William Rogers,
Dowdeswell in the County
of Gloucester Esq. 1700
old lat. 68°
New lat. 24°
OF THE ANTIENT LAWES OF
great Britaine.
Servato Ius, me ne Mortalis Deum.

George Saltern.

LONDON
Printed for John Iaggard, and are to bee solde at his
Shop in Fleestreecte, at the Signe of the hand
and Starre. 1605.
OF THE ANTIQUITY OF LAWES
OF
George Sekerkin
De Antiquis Britanniae

Legibus.

Cap. 1.

In all actions, in every election, in every counsel and deliberation, it is to be held for a certain and undoubted principle, that, only things Godly, just, & necessary are to be done, & that with due invocation of Divine assistance, without which nothing can be done. So the first consideration ought to be of the end, the second of the meanes, the third of the effectual working power, which cannot be hindered, which is only the spirit of God all sufficient. By this wee may see how that ground is to be understood, which some have taken, namely that in all innovations there ought to be vrgent necessitie, or evident vtilitie. A ground which if it had bin vsoled onely as it was first proposed by a Pagan, Vipianus.

B. I would
I would say that it were altogether unperfect & defective, seeing the consideration of Godliness & justice, is quite omitted; but seeing the same is now taken and pressed by Christians, I will desire them to admit a Christian exposition, & to say that Religion, Piety & Justice, doe carry the weight of necessity and utility, and whatsoever is Godly and just, the same is necessarie & profitable, according to the saying of the Apostle: Godliness is profitable to all things & hath the promises of this life and of the life to come. And againe whatsoever is not Godly & just, the same is not to be done whatsoever necessity or utility may seeme to bee in it: as it is writte. He that loueth Sonne or daughter more than me, is not worthy of me. And so that groud is much more perfect & absolute which out of a Pagan, is thus expressed:

Servato ius et metue mortalis Deum.

How Godly and just a thing it is to establish a perfect Unitie in these Kingdomes, for the confirmation of an everlasting peace betweene them, and by consequence thereof, for the increase and propagation of Gods truth and his Gospell, in a former treatise I haue shewed according to the best of my understanding.
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Now I take in hand to speake of our auncient Lawes, and God is the beginning and end of my worke. The thing it selfe is no lesse fit and necessarie for this time to be knowne, then obscure and difficult to expound. For whether we consider our Statutes enacted since the Norman, wee shall finde them grounded vpon moste just and prudent intentions: or the remnants of our Actes made by the Saxons, we shall see them full of Godly & devout admonitions, or the secret footsteps of the auncient British constitutions, appering yet in the bodie of our common Lawes, the principles thereof will appeare to be the verie Lawes of the eternal God, written in the two immortal tables of nature & Scripture. The reason heereof subordinate under the gracious ordinance of the Almighty, was either the blessed disposition of our Princes, whose matches for Godlinesse and vertue no countrie but the Cradle of our Sauior could euer afford(as our eyes now doe witnes,) or the native inclination of our people most apt to be led by piety and devotion, as the greatest number of examples doe proove: or the religious & happie counsell of Elutherius to Lucius King of Brittain, who having publike receaved in his
kingdome the faith & Gospel of our Lord, and 
studyng to amend his Lawes then vnperfect, 
sent vnto the said Elutherius for a Coppye of the 
Romane Lawes. The Christian Bishop made 
such an answere to the first Christian King, as 
betwene two such persons ought to passe; As 
the most high God answereth his most faithful 
seruant. Make all things according to the pat-
terne &c. So writeth this good Bishop. Petistis 
a nobis leges Romanas et Cæsaris nobis trans-
mittis, quibus in regno Britanniae vti voluistis: Le-
ges Romanas et Cæsaris semper reprobare possu-
mus, Legem Dei ne quaquam. Susecistis enim nu-
per miseratione divina, in regno Britanniae Legem 
et fide Christi. Habetis penes vos in Regno v-
tramque paginam. Ex illis dei gratia, per consilium 
regni vestri sume legem, et per illum Dei patientia, 
vestrum rege Britanniae regni. Vicarius vero Dei 
estis in Regno iuxta Prophetam regem.

Domini est terra, et plenitudo eius, orbis terrarum et uniuersi qui inhabitant in eo. Et rursum 
iuxta prophetam Regem, Dilexisti iustitionem, et odi 
disti iniquitatem. Propterea vuxist se Deus tuus oleo Latitiae, prae confortibus tuis. Et rursus iuxta 
prophetâ regem. Deus iudiciu tuâ regi da, et insitri 
am tuâ filio regis. Non enim iudiciu neque iustiti-
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...am Caesaris Filij enim Regis gentes Christianae et populi regni sunt qui sub vestræ protectione, et pace et regno degunt et consistunt iuxta Evangelium, quemadmodum gallina congregat pullos sub alis, &c. Gentes vero regni, pulli vestri sunt, quos divisos debitis in unum ad concordiam, et pacem, et ad fidelem, et ad legem Christi, et ad sanctam ecclesiam congregare. &c. This counsel I say might be the reason, and by all likelihood was the reason that our common laws are so much grounded upon the law of God, which I am the rather moved to believe, for that I see our learned Judge Mr. Bracton so oftentimes inculcating the sentence of this Epistle, and namely that Rex est vicarius Dei, and deriving such excellent conclusions from it, as of Godliness in the Prince and of duty and obedience in the subject &c. And the effect hereof hath been that which is written in the Scriptures: Verbum Dei manet in aeternum. These laws saith the learned Sir John Fortescue have been in the times of the Brittaines, Romanes, Saxons, Danes and Normanes, and if they were not the best laws, some of those Kings (especially the Romans) would have changed them. Of these things therefore I have to speake matters farre above the mediocritie...
of my knowledge: but that I may the better do it, I humbly beseech thee O true light of eternity! to whome all ages and times are present, to reuie the memorie of thy glory established by thee in our auncient Lawes, lighten my understanding, confirme my judgement, & leade mee in the wayes of truth and justice, seeing that without thee neither any man can doe, nor I can speake any thing.

Cap. 2.

O rder of learning, and of the said Epistle doth require, that before I enter into the discourse of our auncient Britaine lawes, I speake somewhat concerning the Romane Lawes, that it may appeare that neither the reuerend Ulterius was deceived in judgement, nor the Godly Lucius in his choise, nor the learned Fortescue in his testimony: but that our said auncient Lawes were, indeed, as well as by the Romanes owne confession (in that they did not change them) better then their owne. I speake as a Christian, forasmuch as Brittain receaued the Lawes of Christ before it knew the gouernement of Rome; but because I wold be loath to offend,
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offend, I will remit the reader that is desirous to know, what may be said of the Authors & com-

posers of the first Romane Lawes: to St. Augustin

and of these now extant to Vesembechius Ri-
vallius, Procopius, and others: And for the prin-
ciples and groundes, I will referre them to con-

sider the particulars of the twelue tables yet in

parte remayning, and to measure and examine

the rules of the Institutes by the words of the

Authors, out of which they seeme to bee taken:

Aristotle, Tully, Isidorus, &c. and both by the

Scriptures: a worooke worthy the vacation of a

learned man. But for the Lawes of Britaine,

my principall intention before I come to speak

of them, I will intreate a little leaue to speake

somewhat first of lawe in generall, and secondly

of the auncient inhabitantes of this Ile. For by

knowing what they were, wee shall the better

knowe their Lawes and manners.

Cap. 3.

The Lawe by Aristotle is called a covenant

of the societie of men. By Tully the reason

and minde of God discerning just and vniust: If

we joyne these two and call it the covenent
made by God with the society of men, according to his own reason, discerning just & univust: it agreeth with the words of Moses, and will be as I take it a perfect definition.

The end as Tully faith is manifest, Ad salutem cœlorum, cœcitatemque incolœcitatem vitamque omnium quietam et beatam. Agreeing also with Moses, if Salus et Incolœmitas et Beatitudo, bee taken for all the blessing of this life, and the life to come. Lawes are called Divine or Humane. The divine Lawes are those which God immediately made, first written in nature, secondlye described in the ten commandements, & the Scriptures. Humane Lawes are Lawes deriued out of the divine Lawes by application of the generall commandements. First to the principal parties viz. to God, to the common estate, and to priuate men according to the diuision of the twelue Tables: secondlye to particular circumstances of Persons, thinges, actions, times, places, Penalties and such like, as the Institutes are deuided.

Herefore followeth a conclusion observed also by Tully; that if a Law be made contayning any thing contrary to the Lawe of God, it is not to be called a Lawe, (though all the world in a
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joyn Parlemet confirme it. For neither is it derived out of the general precepts, nor partaketh of the common definition, seeing it is not a covenant of God, but a confederacy against God.

The property and effect of the Lawe is first to make a distinction of just from unjust. Secondly, to command and forbid. Thirdly, to punish and rewarde. These things are performed originally and generally by the Lawe of God, and secondarily and particularly by the Lawe of men. The qualities of a true Lawe are reckoned vp by Isidorus and others. *Esse debet Lex Honesta,* *Iusta,* *possibilis,* *secundum naturam et consuetudinem,* *Loco et temporis convenientia,* *necessaria vel utilis manifesta,* &c. A Lawe must be honest, just, possible, agreeable to nature and custom, to time and place, necessary or profitable and manifest: & of this proceedeth another ground also, *jus nemini violare vel ignorare Licet.* Item *lex obligat ad scientiam,* *ad obedientiam,* *ad paenam.* The Lawe bindeth to knowledge, obedience, & punishment: no man may breake it, no man may be ignorant of it, and that which Isidore, faith, when Lawes are made, no Man may judge of them but according to them. The exact performance
formance of the Lawe is called Justice, the moderation of the Lawe upon consideration of circumstances, is called equitié, the contraries to the law are jniurie, jniustice, jniquity, wrong, force, fraud & such like. Whatsoever is said of the Law of God absolutely, may proportionally be applied to the Lawe of men. The end of the Lawe of God is al happyenes. That happyenes which is the end of Humane Lawes, consisteth chieflie in the conservation of Religion, Peace, and Justice, all which things are comprehended by St. Augustin, vnder the name of peace, which also he maketh the final end of the City of God. The matters which the Lawes doe handle, are chiefly persons, things, places, times, contracts, offences and actions. In this Land, persons appointed specially for the procurati

De Cimit.

Psal. 72. 85.

De Cimit.

De Cimit.
Britanniae Legibus.

rence, but only so much as may serve to give light to the Discourse intended.

Things also have many divisions, whereof I meant to touch but one, which is that some may pass by course of inheritance, as Landes and tenements: some cannot, as Chattelles.

Of places, some have sacred privilege, as Temples, representing God by his word. The Kinges presence and Judiciall Courtes, representing God in power and Justice; others are ordinarie and common, and of them some are publicque: as Markettes, Wayes: Some priuate, as Houses, Shoppes. &c. 

Times are likewise divided into sacred and common, the Day, the night, and such like divisions. Contracts have manifold Distinctions, which see in Bracton.

