To this they often apply that strict and severe charge which God so often gave concerning his own law, "Whatsoever I command you, take heed ye do it; thou shalt put nothing thereunto, thou shalt take nothing from it;" nothing, whether it be great or small. Yet sometime believing themselves better, they speak as acknowledging that it doth suffice to have received in such sort the principal things from God, and that for other matters the Church hath sufficient authority to make laws. Whereupon they now have made it a question, what persons they are whose right it is to take order for the Church's affairs, when the institution of any new thing therein is requisite.

Laws may be requisite to be made either concerning things that are only to be known and believed in, or else touching that which is to be done by the Church of God. The law of nature and the law of God are sufficient for declaration in both what belongeth unto each man separately, as his soul is the spouse of Christ, yea so sufficient, that they plainly and fully shew whatsoever God doth require by way of necessary introduction unto the state of everlasting bliss. But as a man liveth joined with others in common society, and belongeth unto the outward politic body of the Church, albeit the same law of nature and scripture have in this respect also made manifest the things that are of greatest necessity; nevertheless, by reason of new occasions still arising which the Church having care of souls must take order for as need requireth, hereby it cometh to pass, that there is and ever will be great use even of human laws and ordinances, deducted by way of discourse as conclusions from the former divine and natural, serving for principles thereunto.

No man doubteth, but that for matters of action and practice in the affairs of God, for the manner of divine service, for order in ecclesiastical proceedings about the regiment of the Church, there may be oftentimes cause very urgent to have laws made: but the reason is not so plain whereof human laws should appoint men what to believe. Wherefore in this we must note two things: First, That in matter of opinion, the law doth not make that to be truth which before was not, but in matter of action it causeth that to be duty which was not before, but it manifesteth only and giveth men notice of that to be truth, the contrary whereunto they ought not before to have believed. Secondly, That as opinions do cleave to the understanding, and are in heart assented unto, it is not in the power of any human law to command them, because to prescribe what men shall think belongeth only unto God. "Corde creditur, ore fit confessio," saith the Apostle. As opinions are either fit or inconvenient to be professed, so man's law hath to determine of them. It may for public unity's sake require men's professed assent, or prohibit contradiction to special articles, wherein, as there haply hath been controversy what is true, so the same were like to continue still, not without grievous detriment to a number of souls, except law to remedy that evil should set down a certainty which no man is to gainsay. Wherefore as in regard of divine laws, which the Church receiveth from God, we may unto every man apply those words of Wisdom in Solomon, Conserve, fili mi, praepetita patris tuae: "My son, keep thou thy father's precepts;" even so concerning the statutes and ordinances which the Church itself maketh, we may add thereunto the words that follow, Et ne dimittas legem matris tuae, "And forsake not thou thy mother's law."
Right of the Church to order Church Actions:

BOOK VIII. of all laws, we see no cause why to think otherwise in laws concerning the service of God; which in all well-ordered states and commonwealths is the first thing that law hath care to provide for. When we speak of the right which naturally belongeth to a commonwealth, we speak of that which needs must belong to the Church of God. For if the commonwealth be Christian, if the people which are of it do publicly embrace the true religion, this very thing doth make it the Church, as hath been shewed. So that unless the verity and purity of religion do take from them which embrace it, that power wherewith otherwise they are possessed; look, what authority, as touching laws for religion, a commonwealth hath simply, it must of necessity being Christian, have the same as touching laws for Christian religion. 

[7.] It will be therefore perhaps alleged, that a part of the verity of Christian religion is to hold the power of making ecclesiastical laws a thing appropriated unto the clergy in their synods; and that whatsoever is by their only voices agreed upon, it needeth no further approbation to give unto it the strength of a law: as may plainly appear by the canons of that first most venerable assembly, where those things which the Apostles and James had concluded, were afterward published and imposed upon the churches of the Gentiles abroad as laws, the records thereof remaining still in the book of God for a testimony, that the power of making ecclesiastical laws belongeth to the successors of the Apostles, the bishops and prelates of the Church of God.

