

Archbishop William Warham's 1532 Defense

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Reasons alleged by the Archbishop of Canterbury why he ought not to incur the *praemunire* because he consecrated the Bishop of Asaph before license given by the King¹

[1]² [In this response, I]³ neither indeed intend to say or do anything, [to offend] or discontent the King's Highness for I have found his Grace always [to be] gracious and favorable to my Church and myself. But I intend only to do and say that thing that I am bound to do by the laws of God and Holy Church, and by mine order, and by mine oath that I made at the time of my profession. Against any of the which I am sure that his Grace well informed will not advise me, will me, or command me anything to do or say. And all and every of the premises saved⁴ I shall be as glad as the lowest and poorest subject in his realm to do anything that his Grace would command me.

[2] As touching this matter of *praemunire*,⁵ which depends only on this that I, according to the Pope's Holiness's bulls directed to me as to a Catholic bishop, and according to the prerogative of my church of Canterbury belonging to me as to metropolitan, consecrated the bishop of Saint Asaph⁶ before he had exhibited his bulls to the King's Grace, and done his homage and made his oath of fidelity and sued out his temporalities,⁷ as it is said and surmised. For it is thought I should not consecrate any bishop till after he had exhibited his bulls to the King's Grace and had done his homage and made his oath of fidelity to the same, and had sued out or agreed with his Grace for the temporalities of his bishopric, and also that I should not give to a bishop his spiritualities⁸ until he were agreed with the King's Highness for the temporalities.

¹ This summary statement, written in a seventeenth-century hand, appears at the end of the manuscript SP1/70, fos 236ff, which is in the National Archives in Kew, London. (© CTMS 2021)

² These numbers have been inserted for ease of reference.

³ Because of water damage in the upper corners of the manuscript, portions are illegible. Most of these are indicated by ellipsis marks.

⁴ *all ... saved*: i.e., "the above agreed."

⁵ The 14th-century statutes of Provisors and *Praemunire* – as they are known today – and most notably those of 1351 and 1393, had made it lesser treason, punishable with imprisonment during the king's pleasure, to invoke or exercise any jurisdiction which was judged to conflict with, or undermine, royal authority. While banning the appointment by popes of non-resident foreigners to English benefices, these acts were primarily aimed at English clerics who sought papal appointment (provision) to parish churches, deaneries, etc., and thus by-passed the local patrons ("provisors"), i.e., bishops, lay persons, etc. who claimed the right to "provide," that is, to appoint. The Latin verb *praemunire* means "to forewarn/ make ready." It was the opening word of the writ to the sheriff (*praemunire facias* – "do you forewarn/make ready") requiring them to bring the accused to court. It could mean the writ, the offense itself or the punishment. Hence one could speak of being "in a *praemunire*," as Warham does here – shorthand for being charged with an offense against the acts of 1351, etc. A year before Warham's case, the whole clergy of England and Wales had been "in a *praemunire*" – and had bought pardon from a king bent on frightening Rome into granting him his so-called divorce. How would Warham, had he lived, have responded to his charge? The response below is so forthright that he was surely prepared to defy his king.

⁶ Henry Standish, a Franciscan, was appointed bishop of Saint Asaph (in northeast Wales) in 1518.

⁷ the lands, lordships, etc., which belonged to the see and were held "of" the Crown "in chief" that is, in feudal tenure, and for which, like any lay lord, an archbishop would have to do homage and swear "fealty" (loyalty).

⁸ the episcopal jurisdiction which an archbishop conferred on the bishops of his province when they were consecrated

[3] To this I say that, by the law, a thing done between other persons cannot be prejudicial to the third person who is not bound to the knowledge thereof. But archbishops of Canterbury be not bound to know whether such persons to be consecrated bishops have exhibited their bulls to the King's Grace, or have done their homage and given their oath of fidelity, or have sued out their temporalities or not. Wherefore I say that whether he that is to be consecrated bishop do exhibit his bulls to the King's Grace, doing his homage and fealty, or sue his temporalities before his consecration or no, his negligence or oversight therein cannot of right be imputed, or ought to be prejudicial, to the archbishop that doth consecrate him.

[4] And that the archbishops of Canterbury be not bound to know whether such as be to be consecrated bishops by him have exhibited their bulls to the King's Highness, doing their homage and fidelity, or have sued out their temporalities or no it may right well appear, if the manner and form used and accustomed in consecrations heretofore be called to remembrance. In the which it hath never been used⁹ that the archbishop should examine that¹⁰ should be consecrated whether he had exhibited his bulls to the King's Grace, and had done his homage and made his oath of fidelity, and had sued out his temporalities or not. For if the arch[bishop were] to intromit¹¹ with that act that the which examination he that [should consecrate] answer he would. For if he intended to do the archbishop any displeasure to put him to business,¹² he might say that he had exhibited his bulls to the King's Grace, and done his homage and given his oath of fidelity and sued out his temporalities, where he had not so done. Whereby the archbishop might be put to like trouble as I am now.