Crimes, are either against Religion, Peace, or Justice, and againe are considered as publicke offences, & so Rex pro pace sequi debet, in which all the Pleas of the Crowne are contained, or as some particular person is interested, who is to sue accordingly. Againe, they may be pursued civilly or criminally. Lastly, actions are distinguished for the most part according to the things which they demand, or the persons plaintiffes or defendants, or the Courts wherein.
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or the times whè.&c. In actions, are these principal partes: Şúmons, or Citations, triall, Judgement, and execution: These points as fitter to be sought in other places, & as to learned men, and as my selfe not haste learned, I doe briefly passe over, hasting to speake somewhat of the Inhabitants of this Lande, and so to that which I intend.

Cap. 4.

Amongst the several opinions that have bin conceived concerning the first possessors of this Isle, I cannot see any more consonant to divinity, to reason, and the testimonies of best approoved Antiquaries, then that which maintaineth the Nations of Britaine to be descended of Gomer the Sonne of Japhet, whose children, after the diuision of tongues, at Babel, spred throughout al Europe, & so replenished this Island, De tractu Armoricanò (vt fætur) in Britannia aduesti saith the venerable Bede. And to say that any multitude of Chams posterity arrived here to inhabit, is in my understanding contrary to the grounds aforesaid. For first there is no probabilite to maintaine that the Children or families, descended of one sonne: as of Japhet,
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Japhet, were mixed with the Children of the other. For then how should the accomplishment of the Prophecy be observed, which God pronounced before by the mouth of Noah? that Chanaan should be a servant both to Sem & Iaphet, and that Iaphet should dwell in the tents of Sem. Secondly, it is evident, that almighty God gave to every family of the Sons of Noah his several Language, & his several Country, by these reasons: viz. by the survey of all Nations the Sons of Iaphet, Madai the Medes; Javan the Ionians; Tubal the Iberians; Meshech, the Moscovites; Gomer, the Cymbri; Ashkenas, the Tuiscones. The Sons of Cham, Cush, the Aethiopians, Misraim the Egyptian, Canaan the Canaanites: the Sons of Sem, Ashur, Ela, Apachshad, Lud and Aram, every one had his language and his Country, and as I take it the contrariety cannot be shewed.

And this is confirmed by the express words of Moses, or rather of God himself, the truest Author: where having named, first the Sons of Iaphet by themselves, Gomer and the rest, he adds this conclusion: Of these, were the Isles of the Gentiles divided, in their Landes, every man after his tongue, and after their families, in their nations.
nations. So having reckoned the Children of Cham, euery one by name, hee addeth the like conclusion: These are (faith hee) the Sonnes of Cham, according to their families, according to their tongues in their Countries, & in their nations. The like conclusion he maketh after the enumeration of the Sonnes of Sem. And the same point is prooved by the Historie of Abraham, where he is commaunded to goe from his Country, from his Kindred, & from his Fathers house: and againe by the Song of Moses, & divers other places of Scripture. So as it is apparaunt by the wordes of the Scripture, that howsoever the languages were confounded, yet the seuerall kindreds, and families descended from the Sonnes of Noah, were not confounded together; but that euery familie had his particular tongue and country, and were seuered from other Families. And it is also likely, that howsoever their speeches were confounded, and their families devided: yet the Sonnes of Japhet had amongst themselves more intelligence one of another language, then they had of the languages vised by the nations descended of Cham, or Sem. For wee see the Assyrians, Persians, Syrians, and Hebrewes descended of Sem, had more similitude
tude of speech, and writing among themselves, then they had with any the nations of Europe. And so the Aegiptians, Aethiopians, Libians, & other descended of Cham; which vicinityes (as I may call it) of speech, being greater in those original times, then now it is, caused those families that had best intelligence one with another to sorte themselves together, in places of neerer neighbour-hood. And thereof it came, that the Children of Sem remained in Asia, The children of Cham went into Africa, & the children of Laphet went northward into Europa; as wee see the Moscovits, the Thracians, Ionians and Liberians, the Sonnes of Laphet to be round about vs. Of all which premises resteth this conclusion, that all the inhabitants of Britaine are descended from some one of Laphets Children.

Other testimonies of the Scriptures incline the same way, for Gomer and Togarmath his sonne are called the sides of the North; & learned men doe agree, that the auncient Kimbr, or Gomeri, the Sonnes of Gomer did reigne farre & wide in one neighbor Countries, and the auncient Britaines doe yet call their countrie Gimbr. So that in Divinitie and reason we cannot choose but acknowledge our felues to be bran-

Ezech. 38.

Camden.

Sir John Prise.
chast of the same stocke, namelye the Cimbri of Gomer, & likewise the Saxons & Danes of Ashkenas, and the Scots, If Iberi of Tuball, and all of Iaphet: But if the Scotts wil confesse themselves to be Gete, according to the opinion of the most learned Mr. Camden, then are they descended from Getber, the Sonne of Sem, as Melanchton sheweth. And to these opinions the reasons and authorities of best antiquaries doe concur, which he that desireth to see, may peruse them in Mr. Camden and others, neither will I prejudice any mans opinion, (though to me somewhat improbable) in deriving vs from the Troianes, so as hee derive the Troianes themselves, from Ashkenas which will come to the same effect. Taking therefore the former opinion, or howsoever it be, the inhabitants of this Isle being by all mens confession, a most auncient nation of the posteritie of Iaphet, and who (as Gildas seemeth to say) had at the first the knowledge of God; it standeth with reason, & with best warrant of authoritie, to thinke they were governed by such Lawes, and institutions derived from the Principles of the first age, that is from the Lawe of God written in nature, as most of the auncient nations did imbrace, &
verye neere to those which the Godly Sem, in whose tents God perswadeth Iaphet to continue, delivered to his Children; of which I intend to perticulate some hereafter.

Cap. 5.

I Haue spoken of the Lawe in generall, and of the first inhabitants of this Land; and I haue to speake somwhat in generall of the Lawes instituted by our Christian King Lucius upon receit of Elutherius Letters, meaning to descend in to perticularities, by easie paces and degrees.

But in setting down things of so ancient time, whereof remaine but fewe Historyes, through the rage of the Romanes and other sauadge idolaters, the scourges of this kingdom, in her godly infancye; Left I should seeme to speake too much of mine owne braine; I would intreat euery prudent, sober, & Christian Politician, first to examine the contents, and sentences of that godly Epistle, & secondly to consider his owne minde, and to vnfold his secret understanding, what he himselfe would haue done, & what he would think fit to doe, if he had bene then King Lucius, or of counsell with him, hauing receiued such a Letter as before is set downe?
Touching the Epistle itselfe, it containeth an answer to the demand of King Lucius. The demand was, to have the Lawes of Rome and Caesar. The answer consisteth of two partes; a rejection, we may (think he) alwaies reprove the Lawes of Rome & Caesar, but not the Lawes of God. And an exhortation, to take a Lawe for his Kingdome, out of the Lawe of God. This he inforceth, with divers reasons and sentences of Scripture, which with an admirable consent, do every one prove each other, and every one the severall partes of the answer.

First you are Gods Vicar, thersore you must rule by Gods Lawe & not by Caesars. The earth is the Lords, thersore it must be ruled by the lawes of the Lord, and not by Caesars. God hath annoynted you to be King, Caesar hath not annoynted you, therefore &c. O God, giue thy judgements to the King, therefore not Caesars: what then would you doe, being a godly Christian, vpon the reading of such a Letter? Let our most Christian King St. Edward giue vs counsel; who in his Lawes, taking the words of this Letter for his ground-worke, saith thus:

Rex autem, quia vicarius summi regis est, ad hoc est constitutus, ut regnum terrenum, & populum Domini,
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Domini, & super omnia sancta tueatur Ecclesiam eius, & regat, & ab injuriis defendat, & malificos ab ea euvellat. And a little after, he sheweth how this may be done: Debet vero Rex Deum timere super omnia, & diligere, & mandata eius per totum Regnum suum servare. Debet etiam, sanctam Ecclesiam regni sui, cum omni integritate, & libertate iuxta constitutiones patrum, & predecessorum servare, souere, manutenere, regere, & contra inimicos defendere: ita ut Deus praeceteris honoretur, & praeculis semper habeatur. Debet etiam bonas eges, & consuetudines approbatis et rigere, praesas autem deleere omnes, & a regno deponeere. Debet judicium rectum in regno facere, & iustitia per consilium procerum regni sui tenere. Thus saith St. Edward, but if the counsell of so excellent a King does not resolve you, yet in the mouth of two witnesses let every word be confirmed, and peruse the wordes of a most excellent Counsellor and Lawyer, I say Bracton, lib. 3. cap. 9. who there speaketh to the same effect, grounding likewise upon the same golden foundation. Rex est Dei Minister & Vicarius; Potestas itaque sua juris est non injuriae, Potestas autem injuriae Diaboli est, non Dei, and so after to the like effect, as St. Edward had spoken.

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I think therefore, there is no man but will say that King Lucius did accordingly: namely, that according to the contents and directions received, he did call a Counsel or Parliament, a thing used in those times, as I will shew hereafter: He did survey the State and Lawes of his Kingdom; that which was agreeable to Gods holy worde he did confirme, and that which wanted he did newly enact. Reasons persuading me to think, that King Lucius did so, are these: First his Godly zeal, which would never have written to Rome for Lawes, without a great desire, to have the best lawes to govern his Kingdom; and to my understanding, it is senseless and absurd, to say that which he had received an answer so good & agreeable to his desire, that he would leave it unfulfilled and unperformed. It cannot be said that he wanted will, seeing he sent for Lawes, nor that he wanted time, opportunity, power, or consent of his Nobles or people, seeing all, or the most part, yea the Druides and Flammies embraced Christian religion together with him, as our Histories testifie; and he ruled the Britains long time after in flourishing peace and tranquility. Again, that he retained some of the former Lawes; the common opinion of those
those ancient Christians of the Primitive age, persuadeth me, wherof I will speake more, when I come to K. Lucius his lawes. Yet by the way one text will I cite, out of Iunius, who faith that as long as Heathen Emperors, & Kings held the raines of gouernment, the Christians gaue not their mindes to dispute the question of the use and authoritie of Moses lawes; but when the State changed, & Christian Emperors were advanced, then those most sapient & orthodoxall Fathers, seeing it most expedient to turne about this world, without any greater noise, forbeare the troubles of secular affayres, left the authoritie, both of making lawes & giuing judgments to the ordinarie Magistratves; but if any were instituted Contra Recia Rationem, quia in natura et scripturna explicatus De; against right & good reason, which God in nature & Scripture hath described, that either with gentle & calme admonitions they procured to be amended, or patiently suffred, if it were incurable, leas the whole common good (which Augustin before called Peace) should be stirred in hope of some particular; For, that many times the importunitie of men bringeth to passe, whiles they seek to cure one euill, they shake and weaken the publicke
publike estate. In which wordes besides the point in hand, is much to be observed, that nothing ought to bee in the Lawe against reason: which is the vniversal Maxim, the maine foundation, and as I may call it, the abridgement of all our common Lawe, which here you see to be the rule of those auncient fathers, and affirmed to have been expressed by the Divine wisdome of God in nature and Scripture. This is it whereby all our questions, and controversies, all our arguments and judgements, all our Statutes and customes, are ruled and ouerruled, enlarged and corrected.

