

THE
LEGALITY
OF THE
PRESENT ACADEMICAL SYSTEM

OF THE
UNIVERSITY OF OXFORD

RE-ASSERTED

AGAINST THE NEW CALUMNIES.

OF THE

EDINBURGH REVIEW.

BY A MEMBER OF CONVOCATION.

Glossa viperina est, quæ corrodit viscera Textus. Co. Litt. ii. 34.

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§. 1. *On the Physiology of the Reviewer.*

IT was the fancy or the philosophy of Joachim Camerarius, second of that name, to search the animal, vegetable, and mineral kingdoms for subjects, whereby to emblemize the virtues and vices, the good and ill qualities, of man's moral and intellectual nature; he may be said to have zoized and botanized, entomized and mineralogized, the human heart and understanding in all its parts and powers, acts and operations; and upon running over his picturesque philosophy, we cannot but be surprised to find, that there exist in stones and insects, in the flowers and the beasts of the field, so many points of resemblance between them and their earthly masters.

Had the Reviewer *by accident* happened to have lived in those days, Joachim would probably have found in his peculiarities new points of comparison, and would without doubt have depicted the prominent features of his *Morale* in a little appendix of *symbola critica*.

The Reviewer's *Nebulosity*^a might have been set before our eyes under the symbol of the sepia or cuttle-fish, darkening the element in which it dwells, at one time to conceal the exact line of its course, at another the very hole of its lurking place. The *Filamentosity* of the Reviewer's reasoning might have been very graphically represented by the assiduous worm, weaving by many a subtle thread an envelope so dense and close, that no eye can penetrate, and none but a practised hand can unravel it. We might have seen his *spinosity* exhibited in the animal which rolls itself into a compact and thorny rotundity, and by this alone is said by the poet to surpass the fox himself in craftiness,

Πόλλ' οἶδ' ἀλώπηξ ἄλλ' ἐχῖνος ἐν μέγα.

But whichever of the self-concealing animals the emblematiser might have chosen for the exemplification of the Reviewer's laturency, he would have equally succeeded in his portraiture; it would have been a true and happy likeness; and with such means of comparison at hand, it is not to be supposed that he would have travelled

^a I had written *Tenebrosity*: sed magis arridet *Nebulositas*, utpote quæ a *Nebulâ* et *Nebulone* deducenda est; nec malè *Tenebrositas*, quia iisdem fere vinculis vox ea cum *tenebris* et *Tenebrione* conjungitur.

beyond the bounds of nature for the materials of his illustration ; he would never have been guilty of the absurdity of having recourse to preternatural formations, or poetic imagery ; to metaphysical abstractions, or *psychological monstrosities*, (see Ed. Rev. Dec. p. 504.) for shewing up the deep depravity of a calumniator, or the intricate knavery of a Franc Fripon.

§. 2. *On Thrasonism or the Thrasonic style of writing, and the best mode of exposing it ; also concerning the Argumentum piperatum, and the authority of the Fathers upon the subject.*

ALTHOUGH the writer loves involution, and darkness, and a well contrived perplexity of sense and meaning, if we were to take his word for it, every thing he says ought to be received for truth, and every thing he shews for demonstration. “ *Docti sumus et Demonstratores*” meets us in every page of this Review ; and if vaunting should ever pass for veracity, implicit belief must follow the perusal of this most vain-glorious article ; in these particulars the Reviewer’s Thrasonism surpasses that of any literary Pyrgopolinices in ancient or modern polemics.

When I came fully to understand the bullying and abusive tone which he had assumed, I was

for some time at a loss to determine upon the course I ought to pursue in my argument, and the tone I ought to adopt towards a writer who had placed himself out of the pale of literary courtesy. With any but a Thrasonic antagonist, I should have been disposed to contend after the manner of the *preux chevaliers* of the old school, saluting him first with the point of my sword, and then after every palpable hit making him a bow of compliment. But such observances as these were rendered impracticable by the insolence and vulgarity of the assailant. It was with regret that I felt myself obliged to have recourse to that style of writing which is so strongly recommended in cases of this sort by Saldenus, in his chapter de Eruditorum Thrasonismo, p. 308, I mean the "*stylus nonnihil piperatus.*" "Quomodo (says he) tales (sc. Scriptores) contundi, et confundi meliùs possint, quam stylo *σιγωνικῶ*, et *nonnihil piperato*, fateor me hactenus non didicisse." But that which finally determined my doubt about the propriety of a *petit peu de Poivre* was the authority of the Fathers. The Reviewer, I know, dearly loves a Patristic scrap; for he has positively cited three little bits of St. Augustine upon the abstruse, but with him the familiar subject *de*

MENDACIO^b; he therefore cannot fail to find a complete justification of the *stylus nonnihil piperatus* in the persuasives of Irenæus, his own Augustine, Jerome, Cyprian, and others of the pure centuries of antiquity. They saw nothing inconsistent with the gravity of their characters, or the dignity of their subjects, in adopting this style, when they had to wrestle with the Thraso's of their times: when necessary, the good Fathers shewed (as Saldenus observes) that they had not lost their noses, "si cum Pyrgopolinibus quibusdam colluctandum sibi esse deprehenderent, nasum sibi non defuisse publice ostenderunt." (*Salden.* p. 404.)

Jerome, when he was censured by Ruffinus for the very hooked pointedness of his satirical nose, replies, "If I have written any thing with too much severity, lay it not to the account of my temper, but of your own disease; proud flesh must be reduced by knife and cautery; a serpent's bite requires an antidote."

I will not adduce the other passages which

^b I will give him another scrap from St. Augustine—not from the Treatise *de Mendacio*, but from that written *contra Mendacium*. "Qui semel limites modestiæ transilierit, gravitèr impudentem esse oportet." Cap. 7. The same sentiment is found in Tully and Aulus Gellius.

my author's diligence has collected. I cannot however omit one from the Reviewer's St. Augustine, because it is so decidedly favourable to the use of well-seasoned ridicule, which the Reviewer (wishing to change the names of things in order to confound their nature) calls *infuriate railing*. "In pity laugh," says the venerable man, "do laugh, in pity to such follies as these, to the intent that the offenders may laugh at and avoid them." *Hæc tu misericorditer irride ut eis ridenda et fugienda commendes.* p. 407.

Should critics or censors wish for farther evidence to justify my treatment of the Reviewer, let them go to my author and his authorities ; for myself I declare, that I shall ever think it a happy discovery if Thrasonism such as his can be suitably exposed and sufficiently chastised by an *argumentum piperatum*.

§. 3. *An à priori Argument the best and most effectual for the subversion of fictitious and fraudulent demonstrations. The Reviewer's concessions are proofs of its conclusiveness.*

HAVING done something to shew the physiology of the Reviewer's nature, the thrasonism of his style, and the lawfulness of assailing both

by a *poivrade à la Saldéniene*, I proceed to the farther shewing, that the laboured fabrications of a calumnious and crafty pen are most speedily overthrown, by undermining their foundations, and by the subduction of the very ground upon which those foundations are laid ; in other words, by arguing *à priori*, by the sifting of principles fundamental, by the discussion of questions preliminary, and by causing in this way the whole building to sink, to totter, and to tumble. —*ruunt subductis templa columnis*. The Reviewer very naturally disapproves of this sort of spade and pick-axe argument, and rather foolishly makes it a matter of complaint that I did not attack his demonstration in the way and at the very points which he has chosen to prescribe to me. He would have had me waste my time upon the upper and outer works of his malignity, upon the gorgeous capitals which his vanity had placed upon the pillars of the imposing edifice, and upon those bas reliefs with which his effrontery has overlaid its entablature. It was without doubt his best policy (conscious as he must have been of the *mendacium in manu suâ*) to involve me in the unprofitable labour of battering the outside and front of his libel, when the vice and weakness of the work, the false prin-

ciples of its construction, the loose rubble of its underground supports, were to be got at only by digging and delving, in other words by an *à priori* argument. His demonstration is not unlike the London Custom-House. Could any fabric be better built externally? It had every appearance of strength, and many thought it very harmonious in its parts and proportions; but down below in its cellars and arcades, in the laying of its foundations, and the substrata of its soil, all was looseness, weakness, instability. The Reviewer's calumny is built after the same manner, and with the like disregard to subsoil and foundations. I resolved therefore to attack the *primo-primaria* principles of the structure, and to bring down its towering falsehoods by sapping and mining.

I am disposed to think, by reason of the Reviewer's "*Quis dubitavit*," (at p. 502 of his last Article,) that he has found my method rather an awkward one to deal with, and has discovered by experience, that my ten *à priori* positions were ten bones too hard even for his practised tooth.

Fragili quærens illidere dentem offendit solido.

He has not ventured to gnaw one of them; but finding them *uninfringible*, (Ed. Rev. June,

p. 390.) he gives them hard names, calls, what really is an argumentum à priori, a mutatio elenchi, and then grants in a lump the whole contents of 82 out of my 150 once mortal, but now immortal, pages. But it will be found upon this, as upon former occasions, that the Reviewer's cacodæmon, his evil genius of concession, has betrayed him into admissions, which amount in fact, as well as by consequence, to unconditional surrenders of all the great κρινόμενα between us. I have hitherto called my argument simply an assertion of the legality of our present Academic system, but under the authority of my adversary's "quis dubitavit," I may henceforward be disposed to imitate Thraso, and call it a demonstration; for he has admitted the truth of all its points and principles—premises and conclusions—facts and opinions; he has admitted, that Convocation has full power to make, unmake, remake, and modify any of the Scholastic Statutes; he has given and granted to me the whole series of the facts, adduced to shew that, from the year 1234 to the present day, it has been the practice and usage of Convocation to regulate the sorts, subjects, and particulars, of all the Studies and Exercises, Lectures and Examinations, of the University. He has granted, that upon every principle of

general or municipal Legislation, it is fit and proper that Academic Corporations should possess and exercise those powers of self-adjustment, which are necessary appurtenances, or rather inherent properties, of their constitution ; that they ought, from time to time, and at all times necessary, to adapt the kind course and order of their Studies and Exercises, to the wants and interests of the Church and country, and in furtherance of those great ends which have been prescribed to them in the Preambles of their Acts and Charters of incorporation.

The large and perilous liberality of the Reviewer's "quis dubitavit" has farther yielded into my hands other important points which I contended for, relating to that great master principle of accommodation, by which the archaisms of expired or expiring laws were to be repealed or dispensed with, to the intent that the course of practice might accord with the variations which time is apt to introduce into the concerns of life. I shewed, and the Reviewer has conceded, that the principle has been in full operation for 194 years ; that it has, in particulars too numerous to be stated, too various to be described, modified the form, softened the rigour, and corrected the discre-

pancies, of the Statutes, not as this gratuitous slanderer would have it, for the base purpose of helping on personal or Collegiate interests, but with the Christian, patriotic, and truly Academic design of adapting things old to things new; the provisions of old laws to the new relations and new necessities of life, and always with a view to bring out of the treasury of the ancient code, things both old and new—some for the more effectual advancement of true religion—some for the increase of useful learning—and all for the more ready and abundant supply of men qualified to serve God and their country, by a well principled as well as able discharge of their duties towards both.

