

ON THE RIGHTS OF MAGISTRATES

(De jure magistratum)

1574

Concerning the Rights of Rulers Over Their Subjects
and the Duty Of Subjects Towards Their Rulers.

A brief and clear treatise particularly indispensable
to either class in these troubled times.

By Theodore Beza

[1519-1605]

*Translation by Henry-Louis Gonin, edited by Patrick S. Poole
Notes from the critical French Edition translated by Patrick S. Poole*

To Kings and Princes the Counsel of David:

Psalm 2: Serve the Lord with fear, and rejoice with trembling. Kiss the Son lest he
be angry, and you perish in the way, for His wrath will soon be kindled.

To the Subjects:

1Pet 2:13: Be subjects to every ordinance of man for the Lord's sake.

Source:

<http://web.archive.org/web/20030813125747/fly.hiwaay.net/~pspoole/Beza1.htm>

*This excellent edition has been modernized, formatted, and corrected by
William H. Gross www.onthewing.org Oct 2019*

*A Preface has been added, to put this pamphlet in context.
Additional annotations marked “- WHG”*

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Preface: A Day of Infamy

By Bob Freiberg

Excerpted from:

<https://socalsem.edu/wp-content/uploads/2017/04/A-Day-of-Infamy-the-declaration-and-the-gospel.pdf>

In a busy Paris street of Aug 22, 1572, an assassin on orders of the Queen mother, Catherine Medici, shot Admiral Gaspar II de Coligny of the French Royal Forces. While recovering, the king sent his soldiers to finish the job two days later in the early morning of Aug 24, 1572. He was murdered in his own bed and then his body was unceremoniously mutilated by the angry mob. His crime? He was the leader of a growing group of French Protestants known as the Huguenots who preached salvation by faith alone in Jesus Christ. Something which both the Roman Catholic clergy and the French Catholic Henry could not tolerate.

After this, a signal was given through the church bells of St Germain l'Auxerrois in Paris for all Catholic citizens and local militia to hunt down and murder as many Huguenots as possible. The terrible tragedy in Paris alone accounted for over 6,000 men, women and children of the Protestant persuasion were killed. More were butchered like chickens in the streets and homes throughout the whole nation of France. In over a year almost 1 million Huguenots were killed and it would start a blood bath of religious wars lasting for decades. This event was to be known in history as the "St Bartholomew Massacre."¹

Little did the unsuspecting world know this event would trigger one of the most seminal moments of all events in human history and give rise to a new world order. It was in reality the spark of an ember once lit which would eventually become the torch of freedom for the western world. Once started, this subsequent bonfire lit from religious persecution would change the course of the world in due time and become the rallying point for freedom loving people all over the world. The spread of the Gospel in this age would have far reaching consequences for all people living in a dark and hopeless night and give hope. This idea would eventually come to full and complete fruition and be called "America."

Protestant Reaction to St. Bartholomew

In the space of a week for the rest of France, many more Huguenots would be slaughtered, their homes and properties would be confiscated. As a result, many would flee for their lives and for the most part, France would lose their middle class of artisans, skilled laborers, tradesmen and craftsmen. This would leave an economic void, but more importantly, it would leave France in a spiritual darkness ending only later with the "Edict of Nantes."

For the present however, the event brought despair to those the persecuted. While the Protestant Henry of Navarre and the Catholic Duke of Guise, Henri jockeyed for royal power, the rank and file struggled to survive by hiding in the country and those with means made a mass exodus to Protestant safe havens in Europe. In England, many of the Huguenots asked and received religious asylum where they and their descendants would

¹ Scott Michael Manetsch, *Theodore Beza and the Quest for Peace in France-1572-1598*, (Ph.D diss., University of Arizona, 1997), UMI Company, Ann Arbor, MI. p. 53.

make significant contributions to not only the economy, but to the winning of future wars against France.¹

In Geneva, the leaders braced for a long war. In the seminary started by John Calvin, the situation was glum. The gains made by over 5,000 Protestant preachers in France over the past twenty years was now lost. The mantle of leadership now for the theological school was a man by the name of Theodore Beza. He had been the lieutenant of John Calvin, and had taken the responsibility to convert France from a Roman Catholic country to a Protestantism one after Calvin had died. He was a man of prolific intellect and pen with political and religious connections into the highest levels of French government. He was especially discouraged and troubled by what had happened. His prayer of a Protestant France was dashed on this tragic and unexpected event. It was in this time of desperate reflection he sought an answer from the Lord. As a result of this introspection he responded with one of the best ways he could: he wrote.

A common maxim is “one can kill people, but no one can kill an idea.” This was the time to put forward an idea whose time had come. In the crucible of persecution against the idea of Protestantism in Europe during this time, the Catholic Church had killed many of those who embraced the new faith. What Luther started in 1517 had spread to all of Europe and in Geneva a branch of it had not only germinated, but flourished. It was based on the inerrant Scriptures and because it was truth based on the nature and character of God Himself, it couldn't be stamped out by the feeble attempts of Man.

For centuries, the Roman Church had merged Church and State into a geopolitical force where the State took its authority from the Roman Church while the State gave power back to the Church. With the decree of “Divine Right Monarchy,” the Church at Rome had given religious authority and rationale for the sovereign ruler of any country the legitimacy to rule over its subjects. This authority was absolute because the King represented God in a mediatorial role while in power on his earth.

Of course this rule was abused because of the sinfulness of the sovereign to abuse power and authority. The Catholic Church itself was rife with corruption of every kind. Kings and Queens were human and therefore ruled imperfectly. However the validity to rule, whether perfect or imperfect was given by the Church as long as the Sovereign recognized the Roman Church in return. It was a mature commensalism leading to a consummate synergism for each side. Each benefitted from the other and thus it was a perfect match for each institution. What better way to oppress people than to make them believe it is God's will for them to obey those who had influence in their affairs not only here on the earth, but also in the life to come? To an uneducated mass it only made sense. However, that was about to change.

In response to the horrific “St. Bartholomew's Day Massacre,” Beza penned this pamphlet.

¹ John Feltwell, *The Story of Silk* (New York: St. Martin's Press, 1991).

Question 1. Must Magistrates ¹ always be obeyed as unconditionally as God?

Inasmuch as only the will of almighty God is the eternal and immutable Rule of all Justice, we declare that it must be unconditionally obeyed. However, as regards the obedience due to Princes, they too would doubtless have to be obeyed, always and unconditionally, if they ruled constantly in accordance with the utterance of God. Since, however, theirs is often the contrary case, such obedience must be made subject to the following condition: namely, that they command nothing impious, nothing unjust. I call *impious* or *sinful* those which God forbids in the First Tablet of His Law, or which forbid those which God commands there. However, I call *unjust behests*, those which either prevent or forbid the performance of that which every man, in accordance with his calling — either public or private — is bound to render to his neighbor in charity. ²

To prove this with rational arguments as well as clear examples, will not be difficult. The Lord says by the prophet Isaiah, “I will not give my glory to another.” ³ Although the Lord hasn’t spoken so clearly, yet in fact, it allows no doubt that commands emanating from purely human authority, cannot without sin be regarded as of equal weight with those which God Himself has given. But the authority of God and men would be equal and alike, if it were required that men always and unconditionally obey men, as they would God. I add further, that whenever the behests of God are neglected in favor of the commands of men, those men are being exalted above the throne of God.

Let us now address our examples.

Pharaoh’s command to slay all the male offspring of the Jews was unjust; and the midwives rightly refused to obey him, whose houses or families God therefore blessed.⁴ But Nebuchadnezzar’s edict that the statue of gold be worshipped, was clearly impious and sinful. And therefore the companions of Daniel, refusing to obey him, found that God approved of their piety and steadfastness, through an unmistakable miracle.⁵ The command of Jezebel, however, to slay the prophets of God, was both impious and unjust. Therefore Obadiah, who not only refrained from slaying them, but concealed them alive and nourished them, acted piously.⁶ Further, when Antiochus commanded that sacrifices be offered to the images, that hallowed ceremonies be desecrated, and the inspired writings of the Prophets and the Law be consumed by fire, the faithful who remained, acted justly in that, at length, under the leadership of Mathathias, they set themselves against Antiochus’ madness.⁷ Also, when the leaders of the priests and the supreme council of the scribes, by their threats, would prevent the preaching of the Gospel, Christ was so far from paying heed, that often against their will, he publicly addressed the

¹ The magistrate is the civil authority that administers the law, whether individually, or as “the state.” Individuals may violate the duties of their office; but the state may also exceed its God-given authority over the people. See Ques. 6, the subsection, “Concerning subordinate magistrates.” – WHG

² Under the Second Tablet of the Law.

³ Isa 48:11; also Isa 42:8.

⁴ Exo 1:21.

⁵ Daniel 3 [*Shadrach, Meshach, and Abed-Nego preserved in the furnace*].

⁶ 1Kng 18:4, 13

⁷ 1Mac 2:15-28

multitude in the temple. ¹ And after him, the Apostles openly answered that they would rather obey God than men.² The holy Martyrs afterwards followed their example most steadfastly. Therefore, I again infer that the authority of all magistrates (however great the power and sovereignty they are vested with) is hedged in, as it were, by these two limits set by God himself: namely Piety and Charity.³ And if they themselves chanced to transgress these, it would be well to call to mind what the Apostles said: “It is better to obey God than men,” ⁴ lest we join the band of those whom the Lord cursed by the mouth of Micah because they obeyed the impious commands of their King;⁵ or lest we follow the perverse examples of those who worshipped even the cruelest tyrants as if they were gods, ascribing to them the titles and acts of God. The notorious foul-mouthed poet Martial affirms this, concerning Domitian ⁶ in particular, when he had the audacity to write, “The Command of our lord and god.” ⁷ I wish that in our own time, men were not found who are not far removed from flattery of that kind.⁸

Question 2. Is a Magistrate held responsible to render account for all his laws to his subjects? And how far are they to presume such laws to be just?

After this foundation has been laid, we would also inquire into certain other questions which would appear to be germane to this discourse, so that the consciences of many may be satisfied. First, the question is raised, Whether the magistrate may be held to account for all his laws, to any man whatsoever, so as to offer proof that they are fair and in accordance with the precepts of religion? I answer that he is not so held; moreover, it is fair that all virtuous subjects should regard their lords in the light of virtue, and not presume to suspect anything unjust concerning them. Indeed, it is not becoming for men in private station,⁹ to inquire over-curiously, even concerning debatable matters, beyond their comprehension or station in life. If, however, the conscience of some are at a loss, they can examine, and are even under an obligation to examine (though discreetly and in a peaceful manner) what elements of reason and justice are to be found in the command by which they are bidden or forbidden to do something. For the word of the Apostle abides: “Whatever is not of faith,” that is while the conscience doubts whether what is being done is just or not, “is sin.” ¹⁰ But if what is commanded is openly sinful or unjust, then what has been said above indeed applies.

¹ Joh 9:12

² Acts 5:29.

³ These are exemplified in the First and Second Tablets of the Law, respectively.

⁴ Acts 5:29.

⁵ Mic 6:16.

⁶ Emperor of Rome; son of Vespasian who succeeded his brother Titus; instigated a reign of terror and was assassinated as a tyrant (51-96). – WHG

⁷ Martial, *Epigrammes*, lib. V, 8, 1.

⁸ Referring to those who speak of the divine right of kings, or of the Pope’s absolute authority. – WHG

⁹ That is, private citizens; those not serving in public office, nor bearing societal authority (aristocrats). – WHG

¹⁰ Rom 14:23.

Question 3.

How far must obedience be rendered or refused to unjust or impious commands?

A further question is raised as to what limits this notion of disregarding sinful or unjust commands of Rulers should be extended. Here I reply: Each man must consider what his station and calling demands, be it general and public, or private. Does the Ruler command what God forbids (as Pharaoh did to the midwives of Egypt,¹ and Herod did to his accomplices when bidding them to slay all who were two years old)?² You will rightly perform your duty if you do not carry out a command of that kind, as we read concerning the illustrious *jurisconsult* Papinian. Though he was not a Christian, he would rather be slain by the tyrant Caracalla, than either to approve of the fratricide which he had committed, or justify it by his advocacy.³

But if the tyrant forbids what God commands, you should not at all judge that you have performed your duty if you have merely refused to obey the tyrant — unless, at the same time, you obey the command of God as we declared Obadiah did. He not merely refrained from slaying the prophets of God, but he even protected and nourished them in defiance of the command of Ahab and Jezebel.⁴ The Lord bids us, each as far as his calling permits, to bring succor to his brethren in peril. Thus too, the Apostles, as we said above, did not merely desist from preaching the Gospel so that they might heed the priests;⁵ but on the contrary, they steadfastly preached everywhere, since they had expressly received this command from the Lord: “Go and preach the Gospel to every creature” etc.⁶ Therefore today, when we see many Rulers so bewitched by the Roman Antichrist, that by the sternest commands they compel their subjects to attend the execrable sacrifice of Mass, the duty of all pious men doesn’t merely require that they not carry out that command; but further, in accordance with the example of Elijah and Elisha, even of the entire pure and true Church of old, that they should even join in pious gatherings, and there hear the word of God, and have communion of the sacraments, as Christ ordained it should be done in the Church.

The same principle must also be observed in the duties which men owe to their fellow men, both by the law of God and by the law of nature. For example, the duties children owe to their parents, a wife to her husband, the shepherd to his flock, and in fine, one neighbor to another. For it is not fitting that we be deterred or led astray from those duties by means of any commands or threats, or even by the most unjust punishment. Only, let obedience (which we owe above all to God, who is greater than all these) not be at all excluded from the performances of duties of this kind which we carry out.

¹ Exo 1:16.

² Mat 2:17.

³ A reference to Aemilius Papinianus (212 A.D.). See *Historia Augustae*, Caracalla, VIII, 5-6.

⁴ 1Kng 18:4, 13.

⁵ Acts 5:42.

⁶ Mat 28: 19; Mar 16:15.

Question 4. How can one who has suffered wrong at the hands of a ruler, defend himself against him?

Thereupon, a further question is commonly asked: What is a virtuous man with a good conscience, bound and able to do when the Ruler doesn't make him the instrument of his injustice, but is indeed *unjust towards him*? Since this question consists of several parts, we must distinguish them. Therefore, if the Ruler who has wronged the subject is subordinate to a superior, the sufferer of wrong will, in accordance with the laws, be entitled to have recourse to the supreme Ruler. We read that St. Paul did this when he appealed to Caesar from Festus, the governor of Judea, that he might ward off the injustice of Festus.¹ But let those subjects whose station is private, observe two principles here above all. *First*, let them not make it a test of strength, except by way of the courts of justice. *Second*, let them regard not merely what is *permissible*, but especially what is *expedient*. For when at Philippi, through the folly of the magistrate, that same St. Paul had been beaten with rods,² shamefully and unheard, in violation of the right of Roman citizens. He judged that he would rather enhance the glory of God by patience; and so he did not further assert his right, but contented himself with rebuking the magistrate for the injustice committed in violation of the laws.

But if it were to happen (as it happens only too frequently in our times) that one lower magistrate undertakes some act of violence against another — against the express will of their superior — then I would assuredly say that the magistrate who had been wronged, after he has exhausted all legitimate and peaceful means, is entitled to equip himself with the armor of the laws. He is entitled to oppose unjust violence with a just defence, as was done by Nehemiah against Sanballat and his associates.³

What then must be done if it is the supreme Ruler⁴ from whom the injustice comes? The Lord Jesus, and after Him all the Martyrs, have clearly shown by their example that injustices should be patiently borne; and this is the highest glory of Christians — namely, to endure injury from all, but to cause it to none. 'What then,' someone will ask, 'is there no remedy remaining against the supreme Ruler who abuses his authority and power in violation of all the precepts of divine and human rights?' Doubtless there is a remedy remaining, that is derived from human institutions. But when I say this, let no one be of the opinion that I wish to favor the fanatical Anabaptists, or other factious and mutinous men, whom I rather esteem most worthy of the hatred of all their fellowmen, and even of the severest punishments. To be sure, I must speak the truth because the matter rests on this argument: It must not be supposed that those who show in what ways evident tyranny may be opposed without violating one's conscience, are somehow depriving good and legitimate rulers of that authority which God has granted them. Nor should it be supposed that they are paving the way for seditious uprisings. Indeed, it is rather certain that the authority of Rulers cannot be rendered secure, nor can the public peace be maintained (which is the chief goal of all well-established politics), unless careful precautions are taken so that tyranny may not steal in. Or if it has already stolen in, that it may either be abolished or expelled. The question, therefore, is whether subjects can by some just

¹ Acts 25:10.

² Acts 16:22.

³ Nehemiah 4.

⁴ Supreme Ruler refers to the highest ruling authority in an earthly nation, e.g., a monarch. — WHG

means, without offense to God, check, or if need be, even expel by armed force, the evident tyranny of the supreme Ruler.

Question 5. Whether manifest tyrants can lawfully be checked by armed force.

