A REPLY TO THE
Famous Jew Question.
IN WHICH,
From the public Records and other undoubted Authorities,
Is FULLY DEMONSTRATED,
In Opposition to that elaborate Performance,
That the Jews born here before the late Act
were never intitled to purchase and hold
LANDS to them and their Heirs;
But were considered only
As Aliens, or Vassals of the Crown.

In a LETTER to the GENTLEMAN of Lincoln’s-Inn.
By a FREEHOLDER of the County of Surry.

Judeus nihil proprium habere potest, quia quicquid acquirit, non
sibi acquirit, sed Regi. Bracton de confuetudinis Angliae.
A Jew can have no Property, because whatever he acquires, he
acquires not for himself but for the King.

LONDON:
Printed for J. Robinson, Ludgate-street; J. Woodyer, next Serjeants.
Inn, Fleet-street; and J. Swan, near Northumberland House.
(Price 2s. 6d.)
ERRATA.

Page 5. Line 1. put a Period at the Word you, and strike out the Remainder of the Paragraph.
Page 63. Line 16. for collatine read collatione.
Page 78. Line 17. add if after For.
A Reply to the Question, &c.

SIR,

Gentleman of your Profession left with me a Pamphlet you have lately publish'd, intitled, "The Question fairly stated and considered, Whether a Jew born within the British Dominions was, before the making the late Act of Parliament, a Person capable by Law to purchase and hold Lands (in South Britain) to him and his Heirs?" and desired my Opinion of the Performance. As my Sentiments differ entirely from yours, I shall endeavour to prove, chiefly from your own Compilement, that the Jews born here were never intitled to purchase Farms, Manors, or any Freehold whatever, their Permission having never extended farther than that of purchasing Tenements and Messuages. As I have but little Leisure, you must not expect in this Letter any Flowers of Rhetoric, I only propose to entertain you with some of the Fruits of Reason.

In your Pamphlet, you say you shall obtain your End: Which I believe; if you could prove from the public Records of the earliest Times that the Jews have been deemed capable of purchasing Lands. And then you proceed to consider the State the Jews appeared to be in when banished by King Edward I. In this Pursuit
suit you attempt to trace the Progress of your Friends thro' every Period of Time, as far back as you think necessary for your Purpose; and as you draw every material Argument from the Records, which are recited at full Length by way of an Appendix, I shall therefore confine my Speculations principally to the Appendix, not omitting to enter into an Examination of the other Parts of your most elaborate Work.

You mention ten of the most distinguished Lawyers that give their Opinion, that a Jew may purchase Lands. But I am persuaded, if they had had leisure carefully to peruse the public Records, and those Records laid before them, they must have seen to the contrary: For it nowhere appears in any of those Records recited by you, that the Jews had a Right to purchase Lands, the Words *Maneria and Terras are not once mentioned 'till we come to the Letters Patent of King George; but instead of the Words *Maneria and Terras, which are the proper Terms for Lands of any Extent, such as Farms and Manors; I say, instead of these Terms we find the Words *Mesuagium, Tenementum, fundus and terra, which in the singular Number only means, that Spot of Ground on which a Tenement or Edifice is built, or may be hereafter built, together with what is at this Day called the Home-stead. *Hoveden says, Omnia debita, vadia, domus, terra, &c. *Judeorum. There was a Neceffity of expressing himself in the plural Number, as is plain from the precedent numerical *Adjectivum omnia. So *Plautus has more than once been obliged to say, "unas *Aedes." Yet we are not to imagine that *Hoveden understood by terrae, Farms and Manors; for in such Case the Word *Manerium is the general Term, as appears by all our monastic *Annals. So that having once stated this important Point, I shall proceed to examine

* As real Purchases made by the Jews.
amine all the Records, as produced by you, and shall
at the End of this Letter, by Way of Appendix, exhi-
bit an entire Translation of those Records, in the Course
and Order as you have published them.

To begin then with the Appendix, Page the first.

Record, No. 1. 35 Hen. 2. 1189. ex Autographo
in Recepta Scaccarii.

This is a Grant of a Messuage to a Jew and his Heirs,
but no Lands are mentioned.

Page 2. No. 2. 9 Ric. 1. Anno 1199, ex Autogra-
pho in Recepta Scaccarii.

A Grant to a Jew of a certain Messuage with its Ap-
 purtenances, to be held in Fee, for himself and Heirs.


A Jew sends his Grandson to his Country-Houfe
[terram suam] at Hackton, which he possess’d by Vir-
tue of a Mortgage: So that even granting this Terra
sua was an Estate in Land, yet the Jew was nothing
more than Tenant in Gage, or Tenant by Mortgage,
and the real Possession virtually existing in the Party
that mortgaged the Estate, who nevertheless always had a
full Power to recover on redeeming the said Estate: And tho’ the Jew, if he had been in quiet Possession of
this Estate thirty or forty Years (which does not appear)
might flatter himself that he had a full Title by Right
of long Use and uninterrupted Possession, yet we all
know that tho’ an Ujucapion is a very valid Plea in the
Civil Law, yet it is not allow’d as such by the Com-
mon Law of this Nation.

Page
Moysé, or Mosés, the Son of Brunus, a Jew, requires a plenary Seizin of the Manor of Standon, on which he had a Mortgage. The Mortgagee not discharging the Money conformably to the Time prescribed, the Lender enters upon the Premises, according to a previous Contract, and becomes Tenant in Gage; but to have even this Possession in its full Form, it was necessary for him to have Livery of Seizin from the Sheriff. The Sheriff accordingly gives him a simple Seizin of the Houses and Barns; but when the Jew demanded Fealty and Homage of the Villagers, the Sheriff would not grant that, but went away; nor indeed would any one of the Villains acknowledge Mosés as their Lord. The Jew was entitled to the Rents and Profits of the whole Estate, and tho' plenary Seizin was granted to him as Tenant in Gage, yet the Mortgager could always recover. The Sheriff therefore is amerced for Non-appearance to the Writ, and Mosés the Jew has his Seizin, quatenus Tenant in Gage.

Page 3. No. 5. 10 Regis Johannis ex Autographo in recepta Scaccarii.

All the Right and Claim in one Messuage, with its Appurtenances, in London, made over to a Jew and his Heirs for ever.

Here it may be observed, that we have very few Instances of Lands, I mean such as Farms and Manors, that were purchased even by the Christian Subjects from the Reign of William, fauldy call'd the Conqueror, to that of Henry III. The Method which almost universally obtain'd during that Period, among Proprietors of Lands, was
was by way of Gage, and Jews as well as Christians had a Right to become Gagees of such Lands. As this was the constant Practice, it follows, that the Doctrine of Usurpation in those Days must have been wholly discon-tenanced in this Kingdom.


An Affize is brought to try, whether Robert de Kanvil unjustly dispossessed William Cousé and Beatrice his Wife of their Freehold Tenement in Lincoln. Robert Kanvil pleads, in bar to the Affize, that he came into Possession by the King's Writ: having purchased the said freehold Tenement of certain Jews, to whom the said William Cousé had mortgaged it before, and the said Robert de Kanvil produces Deeds, or Writings, to shew that he had Seisin of this Tenement made to him by the aforesaid Jews. And he farther pleads, that he claims no Right in the Tenement, but in Right of the said Mortgage. The Result was, that William Cousé should be amerced, and that the said Robert de Kanvil should hold the Estate as his Mortgage. Which is a plain Proof that the Lands, of which the Jews had Seizin, were only considered as Mortgages, and not as their full and irredeemable Property. And that, as Tenentes in vadio, they had an actual Seizin, yet they were not entitled to the Freehold; they had indeed a Title or Claim to all the Rents and Profits of the Freehold, but were never entitled to, nor ever yet claimed, the national Emoluments of a Free-holder.

As Chief Justice Glanvil well observes of the common and usual Affizes of the Realm at that Time was "Utrum aliquis fuerit sefstitus de aliquo libero Tenemento,
"die qua obit, ut de feodo, vel ut de vadio." For if a Jew, by his Father's Decease, becomes possessed of Lands in Fee or by Mortgage, by acknowledging the said Lands to be held in Mortgage when he takes them up in open Court, he creates, as it were, an Interruption in the Possession, and by so doing bars himself of the Advantage of Ufucaption.


The Prior, &c. of St. Gregory's in Canterbury grants and confirms to Misiam, a Jewes, and her Heirs for ever a whole Messuage with a whole Edifice upon it in Wood and Stone: with full Power to give, sell, or assign it, to whomever she should think fit, excepting to a Religious House; giving to understand that by the admitting a Jewes to be the Inhabitant, the House itself became defiled and profane.


A Grant to a Jew of a whole Messuage with its Appurtenances.


A Tenement is granted and sold to a Jew.


A Shed with its Appurtenance, is granted, given and confirmed to a Jew.
[9]


One Messuage with its Appurtenances is granted and given to a Jew.


A whole Messuage with Home-stead (cum fundo) and others its Appurtenances, is given and granted to a Jew.


A whole Messuage in its Integer, with all its Appurtenances, is given, granted, and confirmed to a Jew.


John Godsalme having mortgaged certain Land to HIGINUS, a Jew, he sells the Land to JAMES de AUDIT, and JAMES sells it to LAWRENCE de BROK, from whom it comes to HUGH de BROK. But John Godsalme (the virtual Proprietor) petitions the Parliament for their Assistance to recover his Land: the Parliament refers him to the Court of Chancery for remedy, as the Chancellor is Keeper of the King's Conscience, seeing the Question in Debate was a Point in Equity concerning the private Property of a Subject. You have not thought fit to give us the Adjudgment of that Court; but it is plain beyond a Doubt, that the Jew had only a Right to assign, but no Right to sell: and that therefore the
the Plaintiff, by discharging the Mortgage, might always recover. No one denies the Jews a Liberty of purchasing Messuages and Tenements, either for their own Use, or to let out for hire; nor does any one deny them the Right they had of putting out their Monies on Land-Mortgages; but it is denied that they had any Right to sell Lands so mortgaged to them; and it is likewise denied that they were invested with the Privileges of the Freehold, tho' the Freehold was mortgaged to them. For it is expressly declared by Henry III. the 25th of July, and the fifty-fifth Year of his Reign, by the Advice of his Prelates, Nobles and Gentlemen (Proceres) that no Jew may have a Freehold in any Manors, Lands, Tenements, Fees, Rents, or in any Tenures whatever, either by Deed, Gift, Feoffment, Confirmation, or any other Obligation, or by any other Manner whatever.

The King commissions Hugh de Kindale to appraise, extend, and sell the Houses, Rents and Tenements, which had belonged to the Jews before their Banishment: It is indisputably plain from hence, that the Jews were not understood to possess Lands, Farms, and Manors in their full and absolute Right; for the royal Extent is only against their Houses, Rents and Tenements, ad Domus, Reditus, et Tenements, not one Word of their Lands, but only of their Rents issuing out of such Lands as they were then seized of by Virtue of their several Mortgages. This Point will be more fully evinced, when we recite a Roll of the Parliament held at London after Easter, the 21st Edw. I. which sets forth, that the capital Lords of whom the Jews held their Tenements,
ments, demanded the Arrears of the Services issuing out of those Tenements, as well during the Time the Jews held them, as during the Time the said Premises came to the Hands of the King, as his Escheat, by reason of their Banishment, and also, after the Time the King had granted the said Tenements to others: and thereupon Directions were given that the Arrears of Services, since the making the Grant, should be discharged by the Grantees: that the Arrears incurred while those Estates were in the Hands of the King, should be paid by the Crown: and that the Lords of the Fee had no Right to demand the Arrears which accrued due while the Jews were in Possession. This last Part of the Order was extremely just, for all Arrears that cannot legally be demanded are supposed in Law to be vacated or paid; but the Jews, as banished Persons, could not appear in any Court of Judicature to prove they had discharged all Arrears of Services, therefore the Lords of the Fee had no Right to demand the Arrears which are supposed to have accrued due while the Jews were in Possession: for it is a confirmed Maxim in the common, as well as the civil, Law, that "Quando in uno oritur obligatio, in alio jus eidem respondens enaititur, et nulla est obligatio, ubi nullum existit jus ad respondendum." That is, When there arises an Obligation on one Side, there arises out of that very Obligation a respondent Right in the other; and there can be no Obligation, where there is no Right in esse for an Answer. Puffendorf.


This is a Grant of Edward I. to Isabella of certain Houses with their Appurtenances, which, before that general Banishment of the Jews, belonged to one Lyon, or Leo, a Jew.
A Quo Warranto is brought against Hugh de Audel and Margaret his Wife, for various Franchises claimed by them, as belonging to sundry Manors and Lands in the County of Northampton; and, amongst others, to shew by what Title they claimed the View of Frank Pledge, and other Franchises in the Manor of Whiston: Hugh de Audel and his Wife appeared; and pleaded that the same Manor formerly belonged to William de Whiston, who infeoffed one Moses, a Jew, of the said Manor with the Appurtenances to hold to him and his Heirs for ever; and that the said Moses, the Jew, infeoffed Richard, Earl of Gloucester, thereof, under whom the Defendants, Hugh de Audel and Margaret his Wife, made Title; and by their Plea insinuated, that they, and their Ancestors, and their Feoffors, had, for Time immemorial, been seized of the Franchises aforesaid, as appurtenant to the said Manor.

The Attorney General did not demur to this Title, for he considered the Infeoffment of Whiston to the Jew as an irregular Proceeding, or as a concerted Scheme: or else must have looked upon the Purchase of the Jew as a Mortgage only, in either of which Cases the Title to immemorial Customs is not bar'd. Besides this private Infeoffment from Whiston to the Jew, and from the Jew to the Earl of Gloucester, does not make the Act a legal Precedent for the Infeoffments of the like Nature; to become legal, such Act must be supported by a previous Law, but there is no Law as yet mentioned, that allows of, or supports such Infeoffments, therefore all such Infeoffments are deemed of themselves illegal.
a tergo de inquisitione fæci de usurari.

This Record is no Ways relative to the Jews, and is only a Mandate of Edward I. to John de Lovetot and Gregory de Rokesle to enquire into the scandalous Custom of certain Christians, who, contrary to the Laws of this Land, had publicly exercised the Trade of Usury. For it is to be observed, that tho' the Jews were permitted to deal in usurious Contracts, the Christians were not, as in Regard it was esteemed a Scandal to the Christian Name, Christiani nominis Scandalum.


This Record is not brought as an Argument, I hope, to prove that the Jews were Persons capable, by Law, to purchase and hold Lands to themselves and their Heirs: for it is only the Form of a Mortgage, and runs thus, I Lancelinus de Stock owe unto Vivoni the Norman, a Jew, Fifty Marks, to be restored to him at Easter in the nineteenth Year of Henry the IIIId, and unless I then restore them, I will give to him, every Week, Two-pence for the Loan or Interest for every Pound (which amounts to near Forty-three per Cent.) as long as I shall hold the aforesaid Debt under his Favor, for which I mortgage to him all my Lands and Chattels.


This Record has no Relation to the Jews, quatenus Purchasers; it is an Ordinance made by Henry III. and others his faithful Subjects, which are of his Council,
declaring, that in order to suppress the Knavery of the Jews, ad maliciam judaeorum reprimendam, all Writings of Mortgages between a Christian and Jew, the one as Mortgagor the other as Mortgagee, shall be, for the future, deposited in the Archb, or public Chest, of the Jews, within ten Days at the farthest after such Writings are, or shall be, executed. If a Christian fails to observe this Ordinance he shall be heavily amerced; if a Jew, he shall forfeit his Chattels to the King. From hence we may boldly assert, that if the Jews had been deemed in lawful Possession of Lands, their Lands, as well as Chattels, would not have become forfeited: And that thus by depositing the Writings in this public Chest fully shews the Intent, that the Christian might always have a Recourse to it, to prove himself the real Proprietor of such Estate, and for that End two Christians, as well as two Jews, were appointed Keepers of this Chest, and to which were prefixed three Locks, two Keys whereof were kept by the Christians, and the other by the Jews. As fully appears from the Order made by King Richard upon his Return from the Holy Land, as I shall hereafter shew.


In this Record the King is informed by the Constable of the Tower, and by the Sheriffs of London, that certain

† Mr. Molloy, speaking of the Jews Chest in his De Juris Maritimi et Navali, says, This Chest was called Arca Chirographica, or Chirographorum Judaeorum, and the Notaries and Registers of them called, Chirographi Christiani and Judaei Arce Chirographicae London, Oxon. or other such City where such Chests were usually kept, all their Deeds, Obligations, and Releases were usually called STARS. [It's conceived the Star-Chamber was the old Receipt where the Chest for Westminster remained with the Stars of that City, and not so called, as is mentioned Co. 4. Inst. 66. Some of them are now extant in
certain Houses, with Appurtenances in Milch-street in the City of London, which belonged to one Creis, the Son of Mag' Moses, formerly a Jew of London, are not, nor can be deemed Escheats to the King by the Death of the said Creis, as the said Jew never offended against his Majesty in any Point during his Life, but on the contrary lived as a good and faithful Jew, that is to say, he lived well and faithfully after the Manner of the Jews, "Bene et fideliter move Judeorum vixit." And that the said Creis made a Will according to the Custom of English Jews, secundum consuetudinem Judaismi nostri, by which he bequeathed the aforesaid Houses with all their Appurtenances to his Son Cok, a Jew. On this Inquisition made, and Petition presented to his Majesty, the King, as much as in him lies, "quantum ad nos pertinet," grants and restores to the said Cok the Houses and all their Appurtenances, contained in the Will of the Father. Now the King by acknowledging that this Estate of the aforesaid deceased Jew does not come to him as an Escheat, indubitably proves his Title to re-grant the said Estate, and this Cok's accepting of this Grant from the King, fully acknowledges that the Houses with all their Appurtenances were lapsed to the King by the Death of the Jew his Father, and that he the said Cok does not succeed to the Premises by Virtue of his Father's Will, but by Virtue of the aforesaid Grant from the King. So that it plainly appears the Jews never were lawful Possessors of Houses, &c. by right of Inheritance: but that

in the Treasury of the Exchequer in King John's Reign.] and Starr, Starrum, Star in our Latin Records, from the Hebrew Word (as Mr. Selden observs) Shetar (contrasted by the Omission of He) which signifies a Deed or Contract. These Stars were for the most Part wrote in the Hebrew Tongue alone, or else in Hebrew on the one Side or Top of the Parchment, and in Latin on the other Side or Bottom of the Deed after the Hebrew.
that all their Property in such Estates was virtually vested in the King, and which the King, in right of his Prerogative could at any Time take from them of his own absolute Will and Authority, and that without Assent or Consent of Parliament. Nor indeed does the Prerogative of the Crown extend solely to the Estates of the Jews, it reaches to their Persons, as appears by their Banishment in the Time of Edward I. and by that express Ordinance of Henry III. in the twenty-fourth Year of his Reign, by which all Jews of England in whatsoever Place residing on Michaelmas-Day, are commanded there to reside with their whole Family for the Space of one whole Year, next ensuing, nor are they to remove from any such Place without the King's special Licence.


