





D E

Laudibus Legum Angliæ

Written by

Sir JOHN FORTESCUE

Lord *Ch. Justice*, and after Lord
Chancellor to K. Henry vj.

Hereto are Added the two *Sums* of

ir RALPH *de HENGHAM* L.

Ch. Justice to K. Edward I. commonly call'd
Hengham Magna, & *Hengham Parva*.

W I T H

Notes both on *Fortescue* and *Hengham*,

By that Famous and Learned Antiquarie
JOHN SELDEN Esq.

L O N D O N,

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borne*, Anno Dom. M DC LXXII.

Cum Gratia & Privilegio Regiæ Majestatis.



To the Reader.

THis Author, Sir John Fortescue, was Chief Justice to Hen. VI. as the Records of the latter half of his Reign every where shew; and that he might Statum suum decentius manuteneret, in Part. I. Rot. pa. 20 Hen. 6. membran. 10. an annuity of CLXXX. marks is given him out of the Hamper, Cxvj. s. xj. d. q. Percipiendum singulis annis ad festum Pentecostes pro una roba & furrura pro eadem, erga idem festum, and Lxvj. s. vj. d. singulis annis ad festum Pentecostes pro una roba & linura pro eadem, erga idem festum. He is call'd his Chancellour also. In this book, his title, given by himself, is Cancellarius Angliæ, and in his Declaration, or rather Retractation, of that he had written against the title of the house of York, himself puts in the mouth of a friend of his expostulating with him, these words, Considering that ye were the chief Chancellour to the said late

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late

To the Reader.

late King. It seems, being with Henry VI. driven into Scotland, he was made his Chancellor, the memory whereof (as it could hardly be otherwise) wants in the Patent-Rolls. His Books which I have seen are three. This now newly publisht, his Difference between *Dominium Regale* and *Dominium Politicum* and *regale*, and that Declaration touching the title of the Crown. Neither of the two last were ever publisht, but they remain Mss. in divers hands. As touching his descent : by good testimony, he is made son to Henry Fortescue son of Sir John Fortescue Knight, (Captain of Meaux, and Governour of Brie in France, under Hen. V.) who was second son of William Fortescue of Wimelston in Devonshire Esquire. Because he was Englisht by him that first publisht him, this, part of the title, and the notes on him are in English. What he hath of the Commendations of the Law of England, must not be expected to be so copious, as if all, that might thereof have been said, had been hunted for by him to be here congested. He shewes that he instructed the young Prince, and only in some such few Occurrences of our trials and positions, as might be, without difficultie, apprehended by a minde so tender and strange to
the

the Courts of Judicial contention. Neither gives he enough to satisfie the malice, or the ignorance of some foul-mouth'd declaimers against it, who for the most part (if they descend to particulars, and make a case to find fault withal) either ridiculously compact things incompatible, just like the Sycophant in that Geographie of his in *Trinummus*,

Omnium primum in Pontum advecti ad Arabiam terram sumus,

And thence

Ad Caput amnis quod de Cœlo
exoritur sub folio Jovis,

or else, measuring an establisht and universal proceeding or position only by their own damage, never coming near apprehension of the true reason, raile at it, with like judgment, as the Parasite in a lost Comedy of Plautus, doth at the certain course of Sun-Dials, being thence only moved, because the shadow went not so fast as his stomach, which when he was a Child was the only Dial, and that

—Iste monebat esse, nisi quum nihil erat
Nunc etiam quod est non est,
nisi SOLI lubet.

But no place is here for more of this, and nos hac scabie tenemus ungues: To this Edi-

To the Reader.

tion are added the Sums of Sir Ralph de Hengham, Chief Justice to Edw. I. never till now printed; in whom although most of the learning be touching Essoins, Defaults, and course of proceedings in such actions which are in seldom use at this day, yet divers things occur, both specially observable in what he hath touching those proceedings, (which a Professor of the Law cannot but wish to know) as also he often otherwise gives light to the Customs or Law of his time, whence, as through an Ancestor of the right line, we must deduct that of the present. Of him in the Preface to the Reader, before him, enough is said, and of his Summes. Of his language, which with the rest of our Common Law Latin is accused of Barbarism, somewhat is there brought in excuse. That preface was thought fit to speak Latin, the Author of the Book himself being publisht only in that tongue. But the Notes are English. For what other readers then English are to be expected? Many an Ignorant had been deterred by pure Latin, and to have used Barbarism in them would have turn'd the stomach of a Polite Reader. Though divers Copies of Hengham were examin'd in preparing this, yet could not a perfect one be extracted from them all. As one helpt

To the Reader.

help't another, choice was so made that this might be the best; which yet is not without many faulty passages. So faithfully it is publish't from the MSS. that even the false language, which by consent of old Copies appear'd not to be the transcribers, but proceeded from the ages either negligence or ignorance, is religiously retain'd, so should the lost monuments of ancient Writers be given to the publick; so should we abstain from wronging their Manes. Some places, that the erring hands of such as anciently Copied him corrupted, are by way (amongst other observations collected in the heat of the Press) noted, and either by conjecture restored, explained, or marked with asterisks, left to better Judgment. The varying of Letters in the print, is only to lead the Readers eye the sooner to what he may look after. Farewell.

From the Inner Temple,
Septemb. XXIV.
C I O . D C . X V I .



He that first publish't *For-*
tescue, added the Epistle
and Dedication follow-
ing. *when*



Pio Lectori.

Istius non minus pii, quam
eruditi opusculi exemplar,
naetus, quum antiquitatem
venerandam, unà cum eru-
ditione ac pietate conjunxe-
rim: Non potui optime le-
ctor, aut patriæ tam ingra-
tus, aut antiquitatis tam in-
officiosus cultor esse, ut te
illius lectione diutius frauda-
rem. Continet enim in se
(ut cætera taceam) politi-
carum, & civilium nostræ
Angliæ legum, quibus præ-
clara & florentissima hæc
respub-

respublica sub illustrissimo
& nunquam satis laudato
principe nostro rege Henri-
co sexto, ejusque progenito-
ribus regibus Angliæ hæcte-
nus felicissime fuerit erecta,
instituta & gubernata, do-
ctissimum encomion. Unde
easdem nostras leges non solum
Romanorum Cæsarum, sed &
omnium aliarum nationum
constitutiones, multis parasan-
gis, prudentia, justitia, & equi-
tate, præcellere, facile perspi-
cias. Eme ergo, lege, & fruere,
ac labores nostros tibi consule.

Vale.



To the Right Worshipful
JOHN WALSHE Esquire,
one of the Queen her learned Justi-
cers of her Highnesse Court of Common
Pleas, *Robert Mulcaster* wisheth life and
health.

IT hapned me of late (Right Worship-
full Sir) to light upon this little Treatise,
which I incontinent desired to run over,
because it seemed to discourse upon some
points of the Lawes of our Countrey, where-
of I my self then was and am now a Stu-
dent. When I had over-runne it, my de-
sire to reade it, became nothing counter-
vailable with the gladness that I had read it,
for my desire to read it came upon hope,
to find some profitable lessons for my
studie, but my gladness after reading
sprang of the excellency of the argument,
whereon I did not dream, neither to find
so rich a treasure in so simple a habit. And
because

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because I wished all men to have part of my delight, me thought it good to translate it into English forth of Latin, in which tongue it was first written. The Author of the book was one Master *Fortescue* Knight, Serjeant at the Law, and for his skill and vertues preferred by King *Henry* the sixth, to be Chancellor of this Realm. The entry of the book it self sheweth, where, and upon what occasion, it was written. It was written in *Berry* in *France*, where Prince *Edward*, sonne to *Henry* the sixth, afterward slaine at *Tewkesburie* by *Edward* the fourth, did then remaine with his Mother Queen *Margaret* in the Hoase of *Renate* her Father, Duke of *Angew* and King of *Sicilie*, during the time that *Edward* the fourth reigned in the Realm, and *Henry* the sixth was fled into *Scotland*. The occasion was this; The Chancellor being fled into *France* with the young Prince, and perceiving his delight to be all bent to Chivalrie as a thing of greatest need, considering he meant by force the restitution of his Father, and thereby his own, to the Kingdome of *England*, took occasion (for that his hope was to see the Prince reigne here)

The Epistle Dedicatorie.

here) to move him to a division of his affairs, and as he armed himself against the enemy, so to adorne himself against his being King, with skill of Laws, which do preserve each state so in peace, that it may, if need be, warre; and so guard it in warre, that it may have peace in it. The argument is this, that the skill of the Country Laws is needfull for the Prince, although not so deep as for purposed professours, yet so full as to their honor may and ought to fall in Princes. And for that the Prince should think the thing to be a princely knowledge, he taketh occasion (by comparing the Government of this Realm with others, and the laws of this Land with the Civil, with whom it is of all men lightly compared, and the betterness of points wherein they both travel, and provisions by the one wiselier foreseen then by the other) to prove the singularitie of this state which it behooved the Prince to learn, seeing he was like to succeed his Father, and to understand the Laws, which maketh the state to be singular. The particulars I refer to the book, whereof thus much I do, and no less
could

The Epistle Dedicatorie.

could well say, Why I did choose your Wor-
ship to be Protector of my labours, I shall not
need tediously to touch, it shall be sufficient
to say, that in choice of many, I picked you
alone, not doubting your liking in allowing,
seeing mine election in dedicating: And so
committing to the Almighty the good pre-
servation of your worship, I humbly take my
leave.



Rob. Mulcaster.

During the cruel rage
of the late mortall
warres within the realm
of England, when the
most vertuous and godly
King Henry the sixth, with
Queene Margaret his
wife, the Kings daughter
of Jerusalem and Sicile, &
their only sonne Edward
Prince of Wales, were
forced to fly the land: and
the King himself after-
ward in the same civil tu-
mult falling into the bloo-
dy hands of his deadly e-
nemies his own Subjects,
was of them committed to
priso, where he a long time
remained in strait captivi-
ty, the queen & the prince
her son thus banished out
of their Country, making
their abode in the Dutchy
of Berry, a domlnion of the
foresaid King of Jerusalem.

SEviente dudum
in regno Angliæ
nefandissima rabie
illa, qua piissimus i-
bidem Rex *Hen-*
ricus sextus, cum
Margareta Regina
consorte sua, filia
Regis *Jerusalem &*
Sicilia, ac eorum
unigenito *Edwar-*
do principe *Wallia*,
inde propulsi sunt:
sub qua & demum
Rex ipse Henric' a
subditis suis depre-
hensus, carceris di-
utinum passus est
horrorem, dum re-
gina ipsa cum so-
bole, patria sic ex-
torris, in Ducatu
Berre n. pradioti
regis *Jerusalem* do-
minio, moraban-
tur.

Prin-

Princeps ille, mox ut factus est adultus, militari totum se contulit disciplinae, & saepe ferocibus & quasi indomitis infedens caballis, eos calcaribus urgens, quandoque lancea, quandoque mucrone, aliis quoque instrumentis bellicis, sodales suos, juvenes sibi servientes, bellantium more invadere ferireque, juxta Martis gymnasii rudimenta delectabatur. Quod cernens miles quidam grandaevus, praedicti regis Angliae Cancellarius, qui etiam ibidem sub hac clade exulabat: principem sic affatur.

The Prince shortly after growing to mans state, applied himself wholly to the feates of armes, much delighting to ride upon wild & unbroke horses, not sparing with spurs to break their fierceness. He practised also sometimes with the pike, sometimes with the sword, & other warlike weapons after the manner and guise of warriors according to the use of martiall discipline, to assault and strike his companions, I mean the young men that attended upon his person. Which thing when a certain ancient Knight, being Chancelor to the foresaid King of England saw, who also in the miserable time did there remaine in exile, he spake thus to the Prince.

First

Chap. I. *First he moveth the Prince to the knowledge of the Law.*

Your singular towardness, most gracious Prince, maketh me right glad, when I behold how earnestly you do embrace martial feats: For it is convenient for your grace to be thus delighted, not only for that you are a soldier, but much rather for that you shall be a King. For it is the office & duty of a King to fight the battails of his people, & also rightly to judge them, as in the viii. chapter of the first book of Kings you are plainly taught. Wherefore I would wish your grace to be with an earnest zeal given to the study of the laws, as you are to the knowledge of arms,

GAudeo vere, serenissime princeps, super nobilissima indole tua: videns quanta aviditate militares tu amplecteris actus; convenit namq; tibi taliter delectari, nedum quia miles es, sed amplius quia Rex futurus es. Regis nempe officium pugnare est bella populi sui, & eos rectissime judicare, ut primo regum capitul. viii. clarissime tu doceris. Quare ut armorum, utinam & legum studiis, simili zelo te deditum contemplerer.

B cum

Cum ut armis bella,
 ita legibus judicia,
 peragantur. Quod
 Justinianus Augu-
 stus, æquissima li-
 brans mente, in
 initio prohemii li-
 bri sui institutio-
 num, ait, *Impe-
 ratoriam Majesta-
 tem non solum ar-
 mis decoratam, sed
 & legibus oportet
 esse armatam,*
 ut utrumque tem-
 pus bellorum &
 pacis recte possit
 gubernare. Tamen
 ut ad legum
 studia fervide tu
 anheles, maximus
 legislator ille *Moy-
 ses*, olim Synago-
 gæ dux, multo forti-
 us Cæsare te in-
 vitat, dum regibus

because that like as wars
 by force of Chivalry are
 ended, even so judgements
 by the Laws are deter-
 mined. Which thing
 Justinian the Emperour
 well & wisely & advisably
 pondering, in the begin-
 ning of the pzeface of his
 book, saith thus: It beho-
 veth the Imperial majesty
 not only to be garded with
 armes, but also to be ar-
 med with Laws, to the end
 that he may be able right-
 ly to execute the govern-
 ment of both times aswell
 of war as of peace. How-
 beit for your most earnest
 endeavor to the study of
 the Law the exhortation
 of the chiefest latomaker
Moses, sometime Cap-
 tain of the Synagogue,
 ought to be of much moze
 force with you, then the
 words

words of Justinian; where-
 as in the xvii. Chapter
 of the book of Deutero-
 nomy he doth by the au-
 thority of God straitly
 charge the Kings of Isra-
 el to be leaders of the law
 all the dayes of their life,
 saying thus: When the
 King shall sit upon the
 Princely seat of his King-
 dome, he shall write him-
 out this Law in a book,
 taking the copy thereof
 of the Priests the Levites:
 and he shall have it with
 him, and he shall read it
 all the dayes of his life,
 that he may learn to fear
 the Lord his God, and to
 keep his Commande-
 ments and Ordinances
 written in this Lawe,
 And Helynandus expoun-
 ding the same, saith thus:

Israel divini aucto-
 ritate ipse præcipi-
 at, eorum leges le-
 gere omnibus die-
 bus vitæ suæ, sic di-
 cens: *Postquam se-*
derit Rex in solio
regni sui describet
sibi Deuteronomii
Leges in volumine;
accipiens exemplar
a sacerdotibus Le-
vitica tribus, & ha-
bebit secum, leget-
que illud omnibus
diebus vitæ suæ, ut
discat timere Domi-
num Deum suum,
& custodire verba
& ceremonias ejus
quæ in lege scripta
sunt Deuteron. ca-
pit. decimo septi-
mo, quod exponens
Helynandus dicit:

Princeps ergo non debet juris ignarus esse, nec pretextu militia legem permittitur ignorare. Et post pauca, a sacerdotibus Leviticæ tribus assumere jubetur exemplar legis, id est a viris Catholicis & literatis, Hæc ille: Liber quippe Deuteronom. est liber legum, quibus Reges Israel subditum sibi populum regere renebantur. Hunc librum legere jubet Moyses Reges, ut discant timere Deum, & custodire mandata ejus, quæ lege scripta sunt.

A Prince therefore must not be ignorant of the law, neither is it tolerable that he under the pretence of warfare should be unskillfull in the Law. And a little after hee is commanded, saith he, to receive the cobby of the law of the pzeests the Levites, that is to say, of Catholick and learned men, Thus much hee: For the book of Deuteronomy is the book of the laws, wherewith the Kings of Israel were bound to rule and governe their subjects. This book doth Moyses command Kings to read, that they may learn to fear GOD, and keep his Commandments, which are written in the Law.

Behold

Behold the effect of the law is to fear God, whereunto man cannot attain, unless he first know the will of God, which is written in the Law. For the principall point of all service is to know the will and pleasure of the lord or master to whom service is due. Howbeit the law maker, Moyses, first in this charge mentioneth the effect of the Law, that is the fear of God, and next he allureth us to the keeping of the cause thereof, that is to say, of Gods commandements. For in the mind and intent of the exhorter, the effect goeth before the cause. But what fear is this, which the lawes doe propose to the observers thereof?

Ecce timere Deum effectus est legis, quem non consequi valet homo, nisi prius sciat voluntatem Dei, quæ in lege scripta est. Nam principium omnis famulatus, est scire voluntatem domini cui servitur. Legis tamen lator Moyses, primo in hoc edicto effectum legis videlicet timorem Dei commemorat: deinde ad custodiam causæ ejus, videlicet, mandatorum dei ipse invitatur. Nam effectus prior est quam causa, in animo exhortantis. Sed quis est timor iste, quem promittunt leges observatoribus suis?

Verè non est timor ille, de quo scribitur: Quod perfecta charitas foras mittit timorem. Timor tamen ille, licet servilis, sæpe ad legendum leges reges concitat, sed non est ipse proles legis. Timor vero, de quo hic loquitur Moyses, quem & pariunt leges, est ille de quo dicit propheta. *Timor Domini sanctus permanet in seculum seculi.* Hic filialis est & non novit poenam, ut ille qui per charitatem expellitur.

Surely it is not that fear whereof it is wozitten that, perfect charity oz love expellerh fear. Yet this same fear, though it be bond and servile, oftentimes pzoboketh Kings to the reading of the Lawes: but it pzoccedeth not out of the law. But that fear whereof Moses here speaketh, which also pzoccedeth out of the Lawes, is the self same fear, that the Pzophet speaketh of, saying: The fear of the Lord is holy, and endureth for ever and ever. This is such a loving fear as naturally children bear to their dear parents, commonly termed the reverence of the child towards his parents. Whereunto there is no punishment due as a thing wozought by love.

For this fear proceedeth out of the Lawes, which teach to doe the will of God, so that it deserbeth no punishment. But the glozy of the Lord is upon them that fear him, and he doth glorifie them. Wea this fear is eben that same fear, whereof Job, after that he had diversly searched for wisdom, sayth thus: Behold the fear of the Lord is perfect wisdom, and to forsake evill is understanding. That the forsaking of evill is the understanding of the fear of God, this do the Lawes teach, whereby it followeth that the same fear proceedeth out of them.

Nam iste à legibus proficiscitur, quæ docent facere voluntatem Dei, quo ipse pœnam non meretur. Sed gloria domini est super metuentes eum, quos & ipse glorificat. Timor autem iste, timor ille est, de quo Job, postquam multifarie sapientiam investigat, sic ait: *Ecce timor domini, ipsa est sapientia, & recedere à malo intelligentia.* Job ca. 28. Recedere à malo, quod intelligentia timoris dei est, leges docent, quo & timorem hunc ipsæ parturiunt.

Ch. 2. *The Princes reply to the Chancellors motion.*

HÆc ut audivit *princeps*, erecto in senem vultu, sic locutus est. Scio, Cancellarie, quod liber *Deut.* quem tu commemoras, sacra scripturæ volumen est; leges quoque & ceremoniæ in eo conscriptæ, etiam sacræ sunt, a domino editæ, & per *Moysem* promulgatæ: quare eas legere sanctæ contemplationis dulcedo est. Sed lex, ad cuius scientiam me invitās, humana est, ab hominibus edita, & tractans terrena: que, licet *Moyse* ad *Deu.* lecturam Reges *Israel* atrinxerit, eum per hoc reges a

The Prince hearing this, and stedfastly beholding the old man, spake thus to him. I know, good Chancelloz, that the book of *Deuteronomy*, whereof you speak, is a book of holy Scripture: The laws also and ordinances therein contained are holy, of the Lords making, and published by *Moses*: Wherefoze the reading of them is a pleasant act of holy contemplation. But that Law, to the knowledge whereof you counsel me, is humane, made by men, and intreating of worldly matters: wherefoze though *Moyse* bind the Kings of *Israel* to the reading of Gods Law, yet that thereby he forceth

fozceyth all other Kings
to doe the like in their
own lawes, that stan-
deth by no good reason,
seeing that of both the rea-
dings the cause is not
like.

lios, ad consimiliter
faciendum in suis le-
gibus, concitasse, om-
nem effugit ratio-
nem, cum utriusque
lecturæ non sit ea-
dem causa.

Ch. 3. Here the Chancellor fortifieth his assertion.

I Perceibe (quoth the
Chancelloz) by your
answer, most worthy
Prince, how earnestly you
have considered & weigh-
ed the quality of my ex-
hortation: So that here-
by you doe much en-
courage me, both more
plainly, more largely,
and also more deeply to
discourse the same. Where-
fore you shall understand,
that not onely Gods
Lawes, but also mans,
are holy, for so much as
the Lawe is defined by

AT Cancellarius.
Scio (inquit) per
hæc quæ jam dicis,
princeps clarissime,
quanta advertentia,
exhortations meæ
tu ponderas qualita-
tem, quo me non in-
finè concitas super
inceptis nedum cla-
rius, sed & profundius
quodammodo tecum
disceptare: Scire igitur
te volo, quod
non solum Deut.
leges, sed & omnes
leges humanæ sa-
cræ

cræ sunt, quo lex sub his verbis definitur: Lex est sanctio sancta iubens honesta, & prohibens contraria, sanctum etenim esse oportet, quod esse sanctum definitum est. Jus etiam describi perhibetur, quod illud est ars boni & æqui, cuius merito quis nos Sacerdotes appellat. *Sacerdos* enim, quasi *sacra dans*, vel *sacra docens*, per etymologiam dicitur, quia ut dicunt, *jura, leges sacræ sunt quo eas ministrantes & docentes, Sacerdotes appellantur. A deo etiam sunt omnes leges editæ, quæ ab homine promulgantur. Nam cum*

these words: The law is a holy sanction or decree, commanding things that be honest, and forbidding the contraries: For the thing must needs be holy which by definition is determined to be holy. Right also, by description is called the Art of that which is good and straight, so that in this respect a man may well call us *Sacerdotes*, that is to say, givers or teachers of holy things (for so by interpretation doth *sacerdos* signifie.) Forso much then as the laws are holy, it followeth that the ministers & letters forth of them may right well be called *Sacerdotes*, that is givers and teachers of holy things. Furthermore all laws published by men have also their authority from God.

For,

For, as the Apostle saith, all power is from the Lord God. Wherefoze the laws, that are made by man, which thereunto hath received power from the Lord, are also ordained of God, as also appeareth by this saying of the Author of all causes: Whatsoever the second cause doth, the same doth the first cause by a higher and more excellent mean. Wherefoze Josaphat the king of Juda saith to his Judges: The judgements, which ye execute, are the judgements of God, in the nineteenth Chapter of the second book of Chronicles. Whereby you are taught, that to learn *Laws*, though they be *Man* laws, is to learn holy laws and the ordinances of God: so that the

dicat Apostolus, quod omnis potestas a Domino Deo est, leges ab homine conditæ, qui ad hoc a Domino recipit potestatem, etiam à Deo constituuntur, dicente *Auctore causarum: Quicquid facit causa secunda, facit & causa prima, altiori & nobiliori modo.* Quare Josaphat Rex Juda ait Judicibus suis. *Judicia, quæ vos proferitis, judicia Dei sunt,* secundo Paralip. xix. Capitul. Ex quibus erudiris, quod leges, licet humanas, addiscere, est addiscere leges sacras & editiones dei, quo earum studium

studium non vacat a dulcedine consolationis sanctæ. Nec tamen, ut tu conjicis, dulcedo hujusmodi causa fuit, cur *Moyfes* reges *Israel* Deut. legere præceperat. Nam causa hæc, non plus reges quam plebeios, ad ejus lecturam provocat, nec plus Deut. librum, quam alios Pentateuchi libros legere, pulsat causa ista, cum non minus libri illi, quam Deut. sacris abundant carismatibus, in quibus meditari profanctum est. Quare non aliam fuisse causam mandati hujus, quam quia in Deut. plus quam in aliis libris veteris testamenti, leges inse-

study of them is not without a pleasurable sweetness of holy consolation. And yet such sweet pleasure was not the cause, as you suppose, wherefore *Moyfes* commanded the Kings of *Israel* to read the lawes of Deut. For this cause moveth not Kings, no more then the common sort to the reading of it, nor to the Books of Deut. more then of any of the other books of *Moyfes*, in which, as well as in the book of Deut. is plentiful store of godly lessons & holy instructions, wherein to be devoutely occupied is a holy thing: wherefore that there was none other cause of this commandement, then for that the lawes, whereby the King of *Israel* is bound to rule his people, are more perfectly contained

contained in the Book of Deuteronomy then in the other books of the old testament, the circumstances of the same commandment do manifestly inform us. For which cause you ought, most worthy Prince, no lesse then the kings of Israel, to be moved and provoked, to be a diligent travailer in the study of those laws, whereby hereafter you shall rule your people. For that which was spoken to the king of Israel, must be understood to be figuratively spoken to every king having dominion over godly people. And have I not then well & wholesomly propounded unto you the commandment given to the kings of Israel, concerning the learning of their law?

runtur, quibus rex Israel populum regere obnoxius est ejusdem mandati circumstantiæ manifeste nos informant. Quo & te, princeps, eadem causa, non minus, quam reges Israel exhortatur, ut legum, quibus populum in futurum reges, tu sis solers indagator. Nam, quod regi Israel dictum est, omni Regi populi videntis deum typice dictum fuisse intelligendum est. An tunc non convenienter utiliter, ut proposui tibi mandatum Regibus Israel latum, de eorum lege addiscenda?

Dum nedū ejus exem-

emplum, sed & ejus auctoritas figuralis, te erudit & obligavit, ad consimiliter faciendum de legibus regni, quod annuente Domino hærediturus es.

Forasmuch as not onely his example, but also his like authozity, hath taught you, and bound you to the like doing in the Lawes of the kingdom, which God willing you shall inherit.

Chap. 4. *Here the Chancellor proveth that a Prince by the lawes may be made happy and blessed.*

Non solū ut deū timeas, quo & sapiens eris, princeps colendissime, vocante leges, cum propheta dicente, *Venite filii, audite me, timorem domini docebo vos*. Sed etiā ut felicitatem, beatitudinemq; (prout in hac vita nāisci poteris) adipiscaris, ipsæ leges ad earum disciplinarum te invitant. Philosophi namque

Not only to the intent you should fear God and so become wise, doe the Lawes with the Prophet call you, saying, Come Children; hear me, I will teach you the fear of the Lord: but also that you may aspire unto felicity and blessednesse (as far forth as in this life they may be attained) do the Lawes will you, most gracious Prince, to bee studious of them. For all the Philosophers, which

which have so diversly reasoned of felicity, have all agreed together in this one point, that felicity or blessedness is the end of all mens desire, and therefore they call it chief goodnes. Now be it the Peripatetikes placed it in vertue, the Stoicks in Honesty, and the Epicures in Pleasure. But seeing the Stoicks designed Honesty, to bee that, which is well and laudably done with vertue, and the Epicures held nothing to be pleasant without vertue, therefore all those sects, as saith Leonard Aretine, in his Introduction to Mozall Philosophy, agreed in this, that it is onely vertue that causeth felicity. Wherefore Aristotle also in the 7. book of his Poli-

omnes, quide felicitate tam varie disputabāt, in hoc uno conuenerunt, viz. quod felicitas siue beatitudo finis est omnis humani appetitus, quare & ipsa summum bonū appellāt. Peripateticum constituebāt eam in virtute: Stoici in honesto: & Epicuri in voluptate. Sed quia Stoici honestum definiebant esse quod bene fit & laudabiliter ex virtute, & Epicari asseriebant nihil esse voluptuosum sine virtute, Omnes sectæ illæ, ut dicit Leonardus Aretin' Isagogico moralis disciplina, in hoc concordauerunt, quod sola virtus est, quæ felicitatem operatur.

