

Moyes, J[ames]. "Warham, An English Primate on the Eve of the Reformation." *The Dublin Review* 114 (April 1894): 390-419.

[Appended on 401-14 is a transcription of Warham's speech, written in the summer of 1532 and intended for delivery at his coming trial.]

ART. IX.—WARHAM, AN ENGLISH PRIMATE ON THE EVE OF THE REFORMATION.

THE subjoined document (for the indication and elucidation of which I am indebted to the Rev. F. A. Gasquet) is preserved in the Record Office, but has hitherto remained unpublished. Mr. Gairdner, in vol. v. p. 12 of the *Calendar of State Papers, Henry VIII.*, has given a summary of its contents. The interest which it possesses to all students of Reformation history, and the light which it throws upon the character of the writer, warrant the assumption that there may be many who would be glad to read it *in extenso*. The document is a draft of a defence drawn up by Archbishop Warham to meet an impending charge which under the Act of *Praemunire* was being prepared against him. From a reference within the document itself, it seems certain that it was written but a few months at most before the Archbishop's death.* It was probably amongst the last written acts of his episcopate. That the Archbishop was thus put in danger of his life in his old age, and in the eleventh hour of his day upon earth, is a fact which does not seem to be generally known, nor to have found any published record outside the summary in the volume of State Papers just referred to. Neither in standard historical works nor in the official sources of the time is any allusion to be found to it. But that the charge was in fact being actively prosecuted, and had already practically proceeded so far as the offer to provide counsel, and that the Archbishop on his side had anxiously prepared his defence, this document remains to testify. The silence of historians and the absence of contemporary mention find their most probable explanation in the fact that the prosecution cannot have gone beyond the preparative stage, when the death of the Archbishop put an end to the proceedings. Like Wolsey, he was fortunate enough to escape by passing to a higher tribunal.

* In paragraph 33. As Mr. Gairdner points out in his summary, 1164, the date of the constitutions of Clarendon, plus 400 = 1564. This—31 years = 1533—Warham died in August 1532, so that the 400-31st year had already begun in 1532.

II.

Why was the aged Primate thus threatened? Readers who are at all familiar with the history of the great crisis under Henry VIII. will have little difficulty in making a fair guess at the answer. From the year 1528 the king had for his objective the divorce and contingently the religious policy which was subsequently engrafted upon it. In all the consciousness of his strength, he proceeded, as we know, to work his will upon the nation. With Thomas Cromwell for his counsellor, his method of dealing with those who resisted, or who showed signs of resistance, was sufficiently simple. The formula might be stated as follows. First, propose to them the royal pleasure, and do what can be done to win them to compliance. Secondly, if they refuse, overawe them with the threats of the royal displeasure. *Ira principis mors est!* was often on the lips of the terrified courtiers. Thirdly, if they persist, enter against them a charge of high treason or breach of praemunire, going back, if need be, into the years of the past to find real or fictitious grounds for the indictment. Then, brought thus under the dark shadow of the scaffold, with the axe suspended over their necks, the recalcitrants will have leisure to consider in a clearer light the prudence of being of one mind with their sovereign. If they remain still unconvinced, the axe has only to fall, and the obstinate cease from troubling and the survivors are impressed.

The document we publish was written in the early part of 1532, when the royal reign of terror had already begun. When we hear of Archbishop Warham being threatened with a prosecution, we recognise that the policy of Cromwell is at work, and that the Primate is but one upon the long roll of its unhappy victims. Praemunire was the king's weapon, and this he was wielding all round to enforce compliance and to silence dissent. The English clergy in Convocation but a few months before had praemunire held over them until they had yielded up both their money and their grudging and guarded assent to the supreme headship. Wolsey had sickened with fear and died before the blow could reach him. The turn of More and Fisher and so many others was still to come. What in the midst of such a setting of events could a praemunire launched

against Warham mean, save that he, too, had entered upon the black list of the opposition, and that the moment had arrived when the king's interest required that his adhesion should be secured, if need be, by the same instrument. This explanation of the proceedings is borne out by the purely ostensible character of the grounds of the indictment. To bring the clergy under praemunire, the king had not hesitated to make use of the almost laughable charge that they had pleaded in the Legatine Court, which he himself had helped to establish. In the charge against Wolsey, the royal disregard of ordinary ideas of justice was if anything more splendid, for the Cardinal was indicted for accepting a post which the king himself some years before had procured for him. In the case of Archbishop Warham, the king had actually to go back no less than fourteen years—back to the quiet days of 1518—to rake up a supposed delinquency on which to base his breach of praemunire. In that year, Archbishop Warham had, it was contended, consecrated Henry Standish to the See of St. Asaph before the latter had shown the Papal Bulls of appointment to the king, taken his oath of fealty to the Crown, and had sued out his temporalities. Both the charge and the offence were entirely novel. From this circumstance as well as from the lapse of time during which it had been left unnoticed, it seems obvious that the prosecution was merely a means to an end, and that the king was seeking not a penalty for a crime, but a crime for a penalty. The name of the Primate of all England was evidently wanted as a patron and abettor of the king's policy, and the screw of praemunire was to be applied for obtaining it. The value of this document, given below, is that it bears witness to the fact that in the face of this *ominous threat the Archbishop seems to have well weighed the consequences and to have deliberately chosen his part.* The day of compromising and word-splitting was over. His resolution to stand at all hazards by his oath of obedience to Rome is to be found in paragraphs 19, 20, and 33.

III.

This consideration leads to another, which to Catholic readers may invest this document with a special importance.

The sixteenth century, which at its incoming found Eng-

land a Catholic country, left it at its outgoing anti-Papal and Protestant. This change, in its organic sense, may be said to have been practically effected inside the six years, 1528-1534. There is a theory which pretends to predate the Reformation, by assuming that the final separation of this country from Rome, under Henry VIII., was merely the culmination of a tide of anti-Papal feeling which had been steadily rising for centuries, and that the final severance was the natural outcome of a gradual alienation, by which for a lengthened period the nation had been drifting apart from the Apostolic See. Undoubtedly the separation found predisposing causes which prepared the way, in the sense at least of having weakened resistance to its advent, in the social, religious and national dislocation, due to the schism of the West, to the Black Death, and to the Wars of the Roses. No doubt, England had its share of that anti-clerical and anti-curial feeling which was seething through Europe of the early sixteenth century, and which, in fact, as far as human nature goes, is never altogether absent at any period of church history. But otherwise, the theory we have mentioned seems to have but slender foundation in historical evidence. Less than twenty years before the rupture—in 1518—the relations between the Holy See and England were just as close and as cordial as they ever had been, and in fact as they are between the Holy See and any Catholic country at the present time. The Crown was writing to the Pope in terms of respectful loyalty, and England was receiving her bishops by presentation in Consistory and by Papal provision just as Catholic Spain or Belgium are doing at the present day.* There is, therefore, some reason for applying, with certain modifications, to the Reformation in England, the description that Dr. Creighton, in his most recent volume of the "History of the Papacy," applies to the Reformation in Germany, namely, that the religious revolt "fell like a thunderbolt from a clear sky."

If this be true, the responsibility of the change is narrowed and fixed upon a given period and group of persons, and our interest naturally centres upon the conduct of the ecclesiastical authorities who were in charge when the crisis arose. That,

* See Appendix B, C.

apart from the time-spirit and the friction of old and new learning, the change was largely the result of coercion on one side, and of weak or unwilling compliance and compromise on the other, is the staple of history. That there was much confusion of mind and of self-illusion as to the gravity and the permanence of the issues, may be freely conjectured. But in gauging the nature of the change, and in placing the responsibility, we especially seek to know what was the action and attitude of him who, as Primate of All England, sat in the chair of St. Augustine, and wore upon his shoulders the Roman Pallium as the sworn defender of the See Apostolic in England.

IV.

When the Divorce Question had reached its acute stage, Warham was already an old man and full of years and infirmities. He had behind him the record of a long and honourable life, rich in manifold service to Church and State. He had been appointed to the See of London in 1502, and was, by Pope Julius II. in the following year, raised to the Archiepiscopal See of Canterbury. His primacy had been to a large extent overshadowed by the splendour of Wolsey's Legatine authority, which he seems, despite some friction about testamentary jurisdiction, to have gracefully and dutifully accepted. It allowed him to remain outside the main current of events, and left him free to follow the quiet routine of administrative duty which must have been more grateful to the peaceful and scholarly bent of his character. The whole tenor of his long episcopate was above reproach, and he commanded the respect and veneration of both the Court and the nation. His relations with the Holy See were both loyal and cordial. The letter which Convocation addressed to the Holy See in 1514, describes how earnestly the Archbishop pleaded the Papal cause, and how he had assured them that they could confer upon himself personally no greater favour than to grant all that the Pope had asked of them.* In 1527, the Duke of Bourbon had laid siege to Rome, and the position of the Sovereign Pontiff was one which demanded the succour of the Christian Powers. Catholic England was preparing to move in the matter, and Wolsey, writing to the

* Given in "An Account and Defence of the Protestation made by the Lower House of Convocation," by F. Atterbury.

king, describes the joy of Archbishop Warham when the Legate was able to confide to him the intention of his Majesty to prepare an expedition of relief to the Holy Father.

