

BOOK V. dignity and glory wherewith the Church triumphant in heaven  
Ch. vii. 1. is beautified.

Howbeit, even as the very heat of the sun itself, which is the life of the whole world, was to the people of God in the desert a grievous annoyance, for ease whereof his extraordinary providence ordained a cloudy pillar to overshadow them: so things of general use and benefit (for in this world what is so perfect that no inconvenience doth ever follow it?) may by some accident be incommodious to a few. In which case, for such private evils remedies there are of like condition, though public ordinances, wherein the common good is respected, be not stirred.

Let our first demand be therefore, that in the external form of religion such things as are apparently, or can be sufficiently proved, effectual and generally fit to set forward godliness, either as betokening the greatness of God, or as be- seeming the dignity of religion, or as concurring with celestial impressions in the minds of men, may be reverently thought of; some few, rare, casual, and tolerable, or otherwise curable inconveniences notwithstanding.

The second VII. Neither may we in this case lightly esteem what hath  
proposi- been allowed as fit in the judgment of antiquity, and by the  
tion. long continued practice of the whole Church; from which unnecessarily to swerve, experience hath never as yet found it safe. For wisdom's sake we reverence them no less that are young, or not much less, than if they were stricken in years. And therefore of such it is rightly said that their ripeness of understanding is "grey hair," and their virtues "old age"<sup>1</sup>. But because wisdom and youth are seldom joined in one, and the ordinary course of the world is more according to Job's observation, who giveth men advice to seek "wisdom amongst the ancient, and in the length of days, "understanding"<sup>2</sup>; therefore if the comparison do stand between man and man, which shall hearken unto other; sith the aged for the most part are best experienced, least subject to rash and unadvised passions, it hath been ever judged reasonable that their sentence in matter of counsel should be better trusted, and more relied upon than other men's. The goodness of God having furnished man with two chief instru-

<sup>1</sup> Wisd. iv. 9.

<sup>2</sup> Job xii. 12.

ments both necessary for this life, hands to execute and a mind to devise great things; the one is not profitable longer than the vigour of youth doth strengthen it, nor the other greatly till age and experience have brought it to perfection. In whom therefore time hath not perfected knowledge, such must be contented to follow them in whom it hath. For this cause none is more attentively heard than they whose speeches are as David's were, "I have been young and now am old"<sup>1</sup>, much I have seen and observed in the world. Sharp and subtile discourses of wit procure many times very great applause, but being laid in the balance with that which the habit of sound experience plainly delivereth, they are overweighed. God may endue men extraordinarily with understanding as it pleaseth him. But let no man presuming thereupon neglect the instructions, or despise the ordinances of his elders, sith He whose gift wisdom is hath said<sup>2</sup>, "Ask thy father and he will shew thee; thine ancients and they shall tell thee."

[2.] It is therefore the voice both of God and nature, not of learning only, that especially in matters of action and policy, "The sentences and judgments of men experienced, aged and wise, yea though they speak without any proof or demonstration, are no less to be hearkened unto, than as being demonstrations in themselves; because such men's long observation is as an eye, wherewith they presently and plainly behold those principles which sway over all actions"<sup>3</sup>. Whereby we are taught both the cause wherefore wise men's judgments should be credited, and the mean how to use their judgments to the increase of our own wisdom. That which sheweth them to be wise, is the gathering of principles out of their own particular experiments. And the framing of our particular experiments according to the rule of their principles shall make us such as they are.

[3.] If therefore even at the first so great account should be made of wise men's counsels touching things that are publicly done, as time shall add thereunto continuance and approbation

<sup>1</sup> [Psalm xxxvii. 25.]

<sup>2</sup> Deut. xxxii. 7.

<sup>3</sup> Arist. Eth. vi. cap. 11. [Δεί ἀποδείξω' διὰ γὰρ τὸ ἔχειν ἐκ τῆς ἐμπειρίας ὄμμα ὁρῶσιν ἀρχάς.]

