) is us'd in this Official Writ (before mentioned) to the this Lord Chief Justice, but is not in his Parliament Writ, nor in any of the Patents or Parliament-Writs to the other Justices, of whom I shall speak in order.

9. The antiquity of this great Minister of Justice, and his Court, is doubtless more ancient (under various Titles) than from *Hen.* the Thirds time; (from whence we vulgarly compute it,) for the Civilians do acknowledge that, *Iustitiarum sunt umbræ quædam illorum qui olim νομοφύλακες apud Græcos dicebantur, designati ad Custodiam Juris & æquitatis.* However, Sir *Edward Coke* to prove its antiquity, tells us of an Epitaph in *Ramsy Abby*, engraven on Stone in these words, *Alvinus incliti Regis*

CHAP. XIII. *Regis Edgari Cognatus, totius Angliæ Aldermannus*, (saith, that by *Aldermannus* is meant, *Capitalis Iustitarius Angliæ*, and consequently his Assistance in all Councils before the name of Parliament, (and since that name) hath always been esteem'd necessary, and (as he saith) all these Courts of *Justice* are so ancient, that they seem to have their Originals from Custom, rather than by Commission.

10. His Jurisdiction is so great, as well out of Parliament as in Parliament, that often times the Lords do wave their own Power and Priviledges of using their own Officers, and do direct the Chief Justice to send out his single Warrant to Seize on Persons in case of Treason, or Suspicion of it, or for other high Crimes or Misdemeanors; and the *House of Commons* have likewise sent to him to come to their *House* upon the like occasions, as happened when by their directions his Lordship sent out Warrants to Seize the five Lords, of whom I shall speak in the Chapter of Tryals.

11. Other uses are also made of him, and some other of the Assistants in Parliament; for when the *Lords* have any matter of importance to impart to the *House of Commons*, then the Lord Chief Justice with the other Chief Justice, or Lord Chief Baron,

Y Baron,

CHAP. Baron, or some other of the Judges (but
XIII. always one of them, and no more) is
joyn'd with him in delivering the same;
but in matters of less importance, two
Masters of Chancery are employed (as
will be shewn.)

12. When any Writs of Error, or Writs
of *Habeas Corpus*, or Tryals of Peers, or
when any Pleas of the Crown, or other
cases Criminal, Civil, and sometimes Ec-
clesiastick, or indeed any matters of Law
are to be heard and determin'd in Parlia-
ment; as also in the penning of new, and
altering, explaining or repealing of former
Statutes, their assistances are required, and
more especially the Chief Justice.

13. The number of Assistants Sum-
mon'd by Writ to appear in Parliament,
(*Cum cæteris de Consilio*) from the time
of *Henry* the Third, to the 21. of *Henry*
the Eighth, consisted of an uncertain
number, sometimes above forty, some-
times under; but from the 21 of *Henry*
the Eighth, (from which time the extant
Pawns do give an exact account of them)
they never exceeded 27. and sometimes
were not above 13. or 14. But in all Par-
liaments since *Edw.* the Firsts time, some
of them were Summon'd, and very likely
before; For *Mr. Prin*, (though in his
Breviary of Parliament Writs, pag. 36. he
tells

tells us of Twenty four Parliaments, (from CHAP.
the 49. of *Hen.* the Third, to the 49. of XIII.
Edw. the Third) and many more which
he saith he omits; of which Parliaments,
he saith, there is no mention of Writs of
Summons to any of the Kings Council,
Justices, Officers, or others in the Rolls
of these Parliaments; yet he kindly as-
cribes it to the negligence or slothfulness
of Clerks, in omitting the entries of their
Writs. This he saith, but he had done
much better for his own justification and
others satisfaction, (being intrusted by
his Majesty with the Records of the
Tower) if those Records which he cites,
(both in his *Breviary*, and many others
mention'd by him in *Sir Robert Cottons*
Abridgment) now wanting, might have
been restored by him to their ancient Re-
positories there.

14. As to the Lord Chief Justice, and
the Assistants Places in the *Lords House*,
none of them, as I have said, have their
Places there by the Act of Precedency's,
but rather by custom and favour; of
which I shall speak more, when I come
to the actual Sitting of the Parliament,
as also of their Priviledges and Employ-
ments there.

15. As to the Officers which are under
the Lord Chief Justice his Jurisdiction,

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CHAP. none of them are employed about the
XIII. Summoning of a Parliament, but many of them are employed in other matters in time of Parliaments, as in cases of Errors, &c. but more chiefly upon Tryals of Peers, (when only the chief Clerk of the Crown in the *Kings Bench* is the principal Manager of them) as will be shewn.

16. Regularly no Officer or Court, either in Parliament or out of Parliament, have greater Power or Jurisdiction, or more publick affairs to manage; (except the Lord Chancellor in Chancery) and yet in some cases above it: For all appeals from the Chancery and other Courts, are determin'd in this Court, and no appeal from this Court, but to the High Court of Parliament, and all Records which are brought from other Courts into this, are never return'd back into those Courts from whence they were brought, and many others which might be intanc't.

17. To conclude, his Lordship, or the other Lord Chief Justice, or one of them, are constantly appointed to be Speaker of the *House of Lords*, *Pro tempore*, when the Lord Chancellor or Lord Keeper is absent, which is usually done by a particular Writ, which I shall enter amongst emergent Writs, *Chap. 14.*

Thus

of Parliaments. 325

CHAP. Thus having said as much as I think con-
venient concerning this Exemplar, with XIII.
some intermixtures of some of the Con-
similars, I proceed to give a short touch
of each of the Consimilars more distinctly;
and first of the Master of the Rolls.

*Of the Consimilar Writ to the Master
of the Rolls.*

1. **T**HE Office of Master of the Rolls is granted by Patent under several Titles, *viz. Clericus parvæ Bugæ & Custos Rotulorum & Magister Domus Conversorum*, and he Sits in the Rolls to hear Causes, &c. by vertue of a Commission to that purpose.

2. But his Writ of Summons to a Parliament is directed as in this Pawn, *viz. Harbotello Grimston Baronetto Magistro Rotulorum Cancellariæ suæ*, and then the remaining part of his Consimilar, as also the rest of the following Consimilar Writs, agree in the same words with the Exemplar to the Lord Chief Justice, as in Sect. the Eleventh.

3. This *Magister Rotulorum*, or *Custos Rotulorum*, or *Clericus parvæ bugæ*, is the same which we call in *English* Master of the Rolls, anciently call'd Clerk of the
Y 3 Rolls;

CHAP. XIII. Rolls; but from *Henry* the Seventh's time, when the Clergy did decline in their Temporal Employments, he was and is still call'd Master of the Rolls.

4. In the absence of the Lord Chancellor or Lord Keeper, he Sits as Judge in the *Chancery*, and therefore by Sir *Edward Coke* is call'd his Assistant, and at other times he Sits as Judge of Causes in the Chappel of that House, which in *Henry* the Third's time, was employed as a place of Charity to such *Jews* as should turn to the *Christian Religion*; but those *Jews* being Banish't, *Edward* the Third did dispose of it for the keeping of Records, and joined it to the Office of *Custos Rotulorum*, and of the *Pettibag*, (which Office of *Pettibag* seems to be a lesser Bag or place of Records.)

5. So that he hath three Titles, viz. *Clericus Pettibagæ*, or Clerk of the *Pettibag*; (he being the chief of three Clerks more of that Office) Secondly, *Magister Rotulorum*, or Master of the *Rolls*, (or Clerk or Preserver of such Records as do at any time pass the Great Seal, and are sent to his Custody, either in the Office of the *Rolls*, called the *Rolls Office*, or to the *Pettibag Office*) where his under Clerks do attend on purpose to produce them as occasions require.

Thirdly

Thirdly, His third Title is Master of CHAP. XIII. the *Chancery*, which Title is given to twelve Persons, of which twelve he is the chief.

5. Formerly, and even to this day, the greatest part of these Twelve were Constituted of Doctors of the Civil Law; however Eleven of those are so constantly dispos'd of, as that some of them do Sit in the *Lords House* in time of Parliament, and at other times with the Lord Chancellor in the Court of *Chancery* upon hearing of Cases, others with the Master of the Rolls, when he Sits in the *Chancery*, or at the *Rolls*, where he hath a Jurisdiction to hear or determine Causes, yet appealable to the Lord Chancellor.

5. There are other Masters of *Chancery*, call'd Extraordinary, and six Clerks of eminent Quality, and other Clerks employed both in the *Chancery* and *Rolls*; but these are not Summon'd to Parliaments, (of whom I shall speak more) but in those capacities which I have mention'd, the Master of the *Rolls*, as Master of the *Rolls*, or chief Clerk of the *Pettibag*, or both, or chief Master of *Chancery*, or in all three Capacities, he is very Assisting to a Parliament, especially in the business of Summons, &c.

Y 4

For

For as I have shewn in *Cap. 2.* whenever the Kings Warrant is sent to the Lord Chancellor to issue out Writs for a Parliament, his Lordship either sends it, or a like Warrant, to the Master of the *Rolls*, who as chief Clerk of the *Pettibag* causeth the other Clerks of the Office to ingross all the Writs, (both for the *House of Lords* and *House of Commons*) so as they may be fit for the Great Seal; and these being thus done, and fairly abstracted and ingross't into a Roll, (which is call'd the Parliament *Pawn*, and lies there as a Memorial and Record of what they have done, and as a President for the future) all the particular Writs mention'd or intimated in that *Pawn* (being fitted) are carried to the Lord Chancellor; and being in his presence Seal'd, they are immediately delivered to Messengers belonging to the Chancellor, who do take care to dispose some to the Persons to be Summon'd for the *Lords House*, and others to the respective Sheriffs of all Counties, and Comitated Cities, for Elections of such as are to sit in the *House of Commons*, and so the Master of the *Rolls* and the Clerks of the *Pettibag* having done all their parts, and the Messengers and Sheriffs theirs, the same Writs which concern the *Lords House* are or ought to be return'd to the Clerk

Clerk of the *Lords House* at the first Sitting, and the Writs for Elections are to be return'd by the respective Sheriffs to the Clerk of the *Chancery Crown Office*, and not to the *Pettibag*, (as hath and will be shewn) for they come no more there till some time after Dissolution of a Parliament; and then for ease of that Office, and more safely preserving them, they are order'd to be carried to the *Rolls*, and from thence to the *Tower*, all which will be more fully shewn; which method I often repeat in this Treatise, because I find it so much neglected.

As to the Imployment of the other Eleven Masters of the *Chancery* in time of Parliament, I shall shew it in a distinct Chapter.

This Master of the *Rolls* doubtless hath been anciently Summon'd to Sit in the *Lords House*; yet I find no Writs issued to him till the 36th. of *Henry* the Eighth, and then as Master of the *Rolls*, not as chief Master of *Chancery*; and after that he was Summon'd to all Parliaments except the 39th. of *Eliz.* and first of King *James*; and in this very Parliament a Writ was prepared for him, but being Elected a Member of the *House of Commons*, his attendance was not requir'd in the *House of Lords*, for what reason I know not; but

CHAP. but he hath his place whenever he Sits
XIII. there, next to the Lord Chief Justice of
England, upon the second Woolfack, as
will be shewn in the Chapter of Places.

The Consimilar Writ to the Chief Justice
of the Common-Pleas.

THE Patent which invests this
Chief Justice to his Employment
in this Office, is *in hæc verba*.
*Carolus, &c. Omnibus ad quos Patentes
Litteræ nostræ pervenerint salutem Sciatis
quod Constituimus dilectum & fidelem Or-
landum Bridgman Militem Capital' Justi-
tiarium nostrum de Banco suo, Duran'
bene placito Teste, &c.*

Observations.

