Church\(^1\), himself, "of those without the Church\:^{2}\) how Augustine\(^3\) testifieth, that the emperor not daring to judge of the bishops’ cause, committed it unto the bishops; and was so applyed for the bishops’ importunity, which made no end of appealing unto him, he was, being weary of them, drawn to give sentence in a matter of theirs\(^4\): how Hilary\(^5\) beseecheth the emperor Constans to provide that the governors of his provinces should not presume to take upon them the judgment of ecclesiastical causes, to whom commonwealth matters only\(^6\) belonged: how Ambrose\(^7\) affirmeth, that palaces belong unto the emperor, ...
That the Church is the house of God, and that those things which be God’s are not to be yielded up, and disposed of at the emperor’s will and pleasure; his palaces he might grant unto whomsoever, but God’s own habitations not so. A cause why many times emperors did more by their absolute authority than could very well stand with reason, was the over the great importunity of heretics, who being enemies to peace and quietness, cannot otherwise than by violent means be supported.

[9.] In this respect therefore we must needs think the state of our own church much better settled than theirs was; because our laws have with far more certainty prescribed bounds unto each kind of power. All decisions of things doubtful, and corrections of things amiss, are proceeded in by order of law, what person soever he be unto whom the administration of judgment belongeth. It is neither permitted unto prelate nor prince to judge and determine at their own discretion, but law hath prescribed what both shall do. What power the king hath he hath it by law, the bounds and limits of it are known; the entire community giveth general order by law how all things publicly are to be done, and the king as head thereof, the highest in authority over all, causeth according to the same law every particular to be framed and ordered thereby. The whole body politic maketh laws, which laws give power unto the king, and the king having bound himself to use according unto law that power, it so falleth out, that the execution of the one is accomplished by the other in most religious and peaceable sort. There is no cause given unto any to make supplication, as Hilary did, that civil governors, to whom commonwealth-matters only belong, might not presume to take upon them the judgment of ecclesiastical causes. If the cause be spiritual, secular courts do not meddle with it: we need not excuse ourselves with Ambrose, but boldly and lawfully we may refuse to answer before any civil
judge in a matter which is not civil, so that we do not mistake the nature either of the cause or of the court, as we easily may do both, without some better direction than can be had by the rules of this new-found discipline. But of this most certain we are, that our laws do neither suffer a spiritual court to entertain those causes which by law are civil, nor yet if the matter be indeed spiritual, a mere civil court to give judgment of it.

Touching supreme power therefore to command all men, in all manner of causes of judgment to be highest, let this much suffice as well for declaration of our own meaning, as for defence of the truth therein.

IX. The last thing of all which concerns the king's supremacy is, whether thereby he may be exempted from being subject to that judicial power which ecclesiastical consistories have over men. It seemeth, first, in most men's judgments to be requisite that on earth there should not be any alive altogether without standing in awe of some by whom they may be controlled and bridled.

The good estate of a commonwealth within itself is thought on nothing to depend more than upon these two special affections, fear and love: fear in the highest governor himself; and love, in the subjects that live under him. The subject's love of the most part continueth as long as the righteousness of kings doth last; in whom virtue decayeth not as long as they fear to do that which may alienate the loving hearts of their subjects from them. Fear to do evil growth from the harm which evildoers are to suffer. If therefore private men, which know the danger they are subject unto, being malefactors, do notwithstanding so boldly adventure upon heinous crimes, only because they know it is possible for some transgressor sometimes to escape the danger of law: in the mighty upon earth, (which are not always so virtuous and holy that their own good minds will bridle them,) what may we look for, considering the frailty of man's nature, if the world do once hold it for a maxim that kings ought to live in no subjection: that, how grievous disorders soever they fall into, none may have coercive power over them? Yet so it is that this we must necessarily admit, as a number of right well learned men are persuaded.

