

# **THE TENURE OF KINGS AND MAGISTRATES**

John Milton



## Table of Contents

<b><u>THE TENURE OF KINGS AND MAGISTRATES</u></b> .....	<b>1</b>
<u>John Milton</u> .....	<b>2</b>

# THE TENURE OF KINGS AND MAGISTRATES

## THE TENURE OF KINGS AND MAGISTRATES

**John Milton**

This page copyright © 2001 Blackmask Online.  
<http://www.blackmask.com>

PROVING THAT IF IS LAWFUL, AND HATH BEEN HELD SO THROUGH ALL AGES, FOR ANY, WHO HAVE THE POWER, TO CALL TO ACCOUNT A TYRANT, OR WICKED KING; AND, AFTER DUE CONVICTION, TO DEPOSE, AND PUT HIM TO DEATH; IF THE ORDINARY MAGISTRATE HAVE NEGLECTED, OR DENIED TO DO IT. AND THAT THEY, WHO OF LATE SO MUCH BLAME DEPOSING, ARE THE MEN THAT DID IT THEMSELVES.

If men within themselves would be governed by reason, and not generally give up their understanding to a double tyranny, of custom from without, and blind affections within; they would discern better what it is to favour and uphold the tyrant of a nation. But being slaves within doors, no wonder that they strive so much to have the public state conformably governed to the inward vicious rule, by which they govern themselves. For indeed none can love freedom heartily, but good men: the rest love not freedom, but license: which never hath more scope, or more indulgence than under tyrants. Hence is it, that tyrants are not oft offended, nor stand much in doubt of bad men, as being all naturally servile; but in whom virtue and true worth most is eminent, them they fear in earnest, as by right their masters; against them lies all their hatred and suspicion. Consequently neither do bad men hate tyrants, but have been always readiest, with the falsified names of Loyalty and Obedience, to colour over their base compliances. And although sometimes for shame, and when it comes to their own grievances, of purse especially, they would seem good patriots, and side with the better cause, yet when others for the deliverance of their country endued with fortitude and heroic virtue, to fear nothing but the curse written against those "that do the work of the Lord negligently," [2] would go on to remove, not only the calamities and thraldoms of a people, but the roots and causes whence they spring; straight these men, and sure helpers at need, as if they hated only the miseries, but not the mischiefs, after they have juggled and paltered with the world, bandied and borne arms against their king, divested him, disanointed him, nay, cursed him all over in their pulpits, and their pamphlets, to the engaging of sincere and real men beyond what is possible or honest to retreat from, not only turn revolvers from those principles, which only could at first move them, but lay the strain of disloyalty, and worse, on those proceedings, which are the necessary consequences of their own former actions; nor disliked by themselves, were they managed to the entire advantages of their own faction; not considering the while that he, toward whom they boasted their new fidelity, counted them accessory; and by those statutes and laws, which they so impotently brandish against others, would have doomed them to a traitor's death for what they have done already. It is true, that most men are apt enough to civil wars and commotions as a novelty, and for a flash hot and active; but through sloth or inconstancy, and weakness of spirit, either fainting ere their own pretences, though never so just, be half attained, or, through an inbred falsehood and wickedness, betray oftentimes to destruction with themselves men of noblest temper joined with them for causes, whereof they in their rash undertakings were not capable. If God and a good cause give them victory, the prosecution whereof for the most part inevitably draws after it the alteration of laws, change of government, downfall of princes with their families; then comes the task to those worthies, which are the soul of that enterprise, to be sweat and laboured out amidst the throng and noses of vulgar and irrational men. Some contesting for privileges, customs, forms, and that old entanglement of iniquity, their gibberish laws, though the badge of their ancient slavery. Others, who have been fiercest against their prince, under the notion of a tyrant, and no mean incendiaries of the war against them, when God, out of his providence and high disposal hath delivered him into the hand of their brethren, on a sudden and in a new garb of allegiance, which their doings have long since cancelled, they plead for him, pity him, extol him, protest against those that talk of bringing him to the trial of justice, which is the sword of God, superior to all mortal things, in whose hand soever by apparent signs his testified will is to put it. But certainly, if we consider, who and what they are, on a sudden grown so pitiful, we may conclude their pity can be no true and Christian commiseration, but either levity and shallowness of mind, or else a carnal admiring of that worldly pomp and greatness, from whence they see him

## THE TENURE OF KINGS AND MAGISTRATES

fallen; or rather, lastly, a dissembled and seditious pity, feigned of industry to beget new discord. As for mercy, if it be to a tyrant, under which name they themselves have cited him so oft in the hearing of God, of angels, and the holy church assembled, and there charged him with the spilling of more innocent blood by far, than ever Nero did, undoubtedly the mercy which they pretend is the mercy of wicked men, and "their mercies,"[3] we read, "are cruelties;" hazarding the welfare of a whole nation, to have saved one whom they so oft have termed Agag, and vilifying the blood of many Jonathans that have saved Israel; insisting with much niceness on the unnecessariest clause of their covenant wrested, wherein the fear of change and the absurd contradiction of a flattering hostility had hampered them, but not scrupling to give away for compliments, to an implacable revenge, the heads of many thousand Christians more.

Another sort there is, who coming in the course of these affairs, to have their share in great actions above the form of law or custom, at least to give their voice and approbation; begin to swerve and almost shiver at the majesty and grandeur of some noble deed, as if they were newly entered into a great sin; disputing precedents, forms, and circumstances, when the commonwealth nigh perishes for want of deeds in substance, done with just and faithful expedition. To these I wish better instruction, and virtue equal to their calling; the former of which, that is to say instruction, I shall endeavour, as my duty is, to bestow on them; and exhort them not to startle from the just and pious resolution of adhering with all their strength and assistance to the present parliament and army, in the glorious way wherein justice and victory hath set them; the only warrants through all ages, next under immediate revelation, to exercise supreme power; in those proceedings, which hitherto appear equal to what hath been done in any age or nation heretofore justly or magnanimously. Nor let them be discouraged or deterred by any new apostate scarecrows, who, under show of giving counsel, send out their barking monitories and mementoes, empty of aught else but the spleen of a frustrated faction. For how can that pretended counsel be either sound or faithful, when they that give it see not, for madness and vexation of their ends lost, that those statutes and Scriptures, which both falsely and scandalously they wrest against their friends and associates, would by sentence of the common adversary fall first and heaviest upon their own heads? Neither let mild and tender dispositions be foolishly softened from their duty and perseverance with the unmasculine rhetoric of any puling priest or chaplain, sent as a friendly letter of advice, for fashion's sake in private, and forthwith published by the sender himself, that we may know how much of friend there was in it, to cast an odious envy upon them to whom it was pretended to be sent in charity. Nor let any man be deluded by either the ignorance, or the notorious hypocrisy and self-repugnance of our dancing divines, who have the conscience and the boldness to come with Scripture in their mouths, glossed and fitted for their turns with a double contradictory sense, transforming the sacred verity of God to an idol with two faces, looking at once two several ways; and with the same quotations to charge others, which in the same case they made serve to justify themselves. For while the hope to be made classic and provincial lords led them on, while pluralities greased them thick and deep, to the shame and scandal of religion, more than all the sects and heresies they exclaim against; then to fight against the king's person, and no less a party of his lords and commons, or to put force upon both the houses, was good, was lawful, was no resisting of superior powers; they only were powers not to be resisted, who countenanced the good, and punished the evil. But now that their censorious domineering is not suffered to be *uni versai*, truth and conscience to be freed, tithes and pluralities to be no more, though competent allowance provided, and the warm experience of large gifts, and they so good at taking them; yet now to exclude and seize upon impeached members, to bring delinquents without exemption to a fair tribunal by the common national law against murder, is now to be no less than Corah, Dathan, and Abiram. He who but erewhile in the pulpits was a cursed tyrant, an enemy to God and saints, laden with all the innocent blood spilt in three kingdoms, and so to be fought against; is now, though nothing penitent or altered from his first principles, a lawful magistrate, a sovereign lord, the Lord's anointed, not to be touched, though by themselves imprisoned. As if this only were obedience, to preserve the mere useless bulk of his person, and that only in prison, not in the field, not to disobey his commands, deny him his dignity and office, every where to resist his power, but where they think it only surviving in their own faction.

But who in particular is a tyrant, cannot be determined in a general discourse, otherwise than by supposition; his particular charge, and the sufficient proof of it, must determine that: which I leave to magistrates, at least to the uprighter sort of them, and of the people, though in number less by many, in whom faction least hath prevailed above the law of nature and right reason, to judge as they find cause. But this I dare own as part of my faith, that if such a one there be, by whose commission whole massacres have been committed on his faithful subjects, his

## THE TENURE OF KINGS AND MAGISTRATES

provinces offered to pawn or alienation, as the hire of those whom he had solicited to come in and destroy whole cities and countries; be he king, or tyrant, or emperor, the sword of justice is above him; in whose hand soever is found sufficient power to avenge the effusion, and so great a deluge of innocent blood. For if all human power to execute, not accidentally but intendedly the wrath of God upon evil-doers without exception, be of God; then that power, whether ordinary, or if that fail, extraordinary, so executing that intent of God, is lawful, and not to be resisted. But to unfold more at large this whole question, though with all expedient brevity, I shall here set down, from first beginning, the original of kings; how and wherefore exalted to that dignity above their brethren; and from thence shall prove, that turning to tyranny they may be as lawfully deposed and punished, as they were at first elected: this I shall do by authorities and reasons, not learnt in corners among schisms and heresies, as our doubling divines are ready to calumniate, but fetched out of the midst of choicest and most authentic learning, and no prohibited authors; nor many heathen, but Mosaical, Christian, orthodoxal, and which must needs be more convincing to our adversaries, presbyterial.