But againe to our purpose, St. Augustin speaketh much to the same effect. Hæc ergo caelestis Civitas dum peregrinatur in terra &c. This heavenly City whiles it is in Pilgrimage vpō earth, calleth Citizens out of all nations; and in all tongues, assembleth a Pilgrime societie; not regarding the manifold diversities of manners, Lawes and customes, not repealing or destroying any of those things, whereby the terrene peace (so I reade) is eyther procured, or preserved, but rather keeping and following that, which although it be diuerse in diuerse nations, yet still is intended to one and the same end of Terrene
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Terrene Peace, so long as it is no hindrance of the Religion, whereby the onely supreme and true God is taught to bee worshiped. To the same effect he speaketh againe in the nineteen Chapter of the same booke.

These authorities therefore leade me to beleue, that King Lucius retayned such of the auncient institutions, as were not Contra rectam rationem (as Iunius faith) quam in natura et scriptura explicavit Deus. And that he did take some part of his Lawes, out of the Scriptures, is proued by the testimonies of our Chronicles, compared with the words of the most Godly & religious King Alfred in his Lawes. The Chronicles say that Gildas the auncient Godly Brittaine Priest who liued not much more, then 500. years after Christ, and not much aboue 300. after Lucius, translated the British Lawes into Latine, & afterward Alfred the Godly Saxone Prince, translated the same into Saxon; and so continued them to posteritie. Alfred in the entrançe to his Lawes, setting first the ten Commaundements, and many judiciaall Lawes of Moses, and last the Apostolical Epistle directed to the Gentiles, mentioned in the Actes, which hee concludeth with these wordes vsed in some translations. That
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That you will not have done your felues, do not vnto others; windeth vp all with this conclusion: By this one cōmaundement (faith he) it is euident enouogh, that Law and right is to bee giuen to all men equaily. Neither shall we need of any other, whatsoeuer judiciall booke, onely let this bee infixed in the minde of him that sitteth as judge vpon others, that he giue no other sentence of other men, then he wold haue to be giuen in his owne cause.

But in the propagatiō of the gospel (faith King Alfred) when many men beleeued in the word of God, then many Synodes were gathered; and also in England, the Bishoppes & other the wieste men assembled, who being taught by the mildenes of Christ, did set vpon euerie first offender a pecuniarie paine, the leuing whereof they comitted to the Magistrates. &c. And a little after. These I Alfred the King have gathred together and committed to writing.

Then speaking also of the lawes of later time, he addeth that there were many thinges, also which he thought fit to be observed in the acts of Ina, Offa & Ethelbert: but the former words are plainely spoken of the Lawes here eestablished vpon the first receiuing of the Gospel by King
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King Lucius, & doe fully prooue that the coun-
sele of Elutherius was followed, but with the
mercifullnes & mildehartenes of our Lord christ
after the Saxon phrase, and the Sinodes which
Alfred speaketh of in the first arrival of the
Gospel, were the Parlaments of Lucius, whose
course that it was such as I haue saide, I pray
you see also by that which followeth, wherein I
wil first speake of the remnents of the Lawes of
nature, secondly of the auncient Brittish Lawes
made before and by Lucius, and lastlye of those
that followed vntil the Norman.

It is manifest in Histories, both sacred & pro-
phane, that the mooste auncient Nations had
their Kings or Princes, their Priests, their Elders
or Senators, and their Dukes or Captaines: and
this seemeth to bee according to the Lawe of
God & Nature, & it is seene in the Histories of
Egypt, Indea, Madian, Arabia, Greece, Italy. So
Caesar found in Britaine, Reges, Druidas, Princi-
pes, et Nobiles Duces. For it is to bee noted,
that where hee nameth the foure Kinges of
Kent, he sheweth withal, that they were all sub-
ject to Cassibellan, and calleth Cingetorix Nobi-
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lem ducem, which proueth that he ment by Reges (as commonly the Romanes understood) men of nobilitie, power & gouernement, though it were but in one City, as he faith of Immanuel in London, who perhaps might then be a Lieutenat of the city, as the Lord Maior is now, and so dooth Polidor take it, saying that they were foure Princes, such as wee now call Earles or Dukes.

It is prooued also amongst Antiquaries, that the famous Belinus and Brennus, & it is not hard to be prooued that Mulmuarius and others were Kings of this Iland, and Beda the most faithfull Historian faith literally, that before the yere six hundred after Christ in Britaine, Serna batt victuque Reges, Sacerdotes, privati, et optimates suum quique ordinem. But of the auncient Kings as likewise of their Elders or Nobles, I finde two sorts, the one fatherly, and the other tirannical. the first hauing and maintaining the authority of the first age, wherein Patresfamilias regebant, the Fathers of the greatest families which contained others, were Kings, as Adam and Sem taken to be Melchisedec, and Assur his Sonne: the Fathers of inferior families, yet populous and great, were Elders or Princes; as Abram.
Britanniae Legibus.

Iack, Iacob, and Iob. Such there were in Britain, as Caesar & Gildas doe shew. The second sorte obtained their authoritie by warre, violence or Rebellion, as before the flood, Cain and afterwards Nimrod, Esau and the like.

And of this sort there was also in Britaine whose times Gildas calleth vetustos immantum Gildas in Tyrrannos annos. But as I take it the most auncient Nobilitie of Britaine had a name signifying as much as Elders or Senators, as they had in other Countries before mentioned. Of that signification there is a name in many auncient records to be found, a name of auncient nobilitie, which importeth in signification an Elder, which I take it was the name of that first & most auncient British Noble man. The name it selfe is Thane, and I finde this name vsed for a Noble man in this Iland in Denmake & in Ireland. It must needs be a name proceeding frō some of the nations that raygned in these Countries, but neither the Romans, nor Saxons, nor the Danes, nor the Irish, can giue a reason whereby to claime it as a woord of theirs: Onely the Britaines have a word moOST neere, both in letter, signification & vse. For where the Danes call a Lord or a Noble má Thane, as the Britains did,
and where the Irish call him Tane, which by reason of his Eldership is next to succeed in some Lordshippe: yet neither of them give a reason for it: only the Britaines use the word Heane, or Hane, to signify an Elder; which answereth to the word Thane, as I said both in letter, signification & use. And to verifie the saying that all things make an Harmonious consent to truth. The Historie testifieth, that the Saxons immediately after their coming into this Island, called their Nobles by a name of the same signification viz. Earles or eldersmen, a name of Nobilitie unknowne in their owne Countrie; where (as I take it) they are called Greues or Greenes, signifying a gouernor; which name also they brought hither, and it remaineth in some use to this day: But the name of Elder they learned of the Britaines.

And heereunto agreeeth the text extant amongst the Lawes of St. Edward. Siue modo vocantur Greue, qui super alios perfecturas habent, ita apud Anglos antiquitus vocabantur Eldermen, quasi seniores, non propter senectutem, cum quidam adolescentes essent, sed propter sapientiam. Et similiter olim apud Britones temporibus Romanorum inter gentes Britanniæ vocabantur Senatores.
natores; qui postea temporibus Saxonum vocabantur Aldermani. And to say that the Britaines used the name of Senator, or borrowed this name of the Romanes, is very publike, for they lived in perpetuall hatred and hostility with them, as they chewed upon all occasions, & followed not their lawes, nor institutions in anything: but by constraint, seeing them to be Paganes, Idolaters, oppressors of their liberty, and persecutors of their Religion.

Neither doth Beda nor any other Historian speake of any Lawes made in Britaine by the Romanes, nor of any judgements by them exercised: but of those (if they be to be called judgements) whereby Albanus & other holy Martyrs were most cruelly put to death. Therefore I conclude that the Britaines tooke this name & other institutions, not of them, but either of the auncient statutes of nature, or of the latter restitution by the Gospell. These Nobles therefore together with the Priests & other selected commons, made the common Counsel of this Iland whereof Caesar speaketh, and which at this day is called the Parliament, and in the moste of our Histories called consilium Sapientum. In the Lawes of Edward before the conquest, & in the
Lawes of King Ina made about the yeare 720. after our Lord Christ, there is mention of their Parliament consisting of these degrees of men. An hundred yeares before that, we read that Berna the Christian Queene of Kent procured judgements to be established Cum consilio sapientum, that is by the Parliament, where also the venerable Bede speaketh warily, laying that it was after the example of the Romans, but not laying it was after the Romane manner. An hundred yeares before that againe in the time of Arthur the warrior, we reade of Parlaments, and the moste learned King Alfred in his lawes faith plainly, that vpon the propagation of the Gospell, Nonnulli tam in Anglia quam in alijs regionibus Episcoporum aliorumque clarissimorum sapientum conuentus agebantur, which could not bee after the Romane fashion: & whosoever observe the circumstances of the matter, he shal perceive it evidently to bee spoken of the time of King Lucius (as I said before) for in his time being peaceable, the Gospell was first publikeely received, and after his death, this Kingdome continually laboured with intestine warres, in which it was almost impossible to gather counsels, and to establish Lawes and gouernment as he
he speaketh. And as it was in this south part of Britaine, so was it likewise in the north, as appeareth by their Chronicles. They had Kings, Priests, Nobles, and Parlaments, agreeable to the forme of government of the most Auncient Kingdomes, and to the Lawes of God written in Nature & Scripture: & in this forme consisteth the estate of both the Kingdomes of great Britaine even to this day. And thus much concerning the principall persons, whereof the body of our state did and doth consist: the next thing to be considered is, of things according to the proceedings of the institutes, but because nothing can bee without a place, and wee shall have better occasion to speake of the diuision, property and dominion of things heereafter, I will therefore under correcction, intreate now somewhat of the auncient diuision of this Iland, the common place & subject of our discourse, and of the judgements therein aunciently vsed.

Cap. 7.