This Record recites, that King William, after his Acquisition of England, by the Advice of his Barons in the fourth Year of his Reign, ordered several English noble, wise, and learned Men in their Law to be summoned, that from them he might learn their Laws, Oaths, and Customs. For this Purpose twelve Persons out of every County throughout the Kingdom were chosen, and sworn before the King, to declare upon their Oaths what were their confirmed Laws and Customs, nothing omitting, nothing adding, nothing altering by Prevarication. And it seems that Aldred, Archbishop of York, and Hugo, Bishop of London, by the King's Command, wrote with their own Hands all that the Jury said, scripserunt propriis manibus omnia quae predicti jurati dixerunt: and it further appears that they began upon this Work, taking their Exordium from the
the Laws of the holy Mother Church. "Sancta Matris Ecclesiae fumentes exordium." A whole Chapter was allotted to exhibit and explain each Law.

As to this Record it is only a Preface to those Laws and Customs which were established in Edward the Confessor's Time, which William the Norman had collected (by the Method above mentioned) and which he ordered still to be respected and obeyed as the old Body Laws and Customs of the Constitution of England.

The eleventh Chapter * of this little Code treats of the Statute of Dane geld. Now Hoveden, who wrote in Henry the IIId's Reign, having in his Comment upon this Statute told us on what necessitous Occasion, even the Ecclesiastics, in the Time of William Rufus, † became liable to pay their Quota towards it, (which, he says, the Church thought a great Hardship, as they had always

* The Question Writer calls it the 12th; from whence it is plain he never perused the original MSS. but took all his Observations upon Trust from one William Prynne. — Now I am speaking of Prynne, let us enquire what Character he bore among Men of Learning. Marchamont Needham tells us, that he was one of the greatest Paper Worms that ever crept into a Closet or Library. Mr. Wood says, "Many Persons, especially Royalists, judged his Books to be worth little or nothing, his Proofs for no Arguments, and Affirmations for no Testimonies, having several Forgeries made in them for his and the Ends of his Brethren." They are all in the English Tongue, and by the generality of Scholars are look'd upon rather rhapsodical and confus'd than any way polite or concise; and may be well called Voluminous Prynne, as Tostatus Abolenes was, 200 Years before his Time, Voluminous Tostatus: For I verily believe, if rightly compared, he wrote a Sheet for every Day of his Life, reckoning from the Time he came to the Use of Reason and the State of Man." Mr. Anthony Collins stiles him A LITTLE FRACTIOUS SCRIBLING FELLOW.

† William the Norman favoured the Jews very much, and Rufus his Son much more; especially if that Speech reported of him be true, that he should swear by St. Luke's Face (his common Oath) if the Jews should overcome the Christians, he would become one of their Sect. Fuller's Church History, Book 3. F. 9.
ways been exempted in former Times) you, Sir, in your Compilament have taken the Liberty, it is presumed, out of an over Zeal for your Party, to produce the Comment as Part of the Statute: and thought to have given a Colour to this great Mistake, because the Name of William Rufus is accidentally mentioned in the Comment; and on this Shadow of a Foundation you have had the Confidence to call the whole Statute to Account, and say "it is therefore a most impudent Forgery." But this will plainly appear to the contrary on the bare perusal of the Statute, for which Reason I shall insert it at full Length with an English Translation.

Quid sit Danegeld, et quâ necessitate sit constitutum.

"Danegeldi redditio propter piratas primitus statuta est. Patriam enim infestantes, vasaitioni ejus posse suo infiltebant. Ad eorum quidem insolentiam reprimendam, statutum est Danegeldum annuatim reddi; sic licet duodecim denarios de unaquaque hida totius patrâe ad conducendos eos qui piratarum eruptioni obviarent."

Thus far proceeds the Law of Danegeld, the Translation is as follows:

What Danegeld is, and on what Emergency it was instituted.

"The Tax of Danegeld was originally established on Account of the Pirates: who infested the Country and laid it waste to the utmost of their Power, therefore to suppress their Insolence, the Danegeld was established as an Impost to be annually paid: which was to raise twelve Pence on every Hide of Land through-
throughout the Country in order to hire Privateers to
go out and resist the Irruptions of the Pirates."

Before I come to Hovenden's Observations on this Sta-
tute, I must myself observe that this Statute is of very
antient Institution; the Word *primitus*, originally or at
first, seems to declare so: to this I might add the
Phrase "Patriam infestantes," infesting our native
Country; whereas from Edward the Confessor's Time
down to the present Age the Word *Regnum, a King-
dom*, has always been used on such Occasions. And
we may reasonably *conjecture* that this Tax of *Dane-
geld* must have been known before the Reign of that
immortal Monarch Edgar, who, to the transplendent
Glory of the English Name, raised a Fleet of 3600
Vessels, by which true English Policy, he not only disper-
sed those numerous Swarms of Pirates, but likewise firm-
ly and respectably established himself upon the Throne,
and claimed an universal Dominion of the Seas.

As another Argument of the great Antiquity of this
Statute I must urge the Mean ness of the Tax, *duodecim
denarios*, only twelve *Pence*, upon every || *Hide of Land.*

D And

* Since I sent this Copy to the Press, I find my Conjecture was
well founded. For having carefully read over the History of the
Abbacy of Croyland by Ingulphus, I can boldly assert this Tax was
instituted in 833: For in an Offering to the Abbacy of certain Lands
by Witlaf, tributary King to *Egbertus*, Ingulphus tells us that this
Oblation was witnessed by 2 Archbishops, 9 Bishops, 3 Abbots, 2
Kings, 1 Son of a King, and 3 Dukes. "Coram pontificibus et pro-
"ceribus majoribus Totius Anglie in civitate Londonia, ubi
"omnes congregati sumus pro concilio copiendi contra Danicos littera
"Anglia assidae infestantes." In the Presence of the Prelates and
the greater Nobility of all England in the City of London, where we
are all now assembled to consult what Measures must be taken against
the Danift Pirates, who are continually infesting the Coast of Eng-
land. The subscribing Prelates, &c. totius Anglie, are, I suppose,
Representatives of the other five absent Kings, only two of the Hept-
tarchy being then present. || Forty Acres.
And certainly this Observation must have a decisive casting Vote against the Compiler, if we will but reflect that this Tax of Danegeld in its first Institution was *duodecim denario*is, but twelve Pence; and in the Reign of William Rufus the same Tax was risen to *quartuor Solidos*, four Shillings, upon every Hide of Land. This Difference in the Tax is an indelible Mark of two different Periods of Time: and consequently proves, that the Comment made by Hoveden cannot possibly be considered as a Part of the Statute itself. But these are my own private Observations, I shall come now to those made by Hoveden, the judicious, minutely-correct Analyst: These are his Words:

"De hoc quoque Danegeldo omnis ecclesia libera EST et quieta; et omnis terra que in propio Dominico ERAT ubicunque jacebat, nihil prorsus in tali redemptione per solvens. Quia magis in ecclesiae confidebant orationibus, quam in armorum Defensionibus, usque tempore Willielmi junioris qui Rufus vocabatur, donee eodem a Baronibus Angliae auxilium requirende et re tinendam, de Roberto suo fratre cognomine Cortebofæ J e r usalem proficiente, concessum est ei, non lege sanctum, neque firmatum; sed hac necessitatis causa ex unaquaque hidalibadi QUATUOR SOLIDOS, Ecclesia non excepta. Dum vero Colleâto cenfus fieret, proclamabat Ecclesia, suam repsectens libertatem, sed nil prosecit."

Thus faithfully translated; in Regard (says Hoveden) to this Tax of Danegeld, the whole Church IS at present (EST) quietly freed of it. And indeed every Spot of Land that belonged to the Church in proprio dominico, wherefover it lay, WAS (Erat) likewise free, and paid nothing, as it were, towards that Impost. Because (in former Times) Men confided, 'confidebant.'
fidebant, more in the Prayers of the Church, than in the Defence of Arms. But in the Time of William the younger, surnamed Rufus, who demanding Aid of the Barons of England, to recover and remit the Dutchy of Normandy from his Brother Robert, surnamed Short-Hofe [corhose, I imagine to be courtois courteous] who was then on a Journey to Jerusalem, this Danegeld was granted to him, but not established or confirmed by Law: But on this pressing Occasion Four Shillings issuing out of every Hide of Land was given to him, the Church not exempted. But while this Impost was collecting, the Clergy protested against it, demanding their Liberty; but it had no Effect.

I have been, Sir, more explicit on this Record than any other, as it is the principal Hinge on which you found your Arguments, and draw from thence very erroneous Deductions: For you think, by proving the Tax of Danegeld a Forgery, which is Part of the Code made by William the Acquister, that you shall by such Proof totally invalidate the whole Code itself. And you would invalidate the whole Code, because the Declaration "De Judeis in regno constiutis" is ingrafted into that Code.*

I hope, Sir, I have already shewn your absurd Notions in regard to the supposed Forgery in this Case. I fancy you was guided by Pryme, and Pryme by Mr. Selden, and Mr. Selden unfortunately copied from a Manuscript which, it seems, Aldred Archbishop of York, and Hugo Bishop of London wrote, in the Fourth Year of William the Norman, with their own Hands; but here is a strong Suspicion attending this Copy, for in 1069, and the Third Year of the above Reign, and on

* Here we have the Term in regno, not in patria, and that too for very good Reasons.
the Third of the Ides of September, at the Sixth Hour in the Tenth Year of his Archiepiscopacy, died Aldred Archbishop of York. If so, Aldred must have wrote this MS. a Year after his Death; the Possibility of which, I leave the Casuists to decide. This circumstantial Account, together with that of his Grace’s Burial, we find in the Annals of Hoveden. And as a Proof of what Hoveden has here mentioned, we meet with no Account of Archbishop Aldred, subsequent to 1069, either in the Writings of William of Malmesbury, or of Henry Archdeacon of Huntingdon, nor yet in Godwyn.

As a Lawyer, one would think, you should have been more modest, and not have attempted to assume to yourself the Authority of calling a Statute into Question, which has all the genuine Marks of Antiquity, and which has been allow’d to be authentic by the most able Lawyers Time immemorial. On the contrary, you ought, according to the general Opinion, to have been more upon your Guard; as it seems you may possibly bring yourself into a Premunire, by thus attacking the Prerogative of the Crown. For in respect to Royal Charters and Acts of Kings, neither Judges nor private Persons ought nor can dispute; nor if there arises any Doubt are they permitted to interpret; but in doubtful and obscure Passages, in all equivocal Expressions, the Interpretation and Will of the Lord the King is to be waited for. For it belongs to the Sovereign to interpret, to whom it appertains to grant. Nay, if such Charter and Acts be altogether false, owing to an Erasure, or perhaps to a supposititious Signet, it were much better and much safer to proceed upon Judgment in Presence of the King himself.

Vide Bracton de chartis regis. " De chartis vero regis et fæcils regum, nec debent nec possunt justiciarii, nec

The Twenty-second Chapter of this small Pandect, supported by the Consent of all the authentic Copies, declares, that all Jews, in whatever Part of the Kingdom they be, ought to be under the Safe-guard and liege Protection of the King, nor can any one of them become a Servant * to any rich Man without the King's Permission. For the Jews, and all they have, belong to the King. And if any one shall detain their Persons or their Money, the King may demand, if he pleases, both their Persons and their Money, as his own Property; "Tanquam sua proprium."

Now Sir, it appears in your Compliment, in order as I take it, to serve your own turn, you would have this Institute to be of spurious Birth: as if your Opinion was sufficient to counterbalance the Authority of Copies allowed in all our Courts of Judicature, and of Customs established Time immemorial. But we must excuse you a little, as you was probably misguided into this Error by William Prynne. And what has he done? Why, Prynne has observ'd, "That the Statute relating to the Jews was not inserted in the Copies of Selden."

* Alius duvii, any rich Man, meaning any tributary Prince or Baron of England.
den and Brompton, who both copied from Ingulphus, and therefore he rejects it." But why does he reject it as Counterfeit? Why truly, because he rather esteems it a Declaration of the Jew's Condition in England at the Time when Hovedon made his Copy, in which this Statute is inserted, and which likewise agrees with another Copy made afterwards by that accurate, judicious Writer Sir Henry Spelman. But Sir, if Hovedon wrote his Copy in the Reign of Henry I. and this Statute in the said Copy was a Declaration of the Jew's Condition at the Time when he wrote it, and the Period when he wrote it is not far distant from the Reign of Edward the Conqueror, we may naturally conclude that Henry I. afterwards claimed them as his Property, which evinces that the Statute was legally inserted in the Code made by William often call'd the Conqueror, and consequently is of undoubted Authenticity.

But not to part with this still unfortunate Lawyer, Prynne, let us follow him a little farther and hear what he advances, "Compare, says he, the Law (for so he calls it) inserted by Hovedon and others among the Conqueror's and Conqueror's Laws, de Judaeis Angliee constitutis, you will find it taken almost verbatim out of the Chapters of John, Harry I. and Harry II. This Method of reasoning is what the Rhetoricians call the Rule of Reverse. For where there are two Writings, similar in regard to Circumstances, but different in point of Time, that certainly is the Original which is Prior, and that the Copy which is of subsequent Date. So that this Argument of Prynne's is the strongest presumptive Proof that can

† We have no Copy made by Ingulphus: Ingulphus only mentions, at the Close of his History of Norway, that he brought with him the above-mentioned Code from London. And that is all we have relating to these Laws, as stated by Ingulphus.
can be brought in favour of the Authority of the above-mentioned Statute.

Suffer me, dear Sir, to advance a very material Reason why the Confeffor (which I hope you will allow) ought to have a right to claim the Jews and their Money as his own Property, and that is his permitting them to take Sixty-five \textit{per cent}, by which Means every Estate so mortgaged came into their Hands, quatenus Tenants \textit{by Mortgage}, in little more than a Year and a half. Former Monarchs never granted such excessive Privileges out of mere Wantonness; but as they were the Protectors and Proprietors of the Jews, they always had it in their Power at Pleasure to reap the Profit by squeezing the Spunge, when they heard that it was full.

\textit{Page 17. Decretum Regis de Usuariis.}

The Twenty-third Chapter mentions a Decree of Edward the Confeffor against Usurers, forbidding \textit{any one Usurer} to remain in his Kingdom. Declaring, that if any one should thenafter be convicted of usurious Practices, that all his Substance shall be forfeited, and the Party so offending be deemed an Out-law. *

You observe, "This Decree (which you call a Law) renders that, which immediately precedes it, doubtful, it being inconsistent with the Jews residing here, who were known and avowed Usurers." But we look upon the preceding Declaration, "\textit{Scientum}," only as preparatory to this Decree; for as it would have been inconsistent with the Jews to have resided here after the Prohibition of Usury, this Decree may be considered as a milder Kind of Banishment, which in all Probability, would have happened immediately after, had the Turbulency of State Affairs, occasioned by the coming in of \textit{William the Norman}, permitted any Leisur.

* It is happy for many that that Law does not now prevail.

† \textit{Decretum}. 

\textit{[25]}
Leisure to enquire into the lesser Grievances of the Nation.


This Record is only a List of Jews to the Number of one Hundred and four, that were made Denizens in the Reign of King Charles II. and James II.


This Record is a Copy of Letters Patent of Denization to ten Jews, dated June 13th, and in the Eleventh Year of King George, empowering them to buy, sell, and grant Houses, Tenements, Lands, Manors, &c. and considering them in every Respect as natural born Subjects: all which seems to be very much in their Favour: but here unfortunately comes a Proviso at last, that tells them they neither are nor can be deemed natural born Subjects, and that they are only such conditionally. Proviso denique et sub hac Conditione, aliter his Litterae Patentes vacuae erunt et nullius effectus. With this Proviso and under this Condition, otherwise these Letters Patents shall be void and of none Effect.

These Letters Patents are drawn up with all imaginable Attention, for at the same Time that they seem to grant great Privileges to the Jews, yet they no way infringe the Prerogative of the Crown. This Point must be explained: For Example then, If I should exercise a Trade in the City of London (or other incorporated Town) in defiance of the Liberties and Privileges of such Incorporation, and if I am prosecuted on such Account, I have an inherent inseparable Right to plead my Defence in the several Courts of Justice; but had I been
been one of these denizated Jews, I should have forfeited my Letters Patent, which are only a conditional Grant, and by such Forfeiture can no longer claim the Privileges of a natural born Subject, but, ipso facto, revert into my pristine State, and become the Property of the King, who consequently has a Right to claim my Person and all my Money, to do with them according to his good Will and Pleasure.

