

Not yet ben so spent as it hath bene in this) and then woulde laye for the same, that bandogges do spend bitayle. & wyl somtyme bite folke to: yf I woulde then wypte agaynst hys wyse booke, and saye that he myght by that reason kil by houndes and grephoundes & al, for they must eate to, and wyl somtyme bite chyldren to, but by wyse yet as they may not yet for al that be for bozne, both for the pleasure that they doe, and also for that they helpe to take vs some such bestes of venozp as men eate, and hunt and kyl also such other bestes and bermynt, as elles woulde destruy much bitayle, so the bandogges may not be for bozne neither, for they both defend husbands mens houses fro theues, and helpe folke home to their bestes to somtyme, such as woulde not els come home; nowe myghte thys good man by thys reason that he vseth here, wypte agayne and defend his politick deuice agaynst bandogges, and therein answer me thus. If yf the for defence of folkes houses ther shal nedo no bandogs at al, for men may make their seruantes watche, or make fast al theyr dozes, and when theues woulde breake in, defende theyr houses them selfe. And as for such bestes as woulde not come home, if they be not ouer heauy they may beare them home, and those that be to heauy to be boren home, take ropes to theyr taitles and draw them home. And then myght he say yet a little farther, and that is this, that he maruelled much yf I could for shame and feare of myne owne conscience, resemble and lyken together, gentle houndes or goodly grephoundes, to such il fauored mastiffes. And then to proue theyr very farre vnlyke put his differēces and hys diuerstites, and say a mastiffe hath you wote well a greate tolte head, and a great nosel and a thycke boystruous body, wher as a grephounde hath a proper head, wyth a goodly smal long snout, & saye long slender sides, and the hounds yet muche lesse lyke to. And thereupon myght he ther conclude (as he now concludeth here) and say thus.

And thus it appeareth yf maister Doze can neither proue the mastiffes to be like to the grephoundes, nor to the tother gentle hounds neither, & that for the causes befoze remēbred. Wherefore it semeth yf though al bandogs & mastiffs wer clerly put awat: yet mens houses shulde be defended wel ynough, & their bestes brought home wel ynough to, so they shoulde to.

Now if he rially triumphed by this,

and thought he had auoyded me well: I could no farther go therin in good faith but let him take yf glozi to him. And sure by with any wise mā yf readeth ouer here in this chapter, both his wordes & mine, & one after another considereth wherfore I resemble the together: shal fynde I dare holdly warraunt, that with hys dyfferēces, and his diuerstites, he winneth like wo:shipp in thys.

But nowe to turne agayne as I promised to the first point, that is to wit his deuise of open accusers: consider wel this good chryste reader, yf wher as thys good mā in his booke of diuinitie, wher he wold haue the suit *ex officio* left of: he then refered vs yet both open accusacions & presentmentes, to put heretiks to answer vpon. Wher nowe in thys. xv. chaptyer of hys, in hys booke of Sale & Bizance, for fauour toward the catholike faith, he diuiseth no more agaynst heretikes but open accusers alone, & saith that open accusers shall sufficiently serue yf matter. And vnto that here that I say, & that euery mā seeth, yf no mā wil in heresy make himself a party by way of open accusing: therto saith this good man nothing.

He seeth verdy verye wel, that in many thinges for bouden by sondry statutes for the comon weale, as against yf great excellence of apparell and some suche other thinges: the law doth inuyle and byre euery man to thaccusing of the breakers of the same by giuing them the tone half of the forfaiture. And yet for all that as long and as many lawes, and as soze as haue bene made against suche excellence of apparail, & as much as some men might haue wonne by the suit: yet how few folk haue bene founden that haue takē those actions, & therby accused those offenders, the kinges courtes can declare, and the litle amendement may shew.

Wherbyttes be open thinges and enquiryable, with paines also set vpon the concealours, yet manye great ryottes go by vnfound & the concealours neuer spoken of, & a statute was ther sayne to be made that it might be pursued, and punished by the kynges counsaill without pzelement, and that euen by suite in maner *ex officio* to. For though the parties yf made the ryotte, and the party vpon whom it was made, were so well agreed agayne, that neither nother woulde by theyr willes haue the matter moued or any more spoken of it: yet maye the kynges counsaill vpon secret informacion, cause the kinges attorney to make a bil of yf ryot, and

And put the parties to answer, and send for what witnesses they will.

Now this man will not be so mad as to say me for a difference, that in the suite *ex officio* there is none accuser, & that here the kinges attorney is. For as I have said before if the spirituall court should assigne in lykewise an officer of the party owne without either peril or cost: what would that auayle the party?

If this good man had therfore diuers rewardes for accusers, & great paines of satisfures for them that would concele and hyde: yet would not al that haue holpen wel the matter in heresies. And wenech he then that hys bare diuise of open accusers alone, neyther compelled nor hyed, will helpe it: Nay not and take enoughtmentes & presentments to them, wch paines set vpon the concealours to.

And this hath all christendome good christen readers perceiued, and therfore in euery good christen countrey, do they vse the same suit of office (which vpon a lyght reason this man calleth vnreasonable) and haue vsed manye long peres. Thys law also whych thys good man thus impugnech vpon hys own vnreasonable reason, was thought a lawe right reasonable as I told you in a general counsaile at Rome there holden by Pope Innocent the third & many great wyse and wel learned vertuous men therat. There were thembassitours of al the realmes and countreies christened, and among thother thembassitours of Englad. There were thembassitours of both the emperours, that is to wyt Almanne and Grece. Ther wer also the.iiii. great Patriarches, that is to wyt the Patriarche of Antiochia, and the Patriarche of Alexandria bi theyr deputies, and the Patriarche of Constantinople, and the Patriarche of Hierusalem in their own proper persons. In thys greate full and

whole counsaile of Christendome, was thys law agreed and approued. And fro the first makynge al christen countreies receiued it, & haue by the continuall vse ever synce allowed it. And thys realme hath found it so necessary, that by statutes it hath strenghted it. And al true christen countreies to thys day still obserue it, nor no countrey hath ther any where left and forsaken it, except suche places onely as haue left and forsaken the faith of Christe, wyth all whole ensamples I trust thys realme is so faithfull to folow vpon such good reason as thys good man here bringeth, whereof the verie whole

sum wher it is gathered together, a multitude to no more, but that it mai sometime happen, & an innocent may take harme therby, a reason that ones receiued, mai suffer no law to stand. For what lawe can he geue so made in al this world, whereby none innocent can possibly take hurt? But here you se playnly proued against thys good man, that by the chaungynge, ther would be surely folowe a nother manner of peril, the decay of the catholyque faith by the encouragynge of heretikes, whych would be well content that we made lawes to burne them twyse when they be proued heretikes, so that a good counsaile of this good man be folowed, that the suit *ex officio* may be chaunged in to such open accusers, as in seuen peare shal neuer one come forth, nor one heretike of lykelyhod ones be put to answer wyth a nother good counsaile of thys good mans also deuisid for theyr farther safegate agaynst arresling of the, wher of we be to speake afterward in another chapter. Saye thys good man what he will, if we breake thys lawe so longe approued thowowe christendome, and take hys deuyse in the steede: hys woode will neuer so stay a thing, but that after hys wayes ones taken, and by hys new euyl counsaile the good olde lawes broken, men should shortly se wythout any dout great encrease of heretikes, which wher as they were wont but to crepe together in corners, and secretly scouk together in lukes lanes, shal soone ware bolde & put out theyr hoznes and flock & swarm together so thicke in the open streetes, & such mischief would finally folow thereon, as wo will euery good man be that should lyue to se it. And yet would God of hys goodnes tourne at length a chiefe harme vpon theyr heades. But better folke should first feele so much thereof, & it were better for both, that by these good lawes wel kept whych thys good man would breake, these heretikes be wel repressed, and kept vnder by tymes.

The .xvi. chapter.

The .xvi. chapter beginneth in the .liiii. leafe, wherein he first recytereth agayn hys own woordes wrytten in his booke of distinction wherein he dysputed against the lawe in the chapter *Accusatus*, Perag. Licet, wherby it is ordyned that though one being accused and swozen confesse nothyng, and yet afterwarde hee confesseth bothe of hym selfe and other

A other such thinges as it may wel apere, that if he were not forsworen in the second, he was forsworen in the first, and yet that lawe there admitteth hym for a wytnesse in the same courte and in that matter of heresy, if ther appeare many fess tokens that he dothe it not of lyghtnesse of mynde, nor of hatered, nor for other corrupcion, which he saith is ther fore a daungerous lawe, and moze lyke to cause vntreue and vnlawefull men to condemne innocetes, then to condepne offendours.

And you shall vnderstande good readers, that in his boke of diuision, he not onely did impugne the law that he speaketh of here, but also a nother chappter *In fidei fauorem*, because that therby such as are accused, & such as are parties to the same offence, shall be witnesse in heresy.

This reason of hys good reader, albe it that me then thought and yet thyncke so vntreasonable, that I rehedned it lyttle wozth the answering, as a reason reproued by the comon law and by the course & vsage of al realmes chrystened, and in other crimes besyde heresy playnely reproued, & the contrary well vsed in thys realme here also: yet in the .xli. chapiter of myne apology fo. 228. in thys maner wyl I answered hym.

C This pece concerning the testimony of known euyl persons to be receyued and taken in herespe, I haue somewhat touched in the third chapiter of the third booke of my dyalogue, where syth they may reade it that wyl, I wyl make here no long tale again therof. But wel he wotteth that heresy, wherby a Chyrtien man becommeth a false traytour to God is in al lawes spiritual and temporal both, accompted as great a crime as is the treason committed againste anpe woꝛldly man. And then why should we finde so great a fault, that such wytnesse should be receiued in a cause of herespe, as are receyued not onely in a cause of treason, but of murder also, and of other moze single felony, not onely in fauour of the pꝛince, and detestacion of suche odious crimes, but also for the necessite which the nature of the matter woꝛketh in the pꝛofe. But sythe euil folke vse not to make good folk of couisel in doing of theyꝛ euyl dedes, those y are done, shuld passe vnpunished, and mo lyke be committed a freshe, but if they were receiued for records to theyꝛ condepnyng, that were of theyꝛ countayle and partners to the doing. Whych kynde of folk wil not

let to sweare thysle nay, befoze they confesse ones yea, & yet theyꝛ one yea moze true vpon theyꝛ bare woꝛde, then theyꝛ twyle nay vpon a solempne oth, and yet confesse they not so simply, but that it is comonly holpen with som such circumstances as make y mater moze clere.

Now as to those thinges that I wrote in my dyalogue concerning great criminous wytnesses to be taken in great criminall causes, he answereth w no woꝛd at al. Howbeit to say the truth he the les needed. For he geueth ouer here, all that fault that he found in the chapiter *In fidei fauorem*, as a thing wherin hymselfe seeth now that he was ouersene then, & therefore he letteth y here passe by, as though he had neuer spoken therof, and sticketh onely vpon that one case of hym that is ones forsworen.

But now let vs se what he saith here concerning thys self same case. First he saith that the lawes, though they muste deuise such waies as euil persons maye be punished: yet the makers of y lawes must (as much as in the is) pꝛouyde that innocetes shall be saued harmles. This is very true as much as in theym is, the tother point being pꝛouyded so: to, that offendours may be punished. But then I say that it is not in al the wittes of the woꝛlde, so: punishment of mischeuous wyretches, to deuise a law in suche wyse, that men may be sure that none innocēt can take harme thereby. And then yf he graūt me this (which whyther he graūt or no, yet very true it is) then saye I that his onely reaso against the suit *ex officio*, & against this law to, that is to witte that innocetes may take harme thereby, is suche a reason that if it were solowed in euery law wherby misleguided folk are punished, ther should no lawe stand for their punishment at al, but lest it might misse happe that some innocent myghte take harme, we shuld let al myscheuous folke alone, and therby suffer many mo good innocent men take harme.