To give a clearer answer to this question, I must first lay down certain principles constituting, as it were, the foundations of the whole question. Assuredly, it is clear that the people did not first originate from rulers; but whichever people desired to be ruled by a single monarch, or by the chief men elected by them, existed prior to their rulers. Hence it follows that the people were not created for the sake of rulers, but on the contrary, the rulers were created for the sake of the people — even as the guardian is appointed for the ward, not the ward for the guardian; and the shepherd for the flock, not the flock for the shepherd. This proposition is not merely obvious in itself, but it may be corroborated by the history of nearly all nations. God Himself, although he elected Saul to substitute for Samuel in accordance with the desires of the people, God willed that Saul be chosen and accepted as King by the vote of the people.¹ Thus David, though he had first been chosen as king by God Himself, would not undertake the administration of the Kingdom unless he were first confirmed by the vote and unfettered concord of the tribes of Israel.²

On similar grounds, it happened even afterwards, that though the kingship had been granted by the will of God to the family of David, yet in the end, one from the descendants of David should rule — one whom the people had approved, and no other (unless perhaps something irregular happened to prevent it, as when the Egyptian and then the Syrian kings ruled as tyrants over the people of God). It was such that this kingship was *hereditary* as far as the family was concerned, but *elective* regarding the individual incumbent — i.e. it was dependent on the election of the people. This may be seen from the histories of Solomon,³ Rehoboam,⁴ Joash,⁵ Uzziah,⁶ and Jehoahaz.⁷ It is for this reason that Absalom grasped the occasion to usurp his father's throne.⁸ This is why David's friend, Hushai, answered Absalom: "No, but whom the LORD, and this people, and all the men of Israel have chosen, I will be his, and I will remain with him."⁹

In short, if we would also investigate the histories of ancient times, recorded by secular writers, it will be established — as indeed, Nature herself seems to proclaim with a loud voice — that rulers by whose authority their inferiors might be guided, were elected for a reason. It was that either the whole human race must perish, or some intermediate class must be instituted so that one or more rulers might be able to command the others by it, to protect good men, and restrain the wicked by means of punishments. This is what not only Plato, Aristotle, and the other natural philosophers have taught and proved with the light of human reason alone, but God Himself taught this by the utterance of St. Paul,

¹ 1Sam 10 & 11.

² 2Sam 2:7; 5:1-3.

³ 1Chr 29:22.

⁴ 1Kng 12.

⁵ 2Kng 11:12.

⁶ 2Chr 26:1.

⁷ 2Chr 36:1.

⁸ 2Sam 15: 1-13.

⁹ 2Sam 16:18.

writing to the Romans. ¹ So that, the rulers of nearly the entire world confirmed this with clear words. Thus the origin of all States and Powers is, with the best of reasoning, *derived from God*, the author of all good. Homer also recognized and freely testified of this when he called kings “the fosterlings of Zeus” and “the shepherds of the lost.” ²

And therefore, since we are beginning a discussion concerning the power of Rulers, what prevents us from passing over to that prime origin from which they derived, and from considering to what end they were instituted? For it is obvious that every discussion of just or unjust things, must begin and end with the end for which those things exist. For we must judge that something is rightly and duly done, when it attains the end for which it was designed. Therefore, when the duty of the rulers is inquired into, all will admit that it is assuredly right to remind rulers of their duty, and also to roundly admonish them whenever they stray from it. But when a case occurs of either needing to restrain tyrants who beyond a trace of doubt have strayed; or of punishing them in accordance with their deserts, the majority so earnestly commend patience and prayers to God, that they consider and condemn as mutineers and pseudo-Christians, all those who refuse to bow their necks to torture.

Here we are doubtless on dangerous ground. I would therefore once again beseech my readers to bear in mind my remarks immediately preceding, lest they draw inadmissible conclusions from what must be said in the sequel. I admit that I most strongly approve of Christian patience as laudable beyond all the other virtues; and I admit that it is never sufficiently commended; I admit that men should be zealously exhorted to it, because it contributes largely to the attainment of eternal bliss. I detest rebellions and all disorder, as awful abominations, I am of the opinion, especially in affliction, that we should depend upon God alone. I recognize prayer, accompanied by a serious recognition of our error, as the true and necessary remedy for the overthrow of tyranny — since this evil is rightly counted among the scourges sent by God for the chastisement of His people. But I deny that all these considerations somehow deprive nations crushed by manifest tyranny, of their right to safeguard themselves against it, by means of prayers and repentance, as well as other just remedies. And I will corroborate this as I reply to the following powerful arguments.

Since these principles have been established concerning the origin of kings and other rulers (as demonstrated above), it follows that those who by force or deceit, usurp that authority which by no right belongs to them, *are not legitimate rulers*. There are two kinds of such tyrants: for some, in violation of the laws laid down and received, usurp tyranny over their fellow-citizens. Julius Caesar, under the feigned title of Perpetual Dictator, took possession of the Roman commonwealth. And many other tyrants, particularly in Greece, crushed the liberty of their country. Others, however, not content with that absolute power which they rightfully acquire over their own people, extend their dominions at the cost of their neighbors’ liberty; they increase them by means of fortified boundary-lines. It is for this reason that monarchies, ever since the origin of the world, have achieved such wide dominions. The sacred writings offer us an example of this in

¹ Rom 13:1-5.

² For “Fosterlings of Zeus” see Homer passim, e.g. *Iliad*, XVII, 652; XXIV, 803, and *Odyssey*, IV, 391; XV, 155, 167. For “Shepherds of the lost” see *ibid.*, e.g. *Iliad*, II, 85, 105; V, 566; XX, 110, and *Odyssey*, IV, 24, 532; XX, 106; XXIV, 368, 456.

Nimrod;¹ we also see that the Israelites were generally oppressed in this way, by the neighboring peoples. Hence, since those tyrants had no lawful right over the people of God, I maintain that the Israelites were free not merely to disobey the sinful commands of these peoples, but even to set a just defense against their unjust violence. And therefore the leaders of the tribes of Israel did a grievous wrong whenever they failed to oppose the foreign foe with united courage and strength, in defense of the liberty of their country — provided that an occasion for opposing them presented itself. For there is no doubt that even private individuals are bound by the laws of both God and men, to succor their country with all their power, when it is oppressed and in distress — especially when its religion and liberty are simultaneously endangered. For it was a true remark which the captive pirate dared to utter when he was dragged before Alexander. He declared that he differed in no way from the king; but that the king plundered the world with a multitude of ships, whereas he did so with but a single vessel.²

Objection. These remarks are not countered by an objection which certain people are prone to make; namely, that it is God by whom kingdoms and empires are transferred and exchanged; and therefore tyrants frequently gain the victory with the approval of God.

Answer. Far be it for me, on that account, to either support the view of Lucan,³ who dared to write that “license had been granted to crime;” or to condemn Demosthenes’ cause as unjust, because he was overcome — compelled to yield while defending the liberty of his country against the violence of Philip of Macedon; whereas Philip came off victorious.⁴ I don’t use these examples so the consciences of pious men may rest upon them as upon rules, but because they are famous and very well known to most people. And I use them for the further reason that, though these events occurred among heathen nations, they are not so far removed from the standard of justice, that it may not justifiably be said that justice was on one side and injustice on the other. For I would not hold that we must judge by the favorable or adverse result alone, whether an undertaking was just or unjust — as indeed Demosthenes answered his opponent, Aeschines, that the source of his reproach was the unfortunate result of the battle of Charoneia. To rather speak as Christians, God is generally prone to punish the sins of men, or to so test His people, that he assigns to their undertakings — however good and just in themselves — an outcome far other than they had expected. This may best be seen in the war which the remaining tribes of Israel waged against the children of Benjamin.⁵ But for all that, God remains no less just, by whatever means He enforces His judgments; nor must it be held that the nations had a less lawful cause against their hostile tyrants, merely because they were cast down by some just judgment of God, and fell into ruin. Hence, I could never approve of the view of those who, without any distinction or exception, at once and indiscriminately condemn all tyrannicides on whom the Greeks formerly bestowed such exceptional rewards.⁶

¹ Gen 10:8-18.

² Augustine, *De Civ. Dei*, IV, 4, 25. Cf. Cicero, *De Repub.*, 3, 14, 24.

³ Lucan, *De bello civili*, 1, 2: “Iusque datum sceleri canimus.” Cf. the Latin text of Beza: “ius sceleri datum” (Ed. Sturm, p. 36.).

⁴ Demosthenes, *De corona*, 180.

⁵ Judges 20.

⁶ Aristotle, *Politics*, V, VIII, 7 and also 9.

As little does the view of those commend itself, to whom the majority of liberations recorded in the Book of Judges seem so foreign and strange,¹ that they are of the opinion that these can in no way be adduced as examples.. For however true it may be that those Judges of the people of Israel were moved and stirred to perform famous deeds by some divine and exceptional instinct, it does not immediately follow that the Israelites themselves — whether holding office or even as private citizens — could not in accordance with their ordinary right, have expelled the tyranny of strangers who had been neither elected nor approved by the people. That those liberations were effected by means of those men alone whom God summoned forth in a special way, does not disprove my contention. Rather, it demonstrates that the spirit of the Israelites had been stunned and broken by the just judgment of God, for their transgressions. Therefore, to follow those examples rightly and lawfully, I am of the opinion that the following true means should be held fast: namely, if anyone strives to seize, or has already usurped, an unjust tyranny over others — whether he is a stranger, or like a viper, he leaps from the womb of his country, that by his birth he may cause her death — then private citizens, before all else, shall approach their legitimate magistrates in order that the public enemy be cast out by the public authority, and with the common consent of all. But if the magistrate connives at the attempt, or in some way refuses to perform his duty, let each private citizen bestir himself with all his power, to defend the lawful constitution of his country to which (after God) he owes his entire existence, and to defend against the one who cannot be deemed a lawful magistrate — since either he has *already* usurped that rank in violation of the public laws, or else he is *endeavoring* to usurp it.

Next, it should be noted here that a defect which originally adhered to a usurpation, may afterwards be rectified — so much so, that the one who originally was a tyrant, may become a lawful and inviolable ruler — that is, of course, if afterwards the free and lawful consent is gained of those who have the power to elect and appoint a true and lawful ruler. *For example:* The war undertaken against Caesar under the leadership of Pompey was just, even though Caesar emerged victorious in it. But if it was true that Caesar, by the free and voluntary assent of the Roman people, afterwards obtained the supreme power under the pretense of a perpetual dictatorship, it would no longer be necessary to raise the question whether the conspiracy against him was just and lawful — unless it were quickly shown that he clearly abused those very dictatorial powers. I venture to declare most positively that those leading citizens of Rome could have, and even *should have*, defended the Commonwealth against the Triumvirate. But I would not venture to maintain that Cinna and his associates could lawfully have conspired against the life of Augustus after the “Royal Law”² (as they called it) had been promulgated and passed.

But here too we must distinguish. It will readily be conceded, I think, that an agreement — whether freely manifested by, or extorted by, means of violence or intimidation from the whole people or a majority of them, should be annulled rather than observed, if it were established beyond any doubt, that such an agreement was clearly incompatible with fairness and honor.³ For who would persuade himself that some nation would freely,

¹ Jdg 3:15-25.

² An allusion to *Lex Regia*. See Corpus Juris Civilis, Inst., I, 2, 6: “*quod principi placuit, legis habet vigorem, cum lege regia, quae de imperio eius lata est, populus ei et in eum omne suum imperium et potestatem comcessit.*” Cf. Dig., I, 4, 1.

³ That is, a tyranny of the majority is still dangerous; tyranny always produces evil fruit, even if it's popular. — WHG

wittingly, and unconstrainedly wish to subject itself to some ruler to this end: that it might subsequently be murdered and utterly destroyed by him? But surely, here again, two considerations should be heeded whenever those undertakings have to be annulled or set right, to which agreement has been granted without due consideration. *First*, nothing should be attempted or done recklessly; and *secondly*, nothing should be done by way of insurrection, but in due order and in a disciplined fashion, so far as possible.

The present condition of the Christian Commonwealth furnishes us with two examples of this; both are assuredly of the greatest importance. The *first* is that of the unjust and sinful submissiveness with which kings and nations have bound themselves by oath to the Roman Antichrist. I maintain that they are no more bound by that oath, than if they had expressly and openly sworn to Satan that they would subvert all the rights of God as well as men. The *other* example is that of the so-called *temporal jurisdiction* to which the ecclesiastical prelates have laid claim. Because this is diametrically opposed to the command of Christ, as well as to the clearest examples of Him and of all Apostles — as Saint Bernard has particularly shown¹ — it assuredly follows that, of itself, it is void, since the civic rulers could not divest and deprive themselves of that jurisdiction, nor could the ecclesiastics receive it from kings or nations, or acquire it at a price. Much less should they have usurped it by force and cunning tricks, as they certainly did in by far the greater part of the world.

Let these remarks be made against tyrants who have unjustly grasped authority over their fellow-citizens, or over foreign nations.

Question 6. What is the duty of subjects towards their superiors who have fallen into tyranny?

It now remains for us to address the other question which has not without reason been debated by numerous people in these present times. That is, what may subjects of good conscience do when their supreme rulers, who are legitimate in other respects, degenerate into manifest tyrants? Must the authority of the supreme rulers who have become undisguised tyrants, remain so sacred and inviolate that the subjects are obliged in all circumstances to endure it, such that they may in no way offer resistance to it? Or if indeed resistance is allowable in some way, may they go so far as to seize arms?

Three kinds of subjects

I answer that there are three kinds of subjects in all, or that subjects are characterized by a threefold *differentia*. For some are private citizens performing no duty of public administration; others do indeed hold a magistracy, but these are subject to the supreme rulers (what we call *subaltern* or *inferior* magistrates); the third class, though they do not indeed hold the highest authority, nor yet wield supreme and regular power, they are placed in such a station that they are, as it were, the bridles and reins to keep the supreme ruler to his duty. However, just as these kinds are different, so a different reply must be given concerning each.

Private citizens may not offer resistance to their lawful ruler who is a tyrant

¹ St. Bernard of Clairvaux, *De consideratione... ad Eugenium tertium*, book 1, cap. 6. (Migne, P.L., 182, 735-36).

Whether those of private station have freely and openly agreed to the rule of an unjust usurper (as the Roman people submitted of their own free will to Augustus and his successors),¹ or the one who was their lawful ruler has become a manifest tyrant (as were Abimelech among the Israelites,² the Thirty at Athens,³ the *Decemvirs* at Rome,⁴ and others elsewhere) — I maintain that (apart from a special injunction from God, which I do not discuss here) no private citizen is entitled, on his own private authority, to oppose the tyrant with violence against violence. Rather, it behooves him in every way, either to depart from the realm of that ruler and change his domicile, or to bear the yoke of the tyrant patiently by taking refuge with God in prayer — provided only (as we have remarked from the beginning) that he not be constrained to become the instrument of that very tyranny against someone, or to refrain from performing any of those acts which are due to God or to his neighbor.

Objection. But against this reply, an objection may be urged: namely, the proposition which we established above concerning that twofold class of tyrants to whom we declared that even private citizens could, and indeed should, offer resistance with all their power. For whether a private citizen usurps power, or someone not satisfied with his lawful supremacy exercises tyrannical rule, it would at first sight appear to fall within the same category; hence it might seem to follow that the same decision would apply in either case.

Answer. But as we look closely into these matters, it becomes clear that these two classes are entirely different, even though they seem very similar. For he who launches an attack on those who are in no way subject to him, even if his desire is to rule fairly and in accordance with goodness and justice (as we read concerning Peisistratos and Demetrios of Phaleron, among the Athenians),⁵ he may yet lawfully be prevented — even by force of arms, and by any citizens whatsoever; even those of the humblest station, to whom he desired to do violence, since they are not bound to him by any obligation. But once he has been approved and accepted by his people, even if he abuses his right, he yet retains the basis of his authority as against his own private subjects, since an obligation entered upon publicly, and by mutual consent, cannot be dissolved and broken by the will of any private citizen. For if it were otherwise, endless disorders would ensue, even worse than tyranny itself; and in the place of a single tyrant whom it might be our intention to cast down, a thousand would succeed him.

Furthermore, a single reason derived from the authority of the Word of God should be of greater weight here, than anything else that could be adduced to the contrary. St. Paul, in prescribing their duty to men in private station, forbids them not merely to resist their rulers (supreme rulers as well as subordinate) but enjoins us to obey them for conscience' sake also.⁶ St. Peter also bids us to honor the king,⁷ probably being mindful of that reproof which he heard from the Master when, as a private citizen, he drew the sword against the power of the state (even though that power was abusing its authority against the Lord).⁸

¹ Another allusion to *Lex Regia*, established by the Emperor Augustus. See Question 5, note.

² Judges 9.

³ The thirty tyrants of Athens, 404-403 B.C..

⁴ The *Decemviri*, governors of Rome, 451-449 B.C.

⁵ Peisistratos was a ruler of Athens, 560-527 B.C.; Demetrios of Phaleron governed the state from 317-307 B.C.

⁶ Rom 13:5.

⁷ 1Pet 2:17.

⁸ Mat 26:51-54; Joh 18:10-11.

But everyone knows of what nature the Caesars were then — Tiberius, Nero, and the other rulers over provinces. The holy Martyrs afterwards followed this example while the inhuman tyrants persecuted them most cruelly, not only under the emperors who raged against the Christians in accordance with the laws of the Romans, but also under those who treacherously violated the edicts issued in favor of the Christians, as happened under the emperor Julian the Apostate.¹

In short, to conclude this part of the inquiry, I maintain that no one in private station is allowed to set himself in open violence against a tyrant to whose domination the people, of its own free will, previously consented.² For if we must so far abide by private contracts, pacts, agreements, and undertakings that we suffer damage rather than break our word, how much more should private citizens be on their guard lest in any way they refuse to honor an obligation entered upon by a solemn and public agreement?