Besides, we cannot say, a Jew purchases or inherits by Law (for that is the Point in Dispute) when he purchases, or inherits, by Virtue of Letters Patent: Letters Patent are one Thing, and Law another; the former is in a Manner, a private Act, operating only on a few Persons, and sealed by the King's Privy Seal; the latter is a public Act, that affects the whole Nation in General, and is therefore signed by the King himself in full Parliament. The one is subject to Revocation at the King's Will; the other to be revoked, requires not only the King's Assent, but likewise the Consent of the whole Kingdom. And indeed, some Sort of Letters Patent have been so frequently granted upon Application, within these 100 Years, that they seem to have lost much of their former Value: which puts me in Mind of a Passage that happen'd in the Reign of that merry King Charles II. who, in a Progress, coming to Grantham, was highly pleas'd with the prodigious Height of its Spire. A Countryman, to attract the Eyes of this Prince, climbed up to the Top, and sat astride the Weather-cock: When he came down he petitioned his Majesty's Bounty, when the witty Monarch ordered one of his Lords to grant the Countryman a Patent, that no one should climb to the Top of Grantham Steeple, for fourteen Years, but himself, without his Consent.
But Jeffing apart: Would it not be adviseable for all incorporate Towns to examine into their most antient Records? in which should they find any Law, Statute, Ordonance, Letters Patent, Declaration, Liberty, or Privilege, forbidding Jews to exercise any Trade (excepting that of Usury) they then might exert their Rights, if they thought proper, and legally prohibit such Jews from having a Settlement in their several Corporations.


This Record is a Grant of a Messuage, with its Appurtenances, to Abraham Deuletr, a Jew, and his Heirs and Assigns, to give, bequeath, or sell to whomsoever, and whensoever, he shall think proper.


This Record grants, from a Jew to a Jew, a Piece of Ground, with its Appurtenance, that is to say, a Homestead, of the yearly Rent of Two Shillings, lying within the City of Norwich.


A whole Messuage, with the Houses, Edifices, Rents, and all its Appurtenances.

A whole Toft, with all the Edifices built thereon.


This Record is no ways relative to Purchases made by Jews, and only recites the usual Form of a Mortgage in those Days; but we may observe here, once for all, that Christian were not permitted to advance Money upon Lands, Manors, &c. by way of Gage; and that the Jews were the only People who were suffered to lend out their Monies on such Estates; for as they were allow'd at this Time to take such large Interest, as before observed, the King, upon any Emergency, might have Recourse to them for what Money he wanted, which they were obliged to pay, well knowing that the King always considered them and their Money as his own Property. When any Jew refus'd the Demand the King made, the Lands which he held in Mortgage, his Rents, and all other his Effects, were seiz'd by the Sheriff into the King's Hands. Thus we see in the 24th of Henry the Third, the Sheriff of Gloucestershire was ordered to seiz the moveable and immovable Estates of all the Jews in that County. (These immovable Estates were the vadia et terre locabiles, and the terre locabiles were Spots of Ground with Edifices or Houses built thereon, which they were allow'd to purchase, but then they were obliged to mention that it was in order to let out to Jews only, and not to Christian.) But the Jews, in the mean while, giving the proper Satisfaction, the Sheriff was commanded to permit them to have the free Administration of their Estates,
Estates, moveable and immoveable, in the Manner they want to have, "sic ut sunt."†

Again, in the Clause-Rolls of 39 H. 3. there is a large Catalogue of the Lands (terram locabiles, vel terrae in vado) Houses, Rents, Mortgages, of Abraham a Jew in several Counties, amounting to a vast Sum, filling up near two Membranes, which were all at the King’s Pleasure imbrued and confiscated to the King’s Use.

In either of these Cases, we can’t suppose the King seized for a Debt owing to the Crown, because it can’t be thought that the Jews in a whole County should be all in Arrears at one and the same Time: And in Regard to this Case of Abraham the Jew, it would be absurd to imagine, that tho’ he permitted his Lands, Houses, Rents, and Mortgages to be seized for a Debt claimed by the Crown, yet, I say, it would be extremely strange to believe he would permit all the above Estates to be confiscated on Account of Non-paymient, especially as he was so exorbitantly rich. And indeed the Exorbitancy of his Riches seems to me to have been the very Reason why they were confiscated. A notable Lesson this to every Successor of the Throne, never to permit a Jew as a single Person, nor all the Jews as one Body of Men, to possess too great a Share of Wealth. For Riches command a numerous Attendance, a numerous Attendance creates Power, and Power establishes Dominion.

As a farther Proof that the Seizures before recited were made at the King’s Will and Pleasure, we find that when an Extent was issued against any Jew for Arrears, it is always so mentioned in the Extent. Thus in 27 H. 3. an Extent issued against Michael, the Son of Isaac, and some other Jews “for a Debt they owed the Crown.”

† Vide, Claui. 24. H. III. Parf. I. m. 10.
Crown. And also in the 28th of H. 3. an Extent issued, commanding the Sheriff of Southampton to seize into the King's Hands all the Lands (these Lands are always to be understood the *terre in vadiis* or the *terre locabiles*) Rents, and Chattels of Elias, the Son of Chera, a Jew, "for the Arrear of his Tallage."†

But to shew, as a still farther Proof that the two first mentioned Seizures were made under no other Claim than that of the Prerogative of the Crown, or by the King's Royal Will and Pleasure, we learn that in the 29 H. 3. a Proclamation was issued, again commanding the Jews, with their whole Families, to remain during the Space of a whole Year in the Places wheresoever they then resided; under Penalty, in case of Disobedience, that all their Lands, Rents, and Chattels should be seized and sold for the King's Use.‡

I shall urge but one Instance more, and that is an Order of Henry the Third to the Chirographers of Wilton, Merleberg, and other Places || to open the *Archæ*, or public Chest of the Jews, and make an Inventory of what they found there: And also to make a strict Enquiry concerning all the Estates of the Jews, moveable and immovable, not in the Chest: "*Videlicet quantum singuli habeant in auro et argento, vadiis, locabulis terris, redditibus, et omnibus rebus aliis.*" That is to say, to enquire what each of them might separately have in Gold and Silver, Mortgages, in Houses or Messuages which they were obliged to let out to Jews, or occupy themselves, in Rents, and in all their other Effects. Now what are these well-attested, known, and acknowledged Facts but so many indisputable Proofs

† Vide, Memor. 28 H. 3. Rot. 4.
‡ Vide, Clauze 29 H. 3. m. 17.
§ Vide, Rot. Pat. 45 H. 3. dorf. 9.
that the King in Virtue of his Prerogative can always, and at any Time whenever he pleases, claim the Money and Persons of the Jews as his own unquestionable, unalienable Property.


This Record exhibits the Form of a Mortgage, resembling that in the preceding Record; it relates not the least to Jews as Purchasers of Lands to themselves and Heirs, by Law, but seems to have been introduced in order to let the World know that the Author, or rather Compiler, is so transcendently happy as to have it in his own Power or Custody.

Page 25. No. 32. Claus. 5 H. 53. 3 pars i. m. 10. dorfo et Pat. 53 H. 3. m. 25. dorf.

All the other Records are in the Latin Language, but this is handed down to us in the old Law-French, and sets forth, that at the Feast of St. Hilary in the 53d of Henry III. an Ordonance was made by the King, with the Advice of the Sire Edward, his eldest Son, and of his other prudent Men, declaring, that (in order to relieve the Christians from the Grievances they sustained by the Jews in England) he released them and their Heirs for ever from all Debts which they then owed to the Jews in Fee, provided that the Jews had not granted or sold the said Debts in Fee to some other Christian, and that the said Debts are already confirmed by the King, or inrolled in the Exchequer. And it is declared, that all the Arrears and Writings in which the aforesaid Debts in Fee are mentioned or found, shall be given up and restored to those Christians or their Heirs who
who had contracted such Debts. And if by Chance any Charter has been, or hereafter may be, proclaimed, such Proclamation no where shall be binding. And no Jew, from this Day hence forward, shall accept or make such Manner of Debt in Fee. Therefore let no Jew fall to any Christian such Fee under Forfeiture of his Life and Chattels, nor let any Christian purchase such Fee, under Forfeiture of his Chattels and Inheritance.

This Ordonance of Henry is miserably mangled, but as it is in the old French Tongue, it may plead some Excuse; yet if you wilfully omitted the Penalty of this Ordonance, it cannot be justified, for there it expressly declares, that in Case of Disobedience, the Jew shall forfeit his Life and Chattels, the Christian only his Chattels, and Inheritance. Which is an uncontrovertible Testimonial that the Jews were not considered as natural born Subjects, if they had the Penalty would have been the same to the one, as it was to the other.

Page 25, No. 33.

This, dear Sir, I hope, when you revise it a second time, you will own to be a most fatal Record to the Jews, and you, as an Advocate for them, I should be glad to believe had some Contrition, and in order to make Amends to your Fellow-Communicants in religious Matters, for undertaking so unchristian-like a Cause, have as it were winded up their Defence with an Ordonance from Harry the Third, which absolutely and fully defeats all their Pretensions. But to attend further to this Ordonance, it declares, That whereas the Christians complain of great Grievances, and have sustained great Losses, "de damnis et gravaminibus que sustinuerunt," on Account of their Freeholds, which the Jews pretend to claim, as well in their
their Lands, Tenements, Fees, Rents, as in other Tenures; it is provided in order to redress this Injury, by Us the King, Prelates, and Great Men, who are of our Council, that no Jew has a Freehold in Manors, Lands, Tenements, Fees, Rents, or any other Tenures whatever, by Deed, Gift, Feoffment, Confirmation, or any other Obligation whatever, or in any other Manner whatever.

In short it plainly appears from hence, as well as before observed, that the Christians were always in a virtual possession of the Freehold of their Lands, and that they were always, and at all Time or Times, entitled to an Equity of Redemption. But such of the Jews who by long Continuance in Possession of the Rents and Profit of the Christian-mortgaged Estates, began even to claim an absolute Right in the several Freeholds; but as this Right, when invested in the Jews, would, at that Time of Day, have been deemed an irreparable Injury, the Christians murmured and groaned as it were throughout the whole Nation, in Consequence of which general Clamour the King, by the Advice of his Prelates, Peers, and great Men, issued out this Ordinance. So certain it is, that Men in all civil Matters will generally bear the greatest Hardships as Acts of Violence, but cannot be brought to bear any one Hardship as an Act of Injustice. I call that a Violence which Subjects are obliged to obey as coming from a Superior; and that an Injustice which they will always contest as coming from an Equal.

This royal Declaration farther sets forth, that the Jews may still inhabit those Houses in which they themselves now live, whether in Cities, Boroughs, or other Towns, and they may * have these Houses, as they used to have in Times past. And in Regard to their other

* It is not said they may hold, the Word is habeant.
other Houses that they shall hereafter have; in order to leave out, they may licitly leave them out to Jews only, but not to Christians. These Estates are what we so frequently meet with in our Pursuit under the Name of locabiles terrae. But then here follows a Check upon the Jews, declaring that it is not lawful for the London Jews to buy, or by any other Means whatever acquire, more Houses than they have at present in the City of London: Nevertheless, they may repair or build up afresh their ruinous, old, decayed Houses and Edifices if they think fit.

By the King and aforesaid Council, it is likewise provided and establish'd, that in Relation to the aforesaid Houses, inhabitable or leafable on the Terms aforesaid, that no Jew pleads, or can plead, by original Writs issueing out of the Chancery, but only before the Judges particularly appointed as a Guard over the Jews, and that too by the accustomed and hitherto used Writs of Judaism. This Part of the Record proves that a Jew, at this Period (or any other indeed) was never consider'd as a natural born Subject.

With Respect to the Lands and Tenures, into which the Jews before this Statute have been infeoffted, and which they now hold, it is the King's Pleasure, that all Infeofftments and Grants of this Kind be wholly annihilated. The Reason is obvious, for this Sort of an Infeofftment was an illegal Infeofftment; but had it not been crush'd in the Bud, it might, thro' Connivance or Length of Time, have fatally deviated into a Cus tom, and Custom often has the Force of a Law. A wise Monarch, says a learned Gentleman, when he is inform'd that his Subject's Property or his own Prerogative is infringed, cannot too soon nor too powerfully interpose his Authority.

† Habebunt. If the Jews had been capable to inherit, by Law, we should here have had the additional Word, **tenesbunt.**
This royal Ordonance likewise declares, If it happens that a Jew, contrary to this present Statute, should receive a Feoffment after this Manner from any Christian, whether as a Fee or as a Tenement, the Jew shall wholly lose the said Fee or Tenement. In the Conclusion of this truly English Ordonance it is declared also, that because the Jews of late are wont to receive certain Rents out of the Lands and Tenements of Christians, thro’ the Hands of the said Christians, which Rents were called Fees: We the King and aforesaid Council will and appoint, that the Statute then made on that Occasion by Us may now obtain the additionary Strength of Confirmation: Nor may any thing be deem’d derogatory to it in any respect.

The whole of this Ordonance is so strong against the Jews, that you, Sir, seem, I was going to say, to have Recourse to your old Tricks, by endeavouring to convince the Public, that it is not an Act of Parliament. And indeed the Reason you give, undeniably proves that it cannot possibly be an Act of Parliament; for you say (Page 29) there was no Parliament held by Henry III. after the 52d Year of his Reign. This we grant. But, Sir, you have allow’d it to be an Ordonance or Statute of Henry III. and that is all we require. For the Parliament never pretended to interfere between the Crown and the Jews, ’till the Act passed for naturalizing them in our Plantations abroad. And all the Ordonances either for or against the Jews, before that Time made, were wholly independant of Parliamentary Authority, and were the sole, mere Result and Effect of the King’s Prerogative. The great Bracton, who wrote in Henry IIIld’s Time, and so thoroughly understood the royal Prerogative, would certainly have advis’d the King his Master not to permit that to be done by Parliament, which he could do of his own inherent Right.
Right. For the Parliament, in Henry IIId's Time, had no Right to dispose of the Persons and Monies of the Jews, whatever they may have at this Day; and suppose such a Case should hereafter come into the Consideration of a British Parliament, all that it is likely the Parliament would do, would be to give the King their Advice, which his Majesty might either take or refuse. But if it be the King's Pleasure (as the old English Law stands) he may at any Time, at any Hour, and without any Advice, seize the Monies and Persons of the Jews as his own Property, without giving a Why or a Wherefore, but that it was his Will and Pleasure.* But how far either his Majesty, or any future King of Great Britain will permit any subsequent Act to be made to divest them of so Royal a Prerogative, is no Part of the present Enquiry.

Page 27. No. 34. Clausi 18 H. 3. m. 17. dorso.

This last Record only mentions some trifling and, in the present Dispute indeed, wholly immaterial Circumstances concerning a House purchas'd by a Jew. Therefore I have not thought it worth an Annotation, the Point of Houses and Tenements having been already amply discuss'd.

Having now, Sir, carefully gone thro' an Examination of the Records, I hope, by this Time, you will begin to acknowledge that it appears, from those very Records, that the Jews never had a Right to purchase Freeholds, Farms, or Manors, upon the Terms you have contend-

* Unless the Acts of Parliament to invite Foreigners and Strangers to traffick in our different Funds, established since the Revolution, does not break into the ancient Law of this Kingdom.
ed for; and that all the Indulgence they met with, was
that of having the Liberty only to purchase Mefuages,
Tenements, Houses for themselves to inhabit, or to
lease out to other Jews. But then all these Purchaes
were made under a Permiffion from the Crown, and not
by Virtue of any one precedent Act of Parliament.
I shall next, agreeable to my Promife, proceed to ex-
amine that Part of the Body of your Pamphlet, fo far as
I apprehend has not been already anfwer’d in the Exami-
nation of the Records exhibited by you; and I fhall, in
the Course of fuch farther Examination, state the Que-
ftion extracted from your Compilement, and, under each
Quotation, lay before you my farther Thoughts of your
elaborate Performance by Way of Reply.

No. 1. Page 3. The Question. The Propriety or
Impropriety of the Act, which paffed the laft Session of
Parliament, relating to Jews born in foreign Countries,
depending, in a great measure, on the Knowledge of what
Civil Rights Jews born here were, by Law, then inti-
ted to; an Inquiry into this Matter, if conducted with
Decency and Candour, cannot be displeafing to the Pub-
llick.

Reply. If then the Jews born here were not en-
titled to any civil Rights by Law, that is to fay by an
Act of Parliament, previous to the late Act, the late
Act muft confequently have been improper; and fo the
preffent Parliament, I presume, have fince adjudg’d, by
repealing it. In fhort, Sir, I think you have not altogether
conducted yourself with that Decency and Candour one
could wish, feeing you have unjuftly disputed an Ordo-
nance as spurious, which has all the genuine Marks of Au-
thority, and likewife have brought false Deductions from
Laws that never were in Use: But, it is not to be doub-
ed,
ed, it will soon appear whether this Reply, or your Question, will be most agreeable to the Public.

N°. 2. Page 4. Question. The Advocates for the Act permitting Jews to apply to Parliament to be naturalized insist, That it gives no new or greater Privilege to the foreign Jew to be naturalized by it, than every Jew born here was before, by Law, intitled to, and in the quiet Possession of; and, for this Purpose, they insist, that a Man born within the British Dominions, of Parents who reside there, either with the special Licence of the Crown, let their Religion be what it will, are, by Law, natural-born Subjects; and that, consequently, the Jews born within the King's Dominions are such.