HIS Writ of Summons to Sit in Par-
liament, is also *Capitali Justitiaro
nostro de Banco*, (*mutato nomine*, in all o-
ther words agreeing with the Exemplar)
and here it may be again observed, to pre-
vent vulgar misunderstandings, That the
Lord Chief Justice of England is Chief
Justice of the *Kings Bench* or upper *Bench*,
and this is Chief Justice of the *Common
Bench*;

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Bench; and sometimes one is call'd Chief CHAP.
Justice of the *Pleas* of the *Crown*, as XIII.
in the *Latin* words, *De placitis Coronæ*,
and this Chief Justice of the *Common-Pleas*,
or *Communia Placita*, yet in the *Latin* Writ
it is *de Banco*; so as both Courts are call'd
Bancks or Benches, and both call'd also
Courts of Pleas, in respect of Pleas or
Pleadings; one properly concerns the
King in matters Criminal; the other con-
cerns the Pleas or Pleadings of the Com-
monalty or Common People among them-
selves in matters Civil, and one also is
call'd the Upper Bench, the other the
Common Bench, and therefore (what ever
the Patent or Writs are, yet for an easier
distinction) I here intitle one, the Chief
Justice of the *Kings Bench*, the other Chief
Justice of the *Common-Pleas*.

2. As for the names *Bench* or *Banc*,
Pleas or *Placita*, I refer them to my *An-
notations*.

3. The Chief Justice hath three more
Justices to assist him in this Court.

4. That which makes the eminency of
this Court is, That only the learned Ser-
jeants of the *Coise* (of whom I shall
speak in order, being the next Degree to
Judges) do Plead in this Court, (yet not
prohibited from Pleading in all other
Courts) but all other Graduans of Law
have

CHAP. have the liberty to Plead in all other
XIII. Courts, but not in this.

5. The Pleas of this Court cannot be so well ascertain'd, as that of the *Kings Bench*, because the Pleas held by Common Persons, or between Subject and Subject, are divided into as many Branches as Actions, and the Actions into as many Causes as there are variety of Contests in the Kingdom; yet all these Actions, Causes and Contests, are included under three notions, Real, Personal, and Mixt, which are here tried as they happen according to the strict Rules of Law. As for Personal and Mixt Actions they are tried in other Courts, but Real Actions are only Pleadable here, nor are any Fines of Concord (which is observable) levied in any Court but this, so that (as Sir *Edward Coke* saith) the Motto of this Court may be, *Hæc est finalis Concordia.*

6. Upon these and other considerations, the necessity of requiring Assistances from the Justices of this Court may appear: For as the Justices of the *Kings Bench* may acquaint the Lords with what concerns the King; so the Justices of the *Common Pleas* may most properly acquaint them with what concerns the People, whereby Laws for either may be corrected, repeal'd, or made *de novo*, as shall be thought most expedient. The

7. The Justices of this Court are not CHAP.
concern'd in the managing of any Sum- XIII.
mons to a Parliament, as the Lord Chancellor and Master of the *Rolls* are.

*Of the Consimilar Writ to the Chief
Baron of the Exchequer.*

THE Title of this is different from the two Chief Justices, for his Patent is thus.

Carolus, &c. Omnibus ad quos Patentis Litteræ nostræ pervenerint Sciatis quod constituimus Matthæum Hale Militem Capitalem Baronem Scaccarij nostri duran' bene placito Teste, &c. (Scaccarius being that which we call Exchequer.)

But his Writ of Summons to a Parliament is (with this addition, *Dilecto & Fideli Matthæo Hale*, (then as in the Exemplar Writ omitting *Durante bene placito*) and so in all the Assisting Writs, because the continuance of a Parliament (as I said) is but *Durante Placito Regis*, therefore needless to insert it.

Obfer-

THIS Chief Baron hath four more Barons to assist him in his proper Court of the *Exchequer*, whereof the puisne, or youngest made Baron of the four, is not an *Itinerant Justice*, nor accounted in the number of the Twelve Judges.

2. These Barons are not such as are before mention'd of the next Degree to Viscounts in the *Lords House*, nor such as are meerly Barons by Courtesy, or Barons of Court Barons, or Barons of the *Cinqueports*, (of whom I shall speak more, when I treat of them in the *House of Commons*) but are great Officers of Justice; and so his Writ calls him *Baro Scaccarij*, or Baron of an Officiate Place; but the Writ to the noble Baron before mention'd, is to an Hereditary Place, *viz.* *Johan Nevil, Baro de Abergaveny*, and so to others of that Degree.

3. Some think they were call'd Barons, because the Court of *Exchequer* was anciently manag'd by noble Barons; but as *Okham* saith, that these Barons were to be *Majores & Discretiores*, &c. being either cull'd out of the Clergy or Laity, or the Kings Court; and for many ages, the chief

chief of these five Barons was call'd as now, (both in his Patent and Writ) *Capitalis Baro*, and generally is Intituled the Lord Chief Baron: the other four Barons do assist him in all matters between the King and his Subjects, in cases properly appertaining to Assize, Exchequer, or the Kings Revenue.

4. He is the chief Judge of that Court in matters of Law, as also of Informations of any abuses therein, and of Pleas upon them, and solely gives order for Judgment, (wherein the Lord Treasurer thinks not fit to concern himself.)

5. He alone without other Barons in Term time, Sits in Afternoons at *Guildhall*, upon *Nisi prius*, (upon cases which arise in *London*, and cannot be dispatch't in the Mornings) he takes Recognizances of Debt, Appearances, and Observances of Orders, he takes the Presentations of all Offices unto himself, and causeth an Oath to be given to the Lord Mayor of *London*. He takes Audits, Accounts, &c. in his absence, and sometimes to ease him, the second and third Baron hath the like power, and the fourth takes the Oath of Sheriffs; and as I said, the three first of the five have constantly their Writs of Summons to a Parliament, yet the fifth is also of good use in that Office, but hath

CHAP hath no Writ of Summons as the other.
XIII.

6. That which is most observable of this Court is, that all Cases of great difficulty in the *Kings Bench* or *Common-Pleas*, are still Adjourn'd to the *Exchequer Chamber*, and there with the Barons Debated, Argued, and Resolved by all the Twelve Judges, (whereof the four first Barons make four of the Twelve.)

7. This Court consists of two parts, the upper *Exchequer* and the lower; the upper is that wherein these Barons do execute their Justice: but herein the Lord Treasurer, as Supervisor, may Sit as oft as he pleaseth, however once in every Term he seldom fails to Sit, and hear Matters; but the lower *Exchequer* is chiefly under the care of the Lord Treasurer, (the Offices of upper and lower being distinct) yet both of them (considered jointly under the Title of the *Exchequer*) do include eight Courts or Offices, *viz.* A *Court of Pleas*; (in some manner like the *Kings Bench* and *Common-Pleas*) Secondly, The *Court of Accounts*; Thirdly, The *Court of Receipts*; Fourthly, The *Court of the Exchequer Chamber*; (being for the Assembly of all the Judges of *England* (as I said) for Matters in Law for special Verdict; Fifthly, The *Court of Exchequer Chamber*, for Errors in the Court

Court of *Exchequer*; Sixthly, The *Court of Exchequer Chamber*, for Errors in the *Court of Kings Bench*; Seventhly, The *Court of Equity*, in the *Exchequer Chamber*; Eighthly, That which was, but is not now call'd a Court, yet is an Office much of the same nature, (and of as great concern as some of the other) Intituled the *Remembrancers Office of the first Fruits and Tenths*, who takes all Compositions, and makes out all procefs for such as do not pay the same; so that the business of this Court and inclusive Courts and Offices doth imploy above 200. Officers and Clerks.

8. From which may be computed what variety of business this Court doth afford to a Parliament, though not in the troubles of Summoning it, yet by bringing in and issuing out of Money, (which are the Nerves of a Kingdom, and Arteries of a Parliament) so as the Progresses of this (and the inclusive Courts) do occasion more Debates in Parliament, than what ever do arise from the *Chancery*, *Rolls*, *Kings Bench*, or *Common-Pleas*.

Having done with the first Orb or Rank of Degrees of such Professors of the Law as are Summ'd to Parliaments, consisting of five, *viz.* Lord Chancellor, Lord Chief Justice of the *Kings Bench*, Master
Z of

CHAP. XIII. of the *Rolls*, Lord Chief Justice of the *Common Pleas*, and Lord Chief Baron; I shall proceed to the second Orb or Rank of Degrees usually Summon'd; and these are three Justices of the *Kings Bench*, three Justices of the *Common Pleas*, and three Barons of the *Exchequer*, whose Writs are also Consimilary to that of the Lord Chief Justice of the *Kings Bench*.

The Consimilary Writ to the three Justices of the Kings Bench.

EACH of these Justices have their distinct Patents in these words.

1. *Carolus, &c. Omnibus, &c. Sciatis quod constituimus, &c. Tho. Mallet Militem unum Justitiariorum suorum ad placita coram, &c. Teste, &c.*

2. His Parliament Writ hath also the same words in the Dative Case, *Uni Justitiariorum suorum.*

3. *Tho. Twisden Miles*, had his Patent and Parliament Writ in the same words, *Unum & Uni.*

4. *Wodham Windham*, had also his Patent and Writ in the same words, *Unum & Uni.*

of

Of the Consimilary Writs to the three Justices of the Common Pleas.

1. **R**OB. Hide Mil. had his Patent of Constituting him, *Unum Justitiariorum suorum*, and his Parliament Writ, *Uni Justitiariorum.*

2. *Tho. Tyrrill Mil.* had the like Patent of Constituting him, *Unum*, and his Parliament Writ, *Uni.*

3. *Samuel Brown Mil.* had the like Patent of Constituting him, *Unum*, and his Parliament Writ, *Uni.*

Of the Consimilary Writs to the three Barons of the Exchequer.

1. **E**DWARD Atkins Mil. had his Patent of Constituting him, *Unum Baronum de Scaccario*, and in his Parliament Writ, *Uni Baronum de Scaccario.*

2. *Christopher Turner Mil.* had the like Patent of Constituting him, *Unum*, and his Parliament Writ, *Uni.*

3. This place was vacant, so but eight of the nine Judges were Summon'd to this Parliament at the time of Summoning.

1. ALL their Patents and Writs (except the mutation of their Names and Titles) are *verbatim* the same, especially in the words, *Unum & Uni*, viz. one of the Justices, signifying that they were all so equally presum'd to be just, that they are rendered to us rather by an Unity than a Priority, viz. by one and one, and not by 1st. 2d. 3d. and 4th. yet in the 30th. and 39th. of *Eliz.* and 1. *Jacob.* I find the word *alter*, next to *Capitalis*, & *Unus*, in the *Kings Bench* and *Common Pleas* only, but in the *Exchequer*, in the 43. *Eliz.* next *Capitalis Baro*, is *Secundus & tertius Baro*.

2. Of these fourteen which are of the first and second Rank of the Professors of the Law, two of them are properly Judges of matters of Equity, viz. the Lord Chancellor, and Master of the *Rolls*, the other Twelve are call'd the Twelve Judges of the Common-Law; the two Judges of Equity have been constantly Summon'd to Parliaments; (except as I have shewn) but as to the Twelve, sometimes all, and sometimes but some of them are Summon'd, according to the Kings Pleasure, or the vacancy of their
Places

Places, or imployed in their *Itinerances*. I need not begin higher than *Henry* the 8. and then there were nine Summon'd, and the 30th. of *Henry* the Eighth, twelve; the 36th. of *Henry* the Eighth, but six; the first of *Edward* 6th. nine; the 6th. of *Edward* the Sixth, nine; the 7th. of *Edw.* 6th. but seven; the first of *Mary*, but eight; the first of *Mary*, but five; the first and second of *Phil.* and *Mary*, but 6. the second and third of *Phil.* and *Mary*, 8. the 4th. and 5th. of *Phil.* and *Mary*, but eight; the 28th. of *Eliz.* eleven; the 30th. *Eliz.* eleven; the 35th. *Eliz.* twelve; the 39. *Eliz.* eleven; the 43. *Eliz.* ten; the first of *James*, the full number of 12. (but in respect of the changing of them before the Parliament sate, there were two Writs made for the several Judges before the Parliament sate;) the 21. *Jac.* eleven; the first *Car. primi*, twelve; the 15th. *Caroli primi*, eleven; and the 13th. *Caroli Secundi*, also eleven; as I said, accounting the two Chief Justices and chief Barons in all these years.

3. In all these Writs, I do not so much trust to the several *Pawns*, as to the Writs themselves, where I doubt of any mistakes in the Clerks.

