

Documents relating to Newton's preparation for appearance before Judge Jeffreys

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Petri Greg. Tholosani Syntagma Iuris universi Principis mandata contemnentes quomodo puniantur

Lib 33. cap. 18. n. 3. de pœnis quasi sacrilegij.

Qui Mandata Principum non obsequuntur crimen admittunt sacrilegij c. 12. 8: 1{illeg} Quemobrem pœna adjicitur, quæ distinguenda, nam negligantur mandata Principis, an{illeg} veroò contemnantur. Multum enim interest inter hæc. Quod si negligantur an illa mand{ata} magni ponderis sint, et jacturam Reipublicæ inferant, an non: Nam illis non solum jactura bonorum, sed et ultimum supplicium meminet. d. 49. 16. 6. 2. de re militari: sed illis levior pœna et arbitrarius. Quod si contemnat quis jussa principum superbè, mend{illeg} in Legem Iuliam Majestatis, et pœna experitur ultimi supplicij. Et si Ecclesiasticum superiorem contemnit, Anathemate feritur. Cæterum si quis non contemnat, sed rationem habeat, cur implere noluerit, potest suspendere executionem et monere Principem ab expectare secundam Iussionem impuneque hoc facit; quia pleraque propter importunitatem petentium, vel inconsideratè, propter negotiorum multitudinem quibus occupatur Princeps, impetrantur a principe quæ admitti a Iudicibus non debent. Decret. Greg. Lib. 5. Tit. 34. cap. 12. Cæterum de purgatione Canonicâ. cod. 10: 12. 1. de pet. bon. sublatis.

Decret. Greg. Lib. 1. Tit. 3.

cap. 5. de Rescriptis.

Is ad quem Rescriptum Papæ dirigitur, debet illi parere, vel causam rationabilem assignare, quare parere non potest.

**Alexander III Ravannati
Archiepiscopo.**

Si quando aliqua tuæ fraternitatis dirigimus, quæ animum tuum exasperare videntur, turbari non debes. Qualitatem negotij pro quo tibi scribitur diligenter considerans, aut mandatum nostrum reverent adimpleas, aut per literas tuas, quare adimplere non possis, rationabilem causam præendas: quia patienter sustinebimus si non feceris, quod prave nobis fuerit insinuatione suggestum.

C. cum teneamus apud Greg. 6. de præbendis et dignitatibus.

Si mandatum nostrum pro alicujus provisione receperis, qui aliud beneficium, de quo habeat commodè sustentari: nisi forte in literis ipsis de hoc mentio habeatur: aut si non potest ei sine scandalo provideri, æquanimiter sustinemus, si pro ea mandatum nostrum non duxeris exequendum.

We find by Plutarch of the great Antiochus of Asia, who saith that Princes are obnoxious to abuses of Ministers, & it could not at all times be prevented; Therefore he sent Messengers that Letters or dispatches sent in his name that were not warrantable by Law, & agreeable to Iustice, should not be contrived to be done by him, & therefore they should not give way unto it.

Queen Eliz. in 29th yeare of her Reign erects a new office in the Common pleas, for the making of Supersedeas or exigents, that issue there, she grants it to Richard Cavendish her servant, sends to have him admitted, but the Iudges delay the doing of it for this reason, because Protonotaries, & Philizers, claimed the making of those writs. The Queen sends a sharp Letter & commands them forthwith to admit him, yet the Iudges for{bear.} The Queen sends a sharper Letter commanding them to shew their Reasons of their <1v> contempt & disobedience to the then Lord Keeper, & the Earle of Leicester, no mean person in those days, the Iudges deliver their Reasons, why they had refused, & it was becuase others claimed the making of those writs. The Queen sends a fourth peremptory Message for their admitting with this Reason, that if the others were put out, they were rich & able men, & that her Courts of Iustice were open, where they might demand their Rights.

This was not to take their Right, but to put them to their Action.

The Iudges humbly returned this Answer, that the Queen had taken her Oath for the due execution of Iustice, according to the Law, that they did not doubt, but that when her Majesty was informed that it was against Law she would do what befit her, for their parts they had taken an Oath to God, to her, & the Commonwealth, & if they should do it without processe of Law before them, & only upon her Command, & put the other out of profession, tho the Right remained to them, it were a breach of their Oaths, citing the Case of Thorpe that it might be a sufficient warning to them: The Queen hearing of these Reasons, was satisfied, & the Iudges heard no more of the business.

This precedent is to be found in S^t Iohns Argument concerning Shipmoney vide de 2. Nelsons Coll 1 p^t fol. 718, 719.

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The case of the Bishops Courts.