Reply. This is not flating the Case fairly, for the late Act comprehends not only the Jews born within the British Dominions of Parents who resided there, but all foreign rich Jews in general. Besides, a Privilege when confined to a few, may (and always ought to be) a public Utility, but when open to all, it may be attended with very dangerous Consequences to the Welfare of a Nation.

N°. 3. Page 6. Question. The Evening Writers insist, That the Right the Jews exercised, of purchasing Land-Estates, has been done by Connivance, and only in consequence of the Opinions of certain Counsel who then practiced at the Bar in Westminster-hall; their supposed Right never having been legally tried and determined in any Court; nor pretended to, before that time. That the Laws, as they now stand, allow them to be made Denizens; that is, they have been permitted to purchase Lands under a Royal Charter; and that they never did or could purchase but as Denizens.

Reply.
Reply. This is not only argumentum ad hominem, but argumentum ad rem, and is of such unshakeable Strength and Force, that, you are not able, Sir, to undermine it with all your intricate Windings and unsuccessful Subterfuges. Nor is it so much the Point in question, whether a denizated Jew may purchase, as whether he has an absolute, Law-dependant Right, to hold, or to inherit by Difcent. Which Point indeed you have left in dubio.

No. 4. Page 8. Question. The Writer of the Pamphlet, called, A full Answer to a fallacious Apology, from a Conviction, that the Jews supposed Incapacity to purchase Lands was not founded on the Common Law, candidly admits (Page 7.) 'That in the Time of Henry the Third the Jews were under no Restraint from purchasing Land-Estates; but insists, that in the 54th Year of that King's Reign, they were restrained from doing it by an Act of Parliament, which he says is now in force.' He was led into this Mistake by trusting to the Authority of Dr. Tovey, in his Anglia Judaica, p. 188.

Reply. This Pamphlet is generally supposed to have been wrote, Sir, by yourself or under your Direction. However, this Point is sufficiently confuted in our Remarks on the Records.

No. 5. Page 9. As the Expressions natural-born Subjects, Alien, and Denizen, will be frequently made Use of in considering the present Question, it may not be improper to ascertain their true and legal Meaning: A natural-born Subject, is one born within the King's Liegeance, i.e. under the actual Obedience, and within the Dominions of the King; Ligeus being ever taken for a natural-born
An Alien is one born out of the King's Liegeance—A Denizen, in its strict legal Acceptation, is the same as Ligeus, quasi deins née; but, in its modern Acceptation, implies one born an Alien, and denizated by the King by his Letters Patents, Co. Lit. 129. a. If Aliens come into England, and live under the Protection of the Crown, and have Issue, such Issue are Subjects born, because they are born within the Realm, Co. Lit. 8. a. 7. Co. 6. a.—And the Law-books make no Distinction as to this Matter, with respect to Religion: If an Alien, Christian, or Infidel, purchase Houses, Lands, Tenements, or Hereditaments, to him, and his Heirs; albeit, in the Notion of Law, he can have no Heirs, yet he is of Capacity to take a Fee-simple, but not to hold: For upon an Office found, the King shall have it by his Prerogative. Co. Lit. 2. a. & b.

REPLY. When Lord Coke made this Definition of a natural born Subject, it is known he understanded the Jews as perpetui Inimici; now the Word Ligeus is one that has sworn Allegiance; but as the Jews on Account of their Religion could not, in Lord Coke's Opinion, swear Allegiance, they were necessarily excluded from the above Definition. A Jew as well as a Christian might make a Purchase, because to compleat a Purchase the Oaths of Allegiance are not required, but they are required to become 'Ligeus Subjectus.'

No. 6. Question. That Jews born in England were, before and in the Reigns of Henry the 111, Richard the I11, King John, and Henry the III11, and now are, Persons capable of purchasing and holding, to them and their Heirs, real Estates, it is submitted, will appear from the following Authorities, and the uniform
form Opinion and Practice of the greatest Lawyers of this Country, both antient and modern.

Reply. This is only begging the Question, which, in our Remarks on the Records, we have indisputably refuted at large.

No. 7. Page 12. Question. If the Jews had, by Law, been incapable to make such Purchases, Ranulphus de Glanvil, who was Chief Justice of England, and wrote his Treatise De Legibus et Confuetudinibus Regni Angliae in the Reign of Henry the Second, — Bracton, who was also Chief Justice of England, and wrote his Treatise De Legibus et Confuetudinibus Angliae in the Reign of Henry the Third, and the Author of Fleta, or Commentarius Juris Anglicani, which was wrote in the Reign of Edward the First, would probably have taken Notice of this Incapacity.

Reply. What! would you have had them taken Notice of Matters that were not in Esse, nor were suppos'd to have been in Esse? The Incapacity of the Jews to purchase and hold Lands by Law, was universally known in the Days of Glanvil and Bracton: and therefore did not require their particular Examination to prove. the contrary, this rather seems to be the obligatory Duty of some future Advocate for the Jews,

No. 8. Page 13. No judicial Resolution antient or modern can be shewn to prove, that a Jew born in England is not to be considered as a liege or natural-born Subject.

Reply. Does not their total Banishment by Edward I. (for we may venture to assert there must have been English-born Jews at that Time) prove that they were not:
not considered as liege or natural born Subjects. For the Jews were banished by that Prince on Account of their great Extortions in their usurious Practises: But this Pestilence was almost epidemic at that Time, and an infinite Number of Christians were equally guilty of the same Misdemeanour. Yet all the Jews were banished, and not one Christian forced into that Extremity. The latter by standing their Ground, shewed they had a Right to maintain it, the Jews, by submitting to Banishment, owned they had no Right to stay. Besides in regard to inferior judicial Resolutions, it may be observed, that the King's Prerogative was so well known, that no Jew would pretend or dare to dispute it; which is a sufficient Reason that we have no one judicial Resolution. But when you advance, Sir, that there is no judicial Resolution, you must own, I believe, that to assert is one Thing, and to prove is another.

No. 9. Page 13. Question. Wulaff King of the Mercians, in the Year 833, granted a Charter to the Abbey of Croyland; which is set forth at large by Ingulphus, one of the Abbots of that Monastery; whereby he confirmed to the Monastery all Lands and Tenements, and other Grants, which his Predecessors Kings of Mercia, and their Nobles, or other Christians, or Jews, had granted, sold, or mortgaged, or in any other manner delivered, in perpetual Possession to the said Monks:

Confirmo etiam dicto monasterio omnes terras et tenementa, possessiones, et earum peculia, et omnia alia donaria, qua Predecessores mei, Reges Merciorum, & eorum proceres, vel alii fideles Christiani, sive Judei, dictis Monachis, dederunt, vendiderunt, vel invadiaverunt, aut aliquo alio modo, in perpetuam possessionem tradiderunt.

It has been insisted, That this Charter must certainly relate only to converted Jews; because none but a converted
verted Jew would grant his Land to a Christian Monastery; but the Words of the Charter are, granted, sold or mortgaged; and there could be no Impropriety for a Jew to sell or mortgage his Lands to a Monastery for a valuable Consideration: — There are frequent Instances of real Estates being granted by Religious Houses to Jews. — It might, with more Appearance of Reason, be Insisted, that by fideles Judei was meant such as were natural-born Subjects, or who had been sworn on the Leet.

Reply. As to the Grants, or Gifts, which the Jews might have made to the Abbacy of Croyland, we can give a very good Account how that might have happen'd: Ingulphus says, about the Year 716 of the Holy Incarnation, erant etiam in eadem insula (Croylandiae) illis in temporibus nonnulli vitam heremiatricam ducentes, ex quibus unus noviter erat ad fidem catholicam convertus, nobilitate generosius, quondam præpotens in mundialibus, nomine Cifla, qui religiosis omnibus fecutus est dominum suis Christum. Alius erat Betellinus servus praefati patris familiarissimus. Tertius erat Egbertus, secretorum ejus prædator ejus confisus. Quartus erat Tatwinus, ad eandem insulam quondam duæt ejus et nauclerus. That is, there were in those Times a small Band of People that inhabited the Island of Croyland, living like Hermits in a Wilderness. Of these, the first and Chief had been lately converted to the Catholic Faith, he was Noble by Birth; and before his Retirement to this Defert had enjoy'd very great Possessions: But this pious Man, Cifla by Name, forsook all worldly Considerations to follow his Lord Christ. The second was Betellinus, his most favorite Servant. The third Egbertus, his privy Counsellor. The fourth, Tatwinus his Pilot, that had formerly conducted him into this Island.

Now
Now as these four were voluntary Converts to Christianity, and as they had separate Cells in the Monastery of Croyland, in which they lived and died, it is natural to imagine that so considerable a Personage as Cijfa, and perhaps the other Three, might bequeath something to that Monastery, which in all probability was included in the omnia alia Donaria, all other Gifts.

In this Charter the Words of Ingulphus are, ali fideles Christiani, five judaei, that is to say, other faithful Christians, or Jews, but without the Epithet of faithful; however, Sir, as you found it necessary for your Purpose to swear them at your Court Leet, you did very well to give them the Appellation of faithful. But I could have wished, that in your Researches amongst the dusty Archives of Antiquity, you had been so happy as to have recover'd to us the Form of the Oath, as it might possibly have served for a Model of the Jews present Abjuration Oath.


**Reply.** They were indeed consider'd as Persons capable to purchase—— but what? why nothing but Tenements, Messuages, and Houses—— no Lands, or Manors. So that Bracton should have said, Nisi modus vel genus donationis inducat contrarium, unless the Form or the genus of the Grant implies the contrary.

**No. 11. Page 13. Question.** In the First Year of Richard the First, Abraham the Son of Avigay, a Jew, fined in a Mark of Gold, because it was not expressed, in a Deed from the Earl of Arundel to him, that the Manor
nor of Rowell was mortgaged to him [Vadium suum], as it ought to have been.

REPLY. This only relates to a Mortgage (vadium suum) and we have amply shewn, in our Remarks, that the Jews had a Permission to lend their Money on Mortgages in Lands and Manors: But it must be remembered throughout the whole Course of our present Disquisitions, the sole Question is, Whether the Jews are capable, by Law, to purchase and inherit Lands and Manors by Descent.


REPLY. In the Original it is not, "All the Debts, Mortgages, Lands, &c." but all the Debts and Mortgages of Land, &c. for by the disjunctive copulative et, which goes between * debita et vadia, Debts and Mortgages, and again between vadia terrae, domus, redditus, et possessiones, Mortgages of Land, House, Rent, and Possessions: the Words terrae, domus, redditus, are rather the Genitive-Case Singular, than the Nominative-Case Plural. I should not have mentioned this Distinction, but that you are determined, Sir, if possible, at all Events that your Jews shall have Lands; whereas in the Instance you produce, we are only told that they had Mortgages on the Land, House and Rent.

* Here are three distinct Divisions of the Effects of the Jews which were ordered to be abbreviated; first, the Debita, which were Debts they owed to the Crown; the second the Vadia which were Mortgages they had on the Land, Houses, or Rents of Christians; the third, the Possessions which were their Personalities.
I am more confirmed in my Opinion that *terra*, *domus*, *redditus* is the Genitive-Case of those Nouns: as in Case of Concealment of any of the above Effects, there is no express Mention made of the Land, House, or Rent, but every Jew, concealing any of these Things, shall forfeit to his Lord the King his Body, and whatever shall be concealed, and *all his Possessions, and all his Chattels*, nor may it be lawful for such Jew ever to recover the Thing concealed. I shall transcribe the Latin Text, that the Curious may judge from the Original.

**Capitula de Judeis.**


I must here repeat it again, Sir, you promised to conduct your Work with great Candour, and to do you Justice I must own you have given us one Instance by exhibiting to View, what Effects of the Jews were order'd to be imbriefated: Yet I think you would have shewn a much greater Instance of your Candour and Impartiality, had you likewise exhibited the heavy Penalty the Jews were subject to, in Case of the least Concealment. But as this would have proved the Jews were not considered, in those Days as natural born Subjects, it's probable that induced you to omit it. For I suppose you certainly must know, that a natural free-born Subject cannot be imprisoned or difseized of Lands: but if such Injury be offered to his Person or Estate, he has, at present, an indisputable
indisputable Right to sue out a Writ of Habeas Corpus, in Order to set his Person at Liberty, and you also know before the making the Habeas Corpus Act, he had a full and undoubted Power to have Recourse to the known Laws of his Country in order to recover his Lands: Instances of which, with Respect to Christians are innumerable. So that you would have done well, had you produced us one Instance of the Jews applying and succeeding in either of the above Cases.

**No. 13. Page 14. Question.** By this Charter of Confirmation, the 10th of April in the 2d Year of his Reign, King John granted to the Jews of England and Normandy, that they might freely reside in his Territories, and might hold all those Things of him which they had of Henry the 1st, and also all those Things which they reasonably then held in Lands, Fees, and Mortgages (in terris et feodis et vadiis et agatis suis.)

**Reply.** That is to say, a Permission to mortgage out their Money on landed Estates, to receive the Rents and Profits, to purchase Houses for themselves to inhabit, or to lease out to other Jews: This is what is understood by the Phrase "what they then reasonably held in Lands, Fees, and Mortgages;" King John in this Charter, does not say that he grants the Jews the actual Lands they reasonably then held, but certain Contingencies in such Lands, Fees, and Mortgages, as his Predecessors had before granted to them. It will not be amiss to observe, that by Fees, is only meant the Rents of certain Lands, which were paid to the Jews, thro' the Hands of Christians, "quidam redditus de terris, &c. qui etiam Feoda dicebantur."

This Charter of Confirmation by King John, as it contains the Clause of "Omnia illa que modo rationabiliter
biliter tenent in terris, &c."

that is, all they then in a Manner reasonably held under Henry I. rather proves against you, Sir, for it either presupposes a Defect in the prior Grant, or acknowledges the present Grant to be defective; because in all simple Confirmations it is not required whether the Grant be reasonable or not, perfect or imperfect, but that such a Thing (or even nothing) is fully confirmed, which Confirmation admits of no Defect, and is subject to no Restrictions whatever. Thus Braden very judiciously says, "Si confirmo tali talem donationem, " sicut rationabiliter facta est" ex tali confirmatione non ergo valebit prima donatio; per hujusmodi enim verba coarctatur et distractur, ita quod nullam poterit supplere prima donationis defectum, quod non est in simplici confirmatione, ubi non requiritur, utrum donum sit rationale vel non, perfectum vel imperfectum, vel omnino nullum. (Lib. 2. c. 25.)

But as this Charter is the Corner Stone, on which the Jews build all their Presumptions, let us examine what are the Privileges here confirmed to them. The First is to permit them a free and honourable Residence in England and Normandy. The Second I have mentioned above. A Third is that a Jew may lawfully sell his Mortgage, after it is of a Certainty his own, and that he shall have had it, in his own Possession a Year and a Day. "Liceat Judaeo quiete vendere vadium, postquam certum erit, eum illud unum annum et unum diem tenuisse:" Here we must observe that there is no Mention of its being lawful for a Jew to sell the terras et maneria, the Lands and Manors, he is only permitted legally to sell the Mortgage on such Lands or Manors, it is expressly said vadium, Mortgage. In the Fourth, the King says, that the Jews, wherever they may be, with all their Chattels as we consider them as our own proper Effects, shall not be impleaded but before us, or before the
the Keepers of our Towers; and therefore no one may retain them on Pain of our Displeasure. "Cum omnibus catellis eorum, sicut res nostræ propriae, et nulli licet eos retinere." In the Fifth Privilege, is enforced a powerful Reason why the King considered the Jews and all their Chattels as his own proper Effects, for he ordains that they shall be free from all Customs, Duties, and Modiation of Wine, as his own proper Chattel, Sicut nostrum proprium catallum. So that in this short Charter, King John twice mentions the Jews and all their Chattels as his own proper Property. After this I hope no one will dispute the Declaration contained in the Code of Edward the Confessor, relating to the Jews, in which it is said, that no one may retain the Jews nor their Money, for the King may demand them as his Property. If we compare the Words of that antient royal Declaration with this present Charter, we shall see how nearly they resemble each other.

In the Code De Judæis in Anglia constitutis. In King John's Charter.

2. Quod si quisquam detinerit eos. 2. Et licet nulli cos retinere.
3. Tanquam suum proprium. 3. Sicut res nostræ propriae.
   And again: Sicut nostrum proprium Catallum.

It is plain from hence, that King John had the original Ordinance constantly in View. Which is a very corroborative Evidence of the authenticity of the above-mentioned Code.
Question. 45 H. III. the Chirographers of Wilton, Merleberg, and other Places, were directed to open the Arche, or Chest of the Jews, and make an Inventory of what they found there; and also to inquire of all the Estates of the Jews, moveable, and immovable, not in the Chest; videlicet, quantum singuli bas-decorum in auro et argento, vadiis, jocalibus terris,* redditiibus, et rebus omnibus aliis.—Rot. Pat. 45 H. III. dor. 9.