To this we answer, that the council of Jerusalem is no argument for the power of the clergy alone to make laws. For first, there hath not been sithence any council of like authority to that in Jerusalem: secondly, the cause why that was of such authority came by a special accident: thirdly, the reason why other councils being not like unto that in nature, the clergy in them should have no power to make laws by themselves alone, is in truth so forcible, that except some commandment of God to the contrary can be shewed, it ought notwithstanding the foresaid example to prevail.

The decrees of the council of Jerusalem were not as the canons of other ecclesiastical assemblies, human, but very divine ordinances: for which cause the churches were far and wide commanded every where to see them kept, no otherwise than if Christ himself had personally on earth been the author of them.

The cause why that council was of so great authority and credit above all others which have been sithence, is expressed in those words of principal observation, "Unto the Holy Ghost and to us it hath seemed good"; which form of speech, though other councils have likewise used, yet neither could they themselves mean, nor may we so understand them, as if both were in equal sort assisted with the power of the Holy Ghost; but the later had the favour of that general assistance and presence which Christ doth promise unto all his, according to the quality of their several estates and callings; the former, that grace of special, miraculous, rare, and extraordinary illumination, in relation whereunto the Apostle, comparing the Old Testament and the New together, termeth the one a Testament of the letter, for that God delivered it written in stone, the other a Testament of the Spirit, because God imprinted it in the hearts and declared it by the tongues of his chosen Apostles through the power of the Holy Ghost, framing both their conceits and speeches in most divine and incomprehensible manner. Wherefore inasmuch as the council

whether it resides in the Clergy alone.

1 ordained D. 2 must needs E. Q. C. L. 3 Here the fragment in Cl. Trub. breaks off. 4 it must of necessity retain the same, being of the Christian religion. E. of necessity being [of 1679] Christian Religion, Gauden. 1662. 5 that om. E. C. Q. valued L. D. 6 which om. E. 7 afterwards E. Q. C. L. 8 belongeth to the prelates E. The MSS. all give it as above: except that the former bishops is omitted in D. 9 Δει των νομων τα περι Θεου και διαμονων και γονισας, και ωδω τα κολα και τιμια, πωτα [των] τιθασιν διϊνα τα εκαυμενα τα γερ μηνα τους μελετεν δουλευαν καθ' εκεν. [Sodlins.] Archyt. de Leg. et Justit. That is, "It beloveth the law first to establish or settle those things which belong to the gods, and divine powers, and to our parents, and universally those things which be virtuous and honourable; in the second place, those things that be convenient and profitable: for it is fit that matters of the least weight should come after the greater." [Ap. Stob. Floril. II. 169, ed. Gaisford.] 10 Acts xv. 7. 13-23. 11 [See App. No. iv.] 12 This word is erased D. 13 Translation on D.
Claim of the Layity to a Voice in Church Canons.

BOOK VIII. of Jerusalem did chance to consist of men so enlightened, it had authority greater than were meet for any other council besides to challenge, wherein no such kind of persons are.

[8] As now the state of the Church doth stand, kings being not then that which now they are, and the clergy not then that which they were: till it be proved that some special law of Christ hath for ever annexed unto the clergy alone the power to make ecclesiastical laws, we are to hold it a thing most consonant with equity and reason, that no ecclesiastical law be made in a Christian commonwealth, without consent as well of the laity as of the clergy, but least of all without consent of the highest power.

For of this thing no man doubtest, namely, that in all societies, companies, and corporations, what severally each shall be bound unto, it must be with all their assents ratified. Against all equity it were that a man should suffer detriment at the hands of men, for not observing that which he never did either by himself or by others, mediate or immediately, agree unto; much more that a king should constrain all others unto the strict observation of any such human ordinance as pesseth without his own approbation. In this case therefore especially that vulgar axiom is of force, "Quod omnes tangit ab omnibus tractari et approbari debet." Whereupon Pope Nicholas, although otherwise not admitting lay-persons, no not emperors themselves to be present at synods, doth notwithstanding seem to allow of their presence when matters of faith are determined, whereunto all men must

