

Albeit these things which have been sometimes done by any sort may afterwards appertain unto others, and so the kind of agents vary as occasions daily growing shall require; yet sundry unremovable and unchangeable burthens of duty there are annexed unto every kind of public action, which burthens in this case princes must know themselves to stand now charged with in God's sight no less than the people and the clergy, when the power of electing their prelates did rest fully and wholly in them. A fault it had been if they should in choice have preferred any<sup>1</sup> whom desert of most holy life and the gift of divine wisdom did not commend; a fault, if they had permitted long<sup>2</sup> the rooms of the principal pastors of God to continue void; not to preserve the church patrimony as good to each successor as any predecessor did enjoy the same, had been in them a most odious and grievous fault. Simply good and evil do not lose their nature: that which was, is the one or the other, whatsoever the subject of either be. The faults mentioned are in kings by so much greater, for that in what churches they exercise those regalities whereof we do now entreat, the same churches they have received into their special care and custody, with no less effectual obligation of conscience than the tutor standeth bound in for the person and state of that pupil whom he hath solemnly taken upon him to protect and keep. All power is given unto edification, none to the overthrow and destruction of the Church.

Concerning therefore the first<sup>3</sup> branch of spiritual dominion

<sup>1</sup> C. *Sacror. Can.* dist. 63. [Grat. Decr. i. from Capitul. Carol. et Ludovic. l. i. "Sacrorum canonum non ignari, ut in Dei nomine sancta Ecclesia suo liberius potiretur honore, assensum ordini ecclesiastico præbuimus, ut scilicet episcopi, per electionem cleri et populi, secundum statuta canonum, de propria diocesi, remota personarum et munerum acceptatione, ob vitæ meritum et sapientiae donum eligantur, ut exemplo et verbis sibi subjectis undequaque prodesse valeant."]

<sup>2</sup> C. *Lectis.* dist. 63. [from a letter of Stephen to a count Guido, relating

to the consecration of a bishop for the church of Reate. "Scientes ecclesiam Dei sine proprio pastore non debere consistere, gloriæ vestræ mandamus, quoniam aliter nos agere non debuimus, ut a vestra solertia imperiali (ut prisca consuetudo dictat) percepta licentia, et nobis, quemadmodum vos scire credimus, imperatoria directæ epistola, tunc voluntati vestræ de hoc parebimus, et eundem electum, Domino adjuvante, consecrabimus."]

<sup>3</sup> Archbishop Ussher has corrected this to *fourth*.

thus much may suffice; seeing that they with whom we contend do not directly oppose themselves against regalities, but only so far forth as generally they hold that no church-dignity should be granted without consent of the common people, and that there ought not to be in the Church of Christ any episcopal rooms for princes to use their regalities in. Of both which questions we have sufficiently spoken before.

VIII. Touching<sup>t</sup> the king's supereminent authority in commanding, and in judging<sup>u</sup> of causes ecclesiastical; First, to explain therein our meaning, It hath been taken as if we did hold, that kings may prescribe what themselves think good to be done in the service of God; how the word shall be taught, how sacraments<sup>x</sup> administered: that kings may personally sit in the consistory where bishops<sup>y</sup> do, hearing and determining what causes soever do appertain unto those courts<sup>z</sup>: that kings and queens in their own proper persons are by judicial sentence to decide the questions which rise<sup>a</sup> about matters<sup>b</sup> of faith and Christian religion: that kings may excommunicate: finally, that kings may do whatsoever is incident unto the office and duty of an ecclesiastical judge. Which opinion because we count<sup>c</sup> as absurd as they who have fathered the same upon us, we do them to wit that thus<sup>d</sup> our meaning is, and no otherwise: There is not within this realm any<sup>e</sup> ecclesiastical officer, that may by the authority of his own place command universally throughout the king's dominions; but they of his<sup>f</sup> people whom one may command, are to another's commandment unsubject: only the king's royal power is of so large compass, that no man commanded by him according to order<sup>g</sup> of law, can plead himself to be without the bounds and limits of that authority; I say, according to order of law, because with us the highest have thereunto so tied themselves, that otherwise than so they take not upon them to command any.