Reply. The King by ordering his Chirographers to open the common Chest, did it, in all Probability, with an Intent to inform himself of the Wealth and Riches of the Jews; if he found them too oppulent, he had nothing to do, but to seize their Effects into his own Exchequer, as that wise Politician, that illustrious Ornament of the English Throne, Edward I. did afterwards. For excessive Riches are not to be trusted in the Hands of a private numerous Body of Men: The Law of Obfuscation in such Cases becomes necessary, and therefore prudent; but the Prudence consists in putting this Law into Force by such imperceptibly-gradual Means, that the very Objects of its Renunciation shall not feel their Effects are invaded, 'till they themselves are irremovably caught in the inextricable Ambuscade of Court-politics. But serious Matters a-part:—Me-thinks, Sir, I should have been glad had you given your English Readers an Interpretation of those Lands, belonging to the Jews under the Denomination of jocalibus terris, that is to say jocial Lands: I suppose you took them to be Bowling-greens or Nine-pin Alleys: But I must tell you, by the bye, a Truth which you will not like to hear; and that is, these jocales terrae were

* The Word jocalia is used as a Substantive by our Annalists that have wrote in Latin, but then it signifies holy Reliques, or Jewels; but is never used adjectively to express any one immovable Thing whatever. Thus Inculpsus says, the Monks privately carried away sacra-tissima gleba corporis sancti Guiblaci, flagello, alis; pracipuis jocales terrae.
were the *locales* or otherwise the *locabiles terrae*, the Houses with adjoining Homesteads which the Jews were permitted to Leafe out to other Jews, but not to Christians.

No. 15. Page 18. Question. Thus, in the Reign of Hen. III. Helius de Hokeringe, and Isabella his Wife, by their Deed of Infeoffment, granted, gave and confirmed, to the said Abraham the Son of Denletre, a Jew, a Messuage, in Norwich, to hold to him, his Heirs and Assigns, or to whomsoever, and whencesoever, he shall think fit to give, bequeath, sell or assign, the same, freely and hereditarily, for ever; rendering a Pound of Cumin-seed yearly for all Services and Demands; and the Granter, and his Heirs, thereby warranted the Premises to the Grantee, his Heirs and Assigns, for the said Service, against all Persons, as well Christians as Jews.

Reply. This Infeoffment takes Place not because the Grantor had a Power to grant, but because he totally divested himself of his Right to recover. Besides, this is only the mere Concernment of a single Messuage.

No. 16. Page 18. Question. The Rolls of the Exchequer, of the 3d and 4th Edw. I. make mention, That, according to the Assize and Statutes of Judaism, the Jews in this Kingdom were intitled to have a Moiety of Lands, Rents, and Chattels, of their Christian Debtors, until their Debts were satisfied.

Reply. Does this prove that the Jews were entitled, by Law, to purchase Lands before the late Act?

No. 17. Page 18. Question. There was in this and former Reigns, an Excheator of the Jews, whose Duty is was to take Care of the Tenements and Chattels which came to the Hands of the Crown by the Death or Forfeitures of the Jews.

Reply.
Reply. By this Escheator, or, more properly speaking, this Officer, we see the King claimed all the Jews Tenements and Chattels at their Deaths: This affords a farther Reason to believe, that the King had a Right to claim them as his Property. And is a Circumstance, which no Advocate for the Jews ought ever to have brought to Light.

No. 18. Page 8. Question. Others, which appears to be the better Opinion, insist they were banished; but by whom, whether by the Parliament, or by the King's sole Authority, does not certainly appear.

On their Departure, the Lands, Debts, and personal Estates, which they left behind them, escheated to the Crown; and Proclamations were issued, commanding all Persons, who owed any Money to any Jew, or who knew any Thing of their Debts or Estates, to inform the King, or his Council, thereof.

Reply. That the Jews were certainly banished appears from a Roll now in the Tower, containing an exact Account of the Grants of Edward I. of the Houses of the Jews which came into the King's Hands, per exilium eorum Judaeorum. And that they were not banished by the Parliament is as certain, for as the Jews were (and still are if the naturalizing Bill be repealed) one distinct, separate Property of the King, the Parliament had no Right to dispose of them; and as no Act of Parliament can pass into a Law without the King's Assent, the King (if he knew it) would hardly pass an Act that should divest him of his Royal Prerogative: For as far as the Royal Prerogative extends, the Kings of England were (and still are) as absolute as any Monarchs in the World; and abso...
is the favourite Prospect that most Kings have, and generally will have, in View.

But in Rot. 4. a. we find this Statute was the Result of the King's Will, He, of his own Prerogative, ordered it to be published, that it was signed with the Seal of the Exchequer, &c. consequently no Act of the Parliament: Rex vult quod Statuta que de Judaismo nuper fecit publicari, sigillo Seaccarii signata, &c.

Besides, Molloy tells us, that Edward I. did, through the earnest Solicitations of the Commons in Parliament, publish an Edict for the total and universal Banishment of the Jews, and that the King accordingly sent his Letters and Letters Patent to several Sea-port Towns. As a farther Proof that this Edict never was considered as a regular Act of Parliament, we find no mention made of it, as such, in any of our Statute Books.

No. 19. Page 21. Question. In the 3d Year of Edward III. Anno 1330, a Quo Warranto was brought against Hugh de Audele, and Margaret his Wife, for various Franchises claimed by them, as belonging to sundry Manors and Lands in the County of Northampton; and, amongst others, to shew by what Title they claimed the View of Frank-Pledge, and other Franchises, in the Manor of Whifton: Hugh de Audele and his Wife appeared; and pleaded, That the said Manor formerly belonged to William de Whifton, who infeoffed one Moses, a Jew of the said Manor, with the Appurtenances, to hold to him, and his Heirs for ever; and that the said Moses infeoffed Richard Earl of Gloucester thereof, under whom the Defendants made Title; and, by their Plea, insisted, That they, and their Ancestors, and their Feoffors, had, for Time immemorial, been seised of the Franchises in Question, as appurtenant to the said Manor.
The Attorney-General did not demur to this Title, which he probably would have done, if, by Law, a Jew had been a Person incapable of being the Grantee or Grantor of an Estate in Fee-simple; but instead thereof, took Issue on a collateral Matter.

Reply. This Infeofment from Whiston to a Jew, holds good to the Jew, in as much as Whiston divests himself of his Right; but this does not prove that the Jew had a legal Right to purchase, nor does it prove that the Heirs of this Jew could have inherited this Estate; nevertheless the Infeofment from the Jew to the Earl of Gloucester, and from the Earl to Margaret his Daughter, and from Margaret to Hugh de Audel in Right of Marriage, is good to all Intents and Purposes. Because if the Heir shall have confirmed the Grant of the Predecessor or any other, whether the Grant was perfect or imperfect, valid or not valid, it shall in no ways weaken the Confirmation. *Si donum antecessoris vel alius confirmaverit hæres, sive donum perfectum sive non, validum vel invalidum, illud infirmari non poterit.* Bracton. For which plain Reason the Attorney General did not demur to this Title, but took Issue on a collateral Matter.

No. 20. Page . Question. The Archæ, or Chefts, in which the Mortgages and Securities made to the Jews were deposited, were sometimes sealed up by the King's Order; and, during the Time they were thus sealed, the Interest on their Loans ceased to run.

The 16 May, 25 H. III. a Writ issued to the Sheriff, &c. of Nottinghamshire, commanding them to open the Chyrograph Chest of Nottingham; but that Interest should not run on the Debtors from the Day on which the Chest was, by the King's Writ, closed, which was the Feast
Feast of St. John the Baptist, in the 23d Year of his Reign, to the Day on which it should be opened, in his 25th Year. Ex Orig. in Arch. Eccl. Col. Westm.

Reply. What can be a more full, authentic Testimony, that the Kings of England always esteemed, as their own Property the Mortgages and Securities made to the Jews? one while ordering the Chest to be sealed up, for two Years successively, and no Interest to run on the Debtors during all that Interval: another while commanding the Chest to be opened, and Interest to run on the deposited Loans, then ordering the Chest to be closed up again at the Royal Will and Pleasure.

Pray, Sir, does there seem no Distinction made, no Favour shewn here, between the Jews and natural-born Subjects? We have already spoke of these Archæ, or common Chests, and the Shetar, or Star, contained in them: It is hoped what follows will not be disagreeable, seeing it shews the Jews could not cancel or disannul a Star without the King's Permission, which was also attended with a Fine payable to the King: —— For if any Christian became indebted to any Jew by such Star, or Contract, deposited in the Chest, and paid not his Principal and Interest at the Day appointed, the Jew sued forth Letters by way of Process against the Christian for the Debt and Interest under the Notaries Hand, to appear before the Justices especially appointed for the Government and* Custody of the Jews, in order to recover the same: But the Jew could not obtain

* The Judges particularly appointed over the Jews, are called Justiciarii custodes, vel ad custandum Judæorum: that is to say, Keepers over the Jews, or Justices appointed to have a Custody over the Jews: which is a plain Proof that our Kings considered them as Servants or Vassals: hence they became incapable to purchase, for as the great Justinian observes, Servus qui in potestate alterius est, nihil suum potest habere. That is, a Servant that is under the Power of another, can have nothing of his own.
obtain such Licence 'till he had paid a Fine to the King for obtaining such Letters, the Fine was unum Bifantum. So that we see from hence, that the Jew could not even demand the lapsed, or forfeited, Contract, either by Prescription, or the Common Law of England, nor yet by the Custom of Judaism; and that he had no other Means of recovering his Principal and Interest (tho' the said Interest had grown equivalent to the Principal) but by Letters Patent from the King. From whence it is plain, that the Prerogative of the Crown operated throughout the whole Transactions of the Jews independent of Law or Parliamentary Protection. Add to this, the heavy Fine the Jews were in the above Cases obliged to pay the Crown, unum Bifantum. The Bifant still is a Term amongst our Heralds describing a certain Kind of Money, which as William of Malmesbury (Folio 77) informs us in his Fourth Book, was a Talent of Silver, or 500 French Crowns, a prodigious Sum of Money in those Days. Constantinopolis primum Bizantium dicit. Formam antiqui vocabuli praeferunt imperatorii nummi Bifantini (alter Bifantium) vocati. And in Folio 79 he says, Indigence pacem Turcorum annui Talentis vel Bizantinis redimebant. By this Means we come thoroughly to understand the political Reasons why the earlier Norman Kings permitted the Jews to take, at first, 65 per Cent.

**N°. 21. Page . Question.** It has been insisted, That several Kings, after the Conquest, released, discharged, and disposed of, the Estates of the Jews as their own, at their Pleasure: That those Grants, together with the Laws of Edward the Confessor, are declaratory of the Common Law, and sufficient to shew, that though the Jews could purchase Land-Estates, that yet they had no Property

* Vide Fine Rolls, 6 Johan. m. 10. Likewise in H. 3. & Ed. 1.
Property in them; but that, as soon as they were purchased, they belonged to the Crown.—If this were so, the Jewish Purchasers were foolish indeed.

Reply. In this Point, Sir, we entirely agree with You. And it is more consistent with Reason, that a few vagrant Usurers should of their own wilful Accord be made Dupes to the Common-Wealth, than that the Common-Wealth should be sacrificed to a few exorbitant Usurers. Nor can the Jew have any Ground for Complaint, since it is an universally established Maxim, that Scienti et volenti non sit injuria, the knowing and willing is never injured.

No. 22. Page 33. QUESTION. On the other Hand, the MS. from which Mr. Selden published his Copy of these Laws, is attended with no suspicious Circumstances; and is perhaps better supported, by the Account Ingulphus gives of its Authenticity, than any other MS. of the like Nature can at present be expected to be: 'Attuli eadem vice, says Ingulphus, mecum de Londonis, in meum monasterium, leges equissimi Regis Edwarde, quas Dominus meus inculitus Rex Wilhelmus authenticas esse, et perpetuas per totum regnum Angliae inviolabiliter tenandas, sub pena gravissimis proclamarat, et suis juxtiicariis commendatar, eodem idiomate quo edita sunt; ne per ignorantiam contingat nos vel nosros ali- quando, in nostrum grave periculum contraire et offendere, auiu temerario, Regiam Majestatem, ac in ejus cenuras rigidiissimis improvidum pedem ferre, contentas sepius in eadem, hoc modo.' Ingulph, p. 914. Suffer me, dear Sir, to give you a Translation of this Quotation, that my English Readers may understand it as well as yourself: "At the same Time, I brought with me from London into my Monastery, the Laws of the most equitable
equitable King Edward, which my Lord the renowned
King William, by Proclamation, had ordered to be obeyed
as authentic, and perpetually and inviolably to be obser-
ved throughout the whole Kingdom of England, and
which the Justices were recommended to make public
in the same Language they were first published in (that
is to say, the Saxon) left thro' Ignorance it should so
happen that we, or ours, might at any Time oppose or
offend rashly and unadvisedly, the Royal Majesty, and
improvidently incur his most rigid Displeasure, very of-
ten mentioned therein, in this Manner. (Not one Word
more following.)

Reply. Would not any one imagine that this Quo-
tation from Inguflhus, was part of the * Code as tran-
scribed by Inguflus? As it is not so, you must excuse
me, Sir, if I set my Readers right in Respect to this
I
Extract.

* But granting, Sir, that Mr. Selden had copied from the Manu-
script of Inguflhus, and granting that the Law of Danegeld is not
mentioned in the MS. of Inguflhus, must it follow from thence that
the Law of Danegeld was not one of the old Constitutional Laws of
England? Certainly no Logician would draw any such Consequence.
But what will you say, Sir, if, from the very Words of Inguflhus
himself, I should fully convince you? For in his History of Croymland,
he says, in the Year 948, Ego Edredus primus volo quod diB i ™ona-
chi sint quieti et solati a bo nni scoto, Geldo, &c. I Edred the First
will that the faid Monks be quiet and free from all Scot, GELD, &c.
And the Year 1051, Cum terra non daret solita fertilitate fruB us
suo, sed fame plurimus habitatores devoraret in tantiB bladorum ca-
renia et panis inopia multa hominum Millie moverentur, misericordia
motus super populum piissimus Rex Edwardus tributum gravissimum,
quod Danigeld dicebatur, omni Anglia in perpetuum relax-
avit, anno scilicet 38, ex quo tempore Regis Ethelredi patris sui
Swanus Rex Danorum suo exercitus diBum Danigeld solvi singulis an-
nis imperavit. That is, "In the Year 1051 the Land not giving
its Fruit with its wonted Fertility, but many of the Inhabitants
being devoured with Famine, infomuch that many ThouBmds died
throu' Want and a Scarcity of Corn, the moB affectionate King Ed-
ward, moved with Compassion for his People, relieved all England
Extract. First of all then, Mr. Selden could not publish his Copy of the * Laws of Edward the Confessor, from a Manuscript of Ingulphus, for that Abbot has left us no such Manuscript, as I have before observed, save in his little History of the Abbacy of Croyland, and therein gives us to understand he had the whole Code in his Possession. †

in perpetuity of that most heavy Tribute, which was called Dane-geld: And this was done 38 Years from the Time of King Ethelred his Father, when Swain, King of the Danes, commanded the said Danegeld should be paid to his Army, as an annual Tax.

Now we are speaking of this Tax of Dane Gelt, or Dane Geld, (Dane Gildum) is compounded of the Words Dane and Geld, the Latter, in Dutch, signifying Money; Camden, in his Brit. 83. 142, tells us, it was in the Nature of a Land Tax at 1s. and after 2s. which was laid upon every Hide of Land throughout the Kingdom; and this was levied upon our Ancestors, the Saxons, by the Danes when they lorded it here. This Dane Geld was revived again and levied by William the First and Second, but was given up by King Henry I. and finally by King Stephen. It is probable, says Jacob, that this ancient Tax might be a Precedent for our Land Tax of 3s. and 4s. in the Pound when first granted.

* These Laws, which are called Edward the Confessor's Laws, and afterwards were confirmed by William the Norman, and likewise called his Laws, were originally invented or engrained into the Constitution of England by Edgar. But as they had lain dormant during the Space of 48 Years, and were wholly forgotten, and as they were afoeth brought into Use by Edward the Confessor, they were called his Code.

† As I have in this Reply made several Extracts from that learned Author, Ingulphus, it induces me here to give some Particulars of his Life 'till he was made Abbot of Croyland.

He was born in the most beautiful City of London of English Parents, and received the first Part of his Education at Westminster, and from thence removed to Oxford, where he greatly improved himself in Learning, far superior to most of those of the same Standing with him, bending his Mind chiefly to the Study of Aristotle and Tully: Being thus furnished with useful Learning he forsook his Father's House, and attended upon the Court, and, as he says, attired himself with Silk and gorgeous Apparel.

William, Duke of Normandy, at that Time came into England, under Pretence to pay a Visit to his Cousin King Edward the Confessor
No. 23. Page 33. Question. To the foregoing Observations let me add another Quotation from Bradton, which was omitted in its proper Place, and which appears to be decisive of the Question: That the Jews had a Right, in his Time, to purchase and hold Lands—It is in the 6th Chapter of his 4th Tractate De Warrantia, wherein he is express, that a Jew might be vouched in a real Action, Sect. 6. Si Christianus vel Sudeus, qui terram non habuerint  

Confessor, and whilst Duke William was at our Court Ingulphus became greatly in his Favour, insomuch, that he followed the Duke into Normandy, where his Highness made him his Secretary, and soon after became one of his chief Advisers; which, he says, was seen with Envy by many.

It was whilst Ingulphus was so employed, that many King's, Princes, Prelates, and Clerks, with a prodigious Number of other Persons, were preparing to make an Expedition to the Holy-land, and among the rest, he tells us, he was one of the Number, and they actually set out; but in their Passage fell into the Hands of several Arabian Robbers who took from them a great deal of Money: However, they at length arrived at Jerusalem, when Sempronius, the Patriarch, received them very honourably, and shewed them the Church of the holy Sepulchre and several other Places. The next Year, in their Return Home, they visited the City of Rome, and from thence proceeded to Normandy, where they in due Time arrived in Safety.

After this Ingulphus retreated to the Monastery of Fontavill, and took on him the Habit of a Monk, where he proposed to spend his Life in Peace and Quietness, “Meaning thereby (says he) to purge and amend, as the Grace of the Holy Ghost inspired me, the Offences of my Youth and Ignorance.”

