CHAP. XXIII.
Of the Publique Ministers of Soveraign Power.

In the last Chapter I have spoken of the Similar parts of a Common-wealth: In this I shall speak of the parts Organickall, which are Publique Ministers.

A Publique Minister, is he, that by the Soveraign, (whether a Monarch, or an Assembly,) is employed in any affaires, with Authority to represent in that employment, the Person of the Common-wealth. And whereas every man, or assembly that hath Soveraignty, representeth two Persons, or (as the more common phrase is) has two Capacities, one Naturall, and another Politique, (as a Monarch, hath the person not onely of the Common-wealth, but also of a man; and a Soveraign Assembly hath the Person not onely of the Common-wealth, but also of the Assembly;) they that be servants to them in their naturall Capacity, are not Publique Ministers; but those onely that serve them in the Administration of the Publique businesse. And therefore neither Ushers, nor Sergeants, nor other Officers that wait on the Assembly, for no other purpose, but for the commodity of the men assembled, in an Aristocracy, or Democracy; nor Stewards, Chamberlains, Cofferrers, or any other Officers of the household of a Monarch, are Publique Ministers in a Monarchy.

Of Publique Ministers, some have charge committed to them of a generall Administration, either of the whole Dominick, or of a part thereof. Of the whole, as to a Protector, or Regent, may bee committed by the Predecessor of an Infant King, during his minority, the whole Administration of his Kingdome. In which case, every Subject is so far obliged to obedience, as the Ordinances he shall make, and the commands he shall give be in the Kings name, and not inconsistent with his Soveraigne Power. Of a part, or Province; as when either a Monarch, or a Soveraign Assembly, shall give the generall charge thereof to a Governour, Lieutenant, Praefect or Vice-Roy: And in this case also, every one of that Province, is obliged to all he shall doe in the name of the Soveraign, and *that is not incompat-ible with the Soveraigns Right. For such Protectors, Vice-Rays, and Governors, have no other right, but what depends on the Soveraigns Will; and no Commission that can be given them, can be interpreted for a Declaration of the will to transferre the Soveraigny, without expresse and perspicuous words to that purpose. And this kind of Publique Ministers resembleth the Nerves, and Tendons that move the several limbs of a body naturall.

Others have speciall Administration; that is to say, charges of some speciall businesse, either at home, or abroad: As at home, First, for the Oeconomy of a Common-wealth, They that have Authority concerning the Treasure, as Tributes, Impositions, Rents, Fines, or whatsoever publique revenue, to collect, receive, issue, or take the Accounts thereof, are Publique Ministers: Ministers, because they serve the Person Representative, and can doe nothing against his Command, nor without his Authority: Publique, because they serve him in his Politickal Capacity.

Secondly, they that have Authority concerning the Militia; to have the custody of Armes, Forts, Ports; to Levy, Pay, or Conduct Souldiers; or to provide for any necessary thing for the use of war, either by Land or Sea, are publique Ministers. But a Souldier without Command, though he fight for the Common-wealth, does not therefore represent the Person of it; because there is none to represent it to. For every one that hath command, represents it to them only whom he commandeth.

They also that have authority to teach, or to enable others to teach the people their duty to the Soveraign Power, and instruct them in the knowledge of what is just, and unjust, thereby to render them more apt to live in godliness, and in peace amongst themselves, and resist the publique enemy, are Publique Ministers: Ministers, in that they doe it not by their own Authority, but by others; and Publique, because they doe it (or should doe it) by no Authority, but that of the Soveraign. The Monarch, or the Soveraign Assembly only hath immediate Authority from God, to teach and instruct the People; and no man but the Soveraign, receiveth his power Dei gratia simply; that is to say, from the favour of none but God: All other, receive theirs

1 Sym. that
Of Common-wealth

from the favour and providence of God, and their Soveraigns; as in a Monarchy Dei gratia & Regis; or Dei providentia & voluntate Regis.