IT is thought by some, that this Iland before the comming of the Romanes, was rude and barbarous: & by other, that King Alfred was the diuider of this Iland into such Shires and porci-

ons.
 ons (for so the word importeth) as at this day we see. But these two opinions to be true in general, I cannot yeeld; for if I understād our stories, it will easily appeare that this land was aunciently long, before Alfreds time, devided almost into as many parts, & in like manner by the several families or nations of auncient Britaines, which are thus reckoned by Hooker in his 2. Booke of the description of England, Cap. 4. viz. Nonantæ Selgouæ Dannonij, Gadeni, Ottadeni, Epdij, Cervones, Carmonacæ, Careni, Cornubij, Decantæ, Loci, Mertæ, Macomagi, Venicoutes, Texati, Polij or Elgoni, Brigantes Parisi, Ordouici, alias Ordoluci, Catteuclani, Coretani, Trinobantes, Demetē, Cangi, Silures, Dobunii, Aterbati, Cantij, Regni, Belgæ, Durotriges, Viriij, Iceni, Tegenæ, Cenimagni, Segontiacci, Deiri, Venedoti, Bibroci, with some other whome he and others name. And of these some (as Mr. Camden plainly sheweth) possest-ed one, others two or three of these Shires which now are knowne, & these nations of Britaines are in part named by Cæsar, others by Mr. Camden, Polidore and others. So that King Alfreds division seemeth not altogether new, but rather a reviving and more exact descripti-on of the old. And this is confirmed by the testi-monv
mony of Polidore, who in the lawes of Mulcru-
nius maketh mention by name of Counties, or
Shires. Of those Lawes more shall be said here-
after: In the meane time it appeareth that this
land was deuided into portions, or shares, euene
by the Britains. There were also amongst those
Britains, euene before Lucius & Caesars times, di-
uers great Cityes, wherof 28. are named by our
Chronicles, and some of then by Caesar, besides
Townes and Castles innumerable, as Huntington
accon faith, and as appeareth by the auncient Iter
Britanniarum described by the Romans, which
are no signes of a barbarous people. For if ciuili-
tie take his name of a Citie, or Citizen; & Cities,
& Citizens cannot be ruled without good lawes,
the Britaines were ciuill, and ruled with good
Lawes which were Citizens of many great Ci-
ties. And the inconstancy of Caesar and other
Romanists is here to bee noted, which call the
Britaines barbarous, and yet contesle that they
had many good Cities, Kings, Nobles, Gouer-
nors, discipline of warre, and peace, commerce,
and traficke with forraigne Nations, and al other
parts of ciuilitie. And the question of Polidore is
somewhat ridiculous, who he asketh whether a-
ny man euer reade of Canterbury, Bath, Carded,
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or Lecester, in Caesar Tacitus, Strabo or Ptolemy. No gentle Mr. Polidore; but in Caesar wee reade of the City of Trinobantes, and of other Cities, and of the Citie of the Brigantes, Londium, Loventium & Maridunum, in Tacitus and Ptolemy, & your selfe confess in the same book that it was a Law among the Britaines, that the inner parts of the Iland should not be discouered to strangers. As for the fastnesse of Cassibellan, and the painting of their faces; if the storie be well examined & circumstances compared, it will easily be proved that such things were not originally in the gouernement, and manners of this our countrie, but were the wilde fruites of long continued civill warres, that raged amongst them, proceeding of tirranies in their Princes, superstition and Idolatry in their Priests, rebellion, sedition, murders, thefts, adulteries and disobedience in the Subjectes, some of which things are to be gathered by the words of Caesar, and all of them are laid to their charge by Gildas, and other Histories. For such things procure the wrath of God to bee powred out upon them (as faith the blessed Apostle,) as Italy, France and other Countries haue, by that meanes receiued some barbarous touches, and
Britanniae Legibus.

Ireland yet wasted and subject to great calamities & desolation, is an eye witness of the same experience, which heretofore was governed with peace ad ciuitie, and now hath many examples extant of strange immannitudes. And as these are the just plagues inflicted by the divine Justice upon our Neighbour Iland for the contempt of the Gospel, and such offences as aforesaid; so were the same inflicted in those times upon the Britaines for treading under foote the light of nature, and the knowledge of God (which Gildas signifieth that the first inhabitats had) & many excellent doctrines of Religion, & of justice, which were but obscurely, & in part preserved by the Druidæ and some fewe of the better sort.

But to returne where wee left, as in other things the Britaines maintained the manners of the auncients, so in that auncient diviision of this Land into seueral Nations and families, the most antique manner of great nations was observed. For not onely amongst the Hebrewes, but amongst the Persians, Athenians, Romans, & in this Iland the Scots being freer from publike invasions, had the like divisions, being a poynct of ciuill governement, verie necessarie for many good
good and Politicke constitutions, and therefore
used and preserved amongst all the primituue
Nations, as agreeable to reason and nature, and
is to this day observed as most consonant to the
word of God.

Cap. 8.

As in the distribution of persons, and of the
land, the Britaines were politick and civil:
so in their proceedings of Lawe, in their judg-
ments, and in their Sciences, it appeareth that
they were not so barbarous as hath been taken;
for their varieties of excellent learning (to note
that by the way) Sir John Pryse in his booke to
King Edward the sixt, prooueth that all learned
sciences, were knowne and handled amongst
them. To his booke I send those that are desir-
ous to be satisfied in that point. And although
it may be strongly inferred that a Nation giuen
to the studdies of all excellent learnings, must
needs be polished with good lawes: yet for the
more cleere evidence herof, I purpose to shew
that their lawes in particular were most just &
good, as being derived out of the lawe of God,
written in nature, and in Scripture; and for that
reason not altered, but transmitted to posteri-
yue,
The text is too fragmented to transcribe accurately. It appears to discuss the nature of law, especially the common law and the laws of nature, as perceived in the context of the biblical narratives of Cain and Abel, and the history of Abraham, Job, and the patriarchs. The text references Gratian as a source of legal reasoning and contrasts his views with the perceived natural law. The text also mentions the distinction of properties and goods, indicating a discussion on the legal and moral implications of these concepts as they relate to biblical stories.
the Lawe; the Gospell, and the tene commandements; then is Gratian in this poynt, contrary unto him selfe. But that it is so forbidden, appeareth by the eight and tenth Commandement, and in the first to the Romanes, where Covetousnes even in an heathé man is accounted for a sin, which could not be but by the lawe of nature, as it is in that place vrged. For where there is no Lawe, there is no transgression faith St. John, & other lawe there is not to condemne a Pagan. Therefore, taking that for a point not hard to be proued, and which all lawes haue taken as a principall, confessed by vertue of that lawe which is euery where the same (how-soever some authorities haue swayed to the contrary) we finde partly by the wordes of Caesar & Dio, that this Island had her owne lawes concerning the division of groundes, inheritances, Judges, & the distinctio of properties, that there were certaine courses of proceedings, and that there were punishments for contempts and offences. First Dio faith that 20. yeares after the comming hither of Caesar; Britannia suis Legibus est; Britain vised her owne Lawes, and what these owne Lawes of Britaine were, Caesar sheweth: his wordes be these: Druide fere de omnibus
omnibus controversiis publicis privatibusque constituunt, et si quod est admittum facinus, si caeser facta, si de Hereditate, definimus controversia est, iudem discernunt, præmia pænasque constituantur, si quis aut privatus aut populus, eorum decreto non sitit sacrificijis interdiciunt. The Druidæ faith Caesar (whose discipline he affirmeth to be found out and most perfect in Britaine) doth judge for the most part of all publike and priuate controversies. If any offence or Homicide be committed, or if the controversie bee for bounds or inheritance, they doe determine it, appointing punishments & rewardes, If any priuate man, or corporation stande not to their decree, they forbid them their sacrifices. &c. vnder the names of offences and Homicides, he comprehended all criminall causes; vnder controversielys of lands or inheritance are contained all civil actions; by the words of controversie, judgement, determination and decree, he sheweth that they had a certaine forme of proceeding; by punishments and rewardes, he sheweth that their sentence was compulsive.

So this testimony proueth that they had a settled forme of judgements in those three maine parts, whereof Justinian hath composed his whole
whole worke, I say De personis rebus et actionibus. To touch a few particulars, it must needs be inferred upon Caesar's words, that they had a certaine forme of conveyance and course of inheritance in their lands; for else how could controversys of inheritance and Lands arise to be decided in judgement? Now if any man consider well of our auncient forme of conveyance by Feoffment and Liuerie, and the solemnnitie thereof used, not onely after, but before the conquest, he shall finde it to bee a relike of the fatherly age, wherein the Law of nature was with great wildome observed. For if you compare it to the assurance of Abraham, you shall finde like precisenes of words: I giue thee (faith Ephron which is et euer was, our auncient word, Dò or Dedī. Like descriptio of things: The field of Ephron in Machpelah ouer against Mamre, the field and the Caue and all the trees &c, like assistance of witnesses; in the presence of my people; and that was also our manner, euen before the Norman conquest, and I can finde no beginning vnlesse I bring it to those auncient times. Our word of inheritance (heires) & that therby th'eldest Sonne shold inherite, is eyther taken from the same lawe of nature, and examples
Britanniae Legibus.

...tenth, as Sem was heir of Noah and Iaphet was appointed to dwell in his tents. God saith to Abraham, Izkak shall be thine heir, & Izhak made Jacob his heir; Clai're is made to some part of the Land of Israel in the name of Israel's heirs: Or else it was instituted by K. Lucius after the example of God himself, who made Christ the Lord & heir of all things, and adopteth vs in part only to be heirs with him. Lastly, also the manner of our succession by inheritance, & how one heir is to take after another, as they are in degrees of proximitie, is by the moste exacte reporter of our Lawes St. Edward Cooke (his majesties Atturnie general) collected and declared, vpon the judgement of God, in the case of Salphahad's daughters, cyted in Ratcliffes case, where he also observeth, that in this point, as almost in all others, the common lawe is founded vpon the Law of God. And this our maner of conveyance, and limitation of inheritance, I haue not read of in any other nation, neither can finde any other beginning for it. For other conveyances, I finde a patent of King Arthur the worthy, and another of one K. Kenwalchius, both recited in a Patent of King Henry the second, made to the Monastery of Glassenbury,
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bury as I learne of Sir John Prise, who setteth
downe words of King Henryes Patent, as I wold
King Henrye had done of the other. Also there
are many other auncient Charters yet to bee
seeene of manors, landes and liberties, graunted
to Abbeyes, Churches & other Religious hou-
ses long before the Conquest; as of King Ken-
reddus to the Abbey of Ewesham, of others to the
Cathedrall Churches of Landaffe & St. Davies
&c. But of all other, moste excellent is the Pa-
tent procured by Turketulus Lord Chancellor,
& Lord of threescore Manors, who surrendred
them all to King Eadred, and obtained sixe Ma-
nors, which are also named by Ingulfus, to bee
graunted to the Abbye of Croyland, together
with many auncient Customes and new liberti-
estes; by which may be understood the vse of the
Common lawe then and long before. Concern-
ing also the Maner of suites in Law, & taking
distresses or pledges, & that the defendat shold
finde sureties or mainpennors, a thing verie auncient, wherof we reade in the lawes of King
Ina, & yet continuing amongst vs; I finde some
such matter noted by Iob, where hee speakeoth
of taking pledges, and desireth that God would
put in suretie to answere him.
Also the particular Lawes of distresses doe prooue that they are taken out of the word of God. For by the common Law no man may dist-reine a Millstone; a thing specially provided by Deut. 24, God himselfe. Our auncient kindes of punish-ments, as by imprisonments, Fetters, Stocks, &c are named likewise in seueral places by Iob. Ca-pittal executions are deriv'd from the Law gi-ven to Noah; whosoever sheddeth mans blood, by man shall his blood bee shed. Lastly our punishment by vtllary seemeth to be most aunc-ient, & of the same beginning; for take Bract-tons description of vtllary, and compare it with the words of Cæsar, and both with some passa-ges of Scripture: and you shall finde them a-gree very neere together. Bracton thus descri-beth the forfeiture of vtllary. Foris facit patriam et regnum, et exul efficitur, et talem vocant Augli Bracton vtllagh, et alio nomine vocari antiquitus solet, Friendlesman, et sic videtur Foris facere amicos; Si quis cum eo communicaverit aliquid, eadem pena punendus est; Caput gerit Lupinum. And so forth at large, which Mr. Stanford thus briefly comprehendeth. The out lawe forfeiteth his countrie, his friends, his peace, his law, his right, and his possession: which is true euerie way, but
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to bee understood according to the severall natures of vitlaries that are amongst vs. Now Caesar of the Druidae saith thus: Si quis eorum decreto non stetit, sacrificiis interdicunt. Hae prae- na apud eos est graviissima. Quibus ita est inter- dictum, in numero impiorum et seceleratorum ha- bentur, ab iis omnes decedunt, aditum eorum ser- monemque diffugijunt, ne quid ex contagione in- commodi accipiant. Neque iis petentibus ius red- ditur neque honos villis communicatur. Conferre this with the sentence pronounced against Cain,

Thou art cursed from the earth, when thou til- psest, is the nature of our vitlary vised to this day in capital off- the ground, it shall not yeeld her strength to thone; a vagabond and a runnagate shalt thou bee in the earth.