This wholesale dealer in concessions, has admitted the legal and statutable soundness of the opinions of those two eminent constitutional lawyers, who so ably counselled the University upon the rights, powers, and privileges of Convocation in 1752: he has admitted, that those rights, powers, and privileges were granted to the University, not, as it might have been supposed, to exist in some abstract or ideal state, in Atalantis, or Utopia, or during the reign of King Brute, or the Saxon Alfred; but contrariwise, that those rights, powers, and privi-

leges were given to Oxford after it had a real, visible, and tangible existence in the shape of a compages of endowed Scholars' Halls, or, as they were afterwards called, Colleges. The Reviewer has admitted by the largeness of his *quis dubitavit*, that these royal acts of favour and encouragement were multiplied upon the University, as it increased in the number of its Collegiate establishments, and by reason of them, and in consequence of the efficiency, stability, good order, and experienced utility of the Collegiate system so established : he has conceded, that till fixedness and permanency had been thus given to Academic institutions, by William of Durham, Walter de Merton, John de Balliol, with Dervorguilla his wife, and our other primitive founders, Oxford was in a sort of migratory or transition state ; at one time it was seen moving in large and confused crowds to Stamford, at others to Northampton, to Salisbury, to Wallingford ; in short, like a vessel without anchor and cable, it rolled, tempest-tossed, to and fro, dangerous to others, and destructive of itself. It is farther admitted by my opponent, that during these times the *Collegial elements* were in a state of chaos, and that the University, if it deserved the name, so far

from being worthy of privileges, was a disgrace to the country, the fomes of all sorts of disturbances, in short, (to use the Reviewer's phrase,) it was a nuisance to be abated, not an institution to be patronized and protected: and, lastly, he has conceded, that during the disputatious or eristic period of our existence, the lectures and disputations of the place were little better than solemn mockeries, and wordy nonsense, a sort of *crambe milliès repetita*, made up of arts and philosophies, distilled in the alembic of Scholasticism, from the dogmata of the Peripatetic, Stoic, and Pythagorean schools.

I dare say the Reviewer will be disposed to cavil at his own concessions, now he comes to discover what they amount to, but I have not enumerated one half of the important points which the *Irenicon* of his *quis dubitavit* has surrendered into my hands; and I should not be surprised to see him, by lame distinctions, endeavour to get out of his embarrassments; like the Jesuit of old, he has many a *tela Aranea* to weave, many a fine filamentous thread to lay and overlay, until he hides himself in the recesses of his *cocon* from the disgrace of such tergiversations. he has his *quodammodo et quadantenus*, his *secundum quid*, et in ordine ad, not forgetting his

most serviceable “per accidens;” all these and more he will have recourse to to save himself from the consequences of his concessum est: he will probably adopt that tortuosity of method with which Bishop Andrews charged Bellarmine; “Nunquam urgebis, (says that good and able man, of whom it was observed, that in his cathedral he was Bishop Andrews, in the schools Dr. Andrews, and in the closet St. Andrews,) nunquam urgebis quin statim dicturus sis, *concedo*, sed non proprie, sed quodammodo non absolute. Ita quidquid attuleris, eludet—macte vero Dialecticâ! tria hæc in promptu habe, cum tribus his nec te Chrysippus vicerit—non dubium quin contemnas omnia statim argumenta tutus sub his tanquam sub Ajacis clypeo.” (Tortura Torti, p. 95.)

§. 4. *The Jugulum causæ is to be found in the interpretation of the Dispensation Statutes. There are three conveyances of the dispensing power, not two, as the Reviewer feigns. One to Congregation, and two to Convocation. The boundary of the power dispensative has not been fixed, but advisedly left to the Judicium Discretionis of the Academic body without any determinate or*

specific limits having been prescribed, so far forth as it relates to matters merely educational and scholastic.

THE Reviewer's Nebulosity is in nothing more apparent than in his dexterity in making the *Collegial element* cloudy and obscure; and in no point or particular is his cloudiness darker or deeper than in his 'mystifications of the powers vested in Congregation and Convocation to grant dispensations to those who supplicate for them upon the grounds of urgency or necessity. The framers of the Reformed Code of 1636, Sub-delegates, Delegates, Heads of Houses, Convocation, Chancellor, all concurred in the conviction, (a conviction founded upon the woeful experience of many great and disgraceful evils,) that in their new code, or rather in their new arrangement of

* "It is neither *necessary*, nor *very urgent*, not certainly at the commencement of the practice; for how on any day, week, month, or year, could there have arisen a necessity, an urgency, for abolishing the term of residence, quietly tolerated during five centuries, so imperative and sudden, that the matter could not be delayed (if a short delay were unavoidable) until brought into Convocation, and approved or rejected as a general measure." Ed. Rev. Dec. p. 425. We have here a good specimen of the Reviewer's Nebulosity.

the old one, due regard should be paid to the vicissitudes of scholastic and civil life, and that ample provision should be made to prevent the recurrence of those forced and lamentable perjuries, which had but too frequently taken place under the old system, for want of larger statutory powers of dispensation. The consequence of fears at once so natural and praiseworthy is visible in the multitudinous guards and salvos and parenthetic clauses, and positive enactments for the relief of conscience ; they form the prominent, I may say the characteristic, features of the Statute Book. “ *Nisi tecum aliter dispensatum fuerit*” meets the eye so frequently, and upon occasions so important, that all but a predetermined slanderer must admit it to have been one of the special purposes of those provident and conscientious legislators, that Convocation should be left in possession of an unfettered *judicium discretionis*, to be exercised upon each supplicat, both upon the matters prayed for by candidates for degrees, and upon the grounds and reasons of their prayers.

Had the reformers of our Statute Book intended (as the Reviewer asserts^d) to have circumscribed

^d See Edinb. Rev. June, p. 421. Dec. p. 493.

within narrow limits and clearly drawn and impassable lines the powers of the University in this matter of dispensation, should we have had, as we now have, all those evidences of what may be called studious latitude, of contrived and purposed indefiniteness, as to things dispensable and indispensable, sufficient and insufficient, necessary and unnecessary grounds of dispensation? Why should there have been three distinct delegations of this power, if it were intended to make short and scanty provision for the cases and casualties which might occur? Why upon each of these successive delegations should there have been such considerable enlargements of the power delegated? Why should there have been made three classes or orders of things dispensable, each following class being more comprehensive and general and vague than the former? Why make things dispensable by Convocation which were not dispensable by Congregation, and why by Convocation under two conveyances of the power *dispensative*, the last to operate upon things before declared to be indispensable? Does all this saying and unsaying, forbidding and permitting, rigour and relaxation, look like a system intended to be preventive or even restrictive of dispensation in cases of necessity, or upon

any great urgency of business? Is it not, on the contrary, in favour of that which I am contending for, the legality of giving dispensations *ex necessaria et perurgente causâ* beyond the mere prescripts of the Congregational cases, but not beyond the generality of Convocational power? As the Reviewer's sophistry has been most sedulously employed upon the corrosion of the Statutes *de Dispensationibus*, (for after his ample concessions to me he found that here lay the *jugulum causæ*.) I shall endeavour to put this matter at issue with him by pressing him to answer me, after the manner which he pretends to love so much, that is, categorically: *in quo casu quæris, in eodem respondere teneris.*

1. Are there, or are there not, three Statutory delegations of the power of dispensation to the Academic body?

2. Is there, or is there not, one delegation of this power to Congregation, by Tit. IX. §. 4.?

3. Are there, or are there not, two other delegations of this power to Convocation, the first by Tit. X. §. 4., the second by Tit. X. §. 5.?

4. Are there, or are there not, very great increments or enlargements of the dispensing power

upon each of these three successive delegations ; the lowest degree of it being that first delegated to Congregation ; the highest that last delegated to Convocation ?

5. Are, or are not, the subject matters dispensable by Congregation of the lowest rank ; those dispensable by Convocation under its *first* power, (that is, *in materiâ dispensabili*,) the next in importance ; and with respect to the Convocational power of dispensation under its *second or larger grant*, (that is, *in materiâ indispensabili*,) does it not extend over the whole range of School business, readings, hearings, disputings, residence, for all degrees in all faculties ?

6. Is not *pro minus diligenti publicorum lectorum auditione*^e, one of the eighteen matters dispensable by Congregation, and, as such, one of those of

^e The Reviewer shifts the question from the true to the false, from the largest to the narrowest, from the Convocational to the Congregational grounds of dispensation ; and then argues the points at issue, as if the legality of the practice turned upon the compass which ought to be given to the meaning of "*minus diligens auditio lectorum*," instead of turning (as it really does) upon the amplitude of the dispensative powers of Convocation *pro defectu exercitiorum requisitorum ex causâ aliquâ necessariâ et perurgente*.

the lowest class, a common, or customary allowance, a matter of course, one, as the Statute says, Tit. IX. §. 4. in'quâ *Ven. Dom. Congregationis dispensare potest et SOLET?*

7. Is it, or is it not, set forth in the preamble of the Convocational Statutes of dispensation, Tit. X. §. 4. "that it is sometimes expedient that the rigour of the Statutes should be attempered, at one time, to men's private *conveniencies*, (*privatis hominum commoditatibus*,) at another, to their necessities?" Is not the principle of convenience, as well as that of necessity, distinctly recognized by this preamble as a ground for supplicating and granting a dispensation?

8. Is there, or is there not, a power in Convocation, under its *second grant*, to give (with the consent of Chancellor and Heads of Houses) a ^f dispensation, *pro defectu temporis aut exercitiorum ad aliquem gradum Baccalaurei, Magistri, vel Doctoris in aliqua facultate requisitorum?* Tit. X. §. 5.

^f The object of a dispensation is to take off from him who supplicates for his degree some incapacity (*incapacitas gradûs capessendi*) under which he labours, by reason of his non-performance of the ancient Statutory exercitia, &c. See §. vi. concerning the *Epinomis*, where you will find Sander-son's explanation of a dispensation.

9. Does it, or does it not, amount to an act of knavery so to represent these Statutory powers to ignorant men, as if they extended only to the first and lowest class of dispensables, to the case *pro minus diligenti publicorum Lectorum auditione*, when, according to the words of Tit. X. §. 5. and according to the mind and purpose of the Legislature, and according to the preamble reciting the expediency of attempering the rigour of the Statutes to the commodities of Academic men, power is given to Convocation to dispense with such and so many of the exercises required by Statute for the degrees of Bachelors, Masters, and Doctors, in the several faculties, as Convocation may think fit, upon each supplicat, to concede^s ?