They also to whom Jurisdiction is given, are Publique Ministers. For in their Seats of Justice they represent the person of the Soveraign; and their Sentence, is his Sentence; For (as hath been before declared) all Judicature is essentially annexed to the Soverainty; and therefore all other Judges are but Ministers of him, or them that have the Soveraign Power. And as Controversies are of two sorts, namely of Fact, and of Law; so are Judgements, some of Fact, some of Law: And consequently in the same controversy, there may be two Judges, one of Fact, another of Law.

And in both these controversies, there may arise a controversy between the party Judged, and the Judge; which because they are both Subjects to the Soveraign, ought in Equity to be Judged by men agreed on by consent of both; for no man can be Judge in his own cause. But the Soveraign is already agreed on for Judge by them both, and is therefore either to hear the Cause, and determine it himself, or appoint for Judge such as they shall both agree on. And this agreement is then understood to be made between them divers ways; as first, if the Defendant be allowed to except against such of his Judges, whose interest maketh him suspect them, (for as to the Complaynant he hath already chosen his own Judge,) those which he excepteth not against, are Judges he himself agree on. Secondly, if he appeale to any other Judge, he can appeale no further; for his appeale is his choice. Thirdly, if he appeale to the Soveraign himself, and he by himself, or by Delegates which the parties shall agree on, give Sentence; that Sentence is final: for the Defendant is Judged by his own Judges, that is to say, by himself.

These properties of just and rational Judicature considered, I cannot forbear to observe the excellent constitution of the Courts of Justice, established both for Common, and also for Publique Pleas in England. By Common Pleas, I mean those, where both the Complaynant and Defendant are Subjects: and by Publique, (which are also called Pleas of the Crown) those, where the Complaynant is the Soveraign. For whereas there were two orders of men, whereof one was Lords, the other Commons; The Lords had this Priviledge, to have for *Judges if the plea were publique*¹ in all Capitol crimes,

¹ Syn.: Judges

The Publique Ministers of Soveraign Power

Chap. 23

none but Lords; and of them, as many as would be present; which being ever acknowledged as a Priviledge of favour, their Judges were none but such as they had themselves desired. And in all controversies, every Subject (as also in civil controversies the Lords) had for Judges, men of the Country where the matter in controversy lay; against which he might make his exceptions, till at last Twelve men without exception being agreed on, they were Judged by those twelve. So that having his own Judges, there could be nothing alledge by the party, why the sentence should not be final. These publique persons, with Authority from the Soveraign Power, either to Instruct, or Judge the people, are such members of the Common-wealth, as may fitly be compared to the organs of Voice in a Body natural.

Publique Ministers are also all those, that have Authority from the Soveraign, to procure the Execution of Judgements given; to publish the Soveraign Commands; to suppress Tumults; to apprehend, and imprison Malefactors; and other acts tending to the conservation of the Peace. For every act they doe by such Authority, is the act of the Common-wealth; and their service, answerable to that of the Hands in a Bodie natural.

Publique Ministers abroad, are those that represent the Person of their own Soveraign, to foreign States. Such are Ambassadors, Messengers, Agents, and Heralds, sent by publique Authoritie, and on publique Business.

But such as are sent by Authoritie only of some private partie of a troubled State, though they be received, are neither Publique, nor Private Ministers of the Common-wealth; because none of their actions have the Common-wealth for Author. Likewise, an Ambassador sent from a Prince, to congratulate, condole, or to assist at a solemnity, though the Authority be Publique; yet because the businesse is Private, and belonging to him in his natural capacity; is a Private person. Also if a man be sent into another Country, secretely to explore their counsels, and strength; though both the Authority, and the Businesse be Publique; yet because there is none to take notice of any Person in him, but his own; he is but a Private Minister; but yet a Minister of the Common-wealth; and may be compared to an Eye in the Body natural. And those that are appointed to receive the Petitions or other informations of the People, and are as it were the publique Eare, are Publique Ministers, and represent their Soveraign in that office.
Of Common-wealth