Concerning subordinate magistrates

I now come to the lower magistrates, who are intermediaries, as it were — *subalterns* as the common people call them — between the supreme magistrate and the people. By this title, I do not mean the domestic officers of the King personally (that is, those who perform some duty within the royal palace, and serve his person rather than the kingdom); but rather those who perform *public* duties. That is, the duties pertaining to the condition of the kingdom, either as regards its courts of justice or matters of war, and who therefore, even in monarchies, are styled servants not of the King, but of the Crown or Kingdom (for there is a highly important difference between these). Of this kind in Rome, were the consuls, the praetors, the city prefect, and the governors of provinces. Their election used to be entrusted to the people itself, and then in the time of the Emperors, even to the Senate. It included similar officials of the Republic or the Empire, who for that reason were called *magistrates* of the Roman people, even under the last Emperors.

Such were also among the Israelites — the leaders of the several tribes, the leaders of thousands, hundreds, fifties, tens, and the elders of the people. These political functions, first regulated by Moses, were in no way abolished afterwards when that aristocratic constitution was transformed into a monarchy. Indeed, under Solomon they were carefully established and observed. Even today, various classes of magistrates of this kind are to be found in most Christian kingdoms. Among them should be counted those who are styled dukes, marquises, counts, viscounts, barons, and squires, having formerly been chosen (in due order and lawfully) to certain public duties and tasks, so that they might perform them. And though these subsequently became hereditary titles of honor, yet they have in no way lost their original right and authority. Among this class should further be included those who are elected with a view to a variety of duties in civic communities, such as those who are generally called majors, vicars, consuls, capitolini (municipal judges), syndics, scabini (aldermen), and the like.

Subordinate magistrates are dependent not upon the *person* of the supreme magistrate, but upon the supreme *magistracy* as such.

¹ Julian, or Julian II, was Roman Emperor from 361 to 363. — WHG

² Notice “the people” is singular, not a collection of individuals who must each consent. Beza rightly asserts that the people “has” a voice, as an entity. This is essential to his argument. — WHG

Further, although these are all subject to the supreme magistrate, they receive their commands from him, and are instituted and approved by him. Yet they do not, properly speaking, depend upon him but (so to speak) upon the supremacy as such — that is, upon that supreme power and authority of the empire or kingdom. Hence, upon the death of the one who wielded the supreme power, they each remain in their own station as before, just as the supreme power remains the same. The one who succeeds to the place of the one who has died, confirms such subordinate magistrates, just as he also confirms the privileges of cities. Suetonius records in his *Life of Vespasian*,¹ that Tiberius Caesar first introduced this custom in the Roman Empire. In earlier times, it was not in use in Gaul,² except perhaps when the kingship passed not from fathers to sons, but to strangers. This confirmation, I declare, does not entail that the supreme magistrate should be regarded as their *originator* — that is, as the prime source of their being, from whom they derive their origin. For the supreme magistrate himself, before he can be placed in possession of his highest administrative power, in turn takes the oath to the supreme *power*, in accordance with the conditions expressed in the formula of the oath. And afterwards, he receives the oath from the officials severally also. Thus, such a confirmation bestows no new right, any more than the investiture of a new vassal does so, or that performed by a new lord. It is merely a fresh recognition of an old right, by reason of a change of person.

The obligation subsisting between supreme and subordinate magistrates is mutual

It hence appears that the obligation between the king and the officials of the kingdom is mutual; and that the entire administration of the kingdom is not entrusted to the king alone, but only the highest rank of it; and that the subordinate officials severally hold part of it, each in accordance with his own rank; and that is on fixed conditions on either side. If those conditions are not kept by the subordinate magistrates, the supreme magistrate is entitled to discharge them or to correct them. Yet this is only after their case has been heard in accordance with the regular procedure which the laws of the kingdom prescribe — unless he himself also desires to break the oath by which he promised to rule in accordance with the laws.³

On the contrary, however, if the one who received the royal dignity⁴ — either by being elected to it, or by hereditary right — openly departs from those conditions under which he was expressly recognized and approved as king, then who would be inclined to doubt that the subordinate magistrates of the kingdom, and even the very provinces and cities whose administration has been entrusted to them, are automatically (*ipso jure*)⁵ free from their oath. They have the right to set themselves against the undisguised oppression of that kingdom whose defense and protection they undertook by oath, each in accordance with his own office. “What then?” someone will say, “will the one who but recently was regarded as the supreme ruler (whose authority should be inviolable) — will he, by the arbitrary will of every subordinate, now be deemed a mere private citizen, so that it will be lawful to assail him as a public enemy?”

¹ It was not initiated by Vespasian, but by his son, Titus Flavius Vespasianus. See Suetonius, *De vita Caesarum*, book VIII, Divus Titus, 8, 1.

² France.

³ This is the condition (or restraint) imposed on the monarchs of England by the *Magna Carta* of 1215. — WHG

⁴ *Dignity*: a high office, rank or station. — WHG

⁵ Originally *ipso iure*: by operation of law, or as a matter of law.

Not at all, I answer; for this would be to offer a loophole, as the saying goes, to every kind of sinful sedition and conspiracy. But we are discussing open and manifest *tyranny* — tyrants of the sort who cannot admit or endure any admonishments whatsoever. Furthermore, we are not addressing the tyrant who must be utterly thrust and cast down from his throne. Rather, we are inquiring whether *no one* can and should, in accordance with his rank, set himself against his own open violence, since it was shown before that it is not right for anyone to arbitrarily dishonor an obligation publicly contracted, whoever he might be, and however just a cause of complaint he might have concerning the tyrant.

The duty of subordinate magistrates

On the other hand, since those subordinate instruments of the kingdom have received this office from the supreme power as such, so that they may be on their guard for the observance and protection of the laws among those who have been entrusted to their care; and since they have bound themselves by oath to perform that duty in all faith — an oath from which they cannot be absolved by any fault of the one who, from being a king has become a tyrant and quite openly violates those conditions upon which he was appointed king, and the observance of which he undertook on oath — would it not be a just thing, according to all law, both divine and human, and because of the oath taken by them to ensure the observance of the laws, that somewhat greater liberty should be granted to these subordinate magistrates, than to those citizens who are of entirely private station, and without any public office? ¹

I therefore maintain that, if they are reduced to such unavoidable compulsion, they are certainly bound, even by means of armed force if they can, to protect against manifest tyranny, the safety of those who have been entrusted to their care and honor. This is only as long as their public interests have been better consulted and fittingly provided for, in accordance with the collective counsel of the States-General or the *Nomophylakes* — that is, those with whom all the legislative authority of the kingdom or empire in question rests. Moreover, doing so is not being factious, nor a traitor towards your supreme ruler. Rather, it is being a most faithful keeper of your oath towards those whose direction you have undertaken against perjury; and against the oppressor of a kingdom, who should have been its protector.

At Rome, Brutus and Lucretius lawfully exercised this right against Tarquin the Proud,² who was openly practicing tyranny — although this cause was theirs for private reasons also. Lucretius as prefect of the city, and Brutus as tribune of the knights, summoned together the Roman people, so that by their authority the tyrant might be expelled from the kingdom, and his possessions confiscated. There can be no doubt that if they had been able to seize him, they would also have condemned him in accordance with the laws which he violated (whereas he should have been their upholder). For it is an entirely false maxim — one spoken by a detestable flatterer, rather than a subject loyal to his ruler — that a supreme magistrate is subject to no laws.³ On the contrary, the man who has promised on

¹ Beza suggests the people don't have a *right*, but subordinate magistrates have a *duty*, to oppose tyranny. This is to prevent mob rule and open rebellion, as with the Peasants' Revolt of 1381. It instead provides an orderly overthrow of tyranny, assuming those subordinate magistrates are not themselves part of the tyranny. — WHG

² Lucius Tarquinius Superbus, the legendary seventh and final king of Rome, reigning from 535 BC until the popular uprising in 509 BC that led to the establishment of the Roman Republic.

³ The flatterer Beza speaks of, evidently cites the *Corpus Iuris Civilis, Digeste*, I, 3, 31: "Princeps legibus solutus est."

oath to be the defender and champion of all laws, should not fail to administer his rule upon the violation of any single law. Hence, he should rather hold fast the splendid saying of the emperor Marcus Aurelius: it is a worthy maxim that an emperor should profess himself subject to the laws.¹ And Trajan, that mightiest of emperors (who has never received praise according to his merits), also approved of it by his action. For when he was appointing Sura as military tribune, and handing him the customary unsheathed dagger, he remarked:

“Take this weapon which you shall draw on my behalf only if I have given a just command; but if you should learn that anything wrong is being done by me, I would have you use it for my destruction.”²

But let us now turn to sacred history which will supply us with many true and irrefutable examples by which the consciences of the pious may be strengthened. When David was being sought for execution by Saul, a most cruel and treacherous tyrant, he had no one among the captains of the tribes, or of the thousands, or hundreds, or of the elders of the people, to champion his cause against the tyranny that was so unbridled, and inclining towards the destruction not only of David himself, but also of the entire kingdom (especially after the fearful slaughter of the high priests). David therefore wandered to and fro as a fugitive to balk the fury of the tyrant. But since he was no longer a private citizen (indeed, he was one of the ministers of the kingdom, being a commander of the armies of Israel); and since, furthermore, the right of succession to the throne had been promised to him by God (a fact not unknown to Saul³) — he safeguarded himself with arms and soldiers, after first trying all other means.⁴ Yet meanwhile, he confined himself to his own territory. And so far from contriving anything against the person of the king, he even allowed him to depart alive and unharmed when he had captured him. And so far from invading the kingdom itself,⁵ even after the death of Saul (whose successor he knew for certain), he did not even stir a foot to seize the royal palace — except in so far as God Himself caused him to advance. And David was called by the unanimous consent of the people.⁶

Yet it is quite certain that he had resolved to defend himself by force of arms for the reasons mentioned above.⁷ For what else was the purpose of those military forces by which he was attended? He anxiously consulted God as to whether the citizens of Keilah would give him and his men into the hands of Saul. This clearly shows that he had decided, if he learned he would be safe there, to resist Saul if he laid siege to the walls of that town. And this conduct cannot be condemned, unless David is to be charged with sedition and high treason — we may not even suspect him of any of that. And the prudent Abigail would

¹ Cf. the test of Theodosius and Valentianus in *Corpus Iuris Civilis*, Codex, I, 14, 4: “Digna vox maiestate regnantis legibus se principem profiteri.” The combination of the two Roman principles of *Lex Regia* and *Lex Digna* are frequently found in the political treatises of the previous age and the modern age. See on the subject, Ernst H. Kantorowicz, *The King's Two Bodies: a study in mediaeval political theology* (Princeton University Press, 1957) pp. 104-107; also p. 95 and p. 135.

² Dion Cassius, *The Life of Trajan*, book LXVIII, 16, 1.

³ 1Sam 24:21.

⁴ 1Sam 22:2.

⁵ 1Sam 24:7.

⁶ 2Sam 2:1-4.

⁷ 1Sam 23:9-13.

be judged guilty of lying, for openly declaring that David was waging the wars of the Lord,¹ when he availed himself of a just defense against an unjust persecutor. We have another very clear example concerning the town of Libnah, which was the dwelling place of the priests. For it revolted from Jehoram, the sixth successor of David, that it might no longer be subject to him. The reason for that revolt is given in the context of the history; namely, that King Jehoram had forsaken the Lord God of his fathers.² But since this town itself belonged to the priests,³ it is evident that this conduct of the people of Libnah was far different from the revolt of the people of Edom, which occurred under the same king and at the same time. For it is not probable that the people of Edom withdrew themselves from their subjection to the Israelites, in order to cling to the true God whom they had never served in sincerity; they did so only from hatred of the Israelites, and a desire to regain their liberty. But the priests who revolted, after God held sway in Libnah [against the Edomites], furnished remarkable proof of their piety.⁴ Being unable to simultaneously obey God and the tyrant, they shook off the yoke of the tyrant, so that they might continue in devotion and obedience to God.

These two examples, apart from the considerations quoted above, are so reliable and authentic, that in my judgment they should be adequate to strengthen the consciences of subordinate magistrates as often as unavoidable necessity constrains them (after all those other remedies have been put to the test) to have recourse to arms, so that they may protect their people against manifest tyranny, and preserve them. This is not for the sake of stirring up rebellion, but rather to avoid it. For in the time of our ancestors, the tyranny of those who were oppressing the Swiss, offered the municipal magistrates an occasion to assert that independence which they enjoy at present.⁵

A RESTATEMENT OF THE SIXTH QUESTION

The Orders or Estates, established to curb the supreme magistrates, can and should in every way offer resistance to them when they degenerate into tyrants.

It still remains for us to speak of the third class of subjects. Though in one particular respect, they are truly subject to obedience to the supreme rulers, yet in another respect, especially in straitened and extreme circumstances, they have been appointed as the defenders and champions of the rights of the supreme power as such. They must keep the supreme rulers to their duty, and they must, if need be, constrain and punish them.

Here, however, we must keep in mind the remarks made above; namely that the people existed before there was any magistrate, and the magistrates were made for the sake of the people, not vice versa. Some people seem to derive their origin from their kings. For example, the Roman people was said to have been created by Romulus, because there had not been an original people before, but only a multitude scraped together from a variety

¹ 1Sam 25:28.

² 2Chr 21:8-10.

³ Jos 21:13.

⁴ 2Kng 8.:22; 2Chr 21.11-15. – WHG

⁵ The 14th century in Switzerland was a time of transition away from the old feudal order administrated by regional families of lower nobility. The House of Habsburg was growing in power, and had rivals in Burgundy and Savoy. The free imperial cities were forced to look for allies, and entered into a series of pacts. A Swiss Confederacy wedged itself between Habsburg Austria, the Burgundy, France, Savoy, and Milan. Habsburg attempted to gain influence over the cities of Lucerne and Zürich, with riots or attempted coups. This led the cities of Lucerne, Zürich, and Berne to attach themselves to the Swiss Confederacy. – WHG

of nations and peoples. Yet this can in no way be applied to others, so that a general rule may be established from it. Furthermore, even Romulus did not hold sway over this congress of people, except by their consent. Hence it follows that the authority of all magistrates, however supreme and powerful they are, is dependent upon the public authority of those who have raised them to this degree of dignity, and not contrariwise. And let no one use the objection that such was indeed the first beginning of magistracies, but subsequently the people completely subjected themselves to the power and arbitrary will of those whom they had received as their supreme magistrates — they surrendered their liberty to them wholly and without any reserve whatever. In the first place, I deny that there is any certain proof of this complete renunciation; indeed to the contrary, I maintain that as long as right and justice have prevailed, no nation has either elected or approved kings without laying down specific conditions.

And if those kings violate these conditions, the result is that those who had the power to confer this authority upon them, have retained no less power to again divest them of that authority. That this may appear more clearly, let us inquire whether this cannot be proved by the uninterrupted usage among the most famous and better-known people throughout the ages.

I-A. Examples of the Romans in the time of Kings

Let us begin with the kingdom and subsequently the empire of the Romans, though they were not more ancient than other peoples. Titus Livius (Livy),¹ describing the origins of Roman kingship, records that the hundred so-called *interreges*² who were set over the people in turn after the death of Romulus (this first ancestor of the people) did not find favor with the commons. It was then decided by general consent, that henceforth kings should be elected by the vote of the people, and confirmed by the authority of the Senate.³

The same author, when speaking of Tarquin the Proud, the last Roman king, remarks: “For he had no other claim to royal power apart from force, since he ruled neither at the command of the people nor with the authority of the Senators.”⁴ And he subsequently relates many deeds which were committed by him that were contrary to the customs of former generations. For according to tradition, Livy remarks, he was the first of the kings who broke the custom handed down by his predecessors, of consulting the Senate about all things. He administered the commonwealth according to his private counsels. On his own, he made and broke off war, peace, treaties, and alliances, with whomever he willed, without orders from the people and the Senate.⁵ From these words, it is quite evident that the kings of the Romans were not appointed except on express conditions. And if they failed to fulfill these, the people who summoned them, by way of the different classes of citizens, had no less authority to dismiss them than to appoint them; and this they clearly proved by their conduct towards that very tyrant.

¹ see inter alia, Titus Livius, *Ab Urbe Condita*, book I, xv, 6-8. — also known as *Livy* (c. 64 BC-17 AD).

² *Inter-regis*, or *interrex* – lit. a ruler "between kings" – WHG

³ *Ibid*, book I, xvii.

⁴ *Ibid*, book I, xlix, 3.

⁵ *Ibid*, book I, xlix, 7.

Seneca noted from the books of Cicero, “Concerning the Commonwealth,” that an appeal lay from the king to the people.¹ This was acted on in the capital case of Horatius slaying his sister.² He was condemned by the judges appointed by King Tullus Hostilius,³ but afterwards acquitted by the people. Apart from this, Dionysius also testifies that while Romulus was taking counsel with his friends about establishing a constitution, he declared that the king was indeed the guardian of the laws, but that meanwhile, the authority to elect magistrates, to pass laws, and to declare war, has been left in the hands of the people.⁴ This probably served as an archetype to the architects of the French Monarchy, as we will point out below.