Quo & Philosophus
(in 7. polit. felicitatem definiens) dicit, quod ipsa est perfectus usus virtutum. His jam præsuppositis, considerare te volo etiam ea quæ sequentur. Leges humanæ non aliud sunt quam regulæ, quibus perfecte iustitia edocetur. Iustitia vero, quam leges revelant, non est illa, quæ commutativa vel distributiva vocatur, seu alia quavis particularis virtus, sed est virtus perfecta, quæ iustitiæ legalis nomine designatur. Quam *Leonardus* prædictus ideo dicit esse perfectam, quia omne vitium ipsa eliminat, & omnem virtutem ip-

tiq̄ues defining Felicity sayth, that it is the perfect use of Vertues. Thus much being now presupposed, I would have you to consider these things also that follow. Mans laws are nothing else but certain rules, whereby Justice is perfectly taught. But that Justice, which the Lawes doe shew, is not the same that is called Commutative or distributive, or any other particular vertue, but it is a perfect vertue, expressed by the name of Justice legal. Which the foresaid Leonard doth therefore affirm to be perfect, because it excludeth all vice, and teacheth all vertue: For which cause also it is worthily called by the name of all vertue:

Whereof

Whereof Homer saith, and likewise Aristotle in the fifth Book of Morall Philosophie, that it is the chiefest of all vertues, and that neither Lucifer nor Hesperus are so bright and beaming as it is. Whereover this justice is the thing whereupon all Princely care dependeth and resteth, without the which the King can neither rightly judge, nor yet duly fight. But this being once obtained and perfectly kept, then all the whole duty required in a King is justly performed. Now then, seeing that the perfect use of vertues is felicity, and that Justice used amongst men, which cannot be attained unto, nor learned but by the Law,

sa docet: quo & omnis virtus ipsa merito nuncupatur. De qua Homerus dicit, similiter & philosophus quinto Ethicorum, Quod ipsa est præclarissima virtutū, & nec Lucifer, nec Hesperus, ut illa, est admirabilis: Justitia vero hæc, subjectum est omnis regalis curæ, quod sine illa Rex juste non iudicat, nec recte pugnare potest. Illa vero adepta, perfectæq; servata, æquissime peragitur omne officiū Regis. Unde cum perfectus usus virtutum sit felicitas, & Justitia humana, quæ non nisi per legem perfectæ nanciscitur,

citur, aut docetur, nedum fit virtutum effectus, sed & omnis virtus: Sequitur, quod iustitia fruens foelix per legem est, quo & per eam ipse fit beatus, cum idem fit beatitudo & foelicitas in hac fugaci vita, cuius & per iustitiam ipse summum habet bonum. Tamen non nisi per gratiam lex poterit ista operari, neque legem aut virtutem sine gratia tu addiscere poteris, vel appetere. Cum, ut dicit Perriss. in libro suo de *Cur Deus homo*, virtus hominis appetitiva interior,

is not only the effect of vertues, but is all vertue it self: hereof it followeth, that the practiser of Justice is by the law happle, and so thereby he is made blessed, forso-much as blessedness or happines and felicitie are both one in this short and transitozie life, of the which life through Justice he enjoyeth the chiefe and pzincipal goodness. And yet the Law is not able to perfozme these things without the assistance of grace, without the which also you cannot learn nor cobet either Law or vertue. For, as saith Perriss. in his book entituled *Cur Deus homo*, the inward vertue of man, wherein his desiring is placed, is so through

through original sin defaced & corrupt, that it esteemeth vitious works for pleasant, & vertuous works for unpleasant. Wherefore, in that some men apply and endeavour themselves to the love & following of vertues, it proceedeth of the bountiful goodness of God, & not of the power of man. Is there not then special cause why the laws, which being presented, & accompanied with grace, do perform all the premises, should with all diligent trabel be learned? Seeing that who so hath perfectly attained thereunto, the same shall enjoy felicity, the end & performance, as the Philosophers say, of mans desire, by means whereof he shall in this life be blessed, in

per peccatum originale ita viciata est, ut sibi viciorum suavia, & virtutum aspera opera sapiant. Quare, quod aliqui ad amorem sectationemque virtutis se conferunt, divinæ bonitatis beneficium est, & non humanæ virtutis. Num tunc leges quæ, preveniente & comitante gratia, omnia premissa operantur, toto conamine addiscendæ sunt? dum felicitatē, quæ, secundum Philosophos, est hic finis & complementum humani desiderij, earum apprehensor obtinebit, quo & beatus ille erit in hac vita,

ejus possidens summum bonum. Verè, etsi non hæc te moveant, qui regnum recturus es, movebunt te & ardebunt ad disciplinatum legis Prophetæ verba dicentis: *Erudimini, qui iudicatis terram*: non enim ad eruditionem artis factivæ, aut mechanicæ, hic movet Propheta: Cum non dicat, *Erudimini, qui colitis terram*, nec ad eruditionem scientiæ tantum theoreticæ, quamvis opportuna fuerit incolis terræ: quia generaliter non dicit, *erudimini qui inhabitatis terram*,

he now possesseth the chief goodnes thereof. Doubtles if these things move you not, which shall have the rule and government of a kingdome, yet the words of the Prophet shall move you, yea, and force you to the studie of the Law, which words be these: *Be ye learned you that are Judges of the Earth*: Here the Prophet exhorteth not to the learning of a base art or a handicraft, for he saith not, *Be ye learned you that are the inhabitants of the Earth*, neither doth he counsel to the learning of knowledge speculative, though it be not unnecessary for the inhabitants upon the earth: For he sayeth not generally, *Be ye learned you that dwel upon the earth*,
but

but by these words doth the Prophet call Kings only to the learning of the Law, whereby judgements are executed, forsomuch as he specially saith, be ye learned you that are Judges of the earth. And it followeth: lest the Lord waxe angry, and so you perish from the way of righteousness, neither doth holy scripture (in Kings son) command you onely to be skillfully instructed in the Laws, whereby you shall purchase and obtain the possession of justice, but also in another place it biddeth you unfainedly to love Justice, where it saith: Set your love & affection upon Justice, you that are Judges of the earth, in the first chapter of the book of Wisdom.

sed solum ad disciplinam legis, qua Judicia redduntur, Reges invitat Propheta in his verbis, cum specialiter ipse dicat: *Erudimini, qui judicatis terram*: Et sequitur: *Ne quando irascatur Dominus & pereatis de via justa*. Nec solum legibus, quibus justitiam consequeris, (fili Regis) imbui te jubet sacra Scriptura; sed & ipsam justitiam diligere, tibi alibi præcipit, cum dicat: *Diligite Justitiam, qui judicatis terram*, Sapientiæ capitulo primo.

Chap. 5. Ignorance of the Law causeth the contempt thereof.

Sed quomodo iustitiam diligere poteris, si non primò legum scientiam, quibus ipsa cognoscatur, atcunque apprehenderis? Dicit namque Philosophus, quod nihil amatum nisi cognitum. Quare Fabius Orator ait, *Quod felices essent artes, si de illis soli artifices judicarent.* Ignoratum verò non solum non amari, sed & sperni solet. Quo poeta quidam sic ait.

Omnia que nescit, dicit spernenda colonus.

But how can you love Justice, unless you first have a sufficient knowledge in the lawes, whereby the knowledge of it is wonn and had? for the Philosopher saith, that nothing can be loved except it be known. And therefore Quintilian the Oratour saith, That happy should Arts bee, if Artificers only were Judges of them. As for that which is unknown, it is wont not onely not to be loved, but also to be despised. And therefore a certain Poet thus saith.

The plowman doth despise and scoff

The thing he is not skilful of.

And

And this is the saying not of Plowmen alone, but also of learned and right skilful men. For if unto a natural Philosopher, that never studied the Mathematical sciences, a supernatural philosopher should say, that this Science considereth things severed from all matter and moving, according to their substantial being and reason: or the Mathematical man should say that his Science considereth things joyned to matter, and moving, after their substance, but severed according to reason: both these, though Philosophers, till the natural Philosopher, which never understood things severed from matter and motion, either

Et non coloni solum vox hæc est, sed & doctõrũ peritissimorum quoq; virorum. Nam si ad Philosophum naturalem qui in Mathemat. nunquam studuit, metaphisicus dicat, quod sciẽtia sua cõsiderat res separatas ab omni materia & motu secundum esse & secundũ rationẽ: Vel Mathematic⁹ dicat, quod sua scientia cõsiderat res cõjunctas materiæ, & motui, secundũ esse, sed separatas secund, rationem: abos hos, licet philosophos, philosophus ille naturalis qui nunquã novit res aliquas separatas à materia & motu, vel

essentia vel ratione,
 spernet, eorumque
 scientias, licet sua
 scientia nobiliores,
 ipse deridebit, non
 alia ductus causa,
 nisi quia eorum sci-
 entias ipse pernitus
 ignorat. Sic & tu,
 Princeps, leges An-
 glia peritum mira-
 beris, si dicat, quod
 frater fratri sibi ne-
 quaquam uterino,
 non succedet in hæ-
 reditate paterna, sed
 potius hæreditas il-
 la, sorori integri
 sanguinis sui descen-
 det, aut capitali do-
 mino feodi accidet
 ut escaeta sua: Cum
 causã legis hujus tu
 ignores, in lege tamẽ
 Angliã doctũ, hujus
 casus difficultas nul-

in being or in reason, ut-
 terly despise, and their
 sciences, though indeed
 more excellent then his,
 will he laugh to scozne,
 moved so to doe by none
 other cause, but that he
 is altogether ignozant in
 their sciences. Likewise
 you, most worthy Prince,
 would wonder at one
 skilfull in the Lawes of
 England, if he should say,
 that the brother shall not
 succed his halfe brother
 in their Fathers inheri-
 tance, but rather his inhe-
 ritance shall descend to the
 sister of the whole blood,
 or else it shall be intituled
 to the chiefe Lord of the
 fee as his escheat: Hereat
 you would much marbel,
 because you know not the
 cause of this law, howbeit
 the difficultie of this case
 nothing

nothing troubleth him that is learned in the laws of England. Wherefoze it is a common saying, that an Art hath no foe but an ignorant person.

But God forbid, O noble Prince, that you should be an enemy to the Lawes of that Realme, which you shall by succession inherit: or that you should despise them, seeing that the afozecited text of scripture instructeth you to the love of Justice. Wherefoze, most Soveraigne Prince, I do with most earnest affection require you to learne the laws of your Fathers Kingdome, whom you shall succeede, not only to the intent you may the rather avoyde these inconveniencies, but also because mans

latenus perturbat. Quare & vulgari-ter dicitur, quod ars non habet inimicum nisi ignorantem.

Sed absit à te, fili Regis, ut inimiceris legibus Regni, quo tu successorus es, vel ut eas spernas, quum justitiam diligere, prædicta sapientia lectio te erudiat. Iterum igitur atque iterum, Princeps inclytissime, te adjuro, ut leges Regni patristui, cui successorus es, addiscas. Ne dum ut inconveniencias has tu evites: Sed quia mens humana,

na, quæ naturali-
ter bonum appetit,
& nihil potest ap-
petere, nisi sub ra-
tione boni, mox
ut per doctrinam
bonum apprehen-
derit gaudet & il-
lud amat, ac quan-
to deinceps illud
plus recordatur,
tanto amplius de-
lectatur in eodem:
quo doceris, quod
si leges prædictas
quas jam ignoras,
intellexeris per do-
ctrinam, cum op-
timæ illæ sint, ama-
bis eas. Et quan-
to plus easdem
mente retractave-
ris, delectabilius tu
fruêris.

Nam omne, quod
amatur, usu tra-

mind, w^{ch} naturally desi-
reth the thing that is good,
& can desire nothing but in
respect that it is good, as
soon as by learning it hath
taken hold of that which
is good, it becometh joyful
and loveth the same, & the
more that it is afterward
occupied in the remem-
brance of the same, so much
it is more delighted there-
in: Whereby you are
taught that if you once by
learning attain to the un-
derstanding of the afore-
said laws, wherein you are
now ignorant, seeing they
be perfectly good, you must
needs love them. And the
more that you record them
in your mind, so much the
more delight and pleasure
shall you have in them.
For whatsoever it is that
is loved, the same drav-
eth

eth the lobe of it into the nature thereof. So that as the Philosopher saith, use or exercise becometh another nature: So a slip of a pear tree being grafted into the stock of an apple tree after that it hath taken, it so draweth the apple tree into the nature of the pear tree, that they both for ever after are rightly called a pear tree, & do bring forth the fruit of a pear tree. In like sort, continual use and practice of vertue causeth a full perfection thereof, in so much that the practiser of the same is afterward named thereby: as a man indued with modesty, of the use thereof is named modest; He that useth continency is called continent, and one garnished with wisdom

hit amatorem suum in naturam ejus. Unde, ut dicit Philosophus, *usus altera fit natura*: sic ramunculus pyri, stipiti pomi insertus, postquam coaluerit, ita pomum trahit in naturam pyri, ut ambæ deinceps merito pyrus appellentur, fructusque producant pyri. Sic & usitata virtus habitum generat, ut utens ea deinde a virtute illa denominetur, quo modestia præditus, usu modestus nominatur, continentia continens, & sapientia sapiens.

Quare

Quare & tu princeps, postquam iustitia delectabiliter functus fueris, habitumque legis indutus fueris, merito denominaberis justus, cujus gratia tibi dicetur, *Dilexisti iustitiam, quo & odisti iniquitatem, propterea unxit te dominus Deus tuus oleo laetitiae pra consortibus tuis regibus terra.* is called wise. Wherefore you also, most mightie Prince, when you are pleasantly delighted in Justice, and therewith indued, in respect of the perfection of the law you shall worthily be called Just. For which cause it shall be said unto you: Thou hast loved Justice and hated iniquitie, and therefore the Lord thy God hath annointed thee with the oyle of gladness above the Kings of the Earth thy companions.

Chap. 6. ¶ Here the Chancellour
briefely repeateth the effect
of all his perswasion.

Now, most gracious Prince, is not all this enough to move your Highness to the studie of the Law? Seeing that thereby you shall indue your selfe with Justice, which shall yield unto you the name of a just man, And shall also eschew the infamie of ignorance in the Law. And further by the Law you enjoying felicitie, shall be blessed in this life. And finally being furnished with a loving fear which is the wisdom of God, you shall obtain and possess Charitie, which is a stedfast love to God-ward, and by the means thereof, cleaving to God, you shall by the Apostles saying, Be made one Spirit with him.

Nonne tunc, *Princeps serenissime*, hæc te satis concitant ad legis rudimenta? cum per ea justitiam induere vales: quo & appellaberis justus, ignorantia quoque legis evitare poteris ignominiam: ac per legem foelicitate fruens, beatus esse poteris in hac vita, & demum filiali timore indutus, qui Dei sapientia est, charitatem, quæ amor in deum est imperturbatus, consequeris, qua Deo adherens, per Apostoli sententiam, *Fies unus spiritus cum eo.*

Sed

Sed quia ista sine gratia lex operari nequit, tibi illam super omnia implorare necesse est, legis quoque divinae & sanctarum scripturarum indagare scientiam.

Cum dicat scriptura sacra, quod *vani sum omnes, in quibus non subest scientia Dei*, Sapientiae cap. xiii.

His igitur, *Princeps*, dum adolescens es, & anima tua velut tabula rasa, depinge eam, ne in futurum ipsa figuris minoris frugis delectabilius depingatur.

Quia etiam (ut Sapiens quidam ait)

But forasmuch as the Law without grace cannot accomplish these things, it is necessary and requisite, that above all things you make earnest intercession for it: and also that you become a studious searcher of Gods law, and of the holy Scripture, For Scripture saith, that all men are vaine, in whom is not the knowledge of God, in the xlii. chapter of the book of *Wisdom*.

Wherefore, most noble Prince, while you are yet young, & while your soul is as it were a smooth blanke table, write in it these things, lest hereafter you happen to take pleasure in writing lessons of less profit therein. For as a certain wise man saith:

Where-

Whereof the vessel new
did first receive the tast,
Therein, when it is old,
the scent will ever last.

What handicrafts man
doth so negligently regard
the profit of his child,
whom whiles he is young,
he will not see brought up
in such an occupation, as
thereby he may afterward
obtain to lead a merry life?
So the Carpenter teach-
eth his son to cut with
an axe: the Smith to strike
with an hammer: & whom
he intendeth to make a
spiritual minister, him he
procureth to be trained
up in learning: So like-
wise is it convenient, that
a Kings son, which shall
govern the people after
his father, be in his youth
instructed in the laws.

*Quod nova testa
capit,
Inveterata sapit.*

Quis Artifex tam
negligens profes-
sus suæ prolis est,
ut non eam, dum
pubescit, artibus in-
struat, quibus post-
ea vitæ solatia nan-
ciscatur? Sic ligna-
rius faber secare de-
labro, ferrarius feri-
re malleo, filium
instruit: & quem
in spiritualibus mi-
nistrare cupit, liti-
ris imbui facit: Sic
& principi, filium
suum, qui post eam
populum regula-
bit, legibus instrui,
dum minor est, con-
venit.

Quali-

Qualiter si fecerint
Rectores orbis, mū-
dus iste ampliori,
quam jam est, justitia
regeretur; quibus
si tu, ut jam hortor,
facias, exemplum
non minimum mi-
nistrabis.

Which order if the Ru-
lers of the world would
observe, then the world
should be governed with
much more Justice then
now it is, Unto whom, if
you will follow mine ex-
hortation, you shall mini-
ster no small example.

¶ Chap. 7. Now the Prince yieldeth himself
to the studie of the Lawes, though
he be yet disquieted with
certain doubts.

Silente ex tunc
Cancellario,
Princeps ipse sic
exorsus est. Vi-
cisti me, vir egre-
gie, suavissima o-
ratione tua, qua
& animum meum

Thus when the Chan-
celloz had said, he held
his peace, to whom the
Prince began on this wise
to speak. You have over-
come me, welbeloved
Chancellor, with your
most pleasant talke, wher-
with you have inflamed
my

my minde with a fervent desire toward the knowledge of the Law. Howbeit two things there be, that doe tesse my minde to and fro, and so disquiet it, that like a Ship in the raging waves it knoweth not which way to encline for ease. The one is, while it considereth how many years the students of the laws bestow therein before they can attaine to sufficient knowledge of the same: Which causeth my mind also to dread, lest that I should likewise spend the years of my youth. The other is, whether I shall apply my self to the studie of the Laws of England, or of the Ci-

ardore non minimo, legis fecisti fidei documenta. Sed tamen duobus, me huc illucque agentibus, animus ipse affligitur: ut tanquam in turbido mari Cymba, nesciat quorsum dirigere proras. Unū est, dum recollit quot annorum curriculum leges addiscentes, earum studio se conferunt, antequam sufficientem earundem peritiam nanciscantur: quo timet animus ipse ne consimiliter ego praeteram annos juventutis meae. Alterum est, an Angliæ Legum vel Ci-

D

vilium

vilium, quæ per orbem præcelebres sunt, studio operam dabo. Nam non nisi optimis legibus populum regere licet, etiam ut dicit Philosophus, *Natura deprecatur optima*. Quare libenter super his, quod tu consulis, auscultaremus. Cui Cancellarius. Non sunt hæc, *fili Regis*, tantis celata mysteriis, ut deliberatione egeant ingenti, quare, quid in his mihi visum est proderet, non differemus.

hile laws, which throughout the whole World are chiefly esteemed: For people may not be governed but by right good Laws, and as the Philosopher saith, Nature coveteth that which is best. Wherefore I would gladly hear your counsel in this behalfe. To whom the Chancellour made this answer. These matters, O Kings Sonne, are not hid under so deep and darke mysteries, that they require any great deliberation, or advisement. And therefore what I think best herein I will not hide.

Chap. 8. So much knowledge of the Law
as is necessarie for a Prince is
soon had.

Aristotle

Aristotle in the first Book of his natural Philosophie saith, that then we suppose our selves to have the knowledge of every thing, when we know the causes and beginnings thereof even to the principles, upon the which text the Commentatour saith, that the Philosopher by beginnings or principles did understand the causes efficient, by the term Causes he understood causes final, and by Elements, matter and forme. But in the Law there are not matter and forme, as in things natural and compound. How be it there be in them certaine Elements, out of the which they procede as out of

Philosophus in primo Physicorum dicit, quod *Tunc unumquodque scire arbitramur, cum causas & principia ejus cognoscimus usque ad elementa.* Super quem textum commentator dicit, quod Aristoteles per principia intellexit causas efficientes, per causas intellexit causas finales, & per Elementa materiam & formam. In Legibus vero non sunt materia & forma, ut in Physicis & compositis. Sed tamen sunt in eis Elementa quaedam, unde ipsa profluunt, ut ex

D 2 materia

materia & forma, quæ sunt consuetudines, statuta, & jus natura, ex quibus sunt omnia iura regni, ut ex materia & forma sunt quæque naturalia: & ut ex literis, quæ etiam elementa appellantur, sunt omnia quæ leguntur. Principia autem, quæ Commentator dicit esse causas efficientes, sunt quædam universalis, quæ in legibus Angliæ docti, similiter & Mathematici, *Maximas* vocant: Rethorici, *Paradoxas*: & Civilestæ, *Regulas juris* denominant. Ipsa revera non

matter and forme, these are customes, statutes, and the Laws of nature, of the which all the laws of the Realm have their beginning, even as all natural things have of matter and forme, and as all things that are written and read do consist of letters, which also are called elements. But principles, or beginnings, which are as the Commentarie saith, causes efficient, they are certaine universall propositions, which they, that be learned in the Laws of England, and likewise the Mathematicals do terme *Maximes*: the Rethoricians do call the same *Paradoxes*: and the Civilians term them rules of the law. These indeed cannot be proved by force of argu-

arguments, or by demonstrations Logickall: But as it is said in the second book of Posteriorum, they are known by induction, by the way of sense and memory. Wherefore in the first book of his natural Philosophy, Aristotle saith, that principles are not made of others, nor one of them of another, but all other be made of them, And according thereunto in the first book of his Topicks he writeth, that every principle is a sufficient prooffe of it self. And therefore the Philosopher saith, that such as deny them, ought not to be disputed or reasoned withall: because that as he writeth in the sixth book

argumentorum vis aut demonstrationibus logicis dignoscuntur: Sed ut secundo *Posteriorum* docetur, inductione, via sensus & memoria, adipiscuntur. Quare & primo *Physicorum* philosophus dicit, quod *principia non fiunt ex aliis, neque ex alterutris, sed ex illis alia fiunt*, quo primo *Topicorum* scribitur, quod *unumquodque principiorum est sibi ipsi fides*. Unde, *cum negantibus ea*, dicit Philosophus, *non est disputandum: quia, ut scribi-*

tur vi. Ethicorum, ad principia non est ratio. Igitur principis imbuendi sunt, quique gliscunt aliquas intelligere facultates. Ex eis etenim, revelantur causæ finales, ad quas, rationis ductu, per principiorum agnitionem, pervenitur; unde, his tribus, videlicet, Principiis, Causis & Elementis ignoratis, scientia, de qua ipsa sunt, penitus ignoratur.

Et his cognitis, etiam scientiam illam cognitam esse, non determinate, sed in confuso &

of his Moral philosophie, there is no reason to be given for principles. Wherefore whatsoever they be that covet to profit in the knowledge of any faculties, they must needs first be furnished with principles. For by them are opened the causes final, unto the which by that direction of reason, through the knowledge of the principles, we do attain: wherefore these three, viz. Principles, Causes, and Elements, being unknown, the science, whereof they are, is altogether unknown. And the same three being known, the science also, whereof they are, is thought to be known, not determinately or precisely, but superficially after

after a confute & uniber-
fal sort.

Thus we think our
selves to have the know-
ledge of Gods Lawes,
when we understand
our selves to know faith,
charitie, and hope, and
also the Sacraments
of the Church, and the
Commandementes of
GOD, leaving to the
Brelates of the Church
the other mysteries of
Theologie. Wherefore
the LORD saith unto
his Disciples: To you
it is given to know
the mystery of the king-
dome of GOD, but to
others in Parables, that
seeing they may not
see, &c. And the Apostle
saith, Not to be wi-
ser, then it behooveth.
And in an other place,

universaliter arbi-
tratur.