No man, who knows aught, can be so stupid to deny, that all men naturally were born free, being the image and resemblance of God himself, and Were, by privilege above all the creatures, born to command, and not to obey: and that they lived so, till from the root of Adam's transgression, falling among themselves to do wrong and violence, and foreseeing that such courses must needs tend to the destruction of them all, they agreed by common league to bind each other from mutual injury, and jointly to defend themselves against any that gave disturbance or opposition to such agreement. Hence came cities, towns, and commonwealths. And because no faith in all was found sufficiently binding, they saw it needful to ordain some authority, that might restrain by force and punishment what was violated against peace and common right. This authority and power of self-defence and preservation being originally and naturally in every one of them, and unitedly in them all; for ease, for order, and lest each man should be his own partial judge, they communicated and derived either to one, whom for the eminence of his wisdom and integrity they chose above the rest, or to more than one, whom they thought of equal deserving: the first was called a king; the other, magistrates: not to be their lords and masters, (though afterward those names in some places were given voluntarily to such as had been authors of inestimable good to the people,) but to be their deputies and commissioners, to execute, by virtue of their intrusted power, that justice, which else every man by the bond of nature and of covenant must have executed for himself, and for one another. And to him that shall consider well, why among free persons one man by civil right should bear authority and jurisdiction over another; no other end or reason can be imaginable. These for a while governed well, and with much equity decided all things at their own arbitrement; till the temptation of such a power, left absolute in their hands, perverted them at length to injustice and partiality. Then did they, who now by trial had found the danger and inconveniences of committing arbitrary power to any, invent laws either framed or consented to by all; that should confine and limit the authority of whom they chose to govern them: that so man, of whose failing they had proof, might no more rule over them, but law and reason, abstracted as much as might be from personal errors and frailties. "While, as the magistrate was set above the people, so the law was set above the magistrate." When this would not serve, but that the law was either not executed, or misapplied, they were constrained from that time, the only remedy left (hem, to put conditions and take oaths from all kings and magistrates at their first instalment to do impartial justice by law: who upon those terms and no other, received allegiance from the people, that is to say, bond or covenant to obey them in execution of those laws, which they, the people, had themselves made or assented to. And this oftentimes with express warning, that if the king or magistrate proved unfaithful to his trust, the people would be disengaged. They added also counsellors and parliaments, not to be only at his beck, but with him or without him, at set times, or at all times, when any danger threatened, to have care of the public safety. Therefore saith Claudius Sesell, a French statesman, "The parliament was set as a bridle to the king;" which I instance rather, "not because our English lawyers have not said the same long before, but because that French monarchy is granted by all to be a far more absolute one than ours. That this and the rest of what hath hitherto been spoken is most true, might be copiously made appear through all stories heathen and Christian; even of those nations, where kings and emperors have sought means to abolish all ancient memory of the people's right by their encroachments and usurpations. But I spare long insertions, appealing to the German, French, Italian, Arragonian, English, and, not least, the Scottish histories: not forgetting this only by the way, that William the Norman, though a conqueror, and not unsworn at his coronation, was compelled, a second time, to take oath at St. Albans, ere the people would be brought to yield obedience.

## THE TENURE OF KINGS AND MAGISTRATES

It being thus manifest, that the power of kings and magistrates is nothing else but what is only derivative, transferred, and committed to them in trust from the people to the common good of them all, in whom the power yet remains fundamentally, and cannot be taken from them, without a violation of their natural birthright; and seeing that from hence Aristotle, and the best of political writers, have defined a king, "him who governs to the good and profit of his people, and not for his own ends;" it follows from necessary causes, that the titles of sovereign lord, natural lord, and the like, are either arrogancies, or flatteries, not admitted by emperors and kings of best note, and disliked by the church both of Jews (Isa. xxvi. 13,) and ancient Christians, as appears by Tertullian and others. Although generally the people of Asia, and with them the Jews also, especially since the time they chose a king against the advice and counsel of God, are noted by wise authors much inclinable to slavery.

Secondly, that to say, as is usual, the king hath as good right to his crown and dignity, as any man to his inheritance, is to make the subject no better than the king's slave, his chattel, or his possession that may be bought and sold: and doubtless, if hereditary title were sufficiently inquired, the best foundation of it would be found but either in courtesy or convenience. But suppose it to be of right hereditary, what can be more just and legal, if a subject for certain crimes be to forfeit by law from himself and posterity all his inheritance to the king, than that a king for crimes proportional should forfeit all his title and inheritance to the people? Unless the people must be thought created all for him, he not for them, and they all in one body inferior to him single; which were a kind of treason against the dignity of mankind to affirm.

Thirdly, it follows, that, to say kings are accountable to none but God, is the overturning of all law and government. For if they may refuse to give account, then all covenants made with them at coronation, all oaths, are in vain, and mere mockeries; all laws which they swear to keep, made to no purpose: for if the king fear not God, (as how many of them do not!) we hold then our lives and estates by the tenure of his mere grace and mercy, as from a god, not a mortal magistrate; a position that none but court-parasites or men besotted would maintain! 'Aristotle therefore, whom we commonly allow for one of the best interpreters of nature and morality, writes in the fourth of his Politics, chap. x. that "monarchy unaccountable, is the worst sort of tyranny, and least of all to be endured by freeborn men." ' And surely no Christian prince, not drunk with high mind, and prouder than those pagan Cæsars that deified themselves, would arrogate so unreasonably above human condition, or derogate so basely from a whole nation of men his brethren, as if for him only subsisting, and to serve his glory, valuing them in comparison of his own brute will and pleasure no more than so many beasts, or vermin under his feet, not to be reasoned with, but to be trod on; among whom there might be found so many thousand men for wisdom, virtue, nobleness of mind, and all other respects but the fortune of his dignity, far above him. Yet some would persuade us that this absurd opinion was King David's, because in the 51st Psalm he cries out to God, "Against thee only have I sinned;" as if David had imagined, that to murder Uriah and adulterate his wife had been no sin against his neighbour, whenas that law of Moses was to the king expressly, Deut. xvii., not to think so highly of himself above his brethren. David therefore by those words could mean no other, than either that the depth of his guiltiness was known to God only, or to so few as had not the will or power to question him; or that the sin against God was greater beyond compare than against Uriah. Whatever his meaning were, any wise man will see, that the pathetical words of a psalm can be no certain decision to a point that hath abundantly more certain rules to go by. How much more rationally spake the heathen king Demophoön in a tragedy of Euripides, than these interpreters would put upon King David! "I rule not my people by tyranny, as if they were barbarians, but am myself liable, if I do unjustly, to suffer justly." Not unlike was the speech of Trajan, the worthy emperor, to one whom he made general of his prætorian forces: "Take this drawn sword," saith he, "to use for me, if I reign well; if not, to use against me." Thus Dion relates. And not Trajan only, but Theodosius the younger, a Christian emperor, and one of the best, caused it to be enacted as a rule undeniable and fit to be acknowledged by all kings and emperors, that a prince is bound to the laws; that on the authority of law the authority of a prince depends, and to the laws ought to submit. Which edict of his remains yet unrepealed in the Code of Justinian, l. 1, tit. 24, as a sacred constitution to all the succeeding emperors. How then can any king in Europe maintain and write himself accountable to none but God, when emperors in their own imperial statutes have written and decreed themselves accountable to law? And indeed where such account is not feared, he that bids a man reign over him above law, may bid as well a savage beast.

It follows, lastly, that since the king or magistrate holds his authority of the people, both originally and

