

write grievousnesse, w<sup>ch</sup> they haue prescribed: so that where the penaltye proues greivous by the unrighteousnesse of a prescript Decree, it will drawe a woe after it, as well as unrighteous sentences: Deut: 25: 15: thou shalt haue a pfect & a iust weight & measure: If God be so stricte in Comūtative Iustice, that every Acte therein must be by a iust & pfecte Rule, what warrant haue we, to think that we maye dispence distributive or vindictive Iustice to o<sup>r</sup> brethren by gesse, when we prescribe a certaine measure to an uncertaine meritt.

But it wilbe objected: *volenti non fit injuria*: the people giuinge us power to make lawes to binde them, they doe implicitly give their Consent to them. To this it may be Answered: that where they putt themselves into o<sup>r</sup> power to binde them to Lawes & penaltyes, they can intende no other but suche as are iust & righteous: & althoughe their implicit Consent may binde them to outward obedience, yet it neither tyes them to satisfaction, nor frees suche Lawmakers from vnrighteousnesse, nor the Law itself from iniustice, nor will suche a Lawe be a sufficient warrant to the Conscience of the Iudge, to pronounce suche a sentence, as he knowes to be apparently disproportionable to the offence brought before him.

Althoughe my argum<sup>t</sup> conclude ag<sup>t</sup> prescript penaltyes indefinitely, yet I doe not deny but they may be lawfull in some cases: for an uniuersall affirmative pposition may be true, though it comprehend not euerye p<sup>t</sup>ic<sup>r</sup>, as when we saye, All the Country was rated to suche a charge, no man will conceiue that euerye p<sup>son</sup> & every wom<sup>n</sup> etc, was rated; & when we saye suche an one was cast out by the wholl church, this is a true Speche (to co<sup>m</sup>on intendm<sup>t</sup>) though every p<sup>t</sup>ic<sup>r</sup> member did not consent. Where any penalty may be prescribed by a Rule, so as the Iudge may pronounce a Iust Sentence, I haue formerly, & shall still ioyne in it.

We will now Answer such objections as are made, ag<sup>t</sup> the lib<sup>tye</sup> required to be left to Iudges, in their Sentences.

1: ob: Iudges are subject to Temptations, if their sentences be not prescribed.

Answ 1: We may not transgresse Rules, to avoyde temptations: for God will haue his servants exercised w<sup>th</sup> temptations, that the power of his grace may be made manifest in man's Infirmitye: A master will not sende his servant about his businesse in a darke night, to avoyde temptations of ill companie or the like w<sup>ch</sup> he may possibly meet w<sup>th</sup> in the daye tyme: nor will any Christian man take in his Corne or haye before it be readye, for avoyding a Temptation of tak-