The burthen of the negotiations and intrigues of the divorce had fallen upon the shoulders of Wolsey, the Bishops of Worcester and Winchester, and others. To the Primate belonged the significant and honourable distinction of having been omitted from the list of active agents who could be trusted to handle and push this unsavoury part of the "king's business." But when the prospects of the royal cause began to darken, and the indications at Rome began to set in steadily in the direction of failure, the king, as we know, at Cromwell's suggestion, resolved upon a counterstroke, and planned an attempt to intimidate the Papacy into compliance with his wishes, by threatening to assume the chief control of the Church in England. To convince the Curia that the menace was intended to be something more than mere words, and to give an earnest that the king meant what he said, it was required that the threat should be put, at least partly, into execution. Whereupon it was felt to be necessary to wring from Convocation a recognition of the king as supreme head of the Church in England. Archbishop Warham was the natural chief of Convocation, and thus he, who had so long stood comparatively apart, found himself directly drawn into the midst of the struggle, and standing in the very forefront of the combat. It seems to us who see the issues more clearly in the light of results, that he had given to him in this the hour of his trial, a glorious opportunity of re-enacting the splendid traditions of his See, and of "speaking in the face of kings" in the voice in which St. Anselm and St. Thomas à Becket had spoken to the tyrants of their day.

V.

The Primate's action was on a lower and more commonplace level. It was no doubt the result of deliberate and conscientious calculation. He had to gauge the strength of the Crown with its servile Court and Commons arrayed against him. He had to reckon with the *morale* of the forces of the English Church in Convocation assembled behind him. He had to guard—and the peaceful and prudent bent of his character would probably do more than help him to guard—against the

danger of precipitating a disastrous conflict, or of unwisely exaggerating the issues at stake. He had to give due weight to the fact that both he and Convocation were evidently being asked to play a part in the construction of a diplomatic menace that might in all likelihood never be carried into effect, or pushed to its ulterior consequences. Many minds must have sagely measured the probable duration of the crisis by its cause, and have concluded that it was bound to dissolve in the very first hour of the king's disillusionment. In such a situation we can readily conceive how the average member of Convocation of that day would emphasise the necessity of acting according to the dictates of prudence as well as of principle ; how he would appreciate the wisdom of counting upon time, and the duty of staving off schism by exhausting the resources of *economia*, and by going to the uttermost lengths of legitimate concession. There is little to show that Warham with his bishops and his clergy in 1531 realised that they were actually standing at the parting of the ways, or that they recognised in the issue they had laid before them, one of those questions, *stantis vel cadentis ecclesie*, in which a Catholic must needs take his life in his hands, and answer Yes or No at peril of his soul's salvation. They could hardly be expected to foresee what was to happen three years later, and they were not improbably in the position of men who wished to get themselves as soon and as safely as they conscientiously could out of their difficulty, who hoped to do their duty whenever the occasion demanded it, but who felt that the hour of actual test was not yet come. Consequently we miss from Warham's hands the historic weapons of excommunication, interdict, and exile, with which St. Anselm, St. Thomas and St. Edmund baffled the oppressors of their day, and with which they had fought so well the battle of the Church in England. But that the Archbishop had these sacred examples present to his mind, that he treasured and revered them, and that he was firmly resolved, God helping him, when the day of trial should arrive to be inviolably true to them, is recorded with all possible plainness in the document which we now put before our readers.

VI.

In the meantime, the Archbishop and Convocation on one

side, and the king and Cromwell on the other, measured their strength in a fierce fence of words and of formulæ. This battle of Church and State was fought decisively upon two dates—Thursday, February 11, 1531, and Thursday, May 16, 1532—two Thursdays that must remain for ever sadly memorable in the history of the Church in England.

On both of these occasions Archbishop Warham was, if we may use the figure, in command of the Church's forces. On the first, was made that guarded and qualified recognition which was afterwards, in the wily hands of the king, unscrupulously changed into an open and almost unqualified recognition of the king as supreme head of the Church in England. On the second, Convocation practically signed away its independence, or at least consented to put its liberties in abeyance, and pledged itself to make no new canons except by the assent of the Crown. It would be useless to pretend that these two black Thursdays did not carry the English Church fatally far on the path which eventually led to complete separation from Rome. Nor can we acquit the aged Primate nor those who acted with him of their share in the responsibility of their acts. They bequeath to us the lesson that prudential compromises made upon the shifting groundwork of equivocal terms and meaningless provisoes can lead to nothing but irreparable mischief. At the same time, simple justice to the Archbishop demands that he shall be judged according to his lights and intentions. That the separation of this country from the communion of the Apostolic See flowed from or followed upon these acts of Convocation over which he presided, can hardly be questioned. That result is clear to us in the past, as it could hardly have been to him while it was yet in the future. If he foresaw and intended it, he would be undoubtedly schismatical. But if he neither foresaw nor intended what was to happen some years later, we, from our point of vantage, may marvel at his want of foresight, and mourn his lack of judgment, but we cannot impugn his Catholicity nor can we put him into the dock with Cranmer. This distinction rests upon a basis, not of mere charitable conjecture, but of solid historical fact. The whole movement of the English Reformation, both as initiated by Henry VIII. and moulded by later sovereigns, took for its ground and fundamental idea the forma-

tion of a purely national church, and the uniting of the two powers, spiritual and temporal, in the supremacy of the Crown. As Henry VIII. and Cromwell and Cranmer understood it, the English Church was to have for its jurisdictional axis the king instead of the Pope. Now this Anglican confusion of the two powers, which ought each to be distinct and supreme in its own order, and the consequent schismatical casting off of the Pope, was no part whatever of the belief or intention of Archbishop Warham any more than it is that of Cardinal Vaughan at the present day.* The document we publish (and which, as written just before his death, we may accept as his final and decisive doctrinal utterance), proves clearly that he not only disbelieved in, but that he utterly abhorred this placing of the spiritual and temporal supremacy in the royal hand. It also bears witness that far from rejecting the authority of the Pope, he was prepared, if need be, to suffer the penalties of *praemunire*—forfeiture and death—rather than swerve for an instant from his allegiance to the Holy See, as set forth in all its fulness and clearness in his oath of consecration.†

VI.

If this was the mind and attitude of Warham, who presided over Convocation, may we not safely assume that it was shared by the bulk of those who, in 1531-2, stood shoulder to shoulder with him.

This assumption is borne out by the proceedings of the synod which, on both the occasions referred to, bear upon their face the evidences of a keen and prolonged struggle; the king and his party on one side seeking to impose, under threat of *praemunire*, a formula which was pregnant with the Anglican principle of the union of the two powers, and the bishops and clergy on the other parrying the thrust, and seeking by every device to safeguard the opposite principle of the radical independence of spiritual jurisdiction. The friction of the two principles is shown in the duration of the debates (7th, 8th, 9th, 10th, 11th February; 12th, 29th April; 13th, 14th, 15th, 16th May, 1532), and by the lengthy negotiations, and by the repeated and significant modifications made in the test formulae.

* See paragraphs 10, 11, 12 of document.

† See paragraphs 29 and 32 of document.

This will be shown more clearly if we put some of the latter side by side.

THE KING PROPOSES.

1. The formula—
The English Church and clergy, of whom he [the king] alone is the protector and supreme head.

2. The formula—
The English Church and clergy, of whom he [the king] alone, *after God*, is the protector and supreme head.

3. The formula—
The English Church and clergy, of whom we recognise his Majesty to be the singular protector and supreme lord, and even, *in so far as the law of Christ permits*, supreme head.

4. The formula—
Our most invincible king has provided that we may be able in quietness and peaceful security to minister to God and to duly serve in the *care of souls committed to his Majesty* and to the people committed to him. (Ut in quiete et securâ pace Deo ministrare, et *curae animarum eius Maiestati commissae* et populo sibi commissio debite inservire possimus.)

[N.B.—Here the actual care of souls is directly ascribed to the king.]

THE CLERGY.

1. Reject it absolutely.

2. Remain firm and reject it absolutely.

3. Accept it, first of all in silence, and finally ratify it in form.*

4. The clergy dexterously turn the phrase so as to reserve the care of souls to their own keeping, and thus keep the spiritual and temporal charge distinct. They amend the formula, and make it read:

Our most invincible king has provided that we may be able in quietness and peaceful security to minister to God and to duly serve in the care of the souls *of the people committed to his Majesty*. (Ut in quiete securaque pace Deo ministrare, et *curae animarum populi eius Maiestati commissi* debite inservire possimus.)