...stand bound: "Ubinam legistis imperatores, antecessores vestros, synodalibus conventibus interiusse; nisi forsitan in quibus de fide tractatum est, quae universalis est, quae omnibus communis est, quae non solum ad clericos, verum etiam ad laicos et omnes pertinent Christianos?" A law, be it civil or ecclesiastical, is as a public obligation, wherein seeing that the whole standeth charged, no reason it should pass without his privity and will, whom principally the whole doth depend upon. "Sicut laici jurisdictio clericorum perturbare, ita clericorum jurisdictio laicorum non debet imminuere," saith Innocent. "As the laity should not hinder the clergy's jurisdiction, so neither is it reason that the laity's right "should be abridged by the clergy." But were it so that the clergy alone might give laws unto all the rest, forasmuch as every estate doth desire to enlarge the bounds of their own liberties, is it not easy to see how injurious this might prove unto men of other condition? Peace and justice are maintained by preserving unto every order its rights, and by keeping all estates as it were in an even balance. Which thing is no way better done, than if the king, their common parent, whose care is presumed to extend most indifferently over all, do bear the chiefest sway in the making of laws which all must be ordered by.

Papal Sanctions for Lay Church Legislation.

BOOK VIII. Ch. vi. 8.

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BOOK VIII.

CH. vi. p. 4.

[9.] Wherefore, of them which in this point attribute most to the clergy, I would demand what evidence there is, which way it may clearly be shewed, that, in ancient kingdoms Christian, any canon devised by the clergy alone in their synods, whether provincial, national, or general, hath by mere force of their agreement taken place as a law, making all men constrained to be obedient thereunto, without any other approbation from the king before or afterwards required in that behalf? But what speak we of ancient kingdoms, when at this day, even in the papacy itself, the very Tridentine council hath not every where as yet obtained to have in all points the strength of ecclesiastical law. Did not Philip, king of Spain, publishing that council in the Low Countries, add thereunto an express clause of special provision, that the same should in no wise prejudice, hurt, or diminish any kind of privilege which the king or his vassals aforetime had enjoyed, either touching possessory judgments of ecclesiastical livings, or concerning nominations thereunto, or belonging to whatsoever rights they had else in such affairs? If therefore the king's exception taken against some part of the canons contained in that council, were a sufficient

[10.] There are which wonder that we should count any statute a law, which the high court of parliament in England hath established about the matter of church regiment; the prince and court of parliament having, as they suppose, no more lawful means to give order to the Church and clergy in these things, than they have to make laws for the hierarchies of angels in heaven: that the parliament being a mere temporal court, can neither by the law of nature, nor of God, bar to make them of none effect within his territories; it followeth that the like exception against any other part had been also of like efficacy, and so consequently that no part thereof had obtained the strength of a law, if he which excepted against a part had so done against the whole: as, what reason was there but that the same authority which limited might quite and clean have refused that council? Whoso alloweth the said act of the Catholic King for good and lawful, must grant that the canons even of general councils have but the force of wise men's opinions concerning that whereof they treat, till they be publicly assented unto, where they are to take place as laws; and that, in giving such public assent, as maketh a Christian kingdom subject unto those laws, the king's authority is the chiefest. That which an University of men, a Company or Corporation doth without consent of their Rector, is as nothing. Except therefore we make the king's authority over the clergy less in the greatest things, than the power of the meanest governor is in all things over the college or society which is under him; how should we think it a matter decent, that the clergy should impose laws, the supreme governor's assent not asked? It follows E.C.L.

1 Book Epo, Heroic. Quest. lib. i. sect. 284. ["Ecclesiasticarum sive Heroicarum Questionum libri sex."] No date, but some time before 1588, in which year were published three additional books.

2 De jure Sacro. The author was Boetius Epo, a native of Friesland, [1559-1596] Professor of Canon Law at Douay, 1578. The editor has not obtained a sight of the work here quoted. It appears from the continuation of it, that the writer was a strenuous asserter of the pope's plenary power; and from the preface to his "Antiquit. Ecclesiast. Syntagmata," that he had once been a Protestant. (Moreri; Hurter, Nomenclator Liter. i. 228.)