[5] And, that no such question hath been asked or demanded of bishops that have been consecrated in times past at the time of their consecration by the archbishop, I refer me to my brethren, the bishops of my province of Canterbury, which¹³ (if they be so required) can show whether any such question was made to any of them at the time of their consecration. And, if the archbishops should be bound not to consecrate any bishop until they had sent to the King's Grace and knew whether the person to be consecrated bishop had exhibited his bulls to his Highness, done his homage, and given his oath of fidelity, and sued out his temporalities of his Grace or no, that were a great bondage to archbishops that they should at their proper costs for another man's business send from one end of this realm to the other, as peradventure¹⁴ from Canterbury to Berwick, or percase¹⁵ some time out of the realm where it should fortune the King's Grace then to be, to know whether the bishop to be consecrated had exhibited his bulls to the King's Grace, had done his homage, had given his oath of fidelity, and had sued out the restitution of his temporalities or not. And also, many bishops have been consecrated before they have sued their temporalities, as it may appear by matter of records. The time of their consecration by the act of my register and the time of suing out of their temporalities by the records of the King's Chancery duly seen and accounted, and also as it appeareth in the *Lives* of archbishops of Canterbury for two hundred years past, as Thomas Bradwardine,¹⁶ archbishop of Canterbury, and William

⁹ customary

¹⁰ the one who

¹¹ include, add to

¹² the original reads "besoynes": i.e., trouble, ado

¹³ who

¹⁴ perhaps

¹⁵ perhaps

¹⁶ archbishop of Canterbury, 1348–49

Whittlesey,¹⁷ and others were first consecrated and long time after sued to the king for their temporalities, as it appears in the history of their lives. And, so it hath continued until this time without any trouble of any archbishop or interruption of such consecrations to be at their liberty. And if the archbishops of Canterbury have been bounden in times past to sue to the king's Grace to know whether the bishop [to be consecrated had exhibited hi]s bulls to his Highness and had done his homage [and given his oath of fidelity] and had sued out his temporalities or no, I s requisite it will appear by some records or acts that the archbishops had made such suit to the King's Grace and that some certificate had been made from the King's Grace or his officers at his commandment to the archbishop before this time in that behalf.

[6] And, where it cannot appear by any records or act that any suits or certificates have been made heretofore in this case, it appeareth evidently that the archbishops be not bound to know whether such as be to be consecrated bishops have exhibited their bulls to the King's Grace and done their homage, and given their oath of fidelity, and sued out their temporalities or not.

[7] Item, if it were requisite that bishops to be consecrated should first exhibit their bulls to the King's Grace, do their homage, and give their oath of fidelity to the same, and sue out the restitution of their temporalities before their consecrations, it is to be thought that some wise and well-learned men that have been promoted to bishoprics within this realm in times past as well by the King's Grace's days now, as by his most noble progenitors, would not have been noted nor seen so negligent or so greatly overseen¹⁸ as to have omitted their duty toward their prince in that behalf, considering that thereby they might fall not only into great damage and danger, but also into great displeasure of their princes with whom they were before in singular favor, and also might hurt the archbishop that did consecrate them. Which it is to be thought by likelihood they would be loath to do, considering the labors and pains that he sustaineth by reason of their consecration.

[8] Item, if this thing had been so requisite as it is surmised, it is thought that such singular wise princes as have been in times past, which had as diligent an eye to the observance of the laws and customs of this their realm, would have caused this thing to have been very diligently looked to by their officers, and the same to have been strictly observed, and the omitters and breakers thereof to be extremely punished. But it hath not been heard nor seen at any time that any archbishop or bishop in times past hath been put to any trouble or business for any such cause.

[9] Item, Almighty God hath ordained in a [two] powers, one spiritual and the other tem[poral] have them occupieth them dist[inct] u resist or interrupt any of the said powers as contrary to the ordinance of God. Wherefore as the King's Grace hath the temporal power to grant and to deliver out of his custody the temporalities of bishoprics at his pleasure, so in like wise the archbishop of Canterbury, for the time being having the spiritual jurisdiction of all bishoprics within his province of Canterbury, while they be void in the right of his church, mayat his liberty grant to him that is lawfully promoted at Rome in the Pope's Consistory a bishop of any see being void the spiritualities of the same bishopric. And, if the archbishop of Canterbury should not give the spiritualities to him so promoted a bishop till the King's Grace had granted and delivered to him his temporalities, then the spiritual power of the archbishops should hang

¹⁷ archbishop of Canterbury, 1364–74

¹⁸ heedless; neglectful

and depend of¹⁹ the temporal power of the prince, and so should be of little or none effect which is against all law. And so there should not be two distinct powers according to Almighty God's ordinance. For if the archbishop should not give any benefice till the King's Grace should give his consent to him that should have it, it were in manner as good not to have the gift of such benefices which he might not give but at another man's pleasure. And so it were in a manner as good to have no spiritualities as to have such spiritualities as he might not give but at the prince's pleasure.