CHAP. XIII. 4. To conclude this Section; as in all the Judicial and Equitable Courts, (before mention'd) there are distinct Jurisdictions and methods of managing the concerns of their respective Courts; so in many things, there are also excellent intermixtures and concurring Authorities of their Courts and Powers, whereby they make up the Harmony of Justice, (as in cases of Consult in the *Chequer Chamber*, Writs of Error, and other matters which I have hinted) and whoever will take a full survey, not only of their Jurisdictions, but of the number of their Clerks, Attorneys, or other Officers of various Appellations, belonging to their respective Courts; may think that they are so many Principalities within our Kingdom, and thereby see how necessary it is for these Assistants (who have so great influence over the whole Kingdom) to be Summon'd to this *Supream Judicatory*, to Advise either the Corroborating the old Laws, or altering them, or making new, where there is just occasion (as I have shewn) of Reviving, Correcting, or enlarging them, according to the fluctuations of Affairs, which not only happens in this Kingdom, but in all other Kingdoms and States, so as Laws are still suited to the tempers and dispositions of those who are to be govern'd; for

Tempora

Tempora mutantur, & nos mutamur in illis, CHAP. XIII. there being a secret confederacy between time and human affairs, which can scarce be discovered; the time was, is, and to come, being so nice, that the future reverts into a Præ-existence, that to an existence, and so into a circular perpetuity of notional gradations.

And thus having, as briefly as I could, dispatch't the first and second Orb of Professors of Law; I proceed to the third, which consists of the Kings Serjeants at Law, the Kings Attorney General, his Solicitor General, and his Secretaries.

Of the Consimilar Writs to the Kings Serjeants, &c.

I Am now to treat of the third Orb or Degrees of the Professors of the Law, viz. the Kings Serjeants at Law, the Kings Attorney General, the Kings Solicitor General, and the Kings Secretaries, (and some others of the Kings Council upon emergent occasions.)

These Serjeants at Law in the *Latin* appellation are call'd, *Servientes ad Legem*, for Serjeant and Servant are the same,

Z 4

only

CHAP only differing by a vulgar Pronunciation,
XIII. or the Idiom of our Language, which of-
ten renders an A. for an E; for properly
Servant ought to be writ Servient, from
Servio to Serve, or from *Servare* to Keep,
so as they may be said to be as well Keepers
of the Laws, as Servients to the Law.

As these are *Servientes ad Legem*, so
there are another sort, (of which I shall
speak) who are Attendants in the *Lords
House*, call'd *Servientes ad Arma*, but *Ce-
dant Arma togæ*; therefore I proceed to
Serjeants at Law.

The Gradations to this Title are thus
attain'd, *viz.* After the young Students of
the Law have continued Seven Years in the
Inns of Courts, and have done their
Moots, or *Motus ad Literarum*, and other
exerciſes, they are called or admitted to
plead at the Bar of any Court, (except
the *Common-Pleas*) and are thereupon cal-
led Barresters, and thereby also gain the
Title of Esquire. And after that, they are
promoted to be Readers of Law in the
Inns of *Chancery*, whereof there are eight,
viz. *Cliffords-Inn*, *Lions*, *Clements*, *Bar-
nards*, *Staple*, *Furnivals*, *Davis*, and
New-Inn, which are dependent on the
four Inns of Court, *viz.* the *Inner Temple*,
Gray's-Inn, *Lincolns-Inn*, and the *Middle-
Temple*, in some one of which they are to
be

be Benchers and Readers also; and thus CHAP.
they are to pass seventeen Years in their XIII.
Studies, before they can arrive to the dig-
nity of a Serjeant, or *Serviens ad Le-
gem*; but after they have perform'd their
Readings, the King taking notice of their
Proficiencies, doth by his Writ call a cer-
tain number of them to take upon them
that Dignity; and the reason of making a
number of ten or more (at one time) is
because the charge to each may be the
less, because almost no Dignity in any
Profession (especially of Law) is usher'd
in with greater State, Ceremony, and
Charge than this Degree, as may be read
in *Fortiscue de legibus Angliæ*, *Crooks Re-
ports*, &c. The Form of which Writ for
Electing of a Serjeant is *in hæc verba*.

CAROLUS Secundus Dei gratia (as in
other Writs) *Fideli nostro I. M.
Mil. Salutem, Quia de advisamento concilij
nostri ordinavimus vos ad statum & gradum
Servient' ad Legem immediate post recep-
tionem hujus Brevis nostri Suscipiend' Vobis
Mandamus firmiter injungend' quod vos ad
statum & gradum predict' in forma predict'
Suscipiend' Ordinatis preparatis & hoc sub
pæna mille Librarum nullatenus omittatis,
Teste, &c.*

Barker.

These

CHAP. XIII. These Serjeants at Law are of two sorts, *viz.* Serjeants at Law considered in their General Appellation, and the Kings Serjeants at Law; that is, when the King selects some out of the rest, and appropriates their Service to his occasions; (which he constantly doth at every Call) thereupon they have two Writs, one at the general Call of Serjeants, (which I have shewed) the other as a particular Serjeant (or Servant) to the King, the Form of which Writ also is as follows.

Carolus Secundus, &c. (as in other Writs) *omnibus ad quos, &c. Sciatis quod nos de gratia nostra speciali, ex certa scientia & mero motu nostro constituimus dilectum & fidelem nostrum, J. M. fervientem ad legem, unum Servientem nostrorum ad legem, nec non concessimus eidem, J. M. Officium unius Servient' nostrorum, ad legem habendum occupandum & exercend' dict' officium nec non ad essendum unum' Servient' nostrorum ad legem quamdiu nobis placuerit, capiendum & percipiend' anuatim in & pro officio illo exercend' eidem J. M. vad' fead' vestur' & regard' dict' officio debito sive pertinend' pro ut aliquis Servient' nostrorum ad legem pro hujus modi officio exercend' percepit, sive habere, & precipere debeat eo quod express a mentio*

non fit, &c. In cujus rei testimonium, &c. Testa, &c. CHAP. XIII.

Per ipsum Regem.

Barker.

And being thus made the Kings Serjeants by a distinct Writ, they are capacitated to have a Writ of Summons to sit in the *Lords House* in Parliament, and though none sit this Parliament, yet Writs were provided for two of them, in this Form following, *viz.*

Carolus, &c. dilecto & fidei suo Johanni Glin Militi Servienti domino Regi ad legem Quia, &c. and so *verbatim* according to the Exemplar before recited to the Lord Chief Justice.

The other was *Johanni Maynard militi*, who had the like Writ prepared for him.

Observations.

1. **T**HESSE Professors of Law are call'd *Servientes ad Legem* in all Writs, (which are generally Writ in *Latin*) but in *English* (as I said) they are called

CHAP. called Serjeants or Servants at Law, also
XIII. Serjeant of the Coif, (from the white Coif which they wear uppermost at the Solemnization of their Order) but at other times under a black Cap, like the Twelve Judges, because having past this Order, they are then capable of being made one of the Twelve Judges, and to exercise the employment of a Judge upon emergent occasions.

2. None of all the three Orbs of Professors have a Writ for their Office and Employment, but the Lord Chief Justice of the *Kings Bench*, (as I have shewn) and these Serjeants at Law. The difference in the Writs are, that in the Writ to the Lord Chief Justice of the *Kings Bench*, (as to his Office) and so in the Patents to the other Justices, (as to their Offices) there is nothing but a *Constituimus*, without any adjunct of Compliment, but in this Writ to the Serjeants at Law, it is *Fideli nostro*; yet in both of their Writs of Summons to a Parliament, they have equal words, viz. *Dilecto & Fideli*.

3. In the Writ of the Lord Chief Justice of the *Kings Bench*, there is no Advice of Council mention'd; but in the Writ to every Serjeant at Law, the words are as in Parliament Writs, *Quia de advisamento concilij nostri*, and so in the Manda-

CHAP. XIII.
Mandatory part of it, *Vobis Mandamus firmiter injungend'*, and then under the penalty of a 1000 *l.* to take upon them that Degree; and in their second Writ to be the Kings Serjeant at Law, they have *Vadage, Feodage, Vesturage, & Regardage*, of which I shall speak in my *Annotations*; yet I shall give this hint here, That the word *Investitura* is us'd only in the Patents of Creation of the Lords Temporal, and *Vestura* only us'd in the Patents to the Serjeants at Law, and to no other Degree that sit in the *Lords House* as Peers, or Assistants.

4. That which makes this Degree more eminent is, that by virtue of the first Writ, (to be a Serjeant at Law in general) they continue their Title of Serjeant at Law, *Durante vita*; (though not exprest in the Writ) the other to be the Kings Serjeant at Law is equal with that Writ to the Lord Chief Justice of the *Kings Bench*, and to the other Eleven Justices, viz. *Durante beneplacito*; the 3d. Writ gives him an interest in Parliament.

5. It is to be noted, That all the twelve Judges before they can take upon them those Offices of Judges, are made Serjeants at Law; so that though they quit those Offices of Judges, and thereby loose the dignity of their Office, yet the dignity

CHAP. XIII. dignity of their Serjeantship still remains during life.

6. It may be here pertinently observed, That though Writs were prepar'd and in-roll'd in the Pettibag for these two Serjeants, yet whether the Writs were delivered to them, I cannot inform my self, or whether the delivery was declined in respect both of them were chosen Burgeses of the House of Commons, (where Sir John Glyn did sit during his life, and Sir John Maynard during the continuance of this Parliament) or whether they were conniv'd at, as being more uelul in the House of Commons, (or to themselves) for being once admitted to sit in the Lords House, they might not Plead in other inferior Courts, which had been much to their prejudice.

7. The Kings Attorney is placed in this Pawn before the two Serjeants, which was some mistake in the Clerks; and so I find the like misplacings of others in many other Pawns; and therefore in this my method, I pursue the order of all such other Solemnities as they usually attend, and of their precedent sitting in the House of Lords, (as will be shewn) and so place them here, as they are placed there.

8. As to the Antiquity and number of Serjeants which were formerly Summoned

CHAP. XIII. ed to Parliaments, it is manifest that more or less of them were Summond in most Parliaments of former Kings, viz. in the Reign of Edw. 3d. Rich. 2d. Hen. 5th. and Hen. 6th. (as appears in the Clause Rolls of those Parliaments) and more easily seen in Mr. Prinns Breviary, or in the Rolls Chappel; (for it were too great a diversion to recite them here) but those of latter days do appear thus in the Pettibag, viz. in the 21. Hen. 8th. there were three Summon'd; but in the 30th. none; in the 36th. of Hen. 8th. four; in the first of Edw. the 6th. three; in the 6. of Edw. 6th. four; in the 7th. of Edw. 6th. four; in the first of Mary, two; and also in the first of Mary, two; and in the first and second of Phil. and Mary, one; in the second and third of Philip and Mary, one; and in the 4th. and 5th. of Philip and Mary, two; in the 28th. of Eliz. two; in the 30th. of Eliz. one; in the 35th. of Eliz. three; in the 39th. of Eliz. one; in the first of Jacob. three; in the 21. of Jac. five; in the first Car. prim. four; in the 15. Car. 1. three; in the 13th. Car. 2d. the two before mentioned; for whom Writs were order'd, but not actually Summond, (as I have shewn.)

9. In the 39th. Eliz. the Writs to the three Serjeants are directed distinctly, Uni,

CHAP. XII. *Uni, Uni, & Uni*, but in all the rest, *Servienti ad Legem*, without the addition of *Uni*, nor do I find *Uni* added in any former Writs, before *Henry* the Eighth; but only this, *viz. 4 Hen. 5th. Johanni Stranguayes, Uno Servienti Regis ad Legem.*

10. And as a peculiar distinction, the Kings eldest Serjeants have the Priviledge to Plead in all Courts of *Westminster* within the Bar, but only in the *Common Pleas*, (where no other Graduates of Law but themselves can Plead, as I have shewn) and there all the Serjeants stand without the Bar.

11. They are also sometimes Assistants to the Judges, and to the Lord Chancellor and Master of the Rolls, and many times in case of age or infirmness of the Judges, they do supply their places, both in the Courts of *Westminster*, and in their Itinerances and Circuits, *Pro hac vice*, and upon death of any of them, if the King think fitting, they are Constituted Judges in their Vacancies, and this by Commission.