But changing the interrogatory for the assertory and piperate style, I have no hesitation in charging the Reviewer with an act of knavery without parallel in the annals of periodical criticism, so to represent, or rather misrepresent, the powers vested by Statute in the Academic body, as to lead the *gobe-mouches* of the day to believe that the University has been acting illegally, in

^s Why does not the Reviewer, who is probably in his Regency, come forward in Convocation, and oppose such supplicats, instead of writing libels ?

permitting curates, and schoolmasters, and students in law and physic, and the past and present generations of professional men, to follow their respective callings in the world, and gain an honourable livelihood, by emancipating them from the thralldom of the Scholastic system of 1636; in short, *by attempering the rigour of the Statutes to their commodities and necessities*. I farther charge Thraso with the unparalleled turpitude of building up a tower of atrocious calumny upon the basis of his own viperine glosses, in order to agitate and excite men's minds against a body of Academic functionaries of the cleanest hands and purest hearts, and who have never ceased to deserve well of the Church, the State, and the University, by the single-heartedness of their devotion to their Collegiate and Academic duties. But what cares the calumniator for the beauty of virtue, or the purity of reputation, or the holy severity of the robe of magistracy, or the other high attributes of a well-exercised authority? His business, like that of the other literary ruffians of the day, is to assassinate character, to do the work of Cobbett^b and Carlisle, in places to which

^b The Reviewer is probably some renegado in the first year of his Regency, just fresh from the class room of a Dr.

their knowledge does not extend. It was said of Brutus, that he always called Cæsar Tyrant, because it suited his purpose, *ita enim appellari Cæsarem, facto ejus expediebat*. Upon the same principle, and probably with no very great difference of purpose, the reviler miscalls and falsifies the persons and things, the rules and the rulers, of the University. He seeks to detract

Britschneider, or a Dr. Wagscheider, or some other Teutonic Gamaliel, with a name as unutterable as his blasphemies. The old proverb, *Ovi lupellum commisisti*, is often found to be too true. As in this instance. The wolf's cub has had the poor silly sheep's nurture and protection, and what's the result? he bites and tears his alma mater. The thing is prettily expressed in an old Greek epigram.

τὸν λύκον ἐξ ἰδίων μαζῶν τρέφω, οὐκ ἰθιλοῦσα
ἀλλὰ μ' ἀναγκάζει ποιμένος ἀφροσύνη
αὐξηθεὶς δ' ὑπ' ἐμοῦ κατ' ἐμοῦ πάλι θήριον ἔσται
Ἢ χάρις ἄλλαξαι τὴν φύσιν οὐ δύναται.

(The same Englished.)

The wolf's whelp as my lambkin I rear,
'Twas my shepherd's insensate decree,
So I shelter and feed him, but fear
That the cub will prove cruel to me.

He will snarl, bark, and bite, as he grows,
Though at present his pillow my fleece is,
For no love this *monstrosity* knows,
He will tear *alma mater* to pieces.

from their estimation, and derogate from their authority, that he may involve the whole in the ruin of a *modern*¹ reform; and provided he can make a wrongful and injurious impression upon the multitude, he cares not for the fate of his argument; like the Etolian spoken of by Livy, he is more interested in the effect he shall produce upon the minds of those before whom he makes his speech, than of those to whom he seems to address it^k. The many are to be

¹ O! probam reformandi artem
 Quæ medecina datur
 Quæ curat, ut curamus partem
 Cum totum excindatur.

So sung the witty John Allibond of Magdalen in 1648, (brother of the brave Proctor, Peter Allibond,) in his *Rustica Academia Oxoniensis nuper Reformatae descriptio*. If the same experiment were to be tried again, we should not be without our Allibonds, both Johns and Peters, nor without our Hannibal Potters, nor our Mrs. Fells. This lady nobly defied the tyranny of puritanism; she was forcibly taken by the soldiery on a chair out of the Dean's lodgings, Christ Church, and put down in the quadrangle, with her children around her. Dean Fell was in prison at the time. A lady of the family, when it came to her turn to be carried out, observed to the Roundheads, *that she doubted not but that the time would come when she should return to the Deanery upon her own legs*.

^k Liv. lib. xxxv. cap. 49.

enlisted on the side of faction, and if, by the subordinate agency of a Reviewer, their clamour can be increased and extended, what cares he for the moral or intellectual worth of those whom he assails? The principle he acts upon is, *fortiter calumniando semper aliquid hæret*; and strong in this conviction, he deems no falsehood too large for his right hand, or too dirty for his manipulation. But the stylus piperatus may err by excess as well as defect: I will therefore forbear and return to the subject I departed from. I assert then, that if the wit of man had been set at work to devise a scheme or system of provisions, which should leave in the hands of the Academic body an unfettered *judicium discretionis* in this matter of dispensation, it could not have framed one of ampler dimensions. It was the wisdom and mercy of the Academic legislature in 1636, to avoid the mischief and tyranny of imposing upon posterity their notions of indispensability in matters educational. After eight quarto pages of enactment, nothing is finally determined upon the subject; for all the *indispensabilia* (Tit. X. §. 5.) are subject to the rule *NISI. Nisi Cancellarius præfactorum arbitrio rem permiserit*. And it is very remarkable, that in this last or parting word of the Statute

Book upon the subject of dispensation, instead of the cases being enumerated, and circumstantiated, and conditioned, (as they were under the former delegations of the dispensing power,) they are left subject to the single condition of *ex necessariâ et perurgente causâ*. Our ancestors, sensible of the danger of rigorous legislation upon subjects so mutable in their nature, obligation, and utility, as the exercitia scholastica, feeling too perhaps in their own persons, but certainly by reason of what they had witnessed in others, how disgraceful as well as painful it was to be obliged to transgress for want of adequate powers of dispensation, have enabled Convocation (penes quem est potestas *decreta*, as well as *statuta* condendi) to dispense with what the law has declared to be necessary, but which the voice of posterity might hereafter declare to be neither necessary, nor expedient, nor practicable. Those wise and good men were unwilling to sow new seeds of perjury. They had seen the rank increase of such tares, and had trembled for the harvest. They were too mindful of their duty to perpetuate the portentous growth of so much misery and mischief. They would not transmit to others the wretchedness which they had seen and lamented. None of the ancient Scholastic ex-

ercises of the Statute Book are to be spoken of as ἀπλως indispensabilia, but indispensabilia κατά τι. They are only relatively indispensable; relatively, first, as to Congregation; secondly, as to Convocation under its first powers of dispensation; thirdly, as to Convocation under its second powers, as to the allegations in the Supplicat, and other circumstances. Indispensability taken as a quality, or attribute, and with reference to the Statutory School exercises, admits of distribution into kinds and sorts, of measurement by degrees of more or less. It may be more or less comprehensive, more or less coercive, more or less remissive, by the supreme authority. Such is the doctrine, upon which the Statutes *de Dispensationibus* have been founded; the powers of dispensation vested in the Academic body are not “*anxiously and minutely determined,*” Edinb. Rev. June, p. 421. they are not *cautiously* given, *ibid.* Dec. p. 493. they are not *strictly limited,* *ibid.* They are given largely, but not too largely for the vicissitudes of life, or for the changes which take place in learning and learners, in whatever appertains to the didactic art, the methods of instruction, the interests of science and literature, the labours, services, and pursuits of literary and sci-

entific men in social life. According to the Reviewer, the purposes and pursuits of literate men (those honourable purposes and profitable pursuits which engage the Academic in the discharge of official duties in society) are to be thwarted, and opposed, by the reanimation of a dead and buried Scholasticism, and the re-enforcement of the Archæological curiosities of the Scholastic Code. There must be no dispensations from residence, from school readings, from school attendances; push indispensability by every forced construction to its utmost bounds. Call home the literary legion which is now in active service under the banners of truth, engaged in many a well-contested combat upon the field of religious or moral, legal or philosophical controversy. Take away from the world those burning and shining lights, which are at once its blessings and its ornaments. Let them burn in waste where they are not wanted. Take them from their golden candlesticks in the temple; take them from their candelabra in the courts and ivory palaces of public and professional life; take them from their usefulness and services to God and their country, to Church and State, and hide them in holes and corners; strip them of their power of doing good, para-

lyze their exertions, make them unfit to burn, and unable to enlighten. Such are the tendencies, or rather consequences, of the tyrannical doctrine of necessary residence, and Scholastic subjection, which the Reviewer is endeavouring to make palatable by his mystifications: for which services in the cause of defunct forms and formularies, he deserves the largest dose of hellebore, and the compression of the straitest waistcoat in Anticyra. We have had much controversy in Oxford upon these matters; but the most strenuous opponents of dispensations and advocates of an extended residence after the B.A. degree, were never chargeable, as the Reviewer is, with insanity. Napleton, in 1772, wrote strongly for protracted residence, and as some of his remarks may serve to correct the Reviewer's hallucinations, I will close this part of my argument by inserting them. "Men of mature age, (says Napleton,) who have gone through the elements and inferior branches of science with reputation, may well be trusted with the regulation of their own studies, and the choice of their place of residence. Besides, it would be an insufferable injury to society to detain men well qualified for their service." "Convocation has thought it not unreasonable, provided they keep the former

part of their residence, to dispense with the latter, and thus by the time they are of five years' standing, to allow them the privilege of a Candidate for the superior degrees. So far they proceeded with great equity and propriety.'" See *Considerations on the Residence usually required for Degrees at Oxford*, 1772.

§. 5. *On compulsory Residence after the Bachelor's degree in Arts. The Reviewer's tyrannical and oppressive plan of enforcing it. The measure inexpedient. Against the interests of individuals, and the general good. The Theodosian Code against Academic Residence after Twenty-one. The power of the Censualis to send Students away after that age.*

THIS part of my argument may seem to militate against the honourable ambition of the Professors and Readers of the University; I shall therefore begin by acknowledging their distinguished talents and attainments, their exact, enlarged, and enlightened views of Professorial duties. I acknowledge too, and after no slight acquaintance with their devotedness to the cause of knowledge and duty of instruc-

tion, that they are as zealous as they are able ; that there is nothing wanting on their part, which may be conducive to a full and free communication of the information which belongs to their respective arts, philosophies, and faculties. Their programmata are all regularly affixed upon the opening of Term to the statutable corners of our streets, and every thing is done to give publicity to the time, and place, and subjects of their lectures. The efforts which they make to suit the convenience of Students occupied upon other studies, the depth and extent of their courses, all prove their desire of imparting not merely an exoteric information, but of carrying that information forwards, into the *ἀνθρώματα* of their sciences, and of making their hearers philosophically as well as popularly learned. According to my means of judging, and comparing the intellectual and literary sufficiencies of men of former with those of the present day, I do not hesitate to say, that the chairs of the University were never filled at the same time with so much power and knowledge, integrity and zeal ; and if my opposition to the tyrannical principles of the Reviewer should happen to take me in a direction counter to their views or wishes, fame or fortunes, I declare beforehand,

that I am sensible of the claims of learned teachers, who, from no fault of their own, see their subsellia short of their proper complement, which ought to be an overflowing auditory. But any attempt to bring disorder, perhaps destruction, upon parental plans for the provision of children by enforcing residence to fill lecture rooms, would, if brought into Convocation, be sure to have my *non placet*; for I shall consider it as an endeavour to do mortal injury to the civil rights and interests of literate men, an unjustifiable interference with their pursuits and engagements in life, and with the performance of those professional duties, which are to procure for them the means of subsistence, and to open to them the pathway to wealth, and honour. In these views of the folly and injustice of the critic's theory, I am supported by the ordinances of the Theodosian code; not that it would be necessary to have recourse to any other grounds of condemnation, than those supplied by the theory itself; still it may serve to illustrate the principle of my opposition, if I refer to the Rescript of Valentinian, Valens, and Gratian, *Cod. Theodos. Tit. IX. de studiis Liberalibus Urbis Romæ et Constantinopolæ*, p. 197. vol. 5 and 6. ed. Gothofred.