[2.] And, that kings should be in such sort supreme commanders over all men, we hold it requisite, as well for the

<sup>t</sup> Their *om.* E.C. *no marginal head Q.* <sup>u</sup> whatsoever *om.* E.C. <sup>z</sup> The Dublin MS. has an interval of seven pages between this and the preceding dissertation. <sup>x</sup> the judging D. <sup>y</sup> the sacraments E. <sup>z</sup> the bishops E.C. <sup>a</sup> the Church E. the courts D. <sup>b</sup> do rise E. <sup>c</sup> matter D. <sup>d</sup> account E.Q.C.L. <sup>e</sup> this E.Q.C.L. <sup>f</sup> an E. <sup>g</sup> the order E.

ordering of spiritual as of<sup>h</sup> civil affairs; inasmuch as without universal authority in this kind, they should not be able when need is<sup>i</sup>, to do as virtuous kings have done. Joas<sup>k</sup><sup>1</sup>, purposing to renew the "house of the Lord, assembled the "Priests and Levites, and when they were together, gave "them their charge, saying, Go out<sup>1</sup> unto the cities of Judah, "and gather of all<sup>m</sup> Israel money to repair the house of your "God<sup>n</sup> from year to year, and haste the things: but the "Levites hasted not. Therefore the king called Jehoiada, "the chief, and said unto him, Why hast thou not required "of the Levites to bring in out of Judah and Jerusalem, the "tax of Moses, the servant of the Lord, and of the congrega- "tion of Israel, for the tabernacle of the testimony? For "wicked Athaliah and her children brake up the house of "God<sup>o</sup>, and all the things that were dedicated for the house "of the Lord did they bestow upon Baalim<sup>oo</sup>. Therefore the "king commanded, and they made a chest, and set it at the "gate of the house of the Lord without; and they made a "proclamation through Judah and Jerusalem, to bring unto "the Lord the tax of Moses the servant of God<sup>p</sup>, laid upon "Israel in the wilderness." Could either he have done this, or after him<sup>2</sup> Ezechias the like concerning the celebration of the passover, but that all sorts of men in all things did owe unto those<sup>q</sup> their sovereign rulers the same obedience which some- time<sup>r</sup> Josua had them by solemn<sup>s</sup> vow and promise bound unto<sup>3</sup>? "Whosoever shall rebel against thy commandments, "and<sup>t</sup> will not obey thy words in all that<sup>u</sup> thou commandest "him, let him be put to death; only be strong and of a good "courage."

[3.] Furthermore, judgment ecclesiastical we say is necessary for decision of controversies rising between man and man, and for correction of faults committed in the affairs of God; unto the due execution whereof there are three things necessary, laws<sup>x</sup>, judges, and a supreme governor<sup>y</sup> of judgments.

<sup>h</sup> of *om.* E.Q.C.L. <sup>i</sup> serves D. <sup>k</sup> Josiah E.C. <sup>1</sup> "Go out, &c." (not giving the quotation at length.) D. <sup>m</sup> all *om.* E. <sup>n</sup> "the Lord" in later editions, "God" E.C. <sup>o</sup> the Lord God E.C. <sup>oo</sup> Balaam E'. <sup>p</sup> the Lord E.C. <sup>q</sup> these E.C.L.Q. <sup>r</sup> sometimes E.Q.L. <sup>s</sup> solemn *om.* E.C.L. <sup>t</sup> "and will. . . courage" *om.* D. <sup>u</sup> that *om.* E. <sup>x</sup> law D. <sup>y</sup> supreme governors E.C.

<sup>1</sup> 2 Chron. xxiv. 4-9. <sup>2</sup> 2 Chr. xxx. 6. <sup>3</sup> Josh. i. 18.

What courts there shall be, and what causes shall belong to each court, and what judges shall determine of every cause, and what order in all judgments shall be kept; of these things the laws have sufficiently disposed: so that his duty which<sup>z</sup> sitteth in every<sup>a</sup> such court is to judge, not of, but after, the said laws<sup>b</sup>: "Imprimis<sup>1</sup> illud observare debet "judex, ne aliter judicet quam legibus, aut<sup>c</sup> constitutionibus, "aut moribus proditum est<sup>d</sup>." Which laws (for we mean the positive laws of our own<sup>e</sup> realm concerning ecclesiastical affairs) if they otherwise dispose of any such thing than according to the law of reason and of God, we must both acknowledge them to be amiss, and endeavour to have them reformed: but touching that point what may be objected shall after appear.