12. As to their places in Parliament, they are next the Judges, as shall be shewn in the local part of this Treatise, as also of their Employmens, *sedente Parlamento.*

Thus having brought the *Servientes ad Legem*, to be *Judices & Magistros legum*,
I pass

I pass to the second Degree of the third CHAP. Orb or Rank, *viz. the Kings Attorney XIII.* General.

The Consimilar Writ to the Kings Attorney General.

SECT. 17.
THIS appellation of Attorney is deriv'd from *Tourne* so call'd in *Magna Charta*, which anciently was call'd the *Sheriffs Moot*, or view of *Frankpledge*, and to this day is call'd the *Sheriffs Tourne* from *Turris*, signifying a Tower or Castle where these Courts were kept, and where inquiry is made upon Oath of all things done contrary to the peace of the Countrey, &c. as will be shewn when I come to the *House of Commons*, and then those who did practise to those ends in those and other Courts, were call'd *Ad Tourny's* or *Attourny's*; generally the word doth signifie a Person intrusted to manage other mens Concerns. And this being the most Eminent Trust in managing the Kings Concerns, his Duty, Care and Pains is the greater and more Eminent; he hath also his Patent, *In hæc verba.*

Carolus Secundus, &c. Omnibus ad quos, &c. Salutem. Sciatis quod nos de fidelitate & Circumspectione dilecti & fidelis nostri, G. P. Mil. plurimum confidentes ipsum G. F. Constituimus Ordinavimus deputavimus & assignavimus nostrum Generalem Attornatum in omnibus curijs nostris de Record' in Regno nostro Angliæ Habendum & occupand' officium hujusmodi Generalis Attornat' nostri prefat' G. F. quamdiu nobis placuerit percipiend' in & pro officio illo exercend' Vad' Feod' Profc' & Regard' eidem officio pretinend' sive consuet' Dedimus etiam ac tenore presentium damus prefat' G. F. plenam potestatem & auctoritatem faciend' ordinand' & deputand' tales clericos & officiar' sub seipso in quolibet Cur' nostra quales aliquis alius officium illud proantea habens nomine occupans habuit fecit ordinavit seu deputavit aut facere ordinare seu deputare consuevit eo quod expressa mentio, &c. In cujus rei, &c, Teste, &c.

And he hath his Writ of Summons to a Parliament also, *In hæc verba, Carolus, &c. Dilecto & fideli Galfrido* (which we in *English* call *Jeffery*) *Palmer Militi, Attornato suo generali salutem*, and so *verbatim* according to the Exemplar.

Obser-

Observations.

1. **T**hat which makes this Assistant the more eminent and remarkable is, That as there is but one Lord Chancellor or Keeper, one Lord Chief Justice of the *Kings Bench*, one Master of the Rolls, one Chief Justice of the *Common Pleas*, and one chief Baron of the *Exchequer*; so there is but one Attorney General: and though those five have Judges and Masters of *Chancery* to assist them; this hath no proper Officer under him, yet hath power to depute Clerks and other Officers to assist him, and is *Singulus in omnibus & omnis in singulis*.

2. Neither these nor any of the Assistants to the *Lords House* before named, have the priviledge of making Proxies either before or in time of Parliament; yet I remember something Equivalent in the case of *Valentine Elliot, &c.* when upon a Writ of Error brought into the *Lords House*, for reversing of a Judgment given in the *Kings Bench* against the said *Elliot*, Sir *Jeffrey Palmer* being then Attorney General, and indispos'd in his health, and thereby finding himself unfit to manage that Case, Mr. *North*, then a young Professor of the Law, was permitted

CHAP. XIII. ted to appear for the Attorney General, and Plead the Case: only here was the difference, had Mr. *Attorney* been there in Person, he had stood within the Bar and Pleaded; but Mr *North* Pleaded without the Bar, which he manag'd with so much Law, Eloquence, and Dexterity, that his Abilities being known, (by usual Degrees in few years) he was advanc't to his present Station of Chief Justice of the *Common-Pleas*.

3. This Title of Attorney General began in *Eward* the Firsts time, but I cannot be positive when they had their first Writs of Summons; but in the 21. 30. and 39. of *Hen. 8.* he had a Writ, and so the 1.6.7.*Edw.* the 6. also the 1.and 1.of *Mary,* and 2. 3. 4. and 5. *Phil.* and *Mary,* (and in those two last Writs he is term'd, *Attornat' Dominorum Regis & Reginae General'*) and then in the 28. 30. 39. and 43. *Eliz. Attornato Generali*; and so also the 1. and 21. of King *James*; also the 1. and 15. *Carol. primi*; and now 13. *Caroli Secundi,* Sir *Geffrey Palmer,* *Attornato,* and after him none did sit in the *House of Lords* during this Parliament, except Sir *William Jones* Knt. the Attorneys intervening those two, being still chosen in the *House of Commons,* as will be shewn.

Of

Of the Consimilar Writ to the Kings Solicitor General.

SECT. 18. **T**He words *Attornatus & Solicitator* are us'd in the Civil Laws, as here at the Common Law, for such as do take care to manage or tend other mens Affairs, and there is but one of that Profession (as is before shewn of the Attorney General) but because the Title should be distinguish't from the common sort of such Practisers, as the Kings Attorney hath his Patent and Writ from the King, so hath this, thereupon call'd the Kings Solicitor General, his Patent is, *In hæc verba.*

Carolus Secundus, &c. Omnibus ad quos, &c. salutem. Sciatis quod nos de gratia nostra speciali ac ex certa scientia & mero motu nostris ordinavimus fecimus & constituimus dilectum & fidelem nostrum, H. F. Mil. Solicitatorem nostrum Generalem ac ipsum, H. F. Solicitatorem Generalem nostrum per presentes ordinavimus fecimus & constituimus Habendum gaudendum occupandum & exercendum officium illud quamdiu nobis placuerit Percipiendum annuatim eidem, H. F. pro occupatione & exercit' officij predicti tal' & tant' Vad. Feod. Profit' & commodat'

CHAP. *moditat' qual' & quanta dicto officio debito*
 XIII. *sive pertinent prout aliquis alius sive aliqui*
alij officium predict' proantea habens sive
occupans habuit vel percepit habuerunt sive
preceperunt in & pro exercitio ejusdem
officij eo quod expressa mentio, &c. In Cujus
rei, &c. Teste, &c.

Observations.

THOUGH this Imployment was granted by Patent in *Edward* the Fourth's time, yet for want of time I shall also begin his Writ of Summons, the 21. of *Henry* the Eight; and then *Edward Griffin* being Attorney General, *Gosnold* was Solicitor, and the Writ was, *Hen. Rex, &c. Dilecto & fideli suo Johanni Gosnold Solicitatori suo Salutem Quia*, and so verbatim according to the Exemplar; in the 36 *Hen. 8.* *William Whorwood* was Attorney General, and *Henry Bradshaw* Solicitor, and had his Writ the first of *Edw.* the Sixth, *Bradshaw* was made Attorney General, and *Edward Griffin* Solicitor, and had his Writ; and the 6. of *Edw. 6.* *Griffith* was made Attorney, and *Jo. Gosnold* Solicitor, and had his Writ, and both continued so till the first of *Mary*; and then *William Cordel*, in the room of *Gosnold* was

was made Solicitor, and had his Writ, also in another Parliament of that year both had their Writs; in the 1. and 2, 3, and 4. of *Phil.* and *Mary*, and in the 4. and 5. *Phil.* and *Mary*, *Griffith* being Attorney General, *Rich. Weston* (afterwards Lord Treasurer) was made Solicitor, *Domino- rum Regis & Reginae*, and had his Writ; in the 38. of *Eliz.* *Jo. Popham*, afterwards Lord Chief Justice, was Attorney, and *Thomas Egerton* (afterwards Lord Chancellor) was Solicitor, and had his Writ, and so they continued to the 39. *Eliz.* and then *Edw. Coke* (after one of the Justices of the *Common-Pleas*) was made Attorney, and *Tho. Flemings* Solicitor, and had his Writ; and in the 43. Sir *Edw. Coke* was put back to be Solicitor, and had his Writ; and *Thomas Egerton* was Attorney; and in the first of *James*, *Edw. Coke* (then Knighted) was again made Attorney General, and *Tho. Flemings* (then Knighted also) again made Solicitor, and had his Writ; and in the 21 *Jacobi*, *Thomas Coventry Miles* (after Lord Keeper) was made Attorney, and *Robert Heath* Knt. Solicitor, (after Chief Justice) and had his Writ; and both had Writs again the first *Car. primi*; and the 15th. *Jo. Banks* Knt. was made Attorney, and *Edward Harbert* Solicitor, and had his Writ.

CHAP. XIII. But at the Summoning of this Parliament, no Writ was sent to Sir *Heneage Finch* then the Kings Solicitor, being chosen for the *House of Commons*, and being after made Attorney General, still he continued in the *House of Commons*, till he was made Lord Keeper, and then he was remov'd to the *Lords House* by Writ, as Lord Keeper; and so Sir *Francis North* (being the Kings Solicitor) did sit in the *House of Commons* this Parliament, and was not removed thence till he was made Chief Justice of the *Common-Pleas*; so that during this Parliament, none (whilst actually the Kings Solicitors) were Summon'd or did sit in the *Lords House*; yet I thought fit to insert this Degree here, (though he be not mention'd in this *Pawn*) because there are so many Precedents of his Summons, as are before recited in former Kings Reigns.

Of the Consimilar Writ to the Kings Principal Secretaries.

SECT. 19. THIS Officer of State and Assistant is plac't the last in most of the *Pawns*, and brings up the Rear of all the forementioned Assistants; which posture is a place of great Honour, both in Civil Solemnities

CHAP. XIII. ties and Martial Imployments; and that it may so appear, in the aforesaid Act of the 31. of *Hen. the Eighth*, none of the other Assistants before recited (except the Lord Chancellor) are so much as mention'd therein, (their precedencies being known in their own Courts from a greater antiquity) but the Secretaries Place is fix't by that Act, viz. if he be under the Degree of a Noble Baron, yet it is above all the Assistants and next the Lord Chancellor; if he be of the Degree of a Baron, then above all Barons, or if an Earl, (as in the case of the Lord *Arlington*) then above all of that Degree, unless any of the Superior Officers of State be of that Degree, and then next to him and above the rest.

He hath his Office as Secretary not by Patent, but by delivery of the Privy Signet to him; and so if there be more than one, (as now there are two) each considered as Principal, hath also a Privy Signet delivered to him.

His Parliament Writ in this *Pawn* was thus,

Carolus, &c. Dilecto & fideli Edwardo Nicolas Militi uno primariorum Secretariorum suorum salutem Quia, &c. and so verbatim according to the last mention'd Exemplar, as an Assistant, and the Title in the Label is like the Title of his Writ.

Obfer-

1. **T**His Writ agrees with all the former, except in the word *Uni*, and so if there be more; (as I have shewn in the Writ to the Judges) yet commonly in Supercriptions, he that is made Chief is Stiled Principal without the word *one*; and the other One of the Principal Secretaries of State.

2. The word *Capitalis* is us'd in the Writs to the two Chief Justices and Chief Baron; but to the chief Secretary the word *Principali* is us'd, not only signifying the Capital, First, or Chief, but intimating his more immediate Employment on his Prince, for *Principali* is properly from *Principe*.

3. If there be more Secretaries than one, (as there are seldom less than two) they divide their negotiations into the Title of Provinces, both in relation to this Kingdom, or Foreign Kingdoms or States; and so each of them give an account to the King accordingly, and they have an Office appertaining to them, call'd the Signet Office, where they have four Clerks as their Substitutes to perform their Directions, for all Dispatches both Foreign and Domestick, and generally they are of his Majesties Privy-Council.

Signet.

4. Their

4. Their Employments in Parliament are either in the *House of Lords* or *House of Commons*, according as they are Summon'd to one, or Elected to the other, and as the King thinks them in either place most useful for his occasions.