## THE TENURE OF KINGS AND MAGISTRATES

naturally for their good in the first place, and not his own; then may the people, as oft as they shall judge it for the best, either choose him or reject him, retain him or depose him though no tyrant, merely by the liberty and right of freeborn men to be governed as seems to them best. This, though it cannot but stand with plain reason, shall be made good also by Scripture, Deut. xvii. 14, "When thou art come into the land, which the Lord thy God giveth thee, and shalt say, I will set a king over me, like as all the nations about me." These words confirm us that the right of choosing, yea of changing their own government, is by the grant of God himself in the people. And therefore when they desired a king, though then under another form of government, and though their changing displeased him, yet he that was himself their king, and rejected by them, would not be a hinderance to what they intended, further than by persuasion, but that they might do therein as they saw good, 1 Sam. viii. only he reserved to himself the nomination of who should reign over them. Neither did that exempt the king, as if he were to God only accountable, though by his especial command anointed. Therefore "David first made a covenant with the elders of Israel, and so was by them anointed king," 2 Sam. v. 3; 1 Chron. xi. And Jehoiada the priest, making Jehoash king, made a covenant between him and the people, 2 Kings, xi. 17. Therefore when Rehoboam, at his coming to the crown, rejected those conditions, which the Israelites brought him, hear what they answer him, "What portion have we in David, or inheritance in the son of Jesse? See to thine own house, David." And for the like conditions not performed, all Israel before that time deposed Samuel; not for his own default, but for the misgovernment of his sons. But some will say to both these examples, it was evilly done. I answer, that not the latter, because it was expressly allowed them in the law, to set up a king if they pleased; and God himself joined with them in the work; though in some sort it was at that time displeasing to him, in respect of old Samuel, who had governed them uprightly. As Livy praises the Romans, who took occasion from Tarquinius, a wicked prince, to gain their liberty, which to have extorted, saith he, from Numa, or any of the good kings before, had not been seasonable. Nor was it in the former example done unlawfully; for when Rehoboam had prepared a huge army to reduce the Israelites, he was forbidden by the prophet, 1 Kings xii. 24, "Thus saith the Lord, ye shall not go up, nor fight against your brethren, for this thing is from me." He calls them their brethren, not rebels, and forbids to be proceeded against them, owning the thing himself, not by single providence, but by approbation, and that not only of the act, as in the former example, but of the fit season also; he had not otherwise forbid to molest them. And those grave and wise counsellors, whom Rehoboam first advised with, spake no such thing, as our old gray-headed flatterers now are wont, stand upon your birth-right, scorn to capitulate, you hold of God, not of them; for they knew no such matter, unless Conditionally, but gave him politic counsel, as in a civil transaction. Therefore kingdom and magistracy, whether supreme or subordinate, is called "a human ordinance," 1 Pet. ii. 13, which we are there taught is the will of God we should submit to, so far as for the punishment of evil-doers, and the encouragement of them that do well. "Submit," saith he, "as free men." "But to any civil power unaccountable, unquestionable, and not to be resisted, no not in wickedness, and violent actions, how can we submit as free men?" "There is no power but of God," saith Paul, Rom. xiii., as much as to say, God put it into man's heart to find out that way at first for common peace and preservation, approving the exercise thereof; else it contradicts Peter, who calls the same authority an ordinance of man. It must be also understood of lawful and just power, else we read of great power in the affairs and kingdoms of the world permitted to the devil: for, saith he to Christ, Luke iv. 6, all this power will I give thee, and the glory of them, for it is delivered to me, and to whomsoever I will, I give it: neither did he lie, or Christ gainsay what he affirmed; for in the thirteenth of the Revelation<sup>^</sup>, we read how the dragon gave to the beast his power, his seat, and great authority: which beast so authorized most expound to be the tyrannical powers and kingdoms of the earth. Therefore St. Paul in the forecited chapter tells us, that such magistrates he means, as are not a terror to the good, but to the evil, such as bear not the sword in vain, but to punish offenders, and to encourage the good. If such only be mentioned here as powers to be obeyed, and our submission to them only required, then doubtless those powers, that do the contrary, are no powers ordained of God; and by consequence no obligation laid upon us to obey or not to resist them. And it may be well observed, that both these apostles, whenever they give this precept, express it in terms not concrete, but abstract, as logicians are wont to speak; that is, they mention the ordinance, the power, the authority, before the persons that execute it; and what that power is, lest we should be deceived, they describe exactly. So that if the power be not such, or the person execute not such power, neither the one nor the other is of God, but of the devil, and by consequence to be resisted. From this exposition Chrysostom also on the same place dissents not; explaining that these words were not written in behalf of a tyrant. And this is verified by David, himself a king, and likeliest to be

## THE TENURE OF KINGS AND MAGISTRATES

the author of the Psalm xciv. 20, which saith, "Shall the throne of iniquity have fellowship with thee?" And it were worth the knowing, since kings in these days, and that by Scripture, boast the justness of their title, by holding it immediately of God, yet cannot show the time when God ever set on the throne them or their forefathers, but only when the people chose them; why by the same reason, since God ascribes as oft to himself the casting down of princes from the throne, it should not be thought as lawful, and as much from God, when none are seen to do it but the people, and that for just causes. For if it needs must be a sin in them to depose, it may as likely be a sin to have elected. And contrary, if the people's act in election be pleaded by a king, as the act of God, and the most just title to enthrone him, why may not the people's act of rejection be as well pleaded by the people as the act of God, and the most just reason to depose him? So that we see the title and just right of reigning or deposing in reference to God, is found in Scripture to be all one; visible only in the people, and depending merely upon justice and demerit. Thus far hath been considered chiefly the power of kings and magistrates; how it was and is originally the people's, and by them conferred in trust only to be employed to the common peace and benefit; with liberty therefore and right remaining in them, to reassume it to themselves, if by kings or magistrates it be abused; or to dispose of it by any alteration, as they shall judge most conducive to the public good.

We may from hence with more ease and force of argument determine what a tyrant is, and what the people may do against him. A tyrant, whether by wrong or by right coming to the crown, is he who, regarding neither law nor the common good, reigns only for himself and his faction: thus St. Basil among others defines him. And because his power is great, his will boundless and exorbitant, the fulfilling whereof is for the most part accompanied with innumerable wrongs and oppressions of the people, murders, massacres, rapes, adulteries, desolation, and subversion of cities and whole provinces; look how great a good and happiness a just king is, so great a mischief is a tyrant; as he the public father of his country, so this the common enemy. Against whom what the people lawfully may do, as against a common pest, and destroyer of mankind, I suppose no man of clear judgment need go further to be guided than by the very principles of nature in him. But because it is the vulgar folly of men to desert their own reason, and shutting their eyes, to think they see best with other men's,

I shall show by such examples as ought to have most weight with us, what hath been done in this case heretofore. The Greeks and Romans, as their prime authors witness, held it not only lawful, but a glorious and heroic deed, rewarded publicly with statues and garlands, to kill an infamous tyrant at any time without trial: and but reason, that he, who trod down all law, should not be vouchsafed the benefit of law. Insomuch that Seneca the tragedian, brings in Hercules, the grand suppressor of tyrants, thus speaking;

——— *Victima haud ulla amplior  
Potest, magisque opima mactari  
Jovi Quam rex iniquus.*

——— *There can be slain  
No sacrifice to God more acceptable  
Than an unjust and wicked king.*

But of these I name no more, lest it be objected they were heathen; and come to produce another sort of men, that had the knowledge of true religion. Among the Jews this custom of tyrant-killing was not unusual. First Ehud, a man whom God had raised to deliver Israel from Eglon king of Moab, who had conquered and ruled over them eighteen years, being sent to him as an ambassador with a present, slew him in his own house. But he was a foreign prince, an enemy, and Ehud besides had special warrant from God. To the first I answer, it imports not whether foreign or native: for no prince so native but professes to hold by law; which when he himself overturns, breaking all the covenants and oaths that gave him title to his dignity, and were the bond and alliance between him and his people, what differs he from an outlandish king, or from an enemy? For look how much right the king of Spain hath to govern us at all, so much right hath the king of England to govern us tyrannically. If he, though not bound to us by any league, coming from Spain in person to subdue us, or to destroy us, might lawfully by the people of England either be slain in fight, or put to death in captivity, what hath a native king to plead, bound by so many covenants, benefits, and honours, to the welfare of his people; .why he through the contempt of all laws and parliaments, the only tie of our obedience to him, for his own will's sake, and a boasted prerogative

## THE TENURE OF KINGS AND MAGISTRATES

unaccountable, after seven years warring and destroying of his best subjects, overcome, and yielded prisoner, should think to scape unquestionable, as a thing divine, in respect of whom so many thousand Christians destroyed should he unaccounted for, polluting with their slaughtered carcasses all the land over, and crying for vengeance against the living that should have righted them? Who knows not that there is a mutual bond of amity and brotherhood between man and man over all the world, neither is it the English sea that can sever us from that duty and relation: a straiter bond yet there is between fellow-subjects, neighbours, and friends. But when any of these do one to another so as hostility could do no worse, what doth the law decree less against them, than open enemies and invaders? or if the law be not present, or too weak, what doth it warrant us to less than single defence or civil war? and from that time forward the law of civil defensive war differs nothing from the law of foreign hostility. Nor is it distance of place that makes enmity, but enmity that makes distance. He therefore that keeps peace with me, near or remote, of whatsoever nation, is to me, as far as all civil and human offices, an Englishman and a neighbour: but if an Englishman, forgetting all laws, human, civil, and religious, offend against life and liberty, to him offended, and to the law in his behalf, though born in the same womb, he is no better than a Turk, a Saracen, a heathen. This is gospel, and this was ever law among equals; how much rather then in force against any king whatever, who in respect of the people is confessed inferior and not equal; to distinguish therefore of a tyrant by outlandish, or domestic, is a weak evasion. To the second, that he was an enemy; I answer, what tyrant is not? yet Eglon by the Jews had been acknowledged as their sovereign, they had served him eighteen years, as long almost as we our William the Conqueror, in all which he could not be so unwise a statesman, but to have taken of them oaths of fealty and allegiance; by which they made themselves his proper subjects, as their homage and present sent by Ehud testified. To the third, that he had special warrant to kill Eglon in that manner, it cannot be granted, because not expressed; it is plain, that he was raised by God to be a deliverer, and went on just principles, such as were then and ever held allowable to deal so by a tyrant, that could no otherwise be dealt with. Neither did Samuel, though a prophet, with his own hand abstain from Agag; a foreign enemy, no doubt; but mark the reason, "As thy sword hath made women childless;" a cause that by the sentence of law itself nullifies all relations. And as the law is between brother and brother, father and son, master and servant, wherefore not between king, or rather tyrant, and people? And whereas Jehu had special command to slay Jehoram, a successive and hereditary tyrant, it seems not the less imitable for that; for where a thing grounded so much on natural reason hath the addition of a command from God, what does it but establish the lawfulness of such an act? Nor is it likely that God, who had so many ways of punishing the house of Ahab, would have sent a subject against his prince, if the fact in itself, as done to a tyrant, had been of bad example. And if David refused to lift his hand against the Lord's anointed, the matter between them was not tyranny, but private enmity, and David as a private person had been his own revenger, not so much the people's: but when any tyrant at this day can show himself to be the Lord's anointed, the only mentioned reason why David withheld his hand, he may then, but not not till then, presume on the same privilege.