3 [It should seem from Strada's account, b. iv. p. 106, 107, that no formal exception was made, but from Fra Paolo, viii. 85, that the publication took place in the king's name and not in the pope's; and from Brandt, Hist. of the Reform. in the Low Countries, b. v. Eng. Trans. t. i. 153.) that the temporal magistrates were directed to assist the prelates, and to be formable to the canons of the council in every thing, save only where they might seem to derogate from his majesty's prerogatives or from the rights of any of his vassals. This statement is confirmed by the original documents as they stand in Le Plat, Mem. Hist. Concil. Trid. t. vii. especially the king's final letter to the duchess of Parma, p. 91. The points specified by Hooker about patronage, &c. are specified in the king's letter, but in various memorials, given by Le Plat, from the councils of Namur, Brabant, &c. (p. 71, 83,) and forwarded by the duchess to Philip, which memorials occasioned the letter.}

4 [Allen, Apol. 1583, c. iv. p. 69. "Veritas est, nec regem nec parlementum habere potestatem legitimam prescribendi ordinem ecclesiasticum in hac parte, magis quam hierarchiis angelorum in celo com omnium."] The points which he had just been mentioning were the royal supremacy and the validity of the protestant episcopal orders.]
have competent power to define of such matters; that supremacy of power in this kind cannot belong unto kings, as kings, because pagan emperors, whose princely power was notwithstanding true sovereignty, never challenged thus much over the Church: that power, in this kind, cannot be the right of any earthly crown, prince, or state, in that they be Christian, forasmuch as if they be Christians, they all owe subjecti unto the pastors of their souls: that the prince therefore not having it himself cannot communicate it unto the parliament, and consequently cannot make laws, hear, or determine of the Church's regime by himself, parliament, or any other court in such sort subjected unto him.

[11.] The parliament of England together with the convocation annexed thereunto, is that whereupon the very essence of all government within this kingdom doth depend; it is even the body of the whole realm; it consisteth of the king, and of all that within the land are subject unto him: for they all are there present, either in person or by such as they of power on E. notwithstanding on E.C.L. so on E. laws here E.C.L., Q. and D. read as in the text.

1 [Bibd. p. 64. "Parlementum autem est conventus plane civilis, in quo nec episcopi alter quem ut regni barones jus suffragandi habent, nec ut barones ullam habent tractandis aut definiendi negotiis, aliam quam que ad civilia status gubernationem spectant, potestatem: cum omnis potestas, quam vel episcopi vel alii in illo loco exercens, sit a Principe et Rep. civili derivata; ad quos nec lege divina nec naturali huissumodi remunum definit spectat."

2 [Bibd. 65. "Non ad paganos imperatoreshoc spectabat, quamvis non minus olim imperiales et regales quam nunc temporis existenter nec ab illis expetebatur; nam sub Nerone, principi Apo stoli ecclesiam Romanam gubernabant."

3 [Bibd. 67. "Hoc itaque regem non est jus regi terreno, principi, aut statui uli debitem: hic enim omnes (si Christiani sunt) tenentur subesse pastoribus animam suaram et ecclesie Christi"]

4 voluntarily have derived their very personal right unto. The parliament is a court not so merely temporal as if it might meddle with nothing but only leather and wool. Those days of Queen Mary are not yet forgotten, wherein the realm did subdue itself unto the legate of Pope Julius: at which time had they been persuaded as this man seemeth now to be, had they thought that there is no more force in laws made by parliament concerning the Church affairs, than if men shall take upon them to make orders for the hierarchies of angels in heaven, they might have taken all former statutes that kind as cancelled, and by reason of nullity abrogated in themselves. What need was there that they should bargain with the cardinal, and purchase their pardon by promise made beforehand, that what laws they had made, assented unto, or executed against the bishop of Rome's supremacy, the same they would in that present parliament effectually abrogate and repeal? Had they power to repeal laws made, and none to make laws concerning the regime of the Church?

Again, when they had by suit obtained his confirmation for such foundations of bishoprics, cathedral churches, hospitals, colleges, and schools; for such marriages before made, for such institutions unto living ecclesiastical, and for all such judicial processes, as having been ordered according to laws before in force, but contrary to the canons and orders of the church of Rome, were in that respect thought defective; although the cardinal in his letters of dispensation did give validity unto those acts, even apostolice firmatis robur, "the very strength of apostolical solidity; what had all this been without those