The Rescript consists of eleven Academic regulations, relating to the matriculation, residence, behaviour, of the Students. By the ninth it is ordained, that *usque ad vicesimum ætatis suæ annum Romæ liceat commorari; post id verò tempus qui neglexerit spontè remeare, sollicitudine Præfecturæ etiam invitus ad patriam revertatur.* Gothofredus the commentator carries the twentieth year to its very close, so as to bound the time of residence by the beginning of the twenty-first. Diocletian and Maximinian extended the term of residence at their Law School or College at Berytus till the Student was twenty-five years old; but, say the commentators, (especially Conringius, who has written a dissertation upon the Academic rules of the Theodosian code,) the object of these limitations, as to time, is the same, *that the country might not be defrauded of the benefit of the Student's residence in the provinces.* Fateor equidem, says Conringius, p. 59. *non debuisse Studia juvenum fraudi esse provinciis civitatibus, municipiis; aut eorum obtentu vitari munera necessaria publica.* To the same effect, Gothofredus ad loc. *Studiosi ordinariè ultra legitimum tempus Romæ morari non possunt, ne diutius his patria defraudetur, muneraque adeo publica illi declinent.*

I have been the longer upon this provision of the code, because it distinctly develops the principle upon which I intend to insist in opposing the enforcement of a protracted residence, in order to cram—not the scholar, but the school room, and to bring into action a body of regulations, which, even in 1636, had all the hoariness, and much of the decrepitude, of extreme old age. Suppose the Academic had urged the Vice-Chancellor of Rome or Constantinople to extend the period of his residence, because he meant to attend some learned professor:—suppose some student of the fourth, fifth, or sixth century had pressed the *Celsitudo*, the high mightiness of the *Censualis*, with the representation that Professor Tribonian was about to read on *Part I. Tit. II. lib. 3.* of the Pandect, *De his qui notantur infamiâ*, and *cursorie, De Dolo malo*:—suppose another, in furtherance of the same object, had assured him that Libanius the sophist was declaiming to empty benches, or that Simplicius had sent out his syllabus, and had entered upon his first proofs of the harmony between the Stoic and Platonic philosophies, or that some great Galenist had just opened a course on the venous system, and had not quite gone through the dissection of his first dog.—to all such

representations, the Censualis, with a happy mixture of law and laconicism, would have replied *Apage*, perhaps he would have added, *Nebulo*, or, *in malam rem—quid scriptum, quid rescriptum est?* “ ad vicesimum ætatis suæ annum Romæ liceat commorari :” he would then have gone on to read, “ statim navigio superimpositus abjiciatur urbe, domumque redeat.” Cod. Theod. The Lictor would have been sent for, the young gentleman would have been conducted to the port of Ostia, thence to be passed by the first outward-bound vessel through the pillars of Hercules, to the residence of his family in the maritime part of the ulterior Gaul.

What will the Reviewer, the would-be enforcer of protracted residence, say to these very patriotic, but very anti-professorial, principles? What will this belligerent against the purses of all the parents, and the settlements of all the children, of the land say to these imperial principles? The compelled departure of Caius or Titius from the Professor’s class room, to the laborious and responsible employments which belonged to their stations in rural or municipal, civic or provincial, life, will be called after the Reviewer’s manner a *monstrosity*, the quintessence, of legislative barbarism. But does

the Reviewer believe that he would escape the indignation of the thrifty and discreet parentage of this calculating country, if he were to tell fathers and mothers that their purses ought to be drained without intermission for seven or eight, instead of three or four, years? Neither do I think that his argument (being one of the most difficult to manage, an *argumentum ad crumenam*) would acquire any increase of power or popularity from the apology, that it had the sanction of William, Archbishop of Canterbury in 1636, and the support of the Reviewer's own demonstration, to prove the illegality of dispensation and non-residence. It is found by long experience, that parents begin to grow very *quæstuose* about the time, or a little before the time, when their children take their Bachelor's Degree; enquiries are then not very unusual about the probability of their being able to support themselves; very pointed allusions begin to be made about heavy expences, deserving brothers and sisters, hopes of speedy relief. If the son have made his choice to serve his Church and country as a Clergyman, as soon as he has attended those lectures which are so ably delivered by the Divinity Professors, he seeks to begin his holy functions, and lay his hand to

that, from which he must never afterwards avert his eye. The Civilian must now work his way to eminence by the practical study of civil law; he must go to his apprenticeship in the Commons. The son intended for the Bar, like the Civilian, must now take his seat at the desk of a practitioner, and learn what books will never teach, and which would be sought for in vain, *a diligentissimâ Lectorum auditione*. By experience he must learn promptitude, accuracy, acuteness, and all those other habits of thinking, speaking, acting, which are formed, and only can be formed, by attending to the realities of litigation, and the wonderful phenomena of an English lawsuit. Who does not perceive the crying injustice, the monstrous absurdity, of tearing away Curates from their Churches, Civil Lawyers from their studies in the Commons, Common and Equity Lawyers from their paper and parchment lecturers in the Inns of Court, to make them reside at Oxford, according to the paragraphs of a Pandect, which, though dated 1636, bears the stamp and signature of the remotest scholasticism upon every one of its ordinances relating to readings and disputations, exercises, residence, and course of study. As to the Medical Student, not all the Professors of all the schools of physic put together,

however splendid in talent, rich in knowledge, zealous in duty, powerful in speech, would be able to fit and qualify men for the practice as well as profession of physic, except they had the *subsidia* of overflowing hospitals, and the *seges* of a dense population, and all those varieties of cases and subjects, healthy, morbid, dying, dead, which a thickly peopled metropolis supplies. To these and a thousand other such representations of the present necessities of professional men, to these and a thousand other pressing statements which might be made in respect of men's duties in every department of private and public, civil and religious, paid and unpaid, employment, the Reviewer replies, λέγε μοι τὸν νόμον—ἀνάγινωσκε τὸ ψήφισμα. There is not a word of this in that bond, in the bond and obligation imposed by Archbishop Laud upon Students and Professors, and Readers in the four Faculties, three Philosophies, and seven Arts. Let Galen de Temperamentis and the Institutes of Justinian be read, horâ locoque consueta, even though these observances should cause the Student to starve upon the dry bones of his statutory studies, for it can no longer be said

Dat Galenus opes, dat Justinianus honores—

Let the law, the whole law, and nothing but the law, be observed; *rejiciuntor prorsus neoterici auctores: auctores sint illi ipsi, quos secundum statuta Lectores publici auditoribus suis prælegere tenentur*, (Tit. IX. §. 2.) *pro virili defenditor Peripateticorum doctrina: si quis secùs fecerit multator quinque solidis toties quoties*; (Tit. VI. §. 91.) away with dispensation; enforce residence; eviscerate the paternal purse; destroy domestic arrangements; defeat family plans and purposes; disappoint fathers and mothers in their fond anticipations of speedy profits; prevent the early susception of professional duties; pauperize the graduated Academic; send his pretty little starvelings to the workhouse; make him useless as well as poor; strip society of its teachers; perish professional profits and pursuits; but live the Constitution, the glorious Constitution, of 1636, in every one of its most grinding obligations, and in all the parts and powers of its machinery.

§. 6. *The Epinomis was written by Sanderson. It is recited as his in the List of his Works, as given by the learned and exact Editors of Walton's Lives and Wood's Athenæ, Dr. Zouch*

and Dr. Bliss. The fact supported by external and internal evidence. Farther demonstration of the Reviewer's knavery.

I CAN very readily pardon and spare the oscitancy of a slothful, and even the presumption of an ignorant, critic. It is the bitterness of malignity, and the effrontery of falsehood, which call for the *stylus piperatus*. In the present case, however, I must expose, before I *pepper*, the fraudulency of the assertion, that the fact of Sanderson's having written the *Epinomis was unknown to any of Sanderson's biographers*. Edinb. Rev. Dec. 1831. p. 503.

Dr. Zouch was a biographer of Sanderson; for in his edition of Walton's Life of Sanderson, he has both in his foot notes and appendix added many particulars illustrative of his life and character. He has also appended a Catalogue of Sanderson's Works, seventeen in number, of which that numbered XV. is, "*EPINOMIS seu Explanatio Juramenti quod de observandis Statutis Universitatis a singulis præstari solet, quatenus scilicet, seu QUOUSQUE obligare Jurantes conscendum sit; inserted in the Excerpta e Corpore Statutorum Universitatis Oxon.; it was written to explain the oath of obligation to observe the*

penal Statutes.” So far Dr. Zouch. But does the fact rest upon the judgment of any other? The Rev. Dr. Bliss †, ὁ ἀδαμάντιος, the indefatigable Editor of Wood’s Athenæ and Fasti, has assigned the *Epinomis* to Bp. Sanderson. This may be enough for the contradiction of what the Reviewer has alleged; but he tries to shew *the improbability* of Sanderson’s being its author, by saying that he left Oxford in 1619, and did not return till he was made Regius Professor of Divinity in 1642. He then applies his cart-ropes, and drags out the conclusion, that Sanderson could not possibly have had any thing to do with the *Epinomis*. I oppose to the forceful inference, first, the fact of Sanderson’s having been Proctor of the University in 1616. 2dly, of Sanderson, when Proctor, having made the correction of the Statute Book his peculiar study. Walton tells us, “in this year also, 1616, the magisterial part of the Proctor required more diligence, and was more difficult to be managed than formerly, by reason of a multiplicity of new Statutes which begot confusion; some of which Statutes were then, and not till then, and others suddenly after, put into an useful execution:

† Vide Photium sub voc. Origenis.

and though these Statutes were not then made so perfectly useful as they were designed till Archbishop Laud's time, (who assisted in forming and promoting them,) *yet our present Proctor made them as effectual as diligence and discretion could do.*" Here we find the hand of Sanderson officially employed upon the Statute Book in 1616, and we may be sure, that whatever he took in hand he laid to his heart, understanding, and conscience.

The 3d fact, which places Sanderson in close contact with the Statute Book, is his appointment to be Chaplain to Charles I. in 1631. This brought him not indeed to Oxford, but very close to Oxford's Chancellor, Archbishop Laud, elected to that office in 1630; and who, from the moment of that election, set about the reformation of the Statute Book. Here then we have the wise and good Proctor Sanderson, with all his practical knowledge of the antinomies and archaisms of the Statute Book, and with all his known anxiety for their rectification, and with all his high reputation for the exactness and vigour of his judgment, thrown by his office of King's Chaplain into constant intercourse with his ancient friend, the Archbishop, who like himself had been long en-

gaged, and probably with him, in the same work of rectification when they were together at Oxford, and who now was resuming it with a determination to persevere till he had completed the work. Let me now ask, whether these facts and their appendages be not of themselves enough to destroy all that the Reviewer has said or insinuated against my assertion, that Sanderson wrote the *Epinomis*.