But then goth this good man farther and saith that the punishment of an offēder must be by a dewe and a reasonable order. And that is very true also, & therefore we shall agre wel in that. But then goeth he farther and saith.

I can not se what dewe or reasonable order of tꝛyall it is that he that vpon his othe hath sythe cleared hym selfe, and hys neyghboure of heresy, shoulde after contrarpe to hys sythe othe, be receiued againe as a wytnes, to condepnyng hym

A hym that he cleared befoze, & that in the same court, & in the same matter. ¶

Though this good man can not see it: other men can se it, & haue sene it, & daily do se it to wel inough. I haue sene suche things as this is my selfe proued, I can not tel how often, that in the ercule of a theefe some haue taken an oth, that y felon was with him in his owne house, at such tyme as the felony should be don in a nother place. And a mā wold haue wēt he had ben credible & said truth. And yet after ward hath himselfe confessed y the felon & himselfe also were at the robbery both twaine, & his bare woꝝd then moze true, then befoze was his solempne oth. And euery man that hath medled much with such examinacions, hath a sure experiance, that this is a cōmon fashion of murderers & theues and such as are theues receiours, of whō at the firste face some seme honest men, & are so somtyme reputed, & come forth for declaracion of them that are suspected & in trouble, and depose for them, and yet after vpon som other occasion in examinypng of the matter, begyn to be suspected the selfe, & after ward confesse it to, both of them selfe and the whom thei came to clere by their per iury befoze. And I am very sure ther be

not a few y haue herd such euidence, geue in causes of feloni diuers times to y iurt

But hereupō because I spake in mine apology of such witnessles in feloni: this good man maketh here a dout, what maner witnessles I meane, whither I mene the. xii. mē that are the iury, or other witnessles that are broughte into the courte for to enforme them. And then firste if I meane the. xii. men, then he aunswereth me certaine thinges, to thew that he can skyl of the law. But verply as for me, I thal put him out of that dout, that I mēt not them. For I neuer toke the. xii. men for wytnesses in my life. For why should I cal them witnessles, whose verdicte the iudge taketh for a sure sentence concerning the fact, without an examinacion of the circūstances, wherby they know or be led to beleue their verdicte to be true?

And also wherfoze should I meane to cal them witnessles, whō I se despyze witnessles at the barre to enforme them in y matter, as wytnesses enforme a iudge: He myght therefoze haue spared hys labour in that pece wel inough. For I nei ther ment the iury, nor neuer toke them for wytnesse.

If he wyl aske me what they be then: I say they be the iury. And if he wil wyl

furthermoze what person thei represent of those that are vsuall in other courtes wherin ther be no iuries vsed: then can I metely wel tel hym to, if the tale were as necessary as it wold be long. But the cometh he to the tother part and saythe. ¶ And if maister Hoze by that terme, wytnesse, meane such witness, as be som tyme brought into the kings courtes to geue euidences to an enquist, thā is that witness no such witness, as y witness bent in the spiritual court, that thal acquit or condempne the parties: for of those witnessles so brought into the kynges courtes to giue euidence to an enquist at the common law, no mēcion thal be made in the recoꝝdes, ne the iury be not bound alway to folow the wytnesse. For if the iury of theyꝝ owne knoweledge or otherwyle know the truth agāst the sayeng of such wytnes, they be bounden to synde accoꝝding to the truth, and let the wytnes go. And yet if it hapned, y suche collaterall wytnes first testified vpon theyꝝ othe, y the party were not gilty: & after it were informed the iudges, that they reuoked theyꝝ first saying, and wold say that the party were gilty: I can not thinke, that the iudges wold any moze call them to heare their saying therein. And thoughs they wold, yet as I sayd befoze, it wer farre vnlyke to thys case. For theyꝝ saying ther, is but as an euidence, whyche the iury should not be bound to beleue, but as the truth is. I can not se therfoze, how maister Hoze cā proue hys sayeng that such wytnesses, that is to say, suche as be perjured in the same court, should be after ward receiued as wytnesse in any of the kynges courtes. ¶

How good readers euermoze remember this, that it is not inoughe for hym y wyl auoyde a resemblance betwene two thinges, it is not inough I saye for hym to proue that in some poyntes those two thinges are vnlyke, (for so muste euerye two thinges nedes be, for els were they not two but one) but he must proue that they be vnlyke in the selfe same poynte wherin, & to the selfe same purpose wherfoze, they were so resembled together. ¶

And now I say that in that poynt for that purpose for whyche I resemble the, I say that they be lyke. I byd not saye y they were lyke in the maner of the examinacion, and puttynge of theyꝝ names and theyꝝ depoytyns in the recoꝝde, in whyche thynges thys manne saythe, and I confesse that they be vnlyke, but I saye they were lyke in thys poynte that

The verdicte of. xii. men, is vnto the iudge a sentence.

A that lyke as he that hath bene swozen & clered one as farforth as in hym was of heresy, may yet be receiued swozen againe and heard, & by hys new contrary deposicion may hurt the same party who he dyd cleve, before y^e same spiritual iudge, whych lawfully may gyue credence vnto hym vpon certayn circumstances by hys wysdome wel wayed, so may in like wyse he that hath bene swozen, & by hys othe cleared a man as muche as in hym was of felony, be yet receiued & swozen agayne and heard, and by hys new contrary deposicion may hurt the same party whom he dyd before clere in a temporal court, before the self same iudges, by the reasoⁿ that the iury may lawfully beleue hym in the second oth, vpon certayn considerations by they^e wysdomes wisely wayed, notwithstanding hys former othe in the same court to the contrary.

And al be it that here before I thought vpon no farther then vpon such wytnesses taken before the kynges counsaill, or iustices of the peace, men of worth in the country, and after ward those deposicions wyth such contrary othes and all the circumstances therewyth geuen in euidence to the iury at the barre in y^e face of the kynges ordinary court, sytting vpon the deliuerance of the prisoner: yet sythe thys good man dysymuleth that point, & draweth me forth before the iudges, I am well content to wayte vpon hym thither. And I nothyng doute but that euen ther he should, the case myght so fall, fynde it true that I tel hym.

That is not so sayth thys good man. For if it happened that suche collateral wytnesses, fyrst testified vpon their oth y^e the party were not guilty, & after it were enformed the iudges that they reuoked they^e fyrst saying, and woulde saye that the party were guilty: I can not thyncke that the iudges woulde any moze call them to heare they^e saying therin.

Here you se good readers that he proueth this poynt by none other thing, then onely by hys owne thynking. Now al be it that against his thynkyng that they woulde not, it were inough for me to say that I thinke they woulde: yet wyll I not leue it so bare, but I wil shew som cause wherfore in som case they should, and I wyll also put you some suche case, which if the case happed I nothyng doute but they woulde.

If y^e the cause wherfore a person ones perjured is repelled from bearyng wytnesse agayne, is because the law pre-

sumeth that he setteth not so much by an othe, but that his oth not wythstandyng bearyng wytnesse agayne, he were lykely inough to lye.

Now sythe thys presumption is the general let, and therfore the reason of y^e general lawe: if the case happen that thys presumption be moze then counterpayed with a contrary presumption vpon the cother syde, ther is the contrary presumption a reason sufficient, to make in that case a contrary law, or a law that shalbe for that case an excepcion out of that general rule.

Now sye as he that on hys oth clereth himself and his felow to, either in heresy or in felonye, doth after confesse and sweare also the contrary: yf we woulde not beleue him in the second oth, because we fynde him therby perjured in y^e first, then in that we iudge him in the first to haue swozen false, it implieth that euent therby we iudge hi in y^e second to say true.

If he wyl refuse his second othe, & not thincke hym worthy to be beliened, because that he sware the contrary before, and therby presume hym a false swearer when he should by the second othe proue himself ones perjured, and then we could not tell in whyther othe of the swayne: here I say the first presumption is ouerbozne with the second. For it is an other presumption that no man wyll cast away hys soule for noughte. And yet a greater presumption that no man wyll cast away hys soule, to do hurt eyther to hys owne body or to hys friendes.

Now looke me then vpon thys mans two othes, hys first oth and hys second. And though ther be a com^o presumption therin also, wherupon the credence of all othes resteth, that is to wit, that a man reputed good & honest, wil not for his friendes body, nor for his owne neyther, cast hys soule away by periury: yet when himself after sheweth vpon his second othe, that he was perjured in the fyrst, the presumption of hys truth in hys fyrst othe, is taken away by the second.

Now the second if it be to the accusyng of himselfe & his friend both, whom hys first oth excused, hath these other. ii. presumptions for to beare against y^e first presumption general of his vntrouth for hys periury: The one, that though it be presumed in the law, y^e he wold be fall & forsworn for somwhat: yet is it presumed that he wil not be forsworn for ryghte noughte. And yet as I sayde it is moze strongly presumed y^e he wil not be forsworn to the hurt of himselfe & hys friend. And

why a perjured person is repelled from

And therfoze hath his secōd othe (nough to beare it against the firste, sithe in the first he swaue for hys friendes aduantage & hys own, soz which (sith he now appeareth false in the one o: h o: the tother) he was the likely to be sozwozen. And in h̄ secōde if he were sozwozen, it were to theyz both harme. And therfoze is that othe presumed to be true, though h̄ man himselte be presumed false.

This is I trow to no man any dout, but that though a man had ben openly pertured thize: yet if the woꝛde myght (as it may not) be sure h̄ in another matter he would soz al that swaue true, the woꝛld would receiue his othe. Now soz as much as of no māns oth any man can be so sure, but that he may be by possibylty deceiued: the law goth as far sozth as it can, & taketh theyz othes soz a pꝛofe, whiche are in that case by presumption lykely to swaue true. And sythe that he therfoze whom the respect of his friends safegard & his own, gaue occasion to be sozwozen in the first, in the second sweareth contrary wise to theyz both parill & harme: therfoze in that case reason beareth the law, that in such heighnous crimes his second oth should be receiued.

Here haue I shewed you a reaso which semeth me sufficient, that both in heresy & felony, the iudges shuld be content not wythstandyng the first oth, in some case to suffer hym swaue the contrarye.

But now soz the tempoꝛal courts, let vs put some case soz a sample, to see whether the iudges would if the case happed so, heare the wptnes agayne o: not.

I wyl not put the case in tressō, wher in ther wold I wene be no dout, but that yf after hys euidence giuen vpo his oth in clearing there the pꝛisoner, he happed euen sodainly thur at the barre to repent himself, & say that he was hꝛyed to be sozwozen, & that he was sozwozē in dede, & then wold tel another tale far cōtrary to the firste: ere euer he went fro h̄ barre: wold his tale not be heard trow you: yes & (the iurys so desiring as peradventure they woulde) the iudges would swaue him to I suppose, and very good reason wold beare it that they should.

But as I say let reason go, & com but euen vnto felony. If two o: thre wptneses wold at the barre excuse vpon their othes, som one man of felony, and afterward when they wer steppyd fro the barre happed to be heard rowne and reioyce together, that they had giuen good euidence soz acquitayle of theyz felow, with whō

them self had ben at the same robbery: if they were sodainly brought agayne to h̄ iudges, the iury not yet departed fro the barre, & beyng seuerally questioned in h̄ sodayne abaslyment, seing that God had so betred their falsehod, began to haue reioyce & came sozth wyth the truthe, and agreed in the circumstaunces, & tolde al one tale, confessing bothe the pꝛisoner & them selfe guilty, and wold be content to swaue that this tale wer true cōtrary to the oth h̄ they swaue ther befoze: wold not the iudges trow you geue thē h̄ hearing: yes yes I dout not, and the iury to.