Thus he forseit his Countrie and his pos- sessiós, the profits of his labour, & of his groud, his friendes and his peace. And this is the na- ture of our vitlary vised to this day in capital off- fenses, but in lesser contempts more easye and tollerable. Now of these things before descri- bed, have consequently followed all our pro- ceedings, aswell in Realas in personall ac- tions; for the proces of distresse in the personall, was but the taking of pledges of the defend- ant, for apparaunce, and the processe by Cape
in the Real, was but the seising of the Land, for a surety to the same propose; from whence also many other securitarie conclusions of reason have necessarily ensued, as the returne and losse of Issues, defaults, contépts, forfeitures, &c. Further in our Chronicles wee reade of Lords & tennants in the daies of Gorbonian the good, and of fealtie sworne to the Prince in the time of Eledurus the godly, which of necessitie were accompanied with tenures, services, distresses, and such like: And thus much be spoken of the auncient visible footesteppes, of the lawe of nature, which were before Lucius; Of which you may reade also in the learned discourse of the aboue named, Sir Edward Cooke before the third Booke of his Reportes, where he citeth the sentence of Caesar: saying that the discipline of the Druidæ was found out in Britannia, and that we had some formes of proceeding from the Greek; which may well bee; but you see the grounds and beginnings are much more apparant to bee seene in the records of that first age described in the sacred History, & doe yet remaine amongst vs.

Now followeth to speake of the ordinances instituted by our auncient Britain Kings, agree-
able to the word of God, and to this day also remaining: and first of the Lawes of Molumius & others which were called the Marchen law.

Cap. 9.

Although concerning the Historie of Brutus, there may bee some reasons to doubt which learned men haue gathered, yet, why there should not be one Brit or Brute King of this Land, whose Pedegree Sir John Prise out of an auncient Chronicle deriueth from Iaphet: And if there were no such Brit, yet why the whole Historie of Britaine Princes should for the fabulous interposition of one or two men be rejected, as some haue done? I see no reason seeing the concurret testimonies of diuers Britishe monumëts of great credit, which Sr I. Prise citeth, & the concordance of the Scottish History in many things, and that of some of those Princes remains to this day, apparat monumëts of others credible Histories, of others the moste ineuitable testimony of auncient Lawes. The learned Mr. Camden a judicious examiner of these things, offereth to proue that the famous Brennus that ouerranne Italy, was King of Britain, (a thing which the said Sr. Io. Prise hath alreadie
readie most learnedly performed:) to me it is as well prooued that Mulmutius his Father was King likewise of this Land: neither doe I thinke the warres of the one so glorious, as the Lawes of the other. But if any be so wilfully ignorant, as to deny, not onely the Historie of Brit, but of his successors: Let them name if they can imagine, who built these auncient Monuments, Ludgate, Bellingsgate, Caerebranke or the Citye of Yorke, Carleil, and Caercoil or Colchester and such like? and who made these auncient Lawes, called the Mulmutian, & Mercian Lawes, of which we haue to speake. Many writers which without question did see, or might see and reade the writinges of Gildas the wise Priest, and Alfred the excellent Prince, doe constantly avouch that Mulmutius Dunwalllo Father of Belinus and Brennus, established those Lawes which were afterward called Mulmutinæ, which Gildas translated into Latin, as hee confesseth himselfe (say they) and afterwards King Alfred turned them into English. Out of which wordes I gather these obseruations, first that there was such a King and hee made these Lawes without question. Secondly that these Lawes were very iust, for else such men as Gil-

 Pontius vi
run Lib. 2.
Higden.
Cestlib. 1.
Galfridmò.
Baleus.
Hooker.
Pol. virgil.
das and Alfred would not have translated and preserved them. Thirdly that they do yet remaine amongst our common Lawes, although hardly to be discerned which they bee: for the same writers testifie that they being mingled amongst the lawes of Alfred, were by St. Edward reduced to one common Law, which the Norman yeelded vnto, and himselfe and all his successors are sworne to obserue them. And so say virunius & Monemuthensis. Leges Patris quæ Molmutinae dicebantur institut inter Britones quæ vsque ad hoc tempus celebrantur inter Anglos. So also faith Higden: where speaking first of the Marchen Lawe, containing both Lawes of Mulmutius and Mertia, and of the Dane Law, & west Saxon Law, Ex his tribus Legibus (faith he) Sanctus Edwardus tertius vnum Legem communem edidit, quæ Leges Edwardi vsque hodie vocantur: of these three lawes St. Edward the third made one common Law, which to this day are called the Lawes of Edward. Beholde therefore the Fathers, yea and the very name of our common Law. Beholde a full proofe of Sir John Fortescues testimony concerning our Lawes. Some particulars wherof as they were in those times, are also mentioned in Chronicles. For
Britanniae Legibus.

For by Polido relie it is thus recorded: Mulimutius Pol Virgilius atque Leges nouas, et illas quidem salutares dedit, quas deinceps Mulimitanas Leges appellavit. Templum deorum immortalium Loco asylum omnibus ad ea consiliatibus esse constituit; & a little after, Ponders ac mensuras rebus vendendis emendisque posuit, sires et noxium omne genus hominum sequiissime punuit, fecit quanplures vias, decrevit que in quam Latitudinem fieri deberent, ac Lege sanxit earum ius ad Principem duxerit pertinere: eisque iuris violatoribus, atque ijs qui in illis maleficium aliquod facerent constituit paenas: præterea ut ne terra vacaret, nunc populus rei frumentariae inopia frequenter premere tur, aut minueretur, si pecora sola occuparent agris, qui ab hominibus coli deberent, cysituit quot quisque Comitas aratra haberet, and so forth: where you see that he made lawes for Sanctuaries, for weights, for measures; against theft, robbery, and other offences: for high waies & Nusances, and for tillage and Husbandrie: and by the words you may easily gather, that they were the same, or much to the same effect, as they are now, either continuing in the common Law, or renewed by Statutes: and that in those daies also the land was devided into certaine parts, which
are now called Counties. Brecus and Fergusius
likewise in Scotland, neere about the same time
also made Lawes for diuision of their Land in-
to Tribes, hundreds, and wapentakes faith the
Chronicle, and for punishment of murder,
thieft and other offences.

Againe by Higden it is thus recorded Anno
mundi 3529. ante Christum 445. Mulmurius
King of the Britaines the 23, but the first Law-
maker, ordained that Churches, Plowes, Cities
and High-waies, should enioy a Priuiledge or
libertie. This Higden expoundeth to be a kinde
of Sanctuarie, that if any offender did fly to any
of these, he should no further be pursewed but
suffered to escape, which interpretation cannot
be made but onely of the Church, and thertore
to be let passe, as made by a Monke ignorant of
Law.

But our common Lawe giueth a sound and
verie consonant exposition. For euern from the
most auncient times to this day, there is a kinde
of priuiledge in vse, that these foure should bee
free from distresse. For no man ought to be dis-
rayned by the beastes of his Plowe, nor in high
waies, nor in Markets or Churches. This free-
dome from distresse then I take to be the priu-
iledge
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ledge ordayned by Mulmutius chiefly because it is indifferently commo to al the foure things aboue mentioned: & although divers later statutes doe confirm & enlarge this priuileged to some one or other of the foure, yet none of the name altogether, as they were in Mulmutius Law, and by the likenes of the Priuileged it see-meth they were ioyned at first, Also by the words of Articuli Cleri: it seemeth to bee more auncient then the statutes. For the Clergie there complained of distresse taken in their glebe as a wrong. Besides some of the writs made vpon this priuileged haue these words Contra Legem et consuetudinem Regn., which for the most part is intended to be the moste auncient common Law: yet if this interpretation be not accepted: then take another collected vpon the auncient Lawes of the Saxons and the Norman. They faie that the Church hath a priuileged which they call Paece, and is understood the Santuarie. The foure waies haue a peace, which is, that all Nuances in them shall bee a-mended (note the antiquitie of our Lawes, of Nuanc.)But for markets and plowes, no other priuileged can be heard of, but onely this whereof I haue spoken, to be free from distresse, which
is still continued. And this Polidor seemeth to say, expounding the law of Mulmutius, to bee, that the beasts of the plow ought not to be led away for debt, so long as the debtor had other goods. Now if the Priuiledge from distresse was so auncient, it must needes follow that distresses were much more aunciently in use as I noted also before. And from the use of distresses by secondary conclusions and deductions of reason, followed many Lawes amongst vs, yet in common practise; as of Attornments, Repleuies, Aouuries, Tenures Seruices: Quid Iuris clamat, quem reddist reddit. Per quæ servicia & such like, which by necessitie must be understood, where distresses are frequent, and so much of the Mulmutian Lawe. Now followeth of King Lucius.

Cap. 10.