But the matter does not rest here. It fortunately happens, for the confounding of fraud and calumny, that Sanderson wrote seven *Prælectiones* on the obligations of an oath, and ten upon the obligation of conscience. It is true that they were not read till 1646, but it is impossible to say how many or how much of these lectures may have been in hand ten years before. I may be wrong, but I am not provably wrong, in representing the penning of the *Epinomis*, and the penning of certain similar positions in the lectures, as cotemporaneous acts; but, taking them as the Reviewer wishes me to take them, that is, as following one another at the interval of ten years, my argument greatly gains by this change in the *Status questionis*. The *Prælectiones* will then be as the *διδασκαλίας προνοήσεις* of Sanderson, his first thoughts upon the nature and obligations of a corporate

oath being to be found in the *Epinomis*. Neither do I think, after what I have shewn, or, as the Reviewer would say, demonstrated, that I assume too much in representing this to be the relation between the two things. Even as the matter now stands, the proof is sufficient as to moral certainty, that they were both written by Sanderson, either about the same time, or one after the other, at the interval of ten years. But if I be warranted by the external evidence alone to make such an assertion, that warranty will, in my judgment, acquire an absolute authority, when strengthened, as I am about to strengthen it, by the supports of a great many evidences internal.

The most obvious is the evidence of style; it is altogether Sandersonian*; semi-Scholastic, semi-Ciceronian. Ciceronian, in a certain sense,

* Vide De Jur. Obl. Præl. 2. §. i. Sed unum vos interim, præmonitos velim; mihi constitutum esse, dum reperiam quod rei de qua agitur utcunque significandæ sufficiat, de verbis non ultra laborare, multò minus de sermonis puritate, nedum elegancia sollicitum esse. *Philosophum* aut *Theologum*, præsertim in Scholasticis meditationibus et nodis Controversiarum, tam decet compta et ornata oratio, quam bovem aratorem bullatæ phaleræ. Materia in qua operam sumimus, doceri contenta, non postulat ornatum; sed nec patitur. Nimirum non est idem in *Rostris* et in *Scholis* versari.

not such as Tully would have used when declaiming in the Comitia, or the Senate, or pleading before Prætors, or Centumviri, but such as sometimes occurs in his philosophical works when sustaining the Stoic's, the Academic's, or the Epicurean's part, and arguing closely on some point of philosophy. But besides general resemblance, there are special coincidences of expression.

<p><i>In the Epinomis.</i></p> <p>strophis eludere.</p> <p>interpretando benignius.</p> <p>Juramentis assertoriis.</p> <p>a mente et intentione Legislatoris.</p> <p>obligationi Juramenti mensuram præscribere.</p> <p>Incapacitas Gradûs.</p>	<p><i>In the Prælections.</i></p> <p>sophismate eludere. <i>Jur. Obl. p. 23.</i></p> <p>benigniore interpretatione. <i>Ibid. p. 29.</i></p> <p>Juramento assertorio. <i>Ibid. p. 17.</i></p> <p>ex mente et intentione Legislatoris. <i>Consc. Obl. p. 27.</i></p> <p>mensura ejus obligationis quam lex inducit. <i>Ibid.</i></p> <p>Incapaces muneris—ut si prohiberetur in Domo Congregationis gratiam suam proponere. <i>Ibid. p. 237.</i></p>
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If I were not fearful of multiplying my mortal pages to 150, I would carry on these dissections to a much greater extent.

But leaving style, let us come to matter, and what have we, but an identity of doctrine between that in the *Epinomis*, and that which is to be found on the same subjects in different parts of the *Prælections*?

To pursue this line of evidence to its full extent, would be to transgress the narrow bounds which craft imposes upon those who undertake to exhibit its deformities. I must refer rather than reason, I must be content with citing the evidence, and leaving the application to the reader. But there is one point of doctrine in the eighth *Prælection*, *De Conscient. Obl. §. 25.* which comes powerfully in aid of all the other proofs, internal and external, and by its peculiarity points to Sanderson as the common author, both of the *Epinomis* and the *Lecture*. Towards the close of the Statutory explanation of the *quatenus* and the *quousque* of the Academic oath, it is said, that *Dispensation does not in such sort operate upon past acts, as to be able to undo what has been done; it does no more than remit or relax the punishment which the law imposes upon offenders, whether their offence be of omission or*

commission. I am giving an interpretative translation, but I am giving it in the presence of the enemy, and dare not misrepresent it. It is added, *that this punishment is no other than that incapacity of taking his degree, (Incapacitas gradûs capessendi,) which the offender has contracted; and those who, notwithstanding this incapacity, shall take their degrees without dispensation, are guilty of perjury; and especially those who have contracted such a mode and measure of incapacity, as cannot, by any dispensation, be remedied.* I am not now arguing upon the amplitude of Convocational power in the matter of dispensation, (I have done that already,) neither am I stating the practice of the University in relieving those who *supplicate, ex necessariâ et perurgente causâ,* and releasing them from their variously contracted disabilities. I am now shewing, from the evidence of a particular point of doctrine in the *Epinomis*, that Sanderson is its author, and the point I have selected for my purpose is this doctrine of incapacity, or incapability of graduation. I might have had recourse for this purpose to other congruities of doctrine, but there is something so peculiar, so idiomatic in this doctrine of contracted incapacity, that if I should find in the *Prælections* any thing upon this very

special point, I shall feel bound to conclude, (in the absence of all contrary, and with the concurrence of a great deal of corroboratory, evidence,) that Sanderson was the author both of the Epinomic and the Prælectorial doctrine on the subject. Let us then go for this piece of internal evidence doctrinal to *De Conscientiæ Obligatione*. Præl. viii. §. 25. The question there raised is touching an offender's liability to punishment. The punishment in the case under consideration is not of a positive but negative nature; it does not consist in being obliged to do or to suffer any thing by a positively penal infliction, but in restraining or preventing the offender from doing that which would be to his advantage if done, and by placing him in a state of incapacity, so as to be, during the continuance of such incapacity, incapable of receiving what would be at once pleasurable and profitable to him. Sanderson then goes on in his admirable manner to distinguish, descending at last to this very subject of *Incapacitas gradus Academici capessendi*. There are many laws, he says, which incapacitate or disqualify certain delinquents in such sort as to make them *incapaces alicujus muneris vel dignitatis*. As, for instance, if any disturber of the public peace

should, by a Statute of the University, be prohibited for the space of two years after the commission of his offence, from having his grace proposed in Congregation, in order to obtain his degree. In these, and such cases as these, the punishment consists solely in incapacity or inability; *in solâ inhabilitate, vel incapacitate consistit*. Here then we find Sanderson the lecturer teaching the very same doctrine, which, as I contend, Sanderson the expositor of the Academic oath had taught ten years before, the matter, the manner, the reference to graduation being the same in both.

Thus then it is manifest, from internal as well as external evidence, that Sanderson did what I asserted that he had done. The *Epinomis* is attributed to Sanderson by Dr. Zouch and Dr. Bliss. The general evidences of style and doctrine; the particular evidences of special points of style and doctrine; Sanderson's Procuratorial labours in rectifying the Statutes, and settling Academic duties and obligations as to their observance; his ancient friendship with Archbishop Laud, and their common solicitude and joint purpose as to the rectification of the disorders of the code; their intercourse with each other at the very time when Laud had

taken the work in hand ; are abundantly sufficient to overturn the Reviewer's miserable imputations upon my honesty. It is no maxim of mine, *cum Cretensibus Cretizare*, to meet falsehood by falsehood. Let our flippant opponent repeat his little doubts ; *if true, the fact would be curious. Why should the Epinomis be written by any other than the Delegates ? We see the motive of the fiction ; it is too silly to be worth mentioning.* Ed. Rev. Dec. p. 503. Yes ; and I see the motive why the prevaricator would get rid of the fact of Sanderson's being the author of the Epinomis ; because if he were to admit it, he sees the necessity of admitting the evidence of Sanderson's Prælections upon the points at issue ; he foresees that his atrocious calumnies against the Heads of Colleges (calumnies which amount to indictable libels, as imputing perjury and subornation of perjury to men of high office, spotless names, and unimpeachable integrity in all their administrations) would be at once silenced and refuted by such evidence as this. If we are at a loss for the meaning of any particular phrase or sentence in the Epinomis, let the last great Schoolman of Oxford, at once the author and explicator of this Epinomis, be called in to give his judg-

ment upon any difficulty, which may be found in it, upon any *viperine gloss* which may be put upon it, upon any frauds and calumnies which may be built upon it, and upon the worthlessness and wickedness of the man who dares to make it the instrument of his malignity, and the lurking place of his craftiness. For myself, I will say no more upon the *quatenus* and the *quousque* of the Academic oath. Let Sanderson, fairly and fully quoted, supply whatever may be still wanting to silence, and if possible to shame, our Thrasonic antagonist.

De Juramenti Obligatione.

Præl. 3. §. xviii. *Ultimus casus est, ubi exigitur Juramentum à membro alicujus communitatis, puta Civitatis, Academiae, Collegii, aut Societatis Mercatorum vel Artificum, ad observanda statuta, privilegia, consuetudines, et libertates illius communitatis. Quæritur, Qualis est obligatio? Respondeo; Imprimis, Juratus obligatur ad omnia statuta fundamentalia, quantum in ipso est, simpliciter observanda. Fundamentalium autem dico, quæ necessario et proxime tendunt ad conservandum publicum statum, ordinem, et honorem totius corporis sive communitatis. Sed in secundo, non semper et necessario ad rigorem literæ; sed prout in more posita sunt, et usu communi recepta, et prout approbata consuetudine ab aliis observantur. Tertio, ad minorum gentium, statuta quod attinet, quæ pertinent ad externam tantum formam et decus: vel quæ aut ex con-*

ditione materiæ, aut ex forma sanctionis, aut alio probabili indicio vir prudens judicaret *non fuisse condita cum intentione rigidæ obligationis*; obligatur ea ordinarie observare: *sic tamen ut liceat ei quandoque justa de causa sine scrupulo conscientiæ id prætermittere quod statuto aliquo faciendum præscribitur; modo id fiat citra scandalum aut contemptum.* Quarto, Obligatio extenditur et ad statuta de futuro sancienda, modo sint possibilia, justa et honesta. Quinto, *si aliquod statutum post juramentum præstitum abrogatur, vel in desuetudinem abeat; obligatio Juramenti quoad illud statutum cessat, ita ut non teneatur illud ultra observare*: nisi juratum fuerit verbis specialibus in ipsam rem statuto decretam; in eo enim casu sublato statuto manet tamen obligatio. Sexto, cum statuta Communitatum fere plurima sint, et multa multis ignota; et difficillimum sit, imo vix possibile, omnia et singula exacte et examussim observare: qui bona fide ita se comparaverit, ut nihil quod est officii sui lubens præterierit, &c.