5. I need not go back to find the Antiquity of their Summons, for it may be presum'd to be ancient from the Eminency and nature of their Employments; so it may suffice only to instance here, that in the 36 *Hen. 8. William Packet Mil.* had his Writ, *Secretario suo*, and at the same Parliament, *William Petre Mil.* had his Writ, *Secretario suo*, without other addition; in the first of *Edw. the Sixth, William Petre Mil.* had his Writ only *Secretario suo*; but in the 6. of *Edw. the 6th.* the Title alter'd, *viz. Willielmo Petro Mil. Uni primariorum Secretariorum suorum*; and to *Willielmo Cecil alt' primariorum Secretariorum*, and *Jo. Cheke Mil. alt' primariorum Secretariorum*, (so here were three Secretaries Summon'd to this Parliament) and the same three were Summon'd in the 7th. of *Edw. 6.* and in the first of *Mary*, and 1st. of *Mary*, the same *Petre* was Summon'd, *Un' Primariorum Secretariorum Domini Regis*, and *Jo. Bourne Militi alt' Primariorum Secretariorum Domini Regis*; and so the 1st. and 2d. and 2d. and

CHAP. and 3d. of Philip and Mary, the same
 XIII. Petre and Brown had Writs by the words,
*Uni & alteri primariorum Secretariorum
 Domini Regis*; the 4th. and 5th. Phil. and
 Mary, Writs were to Jo. Broxal, *Uni pri-
 mariorum Secretariorum Regis & Reginae*;
 the like to the said Jo. Bourne, *Militi alt'
 primariorum, &c.* the 25th. Eliz. Fran-
 cisco Walsingham, *Militi Principali Secre-
 tariorum suorum*, and no other Secretary;
 the 30th. Eliz. *Consiliario suo Roberto Cicil*
 Primario. *Militi Primario Secretario*, and no other;
 the 35th. Eliz. to the same Francisco Wal-
 singham, *Militi principali, &c.* and no o-
 ther; the 39th. Eliz. *Consiliario Roberto*
Cicil Primario, and no other; 43. Eliz.
 none Summon'd; the 1 Jacobi, *Johanni*
Herbert Militi uni Primariorum; and no
 other; 21 Jacobi, *Georgio Calvert, Militi*
*uni Primariorum, & Edwardo Conway, Mi-
 liti uni Primariorum*; the 1 Car. *primi,*
*Olivero Vicecomiti Grandison uni Primario-
 rum Secretariorum, & Johanni Cooke, Mi-
 liti un' Primariorum, &c.* 15 Caroli *primi,*
Francisco Windibanck uni Primariorum, &
Henr. Vane, Militi uni Primariorum; and
 so in this 13 Car. 2di. the Writ was *Ed-
 wardo Nicolas, Militi, uni Primariorum Se-
 cretariorum suorum*; and no other Secre-
 tary was Summon'd during this Parlia-
 ment, the rest being Elected, and accord-
 ingly

Princi-
pali.

Primario.

ingly did sit in the *House of Commons*,
 except the Lord *Arlington*, who sat as
 Earl and Secretary in the *Lords House*;
 and though the word *Primario* is more
 generally used in Writs, yet in Super-
 scriptions, &c. the word *Principal* is altogether
 used; as more agreeable (I conceive) to
 the Idiom of our Language.

6. The dignity of this Office is shewn
 in their Summons and Place in the *Lords*
House according to the Act of *Precedency*;
 but I must say something more of the
 antiquity of the Office, and of the nature
 of such are employed in it.

If he be taken for a Scribe, because
 they write the Kings literal Dispatches;
 it had the same esteem among the *Hebrews*
 that the *Magi* had with the *Chaldeans*,
 and the *Quindecemviri* among the *Romans*,
 (which latter were the Expounders of the
 Secrets of *Sybills Oracles*) These Scribes
 were usually selected out of the Cler-
 gy, and not out of the Laity, so that such
 as were used out of the Laicks were call'd
Notarij, and not Scribes; and such as
 were us'd by the Clergy were call'd Clerks
 from *Cleros*, because the Clergy by reason of
 their learning did for the most part Guide
 both Secular and Spiritual Affairs; but the
 word Secretary (in which Office the
 Clergy in former times were more com-
 monly

CHAP. monly employed than Laymen) doth im-
 XIII. port something of another nature, being
 derived from *Secretum*, and that from *Cretum*
 the Supine of *Cerno*, to see or discern;
 so by adding *Se* to *Cretum*, it makes *Secre-*
tum, and renders the Person employed in
 that Office to be one who knows *Se* (*id est*)
 himself, and can also Judiciously discern
 and judge of other mens matters, and yet
 reserve the Determination or Execution of
 them in his own breast; and for this te-
 nacity of mind, he is properly call'd a Se-
 cretary, and the Kings Secretary, or Se-
 cretary of State, as a preserver of the
 Secrets of the King and Kingdom for pub-
 lick and private use, till just occasion re-
 quire their impartments to others; and
 indeed considering the perpetual Designs
 of Princes towards each other, and the
 Discontents and Seditious Humors which
 are in every Kingdom; there is no quality
 more requisite to a Minister of State,
 than a secret and reserved mind, and more
 particularly to this Officer, his very Title
 intimating his Duty, in which he ought to
 be master of three Properties; a Prudent
 Dispatch, Exquisite Intelligence, and Se-
 crecy in all; for by these (especially the
 last) all Minings and underminings are
 still disappointed by the rules of Politick
 Secrecy; by which Art, Kingdoms are
 kept

Lord Veru-
lam.

kept in quiet, by quenching fires before CHAP.
 they flame; and because this requires not XIII.
 only a great skill but as great a vigilancy,
 which few are capable to perform; *Boc-*
lini tells us in his pleasant *Chapter of re-*
forming the World, that to ease it of this
 indifatigable trouble, without using so
 many Meanders; *Apollo* resolv'd to make
 a Window in every mans breast, so as at
 first view, each man might see the thoughts
 and intentions of each other, and there-
 by prevent the prejudices which daily a-
 rise for want thereof; but before *Apollo*
 did execute his Resolves, he caus'd the
 Wise Men of *Greece* with some others of
 the *Literati* to be Summon'd, and to
 give their Opinions therein, where *Thales*
 was the first that pres't for it with such
 Arguments, that *Apollo* was almost con-
 firm'd; but at last he was dissuaded by
 many other Lawyers, Poets, Physicians
 and Theologicks by more convincing Ar-
 guments, shewing that nothing caus'd a
 greater reverence to those and other Pro-
 fessions, than the mysteries which were con-
 tain'd in them, which would make them
 contemptible, if they should be seen or
 known by every vulgar Eye, whereupon
 the Windows were not made.

7. Now the same reasons which were
 us'd against making these Windows in the
 Bodies

CHAP. XII. Bodies of Men, may serve to oppose the Windows too often made in the Bodies of such Councils or Parliaments as are to support a Kingdom, where every Member or Counsellor indeed should be a Secretary of State; because the publishing of Consultations commonly meets with Seditious Tempers, who think nothing is well done but what is done by themselves, looking meerly on the Fact and Success, not on the Deliberations, Grounds and debated Reasons of that Fact; for it is not the event which makes the reason of managing that Fact to be the less Reason; for let the event be good or bad, the reason is still the same; if the Reason be good and solid, yet the Event bad, it may be said, that it meets with an ill constellation; but if the Reason be bad and the Event as ill, the discovery of these do still raise a worse constellation; and if the Reason be bad and the Event good, (if the bad Reason be kept secret) the glory of the Event would quickly drown the censure of the bad Reason, and make the Counsellors stand fair; but if divulged, they are sure not only to lose the credit of the Event, but double the disrepute, if both be bad.

Herein some men are naturally of a more reserved temper than others; however those are only fit to be Counsellors and

and Secretaries of State, who have no CHAP. XIII. Windows in their Breast; that is, no such transparent Eyes, as men may easily see their disposures of Affairs, but can wisely keep the Secrets of State from other mens Inspections: and in Parliaments I conceive such Tempers are very useful, for if the People Trust them, they do well in performing their Trust; but appealing again to the People, shews a diffidence in their own Judgments.

Thus having shewn the Kings Warrant in the Front, and the Secretaries Writ in the Rear, and fix't the Noble Lords betwixt those who manage the Laws Divine, and those who are Assistants in Human Laws, and run through the most constant Writs which are us'd for Summoning such as are to sit in a Parliament, either as Essential, or Assisting Members thereof; I should now proceed to the *House of Commons*, but I shall crave leave; First, To speak of some accidentall Writs for Assistants; Secondly, Of the manner of return of all the aforesaid Writs; Thirdly, Of such as sit there without Writ or Patent; Fourthly, Of such as sit there only by Patent; and Fifthly, Of some other Officers who are employed there by vertue of Patents.

Of Consimilar Writs and Patents upon Emergent occasions.

1. I Find in Mr. Prins Breviary, That he cites many Records long before Henry the Eighth; (which I shall not examine, because some of them have been so long difus'd) Of Knights, Justices of North Wales, Treasurer of Carnarvan, Treasurer of the Kings House, Chancellor of the Exchequer, Deans, Archdeacons, Escheators, (and one Magister Thomas Tong, which he takes to be a Master of Chancery) that have been Summon'd by Writ to sit in Parliaments in the Lords House;) but since Henry the Eighth in the Pettibag, several Writs of Assistants were issued, as I have shewn in the 11th. Chap. Sect. 9. to shew the Kings Power, some of which were Professors of the Law, and some not.

2. There was another Writ, viz. to the Warden of the Cinqueports; (which was not constant, but occasional) for sometimes it was directed to an Earl, and sometimes to some one Person under the Degree of a Baron; yet by vertue of the Writ, he was impowr'd

impowr'd to sit in the Lords House; but since Henry the Fourths time, when that Office was supplied by the Prince of Wales, (after called Henry the Fifth) who had a Writ with the addition of Guardian' Quinque Portuum) that Trust hath been committed to some one of the Blood Royal, and from that Writ other Writs are derived to all the Cinqueports.

But in respect this Writ (as to a Parliament) is mostly concern'd about Election of 16. Members to serve in the House of Commons; I shall refer the Discourse of it to the second part, in that Chapter which particularly treats of the Cinqueports.

3. If at any time the Lord Chancellor or Lord Keeper be absent upon just occasion, as when the Lord Keeper Bridgman in this Parliament was Sick; a Patent was made for Sir John Vaughan, then Lord Chief Justice of the Common Pleas, to supply his place, and the like to Sir Francis North, Chief Justice of the Common Pleas also, &c. and though for the most part this happens in time of Parliament; yet, because it may happen between the time of Summons and the Sitting of a Parliament, (which is the chief design of this part of this Treatise) I have thought fit to enter

CHAP. the form of that Patent in this place, rather than defer it, viz.

CHARLES, &c. To Our Right Trusty and Welbeloved, Sir Francis North Knt. Chief Justice of Our Court of Common Pleas, Greeting; Whereas Our Right Trusty and Welboved Councillor, Heneage Lord Finch, Our Lord High Chancellor of England, is often so infirm, that he is not able constantly to attend in the upper House of this Our present Parliament now holden at Westminster, nor there to supply the room and place in the said upper House, amongst the Lords Spiritual and Temporal there Assembled, as to the Office of the Lord Chancellor of England hath been accustomed: We minding the same place and room to be supplied in all things as appertaineth for and during every time of his absence, have named and appointed you: And by these Presents do Name, Constitute, and Appoint and Authorize you, from day to day, and from time to time, when and so often as the said Lord Chancellor shall happen at any time or times during this present Parliament to be absent from his accustomed place in the said upper House, to Occupy, Use and Supply the said room and place of the said Lord Chancellor, in the said upper House, amongst the Lords Spiritual and

and Temporal there Assembled, at every such day and time of his absence, and then and there at every such time to do and execute all such things as the said Lord Chancellor of England should or might do, if he were there personally present, Using and Supplying the same room; Wherefore, We Will and Command you the said Sir Francis North to attend to the doing and execution of the premisses with Effect: and these Our Letters Patents shall be your sufficient Warrant and Discharge for the same in every respect. In Witness whereof, We have caused these Our Letters to be made Patents, Witness our Self at Westminster the Nineteenth day of March, in the Nine and twentieth Year of our Reign.

Per ipsum Regem propria manu Signat.

And having now dispatch't all the Writs and Patents which concern the Summoning of such as sit in the Lords House, it is proper to shew the manner of returning of those Writs, which is usual in all Courts, and ought to be strictly observed here.

The Constitution

CHAP. XV.