[N.B.—Equivalent to saying: His Majesty has committed to him the people, but we have the care of their souls.]

In like manner, during April and May, 1532, the proposals of the king for the muzzling of Convocation and repealing of former canons were firmly rejected. It was again Warham who secured from the king the modification

* When Archbishop Warham, after three days' debate, on Thursday morning, February 11, brought down this formula and read it to Convocation, the clergy received it in sullen silence. "Whoever is silent gives consent," said the Archbishop. Some one answered, "Then we are all silent;" and so the formula was accepted (Wilkins, iii. 725). The king was dissatisfied with this silent vote, and in the evening session it was more formally ratified.

of his demands, which in its final form was adopted as a compromise on May 16. It was Warham's last act in Convocation. He died in the August following.

VII.

It is surely difficult to study these negotiations without feeling that the clergy, far from affirming spontaneously their belief in the union of the ecclesiastical and temporal supremacy in the king, were fighting hard, at the peril of their lives, to exclude it. That neither they, nor, for that matter, even the king himself, considered that the formula passed with such provisoes could be decisive and tantamount to a rejection of the authority of the Pope, is shown, first, by the king's own assurance to the Nuncio and to the Convocation of York; secondly, by the official Protests of Archbishops Warham and of Cuthbert Tunstal, bishop of Durham, declaring that they meant thereby nothing "to the derogation of the Roman Pontiff, or to the injury or prejudice of the Apostolic See;" and thirdly, by the fact that for some time afterwards English Archbishops continued to be presented as usual in the Roman Consistory and appointed by Bulls of Provision from the Pope.

To this protestation, which the Primate made to clear himself before all posterity of schismatical or anti-Papal revolt, the document we publish comes as an interesting supplement and a forcible confirmation. We may deplore the false steps which Convocation under his guidance took in conciliating the wilful monarch—steps which were made the starting-point for a much wider departure—but, with this document before us, we may, in fairness, acquit both the Archbishop and his Convocation of beliefs and intentions which were consciously anti-Roman or anti-Catholic.

Finally, the document furnishes us, in paragraphs 10, 11, 12, and 16, with a remarkably clear affirmation of the Catholic doctrine, that the spiritual jurisdiction of the English Sees was derived from the Pope; that a See ceased to be void from the moment the bishop-elect was "pronounced in the Pope's Consistory," and that such appointment carried with it all powers of jurisdiction, while episcopal consecration conferred only powers of order.

WARHAM'S DEFENCE.

(*State Papers*, Henry VIII., v. 245).

(1)* nother in dede I entende to say or doo anything or discontent the King's highnes, for I have found his grace very gratiouse and favorable to my Churche and me. But I entende only to doo and say that thing that I am bounde to doo by the lawes of God and Holy Churche and by myn ordre and by myn othe that I made at the tyme of my profession. Agenst any of the which I am sur that his grace wel informed wil not advise me, will me or commande me anything to doo or say. And al and every of the premisses saved, I shal be as glad as the lowest and poverest subjecte in his reame to doo anything that his grace wold commande me.

(2) As toching this matier of Praemunire which dependeth only upon this that I according to the Pope's Holiness' bulls directed to me as to a Catholique busshop, and according to the prerogative of my churche of Cantorbery belonging to me as to metropolitan consecrated to the busshop of Sancte Assaph, before he had exhibited his bulls the King's grace, and doon his homage and made his othe of fidelite and sued oute his temporalities as it is sayde and surmised. For it is thought I shuld not consecrate any busshop tel after he had exhibited his bulles to the King's grace and had doon his homage and made his othe of fidelite to the same; and had sued out as agreed with his grace for the temporalities and also that I shold not give to a busshoppe his spiritualities until he wer agreed with the King's hyhness for the temporalities of his bushopprick.

(3) To this, I say that by the law, a thing doon between other persons can not be preiudicial to the therde person which is not bounde to the knowledge thereof. But Archebusshoppes of Cantorbury be not bounde to know whether suche persons to be consecrated busshoppes have exhibited their bulles to the King's grace or have doon their homage and given their othe of fidelite or have sued out their temporalities or not. Wherefore I say that whether he that is to be consecrated busshoppe doo exhibit his bulles to the Kings grace, dooing his homage and feautie or sue his temporalities before his consecration or no, his negligence or oversight therein can not of right be imputed or to be preiudicial to tharchbusshop that doth consecrate hym.

(4) And that th Archbusshoppes of Cantrebury be not bounde to know whether suche as be to be consecrated busshoppes by him have exhibited their bulles to the Kings highness dooing their homage and fidelite or have sued out their temporalities or no it may right well apper if the maner and forme used and accustomed in consecrations heretofor be called to remembrance. In the which it hath never be used that th' archbyssshop shuld examyn that shuld be consecrated whether he had exhibited his bulles to the Kings grace, and had doon his homage and made his othe of fidelite and had sued out his

* I have numbered the paragraphs for purpose of reference.

temporalities or not. For if th arche to intromitte with that acte that the which examination he that shold consecrate answer he wold. For if he intended to doo th Archbusshopp any displeasur to put hym to besoyness, he might say that he had exhibited his bulles to the King's grace, and doon his homage and given his othe of fidelite and sued out his temporalities, wher he had not so doon. Whereby the Archbusshop might be put to like besoyness as I am nowe.

(5) And, that no suche question hath be asked or demaunded of busshoppes that have be consecrated in tymes passed at the tyme of their consecration by th' archbusshop. I referre me to my brethren, the busshoppes of my province of Cantrebery, which (if they be so required) can showe whether any suche question was made to any of themme at the tyme of their consecration.

(6) And, if th archbusshoppes shuld be bounde not to consecrate any busshoppe until they had sent to the Kings grace and knewe whether the person to be consecrated busshop had exhibited his bulles to his highness, doon his homage, and given his othe of fidelite, and sued out his temporalities of his grace or no, that were a grete bondage to Archebusshoppes that they shuld at their propre costs for an other mannes besoynes send from one ende of this reame to thother as peradventure from Cantrebery to Berwik or percase some tyme out of the reame where it shuld fortune the Kings grace then to be, to knowe whether the busshop to be consecrated had exhibited his bulles to the King's grace, had doon his homage, had given his othe of fidelite, and had sued out the restitution of his temporalities or not.

(7) And, also many busshoppes have be consecrated before they have sued their temporalities, as it may appere by matier of Records. The tyme of their consecration by the act of my Registre and the tyme of suying out of their temporalities by the Records of the Kyngs Chancellery duly seene and accompted and also as it appereth in the lives of Archebusshoppes of Canterbury for CC yeres passed as Thomas Bradwarden, Archbusshop of Cantrebery and William Wittelsey and others were first consecrated and long tyme after sued to the King for their temporalities as it appereth in the history of their lives.

And, so it hath contynued until this tyme withoute any trouble of any Archebusshop or interruption of suche consecrations to be at their libertie.

(7) And, if the archebusshoppes of Cantrebery have be bounden in tymes past to sue to the Kings grace to knowe whether the busshop s bulles to his Highness and had doon his homage. and had sued out his temporalities or no. I s requisite it wole appere by som records or actes that th Archebusshoppes had made such sute to the Kings grace and that som certificate had be made from the King's grace or his officers at his commandment to the archebusshoppe befor this tyme in that behalve.

And, wher it can not apper by any records or acte that any suetes or certificates have been be made hertofoer in this case, it appereth evidently that th archebusshoppes be not bounde to knowe whether suche as be to be consecrated busshoppes have exhibited their bulles to the Kings grace and doon their homage, and geven their othe of fidelite, and sued out their temporalities or not.

(8) And, if it wer requisite that busshoppes to be consecrated shuld firste exhibit their bulles to the King's grace, doo their homage, and give their othe of fidelite, to the same, and sue out the restitution of their temporalties befor their consecrations: It is to be thought that some wise and wel learned men that have be promoted to busshopriches within this reame in tymes past aswel by the Kings grace's dayes now, as by his most noble progenitours, wold not have be noted nor seem so negligent or so greatly oversaeme as to have omitted their dutie towarde their prince in that behalve considering that therby they mought fall not only into gret damage and daynger but also into gret displeasur of their princes with whome they wer befor in singular favour and also mought hurt tharchebusshop that dyd consecrate them. Which it is to be thought by liklyhode they wold be lothe to doo, considering the labours and peynes that he susteyneth by reason of their consecration.