Sic Legem divi-
nam nos nosse in-
dicamus, dum fi-
dem, charitatem,
& spem, sacramen-
ta quoque Ecele-
siae ac Dei man-
data, nos intellige-
re sentiamus; cate-
ra Theologiae my-
steria Ecclesiae pra-
sidentibus relin-
quentes. Quare
dominus discipulis
suis ait: *Vobis da-
tum est nosse my-
sterium regni Dei,
ceteris autem in pa-
rabolis, ut viden-
tes non videant,*
&c. Et Apostolus
dixit, *non plus sa-
pere quam oport-
et sapere.* Et alibi,

non alta sapientes. Sic & tibi, Princeps, necesse non erit mysteria legis Angliæ longo disciplinatum rimare, sufficiet tibi, ut in Grammatica tu profecisti, etiam & in legibus proficias. Grammaticæ verò perfectionem, quæ ex *Etymologia*, *Orthographia*, *Prosodia*, & *Syntaxi*, quasi ex quatuor fontibus profluit, non specie tenus induisti, & tamen grammatica sufficienter eruditus es, ita ut merito grammaticus denomineris. Consimiliter quoq; denominari legista mereberis, si legum principia

Not being high in wisdom. In like manner, O most worthy Prince, it shall not be needful for you with long studies to search out the secret mysteries of the Law of England, It shall suffice for you, as you have profited in grammer, so also to profit in Law. Unto the perfection of Grammar, springing out of Etymologie, Orthographie, Prosodie, and Construction, as out of foure fountaines, you have not exactly attained, and yet you are so sufficiently grounded in grammer, that you may well be called a Grammarian. Likewise shall you be well worzthie to be called a Lawyer, if you search out the principles
and

and causes of the *Laws*,
 even to the elements, af-
 ter the manner of a scho-
 lar or a learner. For it
 shall not be needful or ex-
 pedient for you by the tra-
 vel of your own wit, to
 studie out the hid myste-
 rles of the *Law*, But let
 that geare be left to your
Judges and men of *Law*,
 which in the *Kealme* of
England are called *Ser-*
jeants at Law, and to other
 professors of the *law* com-
 monly called *Apprenti-*
ces: For you shall better
 execute judgements by o-
 thers, then by your self:
 Neither hath it been seen
 that any *King* of *Eng-*
land hath pronounced
 judgement with his own
 mouth, And yet neverthe-
 less the judgments of the
Kealme are his, though

& causas, usq; ad e-
 lementa, discipuli
 more indagaveris.
 Non enim expedi-
 et tibi, propria sen-
 sus indagine, legis
 sacramenta rimare,
 sed relinquuntur illa
 iudicibus tuis & ad-
 vocatis, qui in reg-
 no Angliæ servien-
 tes ad legem appel-
 lantur, similiter &
 aliis peritis, quos *Ap-*
prenticios vulgus de-
 nominat: melius
 enim per alios,
 quam per teip-
 sum iudicia red-
 des, quo, proprio
 ore, nullus regum
Angliæ iudicium
 proferre visus est,
 & tamen sua sunt
 omnia iudicia reg-
 ni licet per alios ip-
 sa

sa reddatur, sicut &
Judicium omnium sen-
tentias, Josaphat as-
seruit esse judicia dei.
 Quare, tu Princeps
serenissime, parvo
 tēpore, parva indu-
 stria, sufficienter e-
 ris in legibus regni
 Angliæ eruditus,
 dummodo ad ejus
 apprehensionem tu
 cōferas animū tuum.
 Dicit namq; Seneca
 in epistola ad Lucil-
 lum: Nil est quod per-
 tinax opera, & dili-
 gens cura, non expug-
 nat. Nosco namque
 ingenii tui perspi-
 cacitatem, quo auda-
 ceter pronuncio,
 quod in legibus il-
 lis, licet earū peritia
 qualis iudicibus ne-
 cessaria est, vix xx.

by other they be uttered
 and pronounced, Like as
 also King Josaphat affir-
 med the sentences of all
 the Judges to be the judg-
 ments of God. Wherefoze,
 most gracious Prince,
 you shall in short time
 with little labour be
 sufficiently learned in
 the Lawes of England,
 so that you doe apply
 your minde to the obtai-
 ning thereof. For Se-
 neca in an Epistle to Lu-
 cillus, saith: There is
 nothing which earnest
 travell and diligent care
 atchieveth not. And so
 well do I know the
 prompt towardnesse of
 your nature, that I dare
 be bold to say, that in
 those Lawes (though the
 exact knowledge of them,
 such as is required in jud-

ges, can scant be gotten in the space of 11. years) you shall sufficiently in one year attain to so much understanding as is convenient for a Prince. Whether in the meane time shall you neglect and omit the study of martial discipline, whereunto you are so fervently given, but during all the same year in stead of recreation you shall use the practice thereof at your pleasure.

annorum lucubrationibus acquiratur, tu doctrinam Principi congruam in anno uno sufficienter nancisceris, nec interim militarem disciplinam, ad quam tam ardentem anhelas, negliges, sed ea, recreationis loco, etiam anno illo, tu ad libitum perfrueris.

Chap. 9. A King, whose Government is politick, cannot change the Law of his Realme.

THe second point, most worthe Prince, whereof you stand in fear, shall in like manner, & as easily as the other, be confuted. For you stand in doubt,

Secundum vero, Princeps, quod tu formidas, consimili nec majori opera elidetur. Dubitas nempe, an Anglorum

glorum legum, vel
civilium studio te
conferas, dum civili-
les supra humanas
cunctas leges alias,
fama per orbem ex-
tollat gloriosa. Non
te conturbet, *fili Re-
gis*, hæc mentis eva-
gatio: Nam non po-
test rex Angliæ, ad
libitum suum, leges
mutare regni sui.
Principatu namque
nedum *regali*, sed
& *politico*, ipse suo
populo dominatur.
Si *regali* tantum ip-
se præesse eis, Le-
ges regni sui muta-
re ille posset, *Talla-
gia* quoque & cæ-
tera onera eis im-
ponere ipsis incon-
sultis, quale domi-
nium denotat leges

whether it be better for
you, to give your mind to
the studie of the Lawes of
England, or of the Civile
lawes, because they thro-
rowout the whole world
are advanced in glozy and
renowne above all other
mans lawes. Let not this
scruple of minde trouble
you, O most noble Prince:
For the King of England
cannot alter nor change
the lawes of his Realme
at his pleasure. For why
he governeth his people
by power, not only royal,
but also politique. If his
power over them were
royal only, then he might
change the Lawes of his
realme & charge his subjects
with Tallage & other bur-
dens without their cōsent,
& such is the dominion that
the civil Lawes purpose,
when

when they say, The prince his pleasure hath the force of a Law. But from this, much differeth the power of a King, whose government over his people is politique, For he can neither change Lawes without the consent of his subjects, nor yet charge them with strange impositions against their wills. Wherefore his people do frankly and freely enjoy and occupy their own goods, being ruled by such lawes as they themselves desire. Neither are they pilled either of their own king or of any other. Like pleasure also & freedom have the subjects of a king ruling only by power royal, so long as he falleth not into tyranny. Of such a King speaketh Ari-

civiles, cum dicant *qd principi placuit, legis habet vigorem.* Sed longe aliter potest Rex, politice imperas genti suæ, quia nec leges ipse sine subditorum assensu mutare poterit, nec subjectum populum retinentem onerare impositionibus peregrinis, quare populus ejus libere fruatur bonis suis, legibus, quas cupit regulatus, nec per Regem suum, aut quemvis alium depilatur, consimiliter tamen plaudit populus, sub Rege regaliter tantum principante, dummodo ipse in tyrannidem non labatur.

De

De quali rege dicit
philosophus iij. po-
liticorum, quod *me-
lius est Civitatem re-
gi viro optimo, quam
lege optima.* Sed quia
non semper contin-
git præsentē po-
pulo, hujusmodi es-
se virum, *sanctus
Thomas* in libro,
quem Regi Cypri
scripsit, *de regimine
principum*, optare
censetur, regnum sic
institui, ut rex non
libere valeat popu-
lum tyrannide gu-
bernare, quod so-
lum fit dum pote-
stas Regia lege po-
litica cohibetur:
Gaude igitur, *prin-
ceps optime*, talem
esse legem regni in
quo tu successurus

Aotle in the third Book of
his Civil Philosophie,
saying, that it is better
for a Citie to be gover-
ned by a good King,
then by a good Law.
But forasmuch as a King
is not ever such a man,
therefore Saint Thomas
in the Book, which he
wrote to the King of Cy-
prus, of the governance
of Princes, wisheth the
state of a Realme to be
such, that it may not be
in the kings power to op-
press his people with ty-
ranny, which thing is
performed onely, while
the power Royall is re-
strained by power poli-
tique. Rejoyce therefore,
O soveraign Prince, and
be glad, that the Law
of your Realme, wherein
you shall succeed, is such,

For it shall exhibite and minister to you and your people no small securitie and comfort. With such Lawes as saith the same St. Thomas should all mankind have been governed, if in Paradise they had not transgressed Gods commandement: with such Lawes also was the Synagogue ruled, while it served under God only as King, who adopted the same to him for a peculiar kingdome, But at the last, when at their request they had a man King set over them, they were then under royal Lawes onely, brought very low. And yet under the same Lawes, while good Kings were their Rulers, they lived wealthily, and when willful and ty-

es, quia, & tibi, & populo, ipsa securitatem præstabit non minimã, & solamen. Tali lege, ut dicit idem *sanctus*, regulatum fuisse totum genus humanum, si in paradiso Dei mandatum non præterisset: tali etiã lege regebatur Synagoga, dum sub solo Deo Rege, qui eam in regnum peculiare adoptabat, illa militabat, sed demum ejus petitione, rege homine sibi constituto, sub lege tantum legali ipsa deinceps humiliata est. Sub qua tamen, dum optimi Reges sibi præfuerunt, ipsa plaussit, & dum discolori

discoli ei præesse-
bant, ipsa incõsola-
biliter lugebat, ut
regum liber hæc di-
stinctius manifesta-
rit. Tamen quia de
materia ista in opus-
culo, quod tui con-
templatione de na-
tura legis naturæ ex-
aravi, sufficienter
puto me disceptas-
se, plus inde loqui
jam desisto.

Chap. 10. Here the Prince demandeth a
question.

Tunc princeps il-
lico sic ait. Unde hoc Cancellarie,
quod Rex unus ple-
bens suam regaliter
tantum regere valeat,
& regi alteri potestas
huiusmodi denega-
tur, æqualis fasti-
gij cum sint Reges

rannous Kings had the
government of them, then
they continued in great
discomfort and misery, as
the booke of Kings doth
more plainly declare. But
for so much, as I suppose,
I have sufficiently debated
this matter in my work
which at your request I
compiled of the nature of
the law of nature, therefore
at this time I surcease to
speak thereof any more.

Imediately the Prince
thus said. How cometh
this to pass, good Chan-
cellour, that one King
may govern his people
by power Royal onely,
and that another King
can have no such power,
seeing both these Kings
are in dignity equall,
I

I cannot choose but much
muse and marbaile why in
power they should thus
differ.

ambo, cui in pote-
state sint ipsi dis-
pares nequeo non
admirari.

Chap. 11. *The answer to this question is
here omitted, for that in another work
it is handled at large.*

I have sufficiently, quoth
the Chancelloz, decla-
red in my foresaid work,
that the King, whose go-
vernment is polittick, is of
no less power, then he that
royally ruleth his people
after his own pleasure,
howbeit they differ in
authozity ober their sub-
jects, as in the same work
I have shewed, and say I
still. Of which difference
I will open unto you the
cause as I can.

Cancellari⁹: Non
minoris esse
potestatis, regē po-
liticē imperantem,
quā qui, ut vult, re-
galiter regit populū
suum; in supradicto
opusculo sufficiēter
est ostēsū, diversæ
tamē auctoritatis e-
os in subditos suos
ibidē ut jā nullaten⁹
denegavi, cujus di-
versitatis causam, ut
potero, tibi pādā.

Chap. 12. *How Kingdomes ruled by royal
Government only first began.*

Men in times passed,
Merrelling in power,

Hōmines quon-
dam, potentia
E præpol-

prapollentes, avidi dignitatis & gloriae, vicinas saepe gentes sibi viribus subjugarunt, ac ipsis servire obtemperare quoque iussionibus suis compulerunt, quas iussiones ex tunc leges hominibus illis esse ipsi fancierunt. Quarum perpetione diutina, subiectus sic populus, dum per subicientes a ceterorum injurijs defendebatur, in subiectum domini consentierunt: Opportunius esse arbitrantes, se unius subditi imperio, quo erga alios defenderetur, quam omnium eos infestare volentium oppressionibus exponi. Sicque regna

greedy of dignity & glozy, did many times by plain force subdue unto them their neighbours the nations adjoining: & compelled them to do them service & to obey their commandments, which commandments afterward they decreed to be unto those people very lates. And by long sufferance of the same, the people so subdued, being by their subduers defended from the iniuries of other, agreed & consented to live under the dominion of the same their subduers: thinking it better for them to be under the empire of one man, which might be able to defend them against other, then to be in danger to be oppressed of all such as would violently offer them any wrong.

And

And thus certain kingdomes were begun, And those subduers thus ruling the people unto them subdued, took upon them of ruling to be called rulers, which our language termeth kings, And their rule or dominion was named onely royal or kingly. So Nemroth was the first that got unto himself a Kingdome, And yet in the holy Scriptures he is not called a King, but a stout and mighty hunter before the Lord: For like as a Hunter subdueth wilde beasts living at their liberty: so did he bring men under his obedience. So did Belus subdue the Assyrians, & Ninus the most part of Asia. So also did the Romans usurpe the Empire of the

quædam inchoata sunt, & subjicientes illi, dum subjectum populum sic rexerunt, à regendo sibi nomen regis usurparunt, eorum quoque dominatus tantum regalis dictus est. Sic Nembroth primus sibi regnum comparavit, tamen non rex ipse, sed *Robustus venator coram domino* sacris literis appellatus est: Quia ut venator feras libertate fruëtes, ipse homines sibi compescuit obedire. Sic *Belus Assyrias*, & *Ninus* quàm magnam *Asia* partem, ditioni suæ subegerunt. Sic & *Romani* orbis imperium

E 2 usur-

usurparunt qualiter
 fere in omnibus gē-
 tibus regna inchoa-
 ta sunt. Quare, dum
 filij Israel regē po-
 stulabant, sicut tunc
 habuerunt omnes
 gentes, dominus inde
 offensus, legem
regalem eis per Pro-
 phetam explanari
 mandavit. Quæ non
 aliud fuit, quam pla-
 citum regis eis præ-
 essentis, ut in primo
 Regum libro ple-
 nius edocetur. Ha-
 bes nunc (ni fallor)
Pinceps charissime,
 formā exordij reg-
 norū, regaliter pos-
 sessorum. Quare,
 quomodo regnam
politice regulatum,
 primitus erupit, e-
 tiam jam propulare

whole world, and thus al-
 most were the kingdomes
 of all nations begun.
 Wherefoze the Lord being
 displeas'd with the childzen
 of Israel requiring to have
 a king as then all other na-
 tions had, commanded the
 law regal to be declared
 unto them by the prophet.
 Which law regal was no
 other thing, but the plea-
 sure of the king their go-
 vernoꝝ, as in the 1. book of
 kings moze fully it is con-
 tained. Now you under-
 stand, as I suppose, most
 noble Prince, y^e form & fash-
 ion of the beginning of those
 kingdomes, that be regally
 possessed & ruled. Where-
 foze, now I will assay to
 make plain to you how &
 by what means the go-
 vurnment of the kingdome
politique, took his first
 entrance

entrance and beginning, to the end & intent, that when you know the beginnings of them both, it may be right easie for you thereby to discern the cause of the diversitie, which in your question is containd.

conabor, ut cognitis amborum regnorum initiis, causam diversitatis, quam tu quæris, inde elicere tibi facillimum sit.

Chap. 13. *How Kingdomes of politique governance were first begun.*

Saint Augustine in the xxviii. chapter of his 11. book de Civitate Dei, saith, That a people is a multitude of men associated by the consent of law, and communion of wealth. And yet such a people being headlesse, that is to say, without a head, is not worthy to be called a body. For as in things natural, when the head is cut off, the residue is not called a bo-

Sanctus Augustinus in libro xix. de Civitate Dei, cap. xxiii. dicit, Quod *populus est coetus hominum, juris consensu et utilitatis communi- one sociatus.* Nec tamē popul⁹ hujusmodi dux acephalus (i) sine capite, esse corpus vocari meretur. Quia ut in *naturalibus*, capite detrūcato, residuū non corpus,

pus, sed truncum appellamus, sic & in politicis, sine capite communitas nullatenus corporatur: Quo primo polit. dicit *Philosophus*, quod *quandocunque ex pluribus constituitur unum, inter illa, unum erit regens, & alia erunt recta*, Quare populum se in regum aliunde corpus politicam erigere volentē, semper oportet unum præficere totius corporis illius regitivum, quem *Regem* nominare solitū est. Hoc ordine, sicut ex embryone corpus surgit physicum, uno capite regulatum, sic ex populo eripit reg-

de but a truncheon, so likewise in things politique, a communitie without a head is in no wise corporate: Wherefoze, Aristotle in the first book of his civill philosophy saith, that whensoever one is made of many, among the same, one shall be the ruler, and the other shall be ruled, wherefoze a people that will raise themselves into a kingdom, or into any other bodie politique, must ever appoint one to be chief ruler of the whole bodie, which in kingdoms is called a King. And in this kind of order, as out of the embryo riseth a body natural, ruled by one head, even so of a multitude of people ariseth

a kingdome, which is a body mysticall, governed by one man as by an head. And like as in a natural body, as saith the Philosopher, the heart is the first that lieth, having within it blood, which it distributeth among all the other members, whereby they are quickned and do live, semblaly in a body politique, the intent of the people is the first lively thing, having within it blood, that is to say, politique provision for the utility and wealth of the same people, which it bealeth forth and imparteth aswell to the head as to all the members of the same body, whereby the body is nourished & maintained. Furthermoze the law un-

num, quod corpus extat mysticum uno homine ut capite gubernatum. Et sicut in naturali corpore, ut dicit Philosophus, cor est primum vivens, habens in se sanguinē, quem emittit in omnia ejus membra, unde illa vegetatur & vivunt: sic in corpore politico intētio populi primum vividum est, habens in se sanguinem, viz. provisionem politicam utilitati populi illius, quam in caput & in omnia membra ejusdem corporis, ipsa transmittit, quo corpus illud alitur & vegetatur. Lex vero sub qua

coetus hominum, populus efficitur, nervorū corporis phisici tenet rationem: Quia sicut per nervos compago corporis solidatur, sic per legem, quæ à ligando dicitur, corpus huiusmodi mysticū ligatur, & servatur in unū, & eisdē corporis mēbra ac ossa, quæ veritatis qua cōmunitas illa sustētur, soliditatē denotant, per legē, ut corpus naturale per nervos, propria retinent jura: Et ut nō potest caput corporis phisici, nervos suos cōmutare, neque mēbris suis proprias vires, & propria sanguinis ali-

der the w^{ch} a multitude of men is made a people, representeth the semblāce of sinewes in the body natural: because that like as by sinewes the joyning of the body is made sound, so by the law, w^{ch} taketh the name à ligādo, that is to wit, of binding, such a mystical body is knit & preserved together: & the members and bones of the same body, wherby is represented the soundness of the wealth, wherby that body is sustained, do by the laws, as the natural body by sinewes, retain every one their proper functions: And as the head of a body natural cannot change his sinewes nor cannot deny or withhold from his inferiōr members their peculiar powers, & severall nourishments of blood,

blood, no more can a king, which is the head of a body politic, change the Laws of that body, nor withhold from the same people their proper substance against their wills and consents in that behalfe. Now you understand, most noble Prince, the form of institution of a kingdome politique, whereby you may measure the power, which the king thereof may exercise over the Law and subjects of the same. For such a king is made and ordained for the defence of the Law of his subjects & of their bodies, and goods, whereunto he receiveth power of his people, so that he cannot govern his people by any other power. Where-

menta denegare, nec rex, qui caput corporis politici est, mutare potest leges corporis illius, nec ejusdē populi substantias proprias subtrahere, reclamantibus eis aut invitis. Habes ex hoc jam, princeps, instituti omnis politici regni formā, ex qua metiri poteris potestatem, quā Rex ejus in leges ipsius, aut subditos valeat exercere. Ad tutelam namque legis subditorū, ac eorū corporū, & bonorū, rex hujusmodi erectus est, & ad hanc potestatem a populo effluxam ipse habet, quo ei non licet potestate alia suo

popu-

populo dominari :
 quare ut postulati-
 oni tuæ, qua certio-
 rari cupis, unde hoc
 pervenit qd potesta-
 tes regū tam diversi-
 mode variantur, suc-
 cinctius satisfaciā,
 Firme cōjector, qd
 diversitates institu-
 tionū dignitatum il-
 larū, quas propalavi,
 prædictā discrepanti-
 ā solūmodo operan-
 tur, prout rationis
 discursu, tu ex præ-
 missis poteris exhau-
 rire. Sic namq; Reg-
 num *Anglie*, qd ex
Bruti comitiva *Tro-*
janorum, quā ex *Italia*
 & *Græcorum* finibus
 produxit, in domi-
 niū politicū & regale,
 prorupit: Sic & *Sco-*
sia, quæ ei quondam ut

foze to satisfie your re-
 quest, in that you desire
 to be certified, how it com-
 eth to pass that in the
 powers of Kings there is
 so great diversity: Sure-
 ly in mine opinion the di-
 versity of the institutions
 or first ordinances of those
 dignities, which I have
 now declared, is the onely
 cause of this foresaid
 difference, as of the
 premises by the discourse
 of reason you may easi-
 ly gather. For thus
 the Kingdome of Eng-
 land out of Brutes re-
 tinue of the Trojanes,
 which he brought
 out of the Coasts of
 Italie and Greece, first
 grew to a politique and
 regal dominion: Thus
 also Scotland, which
 sometime was subject to
 England

England as a Dukedome thereof, was advanced to a politique and royal Kingdome. Many other kingdomes also had thus their first beginning not onely of regal but also of politique government. Wherefore Diodorus Siculus in his second book of old histories, thus writeth of the Egyptians: The Egyptian Kings lived first, not after the licentious manner of other rulers, whose will and pleasure is in stead of law, but they kept themselves as private persons in subiection of the laws, And this did they willingly, being perswaded that by obeying the laws they should be blessed. For of such rulers, as followed their own lusts,

duca⁹ obedivit, in regnum crevit politic⁹ & regale. Alia quoq; plurima regna, nedum regaliter sed & politice regulari, tali origine jus sortita sunt. Unde Diodorus Siculus in secundo libro historiarum priscarum de Egyptiis, sic scribit: suam primum Egyptii reges vitam non aliorum regnantium, quibus voluntas pro lege est, traducebant licentia, sed veluti privati tenebantur legibus, neque id agre ferebant, existimantes parendo legibus, se beatos fore. Nam ab his, qui suis indulgent cupiditatibus, multa

multa censebant fieri, quibus dampna periculaq; subirent. Et in quarto libro sic scribit: Assumptus in Regem *Ethiopum*, vitam ducit statutam legib⁹ omniaque agit juxta patrios mores, neque p^ræmio, neque p^ræna afficiens quenquam præter pertraditam a superioribus legem. Consimiliter loquitur de rege *Saba in fœlici Arabia*, & aliis quibusdam regibus qui priscis temporibus feliciter regnabant.

they supposed many things to be done, whereby they were brought in danger of divers harms & perils. And in his fourth Book thus he writeth: The Ethiopian king as soone as he is created, he ordereth his life according to the laws, & doth all things after the maner & custome of his country, assigning neither reward nor punishment to any man, other then the law made by his predecessours appointeth. He reporteth likewise of the king of Saba in Arabia the happy, & of certain other kings which in old time honorably reigned.

Chap. 14. Here the Prince compendiously abridgeth all that the Chancellor afore hath discoursed at large.

Cui Princeps,
Effugasti, Can-

To whom the Prince
thus answered. You
have

have, good Chancellour, with þ clear light of your declaration quite driven away þ cloudy mist, wherewith the brightnes of my mind was darkned: so that I do most evidently see that no nation did ever of their own voluntary mind incorporate themselves into a kingdom for any other intent, but only to the end, that thereby they might with more safety then before maintain themselves, & enjoy their goods from such misfortunes & losses as they stood in fear of. And of this intent should such a natiõ be utterly defrauded, if then their king might spoile them of their goods, which before was lawfull for no man to do. And yet should such a people be much more injured,

cellarie, declaratio- nis tuæ lumine te- nebras, quibus ob- ducta erat acies mē- tis meæ, quo clarif- sime jam conspicio, quod non alio pa- cto gens aliqua, proprio arbitrio, unquam se in reg- num incorporavit, nisi ut per hoc, se & sua, quorum dis- pendia formide- bant, tutius quam antea possiderent, quasi proposito gēs hujusmodi fraudat- retur, si exinde fa- cultates eorum eri- pere possit Rex su- us, quod antea face- re ulli hominum non licebat. Et adhuc gravib⁹ multo popu- lus talis læderetur, si

si deinde peregrinis legibus, etiam ipsis forsitan exosis, regerentur. Et maxime, si legibus illis eorum minoraretur substantia, pro cuius vitanda iactura, ut pro suorum tutela corporum, ipsi se Regis imperio, arbitrio proprio, submiserunt, non potuit revera potestas huiusmodi ab ipsis erupisse: & tamen si non ab ipsis, Rex huiusmodi super ipsos nullam obtineret potestatem. E regione, aliter esse concipio de regno, quod Regis solum auctoritate & potentia incorporatum est,

if they should afterward be governed by fozeine and strange Lawes, yea, and such as they peradventure deadly hated and abhozred. And most of all, if by those Lawes, their substance should be diminished, for the safegard whereof, as also for the defence of their own bodtes, they of their own free will submitted themselves to the governance of a King, no such power surely could have proceeded from them: And yet if they had not been, such a King could have had no power over them: Now on the other side I perceibe it to stand much otherwise with a kingdome, which onely by the authoritie of a king is incorporate,

For such a Nation is no otherwise subject unto him, but that the same Nation which by his pleasure is made his Kingdome, should obey his Laws, and be ruled by the same, being nothing else but his like pleasure. Neither have I yet, good Chancellour, forgotten that, which in your treatise of the nature of the law of nature, you have with pithie reasons clearly proved: concerning that the power of these two Kings is equal. Howbeit the power of the one, whereby he is at liberty to deal wrongfully, is not by such liberty augmented and increased; as to be of habilitie to decay and die, is no habilitie, but in respect of the prohibition

quia non alio pacto gens talis ei subiecta est, nisi ut ejus legibus quæ sunt illius placita, gens ipsa, quæ eodem placito regnum ejus effecta est, obtemperaret & regeretur. Neque, Cancellarie, à mea hucusque memoria elapsum est, quod alias in tractatu de natura legis naturæ horum duorū regum æqualem esse potentiam, doctis rationibus ostendisti, dum potestas qua eorum alter perperā agere liber est, libertate hujusmodi nō augetur; ut posse lægescere, morive, potentia nō est, sed propter privationes in adjecto, impo-

impotentia potius denominandum. Quia ut dicit Boetius, potentia non est nisi ad bonum, quod posse male agere, ut potest Rex regaliter regnans, liberius quam Rex politice dominans populo suo, potius ejus potestatem minuit, quam augmentat. Nam sancti spiritus, jam confirmati in gloria, qui peccare nequeunt, potentiores nobis sunt, qui ut omne facinus liberis gaudemus habent. Solum igitur mihi jam superest à te sciscitandum, si Lex Anglia,

and feblenes in the thing, it is rather to be called a disability. Because that as Boetius saith, habilitie and power is not but to good: So that to be of habilitie or power to doe evil, (as is the King that Regally doth rule, and that with much moze libertie, then the King that hath a politick dominion over his people) is rather a diminution then an increase of power. For the holy spirits, which are now establihed in glorie, and cannot sinne, do in power far excell and passe us which have a delight & pleasure to run headlong into all kind of wickednes. Now therefore I have but this one only question to demande of you, whether the law of England,

to the study whereof you
 exhort me, be as good and
 effectual for the govern-
 ment of that kingdom, as
 the Civil law, whereby
 the holy empire is govern-
 ed, is thought sufficient
 for the government of the
 whole world? If with
 sound reasons & apparent
 demonstrations you re-
 solve me in this point, I
 will straight yield me to
 the study of the Lawes,
 without further troubling
 you with my questions in
 this matter.

ad cuius disciplina-
 tum me provocas,
 bona & efficax est ad
 regimen regni illius,
 ut lex civilis, qua sa-
 crum regulatur impe-
 rium, sufficiens arbi-
 tratur ad orbis regi-
 men universi? Si me
 in hoc, demonstra-
 tionibus congruis,
 indubium reddide-
 ris, ad studium legis
 illius illico me cōte-
 rā, nec te postulationi-
 bus meis super his,
 amplius fatigabo.

Chap. 15. That all Lawes are the law of nature, cu-
 stomes or statutes.