In the mean Time Duke William, hearing of the Death of King Edward his Cousin, got an Army together and passed over to England: And Ingulphus says, he presented to the Duke the Abbot's Gift, which was 12 young Men and Horses well armed, besides 100 Marks towards his Expenses in the Voyage; after which Ingulphus returned to the Monastery.

As to Duke William he found Means to mount the Throne of England, and in Process of Time Walketehus, Abbot of Greyland, was deposed, and that caused King William to send for Ingulphus, who was still in the Monastery of Fontavill, and upon his appearing in the King's Presence he was made Abbot of Greyland; and, as such, consecrated at Christmas, and then repairing to Greyland he was installed Abbot there on the Day of the Conversion of St. Paul, 1075, and so continued to hold the Office to his Death.
buerint de qua distingui possint, cum vocati fuerint ad
warrantizandum, precipiatur vicecomiti, quod habeat
corpora eorum, quia ibi non poterit captio terræ fieri ad
valenciam.

**Reply.** Braeton indeed is express that a Jew might
be vouched in a real Action: But what Kind of real
Action is it? Why, it is an Action where there is a
strong Suspicion of Fraud against him. This does not
prove that the Jews were capable to purchase Lands by
the common Law: For in Regard to civil Delinquencies,
such as Fraud, Murder, Robbery and the like, they
were tried by the Laws of this Land, but in Respect to
their Purchases of Houses, Mortgages on Lands and
the like, all their judicial Resolutions were determined by
the Jew-justices especially appointed for that Purpose.

Lib. 5. Tract. 4. Cap. 6. § 6. & 13. Immediately after the
Words above-cited in the 6th Section, there are added, in
the Print, these that follow— Judæus vero nihil pro-
prium habere potest, quia quicquid acquirit, non sibi ac-
quirit, sed Regi; quia non vivunt sibi ipsis, sed aliis; et
taliis acquirunt, et non sibi ipsis—On reading the Whole
of the Chapter, I inclined to think these latter Words were
not Braeton’s, but an Interpolation; and, on comparing them
with a very fair and antient Manuscript of that Author,
in the Library of the Society of Lincoln’s Inn, N°. 136. in-
dorsed on the Back thus; “Braeton, faire written in
“Parchement; ex dono Ranulphi Cholmeley, Servientis
“ad legem et Recordatoris civitatis London;” I find my
Conjecture was well founded; and the whole Passage to
be an Interpolation, no Part of it being in Braeton’s MS.
—Ralph Cholmeley was Recorder of London in 1553.

**Reply.**
REPLY. Here we are fully authorized, by Bracton, to assert, that the Jews, and every Acquifition of theirs, is the immediate Property of the King. And, in short, Sir, you have no other Probability of proving the Contrary but by your old dernier Resourse of Interpolation. Yet, methinks, it is somewhat extraordinary that it should be an Interpolation in Hoveden, an Interpolation in Spelman, and still an Interpolation in Bracton. But you say it must be so in the last mentioned Author, because you have seen one Manuscript, in which it is omitted. Would it not, Sir, have been much more candid in your Disquisition, if you had owned (with the Editor of Bracton's Works) that it was with great Difficulty and great Expence that out of very many Copies a single correct Copy could be found. "Non fini magna difficultate et sumptu, unum ex plurimum collatine fidum exemplar collectum." But we have very good Reasons to imagine that this Assertion, relating to the King's Property in the Jews, is rather an Omission in the Lincoln's Inn Manuscript, than an Interlopation in the Manuscript from whence the Editor copied. For if we reflect only that Bracton wrote 500 Years ago, at a Time when it was fully known that the King might always claim the Jews and their Money, tanquam suum proprium, and that his Works were published 160 Years ago, at a Time when there were few or no Jews in England; we may readily collect from hence, that Bracton could have no Intent to impose upon Posterity, nor the Editor to interpolate as he could then have had no personal Prejudice to the Jews.

N°. 25. Page 33. QUESTION. § 13. Cum quis adwarrantus vocatus fuerit Christianus vel Judeus, qui terram non tenerit in seodo qua capi posset in manum Domini Regis, vel per quam disstringi possunt, precipiatur vicecomiti, quod habeat corpora eorum primo die.
Et de hac materia inveniri poterit de termino Sancte Trinitatis, anno Regis H. quarto, de Iaac Judaeo, de Northwico; et de termino Sancti Hilarii, et Pafieae, circa principium—From hence it appears, that, as early as the Time of H. I. there were judicial Determinations, that a Jew might hold Lands.

Reply. This Case argues a contrary Opinion; for it either proves that the Jew was originally under In-capacity to purchase, or that he was latterly under an Incapacity to make good his Guarantee. I repeat it again, Sir, you ought, if you intended to have given us a satisfactory Proof that the Jews were capable of purchasing and warranting Lands, to have brought us an authentic Instance where a Jew had purchased, and where his Guarantee could not be invalidated tho' called into Question. But in the Case you bring, the Jew is imprisoned for want of a Capacity to warrantize.

No. 26. Page 34. Question. The Crown of England hath, for above a Century, entered into frequent Capitulations, and Treaties of Peace and Commerce, with the Turk, the Emperor of Morocco, and other Infidel Princes, in Asia, Africa, and America. Lord Coke, as to this Point, is inconsistent with himself; for, 4th Inf. p. 155. he says, a Christian Prince may make Treaties of Peace, of Intercourse and Commerce, with Infidels; and, since he wrote, Infidels and Pagans have been allowed to maintain personal Actions in the King's Courts, both in this Kingdom and abroad: The Exception of the Plaintiff being a Pagan, has been taken; but, on Argument, was over-ruled: His Opinion, that Infidels cannot take an Oath, as Witnesses, is also a Mistake.

Reply.
REPLY. That several Treaties have been entered into between the Crown of England and that of Turky we grant; but we ought here to distinguish, that the Turk and the English are national Names: but a Jew (as Joseph Scaliger and *Caufabon have both observed) is a Name of Profession, not of Country, or Nation. And if the Exception you mention, Sir, was over-ruled, it was not over-ruled because the Plaintiff was a Pagan, for that is an undeterminate Name, but because he was a Gentoo, that is to say, a Person belonging to a certain known Country or Nation, in which if an Englishman had found himself in the like Situation, he would have expected the same favourable Consideration, in Respect to the better carrying on Trade and Commerce; if it was otherwise it might be attended with very ill Consequences to both Countries: For in all Matters of political Favour, a reciprocal Return is the primum mobile and governing Principle: But in the Case above-mentioned the Laws of Remuneration can never operate from the Jew to the Englishman. For Instance, if an Englishman be injured or aggrieved in any Country whatever, a Jew cannot grant him his Protection; therefore the Jew that cannot grant a Protection, certainly is not entitled by the Laws of Reciprocallity to the Protection of any Nation whatever. So that Lord Coke's Opinion is irrefragably just, when he says, that the Jews are to be considered as perpetui inimici, for he does not mean quatenus, Infidels, but merely quatenus, Jews, that is to say a People that have no proper Sovereign, and no proper Country of their own. If then, as it plainly appears, the Jews are not of any Country whatever, why should they be particularly engrafted into ours, contrary to the Law of Nations? Let them live here as the Property of the Crown, and

and quietly enjoy the Privileges already granted, in God's Name, if its to the Good and Welfare of our Country; but at the same Time, I must observe, if they are permitted to purchase and inherit Lands, this cannot be done by Privilege. For Privileges are quasi private leges, private Laws made for particular State Occurrences, by the immediate Virtue of the Royal Prerogative, which is greatly infringed (not to say wholly annihilated) as I humbly take it, in Case the Jews be permitted to purchase and inherit Lands by Act of Parliament: If that is really the Case, will it not be absolutely incumbent on the Guardians of the Crown to get repealed the Act for naturalizing Jews born in our American Plantations.

No. 27. Question. In 1654 Cromwell, and the Commonwealth, were applied to for Liberty for the Jews to come and reside in England: The Matter was referred to the Judges, Merchants, and Divines: The Judges delivered their Opinions, that there was no Law against it; but, the Divines starting several Difficulties, nothing more was done by Cromwell, than the conniving at Alvaro de Costa, and Five other Jew Families, living in England.

Reply. Under this Connivance the Jews first left off their Badges of Distinction, for in most of the Reigns before Edward the Ist's Time, whilst they were in England, they were obliged to wear a Tablet on their outer Garment, and severely fined if they appeared abroad without it. Still as the Jews cannot be supposed to reside here at this Day under the precarious Protection of Connivance, yet I shall not take upon me to say how they ought to be now treated in order to distinguish them from our own British Subjects, so as to
to shew they are a distinct People and not considered wholly as natural-born Subjects.

As you have mentioned an Offer made to Cromwell in Respect to permitting the Jews to reside in England, I shall here subjoin, copied from the Paper Office, the Opinion of his Divines when they were consulted on that Head, which in Substance they thus introduce:

That the Jews desire to be admitted into this Nation to trade and traffick (not to be naturalized and purchase Freehold Estates) and dwell among us as Providence shall give Occasion, may be lawful (as they say) for the Magistrate to admit, in Case the following material and weighty Considerations be properly provided for.

I. That the Motives upon which Manasses Ben Israel, in Behalf of himself and the rest of his Nation, in his Book lately printed in the English Tongue, desires their Admission into this Common-wealth, are such as we conceive very sinful, for this or any other Christian State to receive them upon.

II. That the Danger of seducing the People of this Nation, by their Admission, in Matters of Religion is very great.

III. That their having Synagogues or any Public Meetings, for the Exercise of their Worship, or Religion, is not only evil in itself, but likewise very scandalous to other Christian Churches.

IV. That their Customs and Practices concerning Marriage and Divorce, are unlawful and will be of very evil Example amongst us.

V. The Principles of not making Conscience of Oaths made, and Injuries done to Christians in Life, Chastity, Goods and good Name, have been very notoriously charged upon them by valuable Testimony.

VI. The
VI. The great Prejudice like to arise to the Natives of this Commonwealth in Matter of Trade, which besides other Dangers here mentioned, we find very commonly suggested by the Inhabitants of the City of London.

VII. We humbly present:
I. That they be not admitted to have any Public Judicatories, whether Civil or Ecclesiastical, which were to grant them Terms beyond the Condition of Strangers.
II. That they be not permitted to speak, or do any thing to the Defamation or Dishonour of the Name of our Lord Jesus Christ, or of the Christian Religion.
III. That they be not permitted to do any Work or any Thing to the open Prophanation of the Lord's Day, or Christian Sabbath.
IV. That they be not permitted to have any Christians dwell with them as their Servants.
V. That they have no publick Office or Trust in this Commonwealth.
VI. That they be not allowed to permit any Thing that in the least opposes the Christian Religion in our Language.
VII. That, so far as may be, they be not suffered to discourage any of their own People from using or applying themselves to any that may lead to convince them of their Error, and turn them to Christianity: And that some severe Penalty be imposed upon them who shall apostatize from Christianity to Judaism.

No. 28. Page 37. QUESTION. Upon the Restoration of King Charles II. that King granted them what they could not obtain from Cromwell; he assured them of his Protection, and permitted them to build a Synagogue in the City of London.

REPLY.
Reply. This was a new Indulgence granted to them, for by the old Canon Law, (Decretum Gratian. Lib. 5.) no Jews could build or erect a Synagogue; if they did, the same was seizable to the Crown. An Affair of this Nature happened in 1231, as Stow in his Chronicles, Fol. 182, informs us. Let us now partly recollect, how the Jews have been incroaching upon us since the Restoration, — 1st, Coming into this Nation without their former Badges. — 2d, Settling by Connivance. — 3d, Obtaining Letters Patent of Dennization. — 4th, A Liberty to erect a Synagogue. — 5th, A Dispensation in Regard to the Form of our Allegiance-oath. — 6th, Procuring a Clause in favour of themselves in the Bill for naturalizing foreign Protestants in our Plantations 1740. — 7th, and laft, in 1753 endeavouring to incorporate themselves into our very Constitution. What is farther to be expected from such a rapid Progress it is not prudent to mention, I shall only retort a very common Jew-Proverb upon them, "Vel ad decimam Generationem a Proselytis cave." Beware of Proselytes even to the tenth Generation. (Vide Mof. Koffeus. Fol. 104.)

No. 29. Page 38. Question.

At the Court at White-hall, February 11, 1673-4.

PRESENT

The King's most Excellent Majesty in Council.

Upon the Petition of Ab. Delivera, Jacob Franco Mendes, Ab. de Porto, and Domingo Francia, on behalf of themselves and others, the Jews trading in and about the City of London; setting forth, That in the Year 1664, upon their humble Petition, his Majesty was pleased to declare, that they might promise themselves the Effects of the same Favour as formerly they had, so long as they demean themselves peaceably and quietly, and without Scandal to the Government; that altho' the Petitioners
tioners have so behaved themselves ever since, yet they were
last Quarter-Sessions, at Guildhall, indicted of a Riot,
for meeting together for the Exercise of their Religion in
Duke's-place; and the Bill was found against them by
the Grand Jury; and praying his Majesty would be
pleased to permit them, during their Stay here, to reap
the Fruit of his accustomed Clemency, or give them a
convenient time to withdraw their Persons and Estates
into Parts beyond the Seas.

Reply. The same Favour they formerly had, was to
be considered as the King's Property, which no dutiful
Subject ought, on a frivolous Occasion, to molest.

By the Words during their Stay here they acknowledge
themselves to be nothing more than Sojourners. And as
they are certainly Sojourners and have no Residence that is
properly their own in any Country whatever; they are
considered in the Eye of the Civil Law as the Berae
Besitve such as Birds of Passage, Fishes in the open, un-
claimed Sea, and Bees flying in the Air at a Dis-
tance from their Hives, for in all such Animals, as no
one can claim a distinct Right they consequently be-
long to, and are esteemed the Property of, the Person oc-
cupying. Thus Caius, Lib. 2, says, "Quod nullius est, id
ratione naturali Occupanti conceditur." Now this cannot
be denied that heretofore our Princes counted the
Jews, as King John says, "Sicut res propriae nostræ." From
whence it must be understood that when they
granted the Jews a Protection, it was not to abridge their
own Prerogative in seizing their Persons and Effects
ad libitum, but to hinder any other Monarch from doing
the like. So we see in this Petition the Jews pray his Ma-
jury would be pleased to permit them during their Stay
here, to reap the Fruits of his accustomed Clemency,
or give them a convenient Time to withdraw their Per-
s
fons and Estates into Parts beyond the Seas. They claim nothing in their own Right, but desire a Permission to retire, and that the King would give them Time, &c. which plainly shews that they thought the King had a Right to give, and if he had a Right to give, he had likewise a Right to refuse. This is fully confirmed by Malloy, for he tells us, "When the Jews had once entered the Realm, they were absolutely prohibited to depart without special Licence, which they hardly and but seldom could obtain: and if they attempted it, which they sometimes would do, to avoid the heavy Taxes that were laid on them, they were imprisoned and put to severe Fines and Ransoms."

No. 30. Page 41. Question. It is objected, There is no express judicial Determination in support of their Right: The Reason is plain; it was never litigated or disputed, or ever called in Question, either at the Bar, or by the Bench; except in the following Instance:—In 1684, a Christian not paying a Jew a Debt he owed him, the Jew brought his Action; and the Defendant pleaded, That the Plaintiff was a Jew; and that all Jews are perpetual Enemies Regis & Religionis; and Judgment was given for the Plaintiff, Mich. 36 Car. II. Banco Regis. Lilly's Pract. Reg. p. 3.

Reply. This Proceeding in the Judges of the King's Bench, is no Conclusive Evidence, for the old Way of trying a Jew-Cause of that Nature was expressly ascertained at the Time of their Banishment, which was, to litigate all Points of Debt before the Justices appointed for the Custody of the Jews. When they returned into this Kingdom thro' Connivance they were still subject to the same Express Obligation, but as the reviving old Offices and appointing Officers to inspect and judge the Jewish Affairs might have alarmed the People, the present Cafe before
before us was tried in the Court of King's Bench, the Judges either winking at the Process or perhaps not remembering the old Way of proceeding in such Causes. But surely this judicial Resolution can by no Means be quoted as a legal Precedent; without you shew me an Act of Parliament to supersede the old Practice in respect to the Jews.

**N°. 31. Page 42. QUESTION.** To this let me add a Case, which was omitted to be brought in in its proper Place, cited by Judge Jenkins, and Lord Coke:

A Jew born in England purchased Land, and married a Jewess; the Husband was afterwards converted to Christianity, but she was not converted: It was resolved in Parliament, That she should not have her Dower.

Jenkins, Cent. p. 3. Case 2. in the Margin.

**REPLY.** If we examine the original Record we shall find, that the Land this Jew purchased was *qua-dam Domum in Canturiae*, a certain House in Canterbury. We have throughout the Course of this Reply allowed that the Jews had a Permission to purchase such kind of Lands as these. But then even these Purchases are subject to a certain Restriction, that *Brawton* alludes in these Words, "*Judaevs vero nilbil proprium habere potest, quia quicquid acquirit, non sibi acquirit sed Regi, quia non vivunt sibi sed allis, et sic allis acquirunt, et non sibi Ipsis:*" That is, a Jew can have no Property at all, because whatever he acquires, he does not acquire for himself but for the King; because they do not live for themselves, but for Others, and thus they acquire for others and not for themselves.

**N°. 32. Page 44. QUESTION.** In the Year 1718, Sir Robert Raymond, then Attorney General,
and afterwards Lord Chief Justice of England, gave his Opinion on the following Case:

A. B. was begot and born in England; but both of his Parents were Aliens: He has an Intention to purchase an Estate in Fee.