*Of Returns of Writs relating to the
Summoning of such as are to Sit
in the Lords House.*

IN all Judicial Courts from whence Writs do issue, there is care taken for their due Returns, as may be seen in *Fitz Herbert*, and such Authors who have treated of the nature of Writs and their Returns; but none of them giving a full account of Parliament Writs and Returns, gives me occasion to insert this Chapter.

As to the Return of the Writs to the Lords Spiritual, and Temporal and Assistants, they ought (by every individual Person who had a Writ) to be deliver'd to the Clerk of the Parliament before the House Sit, or immediately upon their Entrance into the House, at the Table, and by the said Clerk they are to be kept with the Records of that House.

By the omission of this method many inconveniencies have and may happen to their Successors or Posterity, and therefore it is wisht there were more care taken in their due Returns, to which they may be encourag'd, being of so little
trouble

of Parliaments.

trouble in the performance. But as to the return of Writs concerning the *House of Commons*, the method consists of much trouble and perplexity, not only from the time of the executing the Writs, but in undue returns, as will be shewn in their proper place.

This Chapter concluding all the Patents and Writs of Summons, and Returns which concern the *Lords House*, (by vertue of which the Persons so Summon'd by Writ do sit there) now I must speak of such as sit there without Patent or Writ of Summons; and first of the Masters of *Chancery*.

CHAP. XVI.

Of the Masters of Chancery.

THE Secretaries of State did bring up the Rear of the State Officers, and now the Masters of *Chancery* do bring up the Rear of the Assistants; and though I have spoke something of the Master of the Rolls, partly as chief of the twelve Masters of *Chancery*; yet, there he was considered as Master of the Rolls, (or Records) rather than one of the twelve Masters of *Chancery*, whereof (as I said)

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CHAP. XVI. he is the chief; and these twelve are called Masters in Ordinary.

2. For there are also other Masters in Chancery, called Extraordinary, which are of an uncertain number, according to the busineses of the respective Counties wherein they are employed.

3. As for the twelve, they usually are chosen out of Barresters of the Common Law, or Doctors of the Civil Law, and eleven of them do sit in the Chancery, or in the Rolls (as Assistants, saith Sir Edward Coke) to the Lord Chancellor and to the Master of the Rolls, every day throughout each Term of the year, and to them are committed Interlocutory Reports, and stating of Accounts, and sometimes (by way of reference to them) they are impowrd with a final Determination of Causes there depending.

4. These twelve have time out of mind, sat in the Lords House; yet have neither Writs nor Patents (for many Ages past) empowering them so to do; but I conceive, as the Master of the Rolls is (as is said by that Institutor) an Assistant to the Lord Chancellor, the remaining eleven may fairly be said to be Assistants both to the Lord Chancellor and Master of the Rolls, in all or most Matters, depending in both

or

of Parliaments.

CHAP. XVI. or either Courts, and so Virtute Officij, they are inclusively capacitated, (by the Writs to the Lord Chancellor, or Master of the Rolls) to be Assistants to them in the Lords House, as they are in Chancery, without any particular VVrit or Patent to them.

5. Anciently this Title was higher than what Sir Edw. Coke affords them; for I find in an old Manuscript in the hands of Sir J. C. one of the Masters, (but I have not the opportunity of searching the Records therein mentioned) Intituled, De Cancellario Angliæ & ejus Cojudicibus, & de auctoritate eorum, and then follows, viz. In dicta Curia Cancellarij sunt ordinati duodecem Cojudices, viz. Magistri sive Clerici de prima forma ad Robas, (which in the 13. Chap. I call the first Orb) pro Arduis negotis Regis & Regni, & Reipublicæ expediendis, (which agree verbatim (and tis observable) with the very words of all Writs of Summons to Parliaments) eidem Cancellario omnino assistentes & secum continuo consedentes, (which in a manner Intitles them to sit in the Lords House with him) and many other matters are mentioned therein, which I shall refer to my Annotations, because I cannot now warrantably insert them; but I find in other Books, that anciently they had the care of inspecting

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CHAP. XVI. specting all Writs of Summons to Parliaments committed to them, which is now (as I have shewn) performed by the Clerks of the Pettibag.

6. As to the Title of *Maister*, (from *Magister*, and from *Magus* a Wiseman) it is as ancient as most of our borrow'd words from the *Latin*, and was still apply'd to Persons of Knowledge and other Abilities above the Degrees of Yeomandry.

Amongst the old *Romans* (as may be read in *Livy*, *Pomponius*, *Aurelius*, and others) they had twelve great Officers, to whom that Title was given, *viz.* *Magister Populi*, or Dictator, *Magister Equitum*, *Magistri Censuræ*, *Magister in Auctionibus*, *Magistri Epistolarum*, *Magistri Memoriae*, *Magistri Militum*, *Magister Navis*, *Magistri Officiorum*, *Magistri Scriniarum*, *Magister Curiae*, *Magistri Aëris*, and many more of a lesser Rank; for I speak not of *Magistri Familiae* or *Privatae*, (or as the word is vulgarly applied to its relative word *Servant*) but as a Title applied to Persons of Eminency, for their Integrity and Learning; and of these there are also twelve sorts with us, (which are found in the Law Books) whereof the first we meet with in the Statutes, is the Master of the *Mint*, in 2 *H. 6. c. 14.* (2.) the Master of the *Rolls* in the first of *H. 7. Cap. 20.* (for till

of Parliaments.

till then he was call'd Clerk of the *Rolls*, or *Custos Archivorum*, and chief Clerk of the *Chancery*, (of which there are twelve, as I said, since which, six chief Clerks, and a greater number of a lesser Form, are there Constituted, whereby they are distinguished from the ancient Clerks, (now the 12. Masters of *Chancery*) which may be accounted (the Third) sort in point of time mentioned in the Statutes; (the Fourth,) The Master of the *Horse* in the first of *Edw. the Sixth*; (the Fifth) The Master of the *Postern* in 2 *Edw. 6.* (the Sixth) The Master of the *Kings Household* in the 32 *H. 8.* (chang'd to the Lord Stuard of the *Kings Household*, (*Charles Duke of Brandon* being the first of that Title mentioned in any Statute) (the 7th.) The Master of the *Court of Wards* in the 33 of *Hen. the 8.* (now of no use) (the Eighth) The Master of the *Musters*, after in the 33 *Eliz.* called *Master General*; (the 9. 10. 11. 12.) *viz.* The Master of the *Armory*, the Master of the *Kings Jewels*, the Master of the *Ordinance*, (and Master of the *Kings Wardrop*) are mentioned in the Statute of 39 *Eliz.* not but these Officers were before, but the Statutes (as I said) do not take notice of them till the times that they are quoted in the said Statutes.

Now

CHAP. XVI. 7. Now as the old *Romans* had others which had the Titles of *Magistri*, viz. *Magistri Universitatis vel Societatis*; so we in imitation, at *Cambridge* have the Title of *Magister* fixt at the head of every Colledge in that University, (which is an argument of their Antiquity, of which I shall speak more) whereas *Oxford* hath but three which bear that Title.

8. It is also applied to the Heads of Halls of Companies in *London*, and other Cities; and it hath been formerly applied to all the Members of the *House of Commons*, who were not actually Knights, or Esquires, or of higher Degrees; but in the *House of Lords*, I do not find it used to any, to whom Writs of Summons were sent to sit there, except to some Priors and Deacons who were sometimes called *Magistri* in their Writs, and others of Religious Orders, call'd also in their Writs *Magistri*, as also to Officers in *Chancery*, viz. 49 *Edw. 3. Magistro Thomæ Tong, Officiario Curie Cancellarie*; but whether it was the same Office which is now executed by the Masters of the *Chancery*, *Non Constat*; however they were then under the notion of Clerks in an Ecclesiastical sence; but as Writs were sent to Clerks or Ecclesiasticks, with the Title of *Magister*; so in *Henry* the Fourth's time, and not

not before, there were Writs sent to Laicks with that Title, and those were Persons of high Quality, viz. in the 2. 3. and 6. *Hen.* the 4th. *Magistro Thomæ de la Ware*, (sometimes call'd *Ware* and *Warre*) to attend those Parliaments, and the same *Thomas* was also Summon'd to the Parliaments of the 1. 2. 3. 4. 5. 7. 8. and and 9. of *Hen.* the 5th. *Magistro Tho. de la Ware*, and so to the 1. 2. and 3. of *Hen.* the Sixth; but in the second Parliament of that year, Mr. *De la Ware* was not Summon'd, but one VVrit was *Magistro Johanni Stafford Thes. Angliæ*, and another VVrit, *Magistro Willielmo Alremith Custod. privati Sigilli*. But in the 4th. and 6. of *Hen.* the Sixth, both those were left out, and the same *Magistro Tho. de la Ware* Summon'd again, and for brevity passing to the 36. of *Hen.* the Eighth; and then it was expressly *Roberto Bows Mil. Magistro sive Custod. Rotulorum Cancellarie*, being then also chief of the twelve Masters of *Chancery*; However Sir *Edw. Coke* saith they are Assistants to the Lord Chancellor, or as the Manuscript saith, *Coadjudices*, and thereupon *ex Officio* do sit in the *Lords House*, and the antiquity of the Places allotted them there, (as will be shewn) and their Employments in every Parliament makes their attendance a kind of Præscription. And

CHAP. XVII. And now I proceed to such as fit in the *Lords House* by Patent only, without Tenure, VVrit or Præscription.

CHAP. XVII.

Of the Clerks of the Lords House.

HERE I am to speak of such as have places allowed them in the *House of Lords* by vertue of Patents only, and first of the Clerks; This Title of Clerk from *Cleros*, when the Clergy had (by reason of their great learning) the guidance of Civil Offices, was given as an honour to them; and most of the great Offices, as the Privy Seal, Master of the Rolls, &c. had the Titles of Clerks; but now that Title remains to a lower sort, of which there are 26. in number who still retain that Title.

The first, (as to the Progresses of Parliament) is the Clerk of the Pettibag, which is under the Conduct and within the Patent of the Master of the Rolls; (who is the chief of all the Clerks in the *Lords House*, of which Office I have spoke in that Section of the Rolls, and in other places.)

2. The Clerk of the Crown in the *Chancery*, (call'd *Clericus Coronæ in Cancellario*, in his Patent) of whom I have also spoke cursorily in

in several places) is an Officer to whose care many great things are committed, (which may be read in *Compton* and others) but as to what concerns this Subject, I must again remind, that all Parliament VVrits which are sent from the Pettibag, are return'd and kept by the Officer, so that the Pettibag gives (as it were) the beginning, this the continuance and ending to a Parliament.

So as this Clerk of the Crown hath three Capacities. Before the Sitting of a Parliament, to receive returns of VVrits which were issued from the Pettibag.

And in Parliament to take care according to directions for the issuing of Writs in case of change or mortality; And in the *Lords House* he first reads the Titles of all Bills to be presented to his Majesty, of which and other parts of his Duty I shall speak more.

3. The third Clerk is term'd in his Patent, *Clericus Parliamentorum*, because he is Clerk in all Parliaments during his life; his employment here being only conversant about the Affairs of Parliament.

Now in respect that all Bills and Matters of State have here their result in the *Lords House*, he is the proper Keeper of such Records, (for the *Lords House* is a Court of Record) and to that end his Books are fairly writ, exactly compos'd, according to

CHAP. XVII. to the very words and sence of that House, and constantly perus'd by some Lords appointed for that purpose, as well for his own justification as others satisfaction.

He hath also an Assisting Clerk allowed him, who is of great use and ease to him, both of them being well grounded in learning, experience and ability, in the safe expediting the concerns of that House, which hath both an Ocean of VVisdom, and curious Rivolets of Honorary punctilios, (not to be omitted by them, somewhat different from all other Courts) he hath also a Reading Clerk allowed him, who likewise attends the Lords Comittees; and these are all the Clerks which constantly attend in the *Lords House*, and are within the Bar.

4. Of the Clerks of the *House of Commons* I shall speak in the second part.

5. As I have shewn the Employments of the Clerks of the *Crown Office* in *Chancery*, so (to prevent misapplications) it is fit to shew the Employments also of the Clerk of the *Crown Office* in the *Kings Bench*, who is no constant attendant in this *House* or in the *House of Commons*, but only upon contingencies, and then by Order; but more especially in the *Lords House*, for producing, reading, and managing Records concerning VVrits of Error, *Habeas Corpus*, &c.

of

(of which I shall speak in order) but his most eminent Employment is upon the Tryal of Peers, as will be shewn. CHAP. XVIII.