Præl. 7. §. i. Cum igitur materia juramenti promissorii, nempe res de futuro præstanda propter futurorum eventuum incertitudinem, *multiplici mutationi et varietati obnoxia sit*: hinc fit, ut *Obligatio* quæ cadit super illam *Materiam*, et quâ tenetur jurans de futuro promissum adimplere, *mutabilis sit et à juramento separabilis*.

Præl. 7. §. vii. *Casus quartus est de solutione vinculi per cessationem materiæ, aut mutationem aliquam notabilem factam circa causam Juramenti principalem. Tunc enim cessasse materiam censendum est, cum rerum*

status inter tempus jurandi et tempus adimplendi ita immutatus est, ut si quo tempore jurabatur prævideri potuisset is qui postea insecutus est rerum status, non omnino juratum fuisset. Respondetur breviter, cessante Juramenti, Voti aut Promissionis materiâ, cessare simul ejusdem et *obligationem*: Quemadmodum in naturalibus et artificialibus, deficiente materia, deficere necesse est et actionem agentis.

Præl. 7. §. iii. *Primus Casus est de Dispensabilitate Juramenti*: An et quatenus Superioris dispensatio ejus obligationem tollere valeat? *Dispensatio* autem, ut ea vox communiter accipitur, exemptionem significat alicujus personæ à lege communi factam ex speciali indulgentiâ ab habente auctoritatem. Ut siquis legi alicui subditus, Principis beneficio ex speciali gratiâ ab illius legis obedientia eximatur: et *ut fieri quotidie videmus in Academicis, ubi ex rationabili causa dispensationes solent concedi particularibus personis, ut liceat eis in aliquibus aliter quam statutum est facere.* Fundatur autem *dispensationis jus* in *ἐπιεικείᾳ* illa, quæ postulat ut de rigore legis nonnunquam aliquid remittatur ut æquitati sit locus. Cum enim leges necesse esset verbis generalibus ferri, et ad id respicere quod *communiter et plerumque* bonum et utile est publico; quod tamen sæpius contingere potest esse *pro hic et nunc* inutile, vel saltem minus bonum; *æquum utique visum est ut ubi observatio ejus quod lege sancitum est videtur esse alicui privatæ personæ valdè onerosa vel incommoda*, et ex ejus omissione publico non multum incommodari, Princeps vel alius legitimus superior potestatem haberet determinandi legem in eo casu non

videri servandam : et hoc est quod dicimus in lege *Dispensare*.

Præl. 7. §. viii. Si is cui juratum est remiserit jurandum et nolit servari, jurantem obligatione protenus solvi nec in conscientia teneri id facere quod se ante facturum juraverat.

Præl. 7. §. ix. Sed posse tamen id vinculum aut rescindi et irritum reddi auctoritate superioris legitimam potestatem habentis aut deficiente materia aut ab eo cui promissio facta est, relaxari ita ut obligandi vim penitus amittat ^m.

I now feel warranted in re-asserting most dogmatically, that Sanderson is the author of the *Epinomis*, and that both the Academic oath and its explanation will receive their best elucidation from his *Prælections*. They very happily supply the means of detecting fraud and defeating sophistry. But that which gives them their greatest value upon the present occasion, is their usefulness for proof upon the main question, which is the legality of Convocation giving relief to individuals, who pray to be relieved from those incapacities and disabilities which

^m Sanderson tells us twice, (Præl. 9. §. xxi. and Præl. 10. §. iv.) that it was his intention to have lectured *de dispensationibus*. He was prevented by the triumphs of the Puritans, and the consequent tyranny of their dominion.

they have contracted by reason of their necessary absence from Oxford, and their consequent non-performance of the old Statutory exercises; incapacities, and disabilities, which if not taken off in each instance by a Chancellor's Letter, the consent of Heads of Colleges, and a vote of Convocation, would exclude them from the degrees they solicit. In this point of view the doctrine of the Prælections is important and valuable. It establishes beyond a doubt not merely the legality, but the morality and the expediency, of the practice; they shew, that the practice has a Sanderson for its advocate; that it is built upon Sandersonian principles; that exact estimator of the temporary and the eternal in law, of the mutable and immutable in obligation, has recognized the practice of dispensing with whatever has become obsolete in statutory enactment. He considered it a legitimate indulgence, a necessary concession. When time has superinduced deformity, decrepitude, and death, upon an ancient statute, the author of the *Epinomis* tells us to entomb with decent silence its blanched and weather-beaten bones. To seek to revive the breathless corse, to robe it in a professorial mantle, and to set up the unreal mockery, to read lectures in Scholâ Nat. Phil.

would be an operation as laughable for its folly, as it would be lamentable for its mischief; it would be at once against Sanderson and common sense. It would be to oppose the march of intellect, and the interests of learning. It would be to war against the hopes and prospects of literary men, who would, by such revived archæomy, become *tres médiocres en talent de tête, comme en talent de bourse.*

§.7. *On Fundamentals—varieties of them. Reading in the Schools not a Fundamental. Sufficient provision must be made for teaching—this is fundamentally necessary—such provision is made by Tutorial instruction. Reviewer's knavery in citing Sanderson about Fundamentals.*

How vaingloriously does Pyrgopolinices shake his plumes upon this point, and vaunt over an unscathed opponent. He must be reprov'd; and what story can reprove him more effectually than that found in Theoph. Spizelius^a, about Nero and the inflated men whom he invited to his table. The Emperor seated them all upon leathern bags, blown up to a bulky and elastic rotundity; but being pricked with a pin, the bags gradually collapsed, and by their subsidence reminded the

^a Felicis. Literatus, p. 259.

braggarts of their emptiness ; *ita ut inflati illi homunciones, utribus aère evacuatis humi se prostratos non sine Imperatoris gaudio deprehenderent.* Now this is precisely the position in which the Reviewer is about to find himself. I had quoted Sanderson, (the passage, Præl. ii. §.18. I have now extracted at length at p. 51.) to shew what his judgment was as to the *quousque* and *quatenus* of the obligation of the ancient Academic oath. The Reviewer fondly imagined that he should be able, by a little manufacturing, to fashion the inflexibility of Sanderson's buckram to the shape of his own deformity. He has made the experiment, and the result is found at p. 503, Ed. Rev. Dec. The whole is mere fastuosity : by a few *mucrones verborum* the Thrasonism will evaporate.

What are fundamentals ? What is it to observe the Statutes in fundamentals ? What is it to keep the Academic oath so far forth as it relates to the observance of the Statutes in fundamentals ?

The adversary is Sophist enough to know, that there is no method more likely to embarrass a question, than to shift it from particulars to generalities ; the more indefinite the subject matter, so much the better for fraud ; *dolosus versatur in generalibus* ; and if there be any one

generality better adapted than another to the purposes of delusion, it is this very question about fundamentals ; for I do not believe that it has yet been settled in any one of the many controversies concerning them in religion, philosophy, politics, or law, what is the exact nature of the thing called a fundamental, what its definition as a term, what its comprehensiveness, or exclusiveness, as to limits, what its certainty as a principle, its force as an obligation, its influence in practice, its rank and dignity in the order of things. I am not speaking of moral or religious fundamentals ; concerning them we may acquire sufficient knowledge, and from sources pure, abundant, and never-failing ; but with respect to other fundamentals, (and too often with respect of these,) they have supplied the evasive and laturient sophist with a handy covert, should they, in the course of controversy, happen to want a place of refuge. The Reviewer in his last article has shewn himself very skilful in this tactic of throwing himself into the strong hold of a generality. He lately took post behind the generality of ENDS, he now has recourse to the generality of FUNDAMENTALS.

But if there be any one thing clearer than another, it is this, that the ancient Professorial

or Prælectorial system of teaching up stairs and down stairs, out of little square deal boxes, placed in some twelve or fourteen very cold unfurnished rooms called schools, is not a fundamental in any sense of the word. Teaching is a fundamental: teaching by every method synthetic, analytic, inductive, is a fundamental. So is the duty of teaching. Order and regularity, energy and perseverance in teaching, are fundamentals; because without these things all informations of Academic youth, all Scholastic studies and disciplines, would fail, and become fruitless. If I were to go on with my enumeration of fundamentals, I should produce a synopsis almost as long and wide as Lord Bacon's *Partitio Doctrinae Universalis*. There would be fundamentals *constitutional*, embracing the chartered rights and privileges of the University; fundamentals *judicial*, as regulating its courts; *fiscal*, for the orderly keeping of its accounts; *official*, as determining the course and order of the public duties of its functionaries^k; *legislative*, as forming the principles and groundwork of Convoca-

^k Agreeably to Sanderson's definition, as given p. 51, the punishment of libels would be a fundamental. Perhaps the Reviewer may be interested in the definition. See Tit. XV. §. 8. and §. 9. *de famosis libellis cohibendis—de contumeliis compescendis*.

tional lawmaking; *dispensative*, as setting forth the causes, occasions, and rationale of dispensations by Congregation and Convocation. For I hold it to be a fundamental of Academic law, as well as of general or public expediency, that for necessary and very urgent reasons, the Academic body should have the power of consenting to the supplicants of men, actively, usefully, honourably employed in the service of their church and country, when they pray, each for himself and upon personal grounds, for one or more dispensations from the incapacities incurred by the non-performance of obsolete exercises.

If the Reviewer does not like these concessions to the prayers of artists, jurists, physicians, and theologians, let him put his *non placet* upon the next application. He is, no doubt, some Regent in Arts, and knows that he can oppose the suppliant's grace twice without shewing cause; and it cannot be doubted, but that upon his third refusal, he will exhibit before the venerable House such a demonstration of the illegality, inexpediency, perjury, and usurpation of the practice as will put an end to it¹. But

¹ Let him act the open and honourable part of a Napleton some sixty years ago. In that part so acted, and in

without extending the outline of my fundamentals, I have no hesitation in again asserting, that it is by no means fundamental to the Academic system, (and hard indeed it would be, *οἷοι ὦν βουροί εἶσι*, if it were so,) that teaching should be prælectorially and professorially carried on upon the floors of the Schools; that teachers and hearers should become incurably rheumatized in the cause of the seven arts and three philosophies; that sore throats and fevers should commence on the first day of full Term; and that hoarse Professors should be for ever enforcing dead Statutes upon deaf audiences, whilst the permeating breeze from window, door, and staircase, was spreading aches and ailments among the Benchers. None of these things are fundamentals; they would be scarcely tolerable as ACCIDENTS. But when every branch of litera-

the face of day, and before the House of Convocation, there was high principle, and honourable feeling, and manly firmness. He appeared in person, and opposed the supplication of an M.A. for a dispensation pro defectu exercitiorum requisitorum. He did more, he published his objections to the measure; and both in his speech and publication he shewed himself as strenuous an opponent of non-residence as the Reviewer, and much more able. But Napleton was, what this writer never was, or will be, A GENTLEMAN.

ture, sacred and profane, of philosophy, natural and mathematical, moral and metaphysical, is taught by able men, wanting nothing but the name of Professor to be so, taught too in carpeted rooms, amidst the lawful luxuries of chairs, tables, and fireplaces, there is no necessity to injure the health, perhaps ruin the constitution, in order to shew the practicability of the Reviewer's theory, and perpetuate the primæval system of Robert Pulleyne. And I am convinced, that if our great demonstrator himself were to open a course of lectures in his faculty on the vexata quæstio, "*an mendacium sit licitum*," he would soon find, that his lectures were becoming *parietal*, and the disagreeable echoes of a solitary chamber would remind him at once of the hopelessness of his attempt, and the folly of his speculation.