And thus you se cleuely good reders, that in thys poynt if thys man had wisely wrought, he should haue geue it ouer.

And now al beit that here I might end this chapter, & haue no neede at al to go any further: yet to the farther openyng, how litle hold there is in the causes that he laierth of dyssimilitude & vnlikenes, betwene the witnesses brought into a spiritual court, & the wptneses brought in to the tempoꝛal soz informacion of h̄ iury, I marueil much if himself know not that lyke as the iury may if they se cause why, way the wptneses at light, & quyt the pꝛisoner soz al the witnesses woꝛds, so may the ordinary do to. For in hys estimation the power lyeth, to way & cōsider the qualities of the wptneses & all such other circumstaunces as may mynysly o: encrease theyz credence.

Pea and vnto the tother side, the witnesses are not in the tempoꝛal courtes wayed and esteemed so light, but that the iury shal yf they beleue them not, be som tyme dꝛyuen to pelde a good rekenyng why. For though the woꝛdes of the witnesses be not entred in the recoꝛd, yet in attaynt they shal agayne be giuen in euidence against the petit iury, and testifye by the court and by the othes of them that befoze heard them depose.

And then yf it apere vnto the graund iurye in theyz conscience, that the petit iury wylfully of som corrupt mynde regarded not the wptneses, and therfoze in the gꝛuyng of theyz berdyct passed againste theyz owne conscience: euery man well wotteth that they shal be attaynted.

And necessity hath also dꝛyue h̄ kings grace & hys counsayl soz the sure punishment of felons, to pꝛouide that if the iury likewise regard h̄ witnesses so sleightly, that the iudges think they quyt the felon againste their owne conscience: they bind thē somtime to apere befoz h̄ kings court.

A couſel. And ther haue ther diuers iurics
ben pꝛoned ſo to haue myſſe vſed the ſelf
therin, ȳ thei haue ben puniſhed therfoꝝ.

Now wyl I good readers come vnto
ȳ pece, which (as a thing alredy cōfated
and of it ſelfe vntwoꝝthy to be touched) I
wold haue paſſed ouer & not ones vouch
ſafed to wꝛite one woꝝd therin, ſaunge
that I ſe him to haue taken ſuch labour
thereabout, that he ſemeth to wene that
he hath defended it wel, which whyther
he haue well defended oꝝ not, your ſelfe
ſhal good readers iudge. Theſe wer hys
woꝝdes in hys booke of diuifion.

¶ Thys is a daungerous law, & moze
lyke to cauſe vntꝛue and vnlawful men
to condemne innocentes, then to con-
demne offenders. And it helpeth little,
that if ther be tokēs, that it is not don of
hatred noꝝ foꝝ cozꝛuption of mony; that
it ſhuld be takē, foꝝ ſomtime a wolfe may
ſhew himſelf in the apparel of a lambe.
And if the iudge be parcial, ſuch tokens
may be ſoner accepted thē trulpy ſhewed.

So this pece theſe were my woꝝdes
in myne apology. fo. 229.

¶ Sith euyl folk vſe not to make god
folke of theyꝝ couſayle in doyng of theyꝝ
euil dedes, thoſe that are don ſhuld paſſe
vnpuniſhed, and mo lyke be committed
a freſhe, but if they were receiued foꝝ re-
coꝝdes to their condemning, that were
of their counſaile & parteners to the do-
ing. Which kinde of folke wil not let to
ſwear twiſe naye, befoꝝ they confeſſe
ones yea, & yet their one yea moze true
vpon their bare woꝝd, then theyꝝ twyſe
nay vpon a ſolempne oth, & yet confeſſe
they not ſo ſimply, but that it is comōly
holpen with ſom ſuch circumſtaūces as
make the matter moze cleare.

Now ſe you wel that as himſelf ſhew-
eth, the law pꝛouideth well againſte all
light receiuyng of ſuch confeſſion. And
yet this pacifier ſaith ȳ al that helpeth li-
tle, becauſe the iudge may be parcial, &
the witnes may be a wolfe, ſhewing
hymſelfe apparelled in the apparell of a
lambe. Which apperyng in apparel,
poore men that can not apparell theyꝝ
ſpeche with apparel of rezoꝝik, vſe comōly
to cal a wolfe in a lambes ſkynne.

But what oꝝder may ſerue agaynſte
ſuch obiections? What place is there in
thys woꝝld ſpiritual oꝝ tēpoꝝal of which
the iudge may not haue ſome ſay that he
is, oꝝ at ȳ leſt wiſe (as he ſaith here) may
be parcial? And therfoꝝe not onely ſuch
wytneſſe ſhould be by this reaſon of hys
reſpected in hereſy, treaſon, murder, oꝝ ſe

lonye, but alſo by hys other reaſon of a
wolfe in a lambes ſkyn, al maner of wyt-
nes in euery matter. Foꝝ in euery mat-
ter may it happen, that he that ſemeth a
lābe, may be in dede a wolfe, & be nought
wher he ſemeth good, & ſwere falſe wher
he ſemeth to ſay true. And therfoꝝe thys
patche of this pacifier concerning wyt-
neſſe, euery wyſe man maye beare wyt-
nes that there is litle wyt therein, & leſſe
good woulde growe therof, if ſolk wold
ſolowe hys inuencion, and make of the
lawes a change. †

Now that you haue god reders heard
what we ſai both befoꝝ. Now ſhal you ſe
how ſubſtancially this mā deſedeth hys
firſt woꝝds agatne. Theſe are lo in this
xvi. chap. of his new booke hys woꝝdes.
¶ Howe by reaſon of this obiection I
wyl ſpeake ſom what farther in this ma-
ter, thē I did in ȳ ſaid treatiſe. And firſt
I wyl ſay thus, that it is to me a great
meruayle, to ſe maſter Hoꝝe ſo farre o-
uerſene, oꝝ els if he be not ouerſene ther-
in, that then he wold if he could, deceiue
other and make them ſo farre ouerſene,
to belieue that it ſhould be one lyke rea-
ſon of a perjured witneſſe, that wil loke
lyke a lambe, and ſay contraype to that
he hath depoſed befoꝝe, and of a wytneſſe
that cometh to depoſe in a matter that
he was neuer yet ſwoꝝn vpon. Foꝝ whē
a wytneſſe is brought in, that was neuer
ſwoꝝen vpon the matter befoꝝe, ȳ iudge
may not by ȳ law reſuſe hym, noꝝ iudge
any default in hym, vnles he know a ſuf-
ficient cauſe himſelfe in that behalfe, oꝝ
that the partyes do allege it: but he muſt
beleue, that he is honeſt, good and indiſ-
ferent, tꝛy the contrary be ſhewed, as e-
uery man is in charyty bound to doe of
hys neyghboure. But when a wytneſſe
hath depoſed in the court, and then wyl
offer hymſelfe to depoſe to the contrarye
that he ſayd befoꝝe, the iudge may wyth
good conſcience myſtruſt and thyncke,
that he doth it of lyghtnes of mynde, ha-
tered, oꝝ foꝝ cozꝛuption of mony. †

If I were in thys poynnt ouerſene, I
nede not greatlye to be aſhamed of the o-
uerſyght. Foꝝ then hath ther bene man
ſuch other men ouerſene alſo, as I wold
not wyſe to be wyſer. And I no moze
entend to deceiue other men in this ma-
ter, thē many other haue entended, that
vſed and allowed thys thynge that I de-
ſind nowe befoꝝe, ſuch men as with the
condicion that I were neuer warſte, I
woulde neuer wyſe to be better. Thys
man maketh as though he it were greate
thame

A shame for me, to liken together a person ones periured, and a person that was neuer yet ones swozē. I would in deede be ashamed to lyken them together in euery poynt, al though there were no moze difference betwene them, but that y^e tone had a long nose and the tother a thozte. But I am not much ashamed to sai that for some purpose, where he speaketh of the tone, I may speake of the tother, and lyken them wel inough together. For I may say (as I sayde) that like wylse as he that hath forsworne hymself, mai faine hym selfe to saye true, and looks lyke a lambe, & yet be a wolfe in deede: euen so I say mai he that neuer was swozē befoze.

B Hea sayth this man, but yet these two be not lyke. For he that was neuer swozen, there is no cause to mystruste, noz presume that he wyl playe the woulfe in a lambes skynne. But he that hath bene forsworen, is of reason to bee mystrusted, and it is to be presumed, that he wyl playe the woulf in a lambes skinne.

Marke yet in the meane whyle, that if I coulde make no farther answer: yet had I wanne and he losse. For hys fyft woordes were in hys booke of diuision, that he that confelleth hymself forswore should in no case be receiued to swere agayne the contrary, because that though there seme a good cause to beliene hym in his seconde othe, yet it may be that he doth but faine, & I said so mai he to faine & dysseble y^e neuer was swozē befoze. And then yf the onely power and habilty to faine, wer a cause sufficēt to put any one mā frō bearyng witness vpon hys othe: euery man were by reason repelled, for euery man is able to sayn. This was as you se the tyng that I then sayd. Which thyng neither this man noz any mā els is able to confute, noz proue the forsworen man and the man vnsworen vnylyke in the poynt that I likened them, that is to wyf in power & abilltie to faine. And farther thē that, went not I. For I had no farther cause in answering him ther while he went no farther ther, noz sayde none other, but y^e he that was forsworen may faine. And now reade your self hys woordes, and looke whypther I saye true.

But nowe thys beynge proued as it is pued playn, y^e he hath a fal in those woordes whypche he spake befoze: let vs a litle se whither wth thys leifour after his matter agayne considered a freshe, he haue caught any better hold now. And surely me thinketh not one whyp.

For wher his newe reason resteth in

this, that he whypche confelleth hymself ones forsworn, is by reason mistrusted, as one not onely to be able to swere fall and wplyly close hys faliehood vnter a colour of trowth, but also presumed that he so wil do in deede: to this I say that he saith trowth as long as ther is no greater presumption on the tother syde to serue for hys second othe. But when the case happeth that ther is, as it happeth in the case of thys law, then is the presumption that he wyl swear fal gone, as I shewed you befoze. And then that presumption by a greater presumption beynge purged: thys man forsworne & the man vnswore are in the thing that I resembled thē for, waren wel like again. And that the said presumption is purged: I shewed you befoze, in y^e it is nowe a greater presumption for his second othe, that he wyl not forswear hymselfe, to the perill of hys friende and hymselfe to:

Then goeth he farther, and enforceth his reason wyth the reason of the law befoze that Paragraph Licet was made. And therin thus he sayth.

In so much that befoze that Paragraph Licet was made the iudge might non other wise haue don of iustice but to haue refused to haue take any farther examination of hym. And if he had, & the other had said contrari to y^e he had said befoze: his sayng had ben void in the law.

And this thing wherwith he thinketh hys reason made y^e stronger, maketh his reason a great deale feabler. For whyle the general rule of refusing such witness in al cases, was made so longe befoze: it apereth plainly y^e necessity found h^{is} fault and cauled out of the generall rule thys case to be made an excepciō, & so the law made by better deliberaciō. And in such other horrible crimes, the same lawe is vsed in tēporal courts, & was also befoze that law made by the church.

But against al this yet, this man maketh me this reason.