(9) And, if this thing had be so requisite as it is surmised, it is thought that suche singular wise princes as have be in tymes past, which had as diligent an eye to the observance of the lawes and custumes of this their Reame wold have caused this thing to have be very diligently looked to by their officers, and the same to have be strictly observed, and the omitters and brekers theorof to be extremely punished. But it hath not be herd nor seen at any tyme that any Archebusshop or busshop in tymes past hath be put to any trouble or besoynes for any suche cause.

(10) Item, Almighty God hath ordeyned in a powers, one spiritual and thother tem have theyme occupieth them dist u (r)esist or interrupt any of the said powers as contrarie to th ordinance of God. Wherfor as the Kings grace hath the temporal power to graunte and to deliver oute of his custody the temporalties of busshopriches at his pleasur, so in likewise the Archebusshop of Cantrebury for the tyme being having the spiritual jurisdiction of al busshopriches within his province of Cantrebury whyle they be voyde in the right of his Church, may at his libertie graunte to him that is lawfully promoted at Rome in the Pope's Consistorie a bisshop of any see being voyde the spiritualties of the same busshopriche.

(11) And, if th Archbusshop of Cantrebury shuld not give the spiritualties to hym so promoted a busshop, til the king's grace had had graunted and delivered to him his temporalties then the spiritual power of the archbusshoppes shuld hang and depende of the temporal power of the prince, and so shuld be of little or none effecte whiche is against al lawe. And so there shuld not be II distincte powers

according to Allmighty Goddes ordinance. For if the archebusshop shuld not give any benefice til the Kings grace shuld give his consent to him that shuld have it, it were in maner as good not to have the gifte of such benefices which he moughte not give but at another manny's pleasur. And so it were in a maner as good to have no spiritualties as to have such spiritualties as he myght not give but at the princes pleasur.

(12) Also, if the Archebusshop of Cantrebury after that an electe is provided a busshop at Rome in the consistorie and after the presenting of the Popes bulles to hym by the which he is ascertayned that he is a busshop, shuld kepe the spiritualties in his handes til the King's grace had delivered to the said busshop his temporalties, in that case the archebusshop shuld doo to hym that is provided busshop grete injury and wrong, keping from hym his spiritualties, withoute any reasonable cause. For tharchebusshop hath the exercise of the spiritualties no longer than the busshopriche is voyde. And when any electe is provided a busshop of any see being voyde by the Popes Holiness in his consistorie, and when that appereth to tharchebusshop then the see is no lenger voyde, and then no lenger can th archbusshop kepe the spiritualties in his handes except he wol doo the busshop wrong.

(13) Item, if th Archebusshop of Cantrebury shuld not graunte the spiritualties til the Kings grace had graunted the temporalties suche Kings have be in tymes past and may be herafter, which have kept and indede will kepe the temporalties of the busshopriches in their hands many yers as King Henry Kinges have doon. And so he that were elected at Rome shuld in this case have nother the temp busshopriche nother the spiritualties and so shuld he be inforced to goo a begging, which were no smal inconvenience.

(14) And in this behalve I speke against myne owne profite and against the profite of my sucessours. For the lengyr the spiritualties shuld be in myne or their hands, the mor shuld be myne or there profite. And so if I shuld not graunte the spiritualties til the Kings grace had graunted the temporalties. If his grace shuld kepe the temporalties an hole yer or II in his hands, it shuld be to my grete profite, if I shuld kepe for al that tyme the spiritualties in myne handes which were not to be refused if I mought have them so with good conscience, but better it wer for me and my sucessours to lacke suche a profeitt, to doo an otherman injury and wrong.

(15) Item, it standeth not with good lawe or reason that a man shuld be punisshed for a dede by the which no man hath damage or wrong. But by the consecration of a busshop befor he hath exhibited his bulles and doon his homage and given his othe of fidelite to the Kings grace, and befor he hath sued oute his temporalties the Kings grace can have no loss ne damage, for his highness may at his libertie (notwithstanding the consecration) kepe in his hands the temporalties stil and take the profecte of theym until that the busshop consecrated hath doon his homage and given his othe of fidelite, and hath agreed w^t his highness for the restitution of the same temporalties as his

grace in such cases useth to doo. And the said busshop is no lorde of the Parliament until he have doon his homage and hath given his othe of fidelite and hath sued out his temporalities for th acte of consecration giveth to hym no place in the Kings Parliament. Wherfor seeing that the Kings grace hath no loss ne damage by th acte of consecration methinketh ther shuld no punishment therupon sue. And diverse Archebusshoppes and busshoppes have be in England which have had only ther spiritual jurisdiction and have lived therupon, and have not had a long tyme after ther temporalities as Bisshop Pekam and others.

(16) And as toching hym that is consecrated: he is made no busshop by his consecration, as paradventur some men thinketh, but he is made and provided a busshop at Rome in the Popes consistorie, and hath befor his consecration, al things apperteyning to spiritual jurisdiction as a busshop and by his consecration he hath no jurisdiction given to hym, but only suche thynges as be apperteyning to his order. Which be mer spiritual as consecrating of children, giving of or . . .
 consecrating holy oils, blessing the . . .
 the which the Kings grace taketh any
 wrong with Kings or princes pleasures to differr consecrations of busshoppes til they had graunted to theyme ther temporalities which befor they wold doo, peradventur shuld be long or never at their pleasir it mought folowe that the Church shuld have no busshoppes and consequently no prests by theme, and so al the sacraments of holy Church moughte cease at princes pleasure, ffor albeit that we have nowe a very graciose and noble prince, God knoweth what Prince may be in England hereafter, which percase mought make grete decay in holy Church and in the religion of Christe, if busshoppes shuld not be consecrated, but only at princes pleasirs by the pretence that they have given temporalities to the Church.

(17) Farthermor, if it wer reason that busshoppes shuld not be consecrated til they had sued oute their temporalities which Princes have given to their myters, by like reason, the Pope should not be consecrated or crowned til he had sued out his temporalities of the Emperor which Constantine, somtyme Emperor gave to the See of Rome; and so ther shuld be no Pope but at th' emperours pleasure, and til he had graunted to hym hys temporalities.

(18) Item, if ther wer no lawe, it standeth best with good reason that every spiritual man that shuld exercise a spiritual roome shuld devour hym selve fyrst to obteyne al suche things as be requisite to his spiritual besoyness and after to obteyne such things as apperteyneth to his temporal besoyness and not temporal things first, and afterwards spiritual things perverting good ordre which is against reason, wherfore if ther wer no lawes, it standeth with reason that a busshop shuld be consecrated firste and after to sue for his temporalities. And if ther wer a lawe to the contrarie it were not a reasonable lawe to make a spiritual man first to sue for his temporalities and after for his consecration.

(19) Item, it wer according that a spiritual man shuld first give his
 [No. 10 of Fourth Series.] 2 D

othe of obedience to the spiritual hed which is the Pope. Which is not used to be doon but at the tyme of the busshoppes consecration: and that doon, then to doo his temporal duetie and fidelite to his temporal Prince and not to preferr the temporal Prince to the Pope in a spiritual matter.

. busshop of Assaph and nothing but that I was maundement in the vertue of the othe of myne obedience of the whiche thes be the words "*mandata aplica totis viribus observabo et ab aliis faciam observari.*" And in so doing, I was but the Pope's commissarie. And the consecrating of the said busshop is principally the Popes dede which commanded it to be doon. Wherfor I thinke it not reasonable that I shuld fall into a premunire for doing of that thing; whereby (if I had doon the contrary) I shuld have fallen into perjury.

(20) And it seemeth not to be a reasonable ordinance by the whiche a man dooing according to his othe of obedience to the Pope, head of al Xren men, shuld fall into any penaltie. For a spiritual man which hath sworne obedience to the Pope, is more bounde to execute his commandement, namely in a spiritual cause, as the consecration of a busshop is, than to forbear it and deferr it for any temporal law made to the contrary. And wher in this case, not dooing the Pope's commandement, I shuld fall into perjury and dooing his commandement I shuld fall into a premunire, as is supposed, if a man coulde not chose but to fall into one of the said dayngers of perjury or premunire *melius est incidere in manus hominum quam derelinquere legem Dei.*

(21) Now al and euery of the forsaid reasons depely considered. Seeing that another mannys negligence or omission ought not to be prejudicial to me, ne yet bynde me to any inconvenience.

And seeing that the archebusshoppes of Cantrebury from tyme oute of mind have be in possession of the right to consecrate at ther libertie busshoppes of their province withoute any interruption or impediment or any question made to the contrary hertofor.

And seeing that I have only used my spiritual power in this behalve, toching the spiritualties, as the Kings grace doth use his temporal pover concernyng the temporalties.