We may pass therefore hence to Christian times. And first our Saviour himself, how much he favoured tyrants, and how much intended they should be found or honoured among Christians, declared his mind not obhurely; accounting their absolute authority no better than Gentilism, yea though they flourished it over with the splendid name of benefactors; charging those that would be his disciples to usurp no such dominion; but that they, who were to be of most authority among them, should esteem themselves ministers and servants to the public. Matt. xx. 25, "The princes of the Gentiles exercise lordship over them; and Mark x. 42, "They that seem to rule," saith he, either slighting or accounting them no lawful rulers: "but ye shall not be so, but the greatest among you shall be your servant." And although he himself were the meekest, and came on earth to be so, yet to a tyrant we hear him not vouchsafe an humble word: but, "Tell that fox," Luke xiii. "So far we ought to be from thinking that Christ and his gospel should be made a sanctuary for tyrants from justice, to whom his law before never gave such protection." And wherefore did his mother the virgin Mary give such praise to God in her prophetic song, that he had now by the coming of Christ, cut down dynasties, or proud monarchs, from the throne, if the church, when God manifests his power in them to do so, should rather choose all misery and vassalage to serve them, and let them still sit on their potent seats to be adored for doing mischief? Surely it is not for nothing, that tyrants by a kind of natural instinct both hate and fear none more than the true church and saints of God, as the most dangerous enemies and subverters of monarchy, though indeed of tyranny; hath not this been the perpetual cry of courtiers and court prelates? whereof no likelier cause can be alleged, but that they well discerned the mind and

## THE TENURE OF KINGS AND MAGISTRATES

principles of most devout and zealous men, and indeed the very discipline of church, tending to the dissolution of all tyranny. No marvel then if since the faith of Christ received, in purer or impurer times, to depose a king and put him to death for tyranny, hath been accounted so just and requisite, that neighbour kings have both upheld and taken part with subjects in the action. And Ludovicus Pius, himself an emperor, and son of Charles the Great, being made judge (Du Haillan is my author) between Milegast king of the Vultzes and his subjects who had deposed him, gave his verdict for the subjects, and for him whom they had chosen in his room. Note here, that the right of electing whom they please is by the impartial testimony of an emperor in the people: for, said he, "A just prince ought to be preferred before an unjust, and the end of government before the prerogative." And Constantinus Leo, another emperor, in the Byzantine laws saith, "That the end of?, king is for the general good, which he not performing, is but the counterfeit of a king." And to prove, that some of our own monarchs have acknowledged, that their high office exempted them not from punishment, they had the sword of St. Edward borne before them by an officer, who was called earl of the palace, even at the times of their highest pomp and solemnities; to mind them, saith Matthew Paris, the best of our historians, "that if they erred, the sword had power to restrain them." And what restraint the sword comes to at length, having both edge and point, if any sceptic will doubt, let him feel. It is also affirmed from diligent search made in our ancient book of law, that the peers and barons of England had a legal right to judge the king: which was the cause most likely, (for it could be no slight cause,) that they were called his peers, or equals. This however may stand immovable, so long as man hath to deal with no better than man; that if our law judge all men to the lowest by their peers, it should in all equity ascend also, and judge the highest. And so much I find both in our own and foreign story, that dukes, earls, and marquisses were at first not hereditary, not empty and vain titles, but names of trust and office, and with the office ceasing; as induces me to be of opinion, that every worthy man in parliament, (for the word baron imparts no more,) might for the public good be thought a fit peer and judge of the king; without regard had to petty caveats and circumstances, the chief impediment in high affairs, and ever stood upon most by circumstantial men. Whence doubtless our ancestors who were not ignorant with what rights either nature or ancient constitution had endowed them, when oaths both at coronation and renewed in parliament would not serve, thought it no way illegal, to depose and put to death their tyrannous kings. Insomuch that the parliament drew up a charge against Richard the Second, and the commons requested to have judgment decreed against him, that the realm might not be endangered. And Peter Martyr, a divine of foremost, rank, on the third of Judges approves their doings. Sir Thomas Smith also, a protestant and a statesman, in his Commonwealth of England, putting the question, "whether it be lawful to rise against a tyrant;" answers, "that the vulgar judge of it according to the event, and the learned according to the purpose of them that do it." But far before those days Gildas, the most ancient of all our historians, speaking of those times wherein the Roman empire, decaying, quitted and relinquished what right they had by conquest to this island, and resigned it all into the people's hands, testifies that the people thus reinvested with their own original right, about the year 446, both elected them kings, whom they thought best, (the first Christian British kings that ever reigned here since the Romans,) and by the same right, when they apprehended cause, usually deposed and put them to death. This is the most fundamental and ancient tenure, that any king of England can produce or pretend to; in comparison of which, all other titles and pleas are but of yesterday. If any object, that Gildas condemns the Britons for so doing, the answer is as ready; that he condemns them no more for so doing, than he did before for choosing such; for saith he, "They anointed them kings, not of God, but such as were more bloody than the rest." Next, he condemns them not at all for deposing or putting them to death, but for doing it overhastily, without trial or well examining the cause, and for electing others worse in their room. Thus we have here both domestic and most ancient examples, that the people of Britain have deposed and put to death their kings in those primitive Christian times. And to couple reason with example, if the church in all ages, primitive, Romish, or protestant, held it ever no less their duty than the power of their keys, though without express warrant of Scripture, to bring indifferently both king and peasant under the utmost rigour of their canons and censures ecclesiastical, (even to the smiting him with a final excommunication, if he persist impenitent: what hinders, but that the temporal law both may and ought, though without a special text, or precedent, extend with like indifference the civil sword, to the cutting off, without exemption, him that capitally offends, seeing that justice and religion are from the same God, and works of justice oftentimes more acceptable? Yet because that some lately with the tongues and arguments of malignant backsliders have written, that the proceedings now in parliament against the king are without precedent from any protestant state or kingdom, the examples which

## THE TENURE OF KINGS AND MAGISTRATES

follow shall be all protestant, and chiefly presbyterian.

In the year 1546, the duke of Saxony, landgrave of Hesse, and the whole protestant league, raised open war against Charles the Fifth their emperor, sent him a defiance, renounced all faith and allegiance toward him, and debated long in council, whether they should give him so much as the title of Cæsar. Sleidan. 1.17. Let all men judge what this wanted of deposing or of killing, but the power to do it.

In the year 1559, the Scots protestants claiming promise of their queen—regent for liberty of conscience, she answering, that promises were not to be claimed of princes beyond what was commodious for them to grant, told her to her face in the parliament then at Stirling, that if it were so, they renounced their obedience; and soon after betook them to arms. Buchanan Hist. 1. 16. Certainly, when allegiance is renounced, that very hour the king or queen is in effect deposed.

In the year 1564, John Knox, a most famous divine, and the reformer of Scotland to the presbyterian discipline, at a general assembly maintained openly in a dispute against Lethington the secretary of state, that subjects might and ought to execute God's judgments upon their king; that the fact of Jehu and others against their king, having the ground of God's ordinary command to put such and such offenders to death, was not extraordinary, but to be imitated of all that preferred the honour of God to the affection of flesh and wicked princes; that kings, if they offend, have no privilege to be exempted from the punishments of law more than any other subject: so that if the king be a murderer, adulterer, or idolater, he should suffer, not as a king, but as an offender; and this position he repeats again and again before them. Answerable was the opinion of John Craig, another learned divine, and that laws made by the tyranny of princes, or the negligence of people, their posterity might abrogate, and reform all things according to the original institution of commonwealths. And Knox, being commanded by the nobility to write to Calvin and other learned men for their judgments in that question, refused; alleging, that both himself was fully resolved in conscience, and had heard their judgments, and had the same opinion under handwriting of many the most godly and most learned that he knew in Europe; that if he should move the question to them again, what should he do but show his own forgetfulness or inconstancy? All this is far more largely in the ecclesiastic history of Scotland, 1. 4, with many other passages to this effect all the book over, set out with diligence by Scotsmen of best repute among them at the beginning of these troubles; as if they laboured to inform us what we were to do, and what they intended upon the like occasion.

And to let the world know, that the whole church and protestant state of Scotland in those purest times of reformation were of the same belief, three years after, they met in the field Mary their lawful and hereditary queen, took her prisoner, yielding before fight, kept her in prison, and the same year deposed her. Buchan. Hist. 1. 18.

