

that are Monarches, their Subjects bodies & goods are due for their defence and maintenance. But if I had bene in his place, I would only haue added two words, which would haue cleared all: For after I had told as a Diuine, what was due by the Subjects to their Kings in generall, I would then haue concluded as an Englishman, shewing this people, That as in generall all Subjects were bound to relieue their King; So to exhort them, that as wee liued in a settled state of a Kingdome which was gouerned by his owne fundamentall Lawes and Orders, that according thereunto, they were now (being assembled for this purpose in Parliament) to consider how to helpe such a King as now they had; And that according to the ancient forme, and order established in this Kingdome: putting so, a difference betweene the generall power of a King in Diuinity, and the settled and established State of this Crowne, and Kingdome. And I am sure that the Bishop meant to haue done the same, if hee had not bene straited by time, which in respect of the greatnesse of the presence preaching before me, and such an Auditory, he durst not presume vpon.

As for the Father of a familie, they had of olde vnder the Law of Nature *Patriam potestatem*,<sup>860</sup> which was *Potestatem vitae & necis*,<sup>861</sup> ouer their children or familie, (I meane such Fathers of families as were the lineall heires of those families whereof Kings did originally come:) For Kings had their first originall from them, who planted and spread themselues in *Colonies* through the world. Now a Father may dispose of his Inheritance to his children, at his pleasure: yea, euen disinherit the eldest vpon iust occasions, and preferre the youngest, according to his liking: make them beggers, or rich at his pleasure; restraîne, or banish out of his presence, as hee findes them giue cause of offence, or restore them in fauour againe with the penitent sinner: So may the King deale with his Subjects.

And lastly, as for the head of the naturall body, the head hath the power of directing all the members of the body to that vse which the iudgement in the head thinkes most conuenient. It may apply sharpe cures, or cut off corrupt members, let blood in what proportion it thinkes fit, and as the body may spare, but yet is all this power ordeined by God *Ad aedificationem, non ad destructionem*.<sup>862</sup> For although God haue power aswell of destruction, as of creation or maintenance; yet will it not agree with the wisdom of God, to exercise his power in the destruction of nature, and ouerturning the

whole frame of things, since his creatures were made, that his glory might thereby be the better expressed: So were hee a foolish father that would disinherit or destroy his children without a cause, or leaue off the carefull education of them; And it were an idle head that would in place of phisicke so poyson or phlebotomize the body as might breede a dangerous distemper or destruction thereof.

But now in these our times we are to distinguish betweene the state of Kings in their first originall, and betweene the state of settled Kings and Monarches, that doe at this time gouerne in ciuill Kingdomes: For euen as God, during the time of the olde Testament, spake by Oracles, and wrought by Miracles; yet how soone it pleased him to settle a *Church* which was bought, and redeemed by the blood of his onely Sonne *Christ*, then was there a cessation of both; Hee euer after gouerning his people and Church within the limits of his reueiled will. So in the first originall of Kings, whereof some had their beginning by Conquest, and some by election of the people, their wills at that time serued for Law; Yet how soone Kingdomes began to be settled in ciuilitie and policie, then did Kings set downe their minds by Lawes, which are properly made by the King onely; but at the roagation of the people, the Kings grant being obtained thereunto. And so the King became to be *Lex loquens*,<sup>863</sup> after a sort, binding himselfe by a double oath to the obseruation of the fundamentall Lawes of his kingdome: *Tacitly*, as by being a King, and so bound to protect aswell the people, as the Lawes of his Kingdome; And *Expresly*, by his oath at his Coronation: So as euery iust King in a settled Kingdome is bound to obserue that paction made to his people by his Lawes, in framing his gouernment agreeable thereunto, according to that paction which God made with *Noe* after the deluge, *Hereafter Seed-time, and Haruest, Cold and Heate, Summer and Winter, and Day and Night shall not cease, so long as the earth remains*.<sup>864</sup> And therefore a King gouerning in a settled Kingdome, leaues to be a King, and dégenerates into a Tyrant, assoone as he leaues off to rule according to his Lawes. In which case the Kings conscience may speake vnto him, as the poore widow said to Philip of Macedon; Either gouerne according to your Law, *Aut ne Rex sis*.<sup>865</sup> And though no Christian man ought to allow any rebellion of people against their Prince, yet doeth God neuer leaue Kings vnpunished when they transgresse these limits: For in that same Psalme where God saith to Kings, *Vos Dij estis*,<sup>866</sup> hee immediatly thereafter concludes, *But ye*