What the makers of the said Paragraph mēt, to put into the discretion of the iudge, yf he saw by euident tokens y^e it is not don of lightnes of minde, noz of hatred, noz for corruption of money, that his sayng shal stād as wel against him self as against other: I can not tell. For I can not se how ther can be any euident token in any such case, but y^e ther might be in such a periured witness some tyme inward hatred or corruption that the iudge can not know, so that he cannot iudge of certreinty that ther is none.

Conly,

A Consider nowe good readers, that all strength of this reaso hangeth in this, that the iudge cannot sutely see sometime whether the periured witnesse doe it for the trowth, or haue an hatred in his brest so secret that the iudge cannot see it, and herfoze he cannot certainly iudge that he hath none. Consider here nowe that he sayth not that it is presumed, or must be presumed, that the periured witnesse hath so (for if he so sayd, he shoulde say to no purpose. For as I haue shewed you how that presumption may be onerwayed with greater presumptions to the contrary) but he saith that it may be in dede, that the forsworne witnesse hath so.

W And then saye I yet agayne, if we goe to the possibilitie of the dede, and not vnto the presumption and likelihood, he that was neuer sworn befoze, maye haue a secret hatred which the iudge cannot see, as well as he may that was twyse sworn befoze. And theron I say also yet again, that if the iudge wer charged to geue no sentence but such as he knew of certaintie sure to be true: he could neuer bypon any witness in this wo:ld geue any sentence at all. For no witness wer there but he might swaie false and the iudge might wene he swaie true.

C Now if this man woulde say that he meaneth no farther certayntie, then onely a sure thinkyng in the Judges owne conscience, and that therfoze he moderated all hys other wo:zdes with thys wo:zde (conscience) saying that the iudge could not with conscience iudge of certayntie yf there wer no hatred: this menting wer a very marring of al that he goth about there to proue. For though the periured witnesse might haue (and happely hadde in dede a secret hatred in his own brest, as another witness might haue (& happely had in dede) that neuer was sworn befoze: yet might the iudge being induced by certayn tokens and likelihoodes haue a sure and a certayn perswasion and beliefe in his own conscience, that neither the one nor the tother had any hatred at the tyme, but onely deposed the trowth. And therfoze if he would say h he meant thus: he marred all hys matter.

W But it appeareth playn that he meant in the tother maner bypon whiche there must nedes folowe (if he were not in hys saying deceued) that euery iudge in euery sentence that he shold geue vpon any witness, were they neuer so honest in appaurance, wer in a daunger ineuitable. And that he meneth in that maner,

that the beliefe of his own conscience induced reasonably thereto, could not excuse the iudge if he wer deceiued and the thyng other wyse in dede: he declareth farther by the wo:zdes that next enswaie, where he goeth farther thus.

I And therfoze me semeth that the makers of the said peragraph laid ouer-gret a daunger to the Judges, that they shoulde haue libertie to accepte (if they would) the saying of him that so offereth himself against his first oth, for so much as the Judge cannot be sure to saue hys conscience therein, but if he clearly refuse to accept any thing that the witness would say contrary to hys first othe. For if the Judge dyd other wyse, and thereupon the witness testifie agaynst the partie, and yet the partie not gylty in dede: I suppose verily, that the Judge wer partie to the same offence.

A And I suppose not the contrarye, but am very sure of the contrary. For I am verely sure, that where the Judge seeth such tokens as seme vnto hym manifeste and open tokens, to proue that his second othe is not offered of any corrupt affection, but of remozse of his periture and of a mynd to amend his fault and say true: he falleth in no daunger of conscience, though the trowth be other wyse in dede. For if ther neuer had lawe been made at all to refuse any witness because he was once periured: the iudge had ben cleare at libertie bypon reasons and likelihoodes leading his conscience, to haue receiued hym agayne without any peryll of hys conscience at all, wheretoever hymselfe hadde thought greater likelihood that he would say trowth at the second oth, then he did befoze at the first. And then sith he was now letted to receiue him, and hys libertie therein restrayned but by a lawe made: what peryll can he moze falle in whē a second law hath set him at large, then if the for more law had neuer made the restraynte.

Also where the lawe there prouedeth, that the Judge shall not respect that witness, which offereth to tell the trowth bypon a second oth contrary to hys first, but if there appere manifest tokens that he doe it not of any corrupt affection: it meaneth none other, but that if the tokens seme such vnto the iudge, that they induce him in hys conscience so to beleue & thinke, and not that he shalbe certayn and sure that the thyng is so in dede, by looking into the secret corners of the manes heart, no moze then the kynges iud-

Agas at the comon law, by what wordes soeuer they geue thenquest an othe, noz by what pꝛecyple wordes soeuer they receiue their verdict, meane not to charge the vpon peril of their soules to say none otherwise then the trouthe of the thyng shall be in dede, but as the trouthe shall seme to them to be, vpon such thynges as they shall perceiue either by the euidence geuen them at the barre, or otherwyle ere they came there. For the iudges themselves in the iudging of a matter of lawe, neuer mene pꝛecisely that the law is so. For then if other Iudges after reuerled that indgement, or iudged the same case otherwyle in another tyme betwene other men, the same Iudges or the tother had putte their soules in peryll, downg both wayne they best to iudge as well as they coude.

But sith no man can see farther than his eye will serue hym, no noz no man can see farther then his own reason can vpon the matter thozowlye debated perceiue: if either the. xii. men or the iudges, neither negligent noz corrupt, iudge as they thinke true, their soules are safe ynough, as safe as is the soule of the carpenter, that putteth in his frame no timber but such as is good & sounde as farre as men can see, and yet some of it secretly may be such in verpe dede, as sone after shall fayle and fall down all the case. Hys soule is safe ynoughe, though hys purse may happe to sweate, if he bounde himself to provide the timber at his own perill. But so byndeth himselfe neither iudge noz iury for the witness on peryll of their owne soules, that the tother shall sweare true.

And thus you see good readers, that the Judge is oute of peryll, byng diligent and trouthe, though the witness be false & haue hatred in his heart, where the Judge weneth none vpon tokens he thinketh manifest, although the witness wer forsworne before. And thus is this good man in this matter all gone quite awry.

But yet byng soze troubled with the world wolfe, that may sweare false and seme true, nothyng mistrusted because he cummeth lapped in a lamber skynne: this good man goeth farther yet, and therein thus he sayth.

And where I sayde in the sayde treatyse, as before appeareth, that sometime a wolfe may shewe hymselfe in the apparel of a lamber, and that if the iudge be parcial, such tokens may sone be accepted then truly shewed. It is euident

ynough, that by those wordes I note no iudge to be parcial, but I say that if the iudge be parcial, suche tokens may be sone accepted then truly shewed. As who sayth, the iudge may accepte such a token to be true, though there appeare some suspicion of vntreuth in the witness. In which acceptaunce he shall more liberally and without offence of the lawe doe wrong to the partie that is accused, then he coude doe by accepting of any other witness agaynst the law, that wer neuer sworn before. For if he accept any such witness contrary to the rules of the law, it appereth to all the that know the law, that he doeth agaynst the law therein: and that will sound somewhat to his rebuke, and that will make hym the more loth to doe it. But if the Judge accept such a perjured witness where there is no sufficient token to proue the doth it not for lightnes of mynd, hatred, corruption, noz such other: yet he breaketh no law therein. For all is commytted to his discretion. And he may happily geue a boldnes to some iudge to accept such a perjured witness, where he ought not to accept him. And though the saide Veragra. say that if ther be such tokens as before appeareth, that then in fauour of the sayth his witness shall be taken: yet I can not see, if the party accused be gilty in dede, as he may be for all that witness, how it can be taken in fauour of the faith, to accept the witness. For it cannot be sayd in fauour of the faith, to condemne an innocent.

All this tale when it is all told, wayneth vnto no more, but that if the Judge be parcial, than he may abuse the lawe, and then that lawe in that case may doe harme in heresye.

Now besyde that, the quest hearing the same witness sworn first, and after contrarye, maye if they be parcial, doe lyke harme in felonye: what lawe was there euer made, wherin the iudge could doe none harme if he would be parcial? What lawes may there serue, if the ministers would be false? This manne is content that to a mannes condemnacon the presumption shall serue that the witnesses wil sweare but true, such witnesses at the leaste wyle as are not proued false before, and yet may they marre all if they be false and parcial. And whan he presumeth such indifferency in a witness: why feareth he soze parcialitie in a iudge: if he say he mistrust the iudges, because of some some sayes: that must be mistrust

A mistrust witnesses, iurtes, and iudges, & altogether. For such some sayes they lacke not that can saye well by no man.

This reason of his doeth but putte a suspicion in mennes heades agaynst the iudges, for euerye thyng that is putte in their discrecion. But surelye (as I haue often heard that great, wyse, and ryght woꝛthyppesfull man syꝛ John Fineur say, late chief iustice of the kinges bech) who so taketh from a iustice the order of hys discrecion, taketh surelye from hym moꝛe than half hys office. If thys realm shoulde mistrust iustices: it must in the lawes than make many such chaunges, as I neuer sawe nedepet, noꝛ trust I neuer shall. What harme might any iustice of the peace doe, if he were dysposed to be false and parciall? And euer shall be hable to doe, make what lawes men will, but if men would vtterly put away þ office. And than in stede of one harme that maye happe, we shall haue an hundred happe in very dede.

Consider also, good readers, that by the lawes afoze made, there was not only for bouden to beare witness, he that appeared to be once forsworn, but also many other maner of criminous persons, for the generall presumption that they wer vnwoꝛthy credence, and yet haue ben by other lawes after made, receiued to beare witness agaynst themselves, and their felowes in heresy and in treason both, for the necessitie as I haue sayde, and vpon presumptions moꝛe probable that they wer in that case well likely to sweare true.

Now if this god mā for feare of such harme as may by possibilitie fall vpon an innocent, will put one of these from witnessing: he must repell them all. For as the latter lawes haue since receyued all: so the former lawes generallye vnderstande refuse them all. For the generall rule is naturally befoze hys particular excepcons.

And than if he would in lykewyse repell them all, than for one harme that may happe, and happely neuer shall: he shoulde haue many mischieuous people very bold, whyle they might be sure they must nedes passe unpunished, because theyꝛ prieny mischiefe could neuer well be proued, but if they would whan they went about it, take honest men with them to beare recoꝛd of it.

And thus you see good readers, berre cleare and playn, that thys god manne hath hitherto brought you furth no rea-

son. And I thinke he saw that hymselfe, and therfoze he thought he woulde saye better at last, and not leaue it so. For thā goeth he farther and sayth.

And farthermoꝛe it appereth also, that the woꝛdes of þ sayd treatyse extend no farther but to such as be iudges, where there is befoze them such a periured witness, and not to all iudges. And in likewyse those woꝛdes, that a wolfe may thewe hymselfe in the apparell of a lambe, stretche onely to such a periured witness. For there is no other witness spoke of in þ said treatise in þ place.

This man goeth to hys woꝛdes and foꝛgeatteth what I saye, whiche is, that though hys woꝛdes goe no ferther, yet the reason of hys woꝛdes (if it were reason as I haue proued it none) woulde stretche so farre farther, that it woulde marre al. And this popnt haue I proued you very cleare and playn.

And therby is meant, that such a periured witness may happely shew himselfe to denye that he sayd befoze, of a concunct heart and of a new knowledge of the trueth, and of a very zeale vnto the sayth: and yet doe it in dede of couetyse, falsshod, rancour, and malice to the party. And so as the gholpell sayth, he maye happe outward to appeare in the apparel of a shepe, and withinfurth be a raiuing wolfe. And such one may that periured witness be, that is spoken of in the said treatise. And of such a witness in heresy the sayd treatise speketh onely there and of none other witness, as to the readers will appeare. And therfoze as me semeth, maister Doze findeth default in this behalfe, where he had no cause reasonable so to doe.