Furthermore, from the history of Collatinus, who was the first consul as colleague of Brutus, it is evident that the people — understood to be not only that plebeian class which today we call the third estate, but all three classes which existed simultaneously in Rome, which are patrician, equestrian, and plebeian — had the same authority as the consuls;⁵ although the consuls wielded the supreme power in the republic, whenever there was no dictator in office. Livy also testifies of this, in these words:

“The consul fearing that afterwards these same misfortunes, along with the loss of his possessions, might befall him as a private citizen, and with even further disgrace, he laid down the consulship.”⁶

Yet Collatinus was charged with no crime; but the mere name *Tarquinius*, to whose family he belonged, was suspect with the people. It is therefore easy to infer from this that the people would have taken advantage of this right all the more, if a consul had been proved guilty of any crime — even though, according to the proviso of the laws, there would have to be a delay to allow the one holding a temporary office, to complete the prescribed period before they could be arraigned.

I admit that afterwards the *decemvirs* were appointed, from whom no appeal could be made to another magistrate; but since they wielded authority alternately, it was allowable to appeal from the verdict of one to the other — so little did the boundless and unlimited power of anyone ever commend itself to the Roman people. Indeed, at length it even compelled the *decemvirs* to lay down their office.⁷

As regards the authority of a dictator, it is true indeed that it was not allowed to appeal from him to another. But this high office was not in use except when the Commonwealth was afflicted (and all but overwhelmed) by some extreme and unavoidable evil; and that was for a very brief period, namely six months. But if ever an appeal was made from the supreme authority to the people — and this is of even greater importance — he agreed to

¹ Seneca, *Ad Lucilium Epistulae Morales*, epist. CVIII, 31; Cicero, *De Repub.* book II, xviii.

² Publius Horatius of Rome was a triplet. His sister, Camilla, was betrothed to a triplet in the Curiati family, of Alba Longa. After a political dispute, the king of Rome, Hostilius, declared war against the Etruscan city of Alba Longa. Rather than have their armies fight at great cost, the two kings had the Horati triplets fight the Curiati triplets, as representatives of their respective cities. Camilla’s lover was killed in the fight, as were Horatius’ two brothers. When Camilla wept over the death of her betrothed, Horatius killed his sister on the spot, for her lack of patriotism. — WHG

³ Titus Livius, *Ab Urbe Condita*, book I, XXVI, 3 and also 8.

⁴ Dionysius Halicarnesensis, *Antiquitatum Romanorum*, book II, 14.

⁵ Titus Livius, *Ab Urbe Condita*, book II, II.

⁶ *Ibid*, book II, II, 10.

⁷ *Ibid*, book III, XXXIII, XXXVI, LIV.

it of his own free will. This may be seen from what occurred in Rome between the dictator Lucius Papirius, and Quintus Fabius, in the 42nd year after the founding of the city.¹

I-B. Examples of the Romans in the time of Emperors

What if we decided to proceed further, down to the time of the Emperors? Although Julius Caesar seized the Commonwealth by force rather than by the voluntary assent of the people, he wished to be regarded as having obtained from the people, in accordance with ancient usage, all the eminent offices and charges which he held. And he is deemed by many people, to have been rightly censured — and at length, rightly murdered too — only because he accumulated too many high offices. His successor, Augustus, was indeed adopted by him, but he was not left as heir to the Empire. Therefore he strove to convince men that he had duly *received* from the people, what he had *seized* by violence. And Tiberius succeeded to him on no other ground than that. After him, Caligula was called Emperor by the unanimous consent of the Senate as well as the people. Claudius was indeed the first to secure the imperial power by means of the military favor which he had bought. Yet he did not exercise it except with the consent of the people — who then, of its own free will, rushed headlong into wretched slavery. Nero, however, succeeding Claudius when he had him removed by poison, seized the imperial power by undisguised violence. But his death furnishes us with a striking example of the authority which the Senate retained even then. For making use of its right, which had long lain hidden as if lulled asleep, the Senate is said to have expressly condemned Nero to death, after he had first been judged an enemy of the Roman people. From this it appears that even the very Emperors who had become tyrants, could be restrained and condemned by the organs of the law. And it appears that even though their authority extended very widely, being derived from the royal law which was passed for Augustus and confirmed for Vespasian,² it was still circumscribed within definite limits. It was not approved without any restriction, if there was still room for law and justice. For what else is tyranny but authority setting itself against the laws? We do not propose to speak about its wide extent and propagation— for what limit can there be to the unbridled cupidity and spite of tyrants? But we speak only about kings' and other rulers' legitimate authority, as limited by the laws. And so much concerning the Romans.

II. Examples from the Athenian Republic

When the Athenians abolished their democracy and changed it into an aristocracy, they first appointed thirty men, and subsequently only ten, for the government of the commonwealth as their historical writings record. But when these abused their authority, the Athenians successively removed them from office, and even visited well-deserved punishment on them, clearly availing themselves of the same right by which they had elected them in the first place.

¹ Ibid, book VIII, XXX-XXXVII. — In 325 BC, Lucius Papirius was appointed dictator to carry on the second Samnite War. Quintus Fabius was his Cavalry Master. Fabius engaged the enemy against Lucius' orders, who condemned him to death. Only the intercession of his father, the senate, and the people saved his life. — WHG

² Again, another allusion to the *Lex Regia*. See Question 5, note.

III. Examples taken from the Spartans

It is well known, too, that the Spartans were accustomed to elect their kings by a free vote from the family of the Heraclidae. Plutarch relates that Lysander wished to alter this, but without avail.¹ But after the king had been elected upon definite conditions, they appointed the *ephors*² to restrain the kings in their office, and as it were, to curb them with reins. These moreover expelled some kings, and inflicted capital punishment on others, until at length — upon the treachery of Cleomenes — the tyrants all were killed. Thereupon, Sparta lost her liberty at the same time as her absolute sway.³ Here I am reminded of that most beautiful passage in *Xenophon*,⁴ where he speaks of the Commonwealth of the Spartans. He records that the king and the *ephors* typically bound themselves by a mutual oath every month — *they* in the name of all the citizens, and *he* in his own name. In this oath, the king promised that he would rule in accordance with the terms of the laws laid down; and the *ephors* promised that they would guard the state for him, if he fulfilled his oath.⁵

IV. Examples from the Monarchy of the Israelites

Let us now proceed to the polity of Israel, the most perfect of all that ever were, if only the Israelites had been satisfied with it. The fact that the eternal God was its sole monarch from the beginning, exalted that polity beyond the stars, as it were; not merely because He Himself held supreme authority over all things, but because He did so in a unique way. For through Moses He visibly drew up their laws for the Israelites; through Joshua with arms thrust out, as it were, He brought His people into the Promised Land; and finally, He commanded and governed them in the person of those men whom He Himself had directly appointed to the government of that polity, and who were called Judges.⁶

At that time, therefore, the Jewish polity was truly monarchical (although God employed the service of certain men in accordance with His will). And if all kingdoms had this Monarch, or at least if all monarchs always allowed themselves to be directed by this supreme Lord of the universe, this present inquiry would be no less redundant, than it is indispensable. For that blessed state of the Israelite commonwealth (which never befell any other people but this) was changed in an amazing and unusual way. For the monarchical constitutions of other nations have degenerated into tyrannies by the fault of the monarchs themselves. But the Israelites, not recognizing such a great boon, and against His will as it were, compelled that true Monarch of theirs, who could never have become a tyrant, to appoint them a human king, as other people had. The Lord at length granted their wishes, but in anger and indignation⁷ — not that He desired by that act to disapprove of a monarchical constitution as such, but because this change had proceeded from a hot-headed and stubborn people.

¹ Plutarch, *Lysander*, XXIV.

² *Ephors*: one of a body of five magistrates chosen by the people of ancient Sparta. — WHG

³ Ibid, *Cleomenes*, passim, VIII and XXXIX.

⁴ Greek general and historian; student of Socrates (430-355 BC) — WHG

⁵ Xenophon, *Lakedaimonion Politeia*, XV, 7.

⁶ Jdg 2:16.

⁷ 1Sam 8: 5-22.

Meanwhile, it neither can nor should be disguised that there has never been a king since the origin of the world (even if you selected the very best), who did not in some measure abuse his authority. So it must indeed be conceded — as philosophers who are enlightened by natural reason alone have also recognized — that unless it is curbed by certain reins, monarchical rule brings ruin and destruction upon the people, rather than protection and welfare. So that, by these reins, it may come about that the greatest boon which can be derived from a monarchy may be secured, and the great evil which otherwise would result from it may be avoided or impeded.

I am giving this introduction while entering upon my discussion of the origins of the Israelite kingship, since clear examples of all these things are to be found there. It would be worth the effort if both kings and nations paid careful attention to these, so that the one class might not so often come to be oppressed by the other. But rather, the glory of God, from whom alone all tranquillity comes, might be such an object of care to both, that rulers and subjects alike might be content to maintain themselves peacefully.

But to return to the point from where I digressed, the Lord being rightly incensed against His people, that He might clearly make known to them what they were to expect from that reckless disposition by which they were being disturbed, prophesied to them through Samuel, in wondrous words, what indeed that right would be which history calls the *Royal Prerogative* — in short, that the king would arbitrarily seize the persons and possessions of his subjects, and convert them to his own uses. Doubtless, this is *tyrannical* rather than *royal*. For who would dare to seriously doubt that God alone is competent to thrust His arbitrary will in the place of reason, since nothing can be called just except what God has first willed? For the will of God alone is the true and certain rule of all justice, as it was maintained from the beginning. But the contrary happens in the case of men whose reason too should be subject to and guided by just and inviolable laws — particularly in the case of those who are placed in authority over others. So that those who interpret Samuel's words as if he desired to be the authority over kings, for the commission of any daring deed; or as if he approved of whatever they did in blind willfulness, are entirely mistaken. Equally accursed is that saying of the notorious incestuous woman "*Si liber, licet.*"¹ This is a standpoint which, alas, is excessively bandied about and acted upon in this present century. Indeed, the works of Samuel must rather be interpreted as if he spoke them to *rebuke* Israel: "It is not enough for you to have God Himself as your monarch, which thus far has been an extraordinary favor; but you demand another monarch, like the other nations have. Therefore, such a one will fall to your lot. But again, listen to what rights he will claim over you, and with what fairness and justice he will hold sway over you." The subsequent course of history has shown that *this* was the purport of Samuel's words.

The Kings of Judah elected by the people

I therefore maintain that, although God expressly elected David, he also had to be elected by the people; and in electing him rightly, as they should, they followed the will of God.² The same thing occurred in the case of Solomon, who after being first elected by God, was in the second instance made king by the people.³ And in general: although the royal

¹ "What I want, I may." *Historia Augustae*, Caracalla, X, 2.

² 2Sam 5: 1-4.

³ 1Chr 29:22.

crown, in accordance with the command of God, belonged to the House of David by hereditary right, yet as we have shown above, the people always elected from among the children of the late king, that one whom the people preferred to hold sway. And with this election went a twofold obligation, as it appears from the history of Joash.¹ For both the king and the people first promised God under solemn oath to observe His laws, both ecclesiastical and political. Afterwards, another mutual oath was taken between the king himself and the people. “But,” someone will say, “did the people — that is, the *Estates*² of the people — for that reason have the right to punish their elected candidate when he failed to perform his duty?” They certainly had that right, as can be particularly proved by four examples.

(1) For if David might defend himself against the tyranny of Saul, as described a while ago, and (2) if the people of Libnah, who were but subordinate magistrates, might revolt from their allegiance to Jehoram, may I not rightly infer from these, that the *royal Estates per se (ipso jure)* had many more rights? (3) Also relevant to this point, is the deed that was done by those very Estates, upon the wise counsel of Jehoiada the priest, against Athaliah, who had been appointed queen and reigned over the kingdom for six whole years.³ (4) Lastly, the example of Amaziah is much clearer still: the people of Jerusalem pursued him even till they slew him.⁴ But if anyone were to think that this was done seditiously and not lawfully, I would have him attend carefully to the following arguments.

It is nowhere declared that Amaziah was slain by the slaves of his household⁵ — as we read happened to his father Joash, and to Amon the son of Manasseh⁶ — but rather by some common agreement of the people of Jerusalem. And this did not happen secretly, as if by ambush, as the end of tyrants has mostly been. But it was by undisguised violence, and as it were, upon the authority of the people. Neither was it the result of some sudden uprising, but after he had taken flight to the city of Lachish, from where it is recorded that his body was returned and buried in the sepulcher of his fathers. In short, neither before nor after the death of Amaziah is anything to be found here offering any indication of revolt; but all the circumstances prove rather clearly that everything was attempted and carried into effect in accordance with the resolution and studied deliberation of the people of Jerusalem,⁷ and also by the tacit treaty of those who joined in it, presumably a majority of the tribes — although this occurred in an exceptional and perfunctory way. Certainly it was not from any private feeling of animosity, but as a result of his wickedness by which he had in great part violated his oath. For that reason, we nowhere read that after his death, there was any complaint or inquiry, or in short, that any punishment was secured or meted out against the perpetrators of the murder, either by the people, or by his children, as happened after the deaths of Amon,⁸ and Joash.⁹ For there, the conspirators

¹ 2Kng 11:4, 17.

² *Estates*: a major social class or order of persons regarded collectively as part of the body politic of the country, and possessing distinct political rights. — WHG

³ 2Kng 11.

⁴ 2Kng 14:19-21; 2Chr 25:27-28, and 26:1,

⁵ 2Chr 24:25.

⁶ 2Kng 21:23.

⁷ 2Chr 25:27.

⁸ 2Kng 21:24.

⁹ 2Kng 14:5.

who slew them, though from their household, were visited with just punishments, even though both men had been wicked. On the other hand, we read that the corpse of Joash was carried back to Jerusalem on horseback, out of reverence for both the royal dignity and his family, and that his son Azariah was set as king in his stead, by the entire people of Judah. This again clearly shows that what had been done by the stronger part of the Estates — that is, by the people of Jerusalem — was subsequently confirmed by general consent, as concerning a *just cause*, and as having been carried into effect by *those who were competent* to do so. Hence, I conclude that the *Orders* or *Estates* of the people of Israel, had authority to choose for themselves from the family of David, the one whom they wished. And afterwards, once he had been elected, they had authority either to drive him out, or even to execute the sentence of death upon him, as the occasion demanded.

V. An Example from the Kingdom of the Danes

Thus, within our memory, the Danes didn't merely divest Christiernus of his royal dignity (he was a most cruel tyrant), but they imprisoned him until his death, and transferred the royal power to his uncle, a most wise and just king, the grandfather of the present ruler.¹

VI. Swedish Examples

As regards the Swedes too, all men know how in our time Gustavus liberated himself and his people from their subjection to the Danes;² and even today, the Swedes keep their king captive for not having wisely ruled over the kingdom which had been transferred to his brother; may the Lord bless him.³

VII. Scottish Examples

The Scots also, in former times removed their queen from office and condemned her to lifelong imprisonment, because she was accused of a great number of foul adulteries, and even of the cruelest murder of her husband.⁴ And I boldly declare that if that accusation had been justly proved, they would have acted more properly if they inflicted the deserved punishment upon her.

VIII. Examples from the Kingdom of England

As regards the kingdom of England, it is the most blessed of as many as may be seen today in the whole world. Would that it may long continue in that blessedness. Even if according to the right of succession, it devolves upon the one who is nearer related in royal blood, it is apparent from numerous noteworthy narratives, and from the testimony of Polidorus in his *Life of Henry* ⁵ (King of the English, and first of that name), that nearly all authority of government is dependent upon the consent of *Parliament*, as it is called. And certainly, if we take that blessed tranquillity which they have been enjoying for many years now under the kindest and most peaceful reign of her most serene Majesty Elizabeth, and wish to compare it with the wretched and unhappy condition of so many other parts, we will

¹ Christian II, ruler of Denmark in 1523, was replaced by his uncle Frederick I, and the successor of that time was Frederick II, grandson of Frederick I, who ruled from 1559.

² Gustavus I severed the union with Denmark and became the King of Sweden in 1523.

³ Eric XIV, became King of Sweden in 1560, and was replaced by his brother John III in 1568.

⁴ Mary Stuart, Queen of Scots, was accused of complicity in the murder of her second husband, Lord Darnley, in 1567.

⁵ Polydore Vergile, *Anglica Historia*, book XI (Henricus primus).

learn from experience, how beneficial and blessed that moderation of royal power is, if only it is rightly employed; and also if the very kings, Godfearing men and lovers of their people, would not allow themselves to be swayed by power, as though wards — or as flatterers at court who stuff themselves with bread kneaded with the tears of the wretched, as commons usually say — but were directed and advised by it, yet with that respect and obedience which befits their majesty and is due to it.

IX. Examples taken from Polish Institutions

Furthermore, if anyone still found himself in doubt about the people of Poland, whether in electing a king upon certain conditions, they reserved for themselves the right to break their oath if he didn't abide by his promises, he will have a clear understanding of it from that last election, by which they chose Henry as their King, the brother of the king of France. In that matter I am in entire agreement with Bishop Valentine,¹ the representative of his king in this election. In an address to the people of Poland, which has been issued in print,² he particularly commends them for having limited the authority of their kings by the wisest of laws, and for having in a way confined it within bounds.

X. Examples taken from the Republic of Venice

On the same principle, the Republic of the Venetians, judging from events, and in the light of human wisdom, regards the most happily and wisely constituted leader (the *Doge*) not as some idol or image — as certain writers too little versed in politics have made bold to say — but as their leader and monarch. Thus they may derive from him all the advantages of monarchy without any danger of tyranny.³ For assuredly, the so-called General Council has complete authority to elect the Doge, but with due observance of the ceremonies which have been introduced, and have become customary with them for this purpose. In the same way, that very Council has reserved for itself that power without which all else might easily come to nothing — namely, the power to depose the Doge and to punish him if he attempts, or has committed, any act of tyranny, as has often been proved by examples and in fact. Therefore, let the remaining peoples of Italy, who have a habit of speaking and reasoning so nicely about human affairs, and who have also published numerous treatises about civil government,⁴ consider whether they have all conducted themselves in this matter as wisely as the citizens of Venice.