Of the 26. Clerks before mention'd, (who still retain that Title) these five which I have named are the chief which are employed in Parliamentary Matters; but of the other 21. (which may be seen in *Lambert, Fitz Herbert, &c.*) neither the six Clerks in *Chancery*, (being Officers of Eminency employed in that Court bearing that Title, nor are the other Clerks (which are employed also in that Court) in the least (as I know of) engag'd in the Fabrick of Parliaments. Note that those five Clerks (whom I first mention'd) have places allotted them within the Bar of either House, as I said.

And now I must speak of other Attendants of another nature, viz. the Gentleman Usher of the Black Rod, and the Serjeant at Arms.

C H A P. XVIII.

Of the Gentleman Usher of the Black Rod.

There are but three ways by which the *House of Lords* do send any Message to the *Commons*, of two of them I have spoken, viz. by some of the Judges, or by some of the Masters of *Chancery*,

C c

and

CHAP. XVIII. and the King also uses two ways, viz. by his Secretaries, or some of the Privy-Council, (when they are Members of the *House of Commons*) both upon ordinary and extraordinary occasions, or for attending his Person upon Addresses, &c. But when he hath occasion to Command the *House of Commons* to attend him in the *House of Lords*, he only sends this Officer, the manner of which Ceremony I shall shew in order.

He is call'd the Black Rod, from the Black Staff or Rod (about three foot long tipt with Silver, and gilt with the Kings Arms at one end, and a Lyon Couchant at the other end, and a gilt Knob in the middle) which he carries in his hand; he is always a Person of Quality, and born the Kings Subject; and if not a Knight, is made one upon admission to this Office, and hath his Office by Patent; the first Grant of it beginning in *Hen.* the 8. time.

1. Before the Sitting of Parliament, he observes the Lord Chamberlains directions, in taking care that the *House* be fitted with all things for the Reception of the King, and those who are to sit there.

2. His Employment also is to introduce Lords into that *House*.

3. And after that *House* is Sat, he hath Employments concerning the Commitment of Delinquents, &c.

4. He

4. He hath a Seat allowed him, but without the Bar; and to ease him more in these and many other Employments, he hath an Usher to assist him, call'd the Yeoman Usher, also Door Keepers, &c. as will be shewn.

And so I am come to the last Attendant Officer of Note in that *House*, viz. the Kings Serjeant at Arms.

CHAP. XIX.

Of the Kings Serjeant at Arms, Attendant in the House of Lords.

I Have spoken of the *Servientes ad legem* or Serjeants at Law; Now I come to the *Servientes ad arma*, Serjeants at Arms; these were such as amongst the *Romans* were call'd *Satellites Cæsaris*, or a Guard to the Emperor, and sometimes they were call'd *Macerones*, (from whence probably the word Mace might be us'd) which these Serjeant at Arms use to carry before the King, &c.

Of these Serjeants at Arms (for I meddle not with the lower degree in Corporations, sometimes call'd Serjeants of the Mace, or only Serjeants) there are twenty in number, which are call'd the Kings Serjeants at Arms, and these are Created with great Ceremony; for the Person who is to be Created kneeling before the King, the King

CHAP. himself lays the Mace on the Serjeants
 XIX. Right Shoulder, and says these words, *Rise up Serjeant at Arms, and Esquire for ever*: He hath his Patent for the Office besides; (of which and of the particulars of his Employments, *Segar* in his Book of Nobility gives a full account) but of these twenty the King appropriates sixteen to his Personal Service, whereof four wait on him every Quarter; the other four are thus distributed, *viz.* in time of Parliament one is to attend the Speaker of the *House of Lords*, in case he is not Lord Chancellor, another to attend the Speaker of the *House of Commons*; one other to attend the Lord Chancellor, and another the Lord Treasurer, as well in as out of Parliament.

But in respect the Lord Chancellor and Speaker of the *Lords House* is usually the same Person, there were but three of the twenty us'd in this time of Parliament, and but two out of Parliament, so as the other one or two are reserv'd for accidental occasions.

The Serjeant at Arms who attends the *House of Lords* hath the priviledge of carrying the Mace before the Speaker (whether he be the Lord Chancellor or not) within the *Lords House* up to the very Chair of State, and after he hath made his Obeyfances, he lays it down on the first Woolfack

Woolfack by the Speaker, and so departs CHAP.
 till the Speaker hath occasion to use him XIX.
 again upon the Rising of the *House*.

And herein methinks the Serjeant at Arms of the *House of Commons* hath more respect afforded him than the Serjeant at Arms to the *House of Lords*; for the *Commons* Serjeant hath the freedom to stand at the Bar, and hear all Debates, and when weary of standing, hath an easie seat by the door; but the *Lords* Serjeant is not permitted to be in the *Lords House* whilst it is Sitting, nor hath any Station within the Bar, nor Seat without the Bar, as the Gentleman Usher hath: and yet this Office is more ancient than that, and is not only Serjeant at Arms to the Speaker, and Chancellor (the Parliament not sitting) but is the chief of the twenty of the Kings Serjeants at Arms; he hath his Deputy, so as if there should be occasion of two, *viz.* for a Speaker and Chancellor, he may supply one, and his Deputy the other; and besides his Deputy he hath also other Agents under him, and hath use for them; For upon Commitments of Delinquents without door, he is to see them forth coming, and in bringing them to the Bar; but upon confinements or Commitment of any Member within doors, that peculiarly belongs to the Gentleman of the Black Rod.

So

The Constitution

CHAP. XIX. So as these 2 Officers set the first wheel of a Parliament in motion; for the Serjeant at Arms conducts the Chancellor or Speaker into the *House of Lords*, the King sends the Black Rod to the *Commons* to bring up their Speaker, who being confirm'd by the King, goes to his Chair in the *Commons*, usher'd with the other Serjeants at Arms, and so when each Speaker retires from each House, each Serjeant is to each a Conductor.

A Corollary to this First Part.

I Have now shewn the General Warrants for Summoning a Parliament, and the particular Writs and Patents impowring those who are to sit in the *Lords House*; as also the Act of Precedency to prevent Disorders of Places when they meet there, and given a touch of Proxies, and of the words Lords and Peers, and of other Accidental Writs, and of the Returns of their Writs, and of some who sit there without Writs or Patents, and of others who are employed there meerly by vertue of Patents. And of all these I have made some Discourses, as well to revive the notions of those who need no other information, as to inform others who have little knowledge therein, but what they gain from the short Memorials of Writers, or from the imperfect Discourses which they glean from such as know some things in part, but have not the true Concatenation of the Grandeur of a Parliament.

The

A Corollary.

These discourses (and those intended) will (I hope) contain the whole System of this *Constitution*. This part hath applied it self wholly to the Offices, Degrees and Qualities pertinent to the *House of Lords* in general; but as to the particular Persons owning those Offices, Degrees, and Qualities; I reserve them for the Subsequent Parts of this Treatise; that is after I have discours'd of the seven remaining Exemplar Writs in the *Pawn*, which particularly concerns the *House of Commons*.

Viz.

- To Cornwall.
- To Cambridge,
- To London,
- To Carnarvan in Wales.
- To Dover,
- To Lancaster,
- To Chester,

And also shewn the Writs or Precepts derivative of those seven Exemplars, and the manner of Elections and Returns of Writs and Precepts, the Discourse of which will comprehend all the County Shires, Cities and Burroughs; (which have power of Electing Members for Parliaments) I shall then shew you the Places adapted for both Houses to meet in; as also of the Members Summon'd and employed in both Houses in this Parliament.

D d After

A Corollary.

After these I shall speak of such Ceremonies as are us'd before any Members be admitted into either Houses; and when they are fixt in both Houses, I shall give an account of the most material passages, as to the renewing of Writs for supply of Members, and other distinct Operations considered as an *House of Lords*, or an *House of Commons*, and in their joynt Operations as *Lords and Commons* Assembled in Parliament, and then of their compleat Operations as an intire Parliament, consisting of the King and the three Estates, *viz.* the Lords^S piritual the Lords Temporal, and the Commons; and this is more particularly evident, when by passing of Acts, the King confirms what those three Estates do joyntly Operate. And so I conclude with the Kings power of Summoning, Adjourning, Proroguing and Dissolving of this and all other Parliaments, and what is to be done with Records, Laws, &c. after Dissolution of any Parliament.

And because I could not well reduce the copious matters of so large a Subject into my Discourses, or observations, I shall hereafter add some *Annotations*, as *Explanatories* and *Enlargements* to many things which are necessary or convenient to be enlarged or explained.

An

AN

APPENDIX

Being A Diary of the several Sessions of the publick Adjournments, Prorogations, and Proclamations relating to the Parliament which was Summon'd the 18th. of Feb. 166^r. and Dissolved the 24th. of Jan. 166^s.

THE Kings Warrant, and Writs of Summons for that Parliament were dated the 18th. of Feb. 13 Car. 2d. 1660.

Proclamation contain'd in those Writs, to meet att Westminster the 8th. of May, following. 1660.

Session the 8th. of May 13 Car. 2d. 1661 at Westminster, continued to the 30th. of July following. I

Acts Publick 19. Private 21. 1661.

Adjourn'd the 30th. of July 13 Car. 2d. 1661 to the 20th. of November following.

Session the 20th. of Novemb. 13 Car. 2d. II.

D d 2 1661

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- 1661 continued to the 19th. of May 14
Car. 2d. 1662.
1662. Acts Publick 33, Private 39.
Prorogu'd the 19th. of May 14 Car. 2d.
1662 to the 18th. of Feb. 15 Car. 2d. 166 $\frac{2}{3}$.
The King present.
- III. Sessio*n* the 18th. of February. 15 Car. 2d.
166 $\frac{2}{3}$. continued to the 27th. July 15 Car.
2d. 1663.
1663. Acts Publick 17, Private 19,
Prorogu'd the 27th. of July 15 Car. 2d. 1663
to the 16th. of March 16 Car. 2d. 166 $\frac{3}{4}$.
The King Present.
- IV. Sessio*n* the 16th. March 16 Car. 2d.
166 $\frac{3}{4}$. continued to the 17th. of May 16
Car. 2d. 1664.
1664. Acts Publick 8, Private 10,
Prorogu'd the 17th. of May 16 Car. 2d.
1664 to the 20th. of August following.
The King Present.
Prorogu'd the 20th. of Aug. 16 Car. 2d.
1664 to the 24th. of Novemb. following.
By Commission.
- V. Sessio*n* the 24th. of Novemb. 16 Car. 2d.
1664 continued to the 2d. of March 17
Car. 2d. 166 $\frac{4}{5}$.
1665. Acts Publick 12, Private 17,
Prorogu'd the 2d. of March 17 Car. 2d.
166 $\frac{4}{5}$. to the 21st. of June 17 Car. 2d. 1665.
The King Present.
Proclamation dated the 24th. of May 17
Car.

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Car. 2d. for the further Proroguing the
Parliament from the 21st. of June to a day
that shall be fixt at the actual Prorogation
thereof Accordingly.

Prorogu'd the 21st. of June 17 Car. 2d.
1665 to the 1st. of August following.

By Commission.

Proclamation dated the 9th. of July 17
Car. 2d. 1665 for further Proroguing the
Parliament from the 1st. of Aug. to the 3d.
of Octob. following Accordingly.

Prorogu'd the 1st. of Aug. 17 Car. 2d.
1665 to the 3d. of October following.

By Commission.

Proclamation dated the 10th. of August
17 Car. 2d. 1665 appointing the meeting
of the Parliament at Oxford in respect the
Plague was then at London, Accordingly.

Prorogu'd the 3d. of Octob. 17 Car. 2d.
1665. at Oxford, to the 9th. of the same
month and place.

By Commission.

Sessio*n* at Oxford the 9th. of Octob. 17
Car. 2d. 1665 continued to the 21st. of the
same month.

Acts Publick 9, Private 1,

Prorogu'd the 31st. of Octob. 17 Car.
2d. 1665 to meet at Westminster the 20th.
of Feb. 18 Car. 2d. 166 $\frac{5}{6}$.

The King Present.