But I find that I have been answering an unwise man according to his want of wisdom. I must return to my point. What are the fundamentals which Sanderson says are necessary to be observed, to prevent the violation of the Academic oath? The Reviewer makes the delivery of school lectures, and attendance upon them, fundamentals, and adduces the passage I had cited, to prove it; but then, as usual, he

cites falsely and fraudulently; he leaves out Sanderson's explanation of what he meant by fundamentals, viz. "such things as have an immediate and necessary tendency to preserve the public order, polity, and honour of the body corporate," *quæ necessario et proxime tendunt ad conservandum publicum statum, ordinem et honorem totius corporis sive communitatis*. Here we have the author's explanation of what he means, but that would have spoiled the Thrasoism of the Reviewer's retort; he has therefore suppressed it. I assert then again, upon the authority of the Statute Book—I assert it upon the evidence of the mind and purposes of our legislators themselves, and of that principle of discreet accommodation to the times, upon which our Code was constructed, and of those facilities which it has provided for carrying the principle of accommodation into full effect—I assert it upon the warranties of our Charters and Acts of Parliament, and upon the authority of every Academic principle—that the mode of reading pointed out by the good and wise men of 1636, according to the doctrines of certain venerable text books, in a certain course and order, as to time, place, and person, is not and ought not to be called a fundamental.

It must be added to the list of the Reviewer's *accidents*; it belongs to the category of *form*, (see Edinb. Rev. Dec. p. 494.) not matter; of relation, not substance. In short, it is a mode or method of teaching, which has often been changed; it is one changeable with the times, regard being had, in the mode and measure of the change in each instance, to *huic, hic, et nunc*; to the interests of students under the vicissitudes of civil life, and the alterations and improvements which take place from time to time in didactic methods. Nothing is absolutely a fundamental in the economy of teaching, but that which is necessary for a full and effectual conveyance of the best and surest knowledge in the shortest time to the greatest number of students. It matters not, upon this question, whether the person communicating the knowledge be called Professor, Prælector, or Tutor. If the thing be done, the title of the doer is of very inferior consequence. I suppose that the Reviewer is not such a slave to names; as to insist upon the necessity of a trisyllabic teacher. The name of Professor in Oxford implies every thing honourable in life and character, as well as talent and attainment. But how often is it borne by lean and hungry men, of great

pretension, but of little power and less principle, who undertake to indoctrinate *en gros, et en détail à tres bon marché*. The Reviewer dearly loves Professors and Prælectors. Tutor is a title too short by a syllable. Decry the office, insult the officer. What though he be great in every power of mind, and rich in every Academic attainment, and zealous in every didactic office, and carry his pupil forward, and far beyond the bounds of any studies and of any knowledge prescribed by Tit. IV.—what though leaving such Abecedarian literature far behind him, he conduct the Academic youth, by most præterstatutable ways, to higher and better attainments than any which ever entered into the heads of good Dr. Pinke and Brian Twyne, there still remains the deep disgrace of being a dissyllabic teacher. This alone is quite sufficient to destroy all title to praise, or even respect. The Student may have been successfully conducted very far beyond the little logicals (*parva logicalia*) and all the other little things laid down 12 Car. I. for the quadriennium of the undergraduate, he may have taught his pupil to aspire and enabled him to attain the highest honours on the roll of scholarship, but there still remains the fatal appellative to rob him

of his glory. He is still a Tutor, and not a Professor. Germany has proscribed the short and unsightly word; it is not patronized at Paddington; it is anathematized by the Reviewer.

In spite, however, of all these assaults upon Tutors and Tutorial instructions, I assert, that these are the collegial elements which best deserve the name of fundamental. Upon these foundations were reared the men, famous in their generation, who have gone forth from Oxford to support the dignity of its name, and with it the honour of their Church and Country, as Statesmen, and Senators, Jurists, Physicians, and Divines; and these still continue the foundations, upon which the present and future fame of the University; as a place of education, depend, upon which mainly depends the attainment of those great ends which our Charters, our Statutes, our Act of Incorporation, propose, or rather prescribe, to the teachers and teachings of Oxford. Such has been the culture, and such the labourers employed and bestowed upon our olive tree, *quæ in Domo Domini fructifera, quam plurimos palmites, viros scilicet fructuosos, in scientiis liberalibus imbutos, in singulas partes Regni dispersos, protulit et produxit.*" Chart. Hen. VI.

§. 8. *Testimonia Auctorum falsò allegata, pravè detorta.* The Reviewer's forged draft upon Lord Bacon. Other forgeries upon Tillotson, Locke, and Parr. Ant. à Wood has supplied the Reviewer with his information, not Crévier or Duboullay. Gutch's *Miscellanea Curiosa* have been also plundered.

THE Reviewer is very indignant at being charged with what the late Mr. Canning used to call a Bynkershoek ^a, making a false citation from some writer of authority to help on a lame argument. It might have been supposed, that when I had so distinctly accused him of fathering his own spurious position upon Lord Bacon, he would have cleared himself, and confounded me, by some *renvoi* to the place where the passage was to be found. Has he done so? No. He shuffles out of the charge, by saying, that it is *one of the most familiar sentences of his most popular work.* Ed. Rev. Dec. 1831, p. 504. I again deny that it exists in any work whatever written by Lord Bacon. The forgery stands thus; *Reduce (says Lord Bacon) things to their first institution, and observe how they have degenerated.* Ed. Rev. June, 1831, p. 407. I repeat my

^a For the origin of the term, see p. 7. of the *First Part* of my answer.

charge of forgery and falsehood ; and it is to be remembered, (in aggravation of his offence,) that he has committed this fraud for the purpose of perpetrating the basest calumny. I challenge him to name the situs in quo of this pseudo-Baconian position. I know what he has been doing, as well as he does himself ; but I know also, that he will not dare to refer me to *the materials of his FABRICATION.*

Bynkershoek. No. 2. The Reviewer sends us to Tillotson's Works, vol. i. p. 148. (see Ed. Rev. Dec. 1831. p. 495.) *On the lawfulness and obligations of oaths.* The Sermon lies open before me, and I have looked in vain for the passage ; the only thing that approaches it is, "*He is guilty of perjury, after the act, who, having a real intention when he swears to perform what he promiseth, yet afterwards neglects to do it, not for want of power, (for so long as that continueth the obligation ceaseth,) but for want of will and due regard to his oath.*" Tillotson's Sermons, fol. vol. i. p. 218. But this is widely different from what the Reviewer palms upon Tillotson, viz. "*He is guilty of perjury, who promiseth what he is not morally and reasonably certain he shall be able to perform.*" The fact is, the Sermon is an Assize Sermon, and its subject, the oath *assertory*, such as is administered to a

witness to speak the truth, not the oath *promissory*, such as that *ad observandum Statuta, Privilegia, consuetudines et Libertates Universitatis*. I do not mean to say that the Preacher does not touch upon the oath promissory, but he does no more than touch upon it; for all that he says is contained in my quotation as given above; and for this very good reason, because, as Sanderson says, *Juramenti promissorii in judiciis usus nullus*. I am disposed to note down this false citation as *Bynkershoek*, No. 2. I will endeavour to avoid the Reviewer's error in the Sermons, which I am about to recommend to his evening studies. They shall not be irrelevant, like that which fraud and ignorance have recommended to us. I beg him to lay to his conscience, as well as understanding, the contents of Dr. Samuel Clarke's Sermon, *On the sin of deliberate fraud*, vol. x. to which might be very profitably added, Dr. South's, *On lying*; another of the same, *On reviling and ill language*; and, lastly, Dr. Isaac Barrow's, *On the folly of slander*.

Bynkershoek. No. 3. The Reviewer fathers the following sentiment upon Dr. Parr; "*English Universities stood in need of a thorough reformation, only that as seminaries of the Church it was the wisest thing for Parliament to let them alone,*

and not raise a nest of hornets about their ears. Ed. Rev. Dec. 1831, p. 500. Perhaps there never was a more daring act of misrepresentation of Dr. Parr's sentiments respecting the English Universities. Would it be believed to be a thing within the compass of the most frontless impudence, to convert the admirer and vindicator of the Universities, and especially of the University of Oxford, into a scoffer and a calumniator? If the reader would wish to know Parr's real sentiments of Oxford, let him read them in that most splendid panegyric, and most argumentative defence, which are to be found at the end of his Spital Sermon. They occupy thirty-two quarto pages, and place the Reviewer, and his sham reference, in a point of view, which no Scholar or Gentleman would be willing to occupy.

The shortness of my space prevents extracts ; but let the reader turn to page 107, and then say, whether the Reviewer, if he could be found out, ought not to be dealt with as Bogo de Clare dealt with the Sumner, who had cited the sturdy Baron during the sitting of the Lords to appear to answer to a plaint in the King's Bench—he should be made *to eat up his words*. I think, that Wm. Prynne, temp. Car. I. was the last that underwent the operation ; for a less offence

than the Reviewer's he was made to open his mouth, and by regular manducation and deglutition, to swallow the offensive libel. But though I cannot print all the eloquent tribute of praise and admiration, which the pen of Parr has paid to the University of Oxford, I must make, if I cannot find room for the opinion of such a man upon one of the main points at issue in this controversy, the superiority of Tutorial over the old Professorial system.

“The instruction which formerly was conveyed by Professors to a promiscuous multitude of the young, the old, the trifling loiterer, and the attentive student, assembled in the Schools, is now consigned, with happier effect, to private and public Tutors within the walls of Colleges. The plans for such instruction admit sufficient comprehension, and sufficient regularity, for use. The divisions are easily adapted to the capacities of those, who understand what they have heard, and retain what they have understood. The Tutor can interrogate, where the Lecturer perhaps would only dictate ; and, therefore, in his intercourse with learners, he has more opportunities for ascertaining their proficiency, correcting their misapprehensions, and relieving their embarrassments. Doubtless, when the present condition

of Academical affairs is compared with that, of which we read in the last century, and those which preceded it, APPEARANCES are much changed, but THE SUBSTANCE remains unimpaired." Parr's Spital Sermon, p. 127.

In evidence of his high opinion of the didactic men as well as the didactic methods of Oxford, he records at pp. 109, 110, 111, 127, 139, the names of 320 Academics of his day, adding, that *in such men we have a cloud of witnesses when we are pleading for THE EXCELLENCY OF OUR STRENGTH and THE JOY OF OUR GLORY.*" See p. 111.