By many steppes and degrees I am come to the Lucid starre of Britaine, well deserving that name, for that in his time, religio, Justice, & gouernmet, bega to shine more brightly in this kingdome. And in the history of him, & his successors the Readers may observe three things: First that this Nation aboue all Nations of the earth (except
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(except the Hebrewes) hath had most vertuous, religious & Godly Princes. Secdly that as our auncient lawes were moiste righteous, being de-
riued from the lawes of God written in nature: So Lucius and his successors established one-
ly such good and iust Lawes, as were agreeable to Christianitie, and deriued out of the Scrip-
tures. Thirdly that all calamities of this Land hath proceeded of publike & notorious crimes against God and his servants, our good Princes, and against religion and religious lawes. Concerning Lucius himselfe, I cited before the testi-
mony of King Alfred, a witness farre above all exception: who faith directly and expressly in his Lawes, that vpon the propagation of the Gospel, when many men receiued the faith of Christ as well in England as in other regions, certaine Synods, as wele of Bishoppes, as of other most noble wise men were gathered, which appointed punishments for offenders. And a little after, these Sanctions or Lawes, I Alfred King haue collected & committed to writing, where he speaketh of certaine Sinodes, of Bishops & No-
ble & wise men; it must needes be meat of Par-
laments, as we shewed before. For wee reade of no generall counsell in Britaine, and of Prouin-
ciall
all Sinodes, it cannot be intended; where hee faith that they were gathered upon the propagation of the Gospell, he signifies the time of King Lucius, when the Gospell was first publicly received in this Land. For it cannot bee understood of the Christian Saxons, for of them he speaketh by name afterwards, saying that he used choice and judgement in refusing some of their lawes, and taking others; whereof I inferre first that those words before were meant of the first Christian Britaines, (whom he nameth not because they were enemies to the Saxons) Secondly that those British lawes were more sincere & agreeable to Godlynes then the Saxon. Thirdly that those sanctions by him collected, are some of the ancients common Lawes, which yet remaine, for that we finde no other collection of Lawes made by him: But this all Histories testify that he translated into Saxon the same which Gildas turned into Latin, & that the same were gathered into our common Law by St. Edward and called Saint Edwards lawes. Besides it cannot be sayd that these good lawes were made by any other, but onely by Lucius, for neither was any other of the Britaine Princes so Godly & religious, as he, neither had any of
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of his successors such peaceable possession of the Land or conueniency to make lawes as he had. For immediately after his death, and continually till the Saxons time, the whole state travelled with foreign and intestine enemies. Lastly the testimony of Pollio confirmeth this, who giveth this most honorable testimonie of King Lucius: that he left his kingdom as well Optimis institutis prouectum aduanced or amended with the best institutions or Lawes, as divina religionem auctum; so that without question it is that he made some of our Lawes.

But particularly which of these lawes or institutions now extant were enacted by Lucius, it is hard to say: yet to speake my opinion, I think first our Lawes of fines and amercements was established in his time. For so saith Alfred, that those first Christian Parlements consisting of Bishops & most noble wise men, being taught by the mercifulnesse of Christ, did appoint for every first offender a pecuniary paine, where you see not onely the thing, but almost the verie name of Misericordia, which is vsed to this day in amercements, and is afterwards frequently vsed in the Saxon and Norman Lawes, and this was for smaller offences. But for
for the greatest, the words of Alfred goe further,
saying of the same first Christiás, Proditori	tummodo ac Dommini desertori banc initorem
pænam baud injigendum existimandus, quippe qui
eiusmodi viro minime parcendum censuerunt tum
quod Deus contemptores sui omni miseratione
indignos voluit, tum quod Christus illorum qui eis
mortem obtulerunt non est omnino misertus.
Where you see that by the testimonie of Alfred
they tooke the president of their Law against
Treason, from the examples of Christ and of
God. What was that Lawe? It followeth after-
wards. Qui capiti et saluti Regis persidiose in-
diabitur vita et fortunis eius omnibus privator.
that the Traytor should forfeit, life, Lands, and
goods. So was Judas punished and that punish-
ment Elfredeus felt being convicted of treason
in the daies of King Athelstane as appeareth
by the said Kings Charter, recited by Mr. Fox:
here also appeareth not onely the Eschet which
you see is expressly set downe in the words, but
also trialls, for it would be injurious & vaine to
set downe a punishment for offences, and not
set downe a course how the offender might be
cleered or condemned: and it is moste unlikely,
that King Lucius and those first Christians wold
imitate
imitate God and Christ in severitude of punishment, and not much more studie to imitate him in the justice & sincerity of their Trialles.

Therefore I think that the same Lucius ordeyned our Tryals by twelue, & that according to the example of Christ. For, that it is agreeable to the Scriptures, the learned Sir John Fortescue hath fully proued, and whosoever shall consider of it indifferently, shall finde that it is the moste righteous and Godly course that euer was found out, and therefore moste likely to proceede from the piety of that holy King.

Also in that purest age of Christianity, it was held for a ground, that first the Scriptures ought to be searched, whether any rule might bee found for the action intended, or not; if not, then Mos populi dei et Sanctorum exempla the manner of Gods people and the examples of holy men were to be followed.

And if holy men ought to be imitated, then who if not our moste holy Saviour? as the Apostle saith: Be followers of God as deere Children: and be followers of mee as I am of Christ. Ephel. 5. 1.Cor.11.

Quo est detestabilior istorum immantias: So much the more is their crueltie to be abhorred, which labour to hide, not onely the words, but also
also the examples of Christ away from vs. Therefore I say Lucius did institute the trial of all matters in fact to be by twelve witnesses, as our Saviour Christ ordained, & chose twelve to beare witness of his resurrection; neither doe I finde any other law president or example from whence this manner of Trials should be taken. But I finde that the reverend Er Lutherius, from whom Lucius had much of his light, vsed the same rule & practise, for that good Bishop Iuxta ordinationem Apostolorum according to the Apostles ordinance, did decree that no meates usual for mankinde should be refus'd of Christians; And Exemplo Christi by the example of Christ, ordained that none should be regraded before he were condemned.

Thus they tooke a rule or president for every thing out of the Scripture. And the authoritye of Moses to the contrarie is not to be objected; for although he saith that at the mouth of two or three, an offender shall die; yet he addeoth not the negativeness, that more should not be vsed. Therefore the Apostolicall Canons before cired, and the example of our Saviour in the affirmative was a better warrant. And it is most apparant that Juries were vsed among the
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the Christian Britaines and before the Saxon times; for proofe whereof, although in mine opinion, the testimony of the profoundly learned Sir John Fortescue should bee sufficient saying expressly that these lawes were vsed in the time of the Britaines, yet for the further satisfaction of those that leane to much to the opinion of Polidor and other Italians, I will add more reasons & authorities to the same point. First the most learned Antiquary of our Nation Mr. Camden, sheweth plainly that it was not invented by the Conqueror, (as Polidor faith,) but it was in use in the daies of King Etheldred the Saxon; Secondly the most excellent professor of our Lawes, Sir Edward Cooke before cited, proueth by substantiall records, that this triall was before the Conquest. So there are three witnesses euerie one of exceeding great learning against one Maister Polidor. Tantæ molis erat Romanam excindere gentem.

Such a labour it is to overthrowe these Italian opinions, of which our nation is too fondly credulous. But let vs goe forward, & although my simple discourse can add no weight vnto their most graue judgements, especially the last cited, which is grounded vpon records: yet vnder
Under favour, I will adjoyne some other testimonies and prooses. In the time of King Edward the third, when by all mens consent our Judges were most exa&ly learned (as in deede it was a time excelling, not onely in Martiall glorie, but in learning and widome). I finde Mr. Belknap a reuerend Judge, concurring in opinon, with these before named. The Law (faith hee) was founded in this, that euery Inquest sholdbe taken Per duodecim liberos et legales homines et non per pauciores. If it were a foundation of the common law, then without question it was one of the first Lawes; and we must needes confesse that no Law can be without tryalls, and it cannot be proved that euery any other triall was v-fled, besides this in pleas of land, or inheritance in this kingdome.

But to make it yet more plaine, the City of Lodon is and was in the times of the Britaines, by the confession of many learned writers, namely Caesar Tacitus, Ptolomy, Ammianus Marcellinus, Gildas Galfridus & c. a moste auncient City, a place of gouernmet, & ruled by a gouernor, the se of a Flamine or Bishop, not a fastenes of the woodes as some haue imagined vpon the generall and vncertaine words of authors, which ne
ver saw it, but frequented and celebrated with concourse of Merchants & plenty of commerce as Tacitus affirmeth. Now I pray you beholde with the eyes of your minde, the forme of such a Citie: and tell mee how you can imagine it to stand without a Court of Justice, the bond of commerce, for the deciding of controversies? or how you can imagine that such a Court should be without a due forme of Trialls? But least I may seeme to deale by immagination; for the first point that it had a Court; Galfridus Mone- mutensis and Ponticus virumnius out of the ancient British Historie, doe testifie in playne words; that in the daies of Iulius Caesar, Irelgas, Nephew of Cassibellan, being slaine by Cuelinus, Nephew to Androgeus Gouernor or Lieutenan of London, a commandement was giuen to Androgeus to bring Cuelinus to the K. Court, there to receive Justice: his answere was Sese suam habere curiam et in illa definiri debere quic- quid alquis in homines suos clamaret, si ergo re- titudinem de Cuelino decreuseret appetere ipsam in urbe Trinobantium ex veterum traditione fieri praeipiteret. He alledged that hee hath his Court, wherin ought to be determined whatsoever any man laide to the charge of his men, &
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that right ought to be done vnto them in the Cittie of London according to the aunciet custome. For the second point, if Mr. Polidor will not giue vs leaue to thinke that London had this iurisdiction in Caesars time; yet without his leaue, I wil proove by many infallible records that the same City of London had this iurisdiction, and namely this tryal by twelue in the time of the Britaines, thus:

This City of London hath and had alwaies from time out of minde their Hustings, & the writ of right in London tryable by twelue; the Aissue of Freshforce tryable by twelue; and the tryall of pleas of the Crowne by twelue; it must needes be that these Liberties were begun eyther by Parliament or prescription, eyther in the time of the Normas, of the Saxons, or of the Britaines. But in 14. E. 2. when they must needes have knowne if there had bin any Patent or Acte of Parliament, either of the Saxons or Normans for it. A quo warranto in Itinere in Turri London being brought, for these and other Liberties: The cominaltie of that City make their claime to the rest by feueral Patet, but to these by auncient custome and prescription confirmed by Charters in these words. Quod articulum
lum quod ete. proferunt cartam Henrici aui Regis nunc in qua continetur quod idem H. rex, 16. die Marci Anno regni sui undecimo concesit ciuitatis, quod Hustingum semel tantum in hebdomada teneatur secundum consuetudinem ciuitatis. Et proferunt aliam cartam eiusdem Domini H. Regis in qua continetur quod idem Dominus Henricus Rex 20. die Martij Anno regni sui 52. cessit ciuitatibus suis London quod de placitis ad coronam pertinentibus de his maxime quæ infra ciuitatem predictam et eius suburbia fieri continget, se possint disperatione secundum antiquam consuetudinem ciuitatis predictæ. By these Charters you see, that the pleas aforesaid are to be proceeded and tried according to the prescription or custome of the Citie, & so are the words of the Assise of Freshfrome. By the way the reader is to understand, that prescription or custome here, is not said to be the continuance of many yeres, as 50. 60. or an hundred: But that in Law is said to be by prescription, the beginning whereof cannot be proved by any record, writing, or lawful testimony, & such a prescription is heere to be understood.