Nowe good readers, where as thys man sayeth, that he meante that suche a forsworne witness maye happely playe the wolfe in a lambes skynne: I graunt that he meant so. But as I graunt that to hym, so must he graunt this agayn to me, that so may he play to, that was neuer sworn befoze. And than whyle he goeth no farther, but that the tone happely may, and cannot himself say naye but that the tother happely maye so to: there foloweth vpon that, the thing that I sayd befoze, whiche thys man sayth he meruaileth much that I woulde say, that is to wit, that by that wyse reason there shoulde be receiued in such criminal causes, no maner witness at all.

Nowe if he leaue his may happely, & say that it is likelye, that the forsworne

S. J.

witnes

Note this saying.

25

C

D

Math. 7.

A witness will say false, and the tother true that neuer was swozne before, and that the witness once swozne afoze, is in his second othe contrary to his fyrst, moze likly to play the wylf wolfe in the lambes skynne, than such a playne symple man as was neuer swozne before: I will be so bolde for thys once as in some case to tel him boldly nay. For where he sayde a little afoze, that he coulde not see how there could be any such euident token in any such case, but that such a persecuted witness might doe it of a secret hatred, and seme charitable, and so playe the wylf wolfe in the simple lambes skynne: I can see well ynough, that in some case ther may be an euident token, that some such witness as was so first swozne, wer after in his seconde othe swearing the contrary, lesse likly to lye and play the wylf wolfe in the lambes skynne, than were an other that neuer was in hys lyfe before neyther swozne noz swozne.

For if he that was before vpon hys oth examined bothe of hymselfe and hys sonne, or of himselfe and his father, or his other speciall knowen frend, and on hys othe clered them all, doe at another tyme vpon a new othe confesse them all gyltie, and hymselfe also, and where peradventure himselfe must to the pyze, because he was abiured before, & they maye turne yet in tyme and be but abiured: wer not this an euident token that he doth it not of any secret hatred, noz playeth not the wylf wolfe in a lambes skynne: For wylle to confesse hymselfe gyltie in suche case, and puttyng hymselfe in worse case than hys felowes, wer but a poze pouert of a wylf wolfe. And as I put thys case for ensauple: so may ther be manye other. For the tokens might be playne ynough though they wer lesse playn than thus. And therefore to conclude in thys matter, this man hath no reason in thys wo:ld to defende hys fyrste boke with all.

And therefore where he speddeth a patch in the ende, about hys declaracion, that it maye be lawefull for hym to synde defaulte at lawes made by the church, so that he synde them vpon a sufficient reason, because all that pouert nothing helpe hym here in this law, against which he sheweth no reason reasonable, but a reason as vnrasonable as euer reasonable man heard: I shall I saye therfore let that piece passe by, and here make an end of his. xliij. Chapter.



Is. xliij. Chapter begynneth folio. lxxij. In the beginning wherof he meruaileth that I speake so eit in mine Apology of hys bling thys wo:ld some say. And he sheweth that in a tale tolde hym by other folke, there is good reason that he so should say, and that I vse the same wo:ld my self so sometime, and telleth two places where. folio. 77. and folio. 100. I neither did noz will fynde fault that he vse this wo:ld some say, noz I will not let (where the case requireth) to say my self, that some say this or that. For I know well it is english. But the faulte that I found and yet fynd, is that hys boke of diuision abusethe the figure of so manye some sayes, to the sedicious flander of the cleargy, and specially of thordinaries in the punishment of heresy, to bring them in obloquye of the people therby. And wher eas vpon coplayntes made, the matters haue late been examined, and the treuth hath been playnly proued contrary: yet hath he neuer one some say therof in all his boke, neither in the tone boke noz the tother, but all hys some sayes euermoze say euill, and neuer a some say well. This is the fault that I fynd. For if he made a boke with syue times as many good some sayes, as his some sayes in that boke be naughte: I would fynde in hys some sayes no defaulte at all. For some say is (as I saye) good english. But when a boke is full of th:ewd some sayes: there doe some men say, that some say is as th:ewde an english, as any dothe the woman speaketh. But nowe to shewe that in all hys some sayes he meaneth none harme, he goeth ferther, and for a sauple he bringeth forth one whiche is in verve dede a very malicious noughty pestilent some say, wherof the pretence is the sauegard of innocentes, the effecte is the decaye of the sayth by the bolding of heretikes, the instrument is a false imagined flander against the ordinaries. And as wyllye as those th:ewes that beguyle hym haue helpe hym to inuolue and intrype the matter: I shall vse so playn and open a way therin, that euery man shall well see the trowth.

Lee, these are thys good mannes wo:ldes.

And one of the (Some sayes) that he fyndeth defaulte at is thys: I saye in the epghte Chapter of the sayde treatise thus:

A thus: And here Some saye, that becaufe ther is so gret a desyre in spiritual men, to haue men abiured oꝛ to be noted with heresye: And that some as it wer of a policie done noyle it, that the realme is full of heretikes, moze then it is in dede, that it is very perilous, y^e spirituall mē thold haue authozitie to arress a man foꝛ euery light suspencion oꝛ complaynte of heresy, tyll that desyre of punishmente in spirituall menne be ceassed and gone but that they shoulde make processe agayns them, to bring them in by p^o payn of cursing: and then if they tary .xi. dayes, the kinges lawes to bring them in by a w^ork of Excommunicato capiendo, & so to be brought

B foorth oute of the kynges gaole to answer. And it foloweth in the sayd epyght Chapter thus. But surely as it is somewhat touched befoze in the .vii. Chapter, it semeth that the church in tyme past haue done wat they coulde to bying about, that they might punishe heresye of themself, without calling foꝛ anye helpe therein of the secular power. And therfoze they haue made lawes that heretikes might be arressed and put in p^osses, and stocks if nede wer, as appeareth in *Clementinis de hereticis Cap. Multorum querela*. And

after at the speciall calling on of the spirituallie, it was enacted by parliament, that Ordinaries might arress men, that pzeache, hold, teache, oꝛ enfourme other in heresy, there prohibite, oꝛ that therof holde any conuenticles oꝛ scholes. foꝛ some men thinke that the sayd Clementine was not of effect in y^e kynges lawes to arress any man foꝛ heresye. But if a man were openly and notably suspected of heresy, and ther wer sufficient record and witness agaynst hym, and ther wer also a doubte, that he would fle and not appeare, wherby he myght infect other,

B it semeth convenient that he be arressed by the bodye, but not byon euery lyght complaynt that full lightlye may be vntue. And that it will be right expedient that the kynges hyghnes and hys counsaile loke specially vpon this matter, & not to cease til it be brought to moze quietnes then it is yet: and to see with great diligēce, that p^osses, couetise, noꝛ worldly loue be not iudges, noꝛ innocentes be punished, ne yet that wilfull offenders goe not without due coꝛrection.

And when maister Hoze in hys Apology hath recited the sayd woꝛdes of the sayd treatise: then he endeouureth himself very much, to make it appeare that y^e motions that be made in the sayde treatise

in the place befoze rehearsed be vnreasonable, & cannot be brought about: oꝛ elles that if they wer brought about they shoulde doe hurte and no good. And to make hys sayynges the moze acceptable, he layeth somtyme default in my sayynges, and sayth that I thereby defame the Iudges spirituall, where I defame them not, but saye only that it is expedyent that the kinges highnesse & his counsaile see, that p^osses, couetise, noꝛ worldly loue be no Iudges. And whether tho woꝛdes amount to that effect, that maister Hoze sayth they doe, that is to saye, that I defame all spirituall iudges it appeareth euidently they doe not.

Now god readers, to the entent that you may the moze plainly perceiue both the god mynde of this god mannes first booke of diuision, and also hys secounde booke here in defence of the same: take the labour to reade the .xlii. Chapter of mine apology. fo. 232. And then shal you thinke I (suppose) y^e all his defence is so saynt that I little nede to replie.

foꝛ first where he sayth, that I saye that in those woꝛdes, he dyffameth the Iudges spirituall: I would he hadde rehearsed my woꝛdes with which I say so. foꝛ I am sure ynough my woꝛdes be no larger than the trouth. But that is his vsuall craft to leaue out foꝛ the moze part, both my woꝛdes and the place, because menne might wene it wer in some part of my booke though they remember not where.

And so doe
at heretika.

But now because he sayth, that it is euident that those woꝛdes of hys doe not amount vnto the diffamation of the spirituall Iudges: I haue shewed and pꝛoued in dede in one oꝛ two places of mine Apology, that all the great matter of his complaynt, vpon the crueltie of the spirituall Iudges in handlyng men foꝛ heresy, sith there hath ben very fewe troubled therfoze in any dyoces in England oꝛ Wales, by the space of these .xx. yeres oꝛ .xxx. last passed, except onely Lincoln and London. & that therfoze the false complaynt of mishandling, could haue little colour any fether then those two dyoces, & yet to say the trouth neuer complaynt broughte foꝛth by any such man but in London dyoces, noꝛ yet not but in London & some piece of Essex alone, & the complayntes vpon excommunication hadde by the kinges honourable counsaile, alway founde causeles & false: sith thys is I say so cleare, that no man can saye the contrary, but that thys is true, I declare

And shewe in my sayd Apology, y^e where with his false some sayes he defameth & laboureth to bying in obloquy of the people, all the spiritual iudges in the realm: of wrong and cruell handeling men for heresy, all the menne that hys false some sayes (if they wer true) dyd touche, were yet in dede so fewe, that he myghte in a maner aswell speake of them by name. And in verye dede so fewe they be. For they be as fewe or fewer, then are h^e iudges epyther of the tone bech or the tother.

And therfore when he cummeth now forth vnder shadow of a shewde some saye, and sheweth that the spiritual men haue a great desyre to putte men to abjuracion, and to haue men noted of heresy, & that therfore tyll they leaue that condicion, it wer well done they should haue lesse authoritie, and that it will be righte expedient that the kyng and hys counsaile loke specially vpon this matter, and to see with great diligence, that pryde, conetise, noz wooldly loue, be not Iudges, noz innocentes punyshed, noz yet that offenders goe not withoute due correccion: is not this a lewde coloured flander and (withoute any such thyng proued) a shameles diffamacion?

If this god man woulde in likewyse wypte and putte in pzent another booke, and therein speake fyrst of iustices in generall, as it might seme to touche all the iudges of enery bale court, and iustices of the peace to, and then by some certain circumstaunces restrayn it in such wise that euery man may see that he meaneth ouely the kynges Iudges at Westmynster, and say, that somelay that specialye of late the matters of common pless be euyl handeled by the Iudges, & that in wyttes of errour, and in pless of the crown, the Iudges missehandle the people soze & dwee muche wrong, & that some say that they haue thys euill desyre, and that, and that tyll they haue left them, it wer well done that they had lesse authoritie. And then after such a false folyshe some say, come furth with hys saying, & in approbacion of hys other saying, conclude and say thus much ferther, it will be right expedient therfore, that the kynges highnes and his counsaile loke specially vpon this matter, and to see with great diligence that pryde, conetise, noz wooldly loue be not iudges &c. wer this wyly folyshe handeling no false diffamacion at all?