[10] Also, if the archbishop of Canterbury – after that an elect is provided²⁰ a bishop at Rome in the Consistory, and after the presenting of the Pope's bulls to him by the which he is ascertained that he is a bishop – should keep the spiritualities in his hands till the King's Grace had delivered to the said bishop his temporalities, in that case the archbishop should do to him that is provided bishop great injury and wrong, keeping from him his spiritualities, without any reasonable cause. For the archbishop hath the exercise of the spiritualities no longer than the bishopric is void. And when any elect is provided a bishop of any see being void by the Pope's Holiness in his Consistory, and when that appeareth to the archbishop, then the see is no longer void, and then no longer can the archbishop keep the spiritualities in his hands except he will do the bishop wrong.

[11] Item, if the archbishop of Canterbury should not grant the spiritualities till the King's Grace had granted the temporalities, such kings have been in times past and may be hereafter, which have kept and indeed will keep the temporalities of the bishoprics in their hands many years as King Henry [and other] kings have done. And so he that were elected [and provided a bishop] at Rome should in this case have nother the temp[oralities of the] bishopric nother²¹ the spiritualities, and so should he be enforced to go a-begging, which were no small inconvenience.

[12] And in this behalf I speak against mine own profit and against the profit of my successors. For the longer the spiritualities should be in mine or their hands, the more should be mine or their profit. And so if I should not grant the spiritualities till the King's Grace had granted the temporalities – if his Grace should keep the temporalities a whole year or two in his hands – it should be to my great profit, if I should keep for all that time the spiritualities in mine hands, which were not to be refused if I might have them so with good conscience, but better it were for me and my successors to lack such a profit, to do another man injury and wrong.

[13] Item, it standeth not with good law or reason that a man should be punished for a deed by the which no man hath damage or wrong. But by the consecration of a bishop before he hath exhibited his bulls and done his homage and given his oath of fidelity to the King's Grace, and before he hath sued out his temporalities, the King's Grace can have no loss nor damage, for his Highness may at his liberty (notwithstanding the consecration) keep in his hands the temporalities still and take the profit of them until that the bishop consecrated hath done his homage and given his oath of fidelity, and hath agreed with his Highness for the restitution of the same temporalities as his Grace in such cases useth²² to do. And the said bishop is no lord of the Parliament until he have done his homage and hath given his oath of fidelity and hath sued out his temporalities, for the act of consecration giveth to him no place in the King's Parliament.

¹⁹ on

²⁰ appointed

²¹ *nother* ... *nother*: neither ... nor

²² is accustomed

Wherefore seeing that the King's Grace hath no loss ne²³ damage by the act of consecration, methinketh there should no punishment thereupon sue.²⁴ And diverse archbishops and bishops have been in England which have had only their spiritual jurisdiction and have lived thereupon, and have not had a long time after their temporalities, as²⁵ Bishop Peckham²⁶ and others.

[14] And as touching him that is consecrated: he is made no bishop by his consecration, as peradventure some men thinketh, but he is made and provided a bishop at Rome in the Pope's Consistory, and hath before his consecration all things appertaining to spiritual jurisdiction as a bishop, and by his consecration he hath no jurisdiction given to him, but only such things as be appertaining to his order. Which be merely spiritual, as consecrating of children, giving of or [receiving] consecrating holy oils, blessing the
. the which the King's Grace taketh any wrong with kings' or princes' pleasures to defer consecrations of bishops till they had granted to them their temporalities, which before they would do peradventure should be long or never, at their pleasure it might follow that the Church should have no bishops and consequently no priests by them, and so all the sacraments of Holy Church might cease at prince's pleasure, for albeit that we have now a very gracious and noble prince, God knoweth what prince may be in England hereafter, which percase might make great decay in Holy Church and in the religion of Christ, if bishops should not be consecrated but only at princes' pleasures by the pretense that they have given temporalities to the Church.

[15] Furthermore, if it were reason²⁷ that bishops should not be consecrated till they had sued out their temporalities, which princes have given to their mitres, by like reason the pope should not be consecrated or crowned till he had sued out his temporalities of the emperor, which Constantine, sometime emperor, gave to the see of Rome; and so there should be no pope but at the emperor's pleasure, and till he had granted to him his temporalities.

[16] Item, if there were no law, it standeth best with good reason that every spiritual man that should exercise a spiritual room²⁸ should endeavor himself first to obtain all such things as be requisite to his spiritual business and after to obtain such things as appertaineth to his temporal business, and not temporal things first and afterwards spiritual things, perverting good order, which is against reason; wherefore if there were no laws, it standeth with reason that a bishop should be consecrated first and after to sue for his temporalities. And if there were a law to the contrary, it were not a reasonable law to make a spiritual man first to sue for his temporalities and after for his consecration.