Our judges in causes ecclesiastical are either ordinary or missionary: ordinary, those whom we term Ordinaries; and such by the laws of this<sup>f</sup> land are none but prelates only, whose power to do that which they do is in themselves, and belongeth unto<sup>g</sup> the nature of their ecclesiastical calling. In spiritual causes, a lay person may be no ordinary; a missionary judge there is no let but that he may be: and that our laws do evermore refer the ordinary judgment of spiritual causes unto spiritual persons, such as are termed Ordinaries, no man which knoweth any thing in<sup>h</sup> the practice of this realm can easily be ignorant.

[4.] Now, besides them which are authorized to judge in several territories, there<sup>i</sup> is required an universal power which reacheth over all, importing<sup>k</sup> supreme authority of government over all courts, all judges, all causes; the operation of which power is as well to strengthen, maintain and uphold particular jurisdictions, which haply might else be of small effect; as also to remedy that which they are not able to help, and to redress that wherein they at any time do otherwise than they ought to do. This power being sometime in the bishop of Rome, who by sinister practices had drawn it into

<sup>a</sup> who E.Q.C.L. <sup>b</sup> any E.C.L.Q. <sup>c</sup> same law E. <sup>d</sup> aut *om.* E.Q.C.L. <sup>e</sup> ut Imperator Justinianus E.C. <sup>f</sup> own *om.* E.Q. <sup>g</sup> the D. <sup>h</sup> belonging to E.C. <sup>i</sup> any of E. any thing the practice C.L.Q. <sup>j</sup> there *om.* D. <sup>k</sup> imparting E.C.

<sup>1</sup> Just. Instit. l. iv. tit. I. de Offic. Judic.

his hands, was for just considerations by public consent annexed unto the king's royal seat and crown. From thence the authors of reformation would translate it into their national assemblies or<sup>1</sup> synods; which synods are the only help which<sup>m</sup> they think lawful to use against such evils in the Church as particular jurisdictions are not sufficient to redress. In which case<sup>n</sup> our laws have provided<sup>1</sup> that the king's supereminent authority and power shall serve. As namely, when the whole ecclesiastical state, or the principal persons therein, do need visitation and reformation; when, in any part of the Church, errors, heresies, schisms<sup>o</sup>, abuses, offences, contempts, enormities, are grown, which men in their several jurisdictions either do not or cannot help: whatsoever any spiritual authority or<sup>p</sup> power (such as legates from the see of Rome did sometimes exercise) hath done or might heretofore have done for the remedy of those evils in lawful sort (that is to say, without violation<sup>q</sup> of the law<sup>r</sup> of God or nature in the deed done), as much in every degree our laws have fully granted that the king for ever may do, not only by setting ecclesiastical synods on work, that the thing may be their act and the king their motioner<sup>s</sup> unto it, (for so much perhaps the masters of reformation will grant;) but by commissioners<sup>t</sup> few or many, who having the king's letters patents, may in the virtue thereof execute the premises as agents in the right, not of their own peculiar and ordinary but of his supereminent power.

[5.] When men are wronged by inferior judges, or have any just cause to take exception against them, their way for redress is to make their appeal. An<sup>u</sup> appeal is a present delivery of him which maketh it out of the hands of their power and jurisdiction<sup>x</sup> from whence it is made. Pope Alexander<sup>2</sup> having sometime<sup>y</sup> the king of England at the<sup>z</sup> advantage, caused him, amongst other things, to agree, that as many of his subjects as would, might appeal<sup>a</sup> to the court of Rome.

<sup>1</sup> and D. <sup>m</sup> that D. <sup>n</sup> cause E. <sup>o</sup> schisms, heresies E. schisms om. C. and E.Q.C.L. <sup>q</sup> the violation E.Q.C.L. <sup>r</sup> laws E.C. <sup>s</sup> motion E.Q.C.L. <sup>t</sup> commission E. commissioners Q.C.L. <sup>u</sup> appeal; and E.Q.C.L. <sup>x</sup> jurisdictions E.Q.C.L. <sup>y</sup> sometimes E.Q.C.L. <sup>z</sup> the om. E. <sup>a</sup> have appeal E.

<sup>1</sup> 1 Eliz. cap. 1.