of succeeding ages, their credit and authority must needs be greater. They which do nothing but that which men of account did before them, are, although they do amiss, yet the less faulty, because they are not the authors of harm. And doing well, their actions are freed from prejudice of novelty. To the best and wisest<sup>1</sup>, while they live, the world is continually a froward opposite, a curious observer of their defects and imperfections; their virtues it afterwards as much admireth. And for this cause many times that which most deserveth approbation would hardly be able to find favour, if they which propose it were not content to profess themselves therein scholars and followers of the ancient. For the world will not endure to hear that we are wiser than any have been which went before. In which consideration there is cause why we should be slow and unwilling to change, without very urgent necessity, the ancient ordinances, rites, and long approved customs, of our venerable predecessors. The love of things ancient doth argue<sup>2</sup> stayedness, but levity and want of experience maketh apt unto innovations. That which wisdom did first begin, and hath been with good men long continued, challengeth allowance of them that succeed, although it plead for itself nothing. That which is new, if it promise not much, doth fear condemnation before trial; till trial, no man doth acquit or trust it, what good soever it pretend and promise. So that in this kind there are few things known to be good, till such time as they grow to be ancient. The vain pretence of those glorious names, where they could not be with any truth, neither in reason ought to have been so much alleged, hath wrought such a prejudice against them in the minds of the common sort, as if they had utterly no force at all; whereas (especially for these observances which concern our present question) antiquity, custom, and consent in the Church of God, making with that which law doth establish, are themselves most sufficient reasons to uphold the

<sup>1</sup> Πρὸς τοὺς ἐκ ποδῶν φθόνος οὐδεὶς φέυεται. Philo.

Πᾶσα δυσμένεια τῷ βίῳ τούτῳ συν-  
αποτίθεται. Synes.

Τὸ ἐκ ποδῶν οὐτ' ἀντιπίπτει καὶ  
τετιμῆται ἀφθόως. Greg. Naz. ἐν  
Στιχ. [t. ii. 251. ed. Paris. 1630.]

<sup>2</sup> Ὅσοι δὲ εὐστάθειαν τρέπων τὸ τῆς  
ἀρχαιότητος σεμνὸν τοῦ καινοπρεποῦς  
προετίμησαν, καὶ ἀπαραιοίητον τῶν  
πατέρων διεφύλαξαν τὴν παράδοσιν,  
κατὰ τε χώραν καὶ πόλιν, ταύτη κέ-  
χρηται τῇ φωνῇ. Basil. de Spirit.  
Sanct. cap. vii. [Ed. Bened. iii. 23.]

same, unless some notable public inconvenience enforce the contrary. For<sup>1</sup> a small thing in the eye of law is as nothing.

[4.] We are therefore bold to make our second petition this, That in things the fitness whereof is not of itself apparent, nor easy to be made sufficiently manifest unto all, yet the judgment of antiquity concurring with that which is received may induce them to think it not unfit, who are not able to allege any known weighty inconvenience which it hath, or to take any strong exception against it<sup>2</sup>.

VIII. All things cannot be of ancient continuance, which are expedient and needful for the ordering of spiritual affairs: but the Church being a body which dieth not hath always power, as occasion requireth, no less to ordain that which never was, than to ratify what hath been before. To prescribe the order of doing in all things, is a peculiar prerogative which Wisdom hath<sup>3</sup>, as queen or sovereign commandress over other virtues. This in every several man's actions of common life appertaineth unto Moral, in public and politic secular affairs unto Civil wisdom. In like manner, to devise any certain form for the outward administration of public duties in the service of God, or things belonging thereunto, and to find out the most convenient for that use, is a point of wisdom Ecclesiastical.

[2.] It is not for a man which doth know or should know what order is, and what peaceable government requireth, to ask, "why we should hang our judgment upon the Church's "sleeve;" and "why in matters of order, more than in "matters of doctrine<sup>4</sup>." The Church hath authority to establish that for an order at one time, which at another time it may abolish, and in both do well. But that which in doctrine the Church doth now deliver rightly as a truth, no man will say that it may hereafter recall, and as rightly avouch the contrary. Laws touching matter of order are changeable, by the power of the Church; articles concerning doctrine not so. We read often in the writings of catholic

<sup>1</sup> Ὁ μὲν μικρὸν τοῦ εὖ παρεκβαίνων,  
οὐ ψέγεται. Arist. Ethic. ii. c. 9.  
"Modici nulla fere ratio haberi  
"solet." Tiraquel [André Tiraqueau,  
a learned French lawyer, 1480-  
1558. 1886] de Judicio in Rebus  
exiguus, cap. 10. [Opp. t. vi. 83.]

Bayle calls him "un des plus savans  
"hommes du xvi. siècle."