XI. Examples from the Spanish Kings

But what shall we remark about the Spaniards? The condition of this kingdom was certainly for a long time greatly disturbed and extremely unsettled. For numerous barbarous nations, both from the North and from Africa, overflowed there, as if in a deluge. This is a fact testified to by most reliable historical accounts, and also by their very language. But it must readily be conceded that this nation has always been shrewd and

¹ John of Monluc, Bishop of Valentine during 1553, ambassador of the Crown of France after the Diet of Poland in 1573.

² Oratio...ad ordines...Poloniae...in electione novi Regis...1573, d. 10 Apr., Krakow [1573]

³ For the debate over the role of the Doge in the Venetian government, see William J. Bouwsma, *Venice and the Defense of Republican Liberty* (University of California Press, 1968), p. 62-63, and the case he cites.

⁴ An allusion to the Florentine historians, especially Machiavelli and Guichardin. It is curious to note that the Latin edition of *The Right of Magistrates*, with the *Vindiciae Contra Tyrannos*, was printed along with *The Prince of Machiavelli*. See Sturm, p. 21-23, for the list of those editions.

cautious beyond all others. And though that remark of Aristotle is true, that barbarians are by nature slaves rather than subjects,¹ yet the Spaniards have thus far — whatever barbarism may have invaded their country — given numerous peoples occasion to blush, and have deservedly put them to shame, in their method of establishing their polity. To prove this, I will quote two pieces of evidence which are remarkable beyond all others, and which deserve to be engraved in letters of gold on public tablets, so that kings might be taught to rule justly from them, and that in turn, peoples might learn to obey rightly.

The first of these is taken from the 74th chapter of the Fourth Council of Toledo which was held in A.D. 1544, according to the reckoning of Sigebert.² The words of the Synod consisting of both ecclesiastics and the other orders of the kingdom, are as follows:

Let no one among us, in presumption, seize the royal power; let no one stir up seditious risings of the citizens one against another; let no one devise a rule of destruction, but after the ruler has died in peace, let the foremost men of the whole nation, with the priests, by a common resolution of the kingdom, appoint a successor to the Kingship, so that while the harmony of unity is held fast by us, he may attempt no disruption of the country and the people by means of violence and bribery. But if this admonition does not reform our spirits, and in no way leads our hearts to the common welfare, hear then our decision. Whichever of us from all the peoples of Spain, by any conspiracy or support, violates his oath of allegiance which he swore in defense of the constitution of his country and of the nation of the Goths, or for the preservation of the king's safety; or has committed murder against the king, or deprived him of his royal power; or with the high-handedness of a tyrant, has usurped the supreme dignity of kingly power — let him be accursed in the sight of God the Father and the angels; and let him be made an outcast from the Catholic Church which he has outraged by his perjury, and made a stranger to every gathering of Christian men — along with all the accomplices of his impiety, because it is fitting that one and the same penalty should apply to the guilty who have been found associated in the same error... And we repeat this a second time, declaring: Whoever from the manner, etc... And therefore, if it finds favor with all of you who are present here, ratify by the unanimity of your utterance, the decision repeated here for the third time. It was declared by the entire clergy or people: Those who presume against this our definition, let them be anathema, maran-atha — that is, perdition in the coming of the Lord; and may they have their portion with Judas Iscariot, and their associates also. Amen.

And therefore we ourselves and all priests admonish the Holy Church of Christ and the people, that this fearful and so often repeated decision may condemn no one of us by a temporal and eternal verdict, but that by keeping our promised word towards our most glorious Lord, King Sisenandus,³ and by serving him in sincere devotion, we may not only appeal to the mercy of God's fatherly love in our behalf, but may even deserve to gain the favor of the aforementioned ruler. You also — the present king and the future rulers of subsequent ages — we beseech with due humility that you may prove moderate and gentle towards your subjects; that you may rule with justice and goodness over the peoples entrusted to you by God; and by reigning in humility of heart with a zeal for doing good, you may repay to Christ the giver the good interchange by which He has appointed you over us. And let no one of you, as sole judges in a cause, visit a captive or an accused with a sentence; but let the fault of wrongdoers be manifest by the agreement of the people with the leaders, in accordance with a clear verdict. Let clemency be observed by you in the case of crimes, that you may not prevail in them by severity rather than by indulgence. So that, while all these things are observed by you with the authority of God and

¹ Aristotle, *Politics*, III, IX, 3.

² *Chron. D. Sigeberti*, in M.G.H., *Scriptores*, VI, 324, 1 and 25.

³ Sisenand, King of the Visigoths in Spain, 631-636.

with dutiful government, the kings may rejoice in their peoples, and the people in their kings, and God in both. Indeed, we make this verdict known about future kings: that if any one of them, without respect for the laws, in arrogant despotism and royal pride, practice among the nations a most cruel tyranny in deeds of shame and in crime or covetousness, let him be condemned with a sentence of anathema by Christ the Lord. And may he be divided from God and receive judgment for presuming to do wrong and to bring the kingdom to ruin. But concerning Simithilanis,¹ who fearing the consequences of his misdeeds, deprived himself of royal power and laid aside the scythes of sovereignty, we have decided in consultation with the nation, that for the evils which they have committed, we shall never associate with either him, or his wife, or their sons without union, nor shall we at any time advance them to those offices of honor from which they have been cast down for their iniquity.²

This is indeed a remarkable example: I shall add to it another decree of the Sixth Synod of Toledo;³ in it the following words are added after the expulsion of the Jews from the kingdom was decided upon:

“In vain is the good striven after, unless provision is made for perseverance in it.”

“Therefore after he has duly promised and has taken over the reins of government, if he himself is revealed as the violator of this promise, let him be anathema, maran-atha, in the sight of God eternal; and may he be made to feed the fire everlasting, and may whatever priest or Christian has been associated with his error, be destroyed with him by a like condemnation.”⁴

From this it may easily be inferred what authority the Estates of Spain possess against their kings if they commit any breach of their oath, since in accordance with feudal law (which is also applicable to kingdoms and empires) the vassal owes no service to a lord who has been excommunicated; and indeed, he is freed from his oath of allegiance (as is stated in Book 2 of the Feudal Law, tit. 28, par. 1).⁵

The second testimony which I promised to adduce, is the striking formula which the people of Aragon even today (unless it was altered quite recently) not only employ in the investiture of their kings, but also repeat at those triennial gatherings at which the king usually presents himself before his estates, both to dispense justice to them, and to receive justice at their hands. Many ceremonies are performed there between the man who is titled the “Justice of Aragon” (who represents the supreme power, and to whom the kings are compelled to bind themselves by oath) and the king himself (whether he has yet to be, or has already been, elected). Then the following formula is publicly proclaimed in so many words,

“Nos qui valemus tanto comme vos y posenos mas que vos, vos elegimos rey: con estas y estas condiciones, intra vos y nos, un que manda mas que vos;”

That is: “We who are of like worth with you, and who are stronger than you, elect you king on such and such conditions; between you and us there is One with greater authority than

¹ Suintila, King from 621-631.

² For the text of the decree, see Mansi, X, 638C-640D, can. 75 (and not 74). See the commentary of the Council, held in 633 (and not in 644), in Hefele-Leclercq, *Histoire des conciles*, III/1 (Paris, 1909), 266-277.

³ Chapter 5.

⁴ Mansi, X, 664B, can. 3, “De custodia fidei Judaeorum.” Cf. Hefele-Leclercq, *Histoire des conciles*, III/1, 279.

⁵ *Corpus Iuris Civilis*, *Consuetudines Feudorum*, II, 28, 1. Cf. Francois Hotman, *De Feudis Commentatio Tripartita* (Lyon, 1573), p. 258-262

you.”¹ Behold how far the Spaniards have held their kings in honor as they were in duty bound.

XII. Examples from the Holy (Roman) Empire

Why go any further? Everyone knows what the authority is of that most famous gathering of princes in the whole world — that is, of the Empire of the Seven Electors. It is in regard to the election of an emperor, as well as his discharge whenever necessary, as experienced by the emperors Adolphus in the year 1296, and Wenceslaus in the year 1400.² The oath by which the kings or German emperors then bound themselves, was such as described in the treatise entitled *Speculum Saxonicum*.³ For when a king is elected, he is compelled by means of a public oath, to vouch for fidelity and *hominium* (or *homage* as the common people call it) to the empire, and to promise that he will promote the administration of justice by all in his power. And furthermore, that he will ward off all kinds of injustice, and in short, that he will with all zeal and exertion, protect the rights of the empire.

XIII. Examples of the Kings of Gaul, before and after their Union with the Franks

I now come to the Franks. Julius Caesar is our witness that before their arrival in Gaul, the Frankish kings were responsible to the Estates of the people.⁴ In recounting the words in some speech of Ambiorix, the chieftain of the Eburones (or the people of Liege as their modern name is), he says that the king’s authority is of such a nature that the multitude (that is, the *lawfully assembled* multitude) possesses no less rights against him, than he has against it.⁵ The same is proved from the words of Vercingetorix, the king of the Averni, pleading his cause in a gathering of the people, as it is reproduced by the same Caesar.⁶

But afterwards, the Gauls and the Franks united under the style of the *Francogalli*. And although their kingdom, by the striking favor of God, has been continued and preserved for a very long time, yet at the present time at least (wherever the blame might attach), it seems to so totter, that its most certain and immediate destruction has to be feared; and yet, that can hardly happen without a mighty revolution in the remaining parts of the world. I strongly suspect that the remarks which I now have to make on that score will be pleasing and acceptable to some; but to others, most disagreeable and ill-omened. Yet if I maintain nothing that is not the truth, I hope that God will grant me His favor against all misrepresentation.

Hence, although the Franco-Gauls elected their kings first from the house of the Nerobingians, then from the descendants of Charlemagne, and finally from the successors of Hugh Capet, yet I maintain that from the beginning, they established their monarchy

¹ See Ralph E. Giesey, *If Not, Not: the oath of the Aragonese and the legendary laws of Sobrarbe* (Princeton University Press, 1968)

² The emperor Adolphus was deposed in the year 1298, not 1296; the emperor Wenceslaus in 1400.

³ *Sachsenspiegel, Landrecht*, book III, 54, 2

⁴ Julius Caesar, *De Bello Gallico*, book V, 8.

⁵ *Ibid*, book V, 27: “ut non minus habaret iuris in se multitudo, quam ipse in multitudinem.”

⁶ *Ibid*, book VII, 4.

in such a way that their kings ruled, not by the sole right of succession,¹ but were elected at the same time by the agreement of the Estates of the Kingdom. After being thus elected, Pharamundus was raised to the royal throne in the year of our Lord 419;² so was Pippin in the year 751; and his sons Charles and Carloman in the year 768. And at length in 771, upon the authority of the Estates, Charles succeeded to his brother's portion. Following this authority, he himself afterwards (in 812) appointed his son Louis heir to the empire. And in his will, he expressly provided (as Nauclerus recorded it)³ that the people, that is the Estates themselves, should elect as his successor to the kingship, whichever of his children they preferred. And he also charged his uncles who might survive him, to agree to such an election. This occurrence is indeed most remarkable and most fitting for the solution of this entire question.⁴ And such was the oath of the Franco-Gallic kings upon the testimony of Aymoinus, who represents the said Charles the Bald as saying:

“because, even as those venerable Bishops have by the voice of one of them, declared and by trustworthy sign indicated in accordance with our unanimous decision, you too have acclaimed that I have, by the choice of God, come to this office for your salvation and profit and guidance and government — know that the Lord helping me to preserve them, it is my will, in accordance with my knowledge and power, to honor and protect, and to *keep* in honorable protection, the dignity and cult of God and the holy churches; and also [to protect] each of you in accordance with the dignity of his rank and his person; and to keep safe for each one, his rank, law and justice in accordance with both the ecclesiastical and temporal rights due him. In this, may royal honor and power, and due obedience, and assistance for the preservation and defense of the kingdom, granted to me by God, be shown to me by each one of you according to his rank and dignity and ability, and even as your predecessors showed these to my predecessors, justly, faithfully, and reasonably.”⁵

He records this *verbatim*.

Moreover, it is proved by countless examples, that those very Estates had the power of dismissing the kings whom they had elected, if they committed any wrong. For his disgraceful crimes and deeds of lust, Childeric — by public resolution in 361 — was thrust from the kingship and expelled. And Gilo, who was not of the Nerovingian dynasty, was placed in his stead. And Chilperic was dethroned in 578, and Theodoric in 657. Indeed, there are more. In 890, the Estates passed over Charles, the son of Louis the Stutterer, and chose Eudes of Odoines as king.⁶ We also read that Hugh Capet deprived Charles (the brother of Lothar) of his kingdom, since Charles was conducting the matter in too negligent and dilatory a fashion. He was bringing it before the Council, obviously hoping that the Estates of the Kingdom would settle their quarrel according to the established custom.⁷ In short, if the Franco-Gallic kingship was not bestowed by way of election, we would have to say that neither Pippin nor Capet possessed any right to it, since there was no lack of successors in the male line of Nerovingian heirs when Pippin grasped the royal

¹ The mention of the right of succession is further developed in Chapter VI of Francois Hotman's, *Francogallia*. A useful analysis on this point can be found in Ralph E. Giesey, "The Juristic Basis of Dynastic Right to the French Throne," *Transactions of the American Philosophical Society*, n.s., 51/5 (1961), p. 30-37.

² Aimoin De Fleuri, *Hist. Francorum*, book I, cap. 4 (Migne, Patrol. Lat., 139, 640B)

³ Johannes Nauclerus, *Chronica...res memorabiles*, vol. II, generatio 28

⁴ A precise and documented account can be found in Hotman, *Francogallia*, chap. VI, p. 48 of the Geneva, 1573 ed.

⁵ Aimoin De Fleuri, *Hist. Francorum*, book V, cap. 21, p. 640 of the Paris, 1567 ed.

⁶ Again, the text is detailed and documented in Hotman, *Francogallia*, chapter VI, p. 54-58 of the Geneva, 1573 ed.

⁷ Cf. *Ibid*, chapter XVI.

power. Nor was there any lack of heirs from the sons of Charlemagne when Capet claimed the royal diadem for himself.

Furthermore, as regards the *power* of those same Estates — by which they either conferred the principal positions of dignity and high office in the Kingdom, or took them away; or at least, carefully noting how kings behaved, both in conferring or taking them away, and in exacting taxes; or in the other principal tasks of kingship in time of peace and war — *for that power*, I declare, there is evidence to spare in the most ancient and entirely reliable records. These clearly prove the impudence of those flatterers who today do not cease by right means and wrong, to add to their power from the ruins of such a great kingdom that was so wisely established. And indeed, in our times the man who is the greatest in blood, succeeds to the kingdom of France without summoning the Estates. He introduces a new shape of things to suit the desire of those who have courted the favor and support of such a successor. The meeting of the people is no longer convened at the appointed time, but only when it seems expedient to certain individuals who thereby seek personal advantages and safeguards from danger. Furthermore, as often as the Estates are summoned, this happens not so much to the end that a serious decision concerning public affairs may be arrived at, but for the sake of *talking* — and that is done in the fashion of the rhetoricians (or rather of the sophists), so that time and all action may be made vain by means of tedious and affected arguments. Those men take their seats there as judges against whom all the accusation and complaints are chiefly directed. And finally, questions of both wars and peace or truce are decided upon, taxes and tribute are imposed, laws upon public and private matters are made and unmade, dignities and commands and likewise all public offices are bestowed upon chosen men, or taken from them, according to the arbitrary will of a certain limited group of men or women — noble or baseborn, honest or abandoned, who enjoy greater authority or influence with the rulers of the state, since it is through their ears and eyes alone that the latter hear and see. All these circumstances, I declare, are completely at variance with the just customs and policy of our ancestors, and clearly in direct opposition to the chief laws upon which the foundations of the French monarchy rest.

But I now leave it to all lawyers, who possess a good conscience together with knowledge of the law, to discuss the question whether any prescription of however long a period of time, can or should in accordance with any law, divine or human, find application here. For it is a fact that even to this day, kings are anointed in solemn ritual, and swear their oath (if only its words were publicly printed so they might be known to all); and further, after they have secured the kingship, they usually confirm their privileges to the communities severally, and also their public charges to the officials of the kingdom (though many abuses occur here, which are in no way to be commended); and lastly, if the kings are minors, the orders and Estates of the kingdom decide by common resolution to whom its administration shall be entrusted — all these, I say, are the present survivals of that erstwhile authority which the Estates enjoyed, and which is now gradually disappearing. Yet, not two centuries have passed since the will of Charles V (nicknamed the Wise) was annulled by the Estates themselves; that is, in 1380.¹

¹ Here Beza is reciting the many details and documentation found in Hotman, *Francogallia*, chapter XVII, p. 137-38 of the Geneva, 1573 ed.