And four years after that, the Scots, in justification of their deposing Queen Mary, sent ambassadors to Queen Elizabeth, and in a written declaration alleged, that they had used towards her more lenity than she deserved; that their ancestors had heretofore punished their kings by death or banishment; that the Scots were a free nation, made king whom they freely chose, and with the same freedom unkinged him if they saw cause, by right of ancient laws and ceremonies yet remaining, and old customs yet among the Highlanders in choosing the head of their clans, or families; all which, with many other arguments, bore witness, that regal power was nothing else but a mutual covenant or stipulation between king and people. Buch. Hist. 1. 20. These were Scotsmen and presbyterians: but what measure then have they lately offered, to think such liberty less befitting us than themselves, presuming to put him upon us for a master, whom their law scarce allows to be their own equal? If now then we hear them in another strain than heretofore in the purest times of their church, we may be confident it is the voice of faction speaking in them, not of truth and reformation. "Which no less in England than in Scotland, by the mouths of those faithful witnesses commonly called puritans and nonconformists, spake as clearly for the putting down, yea, the utmost punishing, of kings, as in their several treatises may be read; even from the first reign of Elizabeth to these times. Insomuch that one of them, whose name was Gibson, foretold King James, he should be rooted out, and conclude his race, if he persisted to uphold bishops. And that very inscription, stamped upon the first coins at his coronation, a naked sword in a hand with these words, "Simereor, in me," "Against me, if I deserve," not only manifested the judgment of that state, but seemed also to presage the sentence of divine justice in this event upon his son.

In the year 1581, the states of Holland, in a general assembly at the Hague, abjured all obedience and subjection to Philip king of Spain; and in a declaration justify their so doing; for that by his tyrannous

## THE TENURE OF KINGS AND MAGISTRATES

government, against faith so many times given and broken, he had lost his right to all the Belgic provinces; that therefore they deposed him, and declared it lawful to choose another in his stead. Thuan. 1. 74. From that time to this, no state or kingdom in the world hath equally prospered: but let them remember not to look with an evil and prejudicial eye upon their neighbours walking by the same rule.

But what need these examples to presbyterians; I mean to those who now of late would seem so much to abhor deposing, whenas they to all Christendom have given the latest and the liveliest example of doing it themselves? I question not the lawfulness of raising war against a tyrant in defence of religion, or civil liberty; for no protestant church, from the first Waldenses of Lyons and Languedoc to this day, but have done it round, and maintained it lawful. But this I doubt not to affirm, that the presbyterians, who now so much condemn deposing, were the men themselves that deposed the king; and cannot, with all their shifting and relapsing, wash off the guiltiness from their own hands. For they themselves, by these their late doings, have made it guiltiness, and turned their own warrantable actions into rebellion.

There is nothing, that so actually makes a king of England, as rightful possession and supremacy in all Causes both Civil and Ecclesiastical: and nothing that so actually makes a subject of England, as those two oaths of allegiance and supremacy observed without equivocating, or any mental reservation. Out of doubt then when the king shall command things already constituted in church or state, obedience is the true essence of a subject, either to do, if it be lawful, or if he hold the thing unlawful, to submit to that penalty which the law imposes, so long as he intends to remain a subject. Therefore when the people, or any part of them, shall rise against the king and his authority, executing the law in any thing established, civil or ecclesiastical, I do not say it is rebellion, if the thing commanded though established be unlawful, and that they sought first all due means of redress (and no man is further bound to law); but I say it is an absolute renouncing both of supremacy and allegiance, which in one word is an actual and total deposing of the king, and the setting up of another supreme authority over them. And whether the presbyterians have not done all this and much more, they will not put me, I suppose, to reckon up a seven years story fresh in the memory of all men. Have they not utterly broke the oath of allegiance, rejecting the king's command and authority sent them from any part of the kingdom, whether in things lawful or unlawful? Have they not abjured the oath of supremacy, by setting up the parliament without the king, supreme to all their obedience; and though their vow and covenant bound them in general to the parliament, yet sometimes adhering to the lesser part of lords and commons that remained faithful, as they term it, and even of them, one while to the commons without the lords, another while to the lords without the commons? Have they not still declared their meaning, whatever their oath were, to hold them only for supreme, whom they found at any time most yielding to what they petitioned? Both these oaths, which were the straitest bond of an English subject in reference to the king, being thus broke and made void; it follows undeniably, that the king from that time was by them in fact absolutely deposed, and they no longer in reality to be thought his subjects, notwithstanding their fine clause in the covenant to preserve his person, crown, and dignity, set there by some dodging casuist with more craft than sincerity, to mitigate the matter in case of ill success, and not taken, I suppose, by any honest man, but as a condition subordinate to every the least particle, that might more concern religion, liberty, or the public peace.

To prove it yet more plainly, that they are the men who have deposed the king, I thus argue. We know, that king and subject are relatives, and relatives have no longer being than in the relation; the relation between king and subject can be no other than regal authority and subjection. Hence I infer past their defending, that if the subject, who is one relative, take away the relation, of force he takes away also the other relative: but the presbyterians, who were one relative, that is to say, subjects, have for this seven years taken away the relation, that is to say, the king's authority, and their subjection to it; therefore the presbyterians for these seven years have removed and extinguished the other relative, that is to say, the king; or to speak more in brief, have deposed him; not only by depriving him the execution of his authority, but by conferring it upon others. If then their oaths of subjection broken, new supremacy obeyed, new oaths and covenant taken, notwithstanding frivolous evasions, have in plain terms unkinged the king, much more then hath their seven years war, not deposed him only, but outlawed him, and defied him as an alien, a rebel to law, and enemy to the state. It must needs be clear to any man not averse from reason, that hostility and subjection are two direct and positive contraries, and can no more in one subject stand together in respect of the same king than one person at the same time can be in two remote places. Against whom therefore the subject is in act of hostility, we may be confident, that to him he is in no subjection: and in whom hostility takes place of subjection, for they can by no means consist together, to him the king can be

## THE TENURE OF KINGS AND MAGISTRATES

not only no king, but an enemy. So that from hence we shall not need dispute, whether they have deposed him, or what they have defaulted towards him as no king, but show manifestly how much they have done toward the killing him. Have they not levied all these wars against him, whether offensive or defensive, (for defence in war equally offends, and most prudently beforehand,) and given commission to slay, where they knew his person could not be exempt from danger? And if chance or flight had not saved him, how often had they killed him, directing their artillery, without blame or prohibition, to the very place where they saw him stand? Have they not sequestered him, judged or unjudged, and converted his revenue to other uses, detaining from him, as a grand delinquent, all means of livelihood, so that for them long since he might have perished, or have starved? Have they not hunted and pursued him round about the kingdom with sword and fire? Have they not formerly denied to treat with him, and their now recanting ministers preached against him, as a reprobate incurable, an enemy to God and his church, marked for destruction, and therefore not to be treated with? Have they not besieged him, and to their power forbid him water and fire, save what they shot against him to the hazard of his life? Yet while they thus assaulted and endangered it with hostile deeds, they swore in words to defend it with his crown and dignity; not in order, as it seems now, to a firm and lasting peace, or to his repentance after all this blood; but simply, without regard, without remorse or any comparable value of all the miseries and calamities suffered by the poor people, or to suffer hereafter, through his obstinacy or impenitence.

No understanding man can be ignorant, that covenants are ever made according to the present state of persons and of things; and have ever the more general laws of nature and of reason included in them, though not expressed. If I make a voluntary covenant, as with a man to do him good, and he prove afterward a monster to me, I should conceive a disobligement. If I covenant, not to hurt an enemy, in favour of him and forbearance, and hope of his amendment, and he, after that, shall do me tenfold injury and mischief to what he had done when I so covenanted, and still be plotting what may tend to my destruction, I question not but that his after-actions release me; nor know I covenant so sacred, that withholds me from demanding justice on him. Howbeit, had not their distrust in a good cause, and the fast and loose of our prevaricating divines, overruled, it had been doubtless better, not to have inserted in a covenant unnecessary obligations and words, not works of supererogating allegiance to their enemy; no way advantageous to themselves, had the king prevailed, as to their Cost many would have felt; but full of snare and distraction to our friends, useful only, as we now find, to our adversaries, who under such a latitude and shelter of ambiguous interpretation have ever since been plotting and contriving new opportunities to trouble all again.

How much better had it been, and more becoming an undaunted virtue, to have declared openly and boldly whom and what power the people were to hold supreme, as on the like occasion protestants have done before, and many conscientious men now in these times have more than once besought the parliament to do, that they might go on upon a sure foundation, and not with a riddling covenant in their mouths, seeming to swear counter, almost in the same breath, allegiance and no allegiance; which doubtless had drawn off all the minds of sincere men from siding with them, had they not discerned their actions far more deposing him than their words upholding him; which words, made now the subject of cavillous interpretations, stood ever in the covenant, by judgment of the more discerning sort, an evidence of their fear, not of their fidelity. What should I return to speak on, of those attempts for which the king himself hath often charged the presbyterians of seeking his life, whenas in the due estimation of things they might without a fallacy be said to have done the deed outright? Who knows not, that the king is a name of dignity and office, not of person? Who therefore kills a king, must kill him while he is a king. Then they certainly, who by deposing him have long since taken from him the life of a king, his office and his dignity, they in the truest sense may be said to have killed the king: not only by their deposing and waging war against him, which, besides the danger to his personal life, set him in the farthest opposite point from any vital function of a king, but by their holding him in prison, vanquished and yielded into their absolute and despotic power, which brought him to the lowest degradation and incapacity of the regal name. I say not by whose matchless valour next under God, lest the story of their ingratitude thereupon carry me from the purpose in hand, which is to convince them, that they, which I repeat again, were the men who in the truest sense killed the king, not only as is proved before, but by depressing him their king far below the rank of a subject to the condition of a captive, without intention to restore him, as the chancellor of Scotland in a speech told him plainly at Newcastle, unless he granted fully all their demands, which they knew he never meant. Nor did they treat, or think of treating, with him, till their hatred to the army that delivered them, not their love or duty to the king, joined them secretly

## THE TENURE OF KINGS AND MAGISTRATES

with men sentenced so oft for reprobates in their own mouths, by whose subtle inspiring they grew mad upon a most tardy and improper treaty. Whereas if the whole bent of their actions had not been against the king himself, but only against his evil counsellors, as they feigned, and published, wherefore did they not restore him all that while to the true life of a king, his office, crown, and dignity, when he was in their power, and they themselves his nearest counsellors? The truth there fore is, both that they would not, and that indeed they could not, without their own certain destruction, having reduced him to such a final pass, as was the very death and burial all in him that was regal, and from whence never king of England yet revived, but by the new reinforcement of his own party, which was a kind of resurrection to him.