The Chancelor answer-
 ed, saying: you have
 well committed to memory,
 most worthy Prince, all
 that I have hitherto de-
 clared unto you, where-

Cancellarius:
 memoriae tuae,
 princeps optime,
 commendasti, quae
 tibi hucusque sug-
 gessi, quare &
 F quae

quæ jam interro-
gas meritis es ut
pandam. Scire te
igitur volo, quod
*omnia jura huma-
na, aut sunt lex na-
turae, consuetudines,
vel statuta, quæ &
constitutiones appel-
lantur. Sed consue-
tudinæ & legis na-
turae sententiæ post-
quã in scripturã re-
ducta, & sufficienti
auctoritate princi-
pis promulgatae fu-
erint, ac custodiri
jubeatur, in consti-
tutionũ sive statuto-
rũ naturam mutan-
tur, & deinde pena-
lius, quã antea sub-
ditos principis ad
earum custodiam
constringunt, seve-
ritate mādati illius,*

foze you are well woorth
to have this doubt open-
ed, thereupon now you
have moved your questi-
on. You shall therefore
understand, that all hu-
mane Laws are either
the Law of nature, or cu-
stomes, or else statutes,
whitch are also called con-
stitutions. But customes
and the sentences of the
Law of nature, after that
they were once put in
writing, and by the suf-
ficient authority of the
Princc published & com-
manded to be kept, were
changed into the nature of
constitutions, or statutes
and did after that more
penally, then before
bind the subjects of the
Princc to the keeping
of them, by the severity
of his commandement

Of this sort are the most part of the Civill laws, which of the Roman Emperours are digested in great volums, and by their authozity commanded to be obserbed. And not they onely are called by the name of the Civill Law, but also all the other statutes of Emperours. Now then, if that among these three wellspzings of all Law, I prove the pzæminence of the Law of England to excel above the rest: I shall therewith prove the same Law to be good and effectual for the government of the kingdom. And further, if I do shew it to be as commodious for the wealth of the Realm, as the Civill Laws are for the wealth of the Empire,

qualis est legum civiliū pars non modica, quæ a Romanorum principibus in magnis voluminibus redigitur, & eorum auctoritate observari mādatur: Unde legis Civilis, ut cætera Imperatorū statuta, jam pars illa nomen sortita est. Si igitur in his tribus, quasi omnis juris fontibus, legis Angliæ præstantiam probaverim præfulgere, legem illam bonam esse & efficacem, ad regni illius regimen, etiam comprobavi. Deinde si eam, ad eisdem regni utilitatem, ut leges civiles ad imperij bonum,

accommodam esse lucide ostenderim, nedum tunc legem illam præstantē sed &, ut leges civiles, electam (ut tu optas) etiam patefeci. Igitur hæc duo tibi ostendere satagens, sic progredior.

then shall I make evident & plain not only y^e this law is of much excellency, but also that it is an elect and chosen law, as well as the Civill laws are: which is the thing that you require. Wherefoze to the proof and declaration of these ii. points, thus I proceed.

Chap. 16. *The Law of nature in all countries is all one.*

Leges Angliæ in his, quæ ipsæ faciunt legis naturæ ratione, non meliores pejoresve sunt in judiciis suis, quàm in cõsimilib⁹ sunt omnes leges cæterarum nationum. Quia, ut dicit Philosophus 5. Ethicorum: *Justiæ naturale est, quod apud omnes homines*

The Laws of England, in those things, which they by force of the Law of nature do ratifie and establish, are neither better nor worse in their judgments, then the laws of all other nations are in the like cases. For as Aristotle in the 5. book of his Moral Philosophie saith: The Law of nature is that which among all people

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hath like strength and power, wherefoze hereof to reason any longer it shall not abaile. But now hencefozth we will search out what manner of *Customes & Statutes* these of England are. And first the qualite of those *customes* we will consider.

eandem habet potentiam, quare de ea amplius disceptare non expedit. Sed quales sunt Angliæ consuetudines similiter & statuta, est amodo perscrutādū, & primo consuetudinū illarum visitabimus qualitates.

Chap. 17. *The Customes of England are of most ancient antiquity, practised and received of several Nations, from one to another, ly succession.*

The *Kealm* of England was first inhabited of the Britons, next after them the Romans had the rule of the land, and then again the Britons possessed it, after whom the Saxons invaded it, who changing the name thereof did for Brittain call it England, af-

Regnū Angliæ, primo per Britannos inhabitatū est, deinde per Romanos regulatum, iterumq; per Britannos, ac deinde per Saxonos possessum, qui nomen ejus ex Britannia, in Angliam mutaverūt: extunc

per Danos idē regnum parumper dominatum est, & iterum per Saxones, sed finaliter per Normannos, quorum propago regnum illud obtinet in præsentī. Et in omnibus nationum harum & regum earū temporibus, regnum illud eisdem, quibus jam regitur, consuetudinibus continuè regulatum est. Quæ, si optimæ non extitissent, aliquis regum illorum justitia, ratione, vel affectione cōcitati eas mutassent, aut omnino delevissent, & maxime Romani, qui legibus suis quasi totum orbis reliquū judicabāt. Si-

ter then for a certain time the Danes had the dominion of the Realm, and then Saxons again, but last of all the Normans subdued it, whose discent continueth in the government of the kingdome at this present. And in all the times of these several nations and of their kings, this realm was still ruled with the self same customes, that it is now governed withall. Which, if they had not been right good, some of those kings moved either with Justice, or with reason or affection, would have changed them, or else altogether abolished them, especially the Romans, who did judge all the rest of the world by their own lawes. Likewise would other

other of the foresaid kings have done, which by the sword only possessing the realm of England, might by the like power & authority have extinguished the Laws thereof. And touching the antiquity of the same, neither are the Roman Civil laws, by so long continuance of ancient times, confirmed, nor yet the Laws of the Venetians, w^{ch}, above all other are reported to be of most antiquity, for so much as their Island in the beginning of the Britons was not then inhabited, as Rome then also unbuilted, neither the laws of any *Haynim* nation of the world, are of so old and ancient years: Wherefore the contrary is not to be said nor thought, but that the English customs

militer & alij regum pradietorum, qui solum gladio regnum Angliæ possiderunt, quò & potentia simili, ipsi, leges ejus exinanisse valuerunt. Neq; vero tantorum temporum curriculis, *leges civiles, in quantum Romanorum, inveteratae sunt*, neque *Venetorum* leges, quæ super alias antiquitate divulgantur, quorum tam insula, in initio *Britonum*, inhabitata non fuit, sicut nec *Roma* condita, nec ullorū mūdi regnorū deicolarum leges tanto ævo inolitæ sunt: Quare non bonas, immo non optimas esse, *Anglorum* consuetudines, F 4 sicut

sicut non dicere, ita are very good, yea of all
nec suspicari fas est. other the very best.

Chap. 18. Here he sheweth with what gravity Sta-
tutes are made in England.

STatuta tunc An-
glorū, bona sint
necne, solum restat
explorandum. Non
enim emanant illa a
principis solum vo-
luntate, ut leges in
regnis, quæ tantum
regaliter gubernan-
tur, ubi quandoque
statuta ita constitu-
entis procurrant cō-
modum singulare,
quòd in ejus subdi-
torū ipsa redundant
dispendium, & ja-
cturam: Quandoq;
etiam inadvertētia
principū hujusmo-
di, & sibi consulen-
tium inertia, ipsa

Now whether the sta-
tutes of England be
good or not, that onely re-
maineth to be discussed.
For they proceed not on-
ly from the Princes plea-
sure, as do the laws of
those kingdomes that are
ruled onely by regal go-
vernment, where some-
times the statutes do so
procure the singular com-
modity of the maker, that
they redound to the hin-
derance and damage of
his subjects: Sometimes
also by the negligence and
oversight of such princes,
and their sleight regard,
respecting onely their
own commodities, they
are

are so unadvisedly made, that they are more worthy to have the name of disorders, then of well ordered Laws: But statutes cannot thus passe in England, forsomuch as they are made not only by the Princes pleasure, but also by the assent of the whole Realm: so that of necessity they must procure the wealth of the people, and in no wise tend to their hinderance. And it cannot otherwise be thought but that they are replenished with much wit and wisdom, seeing they are ordained not by the device of one man alone, or of a hundred wise Councellores only, but of more then three hundred chosen men, much agreeing with the number of the ancient

tam inconsulte eduntur, quod corruptelarum nomina potius, quam legum, illa merentur. Sed non sic Angliæ statuta oriri possunt, dum nedum principis voluntate, sed & totius regni assensu, ipsa condantur, quo populi læsura illa efficere nequeunt, vel non eorum commodum procurare. Prudentia, etiam & sapientia necessario ipsa esse referta putandum est, dum non unius, aut centum solum consultorum virorum prudentia, sed plusquam trecentorum electorum hominum, quali numero olim *senatus Romanorum*, rege-

regebatur, ipsa edita sūt, ut hii qui parliamēti Angliæ formam, convocationis quoq; ejus ordinem & modum, noverunt, hæc distinctius referre norūt. Et si statuta hæc, tanta solemnitate & prudentia edita, efficacix tantæ, quantæ conditorum cupiebat intentio, non esse contingant: concito reformari ipsa possunt, & non sine cōmunitatis & procerum regni illi⁹ assensu, quali ipsa primitus emanarut: patēt igitur jam tibi, *princeps*, legum anglorum species omnes. Earum quoq; qualitates, ut si bona

Senatours of Rome: as they that know the fashion of the Parliament of England, and the order and manner of calling the same together, are able more distinctly to declare. And if it fortune these Statutes being devised with such great solemnity and witte, not to fall out so effectually, as the intent of the makers did wish: they may be quickly reformed, but not without the assent of the commons, and states of the Realm, by whose authority they were first devised: Thus most worthy Prince, you doe plainly understand all the kinds of the Lawes of England. And touching their qualities, as whether they be
good

good or no, you shall be able to measure that, as well by your own wit, as by comparing them with other laws: And when ye shall find none in the whole world of like excellencie, you must of force grant them to be not onely good, but also on your behalfe most to be embraced.

ipsæ sint, metiri tu poteris prudentia tua, comparatione etiam aliarum legum: & cum nullam tantæ præstantiæ in orbe reperies, eas nedum bonas, sed tibi optabilissimas fore, necessario confiteberis.

Chap. 19. Here he deviseth a means how to know the diversity, between the Civil Laws, and the Laws of England.

One only doubt, whether with your mind is troubled, remaineth now behind undiscussed. And that is this: whether as the civil laws, so likewise the laws of England, be fruitfull and effectual, these for the realm of England,

Solum jam unum de his, quibus agitatur animus tuus, restat explanandum, viz. an, ut Civiles, ita & Anglorum leges, frugi sint & efficaces, istæ Angliæ regno, ut illæ imperio,

rio, etiam & accom-
modæ judicare me-
reantur. *Comparati-
ones* vero, *Princeps*,
ut te aliquando dix-
isse recolo, *odiosa*
reputantur: quo e-
as aggredi non de-
lector: tu, an æqua-
lis sint ambæ leges
meriti, unave al-
tera celsius præcon-
ium mereatur, non
ex meo iudicio, sed
ex his, in quibus e-
arum differunt sen-
tentiæ, efficacius car-
pere poteris argu-
mentum. Nam ubi
conveniunt leges
ambæ, æqualis lau-
dis ipsæ sunt, sed in
casibus, ubi ipsæ
dissentiant, præstan-
tioris legis præcon-
ia, digna pensati-

as the other for the Em-
pire, and whether they
may worthily be judged
fittē and meet. Com-
parisons, most noble
Prince, (as I remem-
ber I heard you once
say) are compted odi-
ous. Wherefore I am
loth to meddle with
them: but whether they
be both of like worthi-
ness, or that the one de-
serveth an higher com-
mendation then the other,
hereof you may gather
a pithier argument, out
of those points, wherein
their sentences do differ,
then by my declaration.
For where both the
Laws do agree, the
praise of them is equal.
But in cases where they
disagree, the worthier
Law is most praise wor-
thy.

thy. Wherefore we will now propound some such cases, to the intent you may indifferently ponder and weigh, whether of these doth most justly and better define the same: And first, we will put forth examples of cases of much weight.

one resulgent. Quare casus hujusmodi aliquos in mediū proferemus, ut quæ legū illarumeos justius meliusque definiat, æqua lance valeas pōderare: & primo ex casibus maximi pōderis, exempla proponamus.

Chap. 20. *The first case wherein the Civil laws, and the Laws of England do differ.*

IF they that have a matter of controverſie depending befoze a Judge, come to the conteſtation of the ſuit upon the matter of the deed, which the Lawyers of England call the iſſue of the plea: the truth of ſuch an iſſue, by the civil Lawes, muſt be tryed by the depoſition

SI coram Iudice contēdentes, ad litis perveniāt conteſtationem ſuper materia facti, quam Legis Angliæ periti, *exitum placiti* appellant: Exitus hujusmodi veritas, per Leges Civiles, teſtium depoſitione
pro-

Probari debet, in qua duo testes idōei sufficiūt; Sed per leges anglīæ veritas illa, non, nisi 12. hominum de vicineto, ubi factum hujusmodi supponitur, sacramento, Judici constare poterit. Quæritur igitur, quis horum duorum processuum tam diverforum, rationabilior censi debeat & efficacior ad veritatem, quæ sic quæritur, revelandam: Quia lex, quæ eam certius meliusque ostēdere potest, præstantior in hoc est lege altera quæ non tantæ efficacīæ est & virtutis; quare in hujus rei indagine sic procedimus.

of witnesses whereto two allowable witnesses are sufficient. But by the Laws of England, the truth of the matter cannot appeare evident to the Judge, without the oathes of twelve men neighbours to the place, where such a deed is supposed to be done. Now therefore the question is, whether of these two so divers proceedings ought to be esteemed more reasonable and effectual for the opening of the truth, which thus is sought for. For the law, that can more certainly and better shew the truth is in this behalfe of more excellency, then the other that is of lesse efficacy and force, wherefore in the search of this matter thus we proceed.

Here

Chap. 21. Here are set forth the inconveniences proceeding of that Law, which no otherwise then by witnesses admitteth trials.

By the Civil lawes, the party which in the issue holdeth the affirmative, must bring forth witnesses, which he himselfe at his own pleasure shall name. But the negative cannot be proved directly, though indirectly it may. For the habilitie of him is thought to be very small and weake, and his wit much lesse, which among all the men that he knoweth, is not able to find two so bold of conscience and truth, which for dread, love, or profit, will not be ready to gainsay all truth. Such then may he produce for witnesses on his side.

Per leges Civiles, pars quæ in litis cōtestationē affirmativā dicit, testes producere debet, quos ipsemet ad libitum suū nominabit. Negativa autē probari nō potest, n. directe, licet possit per obliquū. Exilis quippe creditur esse potētia, minoris quoq; industriæ, qui de omnib⁹ quos noscit hominib⁹ duos reperire nequit, ita cōsciētia & veritate vacuos, ut timore, amore, vel cōmodo, omni velint cōtrarire veritati. Hos potest tunc ipse in testes producere in causa sua.

Et si contra eos pars altera dicere velit, vel contra eorū dicta, non semper continget, eos eorū quoque morēs aut facta apud contradicere volentē, agnosci, ut ex eorū fœditate & vitis, testes illi possint reprobari. Et dū eorū dicta affirmativā cōtineāt, nō facile poterūt illa per circūstātiās aut obliqua alia improbari: Quis tūc poterit suorū aut sui ipsius, sub lege tali, vivere securus, dū cuilibet, sibi inimicari volētī lex tale præstat subsidium? Et qui iniqui duo tam incauti sunt, quo facti, de quo ipsi examina-

And if the other party would object any thing against them, or their sayings, it chanceth not ever, that they and their cōditions & doings are known to the contrary party, so that by reason of their foul lives and vicious behaviour, such witnesses might be reprobed. And while their sayings containe the affirmatives, it shall be very hard to reprove them by circumstances, or any other indirect meanes: who then shall be able to live in surety of his goods or of himself under such a law, that ministreth such aid to every busy body that lusteth to trouble another? And what 2. wicked men are so unwary & uncircumspect, w^{ch} touching y^e deed, wherof they shall be

be examined in judgment, will not, before they are called forth for witnesses, secretly imagine & devise a form and fashion thereof, & frame thereunto all circumstances, even such, as must needs have bin so, if the thing had bin true indeed? For the children of this world (saith the Lord) are wiser then the children of light. So the most wicked *Jesabel* brought forth 2. witnesses of the children of *Belial* in judgement against *Nabot*, whereby he lost his life, & *King Achab* her husband obtained the possession of the vineyard. So the most chaste matron *Susanna* should have died for adultery by the witness of two old dotards being judges, if the Lord had not marvel-

buntur in initio, non, antequam in testes producatur, occulte fingant imaginem & figuram, componant quoque eidem omnes circumstantias, quales sibi fuissent, si illud in veritate constitisset? *Prudentiores namque ut dicit Dominus, sunt filii hujus mundi quam filii lucis.* Sic *Jesabel* sceleratissima, testes duos, filios *Belial* contra *Nabot* in judicio produxit, quo ipse vitam perdidit, & *Achab* rex ejus vineam possidebat. Sic duorum senum etiam Judicum testimonio, mortua fuisset pro adultério, uxor castissima

G

Susan-

Susanna, si non eam miraculose libera-
set dominus inexcogitabili prudentia,
quam a natura non habuit puer junior
nondum aetate pro-
vectus. Et si ipsos, de-
positione sua varia,
convicerat puer ille,
esse falsarios, quis,
nisi solus dominus,
novisse poterat eos
in dictis suis taliter
variaturus? dum, non
de arboris natura,
sub qua imputatum
facinus fiebat, lex a-
liqua eos ardebat
remitti. Quia te-
stes sceleris cujusque
considerare non puta-
tur omnia umbracu-
la & cetera vicina il-
li facti, quae ad ag-
gravationem vel de-

lously delibered her by a
wonderful feat of prudence,
which of nature the young
child had not, being yet
under age. And though the
same child by their alte-
ring and doubling in their
depositions did convict the
to be false wretches,
yet who (save onely the
Lord) could have known
that in their sayings
they would thus have
disagreed? Seeing there
was no Law that did
move them to have in
remembrance what kind
of tree it was, whereun-
der the fact was suppo-
sed to be done. For
the witnesses of every
wicked deed are not
thought to consider all cir-
cumstances appertaining
to the same, being such
as do nothing help to
the

the aggravation and detection of the fault. But while those wicked Judges, willingly swearing, did alter touching the kinds of trees, their own words proved them to be false varlets: Wherefore they worthily suffered the same punishment themselves.

You, also most gracious Prince, do know how that lately Master John Fringe, after that he had continued three years in the order of Priesthood, was compelled by the deposition of two wicked persons, which witnessed that he had, before he was made Priest, betrothed himself to a certain young woman, to forsake the holy order of Priesthood,

tectionē criminis illi⁹ minime operatur. Sed dum de arborū speciebus, iudices illi nequā ultro deponētes, variabant, eorum dicta ipsos veritatis fuisse pravaricatores demonstrabant: quo & talionis poenā merito incurrerunt. Nosti & tu, *Princeps divine*, qualiter jam tardē *Magister Iohannes Fringe*, qui, postquam annis tribus sacerdotali functus est officio, duorum iniquorum depositione qui eum antea juvenulam quandam affidasse testati sunt, sacrū presbyteratus ordinē relinquere cōpulsus est,

& matrimoniū cum
fæmina illa consum-
mare. Cu qua, post-
quam annis 14. mo-
ratus, sobolē septi-
mā suscitaverat, de-
mū de crimine læ-
sæ majestatis in tuā
celitudinem conju-
rato convictus, sub-
ornatos fuisse testes
illos, & falsū dixisse
testimonium, in
mortis suæ articulo,
coram omni popu-
lo, falsus est. Quali-
ter & sæpe perverti
judicia, falsorum tes-
tium medio, etiam
sub optimis judici-
bus, non est tibi in-
auditum, nec incog-
nitum mundo, dum
scelus illud (proh
dolor) creberrime
committatur.

and to marry the same
woman. With whom
when he had lived four-
teen years, and had begot-
ten seven children of her,
at the last being convi-
cted of Treason, conspired
against your Highness,
he confessed before all the
people, even at the very
point of death, that those
witnesses were hired,
and that their depositi-
ons were false. And thus
many times are judge-
ments perverted by the
mean of false witnesses,
yea, and that under the
very best Judges, as unto
you it is not unheard,
nor to the world un-
known, while this wick-
edness (the more is the
pity) is often commit-
ted.

¶ Chap. 22. Of the crueltie of Rackings.

Therefore the law of France, in offences criminal, wherupon death dependeth, is not content to convict the party accused by witnesses lest by the testimony of false persons, innocēt bloud should be condemned. But that law cholet rather to torment such offenders with racking, untill they themselves confess their own fault, rather then by the deposition of witnesses, which many times through wicked affecti- ons, & sometimes by the subornation of evil men, are moved to perjurie. Upon th's, and such like cautes and respects, offenders and suspect persons are in that realm with so many kinds of rackings

Non igitur cō- tenta est lex *Francie* in crimina- libus, ubi mors im- minet, rerū testibus convincere, ne falsi- dicorum testimonio saguis innocēs con- demnetur. Sed ma- valt lex illa reos ta- les *torturis* cruciari, quousq; ipsi eorum reatum cōfiteantur, quam testium depo- sitione, qui saepe pas- sionibus iniquis, & quandoq; suborna- tione malorum, ad perjuria stimulan- tur. Quali cautione & astutia, criminosi etiam & de crimi- nibus suspecti, tot *torturarum* in reg- no illo generibus

G 3 affligur-

affliguntur, quod fastidit calamus ea literis designare. Quidam vero equuleis extenduntur, quo eorum rumpuntur nervi, & venæ in sanguinis fluëta prorumpunt: Quorundam vero, diversorum ponderum pendulis dissolvuntur compagines & juncturæ: Et quorundam gaggantur ora, usque dum per illa, tot aquarum infundantur fluentia, ut ipsorum venter montis tumescat more, quo tunc venter ille, fossorio vel simili percussus instrumēto, per os aquam illa evomat, ad instar

tormented, that my pen abhorreth to put them in writing. For some are stretched out upon a horse in such wise, that their sinews break and their veins gush out with streams of blood: Again, other some have divers great weights hanged at their feet, whereby their lymmes and joynts are dissolved and unloosed: Some also have their mouthes so long gagged open till such a boundance of water be powored in, that their belly swelleth like a hill or a tun, to the intent that then the belly being pierced with some bozing instrument, the water may issue & spout out thereat, and at the mouth stream-wise, not much unlike a
Whale,

Whale, which when he hath supped up, and swallowed down a great quantity of Sea water, with herrings and other small fishes, guffeth out the same water again, as high as the top of any Pine apple tree. My pen is both weary and ashamed to rehearse the outrageousness of tortments devised in this behalf: For the number of them is so great, that it can skant well be noted in a whole skinne of parchment. Moreover the Civil Lawes, for want of witnesses, do fetch out the truth by such rackings: And so doe divers other Countreies too. But who is so hard hearted, which being once

Balenæ, quæ, cum halecibus & aliis pisciculis mare absorbuit, aquam despumat ad altitudinem arboris Pini. Piget (proh pudor) jam penna exquisitorum ad hæc cruciatuū enarrare immania. Nam eorum variatus numerus vix notari poterit magna in membrana. Leges etiam ipsæ Civiles, deficiente testium copia, in criminalibus, veritatem consimilibus extorquent tormentis: Qualiter & faciunt etiam quàm plurima Regna. Sed quis tam duri animi est, qui semel

ab atroci tanto tor-
culari laxatus, non
potius innocēs ille
omnia fateretur sce-
lerum genera, quā
acerbitatem sic ex-
perti iterum subire
tormenti, & non
semel mori mallet,
dum mors sit ulti-
mum terribilium,
quam toties occidi,
& totidem gehen-
nales furias morte
amariore sustinere?
Et nonne, *princeps*,
tu novisti crimino-
sum quendam qui
inter tormenta hu-
jusmodi, militem
nobilem, probum,
& fidelem de pro-
ditione quadam,
super qua, ut asse-
ruit, ipsi duo insi-
mul conjurarunt,

released out of so cruel a
Wack, though he be inno-
cent and faultless, would
not yet rather accuse him-
self of all kinds of of-
fences, then again to
commit himself to the in-
tolerable cruelty of the
torment once probed: and
had not rather die at once
(seeing death is the end
of all miseries) then so
often to be killed, and
to sustain so many hel-
lish furies painfuller
then death it self? And
did not you, most wor-
thy Prince, know a cer-
tain offender, which
in such torments ac-
cused a worshippingfull,
yea, a right good and
faithfull Knight of
Treason, wherein, as
he said, they two
had conspired together,
which

which treason, he himself being released from the rack, afterward attempted and accomplished thereby to acquit himself from coming to the torture again. But at the last, by mean of those torments being so maimed in his body, that thereby he was brought in despair of his life, and thereupon receiving his howsel, he then swore by the same body of the Lord, and by the death which he believed that he should forthwith die, that the said Knight was innocent and guiltless in all things whereof he had accused him, howbeit the pains, wherein he was at the time of that his accusation, he said, were so extreme, that rather then he

accusare, qd & constantiter postmodum ipse fecit, a torturis illis relaxatus, ne iterum eadē tormenta ipsa ipse subiret. Sed demum, cum ex pœnis illis læsus usq; ad mortis articulum infirmaretur, ultimū quoq; viaticum, christi videlicet corp⁹ sumpsisset: Jura- vit tunc super corpus illud, & per mortē, quā tūc protinus credidit se passurum, militem illū innocentē fuisse & immunem de omnibus in quibus eum accusavit: tamen ait pœnas, in quibus ipse tempore delationis suæ fuerat, ita atroces extitisse, qd prius-

priusquā eas iterū experiretur, etiā eūdem militē ille iterum accusaret, similiter & patrem proprium, licet tunc in mortis limine, quam non credidit se posse evadere, fuerit cōstitutus, nec vero, ipse mortem, quā tunc metuit, evasit. Sed demum suspensus, tempore mortis suae ipsum militem purgavit ab omni crimine, de quo dudum defamavit. Taliter, proh dolor, & quā plures alii misericordiant, non veritatis causa, sed solum urgentib⁹ torturis arc-tati: quid tunc certitudinis resultat, ex confessionibus tali-

would feel the same again, he would not stick to accuse the said Knight again, yea, and his own father too, This he said, being then at the very point of death, which he believed he could not then escape, no, nor he escaped not the death of which he then feared. But afterward being hanged, at the time of his death, he cleared the said Knight of all crimes whereof before he had defamed him. Thus (O pittifull case) doe many other wretches, not for the truths sake, but forced thereunto by the extremity of torments. And what certainty then can arise of the confessions of miserable tormented persons?