<sup>2</sup> [Alexander III. in the arrangement made after the murder of the

Archbishop of Canterbury, A. D. 1172.]

"And thus," saith one<sup>1</sup>, "that whereunto a mean person "at this day would scorn to submit himself, so great a king "was content to be subject. Notwithstanding even when "the pope," saith he, "had so great authority amongst princes "which were far off, the Romans he could not frame to obedience, nor was able to obtain that himself might abide "at Rome, though promising not to meddle with other than "ecclesiastical affairs." So much are things that terrify more feared by such as behold them aloof off than at hand.

Reformers I doubt not in some cases<sup>a</sup> will admit appeals<sup>b</sup>, made unto their synods; even as the church of Rome doth allow of them so they be made to the bishop of Rome. As for that kind of appeal which the English laws<sup>2</sup> do approve, from the judge of any<sup>c</sup> particular court unto the king, as the only supreme governor on earth, who by his delegates may give a final definitive sentence, from which no further appeal can be made; will their platform allow of this? Surely, forasmuch as in that estate which they all dream of, the whole Church must be divided into parishes, of<sup>d</sup> which none can have greater or less authority and power than another; again, the king himself must be but as a common member in the body of his own parish, and the causes of that only parish must be by the officers thereof determinable; in case the king had so much preferment<sup>e</sup>, as to be made one of those officers (for otherwise by their positions he were not to meddle any more than the meanest amongst his<sup>f</sup> subjects with the judgment of any ecclesiastical cause), how is it possible they should allow of appeals to be made from any other abroad to the king?

[6.] To receive appeals from all other judges, belongeth unto the highest in power over<sup>g</sup> all; and to be in power over all, as touching the judgment of<sup>h</sup> ecclesiastical causes, this

<sup>a</sup> causes E. <sup>b</sup> appeals, but appeals made E.Q.C.L. <sup>c</sup> any certain particular E.Q.C.L. <sup>d</sup> in E.C.L. <sup>e</sup> favour or preferment E.Q.C. <sup>f</sup> the D. of E. <sup>g</sup> judgment in E.

<sup>1</sup> Machiavel. Hist. Florent. lib. i. "cose furono tutte da Enrico accettate, e sottomessesi a quel giudicio "cose fatte nel suo regno in disfavore della liberta ecclesiastica; e "privato si vergognarebbe a sottomettersi." p. 21. ed. Genev. 1550.]  
<sup>2</sup> 25 Hen. VIII. c. 19.  
"leno appellare a Roma: le quali

BOOK VIII. as they think belongeth only unto synods. Whereas therefore  
 Ch. viii. 6. with us, kings do exercise over all kinds of persons<sup>o</sup> and  
 causes, power<sup>oo</sup> both of voluntary and litigious jurisdiction<sup>p</sup>;  
 so that according to the one they visit<sup>q</sup>, reform, and com-  
 mand; according to the other, they judge universally, doing  
 both in far other sort than such as have ordinary spiritual  
 power: oppugned herein we are<sup>r</sup> by some colourable shew of  
 argument, as if to grant thus much unto any secular person it  
 were unreasonable. "For sith it is," say they<sup>1</sup>, "apparent  
 "out of the Chronicles, that judgment in church matters  
 "pertaineth unto God; seeing likewise it is evident out of  
 "the Apostle<sup>s</sup>, that the high priest is set over those matters  
 "in God's behalf; it must needs follow that the principality  
 "or direction of the judgment of them is by God's ordinance  
 "appertaining unto the high<sup>t</sup> priest, and consequently to  
 "the ministry of the Church: and if it be by God's ordinance  
 "appertaining unto them, how can it be translated from  
 "them unto the civil magistrate?" Which argument, briefly  
 drawn into form, lieth thus: That which belongeth unto God,  
 may not be translated unto any other than<sup>u</sup> whom he hath  
 appointed to have it in his behalf: but principality of judg-  
 ment in church matters appertaineth unto God, which hath  
 appointed the high priest, and consequently the ministry of  
 the Church alone, to have it in this<sup>x</sup> behalf; therefore<sup>y</sup>, it may  
 not from them be translated to the civil magistrate. The first  
 of which three<sup>z</sup> propositions we grant; as also in the second  
 that branch which ascribeth unto God principality in church<sup>a</sup>  
 matters. But that either he did appoint none but only the  
 high priest to exercise the said principality for him; or that  
 the ministry of the Church may in reason from thence be con-  
 cluded to have alone the same principality by his appoint-  
 ment: these two points we deny utterly.