And now when he handelerth the spiritual Ordinaries with lyke woordes

for heresy, and his some sayes false imaged lyes, & though his booke of diuision laboureth to draw that false suspicion farther, yet himself seeth by experieuce that whyle there hath in long whyle but in two dyoces very few been punyshed for heresy, the flander that he soloweth, toucheth some verye fewe, no lesse then though he wrote in their names. Howe can he therfore for very shame saye that it is no diffamacion? Wleneth he the readers of his worke were all suche folles, that he myghte auoyde his playne open dede with hys bare bold woold, where he sayth it appereth euidently nay, where euery wise man that rebeth it, seeth well himself that it well appeareth euidently yes.

Howe goeth he ferther wth another piece and sayth.

For yet my woordes prouue not y^e I wold haue all spirituall iudges changed. For the spirituall Iudges that be now, may be Iudges still, and haue all the properties before rehearsed, as well as other, for any thing that I haue said. And yet mayster Doze taketh it other wyse, and sayth, I would haue such iudges, as haue no spyce of any of the sayde popites. And he sayth, that till such iudges may be found, heretikes may make mery for a little seasō, whyle men walke about and seche for such iudges, whiche he wleneth will not be done in a wekes wooldke.

Here he leauech out agayne the place of myne that he toucheth. For whe that is once readd, all his gaye tale is gone.

For there shall you see that I consider his woordes, and declare two wayes that h^e god man might mene, of which twain he taketh here the tone, and the tother he letteth slip. And yet in taking hys woordes as he would now seme: my woordes whiche he dyssembleth here, turne by all his tale, and that the man saw full well, and therfore wynded at the. But I shall bying them in agayne here, and repete them for hym. Doe good readers in the xlvi. Chapter. fo. 253. after his woordes rehearsed at length, thus I begyn mine owne.

In this processe lo god readers: this pacifyer declareth, that he woulde haue the kynges highnes and hys counsaile so specially loke vpon this matter, that neither innocentes should be punyshed, noz yet wilful offenders go without due correccion. Who could ende and conclude all his matter moze fruitfully?

But

Q But now the speciall wayes whereby he deuisech, that the kinges highnes and his counsaile should bring this thing about be twayne.

The tone is yf, they prouide that neither men that be proude nor couetous, nor haue any loue to the world, be suffered to be iudges in any cause of heresy.

The tother is, that the bishoppes shall arrest no man for heresy, tyll the desyre that spirituall men haue to cause menne abiate heresies, and to punish the them for heresy be ceased and gone.

B And surely I thynke that hys two deuises will serue sufficiently for the tone part, that is to wit, that none innocetes shall be punished. But I feare me verye soze, that they will not serue halfe so sufficientlye for the tother parte, that is to wit, that wilfull offenders go not without correccion.

C For now to begynne with his first devise, that none be suffered to be iudges in cause of heresy, that are proude or couetous, or haue loue to y world if he mene of such as haue none of these affections with notable enozmitie, the till he proue them that are already woorse then he proueth them yet, that is to say, til he proue it otherwyle by some of their outrageous dedes in the dealinge and misshandling of men for heresy, that he here disfameth them of, then he hath yet proued, and that he proue their cruel wrongfull dealing, otherwyle then by some sayes, or by his owne saying: the kinges highnes and his counsaile can see for all hys wholesome counsaile, no cause to change those iudges y are already, but to leaue them stille, and then serueth that diuylse of nought.

D And on the other side, if he mene that the kinges hyghnes shall suffer none to be iudges in cause of heresy that hath anye spyce at all, either of pryde, or of couetise, or any loue at al vnto this world: heretikes may sit still & make mery for a litle season, whyle men walke aboute & seeke for suche iudges. For it will not be lesse then one hole wekes worke I wene both to find such and to be sure that they be such.

Here haue you hearde god readers, a resonable cause why that I should take him y he would haue the spirituall iudges, such as should haue no spice of pryde, couetous, nor worldly loue. For eyther he must meane so, or elles (as I sayde) he must meane on the tother maner which I rehearse fyft, & which he would now

seme to mene. But then (as I haue sayd) if he ment in the first fashon as he would now seme: all his tal is ouerturned. For then hadde he no cause of any such complaint. For he neither had himself when he wrote nor anye man elles, proued by any of them the contrarye. And then needed he not to spend out his profound wisdoms, in making such exhortacions to y kinges highnes & hys counsaile, to see with so great diligence (as though they had be so long negligent) to the thyng y himselfe could not say nay, but y it was metely well ynough already. And thus you se god readers that he left out & dissembled that first parte of my woordes, because he wist nere what to say thereto. And therfore sith, except he meant in the first maner (which he could not do with oute the marring of all hys matter) you se well that himselfe doze me to thinke, that he would haue the kinges grace and his counsaile, se diligently y there should be no spiritual iudges, but they that had no spyce of pryde, couetise, or worldlye loue at all. And then might heretikes as I said (while such iudges wer in seeking) make mery for a litle while. And I kept my self metely wel within my boundes. For where I sayd it would be a wekes worke to seeke them: I wene it would be forty night full ere we found them.

But then goeth he farther somewhat about to thewe, that I haue misshandelled his woordes, and with ioyning mine own vnto his, haue made it seme that he saith much worse by y spiritualty the he either said or ment. But when you haue heard all his tale and mine to, you shall well se god reders y he shal neuer while he liueth conuey this geare to clene. For these are first his woordes here.

de And he saith y it will be the moze har to find such iudges. For he sayth, that I haue put y matter out of doubt, that wheras men would haue wend somness to haue found them, that there I say it wilbe merueylous harde to fynd any one of them, either prelates, secular prydes, or religious perlones. For he saith that I say playnly, y haue they neuer so manye vertues beside, that yet I saye, it will be harde to fynd any one spirituall man, but that he is so infected with desyre & affection to haue the worldlye honoure of pryelkes exalted, that he is thoroowe such pryde farre fro such indifferency and equitie, as ought and must be in such iudges, which as he saith, I assigne to be such, that they must haue no spyce

A of pryde, couetise, noz loue towarde the woꝝlde.

As to thys last rehearsed sentence of maister Hoꝝe this is y^e trouth therein, I say in an other place of the said treatise, other then y^e, that maister Hoꝝe hath rehearsed here, that is to say, in y^e. viij. Cha-
piter of y^e sayd treatise, that though ma-
ny spirituall men may be found, y^e haue
many great vertues, and great gistes of
God, as chastitie, liberalitie, patience,
sobernes, temperaunce, cunning, & such
other: yet it will be hard to find any one
spirituall man that is not infect with y^e
sayd desyre & affection, to haue y^e woꝝld-
ly honour of priestes exalted. And there
B my sentence endeth, as to thys purpose.
But then as it appereth befoze, maister
Hoꝝe in his said Apology addeth iume-
diatly to those woꝝdes of mine, woꝝdes
of his owne putting in, whiche be these:
That he is thꝛough such pryde farre fro
such indifferēce & equitie, as ought and
must be in the iudges, whiche he sayth I
assigne. And he cōbryneth tho woꝝdes to
mine, in such maner as though I spake
them my self. So that they y^e shall reade
thē, can none other wise take thē, but as
my woꝝdes: wherby he pernerreth clere-
ly my meaning and my sentence therein.
For my sentence, ne yet my meanyng
C therein, is not but that iudges spirituall
may haue some spyce of pryde, couetise, &
woꝝldly loue, & yet be mete iudges in he-
resy, as the frailtie of man suffreth. For
we be no aungelles but sinners, y^e light-
ly may fall & be deceiued. Ne I meane
not, ne yet my woꝝdes amount not to it,
but that a man maye haue a desyre and
affection. to haue the woꝝldly honour of
priestles exalted, and yet be a mete iudge
in heresy. For I suppose, that a mā may
haue that desyre in some degre, and to
some entent, and not offende therein, spe-
cially dedly. Howbeit he may also light-
Dly offende therein, if he be not right well
ware.

If this god man here say true in these
aforesayd woꝝdes of hys, And there
my sētece endeth as to this purpose: I
then am I content to confesse y^e he sayth
well, & I wrong. But on the tother syde
now, if he saye not true, but that in the
diffaming & slaunderyng of the spiritu-
alitie, hys sentences ended not there, but
wēt there much farther furth, & so farre
furth also, as amōnted vnto as much as
I say y^e he sayd, and vnto much moze to:
then will euery man beare me recoꝝd, y^e
I misse repoꝝt not him, but he me.

Now shall you good readers, some see
this tryed betwene vs. For hys whole
woꝝdes as they lie there together, I shall
now reherse you here. Doe, these thinge be
as you shall fynd thē both in his boke of
diuision, and in mine apology. fo. 237.

And though many spirituall men
may be found, y^e haue right many great
vertues & great gyftes of god, as chasti-
tie, liberalitie, patience, sobernes, tem-
peraunce, cūning, & such other: yet it will be
hard to find any one spirituall man y^e is
not infect with the sayd desyre & affec-
tion to haue the woꝝldlye honour of prie-
stes exalted & preferred, & therfoze if any
ley mā repoꝝt any euil of a priest, though
it be openly knowē that it is as he sayth:
yet they will be moze diligent to cause y^e
ley man to cease of that saying, then to
doe that in them is to resourme that is a
misse in the priest that it is spoken of, ta-
king as it wer an occasiō to doe the lesse
in suche refoꝝmacions, because ley men
speake so much agaynst them. But sure-
lye that will be none excuse to spirituall
rulers afoze God, when he shall aske ac-
coumpte of his people that wer commit-
ted vnto their keeping.

Nowe you see good readers, howe true
it is that this man telleth you. For
here you see that hys sentēce leaueth not
where he sayth it left as to that purpose:
but you see that it goeth furth farther a-
bout that purpose it yll, to shewe that it
will be harde to fynde any one spiritual
man iust and indifferent, but that the de-
syre and affection to haue the woꝝldlye
honour of priestes exalted and preferred
hath so farre infected them, that if a ley
man repoꝝt any euill of a priest, though
it be openly knowē that it is as he sayth,
yet they will not only rather put the ley
man to sylence, then any thyng amende
the priest, but that they will also doe the
lesse to the amendment of the priest, be-
cause the ley man speaketh of it. Which
affection cannot be but a verpe proude
damnable frowardnes.

And therfoze while this god pacifyer
there sayth, that all the priestes be so far
infect with such a proude damnable de-
syre of their woꝝldlye exaltacion, that it
will be harde to fynde any one of them a-
ny other. And then a little befoze those
woꝝdes (as you may see in hys sayd Cha-
piter in myne Apology. folio. 235. he
sayth vnder the figure of a grete rumour
among the peple, that spirituall men pu-
nish heresies rather to oppresse thē that
speake any thing agaynst their woꝝldly
honour

Honour & riches &c: then for zeale of the sayth: these woordes of hys beyng there such, iudge nowe good reader whether I might not well saye that thys god man saith it will be harde to find any one spirituall man, but y he is so infected with the desyre & affection to haue the worldly honoure of prestes exalted, that he is throughe such pryde farre fro such indifferency and equitie, as ought and must be in such iudges as himselfe assigneth to be such as they must haue no spyce of pryde, couetise, or loue toward y world. I am very sure that his woordes maynteyne myne and moze to.

Say (sayth he) for I doe not meane y they shold haue no spyce therof. For they may haue some spyce thereof: & yet may be iudges in heresy well ynough. For they may haue that desyre in some degre and some entent, and not offend therein, specially deadly.

But I haue agaynst that proued afoze that he must mene so: or elles must haue left his tale vntold. For if he ment to be content with folke of meane condicions without notable enormities, suche they wer already, and then had hys greater exhortacion little place.

