

Notes upon the statute aforesaid.

let vs consider the reasons & objections of this aduersary, who grounding peradventure upon y preface or preamble of this foresaid statute: will proue thereby the L. Cobham, and Sir Roger Acton, with the rest of their abettours, to haue bin traitors to their king and their country. wherunto I answer, first in generall, that although the face of y preface prefixed before the statute, may seeme and declare y cause & occasion originall why the statute was made: yet the making of the statute importeth no necessary probacion of the preface alwaies to be true that goeth before, which being but a colour to induce the making thereof: yett no force materiall therunto, nor is any necessary part of y body of the said statute. But onely aduerteth as a declaration of the circumstance thereof, and sometime is cleane omitted and differeth much from the substance of the same. For as statutes in civill policie most commonly do tend to a publicke end & are generally: so prefaces before statutes, which most commonly declare the cause or beginning thereof, are private: and do stand only but vpon particular facts, which either of ill will & displeasure may be suggested, or by colour may be eragitated, or by force may be belonnes, at least suspected, as many suspicious do oftentimes rise in princes heads, through false surmises, & malicious complaints of certaine cuill disposed about them, whereby many cruel lawes rising vpon a false ground, are promulgated to y ruine of much innocent blood. Example wherof we haue not onely in this present statute, an. 2. Reg. Hen. 5. but also in the like statute, commonly called the statute Ex officio vel de comburendo, made by this kings father and predecessor, an. 2. Henr. 4. cap. 5. In the preface of which bloody statute, is contained an other like complaint of the heretikes & schismatics, not so haionous, as also most shamefully false & untrue against the poore Lollards, as by the wordes of the complaint may appeare, beginning: Excellentissimo & Gratiosissimo principi, &c. wherin, most falsely they slander and misreport the true seruants of Christ to be Lollards, heretiques, subverters of the commonwealth, destroyers of the Church of Christ. The wordes of which statute proceeding much after y like couise as doth this present statute, may easily bewray the vnturth and false surmise thereof, if thou please (gentle reader) to make and conferre the wordes according as they are there to be read and scene, as followeth: Conuenticulis & confederacionibus faciunt, Scholas tenent & exercent, libros conficiunt atque scribunt, populum nequiter instrunt & informant, & ad seditionem seu insurrectionem excitant, quantum possunt, & magnas disentiones in populo faciunt, & alia diuersa enormia in populo perpetrant, in fidei catholice & ecclesie subuersionem, diuini que cultus diminutionem, & etiam destructionem status, iurium, & libertatum dicte ecclesie Anglie. And after a few wordes: Ad omnem iuris, & rationis ordinem atque regimen, penitus destruendum, &c. He that is or shall be acquainted with old by-stories, and with the vsual practises of Sathan the old enemy of Christ, from the first beginning of the primitive Church vnto this present time, shall see this to be no newes, but a common and (as ye would say) a quotidian feare among Christs children, to be vexed with false accusations, and cruel slanders.

Prefaces before statutes not to be regarded in triall of truth.

Statut. an. 2 Hen. 5. cap. 15.

The preface before the statute De comburendo

Ex Getulius instrumentis.

Falfe accusation no newes in Christs church.

Example of Nemeton Martir. pag. 62.

Example of Cyprian. pag. 69.

Example of Iustine the Martyr, Example of Cornelius Bish. of R6e pag. 65.

Lawes and statutes grounded vpon false causes against the Christians.

kind, for murthering of infants, for worshipping the sunne (because they prayed towards the East) for worshipping also to the head of an Ass, &c. vide pag. 54. 36. upon the rumors wherof, diuers and sundry lawes and statutes were enacted, some engrauen in brasse, some otherwise wrote, against them. So in this foresaid statute, an. 2. Henr. cap. 5. al- so, an. 2. Henr. 4. cap. 15. and in such other statutes of impositions made and conueined against the Lollards: the case is not so strange but it may credibly be supposed, that the making thereof did rise rather vpon malice & hatred against their religion conceived, then vpon any iust cause iniuried of their partes, whome they did wrongfully charge & accuse. Like as in time of Domitianus, for feare of Dauidis stocke, all the nephewes of Jude the Lords brother the like feare & hatred stirred by other Emperours, and the Senat of Rome, to proceed with persecuting lawes against the Christian Church of Christ. Euseb. Lib. 5. cap. 21. wherupon, rose vpon these malicious slanders, false iur- mures, & detestable lies, and wrongfull accusations against the Christians: so that what crimes soeuer either malice could inuene, or rash suspicion could minister, that was imputed against them, vide page 48.

The persecuting statutes in the primitive church and of the latter church copared.

Fears & hatred causes of persecucion.

Vide supra. pag. 48.

But vnto the also it may seeme, that the hope with hypocrisies feare and misdoubting least the proceeding of the Gospell preached by these persons should ouerthrowe the state of their maiestie: Did therefore by sinister accusations, & blame the harts of princes against them, and vnder some colour conceit to shadow their clocked harts, & vnto these and other like crimes which were not true, but which might cleanly serue their purpose.

This herberto haue I said as in a generall summe answering to the preamble of the foresaid statute, for the defence of Sir John Oldcastle, and Sir Roger Acton, and here I may say with Hauke, that as I was not present at the deed doing, so with him I may also leaue the same at large. But as by tracing the footsteps of the truth, as by all coniectures hunting out in this matter, what is most like, would but onely say my mynde sine streptu (as Lawyers say) & sine figura iudicij.

The matter debated by records, whether the L. Cobham and Sir Roger Acton were traytors or not.

Now consequently it followeth, that we descend to the speciall points and particulars of the foresaid preamble: to consider what thereof may be collected, or necessarily is to be iudged, either for proof or disproof, of this foresaid Statute.

(A) And first, where the prohemie of this statute beginneth with rumors, congregations, and insurrections, &c. As it is not like, that if these men had intended any forcible enterprises or rebellio against y king, they would haue made any rumors thereof before the deed done: so is it more credibly to be supposed, all these flourishes of wordes to be but words of couerle, or of office, and to saue rather of the rashnes of the inditers penne, who disposed either per amplificationem rhetoricam to shew his copy, or els per malitiam Papisticam to aggravate y crime. And to make mountaines of moulthites, first of rumors maketh congregations, & from congregations riseth vp to insurrections: where as in all these rumors, congregations, & insurrections, yett neuer a blow was geuen, neuer a stroke was stroken, no blood spilt, no furniture nor instruments of war, no signe of battaile, yea no expresse signification either of any rebellious word, or malicious fact described, neither in records, nor yet in any Chronicle. Againe, if these rumors were words spoken against the king, as calling him a traitour, an vsurper of the crowne, the prince of darkness, &c. why then be none of these words expressed in their indictments, or left in records? Worth M. Lope thinke for a man to be called a traitour, to be enough, to make him a traytour, vntlesse some euident proof be brought for him to be so in deed, as he is called Rumours (sayth he) congregations, and insurrections were made. Rumours are vnto certain: Congregations haue bene and may be among Christen men in dangerous times for good purposes, and no treason against their princes ment. The terme of insurrections may be added εἰς τὸν νεπλοσόν by practice, or surmise of the Prelates and priuies, who to bring them the more in hatred of the king, might adde this rather of their owne gentleness, then of the orders deserting. Certayne it is and vndoubted, that the Prelates in those dayes being altogether behind for their partes, nor directly idle in this matter, but practised against them what they could, first to bring them into hatred, and then to death.

(A) Rumors. Congregations. Insurrections.

Examples of which kinde of practise among the poppish Clergy, haue not lacked neither before, nor since. Wherupon, if these men had made such a rebellious insurrection