And considering that I have the exercise of the spiritualties no longer than the busshopriche is voyde, and that I shuld doo to the busshop promoted at Rome enjury, and so knowen injury, if I shuld deferr the consecration and kepe from hym his spiritualties any lengyr. And considering that it moughte be a grete decaye in Christ's faith hereafter, if consecrating of busshoppes and so consequently al sacraments of the Churche shuld depend upon princes pleasures. Which peradventur hereafter moughte be suche as shuld not be so good and so graciouse as the Kings grace is nowe.

Considering also that it wer to my grete profecte to diferr consecration a long season. And to withold the spiritualties, which profecte I were not wise to refuse if I mought take the same with good conscience.

And seeing that it is no reason that a man shuld be punisshed for

doeing of a good dede by the whiche no man is damaged or wronged as I have showed that the Kings highness hath no maner of damage or wrong by the consecration of the busshop of Sancte Assaph, which is made no lorde of the Kings Parliament, and bath no place given to hym ther by thacte of his consecration, and a good spiritual acte (as a consecration is) can not derogate the Kings grace's crown or regalitie.

And considering that it is convenient for a spiritual man fyrst to obteyn al thinges apperteyning to his spiritual bysoyness, and afterwards suche things as apperteyneth to his temporal besoyness and also to give his othe to his spiritual hed, the Pope, which othe is given at his consecration, befor he make his othe to his temporal hed which is the Kings highness.

And finally considering that I have doon none other thing but that I was bounde to doo at the Pope's commaundement to whome I am sworne to execute his commaundement a
 . . . good or godly disposed man that wol judg
 in this case than is beseeching for me to doo but according to the lawes of the Church and myne othe.

(22) Item, this case that we be in nowe, was one of tharticles that King Henry the seconde wold have had Sancte Thomas and other busshoppes to consent unto, and to confirme by ther writing and seales at Claringdon which they denyed. And this article was one of the causes of the exile of Sancte Thomas and finally of his deth and marterdom. And wher Sancte Thomas is canonised for a sancte and so is takyn over al for speking and laboring and taking his deth to fordoe and destroy the said Article and others which were conceived and writen at claringdon, it is to be thought that who so ever labour to the contrarie that Saint Thomas dyed for shal sor displease God and the said sainte and grevously offende his conscience.

The words of the said article toching the matier that we be in nowe followeth *Cum vacaverit Archiepiscopatus vel Episcopatus vel abbatia vel prioratus de dominio Regis, debet esse in manu eius et inde percipiet omnes redditus et exitus sicut dominicos et faciet clectus homagium et fidelitatem Dno Regi sicut ligeo Dno suo de vita et membris et de honore suo terreno, (salvo ordine suo) prius quam sit consecratus.** The which Article amongst others was damned by the Church of Rome. Alexander the thirde then being Pope, as it appereth by the life of Sancte Thomas in the xxiv lefe of the seconde colum. The words followeth *Dominus Papa, lectis et relectis, et diligenter et attente auditis et cognitis singulis consuetudinibus Chirographi eas in audientia omnium reprobavit et ab ecclesia imposterum damnandas censuit.†* Of the which Articles and custumes this was one. And by Sancte Thomas they that observed the said Article, and other put in writing at Claringdon, and they

* An abridgement of 12th Constitution of Clarendon. Wilkins, i. 436.
 † See "Vita S. Thomae auctore Herberto de Boseham," l. iv. c. 10. Vol. ii. p. 341. Roll Series.

that exacted counseled or defended the said Articles by the Church of Rome and hym damned he denounced accursed as it appereth in his life where it thus written *Scriptum illud in quo continentur non consuetudines sed pravitates quibus perturbatur et confunditur ad praesens ecclesia Anglicana et ipsius scripti auctoritatem, invocata Sti. Spiritus gratia publice condemnavimus et universos auctores, observatores, exactores, consiliarios, auditores seu defensores eorumdem excommunicamus.**

And besides the premisses, King Henry the Seconde which put Sancte Thomas to al this trouble for the said Article and other conceived and written at Claringdon which wer the cause of Sancte Thomas martirdom swor solemnly befor certayne legates sent from the Pope that he wold fulfill al suche penaunce as they wold enjoyne him for dethe of Sancte Thomas. And they enjoyed to fordoo and leve up the Statutes of Claryngdon and al other evil customes against the liberties of holy Church. To the which, according to his othe, the said King dyd assent as it appereth by Sancte Thomas life wher be this wordes *Juravit Rex quod quicquidque in poenitentia ei Cardinales iniungerent vel satisfactionem plenarie exequeret: qui Cardinales iniunxerunt quod prava statuta de Clarendon et omnes malas consuetudines quae in diebus suis in detrimentum ecclesiae Dei adductae sunt, penitus dimitteret. Ad quae omnia rex secundum suum jusjurandum assensum praebuit.*

(23) ng at the tumber of Sancte Thomas renounced the same Claringdon as il and injuste as it appereth in the life of Sainct Thomas fol. xlvi. iiiith colomne. *Consuetudines etiam illas quae inter martirem et ipsum Regem totius fuerunt dissensionis materia Rex tanquam vere poenitens pro martiris devotione et per martiris virtutem abdicavit malas et iniquas,† &c., of the which abdication and renuntiation Herbertus writeth ‡ in this considering that the church of Rome and Sancte Thomas damned this article and others. Which is the case nowe of the whiche the words be rehersed afore and be thus. *Electus homagium et fidelitatem Dno Regi sicut Dno ligeo suo de vita sua et membris et de honore suo terreno, salvo ordine suo, praestet priusquam sit consecratus.* And considering that Sancte Thomas of Cantrebury excommunicated them that observed the said Articles so damned as is afore rehersed, and rather than he wold consent to ratifie them with*

* Taken from "Epistolae S. Thomae," 73, p. 162. Giles.

† See "Excerpta ex Herberti libro Melorum," p. 546, vol. ii. Materials for life of Archbishop Thomas Becket. Roll Series.

‡ *Rex huic de quo nunc agitur praesenti chirographo decreti renunciavit renuit et vim eius omnem et auctoritatem explosit.* And further writeth the said Herbertus touching the said customes put in writing at Claredon as followeth. *Si sancti illius Cyrographi consuetudines aliquae manent et tanquam de stirpe noxia de nocivis amputatis, non nulla quasi spuria vitulamina mala excrecant, adhuc sperandum ad Archipraesulum martiris successorum instantium per regum clementiam quon crebro et devote martiris et martiris cause exteterint memores imperfectum supplebitur et plene a facie Dei computrescet servitutis ecclesiastica jugum, aut si non habebitur, Altissimo disponente, sit martiris successores Archipraesules hiis diebus carnis suae excrendae probandaeque virtutis materia.*

his writing and seale, went into exile and after suffered deth. And considering that the King then for the tyme being, which stickked so sor for these Articles at the last lefte up and abdicated them as ill and injuste. I see not why that I shuld fall into any penaltie of premunire consecrating a busshop and graunting to hym his spiritualties befor he had doon his homage, given his othe of fidelitie, and sued out his temporalties of the King's grace's custody

(24) Item, if it be objected that the consecration of this busshop is prejudicial to the King's grace's crown and to his regalitie. As to this I say that I would be as lothe as anyman living to doo anything oneselme or suffer anything to be doon by any other that I might withstand which shuld be prejudicial to his graces crown, and his regalite as I am so bounde and with the gladder mynde by as much as I (albeit per case unworthy) by the grace and suffraunce of God, firste enunacted his Highness King, and after put the crowne of Englande on his graces hed at the time of his coronation. And for the grete goodness and nobleness that I have seen in his higness for the time of al his reigne I wold be glad and gretely rejoyce to put III crownes mo upon his graces head if it lay in my power so to doo, rather than to doo anything prejudicial to the leste part of his graces crowne or regalite. And I trust that the Crowne of England was never so weke, that any prejudice, damage or diminution mought be doon to it by the consecration of a busshop whatsoever tyme it wer doon. Considering it is a good and spiritual acte and that by a good and a spiritual acte can growe none yll to the Crowne when so ever it be doon. And if such things doon against the kings lawes as be yll, as killing of a man in the Kings presence (which God forbede) doo no prejudice to the Kings graces crowne or yet diminissheth any parte of his regalite much more thact of consecration of a busshop (which is a good dede) can do no such hurt.

(25) It is to be thought that the Kings gra
 . . . and surly when his grace suffereth the
 according to the graunts of noble princes Kings of
 England and other which reigned nobly and
 died vertuously and according to Magna Carta, which sayeth *Habeat
 Ecclesia Anglicana libertates suas illaesas*, the brekers of the which
 charter wer solemely accursed at Paules Crosse by the mooste parte
 of the busshoppes of England for that tyme beeing and the same
 curse confirmed by Pope Innocent the IIIIth. But ecclesia Angli-
 cana non habet libertates suas illaesas when the Church hath not his
 libertie to consecrate busshoppes but at Princes pleasures, for in case
 it shuld not please princes to have any busshoppes consecrated so
 the Church should cease.