<sup>2</sup> ["it" in K., not in A and C.] 1886.  
<sup>3</sup> Ἡ μὲν φρόνησις περὶ τὰ ποιητέα  
ἄρως αὐτοῖς τιθεῖσα. Philo [de SS.  
LL. Allegor. lib. i. t. i. 52.]

<sup>4</sup> T. C. lib. iii. p. 171.

and holy men touching matters of doctrine, "this we believe, "this we hold, this the Prophets and Evangelists have declared, this the Apostles have delivered, this Martyrs have sealed with their blood, and confessed in the midst of tortments, to this we cleave as to the anchor of our souls, "against this, though an Angel from heaven should preach "unto us, we would not believe." But did we ever in any of them read, touching matters of mere comeliness, order, and decency, neither commanded nor prohibited by any Prophet, any Evangelist, any Apostle, "Although the church wherein "we live, do ordain them to be kept, although they be never "so generally observed, though all the churches in the world "should command them, though Angels from heaven should "require our subjection thereunto, *I would hold him accursed "that doth obey?"* Be it in matter of the one kind or of the other, what Scripture doth plainly deliver, to that the first place both of credit and obedience is due; the next whereunto is whatsoever any man can necessarily conclude by force of reason; after these the voice of the Church succeedeth. That which the Church by her ecclesiastical authority shall probably think and define to be true or good, must in congruity of reason overrule all other inferior judgments whatsoever.

[3.] To them which ask why we thus hang our judgment on the Church's sleeve, I answer with Salomon, because "two "are better than one<sup>1</sup>." "Yea simply (saith Basil<sup>2</sup>) and "universally, whether it be in works of Nature, or of voluntary choice and counsel, I see not any thing done as it "should be, if it be wrought by an agent singling itself from "consorts." The Jews have a sentence of good advice, "Take "not upon thee to be a judge alone; there is no sole judge "but one only; say not to others, Receive my sentence, when "their authority is above thine<sup>3</sup>." The bare consent of the whole Church should itself in these things stop their mouths,

<sup>1</sup> Eccles. iv. 9.

<sup>2</sup> Basil. Ep. 68. [al. 97. ἀπαξ-  
απλῶς οὐδὲν οὔτε τῶν ἐκ φύσεως οὔτε  
τῶν ἐκ προαιρέσεως κατορθουμένων  
ὁρῶ, ἀνευ τῆς τῶν ὁμοφύλων συμ-  
πνοίας ἐπιτελούμενον ὅπου γε καὶ αὐτῇ  
ἡ προσευχὴ μὴ ἔχουσα τοὺς συμφω-  
νοῦντας ἀδρανεστέρα ἐστὶ πολλῶ  
ἐαυτῆς. t. iii. 191.] Decr. pars i.

dist. 8. c. [2. Corp. Jur. Can. p. 5.]  
Quæ contra. "Turpis est omnis  
"pars universo suo non congru-  
"ens."

<sup>3</sup> R. Ismael in Cap. Patr. [fol.  
54. ed. Venet. 1567. אַל תִּהְיֶה יָדְךָ  
אֶל פִּתְחֵי יָדְךָ וְיָדְךָ אֶל פִּתְחֵי  
אֶל פִּתְחֵי יָדְךָ וְיָדְךָ אֶל פִּתְחֵי  
יָדְךָ וְיָדְךָ אֶל פִּתְחֵי יָדְךָ  
[: וְיָדְךָ אֶל פִּתְחֵי יָדְךָ]

who living under it, dare presume to bark against it. "There "is (saith Cassianus) no place of audience left for them, by "whom obedience is not yielded to that which all have "agreed upon<sup>1</sup>." Might we not think it more than wonderful, that nature should in all communities appoint a predominant judgment to sway and overrule in so many things; or that God himself should allow so much authority and power unto every poor family for the ordering of all which are in it; and the city of the living God, which is his Church, be able neither to command nor yet to forbid any thing, which the meanest shall in that respect, and for her sole authority's sake, be bound to obey?

[4.] We cannot hide or dissemble that evil, the grievous inconvenience whereof we feel. Our dislike of them, by whom too much heretofore hath been attributed unto the Church, is grown to an error on the contrary hand; so that now from the Church of God too much is derogated. By which removal of one extremity with another, the world seeking to procure a remedy, hath purchased a mere exchange of the evil which before was felt.

Suppose we that the sacred word of God can at their hands receive due honour, by whose incitement the holy ordinances of the Church endure every where open contempt? No; it is not possible they should observe as they ought the one, who from the other withdraw unnecessarily their own or their brethren's obedience.