[17] Item, it were according²⁹ that a spiritual man should first give his oath of obedience to the spiritual head which is the pope. Which is not used to be done but at the time of the bishop's consecration, and that done, then to do his temporal duty and fidelity to his temporal prince, and not to prefer the temporal prince to the pope in a spiritual matter. bishop of Asaph and nothing but that I was [com]mandment in the virtue of the oath of mine obedience, of the which these be the words: *Mandata apostolica totis viribus observabo et ab aliis faciam observari*. ["I will observe all papal commands with all my strength – and make

²³ nor

²⁴ ensue

²⁵ such as

²⁶ John Peckham (or Pecham), a Franciscan, was appointed (i.e., provided) archbishop of Canterbury in January 1279, consecrated a month later, and received his temporalities on 30 March.

²⁷ reasonable, right

²⁸ office

²⁹ appropriate, acceptable

them observed by others.”] And in so doing, I was but the Pope’s commissary. And the consecrating of the said bishop is principally the Pope’s deed which commanded it to be done. Wherefore I think it not reasonable that I should fall into a *praemunire* for doing of that thing whereby (if I had done the contrary) I should have fallen into perjury. And it seemeth not to be a reasonable ordinance by the which a man, doing according to his oath of obedience to the Pope, head of all Christian men, should fall into any penalty. For a spiritual man, which hath sworn obedience to the Pope, is more bound to execute his commandment, namely, in a spiritual cause, as the consecration of a bishop is, than to forbear it and defer it for any temporal law made to the contrary. And where in this case, not doing the Pope’s commandment, I should fall into perjury and, doing his commandment, I should fall into a *praemunire*, as is supposed, if a man could not choose but to fall into one of the said dangers of perjury or *praemunire*, *melius est incidere in manus hominum quam derelinquere legem Dei* [“it is better to fall into the hands of men than to disregard God’s law”].

[18] Now all and every of the foresaid reasons deeply considered. Seeing that another man’s negligence or omission ought not to be prejudicial to me, nor yet bind me to any inconvenience. And seeing that the archbishops of Canterbury from time out of mind have been in possession of the right to consecrate, at their liberty, bishops of their province without any interruption or impediment or any question made to the contrary heretofore. And seeing that I have only used my spiritual power in this behalf, touching the spiritualities, as the King’s Grace doth use his temporal power concerning the temporalities. And considering that I have the exercise of the spiritualities no longer than the bishopric is void, and that I should do to the bishop promoted at Rome injury, and so known injury, if I should defer the consecration and keep from him his spiritualities any longer. And considering that it might be a great decay in Christ’s faith hereafter, if consecrating of bishops and so consequently all sacraments of the Church should depend upon princes’ pleasures, which peradventure hereafter might be such as should not be so good and so gracious as the King’s Grace is now. Considering also that it were to my great profit to defer consecration a long season, and to withhold the spiritualities, which profit I were not wise to refuse if I might take the same with good conscience. And seeing that it is no reason that a man should be punished for doing of a good deed by the which no man is damaged or wronged, as I have showed that the King’s Highness hath no manner of damage or wrong by the consecration of the Bishop of Saint Asaph, which is made no lord of the King’s Parliament, and hath no place given to him there by the act of his consecration, and a good spiritual act (as a consecration is) cannot derogate the King’s Grace’s crown or regality. And considering that it is convenient³⁰ for a spiritual man first to obey all things appertaining to his spiritual business, and afterwards such things as appertaineth to his temporal business, and also to give his oath to his spiritual head, the Pope, which oath is given at his consecration, before he makes his oath to his temporal head which is the King’s Highness. And finally considering that I have done none other thing but that I was bound to do at the Pope’s commandment, to whom I am sworn to execute his commandment a good or godly disposed man that will judge in this case than is beseeming for me to do but according to the laws of the Church and mine oath.

[19] Item, this case that we be in now was one of the articles that King Henry the Second would have had Saint Thomas³¹ and other bishops to consent unto, and to confirm by their

³⁰ might, proper

³¹ Thomas Becket, archbishop of Canterbury, 1162–70.

writing and seals at Clarendon,³² which they denied. And this article was one of the causes of the exile of Saint Thomas and finally of his death and martyrdom. And where Saint Thomas is canonized for a saint, and so is taken over all for speaking and laboring and taking his death to foredo³³ and destroy the said Article and others which were conceived and written at Clarendon, it is to be thought that whosoever labor to the contrary that Saint Thomas died for shall sore displease God and the said saint, and grievously offend his conscience.