Prorogu'd the 20th of Feb. 18 Car. 2d.

D d 3 166 $\frac{5}{6}$.

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An Appendix.

1661 at Westminster to the 23d. of April 1666.

1666. Proclamation dated the 23d. of April 18 Car. 2d. 1666 for Proroguing the Parliament to the 18th. Sep. following accordingly. Prorogu'd the 23d. of April 18 Car 2d. 1666 to the 18 of Sep. following.

By Commission.

VII. Session the 18th. of Septemb. 18 Car. 2d. 1666 continued to the 8th. of Feb. following.

Acts Publick 5, Private 5,

Prorogu'd the 8th. of Feb. 19 Car 2d. 1667. to the 10th. of October 1667.

The King Present.

1667. Proclamation dated the 26th. of June 19 Car. 2d. 1667 to reassemble the Parliament back from the 10th. of October to the 25th. of July 19 Car. 2d. 1667.

Adjourn'd the 25th. of July 19 Car. 2d. 1667 to the 10th. of October following.

VIII. Session the 10th. of Oct. 19 Car. 2d. continued to the 9th. of May 20 Car. 2d. 1668.

Acts Publick 15, Private 24,

Adjourn'd the 9th. May 20 Car. 2d. 1668 to the 11th. of August following.

Proclamation dated the 3d. of July 20 Car. 2d. 1668 for the Parliament to meet the 11th. of Aug. and that they shall and may Adjourn to the 10th. of Nov. following accordingly.

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Adjourn'd the 11th. of August 20 Car. 1668. to the 10th. of Nov. following.

Proclamation dated the 19th. of Sept. 20 Car. 2d. 1668. to meet the 10th. of Nov. as many of both Houses as may Adjourn themselves to the 1st. of March 21 Car. 2d. 1668.

Adjourn'd the 10th. of Nov. 20 Car. 2d. 1668. to the 1st. of March 21 Car. 2d. 1668.

Proclamation dated the 18th. Dec. 20 Car. 2d. 1668. reciting, that whereas the two Houses of Parliament had Adjourn'd by the Kings directions from the 10th. of Nov. to the 1st. of March the King Declares that he will Prorogue them on the said 1st. of March to the 9th. of October 21 Car. 2d. 1669 accordingly.

Prorogu'd the 1st. of March 21 Car. 2d. 1668. to the 19th. of October 21 Car. 2d. 1669.

IX. Session the 19th. of Oct. 21 Car. 2d. 1669. continued to the 11th. of December following.

In this Session no bill past the Royal assent.

Prorogu'd the 11th. December 21 Car. 2d. 1669 to the 14th. February 22 Car. 2d. 1669.

By Commission.

Proclamation dated the 23d. of Decem. 21 Car. 2d. 1669 requiring the Members

D d 4 of

An Appendix.

of both Houses to attend at the time prefixt at the last prorogation, viz. the 14th. Feb. 22 Car. 2d. 1667. accordingly.

X. Sessio*n the 14th. Feb. 22 Car. 2d. 1667. continued to the 11th. of April 22 Car. 2d. 1670.*

1670. *Acts Publick 8, Private 16, Adjourn'd the 11th. of April 22 Car. 2d. to the 24th. of October following.*

Proclamation dated the 21st. of April 22 Car. 2d. 1670 requiring the Members of both Houses to attend the prefixt time, viz. the 24th. of October 22 Car. 2d. 1670.

XI. Sessio*n the 24th. Oct. 22 Car. 2d. 1670 continued to the 22d. April 23 Car. 2d. 1671.*

1671. *Acts Publick 26, Private 30, Prorogu'd the 22d. April 23 Car. 2d. 1671 to the 16th. of April 24 Car. 2d. 1671. The King Present.*

Proclamation dated the 27th. Sept. 23 Car. 2d. 1671 declaring the Kings resolution to Prorogue the Parliament from the said 16 of April to the 30th. of October following Accordingly.

1672. *Prorogu'd the 16th. of April 24 Car. 2d. 1672 to the 30th. of October following. By Commission.*

Prorogu'd the 30th. of Dec. 24 Car. 2d. 1672 to the 4th. of Feb. 25 Car. 2d. 1673. By Commission.

Sessio*n*

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Sessio*n the 4th. Feb. 25 Car. 2d. 1673. XII. continued to the 29th. March 1673.*

Acts Publick 10, Private 11, 1673. Adjourn'd the 29th. of March 25 Car. 2d. 1673 to the 20th. of October following.

Prorogu'd the 20th. of Oct. 25 Car. 2d. 1673 to the 27th. of the same Month. By Commission.

Sessio*n the 27th. of Oct. 25 Car. 2d. XIII. 1673 to the 4th. of November following.*

No Bills past this Session.

Prorogu'd the 4th. of Nov. 25 Car. 2d. 1673 to the 7th. of January 1674.

The King Present.

Proclamation dated the 10th. of Decem. 25 Car. 2d. to require the Members of both Houses to attend the 7th. of Jan. following.

Sessio*n the 7th. of Jan. 25 Car. 2d. 1674. XIV. continu'd to the 4th. Feb. 26 Car. 2d. 1674.*

No Bills past this Session.

Prorogu'd the 24th. of Feb. 26 Car. 2d. 1674. to the 10th. of Novem. 26 Car. 2d. 1674.

The King Present.

Proclamation dated the 1st. of July 26 Car. 2d. 1674 declaring the Kings pleasure to prorogue the Parliament to the 13th. of April 1675.

Proclamation dated the 3d. Septem. 26 Car. 2d. 1674 for Proroguing the Parliament from the 10th. of Nov. to the 13th. of April 1675 27 Car. 2d. Pro-

An Appendix.

- 1674. Prorogu'd the 10th. of Nov. 26 Car. 2d. 1674 to the 13th. of April 1675 27 Car. 2d.
By Commission.
- xv. Session the 13th. of April 27 Car. 2d. 1675 continu'd to the 27th. of June following.
- 1675. Acts Private 5,
Prorogu'd the 4th. of June 27 Car. 2d. 1675 to the 13th. of October following.
The King Present.
- xvi. Session the 13th. of October 27 Car. 2d. 1675 continu'd to the 22d. of November following. No Bills past.
Prorogu'd the 22d. of Nov. 27 Car. 2d. to the 15th. of Feb. 28 Car. 2d. 1676.
- 1676. Proclamation dated the 20th. of Dec. 28 Car. 2d. 1676 requiring both Houses to give their attendance on the 15th. Feb. next.
- xvii. Session the 15th. Feb. 28 Car. 2d. 1676 continu'd to the 16th. of April 29 Car. 2d. 1677.
- 1677. Acts Publick 10, Private 14,
Adjourn'd the 16th. of April 29 Car. 2d. 1677 to the 21st. of May following.
The King Present.
~~Acts Publick 10, Private 14,~~
Proclamation dated the 2d. of May 29. Car. 2d. 1677 requiring both Houses to give their attendance the 21st. of May.
Session

An Appendix.

- Session the 21st. May 29 Car. 2d. 1677 XVIII.
continued to the 28th. of the same Month.
Adourn'd the 28th. of May 29 Car. 2d. 1677 to the 16th. of July following.
Adjourn'd the 16th. of July 29 Car. 2d. 1667 to the 3d. of December following.
Proclamation dated the 26th. of Octo- 29 Car. 2d. 1677 for Adjourning the two Houses of Parliament from the 3d. of Dec- to the 4th. of April 30 Car. 2d. 1678.
Proclamation dated the 7th. of Decem. 29 Car. 2d. for Adjourning both Houses back from the 4th. of April 30 Car. 2d. 1678 to the 15th. Janu. 29 Car. 2d. 1678 requiring the Members of both Houses to attend that day.
Adjourn'd the 15th. of Jan. 29 Car. 2d. 1678 to the 28th. of the same Month.
- Session the 28th. of January 29 Car. 2d. XIX.
1678. continu'd to the 27th. of March 30 Car. 2d. 1678.
Acts Publick 2, Private 13, 1678.
Adjourn'd the 27th. of March 30 Car. 2d. 1678 to the 11th. of April 30 Car. 2d. 1678.
Adjourn'd the 11th. of April 30 Car. 2d. 1678 to the 15th. of the same Month.
Adjourn'd the 15th. of April 30 Car. 2d. 1678 to the 29th. of the same Month. XX.
Session the 29th. of April 30 Car. 2d. 1678 continu'd to the 3d. of May following.
Pro-

An Appendix.

Prorogu'd the 13th. of May 30 Car. 2d.
1678 to the 23d. of the same Month.

By Commission.

XXI. Sesssion the 23d. of May 30 Car. 2d. 1678
continu'd to the 15th. July following.

Acts Publick 9, Private 12,
Prorogu'd the 15th. of July 30 Car. 2d.
1678 to the 1st. of August following.

By Commission.

Prorogu'd the 1st. of August 30 Car. 2d.
1678 to the 29th. of the same Month.

By Commission.

Proclamation dated the 2d. of August 30
Car. 2d. 1678 requiring the Members of
both Houses to give attendance on the
29th. of August.

Proclamation dated the 8th. of August
1678 declaring that the Parliament shall
be prorogu'd the said 29th. of Aug. to the
1st. of Oct. 30 Car. 2d. 1678.

Prorogu'd the 29th. of August 30 Car.
2d. 1678 to the 1st. of Oct. following.

By Commission.

Proclamation dated the 25th. Sept. 30
Car. 2d. 1678 for the further Proroguing the
Parliament to the 21st. of Oct. in the same
Month.

By Commission.

XXII. Sesssion the 21st. of Oct. 30 Car. 2d. 1678
continued to the 30th. of Dec. following.

Acts Publick 1, Private 0,

Pro-

An Appendix.

Prorogu'd the 30th. of Dec. 30 Car. 2d.
1678 to the 4th of Feb. 31 Car. 2d. 1678.

Proclamation dated the 24th. of Jan. 30
Car. 2d. 1678. wherein the King discharges
the Members of both Houses from meeting
the 4th. of Feb. 31 Car. 2d. 1678 and de-
clare the Parliament Dissolv'd.

Dissolution the 24th. Jan. 30 Car. 2d.
1678. but in the Proclamation His Majesty
further Publisheth his pleasure that Writs
should be issued for another Parliament to
meet the 6th. of March following, viz. 31
Car. 2d. 1678.

*I did design to deferr the Printing of this
Diary till I publish some discourses of the
nature of Sessions, Proclamations, Ad-
journments, Recesses, Prorogations, and
Dissolutions, but because it will take long
time before I shall publish them, some
friends did persuad me to add this Appendix
as very useful to all such as may have any re-
course in point of times to matters transacted
in this Parliament (of which I chiefly treat)
Summon'd the 18th. of Feb. 1667. 13 Car.
2d. and ended the 14th. January Car. 2d.
1678. and though the dates of Session &c.
are repeated in several Paragraphs, yet it
is so ordered for the ease and advantage of
him that desires to satisfie himself in the
Chro-*

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An Appendix.

Chronological questions of that Parliament, without looking on the Antecedent or Subsequent Paragraphs.

FINIS.

A
CATALOGUE
OF
BOOKS,

Printed for Tho. Bassett at
the George in Fleet-street.

AN Institution of General History, or the History of the World, in two volumes in folio by Dr. William Howel Chancellor of Lincoln. Printed 1680.

Historical Collections, being an exact Account of the Proceedings of the four last Parliaments of the Renowned Princess *Queen Elizabeth*, containing the Journals of Both Houses with their several Speeches, Arguments, Motions &c. in folio, writ by *Hayward Townshend* then Esq; Member of Parliament, Printed 1680.

The Antient Right of the Commons of *England* Asserted, or a Discourse Proving by Records, and the best Historians that the Commons of *England* were ever an Essential part of Parliament, By *William Petyt* of the Inner Temple Esq.

Of the *French Monarchy*, and Absolute Power and also a Treatise of the three States and their power

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A Catalogue.

wer deduced from the most Authentick Histories, for above 1200 years, and digested this latter, by *Mat. Zampini de Recanati. L. L. D.*

The Politicks of *France*, by Monsieur *P. H.* Marquis of *C.* with Reflections on the 4th. and 5th. Chapters: wherein he censures the *Roman Clergy*, and the *Hugonots*; by the Sr. *Ormegegny*.

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