there may be either of an Infants being pulling upon Committing a Mischief of this kind, or of any persons Counterfeiting Madness for that very purpose: And where so General and publick a mischief is to be prevented, no Loophole for escaping ought to be Admitted. Besides that to one truly Distracted dealt is not so great an Evil, as his suffering may be good to others by way of terror and Example. By the King we are not to Understand a Nominal or titular King, as the husband of a Queen Regnant, for a particular Statute was found necessary to Make Compassing or Imagining the death of King Philip during his Marriage with Queen Mary of England to be high treason, 1 Ph. & Mar. cap. 10 Nor are we to Understand here by King one that is dispossessed, but only the Sovereign, whether King or Queen Regnant; 1 Mar. sess. 3 cap. 1 for the time being, who is in the Actuall possession of the Crown and Kingdom, tho not de jure. Because the King in possession being the only person who Administers those Laws, and Priviledges by Virtue thereof he secures to us our Lives Liberties and property, and all other Advantages of Government, we may justly Claim Returns of duty Allegiance and Subjection, which they are bound to Defend him in his Rights against all power whatsoever. One out of possession is so far from having any Right to our Allegiance by Virtue of any other title which he may set up against the King in being, that we are are bound by the duty of our Allegiance to Resist him, 11 H. 7. cap. 1 8 The Rightful Sovereign cannot put out of possession, grant a pardon, and Attainder against the Usurper or Sovereign de facto; 1 Rich. 3 cap. 1. 1 Ed. 4 cap. 1. 2 Ed. 4 cap. 1. 3 Just. 7. Hale pl. Cr. 12 Hawkins pl. Cr. lib. 1 cap. 17 pa. 96 Foggy. For since there is no Tribunal but that of Heaven to which Princes can apply for Decision of their titles, when that seems so far to have Declared in favour of one as to give him quiet possession of the Throne, the Publick peace which is the End of all Government, Requires a Dutifull Submission to him.

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and it is the highest Madness to give up that Ease and Security which we Enjoy from a peaceable obedience, in Exchange for that Disorder, Uncertainty and Blood shed, which cannot but be expected from an Attempt to oust the Sceptre out of the hands of the prince Regnant. For as the Duke of Buckingham (works Vol. 2 offer on the Art of Treasons 8) The publick is more concerned in having their peace and Security Undisturbed, than in preferring one King before another or in Determining the Rights of the two Rodrigo and that had been better for the poor people of England, that some third Branch had obtained the Crown from them both, and possessed it quietly, than to be torn in pieces by such a civil war, as we Cannot Read without Horror. Sir George McKenzie (Criminal, pt. 6. 55) Pleads, that the possession may Alter the case in Treason, as when the Bonus and Judicial ward Competing for the Crown of Scotland, it Stands not Aleviated from Committed against an Usurper whose title is Clear, as that of King Charles the second was in his Exile. And in Sir Henry Vane's case 14 Car. 2. it was Resolved, that all those who Acted against and kept King Charles the second out of possession in Obedience to the powers then in being, were traitors Hal. Rep. 14. 15. Noble Rep. 315. But tho the title of one out of possession be never so Clear and plausible, it must have its strongest foundation from some positive law, which when it cannot take effect without Involving a Nation in Discord and Confusion, the avoiding whereof is the very end of all Laws, it must give way to the publick Security of the State, and be suspended till the Execution of it be Consistent with the happiness of the people for whose sake it was ordained. As to Sir Henry Vane's case, it is to be Considered, that there in it was first Resolved, that King Charles the second was being both de facto and de Jure from his fathers death, and it is Apparent that no other person was in possession of any Sovereign power known to our Laws, than he was then. 18. The Parliament being actually Determined by the Death of King Charles the First, who called it a

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