But

But if some innocent body, having his minde fixed upon eternal saluation, would in such a Babylonical Fornace, with the thre Childzen bless and magnifie the **L D R D**, and not lye to the damnation of his own soul, in that the Judge pronounceth him unguilty, doth not that Judge by the self-same judgement judge himself guilty of all the cruelty and pains, wherewith he hath torment-ed the innocent? **D** how cruell is such a Law, which in that it can not condemn the silly innocent, condemn-eth the Judge? Surely such a custome is not to be accounted a Law, but rather the high

ter compressorum? **C**æterum si innocēs aliquis non immemor salutis æternæ in hujusmodi Babylonis fornace, cum tribus pueris benedicat domino, nec mentiri velit in perniciem animæ suæ, quo judex eum pronunciat innocentē, nōne eodē judicio, Judex ille, seipsum reū judicat omnis savitiæ & pœnarum, quibus innocentem affixit? **O** quā crudelis est lex talis, quæ dum innocentem dampnare nequit, judicē ipsa cōdemnat? Vere non lex ritus talis esse perhibetur, sed potius semita ipsa est ad gehen-

gehennam. O iudex quibus in Scholis didicisti, te praesentem exhibere, dum poenas luit reus? Executiones quippe iudiciorum in criminosos, per ignobiles fieri convenit: Nam earum actores, infames solent esse ipso facto, quo & ipsi deinde ad iudicalem apicem redduntur indigni: non enim per angelos, sed per daemones exequi facit dominus iudicia sua reddita in damnatos. Nec revera in purgatorio cruciant animas, quavis praedestinatam ad gloriam angeli boni, sed mali. Maligni etiam homines sunt per

way to the Devil. O Judge, in what School hast thou learned to be present while the offender is tormented? For the executions of judgments upon offenders ought to be done by men of base degree: the doers whereof do purchase to themselves present infamy by the deed doing, insomuch that ever after they are disabled from the preferment of a judge: neither doth the Lord God execute his judgments, pronounced against the damned by angels, but by devils. Yea, and in Purgatory the souls there remaining, though they be predestinate to glory, yet are they not tormented with good angels, but of evil. Those also are evil and wicked men by whom

the

the Lord in this world doth minister to wretched sinners deserved punishment. For, when God said in the two and twentieth Chapter of the third book of Kings: Who shall deceive Achab? It was an evil spirit that answered: I will be a lying spirit in the mouth of all his prophets. For it becometh not a good spirit to take upon him the execution of such things, though this judgement proceeded from the Lord, that Achab should be deceived by a lie. But the Judge peradventure will say: I with mine own hands did nothing in these torments. But what differeth it, whether one be a doer with his own hands, or else be present

quos dominus in hoc mundo miseris tribuit malum poenae. Nam, cum dixerat Deus iij. Regum in Capitulo vicesimo secundo: *Quis decipiet mihi Achab?* malus erat spiritus, ille, qui respondit: *Ego ero spiritus mendax in ore omnium Prophetarum ejus.* Non enim decuit spiritum bonum exequi talia, licet a domino prodiit iudicium, quod *Achab* mendacio deciperetur. Sed dicet Iudex forsan: *Ego nihil egi manibus meis in cruciati- bus istis.* Sed quid refert propriis facere manibus, an
præ-

<p>præsentem esse, & quod factum est, mandato suo iterum atque iterum aggravare: Solum magister navis est qui eam ducit ad portum, licet ejus mandato alii agitent proram. Credo quod vulnus, quo sauciatur animus judicis pœnas hujusmodi infligentis, nunquam in cicatricem veniet, maxime dum recollit acerbitatem pœnarum misericordiam afflicti.</p>	<p>at the doing, and the thing that is done to exasperate it by his commandment. It is only the Master of the ship that bringeth it to the Haven, though by his commandment another be the steeresman, I believe that the wound wherewith the minde of the Judge thus tormenting any man is plagued, will never be healed again, especially while he remembreth the extremity of the pains sustained by the poore wretched in those miserable torments.</p>
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Chap. 23. Here he sheweth that the Civil Law oft faileth in doing of Justice.

<p>Praterea, si ex contractibus, il-</p>	<p>Moreover, if by reason of bargaining, or by suffice</p>
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suffering of injuries, or by Title of inheritance, right doe accrew to man, to plead in judgement: If there be no witnesses, or if such as were witnesses be dead, the Plaintiff must needs let his Action fall, except he be able to prove his right by inevitable conjectures, which is seldom seen. Wherefore concerning Lordships, and other possessions ruled by the Civil Law, And in all Actions falling under the same Law, the Actions of the Plaintiff, for want of witnesses, many times are choaked, so that scant the half part of them attaineth to the desired

latifve injuriis, vel hereditatis titulo, jus accreverit homini agendi in judicio: si testes non fuerint, vel, si qui fuerint, moriantur, succumbet ipse agens in causa sua, nisi jus suū probare valeat inevitabilibus conjecturis, qd facere crebro non contingit. Quare de dominiis, & aliis possessi- onib9 jure civili regulatis, similiter & in omnibus actionibus cadentibus sub eodē jure, actiones agentium pro defectu testium quàm pluries suffocantur, ita quod earum vix pars media optatum finem fortia- tur.

UPRB

tur. Qualis tunc est
lex huiusmodi, qua
injuratis taliter de-
ficit in iustitia red-
denda? dubio an
iusta vocari mereat-
tur, quia in eadem
lege scribitur quod
Iustitia unicuique tri-
buit quod suum est;
quod non faciat lex
talis.

end. What manner of
law then is this, which to
them that sustain wrong
thus falleth in yelding
Justice? I doubt whether
it deserbeth to be called a
just Law, because in the
same Law it is wozitten,
that Justice rendreth to
every man that which is
his own, But this can-
not such a Law do.

Chap. 24. *Here he declarèth, how Countiees are
divided, and Sheriffs chosen.*

EXposita jã for-
ma, qua leges
Civiles de veritate
facti in Judicio de-
ducti iudicem eru-
diunt, superest ut
modum, quo leges
Angliæ huiusmodi fa-
cti eliciunt veritatem,
etiam doceamus.

Now that we have o-
pened, after what
manner the Civill Lawes
do inform a Judge of the
truth of a matter brought
into judgement, it is
consequent to declare
by what means the Lawes
of England do boult out
the truth of such a matter.

For the orders of both the Laws being laid together, the qualities of them both will more plainly appear: for so much as the Philosopher saith, that contraries, placed one by another, will shew themselves more evidently. But herein, after the manner of Orators, in stead of a Proheme, it shall not be amisse, that we open certain things before, the knowledge whereof will give light to things which hereafter shall come in talke, wherefore thus we doe proceed. The Realm of England is divided into Counties, as the Realm of France is into Bayliwicks, so that in England there is no place

Nam ambarum legum formulis contiguae positae, qualitates carendum lucidius eminebunt: cum dicat Philosophus, quod *opposita juxta se posita magis apparent.* Sed in hoc, Oratorum more (Prohemii loco) quaedam praenarrare congruet, quorum agnitione, deinde tractanda clarius patere queant, quare sic procedimus. Regnum Angliae per Comitatus, ut regnum Franciae per Ballivatus, distinguitur, ita ut non sit locus in Anglia, qui non sit infra

H

corpus

corpus alicujus comitatus. Comitatus quoque dividuntur in *Hundreda*, quæ alicubi *Wapentagia* nuncupantur. *Hundreda* verò dividuntur per *Villas*, sub quarum appellatione continentur & *Burgi* atque *Civitates*. *Villarum* etenim meta, non muris, ædificiis, aut stratis terminantur, sed agrorum ambitibus, territoriis magnis, *Hamiletis* quibusdã & multis aliis, sicut aquarum, boscorum & vastorum terminis, quæ jam non expedit nominibus designare, quia vix in Anglia est locus aliquis,

that is not within the body of some County. Counties also are divided into Hundreds, which somewhere are called *Wapentages*. And *Hundreds* are divided into Villages, under which appellation are contained *Borrows*, and *Cities*. For the boundes of Villages are not contained within the circuit of *Walles*, *Buildings*, or *Streets*, but within the compass of *Fields*, great *Territories*, certaine *Hamlets*, and many other, as of *Waters*, *Woods*, and waste *Grounds*, which it is not needfull now to set forth by their names: because that in England there is skant any place, which

which is not contained within the compass of Villages, though certain privileged places within villages, are supposed to be no parcel of the same Villages. Moreover in every Countie there is one certain Officer called the Kings Sheriffe, which among other duties belonging to his Office, putteth in execution all the commandments and judgements of the kings courts, that are to be executed within his counties: His office endureth but for one year, so that after the expiration of the year, he may not minister in that Office, neither shall he, within two years next ensuing, be admitted to the same Office again,

qui non infra villarum ambitus contineatur, licet privilegiati loci quidam infra villas de eisdem villis pars esse non censentur. Præterea in quolibet comitatu est officarius quidam unus, *legis vicecomes* appellatus, qui inter cætera sui Officii ministeria omnium mandata & judicia curiarum regis in comitatu suo exequenda, exequitur, *cujus officium annale est*, quò ei post annum, in eodem ministrare non licet, *nec duobus* tunc sequentibus annis ad idem officium reassumetur. Officiarius

arius iste sic eligitur. Quolibet año in *crastino animarum*, conveniunt in scaccario regis omnes consiliarii ejus tam domini Spirituales & temporales, quam alii oēs justiciarii, omnes Barones de scaccario, Clericus rotulorum, & quidam alii officarii, ubi hii oēs communi assensu, nominant de quolibet comitatu tres milites vel armigeros, quos inter ceteros ejusdem comitatus ipsi opinantur melioris esse dispositionis & famæ, & ad officium vicecomitis comitatus illius melius dispositos: ex quibus Rex

This Officer is thus chosen. Every year, the morrow after All Souls day, all the Kings Counsellors meet together in the Kings Exchequer, as well the Lords Spiritual and Temporal, as all other Justices, all the Barons of the Exchequer, the Master of the Rolles, and certain other Officers, where all these with one common assent do name of every Countie three Knights or Esquires, whom among other of the same Countie they take to be of good disposition & fame, and best disposed to the Office of Sheriffe of that Countie: Of the which three the King cho-

chooseth one, whom, by his Letters Patents, he appointeth Sheriffe of the County, that he is chosen of, for the year then following: But he before he receive his Patent, shall swear upon the holy Gospel, among other Articles, that he shall well and faithfully and indifferently exercise and doe his office all that year, and that he shall receive or take nothing of any other man then the King, by colour or mean of his office.

These things being thus now presupposed, let us proceed to the search of those things that we seek for.

unum tantum eligit, quem per literas suas patentes constituit Vicecomitem comitatus, de quo eligitur pro anno tunc sequente: sed ipse, antequam literas illas recipiat, jurabit super sancta dei Evangelia, inter articulos alios, quod bene fideliter & indifferenter exercbit & faciet officium suum toto anno illo, neque aliquid recipiet colore aut causa officii sui, ab aliquo alio quam a rege.

His jam sic presuppositis, ad eorum, quae quærimus, indaginem procedamus.

Chap. 25. ¶ How Jurors must be chosen and sworn.

Quotiescunque
 contententes
 in curia regis Ang-
 liae, ad exitum placiti
 super materia facti
 devenerint, concito
 Justiciarii per breve
 Regis scribunt vice-
 comiti comitatus in
 quo factum illud fieri
 supponitur, quod ipse
 venire faciat coram
 eisdem Justiciariis,
 ad certum diem per eos
 limitatum, *duodecim
 probos & legales ho-
 mines*, de vicineto,
 ubi illud factum sup-
 ponitur: qui neutram
 partium sic placitatum
 ulla affinitate at-
 tingunt, ad recognos-
 cendum super eorum
 sacramenta, si factum
 illud factum fuerit, si-

As oft as suters in the
 courts of the King of
 England, are come to the
 issue of the Plea upon
 the matter of the fact,
 forthwith the Justices
 by vertue of the Kings
 writ, do write unto the
 Sheriff of the Countie,
 wherein the deed is sup-
 posed to be done, that he
 do cause to come before
 the same Justices at a
 certain day by them li-
 mitted, xii. good and law-
 full men, neighbours to
 the place where the fact
 is supposed to be done:
 the same to be such as be
 of no kin to either of the
 pleaders, to the end that
 by their oaths it may cer-
 tainly be known, whe-
 ther the deed were done
 as the one party affir-
 meth,

meth, or else as the other party denieth. Upon the day aforesaid, the Sheriff shall return the said writ befoze the same Justices, together with the pannel of their names which he hereunto hath summoned: When they are come, either party may refuse them, alleaging that the Sheriff hath made that pannel favourably for the other party, of persons not indifferent: Which exception, if it be found true by the oath of two men of the same pannel chosen thereupon by the Justices, that pannel shall immediately be quashed: and then the Justices shall write to the Coro-

cut una earūde partiū dicit: vel non, sicut altera pars negat. Quo adveniēte die, vicecōes returnabit breve prædict' corā eisdē Justiciariis, una cū pannello nominū eorum, quos ipse ad hoc sūmonuit, quas (si venerint) utraq; pars recusare poterit, dicēdo qd vicec' pannelū illud favorabiliter fecit pro parte altera, v. de persōis minus indifferētibus. Quæ exceptio, si cōperta fuerit vera per sacramētum duorum hominū de eodē pannello ad hoc per Justiciariū electorum mox pannelum illud quassabitur, & Justiciarii tunc scribent

H 4 Coro-

Coronatorib⁹ ejusdē
 cōitat⁹ qd ipsi novū
 faciāt panellum. Qd
 cū fecerint, si & illud
 cōsimiliter repertū
 fuerit viciatū, etiā &
 illud quassabitur: Et
 tūc Justic' eligēt *duos*
de clericis curia il-
lius, vel alios de ec-
dē comitatu, qui in
 præsentia curiæ per
 eorū sacramēta fa-
 ciēt indifferens pa-
 nellū, qd deinde per
 nullā partium illa-
 rum calumniabitur:
 Sed cum venerint sic
 impanellati in cu-
 ria, quælibet partiū
excipere potest cōtra
personam cujuscun-
q; eorum, sicut & po-
tēst in omni casu &
omni tēpere quo a-
liquis qualitercūque

roners of the same county,
 that they shall make a
 new panel. Which when
 they have done, if it be
 likewise found faulty, it
 shall also be quashed: And
 then the Justices shall e-
 lect and chuse two of the
 Clerks of the same court,
 or other of the same
 County, which in the
 presence of the Court up-
 on their Oaths shall make
 an indifferent pannel,
 which by neither of the
 parties shall be challen-
 ged: Notwith, when
 the men so impannel-
 led are come into the
 court, either of the par-
 ties may make excepti-
 ons against the person of
 any of them, as he
 may also do: in all cases
 and at all times, when
 any man by any means
 impa-

impannelled shall appear to be sworn in the court upon the truth of such an issue: saying, that the person impannelled is cousin or allied to the other party, or by any kind of amity so knit unto him that he is not indifferent to declare the truth betwixen them: and of these exceptions there are so many kinds and sorts, that they cannot be in few words rehearsed. Whereof if any one be found true, then shall not he be sworn, against whom the exception is proposed, but his name shall be cancelled in the pannel. So also shall be done of all the names of the persons impannelled until xii. of them so indifferent be sworn, that

impāellat⁹, cōparuerit in curiā sup veritate exit⁹ huiusmodi jurat⁹, dicendo, qd impanellatus ille est cōsaguineus, vel affinis parti alteri, vel amicitia quacunq; tali sibi cōiūct⁹, qd *indifferens ipse non est ostendere int⁹ eos veritatē, quarū exceptiōū tot sūt genera & species, qd nō licet eas brevi explicare sermone. Quarū si aliqua reperta fuerit vera, nō tūc jurabit ille cōtra quē exceptio illa proponitur, sed cancellabitur nomē ej⁹ in pannello. Sic quoq; fiet de omnib⁹ nominib⁹ impānellatorū, quousq; xij. eorum iurētur ita indifferentes,*
quod

qd versus eos neutra
 partiū habeat aliquā
 materiam calūpnia: :
 horū autē xij. ad mi-
 nus iij. erunt *de hun-*
dredo, ubi villa in qua
 factū de quo cōten-
 ditur, fieri suppōitur,
 sita est: & *quilibet ju-*
ratorum hujusmodi
habebit terras vel red-
ditus pro termino vite
sua, ad minus ad va-
lorem annuum xl. s.
 Et hic ordo observa-
 tur in omnib⁹ actiōi-
 b⁹ & causis crimina-
 lib⁹, realib⁹, & per-
 sōalib⁹ prāterquam
 ubi dāna vel debitū
 in persōalib⁹ nō ex-
 cedūt xl. marcas mo-
 netæ Anglicæ, quia
 tunc non requiritur,
 qd juratores in acti-
 onib⁹ hujusmodi tā-

neither party can have
 against them any matter
 of exception or challenge:
 Also of these xii. iiii. at the
 least shall be of the hun-
 dred, where the village
 standeth, wherein the fact
 whereupon the suit ri-
 seth, is supposed to be
 done: And every such
 Juror shall have lands or
 revenues for term of
 life, at the least, to the
 yearly value of xl. s. And
 this order is observed
 & kept in all actions and
 causes criminal, real,
 and personall, saving
 where the damages or
 debt in actions perso-
 nal, exceedeth not the
 sum of xl. marks of
 English money: For
 then it is not requisite,
 that Jurors in such ac-
 tions, shall be able to
 dispend

depend so much. Yet they shall have land or rents to a competent value after the discretion of the Justices, otherwise they shall not be sworn, lest for need and povertie, such Jurors might easily be corrupted and suborned. And if by such exceptions so many Jurors names be cancelled in the pannel, that there remaineth not a sufficient number to make thereof a Jury, then the Sheriff by the Kings Writ, shall be commanded to adjoyne more Jurors, which thing may often be done, so that for lack of Jurors, the inquisition of the truth upon such a plea shall not remain

tū expēdere possint. Habebunt tamē terrā vel redditū, ad valorē cōpetētem, juxta discretiōē justiciariorū, alioquin ipsi minime jurabūtur, ne p̄ inediā & paupertatē juratorū hujusmodi, de facili valeāt corrumpti aut subornari. Et si per tales exceptiōes, tot juratorū nomina in pannello cācellēt, qd nō remaneat numer⁹ sufficiens ad faciēdam inde juratā, tunc mādabitur vicecomiti per breve regis quod ipse apponat plures juratores, qd & sapi⁹ fieri potest, ita qd inquisitio veritatis super exitu placiti nō remanebit ob defectū juratorū.

Et

Et hæc est forma, qualiter juratores & veritatis hujusmodi inquisitores eligi debent in curia regis similiter & jurari: quare quomodo ipsi de veritate illa dicenda onerari debent & informari, jam restat ut quæramus.

¶ Chap. 26. How Jurors ought to be informed by Evidences and Witnesses.

Iuratis demum in forma prædicta xij probis & legalibus hominibus habentibus ultra mobilia sua possessiones, ut prædictum sufficientes, unde eorum statum ipsi continere poterunt, & nulli partium suspectis nec invidis, sed eisdem vicinis legitime in Anglico coram eis per curiam, totum recordum & processum placiti,

And this is the form, how jurors, and inquisitors of truth ought to be chosen in the kings court, and likewise to be sworn: Wherefore, how they must be charged and informed of the uttering of the same truth, this now resteth to be discussed.

The good & lawful men being at the last sworn in forme aforesaid, having beside their moveables, sufficient possessions as aforesaid is declared, whereby they may be able to maintain their own states, & being to neither party suspect or hated, but neighbours to the both, then shall be read before them in English by the Court, all the record

cord and proces of the plea depending between the parties, with a plain declaratiō of y^e issue of the plea, touching the truth whereof those swozn men shall certifie the Court: wch things being done, either party by him self or his Connselloz in the presence of the Court, shall utter and open to the said swozn men, all & singular matters and Evidences, whereby he thinketh he may best inform them of the truth of the issue so impleaded. And then may either party bzing befoze the same Justices and swozn men, all and singular such witnesses on his behalf, as he will produce. Who by the Justices being charged upon the holy Gospel of God, shall tel-

quod pendent inter partes ac dilucide exponetur eis exitus placiti, de cuj⁹ veritate jurati illi curiā certificabūt: quibus peractis, utraq; partiū per se vel cōsiliarios suos, in præsetia curiæ, referet & manifestabit eisdē juratis omnes & singulas *materias & evidenti- as*, quib⁹ eos docere se posse credit veritatē exit⁹ taliter placitati. Et tunc adducere potest utraq; pars corā eisdē justiciariis & juratis, omnes & singulos testes quos pro parte sua, ipsa producere velit, qui sup *sancta Dei Evangelia*, p^r Justiciarios onerati, testi-

testificabuntur omnia quæ cognoscunt *probantia veritatem facti*, de quo partes contendunt. Et si necessitas exegerit, dividatur testes hujusmodi, donec ipsi deposuerint quicquid velint, ita quod dictam unum, non docebit aut concitabit eorum alium ad consimiliter testificandum, Quibus consummatis postquam juratores illi deinde ad eorum libitum supra veritatem exitum hujusmodi, deliberatione, quantam ipsi optabunt, colloquium habuerint: *in custodia ministrorum curiae*, in loco eis ad hoc assignato, ne interim eos aliqui subornare valeant,

testify all things proving the truth of the fact, whereupon the parties contend. And if need so require, those witnesses shall be severed and divided, till they have deposited all that they will, so that the saying of one shall not move or provoke another to testify the like. The premises being done, then after that those Jurors have had talk at their pleasure, upon the truth of that issue with as much deliberation as themselves shall require, in the keeping of the Ministers of the Court, within a place to them for the same purpose assigned, to the intent that no man in the mean time may corrupt them, they shall return

return into the Court, and certifie the Justices upon the veritie of the issue sojoynd, in the presence of both the parties, (if they will be there) and specially of the Plaintiff. The report of which Jurors, by the lawes of England, is called a verdict, by the which word is meant a true report, or a report of the truth: And then according to the quality of that verdict the Justices shall frame and form their judgement. Notwithstanding, if the other party, against whom the verdict is given, complain, that he is thereby unjustly grieved, then the same party may sue a writ of attain against those Jurors, and against the party that hath prevailed

revenient illi in curiam, & certificabunt justiciarios super veritate exitus sic juncti, in praesentia partium (si interesse velint) & maxime petentis. Quorū juratorū dictum p̄ leges Angliæ, *verdictum* nuncupatur, & tunc secundū hujusmodi verdicti qualitatem, justiciarii reddēt & formabunt judicium suum. Tamē, si pars altera, cōtra quā verdictum hujusmodi prolatū est, cōqueratur se per illud injuste esse gravatū, persequi tūc potest pars illa, versus juratores illos, & versus partem quæ obtinuit, breve de attainctā.

Vir-

Virtute cuius, si cō-
 pertū fuerit per sa-
 cramentum *xxiiii.*
hominum, in forma
 prænōtata retorna-
 torū, electorū & ju-
 ratorum, qui multo
 maiora habebūt pa-
 trimonia, quam ju-
 ratores primi, quod
 iidē primi juratores
falsum fecerunt sa-
cramentum, corpora
 eorundē primorum
 juratorū prisonæ re-
 gis cōmittētur, bona
 eorū confiscabūtur,
 ac omnes possessio-
 nes eorundē *in ma-*
nus reges capientur,
 domus quoque eo-
 rum & ædificia pro-
 sternētur, bosci suc-
 cidentur, & prata a-
 rabuntur: ipsi eti-
 am juratores primi

By force of which Writt,
 if it shall be found by the
 oath of twenty and four
 men, in form afores-
 said returned, elect,
 and sworn, which shall
 be men of much grea-
 ter livings, then the
 first Jurors were, that
 the same first Jurors
 have made a false oath,
 then the bodies of the
 same first Jurors shall
 be committed to the
 Kings Prison, their
 goods shall be confis-
 cate, and all their pos-
 sessions shall be seized
 into the Kings hands,
 their Houses also and
 Buildings shall be ra-
 sed and throwne down,
 their Woodes felled,
 and their Meadowes
 grounds plowed. And
 also the same first Ju-
 rors

rozs shall for ever after be noted for infamed persons, and shall in no place be received to testify the truth: And the party, which in the former plea had the overtrow, shall be restozed to all things, which by occasion thereof he hath lost. Who then, though he regard not his soules health, yet for fear of so great punishment, and for shame of so great infamy, would not upon his oath declare the truth? And if one man peradventure have so little respect to his honour or estimation, yet some of so many Jurozs will not neglect their own good fame, nor will not thorough their own default, suffer themselves

ex tunc infames erunt, nec alicubi recipientur in testimonium veritatis: & pars, quæ succubuit in priori placito, restituetur ad omnia, quæ ipse perdidit occasione ejus. Quis tunc (etsi immemor salutis animæ suæ fuerit) non formidine tantæ pœnæ, & verecundia tantæ infamiæ, veritatem non diceret sic juratus? & si unus forsan tantus sui honoris prodigus esse non pepercerit, aliqui tamen juratorum tantorum famam suam non negligent, neq; bona & possessiones suas taliter distrahi patientur,

tur, propria culpa
 sua. Nonne jam, hic
 ordo revelandi veri-
 tatem, potior & effi-
 caciore est, quam est
 processus, qualem pa-
 riant Civiles leges?
 Non hic pereunt
 causæ aut jus ali-
 cujus, per mortem
 aut ob defectum te-
 stium, non hic pro-
 ducuntur testes ig-
 noti, conductitii,
 pauperes, vagi, in-
 constantes, aut quo-
 rum conditiones vel
 malitiæ ignorantur.
 Vicini sunt testes
 isti, de propriis vi-
 vere potentes, fama
 integræ, & opinio-
 nis illasæ, non per
 partem in curiam
 ducti, sed per officii-
 arium nobilem & in-

thus to be spoiled of their
 goods and possessions.
 Is not this order now for
 the boulting out of the
 truth better and more
 effectual, then the pro-
 cesse which the Civil
 laws doe procure? Here
 no cause, for no mans
 right quailleth through
 death or for want of wit-
 nesse: Here are not
 brought forth unknown
 witnesses, hired per-
 sons, poore men, vaga-
 bonds, unconstant people,
 or such, whose condition
 and naughtiness is un-
 known. These witness-
 ses are neighbours, able
 to live of their own, of
 good name and fame,
 of honest report, not
 brought into the Court
 by the party, but by a
 woorthfull and indif-
 ferent

ferent Officer chosen, and so compelled to come befoze the Judge. These know all, that the witnesses are able to depose, and they know also the constancy and unconstancy of the witnesses, and what report goeth upon them. And what will ye have moze? Doubtlesse, there is nothing, that may disclose the truth of any doubt falling in contention, which can in any wise be hid from such Jurors, so that it be possible for the same to come to mans knowledge.

differentē electi, & coram iudice venire compulsi. Isti omnia sciunt, quæ testes deponere norunt, & isti testium productorum agnoscunt constantias, incōstātiāsque; & famā. Quid ultra? verè nihil est, quod veritatē dubii, de quo cōtendi poterit, detegere valebit, quod juratoribus talibus latere quomodolibet potest aut ignorari, dummodo possibile sit, illud venire posse in agnitionem humanam.