Thus having quite extinguished all that could be in him of a king, and from a total privation clad him over, like another specifical thing, with forms and habitudes destructive to the former, they left in his person, dead as to law and all the civil right either of king or subject, the life only of a prisoner, a captive, and a malefactor; whom the equal and impartial hand of justice finding, was no more to spare than another ordinary man; not only made obnoxious to the doom of law by a charge more than once drawn up against him, and his own confession to the first article at Newport, but summoned and arraigned in the sight of God and his people, cursed and devoted to perdition worse than any Ahab, or Antiochus, with exhortation to curse all those in the name of God, that made not war against him, as bitterly as Meroz was to be cursed, that went not out against a Canaanitish king, almost in all the sermons, prayers, and fulminations that have been uttered this seven years by those cloven tongues of falsehood and dissension, who now, to the stirring up of new discord, acquit him; and against their own discipline, which they boast to be the throne and sceptre of Christ, absolve him, unconfound him, though unconverted, unrepentant, unsensible of all their precious saints and martyrs, whose blood they have so oft laid upon his head: and now again with a new sovereign anointment can wash it all off, as if it were as vile, and no more to be reckoned for than the blood of so many dogs in a time of pestilence; giving the most opprobrious lie to all the acted zeal, that for these many years hath filled their bellies, and fed them fat upon the foolish people. Ministers of sedition, not of the gospel, who, while they saw it manifestly tend to civil war and bloodshed, never ceased exasperating the people against him; and now, that they see it likely to breed new commotion, cease not to incite others against the people, that have saved them from him, as if sedition were their only aim, whether against him or for him.

But God, as we have cause to trust, will put other thoughts into the people, and turn them from giving ear or heed to these mercenary noisemakers, of whose fury and false prophecies we have enough experience; and from the murmurs of new discord will incline them to hearken, rather with erected minds, to the voice of our supreme magistracy, calling us to liberty, and the flourishing deeds of a reformed commonwealth; with this hope, that as God was heretofore angry with the Jews who rejected him and his form of government to choose a king, so that he will bless us, and be propitious to us, who reject a king to make him only our leader, and supreme governor, in the conformity as near as may be of his own ancient government; if we have at least but so much worth in us to entertain the sense of our future happiness, and the courage to receive what God vouchsafes us: wherein we have the honour to precede other nations, who are now labouring to be our followers. For as to this question in hand, what the people by their just right may do in change of government, or of governor, we see it cleared sufficiently; besides other ample authority, even from the mouths of princes themselves. And surely they that shall boast, as we do, to be a free nation, and not have in themselves the power to remove or to abolish any governor supreme, or subordinate, with the government itself upon urgent causes, may please their fancy with a ridiculous and painted freedom, fit to cozen babies; but are indeed under tyranny and servitude; as wanting that power, which is the root and source of all liberty, to dispose and economize in the land which God hath given them, as masters of family in their own house and free inheritance. Without which natural and essential power of a free nation, though bearing high their heads, they can in due esteem be thought no better than slaves and vassals born, in the tenure and occupation of another inheriting lord. Whose government, though not illegal, or intolerable, hangs over them as a lordly scourge, not as a free government; and therefore to be abrogated. How much more justly then may they fling off tyranny, or tyrants; who being once deposed can be no more than private men, as subject to the reach of justice and arraignment as any other transgressors? And certainly if men, not to speak of heathen, both wise and religious, have done justice upon tyrants what way they could soonest, how much more mild and humane then is it, to give them fair and open trial; to teach lawless kings, and all who so much adore them, that not mortal man, or his imperious will, but justice, is the only true sovereign and supreme majesty upon earth? Let men cease

## THE TENURE OF KINGS AND MAGISTRATES

therefore, out of faction and hypocrisy, to make outcries and horrid things of things so just and honourable. 'Though perhaps till now, no Protestant state or kingdom can be alleged to have openly put to death their king, which lately some have written, and imputed to their great glory; much mistaking the matter. It is not, neither ought to be, the glory of a Protestant state, never to have put their king to death; it is the glory of a Protestant king never to have deserved death.' And if the parliament and military council do what they do without precedent, if it appear their duty, it argues the more wisdom, virtue, and magnanimity, that they know themselves able to be a precedent to others. Who perhaps in future ages, if they prove not too degenerate, will look up with honour, and aspire toward these exemplary and matchless deeds of their ancestors, as to the highest top of their civil glory and emulation. Which heretofore, in the pursuance of fame and foreign dominion, spent itself vaingloriously abroad; but henceforth may learn a better fortitude, to dare execute highest justice on them, that shall by force of arms endeavour the oppressing and bereaving of religion and their liberty at home: that no unbridled potentate or tyrant, but to his sorrow, for the future may presume such high and irresponsible license over mankind, to havoc and turn upside down whole kingdoms of men, as though they were no more in respect of his perverse will than a nation of pismires. As for the party called Presbyterian, of whom I believe very many to be good and faithful Christians, though misled by some of turbulent spirit, I wish them, earnestly and calmly, not to fall off from their first principles, nor to affect rigour and superiority over men not under them; not to compel unforcible things, in religion especially, which, if not voluntary, becomes a sin; not to assist the clamour and malicious drifts of men, whom they themselves have judged to be the worst of men, the obdurate enemies of God and his church: nor to dart against the actions of their brethren, for want of other argument, those wrested laws and scriptures thrown by prelates and malignants against their own sides, which, though they hurt not otherwise, yet taken up by them to the condemnation of their own doings, give scandal to all men, and discover in themselves either extreme passion or apostacy. Let them not oppose their best friends and associates, who molest them not at all, infringe not the least of their liberties, unless they call it their liberty to bind other men's consciences, but are still seeking to live at peace with them and brotherly accord. Let them be ware an old and perfect enemy, who, though he hope by sowing discord to make them his instruments, yet cannot forbear a minute the open threatening of his destined revenge upon them, when they have served his purposes. Let them fear therefore, if they be wise, rather what they have done already, than what remains to do, and be warned in time they put no confidence in princes whom they have provoked, lest they be added to the examples of those that miserably have tasted the event. Stories can inform them how Christiern the II. king of Denmark, not much above a hundred years past, driven out by his subjects, and received again upon new oaths and conditions, broke through them all to his most bloody revenge; slaying his chief opposers, when he saw his time, both them and their children, invited to a feast for that purpose. How Maximilian dealt with those of Bruges, though by mediation of the German princes reconciled to them by solemn and public writings drawn and sealed. How the massacre at Paris was the effect of that credulous peace, which the French Protestants made with Charles the IX. their king: and that the main visible cause, which to this day hath saved the Netherlands from utter ruin, was their final not believing the perfidious cruelty, which as a constant maxim of state hath been used by the Spanish kings on their subjects that have taken arms, and after trusted them; as no latter age but can testify, heretofore in Belgia itself, and this very year in Naples. And to conclude with one past exception, though far more ancient, David, whose sanctified prudence might be alone sufficient, not to warrant us only, but to instruct us, when once he had taken arms, never after that trusted Saul, though with tears and much relenting he twice promised not to hurt him. These instances, few of many, might admonish them, both English and Scotch, not to let their own ends, and the driving on of a faction, betray them blindly into the snare of those enemies, whose revenge looks on them as the men who first begun, fomented, and carried on beyond the cure of any sound or safe accommodation, all the evil which hath since unavoidably befallen them and their king.