What more is there? In 1567, Louis XI — who tried his utmost to transform the French monarchy into a tyranny (a procedure which the parasites of the palace call *the emancipation of the sovereign, of his release from slavery*) — was deservedly accused of the worst misgovernment of the kingdom. Thirty (or thirty-six) men were given to him as guardians by the Estate gathered at Tours, that he might allow himself to be directed and guided by them.¹ It is true, indeed, that he afterwards easily rid himself of them. Under pretext of the idol of Clery,² which he worshipped with the greatest superstition, all his oaths and promises were but sport and jest to him. Yet this was done with so much harm to himself, and with such an unhappy result, that apart from the disgrace with which he is branded even today, he could enjoy no rest or peace during his lifetime. Even at death's door, he experienced what it meant to be feared, rather than be loved by his subjects.

And since mention has been made of the violation of an oath, we would add another most remarkable example. While Charles VII was still Dauphin, he had John — the last Duke of Burgundy (descended from the royal stock of France) — miserably slain in his presence. This was in violation of his word of honor, and of the peace and friendship that had only recently been confirmed by oath near Melun.³ Although that Duke fully deserved such a great ordeal, this perjury was, in the end, expiated by many thousands of souls in France, and with the ruin of almost the entire kingdom. And King Charles himself was reduced to such misery, that he was first disinherited by his father, and afterwards saw his deadly enemy invested with the royal power in Paris. And he was himself subsequently styled *King of Aquitaine* rather than of France. At length, however, he was constrained with great dishonor to himself, to purchase peace, as it appears from the treaty drawn up at Arras. Although the king himself negotiated with Duke Philip, the son of the murdered John, as though with his subject. Yet in that treaty, this express clause is contained:

“to which the king himself shall agree, and which he shall approve by his letter of authority. But if this agreement happens to be violated by him, then his clients, vassals, and subjects, present and future, shall thereafter not be bound either to obey or serve him, but will show every obedience rather to the Duke of Burgundy and his successors, and against him. In short, all those very clients, beneficiaries and subjects shall, in this case, be regarded as free, disengaged and entirely released from every engagement, oath, and allegiance, and from their promises, obligations, and whatever duties by which they previously were bound to King Charles. So that, in the sequel, none of these may be counted to their detriment or burden, nor may any remissness be exacted from them. Indeed more, let King Charles very soon bid them do this very thing, and let him declare them freed and disengaged from all their oaths and obligations if any such thing should happen.”⁴

This to be sure was the end of a breach of royal faith committed with evil design. But because these covenants were faithfully kept in later times, the greatest peace and calm befell the kingdom. Further, if it seemed fair then, that his clause should be inserted into this fortuitous promise which, strictly speaking, did not bear upon the administration of

¹ For Louis XI and the Estates General of 1468 (not 1467), see the study by J. Russell Major, *Representative Institutions in Renaissance France, 1421-1559* (University of Wisconsin Press, 1960), chapter III. Cf. Hotman, *Francogallia*, Chapter XVIII (p. 140-140 of the Geneva 1573 ed.)

² Allusion to Notre Dame of Clery, which was the favorite chapel of Louis XI. See Pierre Champion, *Louis XI* (Paris, 1927), II, 211-213.

³ The peace was concluded in Pouilli, close to Melun, July 11, 1419.

⁴ Article 29 of the Treaty of Arras, September 21, 1435. Cf. Isambert, et al., *Recueil General Des Anciennes Lois Francaises*, VIII, 826-827.

the kingdom, then will that promise or condition be deemed less fair or lawful, which the people stipulates from the king (either at his election or at his investiture), since it is supported both by the greatest fairness and by common reasonableness — namely, that the king shall direct his entire administration in accordance with the provisions of the laws, of which he himself is, or should be, the supreme guardian and defender?

Epilogue and Conclusion about the Authority of the Estates

The purpose, therefore, of all that has been said above, is as follows: namely, that the highest authority rests with kings or other supreme rulers with *this proviso* — that if they violate the noblest laws and sworn conditions, and degenerate into unabashed tyranny, and do not give heed to sound counsels, then it shall be lawful and permitted to the subordinate magistrates, to take precautions for themselves and for those over whom they exercise guardianship, and to offer resistance to the tyrant of the people. Thus the *Estates* or *Orders* of the realm, upon whom this authority has been conferred by the laws, can and must so far oppose the tyrant, and if need be, even inflict just and deserved punishment upon him, until matters have been restored to their former condition. And if they do so, so far from deserving to be regarded as guilty of sedition or high treason, they should, on the contrary, be deemed only to have conscientiously carried out their duty and their oath by which they were bound to God and their country. By means of these clearest examples of kingdoms and empires, both ancient and modern, we have demonstrated the practice in these matters. And yet, to answer the objection that this should be judged by legal arguments rather than by examples, I will add as many other grounds as possible to lend greater support to our point of view.

I. Argument from Natural Law and Equity

To begin with, I maintain that there are two propositions which justice as such — or that law of nature upon which alone the maintenance of all human society depends — does not allow to be called into question. The first of these is that, in all compacts and covenants which are contracted by mutual and sole agreement between the parties, those by whom the obligations were entered into, can of themselves cancel and annul it, whenever reason so demands. Accordingly, those who possess authority to elect a king, will also have the right to dethrone him. The second proposition is that, if there is any just occasion for the annulment of a compact or covenant, by reason of which the obligation would of itself disappear and be held void, it only arises when the essential conditions for which the obligation was particularly entered upon, are manifestly violated.

Therefore, let those who so far exalt the authority of kings and supreme rulers, as to dare maintain that they have no other Judge but God alone to whom they are accountable for their deeds, furnish proof that there has been *any nation anywhere* which has consciously and without intimidation or compulsion of some kind, subjected itself to the arbitrary rule of some supreme ruler, without the express or tacit addition of the proviso that it be justly and fairly ruled and guided by him.

But if someone were to furnish an example of peoples who, upon being defeated in war, surrendered at their discretion, and swore to the conditions dictated by the victors, it would not be enough for me to answer with the lawyers, that being extorted by violence or intimidation which rule their consciences, does not easily permit oaths of that kind to

be heedlessly violated.¹ But I would further add that even if any people has consciously and of its free will, granted assent to an undertaking which, as such, is evidently sinful and opposed to the law of nature, *such an obligation is null and void*. There is so little ground for reasonable doubt, whether that obligation which was contracted as a result of violence or intimidation, or from open deceit and malpractice, should be regarded as valid and binding. For this general rule of law and justice, sustained by the common principles of nature which still linger in man after the Fall, however corrupt, is so firmly established and so lasting, that nothing which is openly opposed and repugnant to them should be regarded as just and valid between men. Moreover, this must be understood of matters that are utterly unjust and manifestly sinful. Everyone who is not entirely destitute of human insight, realizes that these cannot be exacted or performed by anyone, with a good conscience. Such was the compact which, as the story goes, came about in the earliest times between Minos, King of the island of Crete, and the Athenians — namely, that every year they should deliver to him seven youths and seven maidens, that they might be devoured by the Minotaur² (as the tale records it), or that they might serve his lust and tyranny, which seems more credible.

The condition offered by the Ammonites to the inhabitants of Jabesh was of that kind³ — namely, that they would spare them and receive them into their custody, provided that they each put out an eye. Yet the condition offered to the citizens of Jerusalem by the detestable tyrant Antiochus,⁴ was more intolerable, and it was accepted by the majority of them — namely, that they should abjure the true faith for the sake of saving their lives. But if a condition offered by the victor, and accepted by the vanquished, is merely burdensome and distressing, and it comprises disadvantages in this life alone, then in that case, I grant that it is the oath that should be regarded, rather than any advantages or disadvantages. Therefore God most sternly rebuked and punished Zedekiah, the last king from the house of David, because he had revolted from the king of the Chaldeans in violation of his sworn oath.⁵ Assuredly the inhabitants of Gibeon, though they were reduced to the most distressing slavery by Joshua, yet nowhere do they complain about him.⁶ But particularly when it concerns religion, the greatest care should be exercised that no one covet permission to heedlessly abandon the promises which he has made under oath to God. And yet, in this matter too, a limit of the following kind will have to be observed — namely, that just as in religion no one should lightly change anything, even so (since we cannot be misled in this without the gravest loss) no one may obstinately enforce those promises which, it is clear, were wickedly and unlawfully made to God under the pretext of religion. And because till now, this has not been sufficiently and carefully noted, many serious and dangerous revolutions have occurred in the world.

But let us suppose that there was some nation which submitted itself to some ruler, without any express condition. This was either from lack of foresight or as a result of blandishments, or lastly, because it once chanced upon a good ruler from a certain family,

¹ Ulpian in Corpus Iuris Civilis, Digeste, 4, 2, 1: “Ait praetor, ‘Quod metus causa gestum erit, ratum non habebō.’ olim ita edicebatur ‘quod vi metusve causa.’...”

² see, inter alia, Plutarch, *Thesus*, 15, 1

³ 1Sam 11:2.

⁴ 1Mac 1:43-55.

⁵ Eze 17:16.

⁶ Jos 9:22-27.

and with excessive credulity, it assumed that all his descendants would also be like him. Shall we on that account declare that all things that he may wish, will be permissible to that ruler? Wouldn't those things which by their nature are just and lawful, have to be regarded as if they *had* been expressed? For otherwise, what would be the end of the matter? Or what kind of life would men finally have, if a ruler of this description wantonly proceeds to such a pitch of license, that he savagely slays the parents of his subjects, ravishes their wives and daughters, pillages their houses and possessions, and murders them individually as the fancy takes him; because the people reposing their trust in his worth, have from the outset admitted him as their ruler without any conditions?

II. Arguments from Analogy

Furthermore it would be most unfair to refuse to an entire nation and people, that which justice itself freely grants to private persons, such as minors, women, people of an unsound mind, and those who complain that they have been defrauded beyond half the fair value (*laesio enormis*) — particularly if there is proof of the bad faith of those towards whom such persons have bound themselves.¹ But can anyone be found of worse faith than that tyrant who is so shameless that he wishes people to believe that he may do anything he wants, lawful and unlawful, just because he so covenanted with the people, or because he received such power from his ancestors? Meanwhile, as was abundantly shown above, I admit that in such a case, the authority of the *Estates* or *Orders* should be invoked and interposed, so that private citizens may not be free to undertake and attempt anything against the public order, and so that subordinate magistrates may not go beyond the limits of their calling.

But I put the further question, whether the obligation of subjects towards their kings is greater than that of children towards their parents, of slaves towards their master, or of freedmen towards their patron who set them free. Let us listen particularly to what Cicero, guided by justice and reason, writes concerning the duty of a son whose father strives by violence to seize control of his country:

“If a father, by open violence, attempts to grasp tyrannical power or to betray his country, shall a son remain silent? No, not at all; but he shall as suppliant, beseech his father not to do so. But if by his entreaties, he does not avail at all, then he shall reproach his father and frighten him with threats. But if the matter has already gone so far that there is reason to apprehend that this country may at length be overwhelmed, the son shall set greater store by the preservation of his country, than by the life of his father.”²

Listen to what that man's opinion was, which was not merely in agreement with reason, but also carried the greatest authority.

As regards servants or slaves, there was a proviso in Roman law that a slave whom his master did not tend to in illness, should be regarded as free.³ And what is even more important, by a provision of the written law, a slave is free to accuse his master of high

¹ See *Corpus Iuris Civilis*, Codex, 4, 44, 2 and 8.

² Cicero, *De Officiis*, III, 90: “Quid? si tyrannidem occupare, si patriam prodere conabitur pater, silebitne filius? Immo vero obsecrabit patrem, ne id faciat. Si nihil proficiet, accusabit, minabitur etiam, ad extremum, si ad perniciem patriae res spectabit, patriae salutem anteponet saluti patris.”

³ *Corpus Iuris Civilis*, Codex, VII, 6, 3; *Digeste*, 40, 8, 2.

treason.¹ But who is more liable to this accusation than the tyrant who openly subverts all rights, divine as well as human? But, you may rejoin, before whom shall he be accused? I answer, either before those who, having possessed the authority to elect him, also possess the authority to judge him; or else, before those who are the chief defenders of the supreme power, and from whom there is no appeal.

Freedmen owe every respect to their patrons; so much so, that in ordinary law they can institute only civil actions against them. And yet for special reasons — that is, if they have suffered some terrible injustice at the hands of their patron, or have caught him in adultery with their wives — under the civil law, they can lay a capital charge against him.² My purpose with these arguments is not to tighten the conscience by means of the civil laws, or by the pronouncements of philosophers, as if these are the most reliable rules. But it is only to show as clearly as possible, how unjust the opinion is of those who would leave men no means at all by which to break the onset of imminent or openly aggressive tyranny, however cruel and unjust the matter might be.

Various Objections Answered

a) Assuredly, the usual objection that the king is not bound by the laws, *cannot* and *should not* be accepted as a general proposition, as the flatterers of kings and destroyers of kingdoms inauspiciously proclaim.³ For not to mention the example of so many nations, adduced above, what is the purpose of so many weighty maxims of the jurists of old, that were derived from the law of nature? Such as: the legislators are beholden to the laws, so that each must observe the same right which he has decreed against another; that nothing is more profitable to imperial power, than that the king should act according to the laws; and that it is a fit saying, that the ruler professes himself the subject of the laws.⁴ Hence, the proposition which would appear to be made elsewhere by the jurists, that the ruler is above the laws, or that the ruler is *legibus solutus* (not bound by the laws), must be understood only of the civil laws and the individual rights of private citizens — e.g. concerning wills, or the deduction of the Trebellianic⁵ or Falcidian fourth⁶ — but not of public law, and the so-called constitutional law, much less natural or divine law. For since men collectively and individually are subject to the public law, in so far as they are born men, it clearly follows that either kings are not men, or else they too are bound by this law.

b) Again, if someone raised the objection that public law — referring to the constitution of the people or nation (for that is the kind we are discussing) — differs widely from the law of nature common to all nations, I concede that this is indeed true in certain matters. But it is with this limitation, that the entire distinction is connected with circumstances which cannot prevent general fairness and equity from so far remaining steadfast and invariable, that every polity acting in violation of it should be utterly condemned and

¹ Ibid, *Digeste*, 48, 4, 7.

² Ibid, *Digeste*, 48, 5, 39: “...Liberto patroni famam lacerare non facile conceditur: sed si jure mariti velit adulterii accusare, permittendum est, quomodo si atrocem injuriam passus esset...”

³ Ibid, *Digeste*, I, 3, 31: “Princeps legibus solutus est.”

⁴ Ibid, *Codex*, I, 14, 4, the *Lex Digna*.

⁵ Ibid, *Digeste*, 36, 1 – *The Tebellianic and Facidian rules are part of inheritance laws.* – WHG

⁶ Ibid, *Digeste*, 35, 2

cast off. For example, if undisguised impieties, robberies, and similar crimes against God, the law of nations, and good morals, were to meet with approval under the law.

c) A further exception might be raised, that the supreme ruler does indeed stand arraigned if he rules contrary to his undertaking; but he has no other judge than God Himself. This might be proved by the example of David. For though he was an adulterer and a wicked slayer of men, yet he was judged by no mortal man. I answer, *first*, that it is apparent from what has been said above, that the nations themselves, and the Estates of the people, generally reserved for themselves the right to curb their rulers; and that no antiquity or prescription can be urged against this right. Further, there is a great difference between someone who on one occasion, or even repeatedly, committed some crime, and the man who openly professes that he has abandoned himself to every kind of crime. And there is also a great difference between the ruler of a dissolute way of life, and the other ruler who subverts every just method of rule in his kingdom. For I would not be inclined to think that the supreme ruler ought to be corrected in the same way as his subjects, for private wrongs which are personal in the strict sense of the word. Yet I do think he can become so abandoned, that he can and should deservedly be visited with penalties and punishments. How much fairer would it be, when the order of the state is at stake, that those upon whom this duty rests should be free to take precautions and to strive, lest the commonwealth suffer any harm? And if they neglect to do so, let them be regarded as traitors towards God and their country, both of whom they have bound themselves to by oath. When these distinctions are duly weighed and brought into relation with the general character of David, and also with the public amends by which David did penance for his public crimes, no one will be surprised that nothing more severe was decreed or attempted against him. Moreover, it is in principle an illogical conclusion of the argument, to draw the inference that no punishment should have been inflicted for some wrong, just because none was in fact inflicted.

d) But perhaps there will not be lacking those who would furnish the example of the authority of the Turkish emperor over his subjects. I wish these to have their answer in a single word: an empire of that description does not deserve to be called either kingly or human, but wholly barbarous, tyrannical, uncivilized, and detestable. Especially because however many faults the other monarchies and empires may have been subject to, they were still instruments suitable for the preservation of human society. It is obvious that, on the contrary, this Turkish tyranny is an awful scourge of God, by means of which God, in accordance with his just judgment, threatens this world with its final ruin and overthrow. Therefore, if there are men to be found today who are counselors to kings, so that these may fashion an example and an image of their rule from that source, then I proclaim with a clear and loud voice, that those Turks should be deemed the public enemies of humankind, and should be cast out in banishment.¹

e) But to pursue the analogies concerning the right of one private citizen towards another, which I set out above, will any obligation which is more *stricti juris* than that of marriage, arise between human beings? ² For God Himself intervenes in it, as if He were the chief guarantor of this contract; and by marriage those who were two, become

¹ The "Turks" refers to the Ottoman Empire, which was in the process of conquering most of the known world. It had not suffered a single naval defeat until 1571, the year before Beza penned this. – WHG

² Mat 19:5. *Stricti juris* means a strict or narrow interpretation of the law. – WHG

one flesh. But even in marriage, if one party deserts the other, the Apostle proclaims the deserted party is relieved of every obligation,¹ because the deserter violates the principal condition of marriage. But let us imagine that someone declares himself willing to keep his wife with him, and that he attempts to do so, yet if it becomes known that this man desires to keep his wife in order to kill her, or to remove her in some other way, would he not have to be regarded as a manifest deserter? ² But assuredly the design of tyrants does not differ from this man's, since they do not strive to have subjects in their power for any other reason than to persecute and crush them to their destruction, while they indulge their own lusts. Why then, should those who wield judicial authority, not pronounce the same judgment on both? But if not even the canons of the Church conclude that a wife who cannot safely live with her husband, should be compelled to live with him,³ then why should a subordinate magistrate not be allowed to take precautions on behalf of himself and his people, and have recourse to the Estates against a manifest tyrant?

f) Furthermore, since kingdoms and empires themselves are deemed to be a feudal authority, owing fealty or subordination or even servitude to the supreme power of man, let us inquire what the nature of the feudal law is. From Book 2, tit. 26, parag. *Domino* and tit. 47, it appears that the lord can no more commit the crime of treachery against the vassal or client, than the vassal can against the lord. In that case, the feudal estate of the lord does not devolve upon the vassal, but it reverts to the immediate lord of the estate from whom it derived in the first place, or to the male descendants of the lord. Yet this remains fixed and certain: that the lord upon being convicted of treachery, forfeits every right he might have against the vassal. And the reason is that the lord is duty-bound in all respects to requite a faithful vassal; otherwise, he is deservedly deemed an evildoer, as stated in tit. 6, *de forma fidelitatis, ad fin.*⁴

In the question under discussion, I therefore declare that a king, or even an emperor, whose rule is dependent upon the supreme power, if he is guilty of that crime of treachery towards his vassals, that is, his subjects — would that this never happened! — forfeits his feudal estate. This is not in the sense that it is judicially awarded to his vassals, but that those who recover that supreme power, may dispose of it. That the strength of this argument may be recognized, it should be noted that such mediate (or as they are commonly called, *subaltern*) lords swear no oath to their vassals other than they make their grant to them. Thus, the rule which we mentioned as applying to those who commit treachery, is supported by no other consideration than that of natural justice; even if it is unexpressed, it must always be understood. So that the comparison may proceed from the lesser to the greater, what will have to be decided about someone who has committed that crime against his subjects, towards whom he has bound himself by express oath? Furthermore, even if we were to concede the point that the lord can never incur the charge of treachery against his vassal so as to forfeit his feudal right, no one doubts that the vassal, if he were guilty of this crime against his lord, is deservedly

¹ 1Cor 7:15.