(26) And for Goddes sake, lett not men only looke upon other
 princes acts made against the Church and the liberties of the same, not
 discernyng whether they be good or ill, but let men looke substantially
 upon theeffecte of theme and also consider what yll fortune or punish-
 ment of God hath fallen upon such princes in whose dayes and by
 whose auctorite such acts (as the case which is layde to my charge)
 is one and other, were made to the derogation of the lawes and

liberties of the Church. Of the which princes King Henry the Seconde which was begynner of this case that we be in nowe, and o many other in Sancte Thomas dayes not long befor his deth by expresse words forsake God, and after his deth was so nygh spoiled by them that were about him, that he lay al nakyd until a servaunte having piete and shame to see his maister which was so grete a mar of the world, so to lye, cast his cote upon him to cover and hyde his secrete parts.

(27) Edward the thirde also following his predecessoures steppes in this behalve, in his last dayes, his subgiets rebelling ayenst him, and notwithstanding his grete conquestes and his grete triumphs, finally dyed in povertie, and hate of his nobles and subjects.

Also Richard the seconde maker and confirmer of suche actes as be afor rehersed at thende of his reigne renuned the right of the Crown confessing him selve not to be able and sufficient to occupie the same and after was in prison in the Castel of Pomfrete ther murdered or meserably famished.

And Henry the IIIIth being of the numbere of princes aforesaid was stryken with so grete and so fowle a leprosy and so evil favoured by reason of hys disease, that suche as he loved best and had doon most for, abhorred him so sor that they wold not com nygh to hym, and so he mor miserably died than is to be rehersed.

(28) I wil not take on me to judge the judgement of God and say determinately that the said Kings were punished by the hande of God for making of suche actes. Yet it may be reasonably thought that the same was the hole or [some part of them] their punishment. For wher this Article that is the case . . . consecration (which is surmised to be a premunire) was one of tharticles that Sancte Thomas of Cantebury dyed for and for his so dooing for this Article and others made ayenst the liberties of Goddes Church was rewarded of God with the grete honour of martirdom, which is the best deth that can be. Which thing is the example and comforte of other to speke and to doo for the defense of the liberties of Goddes Church. Then it followeth of likyhode that suche princes as I have rehersed making this Article toching the Consecration of a busshop and others ayenst the liberties of the Church of God wer punished by Godds hands with an ill deth in example of others to beware to make or to execute suche articles ayenst the liberties of Christes Church.

(29) And when Sancte Thomas of Cantebury dyed and was and is a holy martyr, because he wold not consent nor obey to these Articles and others made ayenst the liberties of the Church, it is to be thought that they that made contrary acts to the said liberties and never repented nor reformed themselves were punished by God with suche manner of sickenes and adversite as I have spoken of befor to cal theyme to his grace. And therfor Sancte Thomas for the tendre love that he had to Kyng Henry the Seconde by whome he was promoted wrote to certeyne of the said Kings counseile which mought doo much with hym, those words which be writen in Sancte Thomas life, fol. cli. *Consulite Dno nostro regi qui eius comparatis gratiam super ecclesiae dispendio ne (quod absit) percat*

ipse et domus eius tota sicut et ipsi periere qui in consimili delicto comprehensi sunt. And Sancte Thomas in a certaine scripture of excommunication that he denounced against thaim that hurted the liberties of the Church of Cantrebury, son after his return from exile sayth that it hath not ben herd that any man hath hurted the Church of Cantrebury but that he was punysshed of crist. *A sarculis inaulitum est quod quis ecclesiam cantuariensem leserit et non sit correctus a Christo Domino.* By the which sanctes saying it may be probably thought that the punysshment of the said princes came of the hand of God for making of statutes against the libertie of the Church. I do not speke of any excommunication or curses.

(30) And in case that there be any statute or acte made that th Archebusshop of Cantrebury for the tyme beeing shuld be restrayned from his liberties and spiritual power to consecrate a busshop or to graunte to him his spiritualties til the kings grace had delivered to him his temporalties, and that th Archebusshop dooing the contrary shuld fall into a premunire, Pope Martine which was a very good and holy Pope wrote to King Henry the IIIth concernyng thacte of premunire made ayenst the liberties of the Church, in the whiche writing be conteyned these words that followeth of the which I make not mention here for that intent that I wol use and stikke upon theyme for my defense nother to thentent to derogate the lawe of this lande or to discontent any man therby hygh or low, but spetially for II causes, fyrst that suche as have the handling of premunire shuld loke the more substantially upon the dainger of their soules and consciences executing the same, for a man knowing the danger may the better avoy may appear by the said Popes writing how streithely lorde Henry Chichely Archebusshop of Canterbury because he did not resis and speke ayenst th' acte of premunire as much as in hym lay of the which writing to the said Archebusshop I wol reherse som partes after I have showed partes of that the said Pope wrote to the said King, which followeth

Martinus episcopus, servus servorum Dei charissimo in Christo filio henrico regi Angliæ illustri salutem et Aplicam Ben. Quum omnis divina et humana ratio vetet &c.

(31) And my lordes where mention is and hath be made to you to defende this matier that is nowe in question by the swerde, I doubt not but that ye beeing noble, wise, and discrete men and goddes knightes wol be right wel advised to drawe yor swerdes in any suche case as this is, in the which by the grace of God and the Kinges, no need shalbe to drawe any sworde or to make mention of any such violence seeing that by this consecration ther is nothing doon ayenst the Kings grace's crowne and regalite which shuld provoke or deserve his high displeasur. Spetially wher by that consecration I entended nothing lesse than to displease the Kings grace, I take God to my record.

(32) And ye my lordes seeing that this case that I am put to trouble for is one of the Articles that Saincte Thomas of Cantrebury dyed for, I trust ye wol not drawe yor swordes to the displeasur of

God and of Sancte Thomas in this behalve, into whose holy hands I recommende this my cause and the cause of the Church. For I doubt not but that ye have herde befor this tyme howe how the knights that exercised their swords ayenst Sancte Thomas for this article and others wer punisshed of God for their grete presumption and mysdoing. So as unto this present day the punisshement of them remaineth in their bloode and generation.

(33) And in case ye shuld be so noted by other folks instigation and ungodly meanes to drawe yor swards in this case and to heve me to smal peces (which God forbede ye shuld doo) yet I thynke it were better for me to suffre the same than ayenst my conscience to confesse this Article to be a premunire for which Sancte Thomas dyed. For I see not howe I shuld graunte it and by my so graunting shuld bring the Church of Christe into suche perpetual bondage that I and my successors shuld not consecrate a busshop but at princes pleasures, but that thereby I shuld dampne my soule for wher Sancte Thomas saved his soule and is a gloriouse sancte in hevyn for the denying of this Article, and others, I see not but that I, dooing expressly contrarie to that that Sancte Thomas dyd (for the which he was a Sancte) and confessing this to be a premunire; shuld dampne my soule is objected that I am bounde to the knowledge of this Article for as it is a lawe of this lande. If this Article be a lawe of this land, it was conceived and put in writing at Claringdon by King Henry the Seconds dayes CCCC save XXXI yeres past. And wher it was never put in execution ayenst any Archebusshop albeit diverse of theyme have consecrated diverse busshoppes befor the same busshoppes had doon their homage and given ther othe of fidelite to the Kings grace and sued out their temporalities of the same, I thinke that nother by lawe reason or conscience I or any other is bounde to the knowledge or observance of suche a lawe which hath not be used and was never put in execution for the space of iiiij^e almoste.

(34) And where it pleaseth you my lordes to assigne to me lay counseile, my lords, I wol not refuse their counseiles beeing good, albeit for II causes I think they shal little profecte me. One, for laymen have always used and be accustomed to advaunce their owne lawes rather than the lawes of holy Church as yor lordships may see that laymen dayly encrocheth upon the lawes and liberties of the Church by premunire and prohibitions, whom Christ rebuketh in the Gospel saying, Wo worthe ye that breke the lawes of God for the maynteyning of your owne lawes. *Ve vobis qui transgredimini legem Dei propter traditiones vestras.* And in this behalf I understand that suche temporal lerned men as have be assigned of counseile with spiritual men lately in cases of premunire (as it was surmised) for th advauncing of their temporal lawes, and for the derogation of the lawes of the Church have counseiled theyme and induced theyme to confesse and graunte a premunire. Wherto peradventur, they wold advise me in like wise. Which if I wer so minded to confesse, I needed not to have their counseile.

(35) The seconde cause is, I am informed that temporal lerned men

that wold speke ther lernyng for suche as they have be of counseile with; wher they have spoken anything contrarie to the mind of som of the Kings most honorable counselle they have be called fooles, and put to silence, and so peradventur they shuld be entreated in this case if they shuld speke their mynds for me according to their lernyng whereof I wold be lothe that any man shuld be so rebuked for my cause.