[20] The words of the said Article touching the matter that we be in now followeth: *Cum vacaverit Archiepiscopatus vel Episocopatus vel abbatia vel prioratus de dominio Regis, debet esse in manu eius et inde percipiet omnes redditus et exitus sicut ligeo Domino suo de vita et membris et de honore suo terreno, (salvo ordine suo) prius quam sit consecratus.* [“When an archbishopric or bishopric, or abbacy or priory in the King’s realm becomes vacant, there ought to be in his hand and he ought to receive all the revenues and income. [The person shall do homage and fealty to the lord King] as his liege lord for his life and his members and his earthly honour (saving his order) before he is consecrated.”]³⁴ The which Article amongst others was damned by the Church of Rome – Alexander the Third then being pope, as it appeareth by the *Life of Saint Thomas* in the twenty-fourth leaf of the second column. The words followeth, *Dominus Papa, lectis et relectis, et diligenter et attente auditis et cognitis singulis consuetudinibus Chirographi, eas in audientia omnium reprobavit et ab ecclesia imposterum damnandas censuit.* [“The Lord Pope, when, one by one, the customs [procedures] in the manuscript had been read and re-read [to him] and diligently and carefully listened to and considered, in the hearing of all denounced them and declared that they would soon be condemned by the Church.”]³⁵ Of the which Articles and customs this was one – and by Saint Thomas, they that observed the said Article and others put in writing at Clarendon, and they that exacted, counseled, or defended the said Articles by the Church of Rome, and him damned, he³⁶ denounced accursed, as it appeareth in his *Life* where it thus written: *Scriptum illud in quo continentur non consuetudines sed pravitates quibus perurbatur et confunditur ad praesens ecclesia Anglicana et ipsius scripti auctoritatem, invocata Sti. Spiritus gratia publice condemnavimus et universos auctores, observatores exactores, consiliarios, auditores seu defensores earumdem excommunicamus.* [“That document – which contains not custom but depravities – which now perturbs and confounds the Church in England and its authority – in the name of the Holy Spirit we publicly condemn; and its authors and all who promote, approve, or defend it, we excommunicate.”]

[21] And besides the premises, King Henry the Second which put Saint Thomas to all this trouble for the said Article and others conceived and written at Clarendon, which were the cause of Saint Thomas’s martyrdom, swore solemnly before certain legates sent from the Pope that he

³² The Constitutions of Clarendon (1164) were an attempt by King Henry II to impose greater royal authority on the Church, not least by providing that “criminous” clerks (i.e., clergy guilty of any crime) should ultimately be punished in the king’s courts. It’s 12th article required newly-appointed bishops and archbishops to “sue out” (i.e., seek and do homage to the king for) the lands they held of the Crown before they were consecrated. This was the immediate cause of the six-year conflict between Henry and Thomas Becket which ended in the latter’s famous martyrdom. Throughout this document “Clarendon” is spelled “Claringdon.”

³³ abolish

³⁴ a shortened (and slightly garbled) version of the 12th Constitution of Clarendon (for which, see note 32 above) which handed the Crown all revenues of vacant archbishoprics, and bishoprics, etc.

³⁵ This is an extract from one of the contemporary *lives* of St Thomas – by one Thomas Bosham – which tells how the then pope (Alexander III), having carefully read and re-read the Constitutions of Clarendon, “publicly censured them and declared that they should be condemned by the Church forever.”

³⁶ i.e., St. Thomas

would fulfill all such penance as they would enjoin him for death of Saint Thomas. And they enjoined to foredo and leave up³⁷ the Statutes of Clarendon and all other evil customs against the liberties of Holy Church. To the which, according to his oath, the said king did assent, as it appeareth by Saint Thomas's *Life*, where be these words: *Juravit Rex quod quicquidque in poenitentia ei Cardinales iniungerent vel satisfactionem plenarie exequeret: qui Cardinales iniunxerunt quod prava statuta de Clarendon et omnes malas consuetudines quae in diebus suis in detrimentum ecclesiae Dei adductae sunt, penitus dimitteret. Ad quae omnia rex secundum suum jusjurandum assensum praebuit.* ["The king swore that whatever penance or satisfaction the cardinals should impose on him he would carry out in full. The cardinals ordered that the wicked statutes of Clarendon and all the bad customs which have resulted to the detriment of the Church of God he should wholly renounce. To all these things, the king gave his assent under oath."]

[22] [ki]ng at the tomb of Saint Thomas renounced the same [Article and others written at] Clarendon as ill and unjust, as it appeareth in the life of Saint Thomas, folio forty-six, fourth column: *Consuetudines etiam illas quae inter martirem et ipsum Regem totius fuerunt dissentionis materia Rex tanquam vere poenitens pro martiris devotione et per martiris virtutem abdicavit malas et iniquas*³⁸ ["Those customs which were the cause of controversy between the martyr and the King, the King, as a true penitent . . . renounced as evil and unjust"] etc. of the which abdication and renunciation Herbert³⁹ writes in this, considering that the Church of Rome and Saint Thomas damned this article and others. Which is the case now, of the which the words be rehearsed afore and be thus: *Electus homagium et fidelitatem Domino Regi sicut Domino ligeo suo de vita sua et membris et de honore duo terreno, salvo ordine suo, praestet priusquam sit consecratus.* ["[The bishop-] elect shall pay homage and fealty to the lord king as his liege lord with his life and limbs and earthly honor, saving his order – before he is consecrated."] And considering that Saint Thomas of Canterbury excommunicated them that observed the said Articles so damned, as is afore-rehearsed, and rather than he would consent to ratify them with his writing and seal, went into exile and after suffered death. And considering that the king then for the time being, which sticked so sore⁴⁰ for these Articles, at the last left up⁴¹ and abdicated them as ill and unjust, I see not why that I should fall into any penalty of *praemunire* for consecrating a bishop and granting to him his spiritualities before he had done his homage, given his oath of fidelity, and sued out his temporalities of the King's Grace's custody.