² He has deserted the covenant of marriage, and abandoned his wife, even though he physically remains. – WHG

³ Corpus Iuris Canonici, Decretal., Greg. IX, IV, tit. 19 (“De Divortiiis”), cap. 1: “Homicidium necessarium non spe conjugit, sed machinatio in mortem conjugis sic.”

⁴ *Corpus Iuris Civilis*, Consueudines feudorum, 2, 26, art. 24. Cf. Hotman, *De Feudis Commentatio Tripertita* (Lyon, 1573), p. 246 and 300.

deprived of his right. Therefore, the emperor himself, as pointed out above, owes obedience (or *homage* as the people say) to the imperial power, being its first and most exalted subject. And *a fortiori*,¹ or at least with *equal* reason, kings in their kingdoms must be regarded as being in the same position. Who would therefore doubt that emperors or kings forfeit their feudal power if they recklessly go to such lengths of treachery, as to degenerate into undisguised and regrettable tyranny? For we proved that it was approved of everywhere.

g) Lastly, upon reliable grounds, and as the result of countless examples, it has long since been the firm conviction of all men of sober judgment (even of those who call themselves Roman Catholics), that the Ecumenical or General Council is the superior of the Pope; and it possesses authority to depose him for the crime of heresy, at all events. It assuredly follows, that kings possess greater authority than pontiffs, and that the crime of heresy is of less consequence than that of tyranny; or in any event, that the people possess as much power against kings who have become tyrants, as the Council possesses against a heretical Pontiff.

This, then, is our opinion about this inquiry into the problem as to the right possessed by subjects, whatever their rank, against the supreme ruler who has become an undisguised tyrant.

Question 7. What must be done when the Orders or Estates cannot be summoned to impede or to check tyranny?

There still remains a considerable difficulty in this discussion. The question is, What should be done when tyranny has attained such influence that the meeting of the Estates, (which we declared to be the lawful remedy against such tyranny) is so hampered by connivance, or intimidation, or malice on the part of the majority, that it can in no way be assembled? I answer that private citizens, unless they have authority from a subordinate magistrate or the saner part of the Estates (concerning which more is discussed shortly), have no other just remedy here than reflection, combined with patience and prayers, which God will assuredly not always reject; and without which, all other remedies, however legitimate, will be subject to His curse. But there is no reason why subjects in private station should not approach the intermediate magistrates and take them to task concerning their duty. And if all of them, or the saner part of them, are prepared to make use of such help from private citizens, then I have sufficiently shown above what they are bound to render to God and their country.

It is assuredly the duty of the subordinate magistrates to at once unanimously insist on an assembly of the Estates. Meanwhile, as far as they can and may, it is also their duty to defend and protect themselves against undisguised tyranny; lastly, this duty also rests upon the several Estates, to earnestly secure a lawful and general assembly of all the Estates, so that the wicked may not check and obstruct the good, nor the slothful the diligent, nor the vulgar herd the more sober. Moreover, in a crisis of that description, all private citizens are under an obligation to attach themselves to their subordinate magistrates, and to perform the duty of subjects. And if the occasion demands it, the saner

¹ *A fortiori* - with greater reason.

section, upon being oppressed, would even have the right to procure support from abroad, especially from the allies and friends of the kingdom.

Examples.

In support of this opinion, I will quote some excellent examples.

a) Behold, two whole tribes, those of Reuben and Gad and half the tribe of Manasseh, when suspected of having fallen into idolatry, were attacked with armed force by all the remaining tribes.¹ And yet no tribe had any right and authority against another, since all twelve constituted but one collective whole. Hence it appears that the better part can reprove the other part, without awaiting the unanimous agreement of all, if all cannot simultaneously assemble.

b) The same may also be seen in the war that was most justly undertaken by the eleven tribes against the tribe of Benjamin, when the latter defended a horrible crime committed in Gibeah.² What if, instead, those two tribes with half the tribe of Manasseh, or the tribe of Benjamin itself, had tried to seize tyrannical power against their brethren?

c) So too, the Romans invoked the help of Constantine against Maxentius when he ruled over the Empire of the West, when he undisguisedly acted as the cruelest tyrant. This war was waged not only with the favor of God, who heard their prayers, but it also receives testimony of approval from all the historians.³ Yet Constantine did not wield supreme power over Maxentius, since the latter possessed the highest imperial authority in the East, no less than the other did in the West.

d) By what right, or by what title, did Charlemagne obtain the empire of the West? By what right if not that as a result of the cowardice of the emperors of the East who were taking cover in Greece, he was summoned against the tyranny of the Lombards by the more powerful part of Italy; and particularly by the patricians of Rome who had not yet then, nor for many years afterward, passed into the power of the Pontiffs.

I therefore consider that my point of view has so far been abundantly established and proved, provided only that the following three axioms are steadily kept in view in all these definitions; namely:

- 1) That the tyranny must be undisguised and notorious;
- 2) That recourse to arms should not be had before all other remedies have been tried;
- 3) Nor should recourse be had before the question has been thoroughly examined not only as to what is *permissible*, but also as to what is *expedient*, lest the remedies prove more hazardous than the disease.

Answers to certain objections

I think it remains for me, by way of conclusion to this treatise, to answer the chief arguments which are commonly adduced to support the contrary point of view, except those which we have already touched upon incidentally and as occasion arose.

¹ Jos 22:10-12.

² Jdg 20.

³ Eusebius, *Hist. Eccl.*, book IX, cap. 9, 1; Socrates in *Hist. eccl. trip.*, book I, cap. 4

a) Now the following argument especially is commonly bandied about, namely, that it is *the characteristic* of magistrates, particularly supreme magistrates, to issue commands and to exercise authority. I myself also agree with that; but I add that this power is limited by both divine and human laws.

b) They further add that if kings degenerate into tyrants, nobody should indeed be or become the servant of their unjust commands; but it is the part of subjects to suffer and to patiently endure the vagaries of the supreme ruler, and not to offer resistance to them by means of any violence. I would not be inclined to readily concede that point, without applying the above distinctions. The gist of them is that unless they can defend themselves upon the authority of some lawful subordinate magistrate, or of the Estates of that nation, private persons must assuredly either go away until such time as a better light will shine upon them, or bow their necks to the yoke while urgently asking God in constant prayer for patience, and meantime, proceeding under His chastisements. But it is the part of the subordinate magistrates to strenuously preserve all the good laws, whose defense they have personally sworn, each in accordance with the station he has obtained in the constitution of the community. And in general, all should strive to prevent the laws and conditions upon which that constitution rests, from being undermined by any violence from without or from within. Finally, emperors, kings, or other supreme rulers acquire the highest authority on the understanding that, if it becomes notorious that they are instead plundering the territory which they have undertaken to govern, doing it cunningly and without self-control, setting themselves against law and reason, and wantonly breaking their sworn promises, they can and should be forced, compelled, and brought to their duty, even by armed force if it cannot be otherwise, by those who have raised them to this high office upon special conditions.

c) Further, they seek support in the example of David. For though the succession to the kingship had been promised to him, and he held the office of chief commander in war, yet while he was being tyrannically attacked by Saul,¹ he gave proof that the Lord's anointed bore so much authority, that when David had caught him, he refused to do him any harm, or to have him hurt by others. And he immediately ordered the man to be executed who boasted of Saul's death by his hand.² And finally, he signally honored Saul, both alive and dead, though he was a most unjust tyrant. All this I recognize; and I even readily grant that the faithfulness, patience, and goodness of David were incomparable and most commendable qualities. It would be seemly for all Christians to imitate them as far as they may, and to set them before themselves as a pattern of conduct. I even add that all, without distinction — whether superiors, equals, or men of lower station — must requite evil with good. But at the same time, I deny that the patience and gentleness which we require in Christians, would prevent a man from employing *lawful* remedies to repel an injury which is being done to him.

It is certainly permissible to claim one's property from an unjust possessor in court, and to lodge complaints with the supreme magistrate concerning the injustice of an inferior. Why, then, by the same reasoning, should it not be permissible to go to law against a tyrant before the Estates? But if as a result of tyranny, there is no way leading to justice, then the example of David is so far from tending to refute our arguments, that clearly,

¹ 1Sam 24:5-7; 26:9.

² 2Sam 1:1-16.

it even supports us. For David did not yield to the madness of Saul without gathering about him considerable military forces; and he would doubtless have employed them more freely to defend his own life and those of his followers, if he had been reduced by God to such dire necessity that he would not have been able to ward off the violence offered him without joining battle. The fact that he spared the tyrant's life when he had fallen into David's power, was certainly a just and dutiful act, for Saul still occupied the royal throne. And neither David nor anyone else had the right to deprive him of his royal power or his life; that belonged to God alone, or to the Estates, as pointed out above. But it is a very different thing, on the one hand, to defend oneself against a tyrant, either in court or by force of arms; and on the other, to avowedly engage in some conspiracy against the life of the tyrant or against his authority.

d) Subsequently, they declare that Zedekiah, the King of Judah,¹ was severely rebuked and punished because he had revolted from the King of the Chaldeans in violation of his oath. And yet this king was not the lawful Lord of Judah,² but the most unabashed usurper of the authority of another. Why then should greater license be allowed to subjects against a *lawful* king who has turned tyrant? I answer that Zedekiah, at the express command of God, and even by swearing an oath, had subjected himself with his people to the King of the Chaldeans, who offered him every occasion to pay tribute. And these circumstances entirely convict Zedekiah and the men of his nation, both of revolt and of perjury. Next, I also admit that subjects are not free to break their oath; nor do I approve of the sentiment expressed in the trite maxim, "Let faith be broken with the breaker of faith,"³ for I hold, on the contrary, that it is *never* permissible to break an oath justly sworn. But I deny that an oath is broken or violated by subjects towards a tyrant, whenever individuals among them — confining themselves to the limits each has of his own vocation — attempt to check the course of tyranny. For there is the general rule that any agreement which is concluded subject to a condition, either express or tacitly implied, is canceled by the party who acts in violation of the condition. But not by that party who had been bound only subject to the condition; he has been freed from his obligation, not by his own act (for then he would be a perjurer) but by the act of that party who first cut the tie of the obligation, that is, the condition added to it. When the supreme ruler has become a tyrant, he must therefore be deemed to have freed the people from their oath by his own perjury, and not to the contrary, when the people justly assert their rights against him.

e) Furthermore, they use the command of God as a pretext, when He expressly bids the Israelites to utter prayers for the peace and happy reign of Nebuchadnezzar,⁴ a most cruel tyrant. Therefore, much less were the Jews allowed to steal away from his rule and from obedience to him. This too I admit; but I answer, in the first place, that the Jews were not merely subjects in a private station, but the majority were slaves under the rule of the Chaldeans. Now, we laid down above, the principle that *citizens of private rank* are not free to rise up against their rulers, nor to set themselves against them in open

¹ 2Chr 36:13.

² Eze 17: 12-14, 41.

³ "Frangenti fidem, fides fangatur eidem" See Hans Walther, ed., *Carmina Medii Aevi Posteriores Latina* (Gottingen: Vandenhoeck and Ruprecht, 2 vol. in 6 tomes, 1959-1967), II/2, 182, for a list of authors who employ the proverb, both ancient and medieval.

⁴ Jer 29:7.

violence. Much less are *slaves* free to rise up against their masters, however harsh or unjust they are, since the latter hold their bodies and their goods in their power. This precept, therefore, in no way detracts from the principles which were laid down above. Furthermore, I repeat once again — and this should be most carefully noted in this entire account — that the Jews had passed into the power of the Chaldeans during their captivity. But even before, they could not have set themselves against them with a good conscience, nor have defended the city of Jerusalem against their attack, since God had expressly bid them by the mouth of Jeremiah to surrender their city into the hands of the Chaldeans, and to subject themselves to them spontaneously.¹

f) Here some people also vainly rejoin that this same will of God finds no application in every case of tyranny, since no tyranny prevails outside the will of God, or in spite of it. I could turn this very argument against the tyrants. For it is no less dependent on the will of God, that the tyrants are expelled by their subjects and fellow countrymen (as has happened to many), than that these tyrants frequently oppress their peoples. But the following will be a truer reply — that is, if we say that the will of God must be heeded only to the extent that He Himself has deigned to reveal it to us. Otherwise there would be no crime so heinous that it could not be imputed to the Divine will, since not even those events which are regarded as fortuitous in the highest degree, occur by chance or accidentally. Hence the man who meets with highway robbers, by whom no one is murdered without the consent of the will of God — that man, in accordance with the authority of the laws, has the power to resist them in justified self-defense. This incurs no blame because, in truth, no one has a special command from God to meekly allow himself to be slain by robbers. Our conviction is entirely the same concerning that regular defense against tyrants which we are discussing. Yet this then ceases, at length, to find application when clear proof emerges of the *contrary* will of God. This happened in the case of that deed of Zedekiah which we recently mentioned. And before that, it happened in the case of his predecessor Rehoboam.² For otherwise he would have justly attacked the other ten tribes revolting against him, if God had not expressly forbidden this to be done. On the other hand, Mattathias and his children are celebrated as deserving of the highest praise,³ because they so courageously resisted the cruel tyrant Antiochus, when God did not forbid it by any decree — even though, without His just judgment, Antiochus would not have attacked the people of God; and he would even have been acceptable to many, and found favor with them.

g) The further objection is raised that the revolt of the Israelites from Rehoboam, even though he was an unjust oppressor, deserves the strongest condemnation. I too answer that the Israelites double-wronged him. *Firstly*, because summoning the Estates of the people of Israel with the purpose of compelling Rehoboam to his duty, either willingly or unwillingly, they elected a new king. And thereby they rent asunder that kingdom which God desired to be one.⁴ *Secondly*, because they went outside the House of David, which they knew had been set aside by God Himself for the kingship. But these circumstances do not in the least invalidate our proposition. Nor will it at all avail them

¹ Jer 38:17-18.

² 1Chr 11:4.

³ 1Mac 1 & 2.