(36) And in as much as this matier togeth th acte of a bussoppes consecration which is mer spiritual the natur and condition wherof is best knowen by spiritual men I desire and require you my lords as you shal answer befor God, that I may have such wise, sadde and discrete counseile lerned in the spiritual lawe, as can and will give to me godly counseile according to their lernyng and conscience and such shuld take counseile at yor assignment peradventur counseile assigned to me, which wold not or durst not give to me . . . indifferent counseile.

(37) Item, if it be sayde that I shuld fynde suerties. To that Sancte Thomas answered in this maner, fo. lxiii. *Quis unquam vidit vel audivit Cantuar. Archiepum iudicari, condemnari cogi ad fidei-missionem in curia Regis.* And in another place of Sancte Thomas life, fo. xv. Sancte Thomas sayeth *Siquidam a saeculo non est auditum quemquam Cantuar. Archiepum in curia regum Anglorum pro qua cumque causa iudicatum tum propter dignitatem ecclesiae tum propter auctoritatem personae.* And giving of suerties is for suche psons. of whose fleeing or departing oute of the country it is fered, but as for me, if I had be disposed to flee, I mought have fled befor this tyme and befor I had entred this matur. And I thank God and the Kings grace, I have suche promotion to live upon as I entend not to forsake and go to other places wher I shuld have nothing. And beeing her, if I had lost al my goodes yet I trust I shuld have som succor and helpe of my freinds and lovers, but fleeing to other places I shuld percase ther have nother goodes nor freinds.

(38) And wher grete besoyness hath be befor this tyme between princes of this reame, and Archbussoppes of Cantrebury in farr greter causes than thies be, as betweene Sancte Anselme, Sancte Edmunde, Robert Winchelsey, John Peckham, and John Stratford and princes for their tyme beeing, they wer never compelled to give any suerties ne yet wer committed to warde.

And I trust that ye, my lords, be as godly disposed and as good Christian men as they wer in the said Archebussoppes tyme, and that ye wol none otherwise entreate me, than they entreated my predecessours, spetially for the consecration of a freer, which is no deadly syn. And also who soever laye violent handes upon a buss-hop in takyng hym and after empresonyng hym is a cursed, of the which he cannot be assoiled but of the Pope except it be in *mortis articulo*. And the place or places wher a buss-hop takyn is kept as long as the buss-hop is so kept is interdicted and the II diocesis next adjoynante also: as it appereth by the lawes of the Churche made in that behalve. Wherfor, if ye fer the lawes and censures of Holy

Church ye can not take me ne emprison me except ye wol be accursed, and the place where I shuld be takyn or kept in shalbe interdicted which evry good Christian man which trusteth to be savyd by God and by the Churche owe to drede and gretely fer.

Endorsement written in late 17th century handwriting.

Reasons alledged by the Arch.B.P. of Canterbury why he ought not to incur the praemunire because he consecrated the Bp of Assaph before Licence given by the King.

J. MOYES.

APPENDIX.

I.—HENRY STANDISH.

THE Bishop of St. Asaph, whose consecration by Warham formed the basis of the charge met by the foregoing document, was Dr. Henry Standish. In the text this bishop is not mentioned by name, but is spoken of as a friar. This fact is sufficient to fix the identity of the prelate referred to. Warham, during the course of his long episcopate, consecrated three successive bishops to the See of St. Asaph. These were David ap Owen (February 4, 1504), Edmund Birkhead (May 29, 1513), and Henry Standish (July 11, 1518). The first was not a friar, but a monk. The second was a Doctor of Canon Law at Cambridge, and is not recorded as belonging to any religious order. The third was a friar minor, and a distinguished member of the Franciscan Province in England. In him, therefore, we have the "freer" whose consecration to the See of St. Asaph was made the ground of indictment against the Archbishop.

Henry Standish was the second son of Alexander Standish, of Standish.* Although a cadet of one of the leading Lancashire families, he gave himself to the Order of St. Francis. In the year 1506 he went on a pilgrimage to Rome, and his name appears on the list of English pilgrims ("in forma nobilium," for the 14th of May of that year) preserved in the archives of the English College.† He was already Doctor of Divinity, and Provincial of his Order in

* This was the same family (still staunchly Catholic under the Elizabethan persecution) with whom Laurence Vaux, the last Catholic Warden of the Collegiate Church of Manchester, took refuge, and to whom he entrusted a large portion of the Church plate (see Laurence Vaux's "Catechism," edited for the Chetham Society, Introduction, p. xxiv.).

† "Nomia peg'noꝝ in for^a nobilium a 4^o Maji 1506 usque ad 4^o Maji 1507 Mēs Maji. Frater Henricus Standish, sacre pagine Doctor F. provincialis Ordinis mioꝝ in Anglia, Coventrensis Dioecesis 14^o Maji. (Ex Archivis Anglorum Coll. Romae, vol. i. f. 29-32, given in vol. v. p. 72 of "Collectanea Topographica et Genealogica.")

England. On two occasions Dr. Standish came prominently before the public. In 1510 there was a sharp crisis between Church and State on the question whether clerics accused of certain crimes might not be brought before lay judges. Kedyrmyster, the Abbot of Westminster, championed the immunities of the clergy in a fervid discourse at Paul's Cross. To the surprise and indignation of a large number of his brethren, the Provincial of the Franciscans took the part of the anti-clericals. Convocation appears to have regarded him as a public mischief-maker, and its Prolocutor said so in no very measured terms.* His popularity with the king and Court would probably not suffer on account of the part he had taken. In Lent, the king usually went to Greenwich, and in March, 1511, 1515, 1516, 1517, 1518, Dr. Standish received 20s. for preaching there before his Majesty.† He was thus well known to Henry VIII., and stood high in his favour. Like all men in an eminent position, he was held in a very different estimate by different parties. The *Bibliotheca Franciscana* includes him amongst the great men of the Order, and describes him as "a man illustrious by his piety and learning, and a staunch defender of the Catholic Faith." In 1518, the See of St. Asaph became vacant, and the king recommended Dr. Standish to the Pope in almost identical terms. But there were others who did not look upon the appointment in the same light. Wolsey had endeavoured to secure the See for W. Bolton, the Prior of St. Bartholomew's. On the 12th of April, Pace writes to the Cardinal‡ to say that he has been told that the king is going to promote the appointment of "Freir Standysche, wheroff I wolde be ryght sorye for the good service he was like to do the Church." He adds in Latin, "Nevertheless it seems to me that it will be a hard matter to get over the King in this matter, for his Majesty, when formerly talking to me on the subject, praised him for his learning, and all these Court people are for him on account of the special way in which he has worked for the overthrow of the English Church."

Whether the above be mere malicious gossip or not, the tactful Cardinal dropped his candidate, and sixteen days later the king wrote his letters of presentation and recommendation to Rome in favour of Standish. The Pope provided Standish to the See, and Warham consecrated him on the 11th of July.

Two years later, and Dr. Standish was again in evidence before the religious world, but this time as the champion of orthodoxy against Erasmus. The new edition of the New Testament by Erasmus had just been issued, and its risky renderings—amongst others the "In principio erat sermo"—kindled the holy indignation of the Franciscan Bishop. He preached at Paul's Cross on the 31st of July, 1520, a vehement denunciation of the innovator and all his works. On the same day he dined at the Palace, and when, during dinner, the conversation turned upon the sermon, and he was taken to task by

* "State Papers Henry VIII.," vol. ii. Nos. 1312-1314.

† *Ibid.* King's payments for above dates.

‡ *Ibid.* A.D. 1518, Nos. 4074 and 4083.

some of the courtiers, Standish roundly abused the writings of Erasmus. Raising his hands and eyes to heaven, in a theatrical attitude, he apostrophised the king, and implored his Majesty to come to the aid of the Spouse of Christ, if no one else would. One of the incorrigible courtiers, mimicking Standish's voice and gesture, begged to be informed what were the dangerous heresies which the bishop had complained of.* It must be remembered that we owe the account of this incident to the sharply pointed pen of the very Erasmus who was the object of denunciation, and whose description can hardly be other than an *ex-parte* statement.† That Standish ranged himself on the side of the orthodox party as opposed to the followers of the new learning, is further shown by his action as judge or assessor in several of the heresy trials which took place about this time. In 1524, he was associated with Sir John Baker as ambassador in Denmark.‡ On Sunday, the 5th of January, 1527, when the great Cardinal, proceeding by water, landed at Blackfriars, and amid a splendid retinue and a huge concourse of people, went in procession to St. Paul's, flanked by the Ambassadors of the chief European Powers—the Imperial on his right and the French on his left—Bishop Standish was there to receive him.§ When the Divorce trouble began, he was one of the four bishops appointed to act for Queen Catherine, and was thus associated with Archbishop Warham, West of Ely, and Blessed John Fisher of Rochester. He is said to have been treated with disfavour by the Queen, who shrewdly suspected that his appointment to her cause was made not in her but in the King's interest.|| He subsequently assisted at the consecration of Cranmer and at the coronation of Anne Boleyn. He lived to see the storm at its worst and the work of the English Reformation all but completed. The Act of the King's Supremacy—the famous 26 Henry VIII. c. 1, which severed England from Rome, was passed on November 4, 1534. The summer and autumn of that fateful year was the time of test to the bishops and clergy, and month by month the Commissioners were busy in seeing that the schismatical oath was tendered to them. Blessed John Fisher suffered on the scaffold on June 22 of the following summer, 1535. Blessed Thomas More followed him on the 6th of July. Henry Standish died three days later—July 9th—and was buried in the Church of the Friars Minors, in London.