[23] Item, if it be objected that the consecration of this bishop is prejudicial to the King's Grace's crown and to his regality: as to this, I say that I would be as loath as any man living to do anything myself, or suffer anything to be done by any other that I might withstand, which should be prejudicial to his Grace's crown and his regality, as I am so bound and with the gladder mind by as much as I (albeit percase unworthy), by the grace and sufferance of God, first enunited⁴² his Highness king, and after put the crown of England on his Grace's head at the time of his coronation. And for do no prejudice to the King's Grace's crown or yet diminisheth any part of his regality, much more the act of consecration of a bishop (which is a good deed) can do no such hurt.

³⁷ abandon

³⁸ See Excerpta ex Herberti libro Melorum, p. 546, *Materials for life of Archbshop Thomas Becket* Roll Series, vol. ii.

³⁹ Herbert of Bosham, one of four contemporary, or near-contemporary, biographers of Thomas Becket

⁴⁰ who persisted so strongly

⁴¹ *left up*: abandoned

⁴² anointed

[24] It is to be thought that the King's Grace and surely when his Grace suffereth the according to the grants of noble princes, kings of England and others which reigned nobly and died virtuously, and according to Magna Carta, which sayeth, *Habeat Ecclesia Anglicana libertates suas illaesas* ["The liberties of the Church in England shall be inviolate"], the breakers of the which charter were solemnly accursed at Paul's Cross by the most part of the bishops of England for that time being, and the same curse confirmed by Pope Innocent the Fourth. But *Ecclesia Anglicana non habet libertates suas illaesas* ["the English Church does not have inviolate liberties"] when the Church hath not his liberty to consecrate bishops but at princes' pleasures, for in case it should not please princes to have any bishops consecrated, so the Church should cease.

[25] And for God's sake, let not men only look upon other princes' acts made against the Church and the liberties of the same, not discerning whether they be good or ill, but let men look substantially upon the effect of them and also consider what ill fortune or punishment of God hath fallen upon such princes in whose days and by whose authority such acts (as the case which is laid to my charge) is one and other were made to the derogation of the laws and liberties of the Church. Of the which princes, King Henry the Second, which was beginner of this case that we be in now, and of many others in Saint Thomas's days, not long before his death, by express words, forsook God, and after his death was so nigh spoiled by them that were about him, that he lay all naked until a servant, having piety and shame to see his master, which was so great a man of the world, so to lie, cast his coat upon him to cover and hide his secret parts.

[26] Edward the Third also following his predecessor's steps in this behalf, in his last days, his subjects rebelling against him, and notwithstanding his great conquests and his great triumphs, finally died in poverty and hate of his nobles and subjects.

[27] Also Richard the Second, maker and confirmer of such acts as be afore-rehearsed, at the end of his reign renounced the right of the crown, confessing himself not to be able and sufficient to occupy the same, and after was in prison in the castle of Pomfret there murdered or miserably famished.⁴³

[28] And Henry the Fourth, being of the number of princes aforesaid, was stricken with so great and so foul a leprosy and so evil-favored by reason of his disease, that such as he loved best and had done most for abhorred him so sore that they would not come nigh to him, and so he more miserably died than is to be rehearsed.

[29] I will not take on me to judge the judgment of God and say determinately that the said kings were punished by the hand of God for making of such acts. Yet it may be reasonably thought that the same was the whole or their punishment. For where this Article that is the case consecration (which is surmised to be a *praemunire*) was one of the articles that Saint Thomas of Canterbury died for, and for his so doing for this Article and others made against the liberties of God's Church was rewarded of God with the great honor of martyrdom, which is the best death that can be. Which thing is the example and comfort of others to speak and to do for the defense of the liberties of God's Church. Then it followeth of likelihood that such princes as I have rehearsed, making this article touching the consecration of a bishop and others against the liberties of the Church of God, were punished by God's hands with an ill death in example of others to beware to make or to execute such articles against the liberties of Christ's Church.

⁴³ What Warham is saying about the death of Edward III is substantially true. Richard II was not murdered but died of malnutrition and hypothermia in prison. What Warham goes on to say about the death of Henry IV is lurid but accurate.