Also this pryde with which his woordes say that they be all so sore infected, that it wil be very hard to find any one other, is a very pestilent pryde, and in an hygh degree, and such as he could not wel deuise a moze deaddely diffamacyon of the whole spiritualtie, then those woordes be which if they wer true (as they be false) playnly proued, y in all the whole cleargy it wer hard to fynde any one god honest man, or mete to be a iudge, either in heresy or in any thing els. And so wolde he by thys deuise of his, take away as I sayd from examinacon of heresy, al the spirituall iudges, and leaue them none at all.

And yet god readers, to the ende that you may the better perceiue, what those woordes of this man amount vnto, which he wolde make you wene here, that I bothe missehearse and misseconstrue: bouchesafe to reade my woordes that I wypte bypon them in mine Apology. so. 238.

But nowe thys god pacifyer perceyving, that it will be hard to beare it, but that his woordes clearly take awaye fro the cleargy, al such indifferency and iustice, as himself assigneth to be required of necessitie, in every man that shoulde be suffered to be iudge in heresy, he sal-

leth to another myste to saue the matter bypyght. And therein thus he sayth.

And farthermoze, though it were as maister Doze taketh it to be, that my woordes shoulde sounde to that effecte that the iudges that wer then, wer thowse such pryde farre fro the indifferency and equitie that I assigne: yet y proueth not but that they be nowe indifferrent and ryghteous. For they myghte saye the making of the sayde treatise, be come throughe grace, indifferrent, ryghteous, meke, liberall, and louyng to god and their neighbour, though they were not so then. And if they be, of then heresykes shall not make merue for lacke of iudges, a weke ne yet a day. For y same iudges may sit still without chaunging to heare and examyne them when neede shall be. Thus as me semeth, it appereth euery way, that the excepcion that maister Doze taketh of changeing of spirituall iudges is but of small effect.

Thys reason hath lo, some subteltye: but it hath no substance. For if they wer all so noughtye so late, as this god man saith they wer, it wil be but hardy beleued, that so many of them, bypon so short a sermon of this pweze preacher, shold be so well changed to sone, but y as I said, theretikes were well lyke, yet one weke leger to make mercy, before men myght haue so sure experyence as to put them so sone in trust to be iudges in heresy, whō this pacifyer had perswaded to be so far vnmete for the matter so late. And therfore it appereth euery way y this good mans inuencion is toward euil of very great, toward god of very small effect.

Then goeth he furth on with the matter and thus he sayth.

Then sayth Maister Doze farther that if some saye be no sufficient profe, then is my tale al lost. And to these woordes I will aunswere thus. I will agree that my saying that soe say this or this, is no profe, neither to proue that some say so, ne yet to proue that it is so. For in euery profe must be two witness at the least: but if two will saye it is so, then it is a profe.

And surely if maister Doze will enquire for the truethe in thys matter, he shall fynd that there be manye moethen two that saye so. And verely if manye men say so, though the truethe be not so, yet the tale is not al lost to say that some men say so. For then it shall put the byshoppes & rolers spirituall in mind that they are bounde in conscience to helpe them

A them that say so all that they can, fro the danger that they runne in by that sayng. And if it be true, then maye the spirituall rulers order the matter as they shall see cause, and resourme it in suche charitable maner that none shall say so hereafter: but they will of malice doe it, and renne into the slaunder of the Pharisieys: and that would charitably be examined, whether it be so or not. **A**

This is a prettpe piece, and suche as I haue seldome sene the like come out of any wise mānes mouth. For though that in iudgemēt, men must presume a thing is true, which two good honell perones swozne and examined depose & testifie, that themself haue sēn the dede, or herd the woordes spoken by the mouth of the persone which for such dede or sayng is accused: yet sayeth no man for all that, that because two men say it and sweare it to, therfore it is so. For as to the necessary consequence of the dede, thys argument is very saynt y thys man maketh. Two men say it is so ergo it is so.

When vpon this argumēt such as you see, he fendeth me to enquire and then I shall (he sayth) fynde, that there be many moe then two that say so. That may wel happen now, by occasion of his booke of diuision. But what if I enquiered of the that I should happe to fynde not onely many moe then two hundred, that wold say that the spirituall men for such euill affeccions as thys good pacifyer surmyseth, haue great desyre to abiure menne or note them of heresy: yet while al they could among them all ley no pzoofe at al, but alway the trouth pzoued contrary, both by that, that in farre h most part of thys realme, and take Wales thereto, there haue not ben before his booke of diuision, spue menne abiured in. xv. yere. And in those that haue bēn, rigour hath not bēn vsed moze then necessary: but

D there hath bēn vsed moze then necessary fauour, and that this hath bēn already pzoued offer then once, before the kinges honourable counsaile, I wold not esteeme the babbeling of two hundred, no not though they wer two thousand, and yet many moe to, the mountenaunce of two strawes, for any thing that I wold regarde any godman the woyle. But I wolde for their own partes be soze ashamed to heare them, and clearly perceyuing that they so lewdely lped: I wolde be soze ashamed to tell the tale agayne after them. And this I saye, if I should with inquserp thus happe to fynde, as I

berely trust I should not if I dydde enquire.

But nowe hys Some saye beyng so false as it is, it is a world yet to see what a sonde thyst he fyndeth, that he woulde not yet by hys wylle haue that lpe losse. For he sayth, that though the truely be not so, yet the tale is not lost to saye y some menne saye so. For (he sayeth that) then it shall putte the bishoppes and spirituall rulers in mynde, that they are bounde in conscience to helpe them that saye so all that they can, fro the danger that they ranne in by so sayng.

What god I praye you can this false Some saye doe: For what can the spirituall menne doe for theyr helpe that so helpe them: any other then aduylse them to leaue such lping: And that had been a better parte for thys good pacifyer to haue playde hymself, and so to haue told them vpon whose tale he wrote it: than to the reproche and rebuke of so manye good woorthypfull menne make a booke of diuision, and therin write euery lewd woyle, that any lewd folke, or any false shzelues woulde tell hym. Whose euill tongucs the spiritualtie can neuer appeale, but if to please them they should displeasc God, and withoute lettynge heresy growe and goe furth, should themself rather dooe euill then let lewde folke speak euill.

And nowe to thentent good readers, that you maye the moze clearly see, to howe little purpose the pacifyer hath in this poynt answered me, ye shall vnderstand that my woordes in mine Apology which he woulde seme to answer well here, wer these. Folio. 257.

But yet is thys pacifyer not so fauourable towards folke suspected of heresy, as to take away the power of the bishoppe for euery of arresting them, and to driue thozdinaries for euery to sue cytacions agaynst heretikes and pzoesse of excommunication, but will haue he sayth, the bishoppes power of arresting no lenger suspended, then as long as spirituall menne haue that greate desyre to canse men abiure or to haue them punished for heresy, as though he hadde well pzoued that they haue so, because he sayeth that some men say so.

But nowe yf some saye be no sufficient pzoofe, than is hys tale less. For the he sheweth no cause why that power of theyr should in any case be moze suspended now, then in any time here before. And on y tother side if some say be a god pzoofe,

Prose, then the suspending wil be as lōg as a deppnyng for ever, litch there shall neuer be any tyme in whiche there shall lacke one or other some saye to say moze then trowth. †

Lo god readers, here you see, that vnto the secound parte of these woordes of mine, he aunswereth nothing at al. And than haue you seene befoze that vnto the fyrst, his aunswer is so sieble, that it had been better for hym to haue done there with as he doeth with the tother, leaue it vnaunswered to.

But nowe goeth he ferther and saith.

Then saith maister More yet ferther, that which is a light suspicion and which is a heauy, and whiche witness be sufficient and which not, must be wayed by the spirituall Iudges, and vpon theyr waying of the matter for lyght or heauy, to folowe the arrest of the partie, or the leauing of the arrest. Now verely in this poynt me thinketh that maister More maketh a ryght good motion, that is to say, that the matter shoulde be examined befoze the arrest. For it hath been sayd in times past, that in suche case the arrest hath many tymes gone befoze the examinacion.ouer the es, vnder what maner the examinacion and the arreste shoulde be made in such case, I wil make no deuyse at this time. For happely maister More would anon fynde a defaulte at it, and therfoze I wil leaue it to them that haue authoritie, to treate ferther of it, and to deuyse how to auoide the mase that maister More spekerh of in his sayd xvi. Chapter.

Now god readers, this man maketh here, as though I had geuen hym in my woordes, some gret advantage to ground some great matter vpon. And therfoze I shall rehearse you what my woordes wer, that your selfe may see howe soze I ouersawe my selfe therein, and what he meaneth by y mase that he nameth here. These are loe my woordes in myne Apology. Folio. 257.

¶ Yet is he content at the last, lest euery man myght spey the perill of hys deuyce, to temper hys deuyce in suche wyse, that till the spiritualtie haue leste theyr cruell desyre of abiarpyng and punishing folke for heresy, they shoulde not be suffered to arrest folke for euery light suspicion, or euery complaint of heresy. Howbeit he graunteth, that where one is openly and notably suspected of heresy, and sufficient recorde and witnesse agaynst hym, and besydes all that, a

doubte that he woulde see, wherby he might infect other: than he graunterh it conuenient that he shoulde be arrested by the body. And therein he bringeth in the Clementine and the statute, by whiche the Ordinarres haue power to arreste folke for suspicion of heresy, and would as farre as I perceyue, haue the kynge resourne them after his deuise. But yet litch which is a light suspicio, and which is an heauy, and whiche is a lyght complaint, and whiche is an heauy, and whiche is an open suspicion, and which but a pryenye, and whiche suspicyon is notable, and whiche is not notable, and whiche witness be sufficient, and which be not sufficient, be thynges that must be wayed by the spirituall Iudges, and vpon theyr waying of the matter for lyght or heauy, maist foide the arrestyng of the partye or the leauyng of y arrest: we be come agayn as in a mase to the poynt where we beganue, that be the matter gret or small, lest al the while they be cruell, they shoulde iudge lyghte heauye, and small great, their arrestyng of any at al must be suspended fro them, and send them to sue by cytacion, til me see that same mynde of theirs of desyryng mennes abiuracion and punishment vterly chaunged and cease, that is to say, till ther be no man left that wil so much as say, that some men say that they haue left that mind yet, and make a ye again of them then, as those some haue doone that haue so sayde alreadye to hys John Some saye nowe. And long will it be I warrant you ere euer al such folk sayle.

And therfoze, litch in the meane season by this pacifyers god deuyse, hercykes maye goe vnarrested, I cannot beleue that if his way wer folowed, it woulde be any god meane to make that wilfull offenders in herelye shoulde not passe vnpunished, as false as bothe in the ende of this Chapter and the tother befoze also, he calleth vpon the kinges highnes and his counsaile, & his parliament, to loke vpon thys matter after hys god aduertisement, and neuer cease till they bring it to effect. †

Here you see, god readers, because this man with his deuices bringeth him self into a mase, out of whiche he cannot see howe to geatte, he would nowe sette other folk to study ther about. And wold make them very carefull, about atyng lyttle nedefull. For it hath well appeared, & wel ben proued to, that the spiritual iudges haue yet hitherto in arrestyng

For heresy, right wel examined and considered, fyfthe both the cause and the necessity, and haue been rather therin many tymes to flouwe, then anye time ouer hastye. And therfore I may and will say here agayn as I sayd there, that I little doubt, but that if the kinges hyghnesse doe as I doubt not but his highnes will doe, maynteyne and assyffe the spiritualltie in erecuting of the lawes, euē those that are already made agaynt heresies, and commaunde euerye tempoꝝ all offycer vnder hym to doe the same for hys part: though ther were neuer moe newe lawes made therfore, yet shall both innocētes be saued harmeles wel ynough, and offendours punished to.