[2.] Let us therefore set down first, what there is which may induce men so to think; and then consider their several inventions or ways, who judge it a thing necessary, even for kings themselves, to be punishable, and that by men. The question itself we will not determine. The reasons of opinion being opened, it shall be best for the wise to judge which of them is likeliest to be true. Our purpose being not to oppugn any save only that which reformers hold; and of the rest, rather to inquire than to give sentence. Inducements leading men to think the highest magistrate should not be judged of any, saving God alone, are specially these. 1. First, as there could be in natural bodies no motion of any thing, unless there were some which moveth all things and continueth unmoveable; even so in politic societies there must be some unpunishable, or else no man shall suffer punishment. For sith punishments proceed always from superiors, to whom the administration of justice belongeth, which administration must have necessarily a fountain that deriveth it to all others, and receiveth it not from any; because otherwise the course of justice should go infinitely in a circle, every superior having his superior without end, which cannot be: therefore a wellspring it followeth there is, and a supreme head of justice,


Puritan's Claim to coerce the Sovereign:

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Whereunto all are subject, but itself in subjection to none. Which kind of preeminence if some ought to have in a kingdom, who but the king should have it? Kings therefore no man can have lawfully power and authority to judge. If private men offend, there is the magistrate over them, which judgeth. If magistrates, they have their prince. If princes, there is Heaven, a tribunal, before which they shall appear: on earth they are not accountable to any.

2. Which thing likewise the very original of kingdoms doth shew.

[3.] "His second point, whereby he would make us odious, is, that we think the prince may be subject to excommunication; that is, that he is a brother, that he is not without but within the Church. If this be dangerous, why is it printed and allowed in the famous writings of bishop Jewel 3: "In that the high priest doth his office when he excommunicates and cuts off a dead member from the body, so far forth the prince, be he never so mighty, is inferior to him. "Yea not only to a bishop, but to a simple priest? Why is it suffered which Mr. Nowell hath written, 'The prince ought patiently to abide excommunication at the bishop's hands?' Why are not the worthy examples of emperors raised out of the histories, seeing they have been subject "to his [this] censure?"

1 kingdom.

1 Deut. xvii. 15. Matt. xviii. 15. 
2 1 Cor. v. 12, 13. 
4 [Jewel, and the Counterpoison, both read priest, not high priest.] 
5 Tom. ii. 6. 53. ["The Reproof of M. Dorman his proof of certain Articles of Religion, &c. continued by Alexander Nowell. With a Defence of the chief Authority and Government of Christian Princes as well causes ecclesiastical as civil within their own dominions, by M. Dorman maliciously oppugnated." Lond. 1566. f. 51. "We profess, as doth Calvin, that the prince himself ought to be obedient to the ecclesiastical minister, executing these his offices according to God's word; yea though it be against the prince himself, according as Theodosius the emperor was in this case obedient to St. Ambrose."]
7 Counter[poison], page 174. [Comp. T. C. iii. 93, for the whole of this except the reference to Bp. Jewell. And Eccl. Disc. 142. 143. Neque vero hic magistratus, etiam in religia ecclesiastica autocratiae ratione eminente, se ab hoc pereat et victoriam obediendi praecipe et mandato eximendo esse arbiturat. Quam enim non minus de magnitudinem ecclesiasticam auctoritate vel præstitit, sed ipsum quodammodo personam sustineat, quam nullo suo imperio, sed illius solo verbo et mandato omnia administrat;"

not made out by his being within the Church.  
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The Jews were forbidden to choose an alien king over them; inasmuch as there is not any thing more natural than that the head and the body subject thereunto should always, if it were possible, be linked in that bond of nearness also which birth and breeding as it were in the bowels of one common mother usually causeth. Which being true did not greatly need to be alleged for proof that kings are in the Church of God of the same spiritual fraternity with their subjects: a thing not denied nor doubted of.

Indeed the king is a brother; but such a brother as unto whom all the rest of the brethren are subject. He is a sheaf of the Lord's field as the rest are; howbeit, a sheaf which is so far raised above the rest 1 that they all owe reverence unto it. The king is a brother which hath dominion over all his brethren. A strange conclusion to gather hereby, that therefore some of his brethren ought to have the authority of correcting him. We read that God did say unto David, "If Solomon thy son forget my laws, I will punish his transgressions with a rod." But that he gave dominion unto any of Solomon's brethren to chastise Solomon, we do not read.