Bynkershoek. No. 4. Sire, you have made a most glorious and happy revolution, but the good effects of it will soon be lost, if no care be taken to regulate the Universities. Ed. Rev. Dec. p. 499. The Reviewer gives these words to Locke upon the authority of Serjeant Miller's Reports, and makes them refer to some proposed Scholastic reform proposed to King William. I assert on the contrary, that King William knew and cared for Academical learning about as much as the smallest drummer boy in his Dutch Guards. But there was one thing at the Universities, and especially at Oxford, about which he was very solicitous, and that was its anti-revolutionary spirit, its high Toryism.

Locke too remembered the many goodly volumes of Whiggery which were burned by decree of Convocation. And they both felt that the good effects of the Revolution would be lost, if something were not done to regulate *the principles and opinions* of the Universities. As to Academic studies and disciplines, if Locke was ever so foolish as to talk upon what the King could not comprehend, he would have counselled him to put an end to all Professorial teachings in the Schools according to the Laudian Code. He would have said, “ Sire, Rhetoric and Logic are Arts which usually follow immediately after Grammar^s; your Majesty may wonder I have said so little of them; the reason is, because of the little advantage young people receive from them. I would have a young gentleman take a view of them in the shortest systems that can be found, without dwelling long on the contemplation and study of those formalities. Let not the young man be bred up in the art and formality of disputing. As to Ethics, I know not whether he should read any other discourses of morality but what he finds in the Bible^h. When he has digested Tully’s Offices, and added to it

^s Locke on Education, §. 188.

^h Sect. 185.

Puffendorf de Officio Hominis et Civis, it may be seasonable to set him upon Grotius de Jure Belli et Pacis," &c. &c. But not one word in any of Locke's Works is to be found to support the notion, that Locke advised King William to restore the ancient system of Professorial readings. Quite the reverse; and if I were to search for a writer, the most adverse to the Reviewer's silly project of reviving the austerities of the Scholastic system, it would be John Locke. The fact really is, that the Universities of Oxford and Cambridge reformed themselves in many particulars of educational reading, upon Locke's principles; and without doubt these were among the reasons why the rigidity of the old School teaching passed into derision and disuse. And it will require a greater dexterity in fraudulent citation than even the Reviewer is master of, to make any man of common sense believe that he has the support of any one modern philosopher in his attack upon the altered and improved course of Education, Graduation, and Residence, at present pursued at Oxford.

Besides these, there are other instances of falsification, which for want of room must be passed over. There is however one of the Re-

viewer's arts Thrasonic, which is of such perpetual recurrence, that it demands observation ; I mean, his incessant boasting of the books he has read, of the knowledge he possesses, of the information he has communicated to the Academic world. "To our profound enquiries into the histories of the primitive Universities of Paris, Salerno, and Bologna, to our indefatigable examination of the constitutions of Straw Street and Coll. Porc. as set forth in the 4 vols. folio of Bulæus, and the Lovanium of Justus Lipsius ; you of Oxford, and you of Cambridge, are indebted for all you know about your Graduations, Inceptions, and Regencies." As to Cambridge, the force, meaning, and comprehension of the term Regent, were thoroughly investigated in the important case argued before Lord Mansfield, 1747, in *R. v. Vice-Chancellor of Cambridge*ⁱ. They are matters of general notoriety ; and nothing but a rapid perusal of the Statute Book, and the present spectacle of existing institutions, are necessary to the attainment of this knowledge. As to Oxford, the same remarks are applicable ; but then, in addition to these, our common sources of information, we

ⁱ See Burrow's Reports, vol. iii. p. 1647.

have our Anthony à Wood, and he supplies us with a full account of all those things which, as Thraso would have us believe, are to be obtained only by lamp-light labours, upon the pages of Duboullay. They are all to be found at p. 703. vol. iii. of Wood's Annals, as edited by the late good and guileless Editor, the Rev. John Gutch, to whose labours the boaster is also indebted for all that he has plundered from the Collectanea Curiosa, vol. ii. pp. 35, and 53.

§. 9. *Conclusion. Testimonies of authors to the fame of the University. Bp. Lowth. Sir Wm. Jones. Dr. Randolph, President of C. C. C. Abp. Secker. Dr. Parr.*

I KNOW not how I can better conclude my rejoinder to the Reviewer's reply to my answer to his accusations, (for such, I believe, ought to be the designations of our agonistics,) than by citing some *testimonia auctorum* to the fame of the University, not medicated and concocted, nor forged and falsified, but fairly cited and fearlessly alleged as the words of truth, the honest declarations of the patriotic and the pious. I shall begin with the testimony of Bp. Lowth,

in his controversy with Warburton; he made it matter of exultation "that he had been educated in the University of Oxford; that he had enjoyed all the advantages, both public and private, which that famous seat of learning so largely affords; that he had spent many years in that illustrious society, in a well-regulated course of discipline and studies, and in the agreeable and improving commerce, of GENTLEMEN and SCHOLARS where a liberal pursuit of knowledge and a genuine freedom of thought was raised, encouraged, and pushed forward by example, by commendation, and by authority."

To the same effect Sir William Jones, *in the Oration intended to have been spoken in the Theatre*, July 9, 1773. p. 8. declares, that "there is no liberal art, no sublime or useful science, which may not here be learned to perfection, without having recourse to any foreign Instructor. All nature lies open to our inspection; the surprising fabric of this visible world has been explained to us, not by conjectures, and opinions, but by demonstration; the works of poets, critics, rhetoricians, historians, philosophers, the accumulated wisdom of all nations, and all ages, are here made accessible, and familiar to the Students of every class, in whose minds they

are preserved, as in a curious repository, whence they may, at any time, be extracted for the honour and benefit of the human species."

Dr. Randolph introduced into his sermon *on the Advantages of Public Education*, p. 14. some observations on the comparative merits of English and foreign Universities. After shortly remarking upon those which are Popish, he proceeds to the Protestant. "In the Universities among the Reformed Churches there are doubtless several learned and eminent Professors, and their lectures are very useful and instructive; but it is generally complained, that there is little care taken of the morals of their students; they live in private houses, and are no longer under the inspection of their masters, than while they are attending his lectures." This testimony acquires still greater authority in the mouth of Secker, because he had studied abroad, and was conversant with the foreign system. "If, (says he, see his Act Sermon, 1733, p. 19.) if we compare the foreign Universities with our own, is their theology worthier of God, more conformable to reason, and primitive Christianity? Is their philosophy juster, or more solid, less full of imagination and hypothesis, than that of our great countrymen, whose names I need not suggest?"

Will the ornamental rewards of learning be more fitly bestowed, where no time previous to the application of them is required? Will industry be more universal, without any inspection over it, behaviour more regular, without any rule set to it? . . . Miscarriages, after all, will happen in such numbers of such an age. But the general good order that reigns here to most foreigners, not the worst judges in this case, appears incredible when related, and very surprising when seen.”

But I must close my testimonies, not for want of materials, but through the fear of the Reviewer’s severities upon the lengthiness of my mortal pages. I will however add the general testimony of Dr. Parr, to the superiority of our English over foreign Universities. I have already cited and referred to his particular testimonies in favour of Oxford. “ Be the imperfections of our seminaries what they may, I am acquainted with no other situations, where young men can have so many opportunities for contemplating either religion, under an aspect which is solemn without gloominess, or morality, with features, which have exactness without austerity ; where they can be so successfully trained up to habits, which may for a while detain, and

afterwards preserve them from the contagious example of crowded and dissipated cities ; where they can be so largely stored with principles that may enable them to detect the fallacy, and to escape the contamination, of those metaphysical novelties, which are said to have gained a wide and dangerous ascendancy on the continent. After the recent downfall, and amidst the rapid decay, of similar institutions in foreign countries, OUR UNIVERSITIES *are the main pillars, not only of the learning, and perhaps the science, but of the virtue and piety (whether seen or unseen) which yet remain among us.*" Dr. Parr's Spital Sermon, p. 112.

Such is the place, the studies, the advantages, and such are the talents and attainments and felicities of teaching, and high principles, and honourable, and useful, pious, and patriotic performances, which this Terræ Filius^k of 1831-2, has thought proper to vilify. It is well for him and for his office, that his scurrilities are shot from an unknown hand. The Terræ Filius of former days had a sort of personality about him which caused him sometimes to be exposed to rough handling, as in the case mentioned by

^k Called at Cambridge the Prevaricator ; perhaps this title is the more suitable of the two.

Grainger at Cambridge, (vol. iii. p. 243.) and in another stated with alarming specifications by Ant. Wood, see his *Life*, p. 305. where one Hamerton, if I rightly recollect the name, being Terræ Filius, July 9, 1681, was cudgelled in the Roe-buck inn yard, by the son of the gentleman whom he had lampooned. Far be it from me to approve of such things. I approve not of the coarse severities of the *horribile flagellum*, nor even of the milder animadversions of the *scutica*, nor of those aerial and imaginary inflictions which are effected by the shaking of the opprobrious scourge. No: the punishment that I shall inflict, will be innocuous as to any *σμῶδιξ αιματέσσα*, (Iliad. B. v. 265.) it is but the performance of a promise; I shall republish some of the terrible Alcaïcs of Hodgson, the translator of Juvenal. It will be no more than the lashing of the Satirist, which I shall inflict upon the Reviewer's *μετάφρενον ἤδὲ καὶ ὄμω*.

Pallete fures! ipse Flagellifer
 Exsurget Hipponax sepulchro,
 Vel, propriis minitans Iambis,
 Plagosus iras Archilochus graves,
 Si non redibis turpis in Arcticas
 Scotus cavernarum latebras
 Et Patriæ loca fœda noctis.

See *Lady Jane Gray, a Tale, in two books,*
 by Francis Hodgson, A.M. p. 78.

But I wish the Reviewer to understand, before I part with him, that this is the last time I shall permit him to indulge his *laturiency*: the worm must be taken out of his cocoon, the sepia from the darkness of his *Collegial element*, the echinus from the close and compact concealment of his thorny mantle.

But to those highly-principled and highly-endowed men, who have been with a sort of gratuitous and wanton malignity insulted by the culprit, I would say, go on in the path you are treading, with a step so undeviating, and an attention so undivided; the path which patriotism has pointed out as leading to public utility, which religion approves as the path of Christian truth and holiness: to them, I would say in the words of Seneca, *Æquo animo audienda sunt imperitorum convicia, et ad honesta vadenti contemnendum esse istum contemptum.*

THE END.

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*Errata in the FIRST PART of the Assertion of the Legality of
the Academic System of Oxford.*

- P. 13. *dele* P. 96. Law maxims, 12mo
32. *dele* P. 66. Penton
38. *for* anti-Alfredian *read* ante-Alfredian
46. *for* cartæ *read* chartæ
54. *for* body of men *read* bodies of men
58. *for* Visitorial *read* Visitation
83. *for* Bachelor's degree *read* Master's degree, and *for* M.A. *read* B.A.
87. *for* Academic legislation *read* Academic legislature
112. *for* restriction *read* extension
131. *dele* The obligation of

In the SECOND PART.

- P. 52. *for* abrogatur *read* abrogetur
56. *for* archænomny *read* archæonomy