Q. 1. Whether he can enjoy it, being the Son of an Alien, and of the Profession of a Jew?

I am of Opinion, A. B. is a natural-born Subject of the Kingdom of Great Britain, and, as such, capable to purchase and enjoy Lands, &c. in Fee; and do not know, that the Law has put any Difficulty upon him upon account of his being by Profession a Jew.

Q. 2. Whether such Lands will descend to his Issue, or be forfeited to the Crown?

I am of Opinion, What Lands he shall so purchase will descend to his Children, as the Lands of other Subjects, and not be forfeited to the Crown.

Q. 3. If he procures Letters of Denization, whether he may then purchase and enjoy Lands in Fee?

I take it, Letters of Denization will not put him in a better Condition, as to his Capacity of purchasing Lands, than he is already by his being born a Subject of the Crown of Great Britain.

Lincoln’s-Inn, February 23. 1718. R. Raymond.

Reply. Sir Robert Raymond, that very great and able Lawyer, in all Probability, had never perused the Records, you have been so kind to produce us; for if he had, he would likely have made this Distinction, A. B. is the natural-born Vassal of the King of Great Britain, but not the natural-born Subject of the Kingdom of Great Britain. For the Jews
Jews can never be considered as natural-born Subjects of the Nation, till they are incorporated by an Act of Parliament into the Nation. And it is believed, it is owing to the Want of making this Distinction, that so many able Lawyers have ventured to give their Opinions, that a Jew might purchase real Estates; unless by real Estates they only meant Houses, Messuages, and Tenements: For it is undeniably plain, from the Records already recited, they never legally purchased Lands, Farms, and Manors.

In regard to the second Query, had A. B. been born an actual Subject of the Kingdom, or made such by the Laws of the Kingdom, that is to say by an Act of Parliament, his Lands would have descended to his Issue; but as A. B. was the immediate Vassal of the King, by Virtue of his royal Prerogative his Land will be forfeited to the Crown, in which Forfeiture the Kingdom reaps no Advantage, the whole Emolument accruing solely to the King, as originally granted solely by the King, without any Interposition of parliamentary Authority.

It is likely this Distinction did not occur to Sir Robert at the Time of giving his Opinion, because he uses the Terms Subject of the Kingdom, and Vassal of the Crown, as synonymous Expressions.*

* A Writer in the London Magazine observes, "As to the Opinions of our great Lawyers, they confirm what Dr. Swift has long since said of our Lawyers, That they, of all others, seem least to understand the Nature of Government in General†. Their Time is so much employed in studying and practising the Laws relating to private Property, that they have not time to study or consider our Constitution or Form of Government. But in Opposition to these Opinions, if I remember Right, it was declared unanimously by the

† Sentiments of a Church of England Man.
This Distinction is more particularly exemplified in the Sale of Dunkirk by Charles II. who sold it to the French, by Virtue of his Prerogative, counting the Town as his own Property, for which Reason he did not think himself obliged to ask the Consent of his Parliament, in Relation to this Sale. But had Dunkirk been a Part of any of the English Dominions, he could not have sold it without the Assent and Consent of the Kingdom in Parliament assembled.

The Court of King's-Bench, in the Case of the famous Woolston, that Christianity is a Part of the Common Law of this Kingdom; and if it is, I am sure, that no Jew, tho' born here, can be supposed to be a Liege Subject to the King. Nay, I doubt, if the king, strictly speaking, can in the usual Manner make him a Denizen, especially now that the Alien Duty stands appropriated to the Payment of the national Debt. But as King and Parliament may alter the Common Law, surely a Jew naturalized by Act of Parliament would thereby become intitled to all the Rights and Privileges of a natural born Englishman, and even to that of having the Benefit of the Clergy, should he have Occasion for it, which no unnaturalized Jew can have a Right to; but I now hope, that a Stop will be put to any further Attempts of this kind, and therefore I shall add no more Remarks upon this learned Antiquarian's Apology, only this, that I hope no Revolution Principles ever tended to induce us to associate ourselves with Jews, Turks, and Pagans, much less to give them a Share in our Government, which every landed Man must by his Influence have, whilst our Constitution stands upon its present popular Footing. Whether our established Religion should not be upon a more general Foundation, I shall not take upon me to determine; but I think we have already gone far enough with Toleration; for the Ignorant and thoughtless Vulgar, high or low, are so very little able to distinguish between the particular Principles of any Sect of Religion, and the general Principles of Religion, that however much those particular Principles may deserve to be disregarded, no Society should publickly shew a disregard to all of them, because from thence the Vulgar begin to despise even the general Principles; and this may perhaps be one of the Causes of the Perjury and Corruption complained of in Elections, and of the Robberies and Murders so emphatically complained of by his Majesty in his Speech from the Throne.
I shall offer one farther Reason, that will set this Matter in a still clearer Light, and prove beyond a Doubt that the Jews (not naturalized by Act of Parliament) cannot be considered but as the Vassals of the Crown, for if they ever are to be the Subjects of the Kingdom they must be governed and subjected to the Common Law of the Kingdom. Now by the Common Law of England, if a Man dies leaving Issue, divers Sons, his Lands descend to his eldest Son: but by the Law of Moses if a Jew dies leaving Issue, divers Sons, his Lands descend to all as it were in Gavel-kind.* This one Circumstance may occasion the greatest Confusion imaginable in our State, as it is a Principle very destructive to monarchical Government. For it is from this equal Distribution of Land, by Descent, that Pufendorf justly observes, Moses intended to institute a popular Republic, in which it is a constant principal Rule to maintain an Equality of Wealth amongst the Citizens, as much as it possibly may be done. "Satis ad parct Mofen voluisse instituere remp. popularem, cujus inter regulas hcez efi ex precipuis, ut quantum fieri potest, equalitas opum inter cives servetur." For which End this found Politician farther observes, that the Laws of Remission of all Debts and Demands in the Jubilee Year were instituted, and likewise that Ordinance which prohibits the Alienation of Lands in Perpetuity, 36th Chapter of Numbers.

Had our Senators been thoroughly satisfied in Regard to this Point, in all Probability they never would have passed the Bill for naturalizing Foreign Jews born or living for a certain Term of Years in our Plantations.

N°. 33.

*Seldon de Succession apud Ebraos. c. 20,
No. 33. Page 44. Question. Q. If a Subject of his Majesty, born in England, or a free Denizen, being a Jew, may purchase Lands?

Reply. In answer to this Query, I have already endeavoured to lay it down as a fundamental unerring Axiom, that a Jew cannot be considered a natural-born Subject of the Kingdom till he is incorporated into the Kingdom by an Act of Parliament: If he be considered as a Subject of the King, by Letters Patent or Letters of Denization, he is not only subject to the Incapacities of a Denizen, but likewise to the Incapacities of a Jew, quatenus Jew. As a Denizen, his Land cannot descend to his Heirs; as a Jew, both his Person and all his Estates are the unquestioned Property of the King. So that if he purchases Lands, he purchases not for himself, but for the King. For if we examine the State of the Jews in this Nation we shall find, that they are not introduced into the Kingdom under the Protection of the Kingdom; the Kingdom's Sentiment on this Head is neither consulted pro nor con, but they owe their Introduction and Protection solely to the King: Their Letters Patent and Letters of Denization are an Act of the King, and of the King only. Thus* Grotius, Valsquiarius, and other Civilians, distinguish between a simple and a compound Act. For Instance, the Civil Laws of the Country shall be binding even to the King, in Acts that are done in common by the King and

* Si tales sint Actus qui a rege, sed ut a quovis alio sint, etiam civiles Leges in eodem abunt: Sineactus sit Requis qui Requis ad eum civiles Leges non pertinent. Grot. de jure Belli et Pacis. l. 2. c. 14.
and by others; but in all Acts that may not be done by others, but are done only by the King as King, the Civil Laws are of no Effect, but supposed in such Cases not even to exist, but to be dead and null to all Intents, Purposes and Considerations.

No. 34. Page 47. Question. The passing this Law in 1740, occasioned no Clamour; and, after an Experience of Thirteen Years, and several Hundred Jews naturalized under it, it does not appear to have produced any one bad Effect, or to have ever been complained of.

Reply. The very Circumstance of several Hundred Jews being naturalized by Act of Parliament in so short a space of Time as 13 Years, is the greatest Shock that this, or any other, free Nation, ever sustained in Time of profound Peace and Tranquility. For the Jews so naturalized can, by the Laws of this Kingdom purchase and hold Lands; and if by the Laws of Moses they must not alienate those Lands out of their own distinct, separate Tribes, the Consequence will be, that all Lands purchased by Jews will ever remain in Perpetuity to them. By which Means the old natural-born Subjects of this Realm (while they continue Christians at least) in the great Fluctuation of worldly Riches, are never more to expect a Rotation of Property in Lands. Thus the very Point which Harry VII. so much laboured at, and at last brought to succeed, I mean in making the landed Estates of his Nobles alienable, may be again introduced into the King's Dominions and more fatally than before established in the Persons of the Jews. Had our Senators been aware of this, there is no room to believe they would have passed the naturalization Bill in 1740; or that other
Constitutional Act in 1753. But as they have gloriously, and like true Britons, listened to the Voice of the People, who generally prayed for the Repeal of it by passing a Law for that Purpose: * We shall say nothing further in this respect, but that it may be truly said they have by such Repeal preserved our home Dominions from becoming the unalienable Property of the Jews; and it is submitted to the Wisdom of Parliament, whether it does not as much behave the Legislature to repeal the former Bill, that our Colonies may likewise be soon freed from the same imminent Danger, that was generally apprehended to so lately threaten their Mother Country. I write not this, Sir, with any particular Rancour to the Jews, but that I think it a Solecism in Politics to engrat a Body of Men into the Constitution, who are under a divine Necessity of obeying Laws altogether differing from those of the Kingdom into which they would be engrafted. If we incorporate them into our Kingdom, and grant them all the Advantages and Emoluments of our public Laws, doubtless they ought in return to permit us to enjoy the Benefits and Immunities arising from their Laws. But they are enjoined to have no Communion with other People under the most grievous Curses that perhaps ever came out of human Mouth. For thus, says Moses, shalt thou deal with them, when the Lord thy God shall bring thee to the Land whither thou goest to possess it, ye shall destroy their Altars, thou shalt smite them, thou shalt make no Covenant with them, nor shew Mercy unto them, thou shalt confume all the People which the Lord thy God shall deliver thee, thine Eye shall have no Pity upon them, neither shalt thou serve their Gods, for that will be a Snare unto thee, if thou shalt say in thine Heart, these Nations are more than I, how can I dispossess them? be not affrighted, the Lord thy God shall put out those Nations before.

* This Part of the Copy was wrote since the Repeal of the Act.
fore thee by little and little, thou mayest not confume
them at once: and he shall deliver their Kings into thy
Hand, and thou shalt destroy their Name from under the
Heaven: But if thou observe not all my Commandments
and all my Statutes, then cursed shalt thou be in the City,
and cursed in the Field; cursed shall be thy Basket and thy
Store; cursed shall be the Fruit of thy Body, and the
Fruit of thy Land, the Increase of thy Kine and the
Flocks of thy Sheep; cursed shalt thou be when thou
comest in, and cursed shalt thou be when thou goest
out.

After these and many other solemn horrid Imprecations,
after a steady Perseverance of the same Laws for up-
wards of 3000 Years, there is but little Hopes, I
should think, for a Gentile to meet any * Favour or In-
dulgence from their civil Institution. So that unless we
turn Profelytes to Judaism, or the Jews convert to
Christianity, I see no Possibility of engrafting them into
our Kingdom, as their Laws, their Customs, their
Manner of Living, nay even their Manner of thinking,
is so widely different from ours.

We must further observe, Sir, that tho’ it would be
contra jus commune, to deny a perpetual Habitation to
Foreigners that are expelled their own Seats; yet all the
Kings that ever yet reigned have been unanimous in this
Point, that all Foreigners so admitted shall oblige them-
theselves to submit, in every Point, to the Constitution of
the Government, and conform themselves in all other
Considerations that necessarily tend to exclude Sedition.
Dum et imperium quod constitutum est subeant, says Gro-
tius, et quae alia ad vitandas seditiones sunt necessaria.

† See Page 69, as to what Steps the Jews have already taken.

* By the Moaical Law, a Jew may not foenerate with a Jew,
but he may practifie Usury with a Gentile. Likewixe the Release of
Debts every seventh Year only extends to Jews, the Gentiles are
not exonerated.
Now where the Religions are different, where there can be no Intercourse of Marriages, where there is a constant Distinction between Jew and Gentile, where the Benefits of Release of Debts shall extend to one and not to the other, in such Cases I say there can be no Union, and when there is a Dis-union such an Incorporation into our, or any other, Christian Kingdom, would be monstrous, and can only exist in Idea, like the imaginary Animal called a Centaur; for such unharmonical Compositions must unavoidably produce continual Jars and Civil Discords.

N°. 35. Page 11. Question. The modern Licence of treating the Characters and Actions of Bishops, and other Religious Persons, with indecent Freedom was practised in those early Times; but instead of the happy Impunity with which it is now used, it was then very penal, as appears from the following Record, transcribed from the Close Rolls of King John* in the Tower.

The Punishment —— The Person offending to be hanged upon the next Oak. †

REPLY.

* Yet this very King John, whom you and Dr. Tucker cry up for his great Kindness to the Jews, when Money was demanded, and refused, under Pretence of Disability, by one of Bristol, your good King, I say, did not even spare the Jew's Teeth, by causing One a-Day to be plucked out; but before the drawing of the Sixth, the Jew discovered his Wealth, and satisfied the King; and by that Means saved the Rest: which, I hope, the learned Doctor will not deny, as it is said he resides in the City of Bristol, and may there probably find the Record of this Transaction.

† Dean Swift seems to have had an Eye to this Record, when he wrote this Satyrical Episcope, called Judas, in the Year 1731.

By the just Vengeance of incensed Skies,
Poor Bishop Judas, late repenting dies.
Reply. I hope, Sir, you did not produce this Record as a President fit to be revived upon the Occasion of the present Dispute relating to the Jews: But as I find in the Magazine an Answer to this Part of your Question I take the Liberty here to introduce it. "If their Judgment had been equal to their Learning (for he fancies there were more than one concerned in Penning what the Gentleman calls that learned ridiculous Pamphlet) they would have avoided mentioning the Ordinance of King John for punishing those who treated his Bishops and Clergy with Contempt, because every one knows it was published for protecting that Part of the Clergy who shewed themselves ready to sacrifice the established Church to the Pleasure of the King, to support him in his Attacks upon the Liberties and Privileges of his People, and to justify or palliate all

The Jews engaged him in a poultry Bribe,
Amounting hardly to a Crown a Tribe:
Which, tho' his Conscience, forced him to restore,
(And Parfons tell us no Man can do more).
Yet through Despair of God and Man accruest,
He loft his Bispoprick, and hang'd or burst.
Those former Ages differ'd much from this:
Judas betrayed his Master with a Kiss:
But some have Kiss'd the Gospel fifty times,
Whose Perjury's the least of all their Crimes:
Some who can perjure thro' a two Inch Board,
Yet keep their Bispopricks, and 'scape the Cord,
Like Hemp, which by a skilful Spinster drawn
To slender Threads, may sometimes pass for Lawn.
As antient Judas by Transgression fell,
And burst asunder, e'er he went to Hell.
So could we see a set of new Iscariots
Come headlong Tumbling from their mitred Chariots;
Each modern Judas perish like the First,
Drop from the Tree with all his Bowels burst;
Who could forbear, that viewed each guilty Face,
To cry, Lo! Judas gone to his own Place:
His Habitation let all Men forsake,
And let his Bispoprick another take.
all his forced anti-national Measures, by which Means the Church had rendered themselves, not only contemptible, but hateful to the People. * When I say this, I do not

* It seems, by your labour'd Composition, that you have hitherto principally spent your Time in the Study and reading Books of your Profession, or in attending your Clients Causes, so that from the Nature of your Employment, it is probable you could find little or no Leisire to look into Authors that treat of the State and Condition of the Jews before the Destruction of Jerusalem, to the Time of the Ruin of their Country and Dispersion into other Nations.

Therefore to shew the native Simplicity and Purity of our Religion as a Counterpoise to those Curfes mentioned in Page 80, I shall lay before you some Extracts from the Works of that very great Ornament of our Church (Archbifhop Tillotfon) who has in the strongest Terms depicted the obstinate and perverfe Temper of the Jews, which makes us hope, after you have fully confidered what this learned and good Prelate has offered, you will agree that his Works deserve much more to be engraved on Plates of Copper than those two Pieces you have exhibited, calculated in Favour of the Jews.

His Grace introduces his Discourses with the following Text:

But if our Gospel is hid, it is hid to those that are lost; in whom the God of this World hath blinded the Minds of them which believe not, let the Light of the glorious Gospel of Christ, who is the Image of God, should shine unto them.

The divine Founder of Christianity in his Prophecy foretold, not only the Destruction of Jerusalem, but the continual Peregrination of the Hebrews.

When our Saviour, says St. Luke, came near, he beheld the City and swept over it, saying, if thou hadst known, even thou, at least in this thy Day, the Things which belong unto thy Peace: But now they are hid from thine Eyes, for the Day shall come upon thee, that thine Enemies shall cast a Trench about thee, and Compafl thee round, and keep thee in on every Side, and shall lay thee even with the Ground, and thy Children within thee; and they shall not leave within thee one Stone upon another, because thou knowest not the Time of thy Visitation.

St. Luke further Remarks, that when our Saviour's Disciples shewed him the beautiful Structure of the Temple, he foretells, that
not mean to justify the Encroachments then made by
the Court of Rome; for it was the King's Usurpation
and Behaviour to the Barons that first laid a Foundation

there should not one Stone be left upon another which should not be
thrown down.