For concerning the high priest, there is first no such ordi-  
 nance of God to be found. "Every high priest," saith the  
 Apostle<sup>2</sup>, "is taken from among men, and is ordained for

<sup>o</sup> things, persons E.Q.C.L. <sup>oo</sup> supreme power E. <sup>p</sup> jurisdictions E.Q.C.L.  
<sup>q</sup> incite E. <sup>r</sup> we are herein E.C. <sup>s</sup> Apostles E. Apostle to the Hebrews Q.  
<sup>a</sup> high om. D. <sup>u</sup> but E.Q.C.L. <sup>x</sup> his E.Q.L. <sup>y</sup> ergo E.Q.C.L. <sup>z</sup> three  
 om. E.C. <sup>a</sup> the Church D.

<sup>1</sup> T. C. l. iii. p. 154. <sup>2</sup> Chron. xix. 5. Heb. v. 1. <sup>3</sup> Heb. v. 1.

BOOK VIII. "men in things pertaining to God:" whereupon it may well  
 Ch. viii. 7. be gathered, that the priest was indeed ordained of God to  
 have power in things pertaining unto God. For the Apostle  
 doth there mention the power of offering gifts and sacrifices  
 for sins<sup>b</sup>; which kind of power was not only given of God  
 unto priests, but restrained unto priests only. The power of  
 jurisdiction and ruling authority, this also God gave them,  
 but not them alone<sup>c</sup>. For it is held, as all men know,  
 that others of the laity were herein joined by the law with  
 them. But concerning principality in church affairs (for of  
 this our question is, and of no other) the priests neither  
 had it alone, nor at all; but (as hath been already shewed)  
 principality in spiritual affairs<sup>d</sup> was the royal prerogative of  
 kings<sup>e</sup>.

Again, though it were so, that God had appointed the high  
 priest to have the said principality of government in those  
 matters; yet how can they who allege this, enforce thereby  
 that consequently the ministry of the Church, and no other,  
 ought to have the same, when they are so far off from allowing  
 as<sup>f</sup> much to the ministry of the Gospel, as the priesthood of  
 the Law had by God's appointment, that we but collecting  
 thereout a difference in authority and jurisdiction amongst the  
 Clergy, to be for the policy<sup>ff</sup> of the Church not inconvenient,  
 they forthwith think to close up our mouths by answering,  
 "That the Jewish high priests<sup>g</sup> had authority above the rest,  
 "only in that they prefigured the sovereignty of Jesus Christ;  
 "as for the ministers of the Gospel, it is," they say<sup>h</sup>, "alto-  
 "gether unlawful to give them as much as the least title, any  
 "syllable that any way<sup>i</sup> may sound towards<sup>k</sup> principality?"  
 And of the regency which may be granted, they hold others  
 even of the laity no less capable than pastors<sup>l</sup> themselves.  
 How shall these things cleave together?

[7.] The truth is, that they have some reason to think it  
 not all of the fittest for kings to sit as ordinary judges in  
 matters of faith and religion. An ordinary judge must be  
 of that<sup>m</sup> quality which in a supreme judge is not necessary:

<sup>b</sup> sin E.Q.C.L. <sup>c</sup> alone } D. <sup>d</sup> but in spiritual or church affairs,  
 only }  
 (as hath been already shewed) it was E. The whole clause om. from "Church  
 affairs" just before C.L. <sup>e</sup> kings only E. <sup>f</sup> so E.Q.C.L. <sup>ff</sup> "so E." politie  
 Gauden. <sup>g</sup> priest E.C. <sup>h</sup> they say om. E. <sup>i</sup> whereof E.C.L.Q. <sup>k</sup> to E.  
<sup>l</sup> the pastors E. <sup>m</sup> the E.C.L.Q.