Now that the custome & such a prescription of London is & was in the Conquerors time and before,
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before, that their trialls should be by a Jury of twelve, all their records testifie: The reverend Judge Fitsherbert testifieth and most evidently the Record of the Quo warranto aboue cited testifieth, for so it goeth forward, Quoad articulum predictum quod ipsi de placitis ad coronam Regis pertinentibus se possint disrationare secundum antiquam consuetudinem ciuitatis; dictum est eis periuscientiarios quod declarent Curiae modum et formam huiusmodi disrationamenti et consuetudinis. Qui dicit quod Antiqua consuetudo ciuitatis est quod si quis liber ciuitatis aliquid delictum fecerit per quod periculum vitae incurrere debet, et vsque Iter Iusticiariorum manu captus fuerit, et inde in Itinere postea, sit ad Ratione positus, se disrationare potest per duodecim Iuratores patrie secundum Legem communem vel per magnam Legem Ciuitatis, viz. per triginta sex legales homines ciuitatis. &c. Nothing can bee more plainly proved, then the point in question is by this record: viz. that the trial by twelue was vised both by the common Law, and by the most auncient custome of London, I say by custome, whereof no beginning could be proued. Wel then it was cleere in the times of Edm. 2. Edward. I. and Henry the third, and so much is
is also proved not onely by this record, but by their great Charter, for they giue them no new liberties, but Civitas London habeat omnes antiquas consuetudines, & this was within two hundred yeares after the Conqueror: if any Law or Patent had bene made of it in al that time; without question, they would haue pleaded the patent or Law, and not prescription. For a statute or patent doth determine a prescription.

The Conqueror, dooth he make them any graunt or Patent heereof, or dooth Edward the Confessor one of the Saxon Princes, graunt any such matter or make mention that any such thing was graunted by patent unto London? Ne my: Not a minim of any such matter, It is written in their Lawes, Debet etiam in London quæ caput est regni et Legum, semper curia Domini Regis singulis Septimaniis die Lune Hasling-is sede et tenori, Marke how it agreeeth with the patent before pleaded. In ea uaqe super sunt ar-dua compota et ambugua placita corone et curiae domini regis totius Regni predicti quæ haec vsque et consuetudines suas una seuer in violabilitate co-

feruatur ubi quæ ipsa rex fuerit suae in expedicio-

ne, suae alibi propter fatigationem gentium et pop-
pulorum regni inuia veteres Consuetudines bono-

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See the Charter of K. William the Conqueror in Hooker's Chron.

rum patrum et predecessorum omnium principum et procerum et sapientium senorum totius regni predicti. Behold then here is no new institution mentioned neither by the Conqueror nor by the Confessor, but still the ancient customs.

And if this had been by patent or Parliament of any Saxon Prince, without all question these two Princes would have known it. For all the Saxon government in peace from the first King unto the last was not above 300 yeeres, & both Edward and William were most diligent searchers and Registers of all the laws, Liberties & Customs of their kingdom, as appeareth by the Domesday Book, and by that which is recorded by Houeden and others.

Besides in the Saxon times, not a piece of land passed from the Crown, and much less any liberties or Jurisdiction, which are parcel of the royal prerogative without Patent, as appeareth by the manifold patents of manors, Landes, & Liberties made to Churches and Monasteries, whereof those that belonged to the Abby of Croyland, are faithfully recorded by Ingulfus, those of the house of Ely by another, and others are to be seen in the Churches that remaine.

The City of London therefore had this Liberty
bertie and Maner of trial in the Normans time, not by patent or new Law, but by prescription; they had it in the Saxons time not by patent or new Law: therefore by prescription, & it must needes bee true, that they had it from a time whereof no proofe could be made, that is, long before the Saxons. I say by prescription as it is pleaded euen from the Britaines. And this that I haue said of London, I may say of all auncient Cities where they haue like customes and Liberties; yea the auncient hundred, Courts, Shermotes, Wardmotes, Swainmotes, Leets, and Wapentakes, which are often mentioned in the Saxons Lawes as things in vse. Let any man shew me, what other kinde of triall or inquisition, they had then this, and Quo warranto by what law they had this, but by like prescription. If you bring forth the triall by fire and water called Ordell, it was by all like-lyhood but a superstitious inuentio, in the Saxon times, & was vted onely in criminall causes where the truth could not otherwise be known as appeareth by the Law of Canitus. And although the Conqueror in his absolute com-maund did something of his owne head, yet it appereth plainly that when by the earnest intereaty
intretay of his Nobles, he was perswaded to establishe the former lawes; he then by the coun-
sell of his Nobles, and according to the course
and common Lawes of the Realme, impanelled
twelve men of euerie Shire, to inquire & make
a true presentment of the saide auncient Lawes
and customes, for so be the words: *Eleiti de singulis totius patriae comitatus duodecim viri, in-
reirando Coram Rege primum confirmauerunt,
vit quod possent resto tramite incidentes, nec ad
dextram nec ad sin. Strat diversentes, legum suarum,
et consuetudinum, sancta patescerent &c.* And
amongst the rest, they make menciō of the cust-
ombres of London, which I cited before. I say no-
thing here, that the footesteps of this triall, are
found in the lawes of Etheldred made at wan-
tage, which is cited by Maister Camden; nor of
the ordinance, made for the mountainers of
Wales: nor of the law of Kennethus, the famous
Scottish King about the yere of our Sauiour
Christ, 840. mentioning some such matter; nor
of the learned & diligent Historians, that liued
neere about the conquest: & might easilly have
tolde vs if any such thing had been begun by
the Saxons; nor of the Historie of Eth, written
before the conquest: and Ingulfus soone after,
plainly
plainly speaking of Mannors, Feoffements, Shiriffs, Court-Courts, Tearmes at London, recoveries in an assise or writ of right, as of things the common and usual.

We read also of Parliaments, wapentakes, homages, fealties, discents from the Grandfather to the Nephew, Eschets to the King for want of heirs, in the daies of Aurelius Ambrosiust and of Arthur the worthy, & streight way after, Gildas maketh mention of Courts, Judges, Freinshsuit after theues, & Judgements which could not be without trialls. By all which I thinke it is manifest that these points of common law, & namely these trialls by twelue, are of most auncient antiquitie, according to the commo law, and vsed amongst other customes of the citie of London before the times of the Saxon and Norman Princes, of whom no such Libertie or course of proceeding could be gotten without patent, and no other forme of auncient tryalls doth appeare: vpon which I conclude, as before, that they had it in the times of the Britaines.

The same is prooued by all the auncient and new records of Assises, of Freinshorce, of writs of right, and other tryalles in London, which must bee all satisfieed and many thousands
of records besides, if wee overthowe this prescription. And this being so consonant to the judgments of those excellent men before cited, Cæden, Belknap, St. Io. Fortescue, & St. Ed. Cook, Let us now leave Maister Polidore & his followers which either never saw or did not understand, our ancient Histories and Records; let vs leave them (I say) to their owne imaginations, with this admonition to all discreet Antiquaries, that they be not over-hasty to beleue either the Roman or other Authors, speaking of the Britaines thire enemies, but holding them suspect for partialitie or ignorance, which may easily appeare to euerie judiciaall Reader, let vs followe the true groundes confirmed by these faithfull Monuments of our Lawes, and the Histories thereunto agreeing. And this being ascertained, it is easie now to beholde, from whence all our Assises of nouel disceisin of Mor-dancester, of darrain presentment, our great Assises, Iuries, Challenges & the rest, of which Mr. Bracton at large discourseth, are lineally descended, being as I take it the greatest part of our common Lawes, and it appereth by that which is before spoken, that these also are most agreeable to the Scripture of God; whereupon I conclude
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clude fully, that all our common Lawes was in use in the Britaines time long before the Saxons, howsoever suppressed & the bookes therof defaced by forreine invasions, and intestine dissentions. And thus much of Lucius and the Britaines. Now of the Saxon Princes.

Cap. ii.

Thath hath bene a worke of the special prouidence of Almightye God, & of his infinite mercie to this Iland, in the middes of Poetical fables wherwith the British Histories haue bene mixed, and of those Barbarous invasions, which haue wasted and spoyled them, to leave vs yet certaine remnants and monuments, whereby to judge of those long past Antiquities; in judging wherof, men by taking contrarie courses, haue made the controuersie more difficult, that the truth fou'd out might be the better confirmed. For some haue giue thefelues to favoure the Roman Historie so much, as to abrogate all faith and credit from the British, as if the ambitious Romans & Caesar would say nothing for their owne aduantage, who of all others most courteous of glorie is justly noted by Suetonius, Lucian,
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cian, and Asinius Pollio to have written his commentaries, as much as he might, to save his own Honour, especiallye of his Actions in these remote places.

Others have gone so farre to the bowe-hand, as to favour all the vanities of the Poeticall Bardes, as if nothing could bee denied, which they had once turned into Rythme. But that God which came into the world to beare witness of the truth (so much doth he love it) hath left vs rules and directions to trie out the verity of ancien times. By the mouth of two or three witnesses, euerie word shall be confirmed saith Moses, and (as it is mosste certaine) truth cannot be so much oppressed as to be utterly destitute of proofes. Let therefore the proofe rest upon witnesses and comparison of circumstances, & it will appeare as Sir John Prys truely auerseth and learnedly proueth, that the British Story is in many things more to be credited then Caesar, and Polidore, and other Italians. Besides the Scottish Historie agreeing in many things with vs, manifestly convinceth the Romanes of their Arrogancie and vanitie, and with all ministreth further groundes, not onely to proue the antiquitie and sinceritie of our common Lawes, but that
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that the same or others much like obtained in Scotland also, as well as here, which may be seen by the Lawes of Brechus & Fergusius answering in time to Mulmutius and Mercia, and by the Lawes of Kennethus, not much distant from Alfred, and last of all by their Bookes of Regiam Maiestatem a principal booke of Common Law amongst the, agreeing in effect with our Glanuill. And to say truth there was little difference in Lawes and Religion, betwixt these two Nations, untill the bloody warres, that began after the time of our King Henry the third, before whose daies Glanuill did write. Againe the most auncient of the Saxon Princes, & lawmakers, doe make mention of many things in our common Law, which we are forced to beleue, that they receiued from the Britaines; for that, they speake of them, as of things visual and common, Ina, Alfred, Edgar & other the Saxon Law made, speake of the Parliament, of Judgments, of Treason, of Sanctuaries, of Purgatio, of execution by hanging, for theft, of freshtute after theiues & homicides, of escapes, of Tearmes kept at London, of Recoveryes, of Exchanges, of Feoffements, of intales, of Commons, inclosures, and the Law of Curia Claudenda, of the lawe of...
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disceit, it in selling thinges corrupt or vittious; of dowers, Leases, Rents, Farmes, services &c. And many other, as things the in use, which were allowed as agreeable to Gods word, by those Saxon Christians being utter enemies to the Britaines, and yet most devout in Religion, and sincere in Justice, as their Lawes doe testifie. For which cause I will touch certaine of the notable Saxon lawes, onely to shew the Godlinesse of those auncient Saxons and Scottish Kings, and how in that time the matters of our common Lawes were vsuall and common.