*shall die like men.*<sup>867</sup> The higher wee are placed, the greater shall our fall be. *Vt casus sic dolor.*<sup>868</sup> the taller the trees be, the more in danger of the winde; and the tempest beats sorest vpon the highest mountaines. Therefore all Kings that are not tyrants, or periured, will be glad to bound themselues within the limits of their Lawes; and they that perswade them the contrary, are vipers, and pests, both against them and the Commonwealth. For it is a great difference betweene a Kings gouernment in a settled State, and what Kings in their originall power might doe in *Indiuiduo vago.*<sup>869</sup> As for my part, I thanke God, I haue euer giuen good prooffe, that I neuer had intention to the contrary: And I am sure to goe to my graue with that reputation and comfort, that neuer King was in all his time more carefull to haue his Lawes duely obserued, and himselfe to gouerne thereafter, then I.

I conclude then this point touching the power of Kings, with this Axiome of Diuinitie, That as to dispute what God may doe, is Blasphemie; but *quid vult Deus,*<sup>870</sup> that Diuines may lawfully, and doe ordinarily dispute and discusse; for to dispute *A Posse ad Esse*<sup>871</sup> is both against Logicke and Diuinitie: So is it sedition in Subiects, to dispute what a King may do in the height of his power: But iust Kings wil euer be willing to declare what they wil do, if they wil not incurre the curse of God. I wil not be content that my power be disputed vpon: but I shall euer be willing to make the reason appeare of all my doings, and rule my actions according to my Lawes.

The other branch of this incident is concerning the Common Law, being conceiued by some, that I contemned it, and preferred the Ciuill Law thereunto. As I haue already said, Kings Actions (euen in the secretest places) are as the actions of those that are set vpon the Stages, or on the tops of houses: and I hope neuer to speake that in priuate, which I shall not auow in publique, and Print it if need be (as I said in my *BASILICON DORON.*) For it is trew, that within these few dayes I spake freely my minde touching the Common Law in my Priuie Chamber, at the time of my dinner, which is come to all your eares; and the same was likewise related vnto you by my Treasurer; and now I will againe repeate and confirme the same my selfe vnto you. First, as a King, I haue least cause of any man to dislike the Common Law: For no Law can bee more fauourable and aduantageous for a King, and extendeth further his Prerogatiue, then it doeth: And for a King of England to despise the Common Law, it is to

neglect his owne Crowne. It is trew, that I doe greatly esteeme the Ciuill Law, the profession thereof seruing more for generall learning, and being most necessary for matters of Treatie with all forreine Nations: And I thinke that if it should bee taken away, it would make an entrie to Barbarisme in this Kingdome, and would blemish the honour of England: For it is in a maner *LEX GENTIVM*, and maintaineth Intercourse with all forreine Nations: but I onely allow it to haue course here, according to those limits of Iurisdiction, which the Common Law it selfe doeth allow it: And therefore though it bee not fit for the generall gouernment of the people here; it doeth not follow, it should be extinct, no more, then because the Latine tongue is not the Mother or Radicall Language of any Nation in the world at this time, that therefore the English tongue should onely now be learned in this Kingdome, which were to bring in Barbarisme. My meaning therefore is not to preferre the Ciuill Law before the Common Law; but onely that it should not be extinguished, and yet so bounded, (I meane, to such Courts and Causes) as haue beene in ancient vse; As the Ecclesiasticall Courts, Court of Admiraltie, Court of Requests, and such like, reseruing euer to the Common Law to meddle with the fundamentall Lawes of this Kingdome, either concerning the Kings Prerogatiue, or the possessions of Subiects, in any questions, either betweene the King, and any of them, or amongst themselues, in the points of *Meum & tuum.*<sup>872</sup> For it is trew, that there is no Kingdome in the world, not onely Scotland, but not France, nor Spaine, nor any other Kingdome gouerned meere by the Ciuill Law, but euery one of them hath their owne municipall Lawes agreeable to their Customes, as this Kingdome hath the Common Law: Nay, I am so farre from disallowing the Common Law, as I protest, that if it were in my hand to chuse a new Law for this Kingdome, I would not onely preferre it before any other Nationall Law, but euen before the very Iudiciall Law of *Moyse*: and yet I speake no blasphemie in preferring it for conueniencie to this Kingdome, and at this time, to the very Law of God: For God gouerned his selected people by these three Lawes, *Ceremoniall*, *Morall*, and *Iudiciall*: The *Iudiciall*, being onely fit for a certaine people, and a certaine time, which could not serue for the general of all other people and times. As for example, If the Law of hanging for Theft, were turned here to restitution of treble or quadruple, as it was in the Law of *Moyse*, what would become of all the middle

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