* Letter of Erasmus, *pridie Calend.*, August, 1520, in "Calendar of State Papers Henry VIII." vol. iii. 929.

† "State Papers Henry VIII." vol. iii. 3639.

‡ Rymer, xiv. 12.

§ "Cal. State Papers Henry VIII." vol. iv. part i. 3764.

|| Baines' "Lancashire," p. 160.

II.—RECORDS.

The following subsidiary documents referring to this case may be of interest as showing how English bishops were made under Henry VIII., and in the period which immediately preceded the Reformation.

A.

The See of St. Asaph became vacant about the beginning of April 1518. On the 26th of the same month, the King wrote to the Pope the following letter :

To our Most Holy and Most Clement Lord the Pope.

MOST BLESSED FATHER,

After most humble commendation and most devout kissing of the blessed feet.

When it was made known to Us, that the Cathedral Church of St. Asaph, in Our principality of Wales, was left vacant, and destitute of a Pastor by the death of the Rev. Father in Christ, Edmund, its last bishop, We thereupon thinking to make provision therefor, have considered that the charge and care of the said Church may be worthily entrusted to the Venerable and religious man, Henry Standysh of the Order of Conventual Friars Minor, professor of Sacred Theology, a famous preacher of the Word of God, and endeared to Us not less by his exquisite learning than by his modest, upright, and circumspect life, and finally by his integrity of morals.

Wherefore, We earnestly commend him to your Holiness, Whom We entreat as a special favour to Ourselves, to deign to appoint the said Henry to the said Church and constitute him thereto as its Bishop and its Pastor—which We trust will be for the honour and wellbeing of the aforesaid Church, as it will be unto Us exceedingly pleasing.

And may health and happiness be given to your Holiness, Whom may the Most High God preserve for long years to come.

From our Royal Palace at Woodstock, the 28th day of April, 1518.

Your Holiness's

Most devoted and most obedient Son, Henry, by God's grace, King of England and France, and Lord of Ireland.

B.

The King, according to custom, backed this letter up by another addressed to Cardinal Julian, who was Vice-Chancellor of the Sacred College, and Cardinal Protector for English affairs at the Roman Court.

This supplementary letter is as follows :

Henry, by God's grace, King of England and France, and Lord of Ireland.

To our most dear friend, the Most Rev. Father in Christ, the Lord Julian by Divine Mercy, by the title of St. Laurence in Damaso, Cardinal Priest of the Holy Roman Church, Vice-Chancellor of the same, Legate of Bologna, Protector, &c., of Us and of Our kingdom at the Court of Rome, greeting.

Having lately heard that the Bishopric of St. Asaph's in Our Principality of Wales has been vacated by the death of the most Rev. Father in Christ, Edmund, its late pastor, We have commended to our Most Holy Lord, the venerable and religious man, Henry Standysh, of the Order of Conventual Friars Minor, Professor of Sacred Theology, conspicuously adorned by eminence of learning, uprightness of character, and holiness of life, and earnestly entreat that He would deign to raise and promote the same to the aforesaid bishopric.

Wherefore, We also ask your Most Reverend Lordship to be good enough to put the matter forward in the usual way,* and to see that the whole business may be carried through according to the tenor of Our letters. It will be, moreover, especially pleasing to Us, if out of regard to Us, you will extend your favour to the said venerable Father in the expedition of the Bulls.†

Fare ye well,

From Our palace at Woodstock,
28th April, 1528.

HENRY.

C.

The Cardinal Protector evidently bestirred himself, for in little more than a month he had passed the whole matter through Consistory and was able on the 8th of June to notify the King of its successful issue.‡

Humble Commendation to the Sacred Most Serene and Royal Majesty.

Seeing that lately there was a vacancy in the Church of St. Asaph, in Your Majesty's Principality of Wales, by the decease of Edmund, its late bishop, you petitioned that provision should be made in the person of the venerable and religious man, Henry.

His Holiness, moved both by your prayers, which ever count much with Him, and by the learning and virtue of the man, has willingly appointed him to the said Church as its Bishop and Pastor. In which affair I (as your Majesty directed) discharged the office of

* "Referre"—i.e., to make the usual relation in Consistory, reporting to the Sacred College the vacancy and state of the church and the merits of the person commended.

† Both these letters are given in the MSS. Collection of the Abbate Marino, preserved at the British Museum, vol. xxvi. p. 525.

‡ This document is in the Record Office; 4220, vol. ii. part ii. "State Papers Henry VIII."

your relator and humble servant, as I shall always do as often as it may happen to me to transact any affair for the service or honour of Your Majesty, to Whom I humbly commend myself. Fare ye well.
From the Apostolic Palace Rome, 8th of June, 1518.

Your Serene Majesty's
humble servant,
JULIAN, Vice-Chancellor.

D.

The Bulls must have quickly followed the Cardinal's notification, for on July 11th Archbishop Warham consecrated Henry Standish at the manor of Otford. The entry in Warham's Register is in four parts.

1. There is given in full the profession of canonical reverence and obedience made by Henry Standish to the Archbishop, in which he promises to obey him "according to the decrees of the Roman Pontiffs."

2. This is followed by the usual Oath of Fidelity and Obedience which Henry Standish took to the Pope, "to be his helper and the defender of the Roman papacy against all men."

3. There is next in order the record of Consecration.

"On Sunday, viz., the 11th day of the month of July, in the year of our Lord One Thousand Five hundred and Eighteen, the said Most Reverend Lord and Father in Christ, the Lord William by Divine permission, Archbishop of Canterbury, Primate of all England, and Legate of the Apostolic See, in the chapel of his Manor of Otford situate within the immediate jurisdiction of his Church of Christ, of Canterbury, conferred the gift of Consecration on the said Reverend Father and lord Henry, the assistants being the Reverend Fathers and Lords, Robert of Chichester and John of Calipoli, by God's grace, bishops. There were also present the Venerable men, Masters Walter Stone, Chancellor of the said Most Reverend Father, and Thomas Welles and Clement Broton, professors of Sacred Theology, and Ingelram Bedell, Thomas Millyng, and John Ayluf, clerks, and William Potkyn, public notary, and many others."

4. Incorporated in the above, and continuous with it, is the record of the livery of the spiritualities to the new bishop.

The operative clause of the Archbishop's writ addressed to the Dean and Vicars-General is as follows.

"Seeing that Our Most Holy Father and Lord, the Lord Leo X., by Divine Providence Pope has provided our venerable brother the Lord Henry to the Cathedral Church of St. Asaph recently vacated by the death of the Lord Edmund, of good memory, late bishop of the said Church, and has appointed him to the said Church as its Bishop and Pastor,

We charge and command you, and each one of you, that you

fully and entirely deliver or cause to be delivered to the said lord Henry, or to his ministers or deputies all registers, documents concerning the spirituality of the said City and Diocese, now in your hands, reserving to us the Registers, Acts, and transactions done before or for you or any of you during the aforesaid vacancy, and which we desire and command to be integrally transmitted to us, and that you permit the same lord Henry and his officials and ministers in spirituals in the said City and Diocese to freely administer and to dispose of the same."*

It was this livery of spirituals in 1518 which was made a count of the indictment against the Primate in 1532. Its whole tenor is entirely in keeping with the theory of jurisdiction which Warham states so clearly in the document, namely, that the writ of livery did not confer spiritual jurisdiction to a newly appointed bishop, in so much as he had already received it from the Pope in Consistory, and the Primate could not therefore lawfully withhold it. Such a writ could consequently be but an official notification and command to the Dean and Chapter (they would already have received the Papal Bulls to the same effect), to allow the new bishop the free exercise of the jurisdiction already possessed. We have thus a striking example of the harmoniously concurrent character of Papal and Primatial Jurisdiction.

J. M.

* Warham's Register, fol. xxi.