I have something also to the divines, though brief to what were needful; not to be disturbers of the civil affairs, being in hands better able and more belonging to manage them; but to study harder, and to attend the office of good pastors, knowing that he, whose flock is least among them, hath a dreadful charge, not performed by mounting twice into the chair with a formal preachment huddled up at the odd hours of a whole lazy week, but by incessant pains and watching in season and out of season, from house to house, over the souls of whom they have to feed. Which if they ever well considered, how little leisure would they find, to be the most pragmatistical sidesmen of every popular tumult and sedition! And all this while are to learn what the true end and reason is of

## THE TENURE OF KINGS AND MAGISTRATES

the gospel which they teach; and what a world it differs from the censorious and supercilious lording over conscience. It would be good also they lived so as might persuade the people they hated covetousness, which, worse than heresy, is idolatry; bated pluralities, and all kind of simony; left rambling from benefice to benefice, like ravenous wolves seeking where they may devour the biggest. Of which, if some, well and warmly seated from the beginning, be not guilty, it were good they held not conversation with such as are: let them be sorry, that, being called to assemble about reforming the church, they fell to propping and soliciting the parliament, though they had renounced the name of priests, for a new settling of their tithes and oblations; and double-lined themselves with spiritual places of commodity beyond the possible discharge of their duty. Let them assemble in consistory with their elders and deacons, according to ancient ecclesiastical rule, to the preserving of church discipline, each in his several charge, and not a pack of clergymen by themselves to belly-cheer in their presumptuous Sion, or to promote designs, abuse and gull the simple laity, and stir up tumult, as the prelates did, for the maintenance of their pride and avarice. These things if they observe, and wait with patience, no doubt but all things will go well without their importunities or exclamations: and the printed letters, which they send subscribed with the ostentation of great characters and little moment, would be more considerable than now they are. But if they be the ministers of mammon instead of Christ, and scandalize his church with the filthy love of gain, aspiring also to sit the closest and the heaviest of all tyrants upon the conscience, and fall notoriously into the same sins, whereof so lately and so loud they accused the prelates; as God rooted out those wicked ones immediately before, so will he root out them their imitators: and to vindicate his own glory and religion, will uncover their hypocrisy to the open world; and visit upon their own heads that "curse ye Meroz," the very motto of their pulpits, wherewith so frequently, not as Meroz, but more like atheists, they have blasphemed the vengeance of God, and traduced the zeal of his people.

[4] 'And that they be not what they go for, true ministers of the protestant doctrine, taught by those abroad, famous and religious men, who first reformed the church, or by those no less zealous, who withstood corruption and the bishops here at home, branded with the name of puritans and nonconformists, we shall abound with testimonies to make appear: that men may yet more fully know the difference between Protestant divines, and these pulpit-firebrands.

'Luther. Lib. contra rusticos apud Sleidan. 1. 5.

'Is est hodie rerum status, "Such is the state of things at this day, that men neither can, nor will, nor indeed ought to endure longer the domination of you princes."

'Neque vero Cæsarem, "Neither is Cæsar to make war as head of Christendom, protector of the church, defender of the faith; these titles being false and windy, and most kings being the greatest enemies to religion." Lib. de Bello contra Turcas, apud Sleid. 1. 14. What hinders then, but that we may depose or punish them?

'These also are recited by Cochläus in his Miscellanies to be the words of Luther, or some other eminent divine, then in Germany, when the protestants there entered into solemn covenant at Smalcaldia. Ut ora iis obturera, "That I may stop their mouths, the pope and emperor are not born, but elected, and may also be deposed as hath been often done." If Luther, or whoever else, thought so, he could not stay there; for the right of birth or succession can be no privilege in nature, to let a tyrant sit irremovable over a nation freeborn, without transforming that nation from the nature and condition of men born free, into natural, hereditary, and successive slaves. Therefore he saith further; "To displace and throw down this exactor, this Phalaris, this Nero, is a work pleasing to God;" namely, for being such a one: which is a moral reason. Shall then so slight a consideration as his hap to be not elective simply, but by birth, which was a mere accident, overthrow that which is moral, and make displeasing to God that which otherwise had so well pleased him? Certainly not: for if the matter be rightly argued, election, much rather than chance, binds a man to content himself with what he suffers by his own bad election. Though indeed neither the one nor other binds any man, much less any people, to a necessary sufferance of those wrongs and evils, which they have ability and strength enough given them to remove.

'Zwinglius, tom. 1, articul. 42.

Quando vero perfidè, "When kings reign perfidiously, and against the rule of Christ, they may according to the word of God be deposed."

'Mihi ergo compertum non est, "I know not how it comes to pass, that kings reign by succession, unless it be with consent of the whole people." Ibid.

"Quum vero consensu, "But when by suffrage and consent of the whole people, or the better part of them, a

## THE TENURE OF KINGS AND MAGISTRATES

tyrant is deposed or put to death, God is the chief leader in that action." Ibid.

'Nunc cum tam tepidi sumus, "Now that we are so lukewarm in upholding public justice, we endure the vices of tyrants to reign now—a-days with impunity; justly therefore by them we are trod underfoot, and shall at length with them be punished. Yet ways are not wanting by which tyrants may be removed, but there wants public justice." Ibid.

'Cavete vobis ô tyranni. "Beware, ye tyrants! for now the gospel of Jesus Christ, spreading far and wide will renew the lives of many to love innocence and justice; which if ye also shall do, ye shall be honoured. But if ye shall go on to rage arid do violence, ye shall be trampled on by all men." Ibid.

'Romanum imperium imô quodque, "When the Roman empire, or any other, shall begin to oppress religion, and we negligently suffer it, we are as much guilty of religion so violated, as the oppressors themselves." Idem, Epist. ad Conrad. Somium.

'Calvin on Daniel, c. iv. v. 25.

'Hodie monarchs semper in suis titulis, "Now—a-days monarchs pretend always in their titles, to be kings by the grace of God: but how many of them to this end only pretend it, that they may reign without control! for to what purpose is the grace of God mentioned in the title of kings, but that they may acknowledge no superior? In the mean while God, whose name they use to support themselves, they willingly would tread under their feet. It is therefore a mere cheat, when they boast to reign by the grace of God."

'Âbdicant se terreni principes, "Earthly princes depose themselves, while they rise against God; yea they are unworthy to be numbered among men: rather it behoves us to spit upon their heads, than to obey them." On Dan. c. vi. v. 22.

'Bucer on Matth. c. v.

'Si princeps superior, "If a sovereign prince endeavour by arms to defend transgressors, to subvert those things which are taught in the word of God, they, who are in authority under him, ought first to dissuade him; if they prevail not, and that he now bears himself not as a prince but as an enemy, and seeks to violate privileges and rights granted to inferior magistrates, or commonalties, it is the part of pious magistrates, imploring first the assistance of God, rather to try all ways and means, than to betray the flock of Christ to such an enemy of God: for they also are to this end ordained, that they may defend the people of God, and maintain those things which are good and just. For to have supreme power lessens not the evil committed by that power, but makes it the less tolerable, by how much the more generally hurtful. Then certainly the less tolerable, the more unpardonably to be punished."

'Of Peter Martyr we have spoken before.

'Paræus in Rom. xiii.

'Quorum est constituere magistratus, "They whose part is to set up magistrates, may restrain them also from outrageous deeds, or pull them down; but all magistrates are set up either by parliament or by electors, or by other magistrates; they, therefore, who exalted them may lawfully degrade and punish them."

'Of the Scots divines I need not mention others than the famousest among them, Knox, and his fellow-labourers in the reformation of Scotland; whose large treatise on this subject defends the same opinion. To cite them sufficiently, were to insert their whole books, written purposely on this argument. "Knox's Appeal;" and to the reader; where he promises in a postscript, that the book which he intended to set forth, called, "The Second Blast of the Trumpet," should maintain more at large, that the same men most justly may depose and punish him whom unadvisedly they have elected, notwithstanding birth, succession, or any oath of allegiance. Among our own divines, Cartwright and Fenner, two of the learnedest, may in reason satisfy us what was held by the rest. Fenner in his book of Theology maintaining, that they who have power, that is to say, a parliament, may either by fair means or by force depose a tyrant, whom he defines to be him, that wilfully breaks all or the principal conditions made between him and the commonwealth. Fen. Sac. Theolog. c. 13. And Cartwright in a prefixed epistle testifies his approbation of the whole book.

'Gilby de Obedientiâ, p. 25 and 105.

"Kings have their authority of the people, who may upon occasion reassume it to themselves."

'England's Complaint against the Canons.

"The people may kill wicked princes as monsters and cruel beasts."

## THE TENURE OF KINGS AND MAGISTRATES

'Christopher Goodman of Obedience.

"When kings or rulers become blasphemers of God, oppressors and murderers of their subjects, they ought no more to be accounted kings or lawful magistrates, but as private men to be examined, accused, and condemned and punished by the law of God; and being convicted and punished by that law, it is not man's but God's doing." C. x. p. 139.

"By the civil laws, a fool or idiot born, and so proved, shall lose the lands and inheritance whereto he is born, because he is not able to use them aright: and especially ought in no case be suffered to have the government of a whole nation; but there is no such evil can come to the commonwealth by fools and idiots, as doth by the rage and fury of ungodly rulers; such, therefore, being without God, ought to have no authority over God's people, who by his word requireth the contrary." C. xi. p. 143, 144.

"No person is exempt by any law of God from this punishment: be he king, queen, or emperor, he must die the death; for God hath not placed them above others to transgress his laws as they list, but to be subject to them as well as others; and if they be subject to his laws, then to the punishment also, so much the more as their example is more dangerous." C. xiii. p. 184.

"When magistrates cease to do their duty, the people are as it were without magistrates, yea, worse, and then God giveth the sword into the people's hand, and he himself is become immediately their head." P. 185.

"If princes do right, and keep promise with you, then do you owe to them all humble obedience; if not, ye are discharged, and your study ought to be in this case how ye may depose and punish according to the law such rebels against God, and oppressors of their country." P. 190.