⁴ 1Kng 12: 18-20.

to use as an argument, the calling of Jeroboam by the prophet Ahijah,¹ since the entire account clearly proves that the people had no regard to it when they revolted from the House of David, and slew Adoram who was over the levy.² The road which they took was manifest revolt; whereas they could and should have opposed his tyranny with the lawful and just use of arms. Thus often something is done unjustly, which yet nothing prevents from being just in itself.

h) Furthermore, our opponents urge that it is an argument in their favor that Saints Peter and Paul asked that prayers be openly said for kings and other rulers,³ who yet in their own times were not merely heathen, but the cruelest tyrants too. By all means, I grant that. But apart from the fact that those exhortations are directed to private citizens who, we have consistently maintained, have no other remedy but prayers and patience left to them, bear in mind here too, that when we declare that the subordinate magistrates or Estates of some kingdom *can* and indeed *should* offer resistance to tyranny, that in no way detracts from the duty of the faithful of Christ in private station, by which they are forbidden to requite evil with evil, but to overcome evil with good, and even to pray for their enemies. Such defense by the magistrates does not prevent them from being suppliants before God for the conversion of that very tyrant whom they are resisting, and from manifesting towards him, truly and sincerely, as much respect as possible while they resist him. And yet it should be noted that a tyrant can sink to such depths of sinfulness, and can perform such abominable acts of hostility towards God, that it may not only be allowable, but on occasion it may even be worth the effort, to expressly formulate public prayers and imprecations against him. The ancient and primitive church once proved this by example, when it not only publicly imprecated the emperor Julian, surnamed *the Apostate*, but was heard by God.⁴

i) Finally, they quote the example of Christ Himself, who paid tribute to Tiberius Caesar,⁵ even though he was the unjust usurper of Judah, and a monster rather than a man. On the other hand, there is no doubt that however many Jews resisted the Roman emperors by revolt, they perished miserably. Especially mentioned are the well-known Judas Calonites,⁶ Theudas and other revolutionaries, and finally the whole Jewish nation, who revolted that they might not be compelled to embrace the false religion of the heathens. To these arguments, I answer that there is a great difference between the right of kings, and *tyranny*. Therefore, although Jesus Christ was the Lord of heaven and earth, and the kingdom of the Jews rightly belonged to Him as the descendant of David, rather than to the Romans or Herod — yet, He had not come into the world to the end that he might rule in human fashion. Instead, He came that He might pass His life here as a private citizen in these parts, and with the renunciation of the prerogative of the House of David. Therefore, He wished to prove by His example,⁷ that tributes and other contributions are rightly owed and rendered to kings and other rulers. For although the Roman emperors initially seized the kingdom of the Jews unjustly, yet in

¹ 1Kng 11: 31-39.

² 1Kng 12:18.

³ 1Pet 2:17; 1Tim 2:1-2.

⁴ See Rufinus, *Hist. Eccl.*, book I, cap. 35; Artemius, *Comm. Hist.*, cap. 56.

⁵ Mat 17:27.

⁶ Acts 5:36-37.

⁷ Rom 13:7.

the end, they became its lawful lords. This was partly by the just judgment of God, and partly by the consent and approval of, if not all, certainly the more powerful majority of Jews. They indicated this quite clearly when they nearly all acclaimed, “We have no king but Caesar.”¹

Question 8. What may be done against unjust oppressors?

Someone might ask, “But what if the ruler crushes the people with excessive taxes?” When he has been properly warned, those who wield the chief and highest authority in accordance with the laws of the kingdom, assuredly can and even should consult the commonweal. But here it should also be noted that a ruler who exceeds the due measure in such matters, because he is wasteful or avaricious or addicted to other vices, shouldn’t immediately be regarded as a tyrant. For the mark of tyranny, and as it were, its peculiar concomitant, is a *persistent malice* which strives with might and main, to subvert the constitution and the laws upon which the kingdom rests as its foundations. I add the following remark also: that however just an occasion of offering resistance to manifest tyranny may present itself at one time or another, the excellent maxim expressed by a heathen should continually be considered and followed if possible: “It befits a wise man to test all things by deliberation, before armed force.”² Therefore, when Petronius attempted to introduce the image of the emperor into the Temple, the Jews did indeed seem to have just cause for seizing arms, as the zeal of Mattathias urged, rather than allow the Temple of God to be desecrated by means of an idol. But they adopted a much more prudent counsel which also received the blessing of God, when they boldly gave Petronius to understand that indeed they had no desire to fight against him; but as long as there were any survivors, they would never allow that idol to be placed in the Temple.³ Even though the exaction of Albinus and Florus supplied them afresh with a most just cause for complaints;⁴ and even though religious matters were, in some degree, also concerned — yet all the acts of the Jews clearly indicated that they were striving after nothing but rebellion and revolt, pure and simple; and these have nothing in common with the lawful remedies which we have discussed.

Question 9. Whether subjects can contract with their rulers?

An answer must now be given to those who are of the opinion that it is not proper for subjects to contract with their superiors. I therefore begin by asking upon what foundations they rest. For if we are to proceed by means of arguments, then I must ask what sufficiently convincing arguments will they adduce to prove it is characteristic of subjects, to depend upon the authority and commands of their rulers, and not contrariwise? It would therefore follow, they declare, that subjects can indeed lay their complaints before their rulers in a modest and respectful way, and frankly offer them their advice *if they are asked for it*, but that they can in no way go beyond that. I answer that subjects may not at all approach their magistrates, whether subordinate or supreme, except with the greatest respect. And this is not merely for fear of their indignation, but

¹ Joh 19:15.

² Terence, *Eunuchus*, 789: “*omnia prius experiri quam armis sapientem decet.*” (Loeb Classical Library ed., I, 316.)

³ An allusion to the Jewish resistance, although passive, to the order of the governor Petronius, introduced statues of the emperor Gaius in the Temple, 40-41 C.E. See Josephus, *The Jewish War*, II.

⁴ For the Roman procurators in 62-64 and 64-66 C.E., see *ibid*, II.

also for conscience sake, as the Apostle teaches,¹ since this magisterial authority has been instituted by God. But I refuse to admit that such a conclusion may be drawn from that premise — namely, that whenever it concerns political affairs and, as the saying goes, affairs touching the constitution of the kingdom, these subjects, once they have discreetly and respectfully brought to the notice of the ruler what they regard as just and fair, and what is in accordance with the laws under which he was elected and appointed, they should immediately, of necessity, completely subject themselves to his will; and they should utterly, and without any reservations whatsoever, obey what to him is subject to limitations. I may, on the contrary, indeed boldly maintain that the magistrate suffers no injustice if he is constrained to his duty; and he suffers no injustice if, when no further room is left for reason, an even more drastic procedure against him is followed. For since the administration has been entrusted to him only upon specified conditions, we should not in the least judge that *new* covenants are being concluded with him, whenever he is called upon either to ratify the previous conditions and observe them in the sequel; or to give way to another who seems more likely to be concerned about their observance. And if this must be established by means of example, I think a sufficient number of them have been adduced by me above. They abundantly established that such a proposition, that the mere will of the king should suffice for all his subjects, cannot rest upon or be defended by means of any rational argument, nor by any practice or experience of a well-ordered monarchy.

Question 10. Whether those who suffer persecution for the sake of their religion, can defend themselves against tyrants without hurt to their consciences.

It finally remains for me to solve a question of the greatest moment — namely, whether it is allowable, in accordance with the condition and distinctions laid down above, to offer resistance by armed force, to that tyranny which assails the true religion, and even stamps it out as far as possible, and to contend against persecution. The following may be the principal reasons for entertaining doubts about it.

First, since religion touches the conscience, which can in no way be subjected to violence, it would appear that it should not be rendered secure, nor be defended, by means of any armed force.² For that reason, we perceive that religion has thus far been propagated by the preaching of the Word of God, by prayers, and by patience. Besides this, there are many passages to be found in the Scriptures, from which the difference between the kingdoms of this world, and that of the spiritual kingdom of Christ, is made apparent.³ To these examples may be added that of the holy Prophets; and in the last instance, that of Christ Himself, our Lord. For although all authority, power, and virtue dwelt in Him, He never adopted this method of defense; the Apostles, and all the martyrs after them, also refrained from doing so. Entire legions of the faithful of Christ, abundantly furnished with arms, likewise submitted to death, rather than defend themselves by drawing the sword and assailing the very enemies of truth.⁴

¹ Rom 13:5.

² That is, because no one can force you to believe something, you have no right use force to prevent it. — WHG

³ For example, Joh 18:36; Jas 2:5. — WHG

⁴ A probable allusion to the legend of the massacre of the Thebian legion, commanded by Saint Maurice.

I answer, first, that it is an absurd and indeed a false opinion, that the means by which the objects and affairs of this world are defended (such as courts of law and armed force), do not merely differ from the means by which spiritual things can be defended, but are diametrically opposed to them — that they are so incompatible, that such defenses neither can nor should find any application in a matter of religion. *On the contrary*, I declare that it is the principal duty of a most excellent and pious ruler, that whatever means, authority, and power have been granted to him by God, should apply to this end entirely: so that God may truly be recognized among his subjects, and that being recognized, He may be worshipped and adored as the supreme King of all kings. Therefore, the man of that description will not merely apply all the power of his jurisdiction, and the authority of the laws, against the despisers or disturbers of the true religion — those who have shown themselves to be not the least amenable to ecclesiastical words of rebuke and admonition — but will even punish with armed force, those who cannot otherwise be restrained from impiety.

In support of this view, the Scriptures themselves furnish us with innumerable reasons and examples. The reasons are of the following kind:

- a) Since the purpose of all well-ordered polities is not simply peace and quiet in this life (as some heathen philosophers have imagined), but the whole present life of men should be directed towards the glory of God. It therefore follows that those who are set over nations, should bring to bear all their zeal, all the faculties they have received from God, to this end — that the pure worship of God on which His glory depends, should be maintained in the highest degree, and increased among the people over whom they hold sway.
- b) Finally, even if we were to concede that the ultimate *purpose* of polities was the undisturbed preservation of this life, we would still have to admit that the sole *reason* for obtaining and preserving it is namely, that God, who is both author and director of our life, be piously and rightly worshipped.

Proofs or examples are quite innumerable in the Scriptures:

- a) For it is particularly clear that those patriarchs of old were simultaneously the highest priests, and also the supreme rulers among their people. This is expressly recorded concerning Melchizedek and Eli.¹ Although these two offices were afterward separated by the Lord, this did not happen because they were incompatible with each other, but because one man could scarcely be equal to the performance of both.
- b) Furthermore, when the king is bid to have with him a book of the law, so that he may practice himself in reading it day and night, this is demanded of him not as it would be of a private citizen, but as of a king and a public magistrate.²
- c) Among the laws of which the execution is entrusted to the rulers, those are deemed the principal ones which condemn to death the despisers of the true religion.³ The application of these laws we mark in the case of David. By means of fixed laws, he

¹ Gen 14:19; 1Sam 1:9; Cf. 1Sam 2:27-28.

² Deu 17:19.

³ Deu 13.

rendered inviolable the entire worship of God.¹ And this was so in the case of Solomon, who supplemented the decree of his father against transgressors;² and likewise in the edicts of Kings Asa, Jehoshaphat, Hezekiah, and Josiah³ — even of Nebuchadnezzar and Darius, when they were persuaded by the prophet Daniel to worship God.⁴

d) Lastly, when the Apostle declares that kings and princes have been appointed by God to this end,⁵ it is not merely that we may pass life honorably, but also *piously*. That is, it is not merely that we may live as it befits honest and respectable men, and in accordance with piety towards God, but it leaves no doubt that he has stated this whole question most succinctly. Hence we observe that the earliest Councils against heretics were summoned not upon the authority of the Roman *Pontiffs* — who had not yet appeared in the character in which they came to light much later — but by the decree of the emperors, that by means of this remedy they might hear the case in accordance with the persuasive arguments of the pious *bishops*. There are also innumerable constitutions (i.e. laws) and canons of the Church surviving. These were enacted by the Emperor Justinian, as well as by his successors, and even by Charlemagne and others approving of the same course. But to what end are monarchs, even today, being so furiously incited by that whore of Rome, to persecute with fire and sword, and to banish those whom they themselves style as heretics, unless it holds that this duty falls within their province? And in this matter, it does indeed rest upon the best and surest foundation; but abuses it no less than innumerable other testimonies of truth, to support and defend its own impieties and blasphemies.

But you will say, why such a longwinded digression? For the question is not whether kings or rulers ought to defend and promote piety, but whether subjects can defend themselves by force or arms against persecutors. I therefore reply to the earlier of the two questions proposed above. It is one thing to introduce religion into some part for the first time; and another to preserve it once it has been received; or to wish to restore it when it has gone to ruin, and has been buried as a result of the connivance or ignorance or malice of men. For I grant that it should initially be introduced and spread by the influence of the Spirit of God alone; and that is done by the Word of God, which is suited to teaching, conviction and exhortation. For this is the particular task of the Holy Spirit; yet He employs spiritual instruments.

It will therefore be the part of a pious ruler who wishes to entice his people away from idolatry and false superstitions to the true religion, to see to it in the first place, that they are instructed in piety by means of true and reliable argument — just as it is the part of the subjects to give their assent to truth and reason, and to readily submit to it. Finally, the ruler will be fully occupied in rendering the true religion secure by means of good and noble decrees against those who assail and resist it out of pure obstinacy. We have seen this done in our times in England, Denmark, Sweden, Scotland, and the greater part of Germany and Switzerland — against the Papists, the Anabaptists and other heretics. If

¹ 1Chr 28.

² 2Chr 1:9.

³ 2Chr 15:13; 20:21; 31:2; 34:31.

⁴ Dan 3:28-29; 6:26-28.

⁵ 1Tim 2:1-2 — “Therefore I exhort first of all that supplications, prayers, intercessions, *and* giving of thanks be made for all men, for kings and all who are in authority, that we may lead a quiet and peaceable life *in all godliness and reverence*.”

the other nations preferred following *their* example, rather than trusting and obeying that bloodstained whore of Rome, is it possible that greater tranquillity could indeed be seen in the whole world in the sphere of religion as well as politics?

Therefore, what would subjects need to do if they are compelled by their ruler to worship idols instead? Assuredly, reason would not permit them to force their ruler to a complete change in their condition. They would rather consider it needful to patiently bear with him, even to persecution, while in the meantime they worship God purely, or altogether go into exile and seek new abodes. But once the free exercise of the true religion has been granted by means of decrees that are lawfully passed, settled, and confirmed by public authority, then I declare that the ruler is that much more bound to have them observed. This is because a matter of religion is of greater moment compared to all other matters — so much so, that he has no right to repeal them upon his own arbitrary decision, without having heard the case. That can be done only with the intervention of that same authority by which they were enacted in the first place. If he acts otherwise, I declare that he is practicing manifest tyranny. And with due allowance for the observations made above, that authority will be all the more free to oppose him. In the same way, we are bound to set greater store and value by the salvation of our souls, and the freedom of our conscience, than by any other matters, however desirable they may be. Therefore, it should be no surprise to anyone that our Lord Jesus Christ, the Prophets, the Apostles, and other martyrs too, being men in private station, confined themselves within the limits of their calling.

And as regards those who held public office, or those legions which in the midst of battle suffered martyrdom with their commanders, without offering any resistance, even though their attackers were acting in violation of the decrees previously passed in favor of Christians (especially under the Emperors Diocletian and Julian), there is a twofold answer. *First*, even though certain emperors before Diocletian had made the persecution somewhat less severe — as it is certain that Hadrian, Antonius and Alexander did — none of them ever permitted the public exercise of the Christian religion. *Next*, I also repeat the well-known saying that whatever is lawful, is not always expedient. For I would not be inclined to assert that a religion which is made lawful by public decrees, must always be defended and held fast by means of arms against manifest tyranny. Rather, that is the right and lawful course for those upon whom this burden specifically rests, and to whom God has granted the opportunity. Consider the examples described above, of the people of Libnah against Jehoram; and of the people of Jerusalem against Amaziah; and the war of Constantine against Maxentius which was undertaken at the request of the citizens of Rome. These abundantly prove it. Hence I conclude that among the martyrs, should be counted not only those who defeated the tyranny of the enemies of the truth by no other defense than patience; but also those who devoted their strength to God in defense of the true religion as duly supported by the authority of laws; or those whose right it is to defend the laws.

I decided to urge these arguments thus far, in reply to the last objection, that I might satisfy those who raise it so as not to violate their consciences, because they are genuinely afraid of sinning against God if they attempt anything of that kind. There is that class of men who confer no other benefit upon the world than that they fill it with innocent blood while they abuse the authority of rulers. This done so that they may pursue and advance their own interests from the ruin of others. Meantime, they are characterized by such

shamelessness, that they dare to attack and assail with these objections, those who do not spontaneously present themselves to them for slaughter. Thus they cloak their cruelty and unbridled license under the false pretext of religion and zeal. This class of men, I say, would merit no other reply than what would deservedly be replied to robbers who summoned merchants and other travelers before the court, for not undertaking a journey without putting on a sword for their defense. The robbers declare that these men had no right to do so, though they themselves adopted every kind of weapon to murder them.

They put me in mind of that abominable Roman, *Fimbria*, whose like of hired assassins may be seen in large numbers at the present time. So insolent was his daring, or rather so shameless was his effrontery, that at the time of the Sullan proscription,¹ when he had had a wound dealt to Scaevola.² This was a man famous among the citizens of Rome for his extraordinary virtue and honesty; but he didn't succumb to the wound as Sullan wished. Sullan was bold enough to complain, and to threaten Scaevola that he would have him before the court. It was as though Sullan had been outrageously wronged because Scaevola had not unresistingly allowed the dagger to enter his heart.³ But because all discussion with men of that kind is to no purpose, they should all be referred not so much to their own personal conscience (which the majority are entirely lacking), as to the tribunal of Him whose supreme authority and judgment they themselves have not been able to escape; and as unmistakable evidence, time, and reality, have at length proved.

¹ The *Sullan Proscription* was a sentence of death or banishment issued by Sulla against Roman citizens in 81 B.C., while he was dictator. These were against his political foes, whom he labelled 'enemies of the state.' They were hunted down and removed. Some described these decrees as state-approved murder. – WHG

² Quintus Mucius Scaevola, also called Pontifex (died 82 bc), founder of the scientific study of Roman law. – WHG

³ Cicero, *Orationes, Pro Sex. Roscio Amerino Oratio*, Art. 33.