Inas about the yeare of our Lord 729. beginneth his lawes thus: Inas by the grace of God, west Saxon King, by the perswasion and instruction of Cenred my Father, and of Hedda and Erkenwald my Bishops, and with all my Aldermen, & the eldest wisemen of my people, & in a great summons of Gods Servants, for the health of our soule & conservacion of our kingdom, (I haue enacted) that right Lawes and Judgmëts be confirmed throughout our kingdom. Cap. 1. That the ministers of God observe the appointed rules and maners of living: Then followeth Lawes for observation of the Sabaoth, against theft, robbery, murder, & many
ny other offences; and therein, is mention also made of Land-lords, of Tennants, of Rents, and services. *Kennethus* the most worthy Scottish King, soone after the same time, maketh verye iust and good Lawes, wherof this was one. In euery Shire (this was before *Alfred*) Let skilfull men in the Lawes bee appointed to reside, hee that blasphemeth the name of God, of the Saints, of his Prince, or of the Captaine of his tribe, let his tongue bee cut out. The most religious K. *Alfred* about the yeare 880. beginneth his lawes thus: The Lord spake vnto *Moses* these words, saying: *I am the Lord thy God which brought thee out of the land of Egypt, out of the house of Bondage, thou shalt have none other Gods besides mee.* And so forth as in the deca-log and other Iudicialles of *Moses*. Then follow certaine lawes against periury, concerning Intayles, against Sacriledge, Treason, Quarrelling, Fighting, Fornication, yea & against immodest touching of a woma; with other lawes of greate sinceritie, a manifest and approved Vicar and Lieutenant of God, a second *David*, whose delight is in the Lawe of the Lord, which to confirme, the same King translated the new Testament out of Latin into the Vulgar Saxo, for the
of his subjects, some Copies whereof (as it is said) are yet remaining amongst vs. So farre did the learning of those daies differ from the ignorance of these Roman innouators. Edward Anno Dom. 920. Thus beginneth: I Edward K. command all Greeues that they give right judgements to all according to their judgement Booke. Alfred and Guthrun thus made their league by act of Parliament Ante omnia Deum vnum &c. before all things that one God is to be loued & Worshipped. Secondly that humane Lawes are to be proclaimed as common to Christ and the King. Then followe Lawes for payment of Tithes, for obseruation of the Sabaothes &c. And by this league Guthrunus which some call Gurmundus, & was in Baptisme named Ethelstane, obtayned Suffolke, Norfolke, & Northumberland, to be giuen to him to holde by Fealty of the King. Edmund sets this preface to his Lawes: I Edmund King to al my Subjects doe plainly signifie, that in a solemnne assembly both of the Clergie and Laity, I haue studiously inquired of the wisest of my kingdome, by what means the Christia faith might be most advanced. And to vs all it seemed most commodious that love and mutual kindnes should be maintayned.
tayned amongst all men throughout our King-
dome. Etenim tædet nos barum quotidianarum
pugnarum, For we are tired with these quotidi-
an fightings and contentions. O godly Prince!
O true Vicar of the God of Peace! Edgar enact-
eth Lawes for the observation of the Sunday,
and of publike feast and fasts vnder the paines
contained in the iudicall booke. And that e-
very man shall freely enjoy the benefitt of the
common Law. Note the common lawe euem
then named, before St. Edward & the Conqu-
eror. Canutus the Dane thus: First let all men
most devoutly & religiously worship one God.
Al men obserue one rule of Christian Religion.
Al men obey Canutus the King with due fidel-
ity and obseruance. All defend and keepe the
church of Christ with holy & euerlasting peace,
& continually frequet the same &c, with many
other most Godly and Christian lawes, & after
many Footsteps of auncient Lawes, which yet
remaine in vse, he concludev thw a moste ar-
dent exhortation to all men to turne vnto God
and to obey his commaundements, another
Lieutenant or vicegerent of Christ. Edgar
the peaceable confirmeth the Liberties & rights
of the Church, & amongst other things, enact-

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edh
eth that euerie man shall enjoy the benefit of the common Lawe. Like matters are found in the Lawes of EthelStane, Etheldred, St. Edward and William the Conqueror, who confirmeth the same with some small addition, and hath left them to vs consecrated by his owne othe, and the othe of all his succesors. You see then the sacred Maiestie of our Imperaill Princes, who God hath vouchsafed not onely by the confessio of strangers & enemies, but by these their Lawes to be his Vicars & defenders of his faith. And by these things that haue been said, it may fully appeare, first how sincereely and devoutly those excellent Princes followed the counsell of Elutherius giuen to Lucius, in taking lawes for their kingdome out of the word of God, and how true it is that we affirme that our auncient common lawes were begun in the times of the first Britaines, grounded upon the lawes of God, printed in Nature and Scripture, continued by the Saxons in their judgement booke, & transmitted to vs by Saint Edward and the Conqueror. And consequently the ground of Sir John Fortescues testimony, that this land hath bene possesed by Britaines, Romanes, Saxons, Danes and Normans: And in all the times of these seuerall
uperall Nations, and of their Kings, this Realme was still ruled with the felie same lawes and cus-
tomes, which if they had not bene right good, some of those Kings mouued eyther with Iust-
ice or with reason, or affection, wold haue chag-
ed or abolished them, speciallye the Romans, who did judge all the world by their owne Lawes. Thirdly what direction and Presidents our Princes and Parlaments haue had to follow in making Lawes, and what Lawes the whole Kingdome is bound to observe, by that solemn othe that is taken for the observation of S. Edwars lawes and the Lawes of the Realme, as partly also is noted vnto vs in the preface of that famous Statute, made against Pruisors in the 25. yeare of King Edwarde the third. And lastly what reason may be giue of the manifold calamities, sent by Almighty God, the most iust & seuere judge at sundry times vpó this Realme, namely the supressing, and consequentlye the violation of this his Covenant, of these our auncient lawes, and of the law of God, where-
upon they are founded, by the predominant vi-
oléce of Idolatry, superstitiō, injustice, vnclaim-
nessle, Breach of faith, and loialtye, both before the Norman and thence. If it be not so, per-
use
use the Particulars that the holy Gildas, and after him, the learned Sir Iohn Pryse, objecteth against the first Britains; that the reverend Bede and Geffery of Monmouth urge against the second age; that Master Camden & other Chronicles, but specially Master Fox collecteth against the Saxons; that are at large described in the times of King Iohn & King Henry the sixth, who suffered themselves and these laws to be overswaid by the supremacy of Rome, & of the contrary side, if we consider the best means to establish the perpetuall unitie and felicity of these two mightie nations, now againe reunited, we shall finde it to consist principally in conforming them, both as much as may bee to the lawes, of that God of unitie which ordeyned the auncient Lawes of both kingdoms to be very like, & almost the same, as I haue shewed. For what Kings haue reigned in more magnificence and glory then the Britaine Princes instilled by Eluverius, the Vicars of God in their kingdom, then the Saxon Princes indowed by Beda, with the Title of Christianissimi, the the Normans which haue moste mainteyned these Lawes, & most opposed themselves against the usurping power of the forraigne Prelate, namely Edward
Edward the 1. the 3. and the 6. Henry the 7. and the eight, acknowledged by the enemie of our faith to bee defender of the faith, & the late most of all excellent, Elizabeth, which was blessed with a kingdome, longer then the reignes often that cursed her. And now the no lesse excellent Maiesty of K. James, the true heyre aswell of the goodnessse as of the greatnessse of his Predecessors. And who haue fallen into greater miseries then those that being invested with such magnificent Titles by right, haue suffered others to take their Titles & authoritie by usurpation; of whose Calamities because my heart doth tremble to thinke, I will forbeare my pen to write. Yet by this we see how God hath fed and directed vs with the staffe of Beautie, and with the staffe of Bandes, but now hee will breake his staffe of beautie, to disanull his covenant, made with all people, and hee will breake his staffe of bades, to dissolve the Brotherhood between Juda & Israel except we repit of our manifold sinnes. I will therefore conclude with the Godly words of one of our famous and learned Judges Bracton, and one of our vertuous and Heroical Kings Canutus, The first taking his ground out of the many times remembred, and neuer to bee forgotten, Epistle of Elutherius, faith thus: Rex non debet esse sub hominis sed sub deo et Lege, ad similitudinem Iesu Christi.
De Antiquis

elenus vices gerit. And againe Judges doe sit in the
steate of the K. himself, as in the throane of God, in-
stead of the K.as instead of Iesus Christ. For the K.
is the Vicar & Lieutenant of God, & iudgeméts are
not the iudgemenst of men, but of God; and there-
fore it is said that the heart of the King is in the hàd
of God. And a little after, into the steate therefore of
judgement, which is as the Throne of the Divine
Maiestie, let no man vnwise or vnlearned, prese-
to ascend, lest hee turne light into darkenesse, and
darkenesse into light, and least with an ignorant
hàd like a mad man, hee strike the innocent & spare
the offender, and least he fall from aboue as from
the Tribunall of God, by attempting to flye with-
out winges to support him. And when any mài is to
judge, or to be made a judge, let him take heed, left
by judging peruersly and against the Lawes, for re-
quest or reward, or a little temporall comoditie, He
purchase to himselfe sorrow & griefe eternall: and
least in the daie of Gods wrath, hee seele him to be a
just reueenger, who hath said. To me vengeance &
I wil recompence, when the Kings & Princes of the
earth shal weepe & lament at the light of the Sonne
of man, for the terror of his iudgeméts, from which
neither gold nor siluer can deliuer them. Who will
not be aafraid of that feareful trial, where the Lord
himselfe shall be accuser, advocate and judge from
whose
Britanniae Legibus.

whose sentence none ca appeale. For the Father hath giue al indgemet to the son, who shutteth & no ma openeth, & openeth & no man shutteth. O strict & severe judgment wherein me shal giue account not onely of their actions; but of every idle word that they haue spoken! who shall escape from that anger to come? When the Sonne of man shal send his Angels, which shal gather out of Gods kingdom euerie scandal, & those that doe iniquitie, & of them shal make faggots to burne and cast them into the furnace of fire, where there shall be weeping and gnashing of teeth. Without question God is a Lealous God, and who soever taketh his Couenant, his oathe, his name in vaine, hee shall smart, for it he shall smart. Now therefore faith Canutus in the conclusion of his Lawes; I beseech all men in generall, and commaund euerie man in particular in the name of the immortall God that sincerely, & withall their hearts they turne to God, and withall care and diligence, search what is to be done, and what it is to bee avoided (as it is a thing most conneniet for our salvation) that we loue God & keepe his commandements, & giue diligent heed to the words of his messengers. For they shall produce vs before his sight in the day, wherein the Lord shall come to judge euery man according to his workes. Then happie shall that keeper bee, that shall bring
the flocke committed vnto him into the ioyes of heauen, by the paines that he hath take vpon earth, And blessed shall bee the flocke that followed such a shephard which hath pulled the from the pawses of the Deuill, and commended them as a purchase vnto God. Therefore let vs all in concord and vni- tie fluddie to please God, and fly from the searefull torments of his wrath, & judgement. Let the Preachers and Ministers of Gods word (as it is their charge and needfull to all mens saluation) oftentimes preach the glory & ioyes of Gods kingdome, and let all men with diligent, serious, and attentuie cares and mindes, heare and obserue them: yea let them beare the commaundements of God alwaies imprinted and insfixed in their hearts. To conclude euerie man for the greater aduancement of the diuine glorie, both in word and deed, Godly and cheerfully apply himselfe to doe well, by what meanes soeuer they may. So at length in the end we all abundantly shall obtainge his gracious mercy. Blessed be the name of the Lord, & to him bee honor, praise, and glorie, from this time foorth for euermore.

Deus non deseres.