[30] And where Saint Thomas of Canterbury died and was and is a holy martyr, because he would not consent nor obey to these Articles and others made against the liberties of the Church, it is to be thought that they that made contrary acts to the said liberties and never repented nor reformed themselves were punished by God, with such manner of sickness and adversity as I have spoken of before to call them to his Grace. And therefore Saint Thomas, for the tender love that he had to King Henry the Second by whom he was promoted, wrote to certain of the said king's Council which might do much with him those words which be written in Saint Thomas's life, folio 151: *Consulite Domino nostro regi qui eius comparatis gratiam super ecclesiae dispendio ne (quod absit) percat ipse et domus eius tota sicut et ipsi periere qui in consimili delicto comprehensi sunt.* ["Warn our lord king . . . lest he himself perishes and his whole house perish who are involved in a like crime."] And Saint Thomas in a certain script of excommunication that he denounced against them that hurted the liberties of the church of Canterbury, soon after his return from exile saith that it hath not been heard that any man hath hurted the church of Canterbury but that he was punished of Christ: *A saeculis inauditum est quod quis ecclesiam cantuariensem leserit et non sit correctus a Christo Domino.* ["It has never been heard that anyone who harmed the church of Canterbury was not corrected by Christ the Lord."] By the which saint's saying it may be probably thought that the punishment of the said princes came of the hand of God for making of statutes against the liberty of the Church. I do not speak of any excommunication or curses.

[31] And in case that there be any statute or act made that the archbishop of Canterbury for the time being should be restrained from his liberties and spiritual power to consecrate a bishop or to grant to him his spiritualities till the King's Grace had delivered to him his temporalities, and that the archbishop doing the contrary should fall into a *praemunire*, Pope Martin,⁴⁴ which was a very good and holy pope, wrote to King Henry the Forth concerning the Act of *Praemunire* made against the liberties of the Church, in the which writing be contained these words that followeth, of the which I make not mention here for that intent that I will use and stick upon them for my defense neither to the intent to derogate the law of this land nor to discontent any man thereby high or low, but specially for two causes: first that such as have the handling of *praemunire* should look the more substantially upon the danger to their souls and consciences executing the same, for a man knowing the danger may the better avoid may appear by the said Pope's writing how streithely⁴⁵ Lord Henry Chichele, archbishop of Canterbury,⁴⁶ because he did not resist . . . and speak against the Act of *Praemunire* as much as in him lay, of the which writing to the said archbishop I will rehearse some parts after I have showed parts of that which the said Pope wrote to the said King, which followeth: *Martinus episcopus, servus servorum Dei, charissimo in Christo filio Henrico regi Angliae illustri salutem et Aplicam Ben. Quum omnis divina et humana ratio vetet, etc.* ["Martin, bishop, servant of the servants of God, to our beloved son in Christ Henry king of England, greetings and apostolic blessings. Since all divine and human reason forbids, etc."]

[32] And my lords where mention is and hath been made to you to defend this matter that is now in question by the sword, I doubt not but that ye being noble, wise, and discreet men and God's knights will be right well advised to draw your swords in any such case as this is, in the which by the grace of God and the King's, no need shall be to draw any sword or to make mention of any such violence, seeing that by this consecration there is nothing done against the

⁴⁴ Martin V (1369–1431)

⁴⁵ strictly

⁴⁶ ca. 1364–1443

King's Grace's crown and regality which should provoke or deserve his high displeasure. Specially whereby that consecration I intended nothing less than⁴⁷ to displease the King's Grace, I take God to my record.

[33] And ye my lords, seeing that this case that I am put to trouble for is one of the articles that Saint Thomas of Canterbury died for, I trust ye will not draw your swords to the displeasure of God and of Saint Thomas in this behalf, into whose holy hands I recommend this my cause and the cause of the Church. For I doubt not but that ye have heard before this time how the knights that exercised their swords against Saint Thomas for this article and others were punished of God for their great presumption and misdoing. So as unto this present day the punishment of them remaineth in their blood and generation.

[34] And in case ye should be so noted⁴⁸ by other folks' instigation and ungodly means to draw your swords in this case and to hew me to small pieces (which God forbid ye should do), yet I think it were better for me to suffer the same than against my conscience to confess this article to be a *praemunire* for which Saint Thomas died. For I see not how I should grant it, and by my so granting should bring the Church of Christ into such perpetual bondage that I and my successors should not consecrate a bishop but at princes' pleasures, but that thereby I should damn my soul, for where Saint Thomas saved his soul and is a glorious saint in heaven for the denying of this Article and others, I see not but that I, doing expressly contrary to that that Saint Thomas did (for the which he was a Saint), and confessing this to be a *praemunire* should damn my soul is objected that I am bound to the knowledge of this Article for as it is a law of this land. If this Article be a law of this land, it was conceived and put in writing at Clarendon by⁴⁹ King Henry the Second's days four hundred save thirty-one years past.⁵⁰ And where it was never put in execution against any archbishop, albeit diverse of them have consecrated diverse bishops before the same bishops had done their homage and given their oath of fidelity to the King's Grace and sued out their temporalities of the same, I think that nother by law, reason, or conscience I or any other is bound to the knowledge or observance of such a law which hath not been used and was never put in execution for the space of four [hundred years] almost.⁵¹