because the person of the one is charged with that which the other's authority dischargeth, without employing personally himself herein. It is an error to think that the king's authority can have no force or<sup>n</sup> power in the doing of that which himself may not personally do. For first, impossible it is, that at one and the same time the king in person should order so many and so different affairs, as by his power every where present are wont to be ordered both in peace and in war<sup>o</sup>, at home and abroad. Again, the king, in regard of his nonage or minority, may be unable to perform that thing wherein years of discretion are requisite for personal action; and yet his authority even then be of force. For which cause we say, that the king's authority dieth not, but is, and worketh, always alike. Sundry considerations there may be, effectual to withhold the king's person from being a doer of that which his power must notwithstanding<sup>p</sup> give force unto. Even<sup>a</sup> in civil affairs, where nothing doth either more<sup>r</sup> concern the duty, or better beseem the majesty of kings, than personally to administer justice unto their people, as most famous princes have done: yet, if it be in case of felony or treason, the learned in<sup>s</sup> the laws of this realm do plainly<sup>t</sup> affirm<sup>1</sup>, that well may the king commit his authority unto another to judge between him and the offender; but the king being himself here<sup>u</sup> a party, he cannot personally sit to give judgment<sup>x</sup>.

As therefore the person of the king may, for just considerations<sup>y</sup>, even where the cause is civil, be notwithstanding withdrawn from occupying the seat of judgment, and others under his authority be fit, he unfit himself to judge; so the considerations for which it were haply not convenient for kings to sit and give sentence in spiritual courts, where causes ecclesiastical are usually debated, can be no bar to that force and efficacy which their sovereign power hath over those very consistories, and for which, we hold without any exception that all courts are the king's. All men are not for all things

<sup>n</sup> nor E.    <sup>o</sup> at war E.D. in Q.C.L.    <sup>p</sup> notwithstanding his power must E. unto, even E.C.L.    <sup>r</sup> more either E.Q.C.L.    <sup>s</sup> of D.    <sup>t</sup> plainly *om.* E.    <sup>u</sup> there E.C.L.    <sup>x</sup> What follows does not appear in the first edition, but was added, in 1662, by Bishop Gauden.    <sup>y</sup> consideration D.

<sup>1</sup> Staunf. Pleas of the Crown, l. ii. "seer in judgment in treason ou c. 3. [fol. 54. ed. 1574. "Le Roy in "felony, eo quod il est un des par- "person ne peut estre judge ne "ties al judgment."]

sufficient; and therefore public affairs being divided, such persons must be authorized judges in each kind, as common reason may presume to be most fit: which cannot of kings and princes ordinarily be presumed in causes merely ecclesiastical; so that even common sense doth rather adjudge this burden unto other men. We see it hereby a thing necessary, to put a difference, as well between that ordinary jurisdiction which belongeth to the clergy alone, and that commissiary wherein others are for just considerations<sup>a</sup> appointed to join with them; as also between both these jurisdictions, and a third, whereby the king hath a transcendent<sup>b</sup> authority, and that in all causes, over both. Why this may not lawfully be granted unto him, there is no reason.

[8.] A time there was when kings were not capable of any such power, as namely, while<sup>b</sup> they professed themselves open adversaries<sup>c</sup> unto Christ and Christianity. A time there followed, when they, being capable, took sometimes more sometimes less to themselves, as seemed best in their own eyes, because no certainty touching their right was as yet determined. The bishops, who alone were before accustomed to have the ordering of such affairs, saw very just cause of grief, when the highest, favouring heresy, withstood by the strength of sovereign authority religious proceedings. Whereupon they oftentimes, against this new irresistible<sup>d</sup> power, pleaded that<sup>e</sup> use and custom which had been to the contrary; namely, that the affairs of the Church should be dealt in by the clergy, and by no other: unto which purpose, the sentences that then were uttered in defence of unabolished orders and laws, against such as did of their own heads contrary thereunto, are now altogether impertinently brought in opposition against them who use but the<sup>f</sup> power which laws have given them, unless men can shew that there is in those laws some manifest iniquity or injustice.

Whereas therefore against the force judicial and imperial, which supreme authority hath, it is alleged, how Constantine<sup>1</sup> termeth church-officers, "Overseers of things within the

<sup>a</sup> consideration D.    <sup>b</sup> hath transcendent E.Q.C.L.    <sup>c</sup> when E.Q.C.L. enemies E.C.    <sup>d</sup> this irresistible E.Q.    an irresistible C.    <sup>e</sup> the E.Q.C.L. that E.C.L.

<sup>1</sup> T. C. lib. iii. p. 155.