Surely the Church of God in this business is neither of capacity, I trust, so weak, nor so unstrengthened, I know, with authority from above, but that her laws may exact obedience at the hands of her own children, and enjoin gainsayers silence, giving them roundly to understand, That where our duty is submission, weak oppositions betoken pride.

[5.] We therefore crave thirdly to have it granted, That where neither the evidence of any law divine, nor the strength of any invincible argument otherwise found out by the light of reason, nor any notable public inconvenience, doth make

<sup>1</sup> Cassian. (. . . 430.) de Incarn. l. "tatis impugnat: et audientia l-  
i. c. 6. [in B. . . Patr. Lat. iv. 60. "cum non habet qui a cunctis  
"Præjudicium suum damnationis "statuta convellit."] "exhibuit, qui iudicium universi-

against that which our own laws ecclesiastical have although but newly instituted for the ordering of these affairs, the very authority of the Church itself, at the least in such cases, may give so much credit to her own laws, as to make their sentence touching fitness and conveniency weightier than any bare and naked conceit to the contrary; especially in them who can owe no less than child-like obedience to her that hath more than motherly power.

IX. There are ancient ordinances, laws which on all sides are allowed to be just and good, yea divine and apostolic constitutions, which the church it may be doth not always keep, nor always justly deserve blame in that respect. For in evils that cannot be removed without the manifest danger of greater to succeed in their rooms, wisdom, of necessity, must give place to necessity. All it can do in those cases is to devise how that which must be endured may be mitigated, and the inconveniences thereof countervailed as near as may be; that when the best things are not possible, the best may be made of those that are.

Nature than which there is nothing more constant, nothing more uniform in all her ways, doth notwithstanding stay her hand, yea, and change her course, when that which God by creation did command, he doth at any time by necessity countermand. It hath therefore pleased himself sometime to unloose the very tongues even of dumb creatures, and to teach them to plead this in their own defence<sup>1</sup>, lest the cruelty of man should persist to afflict them for not keeping their wonted course, when some invincible impediment hath hindered.

If we leave Nature and look into Art, the workman hath in his heart a purpose, he carrieth in mind the whole form which his work should have, there wanteth not in him skill and desire to bring his labour to the best effect, only the matter which he hath to work on is unframable. This necessity excuseth him, so that nothing is derogated from his credit, although much of his work's perfection be found wanting.

Touching actions of common life, there is not any defence more favourably heard than theirs, who allege sincerely for

<sup>1</sup> Numb. xxii. 28.

themselves, that they did as necessity constrained them. For when the mind is rightly ordered and affected as it should be, in case some external impediment crossing well advised desires shall potently draw men to leave what they principally wish, and to take a course which they would not if their choice were free; what necessity forceth men unto<sup>1</sup>, the same in this case it maintaineth, as long as nothing is committed simply in itself evil, nothing absolutely sinful or wicked, nothing repugnant to that immutable law, whereby whatsoever is condemned as evil can never any way be made good. The casting away of things profitable for the sustenance of man's life, is an unthankful abuse of the fruits of God's good providence towards mankind. Which consideration for all that<sup>2</sup> did not hinder St. Paul from throwing corn into the sea, when care of saving men's lives made it necessary to lose that which else had been better saved. Neither was this to do evil, to the end that good might come of it: for of two such evils being not both evitable, the choice of the less is not evil. And evils must be in our construction judged inevitable, if there be no apparent ordinary way to avoid them; because where counsel and advice bear rule, of God's extraordinary power without extraordinary warrant we cannot presume.

In civil affairs to declare what sway necessity hath ever been accustomed to bear, were labour infinite. The laws of all states and kingdoms in the world have scarcely of any thing more common use. Should then only the Church shew itself inhuman and stern, absolutely urging a rigorous observation of spiritual ordinances, without relaxation or exception what necessity soever happen? We know the contrary practice to have been commended by him<sup>3</sup>, upon the warrant of whose judgment the Church, most of all delighted with merciful and moderate courses, doth the oftener condescend unto like equity, permitting in cases of necessity that which otherwise it disalloweth and forbiddeth.

Cases of necessity being sometime but urgent, sometime extreme<sup>4</sup>, the consideration of public utility is with very good

<sup>1</sup> "Necessitas, quicquid coegit, defendit." Senec. Controv. [lib. iv. controv. 27. p. 186, ed. Paris. 1626.]