Josephus in his sixth Book says, that as there was never any Na-
tion so wicked, so never any Nation suffered such calamitous Acci-
dents. But this will best appear from

A brief and particular Enumeration of their Calamities. Not to
mention the burning and destroying of their chief Cities. I shall in-
sist chiefly upon the sufferings of the People themselves by their
Tumults and Seditions against the Romans.

Before the coming of Vespasian there were slain at Jerusalem, and
other Places, in all near 100,000.

By Vespasian, in Galilee and other Parts, very great Numbers at
Jatapata, (the City, of which Josephus our Historian was Gover-
nor:) and in other Places a great many Thousands, and which
were computed at no less then 60000.

Afterward by their own Seditious at Jerusalem 8500 at several
Times; next by the Faction of the Zealots 12000 of the chiefest
and noblest of the Citizens were slain at one Time, at the River
Jordan; by Placidus 13000; besides many Thousands drowned,
so that the River was filled up almost with dead Carcasses; at two
Towns in Idumea, by Vespasian, 10000, at Gerasa 1000; in all
45000.

Whilst Vespasian was thus wasting the Cities of Judea, the Fac-
tion of the Zealots filled all Places of Jerusalem, even the Temple
itself, with continual Slaughters, and after they had conquered Ana-
num, who fled up for the People against the Zealots, and got all in
into their own Hands, they were divided into Parties, and made Slaugh-
ter of one another; and one Party led in Simon, who headed a fe-
ditious Multitude which he brought out of the Country; and after
that they were divided into three Parties, John's, Eleazar's, and
Simon's, which held several Parts of the City, and Day and Night
continued to destroy one another; in which Seditions all their Gra-
naries of Corn, and Magazines of Arms were burnt; by which
Means the Provisions that were laid in to sustain a Siege, and would
have sufficed for many Years, were destroyed, and they almost re-
duced to famine before Titus set down before the Place.

In the Beginning of the Siege they seemed to unite a little against
the Romans; but that Union was soon dissolved, and their Divi-
sions so much encreased, that they treated one another with greater
Cru-
tion for those Encroachments, in which he was encour-
gaged by the Ambition and Sycophancy of his Clergy; and
this will always be the Case, when our Government
ren-
Cruelty than even the Romans could possibly have done; Titus seeing
their unnatural Behaviour publicly expressed great Concern upon
the Occasion, so that it was plain their very Enemies shewed much
more Compassion for them in their miserable State, than they did to
one another.

Scarce two Months were expired, when the Famine raging in
every Quarter of the City, infinite Numbers of the Inhabitants at-
tempted privately to throw themselves up to the Mercy of the En-
emy: What was the Consequence? Why all that were detected, or
even so much as suspected, were most cruelly put to death by their
Fellow-citizens, by their own Brothers, nay even by their very
Fathers, while their Mothers not only looked on the bloody Scene,
but even encouraged the unparalleled horrid Murderers and Parri-
cides.

Yet so obstinate were they, neither the Calamities they suffered,
nor the forced Severity of the Romans in crucifying many Thou-
thands of them before the Walls, in terror, could have the in-
tended Effect; but they still refused to surrender, notwithstanding
all the generous repeated Messages from Titus to dissuade them from
pursuing their inevitable Ruin: But in this unaccountable Perverse-
ness they blindly continued, till by Force and Famine their City was
taken, their Temple razed to the Ground agreeable to our Saviour's
unerring Prophecy, and the Roman Soldiery so vehemently exasper-
ated, that Titus himself was not able to restrain them from perpetra-
ting Cruelties shocking to human Nature.

So that, from the Beginning of the Siege to the taking of the Ci-
ty, there were famish'd and slain by the Factions amongst themselves,
and by the Romans, ONE MILLION ONE HUNDRED THOUSAND
Souls; the greatest Number, and with the saddest Circumstances,
that is to be read of in any Story.

Was not this a Time of great Tribulation? Were not these Days
of Vengeance indeed? Was there ever a sadder Accomplishment of
any Prediction than these Words of our Saviour?—And if those
Calamities had lasted a little longer there would not one Jew have
been left alive; but for the Elec's sake, that is, the Sake of those
Christians who were then among them; God enclined the Heart of
Titus to shew Pity at last toward the Remnant, by not suffering the
Romans to exercise any farther Cruelty toward them, particularly at
Antioch (the first Seat of the Christians.)
renders it self odious to either of the constituent Parts, foreign Powers will encroach upon our Rights some Way or other.

No. 36. Page 47. Question. The Author apprehends he hath, in the clearest Manner, established, from the unanimous Opinion and Practice of the greatest Lawyers this Country hath produced, as well antient as modern, by the irresistible Evidence of Facts appearing from original Instruments, and public Records of the most undoubted Authenticity, and by judicial Determinations, that, 'a Jew born within the British Dominions was, ' before

Josephus tells us, that when Titus came thither, the People petitioned him earnestly that they might expel the Jews, but he told them that was unreasonable, for now their Country was laid Waste, THERE WAS NO PLACE FOR THEM TO GO TO.

Let us Consider how God hath since pursued the Jews, ever making them to be stigmatized, in all Nations, and by a marvellous Providence kept them distinct from other People (Pray then why should they be incorporated with Us?) that they might remain as a Monument of his Displeasure; and considering how other Colonies of People have fallen in and mixt with the Inhabitants in an Age or two, so as they could not be kept distinct for any long Time; that as for the Jews even 1600 Years have had no such Effect (for they still remain in their priftny State.) YET IT IS AN ARGUMENT, says that venerable and truly Christian Prelate, OF THE SPECIAL PROVIDENCE OF GOD, AND IS ONE OF THE MOST MATERIAL AND STANDING EVIDENCES OF THE TRUTH OF OUR RELIGION.

If the Jews are not to be wrought on by the fulfilling of the Prediction of our Saviour to embrace the Christian faith, for God's Sake why should we permit them to be naturalized either in America or here: Or why indeed should they themselves desire to be so naturalized? This Infatuation sure can be ascribed to nothing, but the just Judgment of God still hiding the Things of their Peace from their Eyes, and giving them up to the same Kind of fatal Hardness and Blindness, which above seventeen hundred Years ago was the Cause of their Destruction:—And that they may yet see and Repent of their fatal Errors, and that God may have Mercy on them at the last great Day of Judgment, is the hearty Prayers of all good Christians.
before the making the Act of the last Session of Parliament, a Person capable by Law to purchase and hold Lands to him and his Heirs.

Reply. We apprehend quite otherwise, having already endeavoured to shew, that the Opinions given by the several eminent Lawyers you have mentioned were erroneous, because they did not make the necessary Distinction between a natural-born Vassal of the King, and a natural-born Subject of the Kingdom: As to the original Instruments, it is plain from them, that the Jews were never permitted to purchase and hold Lands and Manors, to them and their Heirs, according to the Common Law; the Royal Indulgence granted to them extending only to Houses, Tenements, and Messuages: As to judicial Determinations, you produce but one, and that no ways relative to Jews as Purchasers of Lands, for it is only a Case of Debt tried in the King's Bench, and consequently Foreign to the present Question; and when you assert, Sir, that a Jew born within his Majesty's Dominions was, before the making the Act of the last Session of Parliament, a Person capable by Law to purchase and hold Lands to him and his Heirs; I suppose you meant that he was so entitled by the Benefit of a Clause in the naturalization Bill, which took Place in 1740: The latter Proviso imports, “That a Jew shall not have, accept, or take any Grant from the Crown to himself or to any other in Trust for him, of any Lands, Tenements, or Hereditaments within the Kingdoms of Great-Britain or Ireland:” I say as this Proviso only extends to Grants of Crown Lands, you have ventured to pronounce, that a Jew may purchase a Freehold: But you should have observed, that this Clause is wholly in the Negative, and it is hoped was intended to imply that no Jew shall purchase any Lands what-
whatev’er: But should the Lawyers be of another Opinion, it is submitted whether it will not be indispensably necessary to have the Clauses in the Act relating to the Jews wholly repealed.

No. 37. Page 48. Question. To Conclude: The Part the Author took in soliciting the Bill in question he esteems no Reproach: Had he refused to assist the Persons concerned, by whom, and for whom, he bad, for more than Thirty Years, been employed in the Course of a Profession he was about to retire from, and from many of whom he had, early in Life, received repeated Civilities and Obligations, his own Mind must have accused him of Ingratitude.—His Endeavours afterwards to defend the Principles of the Bill in Question, became necessary from the unjustifiable Freedom which some Writers against the Bill have treated him, because he asserted what now appears to be unquestionably true.

Reply. When a Cause is in Agitation that deeply affects the public Welfare, I must tell you, Sir, that every good Subject will consider his Native Country as a rapid Vortex that indiscriminately absorbs all private Obligations whatever; and if, as you give us to understand, the receiving repeated Civilities and Obligations from your Jew Friends principally prevailed on you to undertake their Defence, surely, Sir, before this Pursuit, one might have reasonably expected, from the same Principle, that you, after the Example of the worthy Thomas Cromwell, would, as a Christian Gentleman, boldly have enter’d into the Defence of a certain most noble Character some time since undeservedly attack’d by the Pen of a malicious Libeller; yet I do not find one Word to have drop’d from your Pen on so interesting a Subject, notwithstanding you have, as is asserted, a very particular Connection with that great Personage. —— As to what
what you say in Relation to your defending the Principles of the Bill, it is now plain, not to depreciate ALL your antique Records, ALL your singular Representations, ALL your Trouble, ALL your Solicitations, ALL your Interest, ALL your Endeavours, ALL your Solicitations in Language, and ALL the Fatigues you have gone thro' (to serve your Friends out of Gratitude) during the Time the Bill was depending in the House, and since the passing it into a Law, the whole has at last ended in the total Repeal of the Act. Therefore whatever Anxiety and Concern this unexpected Disappointment may have created in you, certainly it has given great Joy and Satisfaction to the Generality of his Majesty's loyal and faithful Subjects without Distinction of Parties. — But as to any unjustifiable Freedom or Scurriority which you charge some Writers against the Bill to have treated you with, I am an entire Stranger to such Allegation. — The Part indeed I have endeavoured to act, has been with a View only to convince you of the Errors into which you have precipitately plunged yourself. And I could wish when you quit your Profession (which you have made us to believe is soon your Intention) that you would then exculpate yourself by making a decent Atone ment to the Public: For what you have so confidently affirmed in the Jew Cause, appears, I hope, in quite a different Light to every unprejudiced Reader.

Before I conclude, I must observe, that you have not once ventured to assert that the Jews were Persons capable by Law to purchase Lands to them and their Heirs, till you came to the Naturalization Act passed in 1740; on the contrary, you build all your Reasonings upon a Supposition of the Jews not being incapable to purchase. In Page 11 of your Question you say, "Lord Coke (or more properly speaking Littleton) who treats of the different kinds of Persons who by Law were incapable to purchase and hold Lands, or to take by Descent, would not have omitted the
mentioning the Jews, had they been under such an In-
capacity.” In Fact they are not omitted; for at the
Time Littleton wrote, the Jews were in a State of Ba-
nishment, so must necessarily have been comprehended
amongst the Incapables to purchase and inherit Lands,
as Out-laws, Exiles, &c.* and we all know, to pur-
chase

* A very judicious Civilian, from whom I have taken some Ex-
tracts, states it thus: “As the Jews had no Share in, nor Right to any
of the Laws or Customs of England, neither Glanvill, Bracton, nor
Fleta, who wrote of those Laws and Customs only, could take any
Notice of the Jews, for they had neither Law nor Custom in their
Favour, but merely the Good-will of the King.” And to this I shall
subjoin four of that Gentleman’s other Remarks, tending to shew
the Impossibility of the Jews having ever been considered here as na-
tural born Subjects, before the Year 1740.

1. From the Conquest to the Reign of Edward the Sixth, no Man
could live in England unless by Indulgence, much less be naturalized,
or deemed a natural born Subject, if he openly professed any other
Religion than that of a Roman Catholic.

2. From the Beginning of the Reign of Edward the Sixth to the
first Year of King William, no Man could live in England unless by
Indulgence, much less be naturalized, or deemed a natural born Subject, if he openly professed not being of the Church of England; ex-
cepting, however, the few Years of Queen Mary’s Reign, and of
the Rebels against King Charles the First.

3. That from the first Year of King William to the Year 1740,
no Man could live in England, unless by Indulgence, much less be
naturalized, or deemed a natural born Subject, if he openly professed
a Disbelief of the Trinity, or in the divine Authority of the holy

4. That the Clauses in the Act of 1740 were not originally in,
but added by the Committee upon the Bill, and also the Words, and
Others, in the Title.—Still I believe very few without Doors un-
derstood the Words, and others, were meant, or intended, to naturalize
and incorporate Jews either at Home, or in America.—Hear the
Sentiments of a true Briton when it was urged by the Favourers of the
1753 Jew Act, that the passing such Law would be the Means of
raising the Price of our Lands. “As to our Lands, (says that wor-
thly Patriot and very learned Lawyer) I would rather they should
sell for 10 Years Purchase, than that most of them should come into
the Possession of Jews.” And for my own Part I am of the same
Mind, and I believe the Majority of the Protestant Freeholders in
England will join with me in the same Opinion.
chafe is one thing, and the not being in a Capacity to hold is another. If that is the Cafe, who does a Jew purchase for? Why, certainly for the King: and the King can seize upon such Estates whenever he pleases. But if the King makes no Claim, no other Person can without a Grant from his Majesty. In Page 10 you say, "If the Jews had by Law been incapable to purchase, Bajlon would probably have taken Notice of this Incapacity." Bajlon says (as I before observed) a Jew cannot purchase for himself; if he purchases, he purchases for the King, and not for himself. In Page 21 you say, "Infeoffments from Jews would have been absurd, had the Jews been, by Law, incapable of holding real Estates." From the Instances of real Estates, that Jews have infeoffed others with, they are, it seems, Houses, Tenements, or mortgaged Lands. Add to this, it is well known a Jew, by his own Law, is forbidden to sell a real landed Estate to any Christian or Gentile whatever.

In Page 34, et passim, you say, "I apprehend from the foregoing Authorities that the Jews were not incapable to purchase real Estates." Now, Sir, it is a granted Maxim, that whoever reasons from Negatives, in fact proves nothing; if so, then all the Arguments you have brought previous to the Year 1740 are only conjectural Evidences, that in their own Nature cannot possibly be decisive; and so, since the naturalization Bill respecting Britain is diannull'd, the Jews, tho' born in any Part of his Majesty's Dominions in Europe, will be reduced to their former dependant State; that is to say, they will recommence to be natural born Vassals of the Crown, except those born of Parents naturalized in the Plantations, and the King may always use their Persons and Estates as his own separate inherent Property.
In short, Sir, as to the Case in Question, we consider the Prerogative of the Crown as the private unalterable Patrimony of the King, *imperium Principis patrimoniium majus est*, says Pliny in his Panegyric: If then by the naturalization Bill of 1753 the Jews were empower'd to apply to Parliament, and not the King; and if the King cannot command their Persons and Estates after they are, or shall be, naturalized by Parliament, we cannot but think such an Act an Infringement on the Prerogative of the Crown: But as we are not only to hope, from what has happened lately, no such Act will hereafter pass, as also, the 1740 Bill will one time or other be repealed, I shall here close my Letter with observing, that, in a Nation govern'd by King, Lords and Commons, it is the Duty of every Subject to watch that neither infringe upon the other's Power; for if the Ballance be once destroy'd, there necessarily arises a Tyranny on one Side or the other, and of the three Kinds of Tyranny, that is the most supportable which comes from the King; the second, and less supportable, is that which the Lords might exercise; but a Tyranny of the People is by far the most insupportable of any.

I am, Sir, Yours, &c.

Feb. 4. 1754.

A Freeholder.
In Page 79 I congratulated my native Country Home-Britain on the repealing the Jew Act which passed in 1753, thinking indeed that by that very Repeal the Jews became utterly incapable of purchasing Lands to them and their Heirs in Great-Britain and Ireland: But upon nearly examining the naturalization Act which took Place in 1740, I am apprehensive that the Jews are not wholly incapacitated to purchase even a Freehold in Great-Britain, and I still insist upon it, with all due Submission, that they never were entitled to make such Purchases before the enacting of the last mentioned Law, which Law I am thoroughly persuaded most of my Fellow-Subjects imagined was calculated only for our American Colonies, and not to affect Home-Britain; as for the Preamble, it seems chiefly to encourage the Christian Religion, for which Reason I shall pen it at large, and give a Passage or two from the Act itself. —Now, as to the Person who solicited the inserting the Clauses in Favour of the Jews, whilst the Bill was under the Consideration of a Committee, before it was reported to the House, in the Year 1740, I shall not at present enquire after, for Reasons best known to myself.
The Title runs thus:

An Act for naturalizing such foreign Protestants, and others therein mentioned, as are settled, or shall settle, in any of his Majesty's Colonies in America.

Preamble,

Whereas the Increase of People is a Means of advancing the Wealth and Strength of any Nation or Country; and whereas many Foreigners and Strangers from the Lenity of our Government, the Purity of our Religion, the Benefit of our Laws, the Advantages of our Trade, and the Security of our Property, might be induced to come and settle in some of his Majesty's Colonies in America, if they were made Partakers of the Advantages and Privileges which the natural-born Subjects of this Realm do enjoy.

It is enacted, that Foreigners living 7 Years in any of our Colonies in America, shall be deemed Natives on taking the Oath to the, &c. &c.

For Chris—ty.  For Jud—m.