To this cummeth furth this god man in thys wyse.

I now berelye to those wordes of maister More I dare say thus, that maister More oꝝ he hadde spoken tho wordes, hadde occasion by reasonable coniectures to haue douted more at the matter then he hath done, & to haue thought it very like, that if the same lawes should stande as doe nowe in euery poynnt concerning heresie, that manye innocētes that be not gyltie, myght vpon suspicion of heresy be dꝛeuē to pouрге themselves, after the will of the Ordinary, and yet be not gyltie. Yea and ouer that maister More might haue reasonably doubted, and as I suppose in conscience, be ought to haue douted more then he hath done, that sometye innocētes myght happen vpon the suite *Ex officio*, oꝝ vpon lyght complayntes by fauour of officers, oꝝ vpon malice oꝝ displeasure, be arrested before examynacion, and yet maister More hymselfe assenteth, that the examinacion should be before the arrest. And he myghte haue douted also, & some innocētes myght by such periured persones, as be aboue rehearsed in thys chapter be somtyme condēned. And therfore the sayde wordes of maister More, wherby he taketh vpon hym to say, as it wer in his own authoritie to perfourme it, that innocētes by thesame lawes as be already made for heresy, shall be saued harmeles well ynough, myghte happen to be of small effect to helpe an innocent man oꝝ woman that should happen to be wrongfully troubled in time to come against his wordes before rehearsed.

Now berelye to al these wordes of this god man, I dare say thus, that I when I wrote the words had and yet haue very god coniectures to put lytle doubt

therin. For though I myght thinke that this harm and this harm myght happen: yet sith I haue well seen it pꝛoued, that the spirituall iudges haue vled themselves in these matters, not only so truely, but ouer that also so fauourably, that no mā can pꝛoue in this realme such harmes to haue happed yet, but wheras such thynges haue been of late surmysed, & trouthe hath been well pꝛoued contrarye before the kynges honourable counsaill, I had and haue very good cause to thinke, that as they haue done well hitherto, so shall they well doe hereafter.

And sith all thys god mans grounde is no more, to take away well appꝛoued lawes with, but that harme may happen somtyme, to some god mā ther by, which reason he maye make agaynt the best law that all the world can make: I dare be bold to warraunt, that that cold reason so feruently set furth in such a weighty matter, is not well woꝝth a ryse.

And if menne would goe aboute to change these olde long pꝛoued lawes: I would as my duetie is, pray god geue the the grace to make the chauges good, but for that lytle wytt that I haue, I berelye belieue and thynke that if anye chauges bee made rather more slacke then streyghter: then shall the chauges be made rather farre worse then better. And thus ende I good readers thys good mannes. xvii. Chapter.

The. xvii. chapter.



Fol. xviii. Chapter beginneth. Folio. lxx. Wherin he beginneth first with the *Ca. in inquisitionis, negotium* Et li. vi. Wherby it appearcth, that all lordes & rulers tempoꝝal, be prohibited that they shall not in any maner take knowledge oꝝ iudge vpon heresy. And vpon this himselfe addeth vnto it in hys booke of diuinity, that he that inquireth of heresy, taketh knowledge of heresy, and that himselfe sayeth not so alone, but *Summa Rosella* sayth so to. And herupon he concludeth, that it should seme, that all the iustices of the peace be excommunicate, and all stewardes in letes, and al enquestes to, as many as meddle withall. For whether in letes they maye oꝝ not, & he saith he douteith, but he saith & I say they may but he telleth not where I saye so, noꝝ as I berelye thynke he neuer founde it in anye booke of myne. I say in myne Apologye. Folio. 227. that in euerye lette they

They doe so, whether they lawefullye so may doe or not, thereof speke I nothing, albeit I thinke they may well ynough, both without offence of the kinges law, or perill of cursing either.

For I little doubt, but that ther wer of the cleargye at the making of the statute moe men then one, that vnderstode *Summa Rosella*, as well as this god man doth if *Summa Rosella* wer then made and in mennes handes.

And I doubt not also as little, but y there wer at those dayes in the cleargye moe then one, that were of counsaile in the making of y statute, that vnderstode the Chapter *inquisitionis*, as well as thys man doeth, and as well as he that made *Summa Rosella* to. And that they wel vnderstode that the sayde Chapter meant of suche inquisitours, and suche inquisitiones, as they make that are in the corps of the law called *Inquisitores heretice prauinitis*, of which ther are in some places speciall officers to enquire, procede, and do therein as the ordinarie doe: and meant not of such inquirours and suche inquisitiones, as doe none otherwise enquire, but onely by waye of informacion to byng the matter to thordinaries knowledge.

For as for the minoure of thys good mannes argument, that he that enquireth of herselfe, taketh knowledge of herselfe, so doeth euery denouncer, euery accuser, and in a maner euery witness too, take vpon them knowledge of herselfe in some maner wyse: for they take vpon them as they well maye, that thys thing or that thyng is herselfe. But this is not the knowledge that the lawe hideth: but the knowledge that we call holding ple vpon it, which our inquisitiones doe not: but onely serue to bynge y matter to thordinaries handes, which els should peraduenture not haue heard thereof.

And for thys cause, to be sure that by these inquisitiones no man should fall in danger of any examinacion it was substantiallyl prouyded in the sayd statute, that the inquisition and thindightment of herselfe, should serue the Ordinary nothing to the proceeding in the matter: but that he should begynne hys processe against the partie a fresh, without laying that endightment vnto his charge.

And therfore wheras thys god man, by the high authoritie of *Summa Rosella* denoueth here all the iudices of peace accursed. I dare be bold by the hygh autoritie of *Summa Angelica* to denounce them al

alloyled agayne. And therfore, wheras this god man wenyng that he had well wonne his spures in this point tryumpheth vpon me and sayth.

And to thys lawe maister Poze aunswereth not, but passeth it ouer, as a thing y as it seemeth he little regardeth, but onely that he sayth that the lawes of thys realme, and of holy church in heresies may well stande together for ought that he seeth: And yet it appeareth, that by this law they doe not agree nor stand together. And therfore me thinketh it would be so lightly passed ouer as maister Poze doeth passe it ouer. For it is a dangerous thing to fall into y least censure of the church.

Ther wer two causes for which I answered him not, one a general cause, concerning all his matters of lawes of the church, wherein he fyndeth faultes, of which I shall speake afterwarde. Another speciall cause ther was concerning this excommunication. And that was that me thought and yet thynke, that he spake therein so childishly y I was ashamed on his behalf to meddle with it, & to make open his childish handling thereof.

But now sith I see hym counte for so great a conquest, that he put me to sylence therein, what purpose can he deuyse for which I should haue aunswered any thing to that poynt: had I made any profession to proue euery word wrong y he sayd in all his booke: he knoweth that I sayd not that I would meddle, but with those certayn thinges y I there speke of.

But nowe suppose that there were in that law such fault as he alledgeth what could mine aunswer amend the matter, or his booke of diuision either? If menne wer accursed as he mistaketh it, could my booke or his booke take away y curse? No, but we maye put the parliament in mynde to make a lawe. His booke alone is as hable to put them in remembrance thereof as hys & myne together. And yet for that poynt neither nedeth myne nor his neyther. For the parliament hath made already a lawe for these inquisitiones. Which if they myght lawefullye make in such forme as they haue (as I am sure they might) then am I sure that they fall not in excommunication for it. Howe if they myght not lawfully make it, and therby fell therein, what could the parliament farther adde vnto it, y might deliuer them of it? And therfore I can not in god sayth see to what purpose he wrote of that poynt himselfe.

No, but

A No, but this law is one great cause of diuision betwene the spiritualtie & the tempozaltie. That woulde I very sayne wit how. For tempozal men be not I wot well, so farre ouersene, as to be angrye with the spiritnall men here nowe, for y law that a Pope made at Rome ere they were bozne. And the spirituall men haue also as little cause agayn of any grudge agaynst the tempozaltie for the matter. And therfore why he should put it in his booke of diuision, for a cause of diuision, I can diuyle no reason. For as for that, that he would should seme a cause here, is to vnreasonable where he sayth.

B As long as that lawe standeth so vntrepelled, some pziestes that see it, will say, that they that doe agaynst it, be accursed: and so may lightly fall therby in to a wrongfull and vntreue iudgement, which though it be no great offence, vnlesse it be of pryde, by dyspyng of the tempozal power in that behalfe, yet it wold be eschewed. And also if they that be so noyled to bee accursed, heare of it, they will be discotented. And so grudges and variances may ryse and encrease by occasion of it.

C This is a very colde tale, and as dead as euer was doze nuple. For befoze hym self brought in this babling of hys own about that law, (whiche babling is yet) as I haue shewed you (to no purpose at all) I neuer heard anye man talke anye such word of that law in my dayes, nor in godd sayth no moze I wene dydde he neither.

For I dare saye he heareth no where yet any pziestes saye, that the iustices of the peace be accursed for enquirynge agaynst heresies, none I dare say but such pziestes as be heretikes. And therfore thys whole tale of hys, saue for the malice y it meaneth, is euen a very trifling.

D For as for the mocion that he maketh so often to haue y lawe repelled, because it is he sayeth, agaynst the lawes of the realme: except he mocke I wot nere what he meaneth. For if the realme here may repell it: then by y the lawe is here made to the contrary (if it were contrary as it is not) it is repelled alreadye. And if he think that the realme here cannot repell it, then wherto writeth he and pzynteth that piece in hys booke of diuision, as a thyng for which the tempozaltie and the spiritualtie of this realme should fall in variance for, where neither the making nor the repelling lyeth in neither nother of theyr handes.

But surely the repelling though it be the thing that is spoken of, is not yet the thing that is meant in this matter as it appeareth in these wordes.

E And therfore me thinketh it wold not be so lightly passed ouer as maister Doze doth passe it ouer. For it is a dangerous thyng to fall into y least censure of the churche. And if it be sayd, that the sayd lawe is voyde, because the churche had no authozitie to make it. And that it is therfore not to be feared. And I will yet say therto, that though it wer voyde, y yet as long as it standeth so not repelled, it were godd to eschewe it, and not to fall wilfully into the daunger of it: and therfore it wer better to repell it then to lette it stande still, and rather doe hurt then good.

F Here you maye see godd readers, that where as otherwyse to repelle that law then it is repelled, lyeth not in our handes if our law wer agaynst it, and wher. as of trouth it nedeth no repelling at al, but the law of the realme standeth therewith wel ynough, he maketh as though all the iustices of peace were accursed therby, as oftc as they geue the iuries in charge to enquire of heresy: therfore lest they shoulde wilfully falle into the censures of the churche, wher of as he sayth the least is a dangerous thyng, ye may playnely see that these wylye shrewes whiche abuse hys labour, meane in all this matter nothyng elles, but that they woulde not haue heresyes enquired of. And yet they nede not so greatly to care therfore, for any greate thynges that by such inquisitions are in heresies pzenfited. But yet thus declare they theyr godd willes these wylye shrewes that thus deceiue this godd symple soule, and set hym so euill a worke.

G If he feare so much the censures of the church as he maketh for, and vnderstand and belieue *Summa Rosella* so surely as he pretendeth: it had been better for hym to examine well his booke of diuision, and this his second booke also by the tytes of *Summa Rosella*, and see well whether hym selfe varye not from *Summa Rosella*, and be by the sentence of *Summa Rosella*, fallen in the censures of the churche hym selfe, by some such maner of wyptyng as his sayd booke haue.

But nowe cometh thys godd pacifyer furth with a goddly pice & to declare himself indifferent, & to shew also a great ouersight vled by my part: thus the godd man Some say sayth.

And