'This Goodman was a minister of the English church at Geneva, as Dudley Fenner was at Middleburgh, or some other place in that country. These were the pastors of those saints and confessors, who, flying from the bloody persecution of Queen Mary, gathered up at length their scattered members into many congregations; whereof some in upper, some in lower Germany, part of them settled at Geneva; where this author having preached on this subject to the great liking of certain learned and godly men who heard him, was by them sundry times and with much instance required to write more fully on that point. Who thereupon took it in hand, and conferring with the best learned in those parts, (among whom Calvin was then living in the same city,) with their special approbation he published this treatise, aiming principally, as is testified by Whittingham in the preface, that his brethren of England, the protestants, might be persuaded in the truth of that doctrine concerning obedience to magistrates. Whittingham in Prefat.

'These were the true protestant divines of England, our fathers in the faith we hold; this was their sense, who for so many years labouring under prelacy through all storms and persecutions kept religion from extinguishing; and delivered it pure to us, till there arose a covetous and ambitious generation of divines, (for divines they call themselves!) who, feigning on a sudden to be new converts and proselytes from episcopacy, under which they had long temporised, opened their mouths at length, in show against pluralities and prelacy, but with intent to swallow them down both; gorging themselves like harpies on those simonious places and preferments of their outed predecessors, as the quarry for which they hunted, not to plurality only but to multiplicity; for possessing which they had accused them their brethren, and aspiring under another title to the same authority and usurpation over the consciences of all men.

'Of this faction, diverse reverend and learned divines (as they are styled in the philactery of their own title-page) pleading the lawfulness of defensive arms against the king, in a treatise called "Scripture and Reason," seem in words to disclaim utterly the deposing of a king; but both the Scripture, and the reasons which they use, draw consequences after them, which, without their bidding, conclude it lawful. For if by Scripture, and by that especially to the Romans, which they most insist upon, kings, doing that which is contrary to Saint Paul's definition of a magistrate, may be resisted, they may altogether with as much force of consequence be deposed or punished. And if by reason the unjust authority of kings "may be forfeited in part, and his power be reassumed in part, either by the parliament or people, for the case in hazard and the present necessity," as they affirm, p. 34, there can no scripture be alleged, no imaginable reason given, that necessity continuing, as it may always, and they in all prudence and their duty may take upon them to foresee it, why in such a case they may not finally amerce him with the loss of his kingdom, of whose amendment they have no hope. And if one wicked action

## THE TENURE OF KINGS AND MAGISTRATES

persisted in against religion, laws, and liberties, may warrant us to thus much in part, why may not forty times as many tyrannies by him committed, warrant us to proceed on restraining him, till the restraint become total? For the ways of justice are exactest proportion; if for one trespass of a king it require so much remedy or satisfaction, then for twenty more as heinous crimes, it requires of him twenty-fold; and so proportionably, till it come to what is

Utmost among men. If in these proceedings against their king they may not finish, by the usual course of justice, what they have begun, they could not lawfully begin at all. For this golden rule of justice and morality, as well as of arithmetic, out of three terms which they admit, will as certainly and unavoidably bring out the fourth, as any problem that ever Euclid or Apollonius made good by demonstration.

'And if the parliament, being undeposable but by themselves, as is affirmed, p. 37, 38, might for his whole life, if they saw cause, take all power, authority, and the sword out of his hand, which in effect is to unmagistrate him, why might they not, being then themselves the sole magistrates in force, proceed to punish him, who, being lawfully deprived of all things that define a magistrate, can be now no magistrate to be degraded lower, but an offender to be punished.

Lastly, whom they may defy, and meet in battle, why may they not as well prosecute by justice? For lawful war is but the execution of justice against them who refuse law. Among whom if it be lawful (as they deny not, p. 19, 20,) to slay the king himself coming in front at his own peril, wherefore may not justice do that intendedly, which the chance of a defensive war might without blame have done casually, nay purposely, if there it find him among the rest? They ask, p. 19, "By what rule of conscience or God, a state is bound to sacrifice religion, laws, and liberties, rather than a prince defending such as subvert them, should come in hazard of his life." And I ask by what conscience, or divinity, or law, or reason, a state is bound to leave all these sacred concerns under a perpetual hazard and extremity of danger, rather than cut off a wicked prince, who sits plodding day and night to subvert them. They tell us, that the law of nature justifies any man to defend himself, even against the king in person: let them show us then, why the same law may not justify much more a state or whole people, to do justice upon him, against whom each private man may lawfully defend himself; seeing all kind of justice done is a defence to good men, as well as a punishment to bad; and justice done upon a tyrant is no more but the necessary self-defence of a whole commonwealth. To war upon a king, that his instruments may be brought to condign punishment, and thereafter to punish them the instruments, and not to spare only, but to defend and honour him the author, is the strangest piece of justice to be called Christian, and the strangest piece of reason to be called human, that by men of reverence and learning, as their style imports them, ever yet was vented. They maintain in the third and fourth section that a judge or inferior magistrate is anointed of God, is his minister, hath the sword in his hand, is to be obeyed by St. Peter's rule, as well as the supreme, and without difference any where expressed: and yet will have us fight against the supreme till he remove and punish the inferior magistrate (for such were greatest delinquents); whenas by Scripture, and by reason, there can no more authority be shown to resist the one than the other; and altogether as much, to punish or depose the supreme himself, as to make war upon him, till he punish or deliver up his inferior magistrates, whom in the same terms we are commanded to obey, and not to resist. Thus while they, in a cautious line or two here and there stuffed in, are only verbal against the pulling down or punishing of tyrants, all the Scripture and the reason, which they bring, is in every leaf direct and rational, to infer it altogether as lawful, as to resist them. And yet in all their sermons, as hath by others been well noted, they went much further. For divines, if we observe them, have their postures, and their motions no less expertly, and with no less variety, than they that practice feats in the artillery-ground. Sometimes they seem furiously to march on, and presently march counter; by-and-by they stand, and then retreat; or if need be can face about, or wheel in a whole body, with that cunning and dexterity, as is almost unperceivable; to wind themselves by shifting ground into places of more advantage. And providence only must be the drum, providence the word of command, that calls them from above, but always to some larger benefice, or acts them into such or such figures and promotions. At their turns and doublings no men readier, to the right, or to the left; for it is their turns which they serve chiefly; herein only singular, that with them there is no certain hand right or left, but as their own commodity thinks best to call it. But if there come a truth to be defended, which to them and their interest of this world seems not so profitable, straight these nimble motionists can find no even legs to stand upon; and are no more of use to reformation thoroughly performed, and not superficially, or to the advancement of truth, (which among mortal men is always in her progress,) than if on a sudden they were struck maim and crippled. Which the better to

## THE TENURE OF KINGS AND MAGISTRATES

conceal, or the more to countenance by a general conformity to their own limping, they would have Scripture, they would have reason also made to halt with them for company; and would put us off' with impotent conclusions, lame and shorter than the premises. In this posture they seem to stand with great zeal and confidence on the wall of Sion; but like Jebusites, not like Israelites, or Levites: blind also as well as lame, they discern not David from Adoni-bezec: but cry him up for the Lord's anointed, whose thumbs and great toes not long before they had cut off upon their pulpit cushions. Therefore he who is our only king, the root of David, and whose kingdom is eternal righteousness, with all those that war under him, whose happiness and final hopes are laid up in that only just and rightful kingdom, (which we pray incessantly may come soon, and in so praying wish hasty ruin and destruction to all tyrants,) even he our immortal King, and all that love him, must of necessity have in abomination these blind and lame defenders of Jerusalem; as the soul of David hated them, and forbid them entrance into God's house, and his own. But as to those before them, which I cited first (and with an easy search, for many more might be added) as they there stand, without more in number, being the best and chief of protestant divines, we may follow them for faithful guides, and without doubting may receive them, as witnesses abundant of what we here affirm concerning tyrants. And indeed I find it generally the clear and positive determination of them all, (not prelatical, or of this late faction sub-prelatical,) who have written on this argument; that to do justice on a lawless king, is to a private man unlawful; to an inferior magistrate lawful: or if they were divided in opinion, yet greater than these here alleged, or of more authority in the church, there can be none produced. If any one shall go about by bringing other testimonies to disable these, or by bringing these against themselves in other cited passages of their books, he will not only fail to make good that false and impudent assertion of those mutinous ministers, that the deposing and punishing of a king or tyrant "is against the constant judgment of all protestant divines," it being quite the contrary; but will prove rather what perhaps he intended not, that the judgment of divines, if it be so various and inconstant to itself, is not considerable, or to be esteemed at all. Ere which be yielded, as I hope it never will, these ignorant asserters in their own art will have proved themselves more and more, not to be protestant divines, whose constant judgment in this point they have so audaciously belied, but rather to be a pack of hungry church-wolves, who, in the steps of Simon Magus their father, following the hot scent of double livings and pluralities, advowsons, donatives, inductions, and augmentations, though uncalled to the flock of Christ, but by the mero suggestion of their bellies, like those priests of Bel, whose pranks Daniel found out; have got possession, or rather seized upon the pulpit, as the strong hold and fortress of their sedition and rebellion against the civil magistrate. Whose friendly and victorious hands having rescued them from . the bishops their insulting lords, fed them plenteously, both in public and in private, raised them to be high and rich of poor and base; only suffered not their covetousness and fierce ambition (which as the pit that sent out their fellow-locusts hath been ever bottomless and boundless) to interpose in all things, and over all persons, their impetuous ignorance and importunity.