It is a thing very much alleged, that the church of the Jews had the sword of excommunication. Is any man able to allege where the same was ever drawn forth against the king? Yet how many of their kings how notoriously spotted?

Our Saviour's words are, "If thy brother offend thee." And St. Paul's, "Do ye not judge them that are within?" Both which speeches are but indefinite. So that neither the one nor the other is any let but some brother there may be

1 Gen. xxxvii. 7.
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whose person is exempt from being subject to any such kind of proceeding: some within, yet not therefore under, the jurisdiction of any other. Sentences, indefinitely uttered, must sometimes universally be understood: but not where the subject or matter spoken of doth in particulars admit that difference which may in reason seclude any part from society with the residue of that whole, whereunto one common thing is attributed. As in this case it clearly fareth where the difference between kings and others of the Church is a reason sufficient to separate the one from the other in that which is spoken of brethren, albeit the name of brethren itself do agree to both. Neither doth our Saviour nor the Apostle speak in more general sort of ecclesiastical punishments than Moses in his law doth of civil: "If there be found men or the man amongst you that hath served other gods." Again, "The man that commiteth adultery." The punishment of both which transgressions being death, what man soever did offend therein, why was not Manasses for the one, for the other why not David accordingly executed? "Rex judicat, "non judicatur," saith one. The king is appointed a judge of all men that live under him; but not any of them his judge.

The king is not subject unto laws; that is to say, the punishment which breach of laws doth bring upon inferiors

1 Th. iii. 92. "Who could be ignorant that our Saviour Christ speaketh generally when he saith, "If thy brother, &c. whereby he comprehendeth all those that are members of one church and children of one heavenly Father."

2 In which number the Scripture reckoneth the king, whilst in that he is both called a brother, and calleth his subjects brethren. Or who could be ignorant that St. Paul subjecteth all unto this order, is all one, saving those only which are strangers from the Church. So that to say that princes are not subject unto this order, is all one as if he should say that princes pertain not to the kingdom of heaven, are none of the Church, have no part with Christ, &c.


In what sense Jewel held Priests above Kings. 449
taketh not hold on the king's person; although the general laws which all mankind is bound unto do tie no less the king than others, but rather more. For the grievousness of sin is aggravated by the greatness of him that commiteth it: for which cause it also maketh him by so much the more obnoxious unto Divine revenge, by how much the less he feareth human.

[4.] Touching Bishop Jewel's opinion hereof, there is not in the place alleged any one word or syllable against the king's prerogative royal to be free from the coercive power of all spiritual, both persons and courts, within the compass of his own dominions. "In that," saith he, "the priest doth his office, in that he openeth God's word, or declareth his threats, or rebuketh sin, or excommunicateth and cutteth off a dead member from the body; so farth the prince, "be he never so mighty, is inferior unto him. But in this "respect the prince is inferior not only to the pope or bishop, "but also to any other simple priest." He disputeth earnestly against that supremacy which the bishop of Rome did challenge over his sovereign lord the emperor: and by many allegations he laboureth to shew that popes have been always subject unto his supreme dominion, not he to theirs; he supreme judge over them, not they over him. Now whereas it was objected, that within the Church, when the priest doth execute his office, the very prince is inferior to him; so much being granted by Mr. Jewel, he addeth that this doth no more prove the pope than the simplest priest in the Church to be lord and head over kings. For although it doth hereby appear that in those things which belong to his priestly office the pope may do that which kings are not licensed to meddle with; in which respect it cannot be denied but that the emperor himself hath not only less power than the chiefest bishop, but even less than the meanest priest within his empire, and is consequently every priest's inferior that way: nevertheless, sith this appertaineth nothing at all to judicial authority and power, how doth this prove kings and emperors to be by way of subjection inferior to the pope as to their ecclesiastical judge? Impertinently therefore is the answer,