[35] And where it pleaseth you my lords to assign to me lay counsel, my lords, I will not refuse, their counsels being good, albeit for two causes I think they shall little profit me. One, for laymen have always used and been accustomed to advance their own laws rather than the laws of Holy Church, as your lordships may see that laymen daily encroacheth upon the laws and liberties of the Church by *praemunire* and prohibitions, whom Christ rebuketh in the Gospel, saying, "Woe unto you that break the laws of God for the maintaining of your own laws," *Vae vobis qui transgredimini legem Dei propter traditiones vestras*.⁵² And in this behalf I understand that such temporal learned men as have been assigned of counsel with spiritual men lately, in

⁴⁷ anything rather than

⁴⁸ used, moved

⁴⁹ in

⁵⁰ Since, for Warham, a calendar year ran from 25 March (the feast of the Annunciation) to the following 24 March, the year of the Constitutions of Clarendon, which, for us, is January 1164 was, for him, January 1163. He says that the Constitutions were produced "four hundred save thirty-one years past." 400 minus 31= 369. 369 plus 1163= 1532. Therefore the document being considered here can be firmly dated to between 25 March 1532 and the archbishop's death in the following August.

⁵¹ Warham is indeed making the crucial point here that the requirement to do homage and fealty to the monarch before being consecrated a bishop had been completely ignored in practice "for the space of 400 years."

⁵² See Mt 15:3.

cases of *praemunire* (as it was surmised), for the advancing of their temporal laws and for the derogation of the laws of the Church, have counseled them and induced them to confess and grant a *praemunire*. Whereto peradventure they would advise me in like wise. Which if I were so minded to confess, I needed not to have their counsel.

[36] The second cause is, I am informed that temporal learned men that would speak their learning for such as they have been of counsel with, where they have spoken anything contrary to the mind of some of the King's most honorable Council, they have been called fools and put to silence, and so peradventure they should be entreated in this case if they should speak their minds for me according to their learning, whereof I would be loath that any man should be so rebuked for my cause.

[37] And inasmuch as this matter toucheth the act of a bishop's consecration which is merely spiritual – the nature and condition whereof is best known by spiritual men – I desire and require you my lords, as you shall answer before God, that I may have such wise, sad, and discreet counsel, learned in the spiritual law, as can and will give to me godly counsel according to their learning and conscience and such should take counsel at your assignment peradventure counsel assigned to me, which would not or durst not give to me indifferent counsel.

[38] Item, if it be said that I should find sureties. To that Saint Thomas answered in this manner, folio 104: *Quis unquam vidit vel audivit Cantuar. Archiepum iudicari, condemnari, cogi ad fideimissionem in curia Regis?* [“Whoever saw or heard of an archbishop of Canterbury being judged, condemned, and required to swear an oath in the king's court?”] And in another place of Saint Thomas's *Life*, folio fifteen, Saint Thomas sayeth, *Siquidam a saeculo non est auditum quemquam Cantuar. Archiepum in curia regum Anglorum pro qua cumque causa iudicatum tum propter dignitatem ecclesiae tum propter auctoritatem personae.* [“It has indeed never been heard that an archbishop of Canterbury has been judged in a royal English court for any cause – both on account of the dignity of his church and his own authority.”] And giving of sureties is for such persons of whose fleeing or departing out of the country it is feared, but as for me, if I had been disposed to flee, I might have fled before this time and before I had entered this matter. And I thank God and the King's Grace, I have such promotions to live upon as I intend not to forsake and go to other places where I should have nothing. And being here, if I had lost all my goods, yet I trust I should have some succor and help of my friends and lovers, but fleeing to other places I should percase there have neither goods nor friends.

[39] And where great business hath been before this time between princes of this realm and archbishops of Canterbury in far greater causes than these be, as between Saint Anselm, Saint Edmund, Robert Winchelsey, John Peckham, and John Stratford and princes for their time being, they were never compelled to give any sureties nor yet were committed to imprisonment.

[40] And I trust that ye, my lords, be as godly disposed and as good Christian men as they were in the said archbishop's time, and that ye will none otherwise entreat⁵³ me than they entreated my predecessors, specially for the consecration of a friar, which is no deadly sin. And also whosoever lay violent hands upon a bishop, in taking him and after imprisoning him is accursed, of those which be cannot be assoiled but of the pope unless it be *in mortis articulo* [“at the point of death”]. And the place or places where a bishop taken is kept, as long as the bishop is so kept, is interdicted⁵⁴ and the two dioceses next adjoinant also, as it appeareth by the laws of the Church made in that behalf. Wherefore, if ye fear the laws and censures of Holy Church, ye

⁵³ treat

⁵⁴ i.e., churches closed and all public religious activity halted by papal decree

cannot take me ne imprison me except ye will be accursed, and the place where I should be taken or kept in shall be interdicted, which every good Christian man which trusteth to be saved by God and by the Church owe⁵⁵ to dread and greatly fear.

⁵⁵ oweth, ought