By 1 Edw. 6. 2 ecclesiastical processes are to run in the King's name & under his seale & the Teste in the Archbishop's & Bishop's. This Act was repealed by 1 & 2 Phil & Mar sess. 2 c 8. But this Act of repeale is now voyd being repealed by two later Acts, first by 1 Eliz 1 with exception only of the clauses relating to premunire which reach not this case, & then by 1 Iac 25 absolutely without exception; & being also repugnant to it self : for it both fully confirms & yet diminishes the prerogative. Soon after in a Parliament held 4 Iac it was disputed in a grand Committe of Lords & Commons whether by the repeale of 1 & 2 Phil. & Mar. that of 1 Edw 6 was not revived, & the 12 Iudges there gave their opinion for the Bishops against that Act of 1 Edw 6, because that Act was repealed by two other Acts viz^t that of 1 Eliz 1 which confirms the repeale of all those Acts in 1 & 2 Phil & Mar sess 2. c 8 which it doth not expresly revive whereof this of 1 Edw. 6 is one, & that of 25 Hen 8 c 20 which was revived by that of 1 Eliz 1 & enacts that Arch Bishops & Bishops (so elected presented & consecrated as is there prescribed) shall be obeyed in all manner of things according to the name title degree & dignity that they shall be so chosen or presented unto & do & execute in every thing& things touching the same as any ArchBishop or Bishop of this Realm without offending the Prerogative Royal of the Crown & the Laws & customes of this Realm might at any time heretofore do. The sentence of the Iudges was in these words

Primo Iulij 1637

The Iudges certificate concerning Ecclesiasticall Iurisdiction

May it please your Lordships

According to your Lordships order made in his Majesties Court of star-chamber the 12^t of May last, we have taken consideration of the particulars wherein our opinions are required by the said order & we have all agreed:

That processes may issue out of the Ecclesiastical Courts, & that a Patent under the great seal is not necessary for the keeping of the said Ecclesiastical Courts or for the enabling of Citations, Suspensions, Excommunications or other Censures of the Church; & that it is not necessary that summons, Citations or other Processes Ecclesiastical in the said Courts or Institutions, or Inductions to Benefices or correction of Ecclesiastical offences by censure in those Courts be in the name or with the stile of the king or under the kings seal, or that their seals of office have in them the kings Arms. And that the statute of primo Edwardi sexti c. 2 which enacted the contrary is not now in force.

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His Majesties promise is no argument for abrogating the laws because he is but for his life these for ever, that null & void by its being contrary to his religion, these firm & binding, that without a legal penalty upon those subjects who may act contrary to it, these enforced by appointed penalties Nor is it more loyall more honest or more prudent to take away the laws for our religion in trusting to a bare promise to maintain it without them then it would be to throw up all the laws for liberty & property should the king desire it & promise to maintain the people in all their rights without them. If we are for the first case more then wee should be for the last tis becaus we have less zeale for our God & religion then for our civil rights. An Attorney who should deliver up his Clients bond upon a bare promise of the money would in the opinion of all men be fals to his trust & this is our case The people have entrusted us with our rights & we ought not to deliver up their security upon any promise whatsoever. Nor will our faith & trust in the kings integrity excuse us any more then the Attorneys confidence in the creditor could be an excuse for him. But (which is wors) in abrogating the penal laws & tests we shall absolve the king fom his promise of maintaining the Church of England according to law, & so have neither law nor promise left for the support of our religion. And in taking away these laws we may revive severall old laws & customes & interpretations of laws against our selves, such as are the 1st section of Magna charta for preserving the popish church of England the three Acts against Lollards & others whom the Roman Church accounts hereticks repealed by the Act primo Elizab. the commission of the Sheriffs still directed to them for prosecuting those Lollards & hereticks, the writt de excommunicato capiendo. We shall also make the Ecclesiastical court more formidable by taking away the laws which restrain it.

Nor shall we be only fals to our trust but also wanting to our oaths. ffor whilst the oaths of Allegiance & Supremacy we have taken oblige us to defend as far as we are able the prerogative & authority of the Crown against all forreigne power & authority, if we shall in any respect diminish the security of the crown & nation against their own being enslaved to the authority of the Bishop of Rome, we shall be no truer to these our oaths then a Dutchman would be to his who should one day sweare to do his utmost endeavour to keep out the sea & the next day cut the banks with his own hands. I know not whether some here have unadvisedly promised any thing contrary to the intent of his oaths, I would remind him that such promises are not binding.

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To comprise in an Act for liberty of Conscience what relates to the freedom & in another Act, what relates to the Government.

To settle every thing by severe penalties.

To describe the Church of England not by the name of the Church of England but by the circumstances of her doctrine in opposition to popery. ffor the same Church of England may by succesive reformations be in one age of one religion in another of another.

To make a previous Act for securing the legal election of Parliaments least there be the same means used for getting of these Acts as has been now for getting off the former.

In the Act for liberty to confirm the repeal of all ancient laws made in favour of Popery, to review & interpret most plainly that 1st chapter of Magna Charta & of all other ancient laws in force about religion least they be hereafter interpreted in favour of Popery by the Iudges.

To secure the interpretation of this law to a perpetuall commission of 12 Lawyers, 4 to be chosen by the King 4 by the House of Lords & 4 by the Commons & to chose 3 more to succeed them & empower every five as any one of them shall drop to chose a successor.

To secure