¶ Chap. 27. *Here he sheweth, how causes criminal are determined in England.*

Sed quomodo in criminalibus leges Angliæ scrutantur veritatem etiã rimare pernecessariũ est, ut & in eis plenarie agnita ambarum legũ forma, quæ earũ efficacius latentem revelat veritatẽ certius agnoscamus. Si reus quispiam de *felonia aut prodicione in Anglia rettatus, crimen suum coram iudicibus dedicat*, mox vicecomes comitatus, ubi facinus illud commissum est, venire faciat coram eisdem iudicib9, viginti quatuor probos & legales homines de vicineto villæ, ubi illud factũ est, qui rettatum

But it is also necessary to discusse, how in matters criminall, the lawes of England doe fetch out the truth, that perfectly understanding the form of both the Lawes, we may the more certainly perceibe and know, whether of them both doth more effectually discover the hidden truth. If any man accused of felony or treason in England, doe at his arraignment before the same Judges deny the offence, forthwith the Sheriffe of the County, where the deed was done shall cause to come befoze the same Judges four and twenty good and lawfull men dwelling nigh to the village, where the fact was done, such men as

to the party accused be nothing allyed, and such as every of them hath an hundred shillings of Lands and Revenues, to certifie the Judges upon the truth of the crime. Which at their appearance the partte accused may challenge, in like sort as in actions real may be done, as afoze is described. And moreover the same party in favour of his life may challenge five and thirty men such as he most feareth: which upon his challenge shall be cancelled in the pannel: or shall be noted with such markes, that they shall not passe upon him: though he be not able to shew any cause of his ex-

illū nulla affinitate attingunt, & quorū quilibet C. s. habeat terræ & reddit⁹ ad certificadum Judic⁹ illos super criminis illi⁹ veritate. Quib⁹ cōparētib⁹, retratus ille eos *calumpniare* potest, eadē forma, qua in actionib⁹ realib⁹ fieri debere superi⁹ describitur, Et insup re⁹ ipse *in favor vite sue calūpnare potest 35. homines, quos ipse maxime formidat,* qui ad ej⁹ calūpniā cancellabuntur in pannello aut signis talib⁹ notabuntur, quod (ut verbis legis utar) illi super eum nō transibunt, licet ipse nullā causā assignare sciat ex-

ceptionis seu calumpniæ suæ. Quis tunc mori posset inique in Anglia *pro crimine*, cum tot iu-
vamina habere ille poterit ob favorem vitæ suæ, & non nisi vicini ejus, probi & fideles homines, vers⁹ quos ipse nullam habet materiam exceptionis, eum condemnare poterunt? *Mallem reversa viginti facinorosos mortem pietate evadere, quam justum unum injuste condemnari.* Nec tamen reum quæpiam sub hac forma, reat⁹ sui poenâ evadere posse suspicandum est, dum ejus vita & mores timori deinceps

ception and challenge. Who then can unjustly die in England for any criminall offence, seeing he may have so many helps for the favour of his life, and that none may condemne him but his neighbours, good and lawfull men, against whom he hath no matter of exception. Indeed I would rather wish twenty evil doers to escape death through pittie, then one man to be unjustly condemned. And yet it is not to be suspected, that any offendour can under this form, escape the punishment of his offence, forasmuch as his life and conversation shall be afterward a terrour to them that have thus

thus cleared him of the crime. In this kind of proceeding there is no cruelty or extremity used, neither can the innocent & unguilty person be hurt in his body or limmes: therefore he shall not stand in fear of the slander of his enemies, because he shall not be racked or tormented at their will and pleasure. Thus under this Law a man may passe his life with quietness and safety. Judge you therefore, most noble Prince, whether of these laws ye had rather chuse, if you should live a private life.

erunt eis, qui eū sic purgarūt a crimine. In hoc equidē processu, nihil est crudele, nihil inhumanum, nec lædi poterit innocens in corpore aut membris suis: Quare nec formidabit ille calūpniā inimicorum ejus, quia nō torquetur iste ad arbitriū ipsorū. Sub hac igitur lege vivere quietū & securū est. Judica ergo, *Princeps optime*, quæ legū harū tibi electissima foret, si tu privatā spirares vitam.

¶ Chap. 28. *The Prince grants the Laws of England to be more commadious for the Subjects, then the Civil Laws in the case now disputed.*

Cui Princeps, ar-
 duū ambigū-
 ve, Cancellarie, non
 cōspicio, qd moro-
 sum me titubantēve
 redderet in electio-
 ne rei, quā interro-
 gas. Nam quis non
 sub lege, qua securā
 ducere posset vitam,
 ducere potiūs elige-
 ret quā sub lege tali,
 sub qua inermem,
 indefensumq; se sē-
 per redderet savitiæ
 omnium inimico-
 rū ejus? Vere tutus
 quisquam esse non
 poterit in corpore
 aut in bonis, quem
 inimicus ejus (in
 omni causa) cōvin-
 cere poterit, testib⁹
 duobus etiam igno-
 ris, per ipsummet
 electis & productis.

Whereunto the
 Prince answer-
 ed and said: I see no
 hard or strange matter,
 good Chancellour, that
 should make me doubt-
 full or dangerous in the
 election and choise of the
 thing that ye aske.
 For who would not ra-
 ther chōse to live un-
 der the Law, where-
 under he might live in
 security, then under that
 Law, which would set
 him naked and succour-
 lesse against the cruelty
 of his enemies? Meri-
 ly, no man can be safe
 in body or goods, whom
 his aduersarie may con-
 vince in ebery cause,
 with two unknowen
 witnesses of his own
 choosing and bzinging
 forth.

And

And though a man be not compelled by their sayings to die, yet is he little relieved, that hath escaped death being strunk in all his sinews and limbs, and cast into a perpetual impotency of his body, and truly into such danger may the craft of a spitefull person bring any man that lieth under the Law, which here-while you speak of. But such mischief and inconvenience cannot be wrought by witnesses, that make their depositions in the presence of 12 credible men, neighbours to the deed, that is presently in question, and to the circumstances of the same: which also know the mannes and conditions of the same wit-

Et licet quis mortē, per dicta eorum, subire nō cogatur, parum tamē relevatur ipse qui mortem evasit, contractione nervorū, & mēbro-rum suorū, atq; corporis ejus lāguore perpetuo. Tali revera discrimini impellere potest inimica astutia omnē hominē qui sub lege degit, quā tu jam dudum explicasti, Sed tale malū operari nequeunt testes, qui depositiones suas faciūt, in præsētia duodecim fide dignorū virorū, facto vicinorum, de quo agitur, & circumstantis ejus: qui & noscunt eorundē testi-

um

um mores, maxime si vicini ipsi fuerint, noscunt etiam, & si ipsi sint credulitate digni. Omnes etiam duodecim tales latere omnino non poterit, quicquid actum est, per, aut inter vicinos eorum. Nosco namque ego certius, quæ jam aguntur hic in Barro, ubi sum modo conversatus quam quæ in Anglia fiunt. Nec effugere posse puto notitiam probi viri ea, quæ aguntur, licet quodammodo occulte, prope domicilium ejus. Sed tamen cur prædicta lex Angliæ quæ tam frugi & optabilis est

nesses, especially if they be nigh dwellers, and know also whether they be men worthy to be credited or no. And further all those twelue cannot be ignorant in those things, that were done by and among their neighbours. For I know more certainly the things that are done here in Berry, where I am now remaining, then those things that are done in England. Neither doe I think, that things can be kept from the knowledje of a good and honest man, being done nigh to his house, and almost under his nose, be they never so secretly done. But yet I marvel much, why the foresaid law of England,

which

which is so good and com-
modious, is not common
to all the whole world.

non est toti mundo
communis, vehementer
admiror.

¶ Chap. 29. *Why Inquests are not made by Jurors of xii. men in other Realms, as well as in England.*

Your highness went
very young out of
England (quoth the
Chancellor) so that the
disposition and qualitie
of that land is unknown
unto you. Which if
ye know, and should
compare therewith the
commodities and qua-
lities of other Coun-
tries, you would nothing
marvaile at these things,
which now doe trouble
your mind. Indeed
England is so fertile and
fruitfull, that compa-
ring quantity to quantity,

CAncellarius :
Juvenis neces-
siti (Princeps) ab
Anglia, quo tibi ig-
nota est dispositio,
& qualitas terræ il-
lius, quas si agno-
veris, & cæterarum
regionum emolu-
menta qualitatesq;
eisdem comparave-
ris, non admirare-
ris ea, quibus jam a-
gitatur animus tuus.
Anglia sane tam
fertilis est, quod
quantitate ad quã-
titatem comparata,
ipsa

ipsa ceteras omnes
 quasi regiones ex-
 superat *abertate fru-*
ctuum, etiam suū ul-
 tro ipsa profert, vix
 industria hominis
 concitata. Nā *agri*
ejus, campi, saltus, &
nemora, tāta fecun-
 ditate germina e-
 bulliunt, ut inculta
 illa, sæpe plus com-
 modi afferant pos-
 sessorib⁹ suis, quam
 arata, licet fertilissi-
 ma ipsa sint *segi-*
tum, & bladorum.
 Includuntur quoq;
 in terra illa *pastura-*
rum arua, fossatis,
& sepibus, desuper
arboribus plantatis,
 quibus maniantur
 à procellis & æstu
 foli eorum gre-
 ges & *armena,*

it surmounteth all other
 Lands in fruitfulness.
 Yea, it bringeth forth
 fruit of it self, scant pro-
 voked by mans industry
 and labour. For there
 the Lands, the Fields,
 the Groves, and the
 Woods, do so abundantly
 spring, that the same
 untilled doe commonly
 yield to their owners
 more profit then tilled,
 though else they be most
 fruitfull of Corn and
 Grain. There also are
 Fields of pasture in-
 closed with Hedges
 and Ditches, with Trees
 planted and growing up-
 on the same, which are
 a defence to their herds
 of Sheep and Cattle,
 against frozns and
 heat of the Sun,
 And

And the pastures are commonly watered, so that Cattel shut and closed therein, have no need of keeping, neither by day, nor by night. For there be no Wolves, nor Bears, nor Lyons, Wherefore their Sheep lye night by night in the fields unkept within their folds, wherewith their Land is manured. By the means whereof, the men of that Country are scant troubled with any painfull labour, Wherefore they live more spiritually, as did the ancient Fathers, which did rather choose to keep and feed Cattel, then to disturb the quietness of the mind with care of Husbandry.

ipsæque pasturæ ut plurimum irriguæ sunt quo infra earū claustra reclusa animalia, custodia non egent, per diem, nec per noctem. Nam ibi lupi nō sunt, ursi, nec Leones, quare de nocte oves eorū incustoditæ in campis recumbunt, in caulis, & ovilibus, quibus impinguntur terræ eorum, Unde homines patriæ illius, vix operis sudore gravantur, quare spiritu ipsi magis vivunt, ut fecerunt patres antiqui, qui pascere malebāt greges quam animi quietē agriculturæ sollicitudine turbare.

Ex

Ex quib⁹, homines regionis istius apti magis redduntur & dispositi ad discernendū in causis, quæ magni sunt examinis, quam sunt viri, qui telluris operib⁹ inhabitantes, ex ruris familiaritate mentis cōtrahunt ruditatem. Regio etiam illa, ita respersa, refertaq; est *possessoribus terrarum* & agrorum, quod in ea, villula tā parva reperiri non poterit, in qua non est *miles, armiger*, vel pater familias, qualis ibidē *Franklains* vulgariter nuncupatur, magnis ditatus possessionibus, necnon libere tenentes alii,

And hereof it cometh, that men of this Countrey are moze apt and fit to discern in doubtfull causes of great examination and trial, then are men wholly given to moiling in the ground: in whom that rurall exercisz engendzeth rudeness of wit and mind. Mozeover the same Countrey is so filled and replenished with Landed men, that therein so small a thorp cannot be found, wherein dwelleth not a Knight, an Esquire, or such a Householder, as is there commonly called a franklaine, enriched with great possessions. And also other Freeholders,

and

and many Yeomen able for their livelyhoods to make a Jury in form afozementioned. For there be in that Land divers Yeomen, which are able to dispend by the year abobe a hundzed pounds, Wherefoze the Juries afoze declared, are there very oft made, specially in great matters, of Knights, Esquires, and others, whose possessions in the whole amounteth yearly abobe the sum of five hundzed marks.

Wherefoze it cannot be thought, that such men can be suborned, or that they will be perjured, not onely for that they have befoze their eyes the fear of God, but also, for that they

& *Valecti* plurimi, suis patrimoniiis sufficientes, ad faciendum jurata in forma prenotata. Sunt namque valecti diversi in regione illa, qui plusquam sexcenta scuta per annum expendere possunt, quo *jurata* superius descripta, sapissime in regione illa fiunt, praesertim in ingentibus causis, de militibus, armigeris & aliis, quorum possessiones in universo excedunt duo millia scutorum per annu. Quare cogitari nequit, tales subornari posse, vel perjurari velle, nedum ob timore Dei, sed & ob ho-

honorē suum conservandum & vituperium, damnum quoque inde consequutivū evitandum, etiam, ne eorum hæredes ipsorum lædantur infamia. Taliter, *fili regis*, disposita, inhabitaque non sunt aliqua alia mundi regna.

Nā licet in eis sint viri magnæ potentia, magnarum opum & possessionum, non tamen eorum unus prope moratur ad alterum, ut in Anglia tanti morantur viri, nec tanta, ut ibi, hæreditorum est copia & possidentium terras.

habe a carefull regard to the preservation of their Honours, and to the eschewing of reproach, and damage, thereupon ensuing, and also that their heires be not impeached thorough their infamie. After this manner, O mighty Prince, are none other Realms of the world disposed and inhabited.

For though there be in them men of great power, of great riches, and possessions, yet they dwell not one nigh to another, as such great men doe in England, neither so many inheritours and possessors of Land are elsewhere, as in England.

For

For in a whole town or
any other Country, it
is hard to find one
man, which for his
libelihood is able to be
received into a Jurie.
For there, except it be
in Cities, and walled
Townes, very few
there be, beside spo-
ble men, that have any
possessions of Lands or
other Immoveables. The
Noble men also have
there small stozes of pa-
sture, And to labour in
vineyards, or to put their
hands to the plough,
that is unfit for their
estate and degree, And
yet in Vineyards, and
arable ground, consi-
steth the substance of
their possessions, saving
onely a few fields next
adjoining to great ri-

Vix enim in villata
una regionum aliarum
reperiri poterit vir
un⁹ patrimonio suf-
ficiens, ut in juratis
ipse ponatur. Nam
rarò ibidem aliqui
præter nobiles repe-
riuntur, possessores
agrorum, aliorumve
immobilium, extra
civitates & muratas
villas. Nobiles que
ibidem pastu-
rarum copiam non
habent, & vineas co-
lere, aut aratro ma-
nus apponere sta-
tui eorum non con-
venit, tamen in vi-
neis & terris arabi-
libus consistit substā-
tia possessionum eo-
rum, *exceptis* solum
pratis quibusdā, ad-
iacētibus *magnis ri-*

pariis, & exceptis boscis, quorum pasturae communes sunt tenentibus, & vicinis suis. Quomodo tunc in regionibus talibus jurata fieri poterit, ex duodecim probis hominibus de vicineto, ubi factum aliquod in iudicio deducitur, cum vicini dici non poterunt, qui tanta distantia distinguuntur? Vere remotos multum a facto duodecim juratos ibidem esse oportebit, postquam reus in regionibus illis, triginta quinque (sine assignata causa) de propinquantibus calumniaverit: quare aut

vers, and saving also certain Woodes, the pastures whereof are common to their tenants and neighbours. How then can a Jury be made in such Countries of twelve substantial men, nigh adjoining to the place of any deed brought in judgement, seeing they cannot be called neighbours that dwell so far asunder. Truly twelve sworn men, there, must needs be far distant from the place of the deed, when the defendant in those Countries hath challenged thirty five men of the next dwellers, without shewing any cause why: Wherefore, in those lands a Jury must

must be made, either of such, as dwell far off from the place of the deed that is in controversy, and therefore cannot attaine to the knowledge of the truth thereof, or else it must be made of poore men, that be not ashamed of infamy, neither doze fear the losse of their goods, which they have not. They also blinded with rustical and brute rudenessse, are not able to behold the clear brightness of the truth.

Harbelle not therefore most worthy Prince, if the Law, whereby the truth is sifted out in England, be not frequented and used in other nations. For they are not able to make sufficient and

de multum remotis a facto, de quo contenditur, qui veritatem facti non agnoscunt, in regnis illis oportebit facere juratam, aut de pauperibus, quibus non est verecundia infamiae, nec timor jacturae bonorum suorum, cum ipsa non sint, ipsi etiam rusticitatis ruditate obcaecati, veritatis claritatem nequeunt intueri.

Non igitur mireris, *Princeps*, si Lex, qua in Anglia veritas inquiritur, alias non pervagetur nationes, ipsae namque, ut Anglia, facere neque-

unt sufficientes cō- like Juries, as he made
similésque juratas. in England.

¶ Chap. 30. Here the Prince commendeth
the Laws of England, of their pro-
ceeding by Juries.

Tunc Princeps,
Comparationes
odiosas esse licet
dixerimus, lex ta-
men Civilis, in
compartaione per
te facta, omni se
purgabit à crimi-
ne: quia, licet ei
Legem Angliæ tu
prætuleris, odium
inde ipsa non me-
retur, dum neque
eam, neque cōdito-
resejus increpasti:
sed solum patriam,

Though we have said,
(quoth y^e Prince) that
comparisons are odious,
yet the Civill Law in
the comparison by you
made, hath cleared it self
from all blame: For,
though you have proved
the Law of England to
be of more excellency
then it, yet it deserbeth
not thereby to be odi-
ous, for so much as you
have blamed neither it,
nor the makers thereof:
But have shewed the
conn-

countrie, where it ruleth, to be the onely cause, why it doth not, in matters of doubt trie out the truth with so commendable a kinde of proceeding as the Law of England doth. But as touching that the Law of England, in the case by you now discussed, is moze fit and meet for that realm, then the Civil law, hereof we may not doubt: Wherefoze, we are not desirous to change it for the civil law: Howbeit this pzeeminence of the Law of England, proceedeth not of the fault of the other, for it is onely the fertility of England, that hath caused it to be such as it is.

ubi illa regit, causam esse demonstrasti, quod non tam optabili processu, ut lex Angliæ, ipsa in dubiis elicit veritatē. Legem vero Angliæ, in casu jam per te disputato, ac cōmodatiorem esse regno illi, quam est lex Civilis, ambigere non finimur, quo, eam pro Civili commutare non appetimus: Sed tamen hæc Legis Angliæ præ-eminentia, ab alterius crimine non evenit, solum enim eam, Angliæ fertilitas sic causavit.

¶ Chap. 31. *The Prince doubteth, whether this proceeding by a Jury, be repugnant to Gods law, or not.*

SEd, licet non in-
 simè, Cancellarie, nos delectet forma, qua leges Angliæ in contentio-
 nibus revelant veritatem, tamen, an
 modus ille sacræ repugnet scripturæ,
 vel non, paululum agitatur: Ait nam-
 que Dominus Pharisæis, Johan. viii.
*In lege vestra scriptum est, quia duorum
 hominum testimonium verum est,
 & huic applaudens*

BUt, though we be
 greatly delighted in y^e
 form, which the Lawes
 of England use in sift-
 ing out the truth in
 matters of contention,
 yet whether the same
 lawe be contrary to holy
 Scripture or not, that
 is to us somewhat doubt-
 full: For our LORD
 saith to the Pharisees,
 in the eight chapter of
 Saint Johns Gospel:
 In your Law it is writ-
 ten, that the testimo-
 ny of two men is true:
 And the LORD confir-
 ming

ming the same sayth :
I am one that beare wit-
ness of my selfe, and
the Father that sent me,
beareth witness of me.
Now Sir, the Pharisees were Jewes, so that
it was all one to say : It
is wozitten in your Law,
and it is wozitten in Moyses
Law, which God
gave to the children of
Israel by Moyses.

Wherefoze to gainsay
this Law, is to dente
Gods Law : Where-
by it followeth, that if
the Law of England
swerbe from this Law,
it swerbeth also from
Gods Law, which in no
wise may be contraried.
It is wozitten also in the
eighteenth Chapter of
Saint Mattheos gospel,

*Dominus inquit :
Ego sum, qui testi-
monium perhibeo de
me ipso, & testimoni-
um perhibet de me,
qui misit me, pater.
Pharisæi quippe Ju-
dæi erant, unde idem
erat dicere, in lege
vestra scriptum est,
& in lege Moysaica
(quæ à Domino,
per Moysen filiis
Israel, prolata fuit)
scriptum est. Qua-
re huic legi con-
traire, legi est divi-
næ refragare, quo se-
quitur, qd lex An-
glia, si ab hac lege
discedat, a lege di-
vina, cui reluctari
non licet, ipsa dis-
cedit. Scribitur eti-
am Matth. xviii.
K 4 quod*

Quod dominus (loquens de correctione fraterna) inter alia sic ait: *Si autem non te audierit frater tuus, adhibe tecum adhuc unum aut duos, ut in ore duorum vel trium, stet omne verbum.* Si in ore duorum vel trium, Dominus omne verbum statuerit, frustra plurium hominum queritur in dubiis veredictum. Nemo enim potest, melius, aut aliud fundamentum ponere, quam posuit dominus.

Hæc sunt, Cancellariæ, quæ me, de

Where the Lord, speaking of brotherly admonition, among other things sayeth thus: But if thy brother hear thee not, then take yet with thee one or two, that, in the mouth of two or three witnesses, every matter may be established. If the Lord have appointed every matter to be established in the mouth of two or three witnesses, then it is in vain for to seek for the verdict of many men in matters of doubt. For no man is able to lay any other or better foundation then the Lord hath laid.

These are the doubts, good Chauncellour, which, touching the
pro:

proceeding of the law of England in the trial of matters, doe somewhat trouble me. Wherefoze, what answer may hereunto be made, I would gladly learn of you.

legis Angliæ processu in probationibus, aliquantulum conturbant. Quare, quid his respondendum est, à te doceri depono.

Chap. 32. Here is shewed, that the proceeding by a Jurie, is not repugnant to the Law of God.

The Lawes of England quoth the Chancelor, are nothing at all repugnāt to these things that trouble you, most worthy Prince, though they in matters of doubt do somewhat othertwise boult out the truth. The law of the general Councel, wherein it is provided that Cardinals shall not be convicted of criminal offences, othertwise then by the deposition

Cancellari⁹: Nō his, quibus turbaris, Princeps, contrariātur leges Angliæ, licet aliter quodammodo ipsæ in dubiis eliciant veritatē. Quid duorum hominum testimonio obest lex illa generalis Concilii, qua cavetur, ut non nisi duodecim testium depositione
Car-

cardinales de criminibus convincantur? Si verum est duorum testimonium, a fortiori, testimonium duodecim verum iudicari debet, dicente juris regala: Plus, semper in se continet, quod est minus. Supererogationis meritum promittebatur stabulario, si plus quam duos, quos recepit, denarios, ipse in vulnerati curatione erogasset. Nonne plusquam duos aut tres testes prodicere oportebit quempiam, qui absentem se fuisse probare nititur, tempore criminis sibi impositi, quod per duos aut tres testes

of twelve witnesses, is it any hindrance to the testimonie of two men? If the testimonie of two men be true, of more force must the testimonie of twelve men be judged true, according to a rule of the Law that saith: The more, ever containeth in it, that which is lesse. The Inholder was promised to be rewarded with an over-plus, if he bestowed upon the cure of the wounded man, more then the two pence, which he receiv'd. A man that laboureth to prove, that he was absent at the time of the offence, wherewith he is charged, shall it not be needfull for him to bring forth more then

two

two or thre witnesses, when his adversary hath proved, or is ready to prove the same, by two or thre witnesses? And so he, that travelleth to convince witnesses of perjury, must of necessity bring forth many more then they were, so that the testimony of two or thre men shall not ever be judged true: But that Law must thus be understood, that by a lesser number of witnesses then two, the truth, in matters doubtfull, ought not to be searched for, as appeareth by Bernard assignning divers cases, wherein by the Lawes more then thre witnesses must needs be produced: As in some of them five, and in

adversarij eius probavit, vel probare paratus est? Sic & qui testes de perjurio convincere satagit, multo illis plures, producere necesse habet, quo non sepe ii. vel iii. hominum testimonium verum esse judicabitur: sed intelligenda est lex illa, quod *minore testium numero quamvis veritas in dubio non debet exquiri*, ut patet per *Bernardum* extra de testi. ca. licet in glossa ordinaria, ubi ipse assignat diversos casus, in quibus per leges, plures quam tres oportet producere testes, Viz. in aliquibus eorum v. &

& in aliquib⁹ septē :
 per duos etiā testes
 veritatē probari
 posse, cū non aliter
 ipsa pateret, utiq; le-
 ges Angliæ affirmāt.
 Nam si *qua supra al-
 tum mare* extra cor-
 p⁹ cujuslibet comi-
 tatus regni illius fi-
 ant, quæ postmodū
 in placito *coram Ad-
 mirallo* Angliæ de-
 ducantur, per testes
 illa juxta legū An-
 gliæ sãctiones pro-
 bari debent. Consi-
 militer quoq; corā
 cōstabulario & ma-
 riscallo Angliæ fie-
 ri solitū est de facto,
 qd in regno alio a-
 ctum est, dūmodo
 ad jurisdictionē *curiæ
 Constabularii* cog-
 nitio ejus pertineat.

and in some seven. For
 yet the Lawes of Eng-
 land be not against it,
 but that the truth may
 be proved by two wit-
 nesses, when it cannot
 otherwise be tried. For
 if things be done up-
 on the Sea without the
 body of any County of
 that Realme, which af-
 terward be brought
 in plea before the Lord
 Admiral, the same things
 by the Decrees of the
 Lawes of England must
 be proved by witnesses.
 In like manner it hath bin
 accustomed to be donz
 befoze the Constable and
 Marshall of England,
 touching a fact that was
 done in another Realme,
 so that the hearing there-
 of appertaineth to the
 Constables court.