Neither a Counsellor (nor a Councell of State, if we consider it with no Authority of Judicature or Command, but only of giving Advice to the Soveraign when it is required, or of offering it when it is not required,) is a Publique Person. For the Advice is addressed to the Soveraign only, whose person cannot in his own presence, be represented to him, by another. But a Body of Counsellors, are never without some other Authority, either of Judicature, or of immediate Administration: As in a Monarchy, they represent the Monarch, in delivering his Commands to the Publique Ministers: In a Democracy, the Council, or Senate propounds the Result of their deliberations to the people, as a Counsell; but when they appoint Judges, or hear Causes, or give Audience to Ambassadors, it is in the quality of a Minister of the People: And in an Aristocracy the Council of State is the Soveraign Assembly it self; and gives counsell to none but themselves.

CHAP. XXIV.
Of the Nutrition, and
Procreation of a Common-wealth.

The Nutrition of a Common-wealth consisteth, in the Plenty, and Distribution of Materials conducing to Life: In Conception, or Preparation; and (when concocted) in the Conveyance of it, by convenient conduits, to the Publique use.

As for the Plenty of Matter, it is a thing limited by Nature, to those commodities, which from (the two breasts of our common Mother) Land, and Sea, God usually either freely giveth, or for labour selleth to man-kind.

For the Matter of this Nutriment, consisting in Animals, Vegetals, and Minerals, God hath freely layd them before us, in our near to the face of the Earth; so as there needeth no more but the labour, and industry of receiving them. Insomuch as Plenty dependeth (next to Gods favour) meerly on the labour and industry of men.

This Matter, commonly called Commodities, is partly Native, and partly Forraign: Native, that which is to be had within the Territory of

the Common-wealth: Forraign, that which is imported from without. And because there is no Territory under the Dominion of one Common-wealth, (except it be of very vast extent,) that produceth all things needful for the maintenance, and motion of the whole Body; and few that produce not something more than necessary; the superfluous commodities to be had within, become no more superfluous, but supply these wants at home, by importation of that which may be had abroad, either by Exchange, or by just Warre, or by Labour: for a mans Labour also, is a commodity exchangeable for benefit, as well as any other thing: And there have been Common-wealths that having no more Territory, than hath served them for habitation, have nevertheless, not only maintained, but also encreaseth their Power, partly by the labour of trading from one place to another, and partly by selling the Manufactures, whereof the Materials were brought in from other places.

The Distribution of the Materials of this Nourishment, is the constitution of Mine, and Thine, and His; that is to say, in one word Propriety; and belongeth in all kinds of Common-wealth to the Soveraign Power. For where there is no Common-wealth, there is (as hath been already shewn) a perpetuall warre of every man against his neighbour; And therefore every thing is his that geteth it, and keepeth it by force; which is neither Propriety, nor Community; but Uncertainty. Which is so evident, that even Cicero, (a passionate defender of Liberty,) in a publique pleading, attributeth all Propriety to the Law Civil, Let the Civil Law, saith he, be once abandoned, or but negligently guarded, (not to say oppressed,) and there is nothing, that any man can be sure to receive from his Ancestor, or leave to his Children. And again; Take away the Civil Law, and no man knows what is his own, and what another mans. Seeing therefore the Introduction of Propriety is an effect of Common-wealth; which can do nothing but by the Person that Represents it, it is the act onely of the Soveraign; and consisteth in the Laws, which none can make that have not the Soveraign Power. And this they well knew of old, who called that Nοῦς, (that is to say, Distribution,) which we call Law; and defined Justice, by distributing to every man his own.

In this Distribution, the First Law, is for Division of the Land itself: wherein the Soveraign assigneth to every man a portion, according as he, and not according as any Subject, or any number of them, shall judge agreeable to Equity, and the Common Good. The