<sup>2</sup> Acts xxvii. 38.

<sup>3</sup> Luke vi. 4.

<sup>4</sup> "Causa necessitatis et utilitatis

advice judged at the least equivalent with the easier kind of necessity.

[2.] Now that which causeth numbers to storm against some necessary tolerations, which they should rather let pass with silence, considering that in polity as well ecclesiastical as civil, there are and will be always evils which no art of man can cure, breaches and leaks more than man's wit hath hands to stop; that which maketh odious unto them many things wherein notwithstanding the truth is that very just regard hath been had of the public good; that which in a great part of the weightiest causes belonging to this present controversy hath ensnared the judgments both of sundry good and of some well learned men, is the manifest truth of certain general principles, whereupon the ordinances that serve for usual practice in the Church of God are grounded. Which principles men knowing to be most sound, and that the ordinary practice accordingly framed is good, whatsoever is over and besides that ordinary, the same they judge repugnant to those true principles. The cause of which error is ignorance what restraints and limitations all such principles have, in regard of so manifold varieties<sup>1</sup> as the *matter* whereunto they are applicable doth commonly afford. These varieties are not known but by much experience, from whence to draw the true bounds of all principles, to discern how far forth they take effect, to see where and why they fail, to apprehend by what degrees and means they lead to the practice of things in show though not in deed repugnant and contrary one to another, requireth more sharpness of wit, more intricate circuitions of discourse, more industry and depth of judgment, than common ability doth yield. So that general rules, till their limits be fully known (especially in matter of public and ecclesiastical affairs), are, by reason of the manifold secret exceptions which lie hidden in them, no other to the eye of man's understanding than cloudy mists cast before the eye of common sense. They that walk in darkness know not

"æquiparantur in jure." Abb. Panor. [Abbas Panormitanus, Nicolaus de Tudeschis, Archbp. of Palermo, 1427-† 1453. (von Schulte, *Gesch. der Quellen des Kanonischen Rechts*, 1877. ii. 312.) 1886.] ad c. ut super nu. 15. de Reb. Eccles. non alien.

[Comment. in Decretal. t. iii. 76. Lugd. 1586.]

<sup>1</sup> Ἐν τοῖς περὶ τὰς πράξεις λόγοις, οἱ μὲν καθόλου κενώτεροί εἰσι, οἱ δ' ἐπὶ μέρος ἀληθινώτεροι· περὶ γὰρ τὰ καθ' ἕκαστα αἱ πράξεις. Arist. Eth. lib. ii. c. 7.

whither they go. And even as little is their certainty, whose opinions generalities only do guide. With gross and popular capacities nothing doth more prevail than unlimited generalities<sup>1</sup>, because of their plainness at the first sight: nothing less with men of exact judgment, because such rules are not safe to be trusted over far. General laws are like general rules of physic, according whereunto as no wise man will desire himself to be cured, if there be joined with his disease some special accident, in regard whereof that whereby others in the same infirmity but without the like accident recover health, would be to him either hurtful, or at the least unprofitable; so we must not, under a colourable commendation of holy ordinances in the Church, and of reasonable causes whereupon they have been grounded for the common good, imagine that all men's cases ought to have one measure.

[3.] Not without singular wisdom therefore it hath been provided, that as the ordinary course of common affairs is disposed of by general laws, so likewise men's rarer incident necessities and utilities should be with special equity considered. From hence it is, that so many privileges, immunities, exceptions, and dispensations, have been always with great equity and reason granted; not to turn the edge of justice, or to make void at certain times and in certain men, through mere voluntary grace or benevolence, that which continually and universally should be of force, (as some understand it,) but in very truth to practise general laws according to their right meaning.

We see in contracts and other dealings which daily pass between man and man, that, to the utter undoing of some, many things by strictness of law may be done, which equity and honest meaning forbiddeth. Not that the law is unjust, but imperfect; nor equity against, but above, the law, binding men's consciences in things which law cannot reach unto. Will any man say, that the virtue of private equity is opposite and repugnant to that law the silence whereof it supplieth in all such private dealing? No more is public equity against the law of public affairs, albeit the one permit unto some in special considerations, that which the other

<sup>1</sup> [So Arist. Rhet. ii. 21. 9, οἱ γὰρ ἀγροῖκοι μάλιστα γνωμοῖποιοί εἰσι, καὶ ῥαδίως ἀποφαινοῦνται.]