More:

Moreover, in the Courts of certain Liberties in England, where matters proceed by Law Merchants contracts or bargains, made among Merchants in another realm, are proved by witnesses. And this cometh to pass, because that in these cases there be no neighbours found, by whose oaths, Juries of twelve men may be made, as in contracts, and other cases, arising within the realm of England is accustomed to be done. Likewise if a deed, wherein witnesses are named, be brought into the Kings Court, then process shall be made against those witnesses: and they together with twelve Jurors

Etiam & in curiis quarundam libertatum in Anglia, ubi per *legem Mercatoriam* proceditur, probant per testes, contractus inter mercatores extra regnum factos. Quia in casibus his non reperiuntur vicini, per quorum sacramenta, jurata ex duodecim hominibus fieri possunt, prout de contractibus & aliis casibus, infra regnum Angliæ emergentibus, est fieri consuetum. Similiter, si carta, in qua testes nominantur, deducatur in curia Regis, processus tunc fiet erga testes illos, ipsi quo-

quoq; recognoscēt
 final cū xii. jurato-
 rib⁹ per eorū sacra-
 mēta utrū carta illa
 sit factum ejus, cuj⁹
 supponitur, an non.
 Quare, legē, qua te-
 stib⁹ veritas extor-
 quetur, lex Angliæ
 nō condēnat, maxi-
 me cum *necessitas*
 id deposcat: quia &
 sic faciūt ipsæ leges
 Angliæ nedū in ca-
 sibus jã notatis, sed
 etiã in quibusdã ca-
 sibus aliis, quos nō
 expedit hic notare.
 Sed per testes solū
 lex ipsa nunquã litē
 dirimit, quæ per ju-
 ratam xii. hominū
 decidi poterit, cum
 sit modus iste ad
 veritatem eliciendã
 multo potior &

shall by their oaths re-
 cognise, whether the
 same be his deed or no,
 whose it is supposed to
 be. Wherefore the
 Law of England re-
 probeth not the Law,
 which by witnesses try-
 eth out the truth, spect-
 ally when necessity so re-
 quireth: For so doe the
 Lawes of England too,
 not onely in the cases
 now mentioned, but also
 in certain other cases,
 whereof here to make re-
 hearsal it shall not be ma-
 terial. Notobert this
 Law neber determineth
 a controverisie by witnes-
 ses onely, that may be de-
 termined by a Jury of xii.
 men: forsomuch as this
 way is much more a-
 vailable and effectual
 for the tryall of the truth
 then

then is the forme of any other Lawes of the world, and further from the danger of corruption and subornation. For this forme of proceeding cannot in any cause faile for want of witnessess, nor the testimonies of witnessess (if any be) cannot choose but come to their due end and effect: Forther can such twelbe men be forsworne, but that for their offence they must suffer most sharpe punishment, and nevertheless the party, by there depositions grieved, shall obtaine due remedy: And these things shall not be done by the will and sayings of strange or unknown

efficacior, quam est forma aliquarū aliarum legum orbis, & remotior a corruptionis & subornationis periculo. Nec potest hæc procedendi forma in causa aliqua, ob defectū testiū deperire, neq; testium (si qui fuerint) attestatio, effectū debitum non sortiri, nec perjurari possunt duodecim homines huiusmodi, quin pro eorum crimine, ipsi acerbissime puniātur, & nihilomin⁹ pars, per eorū depositionē gravata, remediū debitū cōsequetur: ac, non fient hæc per extraneorum aut igno-

torum

torū hominū arbitriū aut dictamē, sed per proborū, nobilium & fide dignorū, vicinorū partib⁹, sacramētū, quib⁹ partes illæ nullā habēt causam calumpniæ aut diffidentia de eorum dicto. O quā horrendum & detestabile discrimē sæpe accidit, ex forma per depositionē testium procedendi! Nonne, si quis clandestinū contrahat matrimoniū, & postea corā testib⁹ mulierē aliā ipse affida-verit, cū eadem consummare matrimonium arctabitur in *foro contentioso*, & postea in *pœnitentiali foro* iudicabitur ipse

men, but by the oaths of good, of worshipful, and of credible men, neighbours to the parties, in whom the same parties have no cause of challenge or mistrust, touching their Verdict. How horrible and detestable dangers happen many times through the form of proceeding by witnesses! If a man make a private contract of matrimony, and afterward before witnesses do betwixt or assure himself to another woman, shall he not in the contentious court be compelled to marry her, and also after that in the Penitential court, be judged to lie with the first, if he be duely required, and to do penance, as oft as by
his

his own motion and procurement he lyeth with the second, though in both Courtes the Judge be one and the self same man. In this case, as it is wozitten in Job, are not the sinewes of Leviathan perplexed and intricate? Fie for shame they are intricate indeed: For, this man can carnally company with neither of these two women, nor with any other, without punishment either by the contentious Court, or by the Penitentiall Court. Such a mischief, Inconvenience, or danger, can never happen in any case by the way of proceeding by the Law of England, no not though Leviathan himself would labour to

cōcumbere cum prima, si debite requiratur, & pœnitere debet quoties ex actione propria concubuerit cū secūda, licet in utroq; foro iudex fuerit homo unus & idē. Nonne in hoc casu, ut in *Iob* scribitur, *perplexi sunt testiculi Leviathan?* Proh pudor, vere pplexi sūt, nā, cum neutra mulierū harū, neq; cum alia, contrahens iste, extunc concumbet sine animadversione in foro contendentium aut pœnitentium: quale malum, inconueniens, aut discrimen per modum & formā processus legis Angliæ

L

im-

impossibile est in casu aliquo evenire, etiã si *Levithian* ipse ea generare nitatur. Nõne vides jã, princeps clarissime, leges Angliã tanto magis clarescere, quanto eisdem tu amplius reluctaris? procure the same. Doe ye not now see, most noble Prince, that the more you object against the Lawes of England, the more worthy they appear?

¶ Chap. 33. Wherefore, certaine Kings of England have had no delight in their own Laws.

Princes, video, inquit, & eas inter totius orbis jura (in casu, quo tu jam sudasti) præfulgere confidero, tamen progenitorum meorum Angliã regum quosdam audivimus, in legibus suis minime delectatos, **I** see plainly, quoth the Prince, that in the case, wherein you have now travailed, they have the præeminence above all other Lawes of the world, yet we have heard, that some of my progenitors, Kings of England, have not bin pleased with their own Lawes, and have therefore gone about to bring

bring in the Civil laws
to the government of
England, and to abolish
their own Country
Laws. For what pur-
pose and intent they so
did, I much marvell.

*fatagentes proinde,
leges civiles ad An-
glia regimen induce-
re, & patrias leges
repudiare fuisse co-
natos: horum reve-
ra consilium vehe-
menter admiror.*

¶ Chap. 34. Here the Chancellour openeth the
cause, which the Prince demandeth.

YDu would nothing
marvel hereat,
quoth the Chancellour,
if you did deeply con-
sider with your self,
the cause of this intent.
For you have heard a-
fore, how that, among
the Civil Laws, that
Maxime or rule is a sen-
tence most notable, which
thus singeth: The Prin-
ces pleasure standeth in
force of a Law: quite

Cancellarius :
Nó admirare-
ris, Princeps, si cau-
sam huj⁹ conaminis
méte sollicita pertra-
ctares. Audisti nam-
que superius, quo-
modo inter leges
Civiles præcipua
sententia est, maxi-
ma sive regula, il-
la quæ sic canit,
*quod Principi placu-
it, legis habet vigo-
rem,*

rem, qualiter nō faciunt leges Angliæ, dum nedum *regaliter*, sed & *politice* rex ejusdem dominatur in populum suum, quo ipse, in *coronatione* sua ad legis suæ observantiam astringitur sacramento, quod reges quidem Angliæ agre ferentes, putantes proinde se non libere dominari in subditos, ut faciunt reges regaliter tantum principantes, qui lege civili, & potissime prædicta legis illius maxima, regulant plebem suam, quo ipsi, ad eorum libitum, jura mutāt, nova conduunt, pœnas

contrary to the decrees of the Laws of England, whereby the King thereof ruleth his people, not onely by Regall, but also by Politique government, In somuch that at any time of his coronation, he is bound by an oath to the observance and keeping of his own Law, which thing some Kings of England not well brooking, as thinking that thereby they should not freely govern their Subjects as other Kings doe, whose rule is onely regall, governing their people by their Civil Law, and chiefly by that foresaid Maxime of the same Law, whereby they at their pleasure change Lawes, make

make new Lawes, execute punishments, burden their subjects with charges: and also when they lust, do determine controberfies of futers, as pleaseth them. Wherefore, these your progenitors went about to cast off the yoke politique, that they also might likewise rule, or rather rage, over the people their subjects in regall wise only: not considering that the power of both kings is equal, as in the foresaid Treatise of the Law of nature is declared: and that to rule the people by government politique, is no yoke, but liberty, and great security, not onely to the subjects but also to the King himself: and fur-

infligant & onera imponunt subditis suis, propriis quoque arbitriis, contēdētium, cū velint dirimūt lites. Quare, moliti sunt ipsi progenitores tui hoc jugum politicū abjicere, ut cōsimiliter & ipsi in subjectum populum regaliter tantū dominari, sed potius debacchari queāt: non attendentes, quod æqualis est utriusq; Regis potētia, ut in prædicto tractatu de *Natura legis natura* docetur, & qd non jugū sed libertas est politicè regere populū, securitas quoque maxima nedum plebi, sed & ipsi re-

gi, alleviatio etiam non minima sollicitudinis suæ. Quæ ut tibi apertius pateant, utriusq; regiminis experientiam percunctare, & à regimine tantū regali, qualiter Rex Fræciæ principatur in subditos suos, exordium sumito: deinde à regalis & politici regiminis effectu, qualiter Rex Angliæ dominatur in sibi subditos populos, experientiam quare.

ther no small lightning or easement to his charge. And that this may appear moze evident unto you, ponder and weigh the experience of both regiments. And begin with the King of France, perusing after what sort he ruleth his Subjects by Regal government alone: And then come to the effect of the joynt government, regall and politick, examining by experience, how and after what manner, the King of England goberneth his Subjects.

¶ Chap. 35. *The inconviences that happen in the Realm of France, through Regal government alone.*

Call

Call to remembrance, most worthy Prince, after what sort you saw the wealthy Villages and Towns (as touching store of Cozne) in the Realm of France, while you were there a sojourner, pestered with the Kings men at armes and their horses, so that skant in any of the great towns there you could get any lodging: Where, of the inhabitors you learned, that those men, though they continue in one village a moneth or two, do not, nor will pay any thing at all, either for their own charges, or for the charges of their horses. But which is worse, they compelled the inhabitants of the Villages

Reminiscere (*princeps divine*) qualiter villas & oppida regni Franciæ frugum opulentissima, dum ibidem peregrinabar, contempsisti, Regis terrarum illarum hominibus ad arma, & eorum equis ita onustis, ut vix in eorum aliquibus quam magnis oppidis tu hospitari valebas: ubi ab incolis didicisti, homines illos, licet in villa una per mensem aut duos perhendinaverint, nihil prorsus, pro suis aut equorum suorum expensis, solvisse, aut solvere velle, sed quod perius est, arcebant incolas villarum

& oppidorū, in quæ
 descēderant, sibi de
 vinis, carnibus, & a-
 liis, quibus indige-
 bant, etiā cariorib⁹
 necessariis quā ibi
 reperiebantur, à cir-
 cumvicinis villatis,
 suis propriis sūptib⁹
 providere. Et si qui
 sic facere renuebāt,
 cōcito fustib⁹ casti
 properè hoc agere
 cōpellebātur: ac de-
 mū cōsūptis, in vil-
 la una, victualib⁹, fo-
 calib⁹ & equorū pro-
 bēdis, ad villā aliā
 homines illi prope-
 rabāt eam cōsimili-
 ter devastando, nec
 denarium unum pro
 aliquib⁹ necessariis
 suis, etiam aut con-
 cubinarū suarum,
 quas in magna co-

and town dwellers, wh-
 ther they came, to pro-
 vide of their own pro-
 per costes, out of the vil-
 lages adioyning, wine
 and fleshy for them, and o-
 ther things that they
 needed, at dearer prices,
 then they might have
 bought the same at home.
 And if any refused thus
 to do. they were anon
 by plain Stafford Law
 forced to do it: And when
 they had spent all the vi-
 ctuals, fetwell, and horse-
 meat, in one town, then
 those men went to ano-
 ther town, wasting the
 same in like manner, not
 paying one peny for any
 necessaries, either for
 themselves or else for
 their concubines and har-
 lots, whereof they ever
 carried about with them
 great

great abundance, nor for
hosen or shoes, & other
like, euen to the least point
or lace, but they compelled
the townsmen where
they tarried to bear all
their expens. And thus
were all the villages and
unwalled towns of the
land used, so that there
is not the least village
there free from this mis-
erable calamity, but that
it is once or twice every
year beggered by this
kind of pilling. Fur-
thermore the King suf-
fereth no man to eat salt
within his kingdom,
except he buy it of the
king at such price, as
pleaseth h'im to asseſſe.
And if any poor man
had rather eat his meat
fresh then to buy salt so
excessively dear, he is

prosecutus sepe uehebatur,
vel pro locularibus,
caligis, aliis huiusmo-
di, usque ad minimam
earum ligula solverunt,
sed singulas suas
qualescunque expensas
habitatores villarum
ubi moras fecerunt
solvere coegerunt. Sic-
que & factum est in omni-
bus villis & oppidis
non muratis totius re-
gionis illius, ut non sit ibi
villula una, expens de
calamitate ista, quae
non seel aut bis in anno,
hac nefanda pressura
depilet. Praeterea
non patitur rex quae-
quam regni sui sale e-
dere, quae non emat ab
ipso Rege, precio, eique
solum arbitrio, asseſſo.
Et si insulsus pauper,
quiuis mavult edere,
quam salem excessivo
pre-

precio cōparare, mox cōpellit ille, tā-
 tū de sale regis ad
 ej⁹ precium emere,
 quantū cōgruet tot
 plōis, quot ipse in
 domo sua fovet. In-
 sap omnes regni
 illi⁹ incolæ dat omni
 a^{no}, regi suo, *quartam*
partem omnium vino-
rum quæ sibi accres-
 cūt & oīs *campi quar-*
tum denarium precii
 vinorū, quæ ipse vē-
 dit, & ultra hæc oēs
villæ & burgi solvūt
 Regi ānuatim, ingē-
 res sūmas sup eos as-
 sessas, pro stipēdiis
 hominū ad arma, sic
 qd armata regis, quæ
 quā magna sēp est,
 pascat ānuatim de
 stipēdiis suis p pau-
 peres villarū, burgo-
 rū, & civitatū regni.

immediately compelled to
 buy so much of the
 kings salt at the kings
 price, as shall suffice so
 many persons as he
 keepeth in his house.
 Moreover all the inha-
 biters of that Realm,
 give yearly to the K. the
 iii. part of all the wines
 that their ground
 beareth: & every Vint-
 ner the 4th peny of the
 price of the wine that
 he selleth, & besides all
 this, every village and
 borough payeth yearly
 to the K. great sums of
 mony assessed upon them
 for the wages of men at
 arms, so that the char-
 ges of the kings army,
 w^{ch} is ever very great,
 is maintained by the poor
 people of the villages, bo-
 roughs, & towns of the Realm.

And

And ye
 ry villa-
 nually
 at the
 with all
 biliment
 the king
 wars, as
 serch him
 which h
 And, t
 considere
 ding gr
 yearly at
 billage
 to the k
 they are
 The peo
 these & d
 mities, p
 sed, do lit
 drinking
 ther do t
 tast any
 being only

And yet mozeover ebery
 ry village findeth con-
 nually ij. Cross-bowes
 at the least, & some mo,
 with all furniture & ha-
 biliments, requisite for
 the kings service in his
 wars, as oft as it plea-
 seth him to muster them,
 which he doth very oft:
 And, these things not
 considered, other exca-
 ding great tallages are
 yearly assessed upon ebery
 village of the same realm
 to the kings use, whereof
 they are no year released.
 The people being with
 these & diuers other cala-
 mities, plagued & oppres-
 sed, do liue in great misery,
 drinking water daily. Nei-
 ther do the inferiour sort
 tast any other liquoz, sa-
 uing only at solemn feasts.

Et ultra hac, qualibet
 villa seper sustinet
 2. sagittarios ad
 min⁹, & aliqua plures,
 omni apparatu, &
 abilitatis sufficiēti-
 bus ad seruiēdū regi
 in guerris suis, quoties
 tibi libet eos sum-
 monere, qd & crebro
 facit: ac, huius nō pō-
 deratis, maxima tal-
 lagia alia, sūt omni āno
 assessa ad opus regis,
 supra quālibet villā
 ejusdē regni, de qui-
 bus nō uno anno ipsi
 alleviāt^r. Huius & nō-
 nullis aliis calāitati-
 bus, plebs illa laces-
 sita, in miseria nō mini-
 ma vivit, aquā quoti-
 die bibit, nec aliū, nisi
 in solēnibus festis, ple-
 bei gustat liquorem.

Froccis

Froccis five collobi-
tis d' canabo admodū
pāni saccorū tegun-
t'. Pāno de lāa, prae-
terquā de vilissima, &
hoc solū in tunicis
suis subi⁹ froccas il-
las nō utūt, neq; ca-
ligis nisi ad gēua, dis-
coopto residuo tibi-
arū. Mulieres eorū
nudipedes sūt excep-
tis dieb⁹ festis, *carnes*
nō comedūt mares
aut fæminæ ibidē
præter lardū bacōis,
quo impinguāt pal-
mētaria sua in mini-
ma quantitate. *Carnes*
a feras coctasve alias
ipsi nō gustāt, prae-
terquā interdum de
intestinis & capitib⁹
animalium, pro no-
bilibus & mercato-
ribus occisorum :

Their shiewes are
made of hemp, much
like to sackcloth. ~~They~~
len cloth they wear none
except it be very coarse
& that only in their coats
under their said upper
garments, neither use
they any hosen, but from
the knee upward: the re-
sidue of their legs go na-
ked. The women go
barefoot saving on holi-
daies, neither men nor
women eat any flesh
there, but only lard of
bacon, wth a small quan-
tity whereof they fatten
their pottage & broths.
As for roasted or sodden
meat of flesh they taste
none, except it be of the
inwards sometimes and
heads of beasts, that
be killed for gentle-
men and merchants.

But they all the left ties at a wth so cou and kin der nei sho qua ref bor pol me tha me so ed if to

But the men at armes, they devour and consume all their pulleine, so that they have scant the eggges left to eat for special dainties. And if they fortune at any time to grow somewhat wealthy in substance, so that any of them be counted rich, he is by and by charged to the Kings Subsidie, more deeply then any of his neighbours, so that within short time he is made equall in poverty with the rest of his beggerly neighbours. And this, as I suppose, is the state of the common and rascall people of that nation. But Gentlemen and Nobles are not so oppressed, & overcharged with exactions. But if any of them chance to be accused of any crime,

Sed gentes ad arma comedunt alitilia sua; ita ut vix ova eorum ipsis relinquuntur, pro summis vescenda deliciis. Et si quid in opibus eis aliquando accreverit, quo locuples eorum aliquis reputetur, concito ipse ad regis subsidium, pl⁹ vicinis suis ceteris oneratur, quo, ex tunc convicinis ceteris ipse æquabitur paupertate. Hæc, ni fallor, forma est status gentis plebanæ regionis illius. Nobiles tamen, non sic exactionibus opprimuntur. Sed si eorum aliquis calumniatus fuerit de cri-

crimine, licet per inimicos suos nō semper coram iudice ordinario ipse convocari solet: Sed quam sæpe, in regis camera, & alibi in privato loco, quandoque vero solum per internuncios, ipse inde alioqui visus est, & mox ut *criminosum* eum principis consciētia, relatione aliorum iudicaverit, in sacco positus, absque figura iudicii, per præpositi mariscalorum ministros noctanter in flumine projectus, *submergitur*, qualiter & mori audivisti majorem multo numerum hominum, quam qui legitimo

though it be by his enemies, he is not ever wont to be cited or called before an ordinary Judge: But many times it hath been seen that he hath in that behalf been talked with in the Kings Chamber, or elsewhere in some private place, and sometime onely by a Pursivant or Messenger: And immediately as soon as the Princes conscience hath, through the report of others, judged him guilty, he is without any fashion of judgement put in a Sack, and in the night season by the Marshalls servants hurled into a River, and so drowned. After which sort you have heard of many more put to death, then that hath been by

ord:

ordinary proceſſe of the Law condemned. Howbeit the Princes pleaſure, as ſay the Civil laws, hath force of a Law. Alſo, while you were abiding in France, and nigh to the ſame Kingdome, you heard of other great enormities like unto theſe, and ſome much worſe then theſe deteſtable and damnable, done no otherwiſe but under the colour of that Law, which here to rehearſe would continue our talke too long a time. Now therefore, let us ſee, what the effects of the Law politique and Regall, which ſome of your progenitors would have changed into this civil, hath wrought in the

proceſſu juris convicti extiterunt. Sed tamē, qd principi placuit (juxta leges civiles) legis habet vigorem. Etiam & alia *enormia*, hiis ſimilia ac quædam hiis deteriora, dum in Francia & prope regnum illud converſatus es, auდიſti non alio, quā legis illius, colore, deteſtabilitateq; perpetrata, quæ hic inferere, noſtrum nimium dialogum protelaret: Quare, quid effectus legis politicæ & regalis, quam quidam progenitorū tuorū pro lege hac civili, cōmutare niſi ſunt, operatus eſt in regno

no Angliæ, a modo
vistem⁹ ut utraque
legum experientia
doctus, quæ earum
tibi eligibilior sit,
ex earum effectibus
elicere valeas, cū (ut
supra memoratur)
dicat Philosophus,
quod, *opposita juxta
se posita, magis ap
parent.*

Realm of England that
you being instructed with
the experience of both
Laws, may the better
by their effects judge,
whether of them ye ought
rather to choose, Sa-
ying the Philosopher, as
afoze is rehearsed, doth
say, that contraries laid
together do more perfect-
ly appear.

¶ Chap. 36. *The commodities that proceed of the
joynt government, politique and regal in
the Realm of England.*

IN regno Angliæ,
*nullus perbendi-
nat in alterius do-
mo, invito domi-
no, si non in hospiti-
ciis publicis, ubi
tunc pro omnibus,
quæ ibidem ex-
pendit, ipse plena-*

Within the Realm
of England, no
man sojourneth in another
mans house, without the
love & the leave of the good
man of the same house:
saying in common Iones,
where befoze his depar-
ture thence, he shall fully
satisfi

satisfie and pay for all his charges there: Neither shall he escape unpunished whosoever he be, that taketh another mans good, without the good will of the owner thereof, Neither is it unlawfull for any man in that Realm, to provide and store himself of salt, and other merchandises, or wares, at his own will and pleasure of any man that selleth the same. Howbeit, the King, though the owners would say nay, may by his Officers take necessaries for his house, at a reasonable price, to be assessed by the discretions of the Constables of the towns: Nevertheless, he is bound by the Lawes to pay therefoze, either presently in hand, or else

rie solvet ante ejus abinde recessum: nec impune quisque bona alterius capit sine voluntate Proprietarii eorundem, neq; in Regno illo, prapeditur aliquis, sibi de sale, aut quibuscunque mercimoniis aliis ad proprium arbitrium, & de quocunque venditore, providere. Rex tamen, necessaria domus suæ, per rationabile precium, juxta constabulariorum villarum discretiones assidendum, invitis possessoribus, per officarios suos capere potest: sed nihilominus precium illud in manibus vel ad

M diem

diē per majores of-
ficiarios domus sua
limitadū *solvere* per
leges suas obnoxio
ē: quia nulli⁹ subdi-
torū suorum bona
juxta leges illas, ipse
deripere potest sine
satisfactione debita
pro eisdem. Neq; rex
ibidē, per se, aut mi-
nistros suos *tallagia*,
subsidia, aut quavis
onera alia, imponit
legis suis, aut leges
eorū mutat, vel no-
vas condit, *sine con-
cessione* vel assensu
toti⁹ regni sui, in
parlamento suo ex-
presso. Quare incola
ōnis regni illi⁹ fru-
ctib⁹ quos sibi parit
terra sua, & quos
gignit pec⁹ ej⁹, emol-
lumētis quoq; om-

at a day to be limit-
ed and set by the higher
Officers of his house:
For by his Lawes he
may take away none
of his Subjects goods,
without due satisfaction
for the same. Neither
doth the King there,
either by himself, or by
his Servants and Offi-
cers levie upon his sub-
jects, Tallages, Sub-
sidies, or any other bur-
dens or alter their laws,
or make new Lawes,
without the expresse con-
sent and agreement of his
whole Realme in his
Parliament. Wherefore
every Inhabiter of that
Realme, useth and enjoy-
eth at his pleasure, all the
fruits that his land or
cattel beareth, with all the
profits and commodities,
which

which by his own tra-
 bell, or by the labour
 of others, he gaineth by
 land or by water: not
 hindered by the injury
 or wrong detainment of
 any man, but that he
 shall be allowed a rea-
 sonable recompence: And
 hereby it cometh to
 passe, that the men of
 that Land are rich, ha-
 ving abundance of
 Gold and Silber, and
 other things necessary
 for the maintenance of
 mans life. They drinke
 no water, unless it be
 so, that some for devo-
 tion and upon a zeale
 of pennance, do abstain
 from other drinke, they
 eat plentifully of all
 kinds of flesh and fish,
 They weare fine Wollen
 cloth in all their apparell,

nib⁹, quæ industria
 propria, vel aliena,
 ipse terrâ mariq; lu-
 cratur, ad libitū pro-
 priū utitur, nulli⁹ p̄-
 pediti⁹ injuria vel ra-
 pina, quin ad min⁹ in-
 de debitas consequi-
 tur emēdas: unde in-
 habitates terrâ illā,
 locupletes sūt abū-
 dātes auro & argēto
 & cūctis necessariis
 vitæ. Aquā ipsi non
 bibūt, nisi qui ob de-
 votionis & penitē-
 tiæ Zelū, aliquādo ab
 aliis potib⁹ se absti-
 nēt: ōni genere *car-*
niū & *piscium*, ipsi in
 copia vescūtur, quib⁹
 patria illa nō modi-
 ce refertur, pānis
 de lanis bonis ipsi
 induuntur in omni-
 bus *operimentis* suis,
 M 2 etiam

etiam abundant in
lectiferniis, & quo-
libet suppellectili
cui lana cōgruit, in
omnibus domibus
suis, necnō opulen-
ti ipsi sunt in om-
nibus *hustilimentis*
domus, necessariis
culturae & omnibus
quæ ad quietam, &
felicem vitam exi-
guntur secundum
status suos. Nec in
placitū ipsi ducun-
tur, nisi coram judi-
cibus ordinariis, u-
bi illi per leges ter-
ræ juste tractantur.
Nec allocuti sive
implacitati sunt de
mobilibus aut pos-
sessionibus suis, vel
arrettati—de—cri-
mine aliquo, quali-
tercunq; magno &

They have also aboun-
dance of bed-coverings
in their Houses, and of
all other woollen stufte,
They have great stozz
of all hustlements and
implements of house-
hold. They are plentiful-
ly furnished with all in-
struments of husbandry,
and all other things, that
are requisite to the accom-
plishment of a quiet and
wealthy life, according
to their estates and de-
grees. Neither are they
sued in the Law, but only
befozz ordinary Judges,
where by the laws of
the land they are justly
intreated. Neither are
they arrested oz implead-
ed for their moveables oz
possessions, oz arraigned
of any offence criminal,
be it never so great and
out-

outrageous, but after the
Laws of the Land, and
before the Judges afoze-
said. And these are the
fruits, which govern-
ment politicke and regall
convoyed, doth bear and
bring forth: ~~And~~ hereof
now appear evidently
unto you the experiences
of the effects of the Law
which some of your pro-
genitors travell'd to a-
bolish. Before also you
saw plainly the effects
of the other Law, which
they with such earnest
endeavour laboured to ad-
vance and place in stead
of this Law, so that by
the fruits of them both,
you may know what
they are: And did not
ambition, riot, and wan-
ton lust, which your said

enormi, nisi se-
cundum leges terræ
illius, & coram Ju-
dicibus antedictis.
Et hii sunt fructus,
quos parit regimen
politicum & regale:
Ex quibus tibi jam
apparent experien-
tiæ effectus legis,
quam quidam pro-
genitorum tuorum
abjicere conati
sunt.

Superius quoque
tibi apparent effe-
ctus legis alterius,
quam tanto zelo,
loco legis istius,
ipsi nisi sunt indu-
cere, ut ex fructibus
earum tu agnoscas
eas: Et, nonne
ambitio, luxus, &
libido quos prædicti

progenitores tui, regni bono præferabant, eos ad hoc commercium concitabant? Considera igitur, Princeps optime, & jam alia, quæ sequentur.

progenitors esteemed above the wealth of the Realm, move them to this alteration? Consider therefore, most worthy Prince, and that earnestly this that followeth,

¶ Chap. 37. *A comparison of worthiness of both the regiments.*

SANCTUS THOMAS in libro, quem Regi Cypri de regimine principum scripsit, dicit: quod Rex datur propter regnum, & non regnum propter Regem, quo omnis potestas regia referri debet ad bonum regni sui quod effective consistit in defensione

Saint Thomas in his book which he wrote to the king of Cyprus, of the regiment of Princes, saith, that the King is given for the Kingdome, and not the kingdome for the King, whereupon it followeth, that all kingly power must be applied to the wealth of his kingdome, which thing in effect consisteth, in the defence

defence thereof from foreign invasions, and in the maintenance of his subjects, and their goods, from the injuries and extortions of the inhabitants of the same. Wherefore, that king, which is not able to perform these things, must of necessity be judged impotent and weak. But if he be so overcome of his own affections and lusts, or so oppressed with poverty, that he cannot withhold his hands from the pillage of his subjects, whereby himself impoverisheth them, and suffereth them not to live and to be sustained upon their own substances: how much more weak or feeble is he in this

eiusdem ab exteriorum incurfibus, & in tuitione regnicularum & bonorum suorum ab indigenarum injuriis & rapinis. Quare, Rex, qui hæc peragere nequit, impotens est necessario judicandus. Sed si ipse, passionibus propriis, aut penuria, ita oppressus est, quod manus suas cohibere nequit à depilatione subditorum suorum, quo ipsemet eos depauperat, nec vivere finit & sustentari propriis substantiis suis: quanto tunc impotentior

ille judicandus est, quam si eos defendere, ipse non sufficeret erga aliorum injurias? Revera, Rex talis, nedum impotens, sed & ipsa impotentia, dicendus est: & non liber judicari potest, tantis impotentiae nexibus vinculatus. E regione, Rex liber & potens est, qui incolas suos erga externos, & indigenas, eorum quoque bona & facultates, nedum erga vicinorum & concivium rapinas defendere sufficit, sed erga propriam oppressionem, & rapinam,

respect to be judged, then if he were not able to defend them against the injuries of others: Truly, such a King may well be called, not onely feeble, but eben very feebleness it self: noz is not to be judged free, being tied with so many bands of feebleness. On the other side, that King is free and of might, that is able to defend his subjects, as well against strangers, as against his own people: and also their goods and possessions, not onely from the violent and unlawfull invasions of their own countrymen and neighbours, but also from his own oppression and extortion, though

though such willful lusts and necessities do move him to the contrary. For who can be more mighty or more free, then he, that is able to conquer and subdue, not onely others, but also himself? Which thing a King, whose governance is politick, can doe and ever doth. Thus most worthy Prince, it appeareth unto you by the effect of experience, that your progenitors, which were thus minded to renounce their politick government, could not thereby not onely not obtain the might and power, which they wished, that is to say, increase thereof, but rather they should have endangered, and greatly hazarded, the wealth

licet sibi passiones necessitatesque hujusmodi reluctantur. *Quis enim potentior liberiorque esse potest, quam qui, non solum alios, sed & se ipsum sufficit debellare?* quod potest, & semper facit, *Rex politice regens populum suum.* Quare experientiae effectu tibi constat, *princeps,* progenitores tuos, qui sic politicum regimen abjicere satagerunt, non solum in hoc non potuisse nancisci potentiam, quam optabant, videlicet amplio-rem, sed & sui bonum, similiter & bonum Regni sui, per hoc,

hoc, ipsi discrimini
 exposuissent, & pe-
 riculo gradiori. Ta-
 men hæc quæ jã de
 experientia effecta
 practicata, potenti-
 am regis, regaliter
 tantum præfidētis
 exprobrare videtur,
 non ex legis suæ de-
 fectu processerunt,
 sed ex incuria neg-
 ligētiaque taliter
 principātis. Quare,
 ipsa dignitatē illam
 potentia non minu-
 unt, à dignitate re-
 gis politice regalā-
 tis, quos paris esse
 potentia, in prædi-
 cto tractatu de natu-
 ra legis Natura, lu-
 culenter ostendi.
 Sed potentiam re-
 gis regaliter tantum
 principantis diffici-

as well of themselves, as
 also of their Kingdome.
 Notwithstanding these
 things now practised,
 which, as touching the ef-
 fect of experience, doe
 seem to blemish the pow-
 er of a king ruling all a-
 lone regally, never proce-
 ded of the default of their
 law, but of the carelesse de-
 meanour, and negligent
 losnesse of such a Ruler.
 Wherefore, that dignity
 is not hereby in power
 imbased under the digni-
 ty of a polittick Govern-
 our, which both, in my
 foresaid treatise of the na-
 ture of the Law of nature,
 I have plainly proved
 to be in power equal. But
 the premises do most
 evidently declare it to
 be a matter of much
 more difficulty for a king
 whose

whose rule is only regal, to exercise his power, and that both he and his people stand in much lesse security, and therefore it were not to be wished of a wise king, to change a politick regiment into that governaement, which is onely regall. And according to this, the foresaid Saint Thomas wisheth that all the kingdomes of the world were ruled by politick governaance.

lionis esse exercitii, ac minoris securitatis sibi & populo suo, illa clarissime já demonstrant, quo optabile non foret regi prudenti, regimen politicum pro tantum regali commutare. Unde & sanctus Thomas supradictus optare cęletur, ut omnia mundi regna politice regerentur.

¶ Chap. 38. *The Prince breaketh the Chancellor of his tale.*

Bear with me, I beseech you good Chancellor, quoth the Prince,

Tunc princeps :
parce, obsecro,
Cancellarie,
quod

quod te ad tantam
à proposito tuo dig-
ressionem compu-
li quaestionibus me-
is: mihi namque
perutilia sunt, quæ
hac occasione exa-
rafti, licet te parū-
per retardaverint à
meta intētionis tuæ
ad quam ut tu jam
celerius properes,
flagito, & primo ut
aliquos alios casus,
in quibus, legū An-
glia, & Civiliū dis-
crepant sentētiæ, ut
promisisti & cœpi-
sti, mihi enarres.

in that with my questions
I have drawn you so far
from your purpose: For,
the things which by this
occasion you have discus-
sed, are to me right pro-
fitable, though they have
somewhat stayed you,
and pulled you back
from the end of your in-
tent, Whereunto I pray
you now make haste: and
first as you promised, and
as you have begun, open
unto me some other ca-
ses wherein the sentences
of the laws of England,
and of the Civil laws, do
disagree.

¶ Chap. 39. *The second Case, wherein the Civil
Laws, and the Laws of England, disagree
in their judgement.*

Accor-

A
Prin-
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 ed you,
 ou back
 your in-
 o I pray
 aste: and
 ifed, and
 in, open
 other ca-
 Tenences
 England,
 lator, do

the Civil
 agree

Accor-

According to your re-
 quest, most noble
 Prince (quoth the Chan-
 cellour) I will open unto
 you certain other cases,
 wherein the said Lawes
 disagree. Notobest, whe-
 ther of the same Lawes
 in their judgements, ex-
 celleth the other, that
 will I leave to your own
 determination.

The Civil Law doth le-
 gitimate the child born
 before matrimony, as well
 as that which is born af-
 ter: and giveth unto it
 succession in the Parents
 inheritance: But to the
 child born out of matri-
 mony, the Law of Eng-
 land alloweth no successi-
 on, affirming it to be na-
 turall only, and not law-
 full. The Civiltas in this
 case, advance their Law,

Cancellarius :
 Quosdā casus
 alios, in quibus dis-
 sentiunt Leges præ-
 dictæ, ut petis prin-
 ceptis, detegere co-
 nabor. Sed tamen
 quæ legū earū præ-
 stātor sit in judiciis
 suis, non meo sed ar-
 bitratui tuo relin-
 quam. *Prolem ante
 matrimonium natam,
 ita ut post, legitimam,
 lex civilis, & succe-
 dere facit in heredi-
 tate parentum: sed
 prolem, quam ma-
 trimoniū non parit,
 succedere non sinit
 lex Anglorum, natu-
 ralē tantū eam esse,
 & non legitimam
 proclamans. Civili-
 stæ in casu hoc, legē
 eorum extollunt,
 quia*

quia incitamentū eam esse dicunt, quo matrimonii sacramēto cesset peccatum, per quod alias duorū animā interirēt: præsumentum quoque esse dicunt, tales fuisse contrahentium animos in primo eorum concubitu, quales esse demonstrat subsequens sacramentū. Ecclesia etiā foetus huiusmodi habet pro legitimis Hæc ni fallor, tria fulcimenta sunt majora, quibus ipsi approbāt, defēdūtq; legē suam. Ad quæ sic respondent *legis Angliæ periti*: primo dicunt quod *peccatum primi concubitus*, in casu proposito,

allegging that by mean thereof, the sacrament of state of matrimonie coming in place, extinguisheth the former sinne, whereby else the soules of two persons should have perished: And it is to be presumed, say they, that they were at their first copulation both so minded, as the sacrament ensuing afterward declareth. The Church also accepteth such children for legitimate. These, I trow, are the three strongest reasons, whereby they maintain and defend their Law. Which are thus answered by the Lawyers of England: First, they say, that the sin of the first carnal action, in the case propounded, is not purged by the ma-

matrimonie ensuing, though by the worthyness thereof the sinners punishment is somewhat abated. They say also, that they which thus do sin, are so much the lesse repentant therefore, in as much as they perceiue the Lawes to fauour and bear with such transgressors: And upō this consideration, they are made the readier to commit sin: there by breaking the commandments both of God and of the Church. Wherefoze this Law doth not only participate with the offence of sinners, but also swerbeth from the nature of a good Law. Forasmuch as a Law is a holy establishment, commanding things honest, and forbidding the contrary: *non purgatur per subsequens matrimonium, licet ejus merito delinquentium quodam modo minuat poena. Dicunt etiā qd peccati illius consci, tanto min⁹ inde pœnitent, quo leges transgressorib⁹ illis favere cōsiderāt: Quali etiam consideratione, procliviores ipsi redduntur ad cōmittendum peccatum, per qd, nedum Dei, sed & ecclesie præcepta negligūt. Unde lex illa, nedum delinquentiū participat culpam, sed & legis bonæ naturam ipsa declinat: cum lex sit sanctio sancta jubens honesta, & prohibens contraria: qua-*

qualia ipsa nō prohibet, sed potius ad inhoneſta animos labentium invitāt. Nec vallari poteſt lex iſta per hoc, qd eccleſia fœtus huiusmodi pro legitimis habet. Pia nāq; mater illa, in quā plurimis diſpenſat, quæ fieri ipſa non cōcedit. diſpenſativa enim laxavit Apoſtol⁹ virginis fræna qd cōſulere noluit, cū oēs ipſe voluerit, ut ſe, virgines permanſiſſe. Et abſit, ut mater tanta, a filiis ſuis in caſu iſto pietatem ſuā cohiberet, dum ſæpe ipſi, etiā legis huius civilis fomento cōcitati, incidūt in peccatum.

Which this Law doth not, but rather allureth the minds of ſinners to diſhoneſty. Neither can it be any defence to this Law, that the Church accepteth ſuch Children for legitimate. For that loving mother diſpenſeth in many things, which ſhe licenſeth to be done. And it was by way of diſpenſation, that the Apoſtle ſetteth Virgins at liberty, whereunto he would not counſell them, rather wiſhing all to continue Virgins like himſelf. And God forbid, that ſo great a mother, ſhould in this caſe withhold her tender love from her children, which by the inticement of this Law do many times fall into ſin.

And

And by the matrimony ensuing, The Church is informed, that the parties so marrying are penitent and sorry for the offence passed, and are willing in time to come, through matrimony, to live continent. But the Law of England in this case, worketh a much contrary effect. For it provoketh not to sin, nor cherisheth or maintaineth sinners; but putteth them in fear, and to keep them from sin threateneth punishment: For the wantonness of the flesh hath no need of allurements, but rather of discouragement: because the lusts of the flesh are wanton, and almost untameable. And forasmuch as it is impossible for man to live ever in himself,

Et per matrimonium subsequens docetur Ecclesia, contrahentes poenitere de praterito, & de futuro per matrimonium se velle cohibere. Sed longe alium, in hoc casu, lex Anglia effectum operatur, dum ipsa non concitat ad peccatum, neque peccantes iuvat; sed terret eos, & ne peccent, minatur penas: carnis etenim illecebræ fomento non egent, egent verò frænis, quia irritaméta carnis lasciva & quasi infatigabilia sunt. Et homo, quum individuo perpetuari nequit, perpetuari

N

natu-

naturaliter appetit in specie sua, quia omne, qd vivit, assimilari cupit causæ primæ, quæ perpetua est & æterna. Unde fit, quod *plus delectatur homo in sensu tactus, quo servatur species ejus, quam in sensu gustus, quo conservatur individuum.* Quare Noe, ulciscens in filium qui ejus pudenda revelavit, nepoti suo, filio delinquentis, maledixit, ut inde plus cruciaretur reus, quàm proprio possit incommodo: quare *lex, quæ vindicat in progeniem delinquentis, penalius prohibet peccatum quam quæ solum delinquen-*

he naturally coveteth to like ever in his like, because every living thing desireth to be like the first and chiefe cause which is perpetuall & everlasting. And hereof it cometh, that man hath more delight & pleasure in the sense of feeling, whereby his kind is preserved, then in the sense of taste, which preserveth only the particular man. Wherefore Noe, executing vengeance upon his son which uncovered his privities, did curse his prophet the offenders child, that thereby the offender might be moze grieved then with his own mishap: Wherefore the Law that punisheth the offenders issue, doth more penally prohibite fin, then that, which plagueth

but

but the offender alone.

Whereby it may easily be considered with what zeal the Law of England abhorreth unlawfull conjunctions which doth not onely judge the child so gotten to be illegitimate, but also prohibiteth it to succeed in the parents inheritance. Is not this law then chaste and pure? And doth it not more forcibly and more earnestly suppress sin, then the foresaid civil Law, which winketh at the sin of lechery, and leaveth it unpunished?

tem flagellat. Ex quibus considerare licet, quāto Zelo lex Angliæ illicitos prosequitur concubitus, dū ex eis editā prole, ipsa, nedum iudicat non esse legitimā, sed & succedere prohibet in patrimonio parentū. Nūquid tunc, lex ista casta non est? & nō fortius firmissq; repellit peccatū, quam facit lex prædicta civilis, quæ cito, & quasi inultum luxuriæ crimen remittit?

¶ Chap. 40. *Special causes, why base born children are not legitimate in England by matrimony ensuing.*

Moreover, the Civil laws say, that your

Praterea leges civiles dicūt, *filium natu-*

*naturalem suum esse
filium populi, de quo
metrit⁹ quidā sic ait.*

*Cui pater est popu-
lus, pater est sibi nul-
lus, & omnes. Cui pa-
ter est populus, non
habet ipse patrem.*

Et dum proles talis
patrem non habuit
tempore nativitatis
suz, quomodo ex
post facto ipse pa-
trem nasci pote-
rit, natura non no-
vit: quò, si ex for-
nicatoribus duob⁹,
mulier una filios pe-
perit duos, quā pe-
stea, unus ex concu-
binariis illis ducat
in uxore, quis ex fi-
liis hiis duob⁹, per
matrimonium illud
legitimatur? *Opi-
nio suadere preest,*

natural or bastard son
is the son of the peo-
ple. *WherEOF a certain
Petritian writeth in this
wise.*

To whom the people fa-
ther is, to him is father
none and all:

To whom the people fa-
ther is, well fatherless we
may him call.

And while such a child
had no father at the time
of his birth, surely na-
ture knoweth not how
he could afterward come
by a father: For, if
one woman should bear
two children of two for-
nicatours, and the one of
them should afterward
marry her: *Whether
of these two children
should by this marriage
be legitimate? Opinion
may somewhat persuade*

but reason cannot finde : seeing the time was once, when both those children, being judged the children of the people, did not know their fathers. It were therefore unreasonable, that a child after-ward bozn in the same wedlock, whose generation cannot be unknown, should be disinherited, and that a child which knoweth no father, should be heir to the father and mother of the other, specially in the realm of England, where the eldest son onely enjoyeth the fathers inheritance, And an indifferent Judge would think it no lesse unreasonable, that a base bozn child should be equally matched with a lawfull begotten child in

sed ratio reperire nequit, dum ambo filii illi populi foetus judicati, semel parentes ignorabant. Incōsonum propterea videretur, quod in matrimonio illo extunc ab eadē muliere natus, cujus generatio ignorari nō poterit, expers esset hereditatis, & filius nescius genitoris sui succederet patri & matri ejus, maximè infra regnū Angliæ, ubi filius senior solus succedit in hereditate paterna, & non minus incōgruum esse sentiret arbiter æquus, si fili⁹ ex stupro, æqualiter participaret cum filio ex legitimo thoro,

hæreditatem, quæ
 jure civili inter mas-
 culos dividenda est.
 Nam *sanctus Au-*
gustinus xvi. lib. de
Civitate Dei, sic scri-
 bit: *Abraham om-*
nem censum suum
dedit Isaac filio suo,
filiis autem concubi-
narum dedit dati-
nes: Ex quo vide-
 tur innui, qd spuri-
 is non debetur hæ-
 reditas, sed vict⁹ ne-
 cessitas. Hæc ille.
 Sub nomine vero
 spurii, denotat *Au-*
gustinus, omnem fœ-
 tū illegitimū, qua-
 liter & sapius facit
 scriptura sacra, quæ
 neminem vocat ba-
 stardum. Ecce, dif-
 ferentiam non mi-
 nimam sentit *Augu-*

the inheritance, which by
 the Civil lawes can be
 divided but onely among
 male childzen. For Saint
 Augustine in the xvi. booke
 de Civitate Dei wrieth
 thus: Abraham gave
 his substance to his son
 Isaac: and to the sons
 of his concubines he gave
 gifts: Whereupon seem-
 eth to be meant, that to
 bastard childzen there
 is no inheritance due
 but onely a necessary
 living. Thus saith he
 And under the name
 a bastard child, S. Au-
 gustine understandeth all
 unlawfull issues, and he
 doth holy Scripture allow
 in divers places, call-
 ing none by the name
 of a bastard. Now, Saint
 Augustine thinketh
 small difference to

and so thinketh Abraham too, between the succession of a bastard, and of a son lawfully begotten. Yea, holy Scripture reprehendeth all unlawfull childzen under this Metaphor, saying, bastard slips shall take no deep root, nor lay any fast foundation, in the fourth chapter of the book of Wisdome. The Church also reprobeth the same, in that it admitteth them not to holy orders, And if so be, that the Church do dispense with such a one, yet it permitteth not him to have any dignity or preeminence in the Church, Wherefoze it is convenient, that mans law in the benefit of succession, should cut them short,

stinus, sentit & Abraham, inter successionem spurii, & filii ex legitimo concubitu. Ceterum, omnes filios illegitimos reprehendit Scriptura sacra, sub Metaphora hac, dicens, spuria vitulamina non dabant radices altas, nec stabile fundamentum collocabunt, Sapientia iii. Reprehendit & ecclesia, quæ eos à sacris repellit ordinibus, & si cum tali dispensaverit, non eum tamè permittit dignitate præesse in ecclesia Dei Congruit idcirco legi hominum in successionis beneficio, minuere,

quos ecclesia indignos iudicat sacro ordine, & quos ipsa repellit ab omni prælata: ipsos etiã quos Scriptura sacra in natalibus, minoratos iudicat a legitime procreatis. *Gedeon autem viro- rum fortissim⁹*, lxx. filios in matrimonio legitur procreasse, & nõ nisi unum solum habuisse ex cõcubina, filius tamen ipse concubinæ, omnes filios illos legitimos nequiter peremit, excepto uno solo, *Judicũ ix.* **Q**uo in notho uno, plus malitiæ fuisse deprehenditur, quã in filiis legitimis *lxix.* *Tritũ etenim proverbium*

whom the Church judgeth unworthy to be received in holy orders, and rejecteth from all prelacy: yea, whom holy Scripture judgeth, as touching their birth, much inferiour to them that be lawfully begotten. We read, that Gedeon the puissant begat threescore and ten sons in wedlock, and but one onely out of wedlock, yet this misbegotten child wickedly slew all those lawfully begotten childzen, one onely excepted, *Judges the ninth chapter:* Whereby it is perceived, that there was more wickedness in one Bastard child, then in *lxx.* lawfull sons. For it is a common saying: If a ba-

stard

stard be good that cometh to him by chance, that is to wit, by speciall grace, but if he be evill, that cometh to him by nature. For it is thought, that the base child draweth a certain corruption and stain from the sin of his parents, without his own fault, as all we have received of the sin of our first parents, much infection, though not so much, Howbeit the blemish, which bastards by their generation do receive, much differeth from that wherein lawfull children are born. For their conception is wrought by the mutuall sinfull lust of both parents, which in the lawfull and chaste copulation of married couples taketh no place, The

est, si bonus est bastardus hoc ei venit a casu, videlicet gratia speciali, si autem malus ipse fuerit, hoc sibi accidit a natura. Corruptionem namq; & maculam quandam censetur illegitimus partus contrahere a peccato genitorum suorum sine culpa ejus, ut maximam nos contraximus omnes a crimine primorum parentum, licet non tantam: aliam tamen nothi quam legitimi, contrahunt maculam ex genitura sua, eorum namq; generationem mutua utriusq; parentis libido culpabilis operatur, qualiter in legitimis castisq; amplexibus

ibus conjugatorum
 ipsa nõ solet debac-
 chari, mutuam sane
 & cõmune est pec-
 catum taliter forni-
 cationum, quo primo
 similitum peccato
 magis sevit in foetũ,
 quam peccatum a-
 liter solitarieq; pec-
 cationũ ut exinde na-
 tũ, potiũ peccati filiũ
 dici mereatur, quam
 filiũ peccatorũ, Qua-
 re sapientia liber, ge-
 nerationes has duas
 distinguens, de ge-
 neratione legitima
 sic affatur: *O quam
 pulchra est casta ge-
 neratio cum clarita-
 te! Immortalis est e-
 nim memoria illius,
 quoniam apud deum
 nota est & apud ho-
 mines.* Altera vero

sin of such fornicato-
 rs is committed by
 the mutuall consent of
 them both. Wherefoze it
 is likened to the first sin,
 and cleaveth moze cru-
 elly to the child, then
 the sin of such as do
 otherwise offend alone:
 so that the Child so be-
 gotten deserbeth to be
 called the child of sin,
 rather then the child of
 sinners, wherefoze the
 Book of Wisdome ma-
 king a difference be-
 twen these two genera-
 tions, of the lawfull ge-
 neration it saith thus: O
 how fair is a chaste ge-
 neration with vertue! The
 memoriall thereof is im-
 mortal: For it is known
 with GOD and with
 men. But the other is
 not known wth men.

so that the children thereof bozn, are called the children of the people. Of which base generation, the same book thus speaketh: All the children, that are born of wicked parents, are witnesses of wickednesse against their parents, when they be asked. For being demanded of their parents they open their sin, even as the wicked son of Noe uncovered his fathers pzi-bities. It is therefore beliebed touching the blind bozn, of whom the Pharisees in the ninth Chapter of Saint Johns Gospell said, thou art altogether bozn in sin, that he was a bastard, who wholly is bozn of sin: & where it followeth

nō est nota apud homines, quo filii ex ea nati, filii populi nominantur. De generatione utiq; illa altera, liber ille dicit: *ex iniquis oēs filii qui nascuntur, testes sunt nequitie adversus parentes suos in interrogatione sua.* (Sapientie eodē iiii cap.) interrogati etenim de parētib⁹ suis, eorū ipsi revelant peccatū, ut fili⁹ Noe nequā revelavit pudēda patris sui. Creditur idcirco cæcum illum natum de quo Pharisei, Jo. ix. dixerunt, tu in peccatis natus es totus, fuisse bastardū, qui nascitur totaliter ex peccato, & dum subditur

ditur, & tu doces nos, videtur eos intellexisse, bastardum non ut legitimum, in naturalibus esse dispositum ad scientiam & doctrinam. Non igitur bene dividit lex illa, quæ bastardos a nativitate, & legitimos parificat, in hæreditate paterna, cū eos dispares iudicet ecclesia in hæreditate Dei, similiter & distinguat sacra scriptura in forma prænotata, dividatq; natura in donis suis, signans naturales, tātū nāvo quasi naturali quodam, licet latente, in animis suis. Quū igitur legū istarū, Anglicarum, viz. & Ci-

dozt thou teach us, It seemeth that thereby may be understood, that a bastard hath no like naturall disposition to knowledge and learning, as a lawfull child hath. Wherefoze, that law maketh no good division, which in the fathers inheritance maketh equall bastard children and lawfull children, whom the Church in Gods inheritance maketh unequal, Betwæen whom also Scripture putteth a difference in form above mentioned: & when nature in her gifts severeth, marking the naturall or bastard children, as it were, with a certain pryvy mark in thier souls. Whether therefore of the two laws, English or Civil, do you now embrace, most

most noble Prince, and judge to have the prebeminence in this case?

vilium in casu hoc, tu princeps illustrissime, amplecteris & iudicas præferendâ?

¶ Chap. 41. *The Prince alloweth the Laws which doth not legitimate children born before matrimony.*

Surely, even to that law do I give the preferment, quoth the Prince, which is of more force to abandon sin out of the Realm, & to advance vertue. Those also in the benefit of mans law do I suppose abject & base, whō the Law of God considereth unworthy, and whom the Church in her benefits rejecteth, and nature also judgeth more prone unto sin. I think y do not judge amiss, quoth the Chancellor. Wherefore I will rehearse yet other cases,

Princes: *Reveream qua fortius a regno peccatum eliminat, & firmitus in eo virtutem conservat.* Arbitror etiã illos in legis humanae beneficiis minorandos, quos lex divina indigniores cōsiderat, & quos postponit ecclesia in beneficiis suis, natura quoq; procliviores judicat ad peccādū. Cancellarius: *Recte æstimo te sentire, quare & casus alius me-*

memorabor, in quibus discrepant hæc leges duæ. | wherein the said Lawes disagree.

Chap. 42. *The third Case wherein the Lawes aforesaid disagree.*

Leges civiles sciunt, quod *partus semper sequitur ventrem*, ut si mulier servilis conditionis nubat viro conditionis libera, Proles eorum servus erit: & è converso, servus maritatus libera, non nisi liberos gignit. Sed lex Angliæ *nunquam matris, sed semper patris conditionem imitari partum judicat*. Ut ex libera, etiã ex verna, nõ nisi liberũ liber generet, & non nisi servum in matrimonio procreare potest servus.

The civil Lawes declare, that the issue ever followeth the womb, that is to say, the mother. As for example, if a bondwoman be married to a freeman, their issue shall be bond: And contrariwise if a bondman marieth a free woman, he begetteth none but free children. But the Law of England never judgeth that issue to follow the mothers condition, but alway the fathers. So that a free man begetteth free children as well of a bondwoman, as of a free woman, and a bondman in wedlock can beget none other but bond children.

at the

Whether of these laws is better think you in their sentences? It is a cruel law, w^{ch} without offence subdueth the free mans child to bondage. And no lesse cruelty is to be thought in the law, which without any desert oppzesseth the free womans child with bondage. Yet the Civilians say, that the Civil Laws in these their judgements do excel. For an evil tree, say they, cannot bring forth good fruits, nor a good tree bear evil fruits. And by the consent of all Laws it is agreed, that every plant yieldeth to the nature of the ground where in it is planted, the child also hath much more certain and sure knowledge of the mother, then of the

Quæ, putas, legum harum melior est in sententiis suis? crudelis est lex, quæ liberi prole sine culpa subdit servituti. Nec minus crudelis censetur, quæ liberæ sobolè sine merito redigit in servitutum. *Legista* vero dicunt, leges civiles prævalere in his judiciis suis. Nam dicunt, quod non potest arbor mala fructus bonos facere, Neque arbor bona fructus malos facere. **Ac** omnis legis sententia est, quod plantatio quælibet cedit solo quo inseritur, Certior quoque multo est partus, quæ eum fuderunt viscera, quam quis eum pater procreavit.

Ad